

Mail

1 *Senate* BILL NO. *197*
 2 INTRODUCED BY *E. Smith, Robert Jackson,*
 3 *Bergen M. Ballou, Martin Nelson, Doug*
 4 *Amuly*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE NAME OF
 6 THE WHEAT RESEARCH AND MARKETING COMMITTEE TO GRAIN RESEARCH
 7 AND MARKETING COMMITTEE; TO PROVIDE FOR ELECTION RATHER THAN
 8 APPOINTMENT OF MEMBERS OF THE COMMITTEE; TO PROVIDE FOR
 9 AUDIT OF THE FUNDS OF THE COMMITTEE; AND TO PROVIDE FOR
 10 EMPLOYMENT OF AN ADMINISTRATOR; ENACTING SECTIONS 3-2905.1
 11 THROUGH 3-2905.7 AND 3-2921, R.C.M. 1947; AND AMENDING
 12 SECTIONS 3-2904, 3-2909, 3-2913, 3-2917, AND 82A-304, R.C.M.
 13 1947."

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 Section 1. Section 3-2904, R.C.M. 1947, is amended to
 16 read as follows:

17 "3-2904. Definitions. As used in this act, unless the
 18 context requires otherwise:

19 (1) "Committee" means the Montana wheat grain research
 20 and marketing committee provided for in section 82A-304;

21 (2) "Grower" means any landowner personally engaged in
 22 growing wheat or barley, a tenant of the landowner
 23 personally engaged in growing wheat or barley, or both the
 24 owner and the tenant jointly; and includes a person,
 25 partnership, association, corporation, co-operative, trust,

1 sharecropper, and any and all other business units, devices,
 2 and arrangements;

3 (3) "First purchaser" means any person, public or
 4 private corporation, association, or partnership, buying,
 5 accepting for shipment, or otherwise acquiring the property
 6 in or to wheat or barley from a grower, and shall include a
 7 mortgagee, pledgee, lienor, or other person, public or
 8 private, having a claim against the grower, where the actual
 9 or constructive possession of such wheat or barley is taken
 10 as part payment or in satisfaction of such mortgage, pledge,
 11 lien, or claim;

12 (4) "Commercial channels" means the sale of wheat or
 13 barley for any use, when sold to any commercial buyer,
 14 dealer, processor, co-operative, or to any person, public or
 15 private, who resells any wheat or barley or product produced
 16 from wheat or barley; and

17 (5) "Sale" includes any pledge or mortgage of wheat or
 18 barley, after harvest, to any person, public or private."

19 Section 2. There is a new R.C.M. section numbered
 20 3-2905.1 that reads as follows:

21 3-2905.1. Qualifications of members. (1) One member
 22 shall be elected to the committee from each of the districts
 23 provided for in 82A-304.

24 (2) Each candidate shall be a resident of Montana,
 25 derive a substantial portion of his income from growing

1 wheat or barley in this state, and be a resident of and have
2 farming operations in the district from which appointed.

3 Section 3. There is a new R.C.M. section numbered
4 3-2905.2 that reads as follows:

5 3-2905.2. Nominations. A list of nominees for election
6 may be submitted to the administrator of the committee by
7 the Montana farmers union, Montana farm bureau, Montana
8 grange, Montana grain growers association, Montana national
9 farmers organization, or by petition signed by 25 or more
10 growers. Names of nominees shall be submitted 60 days prior
11 to the expiration of the term of a committee member.

12 Section 4. There is a new R.C.M. section numbered
13 3-2905.3 that reads as follows:

14 3-2905.3. Board of election supervisors. All elections
15 pursuant to this chapter shall be supervised by a board of
16 election supervisors composed of one representative each of
17 the Montana farmers union, the Montana farm bureau, the
18 Montana grange, the Montana grain growers association, and
19 the Montana national farmers organization.

20 Section 5. There is a new R.C.M. section numbered
21 3-2905.4 that reads as follows:

22 3-2905.4. Electors. Each grower subject to this act in
23 a district electing a committee member is entitled to one
24 vote. Each partnership, association, corporation,
25 cooperative, trust, sharecropper, or other business unit may

1 cast one vote by its authorized agent for such purpose.

2 Section 6. There is a new R.C.M. section numbered
3 3-2905.5 that reads as follows:

4 3-2905.5. Election. Each member of the committee shall
5 be elected as of November 1 in the following manner:

6 (1) The administrator of the committee shall, on or
7 before October 1, mail a ballot, approved by the board of
8 election supervisors, to each grower subject to this act
9 within a district electing a member. The ballot shall
10 contain the name of each person nominated.

11 (2) Each grower voting shall, after indicating his
12 choice on the ballot, enclose the ballot in an envelope
13 marked "BALLOT", which envelope shall be enclosed in another
14 envelope and mailed to the administrator.

15 (3) Upon receipt of the returned ballot, the
16 administrator shall place it in a depository designated for
17 that purpose by the board of election supervisors. No ballot
18 envelope may be opened prior to November 1 and no ballot
19 envelope may be opened except by the board of election
20 supervisors. No ballot received after midnight of October
21 31 may be counted.

22 (4) All ballots shall be counted by the board of
23 election supervisors on November 1, who shall thereupon
24 declare the election of the nominee receiving the most
25 votes. Such nominee need not receive a majority of votes

1 cast.

2 Section 7. There is a new R.C.M. section numbered
3 3-2905.6 that reads as follows:

4 3-2905.6. Disqualification. (1) A member may be
5 removed by majority vote of the other elected members of the
6 committee, after a full public hearing before the committee,
7 for malfeasance, misfeasance, or neglect of duty. Removal
8 proceedings may not be started except upon duly verified
9 written charges.

10 (2) The member shall be given a copy of the written
11 charges at least 10 days prior to the hearing. At the
12 hearing, the member may be represented by an attorney and
13 may present witnesses in his behalf.

14 (3) A member who ceases to reside in the state or in
15 the district from which he was elected or who ceases to grow
16 wheat or barley in the state or district is disqualified
17 from membership and his office becomes vacant.

18 Section 8. There is a new R.C.M. section numbered
19 3-2905.7 that reads as follows:

20 3-2905.7. Vacancies -- how filled. In case of vacancy
21 on the committee from any cause, the vacancy shall be filled
22 for the remainder of the term by appointment of a person
23 approved by a majority of the remaining board members.

24 Section 9. Section 3-2909, R.C.M. 1947, is amended to
25 read as follows:

1 3-2909. Powers of the committee. (1) The committee
2 may:

3 (a) ~~Adopt~~ adopt rules necessary for the administration
4 of this act;

5 (b) ~~Provide~~ provide, through the department, for the
6 enforcement of this act;

7 (c) ~~Provide~~ provide for the conduct of research into
8 the production, marketing, and uses of wheat and barley;

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

19 ~~(e) appoint an administrator of the grain research and~~
20 ~~marketing committee, who shall have duties as assigned by~~
21 ~~the committee.~~

22 (2) No researchers or professional or scientific
23 personnel may be employed to carry out this act except as
24 provided in subsection (1)(d) ~~and (1)(e)~~ of this section.

25 (3) None of the powers or duties provided for in this

1 act permit participation in state or federal political
2 action by the committee."

3 Section 10. Section 3-2913, R.C.M. 1947, is amended to
4 read as follows:

5 "3-2913. Buyer's delivery of invoice to grower -- form
6 -- filing of sworn statement -- payment of assessment. (1)
7 The purchaser of the wheat or barley at the time of sale, or
8 the pledgee, mortgagee, or other lender at the time of the
9 loan or advance, shall give separate invoices for each
10 purchase to the grower. The invoices shall be on forms
11 approved by the department and shall show:

- 12 (a) The name and address of the grower and seller;
13 (b) The name and address of the purchaser or the
14 lender;
15 (c) The number of bushels of wheat or hundredweights
16 of barley sold, mortgaged, or pledged;
17 (d) The date of the purchase, mortgage, or pledge and
18 the amount of assessment collected and remitted to the
19 department.

20 (2) The purchaser, mortgagee, or pledgee shall file
21 with the department, on forms prescribed by the department,
22 within twenty (20) days after the end of a month in which he
23 purchases a grower's wheat or barley or in which a lender
24 makes a loan or advance on a grower's wheat or barley, a
25 sworn statement of the number of bushels of wheat or

1 hundredweights of barley purchased in Montana or the number
2 of bushels of wheat or hundredweights of barley mortgaged or
3 pledged, or otherwise transferred or liened as security for
4 a loan, during the preceding calendar month. At the time the
5 sworn statement is filed, the purchaser or lender shall pay
6 to the department the assessment provided for in section
7 3-2911 for deposit in the wheat grain research and marketing
8 account in the revolving fund.

9 (3) The statement referred to in subsections (1) and
10 (2) of this section shall be legibly written and shall be
11 entirely free of any corrections or erasures. A person may
12 not alter any part of a statement.

13 (4) After thirty (30) days and before ninety (90) days
14 following the deduction of the assessment by the first
15 purchaser or the first lender, the grower may, upon the
16 submission of a written, verified request to the department,
17 obtain a refund of the assessment. The request shall be
18 accompanied by the original invoices received by the grower
19 at the time of settlement. The department shall keep
20 complete records of all refunds made under the provisions of
21 this section. Records of refunds may be destroyed two (2)
22 years after the refund is made. All original invoices shall
23 be returned to the grower with the refund payment."

24 Section 11. Section 3-2917, R.C.M. 1947, is amended to
25 read as follows:

1 *3-2917. Research and marketing account -- sources --
2 use -- expenditures. (1) There shall be an account in the
3 federal and private revenue fund known as the wheat grain
4 research and marketing account. The following shall be
5 placed in the account:

6 (a) The proceeds of all millage levies collected under
7 this chapter, and

8 (b) The proceeds from all gifts, grants, or donations
9 to the department for research authorized under this
10 chapter.

11 (2) The account shall be maintained for the purposes
12 of this chapter and shall be separate from all other
13 accounts of the department."

14 Section 12. There is a new R.C.M. section numbered
15 3-2921 that reads as follows:

16 3-2921. Audit. The committee is subject to audit by
17 the legislative auditor under Title 79, chapter 23.

18 Section 13. Section 82A-304, R.C.M. 1947, is amended
19 to read as follows:

20 *82A-304. Montana wheat grain research and marketing
21 committee -- composition ---~~qualification~~ -- term --
22 allocation. (1) There is a Montana wheat grain research and
23 marketing committee.

24 (2) The committee consists of seven (7) members and
25 three (3) ex officio, nonvoting members.

1 (a) ~~The governor shall appoint one~~ One member ~~shall be~~
2 elected from each of the following districts:

3 (i) District I, consisting of Daniels, Sheridan, and
4 Roosevelt counties;

5 (ii) District II, consisting of Valley, Phillips,
6 Blaine, and Hill counties;

7 (iii) District III, consisting of Liberty, Toole,
8 Glacier, and Pondera counties;

9 (iv) District IV, consisting of Chouteau and Teton
10 counties;

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

15 (vi) 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 (vii) District VII, consisting of Garfield, McCone,
20 Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer,
21 Fallon, Powder River, and Treasure counties.

22 (b) The ex officio members are:

23 (i) The director of the department of agriculture;

24 (ii) The dean of agriculture of Montana state
25 university;

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

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

9 (d) ~~A list of nominees for appointment may be~~
10 ~~submitted to the governor by the Montana farmers union,~~
11 ~~Montana farm bureau, Montana grange, and the Montana grain~~
12 ~~growers association. Names of nominees shall be submitted~~
13 ~~within ninety-one (91) days before the expiration of a~~
14 ~~committeeman's term.~~

15 (3) The appointed elected members shall serve
16 staggered terms of five (5) years. The ex officio
17 representative of the grain trade shall serve at the
18 pleasure of the committee.

19 ~~A member may be removed by the governor after a full~~
20 ~~public hearing before the governor for misfeasance,~~
21 ~~misfeasance or neglect of duty. Removal proceedings may~~
22 ~~not be started except upon duly verified written charges.~~
23 ~~The member shall be given a copy of the written charges at~~
24 ~~least ten (10) days in advance of the hearing. At the~~
25 ~~hearing, the member may be represented by an attorney and~~

1 may present witnesses in his behalf.

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

8 (4) The committee is allocated to the department for
9 administrative purposes only as prescribed in section
10 82A-108.

11 Section 14. Implementation. A member from each
12 district shall be elected on November 1 next preceding the
13 expiration of the term of the present member from the
14 district.

15 Section 15. Effective date. This act is effective July
16 1, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 148-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 197 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 197 provides for the election rather than the apointment of members to the Wheat Research and Marketing Committee and changes the name of the Committee to the Grain Research and Marketing Committee.

ASSUMPTIONS:

1. Election costs will be financed from the Wheat Research and Marketing Committee's Federal and Private Revenue Account.
2. Board of election supervisors will consist of five (5) members.
 - (a) Member will receive \$26 per diem per meeting for two (2) meetings per year.
 - (b) Member will be reimbursed for travel. The average round trip is 400 miles at \$0.15 per mile.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Additional cost of proposed legislation	<u>\$2,424</u>	<u>\$4,356</u>

TECHNICAL NOTE:

Line 19, page 6, provides for the appointment of an administrator by the committee. Section 82A-108 provides that the department to which allocated shall provide staff.

Richard L. ...
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 1-28-77

Approved by Committee
on Agriculture Livestock
& Irrigation

SENATE BILL NO. 197

INTRODUCED BY E. SMITH, KOLSTAD, GRAHAM, BERGREN,

MCCALLUM, MATHERS, NELSON, DOVER, MANLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE NAME OF THE WHEAT RESEARCH AND MARKETING COMMITTEE TO GRAIN RESEARCH AND MARKETING COMMITTEE; TO PROVIDE FOR ELECTION RATHER THAN APPOINTMENT OF MEMBERS OF THE COMMITTEE; TO PROVIDE FOR AUDIT OF THE FUNDS OF THE COMMITTEE; AND TO PROVIDE FOR EMPLOYMENT OF AN ADMINISTRATOR; ENACTING SECTIONS 3-2905.1 THROUGH 3-2905.7 AND 3-2921, R.C.M. 1947; AND AMENDING SECTIONS 3-2904, 3-2909, 3-2913, 3-2917, AND 82A-304, R.C.M. 1947."

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

Section 1. Section 3-2904, R.C.M. 1947, is amended to read as follows:

"3-2904. Definitions. As used in this act, unless the context requires otherwise:

(1) "Committee" means the Montana wheat grain research and marketing committee provided for in section 82A-304;

(2) "Grower" means any landowner personally engaged in growing wheat or barley, a tenant of the landowner personally engaged in growing wheat or barley, or both the owner and the tenant jointly; and includes a person,

partnership, association, corporation, co-operative, trust, sharecropper, and any and all other business units, devices, and arrangements;

(3) "First purchaser" means any person, public or private corporation, association, or partnership, buying, accepting for shipment, or otherwise acquiring the property in or to wheat or barley from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower, where the actual or constructive possession of such wheat or barley is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(4) "Commercial channels" means the sale of wheat or barley for any use, when sold to any commercial buyer, dealer, processor, co-operative, or to any person, public or private, who resells any wheat or barley or product produced from wheat or barley; and

(5) "Sale" includes any pledge or mortgage of wheat or barley, after harvest, to any person, public or private."

Section 2. There is a new R.C.M. section numbered 3-2905.1 that reads as follows:

3-2905.1. Qualifications of members. (1) One member shall be elected to the committee from each of the districts provided for in 82A-304.

(2) Each candidate shall be a resident of Montana,

1 derive a substantial portion of his income from growing
 2 wheat or barley in this state, and be a resident of and have
 3 farming operations in the district from which appointed.

4 Section 3. There is a new R.C.M. section numbered
 5 3-2905.2 that reads as follows:

6 3-2905.2. Nominations. A list of nominees for election
 7 may be submitted to the administrator of the committee by
 8 the Montana farmers union, Montana farm bureau, Montana
 9 grange, Montana grain growers association, Montana national
 10 farmers organization, or by petition signed by 25 or more
 11 growers. Names of nominees shall be submitted 60 days prior
 12 to the expiration of the term of a committee member.

13 Section 4. There is a new R.C.M. section numbered
 14 3-2905.3 that reads as follows:

15 3-2905.3. Board of election supervisors. All elections
 16 pursuant to this chapter shall be supervised by a board of
 17 election supervisors composed of one representative each of
 18 the Montana farmers union, the Montana farm bureau, the
 19 Montana grange, the Montana grain growers association, and
 20 the Montana national farmers organization.

21 Section 5. There is a new R.C.M. section numbered
 22 3-2905.4 that reads as follows:

23 3-2905.4. Electors. Each grower subject to this act in
 24 a district electing a committee member is entitled to one
 25 vote. Each partnership, association, corporation,

1 cooperative, trust, sharecropper, or other business unit may
 2 cast one vote by its authorized agent for such purpose.

3 Section 6. There is a new R.C.M. section numbered
 4 3-2905.5 that reads as follows:

5 3-2905.5. Election. Each member of the committee shall
 6 be elected as of November 1 in the following manner:

7 (1) The administrator of the committee shall, on or
 8 before October 1, mail a ballot, approved by the board of
 9 election supervisors, to each grower subject to this act
 10 within a district electing a member. The ballot shall
 11 contain the name of each person nominated.

12 (2) Each grower voting shall, after indicating his
 13 choice on the ballot, enclose the ballot in an envelope
 14 marked "BALLOT", which envelope shall be enclosed in another
 15 envelope and mailed to the administrator.

16 (3) Upon receipt of the returned ballot, the
 17 administrator shall place it in a depository designated for
 18 that purpose by the board of election supervisors. No ballot
 19 envelope may be opened prior to November 1 and no ballot
 20 envelope may be opened except by the board of election
 21 supervisors. No ballot received after midnight of October
 22 31 may be counted.

23 (4) All ballots shall be counted by the board of
 24 election supervisors on November 1, WHO OR IF NOVEMBER 1
 25 FALLS ON A HOLIDAY, THEN ON THE NEXT SUCCEEDING WORKING DAY.

1 ~~THE BOARD~~ shall thereupon declare the election of the
 2 nominee receiving the most votes. Such nominee need not
 3 receive a majority of votes cast. ~~IF AN EQUAL NUMBER OF~~
 4 ~~VOTES ARE RECEIVED BY THE TWO NOMINEES RECEIVING THE MOST~~
 5 ~~VOTES, A SECOND RUNOFF ELECTION SHALL BE HELD BETWEEN THOSE~~
 6 ~~TWO NOMINEES.~~

7 Section 7. There is a new R.C.M. section numbered
 8 3-2905.6 that reads as follows:

9 3-2905.6. Disqualification. (1) A member may be
 10 removed by majority vote of the other elected members of the
 11 committee, after a full public hearing before the committee,
 12 for malfeasance, misfeasance, or neglect of duty. Removal
 13 proceedings may not be started except upon duly verified
 14 written charges.

15 (2) The member shall be given a copy of the written
 16 charges at least 10 days prior to the hearing. At the
 17 hearing, the member may be represented by an attorney and
 18 may present witnesses in his behalf.

19 (3) A member who ceases to reside in the state or in
 20 the district from which he was elected or who ceases to grow
 21 wheat or barley in the state or district is disqualified
 22 from membership and his office becomes vacant.

23 Section 8. There is a new R.C.M. section numbered
 24 3-2905.7 that reads as follows:

25 3-2905.7. Vacancies -- how filled. In case of vacancy

1 on the committee from any cause, the vacancy shall be filled
 2 for the remainder of the term by appointment of a person
 3 approved by a majority of the remaining board members.

4 Section 9. Section 3-2909, R.C.M. 1947, is amended to
 5 read as follows:

6 "3-2909. Powers of the committee. (1) The committee
 7 may:

8 (a) ~~Adopt~~ adopt rules necessary for the administration
 9 of this act;

10 (b) ~~Provide~~ provide, through the department, for the
 11 enforcement of this act;

12 (c) ~~Provide~~ provide for the conduct of research into
 13 the production, marketing, and uses of wheat and barley;

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

24 (e) appoint an administrator of the grain research and
 25 marketing committee, who shall have duties as assigned by

1 the committee.

2 (2) No researchers or professional or scientific
3 personnel may be employed to carry out this act except as
4 provided in subsection (1)(d) and (1)(e) of this section.

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

8 Section 10. Section 3-2913, R.C.M. 1947, is amended to
9 read as follows:

10 "3-2913. Buyer's delivery of invoice to grower -- form
11 -- filing of sworn statement -- payment of assessment. (1)
12 The purchaser of the wheat or barley at the time of sale, or
13 the pledgee, mortgagee, or other lender at the time of the
14 loan or advance, shall give separate invoices for each
15 purchase to the grower. The invoices shall be on forms
16 approved by the department and shall show:

17 (a) The name and address of the grower and seller;

18 (b) The name and address of the purchaser or the
19 lender;

20 (c) The number of bushels of wheat or hundredweights
21 of barley sold, mortgaged, or pledged;

22 (d) The date of the purchase, mortgage, or pledge and
23 the amount of assessment collected and remitted to the
24 department.

25 (2) The purchaser, mortgagee, or pledgee shall file

1 with the department, on forms prescribed by the department,
2 within twenty (20) days after the end of a month in which he
3 purchases a grower's wheat or barley or in which a lender
4 makes a loan or advance on a grower's wheat or barley, a
5 sworn statement of the number of bushels of wheat or
6 hundredweights of barley purchased in Montana or the number
7 of bushels of wheat or hundredweights of barley mortgaged or
8 pledged, or otherwise transferred or liened as security for
9 a loan, during the preceding calendar month. At the time the
10 sworn statement is filed, the purchaser or lender shall pay
11 to the department the assessment provided for in section
12 3-2911 for deposit in the wheat grain research and marketing
13 account in the revolving fund.

14 (3) The statement referred to in subsections (1) and
15 (2) of this section shall be legibly written and shall be
16 entirely free of any corrections or erasures. A person may
17 not alter any part of a statement.

18 (4) After thirty (30) days and before ninety (90) days
19 following the deduction of the assessment by the first
20 purchaser or the first lender, the grower may, upon the
21 submission of a written, verified request to the department,
22 obtain a refund of the assessment. The request shall be
23 accompanied by the original invoices received by the grower
24 at the time of settlement. The department shall keep
25 complete records of all refunds made under the provisions of

1 this section. Records of refunds may be destroyed two (2)
2 years after the refund is made. All original invoices shall
3 be returned to the grower with the refund payment."

4 Section 11. Section 3-2917, R.C.M. 1947, is amended to
5 read as follows:

6 "3-2917. Research and marketing account -- sources --
7 use -- expenditures. (1) There shall be an account in the
8 federal and private revenue fund known as the wheat grain
9 research and marketing account. The following shall be
10 placed in the account:

11 (a) The proceeds of all millage levies collected under
12 this chapter, and

13 (b) The proceeds from all gifts, grants, or donations
14 to the department for research authorized under this
15 chapter.

16 (2) The account shall be maintained for the purposes
17 of this chapter and shall be separate from all other
18 accounts of the department."

19 Section 12. There is a new R.C.M. section numbered
20 3-2921 that reads as follows:

21 3-2921. Audit. The committee is subject to audit by
22 the legislative auditor under Title 79, chapter 23.

23 Section 13. Section 82A-304, R.C.M. 1947, is amended
24 to read as follows:

25 "82A-304. Montana wheat grain research and marketing

1 committee -- composition ---qualification -- term --
2 allocation. (1) There is a Montana wheat grain research and
3 marketing committee.

4 (2) The committee consists of seven (7) members and
5 three (3) ex officio, nonvoting members.

6 (a) ~~The governor shall appoint one~~ One member shall be
7 elected from each of the following districts:

8 (i) District I, consisting of Daniels, Sheridan, and
9 Roosevelt counties;

10 (ii) District II, consisting of Valley, Phillips,
11 Blaine, and Hill counties;

12 (iii) District III, consisting of Liberty, Toole,
13 Glacier, and Pondera counties;

14 (iv) District IV, consisting of Chouteau and Teton
15 counties;

16 (v) District V, consisting of Lewis and Clark,
17 Cascade, Judith Basin, Fergus, Petroleum, Meagher,
18 Broadwater, Wheatland, Golden Valley, and Musselshell
19 counties;

20 (vi) District VI, consisting of Big Horn, Yellowstone,
21 Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison,
22 Jefferson, Silver Bow, Beaverhead, and all counties west of
23 the continental divide;

24 (vii) District VII, consisting of Garfield, McCone,
25 Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer,

1 Fallon, Powder River, and Treasure counties.

2 (b) The ex officio members are:

3 (i) The director of the department of agriculture;

4 (ii) The dean of agriculture of Montana state
5 university;

6 (iii) A representative of the grain trade in Montana
7 elected by a majority of the appointed ELECTED members.

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

14 ~~(d) A list of nominees for appointment may be~~
15 ~~submitted to the governor by the Montana farmers union,~~
16 ~~Montana farm bureau, Montana grange, and the Montana grain~~
17 ~~growers association. Names of nominees shall be submitted~~
18 ~~within ninety-one (91) days before the expiration of a~~
19 ~~committeeman's term.~~

20 (3) The appointed elected members shall serve
21 staggered terms of five (5) years. The ex officio
22 representative of the grain trade shall serve at the
23 pleasure of the committee.

24 ~~A member may be removed by the governor after a full~~
25 ~~public hearing before the governor for misfeasance,~~

1 ~~misfeasance, or neglect of duty. Removal proceedings may~~
2 ~~not be started except upon duly verified written charges.~~
3 ~~The member shall be given a copy of the written charges at~~
4 ~~least ten (10) days in advance of the hearing. At the~~
5 ~~hearing, the member may be represented by an attorney and~~
6 ~~may present witnesses in his behalf.~~

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

13 (4) The committee is allocated to the department for
14 administrative purposes only as prescribed in section
15 82A-108, EXCEPT THAT THE COMMITTEE MAY EMPLOY ITS OWN
16 ADMINISTRATOR."

17 Section 14. Implementation. A member from each
18 district shall be elected on November 1 next preceding the
19 expiration of the term of the present member from the
20 district.

21 Section 15. Effective date. This act is effective July
22 1, 1978.

-End-

1 SENATE BILL NO. 197

2 INTRODUCED BY E. SMITH, KOLSTAD, GRAHAM, BERGREN,
3 MCCALLUM, MATHERS, NELSON, DOVER, MANLEY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE NAME OF
6 THE WHEAT RESEARCH AND MARKETING COMMITTEE TO GRAIN RESEARCH
7 AND MARKETING COMMITTEE; TO PROVIDE FOR ELECTION RATHER THAN
8 APPOINTMENT OF MEMBERS OF THE COMMITTEE; TO PROVIDE FOR
9 AUDIT OF THE FUNDS OF THE COMMITTEE; AND TO PROVIDE FOR
10 EMPLOYMENT OF AN ADMINISTRATOR; ENACTING SECTIONS 3-2905.1
11 THROUGH 3-2905.7 AND 3-2921, R.C.M. 1947; AND AMENDING
12 SECTIONS 3-2904, 3-2909, 3-2913, 3-2917, AND 82A-304, R.C.M.
13 1947."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 3-2904, R.C.M. 1947, is amended to
17 read as follows:

18 "3-2904. Definitions. As used in this act, unless the
19 context requires otherwise:

20 (1) "Committee" means the Montana wheat grain research
21 and marketing committee provided for in section 82A-304;

22 (2) "Grower" means any landowner personally engaged in
23 growing wheat or barley, a tenant of the landowner
24 personally engaged in growing wheat or barley, or both the
25 owner and the tenant jointly; and includes a person,

1 partnership, association, corporation, co-operative, trust,
2 sharecropper, and any and all other business units, devices,
3 and arrangements;

4 (3) "First purchaser" means any person, public or
5 private corporation, association, or partnership, buying,
6 accepting for shipment, or otherwise acquiring the property
7 in or to wheat or barley from a grower, and shall include a
8 mortgagee, pledgee, lienor, or other person, public or
9 private, having a claim against the grower, where the actual
10 or constructive possession of such wheat or barley is taken
11 as part payment or in satisfaction of such mortgage, pledge,
12 lien, or claim;

13 (4) "Commercial channels" means the sale of wheat or
14 barley for any use, when sold to any commercial buyer,
15 dealer, processor, co-operative, or to any person, public or
16 private, who resells any wheat or barley or product produced
17 from wheat or barley; and

18 (5) "Sale" includes any pledge or mortgage of wheat or
19 barley, after harvest, to any person, public or private."

20 Section 2. There is a new R.C.M. section numbered
21 3-2905.1 that reads as follows:

22 3-2905.1. Qualifications of members. (1) One member
23 shall be elected to the committee from each of the districts
24 provided for in 82A-304.

25 (2) Each candidate shall be a resident of Montana,

THIRD READING

1 derive a substantial portion of his income from growing
 2 wheat or barley in this state, and be a resident of and have
 3 farming operations in the district from which appointed HE
 4 IS RUNNING.

5 Section 3. There is a new R.C.M. section numbered
 6 3-2905.2 that reads as follows:

7 3-2905.2. Nominations. A list of nominees for election
 8 may be submitted to the administrator of the committee by
 9 the Montana farmers union, Montana farm bureau, Montana
 10 grange, Montana grain growers association, Montana national
 11 farmers organization, or by petition signed by 25 or more
 12 growers. Names of nominees shall be submitted 60 days prior
 13 to the expiration of the term of a committee member.

14 Section 4. There is a new R.C.M. section numbered
 15 3-2905.3 that reads as follows:

16 3-2905.3. Board of election supervisors. All elections
 17 pursuant to this chapter shall be supervised by a board of
 18 election supervisors composed of one representative each of
 19 the Montana farmers union, the Montana farm bureau, the
 20 Montana grange, the Montana grain growers association, and
 21 the Montana national farmers organization.

22 Section 5. There is a new R.C.M. section numbered
 23 3-2905.4 that reads as follows:

24 3-2905.4. Electors. Each grower subject to this act in
 25 a district electing a committee member is entitled to one

1 vote. Each partnership, association, corporation,
 2 cooperative, trust, sharecropper, or other business unit may
 3 cast one vote by its authorized agent for such purpose.

4 Section 6. There is a new R.C.M. section numbered
 5 3-2905.5 that reads as follows:

6 3-2905.5. Election. Each member of the committee shall
 7 be elected as of November 1 in the following manner:

8 (1) The administrator of the committee shall, on or
 9 before October 1, mail a ballot, approved by the board of
 10 election supervisors, to each grower subject to this act
 11 within a district electing a member. The ballot shall
 12 contain the name of each person nominated.

13 (2) Each grower voting shall, after indicating his
 14 choice on the ballot, enclose the ballot in an envelope
 15 marked "BALLOT", which envelope shall be enclosed in another
 16 envelope and mailed to the administrator.

17 (3) Upon receipt of the returned ballot, the
 18 administrator shall place it in a depository designated for
 19 that purpose by the board of election supervisors. No ballot
 20 envelope may be opened prior to November 1 and no ballot
 21 envelope may be opened except by the board of election
 22 supervisors. No ballot received after midnight of October
 23 31 may be counted.

24 (4) All ballots shall be counted by the board of
 25 election supervisors on November 1, who OR IF NOVEMBER 1

1 ~~FALLS ON A HOLIDAY, THEN ON THE NEXT SUCCEEDING WORKING DAY,~~
 2 ~~THE BOARD~~ shall thereupon declare the election of the
 3 nominee receiving the most votes. Such nominee need not
 4 receive a majority of votes cast. ~~IF AN EQUAL NUMBER OF~~
 5 ~~VOICES ARE RECEIVED BY THE TWO NOMINEES RECEIVING THE MOST~~
 6 ~~VOICES, A SECOND RUNOFF ELECTION SHALL BE HELD BETWEEN THOSE~~
 7 ~~TWO NOMINEES.~~

8 Section 7. There is a new R.C.M. section numbered
 9 3-2905.6 that reads as follows:

10 3-2905.6. Disqualification. (1) A member may be
 11 removed by majority vote of the other elected members of the
 12 committee, after a full public hearing before the committee,
 13 for malfeasance, misfeasance, or neglect of duty. Removal
 14 proceedings may not be started except upon duly verified
 15 written charges.

16 (2) The member shall be given a copy of the written
 17 charges at least 10 days prior to the hearing. At the
 18 hearing, the member may be represented by an attorney and
 19 may present witnesses in his behalf.

20 (3) A member who ceases to reside in the state or in
 21 the district from which he was elected or who ceases to grow
 22 wheat or barley in the state or district is disqualified
 23 from membership and his office becomes vacant.

24 Section 8. There is a new R.C.M. section numbered
 25 3-2905.7 that reads as follows:

1 3-2905.7. Vacancies -- how filled. In case of vacancy
 2 on the committee from any cause, the vacancy shall be filled
 3 for the remainder of the term by appointment of a person
 4 approved by a majority of the remaining board members.

5 Section 9. Section 3-2909, R.C.M. 1947, is amended to
 6 read as follows:

7 "3-2909. Powers of the committee. (1) The committee
 8 may:

9 (a) ~~Adopt~~ adopt rules necessary for the administration
 10 of this act;

11 (b) ~~Provide~~ provide, through the department, for the
 12 enforcement of this act;

13 (c) ~~Provide~~ provide for the conduct of research into
 14 the production, marketing, and uses of wheat and barley;

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

25 (e) appoint an administrator of the grain research and

1 ~~marketing committee, who shall have duties as assigned by~~
2 ~~the committee.~~

3 (2) No researchers or professional or scientific
4 personnel may be employed to carry out this act except as
5 provided in subsection (1)(d) and (1)(e) of this section.

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

9 Section 10. Section 3-2913, R.C.M. 1947, is amended to
10 read as follows:

11 "3-2913. Buyer's delivery of invoice to grower -- form
12 -- filing of sworn statement -- payment of assessment. (1)
13 The purchaser of the wheat or barley at the time of sale, or
14 the pledgee, mortgagee, or other lender at the time of the
15 loan or advance, shall give separate invoices for each
16 purchase to the grower. The invoices shall be on forms
17 approved by the department and shall show:

- 18 (a) The name and address of the grower and seller;
19 (b) The name and address of the purchaser or the
20 lender;
21 (c) The number of bushels of wheat or hundredweights
22 of barley sold, mortgaged, or pledged;
23 (d) The date of the purchase, mortgage, or pledge and
24 the amount of assessment collected and remitted to the
25 department.

1 (2) The purchaser, mortgagee, or pledgee shall file
2 with the department, on forms prescribed by the department,
3 within twenty (20) days after the end of a month in which he
4 purchases a grower's wheat or barley or in which a lender
5 makes a loan or advance on a grower's wheat or barley, a
6 sworn statement of the number of bushels of wheat or
7 hundredweights of barley purchased in Montana or the number
8 of bushels of wheat or hundredweights of barley mortgaged or
9 pledged, or otherwise transferred or liened as security for
10 a loan, during the preceding calendar month. At the time the
11 sworn statement is filed, the purchaser or lender shall pay
12 to the department the assessment provided for in section
13 3-2911 for deposit in the wheat grain research and marketing
14 account in the revolving fund.

15 (3) The statement referred to in subsections (1) and
16 (2) of this section shall be legibly written and shall be
17 entirely free of any corrections or erasures. A person may
18 not alter any part of a statement.

19 (4) After thirty (30) days and before ninety (90) days
20 following the deduction of the assessment by the first
21 purchaser or the first lender, the grower may, upon the
22 submission of a written, verified request to the department,
23 obtain a refund of the assessment. The request shall be
24 accompanied by the original invoices received by the grower
25 at the time of settlement. The department shall keep

1 complete records of all refunds made under the provisions of
 2 this section. Records of refunds may be destroyed two (2)
 3 years after the refund is made. All original invoices shall
 4 be returned to the grower with the refund payment."

5 Section 11. Section 3-2917, R.C.M. 1947, is amended to
 6 read as follows:

7 "3-2917. Research and marketing account -- sources --
 8 use -- expenditures. (1) There shall be an account in the
 9 federal and private revenue fund known as the wheat grain
 10 research and marketing account. The following shall be
 11 placed in the account:

12 (a) The proceeds of all millage levies collected under
 13 this chapter, and

14 (b) The proceeds from all gifts, grants, or donations
 15 to the department for research authorized under this
 16 chapter.

17 (2) The account shall be maintained for the purposes
 18 of this chapter and shall be separate from all other
 19 accounts of the department."

20 Section 12. There is a new R.C.M. section numbered
 21 3-2921 that reads as follows:

22 3-2921. Audit. The committee is subject to audit by
 23 the legislative auditor under Title 79, chapter 23.

24 Section 13. Section 82A-304, R.C.M. 1947, is amended
 25 to read as follows:

1 "82A-304. Montana wheat grain research and marketing
 2 committee -- composition ---qualification -- term --
 3 allocation. (1) There is a Montana wheat grain research and
 4 marketing committee.

5 (2) The committee consists of seven (7) members and
 6 three (3) ex officio, nonvoting members.

7 (a) ~~The governor shall appoint one~~ One member shall be
 8 elected from each of the following districts:

9 (i) District I, consisting of Daniels, Sheridan, and
 10 Roosevelt counties;

11 (ii) District II, consisting of Valley, Phillips,
 12 Blaine, and Hill counties;

13 (iii) District III, consisting of Liberty, Toole,
 14 Glacier, and Pondera counties;

15 (iv) District IV, consisting of Chouteau and Teton
 16 counties;

17 (v) District V, consisting of Lewis and Clark,
 18 Cascade, Judith Basin, Fergus, Petroleum, Meagher,
 19 Broadwater, Wheatland, Golden Valley, and Musselshell
 20 counties;

21 (vi) District VI, consisting of Big Horn, Yellowstone,
 22 Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison,
 23 Jefferson, Silver Bow, Beaverhead, and all counties west of
 24 the continental divide;

25 (vii) District VII, consisting of Garfield, McCone,

1 Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer,
2 Fallon, Powder River, and Treasure counties.

3 (b) The ex officio members are:

4 (i) The director of the department of agriculture;

5 (ii) The dean of agriculture of Montana state
6 university;

7 (iii) A representative of the grain trade in Montana
8 elected by a majority of the appointed ELECTED members.

9 ~~(c) Each of the appointed members shall be a citizen~~
10 ~~of Montana derive a substantial portion of his income from~~
11 ~~growing wheat or barley in this state and be a resident of~~
12 ~~and have farming operations in the district from which~~
13 ~~appointed. No more than four (4) of the appointed members~~
14 ~~may be of the same political party.~~

15 ~~(d) A list of nominees for appointment may be~~
16 ~~submitted to the governor by the Montana farmers union,~~
17 ~~Montana farm bureau, Montana grange, and the Montana grain~~
18 ~~growers association. Names of nominees shall be submitted~~
19 ~~within ninety-one (91) days before the expiration of a~~
20 ~~committeesman's term.~~

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22 staggered terms of five--(5) years. The ex officio
23 representative of the grain trade shall serve at the
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5 ~~least ten (10) days in advance of the hearing. At the~~
6 ~~hearing, the member may be represented by an attorney and~~
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11 ~~from membership and his office becomes vacant. If the member~~
12 ~~refuses to recognize his disqualification, the refusal is~~
13 ~~cause for removal.~~

14 (4) The committee is allocated to the department for
15 administrative purposes only as prescribed in section
16 82A-108, EXCEPT THAT THE COMMITTEE MAY EMPLOY ITS OWN
17 ADMINISTRATOR."

18 Section 14. Implementation. A member from each
19 district shall be elected on November 1 next preceding the
20 expiration of the term of the present member from the
21 district.

22 Section 15. Effective date. This act is effective July
23 1, 1978.

-End-