

HOUSE BILL 49

Introduced by S. Rice, et al.

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12/08	Tabled in Committee

1 House BILL NO. 49
2 INTRODUCED BY SPILLER ~~UNKNOWN~~.
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT COMBINING THE FUNCTIONS
5 AND OPERATIONS OF THE DEPARTMENT OF AGRICULTURE AND THE
6 DEPARTMENT OF LIVESTOCK INTO A SINGLE DEPARTMENT, TO BE
7 KNOWN AS THE DEPARTMENT OF AGRICULTURE AND LIVESTOCK, WITH
8 THE DIRECTOR OF AGRICULTURE AND LIVESTOCK AS DEPARTMENT
9 HEAD; ALLOCATING THE BOARD OF LIVESTOCK TO THE DEPARTMENT OF
10 AGRICULTURE AND LIVESTOCK FOR ADMINISTRATIVE PURPOSES;
11 AMENDING SECTIONS 2-15-104, 2-15-3001, 2-15-3003, 2-15-3102,
12 2-15-3103, 2-15-3104, 3-10-601, 50-23-101, 80-1-101,
13 80-8-403, 81-1-101, 81-2-702, 81-6-302, 81-8-213, 81-22-101,
14 AND 81-23-103, MCA; REPEALING SECTION 2-15-3101, MCA; AND
15 PROVIDING AN EFFECTIVE DATE."
16
17 WHEREAS, state expenditures could be reduced by
18 combining the functions and operations of the Departments of
19 Agriculture and Livestock into a single agency.
20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
22 **Section 1.** Section 2-15-104, MCA, is amended to read:
23 "2-15-104. Structure of executive branch. (1) In
24 accordance with the constitution, all executive and
25 administrative offices, boards, commissions, agencies, and

1 instrumentalities of the executive branch of state
2 government and their respective functions are allocated by
3 this chapter among and within the following departments or
4 entities:
5 (a) department of administration;
6 (b) department of military affairs;
7 (c) department of revenue;
8 (d) state board of education;
9 (e) department of labor and industry;
10 (f) department of commerce;
11 (g) department of justice;
12 (h) department of health and environmental sciences;
13 (i) department of social and rehabilitation services;
14 (j) department of corrections and human services;
15 (k) department of transportation;
16 (l) department of public service regulation;
17 (m) department of agriculture and livestock;
18 ~~(n) department of livestock~~;
19 ~~(o) department of state lands~~;
20 ~~(p)(o)~~ department of natural resources and
21 conservation;
22 ~~(q)(p)~~ department of fish, wildlife, and parks;
23 ~~(r)(q)~~ department of family services.
24 (2) For its internal structure, each department shall
25 adhere to the following standard terms:

1 (a) The principal unit of a department is a division.
2 Each division is headed by an administrator.

3 (b) The principal unit of a division is a bureau. Each
4 bureau is headed by a chief.

5 (c) The principal unit of a bureau is a section. Each
6 section is headed by a supervisor."

7 **Section 2.** Section 2-15-3001, MCA, is amended to read:

8 "2-15-3001. Department of agriculture and livestock --
9 head. There is a department of agriculture and livestock.
10 The department head is a the director of agriculture and
11 livestock, appointed by the governor in accordance with
12 2-15-111."

13 **Section 3.** Section 2-15-3003, MCA, is amended to read:

14 "2-15-3003. Board of hail insurance. (1) There is a
15 board of hail insurance of. The board has five members,
16 consisting of the state auditor, the director of agriculture
17 and livestock, who is secretary of the board, and three
18 other members to be appointed by the governor and confirmed
19 by the senate.

20 (2) The governor shall designate one of the appointive
21 members to act as chairman presiding officer of the board.

22 (3) Whenever the term of any member expires, either by
23 death, resignation, removal for cause, or expiration of his
24 the member's term of office, the governor shall appoint his
25 a successor and shall also appoint one of the board for

1 chairman as presiding officer in case of a vacancy in that
2 office.

3 (4) Each appointive member of the board ~~shall~~ must be
4 appointed for 3 years, except when such the appointment is
5 made to fill a vacancy on the board, in which event such the
6 appointee shall fill out the unexpired term of the member
7 whose place ~~he~~ the appointee fills.

8 (5) All members of the board ~~shall be~~ are subject to
9 removal for cause by the governor.

10 (6) The board is allocated to the department of
11 agriculture and livestock for administrative purposes only
12 as prescribed in 2-15-121. The department may charge the
13 board for services provided by the department pursuant to
14 2-15-121. The costs charged by the department must be
15 commensurate with the cost of the services provided."

16 **Section 4.** Section 2-15-3102, MCA, is amended to read:

17 "2-15-3102. Board of livestock -- composition. (1)
18 There is a board of livestock.

19 (2) The board consists of seven members appointed by
20 the governor with the consent of the senate. Each member
21 must be a resident of the state and an active livestock
22 producer. A member must be appointed upon the recommendation
23 of the related industry and must have the following
24 qualifications:

25 (a) four are cattle producers;

(b) one is a dairy producer representing the dairy and poultry industry;

(c) one is a swine producer; and

(d) one is a sheep producer.

(3) ~~An appointee is vested with all the powers and duties of office before being confirmed by the senate, as are directors in 2-15-111(2).~~ The board is allocated to the department of agriculture and livestock for administrative purposes only as prescribed in 2-15-121.

(4) The governor shall designate the presiding officer of the board.

(5) A member shall serve for a term of 6 years.

(6) Members of the board must be reimbursed and compensated as are members of quasi-judicial boards in 2-15-124(7).

(7) In addition to carrying out its functions as provided by law, the board shall act in an advisory capacity to the department in all matters relating to livestock.

Section 5. 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. The committee shall be is 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~~ director of the department of agriculture and livestock;

(ii) the dean of agriculture of Montana state university;

(iii) administrator of ~~brand~~ the brands enforcement division, department of agriculture and livestock department; and

(iv) administrator of the animal health division, department of agriculture and livestock department.

(2) One member of the committee ~~shall~~ must be appointed from each of the following districts and ~~shall~~ must be a resident of and ~~shall~~ must have swine operations in the district from which appointed:

(a) District I, consisting of Deer Lodge, Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Powell, Ravalli, Sanders, Glacier, Liberty, Pondera, Teton, Toole, Broadwater, Cascade, Lewis and Clark, Meagher, Beaverhead, Gallatin, Jefferson, Madison, and Silver Bow Counties;

(b) District II, consisting of Blaine, Chouteau, Hill, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Wheatland, Big Horn, Carbon, Park, Stillwater, Sweet Grass, and Yellowstone Counties;

(c) District III, consisting of Daniels, Dawson, Garfield, McCone, Richland, Roosevelt, Sheridan, Valley, Treasure, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Wibaux, and Phillips Counties.

(3) Two members of the committee ~~shall be~~ are appointed at large.

(4) A list of nominees for appointment to the committee may be submitted to the governor by any farm or ranch organization ~~which that~~ has substantial numbers of its membership actively engaged in swine production. Each nominee must be from the district for which the appointment ~~shall be~~ is made except for the at-large nominees. The names of nominees ~~shall must~~ be submitted not less than 91 days prior to the expiration of any committee member's term.

(5) Committee members ~~shall must~~ be appointed for a term of 5 years.

(6) Members appointed to fill unexpired terms ~~shall--be~~ are appointed for the remainder of the unexpired term.

(7) The committee is allocated to the department of agriculture and livestock for administrative purposes only as provided in 2-15-121."

Section 6. Section 2-15-3104, MCA, is amended to read:

"2-15-3104. Livestock crimestoppers commission. (1) There is a livestock crimestoppers commission.

(2) The commission consists of five members appointed

by the ~~chairman~~ presiding officer of the board of livestock.

The members are:

(a) the administrator of the brands enforcement division, or ~~his~~ the administrator's designee;

(b) a member of the board of livestock, or ~~his~~ the member's designee;

(c) a law enforcement official; and

(d) two members of the public, appointed at large.

(3) The commission shall elect a ~~chairman~~ presiding officer from its members.

(4) A member must be appointed for a term of 2 years and may be reappointed.

(5) (a) A vacancy must be filled within 14 days of occurrence in the same manner as the original appointment.

(b) A vacancy does not impair the right of the remaining members to exercise the powers of the commission.

(6) The commission is allocated to the department of agriculture and livestock for administrative purposes only as provided in 2-15-121."

Section 7. Section 3-10-601, MCA, is amended to read:

"3-10-601. Collection and disposition of fines, penalties, forfeitures, and fees. (1) Each justice of the peace shall collect the fees prescribed by law for justices' courts and shall pay them into the county treasury of the county ~~wherein--he~~ in which the justice holds office, on or

before the 10th day of each month, to be credited to the general fund of the county.

(2) All fines, penalties, and forfeitures that this code requires to be imposed, collected, or paid in a justice's court must, for each calendar month, be paid by the justice's court on or before the 5th day of the following month to the treasurer of the county in which the justice's court is situated, except that they may be distributed as provided in 44-12-206 if imposed, collected, or paid for a violation of Title 45, chapter 9 or 10.

(3) The county treasurer shall, in the manner provided in 15-1-504, distribute money received under subsection (2) as follows:

(a) 50% to the state treasurer; and

(b) 50% to the county general fund.

(4) The state treasurer shall distribute money received under subsection (3) as follows:

(a) 27.88% to the state general fund;

(b) 9.09% to the fish and game account in the state special revenue fund;

(c) 11.76% to the state highway account in the state special revenue fund;

(d) 33.86% to the traffic education account in the state special revenue fund;

(e) 0.57% to the department of agriculture and

livestock account in the state special revenue fund;

(f) 15.9% to the crime victims compensation account in the state special revenue fund; and

(g) 0.94% to the department of family services special revenue account for the battered spouses and domestic violence grant program."

Section 8. Section 50-23-101, MCA, is amended to read:

"50-23-101. **Definitions.** Unless the context requires otherwise, in this part the following definitions apply:

(1) "Department of health and environmental sciences" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Department of agriculture and livestock" means the department of agriculture and livestock provided for in Title 2, chapter 15, part 31 ~~30~~.

(3) "Person" means an individual, group of individuals, partnership, corporation, firm, or association.

(4) "Wild animal" means a skunk, fox, raccoon, or bat. Other species of normally nondomesticated animals known to be capable of transmitting rabies may be added to this list through the adoption of rules by the department of health and environmental sciences with the approval of the department of agriculture and livestock."

Section 9. Section 80-1-101, MCA, is amended to read:

"80-1-101. **Definition.** Unless the context requires

otherwise, in this title "department" means the department of agriculture and livestock provided for in ~~Article--XII, section--17--of--the--Montana--constitution--and--in~~ Title 2, chapter 15, part 30."

Section 10. Section 80-8-403, MCA, is amended to read:

"80-8-403. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of agriculture and livestock as provided for in 2-15-3001.

(2) "Director" means the director of agriculture and livestock as provided for in 2-15-3001.

(3) "School district" means a school district established according to Title 20, chapter 6."

Section 11. Section 81-1-101, MCA, is amended to read:

"81-1-101. Definitions. Unless the context requires otherwise, in Title 81, the following definitions apply:

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

(2) "Department" means the department of agriculture and livestock provided for in Title 2, chapter 15, part 30."

Section 12. Section 81-2-702, MCA, is amended to read:

"81-2-702. Definitions. As used in this part, the following definitions apply:

(1) "Animals" means livestock, dogs, cats, rabbits,

rodents, game animals, game farm animals, fur-bearing and wild animals, and poultry and other birds.

(2) "Biologics" means medicinal preparations made from living organisms and their products. It includes but is not limited to serums, vaccines, antigens, and antitoxins.

(3) "Department" means the department of agriculture and livestock.

(4) "Health certificate" means a legible record written on an official health certificate form of the state of origin or on an equivalent form of the U.S. department of agriculture attesting that the animals, animal semen, or animal biologics described on the certificate have been visually inspected by a federally accredited veterinarian and found to meet the entry requirements of the state of Montana.

(5) "Livestock" means cattle, horses, mules, asses, sheep, llamas, alpacas, bison, swine, and goats.

(6) "Permit" means an official document issued by the department after proper application that allows the movement of animals, animal semen, or animal biologics into Montana.

(7) "Poultry" means domesticated birds, including but not limited to chickens, turkeys, ducks, geese, guinea fowl, pigeons, and pheasants."

Section 13. Section 81-6-302, MCA, is amended to read:

"81-6-302. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Commission" means the livestock crimestoppers
3 commission created in 2-15-3104.

4 (2) "Department" means the department of agriculture
5 and livestock created in Title 2, chapter 15, part 31 30.

6 (3) "Program" means the livestock crimestoppers program
7 created under 81-6-313."

8 **Section 14.** Section 81-8-213, MCA, is amended to read:

9 "81-8-213. Definitions. As used in this part, the
10 following definitions apply:

11 (1) "Board" means the board of livestock provided for
12 in 2-15-3102.

13 (2) "Department" means the department of agriculture
14 and livestock provided for in Title 2, chapter 15, part 31
15 30.

16 (3) "Immediate resale" means a sale of livestock within
17 60 days of the purchase of the livestock.

18 (4) "Livestock" means cattle, calves, hogs, pigs,
19 horses, mules, sheep, lambs, and goats.

20 (5) "Livestock dealer" means a person engaged in the
21 business of purchasing livestock for immediate resale or
22 interstate shipment.

23 (6) "Livestock market" means a place where a person for
24 compensation assembles livestock for sale, except:

25 (a) a place used solely for a dispersal sale of the

1 livestock of a farmer, ~~dairyman~~ dairy producer, livestock
2 breeder, or feeder who is discontinuing business and at
3 which no other livestock is sold or offered for sale;

4 (b) a farm, ranch, or place where livestock either
5 raised or kept ~~thereon~~ for the grazing season or for
6 fattening is sold and to which no other livestock is brought
7 for sale or to be offered for sale;

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

10 (d) the premises of a person who is engaged in the
11 raising of livestock for breeding purposes only, and who
12 limits ~~his-sale~~ sales to livestock of ~~his~~ the person's own
13 production;

14 (e) a place where a breeder or an association of
15 breeders of livestock of any class assembles and offers for
16 sale and sells under ~~his~~ the breeder's or ~~its~~ the
17 association's own management any livestock, when the breeder
18 or association of breeders assumes all responsibility for
19 the sale and the title of livestock sold.

20 (7) "Person" means an individual, firm, association,
21 partnership, or corporation.

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

1 **Section 15.** Section 81-22-101, MCA, is amended to read:

2 **"81-22-101. Definitions.** For the purpose of this
3 chapter, the following definitions are adopted:

4 (1) "Agent" means a person who is authorized by another
5 person to act for that other person in dealing with a third
6 person.

7 (2) "Butter" is the clean, nonrancid product made by
8 gathering the fat of fresh ripened milk or cream into a mass
9 that also contains a small portion of the other milk
10 constituents, with or without salt, and must contain not
11 less than 80% of milk fat. No tolerance for deficiency in
12 milk fat is permitted. Butter may also contain added
13 coloring matter.

14 (3) "Cheese" is the sound, solid, and ripened product
15 made from milk or cream by coagulating the casein with
16 rennet or lactic acid, with or without ripening ferments and
17 seasoning, and must contain in the water-free substance not
18 less than 50% of milk fat and not more than 39% of moisture.
19 Cheese may also contain added coloring matter.

20 (4) "Cheese factory" means a place where cheese,
21 including cream cheese, cottage cheese, creamed cottage
22 cheese, cheese curd, cottage cheese dressing, and low-fat
23 counterparts of cheese, either cultured or directly
24 acidified, is made for commercial purposes.

25 (5) "C.I.P." means the procedure by which sanitary

1 pipelines or pieces of dairy equipment are mechanically
2 cleaned in place by circulation when this procedure meets
3 the 3-A accepted practices for permanently installed
4 sanitary product-pipelines and cleaning systems.

5 (6) "Code of Federal Regulations" refers especially but
6 is not limited to Title 21, which contains the definitions
7 and standards of identity for products as established by the
8 food and drug administration, United States department of
9 health and human services.

10 (7) "Cream" means the milk fat that rises to the
11 surface when milk is allowed to stand or that is separated
12 from milk by centrifugal force when sold, used, or intended
13 for use in a manufactured product.

14 (8) "Creamery" means a place where butter is made for
15 commercial purposes.

16 (9) "Culture" means the harmless lactic acid fermenting
17 bacteria that are added to milk or cream to make
18 manufactured dairy products like cultured buttermilk,
19 cheese, cottage cheese, yogurt, sour cream, cream cheese,
20 butter, and similar products.

21 (10) "Dairy" or "dairy farm" means a place where one or
22 more cows or goats are kept, a part or all of the milk or
23 cream from which is used for manufacturing purposes.

24 (11) The term "department", unless otherwise indicated,
25 means the department of agriculture and livestock provided

1 for in Title 2, chapter 15, part 30.

2 (12) "Direct acidification", "directly acidified", and
3 similar terms mean the process of adding a food grade acid
4 to milk or cream instead of or in addition to the adding of
5 culture.

6 (13) "Filled dairy products" means milk, cream, skimmed
7 milk, or any combination of these, whether or not condensed,
8 evaporated, concentrated, frozen, powdered, dried, or
9 desiccated, or any food product made or manufactured from
10 them, to which has been added or which has been blended or
11 compounded with fat or oil other than milk fat so that the
12 resulting product is in imitation or semblance of a dairy
13 product, including milk, cream, sour cream, skimmed milk,
14 ice cream, low-fat ice cream, whipped cream, flavored milk
15 or skim milk yogurt, dried or powdered milk, cheese, cream,
16 cream cheese, cottage cheese, creamed cottage cheese, ice
17 cream mix, low-fat ice cream mix, sherbet, condensed milk,
18 evaporated milk, or concentrated milk.

19 (14) "French ice cream", "French custard ice cream",
20 "cooked ice cream", "ice custard", "parfaits", and similar
21 frozen products, except sherbets and water ices, are
22 varieties of ice cream.

23 (15) "Frozen dessert plant" means a place where products
24 named in subsections (27)(a)(iii) through (27)(a)(ix) are
25 made for commercial purposes.

1 (16) "Fruit ice cream" must conform to the requirements
2 of ice cream, except that the fruit ingredients must be from
3 sound, clean, and mature fruit, and it must contain not less
4 than 9% of milk fat.

5 (17) "Grading" means the examination of milk, cream, or
6 products by sight, odor, taste, or laboratory analysis, the
7 results of which determine a grade designating their
8 quality.

9 (18) "Ice" or "ice sherbet" is the pure, clean, frozen
10 product made from water and sugar with harmless fruit or
11 fruit juice flavoring, with or without harmless coloring or
12 added stabilizer composed of wholesome edible material, and
13 must contain not less than 35/100 of 1% of acid, as
14 determined by titrating with standard alkali and expressed
15 as lactic acid. It may not contain milk solids.

16 (19) "Ice cream" is a frozen product made with pure,
17 sweet milk, cream, skim milk, evaporated or condensed milk,
18 evaporated or condensed skim milk, dry milk, dry skim milk,
19 pure milk fat, wholesome sweet butter, or any combination of
20 these products, with or without sweetening, or clean
21 wholesome eggs or egg products, with or without the use of
22 harmless flavoring and coloring. Ice cream must contain not
23 less than 10% of milk fat, must contain not less than 33%
24 total solids, and may or may not contain pure and harmless
25 edible stabilizer. Ice cream may contain not to exceed 1%

1 gelatin. A frozen milk or milk product may not be
2 manufactured or sold unless it contains at least 10%
3 butterfat, excepting sherbets, ices, and other exceptions
4 under this section. All ice cream must be manufactured from
5 pasteurized ice cream mix.

6 (20) An "ice cream factory" is a place where ice cream
7 mix is frozen into ice cream for commercial purposes.

8 (21) (a) "Ice cream mix" is a pasteurized, unfrozen
9 product used in the manufacture of ice cream and must comply
10 with the requirements for ice cream.

11 (b) "Mix" includes the liquid, unfrozen product from
12 which those frozen products listed under subsection
13 (27)(a)(iii) through (27)(a)(v) and (27)(a)(vii) through
14 (27)(a)(xii) are made.

15 (22) An "ice cream mix factory" is a place where ice
16 cream mix is made.

17 (23) "Intrastate commerce" means commerce within this
18 state under the jurisdiction of the state and includes the
19 operation of a business or service establishment.

20 (24) "Manufactured dairy product" means an item
21 enumerated in subsection (27) or any other dairy product
22 made by incorporating milk or cream or converting milk or
23 cream into a different state of appearance or quality. For
24 purposes of reporting production and licensing,
25 "manufactured dairy product" includes but is not limited to:

- 1 (a) ice cream or its mix;
- 2 (b) French ice cream, custard ice cream, French custard
- 3 ice cream, their low-fat counterparts, or their mixes;
- 4 (c) sherbets of all kinds or their mixes;
- 5 (d) animal or vegetable fat frozen desserts or their
- 6 mixes;
- 7 (e) frozen confections or their mixes when made in a
- 8 manufactured dairy products plant;
- 9 (f) water ices or their mixes;
- 10 (g) frozen dessert sandwiches, bars, cones, and similar
- 11 novelties;
- 12 (h) frozen dessert made of nondairy origins and other
- 13 products made in the semblance or imitation of dairy
- 14 products or their mixes when made in a manufactured dairy
- 15 products plant;
- 16 (i) ice milk or its mix;
- 17 (j) cheese of all kinds, including cottage cheese,
- 18 cheese curd, cheese dressing, and cream cheese, either
- 19 cultured or directly acidified;
- 20 (k) sour cream when cultured or directly acidified;
- 21 (l) eggnog, low-fat eggnog, eggnog-flavored milk, and
- 22 similar flavored products;
- 23 (m) buttermilk, cultured or from churned butter or
- 24 directly acidified;
- 25 (n) butter;

1 (o) yogurt, low-fat yogurt, or flavored yogurt, either
2 cultured or directly acidified or frozen.

3 (25) "Manufactured dairy products plant" or "factory"
4 means a place where milk or cream is collected and converted
5 into a product or into a different state of appearance or
6 quality or that manufactures those products listed in
7 subsection (27). If only products of semblance or imitation
8 of dairy products are made, the plant is not considered a
9 manufactured dairy products plant.

10 (26) "Milk" means the lacteal secretion, practically
11 free from colostrum, obtained by the milking of one or more
12 healthy cows located in modified accredited areas and
13 modified certified areas or from cows in herds fully
14 accredited as tuberculosis-free by the United States
15 department of agriculture or in the process of being
16 accredited, when the milk or cream is sold for use in,
17 intended for use in, or used in a manufactured dairy
18 product.

19 (27) (a) "Milk" and "cream" mean milk and cream sold,
20 used, or intended for manufacturing purposes or for
21 conversion into products of a form other than the form in
22 which originally produced or products commonly known as but
23 not limited to:

- 24 (i) butter;
25 (ii) cheese, including cottage cheese, low-fat cottage

1 cheese, cheese curd, and cream cheese, which are either
2 cultured or directly acidified, and cheese dressings;

- 3 (iii) ice cream or its mix;
4 (iv) frozen dessert or its mix;
5 (v) sherbets of all kinds or their mixes;
6 (vi) frozen ice cream bars, sandwiches, cones, and
7 similar novelties;

8 (vii) frozen desserts or products made in the semblance
9 or imitation of frozen dessert;

- 10 (viii) frozen confections or their mixes;
11 (ix) water ices or their mixes;
12 (x) ice milk or its mix;
13 (xi) French ice cream, French custard, or their mixes;
14 (xii) frozen custard or its mix and frozen yogurt;
15 (xiii) yogurt, flavored yogurt, and low-fat yogurt;
16 (xiv) sour cream, either cultured or directly acidified;
17 (xv) cream cheese, either cultured or directly
18 acidified;

19 (xvi) buttermilk, either whether cultured, from churned
20 butter, or directly acidified;

21 (xvii) eggnog, low-fat eggnog, eggnog-flavored milk,
22 whipped cream, flavored toppings, and similar flavored
23 products;

- 24 (xviii) dry or powdered milk; and
25 (xix) condensed milk products.

1 (b) The items specified in subsection (27)(a) must
 2 conform to the standards of identity set forth in the Code
 3 of Federal Regulations. If standards of identity are not set
 4 forth in the code, then the standards adopted by the
 5 department prevail. The labeling of manufactured dairy
 6 products must be in accordance with the Montana Food, Drug,
 7 and Cosmetic Act.

8 (28) "Milk or cream station" means a place other than a
 9 creamery where deliveries of milk or cream are weighed,
 10 graded, sampled, tested, or collected for purchase.

11 (29) "Milk sherbet" is the pure, clean, frozen product
 12 made from milk product, water, and sugar, with harmless
 13 fruit or fruit juice flavoring and with or without harmless
 14 coloring, which must contain not less than 35/100 of 1% of
 15 acid, as determined by titrating with standard alkali and
 16 expressed as lactic acid, and with or without added
 17 stabilizer composed of wholesome edible material. It must
 18 contain not less than 4% by weight of solids.

19 (30) "Misabeled", "unwholesome", "food additives",
 20 "optional ingredients", "impure", "misbranded",
 21 "contaminated", "adulterated", "perishable", "hazardous",
 22 "unfit", "spoiled", "damaged", and similar terms, when
 23 applied to a manufactured dairy product or product made in
 24 semblance or in imitation of a manufactured dairy product,
 25 are as defined in Title 50, chapter 31.

1 (31) "Official test" means test procedures outlined in
 2 the sources referred to under 81-22-301 concerning samples,
 3 methods, and rules of evidence.

4 (32) "Pasteurization", "pasteurizing", and similar terms
 5 mean the process of heating every particle of milk or milk
 6 product to at least 145 degrees F and holding it
 7 continuously at or above this temperature for at least 30
 8 minutes or to at least 161 degrees F and holding it
 9 continuously at or above this temperature for at least 15
 10 seconds in equipment that is properly operated and approved
 11 by the department. Milk products that have a higher fat
 12 content than milk or contain added sweeteners must be heated
 13 to at least 155 degrees F and held continuously at or above
 14 this temperature for at least 30 minutes, or to at least 175
 15 degrees F and held continuously at or above this temperature
 16 for at least 25 seconds. This definition does not bar any
 17 other pasteurization process that has been recognized by the
 18 United States public health service to be equally effective
 19 and that is approved by the department.

20 (33) "Person" means an individual, firm, partnership,
 21 corporation, cooperative, or other business unit or trade
 22 device.

23 (34) "Producer" means the person who exercises control
 24 over the production of milk or cream delivered to a milk or
 25 cream receiving station or manufactured dairy products plant

1 or who receives payment for milk or cream used in
2 manufacturing.

3 (35) "Raw milk" or "raw milk products" means milk or
4 milk products that have not been treated by a process of
5 pasteurization.

6 (36) "Renovated butter" or "processed butter" is the
7 product made by melting and reworking butter, without the
8 addition or use of chemicals or substances except whole
9 milk, cream, or salt, and must contain not less than 80% of
10 milk fat.

11 (37) "Safe temperature" means 45 degrees F or less
12 unless the product is frozen, in which case the temperature
13 must be at or below 0 degrees F.

14 (38) "Skimmed milk cheese" is the sound, solid, and
15 ripened product made from skim milk by coagulating the
16 casein with rennet or lactic acid, with or without ripening
17 ferments and seasoning.

18 (39) "Testing", "test", "tested", and similar words mean
19 the examination of milk, cream, or manufactured dairy
20 products by sight, odor, taste, or biological or chemical
21 laboratory analysis to determine their quality,
22 wholesomeness, or composition.

23 (40) "Water ice" means a frozen product containing but
24 not limited to the following ingredients: water, sugar,
25 flavoring, coloring, stabilizers, and other ingredients

1 allowed by the Code of Federal Regulations as optional
2 ingredients."

3 **Section 16.** Section 81-23-103, MCA, is amended to read:

4 "81-23-103. **General powers of the department.** (1) The
5 department shall supervise, regulate, and control the milk
6 industry of this state, including the production,
7 processing, storage, distribution, and sale of milk sold for
8 consumption in this state. Nothing in this chapter abrogates
9 or affects the status, force, or operation of any provision
10 of public health laws or the law under which the department
11 of agriculture and livestock is constituted together with
12 the department of agriculture and livestock rules, county
13 board of health rules, or municipal ordinances for the
14 promotion or protection of the public health. The department
15 may cooperate with the department of health and
16 environmental sciences, the board of livestock, any county
17 or city board of health, or the department of agriculture
18 and livestock in enforcing this chapter.

19 (2) The department shall investigate all matters
20 pertaining to the production, processing, storage,
21 distribution, and sale of milk in this state and conduct
22 hearings upon any subject pertinent to the administration of
23 this chapter. The department may subpoena milk dealers,
24 their records, books, and accounts, and any other person
25 from whom information may be desired or considered necessary

1 to carry out the purposes and intent of this chapter and may
2 take depositions of witnesses who are sick or absent from
3 the state or who cannot otherwise appear in person before
4 the department at its offices. The department shall give at
5 least 10 days' notice to the proposed witness."

6 NEW SECTION. **Section 17. Repealer.** Section 2-15-3101,
7 MCA, is repealed.

8 NEW SECTION. **Section 18. Functions transferred -- name**
9 **change.** (1) The functions of the department of agriculture
10 contained in the Montana Code Annotated are transferred to
11 the department of agriculture and livestock.

12 (2) The functions of the department of livestock
13 contained in the Montana Code Annotated are transferred to
14 the department of agriculture and livestock.

15 (3) The functions of the board of livestock contained
16 in the Montana Code Annotated are transferred to the
17 department of agriculture and livestock for administrative
18 purposes as provided in [this act].

19 (4) In the provisions of the Montana Code Annotated and
20 any legislation enacted by the special session of November
21 1993, the term "department of agriculture" or "department",
22 meaning the Montana department of agriculture, and the term
23 "department of livestock" or "department", meaning the
24 Montana department of livestock, are changed to refer to the
25 department of agriculture and livestock.

1 (5) In the provisions of the Montana Code Annotated and
2 any legislation enacted by the special session of November
3 1993, the term "director of agriculture" or "director",
4 meaning the director of the Montana department of
5 agriculture, is changed to refer to the director of
6 agriculture and livestock.

7 NEW SECTION. **Section 19. Application of transfer**
8 **provisions.** The provisions of 2-15-131 through 2-15-137
9 govern:

10 (1) the merger into the department of agriculture and
11 livestock of the functions of the departments of agriculture
12 and livestock as authorized by [this act]; and

13 (2) the transfer of the various functions contained in
14 [this act].

15 NEW SECTION. **Section 20. Codification instruction.**
16 Sections 2-15-3102 through 2-15-3104 are intended to be
17 renumbered and codified as an integral part of Title 2,
18 chapter 15, part 30.

19 NEW SECTION. **Section 21. Effective date.** [This act] is
20 effective July 1, 1994.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0049, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act combining the functions and operations of the Department of Agriculture and the Department of Livestock into a single department, to be known as the Department of Agriculture and Livestock, with the Director of Agriculture and Livestock as department head; allocating the Board of Livestock to the Department of Agriculture and Livestock for administrative purposes; and providing an effective date.

ASSUMPTIONS:

1. Effective date of July 1, 1994.
2. Personal services will be reduced by approximately \$182,502 and 4.0 FTE.
3. Funding for the personal services reduction will be allocated proportionately between agencies based on current funding.
4. Any reorganization, physical move, or relocation costs will be absorbed within existing agency budgets.
5. Workload and program operations of the combined departments will remain the same.

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>DEPARTMENT OF AGRICULTURE AND LIVESTOCK</u>						
<u>Expenditures:</u>						
FTE	0	0	0	0	215.64	215.64
Personal Services	0	0	0	0	6,734,689	6,734,689
Operating	0	0	0	0	3,317,111	3,317,111
Equipment	0	0	0	0	440,362	440,362
Capitol Outlay	0	0	0	0	16,375	16,375
Benefit and Claims	0	0	0	0	4,500	4,500
Grants	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,320,434</u>	<u>2,320,434</u>
Total	0	0	0	0	12,833,471	12,833,471
<u>Funding:</u>						
General Fund	0	0	0	0	876,826	876,826
State Special	0	0	0	0	10,771,004	10,771,004
Federal Special	0	0	0	0	895,581	895,581
Proprietary	0	0	0	0	224,813	224,813
Expendable Trust	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>65,247</u>	<u>65,247</u>
Total	0	0	0	0	12,833,471	12,833,471

(continued on next page)

David Lewis 12-41
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Sheila Rice 12-6-93
 SHEILA RICE, PRIMARY SPONSOR DATE
 Fiscal Note for HB0049, as introduced

HB 49

DEPARTMENT OF AGRICULTURE

Expenditures:

FTE	97.26	0	97.26	95.93	0	(95.93)
Personal Services	2,664,231	0	2,664,231	3,005,605	0	(3,005,605)
Operating	1,821,519	0	1,821,519	1,785,619	0	(1,785,619)
Equipment	244,389	0	244,389	214,834	0	(214,834)
Capitol Outlay	0	0	0	0	0	0
Benefit and Claims	0	0	0	0	0	0
Grants	<u>3,174,561</u>	<u>0</u>	<u>3,174,561</u>	<u>2,320,434</u>	<u>0</u>	<u>(2,320,434)</u>
Total	8,234,700	0	8,234,700	7,326,492	0	(7,326,492)

Funding:

General Fund	533,464	0	533,464	468,636	0	(468,636)
State Special	6,811,726	0	6,811,726	6,038,920	0	(6,038,920)
Federal Special	598,893	0	598,893	528,876	0	(528,876)
Proprietary	224,315	0	224,315	224,813	0	(224,813)
Expendable Trust	<u>66,302</u>	<u>0</u>	<u>66,302</u>	<u>65,247</u>	<u>0</u>	<u>(65,247)</u>
Total	8,234,700	0	8,234,700	7,326,492	0	(7,326,492)

DEPARTMENT OF LIVESTOCK

Expenditures:

FTE	122.71	0	122.71	123.71	0	(123.71)
Personal Services	3,795,500	0	3,795,500	3,911,586	0	(3,911,586)
Operating	1,517,156	0	1,517,156	1,531,492	0	(1,531,492)
Equipment	217,048	0	217,048	225,528	0	(225,528)
Capitol Outlay	16,376	0	16,376	16,375	0	(16,375)
Benefit and Claims	4,500	0	4,500	4,500	0	(4,500)
Grants	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	5,550,580	0	5,550,580	5,689,481	0	(5,689,481)

Funding:

General Fund	454,596	0	454,596	451,078	0	(451,078)
State Special	4,736,148	0	4,736,147	4,871,698	0	(4,871,698)
Federal Special	359,836	0	359,836	366,705	0	(366,705)
Proprietary	0	0	0	0	0	0
Expendable Trust	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	5,550,580	0	5,550,580	5,689,481	0	(5,689,481)

Net Impact:

FTE	219.97	0	219.97	219.64	215.64	(4.00)
Personal Services	6,789,731	0	6,789,731	3,911,586	6,734,689	(182,502)
General Fund	988,060	0	988,060	919,714	876,826	(42,888)
State Special	11,547,874	0	11,547,874	10,910,618	10,771,004	(139,614)