

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN BERV KIMBERLEY, on January 17, 1991,
at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Berv Kimberley, Chair (D)
Sen. Esther Bengtson, Vice Chair (D)
Sen. Gerry Devlin (R)
Rep. Ed Grady (R)
Rep. Jerry Nisbet (D)
Sen. Cecil Weeding (D)

Members Excused: None

Members Absent: None

Staff Present: Roger Lloyd, Associate Fiscal Analyst (LFA)
Carl Schweitzer, Budget Analyst (OBPP)
Theda Rossberg, Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: EXHIBIT 1 - List of Grants asked for
at meeting of 01-16-91. EXHIBIT 2 - Wheat & Barley FY90-91
Budget prepared by that Dept.

EXECUTIVE ACTION ON AGRICULTURAL DEVELOPMENT

EXHIBIT 5 - LFA Budget of 01/16/91 Minutes.

MOTION: by REP. GRADY to approve the LFA Budget on Agricultural
Development.

VOTE: PASSED by all members.

MOTION: by REP. GRADY to approve the Executive Budget on the
Budget Base Differences.

VOTE: PASSED by all members.

Alfalfa Seed Committee Operating Base Differences - Carl
Schweitzer, OBPP explained, the difference is, in FY90 there was
no revenue to support this program. This is a self-supporting
program from the revenue that is generated from alfalfa seed

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growers. They would like the spending authority as they feel they will generate more income in the future.

MOTION: by SEN. WEEDING to approve the Executive Budget on the Alfalfa Seed Program.

VOTE: PASSED by all members.

MOTION: by SEN BENGTON to approve the Executive Budget on the Agricultural Finance Program.

QUESTIONS:

SEN. DEVLIN asked, how the difference was arrived at? Roger Lloyd, LFA explained, of the difference, \$2,600 is for grants and a difference of \$3,100 in travel and \$300 in miscellaneous.

Mr. Schweitzer explained, in the FY90 budget there was \$20,000 for grants. The auditor pointed out these were actually operating expenses and not for grants.

SEN. DEVLIN asked, what is the funding source? Mr. Murphy, Dept. of Agriculture answered, these are all expendable trust funds.

Mr. Lloyd clarified, the agency is justifying \$3,400 of the \$4,128.

VOTE: PASSED by all members.

MOTION: by SEN. WEEDING to approve the Executive Budget for the Hail Insurance Program.

QUESTIONS:

REP. NISBET asked, if the .25 FTE is an as-needed kind of a position, could this be covered by language in an emergency situation?

SEN. DEVLIN stated, this extra FTE is for a heavy hail season. If you don't have a heavy season, what happens to this position?

Mr. Murphy explained, we currently have 12 adjusters and may work 40 hours one week and 80 hours the next if there is a heavy hail season. These people are basically available for adjusting during the summer months. SEN. BENGTON asked, how are they paid, are they salaried? Mr. Murphy replied, these individuals are on call 24 hours a day. We have to employ them in order to use their assistance when needed. They may not adjust one day but may be 10 - 12 hours the next, depending when a hail storm hits. We have 13 FTE's available at .25 time. Some are at grade 8 and one at grade 9.

SEN. GRADY asked, is there a possibility of contracting these

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positions? Mr. Murphy answered, these adjusters were used 100% last season.

Mr. Snortland stated, we looked into contracting for these adjusters and we could not get anyone interested, so this was the most economical way we could go. They are working somewhere in Montana most of the time.

SEN. DEVLIN asked, what are they doing today? Mr. Murphy answered, these employees are only hired from June through August, a period of 3 months.

Mr. Lloyd clarified, the 13 positions Mr. Murphy is referring to are only .25 FTE's and are employed only a quarter of a year.

VOTE: PASSED by all members.

SEN. WEEDING asked, if they are only on part time why are they called full time employees? Mr. Murphy replied, they are temporary full time employees.

MOTION: by SEN. WEEDING to approve the Executive Budget on the Agricultural Marketing Operating Budget Base Differences.

VOTE: PASSED by all members.

MOTION: by SEN. BENGTSON to approve the Executive Budget on the Agricultural Statistics Program.

VOTE: PASSED by all members.

CHAIR. KIMBERLEY told the committee they would revisit Item 7. - Agricultural Development Council and Item 8 - Wheat and Barley Committee.

CHAIR. KIMBERLEY asked, what does the committee wish to do with the HB2 Language?

Mr. Schweitzer clarified, the HB2 language. Basically what it is saying is, this gives the authority to spend the grant money. The HB2 reads as follows: "The department is authorized to make grants to state agencies from the Growth Through Agriculture account as approved by the Montana Agriculture Development Council in accordance with title 90, chapter 9. The state agency that receives a grant from the Montana Agriculture Development Council is authorized additional appropriation authority equal to the grant amount."

MOTION: by SEN. WEEDING to approve the language in HB2.

VOTE: PASSED by all members.

HEARING ON ENVIRONMENTAL MANAGEMENT DIVISION

Mr. Lloyd analyzed the budget differences in this program. **EXHIBIT 3** - 1. Vertebrate Pest Program - The Executive Budget expanded this program from the actual FY90 levels based upon anticipation of more revenue if the EPA limits their restrictions on the use of strychnine. 2. Remaining Difference - These are identified in 3 areas: A. Overtime - Of approximately \$9,500 each year, about \$8,800 was used to fund upgrades in overtime for pesticide specialists. B. Per Diem - There was approximately \$2,000 difference each year. C. Budget Base Differences - This difference was due to the LFA using FY90 actual and Executive using FY91 appropriation.

Executive Budget Modifications: See page C-105 - C-107 of the LFA Budget Analysis Book which gives the narrative on the Budget Modifications. 1. Pesticide Program Workload and 2. Groundwater Program Workload. **EXHIBIT 4**.

Mr. Gary Gingery, Dept. of Agriculture gave lengthy testimony on environmental management of pesticides. See **EXHIBIT 5**. He stated, they are currently using trust fund money for grants to develop an environmental impact statement and would cost approximately \$116,000. This should be done by December, 1991.

EXHIBIT 6 - Ground Water Management - **Mr. Gingery** also gave a lengthy testimony on this issue.

Summary - **Mr. Gingery** asked the committee to consider the approval of the Executive Budget for these programs.

EXHIBIT 7 - Testimony by **Pam Langley, Executive Director of the Montana Agricultural Business Association**. In summary - the MABA is requesting this committee to reinstate \$368,000 in general fund money appropriated in FY89 to the division and eliminate the \$220,000 for central management assessed on earmarked funds. She also explained they hope to have a pesticide container recycling program.

Mr. Gingery explained, there is no money in the budget for contracts to provide disposal containers for pesticides.

SEN. WEEDING asked, what is the justification of this money into administration? **Mr. Schweitzer** explained, these funds have to help support accounting, director's salary and everything involved with managing the program. She wants this put back into the division and let the general fund support the administrative expenses.

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Chris Kaufman with the Montana Environmental Information Center stated, she was here in support of Pam Langley's testimony. She stated, we do support the fee increase, but to be used for waste pesticide issues.

Jim Barngrover, I represent the Aero - Alternative Energy Resources Organization. We also support the MABA position on this program. We feel that any industry which is responsible for problems in agriculture chemicals with ground water contamination should play a part in helping to solve that problem. Since we are all consumers of agriculture products we should not put the burden on the fees from the sale of pesticides.

QUESTIONS:

SEN. WEEDING asked, where does this show up on the budget sheet?

Mr. Lloyd explained, the funding switch from the general fund to the State special and the fee increases are contained in the budget modification. The table shows the current level without the modification. If the legislature passes the proposal, the general fund would be \$75,000 the first year and \$77,000 the second year. This is to support the Vertebrate Pest Program. So, if this passes all revenue will come from State special revenue funds and not the general revenue fund.

SEN. WEEDING asked **Mr. Gingery**, if we elect to disallow the administration portion, what would be the distribution of the registration fees? **Mr. Gingery** replied, the \$110,000 per year which supports the Centralized Management Division could either replace the special revenue increases or place a greater amount in the reserve account.

CHAIR. KIMBERLEY asked, if we increase the fees, will this be a savings for the general fund? **Mr. Gingery** stated, yes there is a savings. In the first year of the biennium we are asking for a general fund of \$148,000. The reason is, the revenue on registration fees is on a calendar year basis and the general fund is on a fiscal year basis. Our revenue starts in September or October and every July 1st. we may have to get a loan and repay the general fund when our revenue comes in. So, we wanted this \$148,000 to hold in the account so the next year we would have the revenue without having to obtain another loan.

SEN. BENGTSON stated, with the restructuring and reorganizing of this division, there are other departments which deal with ground water. The Department of Health, DNRC, Pesticides, these all seem to deal with environmental management. Has the environmental management been involved with reorganization? Is the act which passed in the last legislative session, Agriculture Chemical Ground Water Protection overlapping. We seem to be separating pesticides and herbicides from reorganization.

Mr. Gingery answered, when the legislature considered the

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Agriculture Chemical Ground Water Protection Act that was done with the Department of Health & Environmental Science. We feel the Agriculture Department has done the best job as far as pesticide control and ground water quality. We work closely with the other departments, so there is not duplication. There is no law as such, only rules.

SEN. BENGTSON asked, if agriculture was included in reorganization. **MR. SNORTLAND** stated, they were included in the discussion. However, it was felt it would be better to leave Agriculture Department as is.

SEN. BENGTSON stated, one advisory council should be able to handle all the issues such as Noxious Weeds and Vertebrate Pesticide Control, etc. instead of an advisory council for each one when dealing with similar issues. Also, these people should be paid for their time. I also think existing personnel should be used rather than training new people.

REP. GRADY asked, are these different departments all going to be testing ground water? I would think it could be done by one agency and come up with the same information.

Mr. Gingery replied, when you have contamination in a certain aquifer, samples are taken and analyzed at the analytical laboratory at MSU for agriculture chemicals. On the broad base, Montana Bureau of mines and geology, and U.S.G.S. will take care of those which may also be involved with the Department of Health.

We don't have any problem with consolidating the advisory councils with each department. Originally, the statutes were set up individually by different groups.

SEN. BENGTSON asked, is everything on hold until the Environmental Impact Statement is completed? **Mr. Gingery** replied, no, it is ongoing basically due to grants issued to counties which are required to have a EIS or an assessment if there is a potential of an environmental impact under NEPFA.

Mr. Snortland said, with reorganization we would consolidate those EIS requirement functions so there wouldn't be any duplications.

CHAIR. KIMBERLEY asked about pesticide registration fee increases. The annual pesticide registrations were 4,900 in one year. On the LFA chart, 1986 to 1990 only in one of those years were the registrations close to 4,900. In 1986 it shows \$4,421 and increasing to 1988 and going down after that.

Mr. Gingery said, there has been fluctuations in fees. One of the reasons was due to reduction of chemical companies in the United States. A lot of companies do not register strychnine as it is not used anymore and new products are not always registered

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right away.

CHAIR. KIMBERLEY asked, what happens if products are not registered in the State? **Mr. Gingery** replied, our revenues would be down and expenditures would have to be cut.

REP. GRADY said, if the product wasn't registered, it couldn't be used in Montana.

SEN. WEEDING asked, what is the dollar figure of herbicides sold in the State? **Mr. Gingery** replied, there is a 1% surcharge which amounts to about \$400,000 for herbicides. 70% of the pesticides are used for agriculture, commercial and industrial purposes. The remaining 30% is other pesticides. The dollar amount used for home and garden is about 1% or \$55,000.

SEN. WEEDING asked, are we talking about a \$65 million industry? **Mr. Gingery** answered, about that amount.

CHAIR. KIMBERLEY asked, regarding the additional fee of \$45, will the small businesses discontinue handling the products?

Mr. Gingery said, people to not read the labels on pesticides. Some of the stores selling them do not have knowledge of the product, so do not give good advice to the purchaser.

REP. GRADY asked, where do we place the burden, the dealer or the consumer? How was the decision made to shift the burden from the General Fund to the industry? We will have to put this back into the budget and this is about 1/2 million dollars. How do we do this?

Mr. Gingery said, in the past 50% was from revenues and 50% was from the General Fund. The general fund percentage has progressively gone down and now the pesticide industry is asking for 100% special revenue funding.

REP. GRADY stated, I feel this is the responsibility of everyone to help pay and not put the full burden on the industry.

SEN. DEVLIN said, he felt the extension service should have some responsibility in the use of these products. Do they do anything in regard to this issue? **Mr. Gingery** answered, several counties have the Master Garden Programs which train individuals to answer problems with herbicides and pesticides. Lewis & Clark County has such a program and is very successful. However, these people do not reach the retailer.

SEN. DEVLIN asked, are more of your complaints coming from the private sector? **Mr. Gingery** answered, we are getting more complaints from the rural areas. A lot of the concern comes from magazine and newspaper articles, such as the apple situation in Washington State. It may take three or four weeks to take care of some complaints because of the increase in concerns. The

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evidence is stale by that time in a lot of cases.

CHAIR. KIMBERLEY asked **Mr. Gingery** if he would furnish the committee with a list of pesticide complaints. He replied, he would take care of this.

SEN. WEEDING asked, if the registration of retail dealers fail would that kill the contract for educational purposes and extra funds? **Mr. Gingery** answered, "yes."

REP. GRADY asked **Pam Langley**, if the industry would be willing to compromise on the \$368,000 figure? **Ms. Langley** stated, we don't think we would ever go beyond the \$200 for fees. We want the same amount of General Fund to go into the budget as is going into it now.

SEN. DEVLIN asked, what is the amount per year? **Mr. Schweitzer** stated. \$300,000 per year of General Fund is being replaced by fees in the budget. There are two options: 1. you don't have to raise the fees as much if you take the budget at the recommended level and take \$300,000 out of the General Fund. 2. raise the fees and add \$300,000 which would increase the Governor's budget by \$300,000.

Ms. Langley stated, we could leave it at \$200,000 and try to get into the disposable containers more quickly.

SEN. BENGTSON asked, if we go with the LFA budget, how quickly could we get into the container disposal and do we need an increase in fees at all? **Ms. Langley** answered, in the first two years the fees were adequate, however, we need the additional fees for management of the ground water protection. We want the products to be used safely and are willing to use the fees to support that.

EXECUTIVE ACTION ON ENVIRONMENTAL MANAGEMENT DIVISION

EXHIBIT 3. The committee deferred action on this program until a later date.

ADJOURNMENT

Adjournment: 11:20 A.M.

Berv Kimberley

REP. BERV KIMBERLY, Chair

Theda Rossberg

THEDA ROSSBERG, Secretary

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES SUBCOMMITTEE

ROLL CALL

DATE 1-7-91

NAME	PRESENT	ABSENT	EXCUSED
SEN. ESTHER BENGTON, VICE-CHAIR	✓		
REP. ED GRADY	✓		
REP. JERRY NISBET	✓		
SEN. GERRY DEVLIN	✓		
SEN. CECIL WEEDING	✓		
REP. "BERV" KIMBERLY, CHAIRMAN	✓		

**Exhibit 1
Date 1-17-91
HB Nat. Res. Sub.**

Briefing Papers

Montana Growth Through Agriculture Act

Ex. 1
1-17-91
Mar. Rec. Sec.

THE MONTANA GROWTH THROUGH AGRICULTURE ACT

STRUCTURE

HB889 created the Montana Agriculture Development Council, which is allocated to the Department of Agriculture for administrative purposes. The Council has seven members appointed by the Governor: the directors of the departments of Agriculture and Commerce, and five persons who are or have been engaged actively in agriculture. The members serve staggered three year terms.

The members elect their own chairperson (and other officers, if desired). The Council meets quarterly or on the call of the chairperson or a majority of the members.

SB228 also passed in 1987, generally revised the allocation of coal severance tax proceeds not dedicated to the permanent coal tax trust fund. Under its terms, 50% of coal severance taxes still goes into the permanent trust, and another 12% to the highway reconstruction trust fund. Of the remaining 38%, two percent is allocated to a state special revenue fund for the Montana Growth Through Agriculture Act, HB889, also passed during the 1987 session. Two percent of 38% is .76% of total coal tax proceeds.

PURPOSE

The purpose of the Growth Through Agriculture Act is to "strengthen and diversify" the state's agricultural industry by creating a public/private partnership to assist in:

- (1) development of "innovative agricultural business organization improvements"
- (2) commercialization and marketing of new agricultural products.

The intended result of this effort is to help Montana:

- (a) keep pace with a dynamic agricultural industry;
- (b) create new jobs; and
- (c) expand small business opportunities.

COUNCIL POWERS AND DUTIES

The Growth Through Agriculture Act outlines seven mandatory and two optional program activities to be pursued. The Council shall:

- (a) Establish policies and priorities to enhance the future development of agriculture in Montana;
- (b) Make seed capital investments in development and commercialization of new products and processes;
- (c) Assist in enhancing domestic markets for Montana agricultural products;
- (d) Place an export marketing specialist in the Pacific Rim;
- (e) Cost-share in foreign agricultural trade missions;
- (f) Provide professional assistance to persons who apply for the purpose of developing export sales; and
- (g) Assist in the creation of agricultural business incubators.

In addition, the Council may:

- (a) Invest in applied technological research; and
- (b) Invest in agricultural technology assistance and transfer.

General Program Activities

Seed capital investments

Implementation of the Seed Capital portion of the Growth Through Agriculture Act was delayed pending resolution of the White case which contested the Constitutionality of the similar Montana Science & Technology Alliance loan program. The Supreme Court ruled the loan program unconstitutional as defined in the enabling statute. Subsequently, the 1989 Montana legislature passed legislation which corrected this problem. This portion of the Act/statute is now operational. As of January 14, 1991, 6 seed capital loans have been approved (please note appendix B for a description of each investment) for a total of \$300,000. The Council has placed emphasis on the seed capital loans in order to establish a revolving loan account for future investments.

Ex. 1
1-17-91
Mr. Dan. Ave.

Seed Capital loans are made on the following criteria:

- (a) can be reasonably expected to provide an economic return to the applicant within a reasonable time;
- (b) demonstrate a potential commercial value to other entrepreneurs in Montana;
- (c) require such a loan to obtain additional private capital;
- (d) involve processing or adding value to agricultural commodities produced in Montana; and
- (e) provide jobs that will be substantially filled by current Montana residents.

Maximum loan amount is limited to \$50,000 under an 8 year repayment period. The interest rate is currently set at 9% APR.

Foreign and Domestic Agricultural Market Development Investments

In order to accomplish the goals of the Montana Growth Through Agriculture Act, an agricultural market development grant program has been established. A Request for Proposals is issued on a biannual basis to solicit market development projects. Generally in order to qualify for this program proposals must have practical near term application involving new or alternative technologies, practices or organizational arrangements which will stimulate expanded agricultural development, economic activity, and employment opportunities. The council has utilized this segment of the MGTA to accomplish a portion of the duties outlined in the enabling statute. Allocation to specific proposals are made on the following criteria:

- (a) Degree to which the proposed activity addresses a significant industry need or opportunity for public benefit and evidence of industry support.
- (b) Demonstrated experience and ability of applicant to undertake the proposed activity.
- (c) Clearly demonstrated potential for near-term commercial application in terms of job creation, capital investment, or other identifiable economic activity.
- (d) Adequacy of workplan and timeframe to achieve the activities goals.
- (e) Degree of innovation and originality of proposed activity

The MGTA statute calls for the funding of an export marketing specialist in the Pacific Rim. The Montana Dept. of Commerce has established an office in Tokyo and Kumamoto, Japan. The Agriculture Development Council has allocated \$150,000 annually as appropriated by the legislature, to this effort. In addition

the Council has approved and funded 27 grants for a total of \$639,840. Total grant requests to date including the one incubator grant equals \$2,487,006. (See attached list of approved grants.)

Agricultural Business Incubator Investment

Investments made through this aspect of the program are based on the Council's assessment of:

- (a) the potential ability of the applicant incubator to be financially self-sufficient;
- (b) identification of businesses or industries targeted for development assistance;
- (c) community support for the incubator program; and (emphasis added)
- (d) a plan to address business development needs of specific user groups.

The incubators themselves "Must operate as self-financing business development entities, providing such services as training, management consultation, accounting, and office space to eligible agricultural businesses," which may include, but are not limited to, marketing cooperatives and associations.

In addition to meeting the above-listed criteria, incubator applicants must have facilities that are:

- (a) geographically distant from other incubators;
- (b) located in communities of less than 15,000 people; and
- (c) funded with a 1:1 local match (which may be in cash or in-kind).

Program Administration

Administrative Expenses to facilitate the Montana Growth Through Agriculture Act during Fiscal year 90 and Fiscal year 91 to date are as follow:

FY 90	Personal services	\$50,506.69
	Operating expenses	<u>\$28,620.75</u>
	-Total	\$79,127.44
FY 91	07/01/90 - 01/01/91	
	Personal services	\$17,364.68
	Operating expenses	<u>\$11,359.04</u>
	-Total	\$28,723.72

Ex. 1
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Nat. Res. Div.

AGRICULTURE DEVELOPMENT COUNCIL
GRANTS & LOANS

Appendix A

FY89 Grants

Grant #8950001 - Northern Express Transportation Authority (NETA)
Amount -- \$46,350.00 ---- Completed

The Northern Express Transportation Authority (NETA) was awarded \$46,350 to explore containerizing options for preserving Montana product identity when shipping hay, barley, and wheat to export markets. NETA will cooperate with high tech agri-terminals to lower the landed cargo costs of Montana's agricultural products. NETA will also explore the feasibility of building a volume drying facility in Toole County which would utilize inexpensive natural gas to further reduce hay cube processing costs. NETA successfully completed this study and is working to establish a hay compressing and export center in Shelby.

Grant #8950002 - G.R.I. AgriTech
Amount -- \$20,000.00 --- Completed

GRI-AgriTech was awarded \$20,000 to develop an animal temperature monitoring device to assist Montana ranchers in disease and ovulation detection. The development of the monitoring device was successfully completed and is currently being marketed on a national basis.

Grant #8950003 - Butte Local Development Corporation
Amount -- \$20,000.00 --- Completed

Butte Local Development Corporation was awarded \$20,000 to study the feasibility of establishing a Semolina/Pasta industry in Montana. Processing durum wheat in Montana to a Semolina or pasta form would add value to our raw materials before shipment out of state. BLDC successfully completed this research and is in the process of recruiting prospective pasta manufacturers to invest in a semolina/pasta plant in the Butte area.

Grant #8950004 - Hill County Extension /Winter Marketing Seminar
Amount -- \$ 3,700.00 --- Completed

Hill County Extension Service was awarded \$3,750 to produce a winter marketing seminar. This marketing seminar was held February 8th and 9th in Havre, successfully introducing agricultural marketing concepts to the agricultural community in the golden triangle area.

Grant #8950005 - Montana Flour & Grain /Kamut
Amount -- \$ 4,750.00 --- Completed

Montana Wheat & Flour Inc. was awarded \$4,750 to secure a plant variety certificate for the grain Kamut. The plant variety certificate was obtained in November of 1989 and secures for Montana producers the availability of this variety of Polish winter wheat.

Grant #8950006 - Amaranth / Dr. Jurgen Schaeffer/MSU
Amount -- \$20,000.00 --- Balance \$4,000.00 / 12/90

The department of Plant and Soil Sciences was awarded \$20,000 for the development of a marketing and production plan for the grain Amaranth. Markets for Amaranth are rapidly expanding in Japan. Montana producers have the opportunity to be among the first to penetrate this market. Dr. Schaeffer has completed this research and has established communication with the TOSCH corporation for potential contracts for the production of Amaranth.

Grant #8950007 - MSU/Montana Hard White Wheat
Amount -- \$10,000.00 --- Completed

Dr. Allen Taylor of the MSU Dept. of Plant & Soil Science was awarded \$10,000 to explore the market potential for hard white winter wheat. Dr. Taylor completed his research and found potential markets for hard white wheat both domestic and international. Dr. Taylor has subsequently accepted a position in Morocco, one of the largest export markets for hard white wheat.

Grant #8950008 - Wayne E. Bromenshenk / Alfalfa Protein
Amount -- \$25,000.00 --- Completed

The Montana Alfalfa Agricultural Marketing Association was awarded \$25,000 for an education program for the production of high protein alfalfa. This educational program was completed in April of 1990 and led to the formation of the Greengold marketing cooperative.

Grant #8950009 - Agriculture in Montana Schools / Montana Agricultural Awareness Video
Amount -- \$ 8,000.00 --- Completed

Agriculture in Montana's Schools Inc. was awarded \$8,000 to produce a videotape on Montana's agricultural industry for the public school system. This videotape was completed and has been distributed to Montana's public schools and has been incorporated in the Agriculture in Montana's Schools curriculum. Because of the video's success, three additional videos will be produced (funded by industry contributions) on various aspects of the agricultural industry.

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Sub.

Grant #8950010 - Montana Agricultural Producers Inc. (MAGPI)
Quality Hay Association - Extended to June 30, 1991.
Amount -- \$15,000.00 --- Balance \$ 6,000.00

The Montana Agricultural Producers Inc. was awarded \$15,000 to expand the state's weed free and quality hay association. MAGPI and the Missouri River Agricultural Marketing Association have worked to develop a state wide hay association. Their efforts have resulted in the development of new markets for Montana's alfalfa hay. Premiums of \$10 - \$25 a ton have been established for dairy quality alfalfa. Work continues in the effort to expand the production of high quality alfalfa.

Grant #8950011 - Jim Barngrover / Marketing services for Import Substitution
Amount -- \$12,000.00 --- Completed

Farm to Market Inc. was awarded \$12,000 to develop and test a brokerage model for a producer marketing service. This has resulted in the formation of an organic commodity brokerage firm to serve the needs of this segment of Montana's agricultural industry.

Grant #8950012 - Great Northern Botanicals Association (GNBA) / Alternative Crops product & market development
Amount -- \$16,000.00 --- Completed

The Great Northern Botanicals Association was awarded \$16,000 for technical and marketing assistance for herb and specialty crop producers. The herb market has been largely untapped by Montana producers. This organization provides a vehicle to organize interested producers to enter the market. The GNBA has now progressed to the stage of economic viability in the herb market.

Grant #8950013 - Pride of Montana, Sheep & Wool Festival / Sue Schweitzer
Amount -- \$ 2,500.00 --- Completed

The Pride of Montana Sheep and Wool Festival, a centennial event, was awarded \$2,500. This centennial event celebrated Montana's rich history of sheep and wool production. The event has subsequently been continued in conjunction with the Gallatin County Fair and tied to one of the major sheep breed's show.

Grant #8950014 - Incubator -- Headwater RC & D
Amount -- \$55,926.00 --- Completed

Headwaters Resource Conservation and Development was awarded \$55,926 for an agri-business incubator to serve a 7 county region from a headquarters in Dillon. The incubator was to provide one-on-one technical business assistance in the

general areas of business planning, financing, marketing, and operations to new and existing agriculturally related business owners. The agri-business incubator was in Dillon and functioned sporadically for the period of one year. The concept of an incubator proved to be a somewhat ineffective method of providing the services described in the grant application. After discussion with the Headwaters RC&D they decided to terminate this program.

Grant #8950015 - Montana Department of Agriculture
Amount -- \$120,000 -- Termination date 06/30/91

The Montana Dept. of Agriculture was authorized to expend approximately \$60,000 per year during FY 90 and FY 91 to fulfill the requirements of the Montana Growth Through Agriculture statute. Program activities have included: the hiring of an international marketing specialist, to enable the department to provide professional assistance to those developing both domestic markets and export sales, cost sharing for foreign trade missions as provided for by statute, the Tastes of the Treasure State and other value added food promotion, participation in the Western United States Agriculture Trade Association (allows Montana to access Targeted Export Assistance funds from the USDA), respond to emergency rail car shortage issues, maintain the Agricultural Marketing Bulletin Board, and generally continue to work to identify opportunities to add value to raw products, identify alternative crops and develop or enhance markets for agricultural products.

FY 90 Grants

Grant #9050001 - Paddlefish Caviar Project / Glendive Area
Chamber of Commerce
Amount -- \$21,300.00 --- Completed

The Glendive Area Chamber of Commerce was awarded \$21,300 to collect paddlefish roe from fishermen on the Yellowstone river for sale as caviar. The chamber signed a contract with TempoTech Inc. for the sale of this roe at \$30 per pound. This resulted in \$108,240 of revenue which is shared equally between the Dept. of Fish, Wildlife and Parks (for paddlefish fishery improvements) and a five member council for allocation to cultural, historical, economic and recreational projects in Eastern Montana.

Grant #9050002 - MSU / Department of Plant Pathology
VAL-AD / Dr. Jack Riesselman
Amount -- \$20,100.00 --- Termination date: 01/15/91
Balance -- \$16,080.00

The Department of Plant Pathology was awarded \$20,100 to develop the hay preservative "VAL-AD", a product which would increase the level of the essential amino acid methionine in

Ex. 1
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alfalfa as well as increase leaf retention during processing and allow a greater flexibility in processing at higher moisture levels.

Grant #9050003 - Cream of the West

Amount -- \$15,000.00 --- Termination date: 10/01/90
Waiting for final report -- Balance \$ 5,000.00

Cream of the West Inc. was awarded \$15,000 for the development of a new product line and to conduct research on entry into the Canadian market.

Grant #9050004 - Montana Agritech

Amount -- \$ 7,500.00 --- Completed

The World Trade Center in Great Falls was awarded \$7,500 to participate in and disseminate information gathered from a trade mission to the AgriTech exposition in Tel Aviv, Israel.

FY 91 Grants

Grant #9150001 - Montana Grain Growers Association / Montana Agricultural Photo Library

Amount -- \$ 3,370.00 --- Termination date: 10/01/91
Balance \$ 2,370.00 - quarterly report due 12/31/90

The Montana Grain Growers Association was awarded \$3,370 for the development of an agricultural film library. This library establishes a resource center for use in the promotion of the agricultural industry. Photographs in this library will represent a wide range of agricultural production, processing and marketing. No such resource currently exists.

Grant #9150002 - Montana Christmas Trees Association / Christmas Tree Marketing Program

Amount -- \$ 5,000.00 --- Termination date: 06/30/91
Balance \$500.00 - quarterly report due 01/01/91

The Montana Christmas Tree Growers Association was awarded \$5,000 for a market development campaign in Canada and the Intermountain west. Because of the glut of christmas trees produced on the west coast, traditional markets for Montana's christmas trees are being eroded. An aggressive marketing campaign is needed to maintain and expand Montana's share of this market. Montana trees have a competitive advantage selling into the Albertan market due to the trees ability to retain needles after exposure to below zero temperatures.

Grant #9150003 - MSU/Department of Plant & Soil Science / Mapping Malting Barley Production
Amount -- \$ 1,240.00 --- Termination date: 06/30/91
Balance \$930.00 - quarterly report due 12/31/90

The MSU Dept. of Plant & Soil Science was awarded \$1,240 to map the potential malt barley production areas in Montana.

Grant #9150004 - MSU/Department of Plant & Soil Science / Barley Cereal Grain of the 90's
Amount -- \$20,000.00 --- Termination date: 10/31/91
Balance \$14,000.00 - report due 02/28/91

The MSU Dept. of Plant & Soil Science was awarded \$20,000 to develop and implement a promotional campaign for waxy hulless barley. Waxy hulless barley (developed by MSU) has shown properties which lower serum blood cholesterol in much the same manner as oat bran.

Grant #9150005 - MSU/College of Agriculture / Marketing Agricultural Careers to High School Students and Educators
Amount -- \$20,000.00 --- Termination date: 10/31/91
Balance \$16,000.00 - quarterly report due 12/31/90

The MSU, College of Agriculture, was awarded \$20,000 to market educational and career opportunities in the agricultural sciences to high school students in Montana. Students, career counselors, administrators, and teachers have an inadequate perception of careers and disciplines available in the agricultural industry. The viability and health of Montana's agricultural future rests with the quality of students which can be attracted to the agricultural sector, this project is designed to make students aware of the opportunities and careers in agriculture.

Grant #9150006 - MICRO-FARM
Amount -- \$ 5,000.00 --- Termination date: 07/01/91
Balance \$500.00 - report due 12/31/90

The MICRO-FARM a computer network of commercial rabbit growers was awarded \$5,000 for the development and implementation of a electronic bulletin board of production, processing, and marketing information.

Grant #9150007 - MSU/College of Business /International Trade Profile, Phase 2
Amount -- \$10,000.00 --- Termination date: 10/31/91
Balance \$10,000.00 - just being processed

The MSU, College of Business was awarded a \$10,000 grant to develop a profile of Montana businesses already engaged in international trade. The ITP will provide information on

Grant #9150003 - MSU/Department of Plant & Soil Science / Mapping
Malting Barley Production

Amount -- \$ 1,240.00 --- Termination date: 06/30/91
Balance \$930.00 - quarterly report due 12/31/90

The MSU Dept. of Plant & Soil Science was awarded \$1,240 to map the potential malt barley production areas in Montana.

Grant #9150004 - MSU/Department of Plant & Soil Science / Barley
Cereal Grain of the 90's

Amount -- \$20,000.00 --- Termination date: 10/31/91
Balance \$14,000.00 - report due 02/28/91

The MSU Dept. of Plant & Soil Science was awarded \$20,000 to develop and implement a promotional campaign for waxy hulless barley. Waxy hulless barley (developed by MSU) has shown properties which lower serum blood cholesterol in much the same manner as oat bran.

Grant #9150005 - MSU/College of Agriculture / Marketing
Agricultural Careers to High School Students and
Educators

Amount -- \$20,000.00 --- Termination date: 10/31/91
Balance \$16,000.00 - quarterly report due 12/31/90

The MSU, College of Agriculture, was awarded \$20,000 to market educational and career opportunities in the agricultural sciences to high school students in Montana. Students, career counselors, administrators, and teachers have an inadequate perception of careers and disciplines available in the agricultural industry. The viability and health of Montana's agricultural future rests with the quality of students which can be attracted to the agricultural sector, this project is designed to make students aware of the opportunities and careers in agriculture.

Grant #9150006 - MICRO-FARM

Amount -- \$ 5,000.00 --- Termination date: 07/01/91
Balance \$500.00 - report due 12/31/90

The MICRO-FARM a computer network of commercial rabbit growers was awarded \$5,000 for the development and implementation of a electronic bulletin board of production, processing, and marketing information.

Grant #9150007 - MSU/College of Business /International Trade
Profile, Phase 2

Amount -- \$10,000.00 --- Termination date: 10/31/91
Balance \$10,000.00 - just being processed

The MSU, College of Business was awarded a \$10,000 grant to develop a profile of Montana businesses already engaged in international trade. The ITP will provide information on

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the present status of international trade in the state, and subsequent surveys will monitor the effectiveness of development plans and efforts. In order to assist businesses with their international trade efforts, Montana have been hampered by a lack of comprehensive information concerning international trade activities and plans in Montana.

Grant #9150008 - Dept. of Commerce/International Affairs Officer
Amount -- \$40,000.00 -- Termination date: 07/30/92

The Dept. of Commerce was awarded \$20,000 during FY 91 and FY 92 to employ a international affairs officer (attached to the Governor's office) to support and complement the international trade efforts of the Agriculture Development Council. This involves such duties as; hosting, protocol, information exchange, educational/professional/cultural exchange, trade mission and exhibition logistics, public relations and the coordination of interdepartmental projects.

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Part. 4a. Sub.

Centennial Foods Inc.

Amount \$50,000.00 --- Maturity Date 07/31/91
Loan Closed: July 31, 1990
One payment due 07/31/91

Centennial Foods, Inc. of Dillon was awarded a \$50,000 loan for bridge financing in order to maintain operations until complete project financing could be secured. Centennial Foods will process waxy hulless barley into three commercial products; betaglucan, sweetened barley starch, and dried distillers grains. This project secured financing December 20, 1990 and repayment will be due in July.

Basic Bio Systems Inc.

Amount \$50,000.00 --- Maturity Date 11/26/95
Loan Closed: November 26, 1990
Yearly payment of \$12,854.62 - due 11/26/91

Basic Bio Systems, Inc. of Missoula was awarded a \$50,000 loan for the commercialization of "Nuture" a product derived from oats which has time release capabilities. To illustrate this concept imagine a sun screen which when incorporated with Nuture would allow for a single application for a whole days use, or in a chewing gum which would retain its flavor for a greatly extended period of time.

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MONTANA AGRICULTURE DEVELOPMENT COUNCIL

Charles A. Brooke,
Director
MT Department of Commerce
1424 Ninth Avenue
Helena, MT 59620
phone: 444-3494
Term Expires: July 1, 1992

Larry Johnson
P. O. Box 13
Kremlin, MT 59532
phone: 372-3227
Term Expires: July 1, 1992

Everett M. Snortland,
Director
MT Department of Agriculture
Agriculture/Livestock Bldg.
Helena, MT 59620
phone: 444-3144
Term Expires: July 1, 1992

John Witte
Route #1, Box 2327
Miles City, MT 59301
phone: 232-1083
Term Expires: July 1, 1992

STAFF

Clive Rooney
Montana Department of Agriculture
Agriculture/Livestock Building
Capitol Station
Helena, MT 59620
phone: 444-2402

Julie Burke
P. O. Box 488
Glasgow, MT 59230
phone: 367-5247
Term Expires: July 1, 1993

John W. Morse, Jr.
4600 Carrigan Lane
Dillon, MT 59725
phone: 683-5474
Term Expires: July 1, 1993

John Swanz
Rural Route
Judith Gap, MT 59463
phone: 473-2201
Term Expires: July 1, 1993

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4per. 4th. Sub.

GRANTS - 12/31/90

Received	Amount	Applicant
12/12/90	\$20,000	Improving the quality of spring wheat varieties for Montana. -- Plant & Soil Science, MSU \ Luther E. Talbert, Asst. Professor (Basically the same grant as submitted 12/31/89 only \$8,000 more requested)
WITHDRAWN 12/20/90		
12/24/90	\$34,161	An Electronic Tractor Performance Display Trailer -- Northern Montana College \ Thomas M. Welch, Asst. Professor, Agriculture Technology
12/24/90	\$50,490	Improvement of Detection of Tritrichomonas Foetus in Cattle, -- Veterinary Molecular Biology, MSU \ Donald E. Burgess, Asst. Professor This project extends over two years
12/26/90	\$ 7,640	Expansion of Small Business Opportunities Through Business Management Training -- MSU \ Thomas W. Wolfe
12/27/90	\$15,000	Nitrate Utilization Program -- Western Montana Mint Growers Assn. \ Brian Schweitzer
12/27/90	\$ 5,750	Marketing Study of a Safflower Oil Processing Facility -- Paul Neiman
12/27/90	\$10,720	Improving the Quality of Montana Wool -- Extension Service, Department of Animal & Range Sciences - MSU \ Dr. Rodney W. Kott
12/28/90	\$225,000	Hay Bale Compressor for Transshipment of domestic and offshore quality hay - Northern Express Transportation Authority \ Mike Nielson (Basically same grant request as submitted 6/29/90 but request \$50,000 more.)
12/31/90	\$20,000	ICW Development Assistance - The International Committee for Wheat \ Dale Fosson

12/31/90	\$28,100	Field Testing of the Universal Bioavailability Environment and Soil Test "UNIBEST" - MSU - Plant & Soil Science Department \ Earl O. Skogley
12/31/90	\$ 7,310	Soybeans in Montana - Southern Agriculture Research Center - MSU \ Walter Hudyma
12/31/90	\$50,000	Montana to Germany Trolley Tour \ Terry Zee Weaver \ -- This grant has included \$3,000 into the overhead section of the budget as part of the grant request.
12/31/90	\$13,203	Rural Agriculture Marketing Expansion Via Telecommunications, Linkages and Networking - Missoula Community Business Incubator \ Tess Whalen
12/31/90	\$ 7,000	Roosevelt County Moisture Management Program - Roosevelt County Conservation District \ Merton Purvis
12/31/90	\$35,000	Eastern European Agriculture Markets - Montana World Trade Center \ Gray M. Johnson
12/31/90	\$19,197	Development of a Commercially-viable Biological Grasshopper insecticide - Bozeman Bio-Tech \ Dr. Wayne Vinje
12/31/90	\$25,000	Development and marketing of a low growing variety of Kentucky bluegrass, MOWLESS - Montana Turfgrass Technologies Inc. \ David J. Hoss
12/31/90	\$50,000	Cream of the West Inc. equipment purchase proposal and addition of new product lines. - Cream of the West \ John H. Leuthold Jr.
12/31/90	\$ 6,920	Smoked Whitefish Processing Plant Feasibility Study - RDM Enterprises \ Ronald D. Mohn (no matching funds)

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01/02/91 (postmarked 12/31/90)	\$25,000	Enhance Montana Potato Program using Genetic Engineering Technology - Potato Lab, MSU \ Mike Sun
01/02/91 (postmarked 12/31/90)	\$25,000	Enthanol Plant & Feedlot Combination - Ag Industries Inc. \ Robert M. Sain

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AGRICULTURE DEVELOPMENT

90-8-321

the company is located, and the court shall enforce obedience to the subpoena in the manner provided by law.

(3) The cost of the annual review must be paid by each Montana capital company in accordance with reasonable fees assessed by the department.

History: En. Sec. 12, Ch. 554, L. 1983.

Cross-References

Functions of State Banking Board and Department of Commerce, Title 32, ch. 1, part 2.

90-8-314 through 90-8-320 reserved.

90-8-321. Decertification. (1) If the examination conducted pursuant to 90-8-313 discloses that a Montana capital company is not in compliance with the provisions of this chapter, the department of commerce may exercise any of the powers with regard to banks granted in Title 32, chapter 1, part 5, and may seize the assets of the company and liquidate it. In the event of liquidation of the assets, any penalty imposed pursuant to 90-8-301 shall be included in the claims to be paid.

(2) If in the discretion of the department of commerce the action allowed under subsection (1) is not required to protect the company's investors, the department may place the company on notice that it will lose its certification as a Montana capital company within a specified period of time if the company does not come into compliance with the provisions of this chapter. The department shall automatically decertify a Montana capital company that is assessed a penalty under 90-8-301(3).

(3) As long as the department acts in good faith, the department and its employees and agents may not be held civilly or criminally liable or liable upon their official bonds for action taken under this section or for any failure to act under it.

(4) A Montana capital company may apply to the department for decertification.

History: En. Sec. 13, Ch. 554, L. 1983; amd. Sec. 7, Ch. 708, L. 1989.

Compiler's Comments

1989 Amendment: In (2) inserted second sentence requiring Department to automatically

decertify capital company assessed penalty under 90-8-301(3); and inserted (4) allowing company to apply for decertification.

CHAPTER 9

AGRICULTURE DEVELOPMENT

Part 1 — General Provisions

90-9-101. Short title.

90-9-102. Purpose.

90-9-103. Definitions.

Part 2 — Agriculture Development Council

90-9-201. Council organization — meetings.

90-9-202. Powers and duties of the council.

90-9-203. Rulemaking.

Part 3 — Investments

- 90-9-301. Agriculture seed capital account — matching funds.
- 90-9-302. Agricultural business incubator program — criteria — limitations.
- 90-9-303. Return-on-investment agreements.
- 90-9-304 and 90-9-305 reserved.
- 90-9-306. Appropriation authority and funding — prohibited investments.
- 90-9-307. Accountability.
- 90-9-308 through 90-9-310 reserved.
- 90-9-311. General criteria underlying agricultural development project loans.
- 90-9-312. Seed capital projects — program goals.
- 90-9-313. Specific criteria for seed capital project loans.
- 90-9-314. Research and development project — program goals.
- 90-9-315. Specific criteria for research and development project loans.
- 90-9-316. Agricultural development project loan agreement — contents — council decisions final.
- 90-9-317. Seed capital project loan agreement — specific loan requirements — payback.
- 90-9-318. Research and development project loan agreement — specific loan requirements — payback.

Part 4 — Marketing—Export Assistance

- 90-9-401. Agricultural marketing enhancement.
- 90-9-402. Export finance assistance.

Part 1**General Provisions**

90-9-101. Short title. This chapter may be cited as the "Montana Growth Through Agriculture Act".

History: En. Sec. 2, Ch. 665, L. 1987.

90-9-102. Purpose. It is the purpose of this chapter to strengthen and diversify Montana's agricultural industry by establishing a public-private sector partnership to assist the development of innovative agricultural business organizational improvements and the commercialization and marketing of new agricultural products in order to keep pace with a transforming agricultural industry and to create new jobs and expand small business opportunities.

History: En. Sec. 3, Ch. 665, L. 1987.

90-9-103. Definitions. As used in this chapter, the following definitions apply:

- (1) "Act" means the Montana Growth Through Agriculture Act.
- (2) "Agricultural business" means an enterprise engaged in the production, processing, marketing, distribution, or exporting of agricultural products. The term includes any related business the primary function of which is providing goods or services to an agricultural enterprise.
- (3) "Agricultural development project" means either a seed capital or research and development project designed to discover, develop, transfer, use, or commercialize existing or new agricultural products or processes in order to strengthen and enhance agricultural economic development in the state.

(4) "Agricultural development project loan agreement" or "loan" means an agreement entered into between the council and the loan recipient of a seed capital project loan or a research and development project loan that:

- (a) creates a debt relationship between the parties;
- (b) provides for a financial return to the council;
- (c) provides economic development potential to the state; and
- (d) contains various provisions and terms as required by the act.

(5) "Company" means a natural person, firm, partnership, corporation, association, or other entity authorized to conduct business in the state.

(6) "Convertible debenture" means a debenture convertible into stock under certain conditions by an individual or company, but not by the council.

(7) "Council" means the Montana agriculture development council established in 2-15-3015.

(8) "Debenture" or "note" means a writing or certificate issued as evidence of debt.

(9) "Department" means the department of agriculture established in 2-15-3001.

(10) "Expansion capital project" means an agricultural technology development project undertaken to enable an individual or a company to expand its manufacturing and marketing activities in order to move its agricultural products or services into new markets or to expand existing markets.

(11) "Innovative agricultural technology" means the involvement of an agricultural product or process that embodies the use of implements, machinery, equipment, chemical formulations, resources, materials, methods, or other items in a manner that departs from previous commercial developments, practices, or applications.

(12) "Investment" means an award of money, with or without repayment requirements, for the purposes provided for in 90-9-302 and 90-9-401.

(13) "Matching funds" means the funds received in cash by the agricultural development project loan recipient from nonstate appropriated sources and contributed by the loan recipient to the project in an amount that is at least equal to the funds loaned to the recipient by the council for use in the agricultural development project.

(14) "Portfolio company" means a startup or expansion stage company that has received a seed capital project loan from the council.

(15) "Private sector" means any entity or individual, not principally a part of or associated with a governmental unit, that is associated with or involved in commercial activity.

(16) "Research and development project" means an agricultural development project that falls into the category of applied technology research or agricultural technology transfer and assistance.

(17) "Research and development project loan" means an agricultural development project loan agreement entered into between the council and a loan recipient for a research and development project.

(18) "Seed capital project" means a startup or expansion capital project.

(19) "Seed capital project loan" means an agricultural development project loan entered into between the council and a loan recipient for a seed capital project.

(20) "State" means the state of Montana.

(21) "Technology transfer and assistance project" means an agricultural development project that:

(a) transfers technology research from the laboratory to the marketplace; or

(b) provides better access and exposure to business development assistance or information for researchers or early-stage agricultural businesses that commercialize agricultural technology products.

(22) "Warrant" means an instrument issued by a corporation giving a holder other than the council the right to purchase stock of a corporation at a fixed price, either for a limited time or perpetually.

History: En. Sec. 4, Ch. 665, L. 1987; amd. Sec. 10, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: Inserted definitions of act, agricultural development project, agricultural development project loan agreement, company, convertible debenture, debenture or note, department, expansion capital project, innovative agricultural technology, matching funds, portfolio company, private sector, research and

development project, research and development project loan, seed capital project, seed capital project loan, state, technology transfer and assistance project, and warrant; in definition of investment substituted "90-9-302 and 90-9-401" for "this chapter"; and made minor change in phraseology. Amendment effective March 23, 1989.

Part 2

Agriculture Development Council

90-9-201. Council organization — meetings. (1) The members of the council shall select a member as chairman. In addition to the chairmanship, the council may establish other offices and select council members to fill these offices.

(2) The council shall meet quarterly and at other times as determined by the chairman or a majority of the council.

History: En. Sec. 5, Ch. 665, L. 1987.

90-9-202. Powers and duties of the council. The council shall:

(1) establish policies and priorities to enhance the future development of agriculture in Montana;

(2) make investments or loans in agricultural development projects that have a short- or long-term ability to stimulate agriculture development and diversification in Montana, including but not limited to:

(a) seed capital loans for development and commercialization of new products and processes;

(b) agricultural business incubators;

(c) foreign and domestic market development activities;

(d) applied technological research; and

(e) agricultural technology assistance and transfer; and

(3) accept grants or receive devises of money or property for use in making the investments or loans authorized by this chapter.

History: En. Sec. 6, Ch. 665, L. 1987; amd. Sec. 11, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In (2), near beginning, inserted "or loans"; in (2)(a) substituted "loans" for "awards"; in (3) substituted "or loans authorized by" for "described in"; and deleted (4) that granted authority to adopt rules imple-

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AGRICULTURE DEVELOPMENT

90-9-301

menting this chapter. Amendment effective March 23, 1989.

Cross-References

Montana Administrative Procedure Act, Title 2, ch. 4.

90-9-203. Rulemaking. The council shall adopt rules necessary to implement the provisions of this chapter, including but not limited to rules:

- (1) governing the conduct of council business;
- (2) establishing application procedures that, at a minimum, require the submittal of an executive summary for an agricultural development project loan, a business plan for a seed capital project loan, a research and development project proposal for a research and development project loan, and other documents necessary to meet the criteria established in the act;
- (3) establishing procedures to be followed by the council in its review process prior to making an agricultural development project loan;
- (4) establishing postdisbursement activities that describe the ongoing involvement or follow-along management of the council that may be required in an agricultural development project loan agreement.

History: En. Sec. 9, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

Part 3**Investments**

90-9-301. Agriculture seed capital account — matching funds. (1) There is an agriculture seed capital account administered by the council.

(2) The council may loan money from the agriculture seed capital account to support research relating to innovative organizational improvements in agricultural businesses and to the commercialization and marketing of new agricultural products or agricultural production processes.

(3) The council may not make a loan to an agricultural development project for which the matching funds have not been received. Matching funds are required prior to any expenditure of state funds for research and development or seed capital projects. The council may accept as matching funds those funds received by the loan recipient within 1 year prior to the execution of the loan agreement.

History: En. Sec. 7, Ch. 665, L. 1987; amd. Sec. 12, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In (2), near beginning, substituted "loan" for "invest"; inserted (3) requiring matching funds for agricultural development project loans and for research and development or seed capital projects; and deleted former (3) and (4) that read: "(3) Investments from the account must be matched by at least an equal amount raised by the applicant from sources that are not state-appropriated.

(4) Preference must be given to applications that:

- (a) can be reasonably expected to provide an economic return to the applicant within a reasonable time;
- (b) demonstrate a potential commercial value to other entrepreneurs in Montana;
- (c) require such a grant to obtain additional private capital;
- (d) involve processing or adding value to agricultural commodities produced in Montana; or
- (e) provide jobs that will be substantially filled by current Montana residents." Amendment effective March 23, 1989.

90-9-302. Agricultural business incubator program — criteria — limitations. (1) There is an agricultural business incubator program account in the state special revenue fund. The council may invest from the account an amount not to exceed \$100,000 in each agricultural business incubator. The incubator must operate as a self-financing business development entity, providing such services as training, management consultation, accounting, and office space, if necessary, to eligible agricultural businesses. Eligible agricultural businesses may include but are not limited to marketing cooperatives and associations.

(2) Investments under this section must be awarded by the council, based upon its review of the following criteria:

- (a) the potential ability of the applicant to be financially self-sufficient;
- (b) identification of businesses or industries targeted for development assistance;
- (c) community support for the incubator program; and
- (d) a plan to address business development needs of specific user groups, including but not limited to displaced farmers.

(3) Investments may be made only in agricultural business incubators that are located in different geographic areas of the state and that are not located in a municipality with a population in excess of 15,000 people. The municipality or community in which the incubator is located must provide funding or contributions on at least a dollar-to-dollar basis. Contributions by applicants may include land, buildings, or professional services.

History: En. Sec. 8, Ch. 665, L. 1987; amd. Sec. 13, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In (1), after "office space", inserted "if necessary"; near end of (3) substituted "on at least a dollar-to-dollar basis" for "of a value at least three times the amount of the investment under this section"; and made minor

changes in phraseology; Amendment effective March 23, 1989.

Cross-References

Business incubator tax exemption. Title 15, ch. 24, part 18.

90-9-303. Return-on-investment agreements. The council shall enter into return-on-investment agreements for those products or processes that are to be developed and commercialized as a result of an investment under this chapter. As a part of such an agreement, the council shall require payment of a return that it considers commensurate with the risk of its original investment.

History: En. Sec. 9, Ch. 665, L. 1987.

90-9-304 and 90-9-305 reserved.

90-9-306. Appropriation authority and funding — prohibited investments. (1) The council has authority to accept and expend all funds received by it as grants, donations, or other private or public income, including amounts repaid as principal and interest on investments made by the council. These funds are statutorily appropriated to the council, as provided in 17-7-502, for the purposes of this chapter, except that expenditures for actual and necessary expenses required for the efficient administration of this chapter must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose.

(2) Council members may not personally apply for or receive council funds. If an organization with which a member is affiliated applies for council

funds, the member must disclose the nature of the affiliation and may not participate in the decision of the council regarding the application.

History: En. Sec. 10, Ch. 665, L. 1987; amd. Sec. 14, Ch. 284, L. 1989; amd. Sec. 13, Ch. 628, L. 1989.

Compiler's Comments

1989 Amendments: Chapter 284 deleted former (2) that read: "(2) No investment may be made in projects for which matching funds or participation of financial intermediaries is required until such funds have been committed"; and in (2), near end of first sentence before "funds", deleted "investment". Amendment effective March 23, 1989.

Chapter 628 in (1), at end after "as provided in 17-7-502", inserted "for the purposes of this chapter" and inserted exception clause requiring the expenditures to be from temporary appropriations; and made minor changes in punctuation and phraseology. Amendment effective July 1, 1989.

Cross-References

Public employees and officers — standards of conduct, Title 2, ch. 2.

90-9-307. Accountability. The council shall develop independent review and audit procedures to ensure that investments and loans made by it are used for the purposes identified in its investment and loan agreements.

History: En. Sec. 11, Ch. 665, L. 1987; amd. Sec. 15, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In two places inserted references to loans; and deleted former (2) that read: "(2) The council's investment agreements must contain provisions considered necessary by the council to ensure the proper

inspection and review of projects, the attainment of project goals, and the maintenance of adequate financial records by recipients of council funds." Amendment effective March 23, 1989.

90-9-308 through 90-9-310 reserved.

90-9-311. General criteria underlying agricultural development project loans. The council may make an agricultural development project loan only upon a favorable determination that the proposed agricultural development project:

- (1) is consistent with the findings and purposes of the act because it incorporates innovative agricultural technology;
- (2) has prospects for collaboration between the public and private sectors of the state's economy;
- (3) has prospects for achieving commercial success and for creating new jobs in the state;
- (4) has potential for commercial success related to the specific product, process, or business development methodology proposed;
- (5) can provide matching funds;
- (6) has potential to benefit existing agricultural business;
- (7) can be reasonably expected to provide an economic return within a reasonable period of time;
- (8) involves processing or adding value to agricultural products produced in the state; and
- (9) has a management structure that allows ongoing postdisbursement involvement by the council.

History: En. Sec. 1, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989.
provided that this section is effective March 23, 1989.

90-9-312. Seed capital projects — program goals. (1) The council may make a seed capital project loan to a seed capital project if it determines that the project meets the loan criteria established in 90-9-311 and 90-9-313 and further determines that the project meets the goals established in subsection (2) and involves development and commercialization of innovative agricultural products or processes.

(2) The goals of this program are:

- (a) to assist in the development of innovative technology in the state by providing a source of capital to the agricultural-based sector of the state's economy;
- (b) to provide financing and follow-along management support for agricultural businesses in the state that are attempting to develop agricultural products or processes based on innovative technologies; and
- (c) to provide a liaison between agricultural businesses in the state and investors in an effort to enhance the pool of capital available to agricultural businesses in the state.

History: En. Sec. 2, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-313. Specific criteria for seed capital project loans. The council may make a seed capital project loan only if it determines that the proposed project complies with the criteria and goals set forth in 90-9-311 and 90-9-312 and further determines that:

- (1) the project develops or employs innovative agricultural products or processes that promise a significant competitive advantage;
- (2) the project requires financing that is not available from conventional lending sources;
- (3) the project provides an opportunity to preserve the principal of the loan amount and to earn a monetary return;
- (4) the company is located or preparing to locate within the state;
- (5) the project demonstrates a capacity to diversify or add value to the state's agricultural businesses;
- (6) the company's management team possesses sufficient agricultural business experience;
- (7) the company has potential for creating and retaining jobs and stimulating tax revenue growth in the state;
- (8) the company's agricultural product or process is targeted for a commercial market;
- (9) the company's product or process is of sufficient quality to significantly impact the target market; and
- (10) if applicable, the company's business plan is designed to provide financing, marketing, and production milestones to accomplish the proposed commercialization.

History: En. Sec. 3, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

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90-9-316

90-9-314. Research and development project — program goals. (1) The council may make a research and development project loan if it determines that the project meets the loan criteria established in 90-9-311 and 90-9-315 and further determines that the project meets the goals established in subsection (2).

(2) The goals of this program are:

(a) to significantly upgrade existing agricultural research capabilities within the state's research and development institutions and organizations;

(b) to provide financial support to individual research projects that have significant potential to advance development of agricultural business in the state;

(c) to facilitate the process of transferring research from the laboratory to the commercial marketplace;

(d) to provide financial support for the development of advanced research capabilities within the state's university system through the acquisition of facilities, equipment, or personnel;

(e) to facilitate the flow of information to agricultural-based businesses in the state in order to assist those businesses in reaching their full commercial potential; or

(f) to improve the information and resources available to the state's agricultural businesses involved in commercialization of innovative agricultural products and processes.

History: En. Sec. 4, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-315. Specific criteria for research and development project loans. The council may make a research and development project loan only if it determines that the proposed project substantially complies with the criteria and goals set forth in 90-9-311 and 90-9-314 and further determines that the project:

(1) has the potential to diversify or add value to the state's agricultural economy;

(2) demonstrates a clear path to commercial development of the research results within the state;

(3) involves university system research participation, if appropriate;

(4) employs or otherwise takes advantage of existing research and development strengths within the state's university and private research establishment;

(5) involves a realistic and achievable research project design;

(6) develops or employs innovative agricultural products or processes; and

(7) is located within the state.

History: En. Sec. 5, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989, provided that this section is effective March 23, 1989.

90-9-316. Agricultural development project loan agreement — contents — council decisions final. (1) If the council determines that an

agricultural development project meets the criteria established in this chapter and has complied with the applicable procedures and review processes established by the council, the council may enter into an agricultural development project loan agreement with the company and authorize the disbursement of funds to the company.

(2) The loan agreement, at a minimum, must contain the following provisions:

- (a) the project budget;
- (b) the financing, marketing, and production milestones for the project that describe project tasks to be achieved at designated times in each area;
- (c) the reporting requirements, including but not limited to:
 - (i) financial statements to be submitted on at least an annual basis as determined by the council;
 - (ii) quarterly commercialization progress reports;
 - (iii) annual reports; and
 - (iv) reports on any significant project transactions;
 - (d) the disbursement schedule for the loan;
 - (e) the payback to the council;
 - (f) the causes for loan revocation, suspension, or termination; and
 - (g) the intellectual property provisions.

(3) All decisions of the council are final and are not subject to the contested case provisions of Title 2, chapter 4.

History: En. Sec. 6, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989,
provided that this section is effective March 23,
1989.

90-9-317. Seed capital project loan agreement — specific loan requirements — payback. (1) In addition to the loan requirements of 90-9-316, a seed capital project loan must be structured as contracted debt, including but not limited to the following terms:

- (a) an interest rate set at a level that provides for a return to the council, from paybacks by all of its portfolio companies, an amount at least equal to the principal amount of the loan and that provides for a market rate of return when considering the overall benefit to the state derived from the projects;
- (b) a provision in the note that may defer debt service until maturity of the note, the term of which may not exceed 8 years;
- (c) a loan amount that may not exceed \$50,000 in any one round of financing. Successive rounds of financing in which the council participates for any one company may not occur within a 9-month period. The total amount that may be loaned to any one company may not exceed \$150,000.
- (d) a provision that the note becomes due in full upon dissolution or liquidation of the company;
- (e) a provision that the company will provide the council with a second priority security interest in all of the equipment used in the company's business, accounts receivable, and inventory to secure repayment of the loan;
- (f) a provision that the priority security interest in the company's assets referred to in subsection (1)(e) will be evidenced by appropriate forms required to secure the assets as provided in Title 30, chapter 9.

(2) In addition to the provisions in 90-9-316 and subsection (1) of this section, a seed capital project loan agreement may provide for any of the following:

- (a) a convertible debenture;
- (b) a warrant held by the council; or
- (c) a warrant held by a third party for the benefit of the council.

History: En. Sec. 7, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989.
provided that this section is effective March 23, 1989.

90-9-318. Research and development project loan agreement — specific loan requirements — payback. In addition to the loan requirements of 90-9-316, a research and development project loan agreement must be structured as contracted debt, including but not limited to the following terms:

(1) The agreement must include provisions calling for a payback of two times the original loan amount, paid as a percentage of the income stream derived from the sale or other commercialization of products or processes developed with the council's financing. This percentage rate may not exceed 5%.

(2) The payback for an agricultural technology transfer and assistance project loan may be made pursuant to subsection (1) or may be realized in terms of indirect benefits related to the goals and criteria of the act. No more than 10% of the council's funds designated for research and development in any one fiscal year may be used for agricultural technology transfer and assistance loans.

History: En. Sec. 8, Ch. 284, L. 1989.

Compiler's Comments

Effective Date: Section 20, Ch. 284, L. 1989.
provided that this section is effective March 23, 1989.

Part 4

Marketing — Export Assistance

90-9-401. Agricultural marketing enhancement. The council shall assist in identification and development of new domestic and foreign markets for Montana agricultural products. The council shall:

(1) assist in placing one full-time professional marketing person in Japan or another Pacific Rim country to develop export marketing opportunities in the Pacific region;

(2) provide assistance for appropriate trade missions of Montana producers, processors, or distributors of agricultural products on a cost-share basis; and

(3) assist in other appropriate means of enhancing domestic markets for Montana agricultural products.

History: En. Sec. 12, Ch. 665, L. 1987; amd. Sec. 16, Ch. 284, L. 1989.

Compiler's Comments

1989 Amendment: In (1), at beginning, substituted "Japan" for "the United States" and after

"Japan" inserted "or another Pacific Rim country". Amendment effective March 23, 1989.

90-9-402. Export finance assistance. The council shall provide professional assistance to persons who apply for financial assistance for the purpose of developing export sales of Montana agricultural products.

History: En. Sec. 13, Ch. 665, L. 1987.

CHAPTER 10

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CHAPTER 11

INDIAN AFFAIRS PLANNING AND COORDINATION

Part 1 — State Coordinator of Indian Affairs

90-11-101. Legislative policy.

90-11-102. Duties and assistance.

Chapter Cross-References

Compact with the United States, Art. I, Mont. Const.

Educational goals and duties — preservation of Indian heritage and culture, Art. X, sec. 1, Mont. Const.

Cession and retrocession of jurisdiction over Blackfeet highway, 2-1-206.

Jurisdiction on Indian lands, Title 2, ch. 1, part 3.

Federal funds for welfare of Indians, 17-3-107.

State-tribal cooperative agreements, Title 18, ch. 11.

Tribal agreement with district for Indian child compulsory attendance and other agreements, 20-5-108.

Cultural and aesthetic grants, Title 22, ch. 2, part 3.

Montana Historical Society — authority of Board, 22-3-107.

Sale of imitation Indian articles, Title 30, ch. 14, part 6.

Solemnization of Indian marriage, 40-1-301.

Parent-child legal relationship termination — not to disentitle to tribal benefits, 41-3-611.

Prisoners — supervised release program — Indian tribe as sponsor, 46-23-401.

Vital statistics — disclosure to determine tribal enrollment, 50-15-112, 50-15-206.

Indian and federal water rights, Title 85, ch. 2, part 7.

Fort Peck — Montana Compact, 85-20-201.

Agreement with Indians concerning hunting and fishing — Indian treaty of 1855, 87-1-228.

Part 1

State Coordinator of Indian Affairs

Part Cross-References

Office of State Coordinator of Indian Affairs, Department of Commerce, 2-15-1813.

90-11-101. Legislative policy. (1) Whereas, a considerable portion of the citizens of the state of Montana are members of the Indian race; and

(2) Whereas, in the course of the past 80 years these Indian citizens of the state of Montana have been driven from their native valleys and plains and are at present living and residing upon reservations set apart for such purposes by the United States of America, and by virtue of that isolation and

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- 4.16.402 Application Procedures for a Research and Development Project Loan - Submission of Research and Development Proposal
- 4.16.403 Application Procedures for a Research and Development Project Loan - Evaluation - Due Diligence
- 4.16.404 Application Procedures for a Research and Development Project Loan - Review Process
- 4.16.405 Application for a Research and Development Project Loan - Council Action
- 4.16.406 Research and Development Project Loans- Monitoring Reports

Sub-Chapter 5

Loan Programs

- Rule 4.16.501 Failure to Commercialize or Produce in Montana - All Loan Programs

- 4.16.502 Rights to Intellectual Property- Confidentiality - All Loan Programs

Sub-Chapter 6

Agricultural Business Incubator Program

- Rule 4.16.601 Agricultural Business Incubator Program- Purpose-Investments-Criteria and Limitations

Sub-Chapter 7

Agricultural Marketing Development Program

- Rule 4.16.701 Agricultural Marketing Development Program- Purpose-Goals-Criteria

DEPARTMENT OF AGRICULTURE

CHAPTER 16

MONTANA AGRICULTURE DEVELOPMENT COUNCIL

Sub-Chapter 1

Procedural Rules and Citizen Participation Rules

Rule 4.16.101 Organizational Rule

4.16.102 Procedural Rules

4.16.103 Citizen Participation Rules

Sub-Chapter 2

Procedural Rules

Rule 4.16.201 Definitions

Sub-Chapter 3

Procedure for a Seed Capital Project

Rule 4.16.301 Application Procedure for a Seed Capital Project Loan - Submission and Use of Executive Summary

4.16.302 Application Procedures for a Seed Capital Project Loan - Submission of Business Plan

4.16.303 Application Procedures for a Seed Capital Project Loan - Review Process

4.16.304 Application Procedures for a Seed Capital Project Loan - Council Action

4.16.305 Seed Capital Project Loan - Post-Disbursement Activities

Sub-Chapter 4

Agricultural Marketing Development Program

Rule 4.16.401 Application Procedures for a Research and Development Project Loan - Submission and Use of Executive Summary

MONTANA AGRICULTURE COUNCIL

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Sub-Chapter 1

Procedural Rules and Citizen Participation Rules

4.16.101 ORGANIZATIONAL RULE (1) The Montana agriculture development council ("council") was created in 1987 by 2-15-1817, MCA, and transferred to the department of agriculture by 2-15-3015, MCA.

(2) The council consists of seven members appointed by the governor, including the director of the department of agriculture, the director of the department of commerce, and five members who are or have been actively engaged in agriculture.

(3) The council is allocated to the department of agriculture for administrative purposes only as prescribed in section 2-15-121, MCA.

(4) The department provides staff for the council to administer council activities. (History: Sec. 2-4-201, 90-9-202, MCA; IMP, Sec. 2-4-201, 90-9-202, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, from Dept. of Commerce, 1989 MAR p. 1190, Eff. 2/4/89.)

4.16.102 PROCEDURAL RULES (1) The council hereby adopts and incorporates by reference rules 1 through 28 of the attorney general's model procedural rules. A copy of these rules may be obtained from the staff of the Montana Agriculture Development Council, Agriculture/Livestock Building, Helena, Montana 59620. Hearings on applications shall not be considered contested cases. (History: Sec. 2-4-201, 90-9-202, MCA; IMP, Sec. 2-15-121, 90-9-202, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, from Dept. of Commerce, 1989 MAR p. 1190, Eff. 2/4/89.)

4.16.103 CITIZEN PARTICIPATION RULES (1) The council hereby adopts and incorporates by reference the citizen participation rules of the department of agriculture as set forth in ARM 4.2.201 through 4.2.204. A copy of these rules may be obtained from the staff of the Montana Agriculture Development Council, Agriculture/Livestock Building, Helena, Montana 59620. (History: Sec. 2-4-201, 90-9-202, MCA; IMP, Sec. 2-4-201, 90-9-202, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, from Dept. of Commerce, 1989 MAR p. 1190, Eff. 8/18/89.)

Sub-Chapter 2

Definitions

4.16.201 DEFINITIONS In addition to the definitions set forth in 90-9-103, MCA, the following definitions apply for purposes of these rules:

(1) "Act" means the provisions of Title 90, chapter 9, MCA.

(2) "Department" means the department of agriculture.

(3) "Geographic area" means a county as established in the state of Montana as described in the annotations to the Montana Code Annotated, Vol. 1, "Descriptions, county boundaries," and may include more than one (1) county for purposes of this rule.

(4) "Marketing" means those efforts undertaken to expand the saleability of the products of Montana agricultural businesses through the development of new products, processes and technologies; the improvement or modification of existing products, processes and technologies; and the development of new opportunities for selling and distributing Montana agricultural products.

(5) "Person" means an individual, firm, partnership, corporation, association or other entity, authorized to conduct business in the state of Montana.

(6) "State" means the state of Montana. (History: Sec. 90-9-202, MCA; IMP, Sec. 90-9-202, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, from Dept. of Commerce, 1989 MAR p. 1190, Eff. 8/18/89.)

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Sub-Chapter 3

Procedure for Seed Capital Project

4.16.301 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - SUBMISSION AND USE OF EXECUTIVE SUMMARY (1) An applicant for a seed capital project loan shall submit a brief executive summary of the proposal to the council.

(2) The executive summary must include the following items:

(a) a description of the agricultural product and/or process being developed or marketed with particular emphasis on any proprietary characteristics which would result in a competitive advantage for the applicant;

(b) a characterization of the market for the product or process, including potential size, customers, and methods required for selling the product or process to the market;

(c) a description of the management team's experience and qualifications which are relevant to the particular agricultural business area in which the company is proposing to enter;

(d) an estimate of projected sales revenue and new jobs; and

(e) the amount of capital needed for the current round of financing, in addition to a listing of other potential investors.

(3) The executive summary should not contain any information that the applicant does not want subject to public inspection.

(4) The executive summary is evaluated by the council for a determination of whether the project complies with (2) above and whether the project should be advanced to the business plan development and review phases. (History: Sec. 90-9-203, MCA; IMP, Sections 90-9-311, MCA; 90-9-312, MCA; 90-9-313, MCA; and 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.302 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - SUBMISSION OF BUSINESS PLAN (1) When the executive summary is deemed complete and the seed capital project deemed appropriate for further consideration, the applicant must submit a business plan to the council.

(2) This plan must contain the following items:

(a) the executive summary;

(b) the company's history and business development objectives;

(c) the product and technology description;

(d) the market size and characteristics assessment;

(e) the sales and marketing strategy;

(f) a description and assessment of the competition;

(a) the financial projections, including income statements, balance sheets, and cash flow projections for five (5) years;

(h) the historical financial statements of the company including balance sheets and income statements for the three previous years or as many as are available;

(i) a description of the management team, including a detailed resume for each member;

(j) a manufacturing and operations plan;

(k) the ownership structure; and

(l) an organization and personnel plan.

(3) If deemed necessary, personal financial data may be requested.

(4) A cover letter must also accompany the business plan and include a description of other capital or matching fund efforts. The cover letter must also contain the names of up to three individuals who could provide the council with a threshold review of the products, technology, process and market potential of the company if such a review is deemed necessary by the council. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-203, 90-9-301, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.303 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - REVIEW PROCESS (1) The following steps are taken by the council to complete its evaluation in order to arrive at a loan decision:

(a) Upon receipt of the completed business plan, threshold evaluations may be obtained from technical and financial reviewers.

(b) Once the threshold evaluation step is completed, council staff will schedule an on-site meeting with the company's management team to discuss the applicant's objectives and financing needs.

(c) The applicant shall make a formal presentation to the council at a regularly scheduled council meeting.

(d) The council staff will then conduct its own due diligence examination of the seed capital project proposal, which involves, at a minimum, a thorough assessment of the project's compliance with the applicable criteria and goals as set forth in the act and rules, the company's management team, the company's potential market, other investors, ownership, and management and financial references.

(e) Council staff will then develop a recommendation for the council for its review and consideration. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

MONTANA AGRICULTURAL COUNCIL

4.16.305

4.16.304 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - COUNCIL ACTION (1) Upon receipt of the staff's recommendation, the council shall determine whether to make a seed capital project loan.

(2) The council shall determine whether the applicant has complied with the act and applicable rules, and whether the project would provide an opportunity for the council to exit the loan with a return as provided by Section 7 of the Act.

(3) All decisions of the council are final and not subject to the contested case provisions of the Administrative Procedure Act. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-202, 90-9-203, 90-9-301, MCA NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.305 SEED CAPITAL PROJECT LOAN - POST-DISBURSEMENT ACTIVITIES (1) The council may take an active role if working with an agricultural business in which it has entered into a seed capital project loan.

(2) The activities in which the council may participate include, but are not limited to:

(a) assisting the company in seeking additional investment capital when necessary; and

(b) designating a person(s) to sit on the company's board of directors or other governing body and/or to hold observer rights. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-316, 90-9-317, 90-9-203, MCA NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

Sub-Chapter 4

Agricultural Marketing Development Program

4.16.401 APPLICATION PROCEDURES FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - SUBMISSION AND USE OF EXECUTIVE SUMMARY (1) An applicant for a research and development project loan must submit a brief executive summary of the proposal to the council.

(2) The executive summary must include the following items:

- (a) a description of the proposed research and development project, including the product and/or process involved;
- (b) an analysis of the project's commercial potential and prospective commercial partners;
- (c) an estimate of total financing needs; and
- (d) the amount of funds requested from the council including the expected use of proceeds.

(3) The summary should not contain any information that the applicant does not want subject to public inspection.

(4) The executive summary is evaluated by the council for a determination of whether the project complies with (2) above and whether the project should be advanced to the research and development proposal and review phases. (History Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.402 APPLICATION PROCEDURES FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - SUBMISSION OF RESEARCH AND DEVELOPMENT PROPOSAL (1) When the executive summary is deemed complete and the research and development project deemed appropriate for further consideration, the applicant must submit a research and development proposal to the council.

(2) This proposal must contain the following items:

- (a) a title page;
- (b) a table of contents;
- (c) the executive summary;
- (d) the project objectives;
- (e) a background review of the research and development project;
- (f) the project design;
- (g) a list of required facilities and equipment;
- (h) a description of potential commercial partners;
- (i) a description of the project's potential impact on the state's economy;

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- (j) a list of milestones which describe specific tasks to be achieved on a specific time schedule;
- (k) the budget and use of proceeds, plus documentation showing source of funds and use of proceeds for each line of the budget;
- (l) the feasibility and/or availability of matching funds;
- (m) a description of funding efforts made to obtain funding for the proposed project;
- (n) the resumes of the major principals identified in the project design describing the education and employment experience of each; and
- (o) a list of three technical reviewers who are qualified to review the proposal including their names, addresses and phone numbers. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, 90-9-203, and 90-9-301, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.403 APPLICATION PROCEDURES FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - EVALUATION - DUE DILIGENCE

(1) After receiving the research and development proposal, council staff will determine if the proposal is complete. Once the proposal is deemed complete, the formal review process begins.

(2) Upon receipt of a complete research and development proposal, the proposal may be subjected to an outside technical review conducted by reviewers selected by the council. Each reviewer will be asked to comment on the technical feasibility of the proposed research and development project's design and implementation, as well as the project's prospects for market success, when applicable.

(3) If deemed necessary, a research and development proposal may also be subjected to a financial review.

(4) If the technical and financial reviews are favorable, the council will initiate and pursue its own due diligence process on the research and development project. The purpose of this process is to further verify the feasibility of the agricultural project, the credibility and expertise of the project principals and the market or commercial potential of the proposed product or process. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315 and 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

MONTANA AGRICULTURE COUNCIL

4.16.406

4.16.404 APPLICATION PROCEDURES FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - REVIEW PROCESS (1) In addition to the technical and financial reviews, the council will evaluate each proposal in light of the loan criteria and goals as set forth in the act and rules.

(2) The applicant will then be asked to attend a regularly scheduled council meeting and make a brief presentation on the project to the council.

(3) The council staff will then develop a recommendation to the council for its review and consideration. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, am: 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.405 APPLICATION FOR A RESEARCH AND DEVELOPMENT PROJECT LOAN - COUNCIL ACTION (1) Upon receipt of the staff's recommendation the council shall determine whether to make an agricultural loan.

(2) The council shall determine whether the proposal complies with the act and applicable rules.

(3) All decisions by the council are final and not subject to the contested case provisions of the Administrative Procedure Act. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, 90-9-202, 90-9-203 and 90-9-301 MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

4.16.406 RESEARCH AND DEVELOPMENT PROJECT LOANS-MONITORING REPORTS (1) A loan recipient must submit progress reports to the council staff as specifically required in the research and development project loan agreement.

(2) The progress reports shall include, but not be limited to:

(a) financial status of the loan recipient;

(b) overall project performance; and

(c) progress in accomplishing the designated milestones.

(3) A final project report is due upon completion of the project term.

(4) Annual commercialization reports are required until the loan recipient has satisfied the payback terms contained in the agreement. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-314, 90-9-315, 90-9-316, 90-9-318 and 90-9-203, MCA; NEW, 1989 MAR p. 1190, Eff. 8/18/89.)

MONTANA AGRICULTURE COUNCIL

4.16.502

Sub-Chapter 5

Loan Programs

4.16.501 FAILURE TO COMMERCIALIZE OR PRODUCE IN MONTANA - ALL LOAN PROGRAMS (1) A loan recipient must agree that the production or manufacturing of the new agricultural product shall occur in the state and should production or manufacturing be located out-of-state, the loan recipient shall immediately reimburse the council for its original investment with the current rate of interest.

(2) The council may determine that a loan recipient is not complying with the agricultural development project loan agreement if:

(a) the loan recipient has not complied with the terms and conditions of the loan agreement;

(b) commercial production, marketing or distribution of the product is not commenced by the company within a reasonable time;

(c) the company fails to use its best efforts to achieve the benefits of increased employment in Montana; or

(d) the company fails to maintain such offices or facilities in Montana.

(3) If the council determines that a loan recipient is not complying with the term and conditions of the loan, the council may terminate funding of the loan. (History: Sec. 90-9-203, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-314, 90-9-315, 90-9-316, 90-9-317, 90-9-318, 90-9-202, and 90-9-203, MCA; NEW, 1989 MAR P. 1338, Eff. 8/18/89.)

4.16.502 RIGHTS TO INTELLECTUAL PROPERTY-CONFIDENTIALITY - ALL LOAN PROGRAMS (1) All intellectual property rights including any patents, copyrights, trademarks, and trade secrets developed by the loan recipient with use of funds provided by the council shall be owned by the recipient.

(2) The loan recipient shall have each of its employees, agents, independent contractors and others who may reasonably be expected to create intellectual property rights sign an agreement with the loan recipient, subject to approval by the council, whereby such other persons shall assign any and all intellectual properties to the funding recipient where any invention, discovery, improvement or other intellectual property right is conceived, created or reduced to practice during the term of the loan.

(3) Unless otherwise required by law, information submitted by an applicant will be treated as confidential, except the following:

(a) name and address of applicant;

(b) short description of proposed agricultural development project;

(c) amount of requested loan;

(d) the program(s) under which the applicant is applying;

(e) any other information in which the demand of individual privacy does not clearly exceed the merits of public disclosure; and

(f) any information in which the demand of individual privacy clearly exceeds the merits of public disclosure when the applicant has expressly waived his right to privacy.

(4) The council shall maintain public files on each completed application received containing the following information:

(a) items (3) (a) through (f) of this rule;

(b) all written documents received or prepared concerning items (3) (a) through (f) of this rule;

(c) a brief statement of council action regarding the application including the council's approval or disapproval of the application, the terms and payback provision.

(5) This rule is based on the council's finding that except for the information described in items (3) (a) through (f), the demands of individual privacy clearly exceed the merits of public disclosure of the personal, financial and business information that is contained in applications submitted to the council. (History: Sec. 90-9-203, 2-3-103, MCA; IMP, Sec. 90-9-311, 90-9-312, 90-9-313, 90-9-314, 90-9-315, 90-9-316, 90-9-317, 90-9-318, 90-9-202, 90-9-203, MCA; NEW, 1989 MAR p. 1338, Eff. 8/18/89.)

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MONTANA AGRICULTURAL COUNCIL

4.16.601

Sub-Chapter 6

Agricultural Business Incubator Program

4.16.601 AGRICULTURAL BUSINESS INCUBATOR PROGRAM-

PURPOSE-INVESTMENTS-CRITERIA AND LIMITATIONS

(1) For purposes of this rule, an agricultural business incubator is a self-financing business development entity providing such services as training, management consultation, accounting and office space if necessary to eligible agricultural businesses.

(2) The purpose of the agricultural business incubator program is to encourage the strengthening and diversification of economic activity in rural communities through assisting early-stage agricultural businesses.

(3) Investments may be made only in agricultural business incubators that are located in different geographic areas of the state.

(a) An incubator may not be located in a municipality or community with a population in excess of 15,000 people.

(b) The municipality or community in which the agricultural business incubator is located must provide funding or contributions on at least a dollar-to-dollar basis.

(c) Contributions by the municipality or community may include but not be limited to land, buildings, office space or professional services.

(4) In order for an agricultural business incubator to qualify for a council investment, the applicant must:

(a) submit a completed application to the council, signed by the chief executive officer of the entity desiring to establish the agricultural business incubator;

(b) demonstrate, through supporting documentation, the ability of the incubator to operate independent of council investment within 5 years of receiving a council investment;

(c) demonstrate, through supporting documentation, the ability of the incubator to provide quality business development assistance and management skills including but not limited to:

(i) appropriate educational background of management team and key personnel;

(ii) previous experience of applicant relating to business and/or incubator management;

(d) demonstrate, through supporting documentation, community support for the proposed incubator;

(e) present in writing and before the council, a plan that addresses the business development needs of specific user groups, including, but not limited to displaced farmers, and how this proposed incubator will meet those needs;

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AGRICULTURE

(f) demonstrate, that at a minimum, the following services will be provided by the incubator,

- (i) training,
- (ii) management consultation, and
- (iii) necessary professional services.

(5) A council investment in an incubator shall not exceed \$100,000.

(6) As required by 2-4-305, MCA, notice is hereby given that parts of this rule, repeat parts of 90-9-302, MCA, in order to provide full notification to applicants of the incubator program. (History: Sec. 90-9-203, MCA; IMP, 90-9-302, MCA; TPANS, and AMD, 1989 MAR p. 1190, Eff. 8/18/89.)

MONTANA AGRICULTURAL COUNCIL

4.16.701

Sub-Chapter 7

Agricultural Marketing Development Program

4.16.701 AGRICULTURAL MARKETING DEVELOPMENT PROGRAM-

PURPOSE-GOALS-CRITERIA (1) In addition to the purposes of the "Montana Growth Through Agriculture Act" as set forth in 90-9-102, MCA, a purpose of the marketing program is to find new or expanded markets for the products, processes, and technologies of Montana agricultural businesses.

(2) The agricultural marketing development program will coordinate with existing department marketing programs and the market development activities of the department of agriculture.

(3) The marketing development program shall support both domestic marketing and international trade efforts.

(4) The goals of the marketing development program are to:

(a) increase sales of the products, processes, and technologies of Montana agricultural businesses on a state, national, and international level;

(b) open or expand markets for new or specialty products;

(c) monitor new and changing markets and market conditions, and provide Montana producers with such information;

(d) improve, expand, or create new relationships between buyers and sellers of the products, processes, and technologies of Montana agricultural businesses;

(e) encourage the expansion of value-added production, processes, and technologies in Montana.

(5) The council will biannually identify, at regularly scheduled meetings at which public comment will be , the markets, products, processes, and technologies it seeks to study, expand, or otherwise develop.

(a) the council shall advertise requests for proposals in compliance with applicable Montana law and shall consider the comments received at its meetings when determining which types of proposals should be requested.

(b) at a minimum, requests for proposals will include the following:

(i) specific criteria by which proposals will be selected;

(ii) the establishment of milestones for evaluating the progress and success of the proposals;

(iii) a schedule for the submission of periodic progress reports. (History: Sec. 90-9-202, MCA; IMP, Sec. 90-9-202, 90-9-401, MCA; NEW, 1988 MAR p. 2481, Eff. 11/24/88; TRANS, 1989 MAR p. 1190, Eff. 8/18/89.)

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ADMINISTRATIVE RULES OF MONTANA 9/30/89

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TRANSMITTAL SHEET

**State of Montana
Department of Agriculture**

REQUEST FOR PROPOSALS

under

The Montana Growth Through Agriculture Program

AGRICULTURAL MARKETING ENHANCEMENT PROGRAM

Return all proposals to:

Mr. Clive Rooney, Program Officer
Montana Growth Through Agriculture Program
Department of Agriculture
Agriculture/Livestock Building
Capitol Station
Helena, MT 59620
(406) 444-2402

Sealed proposals will be received up to 5:00 p.m. (Mountain Standard Time) December 31, 1990.

Legal Authority:

(MCA) Section 90-9-401 Montana Codes Annotated

(ARM) Section 8.121.401 Administrative Rule of Montana

AGRICULTURAL MARKETING DEVELOPMENT PROGRAM

PURPOSE OF THE MONTANA GROWTH THROUGH AGRICULTURE PROGRAM

The primary goals of the Montana Growth Through Agriculture program, as they are stated in the enabling legislation, are "to strengthen Montana's agricultural industry by establishing a public/private sector partnership to assist in the development of innovative agricultural products in order to keep pace with a transforming agricultural industry and to create new jobs and expand small business opportunities."

INTRODUCTION

The Montana Growth Through Agriculture program was created by the 1987 Legislature to encourage economic development through innovations in various aspects of agricultural business. The program includes, among other things, the authority to establish development of an agricultural marketing development program.

The Montana Growth Through Agriculture Program is administered by the seven-member Montana Agriculture Development Council, which is attached to the Department of Agriculture for administrative purposes.

The Montana Agriculture Development Council invites proposals to fund demonstration projects, applied research and feasibility analyses designed to address Montana's agricultural development needs and opportunities. Generally, to qualify for consideration, proposals must have practical, near-term application involving new or alternative technologies, practices or organizational arrangements that will stimulate expanded agricultural development, economic activity and employment growth. Public and private entities and organizations, business and industry, educational institutions, local governments and individuals are eligible to submit proposals.

Proposals submitted under this RFP must be received by the Montana Department of Agriculture no later than 5:00 p.m. (MST), December 31, 1990. Applicants with questions about information contained in this RFP should write or telephone:

Mr. Clive Rooney, Program Officer
Montana Growth Through Agriculture
Montana Department of Agriculture
Ag/Livestock Building, Capitol Station
Helena, Montana 59620
(406) 444-2402

ELIGIBILITY REQUIREMENTS

APPLICANT ELIGIBILITY

Proposals for funding will be accepted from:

- Public and Private Agencies and Organizations
- Business and Industry
- Educational Institutions
- Local Governments
- Individuals

If two or more individuals or organizations propose to conduct a project jointly, they should submit one application as co-applicants.

Applicants must demonstrate a proven ability to carry out all elements of the proposed project. In addition, applicants proposing to rely upon the expertise of another individual or organization to undertake any part of the project must clearly define the responsibilities of that party as well as provide evidence of their willingness and demonstrated ability to undertake that area of responsibility.

Employees of the Montana Department of Agriculture and the Montana Department of Commerce and their immediate families, and members of the Montana Agriculture Development Council and their immediate families are excluded from eligibility for funding under the Agriculture Marketing Enhancement Program. Immediate family includes mother, father, brother, sister, spouse and children.

PROJECT ELIGIBILITY

Projects which involve new or alternative production, processing, or distribution and marketing technologies, practices or organizational arrangements will be considered. Projects must specifically demonstrate a potential for further development of Montana's agricultural industry to be eligible. Projects should be undertaken in Montana. Proposals for projects to be conducted outside Montana must present clear evidence that the Montana agriculture industry will benefit from the activity.

As noted previously, the potential for near-term commercial application or use of the project results is a major consideration in proposal evaluation. General research studies or analyses which do not have a clear potential for direct implementation should not be submitted.

ELIGIBLE COSTS

Eligible costs under the Agricultural Marketing Development Program include, but are not limited to:

- Salaries and Wages
- Fringe Benefits
- Consultant Services (professional, technical, operational)
- Travel
- Advertising and Promotion
- Equipment (preferably leased versus direct acquisition)
- Supplies and Materials
- Communication (telephone, postage, printing, etc.)
- Data Processing

Program funds cannot be used for the payment of institutional overhead or other indirect costs such as use of land, buildings or equipment. These costs can be used, however, in calculating the applicant match.

PROPOSAL REQUIREMENTS

Proposals under the Agricultural Marketing Enhancement Program must be submitted to Program Officer Moe Wosepka at the address listed on the transmittal page of this RFP. An original and nine (9) copies of the proposal must be submitted by 5:00 p.m., December 31, 1990. Applicants are responsible for timely submission of proposals.

In order to be considered, proposals must be responsive to the objectives identified in this RFP. Each proposal must be limited to one project or activity only, the title of which must appear on the cover sheet of the application.

The purpose of the proposal application is to provide evaluators with a written statement containing sufficient information to demonstrate that the proposed activity is a sound approach to an important area of interest as outlined in the RFP, and that it merits financial support. Proposals will be judged principally on their adherence or conformity to the objectives and criteria indicated in this RFP, and the cost effectiveness of the proposed activity. A meeting with applicants may be required for clarification or further examination of proposals before funds are approved.

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PROPOSAL FORMAT

Proposals shall be no more than eight (8) pages in length (excluding the cover sheet, budget form and resumes) and conform to the format described below. Proposals over eight (8) pages in length will not be considered.

COVER SHEET

- Title of proposed project
- Name and title of applicant(s)
- Address and telephone number of applicant(s)
- Duration of proposed project (include beginning and ending dates; start-up date must be at least sixty (60) days after approval of project.)
- Name, address and telephone number of contact person if other than applicant(s)

EXECUTIVE SUMMARY

Briefly describe in one page or less, the problem, need or opportunity to be addressed, the project objectives, a description of the effort and the project's intended economic benefits. The overall background and approach used to address the need or opportunity should be indicated as well as the role the project will play in achieving the objectives identified in this RFP.

IDENTIFICATION OF NEED OR OPPORTUNITY

Clearly state the specific need, problem or opportunity to be addressed, indicating its importance. The proposer should also demonstrate the potential for near-term application of technologies, practices and/or organizational arrangements that will be developed as a result of the project.

Demonstrate economic development potential of the project measured in terms of job creation, capital investment, or other identifiable economic activity.

A statement regarding the degree of innovation or originality of the proposed project is required. If the project involves applied research, indicate how it relates to other research, if any, in order to avoid duplication of effort.

STATEMENT OF OBJECTIVES

A clear, concise description of the objectives of the proposed activity is required. Consistency with the objectives of the program as indicated in the RFP is critical.

DELIVERABLES

Deliverables are the anticipated end product of the proposed project which will make it useful. This section should clearly describe the deliverables which will be provided and indicate how these deliverables will be made available and benefit the agriculture industry after the project is completed.

In addition to a written presentation of findings and recommendations, deliverables may be provided in a number of forms including, but not limited to one or more of the following:

- publication of "how to" guidelines or instructions
- an analysis of economic, scientific or production feasibility for a specific development project
- publication of a management, business, marketing or capital formation plan
- an engineering design plan, drawing or blueprint
- a new prototype product, machine or process
- a new organization or organizational structure
- an audio-visual presentation of a new product or processing technique or methodology, or marketing and promotion effort

PLAN OF WORK

This section should provide a detailed description of how the proposed project is to be carried out. The plan should indicate the tasks to be performed, who will carry them out, where they will be conducted and a timetable for completion. The work plan should demonstrate the feasibility of conducting the proposed activity and achieving the desired results.

POTENTIAL USE

The practical or commercial application of the proposed project activity is important. This section should indicate the means by which the proposed project activity appears to have potential commercial application or may be broadly identified and quantified to the maximum extent possible. It should also identify the groups or sectors that will benefit from the proposed activity, and if possible, the geographic regions of Montana that may benefit.

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KEY PERSONNEL

This section should identify the key people who will be involved in carrying out the proposed project activity and their qualifications for doing so. Subcontractors, consultants and others not directly associated with the applicant must be included. Qualifications of project participants will be an important consideration in granting funds.

FACILITIES AND EQUIPMENT

This section should briefly describe the facilities and equipment, if any, required to carry out the proposed work. Items to be purchased with grant funds should be fully described and justified in this section. Wherever possible, it is desirable that capital equipment to be funded under the program be leased.

CURRENT AND PENDING SUPPORT

A minimum one-to-one applicant funding match is required for all projects. However, the council reserves the right to waive the matching requirement.

The match may be provided in the form of cash, in-kind services, or other resources, indirect or overhead costs, or a combination of the above. Projects with levels of matching above the one-to-one level will have an advantage in the competitive selection process. The match may be provided by the project sponsor or other supporter(s). The cost of previous research leading to the proposed project will not be considered as an eligible cost for matching purposes.

Funds from the Agricultural Marketing Enhancement Program will be provided contingent upon receiving necessary funds from other sources, assuming the desired project timetable will be maintained. This section should identify other sources of funds or resources received or to be received, and when they were or are expected to be provided. Further, this section should also demonstrate evidence of industry support. Evidence of a commitment for other required funds or resources must be provided before Agricultural Marketing Assistance Program funding allocations will be finalized.

PROPOSED BUDGET

A Proposed Budget (form attached) must be completed for each project submitted. This form should indicate grant funds requested by expenditure category, as well as the amount or value of the applicant's matching contribution. Please refer to the "Current and Pending Support" section of this RFP for matching requirements.

In addition to the Proposed Budget form, proposals must indicate a description of project expenditures, including detail on significant cost items. In all instances, consultant services must be detailed. The number and type of personnel directly involved in the project, their hourly or salaried rates, and estimated work days must be noted. Sources of all applicant contributions must also be indicated and the amount of sponsor cash contributions noted.

The Montana Agriculture Development Council reserves the right to audit an applicant's books and records relating to the performance of the project during and up to four (4) years after completion of the project.

SELECTION PROCESS

Selection of successful proposals will be on a competitive basis. All proposals will be judged against the following criteria, on a weighted average, consistent with the stated objectives of the program:

1. Degree to which the proposed activity addresses a significant industry need or opportunity and evidence of industry support of such an activity. (20 points)
2. Demonstrated experience and ability of applicant to undertake proposed activity. (20 points)
3. Clearly demonstrated potential for near-term commercial application in terms of job creation, capital investment or other identifiable economic activity. (20 points)
4. Adequacy of workplan and timeframe to achieve the activity goals. (20 points)
5. Degree of innovation and originality of proposed activity. (20 points)

In addition, all proposals must include sufficient information to allow the above factors to be judged. Only those proposals which furnish complete information will be considered for evaluation. No partial proposals will be considered. The Montana Agriculture Development Council reserves the right to make a final selection or reject all proposals.

AWARDS

The Montana Agriculture Development Council will fund contracts under the Agricultural Marketing Enhancement Program. Successful applicants will be notified within thirty (30) days and the proposals will commence no sooner than sixty (60) days following council approval.

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Selected projects must comply with all applicable federal, state and local laws, rules and regulations for funds to be awarded. Evidence of such compliance may be required.

A contract defining all project terms, conditions and responsibilities of the applicant will be developed by the council. The contract will, in addition, clarify all legal patents and proprietary rights that will result from the proposed activity. The contract will incorporate this RFP and the successful applicant's final proposal among its provisions.

Each applicant whose proposal is not chosen for funding will be notified in writing by the council. The notification will include an explanation of the council's reasons for not funding the proposal.

REPORTING REQUIREMENTS

The Montana Agriculture Development Council will be responsible for monitoring each funded project.

Specific terms and conditions of each funded project will be contained in the formal contract.

The council reserves the right to determine the extent of reporting requirements, subject to modification in the course of the project. Interim reporting requirements will be based on the cost, duration and nature of the project. A comprehensive final report (original and 3 copies) will be required within ninety (90) days of completion of the project. The final report should include:

- a comparison of actual findings and accomplishments of the project with goals and objectives described in proposal;
- reasons for deviation from established goals of proposal;
- a clear description of the commercial application and economic benefits which accrued during the course of the project,
- a description of its immediate impacts,
- an estimate of its long-term commercial and economic benefits.

In addition to the final project report, the council reserves the right to conduct a follow-up survey of funded projects in order to determine long-term impacts.

OWNERSHIP AND PUBLICATION OF MATERIALS

All information and materials generated by the proposed activity become the sole property of the State of Montana. The grant recipient will retain the right to utilize, reprint and distribute all said information and materials.

LIABILITY

The Montana Agriculture Development Council will not be held liable for any costs incurred by any firm for work performed in the preparation of and production of a proposal or for any works performed prior to the formal execution of a contract.

RIGHT TO KNOW

Proposals selected for funding and all related contracts shall be subject to disclosure under the Montana Right to Know Law. Further, proposals not selected for funding will be subject to disclosure under the Right to Know Law.

OTHER CONSIDERATIONS

The council reserves the right to:

- Reject any or all proposals received in respect to this RFP
- Waive or modify minor irregularities in proposals received after prior notification and concurrence of applicant
- Clarify the scope of this RFP, within the program requirements and with appropriate notice to all applicants, to best serve the interests of the state of Montana
- Amend the RFP specifications after their release, with appropriate written notice to all potential applicants
- Require a good faith effort on the part of the project sponsors to work with the council and the Department of Agriculture.

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THE MONTANA GROWTH THROUGH AGRICULTURE PROGRAM
AGRICULTURAL MARKETING ENHANCEMENT PROGRAM

PROPOSED BUDGET

PROJECT TITLE:

PROJECT APPLICANT:

PRINCIPAL CONTACT:

PROJECT DURATION:

EXPENDITURE CATEGORY	GRANT FUNDS REQUESTED	APPLICANT MATCH	TOTAL
Salaries and Wages			
Fringe Benefits			
Consultant Services			
Travel			
Advertising & Promotion			
Equipment			
Supplies & Materials			
Communication			
Data Processing			
Indirect & Overhead	XXXXXXXXXXXXXXXXXX		
Other (Specify)			
TOTAL			

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AGRICULTURE DEVELOPMENT COUNCIL
SEED CAPITAL LOAN PROGRAM

Executive Summary

An applicant for a seed capital project loan shall submit a brief executive summary of the proposed project to the Council. The executive summary must include the following:

1. A description of the agricultural product and\or process being developed or marketed with particular emphasis on any proprietary characteristics which would result in a competitive advantage for the applicant.
2. A characterization of the market for the product or the process, including potential size, customers, and methods required for selling the product or process to the market.
3. A description of what the loan is being requested for and a projected project cost.
4. A description of the management team's experience and qualifications which are relevant to the particular agricultural business area which the company is proposing to enter.

The executive summary is evaluated for a determination of whether or not the project should be advanced to the business plan development and review phases. Please be advised that there is a statutory requirement for matching funds. See enclosed statute 90.9.301 for further clarification. Also when advanced to the application stage you will be required to provide a certified appraisal of your collateral.

All information provided to the Council/Department of Agriculture is subject to public disclosure.

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MONTANA DEPARTMENT OF AGRICULTURE
MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
AGRICULTURE\LIVESTOCK BUILDING
CAPITOL STATION
HELENA, MONTANA 59620

APPLICATION FOR SEED CAPITAL INVESTMENT LOAN

Name of Applicant		
Name of Business	Tax I.D. No.	
Full Street Address	Tel. No. (inc. A/C)	
City	State	Zip

If there is more than one applicant enter the relevant information below:

Name of Co-applicant		
Name of Business	Tax I.D. No.	
Full Street Address	Tel. No. (inc. A/C)	
City	State	Zip

Name of Co-applicant		
Name of Business	Tax I.D. No.	
Full Street Address	Tel. No. (inc. A/C)	
City	State	Zip

Purpose for which loan is requested (Please give a brief explanation)

Use of Proceeds: (Enter Gross Dollar)	Amount of Loan Requested	Identify Amount & Source of Matching funds	Total Project Cost
New Construction/ Expansion/Repair of Real Estate			
Acquisition and/or Repair of Machinery & Equipment			
Inventory Purchase			
Working Capital/ Operating funds			
Land/Building Acquisition			
Other			
Total			

Term of Loan Requested: _____ (Maximum term = five (5) years)

THE FOLLOWING FORMS MUST BE COMPLETED WHERE APPLICABLE. ALL QUESTIONS ANSWERED ARE MADE A PART OF THE APPLICATION.

For ADC Loans please provide an original and nine copies (Photocopy is Acceptable) of the Application Form, and all Exhibits to the Agriculture Development Council.

1. Submit a cover letter briefly identifying your proposed project and giving a description of other sources of capital. The cover letter must also contain the names and phone numbers of at least three individuals who could provide the Council with a threshold review of the products, technology, process, and market potential of the prospective activity if such review is deemed necessary by the Council.
2. Furnish a signed current personal and/or corporate financial statement (ADC Form 1 may be used for this purpose) for each individual, or principal stockholder who will guarantee the loan requested. Social Security/Tax ID number should be included on financial statements. Also include the last three years federal income tax returns for the same above. (Please mark these Exhibit A)

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ADC Application/page 3

3. Include the following additional financial/proforma statements.
 1. Profit or loss statements (Existing business/corporation if applicable) showing previous two years and estimate of current year. ACD Form 2.
 2. Proforma project profit and loss projection for five (5) years. ADC Form 3.
See attached ADC forms
 3. Schedule of collateral proposed to secure requested loan. ADC Form 4.
4. Complete the Marketing Plan and Management Structure (ADC Forms 5 & 6) questionnaires.
5. Have you or any officers of your company ever been involved in bankruptcy or insolvency proceedings. If so, please provide the details in the space provided below. Yes No

6. Are you or your business involved in any pending lawsuits? If yes, provide the details in the space provided below. Yes No

7. Does you or your business, its owners or majority stockholders own or have a controlling interest in other businesses? If yes, please provide their names and the relationship with your company along with a current balance sheet and operating statement for each. This should be Exhibit B.
8. Provide the names, addresses, and phone numbers of three (3) personal references. This should be Exhibit C.
9. Additional information may be requested as deemed necessary.

ADC Application/page 4

I/we certify that the proposed business/purpose for which this loan is requested is or will be located in the state of Montana. I/we certify that the statements made in this application, financial statement, and profit or loss statement are true complete and accurate to the best of my/our knowledge and belief, and are made in good faith to obtain a loan. I/we understand that false information or misrepresentation of information on this application, financial statement, and profit or loss statements or other documents will be reasonable cause for denial of my/our request or resulting loan to be called immediately due and payable.

If Applicant is a proprietor or general partner, sign below:

By: _____ Date _____

By: _____ Date _____

By: _____ Date _____

By: _____ Date _____

If applicant is a Corporation, sign below:

Corporate Name and Seal _____ Date _____

Affix corporate seal here _____

By: _____ Signature of President

Attested by: _____ Signature of Corporate Secretary

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MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
PERSONAL FINANCIAL STATEMENT

Complete this form if 1) a sole proprietorship by the proprietor; 2) a partnership by each partner; 3) a corporation by each officer and each stockholder with 20% or more ownership; 4) any other person or entity providing a guaranty on the loan.

Name _____ Resident Phone _____

Resident Address

City, State & Zip

Business Name of Applicant/Borrower

ASSETS (Omit Cents) **LIABILITIES** (Omit Cents)

Cash on hand & in Banks.....	\$ _____	Accounts Payable.....	\$ _____
Savings Accounts.....	_____	Notes Payable (to Banks & Other Describe in Section 2).....	_____
IRA.....	_____	Installment Account (Auto) Mo. Payments \$ _____	_____
Accounts & Notes Receivable Describe in Section 6).....	_____	Installment Account (Other) Mo. Payments \$ _____	_____
Life Insurance -Cash Surrender Value Only.....	_____	Loans on Life Insurance.....	_____
Stocks & Bonds Describe in Section 3).....	_____	Mortgages on Real Estate..... Describe in Section 4).....	_____
Real Estate Describe in Section 4).....	_____	Unpaid Taxes Describe in Section 7).....	_____
Automobile - Present Value.....	_____	Other Liabilities Describe in Section 8).....	_____
Other Personal Property Describe in Section 5).....	_____	Total Liabilities.....	_____
Other Assets Describe in Section 6).....	_____	Net Worth.....	_____
Total.....	\$ _____	Total.....	\$ _____

Section 1. Source of Income	Contingent Liabilities
Salary.....\$	As Endorser or Co-Maker.....\$
Net Investment Income.....	Legal Claims & Judgments.....
Real Estate Income.....	Provision for Fed Income Tax.....
Other Income (Describe)*.....	Other Special Debt.....

Description of items listed in Section 1 _____

**(Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income.)*

Section 2. Notes Payable to Banks and Others

Name & Address of Noteholder	Original Balance	Current Balance	Payment Amount	Terms (Monthly-etc)	How Secured or Endorsed -- Type of Collateral

(Response is required to obtain a benefit)

Section 3. Stocks and Bonds (Use separate sheet if necessary)

No. of Shares	Names of Securities	Cost	Market Value Quotation/Exchange	Date Amount

Section 4. Real Estate Owned. (List each parcel separately. Use supplemental sheets if necessary. Each sheet must be identified as a supplement to this statement and signed.)

Address Type of Property	Title is in name of	Date Purchased	Original Cost	Present Value	Mortgage Balance	Amount of Payment	Status of Mortgage

Section 5. Other Personal Property. (Describe, and if any is mortgaged, state name and address of mortgage holder and amount of mortgage, terms of payment, and if delinquent, describe delinquency.)

Section 6. Other Assets, Notes & Accounts Receivable (Describe)

Section 7. Unpaid Taxes (Describe in detail, as to type, to whom payable, when due, amount, and what if any, property the tax lien attaches)

Section 8. Other Liabilities (Describe in detail)

Section 9. Life Insurance Held (Give face amount of policies -- name of company and beneficiaries)

Lender is authorized to make all inquiries deemed necessary to verify the accuracy of the statements made herein and to determine my/our creditworthiness.

- (I) or (We) certify the above and the statements contained in the schedules herein are a true and accurate statement of (my) or (our) financial condition as of the date stated herein.

Signature

Signature

Date

Social Security No.

Social Security No.

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Mar. 4th. 1991

**MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
PROFIT AND LOSS STATEMENT**
(Attach narrative explaining basis for figures
showing receipts, expenses, and profits)

	Actual	Actual	Current
Year			
Income Sources			
	\$		
Gross Receipts			
Merchandise Cost			
Gross Profit			
EXPENSES			
Officers Salaries (if corporation)			
Employee Wages			
Contracted Services.			
Accounting and Legal Fees.			
Advertising.			
Rent/Lease			
Depreciation			
Supplies			
Utilities(electric, gas, water, tele)			
Gasoline/Fuel/Oil.			
Repairs and Maintenance.			
Interest Payment/Ag Dev. Council .			
Interest (Other Creditors)			
Other Interest			
Taxes(Real Estate, Personal Prop.)			
Storage.			
Insurance.			
Bad Debts.			
Miscellaneous (postage, etc.) . . .			
TOTAL OPERATING EXPENSES . . .			
NET PROFIT			
Less Income Taxes			
NET PROFIT AFTER TAXES			
Cash Outlays for capital purchases			
Principle debt payment, ADC,others			
(Proprietorship/Partnership, Corporation)			
NET PROFIT			

MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
PROJECTED PROFIT OR LOSS (Proposed Project Only)
ESTIMATED PROJECTION AND FORECAST FOR FIVE YEARS EARNINGS
 (Attach narrative explaining basis for figures
 showing receipts, expenses, and profits)

	Year	_____	_____	_____	_____	_____	_____
Income Sources		\$	_____	_____	_____	_____	_____
Gross Receipts			_____	_____	_____	_____	_____
Merchandise Cost			_____	_____	_____	_____	_____
Gross Profit			_____	_____	_____	_____	_____
EXPENSES							
Officers Salaries (if corporation)			_____	_____	_____	_____	_____
Employee Wages			_____	_____	_____	_____	_____
Contracted Services.			_____	_____	_____	_____	_____
Accounting and Legal Fees.			_____	_____	_____	_____	_____
Advertising.			_____	_____	_____	_____	_____
Rent/Lease			_____	_____	_____	_____	_____
Depreciation			_____	_____	_____	_____	_____
Supplies			_____	_____	_____	_____	_____
Utilities(electric,gas,water,tele)			_____	_____	_____	_____	_____
Gasoline/Fuel/Oil.			_____	_____	_____	_____	_____
Repairs and Maintenance.			_____	_____	_____	_____	_____
Interest Payment/Ag Dev. Council .			_____	_____	_____	_____	_____
Interest (Other Creditors)			_____	_____	_____	_____	_____
Other Interest			_____	_____	_____	_____	_____
Taxes(Real Estate, Personal Prop.)			_____	_____	_____	_____	_____
Storage.			_____	_____	_____	_____	_____
Insurance.			_____	_____	_____	_____	_____
Bad Debts.			_____	_____	_____	_____	_____
Miscellaneous (postage, etc.)			_____	_____	_____	_____	_____
TOTAL OPERATING EXPENSES.			_____	_____	_____	_____	_____
NET PROFIT			_____	_____	_____	_____	_____
Income Taxes.			_____	_____	_____	_____	_____
NET PROFIT AFTER TAXES			_____	_____	_____	_____	_____
Cash Outlays for capital purchases			_____	_____	_____	_____	_____
Principal Debt Payment, ADC,			_____	_____	_____	_____	_____
Other Creditors			_____	_____	_____	_____	_____
NET PROFIT			_____	_____	_____	_____	_____

Ex-1
1-17-91
Mar. 4 Rev. 2

MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
SCHEDULE OF COLLATERAL

Applicant

Street Address

City

State

Zip

LIST ALL COLLATERAL TO BE USED AS SECURITY FOR THIS LOAN

Section I - REAL ESTATE

Attach a copy of the deed(s) containing a full legal description of the land and show the location (street address) and city where the deed(s) is recorded. Following the address below, give a brief description of the improvements, such as size, type of construction, use, number of stories, and present condition (use additional sheet if more space is required).

LIST PARCELS OF REAL ESTATE

<u>Address</u>	<u>Year Acquired</u>	<u>Original Cost</u>	<u>Market Value</u>	<u>Amount of Lien</u>	<u>Name of Lienholder</u>

(Description(s):

Section II -- PERSONAL PROPERTY

All items listed herein must show manufacturer or make, model, year, and serial number. Items with no serial number must be clearly identified (use additional sheet if more space is required).

All information contained herein is TRUE and CORRECT to the best of my knowledge.

Date _____

Date

Ex. 1
1-17-91
par. P.D. Am.

MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
BUSINESS/MARKETING PLAN

Please answer the following questions in the space provided below
(If more space is required please attach).

A. Describe the target market for your proposed business's products.

B. Discuss your proposed business's marketing strategy.

C. Describe your competition and what gives your product a competitive advantage.

D. Describe your proposed sales and promotional plans, selling methods and purchasing plan.

**MONTANA AGRICULTURAL DEVELOPMENT COUNCIL
SEED CAPITOL INVESTMENT LOAN
MANAGEMENT**

Please answer the following questions in the space provided below (If more space is required please attach).

A. Describe the ownership structure of the proposed business/and or project.

B. Describe the experience, education and qualifications of your management personnel and their proposed duties. (Attach resumes)

C. Describe the firm's proposed accounting and financial management systems.

D. Describe the proposed business's manufacturing and operations plan.

E. Discuss any license, permits, or regulations that affect your proposed project.

F. Supply a proposed organizational chart (attach) and describe your personnel management plan.

17-91

MONTANA WHEAT AND BARLEY COMMITTEE
FY1990-91 BUDGET

RESEARCH - 38%

Montana State University	<u>\$519,400</u>
Management of Russian Wheat Aphid - 80,000	
Value Enhancement & Marketing of Barley - 80,000	
Spring Wheat Breeding & Genetics - 50,000	
Winter Wheat Breeding & Genetics - 50,000	
Development of Barley Cultivars - 50,000	
Cropping Systems (Research Centers) - 36,000	
Wheat Stem Sawfly Resistance in Wheat - 35,120	
Saturated Barley Linkage Map - 25,000	
Multiple Peril Crop Insurance - 15,000	
Drought Tolerant Barley & HRS/Wtr Hardy HRW - 13,860	
Bare Patch in Cereals - 10,000	
Optimal Fertilization in Central Montana - 10,000	
Resistance to Barley Yellow Streak Mosaic - 10,000	
Impact of New Insect Pests on Yields - 8,500	
Biological Control of Wheat Stem Sawfly - 8,500	
Characterizing Variety Performance to Environment - 8,000	
MAPS Mailbox - 5,600	
Farm-Scale Computer Systems for Soils - 5,200	
Cereal Quality Lab Equipment Acquisition - 4,470	
Initial Investigations on Stripe Rust of Barley - 4,000	
HRS/Safflower Weed Control Comparison - 4,000	
Econ. Response of HRS to Nitrogen During Tillering - 3,150	
Seminar Series for Visiting Ag Scientists - 2,000	
Mapping Malting Barley Production - 1,000	
Roosevelt County Soil Conserv.Dist.	<u>\$10,550</u>
Cheat Grass Study - 10,550	
Northern Montana Research Farm	<u>\$10,000</u>
Building Project - 10,000	

MARKET DEVELOPMENT - 29%

U.S. Wheat Associates	<u>\$241,285</u>
Membership - 231,285	
Special Projects - 6,000	
Trade Teams - 4,000	
U.S. Feed Grains Council	<u>\$ 95,000</u>
Membership - 80,000	
T.E.A. Projects - 10,000	
Special Projects - 3,000	
Trade Teams - 2,000	
Northern Crops Institute	<u>\$ 65,000</u>
General Operating Support - 20,000	
Scholarships-Durum Milling - 20,000	
Extruded Barley Snack Foods - 10,000	
Barley Utilization Promotion - 10,000	
Transportation - 3,000	
Trainee Receptions/Orientation - 2,000	
Mt. Trade Representative (Governor's Office)	<u>\$ 10,000</u>
Durum/HRS Quality Survey, N.D.S.U.	<u>\$ 3,900</u>

TRANSPORTATION/ED- INFORMATION SERVICES - 17%

National Association of Wheat Growers	<u>\$ 40,000</u>
Chemical Committee - 17,500	
Grain Quality Committee - 12,500	
Transportation Committee - 10,000	
Radermacher and Associates	<u>\$ 32,000</u>
Transportation Consultant Retainer - 29,000	
TEA Project (Contingency) - 3,000	
MW & BC In-House Projects	<u>\$ 27,750</u>
Market News Service - 18,000	
"Wheat and Barley News" (<u>Farmer-Stockman</u>) - 9,750	

Montana Wheat and Barley Committee
 FY90-91 Budget
 May 22, 1990
 Page 2

TRANSPORTATION/ED-INFORMATION SERVICES continued:

W.E.T.E.C.	\$ <u>21,000</u>
Membership - 18,000	
Special Projects - 3,000	
Montana Agricultural Statistics Service	\$ <u>19,800</u>
Wheat Stocks by Class - 6,200	
Wheat and Barley Varieties - 5,500	
Wheat Utilization - 2,700	
Barley Stocks -1,600	
Production Forecasts - 1,600	
Barley Sold for Malt -1,200	
Ag Statistics Bulletin - 1,000	
National Barley Growers Association - Barley Promotion	\$ <u>18,200</u>
Montana Department of Agriculture	\$ <u>16,152</u>
Grain Movement Report - 15,652	
Young Ag Couples Conference - 500	
Montana Ag Center and Museum	\$ <u>14,657</u>
Marketing and Transportation Video - 9,657	
Display Construction - 5,000	
Ag in Montana Schools	\$ <u>11,000</u>
Agronomy Video - 10,000	
Lifetime Membership - 1,000	
Wheat Foods Council	\$ <u>10,000</u>
Domestic Wheat Promotion - 5,000	
Membership - 5,000	
National Barley Foods Council	\$ <u>10,000</u>
General Support - 10,000	
Montana Grain Growers Association	\$ <u>5,640</u>
Grain Standards Book - 5,640	
Women Involved in Farm Economics	\$ <u>3,000</u>
Wheat and Barley Promotion in Montana - 3,000	
MW & BC/Brastrup Memorial Scholarship - 2,000	\$ <u>2,000</u>
Chouteau County Fair	\$ <u>1,750</u>
Milling/Baking Quality Analysis - 1,750	
Future Farmers of America	\$ <u>1,200</u>
Officer and Leadership Training - 1,000	
Proficiency Awards - 200	
Montana 4-H	\$ <u>1,000</u>
Bread Scholarships - 1,000	
MSU Ag Economics Department	\$ <u>1,000</u>
Ag Econ Scholarships -1,000	
Montana Aggies	\$ <u>1,000</u>
General Support - 1,000	
Wheat Hearts	\$ <u>500</u>
Bake-a-thon prizes - 500	

OPERATIONS - 16%

\$ **231,268**

Employee Salaries	\$ <u>92,190</u>
Centralized Services, D.O.A.	\$ <u>44,751</u>
Travel	\$ <u>35,326</u>
Employee Benefits	\$ <u>13,870</u>
Communications	\$ <u>11,077</u>
Rent	\$ <u>10,273</u>
Committee Per Diem	\$ <u>7,500</u>
Health Insurance	\$ <u>5,520</u>
Other Contracted Services	\$ <u>5,000</u>
AgriData - 2,400	
Janitorial - 1,200	
Printing - 500	
Engraving/Photo - 300	
Promotional Aids - 400	
Miscellaneous - 200	
Supplies and Materials	\$ <u>3,875</u>
Repair and Maintenance	\$ <u>994</u>
Equipment Purchases	\$ <u>892</u>

TOTAL 1990 - 1991 Budget

\$1,424,052

4
DATE 1-17-91
Lunar Pds. Ave.

1-17-91 EXHIBIT 4

ENVIRONMENTAL MANAGEMENT DIVISION

<u>Budget Item</u>	Actual Fiscal 1990	Appropriated Fiscal 1991	-- Current Fiscal 1992	Level -- Fiscal 1993	Change 1991-93 Biennium
FTE	26.24	28.50	30.42	30.42	1.92
Personal Services	711,932	811,495	859,975	859,693	12.88%
Operating Expenses	248,488	294,283	283,013	283,445	4.36%
Equipment	142,534	91,265	53,853	53,853	-53.93%
Grants	<u>1,088,051</u>	<u>17,081</u>	<u>1,225,613</u>	<u>1,228,495</u>	<u>122.06%</u>
Total Program	\$2,191,005	\$1,214,124	\$2,422,454	\$2,425,486	42.37%
<u>Fund Sources</u>					
General Fund	697,905	762,498	654,982	642,504	-11.16%
State Revenue Fund	1,282,873	195,012	1,469,088	1,474,083	99.15%
Federal Revenue Fund	<u>210,227</u>	<u>256,614</u>	<u>298,384</u>	<u>308,899</u>	<u>30.08%</u>
Total Funds	\$2,191,005	\$1,214,124	\$2,422,454	\$2,425,486	42.37%

Program Description

The Environmental Management Division administers, manages, coordinates, and evaluates the major activities of: 1) pesticide and pest management; 2) analytical laboratory services; 3) weed management (transferred from the Agricultural Development program); 4) agricultural chemical groundwater management; and 5) vertebrate pest management. This program administers the Montana Pesticides Act, Agricultural Chemical Groundwater Protection Act, Crop Insect Detection Act, Vertebrate Pest Management Act, Noxious Weed Trust Fund Act, elements of the Weed Assistance Act, and the department's Chemical Analytical Laboratory. The division's duties include: licensing pesticide products and pesticide users and dealers; providing technical and educational information on pesticides and pest management; issuing noxious weed grants; preventing or remedying effects of agricultural chemicals on groundwater; providing analytical laboratory services; recommending vertebrate pest management techniques; and enforcing compliance with the pesticide and agricultural chemical groundwater act requirements and related program functions.

Current Level Budget

Program current level increases 42.4 percent over the previous biennium due primarily to the transfer of the noxious weed program from the Agricultural Development Division to this division. Grants administered by this program are not reflected in fiscal 1991 appropriations listed in the above table. In addition, personal services increased due to: 1) vacancy savings achieved in fiscal 1990; 2) the pay plan increase in fiscal 1991 which is included in personal services costs in the 1993 biennium; and 3) the increase of 1.92 FTE due to transfer of the noxious weed control program from the Agricultural Development Division. The 4.4 percent increase in operating expenses reflects implementation of the groundwater protection and the well monitoring program operating expansions at the 1991 appropriated levels. The 1989 legislature authorized a 48 percent increase in these programs between fiscal 1990 and 1991, when the programs were expected to become fully operational. Biennial inflationary adjustments of \$9,448 and a \$2,905 biennial increase in fixed costs above fiscal 1990 actual expenditures are included in the 1993 biennium operating costs. Equipment at historical expenditure levels has been included. The legislature approved one-time equipment expenditures for a gas

ENVIRONMENTAL MANAGEMENT DIVISION

chromatograph/mass spectrometer and related data systems which were budgeted at \$135,592 in the 1991 biennium and were removed in calculating the historical level.

The program's largest funding source is the state special revenue funds collected from noxious weed vehicle registration fees, herbicide surcharges, and commercial feed and fertilizer registration and inspection fees. The large increase in state special revenue funding results from the inclusion in this division's budget of noxious weed vehicle registration and herbicide surcharge funds used to finance the noxious weed program and its grants. Federal funds consist of pest control grants and miscellaneous federal assistance. General fund is used to finance a portion of all the programs in the division except noxious weed and vertebrate pest control.

Executive Budget Modifications

Pesticide Program Workload

The Executive Budget includes \$142,943 for the biennium and 1.18 FTE in fiscal 1992 and 1.25 FTE in fiscal 1993 to handle the growing number and complexity of pesticide investigations. The request for additional FTE is set forth in Table 3.

Table 3
Department of Agriculture
Pesticide Program FTE Modification

<u>Position</u>	<u>FY 92 FTE</u>	<u>FY 93 FTE</u>
Pest. Specialist	0.50	0.50
Chemist	0.50	0.50
Lab Typist	<u>0.18</u>	<u>0.25</u>
Total	1.18	1.25

The pesticide specialist would provide assistance to the Field Services Bureau on the compliance program and managing personnel for the pesticide as well as

the groundwater programs. The chemist position would analyze the increased numbers of pesticide and groundwater samples. The clerk typist would handle the projected increase in sample analysis reports and related documentation. The Field Services Bureau's current level is funded from the general fund and federal funds. However, the division plans to fund the existing program and these additional positions by raising the registration fee from \$90 to \$200 and depositing total receipts in a state special revenue account, rather than in the general fund as provided under current law. Of the proposed \$110 increase, \$15 would be used to fund this modification and the remainder would be used to help fund the modification discussed below. In addition, this request includes \$63,315 for a contract with Montana State University Extension Service to develop a training program for retailers selling home, yard, and garden pesticides and for urban consumers. Funding for this training program would be from a proposed new license fee of \$45 collected from an estimated 1,600 retailers.

Groundwater Program Workload

The Executive Budget includes requesting \$699,274 for the biennium and 1.94 FTE in fiscal 1992 and 2.25 FTE in fiscal 1993 to expand education and prevention efforts concerning the impact of agricultural chemicals on the state's groundwater. The 1989 legislature passed the Agricultural Chemical Ground Water Act which increased pesticide registration fees by \$15 to implement a general management plan, adopt rules to implement specific management plans, and undertake some groundwater monitoring. In addition, a \$10 registration fee increase in fertilizer registrations was enacted to fund mitigation of groundwater problems caused by fertilizers. The 1989 legislature funded the groundwater program expansion at \$52,901 and 0.24 FTE for fiscal 1990 and \$59,901 and 1.00 FTE for fiscal 1991. It also approved three other groundwater connected program expansions (pesticide labeling, well monitoring, and equipment purchases) totalling

ENVIRONMENTAL MANAGEMENT DIVISION

\$121,823 and 0.50 FTE in fiscal 1990 and \$142,626 and 2.00 FTE in fiscal 1991. The division wants to expand the program's educational and preventive efforts and provide monitoring of specific management plans at several sites. The request for additional FTE is detailed below.

Table 4
 Department of Agriculture
 Groundwater Program FTE Modification

<u>Position</u>	<u>FY 92 FTE</u>	<u>FY 93 FTE</u>
Pest. Specialist	0.50	0.50
Chemist	0.50	0.50
Lab Typist	0.19	0.25
GW Specialist	<u>0.75</u>	<u>1.00</u>
Total	1.94	2.25

The department proposes to increase pesticide registration from \$90 to \$200. Of the \$110 increase, \$95 would be used to partially fund this modification in the groundwater program with the remainder coming from EPA grants.

Issues

Pesticide Registration Fee Increases

The 1989 legislature enacted two bills which increased pesticide registration fees. House Bill 190 increased registration fees from \$50 to \$75. House Bill 757, which established the Agricultural Chemical Groundwater Protection Program, increased registration fees by \$15 to \$90. The department is proposing legislation during the 1991 session that would increase pesticide registration fees to \$200 to fund pesticide and groundwater program expansions and portions of the existing programs, which are now funded primarily from general fund.

The department's revenue projections for these fee increases are based on an estimated 4,900 annual pesticide

registrations. Historically, the number of registrations have been:

Calendar Year

1990	4,862
1989	4,877
1988	4,983
1987	4,699
1986	4,421

If registration fees are increased to \$200, they will have increased 300 percent in three years and be among the highest in the nation. Pesticide registrants must also pay federal Environmental Protection Agency (EPA) maintenance fees on each pesticide product. In 1991, this fee is expected to be \$1,300 per product. Some registrants may choose not to renew their registration if costs increase. In addition, EPA is considering canceling 1,366 products if re-registration data gaps are not filled. Given these factors, the department's revenue estimates may be based on an unrealistic number of pesticide registrations.

Diverting General Fund to State Special

In addition to the pesticide registration fee increase discussed above, the department is also proposing legislation to establish a \$45 licensing fee assessed on dealers of home, yard, and garden use pesticides. Total fee collections, including the fee increases, would be deposited in two new state special revenue accounts, instead of being deposited in the general fund. The Executive Budget uses these earmarked revenues to fund \$221,346 of agency indirect costs, a portion of the existing groundwater and pesticide programs, and the proposed expansions in these programs for the 1993 biennium. These proposed actions will reduce general fund expenditures by approximately \$1.33 million and general fund revenues by \$1.04 million, for a net general fund savings of approximately \$297,000. However, total fees collected from the industry will more than double, increasing \$1.23 million over the current biennium. These proposed actions would also

ENVIRONMENTAL MANAGEMENT DIVISION

increase the number of "earmarked" special revenue accounts. The 1989 legislature enacted Senate Bill 78, which de-earmarked several state special

revenue funds and required money in those accounts to be deposited in the general fund.

ENVIRONMENTAL MANAGEMENT DIVISION

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992			Base	Fiscal 1993 Incr/Decr	Base	Fiscal 1993 Incr/Decr	Recommended
			Base	Incr/Decr	Recommended					
Full Time Equivalent Employees										
Personal Services	28.16	30.42	30.42	3.12	33.54	30.42	3.50	30.42	3.50	33.92
Operating Expenses	711,933.23	864,426	859,931	95,221	955,152	859,653	103,858	955,152	103,858	963,511
Equipment	248,473.39	320,654	326,257	161,803	488,060	328,823	214,177	488,060	214,177	543,000
Grants	58,440.82	91,967	40,467	155,533	196,000	40,467	89,561	196,000	89,561	130,028
Total Agency Costs	\$2,106,897.44	\$2,560,332	\$2,510,536	1,283,881	-41,187	1,242,694	1,283,881	1,242,694	-38,305	1,245,576
General Fund	613,804.53	762,498	707,989	-483,862	224,127	709,141	-631,375	709,141	-631,375	77,766
State Special Revenue Fund	1,282,866.91	1,541,220	1,542,576	780,913	2,323,489	1,543,037	926,984	1,543,037	926,984	2,470,021
Federal Special Revenue Fund	210,226.00	256,614	259,971	74,319	336,290	260,646	73,682	336,290	73,682	336,328
Total Funding Costs	\$2,106,897.44	\$2,560,332	\$2,510,536	\$371,370	\$2,881,906	\$2,512,824	\$369,291	\$2,512,824	\$369,291	\$2,882,115

OVERVIEW

The Environmental Management Program administers, manages, coordinates and evaluates the major activities of: (1) Pesticide and Pest Management, (2) Laboratory Services (analytical), (3) Weed Management, (4) Ground Water Management (Agricultural Chemical) and (5) Vertebrate Pest Management. These programs incorporate the following elements: licensing pesticide products and pesticide users and sellers; providing technical and educational information on pesticides and pest management; issuing noxious weed grants; prevention or remediation of agricultural chemicals that may effect ground water; providing laboratory analytical services; recommending vertebrate pest management techniques; and enforcing compliance with the pesticide and agricultural chemical ground water act requirements and related program functions.

These five program activities are further delineated in this document. Control variable CV30100 "Administration" while assigned for budgeting purposes to the Pesticide and Pest Management Program activity; it provides

DATE 1-17-91
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ENVIRONMENTAL MANAGEMENT DIVISION

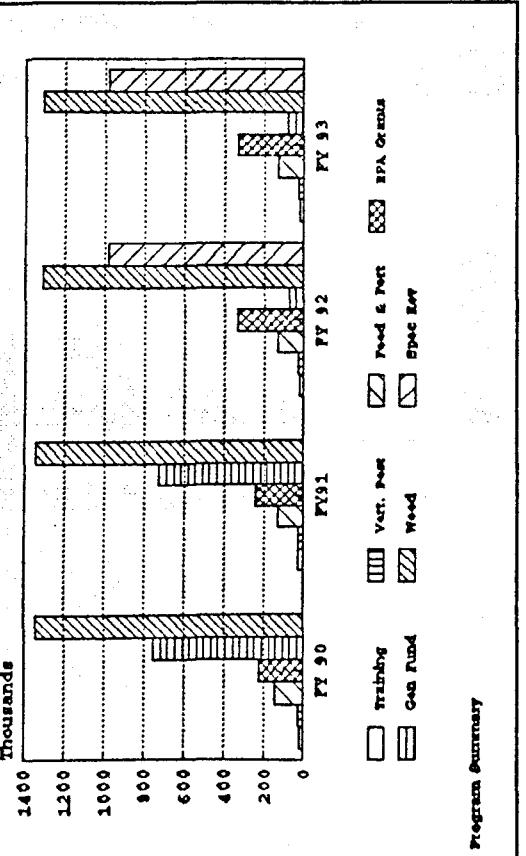


Figure 10

established, the budget reflects all pesticide programs elements other than ground water. Figure 12 illustrates the funding for administration of the 1991 Agricultural Chemical Ground Water Act through increased pesticide registration fees.

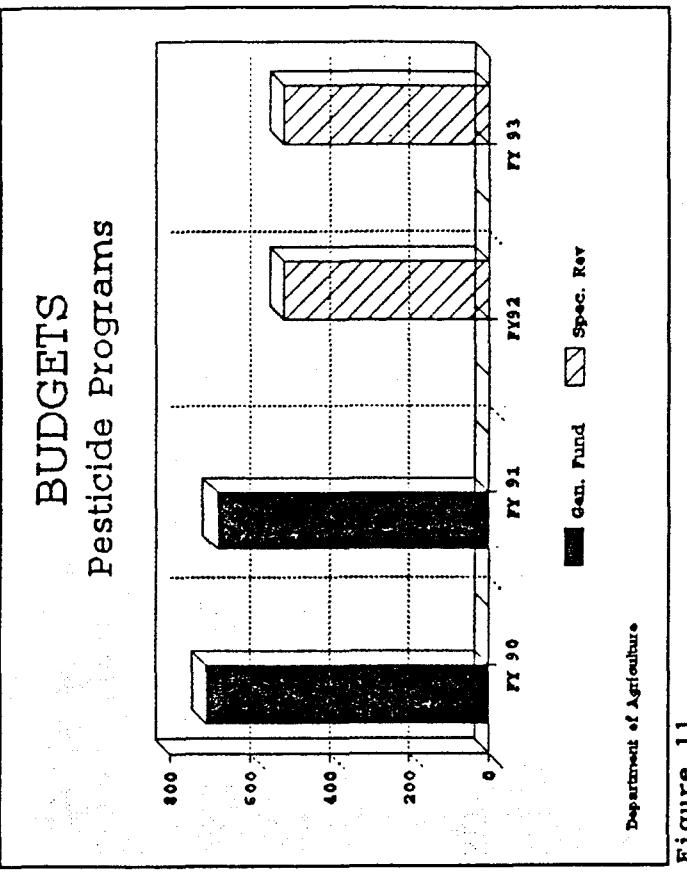


Figure 11

Figures 11 and 12 specifically illustrate the conversion of program funding for the pesticide and ground water programs from general funds to special revenue funds. Figure 11 depicts a decrease in the pesticide program, however, because pesticide funds have been used since 1984 to support a minimal pesticide ground water program and now that a specific program for ground water has been

The proposed changes in funding of the pesticide and ground water programs, (reallocation of current level personnel and operational funds between these programs; use of new proposed revenues, increased revenues from registration and licensing fees, conversion from general to special revenue funds; proposed funding increases for these two programs), makes it difficult to specifically track the change in

proposed funding levels within the EMD programs (Pesticide and Pest Management, Laboratory Services Program and the Ground Water Program) and between control variables.

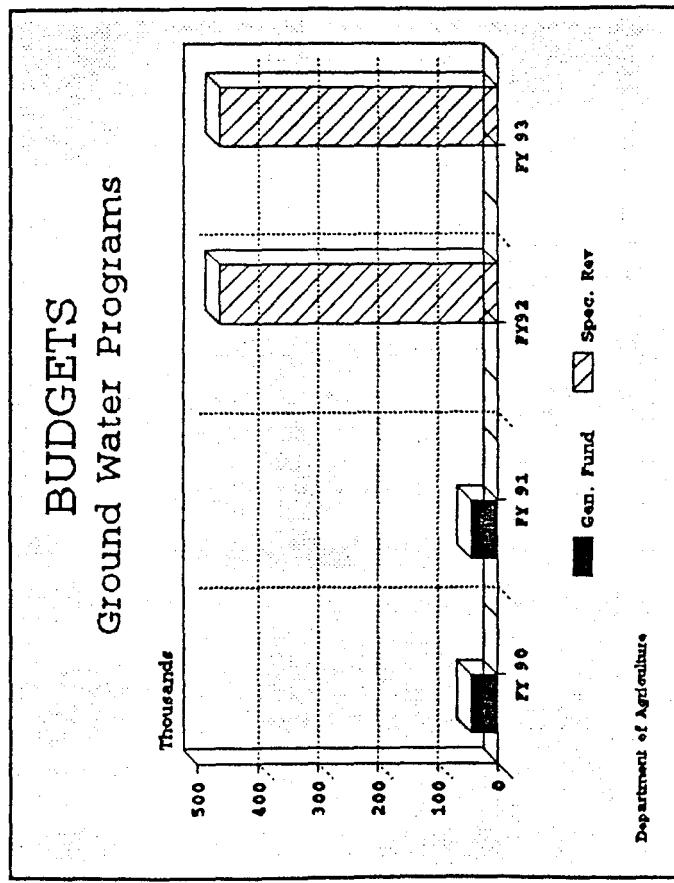


Figure 12

EXHIBIT 5
DATE 1-17-91
HB-Dar Rev. Awd

VERTEBRATE PEST MANAGEMENT PROGRAM

	Fiscal 1990		Fiscal 1991		Fiscal 1992		Fiscal 1993	
	Actual	Appropriated	Base	Incr/Decr	Recommended	Base	Incr/Decr	Recommended
Full Time Equivalent Employees	.00	.00	.00	.00	.00	.00	.00	.00
Personal Services	0.00	600	600	0	600	600	0	600
Operating Expenses	505.43	6,912	6,960	12	6,972	7,002	6	7,008
Grants	0.00	17,081	17,081	0	17,081	17,081	0	17,081
Total Agency Costs	\$505.43	\$24,593	\$24,641	\$12	\$24,653	\$24,683	\$6	\$24,689
State Special Revenue Fund	505.43	24,593	24,641	12	24,653	24,683	6	24,689
Total Funding Costs	\$505.43	\$24,593	\$24,641	\$12	\$24,653	\$24,683	\$6	\$24,689

GOALS CV30033 Vertebrate Pest Management (VPM) Technical Service Bureau

* Issue grants or contract with individuals, universities, other states, state or federal agencies, or other entities considered appropriate to conduct vertebrate pest management projects.

* Support development of registration data on rodenticides required by EPA.

* Support vertebrate pest management research and evaluation projects.

* Educate farmers and ranchers and the general public regarding vertebrate pest management.

AUTHORIZATION

80-7-1101 et seq, MCA Vertebrate Pest Management Act. Authorizes the department to impose a surcharge of 5 cents per dollar on the retail sales price of all rodenticides registered for field rodent control in the state. Allows

for the establishment of a vertebrate pest management advisory council who provide advise to the department on the disbursement of the rodenticide surcharge funds.

BASE PROGRAM

The Vertebrate Pest Management Act imposes a 5% surcharge on the retail sale of all rodenticide registered for field rodent control in the state. The monies collected are used for maintaining rodenticide registrations and to support rodenticide research and educational programs. In terms of dollars and amount used, the strychnine grain baits were by far the most heavily used product in the state. A court order from the 9th District Court in 1988 temporarily suspended all above ground uses of strychnine. This court order is still in effect and as a result strychnine products cannot be used (or sold) to control ground squirrels and prairie dogs. It may still be used underground to control pocket gophers. The use of strychnine has declined dramatically. Current projections for surcharge monies generated in 1989 are estimated at \$1500-\$1600. This is a reduction from the estimated \$25,000 revenue projection when the surcharge was enacted by the 1987 Legislature. Obviously the ability to fund any

significant projects has been severely curtailed. The department has conducted research with USDA and anticipates continuation of research at a reduced level. The purpose of the research is to collect EPA required pesticide registration data.

BASE FUNDING

There are no positions funded by this program. \$600 is provided by personal services to pay for the per diem of advisory council members. The funding is State Special Funds.

PERFORMANCE INDICATORS		FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Rodenticide Research	1	1	1	1	1
<u>Vertebrate Pest/Pesticide Education</u>					
Farmer/Rancher	20	25	25	25	25
Commercial, Government	4	5	5	5	5

1-17-91
HB 4 Mr. D. Lee

PESTICIDE AND PEST MANAGEMENT PROGRAM

	Fiscal 1990		Fiscal 1991		Fiscal 1992		Fiscal 1993	
	Actual	Appropriated	Base	Incr/Decr	Recommended	Base	Incr/Deer	Recommended
Full Time Equivalent Employees								
Personal Services	462,131.33	524,780	519,926	41,840	561,766	519,777	42,938	562,715
Operating Expenses	124,121.95	149,963	154,137	21,186	175,323	156,470	31,650	188,120
Equipment	34,559.67	12,615	12,615	-28	12,587	12,615	-7,145	5,170
Total Agency Costs	\$620,818.95	\$687,358	\$686,678	\$62,998	\$749,676	\$688,862	\$67,143	\$756,005
General Fund	517,638.10	570,491	565,899	-358,821	207,078	567,090	-458,783	108,307
State Special Revenue Fund	10,922.59	15,439	15,416	412,373	427,789	15,414	517,437	532,851
Federal Special Revenue Fund	92,258.26	101,428	105,363	9,446	114,809	106,358	8,489	114,847
Total Funding Costs	\$620,818.95	\$687,358	\$686,678	\$62,998	\$749,676	\$688,862	\$67,143	\$756,005

GOALS - Pesticide and Pest Management Programs (PPMP) Administration

- * To ensure efficient and effective management of the department's programs assigned to the Environmental Management Division.
- * Additional goals for the PPMP are outlined in the Field Services Bureau and Technical Services Bureau goal definition areas that follow.

AUTHORIZATION

The specific statutes the administrative unit is responsible for are set forth within each of the five Environmental Management program activities. These statutes are: 80-8-101 et seq, MCA; 80-15-101 et seq, MCA; 80-7-701 et seq, MCA; 80-7-801 et seq, MCA; 80-7-501 et seq, MCA; 80-7-701 et seq, MCA; 80-7-1101 et seq, MCA; 75-1-101 et seq, MCA; and 7 U.S.C. 121 et seq.

BASE PROGRAM

The administrative unit of the Environmental Management Division is responsible for the development, implementation

and evaluation of the authorized division budgets. This unit monitors annual budgets to ensure proper and approved expenditures.

The administrative unit is responsible for personnel management to ensure that state, department, and division policies are consistently and uniformly administered. This unit directs and monitors three bureaus to ensure that the goals, objectives and special projects are accomplished in a timely manner and in compliance with state laws and department policies.

The administrative unit provides direction and advice on controversial issues and special problems with the regulated industry, agricultural groups and associations, and the public. The administrative unit recommends to and implements for the director compliance and enforcement actions for pesticides and agricultural chemicals in ground water.

The administrative unit staff provides support to the division's staff by: preparing documents, correspondence, grants and reports; maintaining division personnel files, time and attendance reports for payroll; coding division bills and reconciling them with SBAS; purchasing and inventorying supplies and equipment; maintaining a variety

of files; directing public inquiries to division personnel; typing staff correspondence and reports; and providing receptionist duties.

BASE FUNDING

The administrator and 2 secretarial/clerical positions are funded by the general fund.

PERFORMANCE INDICATORS

Monitors and evaluates performance indicators for the five major division program activities.

Resolves issues related to problems in accomplishing the program indicators.

GOALS

CV30200 PPMP Field Services Bureau

- * Protect agricultural crops and commodities, human health and the environment by ensuring that pesticide use and sales are in compliance with applicable statutes (FIFRA, MPA and Ground Water) and rules.

- * Investigate and provide remedial assistance and compliance standards at sites of pesticide incidents and spills to reduce impacts on agriculture, environment and human health.
- * Ensure pesticides are sold and used by trained and qualified persons by assisting in training courses and in the preparation of educational materials and examinations.

AUTHORIZATION

7 U.S.C. 121 et seq. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA, as amended, provides for the registration and classification of pesticides under the authority of the Environmental Protection

Agency. Provides for the certification of pesticide applicators to use restricted use pesticides and grants the states certain regulatory authority. Establishes penalties for the misuse of pesticides.

80-8-101 et seq. MCA Montana Pesticides Act. Provides for the registration and classification of pesticides under the authority of the Department of Agriculture. Provides for the licensing and training of pesticide applicators and dealers. Establishes enforcement authority and penalties for the improper use and sale of pesticides.

80-15-101 et seq. MCA Montana Agricultural Chemical Ground Water Protection Act. Authorizes the department to develop agricultural chemical ground water management plans. The plans must meet the objectives of preventing ground water impairment, minimizing the presence of agricultural chemicals in ground water and protecting present and future beneficial uses of ground water. Establishes enforcement authority and penalties ensure compliance with the requirements of the act.

BASE PROGRAM

The primary responsibility of this bureau is to conduct pesticide compliance and enforcement activities. Routine inspections and investigations of discovered, or reported, cases of pesticide misuse or noncompliance are conducted. The bureau investigates pesticide incidents and spills and provides on-site coordination, technical assistance and remedial actions. It participates in pesticide applicator and dealer training by presenting and explaining applicable statutes and rules, and assists in development of pesticide educational and testing materials. Assistance is provided to the general public on legal and safe use of pesticides, applicator and dealer licensing requirements and procedures, and pest control.

The bureau is composed of a Helena-based bureau chief and five pesticide specialists located in field offices at Billings, Bozeman, Glasgow, Great Falls, and Missoula who

are responsible for compliance and enforcement activities within an assigned district.

Compliance activities are conducted according to written quality control standards that describe inspection and investigation procedures, rules for evidence gathering, sampling methodology, inspector safety, minor violations, case preparation and resolution, and other related procedures.

Pesticide Inspections

District specialists inspect licensed commercial and government pesticide applicators, pesticide dealers, and pesticide producing establishments. Inspections of licensed applicators and dealers are accomplished on a four to five year cycle. Major pesticide producing establishments are inspected every two to three years. The small establishments are inspected periodically. If individual problems are noted, inspections are conducted more frequently. Permitted farm applicators (private) are not routinely inspected except for farm applicators applying restricted aquatic herbicides, M-44 cyanide devices, 1080 livestock protection collars, and for special problems.

Inspections of applicators are categorized into agricultural, non-agricultural, experimental, and record keeping inspections for tracking purposes. Records inspections are a separate activity to check applicator and dealer records that are required by federal and state regulations. The time factors involved for the various types of applicator inspections are 20 hours per agricultural inspection, 15 hours per non-agricultural or experimental inspection, and 5 hours per record inspection. Bureau staffing allows for applicator inspections on a four to five year cycle.

The purpose of routine applicator inspections is to determine compliance in areas of pesticide applications, storage, disposal, licensing, equipment operations, safety clothing and equipment, and site contamination. A number of locations have been found to contain residues in soil that exceed safe levels and in several instances pesticides have been found in ground water. More extensive site evaluations have increased the time and resources needed

for sampling, in depth reviews of operations, technical assistance, and additional enforcement/remedial actions to correct problems. FY 92 and FY 93 base performance indicators may be optimistic if further site evaluations require extensive sampling or remedial actions.

Dealer inspections serve to determine the dealer licensing, storage, display and records compliance. Inspection also ensure pesticides being sold to the public are registered, and that restricted-use pesticides are being sold only to certified persons. Retailer inspections are conducted to check the registrations of pesticides and the display and storage of pesticides. The time factor allowed for dealer and dealer records inspections is 5 hours each. Base FY 92 and 93 performance indicators provide for inspections on a 4 to 5 year cycle with current staffing.

In 1988, Montana had 28 establishments registered with the Environmental Protection Agency for production of pesticides, under the State-EPA Cooperative Agreement. The bureau inspects these establishments to check registrations, labels, record keeping, site contamination, disposal, storage, and to sample products being manufactured. In 1989 the number of producers who were repackaging pesticides from bulk containers into smaller containers increased to almost 100. This number will probably double in the near future. Base FY 92 and 93 performance indicators reflect the need to increase the inspection efforts in this area. The time factor for a producer establishment inspection is 15 hours.

Pesticide Investigations

The bureau conducts investigations of alleged pesticide misuse or incidents in response to citizen complaints, agency referrals, and discovery of problems during inspections. The majority of investigations deal with reported damage to humans, crops, environment, wildlife or livestock caused by misuse of pesticides. Additional reasons for investigations include pesticide spills, improper safety equipment, improper disposal, site contamination, adulterated pesticides, and licensing problems. Investigations occupy the majority of staff time during the use season which occurs from mid-April through September.

The number of pesticide investigations is anticipated to stay relatively constant at about 100 per fiscal year, an increase from previous years. This increase is due to more non-ag investigations which is attributed to urban awareness of pesticide use and the growth of the lawn care business in Montana.

The bureau places a priority on responding to complaints of pesticide misuse and collects evidence to determine the validity of the allegations. The time factor allowed for each investigation is 20 hours. This factor is being reviewed by the states and EPA and will probably be revised to about 35 hours per investigation. The complexity of investigations and the time to gather proper evidence has increased.

Each year about two "major cases" are expected. These special investigations usually involve major pesticide damage to agricultural commodities, ground water contamination, and/or exposure of people to pesticides. These major investigations require about 400 hours each.

Pesticide Sampling

Pesticide specialists collect about 40 samples of formulated pesticide end-use products yearly to check that ingredients meet label claims. A very low incidence of adulteration has been found yearly (2-5%). With the increase of bulk repackaging in Montana there is a need to continue this effort at current levels.

Pesticide residue samples are also collected, usually in conjunction with pesticide damage investigations. "Service samples" are collected yearly to provide assistance to farmers who have questions regarding soil residues, water contamination, etc. FY 92-93 indicators are projected for the number of expected routine and major pesticide investigations.

Enforcement Actions

When pesticide violations are documented by inspections or investigations, appropriate actions are implemented. The action is based upon the severity of the violation, the amount of damage caused, applicator or dealer past history of compliance, and other related factors. The bureau is

updating an enforcement response policy that describes a timely and objective method for responding to and resolving violations.

Generally, first time violators receive a notice of violation for minor violations and are reinspected to determine compliance. Licensing and misuse violations resulting in harm may be assessed a civil penalty depending upon the extent of harm and the amount of care exercised by the applicator. Notices of violation for minor violations such as incomplete records can be issued in the field by pesticide specialists.

License suspensions and temporary revocations are used as a compliance tool in major cases. For example, licenses have been suspended until applicators agree to improve operating practices or attend special training. Only in extremely flagrant cases where the department feels the public is at risk will applicator or dealer licenses be revoked.

Embargo or stop sales are placed on pesticide products found to be adulterated or not registered with the state or EPA. These usually remain in place until registration is accomplished or until an agreement is reached with responsible parties for disposition of adulterated products.

The pesticides act allows the department to issue orders in emergencies. This authority has been used at sites where ground water has been contaminated, where pesticides or containers were improperly disposed or abandoned, and similar situations. Pesticide specialists also administer about 400 applicator and dealer tests per year, because the field offices are conveniently located. The bureau also assists in updating training manuals and tests.

Public Assistance

The field office staff receive numerous requests for assistance with licensing and recertification procedures, pesticide use and pest control.

Applicator/Dealer Training

Bureau staff participate as speakers at training courses for pesticide applicators and dealers. The activity provides an opportunity to educate the regulated community on pesticide laws and rules.

BASE FUNDING

The bureau chief and three pesticide specialists are funded by general funds. Two pesticide specialist positions are funded with 57 % general funds and 43 % federal funds.

Participation in Courses

Tests Administered	50	40	40	40	40
Update - Study Manuals	400	400	400	400	400
Update - Pesticide Tests	1	1	1	1	1
<u>Public Assistance</u>					
License/Recertification	2	2	2	2	2
Pesticide Use/Pest Control	300	300	300	300	300

1 Indicators were not enacted for FY 91.

PERFORMANCE INDICATORS

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base	
<u>Pesticide Inspections</u>					
Agricultural Applicators	150	175	160	160	*
Non-Ag Applicators	80	110	70	70	
Experimental Applications	6	5	5	5	
Pesticide Dealers	170	200	10	120	
Producer Establishments	10	10	20	20	*
Applicator Records	200	230	200	200	
Dealer Records	170	220	120	120	
<u>Pesticide Investigations</u>					
Ag Complaints/Misuse	65	39	55	55	*
Non-Ag Complaints/Misuse	40	24	45	45	
Major Investigations	2	2	2	2	
<u>Pesticide Samples</u>					
Residue (soil, water, etc.)	205	270	250	250	*
Formulation Products	46	45	40	40	*
<u>Enforcement Actions</u>					
Civil Penalties Issued	10	10	11	12	*
License Suspension/Revocation	5	4	4	4	
Violation Notices Issued	70	70	0	0	
Product Embargo/Stop Sale	5	5	5	5	
Remedial Plans/Cleanup Orders	2	2	2	2	

Applicator/Dealer Training

Participation in Courses	50	40	40	40	40
Tests Administered	400	400	400	400	400
Update - Study Manuals	1	1	1	1	1
Update - Pesticide Tests	2	2	2	2	2
<u>Public Assistance</u>					
License/Recertification	500	500	500	500	500
Pesticide Use/Pest Control	300	300	300	300	300

AUTHORIZATION

75-1-101 et seq., MCA Montana Environmental Policy Act. Requires environmental assessments and/or environmental impact statements on major state actions which may significantly affect the quality of the human environment.

BASE PROGRAM

Pesticide Registration

7 U.S.C. 121 et seq. Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). FIFRA provides for the registration and classification of pesticides under the authority of the Environmental Protection Agency. Provides for the certification of pesticide applicators to use restricted use pesticides and grants the states certain regulatory authority. Establishes penalties for the misuse of pesticides.

80-8-101 et seq., MCA Montana Pesticide Act. Provides for the registration and classification of pesticides under the authority of the Department of Agriculture. Provides for the licensing and training of pesticide applicators and dealers. Establishes enforcement authority and penalties for the improper use and sale of pesticides.

80-7-1101 et seq., MCA Vertebrate Pest Management Act. Authorizes the department to establish and operate organized and systematic programs for the management and suppression of vertebrate pests.

80-7-501 et seq., MCA Crop Insect Detection and Management Act. Authorizes the department to develop and publish a list of pesticides approved for control of insects and to publish technical guidelines on techniques of controlling insects. Authorizes the department to notify a county of its survey results and state whether an insect infestation is normal or serious. Authorizes the department to review and comment on all county agricultural insect pest management plans.

80-7-701 et seq., MCA Weed Control Act. The department is authorized to provide technical assistance and service to local governments, agricultural producers, and the general public on the management and control of noxious plants.

75-1-101 et seq., MCA Montana Environmental Policy Act. Requires environmental assessments and/or environmental impact statements on major state actions which may significantly affect the quality of the human environment.

BASE PROGRAM

Pesticide Registration

All pesticide products registered by the federal government must be registered annually in Montana when requested by the registrant. This involves approximately 4700-4900 products. An annual certificate of registration is issued to the registrant and all pertinent information on the product is filed (pesticide label and labeling, material safety data sheets). Products for special local needs and products for emergency pest problems (emergency exceptions) are registered for new, special or emergency pest problems. Issuance of these types of registrations (12-15) is very time consuming and usually occurs in late winter and spring each year.

Licensing, Applicators and Dealers

All commercial and government pesticide applicators and dealers are licensed each year, concurrent with the registration of pesticide products. Farm applicators are licensed on a 5 year basis; however, the state is divided into 5 licensing districts, so one district is relicensed each year. The number of farm applicators varies from 500 - 2000 per district.

Certification and Recertification Training

Initial certification training for new commercial and government pesticides applicators is offered once per year. This is a 16 hour training course involving 6-7 staff members plus several extension specialists and paid consultants. Examinations are given at the conclusion of the training session. This training is typically attended by 80-90 persons. A training fee is charged to cover conference room rental, refreshments and travel costs for special instructors.

Recertification training (6 hours) is offered each spring (February) or fall (October) every year. Each applicator category (15 categories including dealers) will receive training at least every other year. A training fee is charged to cover the aforementioned costs. Depending on the size of the categories involved, 4 to 6 training sessions are offered at various locations around the state on an annual basis. Depending on the size of the category, 35-125 persons attend each session.

The Montana State University Extension Service is responsible for providing certification and recertification training for farm applicators. Six hours of recertification training is required for farm applicators within the five year recertification period. Since one district is recertified each year, approximately 1500 farm applicators require recertification annually. The department assists with this effort, usually providing 1-2 people for each recertification training session.

Initial certification and recertification may be accomplished by examination which is optional to training; therefore manuals must be available which contain all the relevant information required by federal and state law. The department has written fifteen of these manuals and updates them periodically to reflect changes in laws and rules, changes in farming practices, new and/or modified uses of pesticides, new application techniques and changing environmental concerns. Applicators requesting manuals are charged a fee that pays for the actual cost of printing the manuals. The department also approves pesticide training for licensing or certification sponsored by industry and agricultural associations (27-40 yearly).

Pest Monitoring

The department assists producers and the public by providing technical and educational training and demonstration programs on vertebrate pests and their control using pesticides and other control techniques.

The department may assist producers, counties and the general public on weed and insect problems by monitoring developing populations. Technical and educational information may be provided on a one-to-one basis or to groups depending on the pest involved and the economic

impact to individual producers as well as to the state as a whole.

Pest monitoring requires frequent field sampling during the spring and summer. When significant pest populations are detected, information on control methods available are provided to those affected. Pest treatment monitoring may be required and efficacy of the treatment method may be assessed. This may require additional sampling and, at times, analyses of environmental parameters may be necessary (i.e., soil, water, vegetation).

New EPA Program Initiatives

The department will be implementing new pesticide initiatives for worker protection, endangered species and disposal and storage of pesticides. Identification of the segments of the pesticide user community that will be affected by the new initiatives will be the primary activity in FY 91. Development of a specific program in each area will occur after EPA finalizes the regulations in each of the aforementioned areas. Implementation of the programs will begin in FY 91 and continue into FY 92 and 93. These activities will require one FTE plus sufficient operational monies.

During FY 91 a plan for ground water protection was issued to the states as part of the 1990 EPA Grant Guidance Package. The ground water initiative is discussed in the ground water activity section.

BASE FUNDING

The bureau chief, six specialists and one clerical position are funded by general funds. A pesticide specialist position is funded by 50% general funds and 50% federal funds.

Provide technical assistance to agriculture community and general public on pesticides and pest management *					
	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base	
<u>Licenses Issued</u>					
Farm Applicators *	2400	2000	1500	500	
Dealers	500	475	450	450	
Commercial Applicators	730	720	700	700	
Noncommercial Applicators	42	40	40	40	
Government Applicators	620	620	600	575	
Operators	1070	1070	1050	1050	
<u>Pesticide products registered</u>	4877	4800	4700	4700	
<u>Pesticide products registered for Special Local Needs (24C) or Emergency Exemption (Section 18)</u>	14	15	15	15	
<u>Initial pesticide training for commercial and government applicators and dealers</u>	100	90	80	80	
<u>Recertification training for commercial and government applicators and dealers (difference based upon category numbers)</u>	350	550	1000	595	
<u>Training sessions approved</u>					
- Private	38	35	35	35	
- Commercial	27	30	30	30	
<u>Training sessions participated in or monitored by staff</u>					
- Private	80	60	50	59	
- Commercial	93	80	70	70	
<u>Update or revise pesticide training manuals and/or bulletins</u>					
- Manuals	4	3	2	2	
- Technical bulletins and reports	10	4	4-5	4-5	

DATE 1-17-91
1-17-91
Natural Resources

PERFORMANCE INDICATORS

FY90 FY91 FY92 FY93
Actual Enacted Base Base

Licenses Issued

Farm Applicators *
Dealers
Commercial Applicators
Noncommercial Applicators
Government Applicators
Operators

Pesticide products registered

for Special Local Needs (24C)
or Emergency Exemption
(Section 18)

Initial pesticide training

for commercial and government
applicators and dealers

Recertification training for
commercial and government
applicators and dealers
(difference based upon
category numbers)

Training sessions approved

- Private
- Commercial

Training sessions participated

- Private
- Commercial

Update or revise pesticide
training manuals and/or
bulletins

- Manuals
- Technical bulletins
and reports

Increases or Decreases from Base

<u>Item</u>	<u>Explanation</u>	<u>Fiscal 1992</u>	<u>Fiscal 1993</u>
Changes in base:			
Full Time Employees	The department proposes the addition of a pesticide specialist III, a chemist IV and the conversion of a 1/2 time clerk typist III to a full FTE. These positions are funded by pesticide special revenues, EPA grant funds and Ground Water special revenues. These positions are needed to assist in handling: complex pesticide investigations and cases; requests for special investigations; and sampling and analysis of pesticide samples all of which have increased. The full clerk typist III position is needed to handle the increase in sample result reports and related correspondence.	1.18	1.25
Personal Services.	Salary and benefits for additional 1.18 and 1.25 FTE in FY 92-93 and increase of workers compensation rates for all pesticide based employees.	41,840	42,938
Operations	Increase involves a \$31,115 and \$32,200 FY 92-93 contract to MSU to implement an education program for pesticide retailers and home owners on use of pesticides in urban areas. The other expenses are for the pesticide specialist field activities and for the analytical supplies and operations costs associated with the increase in samples and their complexity of analysis.	21,186	31,650
Equipment	The decrease in equipment purchases is primarily related to not requesting additional computer and office equipment.	- 28	- 7,445
Funding Changes	In combination the pesticide and ground water programs will result in an overall Division funding change of \$483,862 92 and \$631,375 in FY 93 from general fund to state special revenue. (Reference pages 17 through 19.)		

6201 DEPARTMENT OF AGRICULTURE
50 AGRICULTURAL DEVELOPMENT
000000

DATE : 01/08/91
TIME : 21/29/24
SEL COMPARISONS

01-16-91
etc

5
1-17-91
~~Year. 412 No.~~

**6201 DEPARTMENT OF AGRICULTURE
50 AGRICULTURAL DEVELOPMENT**

DATE : 01/08/91
TIME : 21/29/24

CURRENT LEVEL COMPARISONS

REL COMPARISONS

Budget Item	Actual		Executive		LFA		Executive		LFA		Difference	
	Fiscal 1990	Fiscal 1992	Fiscal 1992	Fiscal 1992	Difference Fiscal 1992	Fiscal 1992	Fiscal 1993	Fiscal 1993	Fiscal 1993	Fiscal 1993	Fiscal 1993	Fiscal 1993
FTE	24.00	20.71	20.71		.00		20.71		20.71		.00	
Personal Services	513,099	543,294	540,877		2,417		542,643		539,793		2,850	
Operating Expenses	616,792	626,937	582,765		42,172		626,535		583,666		43,069	
Equipment	11,313	3,340	3,340		0		3,300		3,300		0	
Grants	708,947	1,001,936	627,883		374,053		1,001,936		627,883		374,053	
Total Expend.	\$1,850,151	\$2,173,507	\$1,754,865		\$418,642		\$2,174,414		\$1,754,442		\$419,972	
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Fund Sources

CURRENT LEVEL ISSUES:

	--EXEC OVER (UNDER) LFA--	
	FY 92	FY 93
1. ADMINISTRATION OPERATING BUDGET BASE DIFFERENCES		
1. ALFALFA SEED COMMITTEE OPERATING BUDGET BASE DIFFERENCES	\$1,896	\$2,020
1. AGRICULTURAL FINANCE PROGRAM	\$3,996	\$3,972
1. A. Grants - Expenditures, not reclassified as operations, were \$0 in fiscal 1990.	\$2,600	\$2,600
1. B. Operating budget base differences	\$4,128	\$4,334
1. HAIL INSURANCE PROGRAM		
1. A. Because .25 FTE had been vacant more than six months, the LFA eliminated the position.	\$3,753	\$3,743
1. B. Overtime	\$1,875	\$1,875
1. C. Per Diem	\$225	\$225
1. D. Operating budget base differences	\$4,187	\$4,440
1. AGRICULTURAL MARKETING OPERATING BUDGET BASE DIFFERENCES		
1. AGRICULTURAL STATISTICS PROGRAM		
1. A. The Executive Budget transfers .25 FTE to the Grain Lab	(\$530)	(\$395)
1. B. Operating budget base differences	(\$4,923)	(\$4,918)
1. AGRICULTURAL DEVELOPMENT COUNCIL		
1. A. Per Diem	\$312	\$750
1. B. Operating budget base differences	\$590	\$580
1. WHEAT AND BARLEY COMMITTEE		
1. A. The Executive Budget transfers 12 FTE to the Grain Lab	\$750	\$750
1. B. The LFA eliminates .12 FTE which had been vacant more than six months	\$14,190	\$14,190
1. C. Per Diem	\$14,000	\$14,000
1. D. Printing - LFA reflects actual 1990 expenditures	\$371,453	\$371,453
1. E. New membership dues in the barley and wheat food councils are not included in the LFA.		
1. F. Increase in dues of <u>\$47,273</u> each year is included in the LFA.		
1. G. Grants - LFA includes actual fiscal 1990 actual grant expenditures		
1. H. Operating budget base differences		
1. REMAINING BUDGET BASE DIFFERENCES		
1. TOTAL CURRENT LEVEL	\$418,642	\$419,972

AGRICULTURAL DEVELOPMENT COUNCIL STATUTORILY APPROPRIATED GRANTS - The Executive Budget includes \$210,264 in fiscal 1992 and \$210,401 in fiscal 1993 of Growth Through Agriculture coal tax proceeds. This program receives .76 percent of total coal tax collections.

USE BILL 2 LANGUAGE - "The department is authorized to make grants to state agencies from the Growth Through Agriculture account as approved by the Montana Agriculture Development Council in accordance with title 90, chapter 9. The state agency that receives a grant from the Montana Agriculture Development Council is authorized additional appropriation authority equal to the grant amount."

EXHIBIT
DATE 1-17-91
TBYNER 42-2-D

GROUND WATER MANAGEMENT

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992			Fiscal 1993 Base incr/decr	Fiscal 1993 Base incr/decr	Fiscal 1993 Base incr/decr Recommended	Fiscal 1993 Base incr/decr Recommended
			2.00	1.94	3.94				
Full Time Equivalent Employees									
Personal Services	0.00	47,690	46,413	51,933	98,346	46,380	59,473	105,853	
Operating Expenses	25,670.34	57,298	57,997	155,479	213,476	57,710	195,590	253,300	
Equipment	10,825.00	0	0	127,978	127,978	0	78,680	78,680	
Total Agency Costs	\$36,495.34	\$104,988	\$104,410	\$335,390	\$439,800	\$104,090	\$333,743	\$437,833	
General Fund	35,255.13	68,188	68,188	-139,434	-71,246	68,188	-184,564	-116,376	
State Special Revenue Fund	0.00	15,000	15,000	414,046	429,046	15,000	457,209	472,209	
Federal Special Revenue Fund	1,220.21	21,800	21,222	60,778	82,000	20,902	61,098	82,000	
Total Funding Costs	\$36,495.34	\$104,988	\$104,410	\$335,390	\$439,800	\$104,090	\$333,743	\$437,833	

GOALS

Ground Water Management Technical Services
Bureau and Laboratory Bureau

- * Protect the state's ground water and environment from impairment by agriculture chemicals (pesticides and fertilizers).
- * Establish and manage agricultural chemicals through agricultural chemical plans to prevent, minimize and mitigate impairment of ground water.
- * Conduct general and site specific ground water monitoring for agricultural chemicals.
- * Conduct inspections and investigations on alleged and known agricultural chemical ground water problems and enforce statutory provisions of 80-15-101 et seq, MCA.
- * Analyze ground water, soil and other environmental media for agricultural chemical residues.
- * Coordinate agricultural chemical ground water activities with government agencies, universities and the public.
- * Conduct chemical users and public educational programs on agricultural chemicals and ground water in cooperation with Montana State University Extension Service and others.
- * Continue to monitor permanent state agricultural chemical ground water well sites.

AUTHORIZATION

80-15-101 et seq, MCA - Montana Agricultural Chemical Ground Water Protection Act. Authorizes the department to develop agricultural chemical ground water management plans. The plans must meet the objectives of preventing ground water impairment, minimizing the presence of agricultural chemicals in ground water and protecting present and future beneficial uses of ground water. Authorizes the department to adopt appropriate rules to ensure compliance with the requirements of the act.

BASE PROGRAM

Program Establishment

In 1988 there were 4,989 pesticide products registered in Montana. The assumption was made when HB 757 (80-15-101 et seq., MCA) was passed that this number would probably remain static. However, since that time EPA has assessed a yearly maintenance fee for each pesticide registration. Income from the sale of these products may be great enough for registrants to support payment of the fees. If this occurs the number of pesticide products registered each year in Montana could experience a decline. In any event the department used 4,989 as a base to calculate the budget. The law proposed a \$15 per product fee which when using the 4,989 figure would generate \$74,835 per year. The primary task in the 1991 biennium will be development of cooperative programs which meet the requirements of EPA's pesticide ground water strategy and Montana's Agricultural Chemical Ground Water Act, including a general pesticide plan and possibly one or two specific plans.

To implement the Montana Agricultural Chemical Ground Water Protection Act (MAGA) the department must promulgate and publish rules establishing the parameters and specifics of the program. MAGA requires the department to develop a general state ground water management plan.

The Department and the Department of Health and Environmental Sciences will cooperatively establish monitoring, investigation and compliance activities to implement this act. The departments will be utilizing federal ground water funds to assist in implementation of Montana's Agricultural Chemical Ground Water Act.

Training

The Department and Montana State University Extension Service (MSUES) will cooperatively upgrade the pesticide education programs by incorporating the ground water program elements for applicators and farmers. The department will develop, in cooperation with the MSUES, industry, farm and ranch organizations and the public, an educational training program. This program will cover best management practices, pesticides of concern, geographical

and ground water areas of concern, general and specific ground water management plans, and related subjects.

Special educational programs in regions or sites subject to specific agricultural chemical ground water management plan requirements will be conducted to assist chemical users in preventing impairment and/or remediating impairment of ground water from agricultural chemicals.

The DOA and the Montana Bureau of Mines and Geology (MBMG) will cooperatively prioritize the collection of necessary data on selected aquifers for submission to DHES for classification of the ground water. The Department of Agriculture will contract with MBMG for this purpose.

The balance of the available fee revenue approximately \$37,000 per year will be utilized by the DOA for implementing the act.

Program Activities

The division will conduct monitoring of the ground water for agricultural chemicals using state and federal funds. The samples collected will be for those products registered in Montana and designated by EPA as leachable pesticides. Samples will be collected for specific agricultural chemicals used at mixing, loading, disposal and spill sites. The monitoring will include: (1) ambient monitoring in regions subject to potential ground water impairment from agricultural chemicals; (2) monitoring in regions regulated by a specific management plan for a given chemical or chemicals, and (3) site specific monitoring either subject to a local specific management plan or to determine if chemical operations at a mixing/loading, disposal or spill site has, or may cause, ground water impairment.

Monitoring will be used to: (1) determine if a specific agricultural chemical ground water plan is needed in a region or site based upon the provisions of 80-15-202 and 212, MCA; (2) evaluate specific plans in terms of preventing, minimizing or reducing the concentration of an agricultural chemical in ground water; and (3) evaluate enforcement cases to ensure problems are corrected.

Monitoring will also include sampling soils, surface waters and related media to assess the potential for agricultural chemicals to leach to ground water or to determine the cause of an agricultural chemical ground water problem. All sampling, monitoring and sample analyses will be conducted in accordance with the department's quality assurance/quality control (QA/QC) procedures.

Several specific agriculture chemical ground water management plans will be prepared and implemented through rule making in the biennium. These plans will require extensive time and resources to characterize the region or site. Characterization of the plan includes: investigation of the aquifer, geology, topography, climate, agricultural practices, beneficial uses of the ground water and it's classification, the beneficial use of agricultural chemicals, chemical usage patterns and application rates, assessment of the problem, conducting public meetings, development of best management practices (BMP) with the Extension Service, development of possible alternative pest control and agricultural practices, and holding educational programs. Compliance investigation and actions may also be conducted prior to or after implementation of the plan. Evaluation of the plans provisions will be developed to ensure the plan is successful.

Meetings with chemical users and the public may be held to allow for public discussion of the proposed provisions of a plan and to determine the success or problems with an existing plan.

The general management plan, an educational and technical assistance document, may be revised as new information or technology becomes available. These updates will be accomplished, in cooperation with the DHEs and Extension Service. Public review and comment will also be obtained in such updates.

Enforcement activities will be conducted in regions or sites subject to a specific plan and generally throughout the state in conjunction with the pesticide program. The primary purpose of these activities will be to protect Montana's ground water for future generations.

The analytical laboratory has been involved with the analysis of ground water samples for agricultural chemicals

since the early 1980's. The laboratory has adopted multi residue methods for analyses of ground water samples for pesticides and also analyzes samples for nitrates, sulfates, pH, conductivity and similar components. The laboratory has a chemist and a laboratory technician whose primary responsibility will be the analysis of agricultural chemicals in ground water. These personnel are supported by other chemists, technicians, and clerical personnel responsible for pesticide and fertilizer samples. The laboratory will be responsible for ground water, soil, surface water and related sample analyses to support the general ambient and specific plan monitoring. Laboratory instrumentation and equipment used for existing programs will be utilized, however, future improvements are anticipated.

The Department in cooperation with the Montana Bureau of Mines and Geology, (MBMG) and Plant and Soils Department at MSU (PS-MSU) received a two year grant from the Department of Natural Resources and Conservation (DNRC) for funding an agricultural chemical ground water program under the Water Development and Renewable Resource Program. Seven permanent sites have been established. Monitoring of these sites will continue in the 93 biennium using department ground water funds.

BASE FUNDING

The chemist position is funded 50% general funds and 50% federal funds. The laboratory technician position is paid by general funds. Personnel from the program activities, Pesticide and Pest Management Program, and Laboratory Services, provide additional resources for the Ground Water Management Activity. The personnel and operational activities for this activity will be addressed in the next phase of the budgeting process.

PERFORMANCE INDICATORS		FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
<u>Ground Water Agricultural Chemical Samples collected</u>	30	200	200	200	
Residue & Inorganic Analyses 90320320320					
<u>Soil & Related Samples Collected</u>	20	30	30	30	
<u>Soil & Related Agricultural Chemical Analyses</u>	50	75	75	75	
<u>Ground Water Training Courses *</u>	1	3	5	5	
<u>Ground Water Symposium</u>	--	1	--	1	
<u>Development of Ground Water Rules</u>	Initiated	Completed	Amend as needed	Amend as needed	
Basic rules	8	8	--	--	
<u>Development of Ground Water Management Plan (General)</u>	Initiated	Completed	Revise as needed	Revise as needed	
<u>Development of Ground Water Management Plan (Specific)</u>	--	1	2-3 ¹	2-3 ¹	

* Ground Water Training has been incorporated into pesticide training program (reference PMP activity description and indicators for explanation and measurements).

¹ Number of specific plans adopted by rules is dependant upon the requirements of 80-8-212, MCA.

Exhibit 7
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HB

Joint Appropriations Subcommittee on Natural Resources
Dept. of Agriculture Environmental Management Division Budget
Hearing Jan. 16-17, 1991

Mr. Chairman, members of the committee, for the record, my name is Pam Langley and I am the executive director of the Montana Agricultural Business Association. MABA is a trade association comprised of roughly 300 applicators, dealers, distributors and company representatives of crop protection and plant food products provided to the agricultural growers in this state. Our members include small independent businesses, co-ops, and corporations.

We are committed to using our products wisely to protect the environment as well as provide benefit to growers and Montana's economy.

The Montana Agricultural Business Association is opposed to the reduction in general fund money for this division proposed in the governor's budget you have before you today.

While others who appear before your committee may be unhappy with a freeze or a meager increase, I want to emphasize that is not what I am talking about.

I am talking about this budget proposing a decrease of roughly \$368,000 for the biennium in actual general fund tax monies for this division--an entity that is charged with environmental protection in agriculture. And, add to that, a reduction of \$220,000 proposed by earmarking pesticide registration fees--for central management--which I'll discuss later and you have a total of \$588,000--more than half a million dollars--that should be used in environmental protection in agriculture which under this budget reverts to the general fund for other uses.

This reduction comes on the heels of a reduction in the 1989 legislative appropriations of actual general fund money for the current biennium. That reduction was proposed in the past governor's budget--a budget which was endorsed by the current governor.

The 1989 changes moved the fees from contributing roughly 60 per cent of the division's budget to 80-85 per cent. This budget proposal moves the fees to contributing more than 100 per cent. If you adopt this, all but two positions will be funded by pesticide registration, dealer and applicator fees. In addition, fees are slated to contribute general government because of earmarking.

It is important for you to know that pesticide registration fees will have been increased from \$25 per product to \$50 in the 1987 Legislature, to \$90 in the 1989 Legislature, to \$200 in 1991.

To oppose the governor's budget is--to say the least--a very uncomfortable position for me. While our association is nonpartisan, I am known Republican and grew up on a farm in Hill County listening to the governor on the radio. In fact, he may have been a reason I chose journalism as my major for my bachelor's and master's degrees.

I tossed and turned at night for several weeks knowing that for agriculture and the environment--both of which are my heritage and my legacy to my children--I must today oppose what this governor's budget proposes.

But, I finally came to grips with the fact that the issue is neither personal nor partisan. Either you are committed to Montana's environment and to Montana's number one industry--agriculture--or you are not. You can be committed to the environment or to agriculture and not the other. But, in the case at hand--the budget for this division you have before you--it is not committed to either.

We are not opposed to the \$200/product fee--we agreed to that with the division in January 1990 in exchange to sunsetting the 1 per cent herbicide surcharge when the noxious weed trust fund reaches its cap and interest can be spent--creating a stable income for noxious weed control.

In agreeing to the increase, we knew that this will place Montana's product fees near the very top in the country and have the approval of the national association for companies who will be paying the fee. I'd be less than honest if I didn't tell you we are concerned that at this level, Montana could stand to lose crop protection chemicals that are important to our farmers and our thus our economy.

We agreed to the increase to put money into the ground water program to support HB 757 which we wholeheartedly endorsed in 1989. We are committed to environmental protection in agriculture. We want to protect ground water, we want to institute a solid pesticide container recycling program, we want to insure environmental protection. We agreed also because pesticides do not cause noxious weeds but in certain cases, they could cause ground water problems.

What we are opposed to is using fees to replace general fund money. All Montanans benefit from a healthy environment and economy and all Montanans should contribute to insure a healthy environment and economy. We have in the past. Why does the budget propose we discontinue to do so? What we need is to at least maintain a commitment to the environment and economy--not reduce it.

Earlier I mentioned earmarking pesticide fees which has not been the case in the past. That is proposed in LC 1222 which increases our fees and sunsets the 1 per cent surcharge. We back

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LC 1222 and support earmarking to insure that we do not continue to pick up more and more of the public's commitment.

However, we are opposed to moving from 60 per cent funding of environmental protection in agriculture before the 1989 Legislature to more than 100 per cent after this session as we not only fund the division but also contribute to general government funding.

If we thought we were not paying our fair share or we did not have issues out there that needed funding, we would not object. However, as I've noted the proposed fees are among the highest in the country despite the fact the figures I have show that Montana (fourth largest state geographically) uses less than one per cent of the pesticides nationally. In addition, we need to address pesticide container disposal and waste pesticide issues. We need money now to do so.

Our association has a pilot pesticide container recycling program planned for this year--April in Great Falls and Billings, July in several locations in the Triangle. However, a volunteer program will not suffice. We need funds--funds we had hoped would come from the increased registration fee increase we agreed to. We need a plastics shredder for a plastics recycling program to work, we need someone in the department to oversee container recycling, we need to compensate weed districts or other local entities for their time and energy as sites. In short, we need to move forward in environmental protection in agriculture--not fund state government with fee increases.

We respectfully ask this committee today to continue Montana's support of agriculture and the environment by reinstating the \$368,000 in actual general fund money to the division it appropriated in the 1989 session and to eliminate the \$220,000 for central management assessed on earmarked funds. Montana's agriculture, Montana's economy and Montana's environment are at stake.

VISITORS' REGISTER

Local Resources COMMITTEE

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.