

SENATE BILL NO. 201

INTRODUCED BY BOYLAN, SCHULTZ

BY REQUEST OF THE DEPARTMENT
OF AGRICULTURE

IN THE SENATE

January 23, 1985	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 28, 1985	Fiscal Note requested.
February 1, 1985	Fiscal Note returned.
February 9, 1985	Committee recommend bill do pass as amended. Report adopted.
February 11, 1985	Bill printed and placed on members' desks.
February 12, 1985	Second reading, do pass.
February 13, 1985	Considered correctly engrossed.
February 14, 1985	Third reading, passed. Ayes, 50; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 12, 1985	Committee recommend bill be concurrent in. Report adopted.

March 15, 1985

Second reading, concurred in.

March 18, 1985

Third reading, concurred in.

Returned to Senate.

IN THE SENATE

March 18, 1985

Received from House.

March 19, 1985

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 201
 2 INTRODUCED BY Raylan J. Schultz
 3 BY REQUEST OF THE DEPARTMENT
 4 OF AGRICULTURE

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 7 LAW RELATING TO COMMERCIAL FERTILIZER; CHANGING THE
 8 COMPOSITION OF THE FERTILIZER ADVISORY COMMITTEE; FURTHER
 9 DEFINING THE RESPONSIBILITY AND ENFORCEMENT OF PAYMENT OF
 10 FERTILIZER FEES; AND REQUIRING LABELING OF STORAGE BINS;
 11 AMENDING SECTIONS 2-15-1516, 80-10-101, 80-10-103,
 12 80-10-201, 80-10-204, AND 80-10-207, MCA."
 13

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

15 Section 1. Section 2-15-1516, MCA, is amended to read:
 16 "2-15-1516. Fertilizer advisory committee. (1) There
 17 is a fertilizer advisory committee.

18 (2) ~~The committee consists of five members. The~~
 19 ~~members shall represent the fertilizer users of the state.~~
 20 ~~The members shall be appointed by the dean of agriculture of~~
 21 ~~Montana state university with the approval of the chairman~~
 22 ~~of the Montana house of representatives agriculture and~~
 23 ~~irrigation committee, the chairman of the Montana senate~~
 24 ~~agriculture committee, the chairman of the Montana plant~~
 25 ~~food association or its successor organization, the director~~

1 ~~of the cooperative extension service, and the director of~~
 2 ~~the Montana agricultural experiment station. The committee~~
 3 ~~is composed of seven members, appointed jointly by the~~
 4 ~~director of the Montana agricultural experiment station and~~
 5 ~~the director of the Montana cooperative extension service of~~
 6 ~~Montana state university, as follows:~~

7 (a) five members involved in agriculture that includes
 8 the use of fertilizer in production; and

9 (b) two members from the fertilizer industry.

10 (3) The director of the department of agriculture
 11 shall serve as an ex officio member.

12 ~~(4)~~ (4) The members shall serve staggered 5-year terms,
 13 except that members shall be initially appointed so that no
 14 more than two terms expire in any year. A member may not
 15 serve more than 7 consecutive years."

16 Section 2. Section 80-10-101, MCA, is amended to read:
 17 "80-10-101. Definitions. As used in this chapter, the
 18 following definitions apply:

19 (1) "Brand" means a term, design, or trademark used in
 20 connection with one or several grades of commercial
 21 fertilizer.

22 (2) "Commercial fertilizer" includes any substance
 23 containing one or more recognized plant nutrients which is
 24 used for its plant nutrient content and which is designed
 25 for use or claimed to have value in promoting plant growth,



1 yield, or quality of the crop.

2 (a) "Bulk fertilizer" is commercial fertilizer (dry or
3 liquid) distributed in nonpackage form or in containers of
4 greater than 1,000 pounds.

5 (b) "Fertilizer materials" is a commercial fertilizer
6 which either:

7 (i) contains important quantities of not more than one
8 of the primary plant nutrients (nitrogen, phosphoric acid,
9 and potash);

10 (ii) has approximately 85% of its plant nutrient
11 content present in the form of a single chemical compound;
12 or

13 (iii) is derived from a plant or animal residue or
14 byproduct or a natural material deposit which has been
15 processed in such a way that its content of primary plant
16 nutrients has not been materially changed except by
17 purification and concentration.

18 (c) "Mixed fertilizers" is a commercial fertilizer
19 (dry or liquid) containing any combination or mixture of
20 fertilizer materials.

21 (d) "Packaged fertilizer" is commercial fertilizer
22 (dry or liquid) distributed in sealed containers of 1,000
23 pounds or less.

24 (e) "Specialty fertilizer" is a commercial fertilizer
25 (dry or liquid) distributed primarily for nonfarm use, such

1 as home gardens, lawns, shrubbery, flowers, golf courses,
2 municipal parks, cemeteries, greenhouses, and nurseries and
3 includes commercial fertilizers used for research or
4 experimental purposes.

5 (3) "Distribute" means to offer for sale, sell,
6 barter, or otherwise supply commercial fertilizers.

7 (4) "Distributor" means any person who distributes.

8 (5) "Grade" means the percentages of total nitrogen,
9 available phosphorus or phosphoric acid, and soluble
10 potassium or soluble potash stated in whole numbers in the
11 same terms, order, and percentages as in the guaranteed
12 analysis. However, fertilizer materials, bone meal, manures,
13 and similar raw materials may be guaranteed in fractional
14 units.

15 (6) "Licensee" means any person who has obtained a
16 license from the department so he may legally distribute
17 commercial fertilizer other than specialty fertilizers or
18 soil amendment in this state.

19 (7) "Manipulated manures" means substances composed
20 primarily of excreta, plant remains, or mixtures of such
21 substances which have been processed in any manner,
22 including the addition of plant nutrients, drying, grinding,
23 and other means.

24 (8) "Manufacture" means the formulation, mixing,
25 blending, or further processing of commercial fertilizers or

1 soil amendments.

2 (9) "Manufacturer" is a person who manufactures
3 commercial fertilizer or soil amendments.

4 ~~(8)~~(10) "Official sample" means any sample of
5 commercial fertilizer taken by the department and so
6 designated by the department.

7 ~~(9)~~(11) "Percent or percentage" means the percentage by
8 weight.

9 ~~(10)~~(12) "Person" means an individual, partnership,
10 association, firm, or corporation.

11 ~~(11)~~(13) "Registrant" means the person who registers
12 commercial fertilizer and/or soil amendment.

13 ~~(12)~~(14) "Soil amendment" means any material not
14 included under commercial fertilizer or those products
15 subject to the Federal Insecticide, Fungicide, and
16 Rodenticide Act, as amended, which is added to soil or to
17 plants for purposes of influencing the growth, yield, or
18 quality of the crop, soil flora or fauna, or other soil
19 characteristics.

20 ~~(13)~~(15) "Ton" means a net weight of 2,000 pounds
21 avoirdupois."

22 Section 3. Section 80-10-103, MCA, is amended to read:
23 "80-10-103. Assessment to fund educational and
24 experimental programs -- collection. Moneys to fund
25 80-10-104 through 80-10-106 ~~will~~ must be produced by an

1 assessment of 35 cents per ton of fertilizer sold within
2 Montana. Collections shall be made in accordance with
3 procedures in 80-10-207 and shall be collected from the
4 ~~licensee or~~ registrant of fertilizer."

5 Section 4. Section 80-10-201, MCA, is amended to read:

6 "80-10-201. Registration and licenses. (1) Each brand
7 and grade of fertilizer and each soil amendment except
8 unmanipulated animal and vegetable manures shall be
9 registered by the manufacturer before distribution in this
10 state. The application for registration shall be submitted
11 to the department on a form furnished or approved by the
12 department and shall be accompanied by a fee of \$10 per
13 grade for each fertilizer and for each soil amendment with
14 exception of specialty fertilizers in packages of 10 pounds
15 or less which shall be registered at a fee of \$25 each. Upon
16 approval, the department shall furnish a copy of the
17 registration to the applicant. All registrations expire on
18 December 31 of each year.

19 (2) (a) The application for registration shall
20 include:

- 21 (i) the brand and grade;
22 (ii) the guaranteed analysis;
23 (iii) the source of each plant food element guaranteed;
24 (iv) the name and address of the registrant;
25 (v) a copy or facsimile of each label and of

1 promotional material when requested by the department.

2 (b) Further, the department shall require the
3 applicant to furnish replicated data, performed by a
4 reputable investigator whose work is recognized as
5 acceptable by the director of the agricultural experiment
6 station or his designee, verifying any claims for
7 effectiveness or agricultural value of any fertilizer or
8 soil amendment product which is not generally recognized as
9 having the values claimed at the use rates recommended.

10 (3) A distributor may not be required to register any
11 brand or grade of commercial fertilizer which is already
12 registered under this section by another person.

13 (4) No registrant may reregister his product until
14 full payment of the assessment fees provided for in
15 80-10-103 has been received by the department."

16 Section 5. Section 80-10-204, MCA, is amended to read:

17 "80-10-204. Labeling. (1) Any commercial fertilizer
18 distributed in this state in packages shall have affixed to
19 or printed on the container a label setting forth in clearly
20 legible and conspicuous form:

21 (a) the net weight;

22 (b) the name and address of the manufacturer or
23 distributor guaranteeing the analysis;

24 (c) the brand and product name;

25 (d) the grade;

1 (e) the guaranteed analysis; and

2 (f) other requirements as established by rule.

3 (2) Any bin in the state in which commercial
4 fertilizer is stored for distribution must have affixed to
5 or printed on it a label setting forth in clearly legible
6 and conspicuous form:

7 (a) the guaranteed analysis of the product in the bin;
8 and

9 (b) other requirements established by rule.

10 ~~†2†~~(3) All commercial fertilizer delivered in this
11 state in bulk, whether a manufactured grade or blended
12 grade, shall be accompanied by a clearly legible document
13 which shall be supplied to the purchaser at the time of
14 delivery and at the time his invoice is delivered. The
15 document shall show:

16 (a) net weight;

17 (b) name and address of the distributor or
18 manufacturer guaranteeing the analysis;

19 (c) guaranteed analysis or, on blended fertilizer, the
20 net weight and guaranteed analysis of each ingredient added;
21 and

22 (d) other requirements as established by rule.

23 ~~†3†~~(4) When distributed in containers, soil amendments
24 shall have a label affixed to or printed on the container.
25 When delivered in bulk the label shall be clearly legible

1 and shall accompany the delivery of the product. This label
2 shall be supplied to the purchaser at the time of delivery
3 and at the time of invoicing. The label shall contain the
4 following information:

- 5 (a) net weight;
- 6 (b) name and address of the registrant or licensee who
7 is responsible for the product;
- 8 (c) brand and product name;
- 9 (d) guaranteed analysis;
- 10 (e) other requirements, such as particle size, as
11 established by rule."

12 Section 6. Section 80-10-207, MCA, is amended to read:

13 "80-10-207. Fees. (1) There shall be paid to the
14 department fees on all commercial fertilizer distributed in
15 this state, except specialty fertilizers sold in packages of
16 10 pounds or less, and unmanipulated animal and vegetable
17 manures, provided that sales to manufacturers or exchanges
18 between them are exempt. The fees are:

- 19 (a) inspection, 20 cents per ton. The department may
20 by rule after hearing adjust the inspection fee not to
21 exceed a maximum of 25 cents per ton to maintain adequate
22 funding for the administration of this part. Any change in
23 fee becomes effective on the first day of a reporting
24 period. All registrants shall be given notice of any change
25 in fees before the effective date.

1 (b) assessment, the fee prescribed in 80-10-103. The
2 assessment fee shall be used to fund educational and
3 experimental programs as provided in 80-10-103 through
4 80-10-106.

5 (2) There shall be paid to the department on all soil
6 amendments distributed in this state an inspection fee of 10
7 cents per ton subject to the following provisions:

- 8 (a) sales to manufacturers or exchanges between them
9 are exempt; and
- 10 (b) when less than 50 tons of registered soil
11 amendment is sold per 6-month period, there shall be paid to
12 the department a fee of \$5 per soil amendment per 6-month
13 period in lieu of the 10 cents per ton fee. Inspection fees
14 shall be used by the department for administration of this
15 part.

16 (3) (a) (i) Every registrant---and licensee who
17 distributes a soil amendment or commercial fertilizer,
18 except specialty fertilizer in packages of 10 pounds or less
19 and unmanipulated manures, to an unlicensed or unregistered
20 person in this state shall file with the department on
21 forms furnished or approved by the department a semiannual
22 statement for the periods ending June 30 and December 31
23 setting forth the number of net tons of each commercial
24 fertilizer and/or soil amendment distributed in this state
25 during the 6-month period. The report is due on or before

1 the 30th day of the month following the close of each
 2 period. The ~~registrant--or~~ licensee shall pay the proper
 3 fees, as set forth in subsection (1) of this section, at
 4 that time.

5 (ii) Every registrant who registers a soil amendment or
 6 commercial fertilizer in this state, except specialty
 7 fertilizer in packages of 10 pounds or less and
 8 unmanipulated manures, shall file with the department on
 9 forms furnished or approved by the department a monthly
 10 statement setting forth the number of net tons of each
 11 registered commercial fertilizer and soil amendment
 12 distributed in this state during the month and to whom it
 13 was distributed. The report is due on or before the 30th day
 14 of the following month. The registrant shall pay the fees
 15 set forth in subsection (1) at that time.

16 (b) If the tonnage report is not filed and the payment
 17 of fees is not made within 30 days after the end of the
 18 period a collection fee amounting to 10% of the amount due
 19 but not less than \$10 shall be assessed against the
 20 registrant ~~or-licensee~~, and the amount of fees due shall
 21 constitute a debt and become the basis of a judgment against
 22 the registrant ~~or-licensee~~.

23 (4) All fees collected for licenses, registration, and
 24 inspection and moneys collected as penalties shall be
 25 deposited in the state treasury to the credit of the state

1 special revenue fund for the purpose of administering this
 2 chapter, including the cost of equipment and facilities and
 3 the cost of inspecting, analyzing, and examining commercial
 4 fertilizer and soil amendments manufactured or distributed
 5 in this state. Reserve funds may be invested by the
 6 department with interest credited to the state special
 7 revenue fund."

8 NEW SECTION. Section 7. Extension of authority. Any
 9 existing authority of the department of agriculture to make
 10 rules on the subject of the provisions of this act is
 11 extended to the provisions of this act.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 245-85

Form BD-15

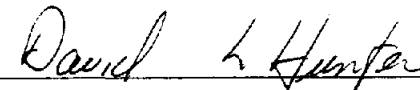
In compliance with a written request received January 28, 19 85, there is hereby submitted a Fiscal Note for S.B. 201 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 201 generally revises the law relating to commercial fertilizer, changes the composition of the Fertilizer Advisory Committee, further defines the responsibility and enforcement of payment of fertilizer fees, requires labeling of storage bins.

ASSUMPTIONS:

1. Currently, all fertilizer sold in Montana is assessed a 35-cent charge to fund educational and experimental programs. The wording change in 80-10-103 will not change the revenue generated.
2. The assessment revenue is split 50%-50% between the Agricultural Experiment Station and the Cooperative Extension Service.
3. Two more members will be added to the Fertilizer Advisory Committee. The committee expenses will be split between the Agricultural Experiment Station (AES) and the Cooperative Extension Service (CES) and will be absorbed by their respective fertilizer budgets.
4. All fertilizer retailers continue to report tonnage movements every six months.
5. Legislation adds the requirement that the manufacturer must pay the assessment and report monthly on tonnage movement.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 1, 1985

S.B. 201

FISCAL IMPACT:

No increase in revenues.

Potential travel expenses increases absorbed within current revenues.

Expenditures:

	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
Personal Services	\$ -0-	\$ 3,544	\$ 3,544	\$ -0-	\$ 3,544	\$ 3,544
Operating Expenses	-0-	500	500	-0-	500	500
Total	\$ -0-	\$ 4,044	\$ 4,044	\$ -0-	\$ 4,044	\$ 4,044
Earmarked Special Revenue	\$ -0-	\$ 4,044	\$ 4,044	\$ -0-	\$ 4,044	\$ 4,044

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

1 SENATE BILL NO. 201
2 INTRODUCED BY BOYLAN, SCHULTZ
3 BY REQUEST OF THE DEPARTMENT
4 OF AGRICULTURE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
7 LAW RELATING TO COMMERCIAL FERTILIZER; CHANGING THE
8 COMPOSITION OF THE FERTILIZER ADVISORY COMMITTEE; FURTHER
9 DEFINING THE RESPONSIBILITY AND ENFORCEMENT OF PAYMENT OF
10 FERTILIZER FEES; AND REQUIRING LABELING OF STORAGE BINS;
11 AMENDING SECTIONS 2-15-1516, 80-10-101, 80-10-103,
12 80-10-201, 80-10-204, AND 80-10-207, MCA."
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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17 is a fertilizer advisory committee.

18 (2) ~~The committee consists of five members. The~~
19 ~~members shall represent the fertilizer users of the state.~~
20 ~~The members shall be appointed by the dean of agriculture of~~
21 ~~Montana state university with the approval of the chairman~~
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1 ~~of the cooperative extension service, and the director of~~
2 ~~the Montana agricultural experiment station. The committee~~
3 ~~is composed of seven members, appointed jointly by the~~
4 ~~director of the Montana agricultural experiment station and~~
5 ~~the director of the Montana cooperative extension service of~~
6 ~~Montana state university, as follows:~~

7 (a) five members involved in agriculture that includes
8 the use of fertilizer in production; and

9 (b) two members from the fertilizer industry.

10 (3) The director of the department of agriculture
11 shall serve as an ex officio member.

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13 except that members shall be initially appointed so that no
14 more than two terms expire in any year. A member may not
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20 connection with one or several grades of commercial
21 fertilizer.

22 (2) "Commercial fertilizer" includes any substance
23 containing one or more recognized plant nutrients which is
24 used for its plant nutrient content and which is designed
25 for use or claimed to have value in promoting plant growth,

1 yield, or quality of the crop.

2 (a) "Bulk fertilizer" is commercial fertilizer (dry or
3 liquid) distributed in nonpackage form or in containers of
4 greater than 1,000 pounds.

5 (b) "Fertilizer materials" is a commercial fertilizer
6 which either:

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8 of the primary plant nutrients (nitrogen, phosphoric acid,
9 and potash);

10 (ii) has approximately 85% of its plant nutrient
11 content present in the form of a single chemical compound;
12 or

13 (iii) is derived from a plant or animal residue or
14 byproduct or a natural material deposit which has been
15 processed in such a way that its content of primary plant
16 nutrients has not been materially changed except by
17 purification and concentration.

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20 fertilizer materials.

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23 pounds or less.

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1 as home gardens, lawns, shrubbery, flowers, golf courses,
2 municipal parks, cemeteries, greenhouses, and nurseries and
3 includes commercial fertilizers used for research or
4 experimental purposes.

5 (3) "Distribute" means to offer for sale, sell,
6 barter, or otherwise supply commercial fertilizers.

7 (4) "Distributor" means any person who distributes.

8 (5) "Grade" means the percentages of total nitrogen,
9 available phosphorus or phosphoric acid, and soluble
10 potassium or soluble potash stated in whole numbers in the
11 same terms, order, and percentages as in the guaranteed
12 analysis. However, fertilizer materials, bone meal, manures,
13 and similar raw materials may be guaranteed in fractional
14 units.

15 (6) "Licensee" means any person who has obtained a
16 license from the department so he may legally distribute
17 commercial fertilizer other than specialty fertilizers or
18 soil amendment in this state.

19 (7) "Manipulated manures" means substances composed
20 primarily of excreta, plant remains, or mixtures of such
21 substances which have been processed in any manner,
22 including the addition of plant nutrients, drying, grinding,
23 and other means.

24 (8) "Manufacture" means the formulation, mixing,
25 blending, or further processing of commercial fertilizers or

1 soil amendments.

2 (9) "Manufacturer" is a person who manufactures
3 commercial fertilizer or soil amendments.

4 ~~(10)~~(10) "Official sample" means any sample of
5 commercial fertilizer taken by the department and so
6 designated by the department.

7 ~~(9)~~(11) "Percent or percentage" means the percentage by
8 weight.

9 ~~(10)~~(12) "Person" means an individual, partnership,
10 association, firm, or corporation.

11 ~~(11)~~(13) "Registrant" means the person who registers
12 commercial fertilizer and/or soil amendment.

13 ~~(12)~~(14) "Soil amendment" means any material not
14 included under commercial fertilizer or those products
15 subject to the Federal Insecticide, Fungicide, and
16 Rodenticide Act, as amended, which is added to soil or to
17 plants for purposes of influencing the growth, yield, or
18 quality of the crop, soil flora or fauna, or other soil
19 characteristics.

20 ~~(13)~~(15) "Ton" means a net weight of 2,000 pounds
21 avoirdupois."

22 Section 3. Section 80-10-103, MCA, is amended to read:
23 "80-10-103. Assessment to fund educational and
24 experimental programs -- collection. Moneys to fund
25 80-10-104 through 80-10-106 will must be produced by an

1 assessment of 35 cents per ton of fertilizer sold within
2 Montana. Collections shall be made in accordance with
3 procedures in 80-10-207 and shall be collected from the
4 ~~licensee or registrant of fertilizer~~ MANUFACTURER."

5 Section 4. Section 80-10-201, MCA, is amended to read:
6 "80-10-201. Registration and licenses. (1) Each brand
7 and grade of fertilizer and each soil amendment except
8 unmanipulated animal and vegetable manures shall be
9 registered by OR ON BEHALF OF the manufacturer before
10 distribution in this state. The application for
11 registration shall be submitted to the department on a form
12 furnished or approved by the department and shall be
13 accompanied by a fee of \$10 per grade for each fertilizer
14 and for each soil amendment with exception of specialty
15 fertilizers in packages of 10 pounds or less which shall be
16 registered at a fee of \$25 each. Upon approval, the
17 department shall furnish a copy of the registration to the
18 applicant. All registrations expire on December 31 of each
19 year.

20 (2) (a) The application for registration shall
21 include:

- 22 (i) the brand and grade;
23 (ii) the guaranteed analysis;
24 (iii) the source of each plant food element guaranteed;
25 (iv) the name and address of the registrant;

1 (v) a copy or facsimile of each label and of
2 promotional material when requested by the department.

3 (b) Further, the department shall require the
4 applicant to furnish replicated data, performed by a
5 reputable investigator whose work is recognized as
6 acceptable by the director of the agricultural experiment
7 station or his designee, verifying any claims for
8 effectiveness or agricultural value of any fertilizer or
9 soil amendment product which is not generally recognized as
10 having the values claimed at the use rates recommended.

11 (3) A distributor may not be required to register any
12 brand or grade of commercial fertilizer which is already
13 registered under this section by another person.

14 (4) No registrant MANUFACTURER may reregister his
15 product until full payment of the assessment fees provided
16 for in 80-10-103 AND 80-10-207 has been received by the
17 department."

18 Section 5. Section 80-10-204, MCA, is amended to read:

19 "80-10-204. Labeling. (1) Any commercial fertilizer
20 distributed in this state in packages shall have affixed to
21 or printed on the container a label setting forth in clearly
22 legible and conspicuous form:

23 (a) the net weight;

24 (b) the name and address of the manufacturer or
25 distributor guaranteeing the analysis;

1 (c) the brand and product name;

2 (d) the grade;

3 (e) the guaranteed analysis; and

4 (f) other requirements as established by rule.

5 (2) Any bin in the state in which commercial
6 fertilizer is stored for distribution must have affixed to
7 or printed on it a label setting forth in clearly legible
8 and conspicuous form:

9 (a) the guaranteed analysis of the product in the bin;

10 and

11 (b) other requirements established by rule.

12 ~~(2)~~(3) All commercial fertilizer delivered in this
13 state in bulk, whether a manufactured grade or blended
14 grade, shall be accompanied by a clearly legible document
15 which shall be supplied to the purchaser at the time of
16 delivery and at the time his invoice is delivered. The
17 document shall show:

18 (a) net weight;

19 (b) name and address of the distributor or
20 manufacturer guaranteeing the analysis;

21 (c) guaranteed analysis or, on blended fertilizer, the
22 net weight and guaranteed analysis of each ingredient added;

23 and

24 (d) other requirements as established by rule.

25 ~~(3)~~(4) When distributed in containers, soil amendments

1 shall have a label affixed to or printed on the container.
 2 When delivered in bulk the label shall be clearly legible
 3 and shall accompany the delivery of the product. This label
 4 shall be supplied to the purchaser at the time of delivery
 5 and at the time of invoicing. The label shall contain the
 6 following information:

- 7 (a) net weight;
- 8 (b) name and address of the registrant or licensee who
 9 is responsible for the product;
- 10 (c) brand and product name;
- 11 (d) guaranteed analysis;
- 12 (e) other requirements, such as particle size, as
 13 established by rule."

14 Section 6. Section 80-10-207, MCA, is amended to read:

15 "80-10-207. Fees. (1) There (A) A MANUFACTURER
 16 REGISTERING UNDER 80-10-201(1) shall ~~be--paid~~ PAY to the
 17 department fees on all commercial fertilizer distributed in
 18 this state, except specialty fertilizers sold in packages of
 19 10 pounds or less, and unmanipulated animal and vegetable
 20 manures, provided that sales to manufacturers or exchanges
 21 between them are exempt. The fees are:

22 ~~(a)~~ (I) inspection, 20 cents per ton. The department
 23 may by rule after hearing adjust the inspection fee not to
 24 exceed a maximum of 25 cents per ton to maintain adequate
 25 funding for the administration of this part. Any change in

1 fee becomes effective on the first day of a reporting
 2 period. All registrants MANUFACTURERS shall be given notice
 3 of any change in fees before the effective date.

4 ~~(b)~~ (II) assessment, the fee prescribed in 80-10-103.
 5 The assessment fee shall be used to fund educational and
 6 experimental programs as provided in 80-10-103 through
 7 80-10-106.

8 (B) IF FERTILIZER OR SOIL AMENDMENT MATERIAL IS ADDED
 9 TO FERTILIZER FOR WHICH A FEE HAS BEEN PAID UNDER SUBSECTION
 10 (1)(A), A FEE MUST BE PAID UNDER THAT SUBSECTION, BUT ONLY
 11 ON THE ADDED FERTILIZER OR SOIL AMENDMENT.

12 (2) There shall be paid to the department on all soil
 13 amendments distributed in this state an inspection fee of 10
 14 cents per ton subject to the following provisions:

15 (a) sales to manufacturers or exchanges between them
 16 are exempt; and

17 (b) when less than 50 tons of registered soil
 18 amendment is sold per 6-month period, there shall be paid to
 19 the department a fee of \$5 per soil amendment per 6-month
 20 period in lieu of the 10 cents per ton fee. Inspection fees
 21 shall be used by the department for administration of this
 22 part.

23 (3) (a) (i) Every ~~registrant---and~~ licensee who
 24 distributes a soil amendment or commercial fertilizer,
 25 except specialty fertilizer in packages of 10 pounds or less

1 and unmanipulated manures, to an unlicensed or unregistered
 2 person in this state shall file with the department on
 3 forms furnished or approved by the department a semiannual
 4 statement for the periods ending June 30 and December 31
 5 setting forth the number of net tons of each commercial
 6 fertilizer and/or soil amendment distributed in this state
 7 during the 6-month period. The report is due on or before
 8 the 30th day of the month following the close of each
 9 period. ~~The registrant or licensee shall pay the proper~~
 10 ~~fees; as set forth in subsection (1) of this section, at~~
 11 ~~that time.~~

12 (ii) Every registrant MANUFACTURER who registers a soil
 13 amendment or commercial fertilizer in this state, OR A
 14 PERSON WHO REGISTERS ON THE MANUFACTURER'S BEHALF, except
 15 specialty fertilizer in packages of 10 pounds or less and
 16 unmanipulated manures, shall file with the department on
 17 forms furnished or approved by the department a monthly
 18 statement setting forth the number of net tons of each
 19 registered commercial fertilizer and soil amendment
 20 distributed in this state during the month and to whom it
 21 was distributed. The report is due on or before the 30th day
 22 of the following month. The registrant MANUFACTURER OR
 23 PERSON REGISTERING ON BEHALF OF THE MANUFACTURER shall pay
 24 the fees set forth in subsection (1) at that time.

25 (b) If the tonnage report REQUIRED BY SUBSECTION

1 (3)(A)(II) is not filed and the payment of fees is not made
 2 within 30 days after the end of the period a collection fee
 3 amounting to 10% of the amount due but not less than \$10
 4 shall be assessed against the ~~registrant or licensee~~
 5 MANUFACTURER, and the amount of fees due shall constitute a
 6 debt and become the basis of a judgment against the
 7 ~~registrant or licensee~~ MANUFACTURER.

8 (4) All fees collected for licenses, registration, and
 9 inspection and moneys collected as penalties shall be
 10 deposited in the state treasury to the credit of the state
 11 special revenue fund for the purpose of administering this
 12 chapter, including the cost of equipment and facilities and
 13 the cost of inspecting, analyzing, and examining commercial
 14 fertilizer and soil amendments manufactured or distributed
 15 in this state. Reserve funds may be invested by the
 16 department with interest credited to the state special
 17 revenue fund."

18 NEW SECTION. Section 7. Extension of authority. Any
 19 existing authority of the department of agriculture to make
 20 rules on the subject of the provisions of this act is
 21 extended to the provisions of this act.

-End-

1 SENATE BILL NO. 201
 2 INTRODUCED BY BOYLAN, SCHULTZ
 3 BY REQUEST OF THE DEPARTMENT
 4 OF AGRICULTURE
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 7 LAW RELATING TO COMMERCIAL FERTILIZER; CHANGING THE
 8 COMPOSITION OF THE FERTILIZER ADVISORY COMMITTEE; FURTHER
 9 DEFINING THE RESPONSIBILITY AND ENFORCEMENT OF PAYMENT OF
 10 FERTILIZER FEES; AND REQUIRING LABELING OF STORAGE BINS;
 11 AMENDING SECTIONS 2-15-1516, 80-10-101, 80-10-103,
 12 80-10-201, 80-10-204, AND 80-10-207, MCA."
 13

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

15 Section 1. Section 2-15-1516, MCA, is amended to read:
 16 "2-15-1516. Fertilizer advisory committee. (1) There
 17 is a fertilizer advisory committee.

18 (2) ~~The committee consists of five members. The~~
 19 ~~members shall represent the fertilizer users of the state.~~
 20 ~~The members shall be appointed by the dean of agriculture of~~
 21 ~~Montana state university with the approval of the chairman~~
 22 ~~of the Montana house of representatives, agriculture and~~
 23 ~~irrigation committee, the chairman of the Montana senate~~
 24 ~~agriculture committee, the chairman of the Montana plant~~
 25 ~~food association or its successor organization, the director~~

1 ~~of the cooperative extension service, and the director of~~
 2 ~~the Montana agricultural experiment station. The committee~~
 3 ~~is composed of seven members, appointed jointly by the~~
 4 ~~director of the Montana agricultural experiment station and~~
 5 ~~the director of the Montana cooperative extension service of~~
 6 ~~Montana state university, as follows:~~

7 ~~(a) five members involved in agriculture that includes~~
 8 ~~the use of fertilizer in production; and~~

9 ~~(b) two members from the fertilizer industry.~~

10 ~~(3) The director of the department of agriculture~~
 11 ~~shall serve as an ex officio member.~~

12 ~~(4) The members shall serve staggered 5-year terms,~~
 13 ~~except that members shall be initially appointed so that no~~
 14 ~~more than two terms expire in any year. A member may not~~
 15 ~~serve more than 7 consecutive years."~~

16 Section 2. Section 80-10-101, MCA, is amended to read:
 17 "80-10-101. Definitions. As used in this chapter, the
 18 following definitions apply:

19 (1) "Brand" means a term, design, or trademark used in
 20 connection with one or several grades of commercial
 21 fertilizer.

22 (2) "Commercial fertilizer" includes any substance
 23 containing one or more recognized plant nutrients which is
 24 used for its plant nutrient content and which is designed
 25 for use or claimed to have value in promoting plant growth,



1 yield, or quality of the crop.

2 (a) "Bulk fertilizer" is commercial fertilizer (dry or
3 liquid) distributed in nonpackage form or in containers of
4 greater than 1,000 pounds.

5 (b) "Fertilizer materials" is a commercial fertilizer
6 which either:

7 (i) contains important quantities of not more than one
8 of the primary plant nutrients (nitrogen, phosphoric acid,
9 and potash);

10 (ii) has approximately 85% of its plant nutrient
11 content present in the form of a single chemical compound;
12 or

13 (iii) is derived from a plant or animal residue or
14 byproduct or a natural material deposit which has been
15 processed in such a way that its content of primary plant
16 nutrients has not been materially changed except by
17 purification and concentration.

18 (c) "Mixed fertilizers" is a commercial fertilizer
19 (dry or liquid) containing any combination or mixture of
20 fertilizer materials.

21 (d) "Packaged fertilizer" is commercial fertilizer
22 (dry or liquid) distributed in sealed containers of 1,000
23 pounds or less.

24 (e) "Specialty fertilizer" is a commercial fertilizer
25 (dry or liquid) distributed primarily for nonfarm use, such

1 as home gardens, lawns, shrubbery, flowers, golf courses,
2 municipal parks, cemeteries, greenhouses, and nurseries and
3 includes commercial fertilizers used for research or
4 experimental purposes.

5 (3) "Distribute" means to offer for sale, sell,
6 barter, or otherwise supply commercial fertilizers.

7 (4) "Distributor" means any person who distributes.

8 (5) "Grade" means the percentages of total nitrogen,
9 available phosphorus or phosphoric acid, and soluble
10 potassium or soluble potash stated in whole numbers in the
11 same terms, order, and percentages as in the guaranteed
12 analysis. However, fertilizer materials, bone meal, manures,
13 and similar raw materials may be guaranteed in fractional
14 units.

15 (6) "Licensee" means any person who has obtained a
16 license from the department so he may legally distribute
17 commercial fertilizer other than specialty fertilizers or
18 soil amendment in this state.

19 (7) "Manipulated manures" means substances composed
20 primarily of excreta, plant remains, or mixtures of such
21 substances which have been processed in any manner,
22 including the addition of plant nutrients, drying, grinding,
23 and other means.

24 (8) "Manufacture" means the formulation, mixing,
25 blending, or further processing of commercial fertilizers or

1 soil amendments.

2 (9) "Manufacturer" is a person who manufactures
3 commercial fertilizer or soil amendments.

4 ~~(8)~~(10) "Official sample" means any sample of
5 commercial fertilizer taken by the department and so
6 designated by the department.

7 ~~(9)~~(11) "Percent or percentage" means the percentage by
8 weight.

9 ~~(10)~~(12) "Person" means an individual, partnership,
10 association, firm, or corporation.

11 ~~(11)~~(13) "Registrant" means the person who registers
12 commercial fertilizer and/or soil amendment.

13 ~~(12)~~(14) "Soil amendment" means any material not
14 included under commercial fertilizer or those products
15 subject to the Federal Insecticide, Fungicide, and
16 Rodenticide Act, as amended, which is added to soil or to
17 plants for purposes of influencing the growth, yield, or
18 quality of the crop, soil flora or fauna, or other soil
19 characteristics.

20 ~~(13)~~(15) "Ton" means a net weight of 2,000 pounds
21 avoirdupois."

22 Section 3. Section 80-10-103, MCA, is amended to read:

23 "80-10-103. Assessment to fund educational and
24 experimental programs -- collection. Moneys to fund
25 80-10-104 through 80-10-106 ~~will~~ must be produced by an

1 assessment of 35 cents per ton of fertilizer sold within
2 Montana. Collections shall be made in accordance with
3 procedures in 80-10-207 and shall be collected from the
4 ~~licensee or registrant of fertilizer~~ MANUFACTURER."

5 Section 4. Section 80-10-201, MCA, is amended to read:

6 "80-10-201. Registration and licenses. (1) Each brand
7 and grade of fertilizer and each soil amendment except
8 unmanipulated animal and vegetable manures shall be
9 registered by OR ON BEHALF OF the manufacturer before
10 distribution in this state. The application for
11 registration shall be submitted to the department on a form
12 furnished or approved by the department and shall be
13 accompanied by a fee of \$10 per grade for each fertilizer
14 and for each soil amendment with exception of specialty
15 fertilizers in packages of 10 pounds or less which shall be
16 registered at a fee of \$25 each. Upon approval, the
17 department shall furnish a copy of the registration to the
18 applicant. All registrations expire on December 31 of each
19 year.

20 (2) (a) The application for registration shall
21 include:

- 22 (i) the brand and grade;
23 (ii) the guaranteed analysis;
24 (iii) the source of each plant food element guaranteed;
25 (iv) the name and address of the registrant;

1 (v) a copy or facsimile of each label and of
2 promotional material when requested by the department.

3 (b) Further, the department shall require the
4 applicant to furnish replicated data, performed by a
5 reputable investigator whose work is recognized as
6 acceptable by the director of the agricultural experiment
7 station or his designee, verifying any claims for
8 effectiveness or agricultural value of any fertilizer or
9 soil amendment product which is not generally recognized as
10 having the values claimed at the use rates recommended.

11 (3) A distributor may not be required to register any
12 brand or grade of commercial fertilizer which is already
13 registered under this section by another person.

14 (4) No registrant MANUFACTURER may reregister his
15 product until full payment of the assessment fees provided
16 for in 80-10-103 AND 80-10-207. has been received by the
17 department."

18 Section 5. Section 80-10-204, MCA, is amended to read:

19 "80-10-204. Labeling. (1) Any commercial fertilizer
20 distributed in this state in packages shall have affixed to
21 or printed on the container a label setting forth in clearly
22 legible and conspicuous form:

23 (a) the net weight;

24 (b) the name and address of the manufacturer or
25 distributor guaranteeing the analysis;

1 (c) the brand and product name;

2 (d) the grade;

3 (e) the guaranteed analysis; and

4 (f) other requirements as established by rule.

5 (2) Any bin in the state in which commercial
6 fertilizer is stored for distribution must have affixed to
7 or printed on it a label setting forth in clearly legible
8 and conspicuous form:

9 (a) the guaranteed analysis of the product in the bin;
10 and

11 (b) other requirements established by rule.

12 ~~(2)~~(3) All commercial fertilizer delivered in this
13 state in bulk, whether a manufactured grade or blended
14 grade, shall be accompanied by a clearly legible document
15 which shall be supplied to the purchaser at the time of
16 delivery and at the time his invoice is delivered. The
17 document shall show:

18 (a) net weight;

19 (b) name and address of the distributor or
20 manufacturer guaranteeing the analysis;

21 (c) guaranteed analysis or, on blended fertilizer, the
22 net weight and guaranteed analysis of each ingredient added;

23 and

24 (d) other requirements as established by rule.

25 ~~(3)~~(4) When distributed in containers, soil amendments

1 shall have a label affixed to or printed on the container.
 2 When delivered in bulk the label shall be clearly legible
 3 and shall accompany the delivery of the product. This label
 4 shall be supplied to the purchaser at the time of delivery
 5 and at the time of invoicing. The label shall contain the
 6 following information:

- 7 (a) net weight;
 8 (b) name and address of the registrant or licensee who
 9 is responsible for the product;
 10 (c) brand and product name;
 11 (d) guaranteed analysis;
 12 (e) other requirements, such as particle size, as
 13 established by rule."

14 Section 6. Section 80-10-207, MCA, is amended to read:
 15 "80-10-207. Fees. (1) ~~There (A) A MANUFACTURER~~
 16 REGISTERING UNDER 80-10-201(1) shall be--paid PAY to the
 17 department fees on all commercial fertilizer distributed in
 18 this state, except specialty fertilizers sold in packages of
 19 10 pounds or less, and unmanipulated animal and vegetable
 20 manures, provided that sales to manufacturers or exchanges
 21 between them are exempt. The fees are:

22 ~~(a)(I)~~ inspection, 20 cents per ton. The department
 23 may by rule after hearing adjust the inspection fee not to
 24 exceed a maximum of 25 cents per ton to maintain adequate
 25 funding for the administration of this part. Any change in

1 fee becomes effective on the first day of a reporting
 2 period. All registrants MANUFACTURERS shall be given notice
 3 of any change in fees before the effective date.

4 ~~(b)(II)~~ assessment, the fee prescribed in 80-10-103.
 5 The assessment fee shall be used to fund educational and
 6 experimental programs as provided in 80-10-103 through
 7 80-10-106.

8 (B) IF FERTILIZER OR SOIL AMENDMENT MATERIAL IS ADDED
 9 TO FERTILIZER FOR WHICH A FEE HAS BEEN PAID UNDER SUBSECTION
 10 (1)(A), A FEE MUST BE PAID UNDER THAT SUBSECTION, BUT ONLY
 11 ON THE ADDED FERTILIZER OR SOIL AMENDMENT.

12 (2) There shall be paid to the department on all soil
 13 amendments distributed in this state an inspection fee of 10
 14 cents per ton subject to the following provisions:

15 (a) sales to manufacturers or exchanges between them
 16 are exempt; and

17 (b) when less than 50 tons of registered soil
 18 amendment is sold per 6-month period, there shall be paid to
 19 the department a fee of \$5 per soil amendment per 6-month
 20 period in lieu of the 10 cents per ton fee. Inspection fees
 21 shall be used by the department for administration of this
 22 part.

23 (3) (a) (i) Every registrant---and licensee who
 24 distributes a soil amendment or commercial fertilizer,
 25 except specialty fertilizer in packages of 10 pounds or less

1 and unmanipulated manures, to an unlicensed or unregistered
 2 person in this state shall file with the department on
 3 forms furnished or approved by the department a semiannual
 4 statement for the periods ending June 30 and December 31
 5 setting forth the number of net tons of each commercial
 6 fertilizer and/or soil amendment distributed in this state
 7 during the 6-month period. The report is due on or before
 8 the 30th day of the month following the close of each
 9 period. ~~The registrant or licensee shall pay the proper~~
 10 ~~fees, as set forth in subsection (1) of this section, at~~
 11 ~~that time.~~

12 (ii) Every registrant MANUFACTURER who registers a soil
 13 amendment or commercial fertilizer in this state, OR A
 14 PERSON WHO REGISTERS ON THE MANUFACTURER'S BEHALF, except
 15 specialty fertilizer in packages of 10 pounds or less and
 16 unmanipulated manures, shall file with the department on
 17 forms furnished or approved by the department a monthly
 18 statement setting forth the number of net tons of each
 19 registered commercial fertilizer and soil amendment
 20 distributed in this state during the month and to whom it
 21 was distributed. The report is due on or before the 30th day
 22 of the following month. The registrant MANUFACTURER OR
 23 PERSON REGISTERING ON BEHALF OF THE MANUFACTURER shall pay
 24 the fees set forth in subsection (1) at that time.

25 (b) If the tonnage report REQUIRED BY SUBSECTION

1 (3)(A)(II) is not filed and the payment of fees is not made
 2 within 30 days after the end of the period a collection fee
 3 amounting to 10% of the amount due but not less than \$10
 4 shall be assessed against the registrant--or--licensee
 5 MANUFACTURER, and the amount of fees due shall constitute a
 6 debt and become the basis of a judgment against the
 7 ~~registrant or licensee~~ MANUFACTURER.

8 (4) All fees collected for licenses, registration, and
 9 inspection and moneys collected as penalties shall be
 10 deposited in the state treasury to the credit of the state
 11 special revenue fund for the purpose of administering this
 12 chapter, including the cost of equipment and facilities and
 13 the cost of inspecting, analyzing, and examining commercial
 14 fertilizer and soil amendments manufactured or distributed
 15 in this state. Reserve funds may be invested by the
 16 department with interest credited to the state special
 17 revenue fund."

18 NEW SECTION. Section 7. Extension of authority. Any
 19 existing authority of the department of agriculture to make
 20 rules on the subject of the provisions of this act is
 21 extended to the provisions of this act.

-End-

SENATE BILL NO. 201

INTRODUCED BY BOYLAN, SCHULTZ

BY REQUEST OF THE DEPARTMENT

OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW RELATING TO COMMERCIAL FERTILIZER; CHANGING THE COMPOSITION OF THE FERTILIZER ADVISORY COMMITTEE; FURTHER DEFINING THE RESPONSIBILITY AND ENFORCEMENT OF PAYMENT OF FERTILIZER FEES; AND REQUIRING LABELING OF STORAGE BINS; AMENDING SECTIONS 2-15-1516, 80-10-101, 80-10-103, 80-10-201, 80-10-204, AND 80-10-207, MCA."

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

Section 1. Section 2-15-1516, MCA, is amended to read:

"2-15-1516. Fertilizer advisory committee. (1) There is a fertilizer advisory committee.

(2) ~~The committee consists of five members. The members shall represent the fertilizer users of the state. The members shall be appointed by the dean of agriculture of Montana state university with the approval of the chairman of the Montana house of representatives, agriculture and irrigation committee, the chairman of the Montana senate agriculture committee, the chairman of the Montana plant food association or its successor organization, the director~~

~~of the cooperative extension service, and the director of the Montana agricultural experiment station. The committee is composed of seven members, appointed jointly by the director of the Montana agricultural experiment station and the director of the Montana cooperative extension service of Montana state university, as follows:~~

~~(a) five members involved in agriculture that includes the use of fertilizer in production; and~~

~~(b) two members from the fertilizer industry.~~

~~(3) The director of the department of agriculture shall serve as an ex officio member.~~

~~(4) The members shall serve staggered 5-year terms, except that members shall be initially appointed so that no more than two terms expire in any year. A member may not serve more than 7 consecutive years."~~

Section 2. Section 80-10-101, MCA, is amended to read:

"80-10-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Brand" means a term, design, or trademark used in connection with one or several grades of commercial fertilizer.

(2) "Commercial fertilizer" includes any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth,

1 yield, or quality of the crop.

2 (a) "Bulk fertilizer" is commercial fertilizer (dry or
3 liquid) distributed in nonpackage form or in containers of
4 greater than 1,000 pounds.

5 (b) "Fertilizer materials" is a commercial fertilizer
6 which either:

7 (i) contains important quantities of not more than one
8 of the primary plant nutrients (nitrogen, phosphoric acid,
9 and potash);

10 (ii) has approximately 85% of its plant nutrient
11 content present in the form of a single chemical compound;
12 or

13 (iii) is derived from a plant or animal residue or
14 byproduct or a natural material deposit which has been
15 processed in such a way that its content of primary plant
16 nutrients has not been materially changed except by
17 purification and concentration.

18 (c) "Mixed fertilizers" is a commercial fertilizer
19 (dry or liquid) containing any combination or mixture of
20 fertilizer materials.

21 (d) "Packaged fertilizer" is commercial fertilizer
22 (dry or liquid) distributed in sealed containers of 1,000
23 pounds or less.

24 (e) "Specialty fertilizer" is a commercial fertilizer
25 (dry or liquid) distributed primarily for nonfarm use, such

1 as home gardens, lawns, shrubbery, flowers, golf courses,
2 municipal parks, cemeteries, greenhouses, and nurseries and
3 includes commercial fertilizers used for research or
4 experimental purposes.

5 (3) "Distribute" means to offer for sale, sell,
6 barter, or otherwise supply commercial fertilizers.

7 (4) "Distributor" means any person who distributes.

8 (5) "Grade" means the percentages of total nitrogen,
9 available phosphorus or phosphoric acid, and soluble
10 potassium or soluble potash stated in whole numbers in the
11 same terms, order, and percentages as in the guaranteed
12 analysis. However, fertilizer materials, bone meal, manures,
13 and similar raw materials may be guaranteed in fractional
14 units.

15 (6) "Licensee" means any person who has obtained a
16 license from the department so he may legally distribute
17 commercial fertilizer other than specialty fertilizers or
18 soil amendment in this state.

19 (7) "Manipulated manures" means substances composed
20 primarily of excreta, plant remains, or mixtures of such
21 substances which have been processed in any manner,
22 including the addition of plant nutrients, drying, grinding,
23 and other means.

24 (8) "Manufacture" means the formulation, mixing,
25 blending, or further processing of commercial fertilizers or

1 soil amendments.

2 (9) "Manufacturer" is a person who manufactures
3 commercial fertilizer or soil amendments.

4 ~~(8)~~(10) "Official sample" means any sample of
5 commercial fertilizer taken by the department and so
6 designated by the department.

7 ~~(9)~~(11) "Percent or percentage" means the percentage by
8 weight.

9 ~~(10)~~(12) "Person" means an individual, partnership,
10 association, firm, or corporation.

11 ~~(11)~~(13) "Registrant" means the person who registers
12 commercial fertilizer and/or soil amendment.

13 ~~(12)~~(14) "Soil amendment" means any material not
14 included under commercial fertilizer or those products
15 subject to the Federal Insecticide, Fungicide, and
16 Rodenticide Act, as amended, which is added to soil or to
17 plants for purposes of influencing the growth, yield, or
18 quality of the crop, soil flora or fauna, or other soil
19 characteristics.

20 ~~(13)~~(15) "Ton" means a net weight of 2,000 pounds
21 avoirdupois."

22 Section 3. Section 80-10-103, MCA, is amended to read:

23 "80-10-103. Assessment to fund educational and
24 experimental programs -- collection. Moneys to fund
25 80-10-104 through 80-10-106 ~~will~~ must be produced by an

1 assessment of 35 cents per ton of fertilizer sold within
2 Montana. Collections shall be made in accordance with
3 procedures in 80-10-207 and shall be collected from the
4 ~~licensee or registrant of fertilizer~~ MANUFACTURER."

5 Section 4. Section 80-10-201, MCA, is amended to read:

6 "80-10-201. Registration and licenses. (1) Each brand
7 and grade of fertilizer and each soil amendment except
8 unmanipulated animal and vegetable manures shall be
9 registered by OR ON BEHALF OF the manufacturer before
10 distribution in this state. The application for
11 registration shall be submitted to the department on a form
12 furnished or approved by the department and shall be
13 accompanied by a fee of \$10 per grade for each fertilizer
14 and for each soil amendment with exception of specialty
15 fertilizers in packages of 10 pounds or less which shall be
16 registered at a fee of \$25 each. Upon approval, the
17 department shall furnish a copy of the registration to the
18 applicant. All registrations expire on December 31 of each
19 year.

20 (2) (a) The application for registration shall
21 include:

- 22 (i) the brand and grade;
23 (ii) the guaranteed analysis;
24 (iii) the source of each plant food element guaranteed;
25 (iv) the name and address of the registrant;

1 (v) a copy or facsimile of each label and of
2 promotional material when requested by the department.

3 (b) Further, the department shall require the
4 applicant to furnish replicated data, performed by a
5 reputable investigator whose work is recognized as
6 acceptable by the director of the agricultural experiment
7 station or his designee, verifying any claims for
8 effectiveness or agricultural value of any fertilizer or
9 soil amendment product which is not generally recognized as
10 having the values claimed at the use rates recommended.

11 (3) A distributor may not be required to register any
12 brand or grade of commercial fertilizer which is already
13 registered under this section by another person.

14 (4) No registrant MANUFACTURER may reregister his
15 product until full payment of the assessment fees provided
16 for in 80-10-103 AND 80-10-207 has been received by the
17 department."

18 Section 5. Section 80-10-204, MCA, is amended to read:

19 "80-10-204. Labeling. (1) Any commercial fertilizer
20 distributed in this state in packages shall have affixed to
21 or printed on the container a label setting forth in clearly
22 legible and conspicuous form:

23 (a) the net weight;

24 (b) the name and address of the manufacturer or
25 distributor guaranteeing the analysis;

1 (c) the brand and product name;

2 (d) the grade;

3 (e) the guaranteed analysis; and

4 (f) other requirements as established by rule.

5 (2) Any bin in the state in which commercial
6 fertilizer is stored for distribution must have affixed to
7 or printed on it a label setting forth in clearly legible
8 and conspicuous form:

9 (a) the guaranteed analysis of the product in the bin;
10 and

11 (b) other requirements established by rule.

12 ~~†2†~~(3) All commercial fertilizer delivered in this
13 state in bulk, whether a manufactured grade or blended
14 grade, shall be accompanied by a clearly legible document
15 which shall be supplied to the purchaser at the time of
16 delivery and at the time his invoice is delivered. The
17 document shall show:

18 (a) net weight;

19 (b) name and address of the distributor or
20 manufacturer guaranteeing the analysis;

21 (c) guaranteed analysis or, on blended fertilizer, the
22 net weight and guaranteed analysis of each ingredient added;
23 and

24 (d) other requirements as established by rule.

25 ~~†3†~~(4) When distributed in containers, soil amendments

1 shall have a label affixed to or printed on the container.
 2 When delivered in bulk the label shall be clearly legible
 3 and shall accompany the delivery of the product. This label
 4 shall be supplied to the purchaser at the time of delivery
 5 and at the time of invoicing. The label shall contain the
 6 following information:

- 7 (a) net weight;
- 8 (b) name and address of the registrant or licensee who
 9 is responsible for the product;
- 10 (c) brand and product name;
- 11 (d) guaranteed analysis;
- 12 (e) other requirements, such as particle size, as
 13 established by rule."

14 Section 6. Section 80-10-207, MCA, is amended to read:

15 "80-10-207. Fees. (1) There (A) A MANUFACTURER
 16 REGISTERING UNDER 80-10-201(1) shall be--paid PAY to the
 17 department fees on all commercial fertilizer distributed in
 18 this state, except specialty fertilizers sold in packages of
 19 10 pounds or less, and unmanipulated animal and vegetable
 20 manures, provided that sales to manufacturers or exchanges
 21 between them are exempt. The fees are:

- 22 (a) (I) inspection, 20 cents per ton. The department
 23 may by rule after hearing adjust the inspection fee not to
 24 exceed a maximum of 25 cents per ton to maintain adequate
 25 funding for the administration of this part. Any change in

1 fee becomes effective on the first day of a reporting
 2 period. All registrants MANUFACTURERS shall be given notice
 3 of any change in fees before the effective date.

4 (b) (II) assessment, the fee prescribed in 80-10-103.
 5 The assessment fee shall be used to fund educational and
 6 experimental programs as provided in 80-10-103 through
 7 80-10-106.

8 (B) IF FERTILIZER OR SOIL AMENDMENT MATERIAL IS ADDED
 9 TO FERTILIZER FOR WHICH A FEE HAS BEEN PAID UNDER SUBSECTION
 10 (1)(A), A FEE MUST BE PAID UNDER THAT SUBSECTION, BUT ONLY
 11 ON THE ADDED FERTILIZER OR SOIL AMENDMENT.

12 (2) There shall be paid to the department on all soil
 13 amendments distributed in this state an inspection fee of 10
 14 cents per ton subject to the following provisions:

15 (a) sales to manufacturers or exchanges between them
 16 are exempt; and

17 (b) when less than 50 tons of registered soil
 18 amendment is sold per 6-month period, there shall be paid to
 19 the department a fee of \$5 per soil amendment per 6-month
 20 period in lieu of the 10 cents per ton fee. Inspection fees
 21 shall be used by the department for administration of this
 22 part.

23 (3) (a) (i) Every registrant---and licensee who
 24 distributes a soil amendment or commercial fertilizer,
 25 except specialty fertilizer in packages of 10 pounds or less

1 and unmanipulated manures, to an unlicensed or unregistered
 2 person in this state shall file with the department on
 3 forms furnished or approved by the department a semiannual
 4 statement for the periods ending June 30 and December 31
 5 setting forth the number of net tons of each commercial
 6 fertilizer and/or soil amendment distributed in this state
 7 during the 6-month period. The report is due on or before
 8 the 30th day of the month following the close of each
 9 period. ~~The registrant or licensee shall pay the proper~~
 10 ~~fees, as set forth in subsection (i) of this section, at~~
 11 ~~that time.~~

12 . (ii) Every registrant MANUFACTURER who registers a soil
 13 amendment or commercial fertilizer in this state, OR A
 14 PERSON WHO REGISTERS ON THE MANUFACTURER'S BEHALF, except
 15 specialty fertilizer in packages of 10 pounds or less and
 16 unmanipulated manures, shall file with the department on
 17 forms furnished or approved by the department a monthly
 18 statement setting forth the number of net tons of each
 19 registered commercial fertilizer and soil amendment
 20 distributed in this state during the month and to whom it
 21 was distributed. The report is due on or before the 30th day
 22 of the following month. The registrant MANUFACTURER OR
 23 PERSON REGISTERING ON BEHALF OF THE MANUFACTURER shall pay
 24 the fees set forth in subsection (1) at that time.

25 (b) If the tonnage report REQUIRED BY SUBSECTION

1 (3)(A)(II) is not filed and the payment of fees is not made
 2 within 30 days after the end of the period a collection fee
 3 amounting to 10% of the amount due but not less than \$10
 4 shall be assessed against the ~~registrant or licensee~~
 5 MANUFACTURER, and the amount of fees due shall constitute a
 6 debt and become the basis of a judgment against the
 7 ~~registrant or licensee~~ MANUFACTURER.

8 (4) All fees collected for licenses, registration, and
 9 inspection and moneys collected as penalties shall be
 10 deposited in the state treasury to the credit of the state
 11 special revenue fund for the purpose of administering this
 12 chapter, including the cost of equipment and facilities and
 13 the cost of inspecting, analyzing, and examining commercial
 14 fertilizer and soil amendments manufactured or distributed
 15 in this state. Reserve funds may be invested by the
 16 department with interest credited to the state special
 17 revenue fund."

18 NEW SECTION. Section 7. Extension of authority. Any
 19 existing authority of the department of agriculture to make
 20 rules on the subject of the provisions of this act is
 21 extended to the provisions of this act.

-End-