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WHEAT AND WHEAT FOODS NUTRITION EDUCATION ACT

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SUBCOMMITTEE ON LIVESTOCK AND GRAINS OF THE COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 5481 and H.R. 5155

MARCH 24, 1977

Serial No. 95-M

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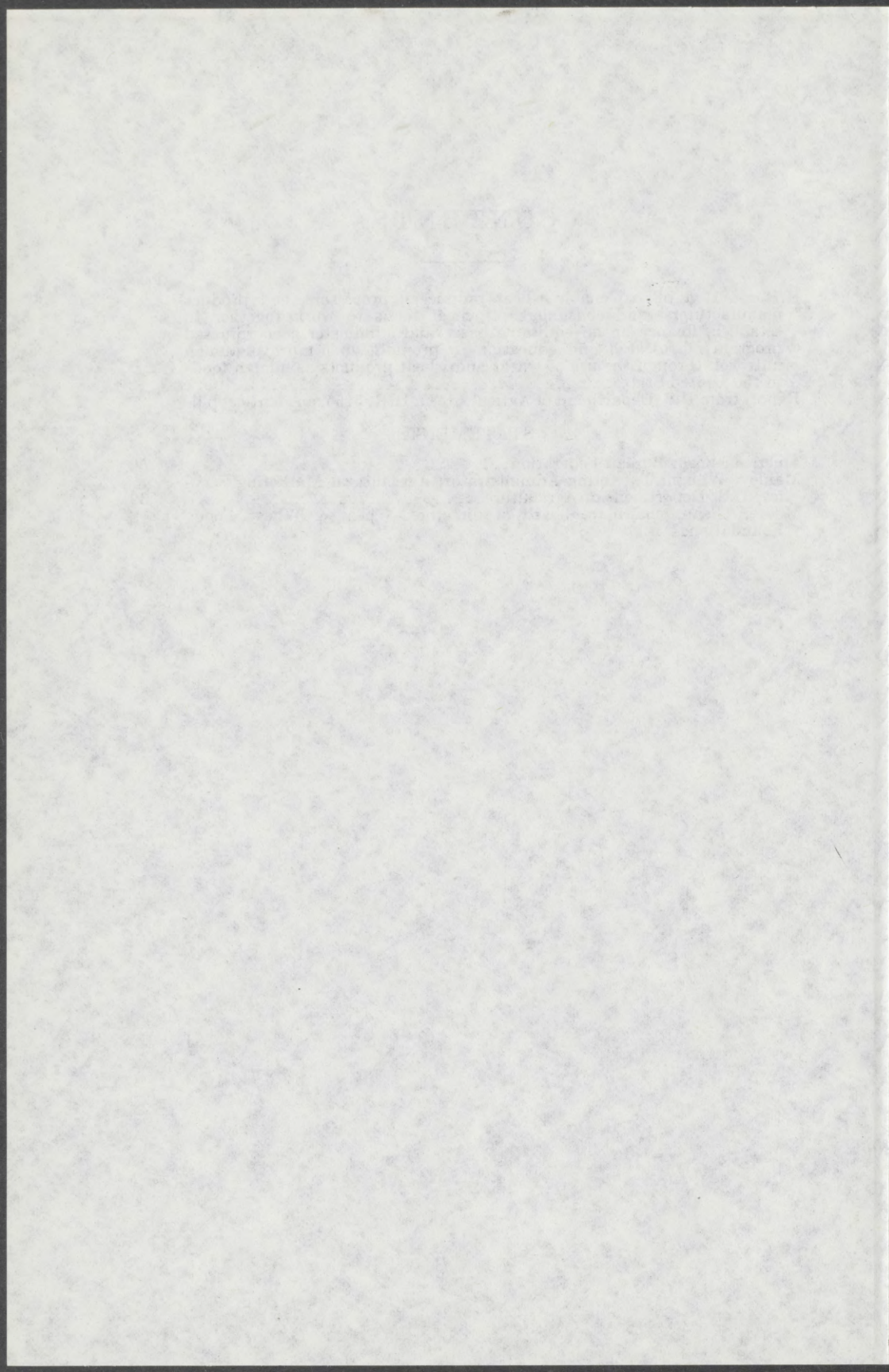
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CONTENTS

	Page
H.R. 5481, a bill to enable wheat producers, processors, end product manufacturers, and consumers of wheat foods to work together to establish, finance on an equitable basis, and administer a coordinated program of research and education to promote and improve human nutrition through the use of wheat and wheat products as human foods in the United States-----	2
Report from U.S. Department of Agriculture on H.R. 5155, an identical bill.	27

STATEMENTS

American Farm Bureau Federation-----	50
Manley, William T., Acting Administrator, Agricultural Marketing Service, U.S. Department of Agriculture-----	39
Moore, Glenn, chairman, board of directors, Wheat & Wheat Foods Foundation--	



WHEAT AND WHEAT FOODS NUTRITION EDUCATION ACT

THURSDAY, MARCH 24, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 2:10 p.m., pursuant to notice, in room 1302, Longworth House Office Building, Hon. W. R. Poage (chairman of the subcommittee), presiding.

Present: Representatives Weaver, Hightower, Bedell, English, Skelton, Glickman, Jones of Tennessee, Sebelius, Hagedorn, and Coleman.

Staff present: Robert M. Bor, counsel; William A. Imhof, associate counsel; and Glenda L. Temple, clerk; John C. Baize, and E. Lee Musil.

Mr. POAGE. The committee will please come to order.

We are meeting today to hear witnesses on the bill H.R. 5481 by Mr. Foley and others relating to wheat and wheat foods; it is known as the Wheat and Wheat Foods Nutrition Education Act.

[The bill H.R. 5481 and the Department's report on identical bill H.R. 5155 follow:]

95TH CONGRESS
1ST SESSION

H. R. 5481

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1977

Mr. FOLEY (for himself, Mr. ABDNOR, Mr. ANDREWS of North Dakota, Mr. BRECKINRIDGE, Mr. ENGLISH, Mr. FITHIAN, Mr. GLICKMAN, Mr. HIGHTOWER, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr. KELLY, Mr. McCORMACK, Mr. MATHIS, Mr. POAGE, Mr. SEBELIUS, Mr. THONE, Mr. ULLMAN, Mr. WAMPLER, Mr. WEAVER, and Mr. WINN) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To enable wheat producers, processors, end product manufacturers, and consumers of wheat foods to work together to establish, finance on an equitable basis, and administer a coordinated program of research and education to promote and improve human nutrition through the use of wheat and wheat products as human foods within the United States.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act shall be known as the "Wheat and Wheat
- 4 Foods Research and Nutrition Education Act".

★I—O

1 FINDINGS AND DECLARATION OF POLICY

2 SEC. 2. Wheat is basic to the American diet and the
3 American economy. It is grown by thousands of farmers and
4 consumed, in various forms, by two hundred and fifteen
5 million people in this country.

6 The size of the American wheat crop and how it is
7 marketed and ultimately consumed determines whether many
8 of our citizens will receive adequate nourishment. Wheat has
9 a strong impact on both the physical and economic health of
10 America. Additional research on the optimal use of wheat
11 products can improve the American diet. Consumer educa-
12 tion about the nutritional value and economic use of wheat
13 products can enhance our national welfare.

14 It has long been recognized that it is in the national
15 public interest to have a regular, adequate, and high quality
16 wheat supply. It would be extremely difficult, without an
17 effective coordinated research and nutrition education effort,
18 to fully accomplish this objective. Such a programmed effort
19 of research and nutrition education is of great importance
20 to wheat producers, processors, end product manufacturers
21 and consumers alike.

22 It is therefore declared to be the policy of the Congress
23 and the purpose of this Act that it is essential in the public
24 interest through the exercise of the powers provided herein,
25 to authorize and enable the creation of an orderly procedure,

1 adequately financed through an assessment, for the
2 development and initiation of an effective and con-
3 tinuous coordinated program of research and nutrition edu-
4 cation designed to improve and enhance the quality and
5 make the most efficient use of American wheat, processed
6 wheat, and wheat end products to insure an adequate diet
7 for all Americans. The maximum rate of assessment au-
8 thorized hereunder would represent an infinitesimal propor-
9 tion of the overall cost of manufacturing wheat end
10 products. Therefore, it is not expected that such assessment
11 would significantly affect the retail prices of those products.
12 Furthermore, any such price effect is expected to be more
13 than offset by the increased efficiency in end product manu-
14 facture and increased consumer acceptance, due to nutri-
15 tional improvements in those products, which may be ex-
16 pected to follow from adoption of a plan under this Act.
17 Nothing in this Act shall be construed to provide for control
18 of production or otherwise limit the right of individual wheat
19 producers to produce wheat.

20 DEFINITIONS

21 SEC. 3. For the purposes of this Act:

22 (a) The term "wheat" means all classes of wheat grains
23 grown in the United States.

24 (b) The term "processed wheat" means the wheat-de-
25 rived content of any substance (such as cake mix or flour)

1 produced for use as an ingredient of an end product by
2 changing wheat grown within the United States in form or
3 character by any mechanical, chemical, or other means.

4 (c) The term "end product" means any product which
5 contains processed wheat as an ingredient and which is
6 intended, as produced, for consumption within the United
7 States as human food notwithstanding any additional in-
8 cidental preparation which may be necessary by the ulti-
9 mate consumer.

10 (d) The term "wheat producer" means any person who
11 grows wheat within the United States for market.

12 (e) The term "processor" means any person who com-
13 mercially produces processed wheat within the United States.

14 (f) The term "end product manufacturer" means any
15 person, who commercially produces an end product contain-
16 ing processed wheat within the United States, but such term
17 shall not include such persons to the extent that they produce
18 end products on the premises where such end products are to
19 be consumed by an ultimate consumer, including, but not
20 limited to, hotels, restaurants, and institutions, nor shall such
21 term include persons who produce end products for their
22 own personal, family, or household use.

23 (g) The term "research" means any type of research
24 to advance the nutritional quality, desirability, marketability,

1 production, or other qualities of wheat, processed wheat, and
2 end products.

3 (h) The term "nutrition education" means any action to
4 disseminate to the public information concerning the desir-
5 ability, economic value, or nutritional benefits of wheat,
6 processed wheat, and end products.

7 (i) The term "Council" means the Wheat Industry
8 Council established pursuant to section 6 of this Act.

9 (j) The term "Department" means the United States
10 Department of Agriculture.

11 (k) The term "Secretary" means the Secretary of Agri-
12 culture, or any officer or employee of the United States De-
13 partment of Agriculture who is authorized to exercise the
14 powers and perform the duties of the Secretary.

15 (l) The term "person" means any individual, partner-
16 ship, corporation, association, or other entity.

17 (m) The term "United States" means the several States
18 and the District of Columbia, including any territory or
19 possession.

20 ISSUANCE OF ORDERS

21 SEC. 4. (a) Whenever the Secretary has reason to be-
22 lieve that the issuance of an order will tend to effectuate the
23 declared policy of this Act, he shall give due notice and op-
24 portunity for hearing upon a proposed order. Such hearing

1 may be requested and proposal for an order submitted by an
2 organization certified pursuant to section 14 of this Act, or
3 by any interested person affected by the provisions of this
4 Act, including the Secretary.

5 (b) After notice and opportunity for hearing as provided
6 in section 4 (a), the Secretary shall issue an order if he finds,
7 and sets forth in such order, upon the evidence introduced at
8 such hearing that the issuance of such order and all the terms
9 and conditions thereof will tend to effectuate the declared
10 policy of this Act.

11 PERMISSIVE TERMS IN ORDERS

12 SEC. 5. Orders issued pursuant to this Act shall con-
13 tain one or more of the following terms and conditions, and,
14 except as provided in section 6, no others:

15 (a) A provision for the establishment, issuance, effectuation,
16 and administration of appropriate plans or projects for
17 research and nutrition education, with respect to wheat,
18 processed wheat, and end products, and for the disbursement
19 of necessary funds for such purposes: *Provided*, That
20 in carrying out any such plan or project, no reference to a
21 private brand or trade name shall be made if the Secretary
22 determines that such reference will result in undue discrimination
23 against wheat, processed wheat, and end products of
24 other persons: *And provided further*, That no such programs
25 shall make use of unfair or deceptive acts or practices

1 in behalf of wheat, processed wheat, and end products or
2 unfair or deceptive acts or practices with respect to quality,
3 value, or use of any competing product;

4 (b) A provision for establishing and carrying on re-
5 search or studies with respect to sale, distribution, market-
6 ing, utilization, or production of wheat, processed wheat,
7 and end products and the creation of new products thereof
8 to the end that the marketing and utilization of wheat, proc-
9 essed wheat, and end products may be encouraged, ex-
10 panded, improved, or made more acceptable, and the data
11 collected by such activities may be disseminated, and for the
12 disbursement of necessary funds for such purposes;

13 (c) A provision that processors, distributors of proc-
14 essed wheat, and end product manufacturers shall main-
15 tain and make available for inspection by the Secretary
16 or the Council such books and records as may be required
17 by any order issued pursuant to this Act and for the filing of
18 reports by such persons at the time, in the manner, and hav-
19 ing content prescribed by the order, to the end that informa-
20 tion and data shall be made available to the Council and to
21 the Secretary which is appropriate or necessary to the effec-
22 tuation, administration, or enforcement of the Act, or of
23 any order or regulation issued pursuant to this Act: *Pro-*
24 *vided*, That all information so obtained shall be kept confi-
25 dential by all officers and employees of the Department of

1 Agriculture, the Council, and by all officers and employees
2 of contracting agencies having access to such information,
3 and only such information so furnished or acquired as the
4 Secretary deems relevant shall be disclosed by them, and
5 then only in a suit or administrative hearing brought at the
6 direction, or upon the request, of the Secretary, or to which
7 he or any officer of the United States is a party, and involv-
8 ing the order with reference to which the information so to
9 be disclosed was furnished or acquired. Nothing in this
10 section shall be deemed to prohibit (1) the issuance of
11 general statements based upon the reports of the number
12 of persons subject to an order or statistical data collected
13 therefrom, which statements do not identify the information
14 furnished by any person, (2) the publication, by direction
15 of the Secretary, of general statements relating to refunds
16 made by the Council during any specific period, or (3) the
17 publication by direction of the Secretary of the name of any
18 person who has been adjudged to have violated any order,
19 together with a statement of the particular provisions of the
20 order violated by such person. Any such officer or employee
21 of the Department, the Council, or a contracting agency
22 violating the provisions of this subsection shall, upon con-
23 viction, be subjected to a fine of not more than \$1,000 or to
24 imprisonment for not more than one year, or to both, and

1 if an officer or employee of the Council or Department of
2 Agriculture shall be removed from office;

3 (d) Terms and conditions incidental to and not incon-
4 sistent with the terms and conditions specified in this Act
5 and necessary to effectuate the other provisions of such
6 order.

7 REQUIRED TERMS IN ORDERS

8 SEC. 6. Orders issued pursuant to this Act shall contain
9 such terms and conditions as to provide—

10 (a) for the establishment and appointment by the
11 Secretary of a Wheat Industry Council which shall con-
12 sist of not more than twenty members and alternates
13 therefor, and to define its powers and duties which shall
14 include only the powers enumerated in this section, and
15 shall specifically include the powers (1) to administer
16 such order in accordance with its terms and provisions,
17 (2) to make rules and regulations to effectuate the terms
18 and provisions of such order, (3) to receive, investigate,
19 and report to the Secretary complaints of violations of
20 such order, and (4) to recommend to the Secretary
21 amendments to such order. The term of an appointment
22 to the Council shall be for two years with no member
23 serving more than three consecutive terms, except that

1 initial appointments shall be proportionately for two-
2 year and three-year terms;

3 (b) that the Council and alternates therefor shall
4 be composed of wheat producers or representatives of
5 wheat producers, processors or representatives of proc-
6 essors, end product manufacturers or representatives of
7 end product manufacturers, and consumers or representa-
8 tives of consumers appointed by the Secretary from
9 nominations submitted by eligible organizations or asso-
10 ciations certified pursuant to section 14, or, if the Secre-
11 tary determines that a substantial number of wheat
12 producers, processors, end product manufacturers, or con-
13 sumers are not members of, or their interests are not
14 represented by any such eligible organizations or associa-
15 tions then from nominations made by such wheat pro-
16 ducers, processors, end product manufacturers, and con-
17 sumers in the manner authorized by the Secretary, so
18 that the representation of wheat producers, processors,
19 end product manufacturers, and consumers on the Council
20 shall be equal: *Provided*, That in making such appoint-
21 ments, the Secretary shall take into account, to the extent
22 practicable, the geographical distribution of wheat pro-
23 ducers, processors, end product manufacturers, and con-
24 sumers throughout the United States;

25 (c) that the Council shall, subject to the provisions

1 of subsection (g) of this section, develop and submit to
2 the Secretary for his approval any research and nutrition
3 education plans or projects, and that any such plan or
4 project must be approved by the Secretary before becoming effective;
5

6 (d) that the Council shall, subject to the provisions
7 of subsection (g) of this section, submit to the Secretary
8 for his approval budgets on a fiscal period basis of its
9 anticipated expenses and disbursements in the administration of the order, including probable costs of research
10 and nutrition education projects;
11

12 (e) that, except as provided in section 7, each end
13 product manufacturer shall pay to the Council, pursuant
14 to regulations issued under the order, an assessment based
15 on the number of hundredweights of processed wheat
16 purchased, including intra-company transfers of processed wheat, for use in the manufacture of end products,
17 from processors, distributors, or (in the case of intra-company transfers) related companies or divisions of
18 the same company. Such assessment is to be used for
19 such expenses and expenditures defined above, including
20 provisions for a reasonable reserve, and any referendum
21 and administrative costs incurred by the Secretary and
22 the Council under this Act, as the Secretary finds are
23 reasonable and likely to be incurred under the order
24
25

1 during any period specified by him. The circumstances
2 under which such a purchase or intra-company transfer
3 will be deemed to have occurred will be prescribed by
4 the Secretary in the order. Such assessment shall be
5 calculated and set aside on the books and records of
6 the end product manufacturer at the time of each pur-
7 chase or intra-company transfer of processed wheat, and
8 shall be remitted to the Council in the manner as pre-
9 scribed by the order. In order to enable end product man-
10 ufacturers to calculate the amount of processed wheat
11 they have purchased, persons selling or transferring
12 processed wheat in combination with other ingredients
13 to such end product manufacturers for use in the manu-
14 facture of end products, shall disclose to such end product
15 manufacturers, as prescribed by the Secretary in the
16 order, the amount or proportion of processed wheat con-
17 tained in such products. The rate of assessment shall not
18 exceed five cents per hundredweight of processed wheat
19 purchased or transferred. The Secretary may maintain
20 a suit against any person subject to such assessment for
21 the collection of such assessment, and the several district
22 courts of the United States are hereby vested with juris-
23 diction to entertain such suits regardless of the amount
24 in controversy;

25 (f) that the Council shall maintain such books and

1 records, which shall be open to the Secretary for inspec-
2 tion and audit, and prepare and submit such reports
3 from time to time, to the Secretary as he may prescribe,
4 and for appropriate accounting by the Council with
5 respect to the receipt and disbursement of all funds en-
6 trusted to it;

7 (g) that the Council, with the approval of the
8 Secretary, may enter into contracts or agreements for
9 development and carrying out of the activities authorized
10 under the order pursuant to section 5 (a) and (b) and
11 for the payment of the cost thereof with funds collected
12 through the assessments pursuant to the order. Any such
13 contract or agreement shall provide that such contrac-
14 tors shall develop and submit to the Council a plan or
15 project together with a budget or budgets which shall
16 show estimated costs to be incurred for such plan or
17 project, and that any such plan or project shall become
18 effective upon the approval of the Secretary, and further,
19 shall provide that the contracting party shall keep ac-
20 curate records of all of its transactions and make periodic
21 reports to the Council of activities carried out and an
22 accounting for funds received and expended, and such
23 other reports as the Secretary may require;

24 (h) that the Council, with the approval of the
25 Secretary, may invest, pending disbursement pursuant

1 to a plan or project, funds collected through assess-
2 ments authorized under this Act in, and only in, ob-
3 ligations of the United States or any agency thereof,
4 in general obligations of any state or any political
5 subdivision thereof, in any interest-bearing account or
6 certificate of deposit of a bank which is a member of
7 the Federal Reserve System, or in obligations fully
8 guaranteed as to principal and interest by the United
9 States;

10 (i) that no funds collected by the Council under the
11 order shall in any manner be used for the purpose of
12 influencing governmental policy or action, except as
13 provided by subsection (a) (4) of this section; and,

14 (j) that the Council members, and alternates there-
15 for, shall serve without compensation, but shall be reim-
16 bursed for their reasonable expenses incurred in per-
17 forming their duties as members of the Council.

18 EXEMPTION

19 SEC. 7. Any end product manufacturer who does not
20 purchase more than two thousand hundredweight of pro-
21 cessed wheat per year for use in the manufacture of end
22 products shall be exempted from specific provisions of this
23 Act under such conditions and procedures as may be pre-
24 scribed in the order or rules and regulations issued there-
25 under.

1 REQUIREMENT OF REFERENDUM

2 SEC. 8. The Secretary shall conduct a referendum as
3 soon as practicable among end product manufacturers not
4 exempt hereunder who, during a representative period pre-
5 ceding the date of the referendum, as determined by the
6 Secretary, have been engaged in the manufacture of end
7 products, for the purpose of ascertaining whether the issu-
8 ance of an order is approved or favored by such manufac-
9 turers. Qualified end product manufacturers may register
10 with the Secretary by mail to vote in such referendum dur-
11 ing a period ending not less than thirty days prior to the
12 date of the referendum. Within ten days thereafter, the
13 Secretary shall determine which end product manufacturers
14 are eligible to vote in such referendum and cause to be
15 published the list of such eligible voters. The Secretary shall
16 issue ballots to all such persons who have so registered and
17 been declared eligible to vote. No order issued pursuant to
18 this Act shall be effective unless the Secretary determines
19 (1) that votes were cast by at least 50 per centum of such
20 registered end product manufacturers, and (2) that the issu-
21 ance of such order is approved or favored by not less than
22 two-thirds of the end product manufacturers voting in such
23 referendum or by a majority of the end product manufac-
24 turers voting in such referendum if such majority manufac-
25 tured end products containing not less than two-thirds of the

1 total processed wheat contained in all end products manu-
2 factured by those voting in the referendum, during the repre-
3 sentative period defined by the Secretary: *Provided*, That at
4 the time of the registration provided under this section each
5 end product manufacturer so registering shall certify to the
6 Secretary the amount of processed wheat contained in the
7 end products manufactured by such end product manufac-
8 turer during such representative period. The Secretary shall
9 be reimbursed from assessments collected by the Council
10 for any expenses incurred for the conduct of the referendum.
11 Eligible voter lists and ballots cast in the referendum shall be
12 retained by the Secretary for a period of not less than twelve
13 months after they are cast for audit and recount in the event
14 the results of the referendum are challenged and either the
15 Secretary or the courts determine a recount and retabulation
16 of results is appropriate.

17
REFUND

18 SEC. 9. (a) Prior to the approval by the Secretary and
19 implementation of a plan or project submitted by the Council
20 hereunder, any proposed plan shall be published in the
21 Federal Register. All end product manufacturers not exempt
22 hereunder shall have sixty days from the date of such pub-
23 lication within which to elect, under such conditions as the
24 Secretary may prescribe, by so indicating to the Council in
25 writing, by registered mail, to reserve the right to seek re-

1 funds under subsection (b) of this section. Only those end
2 product manufacturers who make such an election, under
3 the described procedure, shall be eligible for refunds of assess-
4 ments, if any, paid prior to the expiration of such period and
5 of the assessments paid during the one-year period imme-
6 diately following the expiration of such period. Subsequently,
7 such end product manufacturers shall make, each year there-
8 after, a similar election as a prerequisite to the seeking of
9 refunds for such subsequent year, under such conditions as
10 the Secretary may prescribe.

11 (b) Notwithstanding any other provisions of this Act,
12 any end product manufacturer who has been subject to and
13 has paid an assessment, but who has reserved the right,
14 under subsection (a) of this section, to seek a refund, and
15 who is not in favor of supporting the programs as provided
16 for herein shall have the right to demand and receive from
17 the Council a refund of such assessment: *Provided*, That
18 such demand shall be made by such end product manufac-
19 turer in accordance with regulations and on a form and
20 within a time period prescribed by the Council and approved
21 by the Secretary, but in no event more than ninety days
22 after the end of the election period described in subsection
23 (a) of this section or any other period in which the assess-
24 ments are due and collectable, and upon submission of proof
25 satisfactory to the Council that the end product manufacturer

1 paid the assessment for which refund is sought, and any
2 such refund shall be made within sixty days after demand
3 is received therefor.

4 PETITION AND REVIEW

5 SEC. 10. (a) Any person subject to any order may file
6 a written petition with the Secretary, stating that any such
7 order or any provision of such order or any obligation im-
8 posed in connection therewith is not in accordance with law
9 and praying for a modification thereof or to be exempted
10 therefrom. He shall thereupon be given an opportunity for a
11 hearing upon such petition, in accordance with regulations
12 made by the Secretary. After such hearing, the Secretary
13 shall make a ruling upon the prayer of such petition which
14 shall be final, if in accordance with law.

15 (b) The district courts of the United States in any dis-
16 trict in which such person is an inhabitant, or has his principal
17 place of business, are hereby vested with jurisdiction to re-
18 view such ruling, provided a complaint for that purpose is
19 filed within twenty days from the date of the entry of such
20 ruling. Service of process in such proceedings may be had
21 upon the Secretary by delivering to him a copy of the com-
22 plaint. If the court determines that such ruling is not in
23 accordance with law, it shall remand such proceedings to the
24 Secretary with directions either (1) to make such ruling
25 as the court shall determine to be in accordance with law,

1 or (2) to make such further proceedings as, in its opinion,
2 the law requires.

3

ENFORCEMENT

4 SEC. 11. (a) The several district courts of the United
5 States are vested with jurisdiction specifically to enforce,
6 and to prevent and restrain any person from violating any
7 order or regulation made or issued pursuant to this Act.
8 Any civil action authorized to be brought under this Act
9 shall be referred to the Attorney General for appropriate
10 action: *Provided*, That nothing in this Act shall be construed
11 as requiring the Secretary to refer to the Attorney General
12 minor violations of this Act whenever he believes that the
13 administration and enforcement of the program would be
14 adequately served by suitable written notice or warning to
15 any person committing such violation.

16 (b) Any end product manufacturer or other person who
17 willfully violates any provision of any order issued by the
18 Secretary under this Act, or who willfully fails or refuses
19 to remit any assessment or fee duly required of him there-
20 under, shall be liable to a penalty of not more than \$1,000
21 for each such offense which shall accrue to the United States
22 and may be recovered in a civil suit brought by the United
23 States: *Provided*, That (a) and (b) of this section shall be
24 in addition to, and not exclusive of, the remedies provided
25 now or hereafter existing at law or in equity.

1 SUSPENSION AND TERMINATION OF ORDERS

2 SEC. 12. (a) The Secretary shall, whenever he finds
3 that any order issued under this Act, or any provisions
4 thereof, obstructs or does not tend to effectuate the declared
5 policy of this Act, terminate or suspend the operation of
6 such order or such provisions thereof.

7 (b) The Secretary may conduct a referendum at any
8 time, and shall hold a referendum on request of 10 per
9 centum or more of the number of end product manufacturers
10 subject to the order to determine whether such manufacturers
11 favor the termination or suspension of the order, and he
12 shall suspend or terminate such order within six months
13 after he determines that suspension or termination of the
14 order is approved or favored by a majority of the end
15 product manufacturers voting in such referendum who, dur-
16 ing a representative period determined by the Secretary, have
17 been engaged in the manufacture of end products, or by end
18 product manufacturers who produced end products contain-
19 ing more than 50 per centum of the total processed wheat
20 contained in all end products manufactured during such
21 period by the end product manufacturers voting in the
22 referendum.

23 (c) The termination or suspension of any order, or any
24 provision thereof, shall not be considered an order within
25 the meaning of this Act.

1 INVESTIGATIONS: POWER TO SUBPENA AND TAKE OATHS

2 AND AFFIRMATIONS: AID OF COURTS

3 SEC. 13. The Secretary may make such investigations as
4 he deems necessary for the effective carrying out of his
5 responsibilities under this Act or to determine whether any
6 person subject to the provisions of this Act has engaged or
7 is about to engage in any acts or practices which constitute
8 or will constitute a violation of any provisions of this Act,
9 or of any order, or rule or regulation issued under this Act.
10 For the purpose of such investigation, the Secretary is em-
11 powered to administer oaths and affirmations, subpoena wit-
12 nesses, compel their attendance, take evidence and require
13 the production of any books, papers, and documents which
14 are relevant to the inquiry. Such attendance of witnesses and
15 the production of any such records may be required from any
16 place in the United States. In case of contumacy by, or
17 refusal to obey a subpoena to, any person, the Secretary may
18 invoke the aid of any court of the United States within the
19 jurisdiction of which such investigation or proceeding is
20 carried on, or where such person resides or carries on busi-
21 ness, in requiring the attendance and testimony of witnesses
22 and the production of books, papers, and documents; and
23 such court may issue an order requiring such person to appear
24 before the Secretary, there to produce records, if so ordered,
25 or to give testimony touching the matter under investiga-

1 tion. Any failure to obey such order of the court may be
2 punished by such court as a contempt thereof. All process in
3 any such case may be served in the judicial district whereof
4 such person is an inhabitant or wherever he may be found.

5 CERTIFICATION OF ORGANIZATIONS

6 SEC. 14. The eligibility of any organization to repre-
7 sent wheat producers, processors, end product manufacturers,
8 or consumers to request the issuance of an order under sec-
9 tion 4 (a) and to participate in the making of nominations
10 under section 6 (b), shall be certified by the Secretary. The
11 Secretary shall certify any organization which he finds to
12 be eligible under this section and his determination as to
13 eligibility shall be final. Certification shall be based, in ad-
14 dition to other available information, upon a factual report
15 submitted by the organization which shall contain information
16 deemed relevant and specified by the Secretary for the mak-
17 ing of such determination, including, but not limited to, the
18 following:

19 (a) Geographic territory covered by the organization's
20 active membership.

21 (b) Nature and size of the organization's active mem-
22 bership, including, in the case of an organization other than
23 a consumer organization, the proportion of the total number
24 of active wheat producers, processors or end product manu-
25 facturers represented by the organization.

1 (c) Evidence of stability and permanency of the or-
2 ganization.

3 (d) Sources from which the organization's operating
4 funds are derived.

5 (e) Functions of the organization.

6 (f) The organization's ability and willingness to further
7 the aims and objectives of this Act: *Provided*, That the pri-
8 mary consideration in determining the eligibility of an orga-
9 nization, other than a consumer organization, shall be whether
10 its membership consists primarily of wheat producers, proc-
11 essors, or end product manufacturers who produce a substan-
12 tial volume of wheat, processed wheat, or end products,
13 respectively, and whether the organization is based on a
14 primary or overriding interest in the production, processing,
15 or end manufacture of wheat or wheat products, and the
16 nutritional attributes thereof: *And provided further*, That the
17 primary consideration in determining the eligibility of a con-
18 sumer organization shall be whether (i) a principal purpose
19 of the organization is to promote consumer interests, con-
20 sumer research, or consumer education, (ii) such organiza-
21 tion has a broadly representative constituency of consumers,
22 with active membership participation on a regular basis, and
23 (iii) the organization has demonstrated in such report, to the
24 Secretary's satisfaction, its commitment to the achievement
25 of the objectives of this Act.

1 EFFECT ON OTHER PROGRAMS

2 SEC. 15. Nothing in this Act shall be construed to pre-
3 empt or interfere with the workings of any other pro-
4 gram relating to wheat or wheat foods research or nutrition
5 education organized and operating under the laws of the
6 United States or any State.

7 REGULATIONS

8 SEC. 16. The Secretary is authorized to make such regu-
9 lations with the force and effect of law, as may be necessary
10 to carry out the provisions of this Act and the powers vested
11 in him by this Act.

12 PROVISIONS APPLICABLE TO AMENDMENTS

13 SEC. 17. The provisions of this Act applicable to orders
14 shall be applicable to amendments to orders.

15 SEPARABILITY

16 SEC. 18. If any provision of this Act or the application
17 thereof to any person or circumstances is held invalid, the
18 validity of the remainder of the Act and of the application
19 of such provision to other persons and circumstances shall
20 not be affected thereby.

21 AUTHORIZATION

22 SEC. 19. There is hereby authorized to be appropriated
23 out of any money in the Treasury not otherwise appropriated
24 such funds as are necessary to carry out the provisions of
25 this Act. The funds so appropriated shall not be available

- 1 for payment of the expenses or expenditures of the Council
- 2 in administering any provisions of any order issued pursuant
- 3 to the terms of this Act.

4 EFFECTIVE DATE

5 SEC. 20. This Act shall take effect upon enactment.



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

Honorable Thomas S. Foley
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We appreciate this opportunity to respond to your request to provide the Department's comments on H.R. 5155, a bill "To enable wheat producers, processors, end-product manufacturers, and consumers of wheat foods to work together to establish, finance on an equitable basis, and administer a coordinated program of research and education to promote and improve human nutrition through the use of wheat and wheat products as human foods within the United States."

The Department supports enactment of H.R. 5155 with modification. We support a program of research for wheat and wheat products within the United States, and the promotion of such products in international markets. However, we do oppose the promotion of such products within the United States as proposed by H.R. 5155.

We currently administer a wheat research and promotion program under authority of the Wheat Research and Promotion Act of 1970 (P.L. 91-430, 7 U.S.C. 1292 note). Project activity under the 1970 Act will continue through June 1978. At the time the Department testified last year (June 16, 1976), on a very similar bill (H.R. 13099), our view was that enactment of the bill at that time would have resulted in a duplication of effort due to program content similarities between the 1970 Act and the bill under consideration. Also, the Department was in the process of evaluating the effects of farm commodity research and promotion programs administered by this Department's Agricultural Marketing Service. Data from that analysis are now available.

Our findings in that report concluded that there is little basis to indicate that the Department should change its position from "no objection" to these types of programs. However, H.R. 5155 differs from the other research and promotion programs administered by the Department in that the assessment is placed on the end-product manufacturer. We question the feasibility of this type of assessment structure as well as the promotion of wheat and wheat products within the United States.

Honorable Thomas S. Foley

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The Department would support modification of H.R. 5155, designed to increase the research of wheat and wheat products in domestic markets, as well as the promotion of wheat and wheat products in international markets. Through these efforts we would hope to effect (1) more efficient manufacturing processes; (2) new uses for wheat by-products and general formulation of new wheat and wheat food products; (3) development of higher protein wheat strains; and (4) improvement of the competitive position of wheat in international markets through broadening of sales.

H.R. 5155 would authorize the Secretary to hold hearings and conduct a referendum among eligible end-product manufacturers on a proposed order to establish a Wheat and Wheat Foods Research and Nutrition Education program. The program would be administered by a Wheat Industry Council comprised of no more than 20 members equally represented from eligible producer, processor, end-product manufacturer, and consumer organizations. The council's budget program and projects would require the approval of the Secretary before implementation, with the source of funding coming from assessments, in an amount not to exceed 5 cents per hundred-weight of processed wheat purchased or transferred, from eligible end-product manufacturers.

The bill also provides for a refund procedure for those eligible end-product manufacturers who do not wish to participate in the program, authorizes the council to invest funds that are collected and pending disbursement, and provides for the reimbursement from assessment funds of Department expenses incurred in carrying out the responsibilities under the bill, including the cost of the referendum.

H.R. 5155 and the Wheat Research and Promotion Act of 1970 currently administered by this Department, possess certain similarities in program content but differ in organizational structure, source and level of funding, emphasis upon nutrition education, and reimbursement of the Department's expenses from assessment funds. As a result of the 1970 Act, the National Wheat Institute (NWI) was established to administer a wheat research and promotion program having a one-time funding amount of \$2.045 million. To date, the National Wheat Institute has approved, with the Department's concurrence, 18 projects, 10 of which have been completed. The remaining 8 projects will be completed by the end of June 1978. The seven-member NWI Board of Directors is composed of wheat producers. The estimated level of funds to be generated by the enactment of H.R. 5155 is expected to range from \$2 million (a minimum assessment rate of 1 cent per cwt.) to \$10 million (at a maximum assessment rate of 5 cents per cwt. authorized under the legislation).

Honorable Thomas S. Foley

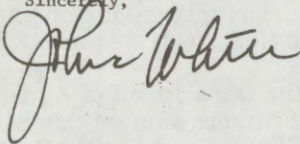
3

It is estimated that H.R. 5155 would cost the Department about \$40,000 to develop the order, hold hearings, conduct a referendum, and issue the order. In addition, it is estimated that the Department's cost will be about \$60,000 each year for the next 5 years.

In accordance with the provisions of P.L. 91-190, Section 102(2)(C), this legislation would have no significant impact on the quality of the environment.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in dark ink, appearing to read "John W. White". The signature is written in a cursive style with a large, looping initial "J".

Mr. POAGE. We have listed two witnesses, but Mr. Moore has with him a group of witnesses. It is the Chair's understanding that all of these people favor this bill.

I wonder if we could find out if there is anybody present who wants to speak against this bill. We want to give everybody a chance to be heard. So if there is anyone here who wants to be heard against this bill, I wish that you would make that known at this time.

[No response.]

Mr. POAGE. If there is no one here who wants to be heard against the bill, I wonder if it might not serve every purpose if those of you who are for it would simply extend your remarks in the record. It might expedite the movement of things.

We are not here to cut anybody off, but we do have the Secretary of Agriculture in an adjoining room. It is going to be hard to get members in here. We have to have a quorum to act on this matter. If we proceed to act, we might—yes, sir?

Mr. MANLEY. Mr. Chairman, we represent the Department of Agriculture. We do support the bill, but with modifications. I do not know how that would affect things. We are quite willing to leave our statement.

Mr. POAGE. I think if you are going to suggest that you want some modifications, then we had better hear you and hear what modifications you want.

I am not trying to cut off the proponents of this bill in the least. But it seems to me that it is rather foolish for us to have witnesses preaching to the choir. We are part of the choir; we signed the bill. If you want to preach to the choir, we will hear it.

Yes, sir?

Mr. MOORE. Mr. Chairman, I am Glenn Moore, chairman of the board of directors, Wheat & Wheat Foods Foundation.

We would be willing to have our statement inserted into the record. That would be fine with us.

Mr. POAGE. That is all right. We will proceed that way unless there is some opposition. Your statement will be made a part of the record, and we will hear from the Department of Agriculture.

[Material follows:]

STATEMENT OF GLENN MOORE CHAIRMAN OF THE
BOARD OF DIRECTORS, WHEAT AND WHEAT FOODS
FOUNDATION, CONCERNING H.R. 5155, THE WHEAT AND
WHEAT FOODS RESEARCH AND NUTRITION EDUCATION ACT-
BEFORE THE SUBCOMMITTEE ON LIVESTOCK AND GRAINS OF
THE HOUSE AGRICULTURE COMMITTEE

March 24, 1977

Mr. Chairman and Members of the Subcommittee, my name is Glenn Moore. I am a wheat producer from Willard, Montana. I appear before you today as Chairman of the Board of Directors of the Wheat and Wheat Foods Foundation, a voluntary organization of individuals, groups and associations involved in all segments of the wheat industry, primarily producers, processors and end-product manufacturers. A full list of the present membership of the Foundation is attached to this statement. I am also speaking for three organizations which, in addition to their Foundation membership, have strongly supported the concept of a wheat research and nutrition education act in their individual capacities. These organizations are the National Association of Wheat Growers, the Millers' National Federation, and the American Bakers Association. Finally, I am proud to say that members of the Bakery and Confectionery Workers' International Union of America, who have worked very hard in their support of this bill, have asked that they be included among the sponsors of our testimony here today. All of us testified on this bill individually last year but in order to preserve the Subcommittee's time we are today joining together in one statement. Appearing with me are: Jerry Rees, Executive Vice President, National Association of Wheat Growers; Wayne Swegle, President, Millers' National Federation; Robert J. Wager, President, American Bakers Association; Albert Herling, Public Relations Director, Bakery and Confectionery Workers' International Union of America; and John F. O'Neal, Counsel to the Foundation.

- 2 -

First, I want to commend the members of this Subcommittee and the other Congressmen who are sponsoring this legislation. The Foundation is proud to give its unqualified support to a bill that has attracted such strong bipartisan Congressional support.

In general, this bill is enabling legislation which authorizes creation of an orderly procedure, financed through an assessment on end-product manufacturers, for development of a coordinated program of research and nutrition education designed to improve and enhance the quality and make the most efficient use of American wheat, processed wheat and wheat end-products, to help ensure an adequate diet for all Americans. We fully support this concept. We are joined in this view by our friends in the labor movement. On February 17, 1977, the Executive Board of the Food and Beverage Trades Department, AFL-CIO, passed the following resolution:

"Therefore Be It Resolved that the Food and Beverage Trades Department of the AFL-CIO does support, either through amendment of the proposed Agriculture Bill or as separate legislation in its own right, the establishment of a mechanism to enable wheat producers, processors, end product manufacturers, and consumers of wheat foods to work together to establish, finance on an equitable basis, and administer a coordinated program of research and education to promote and improve human nutrition through the use of wheat and wheat products as human foods within the United States."

We feel the need for this bill cannot be questioned. Wheat is perhaps the first and oldest of all foods, but also one of the most misunderstood. Our knowledge of wheat and its nutritional contributions to human diet is relatively scant. As world population grows and resources dwindle, we believe the role of wheat and wheat products will loom ever larger and the need to create new or improved products and effectively disseminate nutrition information on this vital food will increase.

As Mr. Herling in his testimony last year on behalf of the Bakery and Confectionary Workers Union pointed out, in addition to benefitting all American workers as consumers of wheat products, the research and nutrition education programs under this bill will provide an opportunity to bring about a greater measure of stability to the wheat foods industry -- a stability that will mean greater job security and continued job opportunities to workers in that industry.

One might ask why the supporters of this legislation feel a Government-authorized program is necessary to provide this research and education effort. The answer is based on economics, practical experience and simple fairness. The wheat and wheat foods industry, especially the processing and end-product segments thereof, is a highly-competitive one, often operating on very thin margins. No one company, group or segment of the industry can afford the commitment of time, energy and resources that is necessary to establish a basic long-range research and nutrition education program -- the kind of program that may not show immediate results. Historically, purely voluntary efforts to establish these kinds of nationally coordinated programs for wheat and other commodities simply have not worked. Even where initial agreement was reached on the desirability of such programs, the inability to structure a purely private system of contributions and monetary support equitable to all those involved inevitably has led to defections from such programs and, ultimately, collapse. In the wheat industry alone, these efforts have been underway for over 15 years, without success. Only through a legislatively-authorized industry-wide program such as this bill envisions -- a program that will put everyone subject to the assessment on an equal footing -- can such a research and education effort be accomplished with credibility and the assurance of fair treatment to all those participating.

There are limited programs of wheat research and nutrition education now in existence. In 1970, The National Wheat Institute was formed for this purpose under the Wheat Research and Promotion Act of 1970 (P.L. 91-430). The Institute was given slightly over \$2 million to carry out its work -- funds which remained in government hands after termination of the processor wheat marketing certificate program. But those funds were never adequate to the task and were available only on a one-time basis. No method was provided for continued funding of the program. Applications to NWI for contracts to conduct research and education projects aggregated nearly \$20 million, ten times the money which was available. Furthermore, the limited funds that were available are now totally committed and allocated to a number of specific projects, all of which will be completed by June of 1978. Since it will take at least 18 months from the date of enactment of this bill to actual initiation of research and nutrition education projects thereunder, there will be no overlap with NWI programs. In fact, this bill will provide an excellent vehicle to take up where those programs leave off. It will allow our industry to further develop and expand upon some of the extremely promising avenues of research that those limited NWI programs have developed -- but have not had the funds to follow through on to conclusion.

Having addressed the need for the bill, let me now briefly touch on some of its principal features. The bill is modeled after the best features of prior agricultural self-help "check-off" programs, but with some significant improvements. For one thing, this bill stresses research and nutrition education, whereas predecessor legislation has been aimed more at advertising and promotion. Furthermore, for the first time under any bill of this type, the proposed organization which will direct the research and nutrition education

efforts (The Wheat Industry Council), will represent the entire marketing chain of the commodity. The 20-man Council will be composed equally of representatives of producers, processors, end-product manufacturers *and consumers* of wheat. We believe this balanced representation will guarantee a balanced research and education effort, and provide maximum benefits to both the American consumer and all segments of the wheat industry.

Unlike previous programs, the assessment under this bill will be paid by end-product manufacturers (rather than producers). Small end-product manufacturers (those who purchase less than 2,000 cwt. of processed wheat per year) which might find the record-keeping provisions of the bill an inconvenience, are exempted from its provisions. However, these small bakers would receive the benefits of any nutrition research and education programs undertaken. Furthermore, any organization representing them will be eligible to submit nominations for membership on the Council that will formulate and manage these programs. Neither restaurants, hotels nor institutions would be considered "end-product manufacturers" for purposes of the assessment, nor would those who produce "end-products" for their own personal, family, or household use. Wheat, processed wheat, and end-products sold for export will also be exempt from the assessment.

A referendum of end-product manufacturers will be required to institute the program and once it is instituted, participation will be voluntary. End-product manufacturers not wishing to participate may receive a refund of the assessments they have paid.

This program will be conducted at no cost to the taxpayer. Even the minimal expenses incurred by U.S.D.A. in conducting the referendum will be fully reimbursed by the Council.

Neither will the program put any financial burden on producers such as myself. The conditions under which wheat is sold and wheat prices set in this country make it impossible for the cost of the assessment to be "passed back" to producers.

Nor will the program be likely to increase consumer costs. The assessment authorized under the bill will be set by the Council, paid by end-product manufacturers and range from one to five cents per hundredweight of processed wheat purchased. Even at the maximum five-cent level authorized under H.R. 5155 the cost of the assessment will amount to only about 3/100 of a cent per one-pound loaf of bread. As a practical matter this cost will likely be absorbed by the end-product manufacturers. If added to end-product costs at all, it might be included only as a very small part of an overall increase caused by unrelated factors. However, we believe that even this minor impact is unlikely. The potential minute impact on end-product prices of the cost of this program will, in all likelihood, be more than offset by savings to end-product manufacturers stemming from research done under the authority of this bill. Certainly, the benefit and value of enhanced nutrition to the American public more than justifies the relative costs. At the five-cent level, it is our estimate that about \$10 million will be generated annually for this program.

Before closing, I would like to review the history of this proposal in the last Congress. H.R. 5155 is identical to H.R. 13099, which was introduced in the House with twenty co-sponsors in April of 1976. Hearings were held on that bill by this Subcommittee on June 16, 1976, and support was expressed by a number of producer groups, state wheat commissions, millers, and wholesale bakers, as well as organized labor. Furthermore, broad and enthusiastic support was forthcoming from the scientific and academic community.

Testimony was given or statements filed by representatives of Texas A & M, North Dakota State University, Oregon State University, Washington State University, Harvard University School of Public Health, the University of Idaho, and the American Institute of Baking. A review of this latter testimony in the record of the hearings on H.R. 13099 is a most compelling argument for the need for the kind of research and nutrition education program this bill envisions.

At last year's hearings, several witnesses testified in opposition to H.R. 13099. A number of questions were raised as to the supposed effects of some of the bill's provisions. Many of these arguments represented, at best, a lack of understanding of the provisions of the bill. In order to clarify these issues, the Subcommittee submitted a lengthy and detailed list of questions to all the witnesses who appeared at the hearing. The responses are printed in the Record of that Hearing. We have reviewed these responses carefully and believe the replies provided to the Subcommittee by the bill's supporters fully and satisfactorily answer the questions which have been raised. We also feel it is significant that two of the opposing witnesses who were most vocal at the hearing did not even favor the Subcommittee with the courtesy of a reply to its questions.

In closing, let me reemphasize my strong personal support for this bill and the support of all those organizations which have joined in sponsoring this testimony. Thank you for the opportunity to appear before you today. We will be happy to answer any questions you may have.

MEMBERS OF WHEAT AND WHEAT FOODS FOUNDATIONGROWERS:

National Association of Wheat Growers
Western Wheat Associates, Incorporated
Great Plains Wheat, Incorporated
U.S. Durum Growers Association
Kansas Association of Wheat Growers
Montana Grain Growers Association
Nebraska Wheat Growers Association
South Dakota Wheat Producers, Incorporated
Texas Association of Wheat Growers
Wyoming Wheat Growers Association
Oregon Wheat Growers League
Washington Association of Wheat Growers
Idaho State Wheat Growers Association
Kansas Wheat Commission
Nebraska Wheat Commission
North Dakota State Wheat Commission
Colorado Association of Wheat Growers
Colorado Wheat Administrative Committee
Oregon Wheat Commission
Washington Wheat Commission
Idaho Wheat Commission
New Mexico Association of Wheat Growers
Minnesota Association of Wheat Growers
Oklahoma Wheat Growers Association
North Dakota Wheat Producers, Inc.

PROCESSORS:

Protein Grain Products International
Millers' National Federation
National Association of Flour Distributors

END-PRODUCT MANUFACTURERS:

American Bakers Association

**STATEMENT OF WILLIAM T. MANLEY, ACTING ADMINISTRATOR,
AGRICULTURAL MARKETING SERVICE, U.S. DEPARTMENT OF
AGRICULTURE, ACCOMPANIED BY JOHN CHERNAUSKAS, DI-
RECTOR, MARKETING DIVISION, OFFICE OF GENERAL COUNSEL**

Mr. MANLEY. Mr. Chairman, we appreciate this opportunity to appear before your committee today to present the Department's views on H.R. 5481, a proposed Wheat and Wheat Foods Research and Nutrition Education Act, a bill "To enable wheat producers, processors, end-product manufacturers, and consumers of wheat foods to work together to establish, finance on an equitable basis, and administer a coordinated program of research and education to promote and improve human nutrition through the use of wheat and wheat products as human foods within the United States."

The Department supports enactment of H.R. 5481 with modification. We support a program of research for wheat and wheat products within the United States, and the promotion of such products in international markets. However, we do oppose the promotion of such products within the United States such as proposed by H.R. 5481.

We currently administer a wheat research and promotion program under authority of the Wheat Research and Promotion Act of 1970. Project activity under the 1970 act will continue through June 1978. At the time the Department testified last year on a very similar bill, our view was that enactment of the bill at that time would have resulted in a duplication of effort due to program content similarities between the 1970 act and the bill under consideration.

Also, the Department was in the process of evaluating the effects of farm commodity research and promotion programs administered by this Department's Agricultural Marketing Service. Data from that analysis are now available, and I will discuss it later in my testimony.

H.R. 5481 would authorize the Secretary to hold hearings, conduct a referendum among eligible end-product manufacturers, and issue an order for the establishment of a wheat and wheat foods research and nutrition education program. The program would be administered by a Wheat Industry Council comprised of not more than 20 members equally represented from eligible producer, processor, end-product manufacturer, and consumer organizations.

The council's budget, program, and projects would require the approval of the Secretary before implementation, with the source of funding coming from assessments levied on end-product manufacturers. These assessments would be levied in an amount not to exceed 5 cents per hundredweight of processed wheat utilized or whether purchased or transferred from eligible end-product manufacturers. Also, the Secretary may conduct a referendum to determine if end-product manufacturers favor termination of orders.

The bill also provides for a refund procedure for those eligible end-product manufacturers who do not wish to participate in the program, authorizes the council to invest funds that are collected and pending disbursement, and provides for the reimbursement from assessment funds of Department expenses incurred in carrying out the responsibilities under the bill, including the cost of the referendum.

Under H.R. 5481, the Department would be reimbursed by the council for the development of the order, hearings, conduct of a referendum, issuing the order, and monitoring responsibilities. The Department estimates it would cost about \$40,000 to develop an order, hold hearings, conduct a referendum, and issue the order. In addition, it is estimated that the Department's monitoring cost would approximate \$60,000 a year thereafter.

Our cost estimates are based, in part, upon our experience in monitoring the 1970 act, and in part, upon our estimates of the increased complexity of developing and monitoring the proposed bill. The cost of the Department's monitoring responsibilities of the 1970 act is absorbed as a part of overhead costs.

The wheat research and promotion program currently being administered by the Department was designed to expand domestic and foreign markets for wheat and increase utilization for U.S. wheat. The program, which is financed from proceeds of the 1968-69 wheat export certificate pool not claimed by eligible farmers, has a total funding availability of \$2.045 million. This compares with a potential magnitude of funding under H.R. 5481 of \$2 million (a minimum assessment rate of 1 cent per hundredweight) to \$10 million (at the maximum assessment rate of 5 cents per hundred-weight authorized under the legislation) annually to be collected from end-product manufacturers who use processed wheat.

The Department feels that the National Wheat Institute has done a commendable job in developing and executing a well-balanced wheat research and promotion program with minimal funds. Considerable thought and effort have gone into the development of this program.

To date, the Institute has approved, with the Department's concurrence, 18 projects of which 10 have been completed; the remaining 8 projects will be completed by June 1978. An addendum to my testimony gives a brief outline of the 18 projects engaged in by the National Wheat Institute and a status report of those projects.

The legislation being sought for wheat is similar in scope to other research and promotion-type programs administered by the Department for cotton, potatoes, wool, lamb, mohair, eggs, and most recently enacted for beef. Research and promotion programs are a relatively new vehicle for use by the industry groups. The first program—for cotton—was enacted in 1966.

For those programs that have been enacted thus far, little data have been available to the Department so that we could adequately assess their effectiveness and answer the questions: What have been the benefits and costs of this program and what has been the incidence of each? Has this program improved the producer's competitive position in the marketplace? Has this program resulted in increased costs to the consumer?

Until now, the Department had not been in a position to respond to these questions. Recently, however, a USDA study group completed its review of the research and promotion programs which have already been enacted, assessing the impact these programs have on the marketplace. Findings in that report concluded that there is little basis to indicate that the Department should change its position from "no objection" to these types of programs.

However, H.R. 5481 differs from the other research and promotion programs administered by the Department in that the assessment is placed on the end-product manufacturer. We question the feasibility of this type of assessment structure as well as the promotion of wheat and wheat products within the United States.

As I stated earlier, the Department would support legislation designed to increase the research of wheat and wheat products in domestic markets, as well as the promotion of wheat and wheat products in international markets. Through these efforts we would hope to effect the following: One, more efficient manufacturing processes; two, new uses for wheat byproducts and general formulation of new wheat and wheat food products; three, development of higher protein wheat in international markets through broadening of sales.

Mr. Chairman, this concludes my statement.

Mr. POAGE. Thank you very much, Mr. Manley.

Without objection, the addendum you mentioned will be inserted in the record.

[Material follows:]

ADDENDUM

Of the 18 NWI projects, 10 are completed. All projects are scheduled for completion before June 30, 1978. A review of all individual projects follows:

- NWI-01 - Battelle Columbus Laboratories - A research project entitled "A Review of the State of the Art." This project started on April 18, 1972, and was completed in October 1972. It served as a guide in developing other NWI projects. Total payments were \$45,825.
- NWI-03 - Concept Films, Inc. - A promotion project film entitled "Wheat Marketing -- The Producer Has a Choice." This project started in March 1973 and was completed in March 1974. Total payments were \$83,125 (included 125 prints of the film). This film received the Golden Eagle Award and has been shown to many, many thousands of wheat producers, farmer association groups, vocational agriculture students, 4-H Club members, extension workers, and others.
- NWI-04 - National Day of Bread - A promotion project to stimulate consumer interest in, and consumption of, wheat and wheat products through educational programs, media contact and releases, and store promotion materials. This project was started in March 1973 and was amended to include the years 1974, 1975, and 1976. Total payments have been \$24,000. Since funds are now totally committed, we are unable to make additional amendments to this contract. This, also, is applicable for NWI-05 and NWI-06.
- NWI-05 - National Sandwich & Contest - A promotion project sponsored by the Wheat Flour Institute (division of Millers National Federation) to stimulate consumer interest in the consumption of wheat products through educational programs. Coordinated efforts by the several groups conducting promotions of wheat products will provide maximum efficiency in the use of Institute funds. This project was started in March 1973 and was amended to include the years 1974, 1975, and 1976. Total payments have been \$24,000.

- NWI-06 - Agriculture Council of America - A promotion project to promote a better image for agriculture and wheat producers through a national agricultural information service. The Council provides an authoritative reference and information source capable of broad day-to-day dissemination of information about agriculture and its economic impact upon America's general public. Total payments have been \$20,000.
- NWI-07A- FAR-MAR-CO - A research project to develop improved processes to separate components of the whole kernels of wheat and demonstration of commercially feasible markets. This project was started in March 1973 and will be completed by March 1977. C. Marshall Dann, Commissioner of Patents and Trademarks, issued Patent Copyright No. 3,981,738 to the Secretary of Agriculture on September 21, 1976. On November 15, 1976, NWI issued a press release that was sent to numerous trade and technical journals. This project is for \$382,223 and USDA has advanced the total amount.
- NWI-07C- FAR-MAR-CO - A research project entitled "A study of Product and Market Opportunities for Wheat Components." This project was started in August 1975 and is scheduled for completion before October 31, 1977. This project is for \$100,000. The USDA has advanced a total of \$60,000 to date.
- NWI-08 - North Dakota State University - A research project entitled "Study of the Use of Unique Functional Characteristics of Wheat in Product Development." Completion date was June 31, 1976. This project was amended for \$2,000 to prepare and print a research bulletin giving the results of the studies conducted and including the formulas recommended for high protein pasta products and snack foods. This project is now for \$182,000, and USDA has advanced the total amount.
- NWI-09 - Washington-Idaho-Oregon Universities - A research project entitled "Pacific Northwest Wheat Variety Study - Nutritional Education of Varieties and Classes." This project was started in March 1974 and is scheduled for completion in May 1977. Progress on this project was behind schedule in the past; however, it is now on schedule and timely completion of this project is expected. This project is for \$298,642.54, and USDA has advanced the total amount.

- NWI-10 - David Evans, Inc. - A promotion project entitled "Wheat Nutrition Education Film." This project was started in May 1975 and was completed in August 1976. The title is now "Wandering Waldo and the World of Wheat" with television star Ms. Shari Lewis as narrator. This project is for \$96,713, and USDA has advanced the total amount. The premiere showing was held December 1, 1976 in the Thomas Jefferson Auditorium.
- NWI-11 - Colorado State University - A research project entitled "Biological Analyses of Sprouted Wheat." This project was started on August 1, 1975, and is scheduled to be completed in August 1977. Phase one was completed in July 1976. They have overcome the mold problem now. Preliminary findings show that sprouting produces sugars and results in added feed values. This project is for \$28,958, and USDA's advances to date total \$21,720. Also supporting this project are the Colorado State University for \$35,358 and the Colorado Wheat Commission for \$4,000.
- NWI-12 - Wheat Promotion Contract - The Farm Film Foundation is distributing the four films under contracts NWI-03, NWI-10, NWI-16, and NWI-17. This contract is for \$18,450, and USDA's advances to date total \$12,187. Duration of the contract is until June 1978. During the past month, the Farm Film Foundation has received 327 bookings for these films; or "Wheat: Stretching the Food Dollar" -- 120, "Wheat Marketing -- The Producer Has a Choice" -- 70, "Wheat: Making the World Grow" -- 45, and "Wandering Waldo" -- 92.
- NWI-15 - American Institute of Baking - A research project entitled "Effect of Complex Polysaccharides on Lipid Metabolism." Rat feeding trials show that when fed patent flour (versus a High sucrose formula), it resulted in a definite lowering of body cholesterol. Further analytical work is in progress. The contract is for \$30,000, and USDA's advances to date total \$18,925.
- NWI-16 - Scott Anderson Productions - Concept Films - A promotion project entitled "Wheat - Making the World Grow" film. This contract is for \$137,750, and USDA has advanced the total amount.

- NWI-17 - Scott Anderson Productions - A promotion project entitled "Wheat - Stretching the Food Dollar" film. We have approved the answer-print stage, and the release print was targeted for the end of May. A release print was delivered to the NWI on July 9, and all phases of this project were completed in August 1976. This contract was for \$94,250. and USDA has advanced the total amount.
- NWI-18 - Michigan State University - A research project entitled "Effect of Wheat Foods on Blood Urea." Preliminary findings show that students eating 10 to 12 slices of bread per day resulted in weight losses and a decline in blood urea. Further studies are underway to corroborate these findings. This contract is for \$36,010, and USDA has advanced the total amount.
- NWI-19 - Wheat Promotion Contract - Modern Talking Picture Service, Inc., along with the Fama Film Foundation (NWI-12), will distribute the four NWI films under contracts NWI-03, NWI-10, NWI-16, and NWI-17. This contract is for \$45,000, and USDA's advances to date total \$19,600. Since July 1, 1976, TV telecasts have been made on "Wheat: Making the World Grow" and "Wheat: Stretching the Food Dollar" to an estimated 3,426,000 viewers. Showings to community groups of the two films mentioned above, plus "Wandering Waldo," have totaled 867 to a reported 71,173 viewers.
- NWI-20 - Breacmake, Inc. - A promotion contract to encourage home-baking of bread in low-income, minority areas of Washington, D.C. This contract is for \$4,025, and USDA has advanced the total amount.

Mr. POAGE. The bells have rung. I note that a quorum may or may not develop. I think we might proceed here until we determine whether we get an effective quorum call or not. At that time, we will have to go to the floor. But, if we do not get that, we will try to get some members out of the other committee and proceed.

I would like to comment just a moment on this suggestion that Mr. Manley has given us. You want us to promote the use of wheat abroad, but not promote the use of wheat at home. It seems to me to be a rather strange sort of situation. The Department does not find anything wrong with wheat; do you? It is a good food; is it not?

Mr. MANLEY. Yes, sir.

Mr. POAGE. Do you not consider it a perfectly good food? Is it not good for Americans as well as it is for people in other lands?

If it is, it seems to me that you would be anxious to promote the use at home as well as abroad, unless it is some kind of poison that would be harmful to our people.

Just how do you rationalize that thing? You are all for promotion if we can sell it abroad, but you are opposed to doing anything about selling it at home. What is wrong with wheat?

Mr. MANLEY. Mr. Chairman, our reasoning goes like this. In the general proposition about the advertising and promotion of farm products, we have always been concerned about the problem I describe as follows: As you promote one farm product and you increase the sales of it, perhaps you decrease the sales of a competing farm product.

One could imagine a situation where, if all farm products were promoted, it would be a standoff situation in which the advertising people would benefit; but we are not sure about the actual benefits to farmers.

This is not true, however, with respect to our position on promoting and advertising wheat in foreign markets because not all farm products in the United States have high export levels. That is to say, if we draw a parallel between the research and promotion in the international markets with that in the domestic markets, we are not concerned that if, through promotion and advertising in the foreign markets, that we would simply decrease the sales of other commodities sold in the world markets.

Wheat, as you know, sir, is one of our main export commodities. So, if we were to increase the sales of wheat in international markets, we would not be concerned that it would be at the expense of fruits and vegetables or some other farm commodity in the United States.

That is our reasoning, sir.

Mr. POAGE. But wheat does not compete with fruits and vegetables. Wheat competes with rye, barley, milo maize, and, to some degree, with corn in the United States.

My district produces a great deal more maize than it does wheat. I do not believe our people are afraid that the promotion of wheat is going to hurt their production of maize in any way. For it to be harmful, you would have to assume that wheat was going to take somebody else's market.

I can conceive of wheat taking the maize market. It is a feed. If you get the price much lower than it is today, it will move into the feed market; there is no question about it. You drop the price of wheat even 25 cents, and you will see it move into the feed market in large quantities right now.

But you can drop the price of milo maize by \$1, and you are not going to see any change in the amount of wheat that is consumed in the United States.

In India, you might see some difference if you moved maize in at a very low price. People would probably eat maize instead of eating wheat. They are not going to do that in the United States.

It seems to me that that is just a bugaboo with no substance to it at all. You are not taking the place of anything.

Then you mention advertising. I never was an advertising man, but I have watched advertising. We advertise every kind of product in the United States. We are told that we increase the sale of all of them. I think that is true. I think that, if we did not have any advertising whatsoever, we would not sell as much goods as we sell in the United States.

I cannot see how you are hurting anybody by promoting the sale of wheat. If you were promoting something that was competing with another product, it might be different. But just what product is it that you think you may find is going to lose as a result of promotion of wheat?

Mr. MANLEY. Mr. Chairman, it has always been felt that the diet that people take in has a limit. The decision is not that one can consume more than what he wants. The decision is the mix of the product that one would want to consume in order to get up to the total amount that he could take in.

I believe it is reasonable to project that if there is a fixed amount that people can consume because of the limits of the stomach, then anytime that you increase the consumption of one product, you necessarily decrease the consumption of another.

As you suggest, there certainly are varying degrees to which one commodity will substitute for another. It is probably right, as you say, that there is not very much substitution between wheat and, say, fruits and vegetables. I believe, though, it is reasonable to assume that the increase in the intake of most any commodity that you can think of would decrease, to some extent, the consumption of some other commodity.

There are some commodities that have very few substitutes; there are others that have good substitutes. That, Mr. Chairman, is one of the things that bothers the Department. I think it bothers all the scientific community: the extent of the benefits that can be derived from promoting agricultural products.

There is no question, as you say, sir, that advertising does increase sales. In the advertising of the products of the nonagricultural community, there is no limit to the amount that can be consumed. People buy and consume to the extent of their pocketbooks. The demands are insatiable for those commodities.

So, I believe there is no reasonable parallel between nonagricultural commodities and the agricultural or farm commodities.

Mr. POAGE. I would like to call attention to one other phase. You suggested that you did not know whether these programs were of any value anyhow and that there was lots of doubt about these promotion programs.

We have adopted them for a good many commodities in the last 15 or 20 years, particularly for fruits and vegetables. As you said, probably the oldest was cotton. Cotton has had more experience than any

of the others. It has just been in the last few months that the cotton growers of the United States voted to more than double the contribution that they are making to carry on a similar program for cotton. That seems to me to be a little more conclusive than anybody's studies or anybody's judgment or any college professor's articles on the subject.

Those cotton people are paying their own money. They are not giving advice to somebody else, like all these other folks are. Some folks are advising other people how to spend their money. But these cotton growers are spending their own money. They voted better than two to one to more than double the amount they are putting into it.

That seems to me to be about the most conclusive evidence that these programs do work and they they are helpful.

I represent the second-biggest wool district in the United States. I do not believe that my people who produce wool feel that the cotton program has done them any harm. On the contrary, I think that probably the cotton program has been helpful to the wool people. It has developed American fabrics and a demand for them.

It seems to me that you are just grasping something that might possibly occur, but you cannot prove that it will occur, and you do not know, and you are not even going to suggest to yourself that it will occur, but maybe it might, it is a bugaboo, and therefore we ought to leave it alone.

I submit the experience of people who are paying their own way as being more conclusive to me than any of these judgments.

Mr. Hightower?

MR. HIGHTOWER. You were talking about cotton. You were not equating the cotton program with the food commodities; were you? You said "all agricultural products." But, certainly, your market for cotton is not the same kind of consumer orientation that food products are.

MR. MANLEY. Mr. Hightower, I should have said "food products."

There is no question but what cotton is a different situation. There we are competing with industrial products; that is, the synthetic commodities and the synthetic products. I think that is one of the reasons, as the chairman suggests, that that industry was extremely interested in trying to mitigate the inroads into cotton by the synthetic fabrics.

MR. HIGHTOWER. Thank you.

MR. POAGE. Mr. Sebelius?

MR. SEBELIUS. Mr. Manley, you raised two points.

Of course, you know the recent report of the Senate Select Committee on Nutrition recommended a program to promote the increased use of bread consumption including whole grain and bran.

I wanted to refine this a little more. The consumption of bread is declining. It should not be. We have all kinds of experience that whole grain and even white bread—there are experiments up at Michigan State that show that white bread is good for a reducing diet. If you use it in a certain manner, you can lose weight using white bread.

I think we need to hone down this word "promotion" as to just what we really mean we can and cannot do. I do not think you want to keep this organization from maybe participating in "day of bread" activities or some of these things.

I would think that we should have a little better definition of what we mean by "promotion." Nobody wants to get some big ad agency and turn them loose.

I want to raise another point.

You suggest that the assessment structure is not quite as feasible as it should be. Do you have some suggestion on how this could be handled in another manner that would be satisfactory to the Department?

Mr. MANLEY. I will try to clarify my position on your first point.

The Department, as I said, of course, strongly supports the research aspects of this. We do not have any misgivings about promoting the results of that scientific research.

I do not know the proper terminology to use. What I am talking about is hard sell advertising, as advertising, and that kind of thing. That is what we are opposing.

We are not, however, opposing the dissemination of information which comes from a scientific base.

Mr. SEBELIUS. There is a program out in Kansas on the fractionalization of wheat; you can divide it up into the gluten, the bran, the germ, and the starch. It needs more research.

If we come up with something in that field or other ones that had some extra nutrition, we should not be barred from telling the world about it.

Mr. MANLEY. That is correct, sir.

Mr. SEBELIUS. But the slick sheets and the TV is what you really have in mind; you question the ballyhoo type of thing where we would say "Use bread because it's better than anything?"

Mr. MANLEY. Precisely.

Mr. SEBELIUS. Maybe we could refine that a little more because I think that would be very necessary.

Mr. POAGE. There is a rollcall on the floor.

I wonder if the gentlemen might see if they could refine this a little more in the 5 or 10 minutes that it will take us to go over there and answer that. We will answer it and come right back. We hope that you will have agreed on some language that both sides can accept.

We will be back in a few moments.

[Short recess.]

Mr. POAGE. Have you gotten together on this?

Mr. MANLEY. Mr. Chairman, I believe we have made progress in reaching an agreement on what we both could live with.

We are suggesting that we be given a little time to work this out in the report language.

Mr. POAGE. I wonder if it would not be all right if we can agree that you have gotten together on what will work. The staff can be authorized to draft the language to carry out your agreement. We will present that to the full committee. Of course, if the wording that Mr. Bor approves does not meet with your satisfaction, you can always object to it.

Rather than try to hold the committee here pending the writing of this, would that be satisfactory?

Mr. MANLEY. That is acceptable to us, sir.

Mr. POAGE. Without objection—

Mr. HIGHTOWER. Mr. Chairman, I have some concern I want to express.

The thing that concerns me, Mr. Manley, about the testimony here on not promoting wheat domestically is that, as I understand the bill, the wheat sold for export would not be subject to assessment. Does not that mean then that the producer for domestic consumption is going to be paying all the cost, and the benefits are going to go to the producer for export?

Would not that be the effect of that?

Mr. MANLEY. I do not believe so, sir.

Historically, we have had one price for wheat. The extent to which the export market can be raised—that is, the price for wheat in foreign countries—and the extent to which we can expand our sales abroad has a very good effect on the producer of wheat whose product is used strictly in a domestic market.

As I say, there is one price. So, the positive impact of raising our exports has a positive impact on the domestic producer.

Mr. HIGHTOWER. But should not the burden be shared equally?

Mr. MANLEY. I have not thought that one through. I just do not have a good answer for that, sir.

Mr. POAGE. This does not put the burden on the producer; this puts the burden on the processor.

Mr. HIGHTOWER. That is right, but why should the processor—when it is going to be exported—why should they be exempt?

I am asking why the exemption is there. I have no convictions about it. It just looks like it makes an exemption that would need to be justified in some way.

Mr. MANLEY. I just do not think that we have taken a good look at that, Mr. Hightower.

Mr. HIGHTOWER. I see. Thank you.

Mr. POAGE. Thank you very much, Mr. Manley.

Mr. MANLEY. Thank you, sir.

Mr. POAGE. Has anyone come in who wants to be heard in opposition? If there is any opposition to this bill, we want to hear it.

[No response.]

Mr. POAGE. The Chair hears none.

We will therefore close the hearing.

[Whereupon, at 2:55 p.m., the meeting was adjourned.]

[The following statement was also submitted.]

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION

MARCH 24, 1977

We appreciate this opportunity to present views of the American Farm Bureau Federation on H.R. 5155—the proposed “Wheat and Wheat Foods Research and Nutrition Education Act.”

Farm Bureau is the largest general farm organization in the United States, with over 2.6 million families in 49 states and Puerto Rico. It is a voluntary, nongovernmental organization, representing farmers and ranchers who produce virtually every agricultural commodity that is produced on a commercial basis in this country. Many of these members are wheat producers.

The voting delegates of the member State Farm Bureaus to the 58th annual meeting of the American Farm Bureau Federation in January, 1977, adopted a policy on Promotion of Agricultural Commodities which states in part:

"We will oppose federal legislation providing for any new national commodity promotion program which does not provide * * *

* * * for a referendum to be valid, 50 percent of the registered producers must have voted, with two-thirds casting an affirmative vote; * * * and

That only those persons who contribute monies to the respective programs shall be eligible to serve on the Boards which administer such programs.

The proposed "Wheat and Wheat Foods Research and Nutrition Act" conflicts with Farm Bureau policy as stated above in that:

(1) the proposed program could be voted into effect by a bare majority, rather than two-thirds of the registered end product manufacturers, and

(2) consumers would be given voting, rather than advisory, representation on the proposed Wheat Industry Council.

We recognize that wheat producers would not be directly assessed under the proposed program; however, producers would be affected. We also are concerned about the precedent that might be established for other programs. We believe that the provisions of H.R. 5155 with reference to voting procedure and consumer representation are undesirable and that their enactment would set a dangerous precedent. We, therefore, oppose enactment of this bill.



