

1 *Zhause* BILL NO. *539* *J. Plimpton*
 2 INTRODUCED BY *Kummerfeldt, Gunderson, Fleming, Brand*
 3 *Harper, Bartels, Bengtson, Day, Casey*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 5 DEPARTMENT OF AGRICULTURE TO ADMINISTER, SUPERVISE, AND
 6 COORDINATE CROPLAND SPRAYING PROGRAMS FOR INSECT PEST
 7 CONTROL; AUTHORIZING THE DEPARTMENT TO SHARE COSTS OF
 8 COOPERATIVE RANGELAND SPRAYING PROGRAMS; REVISING THE POWERS
 9 OF COUNTIES TO OPERATE INSECT PEST CONTROL PROGRAMS;
 10 INCREASING THE PERMISSIBLE LEVY FOR SUCH PROGRAMS; AMENDING
 11 SECTIONS 16-1149 THROUGH 16-1153, R.C.M. 1947."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Definitions. As used in this chapter:
 15 (1) "Cropland" means land used for the row cultivation
 16 of food crops, including the headlands, ditches, and
 17 rights-of-way adjacent to such land.
 18 (2) "Cropland spraying program" means the application
 19 of chemical or other substances to croplands for the purpose
 20 of destroying insect pests.
 21 (3) "Condition of insect pest infestation" means a
 22 condition where an insect pest, as defined in section
 23 16-1153, or combination of such pests, exists in cropland in
 24 such numbers and at such times as to destroy or
 25 substantially damage, or threaten to destroy or

1 substantially damage, a significant part of the crop
 2 production in a county.
 3 (4) "Department" means the department of agriculture.
 4 Section 2. Cropland spraying program -- powers of
 5 department. The department may:
 6 (1) employ permanent and seasonal personnel to
 7 administer this chapter;
 8 (2) survey pest infestation conditions during
 9 appropriate seasons, and enter upon any croplands in the
 10 course of conducting such surveillance;
 11 (3) determine, upon investigation, that a condition of
 12 insect pest infestation exists within a county;
 13 (4) operate or contract for spraying services to
 14 counteract a condition of insect pest infestation, having
 15 first determined that a person contracting to supply such
 16 services is properly equipped to apply substances designated
 17 and approved by the department;
 18 (5) conduct or coordinate simultaneous cropland
 19 spraying programs in two (2) or more contiguous counties.
 20 Section 3. Cropland spraying program -- duties of
 21 department. The department shall:
 22 (1) develop and publish a list of substances approved
 23 for all cropland spraying programs;
 24 (2) develop and publish technical guidelines for
 25 county-conducted cropland spraying programs;

1 (3) publish, upon finding that a condition of insect
2 pest infestation exists within a county, notice of intent to
3 conduct a cropland spraying program within that county, such
4 notice to appear in a daily newspaper generally circulating
5 in the county;

6 (4) conduct a cropland spraying program within a
7 county, after notice of intent has been published, unless
8 within two (2) weeks or such lesser time as the notice may
9 specify, the board of county commissioners adopts a plan to
10 conduct a cropland spraying program which is approved by the
11 department;

12 (5) approve a county plan to conduct a cropland
13 spraying program which is submitted in a timely manner,
14 which conforms to the technical guidelines of the
15 department, and which will counteract a condition of insect
16 pest infestation in a timely manner.

17 Section 4. Financing of cropland spraying program.

18 (1) The costs of a cropland spraying program shall be
19 apportioned one-third (1/3) to the state, one-third (1/3) to
20 the county where the program is conducted, and one-third
21 (1/3) to the owners of cropland in the county.

22 (2) If the state conducts the program, the state
23 treasurer shall pay all costs thereof, on claims submitted,
24 by state warrants from the general fund. The department
25 shall reimburse the general fund one-third (1/3) of such

1 costs from funds appropriated for that purpose, and the
2 county treasurer shall collect the landowners' assessments
3 as provided in section [5 of this act] and shall pay such
4 sums and the county's share to the state treasury.

5 (3) If the county conducts the program, the county
6 treasurer shall pay all costs thereof on claims submitted
7 from county funds. The department shall reimburse the
8 county one-third (1/3) of such costs from funds appropriated
9 for that purpose, and the county treasurer shall collect the
10 landowners' assessments as provided in section [5 of this
11 act].

12 Section 5. Computation and collection of assessments
13 on landowners. Each owner of cropland benefited under a
14 cropland spraying program is liable for such portion of the
15 landowners' share of the program costs as his cropland is a
16 portion of all cropland within the county benefited by the
17 program. The county treasurer shall compute each such
18 landowner's liability and mail a special assessment therefor
19 to each landowner or his agent. This assessment is due and
20 payable within thirty-two (32) days of mailing or thirty
21 (30) days of receipt, if receipt is shown to be more than
22 two (2) days after mailing. A delinquent assessment is a
23 lien upon the land assessed.

24 Section 6. Rangeland spraying programs -- powers of
25 department. The department may enter into agreements with

1 the United States department of agriculture for cooperative
2 programs to control insect pest infestation on rangeland and
3 to share the costs of such programs, whenever funds have
4 been appropriated and are available for that purpose.

5 Section 7. Section 16-1149, R.C.M. 1947, is amended to
6 read as follows:

7 "16-1149. Destruction of insect pests by county
8 commissioners. The board of commissioners of any county of
9 this state, where there are any insect pests, are hereby
10 authorized and empowered to appoint some suitable person or
11 persons, whose duty it shall be, acting under the direction
12 of the state entomologist department of agriculture, to
13 poison, kill, catch, and exterminate insect pests within
14 such county, and any such person so appointed ~~is hereby~~
15 ~~empowered and directed to~~ may fly over or enter upon any
16 farm, railroad right of way, grounds or, premises infested
17 with such insect pests and poison, kill, catch, and
18 exterminate the insect pests therein."

19 Section 8. Section 16-1150, R.C.M. 1947, is amended to
20 read as follows:

21 "16-1150. Compensation of appointees--manner of
22 payment. Any person so appointed under the provisions of
23 ~~this--act section 16-1149 shall receive as compensation the~~
24 ~~sum of not less than two dollars and fifty cents (\$2.50), or~~
25 ~~more than four dollars (\$4.00) per day for eight hours labor~~

1 ~~performed in poisoning, killing, catching and exterminating~~
2 ~~such--insect--pests--exclusive--of--time--going--to--and--returning~~
3 ~~from--such--work--Such--person--shall--make--a--sworn--statement--to~~
4 ~~the--county--of--the--time--put--in--and--the--poison--or--other--means~~
5 ~~used, which said statement shall be attached to the bill or~~
6 ~~claim--against--the--county, such compensation as the county~~
7 ~~commissioners agree to pay, and warrants in payment thereof~~
8 ~~drawn on the general fund."~~

9 Section 9. Section 16-1151, R.C.M. 1947, is amended to
10 read as follows:

11 "16-1151. Purchase or hiring of poison and equipment--
12 manner of payment. The board of county commissioners of any
13 county may, from time to time, purchase or contract to hire
14 such quantities and amounts of poisons, traps and other
15 equipment necessary ~~to carry out the provisions of this act~~
16 to poison, kill, catch or exterminate such insect pests, and
17 warrants in payment thereof shall be drawn on the general
18 fund."

19 Section 10. Section 16-1152, R.C.M. 1947, is amended
20 to read as follows:

21 "16-1152. Tax levy for payment of warrants. The board
22 of county commissioners shall annually determine the amount
23 of such warrants drawn on the general fund for the purposes
24 of ~~this act~~, controlling insect pests under a cropland
25 spraying program approved by the department of agriculture,

1 and the succeeding year, shall levy a tax for the purpose of
2 insect pest extermination sufficient in amount to reimburse
3 said general fund for the money so paid out on such
4 warrants, which said tax shall be levied upon all the
5 property in the county and shall not exceed ~~one--mill~~ three
6 (3) mills on each dollar of assessed valuation. If there be
7 no money in the general fund with which to pay such
8 warrants, they shall be registered and bear interest in the
9 same manner as other county warrants, but in such case the
10 interest shall be computed and added to the amount for which
11 such tax is levied."

12 Section 11. Section 16-1153, R.C.M. 1947, is amended
13 to read as follows:

14 "16-1153. "Insect pest" defined. The term "insect
15 pest" as used in this act shall include grasshopper,
16 cutworm, pale western cutworm, army worm, chinch bug and any
17 other insect or arthropod generally recognized as a
18 destroyer of grain, hay, range, and horticultural crops."

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

HOUSE BILL NO. 539

INTRODUCED BY KUMMERFELDT, GUNDERSON, FLEMING, BRAND,
JOHNSTON, HARPER, BERTELSEN, BENGTSON, DAY,
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headlands, ditches, and rights-of-way adjacent to such land.

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of chemical or other substances to croplands for the purpose
of destroying insect pests.

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condition where an insect pest, as defined in section

16-1153, or combination of such pests, exists in cropland in
such numbers and at such times as to destroy or
substantially damage, or threaten to destroy or
substantially damage, a significant part of the crop
production in a county.

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

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(1) employ permanent and seasonal personnel to
administer this chapter;

(2) survey pest infestation conditions during
appropriate seasons, and enter upon any croplands in the
course of conducting such surveillance;

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insect pest infestation exists within a county;

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first determined that a person contracting to supply such
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11 within two (2) weeks or such lesser time as the notice may
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13 conduct a cropland spraying program which is approved by the
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21 (1) The costs of a cropland spraying program shall be
22 apportioned one-third (1/3) to the state, one-third (1/3) to
23 the county where the program is conducted, and one-third
24 (1/3) to the owners of cropland in the county. PRIOR TO
25 IMPLEMENTATION OF ANY STATE OR COUNTY CROPLAND SPRAYING

1 PROGRAM, THE DEPARTMENT AND THE BOARD OF COUNTY
2 COMMISSIONERS OF ANY COUNTY FOR WHICH THE PROGRAM IS
3 PROPOSED, SHALL ENTER INTO A WRITTEN AGREEMENT ON THE
4 MAXIMUM AMOUNT OF MONIES EACH SHALL APPROPRIATE OR PROVIDE
5 TOWARD THE PROPOSED PROGRAM. IF EITHER PARTY DOES NOT SIGN
6 AND APPROVE THE AGREEMENT, THE PROGRAM MAY NOT BE CONDUCTED.
7 IN ADDITION, PRIOR TO EITHER THE DEPARTMENT OR THE COUNTY
8 INITIATING THE CONTROL PROGRAM, ALL THE CROPLAND PRODUCERS
9 IN THE PROPOSED CONTROL AREA, WHICH MAY BE MODIFIED, SHALL
10 HAVE GIVEN THEIR APPROVAL OF PARTICIPATION. HOWEVER, WHEN
11 INSECT INFESTATION RESULTS IN AN EMERGENCY SITUATION,
12 SEVENTY PERCENT (70%) OF THE CROPLAND PRODUCERS INVOLVED IN
13 THE PROPOSED SPRAYING PROGRAM ARE SUFFICIENT TO INITIATE THE
14 PROGRAM. THE DEPARTMENT SHALL ESTABLISH STANDARDS FOR
15 DECLARATION OF AN EMERGENCY SITUATION.

16 ~~(2) If the state conducts the program, the state~~
17 ~~treasurer shall pay all costs thereof, on claims submitted,~~
18 ~~by state warrants from the general fund. The department~~
19 ~~shall reimburse the general fund one-third (1/3) of such~~
20 ~~costs from funds appropriated for that purpose, and the~~
21 ~~county treasurer shall collect the landowners' assessments~~
22 ~~as provided in section 5 of this act and shall pay such~~
23 ~~sums and the county's share to the state treasury.~~

24 ~~(3) If the county conducts the program, the county~~
25 ~~treasurer shall pay all costs thereof on claims submitted~~

1 ~~from--county--funds:--The--department--shall--reimburse--the~~
 2 ~~county--one--third--(1/3)--of--such--costs--from--funds--appropriated~~
 3 ~~for--that--purpose--and--the--county--treasurer--shall--collect--the~~
 4 ~~landowners'-assessments--as--provided--in--section--(5--of--this~~
 5 ~~act)-~~

6 (2) IF THE DEPARTMENT CONDUCTS THE PROGRAM, THE
 7 DEPARTMENT SHALL PAY ALL COSTS OF THE PROGRAM. THE COUNTY
 8 SHALL PAY ITS SHARE AND THE LANDOWNERS' SHARE, AS PROVIDED
 9 IN SECTION [5 OF THIS ACT], TO THE DEPARTMENT FOR DEPOSIT IN
 10 THE APPROPRIATE FUND.

11 (3) IF THE COUNTY CONDUCTS THE PROGRAM, THE COUNTY
 12 SHALL PAY ALL COSTS OF THE PROGRAM, INCLUDING ITS SHARE.
 13 THE DEPARTMENT SHALL PAY ONE-THIRD (1/3) OF THE COSTS OF THE
 14 CROPLAND SPRAYING PROGRAM FROM MONEYS APPROPRIATED FOR THAT
 15 PURPOSE TO THE COUNTY IN WHICH THE PROGRAM WAS CONDUCTED.
 16 THE COUNTY TREASURER SHALL COLLECT THE LANDOWNERS'
 17 ASSESSMENTS AS PROVIDED IN SECTION [5 OF THIS ACT].

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 19 on landowners. Each owner of cropland benefited under a
 20 cropland spraying program is liable for such portion of the
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4 ~~this act section 16-1149~~ shall receive ~~as--compensation--the~~
5 ~~sum-of-not-less-than-two-dollars-and-fifty-cents-(\$2.50), or~~
6 ~~more-than-four-dollars-(\$4.00)-per-day-for-eight-hours-labor~~
7 ~~performed--in-poisoning,-killing,-catching-and-exterminating~~
8 ~~such-insect-pests-exclusive-of-time-going-to--and--returning~~
9 ~~from--such-work.-Such-person-shall-make-a-sworn-statement-to~~
10 ~~the-county-of-the-time-put-in-and-the-poison-or-other--means~~
11 ~~used,-which-said-statement-shall-be-attached-to-the-bill-or~~
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24 destroyer of grain, hay, range, and horticultural crops."

25 SECTION 12. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON

HB 0539/02

1 ITS PASSAGE AND APPROVAL.

-End-

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INTRODUCED BY KUMMERFELDT, GUNDERSON, FLEMING, BRAND,
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2 COMMISSIONERS OF ANY COUNTY FOR WHICH THE PROGRAM IS
3 PROPOSED, SHALL ENTER INTO A WRITTEN AGREEMENT ON THE
4 MAXIMUM AMOUNT OF MONIES EACH SHALL APPROPRIATE OR PROVIDE
5 TOWARD THE PROPOSED PROGRAM. IF EITHER PARTY DOES NOT SIGN
6 AND APPROVE THE AGREEMENT, THE PROGRAM MAY NOT BE CONDUCTED.
7 IN--ADDITION,--PRIOR--TO--HITHER--THE--DEPARTMENT--OR--THE--COUNTY
8 INITIATING--THE--CONTROL--PROGRAM,--ALL--THE--CROPLAND--PRODUCERS
9 IN--THE--PROPOSED--CONTROL--AREA,--WHICH--MAY--BE--MODIFIED,--SHALL
10 HAVE--GIVEN--THEIR--APPROVAL--OF--PARTICIPATION,--HOWEVER,--WHEN
11 INSECT--INFESTATION--RESULTS--IN--AN--EMERGENCY--SITUATION,
12 SEVENTY--PERCENT--(70%)--OF--THE--CROPLAND--PRODUCERS--INVOLVED--IN
13 THE--PROPOSED--SPRAYING--PROGRAM--ARE--SUFFICIENT--TO--INITIATE--THE
14 PROGRAM,--THE--DEPARTMENT--SHALL--ESTABLISH--STANDARDS--FOR
15 DECLARATION--OF--AN--EMERGENCY--SITUATION.

16 (2) THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY
17 FOR WHICH A CROPLAND SPRAYING PROGRAM IS INTENDED, SHALL
18 APPOINT A THREE-MEMBER INSECT EVALUATION COMMITTEE ONCE THE
19 DEPARTMENT HAS PUBLISHED ITS NOTICE OF INTENT. THE MEMBERS
20 SHALL BE COMPOSED OF FARMERS AND RANCHERS HAVING LANDS
21 WITHIN THE PROPOSED PROGRAM AREA. THE COMMITTEE, PRIOR TO
22 THE DEADLINE OF THE NOTICE OF INTENT OR WITHIN SEVEN DAYS OF
23 PUBLICATION, WHICHEVER IS LESS, SHALL REVIEW THE FINDING OF
24 FACT PROVIDED BY THE DEPARTMENT TO DETERMINE WHETHER AN AREA
25 CROPLAND SPRAYING PROGRAM SHALL BE CONDUCTED FOR THE

1 AGRICULTURAL PRODUCERS IN THE PROPOSED PROGRAM AREA. IF THE
 2 COMMITTEE DETERMINES THAT AN AREA CROPLAND SPRAYING PROGRAM
 3 IS NEEDED, THE COUNTY OR DEPARTMENT SHALL CALL FOR A MEETING
 4 OF PRODUCERS WITHIN THE PROPOSED PROGRAM AREA. IF A
 5 MAJORITY OF THOSE ATTENDING THE MEETING APPROVE THE PROGRAM,
 6 THAN ALL PRODUCERS WITHIN THE PROPOSED PROGRAM AREA SHALL BE
 7 INCLUDED IN THE SPRAY PROGRAM AND SHALL BE SUBJECT TO
 8 PAYMENT FOR THE PROGRAM.

9 INDIVIDUAL FARM AND RANCH LANDOWNERS MAY FORMALLY
 10 PETITION THE COUNTY COMMISSIONERS WITH A WRITTEN AFFIDAVIT
 11 PROTESTING THEIR INCLUSION WITHIN THE PROPOSED CROPLAND
 12 SPRAYING PROGRAM. THE COUNTY COMMISSIONERS SHALL RULE ON
 13 THE PETITION PRIOR TO PRODUCERS MEETING ON THE PROPOSED
 14 PROGRAM. THE COUNTY COMMISSIONERS' DECISION SHALL BE BASED
 15 UPON THE FINDINGS OF FACT CONCERNING THE INSECT INFESTATION.

16 ~~(2) If the state conducts the program, the state~~
 17 ~~treasurer shall pay all costs thereof, on claims submitted,~~
 18 ~~by state warrants from the general fund. The department~~
 19 ~~shall reimburse the general fund one third (1/3) of such~~
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 5 ~~act).~~

6 ~~(2) (3) IF THE DEPARTMENT CONDUCTS THE PROGRAM, THE~~
 7 ~~DEPARTMENT SHALL PAY ALL COSTS OF THE PROGRAM. THE COUNTY~~
 8 ~~SHALL PAY ITS SHARE AND THE LANDOWNERS' SHARE, AS PROVIDED~~
 9 ~~IN SECTION [5 OF THIS ACT], TO THE DEPARTMENT FOR DEPOSIT IN~~
 10 ~~THE APPROPRIATE FUND.~~

11 ~~(3) (4) IF THE COUNTY CONDUCTS THE PROGRAM, THE COUNTY~~
 12 ~~SHALL PAY ALL COSTS OF THE PROGRAM, INCLUDING ITS SHARE.~~
 13 ~~THE DEPARTMENT SHALL PAY ONE-THIRD (1/3) OF THE COSTS OF THE~~
 14 ~~CROPLAND SPRAYING PROGRAM FROM MONIES APPROPRIATED FOR THAT~~
 15 ~~PURPOSE TO THE COUNTY IN WHICH THE PROGRAM WAS CONDUCTED.~~
 16 ~~THE COUNTY TREASURER SHALL COLLECT THE LANDOWNERS'~~
 17 ~~ASSESSMENTS AS PROVIDED IN SECTION [5 OF THIS ACT].~~

18 Section 5. Computation and collection of assessments
 19 on landowners. Each owner of cropland benefited under a
 20 cropland spraying program is liable for such portion of the
 21 landowners' share of the program costs as his cropland is a
 22 portion of all cropland within the county benefited by the
 23 program. The county treasurer shall compute each such
 24 landowner's liability and mail a special assessment therefor
 25 to each landowner or his agent. This assessment is due and

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 2 (30) days of receipt, if receipt is shown to be more than
 3 two (2) days after mailing. A delinquent assessment is a
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5 Section 6. Rangeland spraying programs -- powers of
 6 department. The department may enter into agreements with
 7 the United States department of agriculture for cooperative
 8 programs to control insect pest infestation on rangeland and
 9 to share the costs of such programs, whenever funds have
 10 been appropriated and are available for that purpose.

11 Section 7. Section 16-1149, R.C.M. 1947, is amended to
 12 read as follows:

13 "16-1149. Destruction of insect pests by county
 14 commissioners. The board of commissioners of any county of
 15 this state, where there are any insect pests, are hereby
 16 authorized and empowered to appoint some suitable person or
 17 persons, whose duty it shall be, acting under the direction
 18 of the state entomologist department of agriculture, to
 19 poison, kill, catch, and exterminate insect pests within
 20 such county, and any such person so appointed ~~is hereby~~
 21 ~~empowered and directed to~~ may fly over or enter upon any
 22 farm, railroad right of way, grounds or, premises infested
 23 with such insect pests and poison, kill, catch, and
 24 exterminate the insect pests therein."

25 Section 8. Section 16-1150, R.C.M. 1947, is amended to

1 read as follows:

2 "16-1150. Compensation of appointees -- manner of
 3 payment. Any person so appointed under the provisions of
 4 ~~this act section 16-1149 shall receive as--compensation--the~~
 5 ~~sum of not less than two dollars and fifty cents (\$2.50), or~~
 6 ~~more than four dollars (\$4.00) per day for eight hours labor~~
 7 ~~performed--in poisoning, killing, catching and exterminating~~
 8 ~~such insect pests exclusive of time going to--and--returning~~
 9 ~~from--such work. Such person shall make a sworn statement to~~
 10 ~~the county of the time put in and the poison or other--means~~
 11 ~~used,--which said statement shall be attached to the bill or~~
 12 ~~claim against the county, such compensation as the county~~
 13 commissioners agree to pay, and warrants in payment thereof
 14 drawn on the general fund."

15 Section 9. Section 16-1151, R.C.M. 1947, is amended to
 16 read as follows:

17 "16-1151. Purchase or hiring of poison and equipment
 18 --manner of payment. The board of county commissioners of
 19 any county may, from time to time, purchase or contract to
 20 hire such quantities and amounts of poisons, traps and other
 21 equipment necessary ~~to carry out the provisions of this act~~
 22 to poison, kill, catch or exterminate such insect pests, and
 23 warrants in payment thereof shall be drawn on the general
 24 fund."

25 Section 10. Section 16-1152, R.C.M. 1947, is amended

1 to read as follows:

2 "16-1152. Tax levy for payment of warrants. The board
3 of county commissioners shall annually determine the amount
4 of such warrants drawn on the general fund for the purposes
5 of ~~this-act,~~ controlling insect pests under a cropland
6 spraying program approved by the department of agriculture,
7 and the succeeding year, shall levy a tax for the purpose of
8 insect pest extermination sufficient in amount to reimburse
9 said general fund for the money so paid out on such
10 warrants, which said tax shall be levied upon all the
11 property in the county and shall not exceed ~~one-mill~~ three
12 (3) mills on each dollar of assessed valuation. If there be
13 no money in the general fund with which to pay such
14 warrants, they shall be registered and bear interest in the
15 same manner as other county warrants, but in such case the
16 interest shall be computed and added to the amount for which
17 such tax is levied."

18 Section 11. Section 16-1153, R.C.M. 1947, is amended
19 to read as follows:

20 "16-1153. "Insect pest" defined. The term "insect
21 pest" as used in this act shall include grasshopper,
22 cutworm, pale western cutworm, army worm, chinch bug and any
23 other insect or arthropod generally recognized as a
24 destroyer of grain, hay, range, and horticultural crops."

25 SECTION 12. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON

1 ITS PASSAGE AND APPROVAL.

-End-

1 HOUSE BILL NO. 539

2 INTRODUCED BY KUMMERFELDT, GUNDERSON, FLEMING, BRAND,

3 JOHNSTON, HARPER, BERTELSEN, BENGTON, DAY,

4 CASEY, GWYNN, HUBING, JACOBSEN, LUND

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
7 DEPARTMENT OF AGRICULTURE TO ADMINISTER, SUPERVISE, AND
8 COORDINATE CROPLAND SPRAYING PROGRAMS FOR INSECT PEST
9 CONTROL; AUTHORIZING THE DEPARTMENT TO SHARE COSTS OF
10 COOPERATIVE RANGELAND SPRAYING PROGRAMS; REVISING THE POWERS
11 OF COUNTIES TO OPERATE INSECT PEST CONTROL PROGRAMS;
12 INCREASING THE PERMISSIBLE LEVY FOR SUCH PROGRAMS; AMENDING
13 SECTIONS 16-1149 THROUGH 16-1153, R.C.M. 1947; AND PROVIDING
14 AN IMMEDIATE EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Definitions. As used in this chapter:

18 (1) "Cropland" means land used for the ~~row-cultivation~~
19 ~~of-food-crops~~ PRODUCTION OF FOOD AND FORAGE, including the
20 headlands, ditches, and rights-of-way adjacent to such land.

21 (2) "Cropland spraying program" means the application
22 of chemical or other substances to croplands for the purpose
23 of destroying insect pests.

24 (3) "Condition of insect pest infestation" means a
25 condition where an insect pest, as defined in section

1 16-1153, or combination of such pests, exists in cropland in
2 such numbers and at such times as to destroy or
3 substantially damage, or threaten to destroy or
4 substantially damage, a significant part of the crop
5 production in a county.

6 (4) "Department" means the department of agriculture.

7 (5) "ALTERNATIVE CONTROL PROGRAM" MEANS A SYSTEM OF
8 CONTROLLING INSECT PEST POPULATIONS THROUGH BIOLOGICAL OR
9 OTHER MEANS NOT INVOLVING TOXIC CHEMICALS.

10 Section 2. Cropland spraying program -- powers of
11 department. The department may:

12 (1) employ permanent and seasonal personnel to
13 administer this chapter;

14 (2) survey pest infestation conditions during
15 appropriate seasons, and enter upon any croplands in the
16 course of conducting such surveillance;

17 (3) determine, upon investigation, that a condition of
18 insect pest infestation exists within a county;

19 (4) operate or contract for spraying services to
20 counteract a condition of insect pest infestation, having
21 first determined that a person contracting to supply such
22 services is properly equipped to apply substances designated
23 and approved by the department;

24 (5) conduct or coordinate simultaneous cropland
25 spraying programs in two (2) or more contiguous counties.

1 Section 3. Cropland spraying program -- duties of
2 department. The department shall:

3 (1) develop and publish a list of substances approved
4 for all cropland spraying programs, WHICH SHALL BE THE
5 LEAST HARMFUL TO BENEFICIAL INSECTS AMONG EFFECTIVE
6 AVAILABLE SUBSTANCE;

7 (2) develop and publish technical guidelines for
8 county-conducted cropland spraying programs;

9 (3) publish, upon finding that a condition of insect
10 pest infestation exists within a county, notice of intent to
11 conduct a cropland spraying program within that county, such
12 notice to appear in a ~~daily~~ newspaper generally circulating
13 in the county;

14 (4) conduct a cropland spraying program within a
15 county, after notice of intent has been published, unless
16 within two (2) weeks or such lesser time as the notice may
17 specify, the board of county commissioners adopts a plan to
18 conduct a cropland spraying program which is approved by the
19 department;

20 (5) approve a county plan to conduct a cropland
21 spraying program which is submitted in a timely manner,
22 which conforms to the technical guidelines of the
23 department, and which will counteract a condition of insect
24 pest infestation in a timely manner;

25 ~~(6) -- SEEK -- AND -- DEVELOP -- ALTERNATIVE -- METHODS -- OF -- EFFECTIVE~~

1 ~~AND -- SAFE -- INSECT -- CONTROL --~~

2 (6) CONSIDER, PRIOR TO CONDUCTING OR APPROVING ANY
3 CROPLAND SPRAYING PROGRAM, WHETHER AN ALTERNATIVE CONTROL
4 PROGRAM WOULD BE AS EFFICIENT AS SPRAYING ON A RATIO OF
5 TOTAL COSTS TO TOTAL BENEFITS AND TO STATE A SUMMARY OF SUCH
6 CONSIDERATION IN A NOTICE OF INTENT PUBLISHED UNDER
7 SUBSECTION (3) OF THIS SECTION. IF THE ALTERNATIVE CONTROL
8 PROGRAM IS MORE EFFICIENT, THE DEPARTMENT MAY CONDUCT OR
9 APPROVE SUCH A PROGRAM. IN SUCH EVENT, ANY REFERENCE TO
10 CROPLAND SPRAYING PROGRAM IN THIS ACT INCLUDES THE
11 ALTERNATIVE CONTROL PROGRAM.

12 Section 4. Financing of cropland spraying program.

13 (1) The costs of a cropland spraying program shall be
14 apportioned one-third (1/3) to the state, one-third (1/3) to
15 the county where the program is conducted, and one-third
16 (1/3) to the owners of cropland in the county. PRIOR TO
17 IMPLEMENTATION OF ANY STATE OR COUNTY CROPLAND SPRAYING
18 PROGRAM, THE DEPARTMENT AND THE BOARD OF COUNTY
19 COMMISSIONERS OF ANY COUNTY FOR WHICH THE PROGRAM IS
20 PROPOSED, SHALL ENTER INTO A WRITTEN AGREEMENT ON THE
21 MAXIMUM AMOUNT OF MONIES EACH SHALL APPROPRIATE OR PROVIDE
22 TOWARD THE PROPOSED PROGRAM. IF EITHER PARTY DOES NOT SIGN
23 AND APPROVE THE AGREEMENT, THE PROGRAM MAY NOT BE CONDUCTED.
24 IN-ADDITION, PRIOR TO EITHER THE DEPARTMENT -- OR -- THE -- COUNTY
25 INITIATING -- THE -- CONTROL PROGRAM, ALL THE CROPLAND PRODUCERS

1 ~~IN THE PROPOSED CONTROL AREA, WHICH MAY BE MODIFIED, SHALL~~
 2 ~~HAVE GIVEN THEIR APPROVAL OF PARTICIPATION, HOWEVER, WHEN~~
 3 ~~INSECT INFESTATION RESULTS IN AN EMERGENCY SITUATION,~~
 4 ~~SEVENTY PERCENT (70%) OF THE CROPLAND PRODUCERS INVOLVED IN~~
 5 ~~THE PROPOSED SPRAYING PROGRAM ARE SUFFICIENT TO INITIATE THE~~
 6 ~~PROGRAM, THE DEPARTMENT SHALL ESTABLISH STANDARDS FOR~~
 7 ~~DECLARATION OF AN EMERGENCY SITUATION.~~

8 (2) THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY
 9 FOR WHICH A CROPLAND SPRAYING PROGRAM IS INTENDED, SHALL
 10 APPOINT A THREE-MEMBER INSECT EVALUATION COMMITTEE ONCE THE
 11 DEPARTMENT HAS PUBLISHED ITS NOTICE OF INTENT. THE MEMBERS
 12 SHALL BE COMPOSED OF FARMERS AND RANCHERS HAVING LANDS
 13 WITHIN THE PROPOSED PROGRAM AREA. THE COMMITTEE, PRIOR TO
 14 THE DEADLINE OF THE NOTICE OF INTENT OR WITHIN SEVEN DAYS OF
 15 PUBLICATION, WHICHEVER IS LESS, SHALL REVIEW THE FINDING OF
 16 FACT PROVIDED BY THE DEPARTMENT TO DETERMINE WHETHER AN AREA
 17 CROPLAND SPRAYING PROGRAM SHALL BE CONDUCTED FOR THE
 18 AGRICULTURAL PRODUCERS IN THE PROPOSED PROGRAM AREA. IF THE
 19 COMMITTEE DETERMINES THAT AN AREA CROPLAND SPRAYING PROGRAM
 20 IS NEEDED, BY INDEPENDENTLY SUBSTANTIATING THE DEPARTMENT'S
 21 FINDING OF FACT THAT A CONDITION OF INSECT PEST INFESTATION
 22 EXISTS, THE COUNTY OR DEPARTMENT SHALL CALL FOR A MEETING
 23 OF PRODUCERS, LANDOWNERS AND OTHER POTENTIALLY AFFECTED
 24 TAXPAYERS WITHIN THE PROPOSED PROGRAM AREA. THE CALL FOR
 25 THE MEETING SHALL INCLUDE PUBLIC NOTICE AT LEAST FIVE (5)

1 DAYS IN ADVANCE. IF A MAJORITY OF THOSE ATTENDING THE
 2 MEETING APPROVE THE PROGRAM, THAN ALL PRODUCERS AND
 3 LANDOWNERS WITHIN THE PROPOSED PROGRAM AREA SHALL BE
 4 INCLUDED IN THE SPRAY PROGRAM AND SHALL BE SUBJECT TO
 5 PAYMENT FOR THE PROGRAM.

6 INDIVIDUAL FARM AND RANCH LANDOWNERS MAY FORMALLY
 7 PETITION THE COUNTY COMMISSIONERS WITH A BY WRITTEN
 8 AFFIDAVIT PROTESTING THEIR INCLUSION WITHIN THE PROPOSED
 9 CROPLAND SPRAYING PROGRAM. THE DEPARTMENT OR COUNTY
 10 COMMISSIONERS SHALL RULE ON THE PETITION PRIOR TO PRODUCERS
 11 MEETING ON THE PROPOSED PROGRAM, THE COUNTY COMMISSIONERS
 12 DECISION SHALL BE BASED UPON THE FINDINGS OF FACT CONCERNING
 13 THE INSECT INFESTATION. GRANT SUCH PETITION REFRAIN FROM
 14 SPRAYING ANY LAND PETITIONED TO BE EXCLUDED. SUCH EXCLUDED
 15 LAND REMAINS SUBJECT TO ASSESSMENT UNDER SECTION 5 OF THIS
 16 ACT.

17 (2) If the state conducts the program, the state
 18 treasurer shall pay all costs thereof, on claims submitted
 19 by state warrants from the general fund. The department
 20 shall reimburse the general fund one-third (1/3) of such
 21 costs from funds appropriated for that purpose, and the
 22 county treasurer shall collect the landowners' assessments
 23 as provided in section 45 of this act and shall pay such
 24 sums and the county's share to the state treasury.

25 (3) If the county conducts the program, the county

~~treasurer shall pay all costs thereof on claims submitted from county funds. The department shall reimburse the county one-third (1/3) of such costs from funds appropriated for that purpose, and the county treasurer shall collect the landowners' assessments as provided in section 5 of this act.~~

(2) (3) IF THE DEPARTMENT CONDUCTS THE PROGRAM, THE DEPARTMENT SHALL PAY ALL COSTS OF THE PROGRAM. THE COUNTY SHALL PAY ITS SHARE AND THE LANDOWNERS' SHARE, AS PROVIDED IN SECTION [5 OF THIS ACT], TO THE DEPARTMENT FOR DEPOSIT IN THE APPROPRIATE FUND.

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10 ~~from-such-work.-Such-person-shall-make-a-sworn-statement--to~~
11 ~~the--county-of-the-time-put-in-and-the-poison-or-other-means~~
12 ~~used,-which-said-statement-shall-be-attached-to-the-bill--or~~
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