

SENATE BILL 517

IN THE SENATE

February 15, 1979

Introduced and referred to
Committee on Agriculture,
Livestock and Irrigation.

February 16, 1979

Fiscal note requested.

February 21, 1979

Fiscal note returned.

April 20, 1979

Died in Committee.

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James Douglas BILL NO. 517
Douglas

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE FUNCTIONS AND DUTIES OF THE DEPARTMENT OF LIVESTOCK; TRANSFERRING THE DIAGNOSTIC LAB TO THE AGRICULTURAL EXPERIMENT STATION; TRANSFERRING THE DUTIES AND FUNCTIONS RELATING TO THE RECORDING AND INSPECTION OF BRANDS TO THE DEPARTMENT OF JUSTICE; TRANSFERRING THE REGULATION OF LIVESTOCK MARKETS TO THE DEPARTMENT OF AGRICULTURE; AMENDING SECTIONS 2-15-3103, 15-24-923, 15-24-924, 20-25-222, 70-2-113, 81-1-102, 81-2-102, 81-3-101, 81-3-201, 81-4-217, 81-4-406, 81-4-409, 81-4-601, 81-5-107, 81-5-201 THROUGH 81-5-204, 81-6-105, 81-8-101 THROUGH 81-8-109, 81-8-121 THROUGH 81-8-123, 81-8-125, 81-8-127, 81-8-129 THROUGH 81-8-132, 81-8-201, 81-8-202, 81-8-204, 81-8-205, 81-8-301 THROUGH 81-8-305, 81-8-602, 81-8-607 THROUGH 81-8-610, 81-8-701 THROUGH 81-8-705, 81-9-101, AND 81-9-401, MCA; REPEALING SECTIONS 81-1-201 THROUGH 81-1-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Transfer of department of livestock diagnostic laboratory. All functions and duties of the department of livestock diagnostic laboratory located at Bozeman are transferred from the department of livestock to

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the agricultural experiment station provided for in 20-25-222.

NEW SECTION. Section 2. Transfer of the function of recording and inspection of brands. All functions of the department of livestock relating to the recording and inspection of brands, security interests concerning livestock, inspection of hides, and enforcement of livestock laws are transferred to the department of justice.

NEW SECTION. Section 3. Transfer of regulation of livestock markets and dealers. All functions and duties of the department of livestock relating to the regulation of livestock markets, livestock dealers, and pork research and marketing are transferred to the department of agriculture.

Section 4. Section 2-15-3103, MCA, is amended to read: "2-15-3103. Montana pork research and marketing committee. (1) The governor shall appoint a committee to be known as the Montana pork research and marketing committee, which committee shall be composed of:

(a) five members, each of whom is a citizen of Montana and each of whom derives a substantial portion of his income from producing swine in Montana;

(b) four ex officio members (who may not vote on any decisions, orders, or regulations of the committee):

(i) the commissioner of the department of agriculture;

(ii) the dean of agriculture of Montana state

1 university;

2 (iii) administrator of brand enforcement, livestock

3 justice department;

4 (iv) administrator of animal health, livestock

5 department.

6 (2) One member of the committee shall be appointed

7 from each of the following districts and shall be a resident

8 of and shall have swine operations in the district from

9 which appointed:

10 (a) District I, consisting of Deer Lodge, Flathead,

11 Granite, Lake, Lincoln, Mineral, Missoula, Powell, Ravalli,

12 Sanders, Glacier, Liberty, Pondera, Teton, Toole,

13 Broadwater, Cascade, Lewis and Clark, Meagher, Beaverhead,

14 Gallatin, Jefferson, Madison, and Silver Bow Counties;

15 (b) District II, consisting of Blaine, Chouteau, Hill,

16 Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum,

17 Wheatland, Big Horn, Carbon, Park, Stillwater, Sweet Grass,

18 and Yellowstone Counties;

19 (c) District III, consisting of Daniels, Dawson,

20 Garfield, McCone, Richland, Roosevelt, Sheridan, Valley,

21 Treasure, Carter, Custer, Fallon, Powder River, Prairie,

22 Rosebud, Wibaux, and Phillips Counties.

23 (3) Two members of the committee shall be appointed at

24 large.

25 (4) A list of nominees for appointment to the

1 committee may be submitted to the governor by any farm or

2 ranch organization which has substantial numbers of its

3 membership actively engaged in swine production. Each

4 nominee must be from the district for which the appointment

5 shall be made except for the at-large nominees. The names of

6 nominees shall be submitted not less than 91 days prior to

7 the expiration of any committee member's term.

8 (5) Committee members shall be appointed for a term of

9 5 years.

10 (6) Members appointed to fill unexpired terms shall be

11 appointed for the remainder of the unexpired term.

12 (7) The committee is allocated to the department of

13 livestock agriculture for administrative purposes only as

14 provided in 2-15-121."

15 Section 5. Section 15-24-923, MCA, is amended to read:

16 "15-24-923. Limitation on levies -- livestock moneys.

17 (1) The amount of the levy may not in any event exceed 10

18 mills upon the taxable value of sheep and 15 mills upon the

19 taxable value of other livestock. The levy is raised to aid

20 in the payment of the general expenses of the

21 brands-enforcement functions of the department of livestock

22 justice, including salaries, office, detective stock

23 inspector, prosecution, travel, and all incidental expenses.

24 (2) A separate levy not to exceed 15 mills on all

25 livestock may be raised for the use of the animal health

1 functions of the department of livestock and placed in an
 2 earmarked revenue fund for the payment of indemnity for
 3 animals slaughtered ~~and~~ and for salaries and expenses incurred
 4 in investigating, controlling, and suppressing diseases,
 5 including expenses of quarantine and salaries and expenses
 6 incurred for such purposes ~~and for laboratory maintenance.~~
 7 At the written request of the department of livestock, the
 8 state treasurer and department of administration shall set
 9 aside in a separate account in the earmarked revenue fund
 10 any moneys as may be available and requested. The moneys may
 11 be expended only when the department of livestock determines
 12 that a livestock disease emergency exists requiring its
 13 expenditure for such purposes as the department may order
 14 and direct.

15 (3) A separate levy of not to exceed 5 mills on the
 16 taxable value of all livestock may be raised to be used at
 17 the discretion of the department of livestock for any or all
 18 of the purposes set forth in ~~subsections (1) and subsection~~
 19 (2) of this section or in 81-7-102 and 81-7-103."

20 Section 6. Section 15-24-924, MCA, is amended to read:
 21 "15-24-924. Use of moneys arising from taxes
 22 prescribed in preceding section. The money received from the
 23 tax levied on sheep as provided in 15-24-923(1) shall be
 24 placed to the credit of the earmarked revenue fund and shall
 25 be used to aid in the payment of the general expenses,

1 salaries, office expense, ~~detective stock inspector~~ expense,
 2 expenses of prosecution, travel, and other expenses of the
 3 brands-enforcement functions of the department of ~~livestock~~
 4 ~~justice~~, and the moneys received from the tax on all other
 5 stock as provided in the preceding section shall be placed
 6 to the credit of the earmarked revenue fund to be used for
 7 like purposes by the department ~~of justice~~. The moneys
 8 received from the tax levied by 15-24-923(2) shall be placed
 9 in the earmarked revenue fund to be used for the animal
 10 health functions of the department of livestock for the
 11 payment of indemnity for animals slaughtered and for the
 12 payment of expenses in investigating and suppressing
 13 diseases, including quarantine and all expenses connected
 14 therewith. The moneys received from the tax levied by
 15 15-24-923(3) shall be placed in the earmarked revenue fund
 16 to be used at the discretion of the department ~~of livestock~~
 17 for payment of expenses incurred in the discharge of its
 18 animal health ~~brands-enforcement~~ or predatory animal
 19 control functions."

20 Section 7. Section 20-25-222, MCA, is amended to read:
 21 "20-25-222. Agricultural experiment station --
 22 establishment and purpose. (1) There is established at the
 23 state university at Bozeman and under its direction an
 24 agricultural experiment station, by virtue of the Hatch Act
 25 approved by congress on March 2, 1887. The provisions,

1 donations, and benefits contained in that act and all acts
2 supplementary thereto or amendatory thereof are accepted and
3 adopted by the state of Montana.

4 (2) The purpose of the agricultural experiment station
5 shall be to conduct and promote studies, scientific
6 investigations, and experiments, tests, and services
7 relating to agriculture, natural resources, and rural life
8 and to diffuse information thereby acquired among the people
9 of Montana.

10 (3) The agricultural experiment station may impose and
11 collect such fees as the director considers appropriate for
12 the tests and services performed by the laboratory. In
13 fixing the fees the director must take into consideration
14 the costs, both direct and indirect, of the tests and
15 services. All fees must be deposited in the earmarked
16 revenue account for the use of the agricultural experiment
17 station.

18 (4) Requests for tests and services for animal
19 diagnostic purposes and for preparing livestock for sale or
20 movement have priority over all other functions of the
21 agricultural experiment station.

22 {3}(5) The agricultural experiment station shall
23 include, in addition to the central location at Bozeman, the
24 designated research centers and other affiliated testing and
25 research facilities.*

1 Section 8. Section 70-2-113, MCA, is amended to read:
2 "70-2-113. Fur-bearing animals -- recording of brands
3 -- fees. (1) An owner or prospective owner of animals
4 described in 70-2-112 is entitled by written subscribed
5 statement to adopt distinctive brands or tattoo marks, not
6 including arabic numerals and not already in known use by
7 others, for any of the animals and to have the distinctive
8 brands and tattoo marks recorded in his name with the
9 department of livestock justice on paying a recording fee
10 equal to that charged for recording marks or brands used on
11 domestic animals and livestock set by 81-3-107 for each
12 brand and for each tattoo mark. The statements shall be
13 recorded in a suitable book to be kept for that purpose by
14 the department of livestock justice. The presence of the
15 recorded brand or recorded tattoo marks on an animal is
16 prima facie evidence of the ownership of the animal in the
17 person, association, or corporation in whose name the brand
18 or tattoo mark is recorded, subject always to the right to
19 make a transfer of title, right, or interest in or lien on
20 the animal.

21 (2) A person desiring to transfer a brand or mark
22 properly recorded by him under this section may do so
23 provided he meets the requirements and pays the fees imposed
24 by Title 81, chapter 3, part 1. Brands or marks recorded
25 under this section are subject to the same rerecording

1 requirements and fees as imposed by Title 81, chapter 3,
2 part 1.

3 (3) All fees collected under this section shall be
4 paid into the earmarked revenue fund for the use of the
5 department of justice."

6 Section 9. Section 81-1-102, MCA, is amended to read:

7 "81-1-102. Duties and powers of department. The
8 department shall exercise general supervision over and, so
9 far as possible, protect the livestock interests of the
10 state from ~~theft--and~~ disease and recommend legislation
11 which, in the judgment of the department, fosters this
12 industry. The department may compel the attendance of
13 witnesses, employ counsel to assist in the prosecution of
14 violations of laws made for the protection of the livestock
15 interests, and assist in the prosecution of persons charged
16 with illegal branding or theft of livestock or any other
17 crime under the laws of this state for the protection of
18 stock owners. ~~it may adopt rules governing the recording and
19 use of livestock brands."~~

20 Section 10. Section 81-2-102, MCA, is amended to read:

21 "81-2-102. Powers of department. (1) The department
22 may:

23 (a) supervise the sanitary conditions of livestock in
24 this state, under the provisions of the constitution and
25 statutes of this state and the rules adopted by the

1 department. The department may quarantine a lot, yard, land,
2 building, room, premises, enclosure, or other place or
3 section in this state which is or may be used or occupied by
4 livestock and which in the judgment of the department is
5 infected or contaminated with an infectious, contagious,
6 communicable, or dangerous disease or disease-carrying
7 medium by which the disease may be communicated. The
8 department may quarantine livestock in this state when the
9 livestock is affected with or has been exposed to disease or
10 disease-carrying medium. The department may prescribe
11 treatments and enforce sanitary rules which are necessary
12 and proper to circumscribe, extirpate, control, or prevent
13 the disease.

14 (b) foster, promote, and protect the livestock
15 industry in this state by the investigation of diseases and
16 other subjects related to ways and means of prevention,
17 extirpation, and control of diseases or to the care of
18 livestock and its products ~~and to this end may establish and
19 maintain a laboratory, may make or cause to be made biologic
20 products, curatives, and preventative agents, and may
21 perform any other acts and things as may be necessary or
22 proper in the fostering, promotion, or protection of the
23 livestock industry in this state;~~

24 (c) impose and collect such fees as the department
25 considers appropriate ~~for the tests and services performed~~

1 ~~by the laboratory and~~ for biologic products, curatives, and
 2 preventative agents made or caused to be made by the
 3 department. In fixing these fees the department shall take
 4 into consideration the costs, both direct and indirect, of
 5 the tests, services, products, curatives, and agents. All
 6 fees shall be deposited in the earmarked revenue fund for
 7 the use of the animal health functions of the department.

8 (d) adopt rules and orders which it considers
 9 necessary or proper to prevent the introduction or spreading
 10 of infectious, contagious, communicable, or dangerous
 11 diseases affecting livestock in this state and to this end
 12 may adopt rules and orders necessary or proper governing
 13 inspections and tests of livestock intended for importation
 14 into this state before it may be imported into this state;

15 (e) adopt rules and orders which it considers
 16 necessary or proper for the inspection, testing, and
 17 quarantine of all livestock imported into this state;

18 (f) adopt rules and orders which it considers
 19 necessary or proper for the supervision, inspection, and
 20 control of the standards and sanitary conditions of
 21 slaughterhouses, meat depots, meat and meat food products,
 22 dairies, milk depots, milk and its byproducts, barns, dairy
 23 cows, factories, and other places and premises where meat or
 24 meat foods, milk or its products, or any byproducts thereof
 25 intended for sale or consumption as food are produced, kept,

1 handled, or stored. An authorized representative of the
 2 department may take samples of a product so produced, kept,
 3 handled, or stored for analysis or testing by the
 4 department. The records of the samples and their analysis
 5 and test, when identified as to the sample by the oath of
 6 the officer taking it and verified as to the analysis or
 7 test by the oath of the chemist or bacteriologist making it,
 8 are prima facie evidence of the facts set forth in them when
 9 offered in evidence in a prosecution or action at law or in
 10 equity for violation of part 1, 2, or 3 of this chapter,
 11 81-9-201 through 81-9-207, 81-20-101, 81-21-102, 81-21-103,
 12 or a rule or order of the board adopted thereunder. These
 13 standards, insofar as they relate to dairies or milk and its
 14 byproducts, may not include standards of weight or
 15 measurement.

16 (g) adopt rules and orders which seem necessary or
 17 proper for the supervision and control of manufactured and
 18 refined foods for livestock and the manufacture,
 19 importation, sale, and method of using a biologic remedy or
 20 curative agent for the treatment of diseases of livestock.
 21 However, as far as practicable the standards approved by the
 22 United States department of agriculture shall be adopted.

23 (h) install an adequate system of meat inspection, at
 24 any time and in such places as public welfare may demand,
 25 under the rules which may provide fees for the maintenance

1 of such inspection and which shall provide ways and means
 2 for shipping home-grown and home-killed meats into any city
 3 in this state. As far as practicable, the rules shall
 4 conform with the meat-inspection requirements of the United
 5 States department of agriculture.

6 (i) slaughter or cause to be slaughtered any livestock
 7 in this state known to be affected with or which has been
 8 exposed to an infectious, contagious, communicable, or
 9 dangerous disease, when such slaughter is necessary for the
 10 protection of other livestock, and destroy or cause to be
 11 destroyed all barns, stables, sheds, outbuildings, fixtures,
 12 furniture, or personal property infected with any such
 13 infectious, contagious, communicable, or dangerous disease
 14 when they cannot be thoroughly cleaned and disinfected and
 15 the destruction is necessary to prevent the spreading of the
 16 disease;

17 (j) indemnify the owner of any property destroyed by
 18 order of the department or pursuant to any rules adopted by
 19 the department under parts 1, 2, or 3 of this chapter,
 20 81-9-201 through 81-9-207, 81-20-101, 81-21-102, 81-21-103;

21 (k) require persons, firms, and corporations engaged
 22 in the production or handling of meat, meat food products,
 23 dairy products, or any byproducts thereof to furnish
 24 statistics of the quantity and cost of the food and food
 25 products produced or handled and the name and address of

1 persons supplying them any of the products.

2 (2) When in the exercise of its powers or the
 3 discharge of its duties it becomes necessary for employees
 4 of the department to investigate facts and conditions, they
 5 may administer oaths, take affidavits, and compel the
 6 attendance and testimony of witnesses."

7 Section 11. Section 81-3-101, MCA, is amended to read:

8 "81-3-101. Recorder of marks and brands -- definition.
 9 (1) The department of ~~livestock justice~~ justice is the general
 10 recorder of marks and brands.

11 ~~(2) As used in this chapter, "department" means the~~
 12 ~~department of justice."~~

13 Section 12. Section 81-3-201, MCA, is amended to read:

14 "81-3-201. Definitions. Unless the context requires
 15 otherwise, in this part, the following definitions apply:

16 (1) "Deputy state stock inspector" means a person
 17 designated by the department of justice as a deputy state
 18 stock inspector, who does not receive a salary or
 19 compensation from the department.

20 (2) "Feedlot" means a confined livestock feeding
 21 operation where the owner or operator of the feedlot feeds
 22 livestock belonging to others for a fee.

23 (3) "Livestock" means a cow, ox, bull, stag, calf,
 24 steer, heifer, horse, mule, mare, colt, foal, or filly.

25 (4) "Person" means an individual, partnership,

1 corporation, association, or any entity not enumerated
2 capable of owning or controlling livestock.

3 (5) "State stock inspector" means an employee of the
4 department of ~~livestock of justice~~ designated by the
5 department as a state stock inspector."

6 NEW SECTION. Section 13. Appointment and powers of
7 stock inspector. (1) The department may appoint stock
8 inspectors. The inspectors must take the official oath
9 required by law and have the power and authority conferred
10 by law on deputy sheriffs. Stock inspectors are not entitled
11 to the fees or emoluments awarded by law to deputy sheriffs.

12 (2) The department shall devise an examination for
13 determining the qualifications of prospective stock
14 inspectors and may employ only those persons who pass the
15 examination.

16 (3) The department shall establish rules for taking of
17 the examination and defining a passing grade.

18 NEW SECTION. Section 14. Duties of stock inspectors.

19 (1) The stock inspectors shall arrest any person who in
20 their presence violates the stock laws of this state.

21 (2) Each stock inspector, on information that a person
22 has committed an offense against the laws of this state by
23 engaging in illegal branding or theft of stock or an offense
24 against the laws of this state for the protection of the
25 rights and interests of stock owners, shall obtain an arrest

1 warrant and arrest the person.

2 (3) A stock inspector must notify the department
3 concerning his actions after any arrest has been made.

4 NEW SECTION. Section 15. Compensation of stock
5 inspectors. The stock inspectors are under the exclusive
6 control and direction of the department of justice. They
7 must be paid for their services in the amount which the
8 department determines.

9 NEW SECTION. Section 16. Assignment to districts. The
10 stock inspectors are district officers, and the department
11 of justice must designate the district in which the
12 inspectors serve, and the district must be designated in
13 their commissions.

14 Section 17. Section 81-4-217, MCA, is amended to read:

15 "81-4-217. Retention of trespassing stock. (1) If an
16 animal breaks into an enclosure surrounded by a legal fence
17 or is wrongfully on the premises of another, the owner or
18 occupant of the enclosure or premises may take into his
19 possession the trespassing animal and keep the animal until
20 all damages, together with reasonable charges for keeping
21 and feeding the animal, are paid. The person who takes the
22 animal into his possession shall, within 72 hours after he
23 takes possession, give written notice to the owner or person
24 in charge of the animal, stating that he has taken the
25 animal. The notice shall also give the date of the taking,

1 the description of the animal taken, including marks and
 2 brands, if any, the amount of damages claimed, the charge
 3 per head per day for caring for and feeding the animal, and
 4 the description, either by legal subdivisions or other
 5 general description, of the location of the premises on
 6 which the animal is held. In all cases a copy of the notice
 7 shall also be posted at a point where the animal was taken.

8 (2) The notice shall be given to the owner or person
 9 in charge only when the owner or person in charge of the
 10 animal is known to the person taking the animal and resides
 11 within 25 miles of the premises on which the animal was
 12 taken. If the owner or person in charge of the animal
 13 resides more than 25 miles from the place of the taking, the
 14 notice shall be mailed to him. In this case or if the owner
 15 is unknown, a similar notice shall be mailed to the
 16 department of livestock justice and the sheriff of the
 17 county in which the animal has been taken. On receipt of the
 18 notice, the sheriff shall post a copy of the notice at the
 19 courthouse and shall send by certified mail a copy of it to
 20 the owner of the stock, if known to him. If unknown to him,
 21 the sheriff shall send a copy of the notice to the nearest
 22 state livestock inspector.

23 (3) If the parties within 5 days thereafter do not
 24 agree to the amount of damages, the claimant must within 10
 25 days thereafter institute a civil action to collect his

1 claim in a court of competent jurisdiction. Pending the
 2 outcome of the suit, the person taking the stock may, at the
 3 expense of the owner, retain a sufficient number of animals
 4 to cover the amount of damages claimed by him. The defendant
 5 may, after the institution of the action, on filing a bond
 6 executed by two or more sureties and approved by the court
 7 in double the sum sued for, conditioned upon the payment to
 8 the plaintiff of all sums, including costs that may be
 9 recovered by the plaintiff, have all livestock returned to
 10 him. The claimant is liable to the owner for any loss or
 11 injury to the stock occurring through his fault or neglect.
 12 If the claimant fails to recover in the action a sum equal
 13 to that offered him by the owner of the stock, the claimant
 14 bears the expense of keeping and feeding the stock while in
 15 his possession.

16 (4) A person who takes or rescues an animal from the
 17 possession of the person taking the animal, without his
 18 consent, is guilty of a misdemeanor and shall be fined not
 19 less than \$100 or more than \$500."

20 Section 18. Section 81-4-406, MCA, is amended to read:
 21 "81-4-406. Service on department of livestock justice.
 22 If the owner is unknown or if the owner is known but his
 23 post-office address is unknown, the notice shall be served
 24 on the department of livestock justice."

25 Section 19. Section 81-4-409, MCA, is amended to read:

1 "81-4-409. Department to ascertain owner -- notice.
 2 When the notice is served, the department of justice shall
 3 ascertain the owner of the stock, if possible, and when the
 4 owner is ascertained, immediately furnish the owner with the
 5 information contained in the notice. The department shall
 6 notify the city or town, its officers or agents, of the name
 7 and post-office address of the owner."

8 Section 20. Section 81-4-601, MCA, is amended to read:

9 "81-4-601. Estray-defined Definitions. ~~In this part~~
 10 As used in this part, the following definitions apply:

11 (1) "Department" means the department of justice.

12 (2) "Estray" "Estray" means a horse, mule, mare,
 13 gelding, colt, cow, ox, bull, stag, steer, heifer, calf,
 14 sheep, or lamb:

15 ~~(1)(a)~~ not bearing a brand and the ownership of which
 16 cannot be determined by the stock inspector of the district
 17 in which the animal is found by inquiry among reputable
 18 resident stock owners or freeholders;

19 ~~(2)(b)~~ bearing a recorded brand, the owner of which
 20 brand cannot be located at or through the post office
 21 designated on the records of the department or which owner
 22 cannot be located by the stock inspector of the district
 23 where the estray is found by inquiry among reputable
 24 resident stock owners or freeholders; or

25 ~~(3)(c)~~ which bears an unrecorded brand, the owner of

1 which unrecorded brand cannot be ascertained by the stock
 2 inspector of the district in which the animal is found by
 3 inquiry among reputable resident stock owners or
 4 freeholders."

5 Section 21. Section 81-5-107, MCA, is amended to read:

6 "81-5-107. Disposition of proceeds. The officer making
 7 the sale, after deducting the expenses of keeping the
 8 property and the cost of the sale so far as the balance of
 9 sale proceeds permit, shall pay all liens, according to
 10 their priorities, which are established, by intervention or
 11 otherwise in the proceedings, as being bona fide and as
 12 having been created without the lienor having any notice or
 13 reasonable cause to believe that the vehicle was being or
 14 was to be used for the illegal transportation and shall pay
 15 the balance of the proceeds to the treasurer of this state
 16 to be credited to the department of livestock justice fund."

17 Section 22. Section 81-5-201, MCA, is amended to read:

18 "81-5-201. Order requiring sheep removal permits --
 19 petition by sheep raisers. (1) The department of justice
 20 shall, within 60 days of the filing of a petition signed by
 21 not less than 51% of the sheep raisers owning not less than
 22 51% of the sheep in a county of this state requesting such
 23 action, make an order requiring a permit for the removal of
 24 any sheep from the county.

25 (2) Effective on the date of the department's order

1 which requires a permit for the removal of sheep from a
 2 county, it is unlawful for a person to remove sheep from the
 3 county without a permit. A person who removes, authorizes,
 4 or assists in the removal of sheep from the county without a
 5 permit is guilty of a misdemeanor."

6 Section 23. Section 81-5-202, MCA, is amended to read:
 7 "81-5-202. Form and issuance of permits -- fee. Before
 8 making an order under this part, the department of justice
 9 must provide for the form of the permit and for issuance of
 10 the permits by livestock inspectors in the affected county.
 11 Fee for issuance of the permit is 50 cents."

12 Section 24. Section 81-5-203, MCA, is amended to read:
 13 "81-5-203. Publication of notice of sheep removal
 14 permit order. Before the effective date of an order made
 15 under this part, the department of justice must publish a
 16 notice containing the text and effective date of the order
 17 at least three times in a paper of general circulation in
 18 the county and must have a copy of the order mailed to every
 19 sheep raiser in the county."

20 Section 25. Section 81-5-204, MCA, is amended to read:
 21 "81-5-204. Removal of permit requirement. On receipt
 22 of a petition signed in the manner specified in 81-5-201
 23 requesting the removal of the permit requirement, the
 24 department of justice shall, ~~at its next meeting,~~ order the
 25 permit requirement removed."

1 Section 26. Section 81-6-105, MCA, is amended to read:
 2 "81-6-105. Special livestock deputy -- duties --
 3 compensation. The county livestock protective committee may
 4 recommend to the board of county commissioners the
 5 appointment of a special livestock deputy, satisfactory to
 6 the department of justice and the sheriff, whose duties are
 7 to assist the department and the sheriff in the enforcement
 8 of hide and brand inspection laws, laws governing the
 9 movement and sale of livestock and the treatment and
 10 prevention of livestock diseases, laws pertaining to the
 11 apprehension of livestock rustlers and the prevention of
 12 rustling, and other laws which are of particular concern to
 13 the livestock industry of the county, particularly as
 14 regards cattle. The special livestock deputy may receive a
 15 commission from the department and appointment as a deputy
 16 from the sheriff of the county and shall give the bond for
 17 the faithful performance of his duties as required from
 18 officers performing similar duties. The special livestock
 19 deputy shall receive compensation for his services and for
 20 mileage traveled in the performance of his duties in an
 21 amount set by the board of county commissioners on the
 22 recommendation of the committee, to be paid from the
 23 stockmen's special deputy fund and from the county general
 24 fund in the proportions set by the board of county
 25 commissioners."

1 Section 27. Section 81-8-101, MCA, is amended to read:

2 "81-8-101. Definitions. Unless the context requires
3 otherwise, in this part the following definitions apply:

4 ~~(1) "Board" means the board of livestock provided for~~
5 ~~in 2-15-3102.~~

6 (2)(1) "Certificate" means the certificate of public
7 convenience and necessity authorized to be issued under this
8 part.

9 (3)(2) "Commission basis" means the compensation or
10 charge imposed on the owner of livestock for the services
11 rendered the owner by the operator of the livestock market.

12 (3) ~~"Department" means the department of agriculture.~~

13 (4) "Livestock" means and includes horses, mules,
14 cattle, swine, sheep, and goats.

15 (5) "Livestock market" means a place where a person
16 assembles livestock for either private or public sale by him
17 and the service is compensated for by the owner on a
18 commission basis or otherwise, except:

19 (a) a place used solely for a dispersal sale of the
20 livestock of a farmer, dairyman, livestock breeder, or
21 feeder who is discontinuing business and no other livestock
22 is sold there or offered for sale;

23 (b) a farm, ranch, or place where livestock either
24 raised or kept thereon for the grazing season or for
25 fattening is sold and no other livestock is brought there

1 for sale or offered for sale;

2 (c) the premises of a butcher, packer, or processor
3 who receives animals exclusively for immediate slaughter;

4 (d) the premises of a person engaged in the raising of
5 livestock for breeding purposes only, who limits his sale to
6 livestock of his own production;

7 (e) a place where a breeder or an association of
8 breeders of livestock of any class assemble and offer for
9 sale and sell under his or their own management any
10 livestock, when the breeder or association of breeders
11 assumes all responsibility for the sale and the title of
12 livestock sold.

13 (6) "Off-premises sale" means the sale of livestock by
14 a livestock market for which a certificate has been issued
15 under this chapter at a place other than the one at which
16 the livestock market conducts its usual livestock market
17 operation.

18 (7) "Person" means a person, partnership, association,
19 or corporation.

20 (8) "Test station sale" means the sale of livestock
21 from a place where livestock is taken to measure rates of
22 gain under uniform feeding conditions when that place is not
23 owned by the owner of the livestock."

24 Section 28. Section 81-8-102, MCA, is amended to read:

25 "81-8-102. Certificate to operate livestock market

1 required -- application -- fee. (1) A person may not operate
 2 a livestock market in this state without first obtaining
 3 from the ~~board department~~, under this part, a certificate
 4 declaring that public convenience and necessity require the
 5 operation. A person making application for a certificate
 6 shall do so in writing, verified by the applicant and
 7 specifying the following:

8 (a) the name and address of the applicant and the
 9 names and addresses of its officers, if any;

10 (b) the place where the applicant proposes to operate
 11 a livestock market;

12 (c) a complete and detailed description of the
 13 property and facilities proposed to be used in connection
 14 with the livestock market;

15 (d) the commissions or charges applicant proposes to
 16 impose on the owners of livestock for services rendered to
 17 them by the applicant in the operation of the livestock
 18 market;

19 (e) a detailed statement showing the assets and
 20 liabilities of the applicant;

21 (f) the location of other livestock markets within a
 22 radius of 200 miles of the proposed livestock market and the
 23 names and addresses of the operators thereof;

24 (g) a detailed statement of the facts upon which the
 25 applicant relies showing public convenience and necessity

1 for the livestock market, including the anticipated revenue
 2 from inspection fees that may be derived therefrom by the
 3 state;

4 (h) any additional information the ~~board department~~
 5 may require.

6 (2) The application shall be accompanied by a fee of
 7 \$100, which shall also be considered the first annual fee if
 8 the application is granted; however, the annual fee shall be
 9 paid on the following May 1 and each year thereafter, as
 10 provided herein."

11 Section 29. Section 01-8-103, MCA, is amended to read:

12 "01-8-103. Hearing and procedure -- limitation upon
 13 issuance of certificates. (1) Upon the filing of the
 14 application, the ~~board department~~ shall fix a time and place
 15 for a hearing thereon, which shall not be less than 10 days
 16 after the filing. The ~~board department~~ shall have a copy of
 17 the application and notice of hearing thereon served by mail
 18 at least 10 days before the date of hearing upon:

19 (a) the operators of any other livestock markets that
 20 in the opinion of the ~~board department~~ might be affected by
 21 the granting of any such certificate;

22 (b) the secretaries of the Montana stockgrowers'
 23 association and the Montana woolgrowers' association;

24 (c) the secretary of the district livestock
 25 association, if any;

1 (d) the secretary of the livestock association or
2 associations, if any, at the place or within the vicinity of
3 the proposed livestock market, if known to the board
4 department; and

5 (e) any railroad company operating into or through any
6 town or city in which the proposed livestock market will be
7 located.

8 (2) If, after hearing upon the application, the board
9 department finds from the evidence that public convenience
10 and necessity require the authorization of the proposed
11 livestock market, a certificate therefor shall be issued to
12 the applicant. In determining whether public convenience and
13 necessity require the livestock market, the board department
14 shall give reasonable consideration to the service rendered
15 by other existing livestock markets in this state and the
16 effect upon them if the proposed livestock market is
17 authorized and shall give due consideration to the
18 likelihood of the proposed service being permanent and
19 continuous throughout 12 months of the year."

20 Section 30. Section 81-8-104, MCA, is amended to read:

21 "81-8-104. Transfer of certificate. The board
22 department may approve the transfer of ownership of a
23 certificate of public convenience and necessity issued
24 pursuant to this part without a determination and showing of
25 public convenience and necessity. Such approval may be

1 granted only after a public hearing at which the
2 transferee's qualifications to operate a livestock market
3 have been thoroughly examined and found sufficient to
4 properly operate a livestock market. A minimum of 10 days'
5 notice by mail must be given to all persons to whom notice
6 is sent pursuant to the provisions of 81-8-103 on a hearing
7 to consider an initial application for a certificate."

8 Section 31. Section 81-8-105, MCA, is amended to read:

9 "81-8-105. Fee. A person operating a livestock market
10 in this state shall pay on May 1, annually, a fee of \$100 to
11 the board department. All fees under this part shall be paid
12 into the state treasury and placed by the state treasurer to
13 the credit of the earmarked revenue fund for the use of the
14 board department."

15 Section 32. Section 81-8-106, MCA, is amended to read:

16 "81-8-106. Bond required -- conditions. (1) Every
17 person operating a livestock market in this state shall
18 provide a bond in favor of this state, upon a form and with
19 surety to be approved by the board department, in the
20 minimum penal sum of \$10,000 or such greater sum as the
21 board department may determine, conditioned upon:

22 (a) the payment immediately upon the sale of the
23 livestock of all money received, less reasonable expenses
24 and commissions, by the livestock market to the rightful
25 owner of livestock so consigned and delivered to it for

1 sale; and

2 (b) a full compliance with this part, including all
3 rules adopted under this part.

4 (2) When approved the bond shall be filed with the
5 ~~board department.~~

6 (3) Actions of law may be brought in the name of the
7 state upon the bond for the use and benefit of a person who
8 suffers loss or damage from violations thereof and may be
9 brought by the person suffering loss or damage in the county
10 of his residence."

11 Section 33. Section 81-8-107, MCA, is amended to read:

12 "81-8-107. Cancellation or suspension of certificates.
13 The ~~board department~~ may cancel or suspend the certificate
14 of an operator of a livestock market if it finds that the
15 operator has:

16 (1) been guilty of fraud or misrepresentation as to
17 the titles, charges, number, brands, weights, proceeds of
18 sale, or ownership of livestock;

19 (2) violated any of the provisions of this part;

20 (3) violated any of the rules adopted and published by
21 the ~~board department~~;

22 (4) violated part 2 of chapter 3; or

23 (5) violated any of the conditions of the bond, as
24 provided by this part."

25 Section 34. Section 81-8-108, MCA, is amended to read:

1 "81-8-108. Appeal by livestock market or applicant for
2 certificate -- bond -- procedure. An appeal of a decision of
3 the ~~board department~~ for refusing to grant an application
4 for a certificate or suspending or revoking a certificate of
5 a livestock market shall be taken to the district court of
6 the county in which the proposed livestock market is to be
7 located or in which the authorized livestock market has its
8 principal place of business. The appellant shall file a bond
9 with the clerk of the district court in the sum of \$300 to
10 be approved by the judge of the court, conditioned to pay
11 all costs that may be awarded against the appellant in the
12 event of an adverse decision or the decision of the ~~board~~
13 ~~department~~ being affirmed. The cost of preparing
14 transcripts shall be paid by appellant. In case of
15 suspension or revocation of a certificate, the filing of the
16 notice and bond shall stay the order of the ~~board department~~
17 until the final determination of the appeal. If the
18 appellant fails to perfect the appeal the stay shall
19 automatically terminate."

20 Section 35. Section 81-8-109, MCA, is amended to read:

21 "81-8-109. ~~Board Department~~ regulation of certain
22 types of nonmarket sales of livestock. (1) Each person not a
23 livestock market operator authorized under this part
24 conducting the sale of livestock in a breed sale, a breed
25 association sale, or at a test station sale, except when all

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1 of the livestock are his and are being sold from his own
2 place, shall obtain approval from the board department
3 before conducting the sale.

4 (2) The board department, as conditions to granting
5 approval, may require:

6 (a) the names and addresses of those conducting the
7 sale;

8 (b) the date, time, and place where the sale will be
9 conducted;

10 (c) a detailed statement of the assets and liabilities
11 of the persons conducting the sale;

12 (d) the establishment of a custodial account into
13 which all moneys received as purchase for the sale of
14 livestock must be deposited;

15 (e) the posting of reasonable bond, in an amount
16 determined by the board department;

17 (f) the commissions or charges proposed to be imposed
18 on the owners of livestock for services rendered to them
19 associated with the sale;

20 (g) a guarantee to pay all consignors in full within a
21 reasonable time as set by the board department;

22 (h) such other information as the board department
23 considers necessary."

24 Section 36. Section 81-8-121, MCA, is amended to read:
25 "81-8-121. Regulation of livestock markets. The board

1 department shall:

2 (1) supervise and regulate livestock markets in this
3 state;

4 (2) regulate the properties, facilities, operations,
5 services, and practices of all livestock markets;

6 (3) supervise and regulate livestock markets in all
7 matters affecting the relationship between the operators and
8 owners of livestock and between the operators and purchasers
9 of livestock at the markets;

10 (4) prescribe by general order or otherwise rules in
11 conformity with this part applicable to all livestock
12 markets and not in conflict with the laws of the United
13 States or regulations of the United States department of
14 agriculture or other federal agencies."

15 Section 37. Section 81-8-122, MCA, is amended to read:

16 "81-8-122. Board of livestock to adopt rules. The
17 board of livestock shall adopt and enforce rules it
18 considers necessary or advisable in the interest of
19 livestock health or public health."

20 Section 38. Section 81-8-123, MCA, is amended to read:

21 "81-8-123. Inspection of public markets. Livestock
22 inspectors, which include stock inspectors of a county or
23 ~~district~~ the department of justice, the sheriff of a county,
24 or a representative of the department departments of
25 livestock or agriculture, may enter upon the premises where

1 livestock is being held or sold and be accorded every
 2 facility by the owners thereof in determining whether a
 3 violation of the law is being made or is likely to be made
 4 by a person. The inspection may not unnecessarily interfere
 5 with the conduct of the sales. Livestock so sold at the
 6 market may not be delivered to the purchaser until he has
 7 first received an inspection certificate issued by one of
 8 the officers designated in this section for the inspection
 9 of the livestock, showing clearly and explicitly that the
 10 person making the inspection is satisfied as to the
 11 ownership of the livestock and the health of all livestock
 12 so sold."

13 Section 39. Section 81-8-125, MCA, is amended to read:

14 "81-8-125. Records. (1) Hereafter any person desiring
 15 to establish, maintain, or conduct a market for the sale of
 16 horses or other livestock at public auction, or otherwise,
 17 shall keep a full and complete record book in which must be
 18 recorded the name or names of any person bringing to the
 19 market or offering for sale at such market any horses or
 20 other livestock, together with a description thereof as to
 21 their kind and of all brands of every kind thereon. If
 22 requested by the sheriff of the county or a stock inspector,
 23 in case question arises respecting the ownership, particular
 24 description shall be recorded showing, in addition to all
 25 the brands, the color and sex of such animals. In addition,

1 such record shall clearly show the name of the person for
 2 whom such animal or animals were sold, the date of the sale,
 3 and the person to whom such animal or animals were sold and
 4 the particular character of the animal or animals.

5 (2) Such record book must be open for inspection by
 6 the public for persons interested at any and all reasonable
 7 times.

8 (3) Each livestock market shall keep accounts,
 9 records, and memoranda and shall make reports which the
 10 board ~~department~~ requires, and the board ~~department~~ and its
 11 authorized agents and employees shall at all times have
 12 access to the accounts, records, and memoranda for
 13 inspection and examination."

14 Section 40. Section 81-8-127, MCA, is amended to read:

15 "81-8-127. Authorization of occasional off-premises
 16 sales. (1) The board ~~department~~ may authorize occasional
 17 off-premises sales by authorized livestock markets and may
 18 establish the conditions under which approval for an
 19 off-premises sale may be granted, including any change in
 20 bonding requirements the board ~~department~~ considers
 21 necessary.

22 (2) No livestock market for which a certificate has
 23 been issued under this part may conduct an off-premises sale
 24 without obtaining prior approval of the board ~~department~~."

25 Section 41. Section 81-8-129, MCA, is amended to read:

1 "81-8-129. Investigation of actions of livestock
2 markets -- hearing of complaints -- additional powers and
3 duties of ~~members of board or agents~~ the department --
4 witnesses. (1) When considered necessary, the board
5 department or any member or agent of the board department
6 may upon a motion or upon a verified complaint in writing
7 investigate the actions of a livestock market and, if found
8 proper to do so, shall file a complaint against the
9 livestock market with the board department. The complaint
10 shall be set for hearing before the board department upon 10
11 days' notice served upon the livestock market.

12 (2) Any investigation, inquiry, or hearing which the
13 board department may undertake or hold under this part may
14 be undertaken or held by or before ~~any board member or by or~~
15 ~~before any agent or examiner of the board~~ department
16 designated for that purpose by the board department. A
17 finding, order, or decision made by ~~a board member or an~~
18 agent or examiner of the board department so designated
19 pursuant to the investigation, inquiry, or hearing, when
20 approved and confirmed by the board department and ordered
21 filed in its office, is considered the finding, order, or
22 decision of the board department. An agent or examiner of
23 the board department may administer oaths, examine
24 witnesses, and receive evidence."

25 Section 42. Section 81-8-130, MCA, is amended to read:

1 "81-8-130. Operator of market to warrant title of
2 livestock sold -- duties when ownership in doubt. (1) The
3 operator of each livestock market in this state shall
4 warrant to the purchaser thereof the title of all livestock
5 sold through his livestock market and shall be liable to the
6 rightful owner thereof for the net proceeds in cash received
7 for the livestock so sold.

8 (2) An operator of a livestock market shall, when
9 notified by the authorized brand inspector that there is a
10 question as to whether any designated livestock sold through
11 the market is lawfully owned by the consignor thereof, hold
12 the proceeds received from the sale of the livestock for a
13 reasonable time, not to exceed 30 days, to permit the
14 consignor to establish ownership. If at the expiration of
15 that time the consignor fails to establish his lawful
16 ownership to the livestock, the proceeds shall be
17 transmitted by the operator of a livestock market to the
18 board department. The board department may dispose of the
19 proceeds in accordance with chapter 4, part 6, of this
20 title, relating to the distribution of estray money, and the
21 board's department's receipt therefor shall relieve the
22 operator of a livestock market from further responsibility
23 for the proceeds.

24 (3) Proof of ownership and account of all sales of
25 livestock shall be transmitted by the authorized brand

1 inspector to the board ~~department~~."

2 Section 43. Section 81-8-131, MCA, is amended to read:

3 "81-8-131. Operator of market to issue a receipt for
4 livestock consigned. A person operating a livestock market
5 as defined by 81-8-101 which must have a certificate issued
6 by the board ~~department~~ according to 81-8-102, shall issue a
7 receipt to any person, firm, partnership, or corporation
8 selling livestock through a livestock market showing the
9 number and description of livestock he has consigned for
10 sale."

11 Section 44. Section 81-8-132, MCA, is amended to read:

12 "81-8-132. Penalties. A person who violates any
13 provisions of this part or rules adopted by the board
14 ~~department~~ under this part is guilty of a misdemeanor and
15 upon conviction shall be fined not less than \$100 or more
16 than \$600, imprisoned in the county jail not less than 30
17 days or more than 6 months, or both fined and imprisoned. A
18 person who has been convicted of a violation of this part
19 and who subsequently is found guilty of another violation of
20 this part shall be fined not less than \$200 or more than
21 \$1,000, imprisoned in the county jail for not less than 3
22 months or more than 6 months, or both fined and imprisoned.
23 A second conviction requires the board ~~department~~ to suspend
24 or cancel the certificate of the person without a hearing,
25 and the person may not again be granted a certificate for a

1 period of 1 year."

2 Section 45. Section 81-8-201, MCA, is amended to read:

3 "81-8-201. Definitions. When used in this part, the
4 following definitions apply:

5 ~~(1) "Department" means the department of agriculture.~~

6 ~~(2)~~ (2) "Livestock" means cattle, sheep, swine, horses,
7 mules, and goats.

8 ~~(3)~~ (3) "Livestock dealer" means a person who buys
9 livestock for his own account for purposes of resale or
10 slaughter or for the account of others or for or on behalf
11 of any dealer. The term does not include a farmer or rancher
12 who buys or sells livestock in the ordinary course of his
13 farming or ranching operation.

14 ~~(4)~~ (4) "Meatpacker" means livestock dealer.

15 ~~(5)~~ (5) "Person" means an individual, partnership,
16 corporation, association, or other form of business
17 enterprise."

18 Section 46. Section 81-8-202, MCA, is amended to read:

19 "81-8-202. Prohibited conduct. It is unlawful for any
20 person to:

21 (1) carry on the business of a livestock dealer
22 without a valid and effective license issued by the
23 department of ~~livestock~~ under 81-8-204;

24 (2) carry on the business of a livestock dealer
25 without filing and maintaining a valid and effective surety

1 bond under 81-8-207;

2 (3) carry on the business of a livestock dealer while
3 his current liabilities exceed his current assets; or

4 (4) willfully make or cause to be made a false entry
5 or statement of fact in an application, financial statements,
6 or report filed with the department under this part."

7 Section 47. Section 81-8-204, MCA, is amended to read:

8 "81-8-204. Licenses. (1) A person desiring to be
9 licensed as a livestock dealer shall file annually with the
10 department of ~~livestock~~, before July 1, an application for a
11 license to transact business on a form prescribed by the
12 department. The application shall contain the following
13 information:

14 (a) the nature of the business to be conducted by the
15 applicant;

16 (b) the name or names of persons applying for the
17 license, together with their address and permanent
18 residence;

19 (c) the full name of each member, if the applicant is
20 a firm, association, or partnership, or the names of the
21 officers if the applicant is a corporation;

22 (d) the post office and principal place of business of
23 the applicant;

24 (e) if the applicant is a foreign corporation, its
25 principal place of business outside the state, the name of

1 the state in which it is incorporated, and that it has
2 complied with the laws of this state relating to foreign
3 corporations and its right to do business in this state;

4 (f) a copy of the financial statement showing current
5 assets and current liabilities, as submitted to the bonding
6 company to secure a bond under this part.

7 (2) With the filing of an application for license, the
8 applicant shall submit to the department a fee of \$25.

9 (3) When an applicant has paid the fee, the
10 department, except as otherwise provided in this section,
11 shall issue to the applicant a license which entitles the
12 licensee to engage in the business specified in his
13 application for a period of 1 year, unless the license is
14 suspended, revoked, or terminated under this part.

15 (4) A license shall be posted in a conspicuous place
16 in or at the place of business of the licensee for
17 inspection by any person. A licensee under this part shall
18 be issued a pocket card containing the license number of the
19 applicant and his authority as a livestock dealer, and the
20 card shall be carried, maintained, and displayed on demand
21 as authority as a licensed livestock dealer.

22 (5) All fees provided for under this part shall be
23 paid into the state treasury and shall be placed by the
24 state treasurer to the credit of the department.

25 (6) A license issued under this part automatically

1 terminates on June 30 following the issuance of the license
2 unless the annual fee has been paid, and a license
3 automatically terminates upon termination of the surety bond
4 covering the licensed operation."

5 Section 48. Section 81-8-205, MCA, is amended to read:
6 "81-8-205. Refusal of license. The department shall
7 refuse to issue or renew a license if the applicant has:

8 (1) not filed a surety bond in the form and amount
9 required under 81-8-207;

10 (2) not satisfactorily demonstrated that his current
11 assets exceed his current liabilities;

12 (3) been found by the department to have failed to
13 pay, without reasonable cause, obligations incurred in
14 connection with livestock transactions;

15 (4) violated the livestock laws of this state or of
16 the United States;

17 (5) practiced fraud in connection with the buying or
18 receiving of animals or the selling, exchanging, or
19 negotiating the sale of livestock or the weighing of
20 livestock;

21 (6) failed to keep records of all purchases and sales
22 or refused to grant inspection of the records by the
23 department;

24 (7) been suspended by the order of the secretary of
25 agriculture of the United States department of agriculture

1 under provisions of the Packers and Stockyards Act, 1921, as
2 amended, 7 U.S.C. section 181, et seq.; or

3 (8) failed to comply with an order of the livestock
4 department."

5 Section 49. Section 81-8-301, MCA, is amended to read:

6 "81-8-301. Notices of security agreements. The
7 department of livestock justice shall accept and file
8 notices of security agreements, renewals, assignments, and
9 satisfactions covering livestock owned by a person, firm,
10 corporation, or association and bearing its recorded brand
11 and shall list the notices on the official records of marks
12 and brands kept by it. The department shall also list the
13 notices in the offices of the stock inspectors employed by
14 the department and stationed at the central livestock
15 markets where records are kept of marks and brands. All
16 forms on which the notices are given shall be prescribed by
17 the department of justice and furnished by the secured party
18 who gives the notice. A livestock market to which livestock
19 is shipped may not be held liable to any secured party for
20 the proceeds of livestock sold through the livestock market
21 by the debtor unless notice of the security agreement is
22 filed as hereinbefore provided."

23 Section 50. Section 81-8-302, MCA, is amended to read:

24 "81-8-302. Contents of notices. The notices shall
25 consist of a statement showing the date of security

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1 agreement, the names and addresses of the debtors and
 2 secured parties or holders and owners thereof, a description
 3 of the livestock covered by the security agreement, and in
 4 case of notice of renewal, the date of renewal and, in the
 5 case of a notice of assignment of a security interest, the
 6 date of the assignment and a description of the security
 7 agreement to which the assignment is made and the parties to
 8 the assignment and any additional information which is
 9 required by the department of livestock justice."

10 Section 51. Section 81-8-303, MCA, is amended to read:

11 "81-8-303. Duty of secured parties to file
 12 satisfactions of security agreements. The secured parties,
 13 who filed notices of security agreements, renewals, and
 14 assignments with the department of livestock justice, as
 15 provided for in this part, shall file notices of
 16 satisfaction of the security agreements with the department
 17 immediately upon the satisfaction of the security
 18 agreement."

19 Section 52. Section 81-8-304, MCA, is amended to read:

20 "81-8-304. Fees. The department of livestock justice
 21 shall charge a fee for filing and listing the notices of
 22 security agreements for each recorded brand listed in each
 23 security agreement and for filing and listing each notice of
 24 satisfaction, renewal, or assignment of the security
 25 agreement for each recorded brand listed. The fees shall be

1 set by rules adopted pursuant to the Montana Administrative
 2 Procedure Act, upon the basis of actual cost to the
 3 department not to exceed \$15 for each brand listed. All fees
 4 shall be paid into the earmarked revenue fund for the use of
 5 the department of justice."

6 Section 53. Section 81-8-305, MCA, is amended to read:

7 "81-8-305. Department of livestock justice not
 8 responsible for collection or payment of money under
 9 security agreements. The department of livestock justice,
 10 its agents and employees, are not responsible or liable to
 11 either debtor or secured party for the collection or payment
 12 of any money due the holder of any security agreement
 13 covering livestock or renewals, satisfactions, or
 14 assignments thereof as provided in this part, if this part
 15 is carried out in good faith."

16 Section 54. Section 81-8-602, MCA, is amended to read:

17 "81-8-602. Definitions. As used in this part, unless
 18 the context otherwise requires, the following definitions
 19 apply:

20 (1) "Committee" means the Montana pork research and
 21 marketing committee provided for in 2-15-3103.

22 (2) "~~Department~~" means the department of agriculture.

23 (3) "~~Producer~~" means anyone actively engaged in the
 24 production of swine and includes a person, partnership,
 25 association, corporation, cooperative, trust, and any and

1 all business units, devices, and arrangements.

2 ~~(3)~~(4) "Purchaser" means any licensed or bonded
3 livestock dealer or livestock market in the state of
4 Montana."

5 Section 55. Section 81-8-607, MCA, is amended to read:
6 "81-8-607. Assessments. There is hereby assessed a per
7 head levy of 10 cents on all swine sold by producers to
8 purchasers beginning July 1, 1975. The assessment shall be
9 deducted and collected at the time of sale from the
10 producer's receipt of sale and remitted to department of
11 livestock by ~~the~~ purchaser under the provisions of this
12 part."

13 Section 56. Section 81-8-608, MCA, is amended to read:
14 "81-8-608. Purchaser's delivery of invoice to
15 producers -- form -- filing of sworn statement -- payment of
16 assessment. (1) The purchaser of swine at the time of
17 settlement shall make and deliver invoices for each purchase
18 to the producer. Such invoices shall show:

19 (a) the name and address of the producer and
20 purchaser;

21 (b) the number of swine sold;

22 (c) the date of the purchase and the amount of
23 assessment collected and remitted to the department of
24 livestock.

25 (2) The purchaser shall deliver to and have on file

1 with the department on forms prescribed by the committee by
2 the 20th day of each calendar month following any calendar
3 month in which purchaser shall purchase swine of a producer,
4 beginning on August 20, 1975, a sworn statement of the
5 number of swine purchased in Montana during the preceding
6 calendar month. At the time the sworn statement is filed,
7 the purchaser shall pay and remit to the department the
8 assessment provided for in this part for deposit in the
9 swine research and marketing account.

10 (3) The statement referred to in subsections (1) and
11 (2) of this section shall be legibly written and shall be
12 entirely free of any corrections or erasures on the face
13 thereof. Any person who shall alter any part of any
14 statement shall be guilty of a misdemeanor and, upon
15 conviction thereof, shall be punished as is provided herein.

16 (4) Any time after 30 days from the deduction of the
17 assessment and before the expiration of 90 days following
18 such deduction by the purchaser, the producer may, upon the
19 submission of a written, verified request therefor to the
20 committee through the department, obtain a refund in the
21 amount of the assessment deducted by said purchaser. The
22 request shall be accompanied by the original invoices
23 received by the producer at the time of settlement. The pork
24 research and marketing committee shall keep complete records
25 of all refunds made under the provisions of this part. All

1 original invoices shall be returned to the producer with the
2 refund payments."

3 Section 57. Section 81-8-609, MCA, is amended to read:

4 "81-8-609. Receipt of gifts, grants, or donations for
5 research purposes. The department ~~of livestock~~ is hereby
6 authorized to receive any gifts, grants, or donations for
7 any research of scientific inquiries conducted under
8 authority of this part and to use and expend the same in
9 compliance with the conditions, if any, of such grants,
10 gifts, and donations, provided such conditions are valid
11 under the laws of the state of Montana and in aid of the
12 purposes of this part."

13 Section 58. Section 81-8-610, MCA, is amended to read:

14 "81-8-610. Research and marketing account -- sources
15 -- use -- expenditures. (1) The proceeds of all assessments
16 made, paid, and collected under this part and the proceeds
17 from all gifts, grants, or donations to the department of
18 ~~livestock~~ for research authorized by this part shall be
19 deposited in the federal and private revenue fund for the
20 use of the committee as provided in this part.

21 (2) The account shall be maintained for the purposes
22 of this part and shall be separate and apart from all other
23 accounts of the department.

24 (3) Ten percent of all unrefunded assessments shall be
25 paid to the national meat board.

1 (4) Ten percent of all unrefunded assessments shall be
2 paid to the national pork producer council.

3 (5) The committee may be assessed costs by the
4 department only for those services requested by the
5 committee."

6 Section 59. Section 81-8-701, MCA, is amended to read:

7 "81-8-701. Definitions. Unless the context requires
8 otherwise, in this part the following definitions apply:

9 (1) "Agricultural and food product" includes a
10 horticultural, viticultural, dairy, livestock, poultry, bee,
11 other farm or garden product, fish or fishery product, and
12 other foods.

13 (2) "Continuous official inspection" means that an
14 employee or a licensed representative of the department of
15 agriculture ~~or the department of livestock~~ or the United
16 States department of agriculture regularly and continuously
17 examines the commodity as it is being packed so as to have
18 knowledge of the quality that goes into each package.

19 ~~(3) "Department" means the department of agriculture.~~

20 ~~(4) "Person" includes an individual, partnership,~~
21 association, union, or corporation."

22 Section 60. Section 81-8-702, MCA, is amended to read:

23 "81-8-702. Montana quality label. The department of
24 ~~livestock~~ may make use of an outline map of the state of
25 Montana and the word "Montana", printed, lithographed,

1 inscribed, engraved, or otherwise impressed on the labels,
 2 tags, seals, or containers of agricultural or food products,
 3 by a person who has availed himself of the continuous
 4 official inspection service offered by the department of
 5 ~~livestock~~, as an indication that the product has been
 6 inspected by the officers, agents, or licensed inspectors of
 7 the department and that the products are of the quality and
 8 description as indicated on the label, tag, seal, or
 9 container. The outline map with the word "Montana", when
 10 made use of under this part, shall be known as the "Montana
 11 quality label". When an authorized department, agent, or
 12 officer of the United States collaborates with the
 13 department of ~~livestock~~ in the inspection of a product, the
 14 Montana quality label may, with the consent of the
 15 appropriate department, agency, or officer of the United
 16 States, be superimposed on an outline map of the United
 17 States on the label, tag, seal or container, indicating
 18 inspectional collaboration between the department of
 19 ~~livestock~~ and the department, agency, or officer of the
 20 United States."

21 Section 61. Section 81-8-703, MCA, is amended to read:

22 "81-8-703. Limitation on use of label. The Montana
 23 quality label may not be used except under the rules made
 24 for its use by the department of ~~livestock~~, and it may not
 25 be used on the label, tag, seal, container, or product of a

1 farm, factory, mill, or other producing, processing,
 2 ~~packing~~, preparing, or dressing establishment unless the
 3 product is produced, processed, packed, prepared, or dressed
 4 under continuous official inspection."

5 Section 62. Section 81-8-704, MCA, is amended to read:
 6 "81-8-704. Procurement and use of labels --
 7 information concerning -- disposal of moneys. The department
 8 of ~~livestock~~ may make, print, or otherwise prepare a
 9 quantity of labels, tags, and seals with the Montana quality
 10 label printed, lithographed, inscribed, engraved, or
 11 impressed on them, sufficient to supply the demand for them.
 12 The department may furnish labels, tags, and seals at
 13 reasonable prices to a producer, processor, packer, or
 14 dresser who has availed himself of the continuous official
 15 inspection service. This part, however, does not preclude
 16 the department from permitting, under its rules, a producer,
 17 processor, packer, or dresser to make, prepare, or cause to
 18 be made or prepared the labels, tags, or seals to be used on
 19 his own product or to print, stamp, or otherwise place or
 20 cause to be placed the Montana quality label on products or
 21 containers which have been subject to continuous inspection,
 22 if the labels, tags, seals, stamps, or other devices are of
 23 a design which the department prescribes. The department of
 24 ~~livestock~~ may, in cooperation with the United States
 25 department of agriculture or otherwise, make use of

1 available and appropriate means to disseminate information
 2 concerning the Montana quality label and the products which
 3 may lawfully bear it and to popularize its use. All moneys
 4 derived from furnishing the labels, tags, and seals or from
 5 permitting the use of the Montana quality label shall be
 6 deposited in the state treasury to the credit of the general
 7 fund."

8 Section 63. Section 81-8-705, MCA, is amended to read:

9 "81-8-705. Wrongful use of label -- penalty --
 10 injunction -- prosecutions. (1) A person who uses the
 11 Montana quality label in violation of this part, or who,
 12 with the intent to mislead or deceive, uses an imitation
 13 counterfeit, or likeness thereof on the label, tag, seal,
 14 container, sign, or otherwise on any product which is sold
 15 or offered for sale or who uses the Montana quality label
 16 or, with intent to mislead or deceive, uses an imitation,
 17 counterfeit, or likeness thereof on or in connection with an
 18 offer to sell or advertisement for the sale or use of any
 19 product which does not in fact lawfully bear the Montana
 20 quality label is guilty of a misdemeanor and shall be fined
 21 not less than \$10 or more than \$500.

22 (2) The word "Montana" may not be used on a brand or
 23 label not of No. 1 quality, its equivalent, or better.

24 (3) A district court in this state has jurisdiction to
 25 enjoin the use of the Montana quality label or an imitation,

1 counterfeit, or likeness thereof used in violation of this
 2 part.

3 (4) The department of ~~livestock~~ may cause prosecutions
 4 for violations of this part, as well as the injunction
 5 proceedings under this section, to be instituted through the
 6 attorneys for the state or the counties and cities or
 7 otherwise in its discretion."

8 Section 64. Section 81-9-101, MCA, is amended to read:

9 "81-9-101. Definitions. (1) A person, firm,
 10 corporation, or association which slaughters neat cattle for
 11 the purpose of selling or distributing the meat or
 12 byproducts of the cattle in this state and which maintains
 13 slaughterhouses for this purpose and a person, firm,
 14 corporation, or association which maintains a meat market or
 15 meat markets for the purpose of selling or distributing any
 16 of the meat or byproducts of the cattle in this state and
 17 which, in either case, complies with the rules of the
 18 department and the board of health and environmental
 19 sciences and with the city or town health ordinances where
 20 the business is operated or any other ordinance pertaining
 21 to meat dealers is, for the purpose of this part, designated
 22 a "butcher".

23 (2) A person, firm, corporation, or association which
 24 slaughters neat cattle or buys and sells any dress beef or
 25 veal and which does not maintain a licensed slaughterhouse

1 or market is, for the purpose of this part, designated a
2 "meat peddler".

3 ~~(3) As used in this part, "department" means the~~
4 ~~department of justice."~~

5 Section 65. Section 81-9-401, MCA, is amended to read:
6 "81-9-401. Definitions. (1) "Animal hide" means the
7 hide of a horse, mare, colt, mule, jack, jenny or cattle.

8 ~~(2) "Department" means the department of justice.~~

9 ~~(2)(3)~~ "Hide certificate" means a certificate showing
10 a transfer of ownership of animal hides.

11 ~~(3)(4)~~ "Hide dealer" or "buyer" means, for the purpose
12 of this part, every person, firm, corporation, or
13 association engaged in the business of buying or selling the
14 hide or hides of any cattle or of any horse, mare, colt,
15 mule, jack, or jenny. However, licensed slaughterhouses
16 shall not be deemed hide dealers or buyers.

17 ~~(4)(5)~~ "Inspector" means a sheriff, deputy sheriff,
18 state stock inspector, or deputy state stock inspector
19 appointed by the department of ~~livestock~~ justice.

20 ~~(5)(6)~~ "Seller" means a person selling or delivering
21 animal hides for or without a pecuniary consideration."

22 Section 66. Codification. Sections 13 through 16 are
23 intended to be codified as an integral part of Title 81,
24 chapter 3, part 2.

25 Section 67. Repealer. Sections 81-1-201 through

1 81-1-204, MCA, are repealed.

-End-

SB 517

STATE OF MONTANA

REQUEST NO. 403-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 517 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

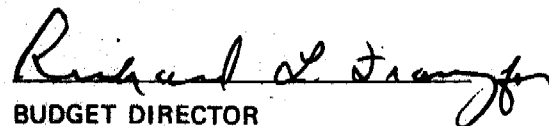
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation:

A proposal to transfer the functions at the Diagnostic Laboratory, Milk & Egg Bureau, and Inspection & Control Bureau from the Department of Livestock to other agencies.

Fiscal Impact:

This bill was killed in the Senate Agriculture Committee. Therefore there will be no fiscal impact.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/21/79