

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK & IRRIGATION
MONTANA STATE SENATE

February 4, 1987

The Agriculture, Livestock and Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol at 1:00 p.m. by Chairman Boylan.

ROLL CALL: Senator Galt excused, all other members present.

CONSIDERATION OF HB 184: Representative Ray Brandewie, HD 49 Big Fork, said this bill allows the Dept. of Agriculture to set and collect fees for apple inspection. He told the committee that the Flathead valley is one of the best McIntosh apple growing areas in the country. There are 100 acres of apples coming up to full production this fall. The Dept. needs the authority to raise about \$3800 in fees, which amounts to approximately 3 cents a box, for inspection. This will be paid by the apple growers.

PROPONENTS: Roy Bjornson, MT Dept. of Agriculture, testifying on behalf of Keith Kelly. Exhibit #1. Included in this exhibit is a history of the McIntosh apple, which is being grown in western MT.

OPPONENTS: None.

COMMITTEE QUESTIONS: Senator Jergeson inquired about the last sentence in the Statement of Intent, regarding the fees charged, and whether they were an expenditure from the general fund. Rep. Brandewie said this would have to be appropriated and he doubted this would happen. There are federal horticultural inspectors in the Flathead valley currently who inspect seed potatoes, cherries, nursery stock, etc., which is shipped out of state. They work for the Dept. and are paid by the Dept. This bill asks for 1/4 FTE to pay for that. The 3 cents a box should cover this. Federal law requires there be inspectors.

DISPOSITION OF HB 184: Senator Kolstad moved HB 184 BE CONCURRED IN. Motion carried. Senator Harding will carry the bill on the senate floor.

CONSIDERATION OF SB 238: Senator Tom Beck, SD 24 Deer Lodge, told the committee that this is a bill to impose a surcharge on the retail sale of field rodenticides and authorizing the Dept. of Agriculture to expend these funds for vertebrate pest management purposes and to establish a vertebrate pest management advisory council. Prior to 1972 the compound 1080 had been used for control of gophers, prairie

dogs, etc. The federal government cancelled 1080 for field rodents. From 1972-79, only strychnine could be used. In 1979, the EPA granted permission to use strychnine for emergency purposes. That was cancelled in 1984 because it was no longer classified for that. In December of 1986, a number of ag. producers, the MT Dept. of Agriculture and the Extension Service in the University System, met to address field rodent management needs. Western area ranchers were concerned because they couldn't get a 1080 program and may not be able to maintain the strychnine program. There is no way to control the rodents. Rodent damage is a big problem. The amount of damage being done has to be documented. They would like to legalize 1080 just for ground squirrels and to keep strychnine and zinc phosphate poisons on the market. They would like to include on this committee a member of a sportsman and wildlife group, ranchers from northern, eastern, western and southern MT, the rodenticide industry, public lands group, and recommend that the director of the Dept. of Agriculture be the administrator.

PROPONENTS: Keith Kelly, Dept. of Agriculture, provided background information on SB 238. Exhibit #2. He said that, with proper research it is possible that 1080 could be reregistered. He presented an amendment for p. 4, lines 2 & 3 to change "non government registrants" to "dealers". Exhibit #3.

Mons Tiegen, MT Stockgrowers, Woolgrowers, and Cattlewomen, in support.

Jo Brunner, MT Grange Assoc., in support. Exhibit #4.

OPPONENTS: None.

COMMITTEE QUESTIONS: Senator Lybeck said he had worked with a group of county people on the 1080 program on a trial basis for 4-5 years. They filled out the forms so they could get another year's approval from the EPA and failed. He asked how the Dept. will persuade the EPA regarding 1080. Kelly answered that with research data, facts, figures and independent studies.

Senator Thayer asked why the tax was on retail rather than the wholesale trade. Gary Gingery, Dept. of Agriculture, said the tax is on retail as opposed to wholesale because only the retail dealers are licensed in MT under the MT Pesticide Act. Out of state distributors deliver in MT and the Dept. has no way of getting their records but they can get records of MT dealers. Some distributors do not come into the state.

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Senator Kolstad didn't think you could still buy strychnine. Gingery said strychnine is restricted. The EPA proposed it be cancelled but you still can buy it for use as a rodenticide. The County Extension Service has information on this.

Senator Lybeck told the committee that only licensed applicators can handle strychnine.

Senator Bengtson asked with no strychnine and no 1080 what could you use. Kelly said they could use zinc phosphide and baits at bait stations which are expensive and bait stations have to be serviced every day. They can get 1080 but have to confirm they have the research money. The future use of 1080 depends upon how this research comes out.

Senator Bengtson questioned why there were no retailers at today's hearing. Kelly expressed that they probably wouldn't oppose since the product cannot be registered, they wouldn't be selling it. This may get more products approved for use.

Senator Beck closed saying when this was discussed in Dec. of last year, they were having funding problems. They are asking counties, through their rodent program, to participate as well as users and distributors to pay through fees for the program. The intent of this legislation does nothing different. You still must have licensed applicators and have to stay within the bounds of the law.

DISPOSITION OF SB 238: Dave Cogley called the committee's attention to the Statement of Intent. Senator Lybeck moved to adopt the Statement of Intent. Motion carried.

Senator Lybeck moved the amendment for SB 238 (exhibit #3). Motion carried. Senator Lybeck moved SB 238, as amended DO PASS. Motion carried.

DISCUSSION ON SB 207: Senator Boylan told the committee that SB 207 was unworkable and a committee bill would be necessary.

Senator Lybeck reported that he had met with the cattle people attending Monday's hearing. There was concern among them regarding being excluded from using the MT quality label.

Dave Cogley reported that, rather than going with a complete certification and labeling program, they decided to amend the Dept. of Livestock's authority under the Research and Marketing Law to include a provision that the Dept. can establish, in conjunction with recognized state or local organizations, product standards and certification procedures for those standards. It doesn't require the Dept. to do it but would be a program in conjunction with these private organizations such as the Beef Council, Angus Assoc.,

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There was concern over having one controlling state program which might restrict individual segments of producers promoting angus, cattle lean, etc.

Senator Boylan said this couldn't be put into the present bill so it would have to come out as a committee bill.

Dave Cogley said SB 207 doesn't address Dept. authority under research and marketing. It can be done through a committee bill.

Senator Thayer said the problem is setting up a private group to administer this. Whoever is in the group could discriminate against the others. Mons Tiegen answered that the amendment prevents what he feared from happening. It permits the Dept. of Livestock to go ahead and develop these programs under the rule making process.

Dave Cogley said the proposed language would enable the Dept. to enter into agreements with recognized local or state organizations for the purpose of developing produce standards for beef or beef products and developing certification procedures for those standards. It is enabling authority for the Dept.

Senator Bengtson was concerned that the enabling language might end up in law. She thought the authority which goes with rule making could be passed on to the Dept.

Senator Thayer asked what prevents anyone from using this label. Tiegen told him the label is owned by the MT Beef Council. If someone wanted to use this they would have to go through the certification process.

Senator Lybeck said Les Graham is a man of high integrity and, as long as he is Dept. administrator, there would be no problem. Les did have a problem with verbage in SB 207 where it referred to the Beef Council, Senator Lybeck said. The new wording is satisfactory to everyone concerned. They need a label to identify MT beef for future foreign and domestic shipping. The initial ground work is done, and there is a plant in Billings; they are in production.

Dave Cogley said the Department would be assisting a private company to develop standards, but the Department would not be certifying. It would just help the industry develop its own product standards and is similar to what the Department of Commerce is doing to promote other kinds of MT products.

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Senator Beck moved to draft a committee bill to replace SB 207. Motion carried unanimously that a bill be drafted.

There being no further business, the meeting adjourned.



PAUL F. BOYLAN, Chairman

ROLL CALL

AGRICULTURE

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/4/87

NAME	PRESENT	ABSENT	EXCUSED
ABRAMS, Hubert J.	✓		
BENGTSON, Esther G.	✓		
BECK, Tom	✓		
JERGESON, Greg	✓		
KOLSTAD, ALLEN C.	✓		
LYBECK, Ray	✓		
STORY, Peter R.	✓		
THAYER, Gene	✓		
GALT, Jack VICE CHAIRMAN			✓
BOYLAN, Paul CHAIRMAN	✓		

Each day attach to minutes.

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Mary Teigen	wife, Stockgrowers, Woodgrowers Cattle women	SB 238	X	
Gene A. Alford	MT Dept. of Agric Helena	SB 238	X	
R. Benson	MT Dept. of Agric.	H.B. 84	X	
Dana Field	MT. Aodobou Legis fund	7-38		
Jo Brunner	Ma... ..	238	X	

(Please leave prepared statement with Secretary)



TED SCHWINDEN
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.

CAPITOL STATION

HELENA, MONTANA 59620-0201

TELEPHONE:
AREA CODE 406
444-3144

KEITH KELLY
DIRECTOR

TESTIMONY OF MONTANA DEPARTMENT OF AGRICULTURE
FOR THE SENATE AGRICULTURE, LIVESTOCK AND
IRRIGATION COMMITTEE ON HOUSE BILL 184

It is the intent of House Bill 184 to permit the Department of Agriculture to establish by rule a fee structure for apple inspection. The OBP during the Executive Planning Process for 89 Biennium Budget instructed the department to submit a budget for the Apple Inspection Technician on the basis of "fee based funding only". The proposed legislation would establish a State Special Revenue Fund. Funding account should be determined by accounting to meet GAAP requirements.

The proposed legislation is a result of a request from industry to establish an apple inspection program. Production figures were used from information supplied by industry. A fee schedule has been developed based on those production figures. Apple tree plantings began in 1980 with anticipation of 100 acres coming into production in FY88.

All grading will be performed by a licensed federal/state employee as per a federal/state inspection cooperative agreement. Part-time temporary employees are used to perform apple, cherry and potato inspections.

House Bill 184 will have no fiscal impact on the general fund.

An Affirmative Action/Equal Employment Opportunity Employer

SENATE AGRICULTURE

EXHIBIT NO. 1

DATE 2-4-87

BILL NO. 184

Program Data

Estimate 1,250 boxes/acre.

Full production of an apple tree - 7 to 20 years.

Semi-dwarf trees planted at a 10x16 foot spacing.

(Medium density, 270 trees per acre.)

Packing warehouse operational FY87.

FY87 packed 19,440 lbs. (Frost, hail damage,
destroyed crop.)

SENATE AGRICULTURE

EXHIBIT NO. 1

DATE 2-4-87

BILL NO. 184

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING



TED SCHWINDEN, GOVERNOR

STATE CAPITOL

STATE OF MONTANA

(406) 444-3616

HELENA, MONTANA 59620

MEMORANDUM

To: Keith Kelly, Director
Department of Agriculture

From: Dave Hunter, Director *Dave Hunter*
Office of Budget and Program Planning

Re: Executive Planning Process\ 89 Biennium Budget

Date: August 7, 1986

The EPP process has been modified because the special legislative sessions did not allow time for formal discussions with the Departments. As part of your 89 biennium Executive Budget request please submit the following EPP modifications:

1. Grain Standards Lab Increase
2. Honey Bee Tracheal Mite Certification
3. Flour Testing Federal Reimbursement - current level adjustment
4. Ag Counselling Program
5. Apple Inspection Technician - fee based funding only

If some of these proposals are no longer appropriate or if you have additional proposals please contact my staff prior to submittal.

This tentative approval does not mean that all the department's EPP requests will be included in the Executive Budget.

Should you have any questions please contact me.

SENATE AGRICULTURE

EXHIBIT NO. 1

DATE 2-4-87

BILL NO. 184

Drum Land & Livestock

P.O. Box 1502
Polson, Montana 59860
Phone (406) 883-5070

There are a number of factors which make the apple growing business an attractive one. The most important factor is the growth of the market - over the last five years, the market has grown 36%. Another important factor is the apple's ability to be put in storage, thus increasing the sales season to almost year-round.

The paramount problem faced with apple production is not the actual growing of the crop, but lies in the laying of the groundwork for effective management of the crop from start to finish. The human management of organizing a spraying, pruning, harvesting, packing, marketing, and shipping operation is a major one.

The existence of CA (controlled atmosphere) storage, which allows the apple to be stored for some length of time means that the product can, for all intense purposes, be sold on a year-round basis, on a seasonal basis, or on whatever basis the project feels the product can be marketed, with the best possible returns.

McIntosh apples are a lighter, tarter apple than most sold on the market today. Major varieties marketed in the United States are the Red Delicious, Granny Smith, the Jonathan, the Rome, the Golden Delicious, and the McIntosh. Of these varieties, the Red and Golden Delicious easily account for 70% of all apples sold. We estimate that the McIntosh variety represents 10% of the total apples sold in the United States over the past five to ten years, most of which are grown in British Columbia, Michigan and New York.

SENATE AGRICULTURE

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DATE 2-4-87

QML NO. 184

The McIntosh combines the best quality of both the Granny Smith and the Red Delicious, is a better tasting fruit than the Red Delicious, as well as having a brilliant red blush which is found on the Red.

There are a number of important elements which must be present in any apple-growing location. Climate is often cited as the most important factor in making the decision to commercially grow apples. The main problems include very low winter temperatures and a late spring frost. Western Montana having experienced an unusually hard winter this year, we have experienced very little damage to the trees as a result of the colder than normal temperatures.

Further, if a late spring frost occurs, the new buds will freeze, and the crop will be destroyed. Conversely, to grow apples which have a good red blush and are fully developed, a warm summer, with cool September evenings is absolutely necessary.

Sandy loam or sandy clay type soils are ideal apple growing soils and the trees must have good drainage or they will quickly develop a root rot disease. Finally, soil PH should be around 6 or 7.

The lay of the land will have a direct effect on how much sunlight the orchard receives. A gentle slope is ideal, allowing the correct amount of sunlight as well as proper drainage of frost and water.

SENATE AGRICULTURE

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DATE 2-4-87
BILL NO. 184

Water availability for irrigation is also of great importance. Western Montana is blessed with many streams, rivers and lakes in addition to great amounts of underground water and the availability of irrigation project water.

Finally, the proximity to transportation, packing and storage facilities must be considered.

Currently, Drum Land & Livestock has 100 acres of fruit trees, consisting of 60 acres of McIntosh trees, 30 acres of Red and Golden Delicious, and 10 acres of pears.

We started planning trees in 1980, and have continued to plant throughout 1981, 1982, and 1983, totalling 28,000 trees, with 6,000 trees planted in 1980 coming into production this year.

Production estimates in the full production year, being the 7th year, are estimated at 1,250 boxes of apples per acre. Full production life of an apple tree is 7 to 20 years, depending upon the tree care, possible winter damage, and the variety of trees planted (for financial estimates and cost projections, see attachment).

The trees are a semi-dwarf variety planted at a 10 x 16 foot spacing. This planting scheme is referred to as a medium density, hedge row orchard, amounting to 270 trees per acre, and is the current technology accepted by commercial orchards in Washington State.

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The purpose for the relatively close planting spaces is for earlier returns on a per-acre basis, for the simple reason of having more trees per acre.

Our orchards are currently being irrigated through trickle irrigation, which converts to lower water useage, lower power useage and less labor. This method of irrigation seems to fit Western Montana orchard needs because of the rainfall received during the growing season results in less irrigation requirements.

At present , we have two full-time employees, with a part-time workforce of seven to eight. When we reach full production, the orchard will require at least five full-time employees, and 10 to 15 part-time employees, as well as approximately 50 laborers at harvesttime.

Drum Land & Livestock has purchased equipment for the packing of the fruit. The equipment will be on line for operation for the 1984 harvest and can package 5 times more fruit than we will grow in full production, so the opportunity exists for additional orchards to be planted in Western Montana, without the added investment in equipment for the packaging of fruit. I foresee the employment of approximately 35 to 40 people in the operation of the packing plant itself, not to mention the related supportive industries.

The economic impact of the project in Western Montana will be considerable. A dominant influence, livestock and grain production accounted for a majority of the agricultural revenues in Western Montana. Fruit production accounted for a small portion of these revenues, via the cherry industry, and I foresee apple

SENATE AGRICULTURE

EXHIBIT NO. 1

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BILL NO. 184

production as increasing the revenues greatly in the agricultural community.

Of the total apple production discussed earlier, virtually no acreage in Washington State is devoted to growing McIntosh apples, while only 240,000 boxes of McIntosh were imported into the United States from B.C. Tree Fruits in Canada. New York and Michigan market McIntosh as well (most of this production is marketed in the East).

Initially, our plans are to market the product within Montana and the surrounding States. When full production begins, we plan to target three major areas: First, the Denver/Salt Lake City markets, representing 80,000 boxes, being relatively isolated from all apple growing regions and because of the proximity of these markets to Western Montana. B.C. Fruit has not yet attacked these two areas in marketing of its McIntosh apples.

Secondly, the Dallas-Fort Worth market which again is relatively isolated from apple producing areas. Ten percent of this market translates into 150,000 boxes per year. Our main competitor in this market would be New York State shippers.

Finally, we are looking to directly compete with British Columbia and Washington State in the California market - we are targeting the San Francisco Bay area and Orange County, which represents 350,000 boxes of McIntosh apples sold annually. Our advantage in the California market (over B.C.) would be transportation costs: we will pay one dollar per box less for transportation in markets South of Montana.

SENATE AGRICULTURE
EXHIBIT NO. 1
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One method we will explore is to transform the apple from a commodity to a brand name, such as the CHIQUITA Banana and the SUNKIST Orange. We also recognize that there is an indirect advantage of marketing our product due to the mass advertising of the Washington State Fruit Commission, telling the people to experience the pleasure of eating an apple.

Once these markets for McIntosh are well established in the West, we will explore the Mid-Western markets and will also take a look at the Calgary market, because of the inherent transportation advantage over B.C.

In conclusion, I foresee the production of apples as an excellent supplemental income for livestock and grain producers in Western Montana, given the relatively small acreages needed for producing such an income, the scheduling of work and harvest in the orchard does not seem to conflict with present operations of grain and cattle ranches. Over the years Montana has proven that it can grow an excellent quality McIntosh, through the experience of the Bitterroot Valley and the numerous smaller orchards in the Flathead Valley.

SENATE AGRICULTURE

EXHIBIT NO. 1

DATE 2-4-87

BILL NO. 184

TESTIMONY OF MONTANA DEPARTMENT OF AGRICULTURE
DIRECTOR KEITH KELLY
FOR THE SENATE AGRICULTURAL, LIVESTOCK AND IRRIGATION COMMITTEE
ON SENATE BILL 238
WEDNESDAY, FEBRUARY 4, 1987
HELENA, MONTANA

Chairman Boylan, members of the Committee. The Montana Department of Agriculture is here to provide some background information on Senate Bill 238.

Frustration with the loss of Compound 1080 grain bait, which was used to control Columbian ground squirrel damage in Western Montana and the lack of effective and economical control alternatives, led to the formation of a group known as the Montana Rodent Action Committee. This landowner based group met several times last year with representatives from the Montana Department of Agriculture, the Cooperative Extension Service and the university system to express their concerns about rodent management problems.

As a result of these discussions, a number of recommendations were made, not least among them was to establish a Vertebrate Pest Management Advisory Council, to give producers a recognized voice in the management process and to give continuity and consistency to the program.

Without going into a lot of detail, suffice it to say that Montana and the other western states potentially face the loss of strychnine for rodent control and not being able to regain the use of 1080 as a rodenticide unless the states are willing to provide EPA the data required for registration. Recognizing this, the committee made several other recommendations:

SENATE AGRICULTURE
EXHIBIT NO. 2
DATE 2-4-87
BILL NO. SB 238

- a) regain registration of Compound 1080 and retain registrations for strychnine and zinc phosphide,
- b) develop alternative rodenticides to augment or replace existing rodenticides,
- c) develop crop damage assessment techniques to quantify crop damage and to demonstrate the need for rodent management.
- d) initiate long-term rodent management research aimed at reducing rodent caused damage that is economically feasible, but that is also environmentally safe.

The Montana Department of Agriculture's Vertebrate Pest Management Program provides vertebrate pest information, training, field demonstrations and field evaluations on rodenticides. The current staff and funding do not permit the Department, in itself, to meet all of the committee's stated needs. However, the Department would be able to coordinate and guide vertebrate pest management needs through grants and contracts supported by the rodenticide surcharge.

The Department believes that the formation and funding of a landowner based Vertebrate Pest Management Advisory Council to advise the director on the priorities and direction of rodent control research, evaluation and needs is a giant step towards addressing damage caused by vertebrate pests to agricultural production.

1080test

SENATE AGRICULTURE
EXHIBIT NO. 2
DATE 2-4-87
BILL NO. 238

Proposed Amendment

to

Senate Bill 238

Page 4 lines 2 and 3

Strike the words "nongovernment registrants"

Insert the word "dealers"

SENATE AGRICULTURE

EXHIBIT NO. 3

DATE 2-4-87

BILL NO. SB 238

NAME Jo Brunner DATE 2/4/87
ADDRESS 2015½ 9th Avenue Helena,
TELEPHONE 442-2654
REPRESENTING Montana Grange Association
APPEARING ON WHICH PROPOSAL SB 238
SUPPORT x AMEND _____ OPPOSE _____

COMMENTS:

Mr. Chairman, members of the committee, for the record, my name is Jo Brunner and I represent the Montana Grange at this hearing today, in support of SB 238.

While we do protest the necessity imposed on our State, through the Department of Agriculture going one more time through this venture, we also recognize the need for the materials for pest control in Montana. We ask your support of SB 238 and ask for a do pass on this bill.

SENATE AGRICULTURE
EXHIBIT NO. 4
DATE 2-4-87
BILL NO. 238

#4

STANDING COMMITTEE REPORT

FEBRUARY 4,

19 87

MR. PRESIDENT

We, your committee on **AGRICULTURE, LIVESTOCK & IRRIGATION**

having had under consideration..... **HOUSE BILL** No. **184**

third reading copy (blue)
color

Brandewie (Harding)

REQUIRES THE DEPT. OF AGRICULTURE TO ESTABLISH FEES FOR APPLE INSPECTION

Respectfully report as follows: That..... **HOUSE BILL** No. **184**

BE CONCURRED IN

~~DEMANE~~

~~XREXKUPAKK~~

.....
PAUL F. BOYLAN,

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 4

19 87

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration SENATE BILL No. 238

first reading copy (white)
color

VERTEBRATE PEST MANAGEMENT

Respectfully report as follows: That SENATE BILL No. 238

be amended as follows:

1. Page 4, lines 2 and 3.
Strike: "nongovernment registrants"
Insert: "dealers"

AID AS AMENDED

DO PASS

~~XXXXXXXXXX~~

**STATEMENT OF INTENT ADOPTED
AND ATTACHED**

PAUL F. BOYLAN,

Chairman.

FEBRUARY 4, 1987

MR. PRESIDENT,

WE, YOUR COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION HAVING HAD UNDER CONSIDERATION SENATE BILL NO. 238, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

S.B. No. 238

This bill requires a statement of intent because section 6 authorizes the department of agriculture to adopt rules implementing the vertebrate pest management law. The department may operate management programs and may cooperate with other governmental and private entities for vertebrate pest management purposes.

It is the intent of the legislature that the department adopt rules for the orderly administration of the rodenticide fund and the collection of revenue as provided in the bill. The department shall provide a method of giving notice to the rodenticide registrant and a procedure for payment of the surcharge.

It is the intent of the legislature that the department adopt rules relating to the expenditure of funds generated by this bill. Specifically, the department shall use the criteria stated in 80-7-1102 and 80-7-1103 as the basis for the expenditure of the funds. The legislature intends that the money given in the form of grants and contracts be primarily on a cost-share basis. The department shall determine the ratio of cost sharing by considering the entity being given the money, its ability to find other sources of funding, the need for the project for which it receives the money, and the amount of benefit it bestows on the area involved. The legislature intends that projects involving greater community action and benefit receive increased priority.

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