

HOUSE BILL NO. 621

INTRODUCED BY HOLLIDAY, SCHULTZ, ELLERD, KOEHNKE, MANUEL
BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

IN THE HOUSE

February 1, 1985	Introduced and referred to Committee on Agriculture.
February 12, 1985	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached. Bill printed and placed on members' desks.
February 14, 1985	Second reading, do pass. Considered correctly engrossed.
February 15, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 16, 1985	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 16, 1985	Committee recommend bill be concurrent in. Report adopted. Statement of Intent amended.
March 21, 1985	Second reading, concurred in.
March 23, 1985	Third reading, concurred in. Ayes, 49; Noes, 0. Returned to House with amended Statement of Intent.

IN THE HOUSE

March 25, 1985

Received from Senate.

April 8, 1985

Second reading, amended Statement of Intent concurred in.

On motion, rules suspended and bill placed on third reading this day.

Third reading, amended Statement of Intent concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 621
 2 INTRODUCED BY Luciano Delgado, Ellen Kachaki, Manuel
 3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW
 6 RELATING TO ASSET VALUATION AND BOND REQUIREMENTS FOR GRAIN
 7 DEALERS AND WAREHOUSEMEN; PERMITTING AN ALTERNATIVE TO THE
 8 BONDS; PROVIDING UNIFORMITY OF THE FINANCIAL EVALUATION
 9 PROVISIONS FOR COMMODITY DEALERS AND WAREHOUSEMEN; REQUIRING
 10 A 60-DAY NOTICE OF CANCELLATION; AMENDING SECTIONS 80-4-402,
 11 80-4-504 THROUGH 80-4-506, 80-4-601, AND 80-4-604, MCA."

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

14 Section 1. Section 80-4-402, MCA, is amended to read:
 15 "80-4-402. Definitions. As used in parts 4 through 7
 16 of this chapter, the following definitions apply:

17 (1) "Agent" means any person who contracts for or
 18 solicits any agricultural commodities from a producer or
 19 warehouseman or negotiates the consignment or purchase of
 20 any agricultural commodity on behalf of any commodity
 21 dealer.

22 (2) "Agricultural commodity" means any grain, beans,
 23 safflower, sunflower seeds, tame mustards, rapeseed,
 24 flaxseed, leguminous seed, or other small seed, and other
 25 agricultural commodities designated by rule of the

1 department.
 2 (3) "Bond" means the bond required to be filed by part
 3 5 or 6 of this chapter and includes any equivalent
 4 established by department rule, as provided in 80-4-504 and
 5 80-4-604.

6 (3)(4) "Commodity dealer" means any person who engages
 7 in a business involving or, as part of his business,
 8 participates in buying, exchanging, negotiating, or
 9 soliciting the sale, resale, exchange, or transfer of any
 10 agricultural commodity in the state of Montana. The term
 11 does not include:

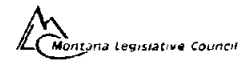
12 (a) a person engaged solely in storing, shipping, or
 13 handling agricultural commodities for hire;

14 (b) a person who buys or handles less than \$10,000
 15 worth of agricultural commodities in a licensing year;

16 (c) a person who is the producer of agricultural
 17 commodities that he actually plants, nurtures, and harvests;
 18 or

19 (d) a person whose trading in agricultural commodities
 20 is limited to trading in commodity futures on a recognized
 21 futures exchange.

22 (4)(5) "Credit sale contract" means a contract for the
 23 sale of an agricultural commodity when the sale price is to
 24 be paid at a date after delivery of the agricultural
 25 commodity to the buyer and includes but is not limited to



1 those contracts commonly referred to as deferred payment
2 contracts, deferred pricing contracts, or price-later
3 contracts.

4 ~~(5)~~(6) "Department" means the department of
5 agriculture provided for in 2-15-3001.

6 ~~(6)~~(7) "Depositor" means any person who deposits an
7 agricultural commodity in a warehouse for storage,
8 processing, handling, or shipment or who is the owner or
9 legal holder of an outstanding warehouse receipt or who is
10 lawfully entitled to possession of the agricultural
11 commodity.

12 ~~(7)~~(8) "Director" means the director of the department
13 of agriculture.

14 ~~(8)~~(9) "Grain" means all grains for which standards
15 have been established under the United States Grain
16 Standards Act (7 U.S.C. 71 through 87) and all other
17 agricultural commodities, such as mustard, oil seed crops,
18 or other crops which may be designated by rule of the
19 department.

20 ~~(9)~~(10) "Grain Standards Act" means the United States
21 Grain Standards Act (7 U.S.C. 71 through 87) as that act
22 reads on July 1, 1983.

23 ~~(10)~~(11) "Inspector" means any person so designated by
24 the director to assist in the administration of parts 4
25 through 6 of this chapter. The term includes warehouse

1 auditors or examiners.

2 ~~(11)~~(12) "Official grain inspectors" means any official
3 personnel who perform or supervise the performance of
4 official inspection services and certify the results
5 thereof, including the grade of the grain.

6 ~~(12)~~(13) "Official grain samplers" or "samplers" means
7 any official personnel who perform or supervise the
8 performance of official sampling services and certify the
9 results thereof.

10 ~~(13)~~(14) "Official grain standards" means the standards
11 of quality and condition of grain that establish the grades
12 defined by the Grain Standards Act.

13 ~~(14)~~(15) "Official grain weighers" means any official
14 personnel who perform or supervise the performance of class
15 X or class Y weighing services and certify the results
16 thereof, including the weight of the grain.

17 ~~(15)~~(16) "Person" means any individual, firm,
18 association, corporation, partnership, or any other form of
19 business enterprise.

20 ~~(16)~~(17) "Producer" means the owner, tenant, or
21 operator of land in this state who has an interest in and
22 receives all or part of the proceeds from the sale of
23 agricultural commodities produced on that land.

24 ~~(17)~~(18) "Public warehouse" or "warehouse" means any
25 elevator, mill, warehouse, subterminal grain warehouse,

1 public warehouse, or other structure or facility in which,
 2 for compensation, agricultural commodities are received for
 3 storage, handling, processing, or shipment. The term
 4 includes facilities which commingle commodities belonging to
 5 different lots of agricultural commodities.

6 ~~†18†~~(19) "Receipt" means a warehouse receipt.

7 ~~†19†~~(20) "Scale weight ticket" means a load slip or
 8 other evidence of delivery, other than a receipt, given to a
 9 depositor by a warehouseman licensed under the provisions of
 10 part 5 of this chapter upon initial delivery of the
 11 agricultural commodity to the warehouse.

12 ~~†20†~~(21) "Station" means a warehouse located more than
 13 3 miles from the central office of the warehouse.

14 ~~†21†~~(22) "Subterminal warehouse" means any warehouse at
 15 which an intermediate function is performed in which
 16 agricultural commodities are customarily received from
 17 dealers or producers and where the commodities are
 18 accumulated prior to shipment.

19 ~~†22†~~(23) "Terminal grain warehouse" means any warehouse
 20 authorized by a grain exchange to receive or disburse grain
 21 on consignment as presented by the rules and regulations of
 22 a grain exchange.

23 ~~†23†~~(24) "Warehouseman" means a person operating or
 24 controlling a public warehouse.

25 ~~†24†~~(25) "Warehouse receipt" means every receipt,

1 whether negotiable or nonnegotiable, issued under part 5 of
 2 this chapter by a warehouseman, except scale weight
 3 tickets."

4 Section 2. Section 80-4-504, MCA, is amended to read:

5 "80-4-504. Bond of applicant for license -- additional
 6 bond -- additional obligations. (1) Each applicant for a
 7 warehouseman's license shall file a bond or its equivalent,
 8 as established by department rule, with the department. The
 9 bond must be in such form and must contain such terms and
 10 conditions as the department may prescribe by rule to carry
 11 out the purpose of this section and 80-4-505.

12 (2) The department may demand an additional bond if
 13 the nature or volume of the business conducted by the
 14 warehouseman warrants an increase.

15 (3) The warehouseman may give a single bond to cover
 16 all warehouses operated by him.

17 (4) Any changes in the capacity of a warehouse or
 18 installation of any new warehouse involving a change in the
 19 bond liability under 80-4-505 must be reported in writing to
 20 the director, and an appropriate bond must be filed prior to
 21 the operation thereof."

22 Section 3. Section 80-4-505, MCA, is amended to read:

23 "80-4-505. Amount of bond -- cancellation. (1) The
 24 amount of the bond to be furnished for each warehouse must
 25 be fixed at a rate of 20 cents per hundredweight for the

1 first 500,000 hundredweight of licensed capacity; 15 cents
 2 per hundredweight for the next 500,000 hundredweight of
 3 licensed capacity; and 10 cents per hundredweight for all
 4 licensed capacity over 1 million hundredweight. The amount
 5 of the bond may not be less than \$20,000 or more than the
 6 maximum prescribed in 80-4-405. The licensed capacity is
 7 the maximum number of hundredweight of agricultural
 8 commodities that the warehouse can accommodate.

9 (2) If a warehouseman is also operating as a commodity
 10 dealer, he shall also provide a bond as prescribed in
 11 80-4-604.

12 (3) If there occurs a deficiency in net assets as
 13 required under 80-4-506, there shall be added to the amount
 14 of bond determined in accordance with subsection (1) an
 15 amount equal to that deficiency.

16 (4) Each warehouseman bond shall run continuously with
 17 the warehouseman license until canceled by the bonding
 18 company. The aggregate ~~annual~~ liability of the surety may in
 19 no event exceed the sum of the bond. ~~A continuous bond shall~~
 20 ~~obligate a new penal sum with the commencement of each~~
 21 ~~licensing year.~~

22 (5) A ~~30-day~~ 60-day written notice must be given to
 23 the department by the bonding company before any bond is
 24 canceled; however, such cancellation does not terminate any
 25 liability of the surety incurred prior to the date of

1 cancellation."

2 Section 4. Section 80-4-506, MCA, is amended to read:
 3 "80-4-506. Net asset requirements. (1) Each licensee
 4 or applicant for a license shall maintain, above all
 5 exemptions and liabilities, total net assets liable for the
 6 payment of any indebtedness arising from the conduct of the
 7 warehouse or warehouses of at least 40 cents per
 8 hundredweight of all agricultural commodities that his
 9 warehouse or warehouses can accommodate.

10 (2) No person may be licensed as a warehouseman unless
 11 he has and maintains allowable net assets of at least
 12 \$10,000.

13 (3) Assets must be valued at original cost less
 14 depreciation, except that upon written request filed with
 15 the department, the director may allow asset valuations in
 16 accordance with a competent appraisal.

17 ~~(3)~~(4) In determining total net assets, credit may be
 18 given for insurable property, such as buildings, machinery,
 19 equipment, and merchandise inventory, only to the extent
 20 that such property is protected by insurance against loss or
 21 damage by fire. The insurance must be in the form of lawful
 22 policies issued by one or more insurance companies
 23 authorized to do business and subject to service of process
 24 in suits brought in this state.

25 ~~(4)~~(5) If a warehouseman is licensed or applies for

1 licenses to operate two or more warehouses, the maximum
 2 number of hundredweight which all such warehouses will
 3 accommodate must be considered in determining whether the
 4 warehouseman meets the net asset requirements specified in
 5 this section."

6 Section 5. Section 80-4-601, MCA, is amended to read:

7 "80-4-601. Commodity dealer license requirements --
 8 financial responsibility. (1) A person may not engage in the
 9 business of a commodity dealer in this state without first
 10 having obtained a license issued by the department.

11 (2) An application for a license to engage in business
 12 as a commodity dealer must be filed with the department and
 13 must be on a form prescribed by the department.

14 (3) A license application must include the following:

15 (a) the name of the applicant;

16 (b) the names of the officers and directors if the
 17 applicant is a corporation;

18 (c) the names of the partners if the applicant is a
 19 partnership;

20 (d) the location of the principal places of business;

21 (e) a sufficient and valid bond as specified in
 22 80-4-604;

23 (f) the number and description of trucks or
 24 tractor-trailer units owned or leased by the applicant that
 25 will be used in the transportation of agricultural

1 commodities purchased pursuant to the provisions of this
 2 part;

3 (g) a complete financial statement prepared by a
 4 licensed accountant according to generally accepted
 5 accounting principles, setting forth the applicant's assets,
 6 liabilities, and net worth. The commodity dealer shall have
 7 and maintain current assets equal to or greater than current
 8 liabilities. Assets must be shown at original cost less
 9 depreciation, Upon except that upon written request filed
 10 with the department, the director may allow asset valuations
 11 in accordance with a competent appraisal. In determining
 12 total net assets, credit may be given for insurable
 13 property, such as buildings, machinery, equipment, and
 14 merchandise inventory, only to the extent that such property
 15 is protected by insurance against loss or damage by fire.
 16 The insurance must be in the form of lawful policies issued
 17 by one or more insurance companies authorized to do business
 18 and subject to service of process in suits brought in this
 19 state.

20 (h) any other reasonable information the department
 21 finds necessary to carry out the provisions and purpose of
 22 this part.

23 (4) In order to receive and retain a commodity
 24 dealer's license, a commodity dealer shall have and maintain
 25 net assets of at least \$50,000 or maintain a bond in the

1 amount of \$2,000 for each \$1,000 or fraction thereof of net
 2 assets deficiency. However, a minimum of \$10,000 net assets
 3 is required by a commodity dealer to qualify for a license.
 4 A bond submitted for purposes of this subsection is in
 5 addition to any bond otherwise required under this part.

6 (5) The department shall adopt rules relating to the
 7 form and time of filing of financial statements. The
 8 department may require additional information or
 9 verification regarding the financial resources of the
 10 applicant and the applicant's ability to pay producers for
 11 agricultural commodities purchased from them."

12 Section 6. Section 80-4-604, MCA, is amended to read:

13 "80-4-604. Bonding requirement amounts --
 14 cancellation. (1) An applicant for a license to operate as a
 15 commodity dealer shall, before a license may be issued, file
 16 with the department a surety bond or its equivalent, as
 17 established by department rule, payable to the state. The
 18 aggregate annual liability of the surety may not exceed the
 19 sum of the bond. ~~A continuous bond shall obligate a new~~
 20 ~~penal sum with the commencement of each licensing year.~~

21 (2) Unless set by department rule, the bond for a
 22 commodity dealer may not exceed 2% of the value of the
 23 agricultural commodities purchased by the commodity dealer
 24 from the producer or warehouseman during the previous
 25 12-month period. The bond for all new applicants is 2% of

1 the estimated value of all agricultural commodities to be
 2 purchased during the coming 12-month period. The department
 3 may by rule require a greater percentage in each instance.
 4 The minimum amount of bond required by any commodity dealer
 5 is \$20,000, and the maximum is prescribed in 80-4-405.

6 (3) A surety shall notify the commodity dealer and the
 7 department by certified mail at least ~~30~~ 60 days prior to
 8 the cancellation of the bond. The liability of the surety
 9 covers purchases made by the commodity dealer during the
 10 time the bond is in force. A commodity dealer's bond filed
 11 with the department is continuous until canceled by the
 12 surety upon ~~30~~ 60 days' notice; however, such cancellation
 13 does not terminate any liability of the surety incurred
 14 prior to the date of cancellation."

-End-

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

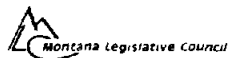
1 STATEMENT OF INTENT
2 HOUSE BILL 621
3 House Agriculture Committee
4

1 demonstrated that no claims exist that may be made against
2 it.

5 This statement of intent is required because rulemaking
6 authority is granted to the department of agriculture in
7 sections 1 through 3.

8 It is the intent of the legislature that the department
9 of agriculture adopt rules to establish alternatives to
10 bonds required for licensing of commodity dealers and
11 warehousemen. The legislature intends that a certificate of
12 deposit, an irrevocable letter of credit, or other similar
13 financial assurance be given, with no right to withdraw the
14 financial assurance without the approval of the department,
15 in order to be an acceptable bond alternative.

16 It is the intent of the legislature that the bond be
17 given to obligate the surety for only the face amount of the
18 bond regardless of the number of licensing periods for which
19 it continues in effect, unless the department requires an
20 additional bond amount. Likewise, the alternative to the
21 bond must be an amount not to be increased unless changes in
22 operation require additional coverage. Upon termination of
23 the license, the bond alternative may not be released by the
24 department until the statute of limitations has run on the
25 types of claims that could be made or until it can be



HOUSE BILL NO. 621

INTRODUCED BY HOLLIDAY, SCHULTZ, ELLERD, KOEHNKE, MANUEL

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO ASSET VALUATION AND BOND REQUIREMENTS FOR GRAIN DEALERS AND WAREHOUSEMEN; PERMITTING AN ALTERNATIVE TO THE BONDS; PROVIDING UNIFORMITY OF THE FINANCIAL EVALUATION PROVISIONS FOR COMMODITY DEALERS AND WAREHOUSEMEN; REQUIRING A 60-DAY NOTICE OF CANCELLATION; AMENDING SECTIONS 80-4-402, 80-4-504 THROUGH 80-4-506, 80-4-601, AND 80-4-604, MCA."

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

Section 1. Section 80-4-402, MCA, is amended to read:

"80-4-402. Definitions. As used in parts 4 through 7 of this chapter, the following definitions apply:

(1) "Agent" means any person who contracts for or solicits any agricultural commodities from a producer or warehouseman or negotiates the consignment or purchase of any agricultural commodity on behalf of any commodity dealer.

(2) "Agricultural commodity" means any grain, beans, safflower, sunflower seeds, tame mustards, rapeseed, flaxseed, leguminous seed, or other small seed, and other agricultural commodities designated by rule of the

department.

(3) "Bond" means the bond required to be filed by part 5 or 6 of this chapter and includes any equivalent established by department rule, as provided in 80-4-504 and 80-4-604.

(4) "Commodity dealer" means any person who engages in a business involving or, as part of his business, participates in buying, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any agricultural commodity in the state of Montana. The term does not include:

(a) a person engaged solely in storing, shipping, or handling agricultural commodities for hire;

(b) a person who buys or handles less than \$10,000 worth of agricultural commodities in a licensing year;

(c) a person who is the producer of agricultural commodities that he actually plants, nurtures, and harvests; or

(d) a person whose trading in agricultural commodities is limited to trading in commodity futures on a recognized futures exchange.

(5) "Credit sale contract" means a contract for the sale of an agricultural commodity when the sale price is to be paid at a date after delivery of the agricultural commodity to the buyer and includes but is not limited to

1 those contracts commonly referred to as deferred payment
2 contracts, deferred pricing contracts, or price-later
3 contracts.

4 †5†(6) "Department" means the department of
5 agriculture provided for in 2-15-3001.

6 †6†(7) "Depositor" means any person who deposits an
7 agricultural commodity in a warehouse for storage,
8 processing, handling, or shipment or who is the owner or
9 legal holder of an outstanding warehouse receipt or who is
10 lawfully entitled to possession of the agricultural
11 commodity.

12 †7†(8) "Director" means the director of the department
13 of agriculture.

14 †8†(9) "Grain" means all grains for which standards
15 have been established under the United States Grain
16 Standards Act (7 U.S.C. 71 through 87) and all other
17 agricultural commodities, such as mustard, oil seed crops,
18 or other crops which may be designated by rule of the
19 department.

20 †9†(10) "Grain Standards Act" means the United States
21 Grain Standards Act (7 U.S.C. 71 through 87) as that act
22 reads on July 1, 1983.

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24 the director to assist in the administration of parts 4
25 through 6 of this chapter. The term includes warehouse

1 auditors or examiners.

2 †11†(12) "Official grain inspectors" means any official
3 personnel who perform or supervise the performance of
4 official inspection services and certify the results
5 thereof, including the grade of the grain.

6 †12†(13) "Official grain samplers" or "samplers" means
7 any official personnel who perform or supervise the
8 performance of official sampling services and certify the
9 results thereof.

10 †13†(14) "Official grain standards" means the standards
11 of quality and condition of grain that establish the grades
12 defined by the Grain Standards Act.

13 †14†(15) "Official grain weighers" means any official
14 personnel who perform or supervise the performance of class
15 X or class Y weighing services and certify the results
16 thereof, including the weight of the grain.

17 †15†(16) "Person" means any individual, firm,
18 association, corporation, partnership, or any other form of
19 business enterprise.

20 †16†(17) "Producer" means the owner, tenant, or
21 operator of land in this state who has an interest in and
22 receives all or part of the proceeds from the sale of
23 agricultural commodities produced on that land.

24 †17†(18) "Public warehouse" or "warehouse" means any
25 elevator, mill, warehouse, subterminal grain warehouse,

1 public warehouse, or other structure or facility in which,
 2 for compensation, agricultural commodities are received for
 3 storage, handling, processing, or shipment. The term
 4 includes facilities which commingle commodities belonging to
 5 different lots of agricultural commodities.

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7 ~~†19†~~(20) "Scale weight ticket" means a load slip or
 8 other evidence of delivery, other than a receipt, given to a
 9 depositor by a warehouseman licensed under the provisions of
 10 part 5 of this chapter upon initial delivery of the
 11 agricultural commodity to the warehouse.

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 13 3 miles from the central office of the warehouse.

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 15 which an intermediate function is performed in which
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 20 authorized by a grain exchange to receive or disburse grain
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 24 controlling a public warehouse.

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1 whether negotiable or nonnegotiable, issued under part 5 of
 2 this chapter by a warehouseman, except scale weight
 3 tickets."

4 Section 2. Section 80-4-504, MCA, is amended to read:

5 "80-4-504. Bond of applicant for license -- additional
 6 bond -- additional obligations. (1) Each applicant for a
 7 warehouseman's license shall file a bond or its equivalent,
 8 as established by department rule, with the department. The
 9 bond must be in such form and must contain such terms and
 10 conditions as the department may prescribe by rule to carry
 11 out the purpose of this section and 80-4-505.

12 (2) The department may demand an additional bond if
 13 the nature or volume of the business conducted by the
 14 warehouseman warrants an increase.

15 (3) The warehouseman may give a single bond to cover
 16 all warehouses operated by him.

17 (4) Any changes in the capacity of a warehouse or
 18 installation of any new warehouse involving a change in the
 19 bond liability under 80-4-505 must be reported in writing to
 20 the director, and an appropriate bond must be filed prior to
 21 the operation thereof."

22 Section 3. Section 80-4-505, MCA, is amended to read:

23 "80-4-505. Amount of bond -- cancellation. (1) The
 24 amount of the bond to be furnished for each warehouse must
 25 be fixed at a rate of 20 cents per hundredweight for the

1 first 500,000 hundredweight of licensed capacity; 15 cents
 2 per hundredweight for the next 500,000 hundredweight of
 3 licensed capacity; and 10 cents per hundredweight for all
 4 licensed capacity over 1 million hundredweight. The amount
 5 of the bond may not be less than \$20,000 or more than the
 6 maximum prescribed in 80-4-405. The licensed capacity is
 7 the maximum number of hundredweight of agricultural
 8 commodities that the warehouse can accommodate.

9 (2) If a warehouseman is also operating as a commodity
 10 dealer, he shall also provide a bond as prescribed in
 11 80-4-604.

12 (3) If there occurs a deficiency in net assets as
 13 required under 80-4-506, there shall be added to the amount
 14 of bond determined in accordance with subsection (1) an
 15 amount equal to that deficiency.

16 (4) Each warehouseman bond shall run continuously with
 17 the warehouseman license until canceled by the bonding
 18 company. The aggregate ~~annual~~ liability of the surety may in
 19 no event exceed the sum of the bond. ~~A continuous bond shall~~
 20 ~~obligate--a--new--penal--sum--with--the--commencement--of--each~~
 21 ~~licensing--year--~~

22 (5) A ~~30-day~~ 60-day written notice must be given to
 23 the department by the bonding company before any bond is
 24 canceled; however, such cancellation does not terminate any
 25 liability of the surety incurred prior to the date of

1 cancellation."

2 Section 4. Section 80-4-506, MCA, is amended to read:
 3 "80-4-506. Net asset requirements. (1) Each licensee
 4 or applicant for a license shall maintain, above all
 5 exemptions and liabilities, total net assets liable for the
 6 payment of any indebtedness arising from the conduct of the
 7 warehouse or warehouses of at least 40 cents per
 8 hundredweight of all agricultural commodities that his
 9 warehouse or warehouses can accommodate.

10 (2) No person may be licensed as a warehouseman unless
 11 he has and maintains allowable net assets of at least
 12 \$10,000.

13 (3) Assets must be valued at original cost less
 14 depreciation, except that upon written request filed with
 15 the department, the director may allow asset valuations in
 16 accordance with a competent appraisal.

17 ~~(3)~~(4) In determining total net assets, credit may be
 18 given for insurable property, such as buildings, machinery,
 19 equipment, and merchandise inventory, only to the extent
 20 that such property is protected by insurance against loss or
 21 damage by fire. The insurance must be in the form of lawful
 22 policies issued by one or more insurance companies
 23 authorized to do business and subject to service of process
 24 in suits brought in this state.

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1 licenses to operate two or more warehouses, the maximum
 2 number of hundredweight which all such warehouses will
 3 accommodate must be considered in determining whether the
 4 warehouseman meets the net asset requirements specified in
 5 this section."

6 Section 5. Section 80-4-601, MCA, is amended to read:

7 "80-4-601. Commodity dealer license requirements --
 8 financial responsibility. (1) A person may not engage in the
 9 business of a commodity dealer in this state without first
 10 having obtained a license issued by the department.

11 (2) An application for a license to engage in business
 12 as a commodity dealer must be filed with the department and
 13 must be on a form prescribed by the department.

14 (3) A license application must include the following:

15 (a) the name of the applicant;

16 (b) the names of the officers and directors if the
 17 applicant is a corporation;

18 (c) the names of the partners if the applicant is a
 19 partnership;

20 (d) the location of the principal places of business;

21 (e) a sufficient and valid bond as specified in
 22 80-4-604;

23 (f) the number and description of trucks or
 24 tractor-trailer units owned or leased by the applicant that
 25 will be used in the transportation of agricultural

1 commodities purchased pursuant to the provisions of this
 2 part;

3 (g) a complete financial statement prepared by a
 4 licensed accountant according to generally accepted
 5 accounting principles, setting forth the applicant's assets,
 6 liabilities, and net worth. The commodity dealer shall have
 7 and maintain current assets equal to or greater than current
 8 liabilities. Assets must be shown at original cost less
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 12 total net assets, credit may be given for insurable
 13 property, such as buildings, machinery, equipment, and
 14 merchandise inventory, only to the extent that such property
 15 is protected by insurance against loss or damage by fire.
 16 The insurance must be in the form of lawful policies issued
 17 by one or more insurance companies authorized to do business
 18 and subject to service of process in suits brought in this
 19 state.

20 (h) any other reasonable information the department
 21 finds necessary to carry out the provisions and purpose of
 22 this part.

23 (4) In order to receive and retain a commodity
 24 dealer's license, a commodity dealer shall have and maintain
 25 net assets of at least \$50,000 or maintain a bond in the

1 amount of \$2,000 for each \$1,000 or fraction thereof of net
2 assets deficiency. However, a minimum of \$10,000 net assets
3 is required by a commodity dealer to qualify for a license.
4 A bond submitted for purposes of this subsection is in
5 addition to any bond otherwise required under this part.

6 (5) The department shall adopt rules relating to the
7 form and time of filing of financial statements. The
8 department may require additional information or
9 verification regarding the financial resources of the
10 applicant and the applicant's ability to pay producers for
11 agricultural commodities purchased from them."

12 Section 6. Section 80-4-604, MCA, is amended to read:

13 "80-4-604. Bonding requirement amounts --
14 cancellation. (1) An applicant for a license to operate as a
15 commodity dealer shall, before a license may be issued, file
16 with the department a surety bond or its equivalent, as
17 established by department rule, payable to the state. The
18 aggregate annual liability of the surety may not exceed the
19 sum of the bond. ~~A continuous bond shall obligate a new~~
20 ~~penal sum with the commencement of each licensing year.~~

21 (2) Unless set by department rule, the bond for a
22 commodity dealer may not exceed 2% of the value of the
23 agricultural commodities purchased by the commodity dealer
24 from the producer ~~or warehouseman~~ during the previous
25 12-month period. The bond for all new applicants is 2% of

1 the estimated value of all agricultural commodities to be
2 purchased during the coming 12-month period. The department
3 may by rule require a greater percentage in each instance.
4 The minimum amount of bond required by any commodity dealer
5 is \$20,000, and the maximum is prescribed in 80-4-405.

6 (3) A surety shall notify the commodity dealer and the
7 department by certified mail at least 30 60 days prior to
8 the cancellation of the bond. The liability of the surety
9 covers purchases made by the commodity dealer during the
10 time the bond is in force. A commodity dealer's bond filed
11 with the department is continuous until canceled by the
12 surety upon 30 60 days' notice; however, such cancellation
13 does not terminate any liability of the surety incurred
14 prior to the date of cancellation."

-End-

1 STATEMENT OF INTENT
2 HOUSE BILL 621
3 House Agriculture Committee
4

5 This statement of intent is required because rulemaking
6 authority is granted to the department of agriculture in
7 sections 1 through 3.

8 It is the intent of the legislature that the department
9 of agriculture adopt rules to establish alternatives to
10 bonds required for licensing of commodity dealers and
11 warehousemen. The legislature intends that a certificate of
12 deposit, an irrevocable letter of credit, or other similar
13 financial assurance be given, with no right to withdraw the
14 financial assurance without the approval of the department,
15 in order to be an acceptable bond alternative.

16 It is the intent of the legislature that the bond be
17 given to obligate the surety for only the face amount of the
18 bond regardless of the number of licensing periods for which
19 it continues in effect, unless the department requires an
20 additional bond amount. Likewise, the alternative to the
21 bond must be an amount not to be increased unless changes in
22 operation require additional coverage. Upon termination of
23 the license, the bond alternative may not be released by the
24 department until the statute of limitations has run on the
25 types of claims that could be made or until it can be

1 demonstrated that no claims exist that may be made against
2 it.

HOUSE BILL NO. 621

INTRODUCED BY HOLLIDAY, SCHULTZ, ELLERD, KOEHNKE, MANUEL
BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW
RELATING TO ASSET VALUATION AND BOND REQUIREMENTS FOR GRAIN
DEALERS AND WAREHOUSEMEN; PERMITTING AN ALTERNATIVE TO THE
BONDS; PROVIDING UNIFORMITY OF THE FINANCIAL EVALUATION
PROVISIONS FOR COMMODITY DEALERS AND WAREHOUSEMEN; REQUIRING
A 60-DAY NOTICE OF CANCELLATION; AMENDING SECTIONS 80-4-402,
80-4-504 THROUGH 80-4-506, 80-4-601, AND 80-4-604, MCA."

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

Section 1. Section 80-4-402, MCA, is amended to read:

"80-4-402. Definitions. As used in parts 4 through 7
of this chapter, the following definitions apply:

(1) "Agent" means any person who contracts for or
solicits any agricultural commodities from a producer or
warehouseman or negotiates the consignment or purchase of
any agricultural commodity on behalf of any commodity
dealer.

(2) "Agricultural commodity" means any grain, beans,
safflower, sunflower seeds, tame mustards, rapeseed,
flaxseed, leguminous seed, or other small seed, and other
agricultural commodities designated by rule of the

department.

(3) "Bond" means the bond required to be filed by part
5 or 6 of this chapter and includes any equivalent
established by department rule, as provided in 80-4-504 and
80-4-604.

(4) "Commodity dealer" means any person who engages
in a business involving or, as part of his business,
participates in buying, exchanging, negotiating, or
soliciting the sale, resale, exchange, or transfer of any
agricultural commodity in the state of Montana. The term
does not include:

(a) a person engaged solely in storing, shipping, or
handling agricultural commodities for hire;

(b) a person who buys or handles less than \$10,000
worth of agricultural commodities in a licensing year;

(c) a person who is the producer of agricultural
commodities that he actually plants, nurtures, and harvests;
or

(d) a person whose trading in agricultural commodities
is limited to trading in commodity futures on a recognized
futures exchange.

(5) "Credit sale contract" means a contract for the
sale of an agricultural commodity when the sale price is to
be paid at a date after delivery of the agricultural
commodity to the buyer and includes but is not limited to

1 those contracts commonly referred to as deferred payment
 2 contracts, deferred pricing contracts, or price-later
 3 contracts.

4 {5}{6} "Department" means the department of
 5 agriculture provided for in 2-15-3001.

6 {6}{7} "Depositor" means any person who deposits an
 7 agricultural commodity in a warehouse for storage,
 8 processing, handling, or shipment or who is the owner or
 9 legal holder of an outstanding warehouse receipt or who is
 10 lawfully entitled to possession of the agricultural
 11 commodity.

12 {7}{8} "Director" means the director of the department
 13 of agriculture.

14 {8}{9} "Grain" means all grains for which standards
 15 have been established under the United States Grain
 16 Standards Act (7 U.S.C. 71 through 87) and all other
 17 agricultural commodities, such as mustard, oil seed crops,
 18 or other crops which may be designated by rule of the
 19 department.

20 {9}{10} "Grain Standards Act" means the United States
 21 Grain Standards Act (7 U.S.C. 71 through 87) as that act
 22 reads on July 1, 1983.

23 {10}{11} "Inspector" means any person so designated by
 24 the director to assist in the administration of parts 4
 25 through 6 of this chapter. The term includes warehouse

1 auditors or examiners.

2 {11}{12} "Official grain inspectors" means any official
 3 personnel who perform or supervise the performance of
 4 official inspection services and certify the results
 5 thereof, including the grade of the grain.

6 {12}{13} "Official grain samplers" or "samplers" means
 7 any official personnel who perform or supervise the
 8 performance of official sampling services and certify the
 9 results thereof.

10 {13}{14} "Official grain standards" means the standards
 11 of quality and condition of grain that establish the grades
 12 defined by the Grain Standards Act.

13 {14}{15} "Official grain weighers" means any official
 14 personnel who perform or supervise the performance of class
 15 X or class Y weighing services and certify the results
 16 thereof, including the weight of the grain.

17 {15}{16} "Person" means any individual, firm,
 18 association, corporation, partnership, or any other form of
 19 business enterprise.

20 {16}{17} "Producer" means the owner, tenant, or
 21 operator of land in this state who has an interest in and
 22 receives all or part of the proceeds from the sale of
 23 agricultural commodities produced on that land.

24 {17}{18} "Public warehouse" or "warehouse" means any
 25 elevator, mill, warehouse, subterminal grain warehouse,

1 public warehouse, or other structure or facility in which,
 2 for compensation, agricultural commodities are received for
 3 storage, handling, processing, or shipment. The term
 4 includes facilities which commingle commodities belonging to
 5 different lots of agricultural commodities.

6 ~~(18)~~(19) "Receipt" means a warehouse receipt.

7 ~~(19)~~(20) "Scale weight ticket" means a load slip or
 8 other evidence of delivery, other than a receipt, given to a
 9 depositor by a warehouseman licensed under the provisions of
 10 part 5 of this chapter upon initial delivery of the
 11 agricultural commodity to the warehouse.

12 ~~(20)~~(21) "Station" means a warehouse located more than
 13 3 miles from the central office of the warehouse.

14 ~~(21)~~(22) "Subterminal warehouse" means any warehouse at
 15 which an intermediate function is performed in which
 16 agricultural commodities are customarily received from
 17 dealers or producers and where the commodities are
 18 accumulated prior to shipment.

19 ~~(22)~~(23) "Terminal grain warehouse" means any warehouse
 20 authorized by a grain exchange to receive or disburse grain
 21 on consignment as presented by the rules and regulations of
 22 a grain exchange.

23 ~~(23)~~(24) "Warehouseman" means a person operating or
 24 controlling a public warehouse.

25 ~~(24)~~(25) "Warehouse receipt" means every receipt,

1 whether negotiable or nonnegotiable, issued under part 5 of
 2 this chapter by a warehouseman, except scale weight
 3 tickets."

4 Section 2. Section 80-4-504, MCA, is amended to read:
 5 "80-4-504. Bond of applicant for license -- additional
 6 bond -- additional obligations. (1) Each applicant for a
 7 warehouseman's license shall file a bond or its equivalent,
 8 as established by department rule, with the department. The
 9 bond must be in such form and must contain such terms and
 10 conditions as the department may prescribe by rule to carry
 11 out the purpose of this section and 80-4-505.

12 (2) The department may demand an additional bond if
 13 the nature or volume of the business conducted by the
 14 warehouseman warrants an increase.

15 (3) The warehouseman may give a single bond to cover
 16 all warehouses operated by him.

17 (4) Any changes in the capacity of a warehouse or
 18 installation of any new warehouse involving a change in the
 19 bond liability under 80-4-505 must be reported in writing to
 20 the director, and an appropriate bond must be filed prior to
 21 the operation thereof."

22 Section 3. Section 80-4-505, MCA, is amended to read:
 23 "80-4-505. Amount of bond -- cancellation. (1) The
 24 amount of the bond to be furnished for each warehouse must
 25 be fixed at a rate of 20 cents per hundredweight for the

1 first 500,000 hundredweight of licensed capacity; 15 cents
 2 per hundredweight for the next 500,000 hundredweight of
 3 licensed capacity; and 10 cents per hundredweight for all
 4 licensed capacity over 1 million hundredweight. The amount
 5 of the bond may not be less than \$20,000 or more than the
 6 maximum prescribed in 80-4-405. The licensed capacity is
 7 the maximum number of hundredweight of agricultural
 8 commodities that the warehouse can accommodate.

9 (2) If a warehouseman is also operating as a commodity
 10 dealer, he shall also provide a bond as prescribed in
 11 80-4-604.

12 (3) If there occurs a deficiency in net assets as
 13 required under 80-4-506, there shall be added to the amount
 14 of bond determined in accordance with subsection (1) an
 15 amount equal to that deficiency.

16 (4) Each warehouseman bond shall run continuously with
 17 the warehouseman license until canceled by the bonding
 18 company. The aggregate annual liability of the surety may in
 19 no event exceed the sum of the bond. ~~A continuous bond shall~~
 20 ~~obligate a new penal sum with the commencement of each~~
 21 ~~licensing year.~~

22 (5) A 30-day 60-day written notice must be given to
 23 the department by the bonding company before any bond is
 24 canceled; however, such cancellation does not terminate any
 25 liability of the surety incurred prior to the date of

1 cancellation."

2 Section 4. Section 80-4-506, MCA, is amended to read:
 3 "80-4-506. Net asset requirements. (1) Each licensee
 4 or applicant for a license shall maintain, above all
 5 exemptions and liabilities, total net assets liable for the
 6 payment of any indebtedness arising from the conduct of the
 7 warehouse or warehouses of at least 40 cents per
 8 hundredweight of all agricultural commodities that his
 9 warehouse or warehouses can accommodate.

10 (2) No person may be licensed as a warehouseman unless
 11 he has and maintains allowable net assets of at least
 12 \$10,000.

13 (3) Assets must be valued at original cost less
 14 depreciation, except that upon written request filed with
 15 the department, the director may allow asset valuations in
 16 accordance with a competent appraisal.

17 ~~(3)~~(4) In determining total net assets, credit may be
 18 given for insurable property, such as buildings, machinery,
 19 equipment, and merchandise inventory, only to the extent
 20 that such property is protected by insurance against loss or
 21 damage by fire. The insurance must be in the form of lawful
 22 policies issued by one or more insurance companies
 23 authorized to do business and subject to service of process
 24 in suits brought in this state.

25 ~~(4)~~(5) If a warehouseman is licensed or applies for

1 licenses to operate two or more warehouses, the maximum
 2 number of hundredweight which all such warehouses will
 3 accommodate must be considered in determining whether the
 4 warehouseman meets the net asset requirements specified in
 5 this section."

6 Section 5. Section 80-4-601, MCA, is amended to read:

7 "80-4-601. Commodity dealer license requirements --
 8 financial responsibility. (1) A person may not engage in the
 9 business of a commodity dealer in this state without first
 10 having obtained a license issued by the department.

11 (2) An application for a license to engage in business
 12 as a commodity dealer must be filed with the department and
 13 must be on a form prescribed by the department.

14 (3) A license application must include the following:

15 (a) the name of the applicant;
 16 (b) the names of the officers and directors if the
 17 applicant is a corporation;

18 (c) the names of the partners if the applicant is a
 19 partnership;

20 (d) the location of the principal places of business;

21 (e) a sufficient and valid bond as specified in
 22 80-4-604;

23 (f) the number and description of trucks or
 24 tractor-trailer units owned or leased by the applicant that
 25 will be used in the transportation of agricultural

1 commodities purchased pursuant to the provisions of this
 2 part;

3 (g) a complete financial statement prepared by a
 4 licensed accountant according to generally accepted
 5 accounting principles, setting forth the applicant's assets,
 6 liabilities, and net worth. The commodity dealer shall have
 7 and maintain current assets equal to or greater than current
 8 liabilities. Assets must be shown at original cost less
 9 depreciation, Upon except that upon written request filed
 10 with the department, the director may allow asset valuations
 11 in accordance with a competent appraisal. In determining
 12 total net assets, credit may be given for insurable
 13 property, such as buildings, machinery, equipment, and
 14 merchandise inventory, only to the extent that such property
 15 is protected by insurance against loss or damage by fire.
 16 The insurance must be in the form of lawful policies issued
 17 by one or more insurance companies authorized to do business
 18 and subject to service of process in suits brought in this
 19 state.

20 (h) any other reasonable information the department
 21 finds necessary to carry out the provisions and purpose of
 22 this part.

23 (4) In order to receive and retain a commodity
 24 dealer's license, a commodity dealer shall have and maintain
 25 net assets of at least \$50,000 or maintain a bond in the

1 amount of \$2,000 for each \$1,000 or fraction thereof of net
 2 assets deficiency. However, a minimum of \$10,000 net assets
 3 is required by a commodity dealer to qualify for a license.
 4 A bond submitted for purposes of this subsection is in
 5 addition to any bond otherwise required under this part.

6 (5) The department shall adopt rules relating to the
 7 form and time of filing of financial statements. The
 8 department may require additional information or
 9 verification regarding the financial resources of the
 10 applicant and the applicant's ability to pay producers for
 11 agricultural commodities purchased from them."

12 Section 6. Section 80-4-604, MCA, is amended to read:

13 "80-4-604. Bonding requirement amounts --
 14 cancellation. (1) An applicant for a license to operate as a
 15 commodity dealer shall, before a license may be issued, file
 16 with the department a surety bond or its equivalent, as
 17 established by department rule, payable to the state. The
 18 aggregate annual liability of the surety may not exceed the
 19 sum of the bond. ~~A continuous bond shall obligate a new~~
 20 ~~penal sum with the commencement of each licensing year.~~

21 (2) Unless set by department rule, the bond for a
 22 commodity dealer may not exceed 2% of the value of the
 23 agricultural commodities purchased by the commodity dealer
 24 from the producer ~~or warehouseman~~ during the previous
 25 12-month period. The bond for all new applicants is 2% of

1 the estimated value of all agricultural commodities to be
 2 purchased during the coming 12-month period. The department
 3 may by rule require a greater percentage in each instance.
 4 The minimum amount of bond required by any commodity dealer
 5 is \$20,000, and the maximum is prescribed in 80-4-405.

6 (3) A surety shall notify the commodity dealer and the
 7 department by certified mail at least ~~30~~ 60 days prior to
 8 the cancellation of the bond. The liability of the surety
 9 covers purchases made by the commodity dealer during the
 10 time the bond is in force. A commodity dealer's bond filed
 11 with the department is continuous until canceled by the
 12 surety upon 30 60 days' notice; however, such cancellation
 13 does not terminate any liability of the surety incurred
 14 prior to the date of cancellation."

-End-

STANDING COMMITTEE REPORT

SENATE

March 15 19 85

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration HOUSE BILL No. 621

third reading copy (blue color)

Holliday (Galt)

PERMITS ALTERNATIVE TO WAREHOUSEMAN'S AND COMMODITY DEALER'S BONDS

HOUSE BILL No. 621

Respectfully report as follows: That

be amended as follows:

1. Statement of Intent, page 1, line 7.

Following: "1"

Strike: "through 3"

Insert: ", 2, and 6"

AND AS AMENDED
BE CONCURRED IN

XXXXXX

XXXXXX

Handwritten signature of Paul F. Boylan, Chairman.

1 STATEMENT OF INTENT
 2 HOUSE BILL 621
 3 House Agriculture Committee
 4

5 This statement of intent is required because rulemaking
 6 authority is granted to the department of agriculture in
 7 sections 1, through-3 2, AND 6.

8 It is the intent of the legislature that the department
 9 of agriculture adopt rules to establish alternatives to
 10 bonds required for licensing of commodity dealers and
 11 warehousemen. The legislature intends that a certificate of
 12 deposit, an irrevocable letter of credit, or other similar
 13 financial assurance be given, with no right to withdraw the
 14 financial assurance without the approval of the department,
 15 in order to be an acceptable bond alternative.

16 It is the intent of the legislature that the bond be
 17 given to obligate the surety for only the face amount of the
 18 bond regardless of the number of licensing periods for which
 19 it continues in effect, unless the department requires an
 20 additional bond amount. Likewise, the alternative to the
 21 bond must be an amount not to be increased unless changes in
 22 operation require additional coverage. Upon termination of
 23 the license, the bond alternative may not be released by the
 24 department until the statute of limitations has run on the
 25 types of claims that could be made or until it can be

1 demonstrated that no claims exist that may be made against
 2 it.

HOUSE BILL NO. 621

INTRODUCED BY HOLLIDAY, SCHULTZ, ELLERD, KOEHNKE, MANUEL
BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW
RELATING TO ASSET VALUATION AND BOND REQUIREMENTS FOR GRAIN
DEALERS AND WAREHOUSEMEN; PERMITTING AN ALTERNATIVE TO THE
BONDS; PROVIDING UNIFORMITY OF THE FINANCIAL EVALUATION
PROVISIONS FOR COMMODITY DEALERS AND WAREHOUSEMEN; REQUIRING
A 60-DAY NOTICE OF CANCELLATION; AMENDING SECTIONS 80-4-402,
80-4-504 THROUGH 80-4-506, 80-4-601, AND 80-4-604, MCA."

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

Section 1. Section 80-4-402, MCA, is amended to read:

"80-4-402. Definitions. As used in parts 4 through 7
of this chapter, the following definitions apply:

(1) "Agent" means any person who contracts for or
solicits any agricultural commodities from a producer or
warehouseman or negotiates the consignment or purchase of
any agricultural commodity on behalf of any commodity
dealer.

(2) "Agricultural commodity" means any grain, beans,
safflower, sunflower seeds, tame mustards, rapeseed,
flaxseed, leguminous seed, or other small seed, and other
agricultural commodities designated by rule of the

department.

(3) "Bond" means the bond required to be filed by part
5 or 6 of this chapter and includes any equivalent
established by department rule, as provided in 80-4-504 and
80-4-604.

(4) "Commodity dealer" means any person who engages
in a business involving or, as part of his business,
participates in buying, exchanging, negotiating, or
soliciting the sale, resale, exchange, or transfer of any
agricultural commodity in the state of Montana. The term
does not include:

(a) a person engaged solely in storing, shipping, or
handling agricultural commodities for hire;

(b) a person who buys or handles less than \$10,000
worth of agricultural commodities in a licensing year;

(c) a person who is the producer of agricultural
commodities that he actually plants, nurtures, and harvests;
or

(d) a person whose trading in agricultural commodities
is limited to trading in commodity futures on a recognized
futures exchange.

(5) "Credit sale contract" means a contract for the
sale of an agricultural commodity when the sale price is to
be paid at a date after delivery of the agricultural
commodity to the buyer and includes but is not limited to

1 those contracts commonly referred to as deferred payment
2 contracts, deferred pricing contracts, or price-later
3 contracts.

4 ~~(5)~~(6) "Department" means the department of
5 agriculture provided for in 2-15-3001.

6 ~~(6)~~(7) "Depositor" means any person who deposits an
7 agricultural commodity in a warehouse for storage,
8 processing, handling, or shipment or who is the owner or
9 legal holder of an outstanding warehouse receipt or who is
10 lawfully entitled to possession of the agricultural
11 commodity.

12 ~~(7)~~(8) "Director" means the director of the department
13 of agriculture.

14 ~~(8)~~(9) "Grain" means all grains for which standards
15 have been established under the United States Grain
16 Standards Act (7 U.S.C. 71 through 87) and all other
17 agricultural commodities, such as mustard, oil seed crops,
18 or other crops which may be designated by rule of the
19 department.

20 ~~(9)~~(10) "Grain Standards Act" means the United States
21 Grain Standards Act (7 U.S.C. 71 through 87) as that act
22 reads on July 1, 1983.

23 ~~(10)~~(11) "Inspector" means any person so designated by
24 the director to assist in the administration of parts 4
25 through 6 of this chapter. The term includes warehouse

1 auditors or examiners.

2 ~~(11)~~(12) "Official grain inspectors" means any official
3 personnel who perform or supervise the performance of
4 official inspection services and certify the results
5 thereof, including the grade of the grain.

6 ~~(12)~~(13) "Official grain samplers" or "samplers" means
7 any official personnel who perform or supervise the
8 performance of official sampling services and certify the
9 results thereof.

10 ~~(13)~~(14) "Official grain standards" means the standards
11 of quality and condition of grain that establish the grades
12 defined by the Grain Standards Act.

13 ~~(14)~~(15) "Official grain weighers" means any official
14 personnel who perform or supervise the performance of class
15 X or class Y weighing services and certify the results
16 thereof, including the weight of the grain.

17 ~~(15)~~(16) "Person" means any individual, firm,
18 association, corporation, partnership, or any other form of
19 business enterprise.

20 ~~(16)~~(17) "Producer" means the owner, tenant, or
21 operator of land in this state who has an interest in and
22 receives all or part of the proceeds from the sale of
23 agricultural commodities produced on that land.

24 ~~(17)~~(18) "Public warehouse" or "warehouse" means any
25 elevator, mill, warehouse, subterminal grain warehouse,

1 public warehouse, or other structure or facility in which,
 2 for compensation, agricultural commodities are received for
 3 storage, handling, processing, or shipment. The term
 4 includes facilities which commingle commodities belonging to
 5 different lots of agricultural commodities.

6 †18†(19) "Receipt" means a warehouse receipt.

7 †19†(20) "Scale weight ticket" means a load slip or
 8 other evidence of delivery, other than a receipt, given to a
 9 depositor by a warehouseman licensed under the provisions of
 10 part 5 of this chapter upon initial delivery of the
 11 agricultural commodity to the warehouse.

12 †20†(21) "Station" means a warehouse located more than
 13 3 miles from the central office of the warehouse.

14 †21†(22) "Subterminal warehouse" means any warehouse at
 15 which an intermediate function is performed in which
 16 agricultural commodities are customarily received from
 17 dealers or producers and where the commodities are
 18 accumulated prior to shipment.

19 †22†(23) "Terminal grain warehouse" means any warehouse
 20 authorized by a grain exchange to receive or disburse grain
 21 on consignment as presented by the rules and regulations of
 22 a grain exchange.

23 †23†(24) "Warehouseman" means a person operating or
 24 controlling a public warehouse.

25 †24†(25) "Warehouse receipt" means every receipt,

1 whether negotiable or nonnegotiable, issued under part 5 of
 2 this chapter by a warehouseman, except scale weight
 3 tickets."

4 Section 2. Section 80-4-504, MCA, is amended to read:
 5 "80-4-504. Bond of applicant for license -- additional
 6 bond -- additional obligations. (1) Each applicant for a
 7 warehouseman's license shall file a bond or its equivalent,
 8 as established by department rule, with the department. The
 9 bond must be in such form and must contain such terms and
 10 conditions as the department may prescribe by rule to carry
 11 out the purpose of this section and 80-4-505.

12 (2) The department may demand an additional bond if
 13 the nature or volume of the business conducted by the
 14 warehouseman warrants an increase.

15 (3) The warehouseman may give a single bond to cover
 16 all warehouses operated by him.

17 (4) Any changes in the capacity of a warehouse or
 18 installation of any new warehouse involving a change in the
 19 bond liability under 80-4-505 must be reported in writing to
 20 the director, and an appropriate bond must be filed prior to
 21 the operation thereof."

22 Section 3. Section 80-4-505, MCA, is amended to read:
 23 "80-4-505. Amount of bond -- cancellation. (1) The
 24 amount of the bond to be furnished for each warehouse must
 25 be fixed at a rate of 20 cents per hundredweight for the

1 first 500,000 hundredweight of licensed capacity; 15 cents
 2 per hundredweight for the next 500,000 hundredweight of
 3 licensed capacity; and 10 cents per hundredweight for all
 4 licensed capacity over 1 million hundredweight. The amount
 5 of the bond may not be less than \$20,000 or more than the
 6 maximum prescribed in 80-4-405. The licensed capacity is
 7 the maximum number of hundredweight of agricultural
 8 commodities that the warehouse can accommodate.

9 (2) If a warehouseman is also operating as a commodity
 10 dealer, he shall also provide a bond as prescribed in
 11 80-4-604.

12 (3) If there occurs a deficiency in net assets as
 13 required under 80-4-506, there shall be added to the amount
 14 of bond determined in accordance with subsection (1) an
 15 amount equal to that deficiency.

16 (4) Each warehouseman bond shall run continuously with
 17 the warehouseman license until canceled by the bonding
 18 company. The aggregate annual liability of the surety may in
 19 no event exceed the sum of the bond. ~~A continuous bond shall~~
 20 ~~obligate a new penal sum with the commencement of each~~
 21 ~~licensing year.~~

22 (5) A ~~30-day~~ 60-day written notice must be given to
 23 the department by the bonding company before any bond is
 24 canceled; however, such cancellation does not terminate any
 25 liability of the surety incurred prior to the date of

1 cancellation."

2 Section 4. Section 80-4-506, MCA, is amended to read:

3 "80-4-506. Net asset requirements. (1) Each licensee
 4 or applicant for a license shall maintain, above all
 5 exemptions and liabilities, total net assets liable for the
 6 payment of any indebtedness arising from the conduct of the
 7 warehouse or warehouses of at least 40 cents per
 8 hundredweight of all agricultural commodities that his
 9 warehouse or warehouses can accommodate.

10 (2) No person may be licensed as a warehouseman unless
 11 he has and maintains allowable net assets of at least
 12 \$10,000.

13 (3) Assets must be valued at original cost less
 14 depreciation, except that upon written request filed with
 15 the department, the director may allow asset valuations in
 16 accordance with a competent appraisal.

17 ~~(3)(4)~~ (4) In determining total net assets, credit may be
 18 given for insurable property, such as buildings, machinery,
 19 equipment, and merchandise inventory, only to the extent
 20 that such property is protected by insurance against loss or
 21 damage by fire. The insurance must be in the form of lawful
 22 policies issued by one or more insurance companies
 23 authorized to do business and subject to service of process
 24 in suits brought in this state.

25 ~~(4)(5)~~ (5) If a warehouseman is licensed or applies for

1 licenses to operate two or more warehouses, the maximum
 2 number of hundredweight which all such warehouses will
 3 accommodate must be considered in determining whether the
 4 warehouseman meets the net asset requirements specified in
 5 this section."

6 Section 5. Section 80-4-601, MCA, is amended to read:
 7 "80-4-601. Commodity dealer license requirements --
 8 financial responsibility. (1) A person may not engage in the
 9 business of a commodity dealer in this state without first
 10 having obtained a license issued by the department.

11 (2) An application for a license to engage in business
 12 as a commodity dealer must be filed with the department and
 13 must be on a form prescribed by the department.

14 (3) A license application must include the following:

15 (a) the name of the applicant;
 16 (b) the names of the officers and directors if the
 17 applicant is a corporation;

18 (c) the names of the partners if the applicant is a
 19 partnership;

20 (d) the location of the principal places of business;

21 (e) a sufficient and valid bond as specified in
 22 80-4-604;

23 (f) the number and description of trucks or
 24 tractor-trailer units owned or leased by the applicant that
 25 will be used in the transportation of agricultural

1 commodities purchased pursuant to the provisions of this
 2 part;

3 (g) a complete financial statement prepared by a
 4 licensed accountant according to generally accepted
 5 accounting principles, setting forth the applicant's assets,
 6 liabilities, and net worth. The commodity dealer shall have
 7 and maintain current assets equal to or greater than current
 8 liabilities. Assets must be shown at original cost less
 9 depreciation. Upon except that upon written request filed
 10 with the department, the director may allow asset valuations
 11 in accordance with a competent appraisal. In determining
 12 total net assets, credit may be given for insurable
 13 property, such as buildings, machinery, equipment, and
 14 merchandise inventory, only to the extent that such property
 15 is protected by insurance against loss or damage by fire.
 16 The insurance must be in the form of lawful policies issued
 17 by one or more insurance companies authorized to do business
 18 and subject to service of process in suits brought in this
 19 state.

20 (h) any other reasonable information the department
 21 finds necessary to carry out the provisions and purpose of
 22 this part.

23 (4) In order to receive and retain a commodity
 24 dealer's license, a commodity dealer shall have and maintain
 25 net assets of at least \$50,000 or maintain a bond in the

1 amount of \$2,000 for each \$1,000 or fraction thereof of net
 2 assets deficiency. However, a minimum of \$10,000 net assets
 3 is required by a commodity dealer to qualify for a license.
 4 A bond submitted for purposes of this subsection is in
 5 addition to any bond otherwise required under this part.

6 (5) The department shall adopt rules relating to the
 7 form and time of filing of financial statements. The
 8 department may require additional information or
 9 verification regarding the financial resources of the
 10 applicant and the applicant's ability to pay producers for
 11 agricultural commodities purchased from them."

12 Section 6. Section 80-4-604, MCA, is amended to read:

13 "80-4-604. Bonding requirement amounts --
 14 cancellation. (1) An applicant for a license to operate as a
 15 commodity dealer shall, before a license may be issued, file
 16 with the department a surety bond or its equivalent, as
 17 established by department rule, payable to the state. The
 18 aggregate annual liability of the surety may not exceed the
 19 sum of the bond. ~~A continuous bond shall obligate a new~~
 20 ~~penal sum with the commencement of each licensing year.~~

21 (2) Unless set by department rule, the bond for a
 22 commodity dealer may not exceed 2% of the value of the
 23 agricultural commodities purchased by the commodity dealer
 24 from the producer ~~or warehouseman~~ during the previous
 25 12-month period. The bond for all new applicants is 2% of

1 the estimated value of all agricultural commodities to be
 2 purchased during the coming 12-month period. The department
 3 may by rule require a greater percentage in each instance.
 4 The minimum amount of bond required by any commodity dealer
 5 is \$20,000, and the maximum is prescribed in 80-4-405.

6 (3) A surety shall notify the commodity dealer and the
 7 department by certified mail at least 30 60 days prior to
 8 the cancellation of the bond. The liability of the surety
 9 covers purchases made by the commodity dealer during the
 10 time the bond is in force. A commodity dealer's bond filed
 11 with the department is continuous until canceled by the
 12 surety upon 30 60 days' notice; however, such cancellation
 13 does not terminate any liability of the surety incurred
 14 prior to the date of cancellation."

-End-