

Appendix A



HOUSE BILL NO. 630
INTRODUCED BY K. WILLIAMS

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF AGRICULTURE, AND THE DEPARTMENT OF LIVESTOCK TO CONDUCT A PROJECT EXAMINING AND RECOMMENDING UPDATES FOR MONTANA FOOD LAWS; REQUIRING THE DEPARTMENTS TO COORDINATE WITH STAKEHOLDERS AND REPORT TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE; REQUIRING THE ECONOMIC AFFAIRS INTERIM COMMITTEE TO REVIEW A FINAL REPORT OF THE PROJECT AND RECOMMEND APPROPRIATE LEGISLATION; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, current Montana law contains a complex food code with jurisdiction spread between multiple departments and levels of government; and

WHEREAS, there is a growing movement to support locally sourced and community-based food production, sometimes referred to as "cottage food", which benefits local communities, small businesses, public health, and environmental sustainability; and

WHEREAS, numerous states have passed laws that allow small business entrepreneurs to use their home kitchens to prepare for sale foods that are not potentially hazardous, while Montana has not; and

WHEREAS, new federal rules and regulations under the Food Safety Modernization Act will require updates to Montana food safety laws.

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

Section 1. Montana food policy modernization project -- guidelines. (1) The departments of public health and human services, agriculture, and livestock shall coordinate to conduct a project to assess Montana's food laws and develop a report for the economic affairs interim committee, including any proposed legislation for the 2015 legislature. The project must assess:

(a) potential changes in Montana laws and administrative rules necessitated by the passage and implementation of the federal Food Safety Modernization Act pursuant to Title 21, chapter 27, of the United States Code;

(b) the extent to which home kitchens can be used to prepare foods for sale that are not potentially hazardous while maintaining food safety for the public;

(c) the relative availability of community-based commercial kitchens and their use; and

(d) inconsistencies and inefficiencies in Montana's food laws that could be improved and streamlined.

(2) In conducting the project the departments shall form a steering committee and coordinate with stakeholders, including but not limited to:

(a) producers;

(b) institutional buyers;

(c) the food safety advisory council created under 50-50-103;

(d) county health officials; and

(e) community groups interested in locally sourced foods.

(3) The departments must use at least 50% of the money appropriated for this project to contract with a convening organization to hold at least one facilitated public meeting or conference to assist in forming consensus recommendations in the final report.

(4) The department of agriculture shall ensure that a final report of the project's findings and recommendations is presented to the economic affairs interim committee no later than May 15, 2014.

Section 2. Appropriation. (1) There is appropriated from the state general fund to the department of agriculture \$18,000 for the biennium beginning July 1, 2013.

(2) The appropriation must be used to pay for the costs of the project described in [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Termination. [This act] terminates June 30, 2014, or upon completion of the duties described in [section 1], whichever occurs first.

Appendix B

HB 630 Public Meeting #1, Missoula, MT—University Center at the University of Montana

Meeting date: Thursday, January 9, 2014.

Before the comment period is officially open, written comments are encouraged. It is explained that ultimately, this effort will execute a report to the Interim Economic Affairs Committee of the Montana Legislature along with recommendations for changes to improve the state's food regulatory environment.

Cort opens the meeting. He explains the process for making comments and the formal nature of the proceeding, as well as the agency responsibilities to attempt to receive every timely comment. He invites people to make written comments. He explains that although this is a formal process, people can speak fairly informally as long as they 1) state their name, 2) state who's interest the comment is on behalf, and 3) do their best to acknowledge they are on the record by speaking in as concrete of terms as possible. He also offers his number for telephone comments, which he discourages if the commenter is willing to make a public comment or submit a written comment.

Cort then describes what HB 630 is all about. He describes its intended purpose as well as the responsibilities required and parties that are required to participate, including the agencies. He describes that the intent is to move forward in aligning several different the different food safety and production laws, regulations and rules that are under the various departments in order to better serve Montana producers, businesses and consumers.

The government employees all introduce themselves.

Cort goes into slightly more detail on how to make an oral public comment. Using actual examples rather than hyperbole and articulating names rather than assuming the record can identify pronouns, etc., is all encouraged.

Comment 1: Kirk Martin—Owner operator/Sweets Barn. He has 3 decade food service background. He did food safety related work with the Montana National Guard. He's watched simple inspections become more complicated over time. He acknowledges that food safety regulations are burdensome; however, he sees other negative effects of the recession as chilling start-up businesses, not food safety regulations. He states that he wants start-up food businesses to be able to go into business, including people in the so-called cottage food industry. But, he thinks it only fair that if he's regulated, they need to be regulated. He does confections and baking and cottage foods will be big competition for him. If non-regulated people are competing for the same customers as him, he thinks it only fair that they follow the same rules. He wants a fair playing field. Food safety policy is not based on location, in his opinion: if you're serving food to the public and if you are doing it for profit, you are a business. When does a cottage food law meant to help start-ups become discriminatory? He asks. To him, it is a business issue because he'll have to compete with people who aren't regulated like he is if a cottage food law passes.

Kirk is also required to have a grease trap for environmental reasons to deal with the butter and grease by-product. This is an environmental regulation. He wonders: Will cottage food producers have to do the same? He believes the grease trap regulation is too burdensome and it is unclear. He is not sure how the county determined that his business had to have one.

In summary, he just wants a “fair playing field.” He thinks Montana is a tough state to do business. The cost to get products here is high. The regulation isn’t the problem, but juggling economics is tough, and if you want to go into business, that juggling is something you have to do.

Comment 2: Molly Galusha speaks as the owner of The Buttercup Market and Café in Missoula. She agrees with the previous commenter—Kirk Martin. She believes that there has to be a way in the law to incentivize when a business is trying to follow all the safety regulations, yet at the same time provide healthy, local food to consumers and support other local businesses in doing so. As an example, she picked strawberries at a local u-pick farm and used them in her immaculate commercial kitchen in some recipes and was told that she could not sell the products she made by the county sanitarian. She doesn’t understand how a cottage food bill would fit into that situation. How could she not be allowed to do that in her commercial kitchen, but cottage food businesses would be allowed?? That doesn’t make sense to her.

Comment 3: Kelly Moore from MSO county extension office. She thinks there needs to be some standardization of the proper canning methods so that people have this option. She wants to educate people through canning classes and commercial kitchens.

Comment 4: Jeff Cornell (sp? Didn’t see name on list), speaking for himself as a citizen and budding entrepreneur. He is involved with Aquaponics. It relies on probiotic bacteria to create a system to grow vegetables. Fish are involved as well and this might be an aquaculture process as well. He believes that there have been issues with getting the fish raised in similar situations to market, because of concerns of the environment they were raised in, which he believes is perfectly healthy and perhaps safer than other methods. His comment is that with fermented foods and probiotic bacteria products, people are skeptical and therefore the regulations discourage such ventures. He wants the law to acknowledge probiotic systems in a positive light.

Comment 5: Annie Heischer—Community Food & Ag Coalition and AERO board member. Her main concern is that she is aware of attempts to make a guide and resources to make a guide that would allow market participants to educate themselves on the legal and regulatory landscape. By her estimation, it has been very challenging to create such a guide. They have heard from several people that county by county decisions are inconsistent. She suggests that any way those inconsistencies could be improved and made more transparent for producers would be appreciated. Accessibility to opportunity is her main concern.

Comment 6: David Tyson—he works at the college radio station, he has a business called Tandem Donuts and he hopes to eventually open a gluten free bakery. He comments that as the process continues, the agencies and legislature keep in mind the actual presentation of a final product. A new business person could still be confused, and he has found information confusing in the past. He would

like a simple, plain-language guide that businesses can refer to in navigating applicable rules and regulations.

Comment 7: Stephanie Potts from Grow Montana and NCAT has 3 suggestions for comment:

1. Her organizations would like to see sanitarians in all counties receive yearly trainings that update their knowledge on evolving rules and regulations.
2. They want a complaint process when businesses have an issue with a regulating body. They'd like a clear process at the state level when they have a complaint.
3. They would like a procedure providing due process for denial of permits, including who can be contacted to file such an appeal.

Comment 8: Laura Ginsberg is an employee the Mission Mountain Food Enterprise Center (MMFEC in Ronan). She is also a budding dairy farmer. At MMFEC, they get many calls from producers who want to raise poultry. There is a lack of clarity in the 1k bird exemption. It exists on the federal level, MT appears to have adopted that exemption, yet the agencies are unclear whether 1k or smaller operations need to be inspected. They want a clear, understandable and workable recognition of an ability to produce under 1k birds without regulations that apply to larger poultry CAFOs. MMFEC would like more accessibility in the use of mobile slaughter facilities, especially when small producers are trained in the use of a mobile unit. Secondly, MMFEC is aware of quite a few producers who travel from Lake Co. to Missoula Co. to try and tap the larger, highly interested market. However, there are differing regulations or perhaps different interpretations of the same type of regulation. MMFEC offers that the farmer's market regulations around the state must be more uniform. MMFEC would like a statewide 'base regulation' that basically says "if it is acceptable in one county it should be acceptable in all counties." And lastly, MMFEC gets a lot of questions about raw milk as well. Dairy producers call them a lot. She encourages the state to address raw milk head-on and that it should be fair to producers who are regulated as grade A. As a producer, she is working on starting a dairy in St. Ignatius. One of the most difficult things is being licensed. She wants the licensing of grade B dairies. It is nearly impossible to start as a grade A dairy. If MT could allow for the licensing of grade B dairies, she believes the dairies would open, be able to stay in business, and be viable. She believes it'd be a business growth move— she sees a vibrant small dairy scene that could be vibrant.

Comment 9: Kristen Lee-Charlson—She is speaking as the original requestor who asked for HB 630 to be drafted. She's a local and sustainable food consultant. She ran a local food magazine. She consults with businesses about how to get more local food into their markets. She runs the Heirloom Winter Farmer's Market. In her experience, she's seen a lot of disconnect in regulations. Looking at that disconnect across the state, she thinks we have a great opportunity in the state to learn from the lessons of other states. She believes the consumers are standing and waiting ready to buy cottage foods and locally produced and processed foods. She believes there are not enough commercial kitchens existing to meet the desires of this market. She believes it is cost-prohibitive for a start-up business to try and enter this market. She offers that Natural Grocers, a large retail chain, sent a letter of support to the TX legislature supporting the TX cottage food bill. Because there are so many unknowns and costs with a start-up, she believes that if the ability to start up was clearer, more people would learn that they don't necessarily

want to enter the market and they'd be essentially weeded out by the market, so the concern of existing businesses about competition may not be accurate. Overall, she doesn't appreciate when she is met with a response from a state agency that says "no, we don't do that." She wants them to say, "How do we do that?—How can we help you with that?"

Comment 10: Tim Reed, speaking as a Mineral County Sanitarian and a representative of the Northwest Sanitarians Association. He has voiced concerns about where food items come from. One of his opinions is that they don't know where this is all going to land (I assume "all" meaning the cottage food and HB 630 effort). Is it going to be AGR or DPHHS? As a preference, sanitarians would like to have their presence on the front lines acknowledged. Furthermore, they would like to hear from the people who want the cottage foods—the consumers and their county residents. He wants the feedback from the market participants so that he can recognize better the cottage foods as a viable entity, yet keep the focus on public health. He has looked at quite a few cottage food laws in other states, and he sees many inconsistencies.

Comment 11: Susan Brueggeman, Lake Co. Sanitarian. She's voices her strong support for the study bill. At the local level, she's experienced difficulty in enforcing the local regulations. She thinks that first and foremost, we must acknowledge public health. She constantly works with food manufacturers in Lake Co. She's worked with MMFEC—who have been great to work with, she says. She also licenses several food entrepreneurs not associated with MMFEC, other commercial kitchens, and church kitchens that are all licensed. One manufacturer operates out of a storage unit, and she says that even garage kitchens can work for a certain type of product. The needs of a kitchen are driven by what the business wants to produce. She's seen basement kitchens and even a residential backporch work in the right situations. Her point is that she's tried to be very supportive of people going into business—and it has worked. She wants to remind food entrepreneurs that there simply are certain things that you can't do. She thinks that the food manufacturing statute could be changed—she will be making written comments on that for the committee. She also believes that the farmer's market law is very unclear and she struggles with the poorly defined language. She believes that law doesn't serve anyone in the public whether they are her, her employees or the food producers and market participants. Everyone is confused, she says. If the regulators are confused and producers are confused, how do we expect the consumers to understand what decisions to make about their purchases(?), she asks. She wants to add focus on the consumer. She thinks advocating for public health also means a responsibility to encourage, or at the very least not discourage local, healthy foods. The farmer's market exemption needs to be rethought, she says. We need to address *how* the food is being produced, not *who* is producing it. Who is a farmer? She's unsure how to define that under the law. She believes the rules should be written under the DPHHS to be consistent with other food regulation. Any final product in terms of rules or regs could provide a listing of potentially hazardous foods that are acceptable. Or some sort of simple registration for cottage food producers. As we begin these changes, she suggests there be a requirement that they are only applicable to direct sales.

CORT states that with the Indian reservations, there is another layer of potential regulations.

Comment 12: Alisha Johnson—inspector with MSO City-County Health Dept. She is a supporter of the local food movement. Sometimes, she thinks people wrongly assume that the answer is going to be no from her and her office. She says uses food science in her decisions, so her determinations aren't an unwillingness to work with businesses, it's just science. She points out that a lot of times the answer isn't no. It is a qualified yes, it's just that people need to do specific things to bring their process up to a safe level for the public health. As to conflicting things amongst agencies, grease traps are a problem she has seen before as well, but that is not a food regulation, it's environmental. Food science has got to be acknowledged to the process, she says.

Comment 13: Stephanie Potts, Grow MT. She says that the local food system is not part of the problem, it's part of the solution. She has some ideas for a cottage food law. Cottage food laws as applied to farmer's market small businesses need to be manageable. Direct sales are safe, she acknowledges that. But she wants to look at the states that have cottage food laws who can do intermediary sales, whether online, through convenience stores, or local supermarkets. She has seen great guidance documents come out of cottage food laws in other states that are very useful for market participants—look to CA's guide, she encourages us. She believes CO is another example of a great cottage food system. She discourages a cottage food law that is too restrictive on what to make and where to sell—other states have done this from a food science perspective and succeeded.

Comment 14: Ephy Richeux (sp?)—He is speaking as a consumer, a food lover. One of the things he has struggled with since moving back to America is: where is this food coming from? You don't know in America, he says. What he would love is to know that he's eating the beef from Montana. He would like to know that the farmers he knows are able to produce and butcher in-state for the consumption of people from the state. He'd like to see the same thing with poultry. A level that is far below a CAFO should be able to butcher and sell to him directly. He'd like to see that this bill is in support of people getting into the industry to have eased regulations. He acknowledges that everyone wants safe food. He suggests training for the mobile butchering facility. He wants to buy raw milk as well.

Comment 15: Yvette Rodriguez from MMFEC. Cottage bill has to have regulations. She can understand selling to neighbors, but making it easier less costly would be good, but the industry DOES need regulation to help control outbreaks. She had a client that sold food at shows—they pay fees at all the shows and the state fee to be a manufacturer. She asks for a more abbreviated fee structure for manufacturers in the state. Why should they pay all these separate fees? She is also a budding dairy farmer: "I don't encourage raw milk, but there are ways to regulate it."

Comment 16: Jim Carlson, MSO Co. Health Dept. He is a RS. He's been involved in many outbreaks of disease, including salmonella, hemolytic *e. coli*, listeria. He remembers an outbreak in the case of a raw milk facility back in the early 80s. All of the people involved had drunk raw milk and a couple dozen of them ended up in the hospital. He reminds those present that not all food borne illnesses are getting sick overnight. They're quite serious. He has seen a Hep. A outbreak—he's had a friend die from it. The person carrying it isn't aware they're sick for 7-10 days. It's highly communicable and there is good reason to protect the public health, he believes.

Comment 17: Kirk Martin, The Sweets Barn. He says that “local” does not equal safe. He gives an example of a Rhode Island bakery who distributed croissants that transmitted salmonella because the delivery man put them on egg crates. From a business standpoint, he says that we have to make it fair to the existing businesses. If you sell for a profit, you are a business. Regulations should be uniform for similar businesses if and when law addresses so-called cottage foods.

Comment 18: Nancy Matheson, speaking as a consumer. Her and her former business partner started an organic livestock feed business. She comments that in that work, she came face-to-face with the raw milk black market. She suggests that if you let the black market go, it is unregulated and perhaps unsafe, whereas if you regulate it, there can be some safety checks and balances.

Melissa Tuemmler takes the floor to ask a question of the crowd: She asks: What is it that is so prohibitive that requires a cottage food bill? She doesn’t understand what the public and advocates for cottage food businesses are looking for that they don’t have currently.

Comment 19: Lori Elliot has a start-up business where she has only just begun to grow herbs for public sales. She started it as a hobby, but she’d like to continue as a business. Temporary service permits for different venues are cost-prohibitive for her. For a start-up, she’d like to see a tiered system that would allow people to tap into markets without jumping in the deep end of the pool first. She also would appreciate some mechanism for education on food safety handling for people who are starting up.

Comment 20: Molly Galusha from The Buttercup Market, MSO. She states a few things people have already said that she agrees with. Education, level playing field for businesses, etc. She adds that she believes people should have to pass a test to prove they learned the safety standards.

Comment 21: Stephanie Potts, Grow MT. Raw milk is being sold in Montana. No one is testing it, no one is watching it. She thinks there is incredible momentum behind raw milk. If the agencies who have the expertise that keep the consumers safe don’t address it, there might be a bill that still passes that those agencies don’t have as much control over. She suggests that if the agencies engage, they’ll have more control.

Comment 22: Rebecca Wade. Director for Health and Food Safety at UM Dining. He role is as the campus sanitarian and campus dietician. They are very invested in the local food movement in Montana. Her hope as a department is that the result is safe, legal food produced and economic opportunity for small businesses in the state. She wants regulations to clarify and streamline the process and encourages producers to bring items to market locally, through varying venues. She finds the current process intimidating for producers to maneuver through that process. All of the separate barriers can become insurmountable for some people.

Too keep momentum, Cort starts to question the participants on specifics:

1. Cort: How often should restaurants or manufacturers be inspected? Specifically in MT?
 - a. Laura Ginsberg speaks from personal experience. She has worked at Whole Foods as the manager of the bakery and coffee shop. She’s also worked at several dairies, both

organic and conventional. In her experience, when you know the inspection is coming, you clean up your act. Her opinion is that inspections should happen annually as a planned inspection, and annually on an unannounced inspection. This will incent the good behavior. Twice a year is her vote, with one of those inspections being unannounced.

- b. Kirk Martin from the Sweets Barn hasn't had anything other than annual inspections for 30 years. The sanitarian should be using the visit as an opportunity to teach you new regulations, not punishing you for not knowing them. If the sanitarians do a good inspection on an annual basis and use it as a learning tool, he thinks an annual inspection is sufficient.
 - c. Cora—a sanitarian for MSO County. There would be budgetary concerns with requiring more than a year. They don't necessarily have time to go back to every place multiple times a year. It would be great if places that are higher risk could get more inspections, but that's a budget concern.
 - d. Jim Murphy, DPHHS—mentions that there are 7500 retail food establishments in MT to be inspected at least once a year. Compliance is good—almost 100%. Most of these inspections are unannounced.
2. Cort: When contemplating a cottage food bill, do we exempt commerce under a certain dollar amount or not? What levels are suggested? At what level is it not worth it?
- a. David Tyson—from college radio, Tandem Donuts and he's trying to get a gluten free bakery going. He suggests a test that people who are under a certain limit on gross sales can take to bypass inspection.
 - b. Alisha Johnson, MSO county health dept. From a straight food safety perspective, food borne illness doesn't discriminate. She says that cottage food bill needs to focus on the type of food is presented. Caterers need a retail food license in MSO County.
 - c. Yvette Rodriguez from MMFEC—being the food safety coordinator at MMFEC, she thinks the National Restaurant Association's "serve safe" class is something that everyone who wants to serve food should take.
 - d. Kirk Martin—reiterates, "If you are a business, you are in the food safety business. The rules should apply to everyone."
 - e. Susan Brueggeman, Lake Co.—she says that the licensing fees don't cover the food inspection programs. She thinks that they're about 25% underfunded—that's her memory. Even with only one a year inspections, they are already underfunded. As a RS, she's not comfortable inspecting a residence kitchen, what with the pets and kids. She doesn't think that that would apply to a cottage food type kitchen. To add more to the burden of the RS without adequate funding for cottage food home kitchens? She doesn't see how that would work.
 - f. Laura Ginsberg—comment on larger producers subsidizing the smaller ones. She's seen some inequities in the burden of the actual inspections.
 - g. Kristen Lee Charlson—As a consumer, she wants choice and she'd like to support small scale production. There are examples around the country of states that are setting dollar limits on what can be produced in a home kitchen. In CO, if your sales are \$5k or

- a. Kirk Martin—He used to have to get temporary permits all the time. He thinks that law could use a makeover. He believes there is no logical safety reason why a person who is going to different venues would need to have a different license for every venue. He thinks the venue itself should have the license. If the a vender is licensed as a vendor, that license should be sufficient no matter where they go. For example, if you are a licensed vendor in MSO, and you go to Billings, you should be able to do so without obtaining another license.
5. Cort: As for FSMA—are county sanitarians able to inspect produce farms? Should it be the AGR? Any other comments on the FSMA?
 - a. Cort says that it gives more power to take action at the production level whereas historically it had been taken at the manufacturing, storage or retail level. The goal is less sick people, which is respectable. He worries that foreign based produce may have a different standard than domestic produce.
 - b. Stephanie Potts, Grow MT. She’s heard FDA is going to put out a revised rule based on all the comments from small producers. She reiterates that a standardized statewide training so that businesses all over MT have the same inspections from the RS, if it is the RS that is doing the FSMA inspections.
 - c. Tim Reed, Mineral Co. Sanitarian—doesn’t want a cottage food bill—he just wanted to make that clear. This places an incredible burden on the small counties with a single sanitarian and he considers further inspections as unfunded mandates from the state. In general, small county sanitarians don’t want cottage food laws, he believes.

Cort makes a last call for FINAL COMMENTS ON HB 630:

KIRK MARTIN: He understands the basis for the cottage food act. We are in a bad economy. Leases are high. Starting a business is tough. Shipping raw materials into MT is tough. The regulations that have existed on the premise of food safety have never really changed that much over 30 years. What has changed is the economic environment. He knows, because he invested a\$180k into his business last year. He says deregulation is a mistake as a response to a bad economy. It is going to take other things to encourage business. We already have a cottage food industry—it is called the Farmer’s Market—expand that and make it more accessible.

TIM REED, MINERAL CO. SANITARIAN—NW Sanitarians are going to provide written comments.

STEPHANIE POTTS: Comments that the agencies should encourage the continued dialogue. There are so many elements of the law aside from cottage food and she wants to encourage the group to move forward on any and all clarification and streamlining efforts. She’d like to replicate the achievements with commercial kitchens and RS inspections in MSO County in other counties.

Cort states that the committee will come up with a recommendation from all the departments and separate recommendations from separate departments if there are disagreements.

Appendix C

HB 630 Public Meeting #1, Bozeman, MT

Monday, January 13, 2014.

Written comments are encouraged as they were in Missoula.

Meeting starts shortly after 10:00 a.m. after Cort gives an “off the record” explanation of public meetings and their purpose.

Public meeting #2 on HB 630 formally begins at 10:05am. Cort notes that the primary sponsor of the bill is here and invites her to comment for the sake of perspective. Kathleen Williams, state representative for HD 65 in Bozeman, Gallatin County introduces herself. During the 2013 legislative session, she was asked to sponsor a cottage food bill to address issues that other states have already addressed in their own cottage food law efforts. The genesis of this bill was her constituent interest in local foods. Three different agencies had different roles as she came to learn: AGR, LIV, and DPHHS. She learned that the MT food laws are a patchwork. It occurred to her that the state needed to take stock of the current food law landscape and mandate the 3 agencies to review their own laws and see how they relate to new federal law and eventually a MT cottage food act.

Cort explains that with the interest behind this effort, we’ve decided to do 3 public meetings rather than one and that we’re accepting written comments through February 7. In addition to the three departments named—OPI, DOC and DEQ have helped chip in where appropriate as their regulations may apply to food law.

State people stand up and introduce themselves.

Comments begin after Cort gives similar advice to making an effective public comment to what he gave in MSO, so I will not detail that advice.

1. Bill O’Connell, farms up but Cut Bank, also had a game processing facility north of town. He also farms wheat, barley and camolina. They interface with the LIV, AGR departments because they do some direct marketing and some processing. He says it is somewhat out of character for him, but he doesn’t have much a problem with the existing system. He has some concerns with HAACP.
2. Jessie Wilcox, Livingston Healthcare—an acute healthcare living facility. They would like some help with procurement of local foods and consistency at her work. They are interested in procuring as much locally produced food as possible for patients.
3. Gregg Harris—he owns Artisan Meat & Cheese. He is here out of curiosity and supports the efforts because he believes he is the only local artisan sausage producer.
4. Aaron Smith—general manager for Seven Sushi. He has noticed that new federal regulations for sushi places are difficult to keep up with. His suggestion is that he wants to keep up with regs and simply doesn’t know where to find them. He wonders if there can be an email list or

- something to help educate his management team and his restaurant employees. The Gallatin Co. Health Dept. has done a nice job of helping him, but he'd like the info to be more accessible.
5. Jonathan Heap. Heap Burger food truck. He has run into a lot of problems travelling from county to county. His base is Gallatin County and he has their requirements down pat because of that. They've been told that Gallatin Co. had some of the strictest, if not THE strictest health regulations for food trucks, and yet he often experiences trouble vending in other counties. He would like some consistency so that he knows what to expect when he wants to do business in another county. He wonders: Why would he be put through the ringer in other counties after passing food safety inspections with flying colors in Gallatin. Co.? That doesn't make logical sense to him. Furthermore, they would like to see a regulation that allows private wells to be a water source for his food truck as well.
 6. Nicole Morgan—MT Made Manager and works for MSU University Food Services on campus. She is trying to revise the definition of MT made under their program and grappling with the definition of "local food." She is excited to be here and hear more about what the people in the room have to say. She seems general supportive of the HB 630 effort.
 7. Tom Morgan—small poultry producer from Helena, MT. He has a new poultry business that he just started. He would like the opportunity to make supplemental income on poultry. He represents the MT Sustainable Poultry Network as well. He understands that MT has adopted the USDA federal exemptions, yet DOL has verbally prohibited the use of the 1000 bird exemption—that's his understanding. He'd like to get something set in stone that makes that 1000 bird exemption clear under MT law. He suggests that other states have big poultry markets and that the State of MT need not reinvent the wheel. We need to look to those states for guidance, and he suggests North Carolina.
 8. Lynn Paul from MSU Extension. She works in the area of food safety and has done some education and training programs for the extension. She would like to see consistency in the regulations in the different cities and counties in MT. She also would also like some flexibility for smaller farms, ranches and meat processors, but still some concrete regulations that address safety. She thinks a standard training program is very important as well in order to educate market participants, specifically the vendors.
 9. Susan Duncan, self-described "micro-Ag" entrepreneur. She raises Irish Dexter Cattle. They are a distinct breed that is not bred down from angus or Herefords. She says she can't sell them at auction because they are looking for uniform commodity beef cattle. She can't really sell at retail either because she'd have to go out of county to be processed, and that can be prohibitive. The trip to slaughter can also be cost-prohibitive. She can't sell to Farmers Market because those costs are too high as well, she says. She can't sell to restaurants because she doesn't have the volume. Her operation has a size where it is hard for her to do much marketing at all. She does, however, see her operation as having potential to meet a market need that isn't yet being met. It is highly artisan, locally produce, grass-fed, source-identified, etc. She just struggles with being as small an operation as she is. Her main point is that she has good cows that families can afford to buy, but she has struggles getting them to market.
 10. Aubrey Roth—she helps with Farm to School programs locally and statewide. She sees the following 2 problems: 1) Education for procurement of local foods; and 2) consistency amongst

the counties. Some counties get OK'd to purchase a certain type of product and others struggle, so in her experience she sees that missing consistency that many folks are commenting about as well.

11. Judd Jensen—a local private attorney (from Bozeman) that in his prior work has drafted National Sustainable Agriculture Coalition legislation and he's pretty experienced with these issues. As a whole MT is ahead of the curve in terms of getting local food to market, in his opinion. He thinks BZN is one of the most organized small towns he's ever seen. However, he thinks that most of the state of MT is cutoff from local food systems, he uses east MT as an example. He believes it is important that there be a local food ombudsman at the state level—something that doesn't yet exist. He believes the state needs to have someone who any market participants could call on to advocate for that participant and move them through the bureaucracy or help connect them to the appropriate agency or other participant when they need help. He also thinks there should be dedicated funding for local food development—a focused, perpetual funding source. If you can get funding—grants, ads, education, etc., you can fund programs. Some states also come out with a publication every year that people can use to educate themselves on the who's and where's they can get local food from. It works as an unbiased advertising tool as well for the producers and vendors.
12. Katie Bark—Farm 2 School program at MSU. She mentions that school kitchens are good at food safety. There is growing interest to serve local foods in the schools, but there is a need for consistency and additional training. Procurement is certainly an issue, she acknowledged. However, there also needs to be education on school gardens, food preservation and other food safety rules that would allow the schools to get involved when they are interested.
13. Molly Spendford—She is a parent of school children and helps with 4-H. She supports this whole effort and wants to get local foods and local farmers into the school system to help educate kids. She does the school HACCP classes as well. She sees a great opportunity to integrated kids' educations with this food movement.
14. Becky Weed—Thirteenmile Farm, Belgrade, MT. She is also a member of the Wild Farm Alliance. She's a former Board of Livestock member. She echoes a need for consistency, but not inflexible consistency. She thinks there is an issue of training the county sanitarians. She thinks that they are taught that sterility is equal to safety, based under the umbrella of "science-based." She believes this is misguided, not necessarily "science-based" and that we have to acknowledge all modern food science, including probiotics, in any further efforts. There needs to be a broader understanding of true food safety, not just sterility, in the regulatory community. She also hopes that no new regulations, like final FSMA, are inconsistent with the national organic standards. Some of the DOL history has been that people believe that you get a different answer depending on who you talk to—she thinks they need a consistent message as to regulations and rules as well.
15. Tara Ray—OPI's School Nutrition Specialist. She states there are 276 school districts in MT. Each is expected to have 2 inspections a year. She points out that it is sometimes difficult for RSs to meet this requirement. She sees firsthand the level of variation in how RSs interface with local school districts, and she echoes a need for greater consistency.

16. Matt Kelley, Public Health Officer in Gallatin City-County. He is glad to see the interest in the issue and is interested in listening.

CORT invites RSs to comment in their professional or personal capacity—reminds them that this public comment period is for them too.

17. Dean Williamson-Three Hearts Vegetable Farm. He says that FSMA, if it passes in its entirety, will be extremely onerous for smaller producers, but not as onerous to the largest farms. For example, USDA wants there to be a 9 month waiting period between the application of fertilizer manure and harvest. This is impossible in MT. Organic standards have a much more reasonable protocol. He's certifying as organic in order to take advantage of 'organic' status. He urges the agencies to take a good look at FSMA regulations and asks them to take the position that GAPs and national organic standards remain in place. He echoes Becky Weed of Thirteenmile Farm on this point. He would like to get as much of his food to consumers as possible. Anyone can call him in BZN if they want his vegetables. He knows that his process has many fewer 'critical control points' than a large vegetable farm in California, and therefore fewer intersections of potential contamination. He thinks safety is very important, and he wants the HB 630 to acknowledge that in a small system has fewer critical control points, and therefore a potentially lower probability of contamination.
18. Kathy Heap—Heap burger food truck—asks that some specific regulations for food trucks be written into the law and regulations in Montana...this might clear a lot of things up for food carts and trucks that are catching on all over the place.

Break at 11:05am

Cort gives a cruising altitude view of the food law and regulation landscape.

- USDA—Agriculture on the national level—stuff that agricultural products that cross state lines.
 - FDA—Federal regulator for food.
 - When it comes to MT, raw plant matter produced in agriculture is regulated by AGR. Additionally, AGR is there to help Ag and Food based businesses. The DOL is in charge of any products if and when they come from or was part of an animal. For example, milk, eggs, and meat. Once these products make their way to the retail environment, the regulator is DPHHS. In reference to HB 630, it is DPHHS's Communicable Disease and Prevention Bureau that is the most involved. When it comes to food retail responsibilities on a more localized level, one is most likely regulated by a county sanitarian, who also regulate tattoo parlors, swimming pools, and septic systems. County sanitarians have broad responsibilities for the public health in their communities.
19. Tim Roark works at the Gallatin City-County Health Department. He had a chance to look at some of the notes at the MSO meeting. He encourages everyone who is interested to read those, because he thinks the testimony there covered most of the issues. He wanted to echo a few things from that meeting—he wants the regulation to be "science-based." He offers that any statutes that come out of this effort need to be simple, with the details in the regulation.

He says this would allow regulators to have the flexibility that some people seem to desire. Fee based services are a tough issue, he acknowledges. In Gallatin Co., income from fees hovers around \$.28 on the dollar for what his office's inspection related costs actually total. The reality is that the fees just don't cut it, and if we can keep that awareness, he would appreciate it. He comments that in some ways, his office is a lucky one being in BZN, because he knows other jurisdictions have even fewer resources. He also thinks the science in the 2015 Food Code is well established and should be incorporated in this effort in some manner.

20. Joel Clairmont, he'll speak as an AGR employee, but he'll also be speaking from his personal experience.
 - a. As a state employee, he states that the AGR is charged with reviewing applications and determining whether a project is ready to move forward as a local Ag business. One of the things they've noticed at AGR is that someone will be ready to go—appear to have jumped through the hoops, and as a result AGR funds them. And then it turns out there is another regulation that they need to comply with and this is *very* frustrating for entrepreneurs. He thinks this phenomenon needs to be addressed. He's seen development chilled this way. The main program he was referring to is the Growth through Ag program.
 - b. On a personal level, Joel wanted to join together with other tribal members to sell dried meat in order to add value to cull cows. They formed a business and got ready to process at the MMFEC and in order to develop their product. As a group they invested money over the course of several years. They ran into a problem where there were so many food regulations and so many regulator "cooks in the kitchen," their business development was brought to a standstill for a year and a half. By the time they put together a product, he believes too much time had passed. In his experience, different regulators would come in and tell them different interpretations of the law. Finally, they went to the tribal council and asked for support and when the regulators realized there was going to be another level of government, they all of a sudden approved the process. He doesn't think it should be that way.
21. Lynn Paul—MSU extension, BZN, MT—She states that she believes infrastructure is very important. She knows how hard the sanitarians work and she can't imagine giving them more work. She believes there is a statewide food science deficit as well. She believes we need to invest in employees with more food science education, including more employees with a food science degree in their background at DPHHS, MSU, etc., or in the alternative, having enough money to subcontract with out of state entities that can provide this knowledge base. She also thinks that regulatory authority is blurry and needs to be better understood by market participants. She asks: When a new retail or wholesale business pops up, how can the state adapt to them in a way that allows decisions to be made more quickly? The current environment unnecessarily breeds contempt due to the slow movement of new applications for budding businesses. Additionally, once a final FSMA comes down, the state needs to create a committee amongst the agencies to address the application of FSMA regs.
22. Garl Germann, MT Meat Company founder. He agrees that there should be quicker turnarounds for approval of new food businesses. He appreciates the work it has taken to allow

the safety we currently have in our food system, but he wishes the agencies could be speedier in getting through applications on permits, licenses, etc. Accessibility and user friendliness are two big issues he would like to see this effort address.

23. Sean Hill— Program Manager for the Gallatin City-County Health Department. Oftentimes, Sean said that his office has “no money and even less time.” Because of this reality, they must prioritize. “Joe Public” pays for over 70% of the work that comes out of his office. He urges the committee to keep in mind that something or someone has to pay for new programs. He is already prioritizing matters of public importance and public health, not necessarily business development and start-ups, despite the fact that he might like to be able to have the resources to prioritize that work. In this arena, the issues he most often sees involve food manufacturers who want to step up to the next level in their business structure (i.e., retail to wholesale) who are subsequently slowed by some regulation they didn’t anticipate. He believes that government’s purpose is to help businesses navigate such development, to the extent it can. The committee should define at which level of development problems occur and focus resources on helping businesses transition from one level to another. He also thinks labeling is a BIG issue for cottage foods—he sees a necessity for caveat emptor, buyer-beware type of education that includes labeling.
24. Mike Finnegan—MT DOL meat and poultry inspection. He states that he works with meat plants—even if they are smaller operations. He shares that he will put on a HACCP course this May so that small plants can learn how to comply with USDA rules and HACCP rules. He works to help the small plants as much as possible.
25. Katie Bark—She is a licensed, registered dietitian and the Project Director for the Montana Team Nutrition program at Montana State University in the Department of Health and Human Development. She says she cannot thank the RSs enough for guidance on the farm to school project that she is working on. She offers that since MT is such a rural state, we should put together some training videos that are accessible to anyone and everyone that is interested. She believes it comes down to more training and this might ease the burden of the RS offices because people would be more fluent in the disciplines they are being asked to work through as a part of their job responsibilities.
26. Judd Jensen—private attorney from Bozeman. He points out that MT doesn’t have a large population base, or significant urban population centers. From a practical standpoint, this makes certain aspects of regulation harder than they are in more developed population centers. He also points out that Montana has difficult weather, which makes certain aspects of agriculture difficult. However, he believes there is a base of consumers in MT that are willing to pay more for a product that is produced locally. He states that we need more diversity in our production base for local food. There also needs to be a bit more consumer sense and household knowledge. He’s experienced in designing HACCP programs and he’s trained businesses in compliance. He states that an effective program can be very expensive. Does knowing where the food comes from make it safer? He says that’s debatable. He thinks that we need an integrated system that provides as much consumer choice as possible. People who want the cheapest food possible should be able to get it, but people who want local food, even raw milk, should be able to get it if they’re willing to pay that premium. As a society, we absorb

the risks of alcohol and tobacco, so we should be able to find a way to acknowledge and incorporate the same type of risk analysis into a food system that allows for the purchase of “local” food.

27. Aaron Smith, Seven Sushi—He admits that he is confused over who the regulatory players are. He sees a similarity between Sushi and food trucks because both of these food service businesses are relatively new kids on the block. He would like a Gallatin City-County Health Dept. led Sushi symposium once a year. When questions arise, he’d like to get answers quicker when, for instance, he wants to introduce new products. As a business, he wants to be on the cutting edge of what the public wants. Right now it can be a struggle to find out whether or not a new product is up to par with existing regulations. He asks a question: Is there money available from the state to implement training at his restaurant? He acknowledges the agency complaints about their costs, but what about the costs of regulation on his business? Is there money available to train his cooks? Somewhat tongue in cheek, he suggests the legislative body should consider training funding for his employees and for other sushi bars. His point seems to be that he wishes there was a better way to keep up with new requirements other than learning the hard way through a violation. He also asks: Should the public understand the risks? Or is it up to him to put on his menu? He has every incentive to make sure that his customers are safe. He wants a partnership with the RS community, not an antagonistic relationship.
28. Kris Clawson--DOL—Division of Meat and Poultry Inspection. She states that every May, DOL gives a \$65 HACCP class. It is at MSU. On day one they train participants on food pathogens, and the next two days they teach people how to write their own HACCP plans. They teach about recordkeeping for raw products, heat treated products, and fully cooked products. For their small plants, she believes that a HACCP plan is not as expensive as was suggested earlier in another comment. She thinks it isn’t as prohibitive and they try to be accessible. If a business is interested, they should contact DOL.
29. Nancy Matheson—from the AGR Dept. Nancy educates the attendees on the Food & Ag development centers that exist around the state. As an example, she explains how the MMFEC is available for both start up and existing food and ag product businesses. The Food & Ag Center program currently has to contract with food scientists from out of state (WA). So she agrees, as was stated earlier, that we don’t have that many food scientists in MT. However, those services are available through the Food & Ag Development Centers. There is another based in Butte, one in Havre, Joliet and Glendive. For the record, the program would encourage the legislature to fund some sort of food science program for education of the businesses that need that support. Nancy comments that education is very important. She also suggests that it would be good if there was a central place to advertise—everyone keeps talking about a need for consistency, so perhaps there should be a dependable place for people to go to in order to access trainings and/or other forms of education. Also, she appreciates the suggestion that we videotape trainings so that people could watch them at a later date if they weren’t present.
30. Tim Reed, Mineral County Sanitarian. He is also a member of the NW Sanitarians Association. He is also on the board of the MT Environmental Health Association. He thinks current rules have a good potential to adapt to the issues that would arise with sales of cottage foods. He thinks cottage foods have the potential for just as much hazard as any other foods. Most

sanitarians he knows think that simply putting a dollar restriction on the sale of cottage foods as the single form of regulation is not feasible. He reminds the room that issues of food borne illness always fall back on local RS offices.

Q1: CORT ASKS ABOUT COTTAGE FOOD LAWS. Many cottage food laws exist and they are quite variable—the committee has reviewed them. He states that in Missoula, some people supported cottage foods, while some did not. Cort asks: If cottage food is to exist in the marketplace, what would today’s participants like to see in a cottage food law?

- a. Tim Reed, Mineral County Sanitarian. Member of the NW Sanitarian Association. He is also on the board of the MT environmental health association. He thinks current rules have a good potential to handle the issues that would arise with the sales of cottage foods. He thinks cottage foods have the potential for just as much hazard as other foods. Most sanitarians he knows believe that that a simple “cap” or dollar amount exemption is not feasible. The issue of food borne illness comes back on RS offices.
- b. Matt Kelley, Health Officer at Gallatin City-County health department sad that during the last legislative session he was aware of a lot of discussion about cottage foods. There always is some conversation about the freedom to choose these foods. He offers that whatever is ultimately decided needs to take into consideration people who are “unknowing” consumers at a Farmers Market who consider everything there as being inherently safe. We need to make sure that people have the information to opt out of the consumption of these foods.
 - i. Cort: Does he mean labeling?
 - ii. A: Yes, that is part of it. Especially with raw milk. He thinks Farmers Markets are areas of higher food danger. In his opinion, people make assumptions that the food at Farmers Markets is safe, even when it might not be safe.

Q2: Consistency—with so much talk about consistency, Cort asks what does the audience believe would help increase the consistency amongst the state agencies?

- a. Judd Jensen—state statutes and regulations that are thoughtful and written with the intent to be clear to county officials so that each county or region doesn’t have to come up with their own regulation of what is safe for their population base.
- b. Tim Reed, Mineral County Sanitarian—He comments that it is really difficult to compare low population counties to higher population counties. Inconsistencies aren’t just from interpretations; they’re from sheer size as a practical matter. Local food codes can help counties with their own work and he appreciates counties that might need them. But they also set up a regulatory atmosphere prone to inconsistency. He just wanted to point out that inconsistencies come from the volume of larger communities vs. small communities and the number of people on their staff as well.
- c. Nancy Matheson—AGR—it occurs to her that there are 2 issues: 1) the product itself, and whether that product is safe...and 2) there is a separate question in cases where there is inherent risk with a certain type of food. How much does the law acknowledge that risk?

Risk is different in differing distribution networks, and further efforts must acknowledge that.

Q3: Catering has come up in the written comments...other comments Cort has received has to do with fundraisers that are non-church related. He invites people to weigh in on either of these topics.

- a. Susan Duncan looked up cottage food laws the night before the public hearing. She realized that she doesn't know where to go in order to look up what she can and cannot do. The DOL has emailed her with rules in the past, and she appreciated it, but she still sees a lack of accessible material out there to self-educate. She believes she lacks the information she needs to make decisions for her niche business. She thinks at some level there should be some built in trust for smaller, more local producers. She asks—what kind of world do we have if there has to be a sticker on every apple?
- b. Unknown commenter believes that at some level the sanitarians should not be expected to know every regulation that exists. Perhaps that is where a state based ombudsmen involved that could handle some of the questions without requiring the sanitarian to know every last regulation involved. She is stunned that there is one sanitarian covering the entire counties where the Bakken boom is occurring.
- c. Tim Roark, Gallatin City-County health department. He states that catering events and farmers markets are hard events to figure out how to regulate. Do you regulate what is served or how it's being prepared? Education and information is the cornerstone for everything that they do at his office. He thinks education and information are fruitful focuses on these topics for a committee looking into them. There should be a clearinghouse for people to access information.
- d. Sean Hill, Gallatin City-County health department. He says that when it comes to caterers and single events, he thinks it is very important to delineate between private events and public events. His office stays out of private events. If it is a public event, there is an expectation that the food is safe. Currently, the state is dealing with an older food code. It is being tailored to include food-carts, etc. He also thinks it is important to have a statewide clearinghouse for information seeking parties. For example, they had the sushi symposium in Bozeman. He had an excellent turnout that was focused on a known need and they plan on webcasting such events to a broader base so that remote interested parties can access that symposium in the future. However, someone will have to fund these endeavors.

Q3: 50-50 exemptions—what foods are able to be sold without a food manufacturers license? None.

Q4: Anyone with general comments? None.

Break at 1:00pm

Cort tells people they are free to go, but the meeting is open for comment until 2pm today. People were invited to comment if they wanted to, but otherwise the meeting appeared over at 1:10pm.

At 1:20, Cort invites any public comment would be accepted in this forum. He also invites further comment on HB 630.

31. Lynn Paul, MSU extension, says that she has ethical concerns if MSU extension continues to support local foods and local food businesses if the extension cannot meet that supportive intent with an adequate staff and infrastructure to meet the need of that business community. Adequate funding is a major issue that she wishes to make clear.
32. Ron de Yong, AGR Director. In terms of adequate funding, Ron is concerned with anticipated FSMA requirements because there is no money to back the rollout of FSMA. He'll have to go through the appropriations process, which is challenging. He says that there is a need to keep track of federal dollars. On the state level, the biggest money gap he sees is the lack of a food scientist in the state. How much and how well we do these efforts will depend on the funding.
33. Judd Jensen, local private attorney, says he believes it is important to identify funding sources. When we look at how we spend money, much of it is risk assessment. Where there are health problems, we identify the causes and implement changes to lower the risk. As far as funding sources, Ag may need to pay its own way (check-off suggestion). Perhaps that will be a small pesticide tax or livestock fees. Perhaps the local food producers will have to bear the costs through an increased fee on Farmers Markets, perhaps the state can offer a license plate for local food, etc. It doesn't take a huge amount of money, but it takes consistent money every single year.
34. Tim Roark. He wants to reiterate that the interim committee needs to study the "Gosten report" out of Georgetown University.

Appendix D

HB 630 Public Meeting #3, Billings, MT

Tuesday, January 21, 2014.

Written comments are encouraged as they were in Missoula and Bozeman.

Meeting starts at 10:05 a.m. after Cort gives an “off the record” explanation of public meetings and their purpose.

ON THE RECORD:

Cort announces the third meeting on HB 630. He explains it has given the 3 departments with some degree of regulatory authority to take public comments. The law is fairly broad and Cort invites comment covering anything in the food process whatsoever.

State people introduced themselves.

Cort explains the three agencies involved—AGR, DPHHS and DOL. Cort lets the group know that the agencies are interested in comments on a possible cottage food law. Also, anything within the law that is or isn't working well, Cort wants to hear about it. And he'd be interested in hearing comments on public kitchens and their accessibility or lack thereof. He also encourages comments about the farmers market exemptions for food and whether there should be more, fewer or different regulations. Cort invites written comments and shares his phone number and email for those comments if people want to make them.

Cort reviews the appropriate way to make a public comment—he covers the same bases as prior public meetings.

1. Kate Rossetto, from Billings. She has a small market garden where she grows produce for local sales. She is not certified organic, but uses sustainable methods to raising the produce that would probably qualify her as organic, but for the lack of certification. She is exploring creating value added products with the produce she grows. She has a separate kitchen that gives her the ability to manufacture certain foods. The regulations she has seen are not always intuitively applicable to her business and she is here to listen and learn.
2. Michelle Harper, from Belfry. She enjoys baking for farmers markets. There have been many changes in the rules applying to farmers markets since she began. She would like to make pasties, but is unsure whether she may run into regulatory hurdles. She wants to learn more and that is why she is here.
3. Bonnie Martinell, co-owner of Boja Farms and a small business called On-Time Gourmet. A number of the issues she'd like to comment on have to do with eggs, specifically selling eggs off the farm. Can her farm direct eggs to people without grading? Does she need a special license for sampling? She has heard there is a separate license they need to allow folks to sample at the farmers markets. She says there is a better chance at selling product if you can sample and to

have another license to sample is too burdensome. She also has her own certified kitchen. She also is unsure about processing poultry onsite at her farm. She is unclear on what is the best and most cost effective method for processing some of the commodities she produces.

4. Carol Nash, from Bridger. She raises sheep, cattle and she has an orchard that she would like to see go back up under production. She states that last year she ran into some problems. She sells her lamb at farmers markets. She understands that in order to process her meat, she must do so at a federal or state inspected plant. She found out that she has to have a special license in every farmers market. She would like the inspection for the license to be more uniform and allow her to sell at any farmers market if she's allowed to sell at one. She also has to have a special hand-washing station at her booth at the market. Why? (She asks). She sees no purpose. She says her meat is absolutely safe from hand contamination at the point of sale. She doesn't see any purpose when she takes such care to wrap and double wrap her meat. Also, if and when she does start producing apples again on her orchard, she would like to see the organic certification become more streamlined. Finally, she also would like to see easier sampling ability at the farmers markets because she processes and sells smoked meat as well. If the state wants to encourage small producers, we need to make the laws easier for the little guy, according to Carol. She also is against animal ID for small producers. She only has 15 cows that are all registered with tattoos in their ears and she doesn't want to have additional ID burdens. She urges a bit more commonsense in the process when the state is dealing with really small producers.
5. Debra Haines, from Crow Agency—She is a federal inspector for the Crow Reservation. She is here to listen.
6. Jeanne Winnick—she is the manager of a restaurant in Billings and here to listen.
7. Laurie Gebhard, from Billings. Laurie owns Spicy Gals—a small business that sells dried spices. She has issues with labeling. She sees a lack of consistency in the approval of labels. She's had labels take 6 hours to approve and labels take 6 months to approve, even though her labeling process is the same every time. She has been told differing information on whether she had an organic product, even though she's using all organic raw materials.
8. Bruce Lackman, from Yellowstone County. Bill raises sweet corn, and tomatoes and peppers. He is interested in making salsa and he doesn't know how to enter the market, so he's here to learn.
9. Anna LaFountain, from Billings. She works as a RS at Riverstone Health and is here to listen.
10. Alicia Pettip, from Billings. She is employed with Northern Plains Resource Council—she is here to listen and support the effort.
11. Martha Brown, from Red Lodge. She is representing the Red Lodge Food Partnership Council. She is trying to understand rules and laws to better serve her community. She wants to help the RL Farmers Market continue to grow and she is a member of the board of AERO.
12. Clark Snyder, from Billings. He is employed as a RS at Riverstone Health. He and his colleague are here to learn how to better their process for all participants and they want to improve their processes so that they can better serve the public.

13. Gay Kepple, from Worden. She runs Misfire Farm, they raise goats. She's done some farmers markets and she wants to do more. She wants to start getting into making goat cheese and she doesn't know how.

Cort comments that it appears to him that many of the day's participants appear to have attended in order to learn and that this is a public comment forum. He comments that at other public meetings, the cry for education is loud and clear—it seems like that is what they really want. He comments there is a general lack of knowledge of the existing laws and he encourages anyone to comment on what their understanding of the law is so that we may ID problem areas where education is most needed.

14. Gay Keppel—She wonders where she can view the rules and regulations for farmers markets? What if you want to sell in another town? What if you want to start a new business or new product?
 - a. Cort says that the first effort should be to talk to the county sanitarian. There will be different regulation dependent on whether you want to sell to farmers market vs. sell internationally. He also encourages people to become familiar with the Food and Ag Development Centers, especially if you want to add value to your agricultural commodities. The marketing arm of the AGR—Agriculture Development Division (ADD) is another place to call with questions. Also, occasionally writing out in a short email detailing a perceived problem and sending it to the regulator can help people keep a record of the questions they're asking. One could also look up the administrative rules of Montana. The SOS is the gatekeeper for the ARMs. He also refers people to go to the MCA. Title 50 for food, Title 80 for crops and Title 81 for livestock.
 - b. To become certified organic, you can use any organic certifier that you want as long as they are licensed. His department can certify, but it isn't necessary that they are the entity that certifies.
15. Laurie Gebhard asks: If she uses all organic materials in her product, can she call it organic? She is told to call the regulator.
16. Jim Murphy—DPHHS—reminds the group that DPHHS makes informational resources available on the internet. But he asks the crowd to please describe exactly what type of information materials would be the most helpful to them to use?
17. Bonnie Martinell--She asks whether there will be any consideration of rules or regulations for agritourism on their properties. In general, she believes that people often do this and serve dinners on-site at their farm or ranch. She has concern that there does need to be some sort of oversight because eventually someone will get sick and she doesn't want that bad actor to ruin it for the good actors in agritourism. Secondly, when it comes to GAP standards, she has concerns that her orchard and produce garden—one that has all types of fruits and vegetables—will somehow be considered unsafe because they keep poultry around for bug control. She keeps the poultry away from direct contact with the produce. She points out that it is MT and they have wild animals and flocks of birds going through the orchard and she doesn't want regulations that don't allow this occasional contact with wildlife because that seems irrational in a state like MT.

18. Carol Nash wants some type of law that allows some ability to sell raw milk. She believes that people should be allowed to manage their own health risks when it comes to raw milk. Raw Milk is prohibited by rule of the DOL, not a law and she'd like to see that changed.
19. Deborah Haines offers that milk and egg producers should get a hold of the DOL to be inspected. They should be contacted first and then the producer can figure out whether the county sanitarian needs to be involved. Many places in MT they won't, but some counties may have additional regulation that requires them to be involved.
20. Gay Keppel asks about last sessions raw milk bills. Cort answers that none of them got passed. He encourages people interested in raw milk new rules to bring their concerns to the board of livestock. If they want cow shares to become 100% legal, they need to seek a new rule.
21. Debra Haines from Crow Agency offers her opinion that for producers who market milk, cheese and/or eggs, it is important for them to understand the history of milk and egg contamination—the Pasteurized Milk Order is important and there are very good reasons for such regulation. There were thousands of people dying from bad milk products. Look into the reasons behind the rules before you challenge the rules, she says.
22. Laurie Gephard reminds everyone that the businesses in the room already are conscientious. They want to do the right thing, or they wouldn't be here.
23. Alicia Pettip. Speaking from her personal experience with samples at farmers markets, she believes there should be an ability to serve a sample by doing a food safety course rather than an only through obtaining an \$85 license. Could the course substitute the license fee requirement?
24. Martha Brown—She believes that if there is any way to make it simpler for smaller producers to sell their stuff, we must do it in order to encourage their businesses. More regulation closes these people out when we want to bring them into the market. Furthermore, the increase and interest in raw milk in MT is big—there are superior tastes and health benefits. She consumes raw milk and thinks it's ridiculous that there are laws against it. She believes it should be up to the consumer to know their dairy. She encourages the state to address it.
25. Clark from Riverstone Health says that Riverstone encourages people to call them when they have questions about food and food health. If they don't have the answer, they will find it. They are currently working on their website to enhance the accessibility of that information. He believes that agritourism events do need to be licensed and offers that anyone can contact him about that. Riverstone is trying to be as consistent as possible with the food vendors that they regulate. They are working through FDA standards so that everyone is on equal footing with regard to regulation.

Cort gives more information on the Food & Agricultural Development Centers in the state and encourages people to contact them.

Cort asks a question about the cottage food/home kitchen exemption topic. He explains that part of deciding a cottage food law bill will be to decide whether there is an appropriate size under which the stated would draw a line for exemption. He explains that varying state-to-state regulations range from \$500-\$50k dollars. At what level should MT define "cottage?"

26. Kate Rosetto says that \$50k would be a fair amount of income in order to qualify for cottage exemptions.
27. Bonnie Martinell comments that what we should look at is the difference between people who get fully licensed and fully inspected and are under a certain dollar amount vs. people who take advantage of the cottage foods and end up with more in gross sales than she does. For the cottage industry, she believes we need to ask whether a food producer is capable of paying the licensing fees—dollar figure should include a profit analysis, not just the income or gross sales.
28. Carol Nash thinks that any rules or regs should be flexible to allow the smallest businesses to enter. If someone has a good recipe they want to introduce, we should encourage their entry and let them grow into potential regulation if they become big enough.
29. Debra Haines makes a comment on fees, in general. Every event, locality, ever will have their own schedule of fees. Don't mix these fees up with licensure fees that allow the business to operate, she says. She sees people who have to pay a myriad of fees in order to vend at an event. The licensure fee is but one fee. But the other levels of fees are often unique with localities. She encourages that people go to their RS for help so that you can get off on the right foot.
30. Anna LaFountain, Riverstone Health—She says that the certification of kitchens depend on the product you're going to make in that kitchen. She has people with the required sinks in their basement that allow them to sell cakes. It really depends on the food product, she says. When it comes to the cottage exemption amounts, she says that food pathogens don't discriminate by dollar amounts. She says less production is not necessarily safe. The principals of food safety need to apply, even to cottage producers.
31. Bruce Lackman—he thinks that some sort of education could help in the cottage area.
32. Clark from Riverstone Health echoes that education is absolutely needed.
33. John ???—a teacher at Rocky Mountain College that joined the meeting later believes that “kids” recognize the production of local foods as a major movement. He asks: is there curriculum existing in any agency that the schools could use and whether the agencies see this as their responsibility? Cort answers that AGR has a FTE that develops lesson plans for schools and curricula on farming and ranching and Ag-education for school systems to adopt. They have a request that there needs to be a ½ FTE to help her deal with demand. Laurie Breneman is her name and her job title is the Ag Literacy Specialist.
34. Yohanes Cadesi (sp?)—On behalf of Agrica Foods, a small processing facility. They vary in working with affordable formulations of gluten free mixes and he is here to learn and comment if helpful.

Cort asks a second question: Farmers Markets currently exempt certain food from having a license to sell. For example, you can serve hot coffee, but not cold tea. Eggs, hot pies, and raw agricultural commodities (fruits and veggies that haven't been processed). Should additional foods be added or should any foods be taken away?

35. Jim Murphy says that prior to the change in the last legislative session, eggs could not be sold because they were a potentially hazardous food. He encourages suggestions from the crowd on what other foods would like the state to consider.
36. HAACP is brought up by Debra Haines. She gives a quick summary of what HAACP means and that if people understand the critical control points before they become an inspected entity, that could help them during the process in a way that is safer for the customer and more conducive to a good inspection. One must ID the critical control points that their food is going to reach.
37. Martha Brown—She has 2 questions: 1) she’s curious about other beverages that can be sold without licenses? Hot coffee and hot tea. She doesn’t understand the reasoning. 2) Does “jams and preserves” mean BBQ sauce or salsa, etc.? How cumbersome is the process to get a license for these food products?
38. John from Rocky Mountain College—He states that in YS County, he finds it frustrating to see so many local garden and community food production efforts that don’t seem to get off the ground. There’s not an overarching network or coordination. Does some agency represented here today have a stake in that in terms of rulemaking? Is this part of any agency’s responsibilities?
 - a. Cort: The AGR department has a general mission to promote local food production and processing. Local food movements work best from the ground up. If there isn’t a local nexus, it can be more difficult. Missoula and Billings have a different culture and Cort is not sure that rulemaking is the appropriate method to encourage a Billings local food movement.
39. Yohanes has a question: Along with the pending FSMA, is there any initiative going forward in order to encourage smaller startups? He’s had a good experience so far with YS County sanitarians and in creating his own HAACP plan, but he doesn’t know what the future holds under FSMA?
 - a. Cort says that HB 630 has a few missions. Streamlining the state law, DPHHS rulemaking to adopt the 2013 FDA Food Code, and that part of the bill is to look at what areas can be improved. FSMA may have the Tester Amendment for producers, but processors may have more responsibilities. The groups that have expressed the most concern Cort has seen are large scale produce farms and larger scale orchards.
40. Maggie Zabback, Northern Plains representative. She states that interstate meat shipment has been approved; however, it is nearly impossible and not economical for mid-sized operations to do interstate meat shipment. Ranchers would like to see this opened up so that they have the option for interstate shipment without USDA inspection. Rules need to allow the state inspected plant inspectors to approve meat for interstate shipment. USDA is writing these rules.

Cort asks about home kitchens—what is the actual availability of approved, local commercial kitchens for the manufacture of processed foods? And to what extent should home kitchens be used for the manufacture of cottage food?

41. John from RMC wants to encourage people locally to perhaps not make money off their efforts and to understand there are other health and societal benefits of locally produced food.
42. Yohanes—He asks the Riverstone sanitarians: Who is responsible for the commercial kitchen when he is using a landlord’s commercial kitchen—in terms of the licensure? Who does the rule apply to? He processes, grinds, packages and distributes his product.
 - a. Cort says that each individual renter has to register as a producer with the FDA and the facility itself is subject to the inspection and a closure of that facility would affect all the people who use it.
 - b. Anna La Fountain from RS—Missoula recently compiled a list of commercial kitchens to rent in the county. RS will be working on such a list as well.
 - c. Jim Murphy from DPHHS is doing a survey with local sanitarians statewide to ID potential and operating commercial kitchens. Preliminary estimates have ID’d 350 potential commercial type facilities that could be eligible to help startups. Of those, already 260+ appear to be licensed.

Cort states that labeling of cottage foods is a subject that came up in other public meetings. Are such labels a good idea? Why? And what makes an effective label? Are they not a good idea? Why?

43. Anna LaFountain from Riverstone Health—She believes that if there needs to be a consumer advisory on the menu if people want a rare steak or a sunny-side up egg...there should be such a label for cottage foods. Why would they be exempt from this requirement?
44. Melissa Tuemmler—Cites MCA 50-50-202—Comments that it could easily be applied as a cottage food law. What if we just applied this existing language or something substantially similar to cottage foods as well? Perhaps we can get some sort of statewide license that is multi-venue.
45. Jim Murphy—Gently suggests that the comments in all of the meetings on cottage foods hasn’t necessarily been *informed* comment on cottage foods. One issue area is whether one is referring to direct sales vs. indirect sales. Jim believes that if we don’t address indirect sales in this effort, it’ll end up being another item to revisit in the future. He has observed that whether inspections or licenses are required for folks’ businesses or business interests is an area they haven’t fully explored yet. He reminds the room that not every state has a \$\$ amount exemption under their cottage food law. In fact, it is only a minority 1/3 that do. His opinion is that the dollar amount would be hard to track.
46. Cort says if there is a cottage food law, there need to be an “emergency” ability for health officials to go and inspect the cottage food producer. This can be upon complaint mechanism or other belief of possible contamination.
 - a. Under existing laws, the agencies agree that RSs do have authority to look into suspected outbreaks and investigate where needed to ID source contamination.
 - b. Traceability is key, everyone agrees.
47. Jim Murphy asks the Riverstone employees to give their perspective on the concerns that they’d have if the law required them to inspect cottage food manufacturers. Clark comments that it would be pretty tough. High risk places already receive 2+ inspections a year, but lower risk

places only get once a year. Riverstone struggles to make inspections under the current scheme. Sanitarians would struggle with many new inspections.

48. Debra Haines says that she trains 100-150 people a year under the 'Serve-Safe' program. For her population in Big Horn County, Serve-Safe is what prevents outbreaks more than anything. Participants take pride in using the knowledge they receive in their education. She thinks that education is one area this bill should focus on, because she's had experienced local success with education.

a. Riverstone comments that YS County teaches Serve-Safe 4 times a year and a food safety advisory group who does 4-5 trainings a year. They'll also do on-site restaurant trainings upon request.

49. Jim Murphy is surprised that the people who want to participate in these markets don't know about the sanitarian availability for compliance trainings. He looks to organizations like AERO and Grow MT to help get the word out to their members. Also, perhaps the sanitarians should better advertise, for example at the farmers markets, as well. Jim also believes whether sanitarians like it or not, perhaps there needs to be a uniform mobile food or portable food service unit to go from one place to another without having different hoops to jump through.

There is a general discussion that is fairly 'stream of conscious' where people comment on allergens, raw milk, gray markets vs. black markets, etc. The state may want to adopt a 'Costco' rule that no matter what, a parent must give permission for a child to eat something.

Cort invites if there are any comments whatsoever on anything, speak now or write him—he fulfills responsibility to invite comments and then we go back to a general discussion.

Melissa T. believes that the legislature would be pleased to hear that we're already working on a list of commercial kitchens that are available for lease on a statewide basis and making that information available for the public.

Cort asks Clark from Riverstone Health: How often does a regulated entity get inspected? Risk 1&2 are inspected once a year, Risk 3&4 are inspected twice, plus they can go in as much as needed. They also go into schools once a year as well.

Melissa comments that license fees should be tied to risk factor. Debra comments that she agrees that the fee should be tied to the risk factor and the process.

Meeting adjourns at 2pm.

Appendix E

HB 630 Public Meeting Themes: MSO, BZN, BIL Combined

1. **Education, education, education:** The dominant theme.
 - a. The call for more accessible information came from every type of participant, including:
 - i. Established business owners,
 - ii. Budding entrepreneurs,
 - iii. Farmers and ranchers,
 - iv. Local health officials,
 - v. State agencies,
 - vi. Consumer locavores, and
 - vii. Local farm and food advocacy groups.
 - b. The form of the suggested education varied, depending on topic. Some commenters asked for a guide. Some commenters asked for localized trainings—including trainings of vendors and local health officials. And all commenters asked for internet-based “FAQ”-like information, including identified regulatory contacts for questions.
2. **Consistency across County Lines.** If a mobile food business and/or other travelling vendor is approved in one county, their ability to conduct business in food service should apply statewide.
3. **Cottage Food Conflict:** Existing businesses believe that a cottage food exemption would be unfair, even discriminatory against their businesses because they are regulated. This was a common issue of a large majority of regulated commenters.
4. **Sanitarian sanity:**
 - a. Leading mantra: “Smaller is not safer.” Every participating RS made this statement. Any food can be contaminated and just because an operation is small, it cannot be assumed to be safe.
 - b. 2nd common message from RS: We can’t handle more inspection work (without more funding).
5. **Cry of the Consumer:** Another central theme was that there is very strong consumer demand. To the extent that the regulators and/or regulations are causing a roadblock for vendors in delivering product to demanding consumers, the regulators have a responsibility to adopt policies that help rather than hinder growing businesses.
6. **Commercial Kitchen Conundrum:** There were commenters who said there were not enough commercial kitchens (CKs) available for use in their communities (esp. MSO). And then there were commenters who said that CKs were plentiful, but there were hurdles due to: 1) liability; and 2) ignorance of availability and/or utility. In the spirit of #3 (above), it was suggested that a survey of statewide commercial kitchens is being conducted.
7. **Denial Due Process:** When a license or permit is denied, there should be a clear procedure allowing due process to the applicant, including an appeal function.
8. **1k Bird Exemption:** Commenters believe that the federal exemption appears to have been adopted by Montana, yet they believe the agencies are unclear on whether a 1k or less poultry operation needs to be inspected.

9. **Can we can?** Several people want standardized canning methods that would allow commonly canned items like preserves, pickles and salsas to be directly marketed.