

HOUSE BILL NO. 888

INTRODUCED BY L. NELSON, NATHE

IN THE HOUSE

FEBRUARY 15, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON AGRICULTURE, LIVESTOCK, & IRRIGATION.

FEBRUARY 16, 1991           FIRST READING.

FEBRUARY 23, 1991           COMMITTEE RECOMMEND BILL  
                                  DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 25, 1991           PRINTING REPORT.

FEBRUARY 26, 1991           SECOND READING, DO PASS.  
                                  ENGROSSING REPORT.

FEBRUARY 27, 1991           THIRD READING, PASSED.  
                                  AYES, 89; NOES, 11.  
                                  TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 4, 1991               INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON AGRICULTURE, LIVESTOCK, & IRRIGATION.  
                                  FIRST READING.

MARCH 18, 1991               COMMITTEE RECOMMEND BILL BE  
                                  CONCURRED IN AS AMENDED. REPORT  
                                  ADOPTED.

MARCH 20, 1991               SECOND READING, CONCURRED IN AS  
                                  AMENDED.

MARCH 21, 1991               THIRD READING, CONCURRED IN.  
                                  AYES, 48; NOES, 1.  
                                  RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 10, 1991               RECEIVED FROM SENATE.  
                                  SECOND READING, AMENDMENTS  
                                  CONCURRED IN.

APRIL 11, 1991

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 888  
 2 INTRODUCED BY [Signature]  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA  
 5 WHEAT AND BARLEY COMMITTEE; EXPANDING THE GROUPS THAT MAY  
 6 NOMINATE MEMBERS FOR APPOINTMENT TO THE COMMITTEE; REVISING  
 7 THE TIME PERIOD IN WHICH NAMES OF NOMINEES MUST BE  
 8 SUBMITTED; DELETING THE PROVISION THAT THE REPRESENTATIVE OF  
 9 THE GRAIN TRADE ON THE COMMITTEE SERVES AT THE PLEASURE OF  
 10 THE COMMITTEE; EXEMPTING EMPLOYEES OF THE COMMITTEE FROM THE  
 11 STATE EMPLOYEE CLASSIFICATION PLAN; ALLOWING THE COMMITTEE  
 12 TO CONTRACT WITH ALL THE UNITS OF THE MONTANA UNIVERSITY  
 13 SYSTEM; DELETING THE REQUIREMENT THAT THE AMOUNT OF THE  
 14 ASSESSMENT BE SET ANNUALLY; STATUTORILY APPROPRIATING THE  
 15 FUNDS FROM THE WHEAT AND BARLEY ACCOUNT; AMENDING SECTIONS  
 16 2-15-3002, 2-18-103, 17-7-502, 80-11-202, 80-11-205,  
 17 80-11-206, AND 80-11-224, MCA; AND PROVIDING AN EFFECTIVE  
 18 DATE."  
 19  
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 21 **Section 1.** Section 2-15-3002, MCA, is amended to read:  
 22 "2-15-3002. Montana wheat and barley committee --  
 23 composition -- allocation. (1) There is a Montana wheat and  
 24 barley committee.  
 25 (2) The committee consists of seven members and three

1 ex officio, nonvoting members.  
 2 (3) The governor shall appoint one member from each of  
 3 the following districts:  
 4 (a) District I, consisting of Daniels, Sheridan, and  
 5 Roosevelt Counties;  
 6 (b) District II, consisting of Valley, Phillips,  
 7 Blaine, and Hill Counties;  
 8 (c) District III, consisting of Liberty, Toole,  
 9 Glacier, and Pondera Counties;  
 10 (d) District IV, consisting of Chouteau and Teton  
 11 Counties;  
 12 (e) District V, consisting of Lewis and Clark, Cascade,  
 13 Judith Basin, Fergus, Petroleum, Meagher, Broadwater,  
 14 Wheatland, Golden Valley, and Musselshell Counties;  
 15 (f) District VI, consisting of Big Horn, Yellowstone,  
 16 Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison,  
 17 Jefferson, Silver Bow, Beaverhead, and all counties west of  
 18 the continental divide;  
 19 (g) District VII, consisting of Garfield, McCone,  
 20 Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer,  
 21 Fallon, Powder River, and Treasure Counties.  
 22 (4) The ex officio members are:  
 23 (a) the director of the department of agriculture;  
 24 (b) the dean of agriculture of Montana state  
 25 university;

1 (c) a representative of the grain trade in Montana  
2 elected by a majority of the appointed members.

3 (5) Each of the appointed members ~~shall~~ must be a  
4 citizen of Montana, derive a substantial portion of his  
5 income from growing wheat or barley in this state, and be a  
6 resident of and have farming operations in the district from  
7 which appointed. No more than four of the appointed members  
8 may be of the same political party.

9 (6) A list of nominees for appointment may be submitted  
10 to the governor by the Montana farmers union, Montana farm  
11 bureau, Montana grange, Montana women involved in farm  
12 economics, and the Montana grain growers association. Names  
13 of nominees ~~shall~~ must be submitted ~~within 90~~ not more than  
14 90 days but not less than 30 days before the expiration of a  
15 committeeman's term.

16 (7) The appointed members shall serve staggered terms  
17 of 3 years. A member may not serve more than three  
18 consecutive 3-year terms. ~~The ex-officio representative of~~  
19 ~~the grain trade shall serve at the pleasure of the~~  
20 ~~committee.~~

21 (8) A member may be removed by the governor, after a  
22 full public hearing before the governor, for malfeasance,  
23 misfeasance, or neglect of duty. Removal proceedings may not  
24 be started except upon duly verified written charges. The  
25 member ~~shall~~ must be given a copy of the written charges at

1 least 10 days in advance of the hearing. At the hearing, the  
2 member may be represented by an attorney and may present  
3 witnesses in his behalf.

4 (9) A member who ceases to reside in the state or in  
5 the district from which he was appointed or who ceases to  
6 grow wheat or barley in the state or district is  
7 disqualified from membership and his office becomes vacant.  
8 If the member refuses to recognize his disqualification, the  
9 refusal is cause for removal.

10 (10) The committee is allocated to the department for  
11 administrative purposes only as prescribed in 2-15-121."

12 **Section 2.** Section 2-18-103, MCA, is amended to read:

13 **"2-18-103. Officers and employees excepted.** Parts 1 and  
14 2 do not apply to the following positions in state  
15 government:

- 16 (1) elected officials;
- 17 (2) county assessors and their chief deputy;
- 18 (3) officers and employees of the legislative branch;
- 19 (4) judges and employees of the judicial branch;
- 20 (5) members of boards and commissions appointed by the  
21 governor, the legislature, or other elected state officials;
- 22 (6) officers or members of the militia;
- 23 (7) agency heads appointed by the governor;
- 24 (8) academic and professional administrative personnel  
25 with individual contracts under the authority of the board

1 of regents of higher education;

2 (9) academic and professional administrative personnel  
3 and live-in houseparents who have entered into individual  
4 contracts with the state school for the deaf and blind under  
5 the authority of the state board of public education;

6 (10) teachers under the authority of the department of  
7 institutions or family services;

8 (11) investment officer, assistant investment officer,  
9 executive director, and three professional staff positions  
10 of the board of investments;

11 (12) four professional staff positions under the board  
12 of oil and gas conservation;

13 (13) assistant director for security of the Montana  
14 state lottery;

15 (14) executive director and senior investment officer of  
16 the Montana board of science and technology development; and

17 (15) executive director and employees of the state  
18 compensation mutual insurance fund; and

19 (16) employees of the department of agriculture assigned  
20 to the Montana wheat and barley committee."

21 **Section 3.** Section 17-7-502, MCA, is amended to read:

22 "17-7-502. Statutory appropriations -- definition --  
23 requisites for validity. (1) A statutory appropriation is an  
24 appropriation made by permanent law that authorizes spending  
25 by a state agency without the need for a biennial

1 legislative appropriation or budget amendment.

2 (2) Except as provided in subsection (4), to be  
3 effective, a statutory appropriation must comply with both  
4 of the following provisions:

5 (a) The law containing the statutory authority must be  
6 listed in subsection (3).

7 (b) The law or portion of the law making a statutory  
8 appropriation must specifically state that a statutory  
9 appropriation is made as provided in this section.

10 (3) The following laws are the only laws containing  
11 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
12 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
13 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
14 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
15 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;  
16 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
17 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;  
18 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;  
19 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;  
20 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;  
21 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 80-11-224;  
22 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;  
23 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws  
24 of 1985.

25 (4) There is a statutory appropriation to pay the

1 principal, interest, premiums, and costs of issuing, paying,  
 2 and securing all bonds, notes, or other obligations, as due,  
 3 that have been authorized and issued pursuant to the laws of  
 4 Montana. Agencies that have entered into agreements  
 5 authorized by the laws of Montana to pay the state  
 6 treasurer, for deposit in accordance with 17-2-101 through  
 7 17-2-107, as determined by the state treasurer, an amount  
 8 sufficient to pay the principal and interest as due on the  
 9 bonds or notes have statutory appropriation authority for  
 10 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
 11 664, L. 1987, the inclusion of 39-71-2504 terminates June  
 12 30, 1991.)"

13 **Section 4.** Section 80-11-202, MCA, is amended to read:

14 **"80-11-202. Declaration of policy.** In the presence of  
 15 the facts that wheat and barley is are the principal grain  
 16 crop crops produced in Montana and as such is--an are  
 17 agricultural resource resources of the first magnitude in  
 18 the economy of the inhabitants of Montana, a prime factor  
 19 factors in the production of wealth and the development and  
 20 stabilization of property values and of activities and  
 21 enterprises which that are bases and sources of important  
 22 contributions by taxation to the public revenues, and that  
 23 Montana wheat and barley is-a-commodity-which-enters are  
 24 commodities that enter a world market highly competitive in  
 25 character and--that-barley-is-also-an-important-crop, it is

1 hereby declared to be the public policy of the state of  
 2 Montana to protect and foster the health, prosperity, and  
 3 general welfare of its people by encouraging and promoting  
 4 intensive, scientific, and practical research into all  
 5 phases of wheat and barley culture and production,  
 6 marketing, and use and into the development of markets for  
 7 wheat and barley grown in Montana by the department."

8 **Section 5.** Section 80-11-205, MCA, is amended to read:

9 **"80-11-205. Powers of the committee.** (1) The committee  
 10 may:

11 (a) adopt rules necessary for the administration of  
 12 this part;

13 (b) provide, through the department, for the  
 14 enforcement of this part;

15 (c) provide for the conduct of research into the  
 16 production, marketing, and uses of wheat and barley;

17 (d) enter into contracts or agreements with units of  
 18 the Montana state university system and other local, state,  
 19 or national organizations, public or private, for the  
 20 purposes of improving wheat or barley quality, increasing  
 21 the efficiency of production, developing marketing  
 22 knowledge, developing markets, determining new uses for  
 23 wheat or barley, developing alternative crops for wheat or  
 24 barley, and carrying out all research and marketing  
 25 contemplated by this part. The committee may not establish

1 research units or agencies of its own.

2 (2) ~~No---researchers~~ Researchers or professional or  
3 scientific personnel may not be employed to carry out this  
4 part except as provided in subsection (1)(d) of this  
5 section.

6 (3) None of the powers or duties provided for in this  
7 part permit participation in state or federal political  
8 action by the committee."

9 **Section 6.** Section 80-11-206, MCA, is amended to read:

10 "~~80-11-206. Maximum---annual~~ Annual assessment on wheat  
11 and barley grown. (1) There is hereby levied an annual  
12 assessment of ~~not---more---than~~ 10 mills per bushel upon all  
13 wheat grown and ~~not---more---than~~ 15 mills per hundredweight on  
14 all barley grown in the state of Montana and sold through  
15 commercial channels. The assessment is hereby levied and  
16 imposed on each grower of wheat or barley in the state of  
17 Montana:

18 (a) in the case of sale of wheat or barley, at the time  
19 of any sale of wheat or barley by a grower, and ~~shall~~ must  
20 be collected by the first purchaser of the wheat or barley  
21 from the grower at the time of each settlement for wheat or  
22 barley purchased; or

23 (b) in the case of a pledge or mortgage of wheat or  
24 barley as security for a loan under any federal price  
25 support program, and the assessment ~~shall~~ must be collected

1 by deducting the amount ~~thereof~~ of the assessment from the  
2 proceeds of such the loan at the time the loan is made by  
3 the agency or person making the loan.

4 (2) The assessment levied under the provisions of this  
5 part ~~shall~~ must be deducted and collected as provided by  
6 this part, whether ~~such~~ the wheat or barley is stored in  
7 this or any other state. The assessment ~~shall~~ must attach to  
8 each transaction, but ~~no~~ a grower ~~shall~~ may not be subject  
9 to assessment more than once irrespective of the number of  
10 times it ~~shall---be~~ is the subject of a sale, pledge,  
11 mortgage, or other transaction, the assessment being imposed  
12 and attaching on the initial sale, pledge, mortgage, or  
13 other transaction in which the wheat or barley grower parts  
14 with title to the wheat or barley, or creates some interest  
15 therein in a pledgee, mortgagee, or other person."

16 **Section 7.** Section 80-11-224, MCA, is amended to read:

17 "~~80-11-224. Determination of amount and allocation of~~  
18 ~~assessment. (1)---The-committee-shall-set-the---amount---of---the~~  
19 ~~assessment---each-year-in-accordance-with-80-11-206.~~

20 ~~(2)(1)~~ (1) Money deposited in the wheat and barley account  
21 pursuant to 80-11-210 is statutorily appropriated, as  
22 provided in 17-7-502, to the committee for purposes of  
23 carrying out research and marketing under this part.

24 ~~(3)(2)~~ (2) The committee may be assessed costs by the  
25 department for the services it provides upon request or

LC 0324/01

1 pursuant to 2-15-121. However, the costs charged must have a  
2 substantial relationship to the cost of services supplied."

3 NEW SECTION. **Section 8. Effective date.** [This act] is  
4 effective July 1, 1991.

-End-



## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0888, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill: 1) revises the Montana Wheat and Barley Committee; 2) expands the groups that may nominate members for appointment to the committee; 3) revises the time period in which names of nominees must be submitted; 4) deletes the provision that the representative of the grain trade on the committee serves at the pleasure of the committee; 5) exempts employees of the committee from the state employee classification plan; 6) allows the committee to contract with all the units of the Montana university system; 7) deletes the requirement that the amount of the assessment be set annually; and 8) statutorily appropriates the funds from the wheat and barley account.

ASSUMPTIONS:

1. The Wheat and Barley Committee budget recommended by the Governor reflects the current funds available for appropriation.
2. The Wheat and Barley Committee budget will continue to be presented through the executive budget in accordance with 2-15-121(1)(b) and (2)(b), MCA.

FISCAL IMPACT:


No fiscal impact.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

If the committee determines it is appropriate to provide salaries to exempt employees which are higher than the state pay rate, the revenue available for promotion and development grants will be reduced.

TECHNICAL NOTES:

Statutorily appropriating funds for expenses of administering or operating a program is inconsistent with executive policy and legislative intent expressed in HB0583 (Laws of Montana 1989, Chapter 628).

  
 ROD SUNDSTED, BUDGET DIRECTOR      2-20-91  
 DATE  
 Office of Budget and Program Planning

  
 LINDA NELSON, PRIMARY SPONSOR      2-21-91  
 DATE

Fiscal Note for HB0888, as introduced

HB 888

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

1 HOUSE BILL NO. 888

2 INTRODUCED BY L. NELSON, NATHE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA  
5 WHEAT AND BARLEY COMMITTEE; EXPANDING THE GROUPS THAT MAY  
6 NOMINATE MEMBERS FOR APPOINTMENT TO THE COMMITTEE; REVISING  
7 THE TIME PERIOD IN WHICH NAMES OF NOMINEES MUST BE  
8 SUBMITTED; DELETING THE PROVISION THAT THE REPRESENTATIVE OF  
9 THE GRAIN TRADE ON THE COMMITTEE SERVES AT THE PLEASURE OF  
10 THE COMMITTEE; EXEMPTING EMPLOYEES THE EXECUTIVE DIRECTOR OF  
11 THE COMMITTEE FROM THE STATE EMPLOYEE CLASSIFICATION PLAN;  
12 ALLOWING THE COMMITTEE TO CONTRACT WITH ALL THE UNITS OF THE  
13 MONTANA UNIVERSITY SYSTEM; ~~DELETING THE REQUIREMENT THAT THE~~  
14 ~~AMOUNT OF THE ASSESSMENT BE SET ANNUALLY~~; STATUTORILY  
15 APPROPRIATING THE FUNDS FROM THE WHEAT AND BARLEY ACCOUNT;  
16 AMENDING SECTIONS 2-15-3002, 2-18-103, 17-7-502, 80-11-202,  
17 80-11-205, ~~80-11-206~~, AND 80-11-224, MCA; AND PROVIDING AN  
18 EFFECTIVE DATE."

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 **Section 1.** Section 2-15-3002, MCA, is amended to read:

22 "2-15-3002. Montana wheat and barley committee --  
23 composition -- allocation. (1) There is a Montana wheat and  
24 barley committee.

25 (2) The committee consists of seven members and three

1 ex officio, nonvoting members.

2 (3) The governor shall appoint one member from each of  
3 the following districts:

4 (a) District I, consisting of Daniels, Sheridan, and  
5 Roosevelt Counties;

6 (b) District II, consisting of Valley, Phillips,  
7 Blaine, and Hill Counties;

8 (c) District III, consisting of Liberty, Toole,  
9 Glacier, and Pondera Counties;

10 (d) District IV, consisting of Chouteau and Teton  
11 Counties;

12 (e) District V, consisting of Lewis and Clark, Cascade,  
13 Judith Basin, Fergus, Petroleum, Meagher, Broadwater,  
14 Wheatland, Golden Valley, and Musselshell Counties;

15 (f) District VI, consisting of Big Horn, Yellowstone,  
16 Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison,  
17 Jefferson, Silver Bow, Beaverhead, and all counties west of  
18 the continental divide;

19 (g) District VII, consisting of Garfield, McCone,  
20 Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer,  
21 Fallon, Powder River, and Treasure Counties.

22 (4) The ex officio members are:

23 (a) the director of the department of agriculture;

24 (b) the dean of agriculture of Montana state  
25 university;

1 (c) a representative of the grain trade in Montana  
2 elected by a majority of the appointed members.

3 (5) Each of the appointed members ~~shall~~ must be a  
4 citizen of Montana, derive a substantial portion of his  
5 income from growing wheat or barley in this state, and be a  
6 resident of and have farming operations in the district from  
7 which appointed. No more than four of the appointed members  
8 may be of the same political party.

9 (6) A list of nominees for appointment may be submitted  
10 to the governor by the Montana farmers union, Montana farm  
11 bureau, Montana grange, Montana women involved in farm  
12 economics, and the Montana grain growers association. Names  
13 of nominees ~~shall~~ must be submitted within 90 days but not more than  
14 90 days but not less than 30 days before the expiration of a  
15 committeeman's term.

16 (7) The appointed members shall serve staggered terms  
17 of 3 years. A member may not serve more than three  
18 consecutive 3-year terms. ~~The ex-officio representative of~~  
19 ~~the grain trade shall serve at the pleasure of the~~  
20 ~~committee.~~

21 (8) A member may be removed by the governor, after a  
22 full public hearing before the governor, for malfeasance,  
23 misfeasance, or neglect of duty. Removal proceedings may not  
24 be started except upon duly verified written charges. The  
25 member ~~shall~~ must be given a copy of the written charges at

1 least 10 days in advance of the hearing. At the hearing, the  
2 member may be represented by an attorney and may present  
3 witnesses in his behalf.

4 (9) A member who ceases to reside in the state or in  
5 the district from which he was appointed or who ceases to  
6 grow wheat or barley in the state or district is  
7 disqualified from membership and his office becomes vacant.  
8 If the member refuses to recognize his disqualification, the  
9 refusal is cause for removal.

10 (10) The committee is allocated to the department for  
11 administrative purposes only as prescribed in 2-15-121."

12 **Section 2.** Section 2-18-103, MCA, is amended to read:

13 "2-18-103. Officers and employees excepted. Parts 1 and  
14 2 do not apply to the following positions in state  
15 government:

- 16 (1) elected officials;
- 17 (2) county assessors and their chief deputy;
- 18 (3) officers and employees of the legislative branch;
- 19 (4) judges and employees of the judicial branch;
- 20 (5) members of boards and commissions appointed by the  
21 governor, the legislature, or other elected state officials;
- 22 (6) officers or members of the militia;
- 23 (7) agency heads appointed by the governor;
- 24 (8) academic and professional administrative personnel  
25 with individual contracts under the authority of the board

1 of regents of higher education;

2 (9) academic and professional administrative personnel  
3 and live-in houseparents who have entered into individual  
4 contracts with the state school for the deaf and blind under  
5 the authority of the state board of public education;

6 (10) teachers under the authority of the department of  
7 institutions or family services;

8 (11) investment officer, assistant investment officer,  
9 executive director, and three professional staff positions  
10 of the board of investments;

11 (12) four professional staff positions under the board  
12 of oil and gas conservation;

13 (13) assistant director for security of the Montana  
14 state lottery;

15 (14) executive director and senior investment officer of  
16 the Montana board of science and technology development; and

17 (15) executive director and employees of the state  
18 compensation mutual insurance fund; and

19 ~~(16) employees-of-the-department-of-agriculture-assigned~~  
20 ~~to EXECUTIVE DIRECTOR OF the Montana wheat and barley~~  
21 ~~committee."~~

22 **Section 3.** Section 17-7-502, MCA, is amended to read:

23 "17-7-502. Statutory appropriations -- definition --  
24 requisites for validity. (1) A statutory appropriation is an  
25 appropriation made by permanent law that authorizes spending

1 by a state agency without the need for a biennial  
2 legislative appropriation or budget amendment.

3 (2) Except as provided in subsection (4), to be  
4 effective, a statutory appropriation must comply with both  
5 of the following provisions:

6 (a) The law containing the statutory authority must be  
7 listed in subsection (3).

8 (b) The law or portion of the law making a statutory  
9 appropriation must specifically state that a statutory  
10 appropriation is made as provided in this section.

11 (3) The following laws are the only laws containing  
12 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
13 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
14 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
15 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
16 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;  
17 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
18 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;  
19 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;  
20 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;  
21 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;  
22 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 80-11-224;  
23 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;  
24 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws  
25 of 1985.

1 (4) There is a statutory appropriation to pay the  
 2 principal, interest, premiums, and costs of issuing, paying,  
 3 and securing all bonds, notes, or other obligations, as due,  
 4 that have been authorized and issued pursuant to the laws of  
 5 Montana. Agencies that have entered into agreements  
 6 authorized by the laws of Montana to pay the state  
 7 treasurer, for deposit in accordance with 17-2-101 through  
 8 17-2-107, as determined by the state treasurer, an amount  
 9 sufficient to pay the principal and interest as due on the  
 10 bonds or notes have statutory appropriation authority for  
 11 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
 12 664, L. 1987, the inclusion of 39-71-2504 terminates June  
 13 30, 1991.)"

14 **Section 4.** Section 80-11-202, MCA, is amended to read:

15 **"80-11-202. Declaration of policy.** In the presence of  
 16 the facts that wheat and barley is are the principal grain  
 17 crop crops produced in Montana and as such is-an are  
 18 agricultural resource resources of the first magnitude in  
 19 the economy of the inhabitants of Montana, a prime factor  
 20 factors in the production of wealth and the development and  
 21 stabilization of property values and of activities and  
 22 enterprises which that are bases and sources of important  
 23 contributions by taxation to the public revenues, and that  
 24 Montana wheat and barley is-a-commodity--which--enters are  
 25 commodities that enter a world market highly competitive in

1 character ~~and-that-barley-is-also-an-important-crop~~, it is  
 2 hereby declared to be the public policy of the state of  
 3 Montana to protect and foster the health, prosperity, and  
 4 general welfare of its people by encouraging and promoting  
 5 intensive, scientific, and practical research into all  
 6 phases of wheat and barley culture and production,  
 7 marketing, and use and into the development of markets for  
 8 wheat and barley grown in Montana by the department."

9 **Section 5.** Section 80-11-205, MCA, is amended to read:

10 **"80-11-205. Powers of the committee.** (1) The committee  
 11 may:

12 (a) adopt rules necessary for the administration of  
 13 this part;

14 (b) provide, through the department, for the  
 15 enforcement of this part;

16 (c) provide for the conduct of research into the  
 17 production, marketing, and uses of wheat and barley;

18 (d) enter into contracts or agreements with units of  
 19 the Montana state university system and other local, state,  
 20 or national organizations, public or private, for the  
 21 purposes of improving wheat or barley quality, increasing  
 22 the efficiency of production, developing marketing  
 23 knowledge, developing markets, determining new uses for  
 24 wheat or barley, developing alternative crops for wheat or  
 25 barley, and carrying out all research and marketing

1 contemplated by this part. The committee may not establish  
2 research units or agencies of its own.

3 (2) No ~~researchers~~ Researchers or professional or  
4 scientific personnel may not be employed to carry out this  
5 part except as provided in subsection (1)(d) of this  
6 section.

7 (3) None of the powers or duties provided for in this  
8 part permit participation in state or federal political  
9 action by the committee."

10 Section 6, ~~Section 80-11-206, MCA, is amended to read:~~  
11 ~~"80-11-206. Maximum annual Annual assessment on wheat~~  
12 ~~and barley grown: (1) There is hereby levied an annual~~  
13 ~~assessment of not more than 10 mills per bushel upon all~~  
14 ~~wheat grown and not more than 15 mills per hundredweight on~~  
15 ~~all barley grown in the state of Montana and sold through~~  
16 ~~commercial channels. The assessment is hereby levied and~~  
17 ~~imposed on each grower of wheat or barley in the state of~~  
18 ~~Montana:~~

19 ~~(a) in the case of sale of wheat or barley, at the time~~  
20 ~~of any sale of wheat or barley by a grower, and shall must~~  
21 ~~be collected by the first purchaser of the wheat or barley~~  
22 ~~from the grower at the time of each settlement for wheat or~~  
23 ~~barley purchased, or~~

24 ~~(b) in the case of a pledge or mortgage of wheat or~~  
25 ~~barley as security for a loan under any federal price~~

1 ~~support program, and the assessment shall must be collected~~  
2 ~~by deducting the amount thereof of the assessment from the~~  
3 ~~proceeds of such the loan at the time the loan is made by~~  
4 ~~the agency or person making the loan;~~

5 ~~(2) The assessment levied under the provisions of this~~  
6 ~~part shall must be deducted and collected as provided by~~  
7 ~~this part, whether such the wheat or barley is stored in~~  
8 ~~this or any other state. The assessment shall must attach to~~  
9 ~~each transaction, but no a grower shall may not be subject~~  
10 ~~to assessment more than once irrespective of the number of~~  
11 ~~times it shall be is the subject of a sale, pledge,~~  
12 ~~mortgage, or other transaction, the assessment being imposed~~  
13 ~~and attaching on the initial sale, pledge, mortgage, or~~  
14 ~~other transaction in which the wheat or barley grower parts~~  
15 ~~with title to the wheat or barley, or creates some interest~~  
16 ~~therein in a pledgee, mortgagee, or other person."~~

17 **Section 6.** Section 80-11-224, MCA, is amended to read:

18 ~~"80-11-224. Determination of amount and allocation of~~  
19 ~~assessment. (1) The committee shall set the amount of the~~  
20 ~~assessment each year in accordance with 80-11-206. (1) THE~~  
21 ~~COMMITTEE SHALL SET THE AMOUNT OF THE ASSESSMENT EACH YEAR~~  
22 ~~IN ACCORDANCE WITH 80-11-206.~~

23 ~~(2) (1) (2) Money deposited in the wheat and barley~~  
24 ~~account pursuant to 80-11-210 is statutorily appropriated,~~  
25 ~~as provided in 17-7-502, to the committee for purposes of~~

HB 0888/02

1 carrying out research and marketing under this part.

2 ~~(3)~~~~(2)~~~~(3)~~ The committee may be assessed costs by the  
3 department for the services it provides upon request or  
4 pursuant to 2-15-121. However, the costs charged must have a  
5 substantial relationship to the cost of services supplied."

6 NEW SECTION. **Section 7. Effective date.** [This act] is  
7 effective July 1, 1991.

-End-

## 1 HOUSE BILL NO. 888

2 INTRODUCED BY L. NELSON, NATHE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA  
5 WHEAT AND BARLEY COMMITTEE; EXPANDING THE GROUPS THAT MAY  
6 NOMINATE MEMBERS FOR APPOINTMENT TO THE COMMITTEE; REVISING  
7 THE TIME PERIOD IN WHICH NAMES OF NOMINEES MUST BE  
8 SUBMITTED; DELETING THE PROVISION THAT THE REPRESENTATIVE OF  
9 THE GRAIN TRADE ON THE COMMITTEE SERVES AT THE PLEASURE OF  
10 THE COMMITTEE; EXEMPTING EMPLOYEES THE EXECUTIVE DIRECTOR OF  
11 THE COMMITTEE FROM THE STATE EMPLOYEE CLASSIFICATION PLAN;  
12 ALLOWING THE COMMITTEE TO CONTRACT WITH ALL THE UNITS OF THE  
13 MONTANA UNIVERSITY SYSTEM; ~~DELETING THE REQUIREMENT THAT THE~~  
14 ~~AMOUNT OF THE ASSESSMENT BE SET ANNUALLY;~~ STATUTORILY  
15 APPROPRIATING THE FUNDS FROM THE WHEAT AND BARLEY ACCOUNT;  
16 AMENDING SECTIONS 2-15-3002, 2-18-103, 17-7-502, 80-11-202,  
17 80-11-205, ~~80-11-206~~, AND 80-11-224, MCA; AND PROVIDING AN  
18 EFFECTIVE DATE."

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:21 **Section 1.** Section 2-15-3002, MCA, is amended to read:22 "2-15-3002. Montana wheat and barley committee --  
23 composition -- allocation. (1) There is a Montana wheat and  
24 barley committee.

25 (2) The committee consists of seven members and three

1 ex officio, nonvoting members.

2 (3) The governor shall appoint one member from each of  
3 the following districts:4 (a) District I, consisting of Daniels, Sheridan, and  
5 Roosevelt Counties;6 (b) District II, consisting of Valley, Phillips,  
7 Blaine, and Hill Counties;8 (c) District III, consisting of Liberty, Toole,  
9 Glacier, and Pondera Counties;10 (d) District IV, consisting of Chouteau and Teton  
11 Counties;12 (e) District V, consisting of Lewis and Clark, Cascade,  
13 Judith Basin, Fergus, Petroleum, Meagher, Broadwater,  
14 Wheatland, Golden Valley, and Musselshell Counties;15 (f) District VI, consisting of Big Horn, Yellowstone,  
16 Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison,  
17 Jefferson, Silver Bow, Beaverhead, and all counties west of  
18 the continental divide;19 (g) District VII, consisting of Garfield, McCone,  
20 Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer,  
21 Fallon, Powder River, and Treasure Counties.

22 (4) The ex officio members are:

23 (a) the director of the department of agriculture;

24 (b) the dean of agriculture of Montana state  
25 university;



1 (c) a representative of the grain trade in Montana  
2 elected by a majority of the appointed members.

3 (5) Each of the appointed members shall must be a  
4 citizen of Montana, derive a substantial portion of his  
5 income from growing wheat or barley in this state, and be a  
6 resident of and have farming operations in the district from  
7 which appointed. No more than four of the appointed members  
8 may be of the same political party.

9 (6) A list of nominees for appointment may be submitted  
10 to the governor by the Montana farmers union, Montana farm  
11 bureau, Montana grange, Montana women involved in farm  
12 economics, and the Montana grain growers association. Names  
13 of nominees shall must be submitted within 91 not more than  
14 90 days but not less than 30 days before the expiration of a  
15 committeeman's term.

16 (7) The appointed members shall serve staggered terms  
17 of 3 years. A member may not serve more than three  
18 consecutive 3-year terms. ~~The ex-officio representative of~~  
19 ~~the grain trade shall serve at the pleasure of the~~  
20 ~~committee.~~

21 (8) A member may be removed by the governor, after a  
22 full public hearing before the governor, for malfeasance,  
23 misfeasance, or neglect of duty. Removal proceedings may not  
24 be started except upon duly verified written charges. The  
25 member shall must be given a copy of the written charges at

1 least 10 days in advance of the hearing. At the hearing, the  
2 member may be represented by an attorney and may present  
3 witnesses in his behalf.

4 (9) A member who ceases to reside in the state or in  
5 the district from which he was appointed or who ceases to  
6 grow wheat or barley in the state or district is  
7 disqualified from membership and his office becomes vacant.  
8 If the member refuses to recognize his disqualification, the  
9 refusal is cause for removal.

10 (10) The committee is allocated to the department for  
11 administrative purposes only as prescribed in 2-15-121."

12 **Section 2.** Section 2-18-103, MCA, is amended to read:

13 **"2-18-103. Officers and employees excepted.** Parts 1 and  
14 2 do not apply to the following positions in state  
15 government:

- 16 (1) elected officials;
- 17 (2) county assessors and their chief deputy;
- 18 (3) officers and employees of the legislative branch;
- 19 (4) judges and employees of the judicial branch;
- 20 (5) members of boards and commissions appointed by the  
21 governor, the legislature, or other elected state officials;
- 22 (6) officers or members of the militia;
- 23 (7) agency heads appointed by the governor;
- 24 (8) academic and professional administrative personnel  
25 with individual contracts under the authority of the board

1 of regents of higher education;

2 (9) academic and professional administrative personnel

3 and live-in houseparents who have entered into individual

4 contracts with the state school for the deaf and blind under

5 the authority of the state board of public education;

6 (10) teachers under the authority of the department of

7 institutions or family services;

8 (11) investment officer, assistant investment officer,

9 executive director, and three professional staff positions

10 of the board of investments;

11 (12) four professional staff positions under the board

12 of oil and gas conservation;

13 (13) assistant director for security of the Montana

14 state lottery;

15 (14) executive director and senior investment officer of

16 the Montana board of science and technology development; and

17 (15) executive director and employees of the state

18 compensation mutual insurance fund; and

19 (16) employees-of-the-department-of-agriculture-assigned

20 to EXECUTIVE DIRECTOR OF the Montana wheat and barley

21 committee."

22 **Section 3.** Section 17-7-502, MCA, is amended to read:

23 "17-7-502. Statutory appropriations -- definition --

24 requisites for validity. (1) A statutory appropriation is an

25 appropriation made by permanent law that authorizes spending

1 by a state agency without the need for a biennial

2 legislative appropriation or budget amendment.

3 (2) Except as provided in subsection (4), to be

4 effective, a statutory appropriation must comply with both

5 of the following provisions:

6 (a) The law containing the statutory authority must be

7 listed in subsection (3).

8 (b) The law or portion of the law making a statutory

9 appropriation must specifically state that a statutory

10 appropriation is made as provided in this section.

11 (3) The following laws are the only laws containing

12 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;

13 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;

14 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;

15 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;

16 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;

17 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;

18 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;

19 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;

20 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;

21 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;

22 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 80-11-224;

23 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;

24 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws

25 of 1985.

1 (4) There is a statutory appropriation to pay the  
 2 principal, interest, premiums, and costs of issuing, paying,  
 3 and securing all bonds, notes, or other obligations, as due,  
 4 that have been authorized and issued pursuant to the laws of  
 5 Montana. Agencies that have entered into agreements  
 6 authorized by the laws of Montana to pay the state  
 7 treasurer, for deposit in accordance with 17-2-101 through  
 8 17-2-107, as determined by the state treasurer, an amount  
 9 sufficient to pay the principal and interest as due on the  
 10 bonds or notes have statutory appropriation authority for  
 11 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
 12 664, L. 1987, the inclusion of 39-71-2504 terminates June  
 13 30, 1991.)"

14 **Section 4.** Section 80-11-202, MCA, is amended to read:

15 **"80-11-202. Declaration of policy.** In the presence of  
 16 the facts that wheat and barley ~~is~~ are the principal grain  
 17 crop crops produced in Montana and as such ~~is-an~~ are  
 18 agricultural resource resources of the first magnitude in  
 19 the economy of the inhabitants of Montana, a prime factor  
 20 factors in the production of wealth and the development and  
 21 stabilization of property values and of activities and  
 22 enterprises which that are bases and sources of important  
 23 contributions by taxation to the public revenues, and that  
 24 Montana wheat and barley is-a-commodity--which--enters are  
 25 commodities that enter a world market highly competitive in

1 ~~character and that barley is also an important crop,~~ it is  
 2 hereby declared to be the public policy of the state of  
 3 Montana to protect and foster the health, prosperity, and  
 4 general welfare of its people by encouraging and promoting  
 5 intensive, scientific, and practical research into all  
 6 phases of wheat and barley culture and production,  
 7 marketing, and use and into the development of markets for  
 8 wheat and barley grown in Montana by the department."

9 **Section 5.** Section 80-11-205, MCA, is amended to read:

10 **"80-11-205. Powers of the committee.** (1) The committee  
 11 may:

12 (a) adopt rules necessary for the administration of  
 13 this part;

14 (b) provide, through the department, for the  
 15 enforcement of this part;

16 (c) provide for the conduct of research into the  
 17 production, marketing, and uses of wheat and barley;

18 (d) enter into contracts or agreements with units of  
 19 the Montana state university system and other local, state,  
 20 or national organizations, public or private, for the  
 21 purposes of improving wheat or barley quality, increasing  
 22 the efficiency of production, developing marketing  
 23 knowledge, developing markets, determining new uses for  
 24 wheat or barley, developing alternative crops for wheat or  
 25 barley, and carrying out all research and marketing

1 contemplated by this part. The committee may not establish  
2 research units or agencies of its own.

3 (2) No--researchers Researchers or professional or  
4 scientific personnel may not be employed to carry out this  
5 part except as provided in subsection (1)(d) of this  
6 section.

7 (3) None of the powers or duties provided for in this  
8 part permit participation in state or federal political  
9 action by the committee."

10 Section 6.--Section 80-11-206, MCA, is amended to read:

11 "80-11-206.--Maximum-annual Annual assessment--on--wheat  
12 and--barley--grown;--(1)--There--is--hereby--levied--an--annual  
13 assessment--of--not--more--than--10--mills--per--bushel--upon--all  
14 wheat--grown--and--not--more--than--15--mills--per--hundredweight--on  
15 all--barley--grown--in--the--state--of--Montana--and--sold--through  
16 commercial--channels.--The--assessment--is--hereby--levied--and  
17 imposed--on--each--grower--of--wheat--or--barley--in--the--state--of  
18 Montana:

19 (a)--in--the--case--of--sale--of--wheat--or--barley;--at--the--time  
20 of--any--sale--of--wheat--or--barley--by--a--grower;--and--shall must  
21 be--collected--by--the--first--purchaser--of--the--wheat--or--barley  
22 from--the--grower--at--the--time--of--each--settlement--for--wheat--or  
23 barley--purchased;--or

24 (b)--in--the--case--of--a--pledge--or--mortgage--of--wheat--or  
25 barley--as--security--for--a--loan--under--any--federal--price

1 support-program; and the assessment shall must be--collected  
2 by--deducting--the--amount--thereof of--the--assessment from--the  
3 proceeds--of--such the loan--at--the--time--the--loan--is--made--by  
4 the--agency--or--person--making--the--loan;

5 (2)--The--assessment--levied--under--the--provisions--of--this  
6 part--shall must be--deducted--and--collected--as--provided--by  
7 this--part;--whether--such the wheat--or--barley--is--stored--in  
8 this--or--any--other--state.--The--assessment--shall must attach--to  
9 each--transaction;--but--no a grower--shall may--not be--subject  
10 to--assessment--more--than--once--irrespective--of--the--number--of  
11 times--it--shall--be is the--subject--of--a--sale;--pledge;--  
12 mortgage;--or--other--transaction;--the--assessment--being--imposed  
13 and--attaching--on--the--initial--sale;--pledge;--mortgage;--or  
14 other--transaction--in--which--the--wheat--or--barley--grower--parts  
15 with--title--to--the--wheat--or--barley;--or--creates--some--interest  
16 therein--in--a--pledgee;--mortgagee;--or--other--person."

17 **Section 6.** Section 80-11-224, MCA, is amended to read:

18 "80-11-224. Determination of amount and allocation of  
19 assessment. (1)--The--committee--shall--set--the--amount--of--the  
20 assessment--each--year--in--accordance--with--80-11-206: (1) THE  
21 COMMITTEE SHALL SET THE AMOUNT OF THE ASSESSMENT EACH YEAR  
22 IN ACCORDANCE WITH 80-11-206.

23 (2){1}(2) Money deposited in the wheat and barley  
24 account pursuant to 80-11-210 is statutorily appropriated,  
25 as provided in 17-7-502, to the committee for purposes of

HB 0888/02

1 carrying out research and marketing under this part.

2 ~~(3)(2)(3)~~ The committee may be assessed costs by the  
3 department for the services it provides upon request or  
4 pursuant to 2-15-121. However, the costs charged must have a  
5 substantial relationship to the cost of services supplied."

6 NEW SECTION. Section 7. Effective date. [This act] is  
7 effective July 1, 1991.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 18, 1991

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration House Bill No. 888 (third reading copy -- blue), respectfully report that House Bill No. 888 be amended and as so amended be concurred in:

1. Title, lines 10 and 11.  
Strike: "EXEMPTING" on line 10 through ";" on line 11
  
2. Title, lines 14 and 15.  
Strike: "STATUTORILY" on line 14 through ";" on line 15
  
3. Title, line 16.  
Strike: "2-18-103, 17-7-502,"  
Following: "80-11-202,"  
Insert: "AND"
  
4. Title, line 17.  
Strike: "AND 80-11-224,"
  
5. Page 4, line 12 through page 7, line 13.  
Strike: sections 2 and 3 in their entirety  
Renumber: subsequent sections
  
6. Page 10, line 17 through page 11, line 5.  
Strike: section 6 in its entirety  
Renumber: subsequent section

Signed: Greg Jergeson  
Greg Jergeson, Chairman

~~AM~~ 3-18-91  
And. Coord.  
SB 3-18 11:20  
Sec. of Senate

SENATE  
HB 888  
580940SC.Sji

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 19, 1991 7:56 am

Mr. Chairman: I move to amend Senate Committee on Agriculture, Livestock, and Irrigation standing committee report on House Bill No. 888 (third reading copy -- blue) dated March 18, 1991, as follows:

1. Strike Amendment No. 1 in its entirety.

2. Amendment No. 3, in strike instruction  
Strike: "2-18-103,"

3. Amendment No. 5, in strike instruction  
Strike: "section 2 and 3 in their entirety"

Insert: "section 2 in its entirety"

ADOPT

REJECT

Signed:

Sen. Dennis H. Nahe  
Senator Nahe

1991 3-19-91  
Amd. Coord.

SB 3/19 12:30  
Sec. of Senate

SENATE  
HB 888

## 1 HOUSE BILL NO. 888

2 INTRODUCED BY L. NELSON, NATHE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA  
5 WHEAT AND BARLEY COMMITTEE; EXPANDING THE GROUPS THAT MAY  
6 NOMINATE MEMBERS FOR APPOINTMENT TO THE COMMITTEE; REVISING  
7 THE TIME PERIOD IN WHICH NAMES OF NOMINEES MUST BE  
8 SUBMITTED; DELETING THE PROVISION THAT THE REPRESENTATIVE OF  
9 THE GRAIN TRADE ON THE COMMITTEE SERVES AT THE PLEASURE OF  
10 THE COMMITTEE; ~~EXEMPTING EMPLOYEES THE EXECUTIVE DIRECTOR OF~~  
11 ~~THE COMMITTEE FROM THE STATE EMPLOYEE CLASSIFICATION PLAN;~~  
12 EXEMPTING EMPLOYEES THE EXECUTIVE DIRECTOR OF THE COMMITTEE  
13 FROM THE STATE EMPLOYEE CLASSIFICATION PLAN; ALLOWING THE  
14 COMMITTEE TO CONTRACT WITH ALL THE UNITS OF THE MONTANA  
15 UNIVERSITY SYSTEM; ~~DELETING THE REQUIREMENT THAT THE AMOUNT~~  
16 ~~OF THE ASSESSMENT BE SET ANNUALLY; STATUTORILY APPROPRIATING~~  
17 ~~THE FUNDS FROM THE WHEAT AND BARLEY ACCOUNT;~~ AMENDING  
18 SECTIONS 2-15-3002, 2-18-103, 2-18-103, 17-7-502, 80-11-202,  
19 AND 80-11-205, 80-11-206, AND 80-11-224, MCA; AND PROVIDING  
20 AN EFFECTIVE DATE."

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:23 **Section 1.** Section 2-15-3002, MCA, is amended to read:24 "2-15-3002. Montana wheat and barley committee --  
25 composition -- allocation. (1) There is a Montana wheat and

1 barley committee.

2 (2) The committee consists of seven members and three  
3 ex officio, nonvoting members.4 (3) The governor shall appoint one member from each of  
5 the following districts:6 (a) District I, consisting of Daniels, Sheridan, and  
7 Roosevelt Counties;8 (b) District II, consisting of Valley, Phillips,  
9 Blaine, and Hill Counties;10 (c) District III, consisting of Liberty, Toole,  
11 Glacier, and Pondera Counties;12 (d) District IV, consisting of Chouteau and Teton  
13 Counties;14 (e) District V, consisting of Lewis and Clark, Cascade,  
15 Judith Basin, Fergus, Petroleum, Meagher, Broadwater,  
16 Wheatland, Golden Valley, and Musselshell Counties;17 (f) District VI, consisting of Big Horn, Yellowstone,  
18 Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison,  
19 Jefferson, Silver Bow, Beaverhead, and all counties west of  
20 the continental divide;21 (g) District VII, consisting of Garfield, McCone,  
22 Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer,  
23 Fallon, Powder River, and Treasure Counties.

24 (4) The ex officio members are:

25 (a) the director of the department of agriculture;



1 (b) the dean of agriculture of Montana state  
2 university;

3 (c) a representative of the grain trade in Montana  
4 elected by a majority of the appointed members.

5 (5) Each of the appointed members shall must be a  
6 citizen of Montana, derive a substantial portion of his  
7 income from growing wheat or barley in this state, and be a  
8 resident of and have farming operations in the district from  
9 which appointed. No more than four of the appointed members  
10 may be of the same political party.

11 (6) A list of nominees for appointment may be submitted  
12 to the governor by the Montana farmers union, Montana farm  
13 bureau, Montana grange, Montana women involved in farm  
14 economics, and the Montana grain growers association. Names  
15 of nominees shall must be submitted within 90 days but not more than  
16 90 days but not less than 30 days before the expiration of a  
17 committeeman's term.

18 (7) The appointed members shall serve staggered terms  
19 of 3 years. A member may not serve more than three  
20 consecutive 3-year terms. ~~The ex-officio representative of~~  
21 ~~the grain trade shall serve at the pleasure of the~~  
22 ~~committee.~~

23 (8) A member may be removed by the governor, after a  
24 full public hearing before the governor, for malfeasance,  
25 misfeasance, or neglect of duty. Removal proceedings may not

1 be started except upon duly verified written charges. The  
2 member shall must be given a copy of the written charges at  
3 least 10 days in advance of the hearing. At the hearing, the  
4 member may be represented by an attorney and may present  
5 witnesses in his behalf.

6 (9) A member who ceases to reside in the state or in  
7 the district from which he was appointed or who ceases to  
8 grow wheat or barley in the state or district is  
9 disqualified from membership and his office becomes vacant.  
10 If the member refuses to recognize his disqualification, the  
11 refusal is cause for removal.

12 (10) The committee is allocated to the department for  
13 administrative purposes only as prescribed in 2-15-121."

14 ~~Section 2--Section 2-18-103, MCA, is amended to read:~~  
15 ~~"2-18-103--Officers and employees excepted. Parts 1 and~~  
16 ~~2--do not apply to the following positions in state~~  
17 ~~government:~~

- 18 (1) ~~elect~~ elected officials;
- 19 (2) ~~county assessors and their chief deputy;~~
- 20 (3) ~~officers and employees of the legislative branch;~~
- 21 (4) ~~judges and employees of the judicial branch;~~
- 22 (5) ~~members of boards and commissions appointed by the~~  
23 ~~governor, the legislature, or other elected state officials;~~
- 24 (6) ~~officers or members of the militia;~~
- 25 (7) ~~agency heads appointed by the governor;~~

1       ~~(8) academic and professional administrative personnel~~  
 2       ~~with individual contracts under the authority of the board~~  
 3       ~~of regents of higher education;~~  
 4       ~~(9) academic and professional administrative personnel~~  
 5       ~~and live-in houseparents who have entered into individual~~  
 6       ~~contracts with the state school for the deaf and blind under~~  
 7       ~~the authority of the state board of public education;~~  
 8       ~~(10) teachers under the authority of the department of~~  
 9       ~~institutions or family services;~~  
 10       ~~(11) investment officer, assistant investment officer,~~  
 11       ~~executive director, and three professional staff positions~~  
 12       ~~of the board of investments;~~  
 13       ~~(12) four professional staff positions under the board~~  
 14       ~~of oil and gas conservation;~~  
 15       ~~(13) assistant director for security of the Montana~~  
 16       ~~state lottery;~~  
 17       ~~(14) executive director and senior investment officer of~~  
 18       ~~the Montana board of science and technology development; and~~  
 19       ~~(15) executive director and employees of the state~~  
 20       ~~compensation mutual insurance fund; and~~  
 21       ~~(16) employees of the department of agriculture assigned~~  
 22       ~~to EXECUTIVE DIRECTOR OF the Montana wheat and barley~~  
 23       ~~committee."~~

24       **SECTION 2.** SECTION 2-18-103, MCA, IS AMENDED TO READ:  
 25       "2-18-103. Officers and employees excepted. Parts 1 and

1       2 do not apply to the following positions in state  
 2       government:  
 3       (1) elected officials;  
 4       (2) county assessors and their chief deputy;  
 5       (3) officers and employees of the legislative branch;  
 6       (4) judges and employees of the judicial branch;  
 7       (5) members of boards and commissions appointed by the  
 8       governor, the legislature, or other elected state officials;  
 9       (6) officers or members of the militia;  
 10       (7) agency heads appointed by the governor;  
 11       (8) academic and professional administrative personnel  
 12       with individual contracts under the authority of the board  
 13       of regents of higher education;  
 14       (9) academic and professional administrative personnel  
 15       and live-in houseparents who have entered into individual  
 16       contracts with the state school for the deaf and blind under  
 17       the authority of the state board of public education;  
 18       (10) teachers under the authority of the department of  
 19       institutions or family services;  
 20       (11) investment officer, assistant investment officer,  
 21       executive director, and three professional staff positions  
 22       of the board of investments;  
 23       (12) four professional staff positions under the board  
 24       of oil and gas conservation;  
 25       (13) assistant director for security of the Montana

1 state lottery;

2 (14) executive director and senior investment officer of

3 the Montana board of science and technology development; and

4 (15) executive director and employees of the state

5 compensation mutual insurance fund; and

6 (16) employees of the department of agriculture assigned

7 to EXECUTIVE DIRECTOR OF the Montana wheat and barley

8 committee."

9 Section 3, Section 17-7-502, MEA, is amended to read:

10 "17-7-502--Statutory--appropriations-----definition--

11 requisites-for-validity: (1)-A-statutory-appropriation-is-an

12 appropriation-made-by-permanent-law-that-authorizes-spending

13 by-a--state--agency--without--the--need--for---a---biennial

14 legislative-appropriation-or-budget-amendment.

15 (2)--Except--as--provided--in--subsection--(4)--to--be

16 effective, a statutory appropriation must comply with both

17 of the following provisions:

18 (a)--The--law--containing--the--statutory--authority--must--be

19 listed-in-subsection-(3);

20 (b)--The--law--or--portion--of--the--law--making--a--statutory

21 appropriation--must--specifically--state--that--a--statutory

22 appropriation-is-made-as-provided-in-this-section;

23 (3)--The--following--laws--are--the--only--laws--containing

24 statutory-appropriations:--2-9-202,--2-17-105,--2-10-812,

25 10-3-203, 10-3-312, 10-3-314, 10-4-301, 13-37-304, 15-1-111,

1 15-25-123,--15-31-702,--15-36-112,--15-37-117,--15-65-121,

2 15-70-101, 16-1-404, 16-1-410, 16-1-411, 17-3-212, 17-5-404,

3 17-5-424,--17-5-804,--19-8-504,--19-9-702,--19-9-1007,

4 19-10-205,--19-10-305,--19-10-506,--19-11-512,--19-11-513,

5 19-11-606,--19-12-301,--19-13-604,--20-6-406,--20-8-111,

6 20-9-361, 23-5-306, 23-5-409, 23-5-610, 23-5-612, 23-5-1016,

7 23-5-1027, 27-12-206, 37-51-501, 39-71-2504, 53-6-150,

8 53-24-206,--61-2-406,--61-5-121,--67-3-205,--75-1-1101,

9 75-5-1100,--75-11-313,--76-12-123,--80-2-103, 80-11-224,

10 82-11-136,--82-11-161,--90-3-301,--90-4-215,--90-4-613,

11 90-6-331, 90-9-306, and section 13, House Bill No. 861, Laws

12 of 1985.

13 (4)--There-is-a--statutory--appropriation--to--pay--the

14 principal, interest, premiums, and costs of issuing, paying,

15 and securing all bonds, notes, or other obligations, as due

16 that have been authorized and issued pursuant to the laws of

17 Montana, Agencies that have entered into agreements

18 authorized by the laws of Montana to pay the state

19 treasurer, for deposit in accordance with 17-2-101 through

20 17-2-107, as determined by the state treasurer, an amount

21 sufficient to pay the principal and interest as due on the

22 bonds or notes have statutory appropriation authority for

23 such payments, (in subsection (3)), pursuant to sec. 10, Ch.

24 664, B, 1987, the inclusion of 39-71-2504 terminates June

25 30, 1991."

1 **Section 3.** Section 80-11-202, MCA, is amended to read:

2 **"80-11-202.** Declaration of policy. In the presence of  
3 the facts that wheat and barley is are the principal grain  
4 crop crops produced in Montana and as such ~~is-an~~ are  
5 agricultural resource resources of the first magnitude in  
6 the economy of the inhabitants of Montana, a prime factor  
7 factors in the production of wealth and the development and  
8 stabilization of property values and of activities and  
9 enterprises which that are bases and sources of important  
10 contributions by taxation to the public revenues, and that  
11 Montana wheat and barley is-a--commodity--which--enters are  
12 commodities that enter a world market highly competitive in  
13 character ~~and-that-barley-is-also-an-important-crop~~, it is  
14 hereby declared to be the public policy of the state of  
15 Montana to protect and foster the health, prosperity, and  
16 general welfare of its people by encouraging and promoting  
17 intensive, scientific, and practical research into all  
18 phases of wheat and barley culture and production,  
19 marketing, and use and into the development of markets for  
20 wheat and barley grown in Montana by the department."

21 **Section 4.** Section 80-11-205, MCA, is amended to read:

22 **"80-11-205.** Powers of the committee. (1) The committee  
23 may:

24 (a) adopt rules necessary for the administration of  
25 this part;

1 (b) provide, through the department, for the  
2 enforcement of this part;

3 (c) provide for the conduct of research into the  
4 production, marketing, and uses of wheat and barley;

5 (d) enter into contracts or agreements with units of  
6 the Montana state university system and other local, state,  
7 or national organizations, public or private, for the  
8 purposes of improving wheat or barley quality, increasing  
9 the efficiency of production, developing marketing  
10 knowledge, developing markets, determining new uses for  
11 wheat or barley, developing alternative crops for wheat or  
12 barley, and carrying out all research and marketing  
13 contemplated by this part. The committee may not establish  
14 research units or agencies of its own.

15 (2) ~~No--researchers~~ Researchers or professional or  
16 scientific personnel may not be employed to carry out this  
17 part except as provided in subsection (1)(d) of this  
18 section.

19 (3) None of the powers or duties provided for in this  
20 part permit participation in state or federal political  
21 action by the committee."

22 ~~Section 6--Section 80-11-206, MCA, is amended to read:~~

23 ~~"80-11-206--Maximum-annual~~ Annual ~~assessment--on--wheat~~  
24 ~~and--barley--grown--(1)--There--is--hereby--levied--an--annual~~  
25 ~~assessment--of--not--more--than--10--mills--per--bushel--upon--all~~

1 wheat--grown-and-not-more-than-15-mills-per-hundredweight-on  
 2 all-barley-grown-in-the-state-of-Montana--and--sold--through  
 3 commercial--channels;--The--assessment--is--hereby--levied--and  
 4 imposed--on--each--grower--of--wheat--or--barley--in--the--state--of  
 5 Montana;

6 (a)--in-the-case-of-sale-of-wheat-or-barley,--at-the-time  
 7 of--any--sale--of--wheat--or--barley--by--a--grower,--and--shall--must  
 8 be--collected--by--the--first--purchaser--of--the--wheat--or--barley  
 9 from--the--grower--at--the--time--of--each--settlement--for--wheat--or  
 10 barley--purchased,--or

11 (b)--in-the-case-of-a-pledge-or--mortgage--of--wheat--or  
 12 barley--as--security--for--a--loan--under--any--federal--price  
 13 support--program,--and the--assessment--shall--must be--collected  
 14 by--deducting--the--amount--thereof--of--the--assessment from--the  
 15 proceeds--of--such--the loan--at--the--time--the--loan--is--made--by  
 16 the--agency--or--person--making--the--loan;

17 (2)--The--assessment--levied--under--the--provisions--of--this  
 18 part--shall--must be--deducted--and--collected--as--provided--by  
 19 this--part,--whether--such--the wheat--or--barley--is--stored--in  
 20 this--or--any--other--state--The--assessment--shall--must attach--to  
 21 each--transaction,--but--no--a grower--shall--may--not be--subject  
 22 to--assessment--more--than--once--irrespective--of--the--number--of  
 23 times--it--shall--be--is the--subject--of--a--sale,--pledge,  
 24 mortgage,--or--other--transaction,--the--assessment--being--imposed  
 25 and--attaching--on--the--initial--sale,--pledge,--mortgage,--or

1 other-transaction-in-which-the-wheat-or-barley-grower--parts  
 2 with--title--to--the--wheat--or--barley,--or--creates--some--interest  
 3 therein--in--a--pledgee,--mortgagee,--or--other--person;"

4 Section-6.--Section-80-11-224,--MCA,--is--amended--to--read:  
 5 "80-11-224.--Determination-of-amount-and--allocation--of  
 6 assessment. (1)--The--committee--shall--set--the--amount--of--the  
 7 assessment--each--year--in--accordance--with--80-11-206. (1)--THE  
 8 COMMITTEE--SHALL--SET--THE--AMOUNT--OF--THE--ASSESSMENT--EACH--YEAR  
 9 IN--ACCORDANCE--WITH--80-11-206.

10 (2)(1)(2)--Money--deposited--in--the--wheat--and--barley  
 11 account--pursuant--to--80-11-210--is--statutorily appropriated  
 12 as--provided--in--17-7-502,--to--the--committee--for--purposes--of  
 13 carrying--out--research--and--marketing--under--this--part;

14 (3)(2)(3)--The--committee--may--be--assessed--costs--by--the  
 15 department--for--the--services--it--provides--upon--request--or  
 16 pursuant--to--2-15-121. However,--the--costs--charged--must--have--a  
 17 substantial--relationship--to--the--cost--of--services--supplied."

18 NEW SECTION. Section 5. Effective date. [This act] is  
 19 effective July 1, 1991.

-End-