

HOUSE BILL NO. 545

INTRODUCED BY MANUEL, MENAHAN

IN THE HOUSE

January 28, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
February 7, 1983	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 8, 1983	Bill printed and placed on members' desks.
February 9, 1983	Second reading, do pass.
February 10, 1983	Considered correctly engrossed.
February 11, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 12, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 24, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1983	Second reading, concurred in as amended. Statement of Intent stricken.
March 28, 1983	Third reading, concurred in. Ayes, 45; Noes, 1.

IN THE HOUSE

March 28, 1983

Returned to House with amendments.

April 1, 1983

Second reading, amendments not concurred in.

On motion, Free Conference Committee requested and appointed.

April 14, 1983

Free Conference Committee reported. Statement of Intent attached.

April 15, 1983

Second reading, report and Statement of Intent adopted.

Third reading, report and Statement of Intent adopted.

April 18, 1983

Free Conference Committee report and Statement of Intent adopted by Senate.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 545
2 INTRODUCED BY Manuel Monahan
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A GRAIN
5 INDEMNITY FUND TO PROVIDE PARTIAL REIMBURSEMENT TO A GRAIN
6 PRODUCER WHO SUFFERS A LOSS BECAUSE OF A GRAIN DEALER'S
7 BANKRUPTCY OR A GRAIN DEALER'S WRONGFUL DISPOSITION OF GRAIN
8 DELIVERED TO HIM; PROVIDING AN ASSESSMENT ON WHEAT AND
9 BARLEY; AND PROVIDING PENALTIES."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Definitions. As used in [this act], the
13 following definitions apply:
14 (1) "Account" means the grain indemnity fund account
15 established in [section 2].
16 (2) "Department" means the department of agriculture,
17 as provided in 2-15-3001.
18 (3) "Grain" means wheat and barley.
19 (4) "Grain dealer" means any person, association,
20 dealer, partnership, or corporation or its agent or
21 representative who is licensed by the state or federal
22 government and engaged in the business of buying, receiving,
23 selling, exchanging, warehousing, or negotiating for the
24 sale of grain. The term also includes anyone who solicits
25 the sale, resale, exchange, or transfer of any grain

1 purchased from a producer; receives grain on consignment
2 from a producer; or receives grain to be handled on a net
3 return basis from the producer.
4 (5) "Loss" means any monetary loss to a producer
5 resulting from the delivery of grain to a grain dealer due
6 to an extraordinary cause, including but not limited to
7 bankruptcy, embezzlement, theft, or fraudulent disposition
8 by the grain dealer.
9 (6) "Producer" means a producer of grain.
10 (7) "Storage" or "warehousing" means any method by
11 which grain owned by another is held for him by one who is
12 not the direct owner of the grain. The terms do not include
13 transportation of grain for another.
14 Section 2. Grain indemnity fund account established --
15 use -- investment. (1) There is an account in the earmarked
16 revenue fund known as the grain indemnity fund account.
17 There shall be paid into the account:
18 (a) the proceeds of all assessments collected under
19 [this act]; and
20 (b) any excess payments returned to the account under
21 [subsection (3) of section 6].
22 (2) The account must be maintained for the purpose of
23 [this act] and must be separate from all other accounts of
24 the department.
25 (3) The department may direct the board of investments

1 to invest funds from the account pursuant to the provisions
2 of the unified investment program for state funds. The
3 income from such investments must be credited to the
4 account.

5 Section 3. Grain indemnity fund account --
6 administration -- purpose. (1) The department shall
7 administer the account. The account is established for the
8 benefit of grain producers who have delivered grain to
9 licensed grain dealers. The account must be used to
10 compensate grain producers for 80% of losses to their grain
11 while it is in the control of a licensed grain dealer.

12 (2) Two percent of the income from contributions for
13 each year must be paid to the department for administration
14 and enforcement of [this act]. In addition, the department
15 may assess the actual costs for the disbursement of claims.

16 Section 4. Assessment on grain delivered to grain
17 dealer. There must be assessed 0.5 cent per bushel of wheat
18 and 1 cent per hundredweight of barley delivered by grain
19 producers to licensed grain dealers. The assessment must be
20 imposed on the grain at the time of receipt and must be
21 collected and remitted to the department by the grain
22 dealer. Under the provisions of [this act], no grain is
23 subject to the fee more than once.

24 Section 5. Cessation of assessments. Whenever the
25 account reaches a balance of \$10 million, the assessment

1 provided in [this act] shall cease. However, if such balance
2 is attained prior to the end of a harvest season, the
3 assessment shall continue until the end of that harvest
4 season. If the balance thereafter becomes less than \$10
5 million, the assessment must be reinstituted on an annual
6 basis as necessary to attain a balance of \$10 million in the
7 account.

8 Section 6. Claims for loss -- payment. (1) When a loss
9 as defined in [section 1] is incurred, the producer may
10 present his claim to the department. To verify the claim,
11 the producer shall present a receipt and any additional
12 evidence of loss required by the department. Payments for
13 claims allowed must be made by February 1 following the date
14 of claim. The price per bushel or hundredweight of grain
15 must be established on the day of loss and must be for the
16 full market value on that day, which is:

17 (a) the contract price if a written contract for price
18 between the producer and the grain dealer was executed prior
19 to the loss; or

20 (b) if no such contract had been executed, the average
21 price on that day as established by the Portland grain
22 exchange, less transportation charges.

23 (2) If there is an insufficient amount of cash in the
24 account to cover all claims for a certain year, payments
25 must be made on a pro rata basis not exceeding 60% of the

1 total loss of each producer. If payment is not received by a
2 producer in the amount of 80% of total loss for a certain
3 year, such additional amounts must be paid as funds become
4 available in succeeding years until repayment of 80% of
5 total loss is attained.

6 (3) If at any time a producer receives payment
7 totaling more than 100% of his total loss, such excess
8 payment must immediately be returned to the account. Upon
9 final payment of a claim to a producer from the account, the
10 producer shall subrogate his interest, if any, to the
11 department in a cause of action against any and all parties,
12 in an amount equal to the loss for which the producer was
13 reimbursed from the account.

14 Section 7. Reports to be made by grain dealers --
15 remittance of assessments -- failure to make report. (1)
16 Each grain dealer shall file with the department a report of
17 all grain received and shall remit all assessment money by
18 the 20th day of the calendar month following the calendar
19 month in which the grain was received.

20 (2) Requests for past due reports must be processed in
21 the following manner:

22 (a) First notice must be a form letter from the
23 department requesting submission of past due reports within
24 10 days of the date of the letter.

25 (b) Second notice must be a telephone call which shall

1 allow 5 additional days to submit the past due reports.

2 (c) Third and final notice must be a visit from a
3 department inspector to collect the past due reports.

4 Section 8. Rules. The department shall adopt rules
5 necessary to implement the provisions of [this act].

6 Section 9. Violations -- penalty. Any person violating
7 the provisions of [this act] is guilty of a misdemeanor and
8 upon conviction must be fined not less than \$25 or more than
9 \$500.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 545

3 House Agriculture Committee

4

5 This bill requires a statement of intent because
6 section 9 requires the Department of Agriculture to adopt
7 rules to implement the collection of an assessment on wheat
8 and barley and reimbursement from the proceeds of the
9 assessment to producers who suffer a loss because of
10 bankruptcy or wrongful disposition by grain dealers of grain
11 delivered to them. Rules adopted under this act should
12 parallel rules adopted to implement the Wheat Research and
13 Marketing Act, insofar as the two programs are similar.

SECOND READING

Am. 545

Approved by Committee
on Agriculture Livestock
& Irrigation

HOUSE BILL NO. 545

INTRODUCED BY MANUEL, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A GRAIN
INDEMNITY FUND TO PROVIDE PARTIAL REIMBURSEMENT TO A GRAIN
PRODUCER WHO SUFFERS A LOSS BECAUSE OF A GRAIN DEALER'S
BANKRUPTCY OR A GRAIN DEALER'S WRONGFUL DISPOSITION OF GRAIN
DELIVERED TO HIM; PROVIDING AN ASSESSMENT ON WHEAT AND
BARLEY; ~~PROVIDING AN EXEMPTION; AND PROVIDING PENALTIES; AND~~
~~PROVIDING AN IMMEDIATE EFFECTIVE DATE."~~

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

Section 1. Definitions. As used in [this act], the
following definitions apply:

(1) "Account" means the grain indemnity fund account
established in [section 2].

(2) "Department" means the department of agriculture,
as provided in 2-15-3001.

(3) "Grain" means wheat and barley.

(4) "Grain dealer" means any person, association,
dealer, partnership, or corporation or its agent or
representative who is licensed by the state or federal
government and engaged in the business of buying, receiving,
selling, exchanging, warehousing, or negotiating for the
sale of grain. The term also includes anyone who solicits

the sale, resale, exchange, or transfer of any grain
purchased from a producer; receives grain on consignment
from a producer; or receives grain to be handled on a net
return basis from the producer.

(5) "Loss" means any monetary loss to a producer
resulting from the delivery of grain to a grain dealer due
to an extraordinary cause, including but not limited to
bankruptcy, embezzlement, theft, or fraudulent disposition
by the grain dealer.

(6) "Producer" means a producer of grain.

(7) "Storage" or "warehousing" means any method by
which grain owned by another is held for him by one who is
not the direct owner of the grain. The terms do not include
transportation of grain for another.

Section 2. Grain indemnity fund account established --
use -- investment. (1) There is an account in the earmarked
revenue fund known as the grain indemnity fund account.
There shall be paid into the account:

(a) the proceeds of all assessments collected under
[this act]; and

(b) any excess payments returned to the account under
[subsection (3) of section 6].

(2) The account must be maintained for the purpose of
[this act] and must be separate from all other accounts of
the department.

1 (3) The department may direct the board of investments
2 to invest funds from the account pursuant to the provisions
3 of the unified investment program for state funds. The
4 income from such investments must be credited to the
5 account.

6 Section 3. Grain indemnity fund account --
7 administration -- purpose. (1) The department shall
8 administer the account. The account is established for the
9 benefit of grain producers who have delivered grain to
10 licensed grain dealers. The account must be used to
11 compensate grain producers for 80% of losses to their grain
12 while it is in the control of a licensed grain dealer.

13 (2) Two percent of the income from contributions for
14 each year must be paid to the department for administration
15 and enforcement of [this act]. In addition, the department
16 may assess the actual costs for the disbursement of claims.

17 Section 4. Assessment on grain delivered to grain
18 dealer. There must be assessed 0.5 cent per bushel of wheat
19 and 1 cent per hundredweight of barley delivered by grain
20 producers to licensed grain dealers. The assessment must be
21 imposed on the grain at the time of receipt and must be
22 collected and remitted to the department by the grain
23 dealer. Under the provisions of [this act], no grain is
24 subject to the fee more than once.

25 Section 5. Cessation of assessments. Whenever the

1 account reaches a balance of \$10 million, the assessment
2 provided in [this act] shall cease. However, if such balance
3 is attained prior to the end of a harvest season, the
4 assessment shall continue until the end of that harvest
5 season. If the balance thereafter becomes less than \$10
6 million, the assessment must be reinstituted on an annual
7 basis as necessary to attain a balance of \$10 million in the
8 account.

9 Section 6. Claims for loss -- payment. (1) When a loss
10 as defined in [section 1] is incurred, the producer may
11 present his claim to the department. To verify the claim,
12 the producer shall present a receipt and any additional
13 evidence of loss required by the department. Payments for
14 claims allowed must be made by February 1 following the date
15 of claim. The price per bushel or hundredweight of grain
16 must be established on the day of loss and must be for the
17 full market value on that day, which is:

18 (a) the contract price if a written contract for price
19 between the producer and the grain dealer was executed prior
20 to the loss; or

21 (b) if no such contract had been executed, the average
22 price on that day as established by the Portland grain
23 exchange, less transportation charges.

24 (2) If there is an insufficient amount of cash in the
25 account to cover all claims for a certain year, payments

1 must be made on a pro rata basis not exceeding 80% of the
 2 total loss of each producer. If payment is not received by a
 3 producer in the amount of 80% of total loss for a certain
 4 year, such additional amounts must be paid as funds become
 5 available in succeeding years until repayment of 80% of
 6 total loss is attained.

7 (3) If at any time a producer receives payment
 8 totaling more than 100% of his total loss, such excess
 9 payment must immediately be returned to the account. Upon
 10 final payment of a claim to a producer from the account, the
 11 producer shall subrogate his interest, if any, to the
 12 department in a cause of action against any and all parties,
 13 in an amount equal to the loss for which the producer was
 14 reimbursed from the account.

15 THERE IS A NEW MCA SECTION THAT READS:

16 Section 7. Exemption. Grain sold through a producer's
 17 marketing system on which an assessment is levied for the
 18 purpose of protecting the member producer from the loss or
 19 wrongful conversion of such grain is not subject to the
 20 assessment imposed in [section 4], if the protection under
 21 such assessment procedure is equal to or greater than the
 22 protection secured under [this act]. No claim may be made
 23 under [this act] for any loss of grain for which no
 24 assessment was paid under [this act].

25 Section 8. Reports to be made by grain dealers --

1 remittance of assessments -- failure to make report. (1)
 2 Each grain dealer shall file with the department a report of
 3 all grain received and shall remit all assessment money by
 4 the 20th day of the calendar month following the calendar
 5 month in which the grain was received.

6 (2) Requests for past due reports must be processed in
 7 the following manner:

8 (a) First notice must be a form letter from the
 9 department requesting submission of past due reports within
 10 10 days of the date of the letter.

11 (b) Second notice must be a telephone call which shall
 12 allow 5 additional days to submit the past due reports.

13 (c) Third and final notice must be a visit from a
 14 department inspector to collect the past due reports.

15 Section 9. Rules. The department shall adopt rules
 16 necessary to implement the provisions of [this act].

17 Section 10. Violations -- penalty. Any person
 18 violating the provisions of [this act] is guilty of a
 19 misdemeanor and upon conviction must be fined not less than
 20 \$25 or more than \$500.

21 SECTION 11. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
 22 PASSAGE AND APPROVAL.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 545

3 House Agriculture Committee

4

5 This bill requires a statement of intent because

6 section 9 requires the Department of Agriculture to adopt

7 rules to implement the collection of an assessment on wheat

8 and barley and reimbursement from the proceeds of the

9 assessment to producers who suffer a loss because of

10 bankruptcy or wrongful disposition by grain dealers of grain

11 delivered to them. Rules adopted under this act should

12 parallel rules adopted to implement the Wheat Research and

13 Marketing Act, insofar as the two programs are similar.

THIRD READING
HB 545

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(4) "Grain dealer" means any person, association, dealer, partnership, or corporation or its agent or representative who is licensed by the state or federal government and engaged in the business of buying, receiving, selling, exchanging, warehousing, or negotiating for the sale of grain. The term also includes anyone who solicits

the sale, resale, exchange, or transfer of any grain purchased from a producer; receives grain on consignment from a producer; or receives grain to be handled on a net return basis from the producer.

(5) "Loss" means any monetary loss to a producer resulting from the delivery of grain to a grain dealer due to an extraordinary cause, including but not limited to bankruptcy, embezzlement, theft, or fraudulent disposition by the grain dealer.

(6) "Producer" means a producer of grain.

(7) "Storage" or "warehousing" means any method by which grain owned by another is held for him by one who is not the direct owner of the grain. The terms do not include transportation of grain for another.

Section 2. Grain indemnity fund account established -- use -- investment. (1) There is an account in the earmarked revenue fund known as the grain indemnity fund account. There shall be paid into the account:

(a) the proceeds of all assessments collected under [this act]; and

(b) any excess payments returned to the account under [subsection (3) of section 6].

(2) The account must be maintained for the purpose of [this act] and must be separate from all other accounts of the department.

(3) The department may direct the board of investments to invest funds from the account pursuant to the provisions of the unified investment program for state funds. The income from such investments must be credited to the account.

Section 3. Grain indemnity fund account -- administration -- purpose. (1) The department shall administer the account. The account is established for the benefit of grain producers who have delivered grain to licensed grain dealers. The account must be used to compensate grain producers for 80% of losses to their grain while it is in the control of a licensed grain dealer.

(2) Two percent of the income from contributions for each year must be paid to the department for administration and enforcement of [this act]. In addition, the department may assess the actual costs for the disbursement of claims.

Section 4. Assessment on grain delivered to grain dealer. There must be assessed 0.5 cent per bushel of wheat and 1 cent per hundredweight of barley delivered by grain producers to licensed grain dealers. The assessment must be imposed on the grain at the time of receipt and must be collected and remitted to the department by the grain dealer. Under the provisions of [this act], no grain is subject to the fee more than once.

Section 5. Cessation of assessments. Whenever the

account reaches a balance of \$10 million, the assessment provided in [this act] shall cease. However, if such balance is attained prior to the end of a harvest season, the assessment shall continue until the end of that harvest season. If the balance thereafter becomes less than \$10 million, the assessment must be reinstituted on an annual basis as necessary to attain a balance of \$10 million in the account.

Section 6. Claims for loss -- payment. (1) When a loss as defined in [section 1] is incurred, the producer may present his claim to the department. To verify the claim, the producer shall present a receipt and any additional evidence of loss required by the department. Payments for claims allowed must be made by February 1 following the date of claim. The price per bushel or hundredweight of grain must be established on the day of loss and must be for the full market value on that day, which is:

(a) the contract price if a written contract for price between the producer and the grain dealer was executed prior to the loss; or

(b) if no such contract had been executed, the average price on that day as established by the Portland grain exchange, less transportation charges.

(2) If there is an insufficient amount of cash in the account to cover all claims for a certain year, payments

1 must be made on a pro rata basis not exceeding 80% of the
2 total loss of each producer. If payment is not received by a
3 producer in the amount of 80% of total loss for a certain
4 year, such additional amounts must be paid as funds become
5 available in succeeding years until repayment of 80% of
6 total loss is attained.

7 (3) If at any time a producer receives payment
8 totaling more than 100% of his total loss, such excess
9 payment must immediately be returned to the account. Upon
10 final payment of a claim to a producer from the account, the
11 producer shall subrogate his interest, if any, to the
12 department in a cause of action against any and all parties,
13 in an amount equal to the loss for which the producer was
14 reimbursed from the account.

15 HERE IS A NEW MCA SECTION THAT READS:

16 Section 7. Exemption. Grain sold through a producer's
17 marketing system on which an assessment is levied for the
18 purpose of protecting the member producer from the loss or
19 wrongful conversion of such grain is not subject to the
20 assessment imposed in [section 4], if the protection under
21 such assessment procedure is equal to or greater than the
22 protection secured under [this act]. No claim may be made
23 under [this act] for any loss of grain for which no
24 assessment was paid under [this act].

25 Section 8. Reports to be made by grain dealers --

1 remittance of assessments -- failure to make report. (1)
2 Each grain dealer shall file with the department a report of
3 all grain received and shall remit all assessment money by
4 the 20th day of the calendar month following the calendar
5 month in which the grain was received.

6 (2) Requests for past due reports must be processed in
7 the following manner:

8 (a) First notice must be a form letter from the
9 department requesting submission of past due reports within
10 10 days of the date of the letter.

11 (b) Second notice must be a telephone call which shall
12 allow 5 additional days to submit the past due reports.

13 (c) Third and final notice must be a visit from a
14 department inspector to collect the past due reports.

15 Section 9. Rules. The department shall adopt rules
16 necessary to implement the provisions of [this act].

17 Section 10. Violations -- penalty. Any person
18 violating the provisions of [this act] is guilty of a
19 misdemeanor and upon conviction must be fined not less than
20 \$25 or more than \$500.

21 SECTION 11. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
22 PASSAGE AND APPROVAL.

-End-

March 24, 1983

SENATE STANDING COMMITTEE REPORT
(Agriculture, Livestock & Irrigation)

That House Bill No. 545 be amended as follows:

1. Page 5, line 4.

Following: "paid"

Insert: ", without interest,"

2. Page 5, line 16.

Strike: "Exemption."

Insert: "EXEMPTIONS. (1)"

3. Page 5, line 25.

Following: line 24

Insert: "(2) Grain on which a commodity credit corporation loan was made prior to July 1, 1983, is not subject to the assessment imposed in [section 4]. No claim may be made under [this act] for any loss of grain for which no assessment was paid under [this act]."

4. Page 6, line 21.

Following: line 20.

Insert: "Section 11. Insurance contracts. Until such time that the account first reaches a balance of \$10 million, the department may enter into insurance contracts and pay premiums therefor from the account for the purpose of supplementing payments from the account for claims of grain producers presented under [section 6]."

Renumber: subsequent section

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 545 be amended as follows:

1. Title, lines 4 and 5.

Strike: "CREATING" on line 4 through "FUND" on line 5

Insert: "TO ALLOW THE MONTANA WHEAT RESEARCH AND MARKETING COMMITTEE
TO AUTHORIZE THE DEPARTMENT OF AGRICULTURE TO ENTER INTO
INSURANCE CONTRACTS"

2. Title, lines 8 and 9.

Strike: "PROVIDING" on line 8 through "PENALTIES;" on line 9

Insert: "AMENDING SECTIONS 80-11-201 and 80-11-205;"

3. Title, line 10.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

4. Pages 1 through 6.

Strike: all of the bill following the enacting clause

Insert: "Section 1. Section 80-11-201, MCA, is amended to read:

"80-11-201. Definitions. As used in this part, unless the context
requires otherwise, the following definitions apply:

(1) "Commercial channels" means the sale of wheat or barley for any
use when sold to any commercial buyer, dealer, processor, cooperative,
or to any person, public or private, who resells any wheat or barley
or product produced from wheat or barley.

(2) "Committee" means the Montana wheat research and marketing
committee provided for in 2-15-3002.

(3) "First purchaser" means any person, public or private corpora-
tion, 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 con-
structive possession of such wheat or barley is taken as part payment
or in satisfaction of such mortgage, pledge, lien, or claim.

(4) "Grain" means wheat or barley.

(5) "Grain dealer" means any person, association, dealer, partner-
ship, or corporation or its agent or representative who is licensed
by the state or federal government and engaged in the business of
buying, receiving, selling, exchanging, warehousing, or negotiating
for the sale of grain. The term also includes anyone who solicits
the sale, resale, exchange, or transfer of any grain purchased from
a grower; receives grain on consignment from a grower; or receives
grain to be handled on a net return basis from the grower.

(6) "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, cooperative, trust,
sharecropper, and any and all other business units, devices, and
arrangements.

(7) "Loss" means any monetary loss to a grower resulting from the
delivery of grain to a grain dealer due to an extraordinary cause, in-
cluding but not limited to bankruptcy, embezzlement, theft, or fraud-
ulent disposition by the grain dealer.

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

(9) "Warehousing" means any method by which grain owned by another is held for him by one who is not the direct owner of the grain. The term does not include transportation of grain for another."

Section 2. Section 80-11-205, MCA, is amended to read:
"80-11-205. Powers of the committee. (1) The committee may:
(a) adopt rules necessary for the administration of this part;
(b) provide, through the department, for the enforcement of this part;
(c) provide for the conduct of research into the production, marketing, and uses of wheat and barley;
(d) enter into contracts or agreements with Montana state university and other local, state, or national organizations, public or private, for the purposes of improving wheat or barley quality, increasing the efficiency of production, developing marketing knowledge, developing markets, determining new uses for wheat or barley, developing alternative crops for wheat or barley, and carrying out all research and marketing contemplated by this part. The committee may not establish research units or agencies of its own.
(e) authorize the department to enter into insurance contracts and pay premiums therefor from the wheat research and marketing account for the purpose of providing insurance coverage to growers who, after the contract has been entered into, suffer a loss as defined in [section 1].
(2) No researchers or professional or scientific personnel may be employed to carry out this part except as provided in subsection (1)(d) of this section.

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

NEW SECTION. Section 3. Insurance contracts - administration - purpose. The department shall administer the purchase of insurance contracts authorized under 80-11-205(1)(e). The insurance contracts shall be purchased for the benefit of growers who have delivered grain to grain dealers. It is the goal of the legislature that the insurance contracts, within available resources, compensate growers for up to 80% of losses to their grain while it is in the control of a grain dealer.

NEW SECTION. Section 4. Codification instruction. Section 3 is intended to be codified as an integral part of Title 80, chapter 11, part 2, and the provisions of Title 80, chapter 11, part 2, apply to section 3.

NEW SECTION. Section 5. Effective date. This act is effective on passage and approval.

NEW SECTION. Section 6. Termination date. This act terminates July 1, 1985."

5. Strike: Statement of Intent

1 STATEMENT OF INTENT

2 HOUSE BILL 545

3 House Agriculture Committee

4
5 This bill requires a statement of intent because
6 section 7 requires the Department of Agriculture to adopt
7 rules to implement the collection of an assessment on wheat
8 and barley and reimbursement from the proceeds of the
9 assessment to producers who suffer a loss because of
10 bankruptcy or wrongful disposition by grain dealers of grain
11 delivered to them. Rules adopted under this act should
12 parallel rules adopted to implement the Wheat Research and
13 Marketing Act insofar as the two programs are similar.

REFERENCE BILL

HB 545

HOUSE BILL NO. 545

INTRODUCED BY MANUEL, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING ~~A GRAIN~~
~~INDEMNITY FUND TO ALLOW THE MONTANA WHEAT RESEARCH AND~~
~~MARKETING COMMITTEE TO AUTHORIZE THE DEPARTMENT OF~~
~~AGRICULTURE TO ENTER INTO INSURANCE CONTRACTS TO PROVIDE~~
PARTIAL REIMBURSEMENT TO A GRAIN PRODUCER WHO SUFFERS A LOSS
BECAUSE OF A GRAIN DEALER'S BANKRUPTCY OR A GRAIN DEALER'S
WRONGFUL DISPOSITION OF GRAIN DELIVERED TO HIM; ~~PROVIDING AN~~
~~ASSESSMENT ON WHEAT AND BARLEY; PROVIDING AN EXEMPTION AND~~
~~PROVIDING PENALTIES; AMENDING SECTIONS 80-11-201 AND~~
~~80-11-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE~~
~~AND A TERMINATION DATE."~~

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

Refer to Second Reading Bill

(Strike everything after the enacting clause and insert:)

Section 1. Section 80-11-201, MCA, is amended to read:

"80-11-201. Definitions. As used in this part, unless
the context requires otherwise, the following definitions
apply:

(1) "Commercial channels" means the sale of wheat or
barley for any use when sold to any commercial buyer,
dealer, processor, cooperative, or to any person, public or

private, who resells any wheat or barley or product produced
from wheat or barley.

(2) "Committee" means the Montana wheat research and
marketing committee provided for in 2-15-3002.

(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) "Grain" means wheat or barley.

(5) "Grain dealer" means any person, association,
dealer, partnership, or corporation or its agent or
representative who is licensed by the state or federal
government and engaged in the business of buying, receiving,
selling, exchanging, warehousing, or negotiating for the
sale of grain. The term also includes anyone who solicits
the sale, resale, exchange, or transfer of any grain
purchased from a grower; receives grain on consignment from
a grower; or receives grain to be handled on a net return
basis from the grower.

†††(6) "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, cooperative, trust, sharecropper, and any and all other business units, devices, and arrangements.

~~(7) "Loss" means any monetary loss to a grower resulting from the delivery of grain to a grain dealer due to an extraordinary cause, including but not limited to bankruptcy, embezzlement, theft, or fraudulent disposition by the grain dealer.~~

~~(5)(8) "Sale" includes any pledge or mortgage of wheat or barley after harvest to any person, public or private.~~

~~(9) "Warehousing" means any method by which grain owned by another is held for him by one who is not the direct owner of the grain. The term does not include transportation of grain for another."~~

Section 2. Section 80-11-205, MCA, is amended to read:

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

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

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

(c) provide for the conduct of research into the

production, marketing, and uses of wheat and barley;

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

~~(e) authorize the department to enter into insurance contracts and pay premiums therefor from the wheat research and marketing account for the purpose of providing insurance coverage to growers who, after the contract has been entered into, suffer a loss as defined in [section 1].~~

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

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

NEW SECTION. Section 3. Insurance contracts -- administration -- purpose. The department shall administer the purchase of insurance contracts authorized under

1 80-11-205(1)(e). The insurance contracts shall be purchased
2 for the benefit of growers who have delivered grain to grain
3 dealers. It is the goal of the legislature that the
4 insurance contracts, within available resources, compensate
5 growers for up to 80% of losses to their grain while it is
6 in the control of a grain dealer.

7 ~~NEW_SECTION.~~ Section 4. Codification instruction.
8 Section 3 is intended to be codified as an integral part of
9 Title 80, chapter 11, part 2, and the provisions of Title
10 80, chapter 11, part 2, apply to section 3.

11 ~~NEW_SECTION.~~ Section 5. Effective date. This act is
12 effective on passage and approval.

13 ~~NEW_SECTION.~~ Section 6. Termination date. This act
14 terminates July 1, 1985.

-End-

FREE CONFERENCE COMMITTEE
HOUSE BILL NO. 545
(Report No. 1, April 13, 1983)

MR. SPEAKER:

We, your Free Conference Committee on House Bill 545, met and considered:

House Bill 545, reference copy (salmon);
Senate Committee of the Whole Amendments, 3/26/83; and
Senate Standing Committee on Agriculture, Livestock
and Irrigation amendments of March 24, 1983.

We, respectfully recommend as follows:

That the House accede to Senate Committee of the Whole
amendments of March 26, 1983;

That the Senate recede from the Senate Standing
Committee on Agriculture, Livestock, and Irrigation
amendments of March 24, 1983;

That House Bill 545 be further amended as specified in
CLERICAL INSTRUCTIONS; and

That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Page 4, line 24.

Following: "shall"

Insert: ", through rules it adopts,"

2. Page 5, line 1.

Following: "80-11-205-(1)(e)"

Insert: "and administer the dispersal of money received
for losses covered by the insurance contracts"

3. Attach statement of intent, as follows:

"This bill requires a statement of intent because [section 3] requires the Department of Agriculture to adopt rules to implement the purchase of insurance contracts authorized under [section 2]. Rules adopted under [section 3] should establish procedures for submitting loss claims, calculating the amount of loss, adjusting for overcompensation, and any further requirements necessary to ensure that insurance contracts are properly administered for the benefits of the growers."

Page 2

Free Conference Committee on House Bill 545
April 13, 1983

FOR THE HOUSE

Manuel
MANUEL, CHAIR

Lybeck
LYBECK

Bliss
BLISS

FOR THE SENATE

Arlestad
ARLESTAD, CHAIR

Kolstad
KOLSTAD

Conover
CONOVER

Chairman

Chairman

1 STATEMENT OF INTENT

2 HOUSE BILL 545

3 House Agriculture Committee

4

5 This bill requires a statement of intent because
6 section 9 requires the Department of Agriculture to adopt
7 rules to implement the collection of an assessment on wheat
8 and barley and reimbursement from the proceeds of the
9 assessment to producers who suffer a loss because of
10 bankruptcy or wrongful disposition by grain dealers of grain
11 delivered to them. Rules adopted under this act should
12 parallel rules adopted to implement the Wheat Research and
13 Marketing Act insofar as the two programs are similar.

14 THIS BILL REQUIRES A STATEMENT OF INTENT BECAUSE
15 SECTION 31 REQUIRES THE DEPARTMENT OF AGRICULTURE TO ADOPT
16 RULES TO IMPLEMENT THE PURCHASE OF INSURANCE CONTRACTS
17 AUTHORIZED UNDER SECTION 23. RULES ADOPTED UNDER SECTION
18 31 SHOULD ESTABLISH PROCEDURES FOR SUBMITTING LOSS CLAIMS,
19 CALCULATING THE AMOUNT OF LOSS, ADJUSTING FOR
20 OVERCOMPENSATION, AND ANY FURTHER REQUIREMENTS NECESSARY TO
21 ENSURE THAT INSURANCE CONTRACTS ARE PROPERLY ADMINISTERED
22 FOR THE BENEFITS OF THE GROWERS.

HOUSE BILL NO. 545

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(2) "Committee" means the Montana wheat research and
 marketing committee provided for in 2-15-3002.

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 private corporation, association, or partnership buying,
 accepting for shipment, or otherwise acquiring the property
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 mortgagee, pledgee, lienor, or other person, public or
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 or constructive possession of such wheat or barley is taken
 as part payment or in satisfaction of such mortgage, pledge,
 lien, or claim.

(4) "Grain" means wheat or barley.

(5) "Grain dealer" means any person, association,
 dealer, partnership, or corporation or its agent or
 representative who is licensed by the state or federal
 government and engaged in the business of buying, receiving,
 selling, exchanging, warehousing, or negotiating for the
 sale of grain. The term also includes anyone who solicits
 the sale, resale, exchange, or transfer of any grain
 purchased from a grower, receives grain on consignment from
 a grower, or receives grain to be handled on a net return
 basis from the grower.

(6) "Grower" means any landowner personally engaged

1 in growing wheat or barley, a tenant of the landowner
2 personally engaged in growing wheat or barley, or both the
3 owner and the tenant jointly; and includes a person,
4 partnership, association, corporation, cooperative, trust,
5 sharecropper, and any and all other business units, devices,
6 and arrangements.

7 ~~{7} "Loss" means any monetary loss to a grower~~
8 ~~resulting from the delivery of grain to a grain dealer due~~
9 ~~to an extraordinary cause, including but not limited to~~
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13 ~~or barley after harvest to any person, public or private.~~

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20 may:

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22 this part;

23 (b) provide, through the department, for the
24 enforcement of this part;

25 (c) provide for the conduct of research into the

1 production, marketing, and uses of wheat and barley;

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

12 ~~{1} authorize the department to enter into insurance~~
13 ~~contracts, and pay premiums therefor from the wheat research~~
14 ~~and marketing account for the purpose of providing insurance~~
15 ~~coverage to growers who, after the contract has been entered~~
16 ~~into, suffer a loss as defined in [section 1].~~

17 (2) No researchers or professional or scientific
18 personnel may be employed to carry out this part except as
19 provided in subsection (1)(d) of this section.

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

23 ~~NEW SECTION. Section 3. Insurance contracts --~~
24 ~~administration -- purpose. The department shall, THROUGH~~
25 ~~RULES II ADDEDS, administer the purchase of insurance~~

1 contracts authorized under 80-11-205(1)(e) AND ADMINISTER
2 THE DISPENSAL OF MONEY RECEIVED FOR LOSSES COVERED BY THE
3 INSURANCE CONTRACTS. The insurance contracts shall be
4 purchased for the benefit of growers who have delivered
5 grain to grain dealers. It is the goal of the legislature
6 that the insurance contracts, within available resources,
7 compensate growers for up to 80% of losses to their grain
8 while it is in the control of a grain dealer.

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