

HOUSE BILL NO. 658

INTRODUCED BY SCHWINDEN, BARDANOUVE, GRINDE, JERGESON,
BERGSAGEL, BACHINI, KELLER, REHBEIN, SCHYE, FELAND,
BRENDEM, HAYNE, TOEWS, WEEDING, CRIPPEN, REA, L. NELSON

IN THE HOUSE

FIRST READING.

MARCH 10, 1993 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 11, 1993 PRINTING REPORT.

MARCH 13, 1993 **SECOND READING, DO PASS AS AMENDED.**

MARCH 15, 1993 ENGROSSING REPORT.

MARCH 17, 1993 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 18, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON AGRICULTURE, LIVESTOCK, & IRRIGATION.

FIRST READING.

MARCH 23, 1993 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 27, 1993 SENT TO ENROLLING.

APRIL 1, 1993 REPORTED CORRECTLY ENROLLED.

APRIL 2, 1993 SIGNED BY SPEAKER.

IN THE SENATE

APRIL 6, 1993

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 7, 1993

DELIVERED TO GOVERNOR.

APRIL 12, 1993

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 15, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 16, 1993

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 20, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 21, 1993

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 21, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

House BILL NO. 658 Ferguson
 INTRODUCED BY Schwinden Bardine Gonol
Pengay Bush Heller Rehbein Seitz Friedl Hayne
 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE WHEAT AND BARLEY ASSESSMENT PROCEDURE TO REQUIRE COLLECTION FROM A GRAIN STORAGE FACILITY OPERATOR, ELEVATOR OPERATOR, OR WAREHOUSE OPERATOR AT THE TIME OF INITIAL DELIVERY OR STORAGE IF THE ASSESSMENT IS NOT COLLECTED FROM THE GROWER AT THE TIME OF SALE; PROVIDING THAT THE ASSESSMENT IS NONREFUNDABLE; AMENDING SECTIONS 80-11-206 AND 80-11-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 80-11-206, MCA, is amended to read:

"80-11-206. Maximum annual assessment on wheat and barley grown, delivered, or stored. (1) There is hereby levied an annual assessment of not more than 10 mills per bushel upon all wheat grown and not more than 15 mills per hundredweight on all barley grown, delivered, or stored in the state of Montana and sold through commercial channels.

(2) The assessment is hereby levied and imposed:

(a) on each grower of wheat or barley in the state of Montana:

(i) in the case of sale of wheat or barley, at the

time of any sale of wheat or barley by a grower, and shall must be collected by the first purchaser of the wheat or barley from the grower at the time of each settlement for wheat or barley purchased; or

(b) in the case of a pledge or mortgage of wheat or barley as security for a loan under any federal price support program, the assessment shall and must be collected by deducting the amount thereof of the assessment from the proceeds of such the loan at the time the loan is made by the agency or person making the loan; or

(b) on each grain storage facility operator, including an elevator operator or warehouse operator, who accepts delivery of or stores wheat or barley in this state, at the time the wheat or barley is first delivered or entered into storage if the assessment is not collected under the provisions of subsection (2)(a).

(3) The assessment levied under the provisions of this part shall must be deducted and collected as provided by this part, whether such the wheat or barley is stored in this or any other state. The assessment shall attach attaches to each transaction, but no a grower shall be or grain storage facility operator is not subject to assessment more than once irrespective of the number of times it shall be the wheat or barley is the subject of a sale, pledge, mortgage, or other transaction, the The assessment being is

HB 658

INTRODUCED BILL

1 imposed and attaching attaches:

2 (a) in the case of an assessment made under subsection
 3 (2)(a), on the initial sale, pledge, mortgage, or other
 4 transaction in which the wheat or barley grower parts with
 5 title to the wheat or barley, or creates some interest
 6 therein in the wheat or barley in a pledgee, mortgagee, or
 7 other person; or
 8 (b) in the case of an assessment made under subsection
 9 (2)(b), at the first point of delivery or storage in
 10 Montana."

11 **Section 2.** Section 80-11-207, MCA, is amended to read:

12 "80-11-207. Buyer's-delivery Delivery of invoice to
 13 grower -- form -- filing of sworn statement -- payment of
 14 assessment -- refund -- nonrefundability. (1) The purchaser
 15 of the wheat or barley at the time of sale, or the pledgee,
 16 mortgagee, or other lender at the time of the loan or
 17 advance, or the grain storage facility operator at the time
 18 the wheat or barley is first delivered or entered into
 19 storage shall give separate invoices for each purchase,
 20 delivery, or storage charge to the grower or person
 21 delivering the wheat or barley or entering it into storage.
 22 The invoices shall must be on forms approved by the
 23 department and shall must show:

24 (a) the name and address of the grower and seller or of
 25 the person delivering the wheat or barley or entering it

1 into storage;

2 (b) the name and address of the purchaser, or the
 3 lender, or grain storage facility operator;
 4 (c) the number of bushels of wheat or hundredweights of
 5 barley sold, mortgaged, or pledged, delivered, or stored;
 6 (d) the date of the purchase, mortgage, or pledge,
 7 delivery, or storage and the amount of assessment collected
 8 and remitted to the department.

9 (2) The purchaser, mortgagee, or pledgee, or grain
 10 storage facility operator shall file with the department, on
 11 forms prescribed by the department, within 20 days after the
 12 end of a month in which he a purchaser purchases a grower's
 13 wheat or barley, or in which a lender makes a loan or
 14 advance on a grower's wheat or barley, or in which a grain
 15 storage facility operator accepts delivery or enters grain
 16 into storage, a sworn statement of the number of bushels of
 17 wheat or hundredweights of barley purchased in Montana, or
 18 the number of bushels of wheat or hundredweights of barley
 19 mortgaged or pledged or otherwise transferred or liened as
 20 security for a loan during the preceding calendar month, or
 21 the number of bushels of wheat or hundredweights of barley
 22 delivered or stored. At the time the sworn statement is
 23 filed, the purchaser, or lender, or grain storage facility
 24 operator shall pay to the department the assessment provided
 25 for in 80-11-206 for deposit in the wheat and barley account

1 in the state special revenue fund.

2 (3) The statement referred to in subsections (1) and
3 (2) ~~of this section shall~~ must be legibly written and ~~shall~~
4 be entirely free of any corrections or erasures. A person
5 may not alter any part of a statement.

6 (4) (a) After 30 days and before 90 days following the
7 deduction of the assessment by the first purchaser or the
8 first lender under 80-11-206(2)(a), the grower may, upon the
9 submission of a written, verified request to the department,
10 obtain a refund of the assessment. The request ~~shall~~ must be
11 accompanied by the original invoices received by the grower
12 at the time of settlement. The department shall keep
13 complete records of all refunds made under the provisions of
14 this section. Records of refunds may be destroyed 2 years
15 after the refund is made. All original invoices ~~shall~~ must
16 be returned to the grower with the refund payment.

17 (b) An assessment collected by a grain storage facility
18 operator under 80-11-206(2)(b) is nonrefundable."

19 NEW SECTION. Section 3. Applicability. [This act] is
20 not intended to affect or impair any agreement for
21 collection of the wheat and barley assessment entered into
22 on or before [the effective date of this act].

23 NEW SECTION. Section 4. Effective date. [This act] is
24 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0658, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act revising the wheat and barley assessment procedure to require collection from a grain storage facility operator, elevator operator, or warehouse operator at the time of initial delivery or storage if the assessment is not collected from the grower at the time of sale; providing that the assessment is nonrefundable; amending existing statutes and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. Wheat and barley will come into Montana and be sold into markets developed with check-off dollars paid by Montana producers.
2. Wheat and barley delivered from another state in which a similar assessment is collected will not be assessed in Montana.
3. The additional assessment collections are based on the maximum estimated quantities. (Three fourths (3/4) of the additional revenue collection from wheat and one fourth (1/4) from barley merchandising).
4. The assessment will be collected on an estimated 3.75 million bushels of wheat and 1.66 million bushels of barley in FY94; and 3.0 million bushels of wheat and 1.33 million bushels of barley in FY95, increasing the state special revenues by \$50,000 in FY94 and \$40,000 in FY95.
5. Existing staff will facilitate any additional collection requirements within existing current level budgets.

FISCAL IMPACT:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
State Special Fund	1,676,678	1,676,678	-0-	1,703,238	1,703,238	-0-
<u>Revenues:</u>						
State Special Fund	1,691,220	1,741,222	50,000	1,691,220	1,731,220	40,000

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Financial impact on the Montana Wheat and Barley Committee budget will be small. However, this does provide increased equality of merchandising wheat and barley in Montana and participation in market development and research efforts.

Dave Lewis 3-8-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Dore Schwinden 3/9/93
DORE SCHWINDEN, PRIMARY SPONSOR DATE
Fiscal Note for HB0658, as introduced **HB658**

APPROVED BY COMMITTEE
ON TAXATION

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

18 **Section 1.** Section 80-11-206, MCA, is amended to read:

19 "80-11-206. Maximum annual assessment on wheat and

20 barley grown, delivered, or stored. (1) There is hereby

21 levied an annual assessment of not more than 10 mills per

22 bushel upon all wheat grown and not more than 15 mills per

23 hundredweight on all barley grown, delivered, or stored in

24 the state of Montana and sold through commercial channels.

25 (2) The assessment is hereby levied and imposed:

(a) on each grower of wheat or barley in the state of Montana:

tat(i) in the case of sale of wheat or barley, at the time of any sale of wheat or barley by a grower, and shall must be collected by the first purchaser of the wheat or barley from the grower at the time of each settlement for wheat or barley purchased; or

tbt(ii) in the case of a pledge or mortgage of wheat or barley as security for a loan under any federal price support program, the assessment shall and must be collected by deducting the amount thereof of the assessment from the proceeds of such the loan at the time the loan is made by the agency or person making the loan; or

(b) on each grain storage facility operator, including an elevator operator or warehouse operator, who accepts delivery of or stores wheat or barley in this state, at the time the wheat or barley is first delivered or entered into storage if the assessment is not collected under the provisions of subsection (2)(a).

tbt(3) The assessment levied under the provisions of this part shall must be deducted and collected as provided by this part, whether such the wheat or barley is stored in this or any other state. The assessment shall--attach attaches to each transaction, but no a grower shall be or grain storage facility operator is not subject to assessment



1 more than once irrespective of the number of times it--shall
 2 be the wheat or barley is the subject of a sale, pledge,
 3 mortgage, or other transaction--the. The assessment being is
 4 imposed and attaching attaches:

5 (a) in the case of an assessment made under subsection
 6 (2)(a), on the initial sale, pledge, mortgage, or other
 7 transaction in which the wheat or barley grower parts with
 8 title to the wheat or barley, or creates some interest
 9 therein in the wheat or barley in a pledgee, mortgagee, or
 10 other person; or

11 (b) in the case of an assessment made under subsection
 12 (2)(b), at the first point of delivery or storage in
 13 Montana."

14 **Section 2.** Section 80-11-207, MCA, is amended to read:

15 "80-11-207. Buyer's--delivery Delivery of invoice to
 16 grower -- form -- filing of sworn statement -- payment of
 17 assessment ---refund ---nonrefundability. (1) The purchaser
 18 of the wheat or barley at the time of sale, or the pledgee,
 19 mortgagee, or other lender at the time of the loan or
 20 advance, or the grain storage facility operator at the time
 21 the wheat or barley is first delivered or entered into
 22 storage shall give separate invoices for each purchase,
 23 delivery, or storage charge to the grower or person
 24 delivering the wheat or barley or entering it into storage.
 25 The invoices shall must be on forms approved by the

1 department and shall must show:

2 (a) the name and address of the grower and seller or of
 3 the person delivering the wheat or barley or entering it
 4 into storage;

5 (b) the name and address of the purchaser, or--the
 6 lender, or grain storage facility operator;

7 (c) the number of bushels of wheat or hundredweights of
 8 barley sold, mortgaged, or pledged, delivered, or stored;

9 (d) the date of the purchase, mortgage, or pledge,
 10 delivery, or storage and the amount of assessment collected
 11 and remitted to the department.

12 (2) The purchaser, mortgagee, or pledgee, or grain
 13 storage facility operator shall file with the department, on
 14 forms prescribed by the department, within 20 days after the
 15 end of a month in which he a purchaser purchases a grower's
 16 wheat or barley, or in which a lender makes a loan or
 17 advance on a grower's wheat or barley, or in which a grain
 18 storage facility operator accepts delivery or enters grain
 19 into storage, a sworn statement of the number of bushels of
 20 wheat or hundredweights of barley purchased in Montana, or
 21 the number of bushels of wheat or hundredweights of barley
 22 mortgaged or pledged or otherwise transferred or liened as
 23 security for a loan during the preceding calendar month, or
 24 the number of bushels of wheat or hundredweights of barley
 25 delivered or stored. At the time the sworn statement is

1 filed, the purchaser, or lender, or grain storage facility
 2 operator shall pay to the department the assessment provided
 3 for in 80-11-206 for deposit in the wheat and barley account
 4 in the state special revenue fund.

5 (3) The statement referred to in subsections (1) and
 6 (2) ~~of-this-section-shall~~ must be legibly written and ~~shall~~
 7 be entirely free of any corrections or erasures. A person
 8 may not alter any part of a statement.

9 ~~(4) After 30 days and before 90 days following the~~
 10 ~~deduction of the assessment by the first purchaser or the~~
 11 ~~first tender under 80-11-206(2)(a), the grower may, upon the~~
 12 ~~submission of a written, verified request to the department,~~
 13 ~~obtain a refund of the assessment. The request shall~~ must be
 14 ~~accompanied by the original invoices received by the grower~~
 15 ~~at the time of settlement. The department shall keep~~
 16 ~~complete records of all refunds made under the provisions of~~
 17 ~~this section. Records of refunds may be destroyed 2 years~~
 18 ~~after the refund is made. All original invoices shall~~ must
 19 ~~be returned to the grower with the refund payment.~~

20 ~~(b) An assessment collected by a grain storage facility~~
 21 ~~operator under 80-11-206(2)(b) is nonrefundable."~~

22 NEW SECTION. Section 3. Applicability. [This act] is
 23 not intended to affect or impair any agreement for
 24 collection of the wheat and barley assessment entered into
 25 on or before [the effective date of this act] OR TO PRECLUDE

1 ENTRY INTO AN AGREEMENT FOR COLLECTION OF THE WHEAT AND
 2 BARLEY ASSESSMENT AFTER [THE EFFECTIVE DATE OF THIS ACT].
 3 NEW SECTION. SECTION 4. SEVERABILITY. IF A PART OF
 4 [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE
 5 FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS
 6 ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART
 7 REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE
 8 SEVERABLE FROM THE INVALID APPLICATIONS.

9 NEW SECTION. Section 5. Effective date. [This act] is
 10 effective on passage and approval.

-End-

HOUSE BILL NO. 658

INTRODUCED BY SCHWINDEN, BARDANOUVE, GRINDE, JERGESON,
BERGSAGEL, BACHINI, KELLER, REHBEIN, SCHYE, FELAND,
BRENDEM, HAYNE, TOEWS, WEEDING, CRIPPEN, REA, L. NELSON

6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE WHEAT AND
7 BARLEY ASSESSMENT PROCEDURE TO REQUIRE COLLECTION FROM A
8 GRAIN STORAGE FACILITY OPERATOR, ELEVATOR OPERATOR, OR
9 WAREHOUSE OPERATOR AT THE TIME OF INITIAL DELIVERY OR
10 STORAGE IF THE ASSESSMENT IS NOT COLLECTED FROM THE GROWER
11 AT THE TIME OF SALE; PROVIDING--THAT--THE--ASSESSMENT--IS
12 NONREFUNDABLE ~~DELETING--THE-PROVISION-THAT-ALLOWED-A-REFUND~~
13 ~~OF-ASSESSMENTS~~ PROVIDING THAT THE ASSESSMENT COLLECTED BY
14 THE GRAIN STORAGE FACILITY OPERATOR IS NONREFUNDABLE;
15 AMENDING SECTIONS 80-11-206 AND 80-11-207, MCA; AND
16 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
17 DATE."

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

29 Section 1. Section 80-11-206, MCA, is amended to read:

21 "80-11-206. Maximum annual assessment on wheat and
22 barley grown, delivered, or stored. (1) There is hereby
23 levied an annual assessment of not more than 10 mills per
24 bushel upon all wheat grown and not more than 15 mills per
25 hundredweight on all barley grown, delivered, or stored in

1 the state of Montana and sold through commercial channels.

2 (2) The assessment is hereby levied and imposed:
3 (a) on each grower of wheat or barley in the state of
4 Montana:

5 at(i) in the case of sale of wheat or barley, at the
6 time of any sale of wheat or barley by a grower, and shall
7 must be collected by the first purchaser of the wheat or
8 barley from the grower at the time of each settlement for
9 wheat or barley purchased: or

10 fb) (ii) in the case of a pledge or mortgage of wheat or
11 barley as security for a loan under any federal price
12 support program, the assessment shall and must be collected
13 by deducting the amount thereof of the assessment from the
14 proceeds of such the loan at the time the loan is made by
15 the agency or person making the loan; or

16 (b) on each grain storage facility operator, including
17 an elevator operator or warehouse operator, who accepts
18 delivery of or stores wheat or barley in this state, at the
19 time the wheat or barley is first delivered or entered into
20 storage if the assessment is not collected under the
21 provisions of subsection (2)(a).

22 t27(3) The assessment levied under the provisions of
23 this part ~~shall~~ must be deducted and collected as provided
24 by this part, whether such the wheat or barley is stored in
25 this or any other state. The assessment ~~shall~~--attach



1 attaches to each transaction, but no a grower shall be or
 2 grain storage facility operator is not subject to assessment
 3 more than once irrespective of the number of times it--shall
 4 be the wheat or barley is the subject of a sale, pledge,
 5 mortgage, or other transaction--the. The assessment being is
 6 imposed and attaching attaches:

7 (a) in the case of an assessment made under subsection
 8 (2)(a), on the initial sale, pledge, mortgage, or other
 9 transaction in which the wheat or barley grower parts with
 10 title to the wheat or barley, or creates some interest
 11 therein in the wheat or barley in a pledgee, mortgagee, or
 12 other person; or

13 (b) in the case of an assessment made under subsection
 14 (2)(b), at the first point of delivery or storage in
 15 Montana."

16 Section 2. Section 80-11-207, MCA, is amended to read:

17 "80-11-207. Buyer's--delivery Delivery of invoice to
 18 grower -- form -- filing of sworn statement -- payment of
 19 assessment ----refund ----nonrefundability -- REFUND --
 20 NONREFUNDABILITY. (1) The purchaser of the wheat or barley
 21 at the time of sale, or the pledgee, mortgagee, or other
 22 lender at the time of the loan or advance, or the grain
 23 storage facility operator at the time the wheat or barley is
 24 first delivered or entered into storage shall give separate
 25 invoices for each purchase, delivery, or storage charge to

1 the grower or person delivering the wheat or barley or
 2 entering it into storage. The invoices shall must be on
 3 forms approved by the department and shall must show:
 4 (a) the name and address of the grower and seller or of
 5 the person delivering the wheat or barley or entering it
 6 into storage;

7 (b) the name and address of the purchaser, or the
 8 lender, or grain storage facility operator;
 9 (c) the number of bushels of wheat or hundredweights of
 10 barley sold, mortgaged, or pledged, delivered, or stored;
 11 (d) the date of the purchase, mortgage, or pledge,
 12 delivery, or storage and the amount of assessment collected
 13 and remitted to the department.

14 (2) The purchaser, mortgagee, or pledgee, or grain
 15 storage facility operator shall file with the department, on
 16 forms prescribed by the department, within 20 days after the
 17 end of a month in which he a purchaser purchases a grower's
 18 wheat or barley, or in which a lender makes a loan or
 19 advance on a grower's wheat or barley, or in which a grain
 20 storage facility operator accepts delivery or enters grain
 21 into storage, a sworn statement of the number of bushels of
 22 wheat or hundredweights of barley purchased in Montana, or
 23 the number of bushels of wheat or hundredweights of barley
 24 mortgaged or pledged or otherwise transferred or liened as
 25 security for a loan during the preceding calendar month, or

1 the number of bushels of wheat or hundredweights of barley
 2 delivered or stored. At the time the sworn statement is
 3 filed, the purchaser, or lender, or grain storage facility
 4 operator shall pay to the department the assessment provided
 5 for in 80-11-206 for deposit in the wheat and barley account
 6 in the state special revenue fund.

7 (3) The statement referred to in subsections (1) and
 8 (2) of this section shall must be legibly written and shall
 9 be entirely free of any corrections or erasures. A person
 10 may not alter any part of a statement.

11 t4) --(a) After 30 days and before 90 days following the
 12 deduction of the assessment by the first purchaser or the
 13 first lender under 80-11-206(2)(a), the grower may, upon the
 14 submission of a written, verified request to the department,
 15 obtain a refund of the assessment. The request shall must be
 16 accompanied by the original invoices received by the grower
 17 at the time of settlement. The department shall keep
 18 complete records of all refunds made under the provisions of
 19 this section. Records of refunds may be destroyed 2 years
 20 after the refund is made. All original invoices shall must
 21 be returned to the grower with the refund payment.

22 t5) An assessment collected by a grain storage facility
 23 operator under 80-11-206(2)(b) is nonrefundable.

24 (4) (A) AFTER 30 DAYS AND BEFORE 90 DAYS FOLLOWING THE
 25 DEDUCTION OF THE ASSESSMENT BY THE FIRST PURCHASER OR THE

1 FIRST LENDER UNDER 80-11-206(2)(A), THE GROWER MAY, UPON THE
 2 SUBMISSION OF A WRITTEN, VERIFIED REQUEST TO THE DEPARTMENT,
 3 OBTAIN A REFUND OF THE ASSESSMENT. THE REQUEST MUST BE
 4 ACCOMPANIED BY THE ORIGINAL INVOICES RECEIVED BY THE GROWER
 5 AT THE TIME OF SETTLEMENT. THE DEPARTMENT SHALL KEEP
 6 COMPLETE RECORDS OF ALL REFUNDS MADE UNDER THE PROVISIONS OF
 7 THIS SECTION. RECORDS OF REFUNDS MAY BE DESTROYED 2 YEARS
 8 AFTER THE REFUND IS MADE. ALL ORIGINAL INVOICES MUST BE
 9 RETURNED TO THE GROWER WITH THE REFUND PAYMENT.

10 (B) AN ASSESSMENT COLLECTED BY A GRAIN STORAGE FACILITY
 11 OPERATOR UNDER 80-11-206(2)(B) IS NONREFUNDABLE.

12 NEW SECTION. Section 3. Applicability. [This act] is
 13 not intended to affect or impair any agreement for
 14 collection of the wheat and barley assessment entered into
 15 on or before [the effective date of this act] OR TO PRECLUDE
 16 ENTRY INTO AN AGREEMENT FOR COLLECTION OF THE WHEAT AND
 17 BARLEY ASSESSMENT AFTER [THE EFFECTIVE DATE OF THIS ACT].

18 NEW SECTION. SECTION 4. SEVERABILITY. IF A PART OF
 19 [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE
 20 FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS
 21 ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART
 22 REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE
 23 SEVERABLE FROM THE INVALID APPLICATIONS.

24 NEW SECTION. Section 5. Effective date. [This act] is
 25 effective on passage and approval.

HOUSE BILL NO. 658

INTRODUCED BY SCHWINDEN, BARDANOUVE, GRINDE, JERGESON,
BERGSAGEL, BACHINI, KELLER, REHBEIN, SCHYE, PELAND,
BRENDEM, HAYNE, TOEWS, WEEDING, CRIPPEN, REA, L. NELSON

6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE WHEAT AND
7 BARLEY ASSESSMENT PROCEDURE TO REQUIRE COLLECTION FROM A
8 GRAIN STORAGE FACILITY OPERATOR, ELEVATOR OPERATOR, OR
9 WAREHOUSE OPERATOR AT THE TIME OF INITIAL DELIVERY OR
10 STORAGE IF THE ASSESSMENT IS NOT COLLECTED FROM THE GROWER
11 AT THE TIME OF SALE; PROVIDING--THAT--THE--ASSESSMENT--IS
12 NONREFUNDABLE ~~DELETING--THE-PROVISION-THAT-ALLOWED-A-REFUND~~
13 ~~OF-ASSESSMENTS~~ PROVIDING THAT THE ASSESSMENT COLLECTED BY
14 THE GRAIN STORAGE FACILITY OPERATOR IS NONREFUNDABLE;
15 AMENDING SECTIONS 80-11-206 AND 80-11-207, MCA; AND
16 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
17 DATE."

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

Section 1. Section 80-11-206, MCA, is amended to read:

21 "80-11-206. Maximum annual assessment on wheat and
22 barley grown, delivered, or stored. (1) There is hereby
23 levied an annual assessment of not more than 10 mills per
24 bushel upon all wheat grown and not more than 15 mills per
25 hundredweight on all barley grown, delivered, or stored in

1 the state of Montana and sold through commercial channels.

2 (2) The assessment is hereby levied and imposed:

3 (a) on each grower of wheat or barley in the state of

4 Montana:

5 (a) in the case of sale of wheat or barley, at the

6 time of any sale of wheat or barley by a grower, and shall

7 must be collected by the first purchaser of the wheat or

8 barley from the grower at the time of each settlement for

9 wheat or barley purchased; or

10 (b) in the case of a pledge or mortgage of wheat or

11 barley as security for a loan under any federal price

12 support program, the assessment shall and must be collected

13 by deducting the amount thereof of the assessment from the

14 proceeds of such the loan at the time the loan is made by

15 the agency or person making the loan; or

16 (b) on each grain storage facility operator, including

17 an elevator operator or warehouse operator, who accepts

18 delivery of or stores wheat or barley in this state, at the

19 time the wheat or barley is first delivered or entered into

20 storage if the assessment is not collected under the

21 provisions of subsection (2)(a).

22 (2) The assessment levied under the provisions of

23 this part shall must be deducted and collected as provided

24 by this part, whether such the wheat or barley is stored in

25 this or any other state. The assessment shall--attach



1 attaches to each transaction, but no a grower shall be or
 2 grain storage facility operator is not subject to assessment
 3 more than once irrespective of the number of times it--shall
 4 be the wheat or barley is the subject of a sale, pledge,
 5 mortgage, or other transaction--the. The assessment being is
 6 imposed and attaching attaches:

7 (a) in the case of an assessment made under subsection
 8 (2)(a), on the initial sale, pledge, mortgage, or other
 9 transaction in which the wheat or barley grower parts with
 10 title to the wheat or barley, or creates some interest
 11 therein in the wheat or barley in a pledgee, mortgagee, or
 12 other person; or

13 (b) in the case of an assessment made under subsection
 14 (2)(b), at the first point of delivery or storage in
 15 Montana."

16 Section 2. Section 80-11-207, MCA, is amended to read:

17 "80-11-207. Buyer's--delivery Delivery of invoice to
 18 grower -- form -- filing of sworn statement -- payment of
 19 assessment ----refund ----nonrefundability -- REFUND --
 20 NONREFUNDABILITY. (1) The purchaser of the wheat or barley
 21 at the time of sale, or the pledgee, mortgagee, or other
 22 lender at the time of the loan or advance, or the grain
 23 storage facility operator at the time the wheat or barley is
 24 first delivered or entered into storage shall give separate
 25 invoices for each purchase, delivery, or storage charge to

1 the grower or person delivering the wheat or barley or
 2 entering it into storage. The invoices shall must be on
 3 forms approved by the department and shall must show:

4 (a) the name and address of the grower and seller or of
 5 the person delivering the wheat or barley or entering it
 6 into storage;

7 (b) the name and address of the purchaser, or the
 8 lender, or grain storage facility operator;

9 (c) the number of bushels of wheat or hundredweights of
 10 barley sold, mortgaged, or pledged, delivered, or stored;

11 (d) the date of the purchase, mortgage, or pledge,
 12 delivery, or storage and the amount of assessment collected
 13 and remitted to the department.

14 (2) The purchaser, mortgagee, or pledgee, or grain
 15 storage facility operator shall file with the department, on
 16 forms prescribed by the department, within 20 days after the
 17 end of a month in which he a purchaser purchases a grower's
 18 wheat or barley, or in which a lender makes a loan or
 19 advance on a grower's wheat or barley, or in which a grain
 20 storage facility operator accepts delivery or enters grain
 21 into storage, a sworn statement of the number of bushels of
 22 wheat or hundredweights of barley purchased in Montana, or
 23 the number of bushels of wheat or hundredweights of barley
 24 mortgaged or pledged or otherwise transferred or liened as
 25 security for a loan during the preceding calendar month, or

1 the number of bushels of wheat or hundredweights of barley
 2 delivered or stored. At the time the sworn statement is
 3 filed, the purchaser, or lender, or grain storage facility
 4 operator shall pay to the department the assessment provided
 5 for in 80-11-206 for deposit in the wheat and barley account
 6 in the state special revenue fund.

7 (3) The statement referred to in subsections (1) and
 8 (2) of this section shall must be legibly written and shall
 9 be entirely free of any corrections or erasures. A person
 10 may not alter any part of a statement.

11 ~~t4--fa7--After 30 days and before 90 days following--the~~
 12 ~~deduction--of--the--assessment--by--the--first--purchaser--or--the~~
 13 ~~first--lender--under--80-11-206{2}fa7--the--grower--may--upon--the~~
 14 ~~submission--of--a--written--verified--request--to--the--department--~~
 15 ~~obtain--a--refund--of--the--assessment--The--request--shall--must--be~~
 16 ~~accompanied--by--the--original--invoices--received--by--the--grower~~
 17 ~~at--the--time--of--settlement--The--department--shall--keep~~
 18 ~~complete--records--of--all--refunds--made--under--the--provisions--of~~
 19 ~~this--section--Records--of--refunds--may--be--destroyed--2--years~~
 20 ~~after--the--refund--is--made--All--original--invoices--shall--must~~
 21 ~~be--returned--to--the--grower--with--the--refund--payment--~~

22 ~~tb7--An--assessment--collected--by--a--grain--storage--facility~~
 23 ~~operator--under--80-11-206{2}tb7--is--nonrefundable--~~

24 (4) (A) AFTER 30 DAYS AND BEFORE 90 DAYS FOLLOWING THE
 25 DEDUCTION OF THE ASSESSMENT BY THE FIRST PURCHASER OR THE

1 FIRST LENDER UNDER 80-11-206(2)(A), THE GROWER MAY, UPON THE
 2 SUBMISSION OF A WRITTEN, VERIFIED REQUEST TO THE DEPARTMENT,
 3 OBTAIN A REFUND OF THE ASSESSMENT. THE REQUEST MUST BE
 4 ACCOMPANIED BY THE ORIGINAL INVOICES RECEIVED BY THE GROWER
 5 AT THE TIME OF SETTLEMENT. THE DEPARTMENT SHALL KEEP
 6 COMPLETE RECORDS OF ALL REFUNDS MADE UNDER THE PROVISIONS OF
 7 THIS SECTION. RECORDS OF REFUNDS MAY BE DESTROYED 2 YEARS
 8 AFTER THE REFUND IS MADE. ALL ORIGINAL INVOICES MUST BE
 9 RETURNED TO THE GROWER WITH THE REFUND PAYMENT.

10 (B) AN ASSESSMENT COLLECTED BY A GRAIN STORAGE FACILITY
 11 OPERATOR UNDER 80-11-206(2)(B) IS NONREFUNDABLE.

12 NEW SECTION. Section 3. Applicability. [This act] is
 13 not intended to affect or impair any agreement for
 14 collection of the wheat and barley assessment entered into
 15 on or before [the effective date of this act] OR TO PRECLUDE
 16 ENTRY INTO AN AGREEMENT FOR COLLECTION OF THE WHEAT AND
 17 BARLEY ASSESSMENT AFTER [THE EFFECTIVE DATE OF THIS ACT].

18 NEW SECTION. SECTION 4. SEVERABILITY. IF A PART OF
 19 [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE
 20 FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS
 21 ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART
 22 REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE
 23 SEVERABLE FROM THE INVALID APPLICATIONS.

24 NEW SECTION. Section 5. Effective date. [This act] is
 25 effective on passage and approval.

OFFICE OF THE GOVERNOR

STATE OF MONTANA

MARC RACICOT
GOVERNOR



STATE CAPITOL
HELENA, MONTANA 59620-0801

April 12, 1993

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

The Honorable Fred Van Valkenburg
President of the Senate
State Capitol
Helena MT 59620

Dear Speaker Mercer and President Van Valkenburg:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return House Bill 658, "AN ACT REVISING THE WHEAT AND BARLEY ASSESSMENT PROCEDURE TO REQUIRE COLLECTION FROM A GRAIN STORAGE FACILITY OPERATOR, ELEVATOR OPERATOR, OR WAREHOUSE OPERATOR AT THE TIME OF INITIAL DELIVERY OR STORAGE IF THE ASSESSMENT IS NOT COLLECTED FROM THE GROWER AT THE TIME OF SALE; PROVIDING THAT THE ASSESSMENT COLLECTED BY THE GRAIN STORAGE FACILITY OPERATOR IS NONREFUNDABLE; AMENDING SECTIONS 80-11-206 AND 80-11-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE," with the attached amendments.

Existing Montana law imposes an annual assessment on all wheat and barley grown in Montana. The assessment is collected at the time of sale or at the time a loan is made on the grain, and the person paying the assessment may request a refund. House Bill 658 provides that the annual assessment also be imposed on wheat and barley delivered or stored in Montana, but no refund on these transactions is authorized.

A question about the constitutionality of House Bill 658 has arisen. By allowing a refund of the assessment on Montana-grown wheat and barley, but no comparable refund for the assessment on wheat grown out of state and delivered or stored in Montana, it is likely that the bill will be challenged on the grounds that it

Page 2
April 12, 1993

violated the commerce clause of the United States Constitution. Consequently, the Montana Department of Agriculture has discussed with Representative Schwinden, the bill's sponsor, the possibility of saving the bill by amendment.

The proposed amendments would provide for a refund of the annual assessment regardless of where the grain was grown, thereby giving equal treatment to grain sellers. I believe that these amendments will correct the apparent constitutional defect, and I urge your approval of them.

Sincerely,



MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS TO
HOUSE BILL 658
(REFERENCE COPY)
April 12, 1993

1. Title, lines 8 through 10.

Following: "GRAIN" on line 8
Strike: remainder of lines 8 through 10
Insert: "SELLER"

2. Title, line 11.

Following: "OF"
Insert: "FIRST"

3. Title, lines 13 through 14.
Strike: lines 13 through 14

4. Page 2, lines 3 through 4.
Strike: lines 3 through 4

5. Page 2, line 5.
Strike: "(i)"
Insert: "(a)"
Following: "case of"
Insert: "a"

6. Page 2, line 6.
Strike: "any"
Insert: "first"
Following: "of"
Insert: "any"
Strike: "grower"
Insert: "seller"

7. Page 2, line 8.
Strike: "grower"
Insert: "seller"

8. Page 2, line 10.
Strike: "(iii)"
Insert: "(b)"

9. Page 2, line 15.
Strike: "i or"
Insert: ":"

10. Page 2, lines 16 through 21.
Strike: subsection (b) in its entirety

11. Page 3, line 1.
Strike: "grower"
Insert: "seller"
Strike: "or"

12. Page 3, line 2.
Strike: "grain storage facility operator"

13. Page 3, line 6.
Strike: "i"

14. Page 3, lines 7 and 8.
Strike: "(a)" on line 7 through "(2)(a)." on line 8

15. Page 3, line 12.
Strike: "; or"

16. Page 3, line 9.
Strike: "grower"
Insert: "seller"

17. Page 3, lines 13 through 15.
Strike: subsection (b) in its entirety

18. Page 3, line 18.
Strike: "grower"
Insert: "seller"

19. Page 3, line 20.
Strike: "NONREFUNDABILITY"

20. Page 3, lines 22 through 24.
Strike: ", or" on line 22 through "storage" on line 24

21. Page 4, line 1.
Strike: "grower"
Insert: "seller"

22. Page 4, line 4.
Strike: "grower and"

23. Page 4, line 7.
Strike: "i"
Insert: "or the"

24. Page 4, line 8.
Strike: ", or grain storage facility operator"

25. Page 4, lines 14 and 15.
Strike: ", or grain" on line 14 through "operator" on line 15

26. Page 4, line 17.
Strike: "a grower's"

27. Page 4, line 19.
Strike: "a grower's"

28. Page 4, lines 19 through 21.

Gov. Amer.
HB 658

Strike: "or in" on line 19 through "storage" on line 21

29. Page 5, line 3.
Following: "purchaser"
Strike: "1"
Insert: "or"

30. Page 5, lines 3 and 4.
Following: "lender"
Strike: "1 or" on line 3 through "operator" on line 4

31. Page 5, line 24.
Strike: "(A)"

32. Page 6, line 1.
Strike: "(A)"

33. Page 6, line 1.
Page 6, lines 4 and 9.
Strike: "GROWER"
Insert: "SELLER"

34. Page, lines 10 through 11.
Strike: Subsection (B) in its entirety

HOUSE BILL NO. 658

2 INTRODUCED BY SCHWINDEN, BARDANOUVE, GRINDE, JERGESON,
3 BERGSAGEL, BACHINI, KELLER, REHBEIN, SCHYE, FELAND,
4 BRENDEN, HAYNE, TOEWS, WEEDING, CRIPPEN, REA, L. NELSON
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE WHEAT AND
7 BARLEY ASSESSMENT PROCEDURE TO REQUIRE COLLECTION FROM A
8 GRAIN STORAGE--FACILITY--OPERATOR,--ELEVATOR--OPERATOR,--OR
9 WAREHOUSE--OPERATOR--AT--THE--TIME--OF--INITIAL--DELIVERY--OR
10 STORAGE--IF--THE--ASSESSMENT--IS--NOT--COLLECTED--FROM--THE--GROWER
11 SELLER AT THE TIME OF FIRST SALE; PROVIDING--THAT--THE
12 ASSESSMENT--IS--NONREFUNDABLE DELETING--THE--PROVISION--THAT
13 ALLOWED--A--REFUND--OF--ASSESSMENTS PROVIDING--THAT--THE
14 ASSESSMENT--COLLECTED--BY--THE--GRAIN--STORAGE--FACILITY--OPERATOR
15 IS--NONREFUNDABLE; AMENDING SECTIONS 80-11-206 AND 80-11-207,
16 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
17 APPLICABILITY DATE."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 80-11-206, MCA, is amended to read:

21 "80-11-206. Maximum annual assessment on wheat and

22 barley grown, delivered, or stored. (1) There is hereby

23 levied an annual assessment of not more than 10 mills per

24 bushel upon all wheat grown and not more than 15 mills per

25 hundredweight on all barley grown, delivered, or stored in

the state of Montana and sold through commercial channels.

(2) The assessment is hereby levied and imposed:
~~at~~--on--each--grower--of--wheat--or--barley--in--the--state--of
Montana:

~~at~~(A) in the case of A sale of wheat or barley, at the time of any FIRST sale of ANY wheat or barley by a grower SELLER, and shall must be collected by the first purchaser of the wheat or barley from the grower SELLER at the time of each settlement for wheat or barley purchased; or

~~at~~(B) in the case of a pledge or mortgage of wheat or barley as security for a loan under any federal price support program, the assessment shall and must be collected by deducting the amount thereof of the assessment from the proceeds of such the loan at the time the loan is made by the agency or person making the loan--or.

~~at~~--on--each--grain--storage--facility--operator,--including
an--elevator--operator--or--warehouse--operator,--who--accepts
delivery--of--or--stores--wheat--or--barley--in--this--state,--at--the
time--the--wheat--or--barley--is--first--delivered--or--entered--into
storage--if--the--assessment--is--not--collected--under--the
provisions--of--subsection--~~(2)(a)~~:

(2)(3) The assessment levied under the provisions of this part shall must be deducted and collected as provided by this part, whether such the wheat or barley is stored in

1 this or any other state. The assessment shall--attach
 2 attaches to each transaction, but no a grower SELLER shall
 3 be or-grain-storage-facility--operator is not subject to
 4 assessment more than once irrespective of the number of
 5 times it--shall--be the wheat or barley is the subject of a
 6 sale, pledge, mortgage, or other transaction--the. The
 7 assessment being is imposed and attaching attaches:

8 tab--in-the-case-of-an-assessment-made-under--subsection
 9 tab on the initial sale, pledge, mortgage, or other
 10 transaction in which the wheat or barley grower SELLER parts
 11 with title to the wheat or barley, or creates some interest
 12 therein in the wheat or barley in a pledgee, mortgagee, or
 13 other person--er.

14 tab--in-the-case-of-an-assessment-made-under--subsection
 15 tab--at--the--first--point--of--delivery--or--storage--in
 16 Montana."

17 Section 2. Section 80-11-207, MCA, is amended to read:

18 "80-11-207. Buyer's-delivery Delivery of invoice to
 19 grower for filing of sworn statement -- payment of
 20 assessment ----refund ----nonrefundability -- REFUND --
 21 NONREFUNDABILITY. (1) The purchaser of the wheat or barley
 22 at the time of sale, or OR the pledgee, mortgagee, or other
 23 lender at the time of the loan or advance--or--the--grain
 24 storage-facility-operator at the time the wheat or barley is
 25 first--delivered--or--entered--into--storage shall give separate

1 invoices for each purchase, delivery, or storage charge to
 2 the grower SELLER or person delivering the wheat or barley
 3 or entering it into storage. The invoices shall must be on
 4 forms approved by the department and shall must show:
 5 (a) the name and address of the grower--and seller or of
 6 the person delivering the wheat or barley or entering it
 7 into storage;
 8 (b) the name and address of the purchaser, or--the OR
 9 THE lender,--or--grain--storage--facility--operator;
 10 (c) the number of bushels of wheat or hundredweights of
 11 barley sold, mortgaged, or pledged, delivered, or stored;
 12 (d) the date of the purchase, mortgage, or pledge,
 13 delivery, or storage and the amount of assessment collected
 14 and remitted to the department.
 15 (2) The purchaser, mortgagee, or OR pledgee,--or--grain
 16 storage-facility-operator shall file with the department, on
 17 forms prescribed by the department, within 20 days after the
 18 end of a month in which he a purchaser purchases a--grower's
 19 wheat or barley, or OR in which a lender makes a loan or
 20 advance on a--grower's wheat or barley, or--in--which--a--grain
 21 storage--facility--operator--accepts--delivery--or--enters--grain
 22 into--storage, a sworn statement of the number of bushels of
 23 wheat or hundredweights of barley purchased in Montana, or
 24 the number of bushels of wheat or hundredweights of barley
 25 mortgaged or pledged or otherwise transferred or liened as

1 security for a loan during the preceding calendar month, or
 2 the number of bushels of wheat or hundredweights of barley
 3 delivered or stored. At the time the sworn statement is
 4 filed, the purchasery or OR lender,--or--grain--storage
 5 facility--operator shall pay to the department the assessment
 6 provided for in 80-11-206 for deposit in the wheat and
 7 barley account in the state special revenue fund.

8 (3) The statement referred to in subsections (1) and
 9 (2) ~~of this section shall~~ must be legibly written and shall
 10 be entirely free of any corrections or erasures. A person
 11 may not alter any part of a statement.

12 ~~(4) After 30 days and before 90 days following the~~
 13 ~~deduction of the assessment by the first purchaser or the~~
 14 ~~first lender under 80-11-206(2)(a), the grower may, upon the~~
 15 ~~submission of a written, verified request to the department,~~
 16 ~~obtain a refund of the assessment. The request shall~~ must be
 17 accompanied by the original invoices received by the grower
 18 at the time of settlement. The department shall keep
 19 complete records of all refunds made under the provisions of
 20 this section. Records of refunds may be destroyed 2 years
 21 after the refund is made. All original invoices shall must
 22 be returned to the grower with the refund payment.

23 ~~(b) An assessment collected by a grain storage facility~~
 24 ~~operator under 80-11-206(2)(b) is nonrefundable.~~

25 (4) ~~(a) AFTER 30 DAYS AND BEFORE 90 DAYS FOLLOWING THE~~

1 DEDUCTION OF THE ASSESSMENT BY THE FIRST PURCHASER OR THE
 2 FIRST LENDER UNDER 80-11-206(2)(a), THE GROWER SELLER MAY,
 3 UPON THE SUBMISSION OF A WRITTEN, VERIFIED REQUEST TO THE
 4 DEPARTMENT, OBTAIN A REFUND OF THE ASSESSMENT. THE REQUEST
 5 MUST BE ACCCOMPANIED BY THE ORIGINAL INVOICES RECEIVED BY THE
 6 GROWER SELLER AT THE TIME OF SETTLEMENT. THE DEPARTMENT
 7 SHALL KEEP COMPLETE RECORDS OF ALL REFUNDS MADE UNDER THE
 8 PROVISIONS OF THIS SECTION. RECORDS OF REFUNDS MAY BE
 9 DESTROYED 2 YEARS AFTER THE REFUND IS MADE. ALL ORIGINAL
 10 INVOICES MUST BE RETURNED TO THE GROWER SELLER WITH THE
 11 REFUND PAYMENT.

12 ~~(b) AN ASSESSMENT COLLECTED BY A GRAIN STORAGE FACILITY~~
 13 ~~OPERATOR UNDER 80-11-206(2)(b) IS NONREFUNDABLE.~~

14 NEW SECTION. Section 3. Applicability. [This act] is
 15 not intended to affect or impair any agreement for
 16 collection of the wheat and barley assessment entered into
 17 on or before [the effective date of this act] OR TO PRECLUDE
 18 ENTRY INTO AN AGREEMENT FOR COLLECTION OF THE WHEAT AND
 19 BARLEY ASSESSMENT AFTER [THE EFFECTIVE DATE OF THIS ACT].

20 NEW SECTION. SECTION 4. SEVERABILITY. IF A PART OF
 21 [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE
 22 FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS
 23 ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART
 24 REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE
 25 SEVERABLE FROM THE INVALID APPLICATIONS.

1 NEW SECTION. **Section 5. Effective date.** [This act] is
2 effective on passage and approval.

-End-