

HOUSE BILL NO. 467

INTRODUCED BY SIVERTSEN, ROTH, SEIFERT, JACOBSEN,
KOLSTAD, LEE, BARDANOUE, ROBBINS, MANUEL,
IVERSON, ROUSH, ZABROCKI, HAMMOND, ETCHART

IN THE HOUSE

January 24, 1981	Introduced and referred to Committee on Agriculture.
January 28, 1981	Fiscal note requested.
February 2, 1981	Fiscal note returned.
February 12, 1981	Committee recommend bill do pass as amended. Report adopted.
February 13, 1981	On motion rereferred to Committee on Agriculture.
February 14, 1981	Bill printed and placed on members' desks.
February 18, 1981	Statement of intent attached.
February 19, 1981	Bill printed and placed on members' desks.
February 25, 1981	Second reading, do pass. On motion rules suspended and bill placed on third reading this day. Third reading, passed. Ayes, 93; Noes, 4. Transmitted to Senate.

IN THE SENATE

March 3, 1981	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
March 19, 1981	Committee recommend bill be concurred in as amended. Report adopted.

March 21, 1981

Second reading, concurred in.

March 24, 1981

Third reading, concurred in
as amended. Ayes, 39; Noes, 10.

IN THE HOUSE

March 25, 1981

Returned from Senate with
amendments.

April 8, 1981

Second reading, amendments
concurred in.

April 9, 1981

Third reading, amendments
concurred in. Ayes, 93;
Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 *HOUSE* BILL NO. *467*
 2 INTRODUCED BY *Simta Roth* *Lee* *Barlow* *Roberts* *Hammond* *Stewart*
 3 *Lee* *Barlow* *Roberts* *Hammond* *Stewart*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A MONTANA

5 ALFALFA SEED COMMISSION TO RESEARCH AND ADVERTISE THE
 6 STATE'S ALFALFA SEED INDUSTRY; ESTABLISHING ITS FUNCTIONS
 7 AND METHODS OF OPERATION; AND LEVYING AN ASSESSMENT ON
 8 ALFALFA SEED PRODUCERS."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Montana alfalfa seed commission --
 12 composition -- allocation. (1) There is a Montana alfalfa
 13 seed commission composed of seven members appointed by the
 14 director of agriculture.

15 (2) Each of the appointed members shall be a citizen
 16 of Montana actively engaged in the growing of alfalfa seed
 17 within the state or deriving a substantial portion of his
 18 income from handling, packing, shipping, buying, or selling
 19 alfalfa seed or acting as a broker or factor of alfalfa
 20 seed. These qualifications of members must continue during
 21 their terms of office.

22 (3) A list of nominees for appointment may be
 23 submitted to the director by the Montana alfalfa seed
 24 council, the Montana seed trade association, the Montana
 25 seed association, and any other organization representing

1 alfalfa seed growers or dealers. Names of nominees shall be
 2 submitted at least 91 days before the expiration of a
 3 commission member's term. The director shall appoint members
 4 from among the persons nominated.

5 (4) The appointed members shall serve staggered terms
 6 of 3 years. The initial appointments shall be as follows:
 7 two members for 1-year terms, two members for 2-year terms,
 8 and three members for 3-year terms.

9 (5) The commission is allocated to the department of
 10 agriculture for administrative purposes only as prescribed
 11 in 2-15-121.

12 Section 2. Short title. [Sections 2 through 14] may be
 13 cited as the "Alfalfa Seed Industry Act".

14 Section 3. Findings -- purpose. (1) The legislature
 15 finds that:

16 (a) it is in the best interest of all the people of
 17 Montana that the abundant natural resources of the state be
 18 protected, fully developed, and uniformly distributed;

19 (b) economic waste threatens the alfalfa seed industry
 20 in Montana because of lack of proper advertising and
 21 dissemination of information necessary for the development
 22 and promotion of alfalfa seed grown in the state and because
 23 of lack of facilities and funds for research to:

24 (i) develop and improve control measures for diseases
 25 and pests which attack alfalfa seed pollinators;

1 (ii) improve alfalfa seed growing culture; and
 2 (iii) disseminate information to the growers; and
 3 (c) it is in the interest of the people and general
 4 welfare of the state that this avoidable economic waste be
 5 eliminated by the growers having at their disposal all
 6 available information on the best and most advanced methods
 7 of culture, growing, harvesting, and marketing of alfalfa
 8 seed.

9 (2) The purpose of [sections 2 through 14] is to
 10 promote the general welfare of the people of the state by
 11 improving the culture and production of and expanding the
 12 market for alfalfa seed grown in the state.

13 Section 4. Definitions. As used in [sections 2 through
 14 14] the following definitions apply:

15 (1) "Commission" means the Montana alfalfa seed
 16 commission established in [section 1].

17 (2) "Dealer" means any person, partnership,
 18 association, corporation, cooperative, or other business
 19 unit or device that first handles, packs, ships, buys, and
 20 sells alfalfa seed or that acts as sales or purchasing
 21 agent, broker, or factor of alfalfa seed.

22 (3) "Grower" means any landowner personally engaged in
 23 growing alfalfa seed, a tenant personally engaged in growing
 24 alfalfa seed, or both the owner and the tenant jointly, and
 25 includes a person, partnership, association, corporation,

1 cooperative organization, trust, sharecropper, or any and
 2 all other business units, devices, and arrangements that
 3 grow alfalfa seed or are engaged in the pollination of
 4 alfalfa seed.

5 (4) "Handled in the primary channels of trade" means
 6 the time when any alfalfa seed is delivered under a sales
 7 contract, sold, or delivered for shipment and sale.

8 Section 5. Powers of the commission. The commission
 9 may:

10 (1) administer and enforce [sections 2 through 14];

11 (2) enter into contracts in the name of the
 12 commission;

13 (3) employ and at pleasure discharge a research
 14 director, research staff, a secretary, advertising manager,
 15 advertising agents, agents, attorneys, and such clerical and
 16 other help as it considers necessary and control their
 17 powers and duties and fix their compensation;

18 (4) keep books, records, and accounts of all its
 19 dealings, which books, records, and accounts shall be open
 20 to inspection and audit by the state auditor at all times;

21 (5) purchase or authorize the purchase of all office
 22 equipment or supplies and incur all other reasonable and
 23 necessary expenses and obligations required for the proper
 24 carrying out of the provisions of [sections 2 through 14];

25 (6) become a member of and purchase membership in

1 trade organizations and subscribe to and purchase trade
2 bulletins, journals, and other trade publications;

3 (7) plan and conduct a research program to improve the
4 quality of alfalfa seed, develop and improve control
5 measures for disease and pests which attack alfalfa and
6 alfalfa seed pollinators, improve alfalfa growing culture,
7 disseminate such information among the growers and dealers
8 of the state, and make such research contracts and other
9 agreements as may be necessary;

10 (8) plan and conduct a publicity and sales promotion
11 campaign to increase the sale and use of Montana alfalfa
12 seed and make such publicity and sales promotion contracts
13 and other agreements as may be necessary;

14 (9) establish and maintain the executive offices of
15 the commission at any place within the state, which
16 designated place may be changed at the discretion of the
17 commission;

18 (10) adopt and from time to time alter, rescind,
19 modify, or amend all proper and necessary rules and orders
20 for the exercise of its power and the performance of its
21 duties, in accordance with the Montana Administrative
22 Procedure Act;

23 (11) cooperate with any local, state, or national
24 organization or agency, whether voluntary or created by the
25 law of any state or the United States government, engaged in

1 work or activities similar to the work and activities of the
2 commission and enter into contracts or agreements with such
3 organizations or agencies for carrying on a joint campaign
4 of research, education, product protection, publicity, and
5 reciprocal enforcement of these objectives;

6 (12) investigate violations of [sections 2 through 14];

7 (13) protect brands, marks, packages, brand names or
8 trademarks being promoted by the commission; and

9 (14) accept grants, donations, and gifts from any
10 source for expenditure for any purpose consistent with
11 [sections 2 through 14], which may be specified as a
12 condition of any grant, donation, or gift.

13 Section 6. Compensation -- per diem. Each commission
14 member is entitled to \$25 compensation for each day he is
15 engaged in the transaction of official business, together
16 with actual and necessary travel expenses, as provided for
17 in 2-18-501 through 2-18-503.

18 Section 7. Liability of state. The state of Montana is
19 not liable for the acts or omissions of the commission or
20 any member, officer, agent, or employee thereof.

21 Section 8. Assessment on alfalfa seed. (1) There is
22 hereby levied upon all alfalfa seed grown in this state and
23 sold through commercial channels an assessment of 1/2 of 1%
24 of the grower's price received at the point of first sale.

25 (2) If it appears from an investigation that the

1 revenue from the assessment levied under subsection (1) is
 2 inadequate to accomplish the purposes of [sections 2 through
 3 14], the commission shall file with the director of
 4 agriculture a report showing the necessity of the industry,
 5 extent of public convenience, interest, and necessity, and
 6 probable revenue from the additional assessment desired to
 7 be levied. The director of agriculture may thereupon
 8 increase the assessment to a sum not to exceed 1% of the
 9 grower's price received at the point of first sale. No
 10 increase may be made prior to filing of the report and
 11 recommendation by the commission.

12 Section 9. Payment of assessment. All assessments
 13 levied and imposed under [section 8] must be paid to the
 14 commission by the person, either grower or dealer, by whom
 15 the alfalfa seed is first handled in the primary channels of
 16 trade and must be paid at such times as the commission may
 17 by rule prescribe, but not later than 60 days from the date
 18 on which the grower received payment for the alfalfa seed.
 19 If the party first handling the alfalfa seed in the primary
 20 channels of trade is a person other than the grower, he may
 21 charge against or recover from the grower of such alfalfa
 22 seed the full amount of any assessment levied and imposed
 23 under [section 8].

24 Section 10. Refund of assessment. Any person who has
 25 paid assessments to the commission may require the

1 commission to refund all or any portion of the assessment
 2 levied under the rules of the commission and paid by the
 3 producer. All such requests must be in writing, filed not
 4 later than August 1 of each calendar year, and must be on
 5 forms to be available without cost to all producers who pay
 6 assessments.

7 Section 11. Deposit and disbursement of funds --
 8 records -- bond requirements. (1) As soon as possible after
 9 receipt, all money received by the commission from the
 10 assessment levied under [section 8] and all other money
 11 received by the commission shall be deposited in one or more
 12 separate accounts in the name of the commission in one or
 13 more banks or trust companies. The commission shall
 14 designate such accounts at such banks or trust companies.

15 (2) No money may be withdrawn or paid out of such
 16 accounts except upon order of the commission and upon checks
 17 or other orders upon such accounts signed by a member of the
 18 commission whom the commission shall designate, and
 19 countersigned by such other member, officer, or employee of
 20 the commission whom the commission designates. A receipt,
 21 voucher, or other written record, showing clearly the nature
 22 and items covered by each check or other order, must be
 23 kept.

24 (3) All money referred to in subsection (1) of this
 25 section may be used by the commission only for the payment

1 of expenses of the commission in carrying out the powers
2 conferred on the commission.

3 (4) The commission may require any commission member
4 or agent or employee appointed by the commission to give a
5 bond payable to the commission in the amount and with the
6 security and containing the terms and conditions the
7 commission may prescribe. The cost of such bond is an
8 administrative cost under [sections 2 through 14].

9 Section 12. Records required. Every dealer shall
10 maintain accurate records of all alfalfa seed handled,
11 packed, shipped, or processed by him. The records shall be
12 in such form and contain such information as the commission
13 may by rule prescribe, shall be preserved for a period of 2
14 years, and are subject to inspection at any time upon
15 request of the commission or its agents.

16 Section 13. Penalty for nonpayment. Any grower or
17 dealer who fails to make collection or pay any assessment
18 within the time required pursuant to [sections 2 through 14]
19 is subject to a penalty of 5% of the amount of the
20 assessment determined to be due, as provided in [sections 2
21 through 14], plus 1% of such amount for each month of delay
22 or fraction thereof after the expiration of the month after
23 such assessment became due. The commission, if satisfied
24 that the delay was excusable, may remit all or any part of
25 such penalty. The penalty must be paid to the commission and

1 disposed of as provided in [section 11].

2 Section 14. Penalty. In addition to the penalty
3 specified in [section 13] any person who violates or aids in
4 a violation of any of the provisions of [sections 2 through
5 14] or any of the rules or orders of the commission adopted
6 under [sections 2 through 14], upon conviction thereof, is
7 punishable by a fine not to exceed \$500 or by imprisonment
8 not to exceed 90 days, or both. All fines collected shall be
9 deposited as provided in [section 11].

10 Section 15. Severability. If a part of this act is
11 invalid, all valid parts that are severable from the invalid
12 part remain in effect. If a part of this act is invalid in
13 one or more of its applications, the part remains in effect
14 in all valid applications that are severable from the
15 invalid applications.

16 Section 16. Codification instruction. (1) Section 1 is
17 intended to be codified in Title 2, chapter 15, part 30.

18 (2) Sections 2 through 14 are intended to be codified
19 as Title 80, chapter 11, part 3.

-End-

STATE OF MONTANA

REQUEST NO. 237-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 28, 19 81, there is hereby submitted a Fiscal Note for HB 467 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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:

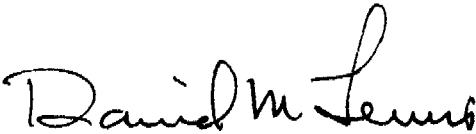
HB 467 is an act to create a Montana Alfalfa Seed Commission to research and advertise Montana's alfalfa seed industry.

Assumptions:

1. Committee responsible for complete administration and implementation of the act.
2. All costs associated with the passage of this act would be paid out of the assessments provided for under Section 8 of the bill.

Fiscal Impact:

None.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-2-81

Approved by Committee
on Agriculture Livestock
& Irrigation

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A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A MONTANA
ALFALFA SEED COMMISSION COMMITTEE TO RESEARCH AND ADVERTISE
THE STATE'S ALFALFA SEED INDUSTRY; ESTABLISHING ITS
FUNCTIONS AND METHODS OF OPERATION; AND LEVYING AN
ASSESSMENT ON ALFALFA SEED PRODUCERS; AND APPROPRIATING ITS
PROCEEDS TO THE COMMITTEE."

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

Section 1. Montana alfalfa seed commission COMMITTEE
--composition -- allocation. (1) There is a Montana alfalfa
seed commission COMMITTEE composed of seven members
appointed by the director of agriculture.

(2) Each of the appointed members shall be a citizen
of Montana actively engaged in the growing of alfalfa seed
within the state or deriving a substantial portion of his
income from handling, packing, shipping, buying, or selling
alfalfa seed or acting as a broker or factor of alfalfa
seed. These qualifications of members must continue during
their terms of office.

(3) A list of nominees for appointment may be

submitted to the director by the Montana alfalfa seed
council, the Montana seed trade association, the Montana
seed association, and any other organization representing
alfalfa seed growers or dealers. Names of nominees shall be
submitted at least 91 days before the expiration of a
commission COMMITTEE member's term. The director shall
appoint members from among the persons nominated.

(4) The appointed members shall serve staggered terms
of 3 years. The initial appointments shall be as follows:
two members for 1-year terms, two members for 2-year terms,
and three members for 3-year terms.

(5) The commission COMMITTEE is allocated to the
department of agriculture for administrative purposes only
as prescribed in 2-15-121.

Section 2. Short title. [Sections 2 through 14] may be
cited as the "Alfalfa Seed Industry Act".

Section 3. Findings -- purpose. (1) The legislature
finds that:

(a) it is in the best interest of all the people of
Montana that the abundant natural resources of the state be
protected, fully developed, and uniformly distributed;

(b) economic waste threatens the alfalfa seed industry
in Montana because of lack of proper advertising and
dissemination of information necessary for the development
and promotion of alfalfa seed grown in the state and because

1 of lack of facilities and funds for research to:

2 (i) develop and improve control measures for diseases

3 and pests which attack alfalfa seed pollinators;

4 (ii) improve alfalfa seed growing culture; and

5 (iii) disseminate information to the growers; and

6 (c) it is in the interest of the people and general

7 welfare of the state that this avoidable economic waste be

8 eliminated by the growers having at their disposal all

9 available information on the best and most advanced methods

10 of culture, growing, harvesting, and marketing of alfalfa

11 seed.

12 (2) The purpose of [sections 2 through 14] is to

13 promote the general welfare of the people of the state by

14 improving the culture and production of and expanding the

15 market for alfalfa seed grown in the state.

16 Section 4. Definitions. As used in [sections 2 through

17 14] the following definitions apply:

18 (1) "Commission COMMITTEE" means the Montana alfalfa

19 seed commission COMMITTEE established in [section 1].

20 (2) "Dealer" means any person, partnership,

21 association, corporation, cooperative, or other business

22 unit or device that first handles, packs, ships, buys, and

23 sells alfalfa seed or that acts as sales or purchasing

24 agent, broker, or factor of alfalfa seed.

25 (3) "Grower" means any landowner personally engaged in

1 growing alfalfa seed, a tenant personally engaged in growing

2 alfalfa seed, or both the owner and the tenant jointly, and

3 includes a person, partnership, association, corporation,

4 cooperative organization, trust, sharecropper, or any and

5 all other business units, devices, and arrangements that

6 grow alfalfa seed or are engaged in the pollination of

7 alfalfa seed.

8 (4) "Handled in the primary channels of trade" means

9 the time when any alfalfa seed is delivered under a sales

10 contract, sold, or delivered for shipment and sale.

11 Section 5. Powers of the commission COMMITTEE. The

12 commission COMMITTEE may:

13 (1) administer and enforce [sections 2 through 14];

14 (2) enter into contracts in the name of the commission

15 COMMITTEE;

16 ~~(3) employ and at pleasure discharge a research~~

17 ~~director, research staff, a secretary, advertising manager,~~

18 ~~advertising agents, attorneys, and such clerical and~~

19 ~~other help as it considers necessary and control their~~

20 ~~powers and duties and fix their compensation;~~

21 ~~(4) keep books, records, and accounts of all its~~

22 ~~dealings, which books, records, and accounts shall be open~~

23 ~~to inspection and audit by the state auditor at all times;~~

24 ~~(5) (3) purchase or authorize the purchase of all~~

25 office equipment or supplies and incur all other reasonable

1 and necessary expenses and obligations required for the
2 proper carrying out of the provisions of [sections 2 through
3 14];

4 ~~(6)~~(4) become a member of and purchase membership in
5 trade organizations and subscribe to and purchase trade
6 bulletins, journals, and other trade publications;

7 ~~(7)~~(5) plan and conduct a research program to improve
8 the quality of alfalfa seed, develop and improve control
9 measures for disease and pests which attack alfalfa and
10 alfalfa seed pollinators, improve alfalfa growing culture,
11 disseminate such information among the growers and dealers
12 of the state, and make such research contracts and other
13 agreements as may be necessary;

14 ~~(8)~~(6) plan and conduct a publicity and sales
15 promotion campaign to increase the sale and use of Montana
16 alfalfa seed and make such publicity and sales promotion
17 contracts and other agreements as may be necessary;

18 ~~(9)~~(7) IN COOPERATION WITH THE DIRECTOR OF
19 AGRICULTURE, establish and maintain the executive offices of
20 the commission COMMITTEE at any place within the state,
21 which designated place may be changed at the discretion of
22 the commission DIRECTOR AND THE COMMITTEE;

23 ~~(10)~~(8) ~~adopt-and-from-time-to-time--alter--rescind~~
24 ~~modify--or--amend--all-proper-and-necessary~~ RECOMMEND rules
25 and orders TO BE ADOPTED for the exercise of its power and

1 the performance of its duties, in accordance with the
2 Montana Administrative Procedure Act;

3 ~~(11)~~(9) cooperate with any local, state, or national
4 organization or agency, whether voluntary or created by the
5 law of any state or the United States government, engaged in
6 work or activities similar to the work and activities of the
7 commission COMMITTEE and enter into contracts or agreements
8 with such organizations or agencies for carrying on a joint
9 campaign of research, education, product protection,
10 publicity, and reciprocal enforcement of these objectives;

11 AND

12 ~~(12)-investigate-violations-of-[sections-2-through-14]-~~
13 ~~(13)-protect-brands,-marks,-packages--brand--names--or~~
14 ~~trademarks-being-promoted-by-the-commission--and~~

15 ~~(14)~~(10) accept grants, donations, and gifts from any
16 source for expenditure for any purpose consistent with
17 [sections 2 through 14], which may be specified as a
18 condition of any grant, donation, or gift.

19 Section 6. Compensation -- per diem. Each commission
20 COMMITTEE member is entitled to \$25 compensation for each
21 day he is engaged in the transaction of official business,
22 together with actual and necessary travel expenses, as
23 provided for in 2-18-501 through 2-18-503.

24 Section 7. Liability of state. The state of Montana is
25 not liable for the acts or omissions of the commission

1 COMMITTEE or any member, officer, agent, or employee
2 thereof.

3 Section 8. Assessment on alfalfa seed. (1) There is
4 hereby levied upon all alfalfa seed grown in this state and
5 sold through commercial channels an assessment of 1/2 of 1%
6 of the grower's price received at the point of first sale.

7 (2) If it appears from an investigation that the
8 revenue from the assessment levied under subsection (1) is
9 inadequate to accomplish the purposes of [sections 2 through
10 14], the commission COMMITTEE shall file with the director
11 of agriculture a report showing the necessity of the
12 industry, extent of public convenience, interest, and
13 necessity, and probable revenue from the additional
14 assessment desired to be levied. The director of agriculture
15 may thereupon increase the assessment to a sum not to exceed
16 1% of the grower's price received at the point of first
17 sale. No increase may be made prior to filing of the report
18 and recommendation by the commission COMMITTEE.

19 Section 9. Payment of assessment. All assessments
20 levied and imposed under [section 8] must be paid to the
21 commission DEPARTMENT OF AGRICULTURE by the person, either
22 grower or dealer, by whom the alfalfa seed is first handled
23 in the primary channels of trade and must be paid at such
24 times as the commission DEPARTMENT may by rule prescribe,
25 but not later than 60 days from the date on which the grower

1 received payment for the alfalfa seed. If the party first
2 handling the alfalfa seed in the primary channels of trade
3 is a person other than the grower, he may charge against or
4 recover from the grower of such alfalfa seed the full amount
5 of any assessment levied and imposed under [section 8].

6 Section 10. Refund of assessment. Any person who has
7 paid assessments to the commission DEPARTMENT may require
8 REQUEST the commission DEPARTMENT to refund all or any
9 portion of the assessment levied under the rules of the
10 commission DEPARTMENT and paid by the producer. All such
11 requests must be in writing, filed not later than August 1
12 of each calendar year, and must be on forms to be available
13 without cost to all producers who pay assessments.

14 Section 11. Deposit and disbursement of funds --
15 records -- ~~bond--requirements~~ INVESTMENT. (1) As soon as
16 possible after receipt, all money received by the commission
17 DEPARTMENT from the assessment levied under [section 8] and
18 all other money received by ~~the--commission~~ shall be
19 deposited in ~~one-or-more~~ THE FEDERAL AND PRIVATE REVENUE
20 FUND, ~~separate-accounts-in-the-name-of-the-commission-in-one~~
21 ~~or--more--banks--or--trust-companies--The-commission-shall~~
22 ~~designate-such-accounts-at-such-banks-or-trust-companies~~

23 (2) ~~No-money-may-be-withdrawn--or--paid--out--of--such~~
24 ~~accounts-except-upon-order-of-the-commission-and-upon-checks~~
25 ~~or-other-orders-upon-such-accounts-signed-by-a-member-of-the~~

1 ~~commission--whom--the--commission--shall--designate,--and~~
 2 ~~countersigned--by--such--other--members--officers--or--employee--of~~
 3 ~~the--commission--whom--the--commission--designates,--A--receipt,~~
 4 ~~vouchery--or--other--written--records--showing--clearly--the--nature~~
 5 ~~and--items--covered--by--each--check--or--other--orders--must--be~~
 6 ~~kept.~~

7 ~~{3}{2}~~ All money referred to in subsection (1) of this
 8 section may be used by the commission only for the payment
 9 of expenses of the commission INCURRED in carrying out the
 10 powers conferred on the commission; PROVISIONS OF [SECTIONS
 11 2 THROUGH 14]. THE COMMITTEE MAY BE ASSESSED COSTS BY THE
 12 DEPARTMENT FOR THE SERVICES IT PROVIDES UPON REQUEST OR
 13 PURSUANT TO 2-15-121; HOWEVER, THE COSTS CHARGED MUST HAVE A
 14 SUBSTANTIAL RELATIONSHIP TO THE COST OF SERVICES SUPPLIED.

15 ~~{4}--The--commission--may--require--any--commission--member~~
 16 ~~or--agent--or--employee--appointed--by--the--commission--to--give--a~~
 17 ~~bond--payable--to--the--commission--in--the--amount--and--with--the~~
 18 ~~security--and--containing--the--terms--and--conditions--the~~
 19 ~~commission--may--prescribe. The cost of such bond is an~~
 20 ~~administrative cost under [sections 2 through 14].~~

21 {3} MONEY RECEIVED UNDER [SECTIONS 11, 13, AND 14] NOT
 22 IMMEDIATELY REQUIRED FOR THE PURPOSES OF [SECTIONS 2 THROUGH
 23 14] MUST BE INVESTED UNDER PROVISIONS OF THE UNIFIED
 24 INVESTMENT PROGRAM ESTABLISHED IN TITLE 17, CHAPTER 6, PART
 25 2.

1 {4} MONEY RECEIVED UNDER [SECTIONS 11, 13, AND 14] IS
 2 APPROPRIATED TO THE COMMITTEE FOR THE PURPOSES OF [SECTIONS
 3 2 THROUGH 14].

4 Section 12. Records required. Every dealer shall
 5 maintain accurate records of all alfalfa seed handled,
 6 packed, shipped, or processed by him. The records shall be
 7 in such form and contain such information as the commission
 8 DEPARTMENT may by rule prescribe, shall be preserved for a
 9 period of 2 years, and are subject to inspection at any time
 10 upon request of the commission DEPARTMENT or its agents.

11 Section 13. Penalty for nonpayment. Any grower or
 12 dealer who fails to make collection or pay any assessment
 13 within the time required pursuant to [sections 2 through 14]
 14 is subject to a penalty of 5% of the amount of the
 15 assessment determined to be due, as provided in [sections 2
 16 through 14], plus 1% of such amount for each month of delay
 17 or fraction thereof after the expiration of the month after
 18 such assessment became due. ~~The commission, if satisfied~~
 19 ~~that the delay was excusable, may remit all or any part of~~
 20 ~~such penalty.~~ The penalty must be paid to the commission
 21 DEPARTMENT and disposed of as provided in [section 11].

22 Section 14. Penalty. In addition to the penalty
 23 specified in [section 13] any person who violates or aids in
 24 a violation of any of the provisions of [sections 2 through
 25 14] or any of the rules or orders of the commission

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1 DEPARTMENT adopted under [sections 2 through 14], upon
2 conviction thereof, is punishable by a fine not to exceed
3 \$500 ~~or by imprisonment not to exceed 90 days, or both~~. All
4 fines collected shall be deposited as provided in [section
5 11].

6 Section 15. Severability. If a part of this act is
7 invalid, all valid parts that are severable from the invalid
8 part remain in effect. If a part of this act is invalid in
9 one or more of its applications, the part remains in effect
10 in all valid applications that are severable from the
11 invalid applications.

12 Section 16. Codification instruction. (1) Section 1 is
13 intended to be codified in Title 2, chapter 15, part 30.

14 (2) Sections 2 through 14 are intended to be codified
15 as Title 80, chapter 11, part 3.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 467

3 House Agriculture Committee

4

5 A statement of intent is required for House Bill 467
6 because it delegates rulemaking authority to the Director of
7 Agriculture in sections 9, 10, and 12.

8 Section 9 says that the assessment on alfalfa seed must
9 be paid at times the department would prescribe by rule. The
10 rules should allow for administrative convenience for both
11 the department and the growers. Section 10 allows the
12 department to adopt rules relating to procedures for
13 requesting a refund of an assessment under the act. Section
14 12 grants authority for the department to prescribe records
15 that must be kept by alfalfa dealers as an aid in enforcing
16 the provisions of the act. All such rules should be as
17 simple and easily complied with as possible.

18 In that the purposes and structure of the Alfalfa Seed
19 Industry Act are to a great degree analogous to the purposes
20 and structure of the wheat research and marketing law, it is
21 the intent of the Legislature that rules adopted should be
22 similar in nature to those adopted under the wheat research
23 and marketing law.

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20 and structure of the wheat research and marketing law, it is
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1 HOUSE BILL NO. 467

2 INTRODUCED BY SIVERTSEN, ROTH, SEIFERT, JACOBSEN,

3 KOLSTAD, LEE, BARDANOUVE, ROBBINS, MANUEL,

4 IVERSON, ROUSH, ZABROCKI, HAMMOND, ETCHART

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A MONTANA
7 ALFALFA SEED COMMISSION COMMITTEE TO RESEARCH AND ADVERTISE
8 THE STATE'S ALFALFA SEED INDUSTRY; ESTABLISHING ITS
9 FUNCTIONS AND METHODS OF OPERATION; AND LEVYING AN
10 ASSESSMENT ON ALFALFA SEED PRODUCERS; AND APPROPRIATING ITS
11 PROCEEDS TO THE COMMITTEE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Montana alfalfa seed commission COMMITTEE
15 --composition -- allocation. (1) There is a Montana alfalfa
16 seed commission COMMITTEE composed of seven members
17 appointed by the director of agriculture.

18 (2) Each of the appointed members shall be a citizen
19 of Montana actively engaged in the growing of alfalfa seed
20 within the state or deriving a substantial portion of his
21 income from handling, packing, shipping, buying, or selling
22 alfalfa seed or acting as a broker or factor of alfalfa
23 seed. These qualifications of members must continue during
24 their terms of office.

25 (3) A list of nominees for appointment may be

1 submitted to the director by the Montana alfalfa seed
2 council, the Montana seed trade association, the Montana
3 seed association, and any other organization representing
4 alfalfa seed growers or dealers. Names of nominees shall be
5 submitted at least 91 days before the expiration of a
6 commission COMMITTEE member's term. The director shall
7 appoint members from among the persons nominated.

8 (4) The appointed members shall serve staggered terms
9 of 3 years. The initial appointments shall be as follows:
10 two members for 1-year terms, two members for 2-year terms,
11 and three members for 3-year terms.

12 (5) The commission COMMITTEE is allocated to the
13 department of agriculture for administrative purposes only
14 as prescribed in 2-15-121.

15 Section 2. Short title. [Sections 2 through 14] may be
16 cited as the "Alfalfa Seed Industry Act".

17 Section 3. Findings -- purpose. (1) The legislature
18 finds that:

19 (a) it is in the best interest of all the people of
20 Montana that the abundant natural resources of the state be
21 protected, fully developed, and uniformly distributed;

22 (b) economic waste threatens the alfalfa seed industry
23 in Montana because of lack of proper advertising and
24 dissemination of information necessary for the development
25 and promotion of alfalfa seed grown in the state and because

1 of lack of facilities and funds for research to:

2 (i) develop and improve control measures for diseases

3 and pests which attack alfalfa seed pollinators;

4 (ii) improve alfalfa seed growing culture; and

5 (iii) disseminate information to the growers; and

6 (c) it is in the interest of the people and general

7 welfare of the state that this avoidable economic waste be

8 eliminated by the growers having at their disposal all

9 available information on the best and most advanced methods

10 of culture, growing, harvesting, and marketing of alfalfa

11 seed.

12 (2) The purpose of [sections 2 through 14] is to

13 promote the general welfare of the people of the state by

14 improving the culture and production of and expanding the

15 market for alfalfa seed grown in the state.

16 Section 4. Definitions. As used in [sections 2 through

17 14] the following definitions apply:

18 (1) "Commission COMMITTEE" means the Montana alfalfa

19 seed commission COMMITTEE established in [section 1].

20 (2) "Dealer" means any person, partnership,

21 association, corporation, cooperative, or other business

22 unit or device that first handles, packs, ships, buys, and

23 sells alfalfa seed or that acts as sales or purchasing

24 agent, broker, or factor of alfalfa seed.

25 (3) "Grower" means any landowner personally engaged in

1 growing alfalfa seed, a tenant personally engaged in growing

2 alfalfa seed, or both the owner and the tenant jointly, and

3 includes a person, partnership, association, corporation,

4 cooperative organization, trust, sharecropper, or any and

5 all other business units, devices, and arrangements that

6 grow alfalfa seed or are engaged in the pollination of

7 alfalfa seed.

8 (4) "Handled in the primary channels of trade" means

9 the time when any alfalfa seed is delivered under a sales

10 contract, sold, or delivered for shipment and sale.

11 Section 5. Powers of the commission COMMITTEE. The

12 commission COMMITTEE may:

13 (1) administer and enforce [sections 2 through 14];

14 (2) enter into contracts in the name of the commission

15 COMMITTEE;

16 ~~(3) employ and at pleasure discharge a research~~

17 ~~director, research staff, a secretary, advertising manager,~~

18 ~~advertising agents, agents, attorneys, and such clerical and~~

19 ~~other help as it considers necessary and control their~~

20 ~~powers and duties and fix their compensation;~~

21 ~~(4) keep books, records, and accounts of all its~~

22 ~~dealings, which books, records, and accounts shall be open~~

23 ~~to inspection and audit by the state auditor at all times;~~

24 ~~(5) (3) purchase or authorize the purchase of all~~

25 office equipment or supplies and incur all other reasonable

1 and necessary expenses and obligations required for the
2 proper carrying out of the provisions of [sections 2 through
3 14];

4 ~~(6)(4)~~ become a member of and purchase membership in
5 trade organizations and subscribe to and purchase trade
6 bulletins, journals, and other trade publications;

7 ~~(7)(5)~~ plan and conduct a research program to improve
8 the quality of alfalfa seed, develop and improve control
9 measures for disease and pests which attack alfalfa and
10 alfalfa seed pollinators, improve alfalfa growing culture,
11 disseminate such information among the growers and dealers
12 of the state, and make such research contracts and other
13 agreements as may be necessary;

14 ~~(8)(6)~~ plan and conduct a publicity and sales
15 promotion campaign to increase the sale and use of Montana
16 alfalfa seed and make such publicity and sales promotion
17 contracts and other agreements as may be necessary;

18 ~~(9)(7)~~ IN COOPERATION WITH THE DIRECTOR OF
19 AGRICULTURE, establish and maintain the executive offices of
20 the commission COMMITTEE at any place within the state,
21 which designated place may be changed at the discretion of
22 the commission DIRECTOR AND THE COMMITTEE;

23 ~~(10)(8)~~ ~~adopt-and-from-time-to--time--alter--rescind~~
24 ~~modify--or--amend--all-proper-and-necessary~~ RECOMMEND rules
25 and orders TO BE ADOPTED for the exercise of its power and

1 the performance of its duties, in accordance with the
2 Montana Administrative Procedure Act;

3 ~~(11)(9)~~ cooperate with any local, state, or national
4 organization or agency, whether voluntary or created by the
5 law of any state or the United States government, engaged in
6 work or activities similar to the work and activities of the
7 commission COMMITTEE and enter into contracts or agreements
8 with such organizations or agencies for carrying on a joint
9 campaign of research, education, product protection,
10 publicity, and reciprocal enforcement of these objectives;

11 AND

12 ~~(12)-investigate-violations-of-[sections-2-through-14]-~~
13 ~~(13)-protect-brands,marks,packages,--brand--names--or~~
14 ~~trademarks-being-promoted-by-the-commission--and~~

15 ~~(14)(10)~~ accept grants, donations, and gifts from any
16 source for expenditure for any purpose consistent with
17 [sections 2 through 14], which may be specified as a
18 condition of any grant, donation, or gift.

19 Section 6. Compensation -- per diem. Each commission
20 COMMITTEE member is entitled to \$25 compensation for each
21 day he is engaged in the transaction of official business,
22 together with actual and necessary travel expenses, as
23 provided for in 2-18-501 through 2-18-503.

24 Section 7. Liability of state. The state of Montana is
25 not liable for the acts or omissions of the commission

1 COMMITTEE or any member, officer, agent, or employee
2 thereof.

3 Section 8. Assessment on alfalfa seed. (1) There is
4 hereby levied upon all alfalfa seed grown in this state and
5 sold through commercial channels an assessment of 1/2 of 1%
6 of the grower's price received at the point of first sale.

7 (2) If it appears from an investigation that the
8 revenue from the assessment levied under subsection (1) is
9 inadequate to accomplish the purposes of [sections 2 through
10 14], the commission COMMITTEE shall file with the director
11 of agriculture a report showing the necessity of the
12 industry, extent of public convenience, interest, and
13 necessity, and probable revenue from the additional
14 assessment desired to be levied. The director of agriculture
15 may thereupon increase the assessment to a sum not to exceed
16 1% of the grower's price received at the point of first
17 sale. No increase may be made prior to filing of the report
18 and recommendation by the commission COMMITTEE.

19 Section 9. Payment of assessment. All assessments
20 levied and imposed under [section 8] must be paid to the
21 commission DEPARTMENT OF AGRICULTURE by the person, either
22 grower or dealer, by whom the alfalfa seed is first handled
23 in the primary channels of trade and must be paid at such
24 times as the commission DEPARTMENT may by rule prescribe,
25 but not later than 60 days from the date on which the grower

1 received payment for the alfalfa seed. If the party first
2 handling the alfalfa seed in the primary channels of trade
3 is a person other than the grower, he may charge against or
4 recover from the grower of such alfalfa seed the full amount
5 of any assessment levied and imposed under [section 8].

6 Section 10. Refund of assessment. Any person who has
7 paid assessments to the commission DEPARTMENT may require
8 REQUEST the commission DEPARTMENT to refund all or any
9 portion of the assessment levied under the rules of the
10 commission DEPARTMENT and paid by the producer. All such
11 requests must be in writing, filed not later than August 1
12 of each calendar year, and must be on forms to be available
13 without cost to all producers who pay assessments.

14 Section 11. Deposit and disbursement of funds --
15 records -- ~~bond--requirements~~ INVESTMENT. (1) As soon as
16 possible after receipt, all money received by the commission
17 DEPARTMENT from the assessment levied under [section 8] and
18 all other money received by--the--commission shall be
19 deposited in ~~one-or-more~~ THE FEDERAL AND PRIVATE REVENUE
20 FUND. ~~separate-accounts-in-the-name-of-the-commission-in-one~~
21 ~~or--more--banks--or--trust--companies--the-commission-shall~~
22 ~~designate-such-accounts-at-such-banks-or-trust-companies~~

23 (2) ~~No money may be withdrawn or paid out of such~~
24 ~~accounts except upon order of the commission and upon checks~~
25 ~~or other orders upon such accounts signed by a member of the~~

~~commission--whom--the--commission--shall--designate--and
 countersigned--by--such--other--member--officer--or--employee--of
 the--commission--whom--the--commission--designates--A--receipt--
 voucher--or--other--written--record--showing--clearly--the--nature
 and--items--covered--by--each--check--or--other--order--must--be
 kept~~

~~(3)(2) All money referred to in subsection (1) of this
 section may be used by the commission only for the payment
 of expenses of the commission INCURRED in carrying out the
 powers--conferred--on--the--commission. PROVISIONS OF [SECTIONS
 2 THROUGH 14]. THE COMMITTEE MAY BE ASSESSED COSTS BY THE
 DEPARTMENT FOR THE SERVICES IT PROVIDES UPON REQUEST OR
 PURSUANT TO 2-15-121; HOWEVER, THE COSTS CHARGED MUST HAVE A
 SUBSTANTIAL RELATIONSHIP TO THE COST OF SERVICES SUPPLIED.~~

~~(4)--The--commission--may--require--any--commission--member
 or--agent--or--employee--appointed--by--the--commission--to--give--a
 bond--payable--to--the--commission--in--the--amount--and--with--the
 security--and--containing--the--terms--and--conditions--the
 commission--may--prescribe--The--cost--of--such--bond--is--an
 administrative--cost--under--[sections--2--through--14].~~

~~(3) MONEY RECEIVED UNDER [SECTIONS 11, 13, AND 14] NOT
 IMMEDIATELY REQUIRED FOR THE PURPOSES OF [SECTIONS 2 THROUGH
 14] MUST BE INVESTED UNDER PROVISIONS OF THE UNIFIED
 INVESTMENT PROGRAM ESTABLISHED IN TITLE 17, CHAPTER 6, PART
 2.~~

(4) MONEY RECEIVED UNDER [SECTIONS 11, 13, AND 14] IS
 APPROPRIATED TO THE COMMITTEE FOR THE PURPOSES OF [SECTIONS
 2 THROUGH 14].

Section 12. Records required. Every dealer shall
 maintain accurate records of all alfalfa seed handled,
 packed, shipped, or processed by him. The records shall be
 in such form and contain such information as the commission
DEPARTMENT may by rule prescribe, shall be preserved for a
 period of 2 years, and are subject to inspection at any time
 upon request of the commission DEPARTMENT or its agents.

Section 13. Penalty for nonpayment. Any grower or
 dealer who fails to make collection or pay any assessment
 within the time required pursuant to [sections 2 through 14]
 is subject to a penalty of 5% of the amount of the
 assessment determined to be due, as provided in [sections 2
 through 14], plus 1% of such amount for each month of delay
 or fraction thereof after the expiration of the month after
 such assessment became due. ~~The commission, if satisfied
 that the delay was excusable, may remit all or any part of
 such penalty.~~ The penalty must be paid to the commission
DEPARTMENT and disposed of as provided in [section 11].

Section 14. Penalty. In addition to the penalty
 specified in [section 13] any person who violates or aids in
 a violation of any of the provisions of [sections 2 through
 14] or any of the rules or orders of the commission

1 DEPARTMENT adopted under [sections 2 through 14], upon
2 conviction thereof, is punishable by a fine not to exceed
3 \$500 ~~or-by-imprisonment-not-to-exceed-90-days,-or-both.~~ All
4 fines collected shall be deposited as provided in [section
5 11].

6 Section 15. Severability. If a part of this act is
7 invalid, all valid parts that are severable from the invalid
8 part remain in effect. If a part of this act is invalid in
9 one or more of its applications, the part remains in effect
10 in all valid applications that are severable from the
11 invalid applications.

12 Section 16. Codification instruction. (1) Section 1 is
13 intended to be codified in Title 2, chapter 15, part 30.

14 (2) Sections 2 through 14 are intended to be codified
15 as Title 80, chapter 11, part 3.

-End-

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2 HOUSE BILL 467

3 House Agriculture Committee

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13 requesting a refund of an assessment under the act. Section
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16 the provisions of the act. All such rules should be as
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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A MONTANA
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10 ASSESSMENT ON ALFALFA SEED PRODUCERS; AND APPROPRIATING ITS
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12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Montana alfalfa seed ~~commission~~ COMMITTEE
15 -- composition -- allocation. (1) There is a Montana alfalfa
16 seed ~~commission~~ COMMITTEE composed of seven members
17 appointed by the ~~director--of--agriculture~~ GOVERNOR. THE
18 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR HIS AUTHORIZED
19 REPRESENTATIVE SHALL BE AN EX OFFICIO, NONVOTING MEMBER OF
20 THE COMMITTEE.

21 (2) Each of the appointed members shall be a citizen
22 of Montana actively engaged in the growing of alfalfa seed
23 within the state or deriving a substantial portion of his
24 income from handling, packing, shipping, buying, or selling
25 alfalfa seed or acting as a broker or factor of alfalfa

1 seed. These qualifications of members must continue during
2 their terms of office.

3 (3) A list of nominees for appointment may be
4 submitted to the ~~director~~ GOVERNOR by the Montana alfalfa
5 seed ~~council~~ ASSOCIATION, the Montana seed trade
6 association, the Montana seed GROWERS association, and any
7 other organization representing alfalfa seed growers or
8 dealers. Names of nominees shall be submitted at least 91
9 days before the expiration of a ~~commission~~ COMMITTEE
10 member's term. The ~~director~~ GOVERNOR shall appoint members
11 from among the persons nominated.

12 (4) The appointed members shall serve staggered terms
13 of 3 years. The initial appointments shall be as follows:
14 two members for 1-year terms, two members for 2-year terms,
15 and three members for 3-year terms.

16 (5) The ~~commission~~ COMMITTEE is allocated to the
17 department of agriculture for administrative purposes only
18 as prescribed in 2-15-121.

19 Section 2. Short title. [Sections 2 through 14] may be
20 cited as the "Alfalfa seed Industry Act".

21 Section 3. Findings -- purpose. (1) The legislature
22 finds that:

23 (a) it is in the best interest of all the people of
24 Montana that the abundant natural resources of the state be
25 protected, fully developed, and uniformly distributed;

1 (b) economic waste threatens the alfalfa seed industry
2 in Montana because of lack of proper advertising and
3 dissemination of information necessary for the development
4 and promotion of alfalfa seed grown in the state and because
5 of lack of facilities and funds for research to:

6 (i) develop and improve control measures for diseases
7 and pests which attack alfalfa seed pollinators;

8 (ii) improve alfalfa seed growing culture; and

9 (iii) disseminate information to the growers; and

10 (c) it is in the interest of the people and general
11 welfare of the state that this avoidable economic waste be
12 eliminated by the growers having at their disposal all
13 available information on the best and most advanced methods
14 of culture, growing, harvesting, and marketing of alfalfa
15 seed.

16 (2) The purpose of [sections 2 through 14] is to
17 promote the general welfare of the people of the state by
18 improving the culture and production of and expanding the
19 market for alfalfa seed grown in the state.

20 Section 4. Definitions. As used in [sections 2 through
21 14] the following definitions apply:

22 (1) "Commission COMMITTEE" means the Montana alfalfa
23 seed commission COMMITTEE established in [section 1].

24 (2) "Dealer" means any person, partnership,
25 association, corporation, cooperative, or other business

1 unit or device that first handles, packs, ships, buys, and
2 sells alfalfa seed or that acts as sales or purchasing
3 agent, broker, or factor of alfalfa seed.

4 (3) "Grower" means any landowner personally engaged in
5 growing alfalfa seed, a tenant personally engaged in growing
6 alfalfa seed, or both the owner and the tenant jointly, and
7 includes a person, partnership, association, corporation,
8 cooperative organization, trust, sharecropper, or any and
9 all other business units, devices, and arrangements that
10 grow alfalfa seed or are engaged in the pollination of
11 alfalfa seed.

12 (4) "Handled in the primary channels of trade" means
13 the time when any alfalfa seed is delivered under a sales
14 contract, sold, or delivered for shipment and sale.

15 Section 5. Powers of the commission COMMITTEE. The
16 commission COMMITTEE may:

17 (1) ~~administer--and--enforce~~ PROVIDE, THROUGH THE
18 DEPARTMENT OF AGRICULTURE, FOR THE ADMINISTRATION AND
19 ENFORCEMENT OF [sections 2 through 14];

20 (2) enter into contracts in the name of the commission
21 COMMITTEE;

22 (3) ~~employ--and--at--pleasure--discharge--a--research~~
23 ~~directory--research-staff--a-secretary--advertising-manager,~~
24 ~~advertising-agents--agents--attorneys--and--such-clerical--and~~
25 ~~other-help-as-it-considers-necessary--and--control--their~~

1 powers-and-duties-and-fix-their-compensation
 2 {4}-keep-books,-records,-and-accounts-of-all-its
 3 dealings,-which-books,-records,-and-accounts-shall-be-open
 4 to-inspection-and-audit-by-the-state-auditor-at-all-times
 5 {5}{3} purchase--or authorize the purchase of all
 6 office equipment or supplies and incur all other reasonable
 7 and necessary expenses and obligations required for the
 8 proper carrying out of the provisions of [sections 2 through
 9 14];
 10 {6}{4} become a member of and purchase membership in
 11 trade organizations and subscribe to and purchase trade
 12 bulletins, journals, and other trade publications;
 13 {7}{5} plan and conduct a research program to improve
 14 the quality of alfalfa seed, develop and improve control
 15 measures for disease and pests which attack alfalfa and
 16 alfalfa seed pollinators, improve alfalfa growing culture,
 17 disseminate such information among the growers and dealers
 18 of the state, and make such research contracts and other
 19 agreements as may be necessary;
 20 {8}{6} plan and conduct a publicity and sales
 21 promotion campaign to increase the sale and use of Montana
 22 alfalfa seed and make such publicity and sales promotion
 23 contracts and other agreements as may be necessary;
 24 {9}{7} IN COOPERATION WITH THE DIRECTOR OF THE
 25 DEPARTMENT OF AGRICULTURE, establish and maintain the

1 executive offices of the commission COMMITTEE at any place
 2 within the state, which designated place may be changed at
 3 the discretion of the commission DIRECTOR AND THE COMMITTEE;
 4 {10}{8} adopt-and-from-time-to-time-alter,-repeal,
 5 modify,-or-amend-all-proper-and-necessary RECOMMEND rules
 6 and orders TO BE ADOPTED for the exercise of its power and
 7 the performance of its duties, in accordance with the
 8 Montana Administrative Procedure Act;
 9 {11}{9} cooperate with any local, state, or national
 10 organization or agency, whether voluntary or created by the
 11 law of any state or the United States government, engaged in
 12 work or activities similar to the work and activities of the
 13 commission COMMITTEE and enter into contracts or agreements
 14 with such organizations or agencies for carrying on a joint
 15 campaign of research, education, product protection,
 16 publicity, and reciprocal enforcement of these objectives;
 17 AND
 18 {12}-investigate-violations-of-[sections-2-through-14];
 19 {13}-protect-brands,-marks,-packages,-brand-names--or
 20 trademarks-being-promoted-by-the-commission;-and
 21 {14}{10} accept grants, donations, and gifts from any
 22 source for expenditure for any purpose consistent with
 23 [sections 2 through 14], which may be specified as a
 24 condition of any grant, donation, or gift.
 25 Section 6. Compensation -- per diem. Each commission

1 COMMITTEE member is entitled to \$25 compensation for each
 2 day he is engaged in the transaction of official business,
 3 together with actual and necessary travel expenses, as
 4 provided for in 2-18-501 through 2-18-503.

5 Section 7. Liability of state. The state of Montana is
 6 not liable for the acts or omissions of the commission
 7 COMMITTEE or any member, officer, agent, or employee
 8 thereof.

9 Section 8. Assessment on alfalfa seed. (1) There is
 10 hereby levied upon all alfalfa seed grown in this state and
 11 sold through commercial channels an assessment of 1/2 of 1%
 12 of the grower's price received at the point of first sale.

13 (2) If it appears from an investigation that the
 14 revenue from the assessment levied under subsection (1) is
 15 inadequate to accomplish the purposes of [sections 2 through
 16 14], the commission COMMITTEE shall file with the director
 17 of agriculture a report showing the necessity of the
 18 industry, extent of public convenience, interest, and
 19 necessity, and probable revenue from the additional
 20 assessment desired to be levied. The director of agriculture
 21 may thereupon increase the assessment to a sum not to exceed
 22 1% of the grower's price received at the point of first
 23 sale. No increase may be made prior to filing of the report
 24 and recommendation by the commission COMMITTEE.

25 Section 9. Payment of assessment. All assessments

1 levied and imposed under [section 8] must be paid to the
 2 commission DEPARTMENT OF AGRICULTURE by the person, either
 3 grower or dealer, by whom the alfalfa seed is first handled
 4 in the primary channels of trade and must be paid at such
 5 times as the commission DEPARTMENT may by rule prescribe,
 6 but not later than 60 days from the date on which the grower
 7 received payment for the alfalfa seed. If the party first
 8 handling the alfalfa seed in the primary channels of trade
 9 is a person other than the grower, he may charge against or
 10 recover from the grower of such alfalfa seed the full amount
 11 of any assessment levied and imposed under [section 8].

12 Section 10. Refund of assessment. Any person who has
 13 paid assessments to the commission DEPARTMENT may require
 14 REQUEST the commission DEPARTMENT to refund all or any
 15 portion of the assessment levied under the rules of the
 16 commission DEPARTMENT and paid by the producer. All such
 17 requests must be in writing, filed not later than August 1
 18 of each calendar year FOR THE PRECEDING CROP YEAR, and must
 19 be on forms to be available without cost to all producers
 20 who pay assessments.

21 Section 11. Deposit and disbursement of funds --
 22 records -- bond-requirements INVESTMENT. (1) As soon as
 23 possible after receipt, all money received by the commission
 24 DEPARTMENT from the assessment levied under [section 8] and
 25 all other money received by--the--commission shall be

1 deposited in one or more THE FEDERAL AND PRIVATE REVENUE
 2 FUND, separate accounts in the name of the commission in one
 3 or more banks or trust companies. The commission shall
 4 designate such accounts at such banks or trust companies.

5 (2) No money may be withdrawn or paid out of such
 6 accounts except upon order of the commission and upon checks
 7 or other orders upon such accounts signed by a member of the
 8 commission whom the commission shall designate and
 9 countersigned by such other member, officer or employee of
 10 the commission whom the commission designates. A receipt,
 11 vouchery or other written record showing clearly the nature
 12 and items covered by each check or other order, must be
 13 kept.

14 (3) (2) All money referred to in subsection (1) of this
 15 section may be used by the commission only for the payment
 16 of expenses of the commission INCURRED in carrying out the
 17 powers conferred on the commission. PROVISIONS OF [SECTIONS
 18 2 THROUGH 14]. THE COMMITTEE MAY BE ASSESSED COSTS BY THE
 19 DEPARTMENT FOR THE SERVICES IT PROVIDES UPON REQUEST OR
 20 PURSUANT TO 2-15-121; HOWEVER, THE COSTS CHARGED MUST HAVE A
 21 SUBSTANTIAL RELATIONSHIP TO THE COST OF SERVICES SUPPLIED.

22 (4) The commission may require any commission member
 23 or agent or employee appointed by the commission to give a
 24 bond payable to the commission in the amount and with the
 25 security and containing the terms and conditions the

1 commission may prescribe. The cost of such bond is an
 2 administrative cost under [sections 2 through 14].

3 (3) MONEY RECEIVED UNDER [SECTIONS 11, 13, AND 14] NOT
 4 IMMEDIATELY REQUIRED FOR THE PURPOSES OF [SECTIONS 2 THROUGH
 5 14] MUST BE INVESTED UNDER PROVISIONS OF THE UNIFIED
 6 INVESTMENT PROGRAM ESTABLISHED IN TITLE 17, CHAPTER 6, PART
 7 2.

8 (4) MONEY RECEIVED UNDER [SECTIONS 11, 13, AND 14] IS
 9 APPROPRIATED TO THE COMMITTEE FOR THE PURPOSES OF [SECTIONS
 10 2 THROUGH 14].

11 Section 12. Records required. Every dealer shall
 12 maintain accurate records of all alfalfa seed handled,
 13 packed, shipped, or processed by him. The records shall be
 14 in such form and contain such information as the commission
 15 DEPARTMENT may by rule prescribe, shall be preserved for a
 16 period of 2 years, and are subject to inspection at any time
 17 upon request of the commission DEPARTMENT or its agents.

18 Section 13. Penalty for nonpayment. Any grower or
 19 dealer who fails to make collection or pay any assessment
 20 within the time required pursuant to [sections 2 through 14]
 21 is subject to a penalty of 5% of the amount of the
 22 assessment determined to be due, as provided in [sections 2
 23 through 14], plus 1% of such amount for each month of delay
 24 or fraction thereof after the expiration of the month after
 25 such assessment became due. ~~The commission, if satisfied~~

1 ~~that--the--delay--was--excusable--may--remit--all--or--any--part--of~~
2 ~~such--penalty.~~ The penalty must be paid to the commission
3 DEPARTMENT and disposed of as provided in [section 11].

4 Section 14. Penalty. In addition to the penalty
5 specified in [section 13] any person who violates or aids in
6 a violation of any of the provisions of [sections 2 through
7 14] or any of the rules or orders of the commission
8 DEPARTMENT adopted under [sections 2 through 14], upon
9 conviction thereof, is punishable by a fine not to exceed
10 \$500 ~~or-by-imprisonment-not-to-exceed-90-days-or-both.~~ All
11 fines collected shall be deposited as provided in [section
12 11].

13 Section 15. Severability. If a part of this act is
14 invalid, all valid parts that are severable from the invalid
15 part remain in effect. If a part of this act is invalid in
16 one or more of its applications, the part remains in effect
17 in all valid applications that are severable from the
18 invalid applications.

19 Section 16. Codification instruction. (1) Section 1 is
20 intended to be codified in Title 2, chapter 15, part 30.

21 (2) Sections 2 through 14 are intended to be codified
22 as Title 80, chapter 11, part 3.

-End-

March 19, 1981

SENATE STANDING COMMITTEE REPORT
(Agriculture, Livestock & Irrigation)

That House Bill No. 467 be amended as follows:

1. Page 1, line 17.

Strike: "director of agriculture."

Insert: "governor. The director of the department of agriculture or his authorized representative shall be an ex officio, non-voting member of the committee."

2. Page 2, line 1.

Strike: "director"

Insert: "governor"

3. Page 2, line 2.

Strike: "council"

Insert: "association"

4. Page 2, line 3.

Following: "seed"

Insert: "growers"

5. Page 2, line 6.

Strike: "director"

Insert: "governor"

6. Page 4, line 13.

Strike: "administer and enforce"

Insert: "provide, through the department of agriculture, for the administration and enforcement of"

7. Page 5, line 18.

Following: "OF"

Insert: "the department of"

8. Page 8, line 12.

Following: "year"

Insert: "for the preceding crop year"