

HOUSE FINAL STATUS

HB 40 INTRODUCED BY GLASER

ESTABLISH A 100 PERCENT MONTANA LIMITED BLENDED
GRAIN MARKETING PROGRAM

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE ON
AGRICULTURE PROBLEMS

1/05 INTRODUCED

1/05 REFERRED TO AGRICULTURE, LIVESTOCK &
IRRIGATION

1/05 FISCAL NOTE REQUESTED

1/07 HEARING

1/07 FISCAL NOTE RECEIVED

1/10 COMMITTEE REPORT--BILL PASSED AS AMENDED

1/13 REVISED FISCAL NOTE REQUESTED

1/19 FISCAL NOTE RECEIVED

1/20 2ND READING PASSES 78 17

1/20 REFERRED TO APPROPRIATIONS

1/29 HEARING

2/21 HEARING

2/21 TABLED IN COMMITTEE

1 HOUSE BILL NO. 40
 2 INTRODUCED BY GLASER
 3 BY REQUEST OF THE JOINT INTERIM
 4 SUBCOMMITTEE ON AGRICULTURAL PROBLEMS

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A 100%
 7 MONTANA LIMITED BLENDED GRAIN MARKETING PROGRAM; AUTHORIZING
 8 THE DEPARTMENT OF AGRICULTURE TO ADMINISTER THE PROGRAM;
 9 GRANTING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE
 10 DATE."

11
 12 WHEREAS, under the Tenth Amendment of the federal
 13 Constitution, those "powers not delegated to the United
 14 States by the Constitution, nor prohibited by it to the
 15 States, are reserved to the States respectively, or to the
 16 people"; and

17 WHEREAS, each state retains sovereign powers to govern
 18 all activities, persons, and property within its
 19 jurisdiction, if the state does not exercise power that
 20 interferes or conflicts with federal law; and

21 WHEREAS, Congress has enacted the United States Grain
 22 Standards Act, which establishes standards of kind, class,
 23 quality, and condition for grain; and

24 WHEREAS, the United States Grain Standards Act allows
 25 grain to be combined with dockage, water, and foreign

1 material; and

2 WHEREAS, the United States Grain Standards Act further
 3 permits grain to be intermingled with dissimilar grain or
 4 blended with grain of a lower quality; and

5 WHEREAS, the quality of Montana grain is not comparable
 6 to grain sold by foreign nations due to the level of
 7 blending allowed under the United States Grain Standards
 8 Act; and

9 WHEREAS, buyers have complained about the quality and
 10 condition of Montana grain because of the amount of dockage
 11 and nonmillable material contained in grain shipments from
 12 Montana; and

13 WHEREAS, in enacting the United States Grain Standards
 14 Act, Congress did not intend to assume exclusive
 15 jurisdiction over the grading and inspection of all grain;
 16 and

17 WHEREAS, in 7 U.S.C. 87g, Congress expressly recognizes
 18 the validity of state grain grading and inspection laws in
 19 absence of a conflict of such laws with the United States
 20 Grain Standards Act; and

21 WHEREAS, Article XII, section 1, of the Montana
 22 Constitution requires the Legislature to enact laws to
 23 protect, enhance, and develop all agriculture.

24 THEREFORE, the Legislature of the State of Montana
 25 finds it appropriate to enact legislation to promote the



-2- INTRODUCED BILL
 HB 40

1 marketing of Montana grain by distinguishing it as a premium
2 commodity and by ensuring the quality and identity of
3 delivered shipments.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6 Section 1. Definitions. For the purposes of [this
7 act], unless the context requires otherwise, the following
8 definitions apply:

9 (1) "Department" means the department of agriculture
10 provided for in 2-15-3001.

11 (2) "Dockage", as the term is used in relation to a
12 particular type of grain, has the same meaning as defined in
13 the official federal standards for such grain.

14 (3) "Foreign material", as the term may apply to a
15 particular grain, has the same meaning as defined in the
16 official federal standards for such grain.

17 (4) "Grain" means wheat, barley, rye, corn, and
18 sorghum grains.

19 (5) "Grain Standards Act" means the United States
20 Grain Standards Act, 7 U.S.C. 71 through 87, as it may be
21 amended.

22 (6) "Official federal standards" means the official
23 United States standards for grain established under the
24 Grain Standards Act.

25 (7) "100% Montana limited blended grain" means grain

1 described or marketed as a 100% Montana limited blended
2 grain in accordance with the requirements established in
3 [section 4].

4 (8) "Origin" means any geographical areas affected by
5 a similar weather pattern, nutrient, and soil so as to
6 produce a particular quality of grain.

7 (9) "Quality" means the character or condition of
8 grain as may be determined by use of factors or other
9 criteria for the grading, weighing, and inspection of such
10 grain in accordance with the official federal standards.

11 (10) "Type" means the kind, class, or subclass of grain
12 such as may be specified and agreed to by the buyer and
13 producer or by the buyer and the producer's agent. The term
14 includes but is not limited to the description of grain by a
15 trade name or number, by a common class or name, or by
16 whatever other means the usages of the trade will permit.

17 Section 2. 100% Montana limited blended grain
18 marketing program. There is established in the department of
19 agriculture a 100% Montana limited blended grain marketing
20 program.

21 Section 3. Duties of department. Under the program
22 provided for in [section 2], the department shall:

23 (1) assist individual farmers, agricultural
24 cooperatives, and commodity dealers in the transportation,
25 handling, and marketing of 100% Montana limited blended

1 grain;

2 (2) locate grain elevators, warehouses, and other
3 storage and handling facilities in Montana that will provide
4 to buyers grain that conforms with the quality and other
5 requirements established for such grain under [section 4];

6 (3) arrange with shippers to move and transport grain
7 from elevators, or other grain storage or handling
8 facilities, to port facilities in a manner so that the grain
9 is not:

10 (a) intermingled with grain of a different type,
11 contrasting origin, or lower quality; or

12 (b) combined with dockage, water, or foreign material
13 as prohibited under [section 4];

14 (4) provide sufficient personnel to inspect, sample,
15 and weigh grain to ensure that any grain described or
16 marketed as 100% Montana limited blended grain is equal to
17 the type, origin, or quality required for such grain under
18 [section 4];

19 (5) with the cooperation of the department of
20 commerce, provided for in 2-15-1801, perform the following
21 functions:

22 (a) identify potential markets for 100% Montana
23 limited blended grain;

24 (b) solicit and promote purchases of 100% Montana
25 limited blended grain in foreign and domestic markets by

1 emphasizing that:

2 (i) such grain is of high quality;

3 (ii) suppliers are available to provide such grain;

4 (iii) the state has developed methods to ensure the
5 quality of the grain when it leaves the state; and

6 (iv) the state has entered into agreements with other
7 states to ensure the quality of such grain loaded in or
8 aboard a carrier or container bound in interstate or foreign
9 commerce; and

10 (6) work with foreign buyers in obtaining the
11 cooperation of port loading facility authorities not to
12 intermingle grain of a different type, contrasting origin,
13 or lower quality with 100% Montana limited blended grain.

14 Section 4. 100% Montana limited blended grain --
15 requirements. (1) Any grain described or marketed as 100%
16 Montana limited blended grain must conform with the
17 following requirements:

18 (a) The grain must be produced and harvested in the
19 state of Montana.

20 (b) The grain must not be blended or in any way
21 intermingled with grain of a different type, contrasting
22 origin, or lower quality.

23 (c) No dockage or foreign material, including but not
24 limited to dust or particles from whatever source, once
25 removed from the grain, may be recombined with the grain.

1 (d) No dockage, water, or foreign material from any
2 source may be added or knowingly introduced to the grain if:

3 (i) the result will be to reduce the grade or quality
4 of the grain; or

5 (ii) the grain becomes more susceptible to spoilage as
6 a consequence of such action.

7 (e) No blending of grain with similar grain of
8 different moisture content is permitted if the difference
9 between the moisture contents being blended is more than 1%.

10 (2) In addition to those requirements established
11 under subsection (1), any grain described or marketed as
12 100% Montana limited blended grain must meet any other
13 specifications for quality consistent with [this act] as may
14 be agreed upon by the buyer and producer or by the buyer and
15 the producer's agent.

16 (3) Nothing in subsection (1) may be construed to
17 prohibit:

18 (a) the treatment of grain to suppress, destroy, or
19 prevent insects and fungi injurious to stored grain;

20 (b) the addition to grain of a dust suppressant; or

21 (c) the combination of confetti or other similar
22 material with grain in an amount necessary to facilitate
23 identification of ownership or origin of a particular lot of
24 grain.

25 Section 5. Use of marketing trademark. (1) Any grain

1 meeting the requirements established in [section 4] may be
2 marketed and identified with a "Grown in Montana" logo that
3 has been developed by the state of Montana for exclusive use
4 in promoting products grown or produced in Montana.

5 (2) Any person describing or marketing grain as "100%
6 Montana limited blended grain" and "Grown in Montana", as
7 provided for in subsection (1), shall contractually agree to
8 use the "Grown in Montana" logo only in conjunction with
9 grain meeting the requirements established in [section 4].

10 (3) No person may describe or market grain as "Grown
11 in Montana", using the state's "Grown in Montana" trademark
12 logo, unless such person agrees under contract to use the
13 logo only in describing or marketing grain that meets the
14 requirements for 100% Montana limited blended grain as
15 provided in [section 4].

16 Section 6. Investigation -- inspection -- enforcement.

17 (1) The department may investigate grain marketing and
18 handling practices to ensure that grain described or
19 marketed as 100% Montana limited blended grain meets the
20 requirements for such grain under [section 4].

21 (2) For the purposes of subsection (1), the department
22 shall have reasonable and necessary access, at all times, to
23 all buildings, yards, warehouses, storage facilities,
24 containers, railroad cars, motor carriers, and any other
25 facilities or place in which grain is kept, stored, handled,

1 or transported.

2 (3) If the department upon investigation has
3 reasonable cause to believe that grain is mislabeled or
4 improperly described in violation of [sections 4 and 5], the
5 department may issue and enforce a written or printed "stop
6 order" to the owner or custodian of such grain. The order
7 prohibits further sale of the grain until the department has
8 received evidence that the law has been complied with. The
9 grain may not be confiscated or destroyed. The department
10 shall rescind the "stop order" when the requirements of
11 [sections 4 and 5] have been met by proper correction, which
12 may include reconditioning, relabeling, or other appropriate
13 action.

14 Section 7. Rulemaking authority. The department shall
15 adopt rules for the administration of [this act].

16 Section 8. Agreements with agencies in other states.
17 The department may enter into agreements with governmental
18 agencies in other states for the purpose of specifying
19 cooperation to ensure that 100% Montana limited blended
20 grain is not:

21 (1) intermingled with grain of a different type,
22 contrasting origin, or lower quality; or

23 (2) combined with dockage, water, or foreign material
24 as prohibited under [section 4].

25 Section 9. Penalty. Any person, firm, or corporation

1 that knowingly sells or offers for sale or distribution any
2 grain described or marketed as 100% Montana limited blended
3 grain that does not meet the requirements of [sections 4 and
4 5] is guilty of a misdemeanor and upon conviction shall be
5 fined not more than \$10,000 or be imprisoned in the state
6 prison for a term not to exceed 6 months, or both. On the
7 second or any subsequent conviction, such person is guilty
8 of a felony and shall be fined not more than \$20,000 or be
9 imprisoned in the state prison for a term not to exceed 5
10 years, or both.

11 Section 10. Construction. Nothing in [this act] may be
12 construed to violate the provisions of 7 U.S.C. 78, nor may
13 [this act] be interpreted to require the performance of any
14 official grain inspection in violation of 7 U.S.C. 87g(a).

15 Section 11. Severability. If a part of this act is
16 invalid, all valid parts that are severable from the invalid
17 part remain in effect. If a part of this act is invalid in
18 one or more of its applications, the part remains in effect
19 in all valid applications that are severable from the
20 invalid applications.

21 Section 12. Effective date. This act is effective July
22 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB040, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill "to establish a 100% Montana blended grain marketing program, authorizing the Department of Agriculture to administer the program, granting rule-making authority; and providing an effective date."

ASSUMPTIONS:

- A. Estimated amount of grain exported from Montana - 90,000,000 bushels.
- B. 3,000,000 minimum bushels of wheat marketed, sold and certified under contract as Montana blended grain.
- C. Costs associated with certification at point of shipment.
- D. Foreign and domestic market demand considered when preparing budget.
- E. Buyers responsibility to insure receipt of 100% Montana Blended Grain at point of delivery.
- F. No provision for fee collection, therefore assuming to be funded by general fund.
- G. If marketing function at foreign and domestic level exceeds projections, budgets will increase accordingly.
- H. The Commerce Department would provide cooperation, but would not assume any market research, advertising, or expenditures.

FISCAL IMPACT:

Expenditures:

- 1. No fiscal impact to the Department of Commerce.
- 2. Fiscal impact to the Department of Agriculture:

	Current Law FY88	Proposed Law FY88	Current Law FY89	Proposed Law FY89
Personal Services	\$ 0	\$ 110,459	\$ 0	\$ 110,459
Operating Expenses	0	55,072	0	52,272
Equipment	0	17,011	0	0
<u>Total</u>	<u>\$ 0</u>	<u>\$ 182,542</u>	<u>\$ 0</u>	<u>\$ 162,731</u>
 General Fund	 \$ 0	 \$ 182,542	 \$ 0	 \$ 162,731

Revenues:

N/A

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

No estimate available.

David L. Hunter DATE 1/7/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE _____
 WILLIAM E. GLASER, PRIMARY SPONSOR
 Fiscal Note for HB040, as introduced.

~~Fiscal Note Request, HB040~~ as introduced.

Form BD-15

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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Expenditures could increase substantially if sales exceed estimates.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Figures based on no fee assessment.

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

STATEMENT OF INTENT

HOUSE BILL 40

House Agriculture, Livestock and Irrigation Committee

A statement of intent is required for this bill because it grants the department of agriculture authority to adopt rules for the administration of a 100% Montana limited blended grain marketing program. The rules adopted by the department should supplement and interpret the provisions of this bill. In addition, the rules should govern the inspection and certification of grain under the program.

In adopting its rules, the department of agriculture should consider the following:

(1) The legislature intends that the department of agriculture establish a program to assist producers, agricultural cooperatives, and commodity dealers in marketing quality-preserved Montana grain in both foreign and domestic markets.

(2) The legislature intends that, under this program, the department should promote the marketing of Montana grain by distinguishing it as a premium commodity and by ensuring the quality and identity of delivered shipments.

(3) The program established under this bill is intended to be a voluntary marketing program, and any person who wishes to describe or market grain as 100% Montana

limited blended grain is eligible to participate in the program if such person can provide grain that meets the requirements of section 4.

(4) If necessary, the department may register or issue a certificate of registration for any producer, commodity dealer, warehouseman, grain handler, shipper, or other person who has agreed to provide to buyers grain that meets the requirements of section 4.

(5) The department may establish standards for all containers, carriers, and other facilities that may be used to store, handle, or transport 100% Montana limited blended grain.

(6) The department or its designee should inspect and certify all grain described or marketed as 100% Montana limited blended grain to ensure that it meets the requirements for such grain under section 4.

(7) The department should not require any grading or inspection of grain that conflicts with the United States Grain Standards Act.

(8) All grain bought and sold in Montana, including 100% Montana limited blended grain, should be graded and inspected in accordance with official federal standards for such grain unless the federal grain inspection service waives the requirement for official federal inspection as provided for in 7 U.S.C. 77.



1 (9) The department should appoint personnel to
2 investigate grain marketing and handling practices and to
3 enforce all relevant state laws and regulations.

4 (10) The legislature expressly intends that the
5 department of agriculture enter into agreements with other
6 state governments to ensure that 100% Montana limited
7 blended grain is not intermingled with dissimilar grain or
8 combined with dockage, water, or foreign material, as
9 prohibited under section 4. For this purpose, the
10 department should seek agreements with appropriate
11 governmental agencies in such states as Idaho, Oregon, and
12 Washington.

1 HOUSE BILL NO. 40

2 INTRODUCED BY GLASER

3 BY REQUEST OF THE JOINT INTERIM

4 SUBCOMMITTEE ON AGRICULTURAL PROBLEMS

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A 100%
7 MONTANA LIMITED BLENDED GRAIN MARKETING PROGRAM; AUTHORIZING
8 THE DEPARTMENT OF AGRICULTURE TO ADMINISTER THE PROGRAM;
9 GRANTING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE
10 DATE."
11

12 WHEREAS, under the Tenth Amendment of the federal
13 Constitution, those "powers not delegated to the United
14 States by the Constitution, nor prohibited by it to the
15 States, are reserved to the States respectively, or to the
16 people"; and

17 WHEREAS, each state retains sovereign powers to govern
18 all activities, persons, and property within its
19 jurisdiction, if the state does not exercise power that
20 interferes or conflicts with federal law; and

21 WHEREAS, Congress has enacted the United States Grain
22 Standards Act, which establishes standards of kind, class,
23 quality, and condition for grain; and

24 WHEREAS, the United States Grain Standards Act allows
25 grain to be combined with dockage, water, and foreign

1 material; and

2 WHEREAS, the United States Grain Standards Act further
3 permits grain to be intermingled with dissimilar grain or
4 blended with grain of a lower quality; and

5 WHEREAS, the quality of Montana grain is not comparable
6 to grain sold by foreign nations due to the level of
7 blending allowed under the United States Grain Standards
8 Act; and

9 WHEREAS, buyers have complained about the quality and
10 condition of Montana grain because of the amount of dockage
11 and nonmillable material contained in grain shipments from
12 Montana; and

13 WHEREAS, in enacting the United States Grain Standards
14 Act, Congress did not intend to assume exclusive
15 jurisdiction over the grading and inspection of all grain;
16 and

17 WHEREAS, in 7 U.S.C. 87g, Congress expressly recognizes
18 the validity of state grain grading and inspection laws in
19 absence of a conflict of such laws with the United States
20 Grain Standards Act; and

21 WHEREAS, Article XII, section 1, of the Montana
22 Constitution requires the Legislature to enact laws to
23 protect, enhance, and develop all agriculture.

24 THEREFORE, the Legislature of the State of Montana
25 finds it appropriate to enact legislation to promote the

1 marketing of Montana grain by distinguishing it as a premium
2 commodity and by ensuring the quality and identity of
3 delivered shipments.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6 Section 1. Definitions. For the purposes of [this
7 act], unless the context requires otherwise, the following
8 definitions apply:

9 (1) "Department" means the department of agriculture
10 provided for in 2-15-3001.

11 (2) "Dockage", as the term is used in relation to a
12 particular type of grain, has the same meaning as defined in
13 the official federal standards for such grain.

14 (3) "Foreign material", as the term may apply to a
15 particular grain, has the same meaning as defined in the
16 official federal standards for such grain.

17 (4) "Grain" means wheat, barley, rye, corn, and
18 sorghum grains.

19 (5) "Grain Standards Act" means the United States
20 Grain Standards Act, 7 U.S.C. 71 through 87, as it may be
21 amended.

22 (6) "Official federal standards" means the official
23 United States standards for grain established under the
24 Grain Standards Act.

25 (7) "100% Montana limited blended grain" means grain

1 described or marketed as a 100% Montana limited blended
2 grain in accordance with the requirements established in
3 [section 4].

4 (8) "Origin" means any geographical areas affected by
5 a similar weather pattern, nutrient, and soil so as to
6 produce a particular quality of grain.

7 (9) "Quality" means the character or condition of
8 grain as may be determined by use of factors or other
9 criteria for the grading, weighing, and inspection of such
10 grain in accordance with the official federal standards.

11 (10) "Type" means the kind, class, or subclass of grain
12 such as may be specified and agreed to by the buyer and
13 producer or by the buyer and the producer's agent. The term
14 includes but is not limited to the description of grain by a
15 trade name or number, by a common class or name, or by
16 whatever other means the usages of the trade will permit.

17 Section 2. 100% Montana limited blended grain
18 marketing program. There is established in the department of
19 agriculture a 100% Montana limited blended grain marketing
20 program.

21 Section 3. Duties of department. Under the program
22 provided for in [section 2], the department shall:

23 (1) assist individual farmers, agricultural
24 cooperatives, and commodity dealers in the transportation,
25 handling, and marketing of 100% Montana limited blended

1 grain;

2 (2) locate grain elevators, warehouses, and other
3 storage and handling facilities in Montana that will provide
4 to buyers grain that conforms with the quality and other
5 requirements established for such grain under [section 4];

6 (3) arrange with shippers to move and transport grain
7 from elevators, or other grain storage or handling
8 facilities, to port facilities in a manner so that the grain
9 is not:

10 (a) intermingled with grain of a different type,
11 contrasting origin, or lower quality; or

12 (b) combined with dockage, water, or foreign material
13 as prohibited under [section 4];

14 (4) provide sufficient personnel to inspect, sample,
15 and weigh grain to ensure that any grain described or
16 marketed as 100% Montana limited blended grain is equal to
17 the type, origin, or quality required for such grain under
18 [section 4];

19 (5) with the cooperation of the department of
20 commerce, provided for in 2-15-1801, perform the following
21 functions:

22 (a) identify potential markets for 100% Montana
23 limited blended grain;

24 (b) solicit and promote purchases of 100% Montana
25 limited blended grain in foreign and domestic markets by

1 emphasizing that:

2 (i) such grain is of high quality;

3 (ii) suppliers are available to provide such grain;

4 (iii) the state has developed methods to ensure the
5 quality of the grain when it leaves the state; and

6 (iv) the state has entered into agreements with other
7 states to ensure the quality of such grain loaded in or
8 aboard a carrier or container bound in interstate or foreign
9 commerce; and

10 (6) work with foreign buyers in obtaining the
11 cooperation of port loading facility authorities not to
12 intermingle grain of a different type, contrasting origin,
13 or lower quality with 100% Montana limited blended grain.

14 Section 4. 100% Montana limited blended grain --
15 requirements. (1) Any grain described or marketed as 100%
16 Montana limited blended grain must conform with the
17 following requirements:

18 (a) The grain must be produced and harvested in the
19 state of Montana.

20 (b) The grain must not be blended or in any way
21 intermingled with grain of a different type, contrasting
22 origin, or lower quality.

23 (c) No dockage or foreign material, including but not
24 limited to dust or particles from whatever source, once
25 removed from the grain, may be recombined with the grain.

1 (d) No dockage, water, or foreign material from any
2 source may be added or knowingly introduced to the grain if:

3 (i) the result will be to reduce the grade or quality
4 of the grain; or

5 (ii) the grain becomes more susceptible to spoilage as
6 a consequence of such action.

7 (e) No blending of grain with similar grain of
8 different moisture content is permitted if the difference
9 between the moisture contents being blended is more than 1%.

10 (2) In addition to those requirements established
11 under subsection (1), any grain described or marketed as
12 100% Montana limited blended grain must meet any other
13 specifications for quality consistent with [this act] as may
14 be agreed upon by the buyer and producer or by the buyer and
15 the producer's agent.

16 (3) Nothing in subsection (1) may be construed to
17 prohibit:

18 (a) the treatment of grain to suppress, destroy, or
19 prevent insects and fungi injurious to stored grain;

20 (b) the addition to grain of a dust suppressant; or

21 (c) the combination of confetti or other similar
22 material with grain in an amount necessary to facilitate
23 identification of ownership or origin of a particular lot of
24 grain.

25 Section 5. Use of marketing trademark. (1) Any grain

1 meeting the requirements established in [section 4] may be
2 marketed and identified with a "Grown in Montana" logo that
3 has been developed by the state of Montana for exclusive use
4 in promoting products grown or produced in Montana.

5 (2) Any person describing or marketing grain as "100%
6 Montana limited blended grain" and "Grown in Montana", as
7 provided for in subsection (1), shall contractually agree to
8 use the "Grown in Montana" logo only in conjunction with
9 grain meeting the requirements established in [section 4].

10 (3) No person may describe or market grain as "Grown
11 in Montana", using the state's "Grown in Montana" trademark
12 logo, unless such person agrees under contract to use the
13 logo only in describing or marketing grain that meets the
14 requirements for 100% Montana limited blended grain as
15 provided in [section 4].

16 Section 6. Investigation -- inspection -- enforcement.

17 (1) The department may investigate grain marketing and
18 handling practices to ensure that grain described or
19 marketed as 100% Montana limited blended grain meets the
20 requirements for such grain under [section 4].

21 (2) For the purposes of subsection (1), the department
22 shall have reasonable and necessary access, at all times, to
23 all buildings, yards, warehouses, storage facilities,
24 containers, railroad cars, motor carriers, and any other
25 facilities or place in which grain is kept, stored, handled,

1 or transported.

2 (3) If the department upon investigation has
3 reasonable cause to believe that grain is mislabeled or
4 improperly described in violation of [sections 4 and 5], the
5 department may issue and enforce a written or printed "stop
6 order" to the owner or custodian of such grain. The order
7 prohibits further sale of the grain until the department has
8 received evidence that the law has been complied with. The
9 grain may not be confiscated or destroyed. The department
10 shall rescind the "stop order" when the requirements of
11 [sections 4 and 5] have been met by proper correction, which
12 may include reconditioning, relabeling, or other appropriate
13 action.

14 SECTION 7. ESTABLISHMENT OF FEES -- GRAIN MARKETING
15 FUND ACCOUNT. (1) THE DEPARTMENT SHALL BY RULE ESTABLISH
16 REASONABLE FEES FOR THE INSPECTION, CERTIFICATION, WEIGHING,
17 AND SAMPLING OF GRAIN UNDER THE PROGRAM AUTHORIZED IN
18 [SECTION 2]. THE DEPARTMENT SHALL DESIGN SUCH FEES TO DEFRAY
19 THE COSTS OF PROVIDING SERVICES AND CARRYING OUT ITS DUTIES
20 UNDER [THIS ACT].

21 (2) THERE IS A GRAIN MARKETING FUND ACCOUNT IN THE
22 STATE SPECIAL REVENUE FUND. THE MONEY IN THE ACCOUNT IS
23 ALLOCATED TO THE DEPARTMENT FOR PAYMENT OF EXPENSES INCURRED
24 IN THE ADMINISTRATION OF [THIS ACT].

25 (3) ALL FEES COLLECTED UNDER [THIS ACT] MUST BE

1 DEPOSITED IN THE GRAIN MARKETING FUND ACCOUNT.

2 Section 8. Rulemaking authority. The department shall
3 adopt rules for the administration of [this act].

4 Section 9. Agreements with agencies in other states.
5 The department may enter into agreements with governmental
6 agencies in other states for the purpose of specifying
7 cooperation to ensure that 100% Montana limited blended
8 grain is not:

9 (1) intermingled with grain of a different type,
10 contrasting origin, or lower quality; or

11 (2) combined with dockage, water, or foreign material
12 as prohibited under [section 4].

13 Section 10. Penalty. Any person, firm, or corporation
14 that knowingly sells or offers for sale or distribution any
15 grain described or marketed as 100% Montana limited blended
16 grain that does not meet the requirements of [sections 4 and
17 5] is guilty of a misdemeanor and upon conviction shall be
18 fined not more than \$10,000 or be imprisoned in the state
19 prison for a term not to exceed 6 months, or both. On the
20 second or any subsequent conviction, such person is guilty
21 of a felony and shall be fined not more than \$20,000 or be
22 imprisoned in the state prison for a term not to exceed 5
23 years, or both.

24 Section 11. Construction. Nothing in [this act] may be
25 construed to violate the provisions of 7 U.S.C. 78, nor may

1 [this act] be interpreted to require the performance of any
2 official grain inspection in violation of 7 U.S.C. 87g(a).

3 Section 12. Severability. If a part of this act is
4 invalid, all valid parts that are severable from the invalid
5 part remain in effect. If a part of this act is invalid in
6 one or more of its applications, the part remains in effect
7 in all valid applications that are severable from the
8 invalid applications.

9 Section 13. Effective date. This act is effective July
10 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

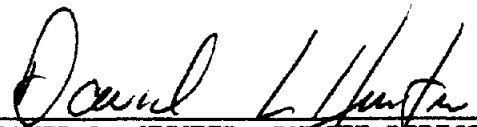
In compliance with a written request, there is hereby submitted a Fiscal Note for HB040, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act establishing a 100% Montana limited blended grain marketing program; authorizing the Department of Agriculture to administer the program; granting rulemaking authority; and providing an effective date.

ASSUMPTIONS:

1. It will take two years (FY88-FY89) to develop a market. General fund support will be necessary for marketing during this time period.
2. Estimated amount of grain exported from Montana - 90,000,000 bushels.
3. 3,000,000 minimum bushels of wheat marketed, sold and certified under contract as Montana blended grain.
4. The costs associated with certification are at point of shipment.
5. Foreign and domestic market demand considered.
6. It is the buyers responsibility to insure receipt of 100% of Montana blended grain at point of delivery.
7. If marketing function at foreign and domestic level exceeds projections, budgets will increase and costs will follow per bushel.
8. General fund support will be necessary for inspection in FY88, since fees will vary dependent on utilization of the program.
9. Revenue is based on a minimum cost of 6 cents per bushel, plus other related costs as established by rule.
10. Assuming that no special market research or advertising projects or expenditures are expected of Commerce, the cooperation of the Division's marketing and promotion staff can be achieved at no additional cost.
11. Because of cash flow problems with fees and initial start-up time, assume market development will require general fund support in FY88 and FY89. After the initial two year period, the program will be self supporting through fees.
12. Fees will generate \$1,000,000 in FY88, 1.6 million in year 2, and 3 million in year 3.

 DATE 1/19/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

WILLIAM E. GLASER, PRIMARY SPONSOR

Fiscal Note for HB040, second reading.

HB 40 Second Reading

FISCAL IMPACT:

Expenditures:

1. No fiscal impact to the Department of Commerce.
2. Fiscal impact to the Department of Agriculture:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	\$ 0	\$ 110,459	\$ 110,459	\$ 0	\$ 110,459	\$ 110,459
Operating Expenses	0	55,072	55,072	0	52,272	52,252
Equipment	0	17,011	17,011	0	0	0
Total	<u>\$ 0</u>	<u>\$ 182,542</u>	<u>\$ 182,542</u>	<u>\$ 0</u>	<u>\$ 162,731</u>	<u>\$ 162,731</u>
 <u>Revenue:</u>						
General Fund*	\$ 0	\$ 182,542	\$182,542	\$ 0	\$ 62,731	\$ 62,731
State Special (Inspection Fee)	0	1,000,000	1,000,000	0	1,600,000	1,600,000
Total	<u>\$ 0</u>	<u>\$1,082,542</u>	<u>\$1,082,542</u>	<u>\$ 0</u>	<u>\$1,662,731</u>	<u>\$1,662,731</u>

*see note under technical defects.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Expenditures may increase for inspection, certification, weighing, sampling, and marketing of grain sold under this program to defray the costs associated with providing this service.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Due to cash flow problems in regard to inspection fee revenue, general fund support is required in FY88 and FY89.

Two options to handle this problem are available:

- 1) When sufficient fee revenue is available, transfer expenditures from general fund to state special funding.
- 2) Revenue from inspection fees would go directly to general fund. This program would be general fund supported.

HB-40 Second Reading

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB040, second reading.
REVISED FISCAL NOTE

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act establishing a 100% Montana limited blended grain marketing program; authorizing the Department of Agriculture to administer the program; granting rulemaking authority; and providing an effective date.

ASSUMPTIONS:

1. It will take two years (FY88-FY89) to develop a market. General fund support will be necessary for marketing during this time period.
2. Estimated amount of grain exported from Montana - 90,000,000 bushels.
3. 3,000,000 minimum bushels of wheat marketed, sold and certified under contract as Montana blended grain.
4. The costs associated with certification are at point of shipment.
5. Foreign and domestic market demand considered.
6. It is the buyers responsibility to insure receipt of 100% of Montana blended grain at point of delivery.
7. If marketing function at foreign and domestic level exceeds projections, budgets will increase and costs will follow per bushel.
8. General fund support will be necessary for inspection in FY88, since fees will vary dependent on utilization of the program.
9. Revenue is based on a minimum cost of 6 cents per bushel, plus other related costs as established by rule.
10. Assuming that no special market research or advertising projects or expenditures are expected of Commerce, the cooperation of the Division's marketing and promotion staff can be achieved at no additional cost.
11. Because of cash flow problems with fees and initial start-up time, assume market development will require general fund support in FY88 and FY89. After the initial two year period, the program will be self supporting through fees.
12. Program roll up will provide for program development at: 1,000,000 bushels in year 1; 1.6 million bushels in year 2; and 3,000,000 bushels in year 3.

David L. Hunter DATE 2/3/87
DAVID L. HUNTER, BUDGET DIRECTOR

Office of Budget and Program Planning

W.E. Glaser DATE FEB 4, 87
WILLIAM E. GLASER, PRIMARY SPONSOR

Fiscal Note for HB040, second reading.

REVISED FISCAL NOTE HB40

#3

FISCAL IMPACT:

Expenditures:

1. No fiscal impact to the Department of Commerce.
2. Fiscal impact to the Department of Agriculture:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	\$ 0	\$ 110,459	\$ 110,459	\$ 0	\$ 110,459	\$ 110,459
Operating Expenses	0	55,072	55,072	0	52,272	52,252
Equipment	0	17,011	17,011	0	0	0
Total	\$ 0	\$ 182,542	\$ 182,542	\$ 0	\$ 162,731	\$ 162,731
<u>Funding:</u>						
General Fund*	\$ 0	\$ 122,542	\$ 122,542	\$ 0	\$ 66,731	\$ 66,731
State Special** (Inspection Fee)	0	60,000	60,000	0	96,000	96,000
Total	\$ 0	\$ 182,542	\$ 182,542	\$ 0	\$ 162,731	\$ 162,731

*see note under technical defects.

**year 1 @ 1 million bushels; year 2 @ 1.6 million bushels

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Expenditures may increase for inspection, certification, weighing, sampling, and marketing of grain sold under this program to defray the costs associated with providing this service.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Due to cash flow problems in regard to inspection fee revenue, general fund support is required in FY88 and FY89.

Two options to handle this problem are available:

- 1) When sufficient fee revenue is available, transfer expenditures from general fund to state special funding.
- 2) Revenue from inspection fees would go directly to general fund. This program would be general fund supported.

*Revised - HBO40
H3*