

Senate Bill 349

In The Senate

February 2, 1981	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.  Fiscal note requested.
February 6, 1981	Fiscal note returned.
February 16, 1981	Committee recommend bill do pass as amended.
February 17, 1981	Bill printed and placed on members' desks.
February 18, 1981	Second reading do pass as amended.
February 19, 1981	Correctly engrossed.
February 20, 1981	Third reading passed.

In The House

February 21, 1981	Introduced and referred to Committee on Agriculture.
April 23, 1981	Died in Committee.

1 *Assembly* BILL NO. *349*  
 2 INTRODUCED BY *Boylam - Called Galt*  
 3 *Mike Anderson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW  
 5 RELATING TO SEED POTATOES; PROVIDING FOR STANDARD GRADES OF  
 6 SEED POTATOES; REGULATING THE SHIPMENT OF SEED POTATOES TO  
 7 CONTROL DANGEROUS POTATO DISEASES AND INSECTS; AMENDING  
 8 SECTION 80-3-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 9 DATE."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Short title. [Sections 1  
 13 through 8] may be cited as the "Montana Seed Potato Standard  
 14 Grade and Inspection Act".

15 NEW SECTION. Section 2. Purpose. The purpose of  
 16 [sections 1 through 8] is to establish standard grades of  
 17 Montana seed potatoes for trade and shipping in either  
 18 interstate or intrastate commerce when such marketing is  
 19 done by the grower, sales agent, broker, dealer,  
 20 distributor, shipper, wholesaler, retailer, or any other  
 21 person or in any other manner; and to provide for the  
 22 regulation of the shipment of any seed potato products in  
 23 Montana, in either interstate or intrastate commerce, to  
 24 prevent and control the spread of highly contagious potato  
 25 diseases, viruses, insects, or dangerous plants that can

1 affect the potato plant and its growth.

2 NEW SECTION. Section 3. Definitions. Unless the  
 3 context requires otherwise, in [sections 1 through 8] the  
 4 following definitions apply:

5 (1) "Certified seed potatoes" or "certified potato  
 6 seed" means any part of a potato plant known as *Solanum*  
 7 *tuberosum* L. that has been grown and produced in accordance  
 8 with the rules or regulations of an official seed potato  
 9 certification agency of this state or another or of a  
 10 foreign country and has passed limited field and storage  
 11 inspection and has been packed and shipped pursuant to a  
 12 federal-state inspection certificate or phytosanitary  
 13 certificate.

14 (2) "Department" means the department of agriculture  
 15 provided for in 2-15-3001.

16 (3) "Federal-state inspection agency" means any state  
 17 agency, agent, association, or trade organization with which  
 18 the United States department of agriculture has entered into  
 19 a cooperative agreement for the purpose of providing  
 20 inspection service for seed potatoes or other fresh fruits  
 21 and vegetables or related products, pursuant to the federal  
 22 Agricultural Marketing Act of 1946 (7 U.S.C. 1621, et seq.),  
 23 as amended.

24 (4) "Inspection certificate" or "phytosanitary  
 25 certificate" means any form of document, either written or

1 printed, used by the federal-state inspection agency or an  
2 equivalent agency to certify with respect to the inspection,  
3 identification, class, grade, quality, size, quantity,  
4 origin, or condition of the seed potato products and their  
5 compliance with applicable specifications.

6 (5) "Montana certified seed potatoes" or "Montana  
7 certified potato seed" means any part of a potato plant  
8 known as *Solanum tuberosum* L. that has been produced in  
9 compliance with the provisions of Title 80, chapter 5, part  
10 3 and [sections 1 through 8] and is shipped, sold, offered  
11 for sale, used, or intended for use for seed, propagation,  
12 planting, or reproduction purposes.

13 (6) "Person" means an individual, firm, partnership,  
14 corporation, company, association, business, or legal  
15 entity.

16 (7) "Seed potatoes" or "potato seed" means all  
17 varieties of tubers, stems, cuttings, or any part of the  
18 common herb plant known as *Solanum tuberosum* L. of the  
19 nightshade family that is shipped, sold, offered for sale,  
20 used, or intended for use for seed, propagation, planting,  
21 or reproduction purposes.

22 (8) "Shipping-point inspection" means an official  
23 federal-state inspection performed at the time of loading by  
24 a federal-state inspection agency to investigate, sample,  
25 inspect, analyze, test, and certify to any interested party

1 the quality, identification, class, grade, variety, size,  
2 quantity, or condition of the subject seed potatoes.

3 (9) "Standard grade" or "grade" means a common set of  
4 qualities that results in uniformity.

5 ~~NEW SECTION.~~ Section 4. Standard grades for Montana  
6 seed potatoes. Montana state university or its designated  
7 agent may adopt rules as provided in 80-5-302 to establish  
8 standard grades and tag colors for Montana certified seed  
9 potatoes in accordance with the provisions of [sections 1  
10 through 7]. Standards so established are the legal standards  
11 for this state.

12 ~~NEW SECTION.~~ Section 5. Imported seed potatoes --  
13 restrictions. (1) In order to control and prevent the spread  
14 of contagious potato diseases, viruses, insects, or  
15 dangerous plants that can affect the potato plant and its  
16 growth:

17 (a) no potatoes, seed potatoes, equipment, machinery,  
18 or container known to be diseased or contaminated with  
19 bacterial ring rot, nematodes, or tuber moth may be brought  
20 into this state for any purpose; and

21 (b) no seed potatoes of any variety or kind may be  
22 imported or brought into this state for any purpose unless  
23 such potato seed:

24 (i) is equivalent to or better than the United States  
25 No. 1 seed potato standard grade established pursuant to the

1 federal Agricultural Marketing Act of 1946 (7 U.S.C. 1621,  
2 et seq.), as amended;

3 (ii) has been inspected at the Montana receiving point  
4 at the time of unloading by the federal-state inspection  
5 agency to verify that the shipment's contents comply with  
6 this section; and

7 (iii) is shipped, handled, and stored in clean,  
8 disinfected containers, machinery, or storage areas.

9 (2) The provisions of this section do not apply to  
10 Montana state university or its designated agent when it is  
11 importing or bringing into this state potato seed or other  
12 matter that is intended for scientific, educational, or  
13 research purposes.

14 NEW SECTION. Section 6. Enforcement -- adoption of  
15 rules -- fees. (1) The department or the federal-state  
16 inspection agency may for purposes of enforcing [sections 1  
17 through 6] enter upon the premises where potatoes or seed  
18 potato products are held, received, or stored, or where they  
19 are loaded, unloaded, or transferred.

20 (2) The department may adopt necessary rules for the  
21 enforcement of [sections 1 through 8] and may establish  
22 reasonable fees for necessary inspections and for  
23 enforcement of [sections 1 through 8]. All such fees shall  
24 be deposited in an earmarked revenue fund account designated  
25 for seed potato grade inspection and enforcement and are

1 subject to legislative appropriation.

2 NEW SECTION. Section 7. Violations -- penalty. (1) No  
3 person may ship, receive, sell, offer for sale, trade, or  
4 deliver Montana certified seed potatoes in either interstate  
5 or intrastate commerce unless such potato seed complies with  
6 the standard grade and tag colors and the rules established  
7 by Montana state university or its designated agent or by  
8 the department.

9 (2) No person may misrepresent or misuse by word, act,  
10 mark, label, tag, statement, certificate, paper,  
11 advertisement, or deed the grade, size, quality, quantity,  
12 condition, class, generation, variety, maturity, source, or  
13 origin of any seed potato product received, shipped, sold,  
14 offered for sale, or traded in Montana in either interstate  
15 or intrastate commerce.

16 (3) A person who violates [sections 1 through 8] is  
17 guilty of a misdemeanor and shall be fined not less than  
18 \$100 or more than \$500 for each offense.

19 NEW SECTION. Section 8. Injunctive relief. Montana  
20 state university or the department, or both, may seek  
21 injunctive relief in district court against:

22 (1) any unauthorized use or alteration of any  
23 inspection certificate or phytosanitary certificate, report,  
24 or tag;

25 (2) any person selling or offering for sale any

1 potatoes as certified seed potatoes that are not such; or  
 2 (3) any person not otherwise complying with the  
 3 provisions of [sections 1 through 8] or rules adopted under  
 4 [sections 1 through 8].

5 Section 9. Section 80-3-101, MCA, is amended to read:  
 6 "80-3-101. Definitions. (1) Unless the context  
 7 requires otherwise, in this part the following definitions  
 8 apply:

9 (a) "Container" or "package" means cloth or fiber  
 10 sack, barrel, box, crate, carton, hamper, or basket  
 11 customarily used for the shipment of Montana farm products  
 12 and other farm products.

13 (b) "Montana farm products" means all products of the  
 14 farm grown commercially in Montana or elsewhere and intended  
 15 for table use such as potatoes, cherries, and dry beans.

16 (c) "Other farm products" means all farm products  
 17 which are not normally grown commercially in Montana such as  
 18 grapefruit and oranges.

19 (d) "Person" as used herein shall mean any grower,  
 20 dealer, shipper, society, association, organization,  
 21 corporation, or their agents or representatives.

22 (2) The terms defined in subsections (1)(b) and (1)(c)  
 23 do not include livestock and its byproducts, poultry and its  
 24 products, apiary products, dairy products, grain, or apples,  
 25 or seed potatoes."

1 Section 10. Severability. If a part of this act is  
 2 invalid, all valid parts that are severable from the invalid  
 3 part remain in effect. If a part of this act is invalid in  
 4 one or more of its applications, the part remains in effect  
 5 in all valid applications that are severable from the  
 6 invalid applications.

7 Section 11. Codification instruction. Sections 1  
 8 through 8 are intended to be codified as an integral part of  
 9 Title 80, chapter 5, and the provisions of Title 80, chapter  
 10 5, apply to sections 1 through 8.

11 Section 12. Effective date. This act is effective on  
 12 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 290-81

FISCAL NOTE

Form BDF

In compliance with a written request received February 3, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 349 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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

Senate Bill 349 is an act to provide standard grades of seed potatoes for shipping to prevent and control potato diseases and insects.

Assumptions

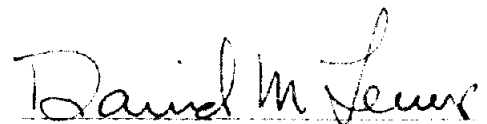
1. The act would be effective immediately upon passage and approval.
2. Costs associated with proposed legislation can be absorbed if existing procedures do not change.
3. The Department of Agriculture will be responsible for inspection and enforcement, except injunctions where both Agriculture and Montana State University would be involved.
4. The Department of Agriculture will continue on its formulating rules.

Revenue Impact

Collections presently deposited to General Fund; proposed legislation would deposit to Earmarked Revenue Fund Account.

Comments

No significant change in costs from existing law, however, Senate Bill 349 may require inspections exceeding qualification of current inspectors, cost of which cannot be determined.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-6-81

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 349

## 3 SENATE AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE

4  
5 A statement of intent is required for this bill because  
6 it delegates rulemaking authority to the Department of  
7 Agriculture in sections 4 and 6.

8 It is the legislative intent in delegating rulemaking  
9 authority to the Department in section 4 that the Department  
10 adhere as closely as possible to the recommendations made by  
11 Montana State University in its consultation with the  
12 Department, and that the person employed as potato  
13 specialist and extension plant pathologist at the University  
14 be involved in these consultations.

15 It is the legislative intent in delegating rulemaking  
16 authority to the Department in sections 4 and 6 that:

17 (1) In order to foster a healthy and most competitive  
18 certified seed potato industry in this state, such rules,  
19 grades, and seed tag colors should whenever possible be  
20 similar to, but not necessarily limited by, the uniform  
21 regulations, grades and seed tag colors of the other states  
22 in western region and the nation;

23 (2) The necessary revisions of rules, grades, and tag  
24 colors should be introduced and proposed far in advance of  
25 their planned effective date and notice of hearings for

1 revisions widely circulated among seed producers and other  
2 interested persons to review and comment upon, except in  
3 cases of an emergency;

4 (3) Such revisions to the rules, grades, and tag  
5 colors be adopted and printed long before the spring  
6 planting and shipping season;

7 (4) All rule, grade, and seed tag descriptions should  
8 be written clearly, concisely, and simply without  
9 unnecessary jargon, verbiage, and confusion so as to be  
10 easily understood by everyday farmers and their employees.

11 It is a further intent of this bill that legal due  
12 process and equal protection be provided to all parties  
13 affected by this act by the state and its various agencies.

14 First adopted by the Senate Agriculture, Livestock and  
15 Irrigation Committee on the 13th day of February, 1981.

Approved by Committee  
on Agriculture Livestock  
& Irrigation

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2 INTRODUCED BY BOYLAN, ELLERD, GALT, M. ANDERSON  
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6 SEED POTATOES; REGULATING THE SHIPMENT OF SEED POTATOES TO  
7 CONTROL--DANGEROUS--POTATO--DISEASES--AND--INSECTS; AMENDING  
8 SECTION 80-3-101, MCA;--AND--PROVIDING--AN--IMMEDIATE--EFFECTIVE  
9 DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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13 through 8] may be cited as the "Montana Seed Potato Standard  
14 Grade and Inspection Act".

15 NEW SECTION. Section 2. Purpose. The purpose of  
16 [sections 1 through 8] is to establish standard grades of  
17 Montana seed potatoes for trade and shipping in either  
18 interstate or intrastate commerce when such marketing is  
19 done by the grower, sales agent, broker, dealer,  
20 distributor, shipper, wholesaler, retailer, or any other  
21 person or in any other manner; and to provide for the  
22 regulation of the shipment of any seed potato products in  
23 Montana, in either interstate or intrastate commerce--to  
24 prevent--and--control--the--spread--of--highly--contagious--potato  
25 diseases--viruses--insects--or--dangerous--plants--that--can

1 affect-the-potato-plant-and-its-growth.

2 NEW SECTION. Section 3. Definitions. Unless the  
3 context requires otherwise, in [sections 1 through 8] the  
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5 (1) "Certified seed potatoes" or "certified potato  
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7 *tuberosum* L. that has been grown and produced in accordance  
8 with the rules or regulations of an official seed potato  
9 certification agency of this state or another or of a  
10 foreign country and has passed limited field and storage  
11 inspection and has been packed and shipped pursuant to a  
12 federal-state inspection certificate or phytosanitary  
13 certificate.

14 (2) "Department" means the department of agriculture  
15 provided for in 2-15-3001.

16 (3) "Federal-state inspection agency" means any state  
17 agency, agent, association, or trade organization with which  
18 the United States department of agriculture has entered into  
19 a cooperative agreement for the purpose of providing  
20 inspection service for seed potatoes or other fresh fruits  
21 and vegetables or related products, pursuant to the federal  
22 Agricultural Marketing Act of 1946 (7 U.S.C. 1621, et seq.),  
23 as amended.

24 (4) "Inspection certificate" or "phytosanitary  
25 certificate" means any form of document, either written or



1 printed, used by the federal-state inspection agency or an  
2 equivalent agency to certify ASSURE with respect to the  
3 inspection, identification, class, grade, ~~quantity~~, size,  
4 ~~quantity~~, origin, or condition of the seed potato products  
5 and their compliance with applicable specifications.

6 (5) "Montana certified seed potatoes" or "Montana  
7 certified potato seed" means any part of a potato plant  
8 known as *Solanum tuberosum* L. that has been produced in  
9 compliance with the provisions of Title 80, chapter 5, part  
10 3 and [sections 1 through 8] and is shipped, sold, offered  
11 for sale, used, or intended for use for seed, propagation,  
12 planting, or reproduction purposes.

13 (6) "Person" means an individual, firm, partnership,  
14 corporation, company, association, business, or legal  
15 entity.

16 (7) "Seed potatoes" or "potato seed" means all  
17 varieties of tubers, stems, cuttings, or any part of the  
18 common herb plant known as *Solanum tuberosum* L. of the  
19 nightshade family that is shipped, sold, offered for sale,  
20 used, or intended for use for seed, propagation, planting,  
21 or reproduction purposes.

22 (8) "Shipping-point inspection" means an official  
23 federal-state inspection performed at the time of loading by  
24 a federal-state inspection agency to investigate, sample,  
25 inspect, ~~analyze, test,~~ and certify ASSURE to any interested

1 party the ~~quantity~~, identification, class, grade, variety,  
2 size, ~~quantity~~, or condition of the subject seed potatoes.

3 (9) "Standard grade" or "grade" means a common set of  
4 qualities that results in uniformity.

5 NEW SECTION. Section 4. Standard grades for Montana  
6 seed potatoes. THE DEPARTMENT, IN CONSULTATION WITH Montana  
7 state university or its designated agent, may adopt rules as  
8 provided in 80-5-302 TITLE 80, CHAPTER 3, PART 1 to  
9 establish standard grades and tag colors for Montana  
10 certified seed potatoes in accordance with the provisions of  
11 [sections 1 through 7 g]. Standards so established are the  
12 legal standards for this state.

13 NEW SECTION. Section 5. Imported seed potatoes --  
14 ~~restrictions. (i) in order to control and prevent the spread~~  
15 ~~of contagious potato diseases, viruses, insects, or~~  
16 ~~dangerous plants that can affect the potato plant and its~~  
17 ~~growth.~~

18 ~~(a) no (1) NO~~ potatoes, seed potatoes, equipment,  
19 machinery, or container known to be diseased or contaminated  
20 with bacterial ring rot, nematodes, or tuber moth may be  
21 brought into this state for any purpose ~~and~~.

22 ~~(b) no (2) NO~~ seed potatoes of any variety or kind may  
23 be imported or brought into this state for any purpose  
24 unless such potato seed:

25 ~~(i) (A)~~ is equivalent to or better than the ~~United~~

1 States--No---i---seed--potato--standard--grade---established  
 2 pursuant--to--the--federal--Agricultural--Marketing--Act--of--1946  
 3 ~~(7-0-5-6-1621-et-seq)-as-amended~~ ONE OF THE STANDARD  
 4 GRADES FOR MONTANA SEED POTATOES ESTABLISHED PURSUANT TO  
 5 [SECTION 4] AND IS TAGGED AND LABELED IN ACCORDANCE WITH  
 6 THIS STANDARD GRADE;

7 ~~(ii)(3)~~ has been inspected at the Montana receiving  
 8 point at the time of unloading by the federal-state  
 9 inspection agency to verify that the shipment's contents  
 10 comply with this section; and

11 ~~(iii)(c)~~ is shipped, handled, and stored in clean,  
 12 disinfected containers, machinery, or storage areas.

13 ~~(2)~~ The provisions of this section do not apply to  
 14 Montana state university or its designated agent when it is  
 15 importing or bringing into this state potato seed or other  
 16 matter that is intended for scientific, educational, or  
 17 research purposes.

18 NEW SECTION. Section 6. Enforcement -- adoption of  
 19 rules -- fees. (1) The department or the federal-state  
 20 inspection agency may for purposes of enforcing [sections 1  
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 22 potato products are held, received, or stored, or where they  
 23 are loaded, unloaded, or transferred.

24 (2) The department may adopt necessary rules for the  
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1 reasonable fees for necessary inspections and for  
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 3 be deposited in an earmarked revenue fund account designated  
 4 for seed potato grade inspection and enforcement and are  
 5 subject to legislative appropriation.

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 7 person may ship, receive, sell, offer for sale, trade, or  
 8 deliver Montana certified seed potatoes in either interstate  
 9 or intrastate commerce unless such potato seed complies with  
 10 the standard grade GRADES and tag colors and the rules  
 11 established by ~~Montana-state-university-or-its-designated~~  
 12 ~~agent-or-by~~ the department PURSUANT TO [SECTIONS 4 AND 6].

13 (2) No person may misrepresent or misuse by word, act,  
 14 mark, label, tag, statement, certificate, paper,  
 15 advertisement, or deed the grade, size, quality, quantity,  
 16 condition, class, generation, variety, maturity, source, or  
 17 origin of any seed potato product received, shipped, sold,  
 18 offered for sale, or traded in Montana in either interstate  
 19 or intrastate commerce.

20 (3) A person who violates [sections 1 through 3] is  
 21 guilty of a misdemeanor and shall be fined not less than  
 22 \$100 or more than \$500 for each offense.

23 NEW SECTION. Section 8. Injunctive relief. ~~Montana~~  
 24 ~~state-university-or-the~~ THE department, ~~or-both,~~ may seek  
 25 injunctive relief in district court against:

1 (1) any unauthorized use or alteration of any  
2 inspection certificate or phytosanitary certificate, report,  
3 or tag;

4 (2) any person selling or offering for sale any  
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7 provisions of [sections 1 through 8] or rules adopted under  
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9 Section 9. Section 80-3-101, MCA, is amended to read:

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20 (c) "Other farm products" means all farm products  
21 which are not normally grown commercially in Montana such as  
22 grapefruit and oranges.

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24 dealer, shipper, society, association, organization,  
25 corporation, or their agents or representatives.

1 (2) The terms defined in subsections (1)(b) and (1)(c)  
2 do not include livestock and its byproducts, poultry and its  
3 products, apiary products, dairy products, grain, or apples,  
4 or seed potatoes."

5 Section 10. Severability. If a part of this act is  
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13 Title 80, chapter 5, and the provisions of Title 80, chapter  
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15 It is the legislative intent in delegating rulemaking  
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23 (2) The necessary revisions of rules, grades, and tag  
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1 revisions widely circulated among seed producers and other  
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10 easily understood by everyday farmers and their employees.

11 It is a further intent of this bill that legal due  
12 process and equal protection be provided to all parties  
13 affected by this act by the state and its various agencies.

14 First adopted by the Senate Agriculture, Livestock and  
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6 SEED POTATOES; REGULATING THE SHIPMENT OF SEED POTATOES #8  
7 ~~EGNABLE--DANGEROUS--POTATO--DISEASES--AND--INSECTS~~; AMENDING  
8 SECTION 80-3-101, ~~MCA--AND--PROVIDING--AN--IMMEDIATE--EFFECTIVE~~  
9 ~~DATE.~~"

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Short title. [Sections 1  
13 through 8] may be cited as the "Montana Seed Potato Standard  
14 Grade and Inspection Act".

15 NEW SECTION. Section 2. Purpose. The purpose of  
16 [sections 1 through 8] is to establish standard grades of  
17 Montana seed potatoes for trade and shipping in either  
18 interstate or intrastate commerce when such marketing is  
19 done by the grower, sales agent, broker, dealer,  
20 distributor, shipper, wholesaler, retailer, or any other  
21 person or in any other manner; and to provide for the  
22 regulation of the shipment of any seed potato products in  
23 Montana, in either interstate or intrastate commerce--to  
24 ~~prevent--and--control--the--spread--of--highly--contagious--potato~~  
25 ~~diseases--viruses--insects--or--dangerous--plants--that--can~~

1 ~~affect--the--potato--plant--and--its--growth.~~

2 NEW SECTION. Section 3. Definitions. Unless the  
3 context requires otherwise, in [sections 1 through 8] the  
4 following definitions apply:

5 (1) "Certified seed potatoes" or "certified potato  
6 seed" means any part of a potato plant known as *Solanum*  
7 *tuberosum* L. that has been grown and produced in accordance  
8 with the rules or regulations of an official seed potato  
9 certification agency of this state or another or of a  
10 foreign country and has passed limited field and storage  
11 inspection and has been packed and shipped pursuant to a  
12 federal-state inspection certificate or phytosanitary  
13 certificate.

14 (2) "Department" means the department of agriculture  
15 provided for in 2-15-3001.

16 (3) "Federal-state inspection agency" means any state  
17 agency, agent, association, or trade organization with which  
18 the United States department of agriculture has entered into  
19 a cooperative agreement for the purpose of providing  
20 inspection service for seed potatoes or other fresh fruits  
21 and vegetables or related products, pursuant to the federal  
22 Agricultural Marketing Act of 1946 (7 U.S.C. 1621, et seq.),  
23 as amended.

24 (4) "Inspection certificate" or "phytosanitary  
25 certificate" means any form of document, either written or

1 printed, used by the federal-state inspection agency or an  
2 equivalent agency to certify ASSURE with respect to the  
3 inspection, identification, class, grade, quality, size,  
4 quantity, origin, or condition of the seed potato products  
5 and their compliance with applicable specifications.

6 (5) "Montana certified seed potatoes" or "Montana  
7 certified potato seed" means any part of a potato plant  
8 known as *Solanum tuberosum* L. that has been produced in  
9 compliance with the provisions of Title 80, chapter 5, part  
10 3 and [sections 1 through 8] and is shipped, sold, offered  
11 for sale, used, or intended for use for seed, propagation,  
12 planting, or reproduction purposes.

13 (6) "Person" means an individual, firm, partnership,  
14 corporation, company, association, business, or legal  
15 entity.

16 (7) "Seed potatoes" or "potato seed" means all  
17 varieties of tubers, stems, cuttings, or any part of the  
18 common herb plant known as *Solanum tuberosum* L. of the  
19 nightshade family that is shipped, sold, offered for sale,  
20 used, or intended for use for seed, propagation, planting,  
21 or reproduction purposes.

22 (8) "Shipping-point inspection" means an official  
23 federal-state inspection performed at the time of loading by  
24 a federal-state inspection agency to investigate, sample,  
25 inspect, analyze, test, and certify ASSURE to any interested

1 party the quality, identification, class, grade, variety,  
2 size, quantity, or condition of the subject seed potatoes.

3 (9) "Standard grade" or "grade" means a common set of  
4 qualities that results in uniformity.

5 NEW SECTION. Section 4. Standard grades for Montana  
6 seed potatoes. THE DEPARTMENT, IN CONSULTATION WITH Montana  
7 state university or its designated agent, may adopt rules as  
8 provided in 80-5-302 TITLE 80, CHAPTER 3, PART 1 to  
9 establish standard grades and tag colors for Montana  
10 certified seed potatoes in accordance with the provisions of  
11 [sections 1 through 7 B]. Standards so established are the  
12 legal standards for this state.

13 NEW SECTION. Section 5. Imported seed potatoes --  
14 restrictions. ~~(f) In order to control and prevent the spread~~  
15 ~~of contagious potato diseases, viruses, insects, or~~  
16 ~~dangerous plants that can affect the potato plant and its~~  
17 ~~growth.~~

18 ~~(a) no (1) NO~~ potatoes, seed potatoes, equipment,  
19 machinery, or container known to be diseased or contaminated  
20 with bacterial ring rot, nematodes, or tuber moth may be  
21 brought into this state for any purpose ~~and.~~

22 ~~(b) no (2) NO~~ seed potatoes of any variety or kind may  
23 be imported or brought into this state for any purpose  
24 unless such potato seed:

25 ~~(f)(A)~~ is equivalent to or better than the United

1 ~~States--No--i--seed--potato--standard--grade--established~~  
 2 ~~pursuant--to--the--federal--Agricultural--Marketing--Act--of--1946~~  
 3 ~~(7-056-1621-et-seq)-as-amended~~ ONE OF THE STANDARD  
 4 GRADES FOR MONTANA SEED POTATOES ESTABLISHED PURSUANT TO  
 5 [SECTION 4] AND IS TAGGED AND LABELED IN ACCORDANCE WITH  
 6 THIS STANDARD GRADE;

7 ~~(i)(B)~~ has been inspected at the Montana receiving  
 8 point at the time of unloading by the federal-state  
 9 inspection agency to verify that the shipment's contents  
 10 comply with this section; and

11 ~~(i)(C)~~ is shipped, handled, and stored in clean,  
 12 disinfected containers, machinery, or storage areas.

13 ~~(2)(3)~~ The provisions of this section do not apply to  
 14 Montana state university or its designated agent when it is  
 15 importing or bringing into this state potato seed or other  
 16 matter that is intended for scientific, educational, or  
 17 research purposes.

18 NEW SECTION. Section 6. Enforcement -- adoption of  
 19 rules -- fees. (1) The department or the federal-state  
 20 inspection agency may for purposes of enforcing [sections 1  
 21 through 8] enter upon the premises where potatoes or seed  
 22 potato products are held, received, or stored, or where they  
 23 are loaded, unloaded, or transferred.

24 (2) The department may adopt necessary rules for the  
 25 enforcement of [sections 1 through 8] and may establish

1 reasonable fees for necessary inspections and for  
 2 enforcement of [sections 1 through 8]. All such fees shall  
 3 be deposited in an earmarked revenue fund account designated  
 4 for seed potato grade inspection and enforcement and are  
 5 subject to legislative appropriation.

6 NEW SECTION. Section 7. Violations -- penalty. (1) No  
 7 person may ship, receive, sell, offer for sale, trade, or  
 8 deliver Montana certified seed potatoes in either interstate  
 9 or intrastate commerce unless such potato seed complies with  
 10 the standard grade GRADES and tag colors and the rules  
 11 established by ~~Montana state university--or--its--designated~~  
 12 ~~agent--or--by~~ the department PURSUANT TO [SECTIONS 4 AND 6].

13 (2) No person may misrepresent or misuse by word, act,  
 14 mark, label, tag, statement, certificate, paper,  
 15 advertisement, or deed the grade, size, quality, quantity,  
 16 condition, class, generation, variety, maturity, source, or  
 17 origin of any seed potato product received, shipped, sold,  
 18 offered for sale, or traded in Montana in either interstate  
 19 or intrastate commerce.

20 (3) A person who violates [sections 1 through 8] is  
 21 guilty of a misdemeanor and shall be fined not less than  
 22 \$100 or more than \$500 for each offense.

23 NEW SECTION. Section 8. Injunctive relief. ~~Montana~~  
 24 ~~state-university--or--the~~ THE department~~--or--both~~ may seek  
 25 injunctive relief in district court against:



1 (1) any unauthorized use or alteration of any  
2 inspection certificate or phytosanitary certificate, report,  
3 or tag;

4 (2) any person selling or offering for sale any  
5 potatoes as certified seed potatoes that are not such; or

6 (3) any person not otherwise complying with the  
7 provisions of [sections 1 through 8] or rules adopted under  
8 [sections 1 through 8].

9 Section 9. Section 80-3-101, MCA, is amended to read:

10 "80-3-101. Definitions. (1) Unless the context  
11 requires otherwise, in this part the following definitions  
12 apply:

13 (a) "Container" or "package" means cloth or fiber  
14 sack, barrel, box, crate, carton, hamper, or basket  
15 customarily used for the shipment of Montana farm products  
16 and other farm products.

17 (b) "Montana farm products" means all products of the  
18 farm grown commercially in Montana or elsewhere and intended  
19 for table use such as potatoes, cherries, and dry beans.

20 (c) "Other farm products" means all farm products  
21 which are not normally grown commercially in Montana such as  
22 grapefruit and oranges.

23 (d) "Person" as used herein shall mean any grower,  
24 dealer, shipper, society, association, organization,  
25 corporation, or their agents or representatives.

1 (2) The terms defined in subsections (1)(b) and (1)(c)  
2 do not include livestock and its byproducts, poultry and its  
3 products, apiary products, dairy products, grain, or apples,  
4 or seed potatoes."

5 Section 10. Severability. If a part of this act is  
6 invalid, all valid parts that are severable from the invalid  
7 part remain in effect. If a part of this act is invalid in  
8 one or more of its applications, the part remains in effect  
9 in all valid applications that are severable from the  
10 invalid applications.

11 Section 11. Codification instruction. Sections 1  
12 through 8 are intended to be codified as an integral part of  
13 Title 80, chapter 5, and the provisions of Title 80, chapter  
14 5, apply to sections 1 through 8.

15 ~~Section 12.--Effective-date.--This-act-is-effective--on~~  
16 ~~passage-and-approval.~~

-end-