

SENATE BILL 279

IN THE SENATE

January 29, 1979	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 30, 1979	Fiscal note requested.
February 5, 1979	Fiscal note returned.
April 20, 1979	Died in Committee.

1 *House* BILL NO. *279*
 2 INTRODUCED BY *Don Schultz VINEGAR Lead ROTA*
 3 *Thopp Wyrick Couray Haynes Hediger Nelson*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A DIVISION OF *Nelson*
 5 GASOHOL DISTILLATION TO CONDUCT RESEARCH INTO ALL PHASES *Kolstad*
 6 THEREOF, INCLUDING BUT NOT LIMITED TO PRODUCTION, MARKETING, *E. Smith*
 7 AND USE; LEVYING AN ASSESSMENT OF 2 CENTS PER BUSHEL OF *Stony*
 8 WHEAT AND 2 CENTS PER HUNDREDWEIGHT ON BARLEY ON THE GROWER;
 9 AND PROVIDING AN EFFECTIVE DATE."

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

11 Section 1. Short title. [This act] may be cited as the
12 "Montana Gasohol and Food Production Act".

13 Section 2. Purpose. The legislature finds that there
 14 is a severe energy shortage in the world, there is a
 15 prevailing low price for wheat and barley in the United
 16 States, there is a ready availability of such grain caused
 17 by a surplus thereof, it is possible to actually increase
 18 the nutrient value of the wheat and barley product through
 19 the processes involved in [this act], and shipping costs
 20 will be decreased and pollution free new jobs made available
 21 by promoting gasohol distillation. It is therefore the
 22 public policy of the state of Montana to protect and foster
 23 the health, prosperity, and general welfare of its people by
 24 encouraging and promoting gasohol distillation and food
 25

1 production in Montana as set forth by [this act].

2 Section 3. Division of gasohol distillation. (1) There
3 is a division of gasohol distillation in the department of
4 agriculture. The division consists of:

- 5 (a) the administrative committee herein provided for;
- 6 (b) the commissioner of agriculture, ex officio; and
- 7 (c) a chief executive officer of the division who
- 8 shall be the administrator of the division of gasohol
- 9 distillation.

10 (2) The commissioner of agriculture, acting with the
11 advice and consent of the administrative committee, shall
12 appoint the chief executive officer.

13 (3) The governor shall appoint an administrative
14 committee to be known as the gasohol distillation committee,
15 which shall be composed of nine members, each of whom must
16 be a citizen of Montana, four of whom must derive a
17 substantial portion of their income from growing wheat or
18 barley in Montana, four of whom must derive a substantial
19 portion of their income from other sources involving
20 business in Montana, and one who may be from either group.

21 (4) At least one member of the administrative
22 committee shall be appointed from each of the following
23 districts and must be a resident of the district from which
24 appointed:

- 25 (a) District 1--consisting of Daniels, Sheridan, and

1 Roosevelt Counties;

2 (b) District II--consisting of Valley, Phillips,

3 Blaine, and Hill Counties;

4 (c) District III--consisting of Liberty, Toole,

5 Glacier, and Pondera Counties;

6 (d) District IV--consisting of Chouteau and Teton

7 Counties;

8 (e) District V--consisting of Lewis and Clark,

9 Cascade, Judith Basin, Fergus, Petroleum, Meagher,

10 Broadwater, Wheatland, Golden Valley, and Musselshell

11 Counties;

12 (f) District VI--consisting of Big Horn, Yellowstone,

13 Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison,

14 Jefferson, Silver Bow, Beaverhead, and all counties lying

15 wholly or partially west of the continental divide;

16 (g) District VII--consisting of Garfield, McCone,

17 Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer,

18 Fallon, Powder River, and Treasure Counties.

19 (5) A list of nominees for appointment to the

20 administrative committee may be submitted to the governor by

21 the Montana farmers union, the Montana farm bureau, the

22 Montana grange, the Montana graingrowers association, the

23 Montana gasohol council, the national farmers organization,

24 and the women involved in farm economics organization. Each

25 nominee must be from the district for which the appointment

1 will be made. The initial lists of nominees shall be

2 submitted within 31 days after [the effective date of this

3 act], and thereafter names of nominees shall be submitted no

4 later than 90 days prior to the expiration of any

5 committeeman's term.

6 (6) Committee members shall be appointed for a term of

7 5 years. No member may serve more than one term.

8 (7) No more than five appointed members of the

9 committee may be of the same political party. Members

10 appointed to fill unexpired terms shall be appointed for the

11 remainder of the unexpired term.

12 Section 4. Definitions. As used in [this act], unless

13 the context otherwise requires, the following definitions

14 apply:

15 (1) "Commercial channels" means the sale of wheat or

16 barley for any use to any commercial buyer, dealer,

17 processor, or cooperative or to any person, public or

18 private, who resells any wheat or barley or product produced

19 from wheat or barley.

20 (2) "Committee" means the administrative committee

21 established in [section 3] and known as the gasohol

22 distillation committee.

23 (3) "First purchaser" means any person, public or

24 private, corporation, association, or partnership buying,

25 accepting for shipment, or otherwise acquiring wheat or

1 barley from a grower and includes a mortgagee, pledgee,
2 lienor, or other person, public or private, having a claim
3 against the grower when actual or constructive possession of
4 such wheat is taken as part payment or in satisfaction of
5 the mortgage, pledge, lien, or claim.

6 (4) "Grower" means any landowner personally engaged in
7 growing wheat or barley, a tenant of the landowner
8 personally engaged in growing wheat or barley, or both the
9 owner and the tenant jointly. The term includes a person,
10 partnership, association, corporation, cooperative, trust,
11 or sharecropper and any other business unit, device, or
12 arrangement.

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

15 Section 5. Duties of the committee. The committee
16 shall:

17 (1) advise and direct the chief executive officer of
18 the division of gasohol distillation;

19 (2) be responsible for the enforcement and application
20 of [this act];

21 (3) be responsible for conducting whatever basic
22 research and development and other programs may be necessary
23 for the division to accomplish the objectives herein stated;
24 and

25 (4) encourage and provide technical assistance for any

1 private enterprise attempting to produce gasohol or barley
2 syrup.

3 Section 6. Powers of the committee. The committee may:

4 (1) adopt rules necessary for the administration of
5 [this act];

6 (2) provide through the department of agriculture for
7 the enforcement of [this act];

8 (3) provide for the conduct of research into the
9 production, marketing, and uses of gasohol produced from
10 wheat and barley;

11 (4) enter into contracts or agreements with Montana
12 state university and other local, state, or national
13 organizations, public or private, for the purposes of
14 determining new uses for wheat and barley in relation to
15 gasohol and food production, developing improved gasohol
16 distillation technology, developing marketing knowledge, and
17 developing markets; and

18 (5) make grants to public or private organizations for
19 projects demonstrating the feasibility of gasohol
20 production, including the construction and operation of
21 distillation plants, provided the following conditions are
22 met:

23 (a) The division shall solicit and consider in its
24 evaluation of proposed projects the views of interested and
25 affected departments, agencies, or other subdivisions of

1 local, state, or federal government and of interested and
2 affected persons.

3 (b) The division shall submit those grant proposals
4 exceeding \$500,000 and meeting its approval to the
5 legislature by the 14th day of any legislative session.
6 Those grant proposals approved by the legislature shall be
7 administered by the division.

8 Section 7. Compensation -- per diem. Members of the
9 committee are entitled to be paid from the funds set up for
10 this purpose \$25 for each day they are engaged in the
11 transaction of official business, together with their travel
12 expenses as provided in 2-18-501 through 2-18-503.

13 Section 8. Removal of committee members. (1) Any
14 member of the committee may be removed by the governor for
15 malfeasance, misfeasance, or neglect of duty. No removal
16 proceedings may be prosecuted except upon duly verified
17 written charges. The member shall be given a copy of the
18 written charges against him at least 10 days in advance of
19 any hearing upon the charges, and the member shall be
20 accorded a full and fair public hearing before the governor
21 with right to counsel and to witnesses in his behalf.

22 (2) Any member of the committee ceasing to be a
23 resident of Montana or ceasing to live in the district from
24 which he was appointed is automatically disqualified from
25 continuing as a member by the happening of either event. If

1 the member refuses to recognize his disqualification, the
2 refusal constitutes cause for removal and his office as a
3 committee member becomes vacant.

4 Section 9. Committee organization -- meetings. At the
5 first meeting of the committee, it shall elect a chairperson
6 from among its members. The committee shall meet at least
7 once every 6 months and at such other times as called by the
8 chairperson or by any four members of the committee.

9 Section 10. Political activity prohibited. None of the
10 powers or duties provided for in [this act] permit
11 participation in state or federal political action.

12 Section 11. Office location -- staffing. The
13 department of agriculture shall upon recommendation of the
14 committee establish an administrative office in the state at
15 such place as may be suitable for the efficient
16 administration of [this act]. The expense of staffing and
17 maintaining the office is an expense of administration under
18 [this act].

19 Section 12. Assessment on wheat and barley --
20 collection. (1) There is levied an annual assessment of 2
21 cents per bushel on all wheat sold and 2 cents per
22 hundredweight on all barley sold in the state through
23 commercial channels. The assessment shall be collected:

24 (a) in the case of the sale of wheat or barley, at the
25 time of any sale of wheat or barley by the first purchaser

1 of the wheat or barley from the grower at the time of each
2 settlement for wheat or barley purchased; or

3 (b) in the case of a pledge or mortgage of wheat or
4 barley as security for a loan under any federal price
5 support program, by deducting the amount thereof from the
6 proceeds of such loan at the time the loan is made by the
7 agency or person making the loan.

8 (2) The assessment shall be deducted and collected
9 whether such wheat or barley is stored in this or any other
10 state. The assessment attaches to each transaction, but no
11 seller is subject to assessment more than once irrespective
12 of the number of times the wheat or barley is the subject of
13 a sale, pledge, mortgage, or other transaction, the
14 assessment being imposed and attaching on the initial sale,
15 pledge, mortgage, or other transaction in which the wheat or
16 barley seller parts with title to the wheat or barley or
17 creates some interest therein in a pledgee, mortgagee, or
18 other person.

19 Section 13. Assessment not applicable on sales to
20 federal government. The assessment does not apply to the
21 sale of wheat or barley to the federal government for
22 ultimate use or consumption by the people of the United
23 States when the state of Montana is prohibited from imposing
24 such tax by the constitution of the United States or valid
25 laws enacted pursuant thereto.

1 Section 14. Invoice -- report to department -- refund.
2 (1) The purchaser of the wheat or barley at the time of
3 settlement or the pledgee or mortgagee or other lender at
4 the time of making a loan or advance shall deliver separate
5 invoices for each purchase to the grower. The invoices shall
6 be on forms approved by the committee showing:

7 (a) the name and address of the grower and seller;
8 (b) the name and address of the purchaser or the
9 lender;

10 (c) the number of bushels of wheat and hundredweights
11 of barley sold, mortgaged, or pledged;

12 (d) the date of the purchase, mortgage, or pledge and
13 the amount of assessment collected and remitted to the
14 department of agriculture.

15 (2) The purchaser, mortgagee, or pledgee shall file
16 with the department, on forms prescribed by the department,
17 within 20 days after the end of a month in which he
18 purchases or makes a loan or advance on a grower's wheat or
19 barley, a sworn statement of the number of bushels of wheat
20 or hundredweights of barley purchased in Montana or the
21 number of bushels of wheat or hundredweights of barley
22 mortgaged or pledged or otherwise transferred as security
23 for a loan during the preceding calendar month. At the time
24 the sworn statement is filed, the purchaser or lender shall
25 pay to the department the assessment provided for in

1 [section 12] for deposit in the gasohol distillation
2 revolving account established in [section 18].

3 (3) The statement referred to in subsection (2) shall
4 be legibly written and shall be entirely free of any
5 corrections or erasures. A person may not alter any part of
6 the statement.

7 (4) After 30 days and before 90 days following the
8 deduction of the assessment by the first purchaser or the
9 first lender, the grower may, upon the submission of a
10 written, verified request to the department, obtain a refund
11 of the assessment. The request shall be accompanied by the
12 original invoices received by the grower at the time of
13 settlement. The department shall keep complete records of
14 all refunds made. Records of refunds may be destroyed 2
15 years after the refund is made. All original invoices shall
16 be returned to the grower with the refund payment.

17 Section 15. Annual report to governor and legislature.
18 The administrator of the division shall make an annual
19 report, no later than December 1 of each year, showing all
20 income to and expenses of the gasohol distillation division.
21 The report shall be filed with the governor and shall be
22 open to inspection by the public during office hours and may
23 be published by order of the division. A duplicate original
24 of each annual report made during any recess of the
25 legislature shall be transmitted by the commissioner of

1 agriculture directly to the president of the senate and to
2 the speaker of the house of representatives within 5 days
3 after the convening of each biennial session of the
4 legislature.

5 Section 16. Receipts of gifts and grants for research
6 purposes. The gasohol distillation division may receive any
7 gifts, grants, or donations for any research or scientific
8 inquiries conducted under [this act] and may use and expend
9 them in compliance with the conditions, if any, of such
10 grants, gifts, and donations, provided the conditions are
11 valid under the laws of the state and promote the purposes
12 of [this act].

13 Section 17. Bond required of employees. The
14 administrator of the gasohol distillation division and any
15 deputy or assistant participating in the handling of
16 assessment receipts or other receipts for the division shall
17 each be bonded in the amount of \$25,000 for the faithful and
18 safe handling and accounting for the receipts while in his
19 hands and for faithful compliance with the provisions of
20 [this act].

21 Section 18. Revolving account. (1) There is
22 established an account in the revolving fund to be known as
23 the gasohol distillation revolving account. There shall be
24 placed in the account:

25 (a) the proceeds of all assessments made, paid, and

1 collected under [this act]; and

2 (b) the proceeds from all gifts, grants, or donations
3 to the division.

4 (2) The account shall be maintained for the use of the
5 gasohol distillation division and shall be separate and
6 apart from all other accounts of the department.

7 (3) There shall be transferred to the general fund 1%
8 of all the money collected.

9 (4) There shall be paid out of this account any claims
10 for expenditures under [this act] approved by the
11 commissioner of agriculture and the department of
12 administration.

13 Section 19. Penalty. Any person violating any
14 provision of [this act] is guilty of a misdemeanor and upon
15 conviction shall be fined \$100.

16 Section 20. Severability. If a part of this act is
17 invalid, all valid parts that are severable from the invalid
18 part remain in effect. If a part of this act is invalid in
19 one or more of its applications, the part remains in effect
20 in all valid applications that are severable from the
21 invalid applications.

22 Section 21. Effective period. This act is effective on
23 passage and approval for a period of 7 years. If this act is
24 not renewed through legislative action to extend beyond 7
25 years, any money remaining that has been collected under

1 this act shall revert to Montana state university to be used
2 exclusively for wheat and barley marketing research.

-End-

SB 274

FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, 1979, there is hereby submitted a Fiscal Note for Senate Bill 279 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:

SB 279 establishes a commission to ascertain feasibility and means to convert wheat and barley into gas and alcohol. It designates the Department of Agriculture to administer the act.

ASSUMPTIONS:

1. The act would be effective April 1, 1979, for a period of 7 years.
2. The staff would include a chief executive officer, enforcement officer, market analyst, grant developer, technician, secretary and general office clerk.
3. The committee of nine members will be selected from districts as outlined in the bill. The Director of Agriculture will act as an ex-officio member of committee.
4. Approved grant proposals exceeding \$500,000 must be submitted to the legislature by the 14th day of any session for legislature approval.
5. The division of gasohol distillation will be a division of the Department of Agriculture and will establish an administrative office upon recommendation of the committee. The Director of Agriculture will be responsible for approving expenditure claims.
6. One percent of all money collected will be transferred to the General Fund.
7. The grower may obtain a refund of assessment.

FISCAL IMPACT:

Additional revenue due to proposed legislation:

	<u>FY 1980</u>	<u>FY 1981</u>	<u>Total</u>
2¢ assessment a bushel on all wheat sold	\$2,987,300	\$2,987,300	\$5,974,600
2¢ assessment per hundredweight on all barley sold	304,860	304,860	609,720
	<u>3,292,160</u>	<u>3,292,160</u>	<u>6,584,320</u>
Less: Refunds	164,608	164,608	329,216
Additional net revenue	<u>3,127,552</u>	<u>3,127,552</u>	<u>6,255,104</u>

Less: Expenditures under proposed legislation

Personal Services	111,426	112,005	223,431
Operating Expenses	84,181	100,950	185,131
Capital Outlay	7,950	500	8,450
Grants	500,000	4,000,000	4,500,000
Total expenditures	<u>703,557</u>	<u>4,213,455</u>	<u>4,917,012</u>
Net fiscal impact of proposed legislation	<u>\$2,423,995</u>	<u>\$(1,085,903)</u>	<u>\$1,338,092</u>

Richard L. Franey for
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 2/5/79

Page 2

FUNDING INFORMATION:

	<u>1981 Biennium</u>
General Fund	\$ 65,844
Revolving Fund	<u>1,272,248</u>
Receipts in excess of expenditures under proposed legislation	<u>\$1,338,092</u>