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Senate BILL NO. *315*
Over Hall

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE MONTANA NOXIOUS PLANT MANAGEMENT ACT; REPEALING SECTIONS 16-1701 THROUGH 16-1722, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Short title. This act may be cited as "The Noxious Plant Management Act of 1977".

Section 2. Policy and purpose. Noxious plants are an economic problem requiring intensive long-term management. The management of noxious plants is primarily the responsibility of landowners. When infestations of noxious plants are of an unusual nature, proportion, or intensity, the cooperation and resources of individuals, communities, and governmental entities may be desirable to manage infestations. Therefore, each county shall develop and implement immediate and long-range noxious plant management programs throughout the county. The county shall take particular precautions while planning and implementing this program to protect and preserve the environment.

Section 3. Definitions. As used in this act, the following definitions apply:

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(1) "Board" means the noxious plant management board created under [section 6 of this act].

(2) "District" means all the lands within the confines of any county established to manage noxious plants.

(3) "Land" means all land and water area, including but not limited to structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, or used for harvest or transportation, which are owned, controlled, leased, or occupied by any person.

(4) "Noxious plant" means any weed plant capable of becoming established in a suitable habitat either by seed, root part, or modified stem; which is extremely resistant to mechanical, biological, or chemical control; which may render land unfit for use; which may be damaging to livestock or wildlife; or which may be injurious to humans.

(5) "Noxious plant seed" means the fruit of any noxious plant.

(6) "Owner/occupier" means any person or public agency which owns, leases, occupies, controls, or manages any land within the county and within the boundaries of the district.

(7) "Supervisor" means the person employed by the county to conduct a noxious plant management program.

(8) "Weed" means any living plant which by its presence reduces land use for man's benefit.

Section 4. Prohibitive statement. (1) It is unlawful

SB 315

1 for any owner/occupier, after due notice and opportunity to
 2 enter into a contractual agreement with the county for the
 3 management of noxious plants as provided in 16-1706, to
 4 willfully allow any noxious plant named in this act or
 5 designated by the county to self-propagate by root part or
 6 modified stem or go to seed on any lands owned, controlled,
 7 or leased by him in any county. The management of noxious
 8 plants is the responsibility of all owner/occupiers of land.

9 (2) The following plants, their parts, and their seed
 10 are hereby declared noxious: Cardaria draba (whitetop);
 11 Carduus nutans (musk thistle); Centaurea repens (Russian
 12 knapweed); Cirsium arvense (Canada thistle); Convolvulus
 13 arvensis (field bindweed); Euphorbia esula (leafy spurge);
 14 Halogeton glomeratus (halogeton); Hypericum perforatum
 15 (Saint-Johnswort); Linaria dalmatica (dalmation toadflax);
 16 Linaria vulgaris (common toadflax); Sonchus arvensis
 17 (perennial sowthistle); Tanacetum vulgare (common tansy).

18 Section 5. Creation. (1) A noxious plant management
 19 district shall be formed in every county of this state.

20 (2) The county shall comply with all applicable
 21 county, state, and federal laws and regulations in
 22 implementing the noxious plant management program,
 23 especially when applying pesticides.

24 (3) Each county shall plan, develop, and implement a
 25 noxious plant management program for immediate and

1 long-range noxious plant management on all lands within the
 2 county. Long-term programs may not be less than 5 years in
 3 duration and shall be updated periodically to apply new
 4 management priorities or to reflect changes in local
 5 ownership and control of the lands involved.

6 (4) A county creating or developing a noxious plant
 7 management program shall first prepare a plan as a basis for
 8 the management program. The plan shall include:

9 (a) a statement specifying the objectives and goals of
 10 the program;

11 (b) the specific plant specie(s) to be controlled;

12 (c) the apparent intensity and boundaries of the
 13 population(s);

14 (d) the actual and probable hazard or damage caused by
 15 the noxious plant population;

16 (e) the proposed methods of control, including
 17 alternatives, if any;

18 (f) the probable effect of control methods on the
 19 plant(s) to be controlled and on other nontarget plant and
 20 animal life in the area;

21 (g) the estimated costs of the proposed program and
 22 how they may be apportioned;

23 (h) the specific priorities of the program element in
 24 the total plan; and

25 (i) any other relevant information.

1 (5) A county shall allow a sufficient period of time
2 for public comment on the plan before implementing the
3 management program.

4 (6) A county may develop and carry out its noxious
5 plant management program in cooperation with one or more
6 counties or with state or federal governments and their
7 agencies as well as with any person within the district.

8 (7) The county and the department of highways shall
9 enter into an agreement specifying their mutual
10 responsibilities with respect to the management of noxious
11 plants by the county on state highway rights-of-way.

12 Section 6. Appointment of the board. (1) The governing
13 body of the county shall appoint a noxious plant management
14 board. The board may consist of three or five members, as
15 follows:

16 (a) If a three-member board is appointed, two members
17 shall be rural agricultural persons in the county and one
18 member shall be a teacher of biology or person with similar
19 expertise. The members shall be appointed to 1-, 2-, and
20 3-year terms respectively.

21 (b) If a five-member board is appointed, three members
22 shall be rural agricultural persons, one shall be from an
23 included municipality, and one shall be a teacher of biology
24 or person of similar expertise. The members shall be
25 appointed for 1-, 2-, and 3-year terms, respectively.

1 (2) Appointment or reappointment to the board shall be
2 made each January. The governing body of the county may
3 limit the number of terms each member may serve.

4 (3) The county extension agent shall be an ex officio
5 member of the board. The board may appoint other ex officio
6 members if necessary.

7 (4) The governing body of the county shall by
8 resolution set the salary, per diem, and mileage to be paid
9 to the board members.

10 (5) The board shall establish the policies for the
11 management of the district and hire suitable and competent
12 persons to conduct the management program in the county.

13 Section 7. Inspection. (1) Where complaint has been
14 made or the supervisor has reason to believe that noxious
15 plants are present upon an owner/occupier's land within the
16 district, the supervisor shall, with permission of the
17 owner/occupier or with a warrant, inspect the lands. If any
18 noxious plants are found, the board shall send a written
19 notice by certified mail to be served on the owner/occupier,
20 directing him to comply with the immediate and long-term
21 provisions of this act within a reasonable period of time
22 specified in the notice.

23 (2) If the owner/occupier enters into and adheres to a
24 contractual agreement with the county as part of the
25 county's long-range noxious plant management program, he is

1 in compliance with the provisions of this act.

2 Section 8. Enforcement. (1) If the notice served in
3 [section 7] is not observed within the time specified or the
4 owner/occupier refuses to comply with the management
5 agreement, the supervisor, upon procurement of a lawful
6 warrant, shall institute management procedures upon the land
7 described in the notice and submit to the county clerk an
8 itemized account of services and expenses. The itemized
9 account shall include the materials used, a legal
10 description of the land involved, man-hours of labor, and
11 equipment employed. These costs shall be equivalent to the
12 going rate paid for commercial management operations in the
13 immediate vicinity. An additional penalty of 25% of the
14 total cost for services and expenses incurred shall be
15 included with the itemized account. Such expenses shall be
16 paid by the county from the noxious plant management fund,
17 and unless the owner/occupier's expense and penalty are
18 repaid before the following October 15, the county clerk
19 shall certify the amount thereof with the legal description
20 of the land to be charged and shall extend the same to the
21 assessment list of the county as a special tax on that land.

22 (2) Tax-exempt lands as defined in 84-202 shall, in
23 accordance with the provisions of this act, be assessed a
24 service fee equal to the management costs incurred and the
25 additional 25% penalty if the county performs the management

1 operations as provided in subsection (1). The service fee
2 and penalty shall be applied to the noxious plant management
3 fund. The fee is due on or before the following October 15.

4 (3) A fee due and unpaid under this act constitutes a
5 debt due the county. If the fee imposed by this act or any
6 portion thereof is not paid at the time it becomes due, the
7 county treasurer may issue a warrant in the name of the
8 county, directed to the clerk, who shall enter in the
9 judgment docket in the column for judgment debtors the name
10 of the delinquent person mentioned in the warrant and, in
11 the appropriate column, the amount of fees, penalties,
12 interest, and other costs for which the warrant is issued
13 and the date when such warrant is filed. The warrant so
14 docketed has the effect of a judgment rendered by a district
15 court and docketed in the office of the clerk thereof, and
16 the county has the same remedies against the owner/occupier
17 as under any other judgment.

18 (4) It is the duty of the board of land commissioners
19 in leasing any state land to provide in the lease that the
20 lessee of lands so leased lying within the boundaries of any
21 noxious plant management district shall assume and pay all
22 assessments and taxes levied by the governing body of the
23 county.

24 Section 9. Re seeding of right-of-way areas. Whenever
25 the natural sod cover on right-of-way areas is disturbed by

1 construction of county roads, irrigation ditches, drain
 2 ditches, or otherwise, the governing body of the county
 3 shall require that the disturbed areas be seeded to an
 4 adaptable perennial grass or combination of perennial
 5 grasses and legumes. Every effort shall be made to
 6 establish a sod cover on the disturbed area. All seed used
 7 shall meet certified standards. Time and method of seeding,
 8 fertilizing practices, and grass species shall be those
 9 recommended by the cooperative extension service.

10 Section 10. Administrative procedures. (1) The board
 11 may act upon the petition of any interested person
 12 concerning the county noxious plant management program or
 13 any of its functions. On the filing of a petition concerning
 14 any matter within the jurisdiction of the board, the board
 15 shall promptly fix a date for an administrative hearing
 16 thereon and shall cause notice of the administrative hearing
 17 to be given. The administrative hearing shall be held
 18 without undue delay after the filing of the petition. The
 19 board shall enter its order and findings on the petition
 20 within 30 days after the administrative hearing. In the case
 21 of any administrative hearing held by the board, the person
 22 affected or the person testifying may be represented by
 23 legal counsel. Any order or findings of the board shall be
 24 reviewable, upon petition, after a period of 1 year.

25 (2) Any person adversely affected by the policies or

1 orders of the board may obtain judicial review thereof by
 2 filing in the district court, within 30 days after entry of
 3 such order, a petition praying that the policies or orders
 4 be set aside in whole or in part. A copy of the petition
 5 shall be immediately transmitted by the clerk of the court
 6 to the board and thereupon the board shall file in the court
 7 the record of the proceeding on which it based the policies
 8 and orders. The court may affirm or set aside the order
 9 complained of in whole or in part. The findings of the board
 10 with respect to questions of fact shall be sustained if
 11 supported by substantial evidence when considered on the
 12 record as a whole. Upon application, the court may remand
 13 the matter to the board to take further testimony if there
 14 are reasonable grounds for the failure to produce the
 15 evidence in the prior hearing. The board may modify its
 16 finding and its order by reason of the additional record and
 17 must file any modification of the findings or order with the
 18 clerk of the court.

19 Section 11. Noxious plant management fund. (1) The
 20 governing body of the county shall create a noxious plant
 21 management fund either by appropriating money from the
 22 general fund of the county or levying a tax not exceeding 5
 23 mills per dollar of total taxable valuation in the county.

24 (2) The noxious plant management fund shall be used
 25 solely for the management of noxious plants in the county.

1 Any revenues generated by the sale of materials, rent of
2 equipment, or assessed penalties shall revert to the noxious
3 plant management fund of the county. The governing body of
4 the county may create a revolving fund for the management of
5 noxious plants.

6 (3) The board may disburse funds as it feels are
7 necessary to hire employees and to purchase materials or
8 equipment for use in the noxious plant management program.

9 (4) The board may determine what materials or
10 equipment owned by the county shall be made available for
11 equal distribution or use by any person in the county
12 provided that the materials are sold and equipment rented at
13 a rate equivalent to local commercial rates and used solely
14 for noxious plant management. Payments made for materials
15 or equipment sold or rented shall revert to the noxious
16 plant management fund for the county.

17 (5) The costs of conducting a noxious plant management
18 program on the rights-of-way for state highways shall be
19 assessed against the state department of highways and shall
20 be paid from the state highway fund in compliance with an
21 agreement between the county and the department. The county
22 shall include all state highways in its noxious plant
23 management program and shall submit a copy of that plan to
24 the department of highways for review and approval of that
25 portion of the plan affecting the department.

1 (6) The governing body of a county may accept any
2 private, state, or federal grants to aid in the management
3 of noxious plants within the county.

4 (7) The board and the governing body of an included
5 municipality shall cooperatively plan for the management of
6 noxious plants within the boundaries of the municipality.
7 The county shall implement management procedures described
8 in the plan within the boundaries of the municipality for
9 noxious plants only. Control of "nuisance weeds" remains
10 the responsibility of the governing body of the
11 municipality. The supervisor shall enforce and carry out the
12 provisions of this act equally within and without the
13 boundaries of the municipality.

14 Section 12. Declaration of noxious plants. (1) The
15 governing body of any county shall petition the directors of
16 the cooperative extension service and the agricultural
17 experiment station for the addition or deletion of a weed
18 plant to the county's noxious plant management list.

19 (2) The directors of the cooperative extension service
20 and the agricultural experiment station shall review and
21 approve or disapprove the petition within 21 days. If both
22 directors agree, the governing body of the county may add or
23 delete the plant or plants to or from the county's noxious
24 plant management list.

25 (3) Two or more governing bodies may jointly petition

1 the directors of the cooperative extension service and the
2 agricultural experiment station for the addition or deletion
3 of a weed plant to or from the noxious plant management list
4 of their counties.

5 Section 13. Cost sharing. The county may enter into
6 financial or operational agreements to assist
7 owner/occupiers in the county with a portion of the cost of
8 managing noxious plants. If the county agrees to assist
9 these owner/occupiers, any assistance shall be equally
10 available to all owner/occupiers in the county as set forth
11 in the management plan of the county. Verified claims filed
12 by an owner/occupier cooperating with the county to collect
13 a portion of the cost of managing noxious plants shall be
14 paid by the county from the noxious plant management fund.

15 Section 14. Quarantine. The department of agriculture
16 shall adopt model rules which counties or boards may adopt
17 and enforce for implementing a quarantine for farm products,
18 machinery, or equipment containing noxious plants, plant
19 parts, or seed to be transported within and into the county.
20 The county rules must meet minimum department of agriculture
21 standards. Counties may adopt rules more stringent than the
22 model rules.

23 Section 15. Citizen responsibilities. Each person
24 owning, controlling, occupying, or leasing any land in the
25 state should, to the best of his ability:

- 1 (1) learn to identify noxious plants;
 - 2 (2) survey his land and note the presence or absence
3 of noxious plants;
 - 4 (3) manage any noxious plants on his land with the
5 goal of lasting reduction or elimination of those noxious
6 plants;
 - 7 (4) enter into a long-term agreement with the county
8 to manage any noxious plants on his land; and
 - 9 (5) assist the noxious plant management supervisor as
10 much as practical in carrying out the provisions and intent
11 of this act.
- 12 Section 16. Responsibilities of the board. The board
13 shall:
- 14 (1) hire a competent noxious plant management
15 supervisor;
 - 16 (2) adopt rules and policies for the management of
17 noxious plants;
 - 18 (3) hold regularly scheduled public meetings on the
19 management of noxious plants within the county;
 - 20 (4) administer and disburse funds for management of
21 noxious plants;
 - 22 (5) engage in other suitable activities to further
23 noxious plant management;
 - 24 (6) enter into any cooperative agreements that will
25 promote the management of noxious plants;

1 (7) keep operational records;

2 (8) purchase such materials and equipment necessary

3 for performing a management program for noxious plants;

4 (9) so far as is practical, not interfere or compete

5 with any private enterprise within the county;

6 (10) submit noxious plant management plans to the

7 cooperative extension service and the departments of

8 agriculture, highways, fish and game, and state lands for

9 review and comment; and

10 (11) delineate areas in the county where some

11 management techniques may not be carried out because of

12 unique environmental and economic considerations.

13 Section 17. Responsibilities of the supervisor. The

14 supervisor shall:

15 (1) conduct periodic comprehensive surveys and

16 analyses of all noxious plant populations within the

17 confines of the district;

18 (2) plan, develop, implement, and coordinate the

19 long-term management programs on all federal, state, county,

20 municipal, and privately owned lands within the district;

21 (3) utilize resource people to aid in planning and

22 developing management programs;

23 (4) submit specific reports on noxious plant

24 management programs as required by the governing body of the

25 county;

1 (5) conduct or provide lectures, displays, meetings,

2 and other educational activities for the general public and

3 specifically for agricultural landowners or lessees on the

4 management of noxious plants;

5 (6) investigate all alternative methods of controlling

6 noxious plants with the goal of achieving lasting reductions

7 in noxious plant densities;

8 (7) prepare an annual written report and evaluation of

9 the noxious plant management program. The report shall be

10 submitted to the governing body of the county, the

11 department of agriculture, and the cooperative extension

12 service. The general public may also review the report.

13 (8) manage and enforce the noxious plant management

14 program;

15 (9) consult and advise upon matters pertaining to the

16 best and most practical methods of noxious plant management;

17 and

18 (10) investigate or aid in the investigation and

19 prosecution of any violation of the noxious plant management

20 program.

21 Section 18. Role of state agencies. The department of

22 agriculture and the cooperative extension service in

23 cooperation with counties shall:

24 (1) denote the presence or absence of each noxious

25 plant declared in this act in every county;

- 1 (2) define the noxious plant infestations per county,
- 2 watershed, or other appropriate geographical region of the
- 3 state;
- 4 (3) determine the number of acres infested with each
- 5 noxious plant in each county of the state;
- 6 (4) determine the economic and environmental impact of
- 7 noxious plant infestations;
- 8 (5) determine suitable methods for management of these
- 9 noxious plants and disseminate this information to the
- 10 counties;
- 11 (6) assist in the development of watershed, district,
- 12 regional, and statewide noxious plant management programs to
- 13 include submission of plans to aid in the acquisition of
- 14 state and federal funds for noxious plant management on
- 15 state and federal lands;
- 16 (7) delineate areas in the state where some management
- 17 techniques may not be carried out because of unique
- 18 environmental or economic considerations;
- 19 (8) provide appropriate training sessions to
- 20 supervisors to help them improve their expertise in
- 21 management of noxious plant programs;
- 22 (9) provide and distribute such information,
- 23 materials, personnel, and funds that are available to aid in
- 24 the management programs conducted by county personnel; and
- 25 (10) provide funds and personnel, if available, to

1 manage an emergency infestation of any newly introduced
 2 noxious plant into the state.

3 Section 19. Penalties. A person who interferes with
 4 the board or its employees as public servants in carrying
 5 out the provisions of this act is guilty of a misdemeanor
 6 and upon conviction shall be fined according to 94-7-302.

7 Section 20. Severability. If a part of this act is
 8 invalid, all valid parts that are severable from the invalid
 9 part remain in effect. If a part of this act is invalid in
 10 one or more of its applications, the part remains in effect
 11 in all valid applications that are severable from the
 12 invalid applications.

13 Section 21. Repealer. Sections 16-1701 through
 14 16-1723, R.C.M. 1947, are repealed.

15 Section 22. Effective date. Sections 1 through 20 are
 16 effective July 1, 1977. Section 21 is effective July 1,
 17 1978.

STATE OF MONTANA

REQUEST NO. 525-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 315 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 315 provides for an increase of from 2 to 5 mills for noxious weed control and requires local government to prepare a management plan and annual report. Section 18 specifies 10 functions relating to noxious weed control that the Department of Agriculture and the Cooperative Extension Service have a role in performing.

ASSUMPTIONS:

The Department of Agriculture will provide only a minimum level of services with current personnel and operational resources.

FISCAL IMPACT - STATE:

Department officials state that costs to implement SB 315 will be minimal.

NOTE: Section 1 of SB 239 requires the Department of Agriculture to perform similar functions as set forth in Section 18 of Senate Bill 315. Senate Bill 239 costs are as follows:

	FY78	FY79
Personal Services	\$13,785	\$14,109
Operating Expenses	<u>8,000</u>	<u>8,000</u>
Total General Fund costs	<u>\$21,785</u>	<u>\$22,109</u>

TECHNICAL NOTE:

SB 296 and HB 572 each provide a \$58,267 general fund appropriation for the 1978 Biennium to accomplish the new responsibilities assigned to the Department by SB 239.

Richard L. ...
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-77

Approved by Committee
on Agriculture Livestock
& Irrigation

SENATE BILL NO. 315

INTRODUCED BY DOVER, GALT

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Section 4. Prohibitive statement. (1) It is unlawful

1 for any owner/occupier, after due notice and opportunity to
 2 enter into a contractual agreement with the county for the
 3 management of noxious plants as provided in ~~46-4706~~ [SECTION
 4 7], to ~~willfully~~ PURPOSELY allow any noxious plant named in
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 2 long-range noxious plant management on all lands within the
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12 (b) the specific plant ~~specie(s)~~ SPECIES to be
 13 controlled;

14 (c) the apparent intensity and boundaries of the
 15 ~~population(s)~~ POPULATION;

16 (d) the ~~actual-and-probable~~ APPARENT hazard or damage
 17 caused by the noxious plant population;

18 (e) the proposed methods of control, including
 19 alternatives, if any;

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 21 plant(s) to be controlled and on other nontarget plant and
 22 animal life in the area;

23 (g) the estimated costs of the proposed program and
 24 how they may be apportioned;

25 (h) the specific priorities of the program element in

1 the total plan; and

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4 NOT LESS THAN 30 DAYS for public comment on the plan before
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7 plant management program in cooperation with one or more
8 counties or with state or federal governments and their
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21 ~~expertise~~ SHALL BE FROM A MUNICIPALITY WITHIN THE COUNTY OR
22 DISTRICT. The members shall be appointed to 1-, 2-, and
23 3-year terms respectively.

24 (b) If a five-member board is appointed, ~~three~~ FOUR
25 members shall be rural agricultural persons, AND one shall

1 be from an included municipality, ~~and one shall be a~~
2 ~~teacher of biology or person of similar expertise~~ WITHIN THE
3 COUNTY OR DISTRICT. The members shall be appointed for 1-,
4 2-, and 3-year terms, respectively.

5 (2) Appointment or reappointment to the board shall be
6 made each January. The governing body of the county may
7 limit the number of terms each member may serve.

8 (3) The county extension agent shall be an ex officio
9 member of the board. The board may appoint other ex officio
10 members if necessary.

11 (4) The governing body of the county shall by
12 resolution set the salary, per diem, and mileage to be paid
13 to the board members.

14 (5) The board shall establish the policies for the
15 management of the district and hire suitable and competent
16 persons to conduct the management program in the county.

17 Section 7. Inspection. (1) Where complaint has been
18 made or the supervisor has reason to believe that noxious
19 plants are present upon an owner/occupier's land within the
20 district, the supervisor shall, with permission of the
21 owner/occupier or with a warrant, inspect the lands. If any
22 noxious plants are found, the board shall send a written
23 notice by certified mail to be served on the owner/occupier,
24 directing him to comply with the immediate and long-term
25 provisions of this act within a reasonable period of time

1 specified in the notice.

2 (2) If the owner/occupier enters into and adheres to a
3 contractual agreement with the county as part of the
4 county's long-range noxious plant management program, he is
5 in compliance with the provisions of this act.

6 Section 8. Enforcement. ~~(1) If the notice served in~~
7 ~~[section 7] is not observed within the time specified or the~~
8 ~~owner/occupier refuses to comply with the management~~
9 ~~agreement, the supervisor, upon procurement of a lawful~~
10 ~~warrant, shall institute management procedures upon the land~~
11 ~~described in the notice and submit to the county clerk an~~
12 ~~itemized account of services and expenses. The itemized~~
13 ~~account shall include the materials used, a legal~~
14 ~~description of the land involved, man-hours of labor, and~~
15 ~~equipment employed. These costs shall be equivalent to the~~
16 ~~going rate paid for commercial management operations in the~~
17 ~~immediate vicinity. An additional penalty of 25% of the~~
18 IMPLEMENTATION. (1) THE COUNTY MAY IMPLEMENT NOXIOUS PLANT
19 MANAGEMENT MEASURES ON LAND WITHIN THE COUNTY IN ACCORD WITH
20 ITS MANAGEMENT PLAN WHEN:

21 (A) THE LAND IS COUNTY OWNED OR CONTROLLED OR INVOLVES
22 THE RIGHT-OF-WAY OF MUNICIPAL, COUNTY, STATE, OR FEDERAL
23 TRAVELWAYS;

24 (B) THE LAND IS DETERMINED BY THE COUNTY TO HAVE AN
25 INFESTATION OF SIZE, NATURE, OR DENSITY THAT IS BEYOND THE

1 REASONABLE CAPACITY OF THE OWNER/OCCUPIER TO MANAGE OR IS IN
2 THE BEST INTERESTS OF THE COUNTY TO MANAGE, OR BOTH;

3 (C) THE OWNER/OCCUPIER OF THE LAND DOES NOT ENTER INTO
4 AND ADHERE TO AN AGREEMENT WITH THE COUNTY AS PART OF THE
5 COUNTY'S LONG-RANGE NOXIOUS PLANT MANAGEMENT PROGRAM.

6 (2) WHEN THE COUNTY IMPLEMENTS NOXIOUS PLANT
7 MANAGEMENT MEASURES AS PROVIDED IN SUBSECTION (1)(B) OR
8 (1)(C), THE SUPERVISOR SHALL SUBMIT TO THE COUNTY CLERK AN
9 ITEMIZED ACCOUNT OF SERVICES AND EXPENSES. THE ITEMIZED
10 ACCOUNT SHALL INCLUDE THE MATERIALS USED, A LEGAL
11 DESCRIPTION OF THE LAND INVOLVED, MAN-HOURS OF LABOR, AND
12 EQUIPMENT EMPLOYED. COSTS FOR THESE SHALL BE EQUIVALENT TO
13 THE CURRENT RATE PAID FOR COMMERCIAL MANAGEMENT OPERATIONS
14 IN THE IMMEDIATE VICINITY. NO COSTS SHALL BE LESS THAN THE
15 ACTUAL EXPENSES INCURRED, IF THE NOTICE SERVED IN [SECTION
16 7] IS NOT OBSERVED WITHIN THE TIME SPECIFIED AND THE COUNTY
17 UPON PROCUREMENT OF A LAWFUL WARRANT IMPLEMENTS NOXIOUS
18 PLANT MANAGEMENT MEASURES AS PROVIDED BY SUBSECTION (1)(C),
19 AN ADDITIONAL PENALTY OF 25% OF THE total cost for services
20 and expenses incurred shall be included with the itemized
21 account. Such expenses shall be paid by the county from the
22 noxious plant management fund, and unless the
23 owner/occupier's expense and penalty are repaid before the
24 following October 15, the county clerk shall certify the
25 amount thereof with the legal description of the land to be

1 charged and shall extend the same to the assessment list of
2 the county as a special tax on that land.

3 ~~(3)~~(3) Tax-exempt lands as defined in 84-202 shall, in
4 accordance with the provisions of this act, be assessed a
5 service fee equal to the management costs incurred and the
6 additional 25% penalty if the county performs the management
7 operations as provided in subsection (1). The service fee
8 and penalty shall be applied to the noxious plant management
9 fund. The fee is due on or before the following October 15.

10 ~~(3)~~(4) A fee due and unpaid under this act constitutes
11 a debt due the county. If the fee imposed by this act or
12 any portion thereof is not paid at the time it becomes due,
13 the county treasurer may issue a warrant in the name of the
14 county, directed to the clerk, who shall enter in the
15 judgment docket in the column for judgment debtors the name
16 of the delinquent person mentioned in the warrant and, in
17 the appropriate columns, the amount of fees, penalties,
18 interest, and other costs for which the warrant is issued
19 and the date when such warrant is filed. The warrant so
20 docketed has the effect of a judgment rendered by a district
21 court and docketed in the office of the clerk thereof, and
22 the county has the same remedies against the owner/occupier
23 as under any other judgment.

24 ~~(4)~~(5) It is the duty of the board of land
25 commissioners in leasing any state land to provide in the

1 lease that the lessee of lands so leased lying within the
2 boundaries of any noxious plant management district shall
3 assume and pay all assessments and taxes levied by the
4 governing body of the county.

5 Section 9. Reseeding of right-of-way areas. Whenever
6 the natural sod cover on right-of-way areas is disturbed by
7 construction of county roads, irrigation ditches, drain
8 ditches, or otherwise, the governing body of the county
9 shall require that the disturbed areas be seeded to an
10 adaptable perennial grass or combination of perennial
11 grasses, and legumes, OR OTHER BENEFICIAL PLANTS. Every
12 effort shall be made to establish a sod cover OR GROWTH OF
13 BENEFICIAL PLANTS on the disturbed area. All seed used
14 shall meet certified standards. Time and method of seeding,
15 fertilizing practices, and grass species shall be those
16 recommended by the cooperative extension service. NOTHING IN
17 THIS SECTION SHALL BE CONSTRUED TO PREVENT OR DISCOURAGE THE
18 USE OF SEEDS OR PARTS OF NATIVE PLANTS WHERE DESIRABLE OR
19 PRACTICAL.

20 Section 10. Administrative procedures. (1) The board
21 may act upon the petition of any interested person
22 concerning the county noxious plant management program or
23 any of its functions. On the filing of a petition concerning
24 any matter within the jurisdiction of the board, the board
25 shall promptly fix a date for an administrative hearing

1 thereon and shall cause notice of the administrative hearing
 2 to be given. The administrative hearing shall be held
 3 without undue delay after the filing of the petition. The
 4 board shall enter its order and findings on the petition
 5 within 30 days after the administrative hearing. In the case
 6 of any administrative hearing held by the board, the person
 7 affected or the person testifying may be represented by
 8 legal counsel. Any order or findings of the board shall be
 9 reviewable, upon petition, after a period of 1 year.

10 (2) Any person adversely affected by the policies or
 11 orders of the board may obtain judicial review thereof by
 12 filing in the district court, within 30 days after entry of
 13 such order, a petition praying that the policies or orders
 14 be set aside in whole or in part. A copy of the petition
 15 shall be immediately transmitted by the clerk of the court
 16 to the board and thereupon the board shall file in the court
 17 the record of the proceeding on which it based the policies
 18 and orders. The court may affirm or set aside the order
 19 complained of in whole or in part. The findings of the board
 20 with respect to questions of fact shall be sustained if
 21 supported by substantial evidence when considered on the
 22 record as a whole. Upon application, the court may remand
 23 the matter to the board to take further testimony if there
 24 are reasonable grounds for the failure to produce the
 25 evidence in the prior hearing. The board may modify its

1 finding and its order by reason of the additional record and
 2 must file any modification of the findings or order with the
 3 clerk of the court.

4 (3) ANY PERSON OBTAINING JUDICIAL REVIEW AS SPECIFIED
 5 IN SUBSECTION (2) OF THIS SECTION AND SUCCEEDING IN HAVING
 6 THE COURT SET ASIDE THE ORDER COMPLAINED OF SHALL BE
 7 COMPENSATED FOR ALL LEGAL FEES AND COURT COSTS INCURRED IN
 8 SUCH ACTION.

9 Section 11. Noxious plant management fund. (1) The
 10 governing body of the county shall create a noxious plant
 11 management fund either by appropriating money from the
 12 general fund of the county or levying a tax not exceeding 5
 13 mills per dollar of total taxable valuation in the county.

14 (2) The noxious plant management fund shall be used
 15 solely for the management of noxious plants in the county.
 16 Any revenues generated by the sale of materials, rent of
 17 equipment, or assessed penalties shall revert to the noxious
 18 plant management fund of the county. ~~The governing body of~~
 19 ~~the county may create a revolving fund for the management of~~
 20 ~~noxious plants, AND MAY BE USED DURING THE CURRENT OF ANY~~
 21 ~~SUBSEQUENT YEAR FOR THE PURPOSES OF THE NOXIOUS PLANT~~
 22 ~~MANAGEMENT PROGRAM.~~

23 (3) The board may disburse funds as it feels are
 24 necessary to hire employees and to purchase materials or
 25 equipment for use in the noxious plant management program.

1 (4) The board may determine what materials or
 2 equipment owned by the county shall be made available for
 3 equal distribution or use by any person in the county
 4 provided that the materials are sold and equipment rented at
 5 a rate equivalent to local commercial rates and used solely
 6 for noxious plant management. Payments made for materials
 7 or equipment sold or rented shall revert to the noxious
 8 plant management fund for the county.

9 (5) The costs of conducting a noxious plant management
 10 program on the rights-of-way for state highways shall be
 11 assessed against the state department of highways and shall
 12 be paid from the state highway fund in compliance with an
 13 agreement between the county and the department. The county
 14 shall include all state highways in its noxious plant
 15 management program and shall submit a copy of that plan to
 16 the department of highways for review and approval of that
 17 portion of the plan affecting the department.

18 (6) The governing body of a county may accept any
 19 private, state, or federal grants to aid in the management
 20 of noxious plants within the county.

21 (7) The board and the governing body of an included
 22 municipality shall cooperatively plan for the management of
 23 noxious plants within the boundaries of the municipality.
 24 The county shall implement management procedures described
 25 in the plan within the boundaries of the municipality for

1 noxious plants only. Control of "nuisance weeds" remains
 2 the responsibility of the governing body of the
 3 municipality. The supervisor shall enforce and carry out the
 4 provisions of this act equally within and without the
 5 boundaries of the municipality.

6 Section 12. Declaration of noxious plants. (1) The
 7 ~~governing body of any county shall petition the directors of~~
 8 ~~the cooperative extension service and the agricultural~~
 9 ~~experiment station for the addition or deletion of a weed~~
 10 ~~plant to the county's noxious plant management list.~~

11 ~~(2) The directors of the cooperative extension service~~
 12 ~~and the agricultural experiment station shall review and~~
 13 ~~approve or disapprove the petition within 21 days. If both~~
 14 ~~directors agree, the governing body of the county may add or~~
 15 ~~delete the plant or plants to or from the county's noxious~~
 16 ~~plant management list.~~

17 ~~(3) Two or more governing bodies may jointly petition~~
 18 ~~the directors of the cooperative extension service and the~~
 19 ~~agricultural experiment station for the addition or deletion~~
 20 ~~of a weed plant to or from the noxious plant management list~~
 21 ~~of their counties. GOVERNING BODY OF A COUNTY SHALL HOLD A~~
 22 ~~PUBLIC HEARING ON EACH REQUEST FOR THE ADDITION OF A PLANT~~
 23 ~~TO THE NOXIOUS PLANT MANAGEMENT LIST OF THE COUNTY.~~

24 ~~(2) THE GOVERNING BODY OF THE COUNTY SHALL INFORM THE~~
 25 ~~DIRECTORS OF THE COOPERATIVE EXTENSION SERVICE AND THE~~

1 MONTANA AGRICULTURAL EXPERIMENT STATION 21 DAYS BEFORE A
 2 PUBLIC HEARING OF ANY REQUEST TO ADD A PLANT TO THE COUNTY'S
 3 NOXIOUS PLANT MANAGEMENT LIST.

4 (3) THE DIRECTORS OF THE COOPERATIVE EXTENSION SERVICE
 5 AND THE MONTANA AGRICULTURAL EXPERIMENT STATION MAY PROVIDE
 6 WRITTEN TESTIMONY ON ANY PLANT REQUESTED FOR ADDITION TO A
 7 COUNTY'S NOXIOUS PLANT MANAGEMENT LIST.

8 (4) NOT LESS THAN 6 DAYS AFTER THE PUBLIC HEARING, THE
 9 GOVERNING BODY OF THE COUNTY MAY ADD THE REQUESTED PLANT TO
 10 THE COUNTY'S NOXIOUS PLANT MANAGEMENT LIST.

11 Section 13. Cost sharing. The county may enter into
 12 financial or operational agreements to assist
 13 owner/occupiers in the county with a portion of the cost of
 14 managing noxious plants. If the county agrees to assist
 15 these owner/occupiers, any assistance shall be equally
 16 available to all owner/occupiers in the county as set forth
 17 in the management plan of the county. Verified claims filed
 18 by an owner/occupier cooperating with the county to collect
 19 a portion of the cost of managing noxious plants shall be
 20 paid by the county from the noxious plant management fund.

21 Section 14. Quarantine. The department of agriculture
 22 shall adopt model rules which counties or boards may adopt
 23 and enforce for implementing a quarantine for farm products,
 24 machinery, or equipment containing noxious plants, plant
 25 parts, or seed to be transported within and into the county.

1 The county rules must meet minimum department of agriculture
 2 standards. Counties may adopt rules more stringent than the
 3 model rules.

4 Section 15. Citizen responsibilities. Each person
 5 owning, controlling, occupying, or leasing any land in the
 6 state should, to the best of his ability:

- 7 (1) learn to identify noxious plants;
- 8 (2) survey his land and note the presence or absence
 9 of noxious plants;
- 10 (3) manage any noxious plants on his land with the
 11 goal of lasting reduction or elimination of those noxious
 12 plants;
- 13 (4) enter into a long-term agreement with the county
 14 to manage any noxious plants on his land; and
- 15 (5) assist the noxious plant management supervisor as
 16 such as practical in carrying out the provisions and intent
 17 of this act.

18 Section 16. Responsibilities of the board. The board
 19 shall:

- 20 (1) hire a competent noxious plant management
 21 supervisor;
- 22 (2) adopt rules and policies for the management of
 23 noxious plants;
- 24 (3) hold regularly scheduled public meetings on the
 25 management of noxious plants within the county;

1 (4) administer and disburse funds for management of
2 noxious plants;

3 (5) engage in other suitable activities to further
4 noxious plant management;

5 (6) enter into any cooperative agreements that will
6 promote the management of noxious plants;

7 (7) keep operational records;

8 (8) purchase such materials and equipment necessary
9 for performing a management program for noxious plants;

10 (9) so far as is practical, not interfere or compete
11 with any private enterprise within the county;

12 (10) submit noxious plant management plans to the
13 cooperative extension service and the departments of
14 agriculture, highways, fish and game, and state lands for
15 review and comment; and

16 (11) delineate areas in the county where some
17 management techniques may not be carried out because of
18 unique environmental and economic considerations.

19 Section 17. Responsibilities of the supervisor. The
20 supervisor shall:

21 (1) conduct periodic comprehensive surveys and
22 analyses of all noxious plant populations within the
23 confines of the district;

24 (2) plan, develop, implement, and coordinate the
25 long-term management programs on all federal, state, county,

1 municipal, and privately owned lands within the district;

2 (3) utilize resource people to aid in planning and
3 developing management programs;

4 (4) submit specific reports on noxious plant
5 management programs as required by the governing body of the
6 county;

7 (5) conduct or provide lectures, displays, meetings,
8 and other educational activities for the general public and
9 specifically for agricultural landowners or lessees on the
10 management of noxious plants;

11 (6) investigate all alternative methods of controlling
12 noxious plants with the goal of achieving lasting reductions
13 in noxious plant densities;

14 (7) prepare an annual written report and evaluation of
15 the noxious plant management program. The report shall be
16 submitted to the governing body of the county, the
17 department of agriculture, and the cooperative extension
18 service. The general public may also review the report.

19 (8) manage and enforce the noxious plant management
20 program;

21 (9) consult and advise upon matters pertaining to the
22 best and most practical methods of noxious plant management;
23 and

24 (10) investigate or aid in the investigation and
25 prosecution of any violation of the noxious plant management

1 program.

2 Section 18. Role of state agencies. The department of
3 agriculture and the cooperative extension service in
4 cooperation with counties shall:

5 (1) denote the presence or absence of each noxious
6 plant declared in this act in every county;

7 (2) define the noxious plant infestations per county,
8 watershed, or other appropriate geographical region of the
9 state;

10 (3) determine the number of acres infested with each
11 noxious plant in each county of the state;

12 (4) determine the economic and environmental impact of
13 noxious plant infestations;

14 (5) determine suitable methods for management of these
15 noxious plants and disseminate this information to the
16 counties;

17 (6) assist in the development of watershed, district,
18 regional, and statewide noxious plant management programs to
19 include submission of plans to aid in the acquisition of
20 state and federal funds for noxious plant management on
21 state and federal lands;

22 (7) delineate areas in the state where some management
23 techniques may not be carried out because of unique
24 environmental or economic considerations;

25 (8) provide appropriate training sessions to

1 supervisors to help them improve their expertise in
2 management of noxious plant programs;

3 (9) provide and distribute such information,
4 materials, personnel, and funds that are available to aid in
5 the management programs conducted by county personnel; and

6 (10) provide funds and personnel, if available, to
7 manage an emergency infestation of any newly introduced
8 noxious plant into the state.

9 Section 19. Penalties. A person who interferes with
10 the board or its employees as public servants in carrying
11 out the provisions of this act is guilty of a misdemeanor
12 and upon conviction shall be fined according to 94-7-302.

13 Section 20. Severability. If a part of this act is
14 invalid, all valid parts that are severable from the invalid
15 part remain in effect. If a part of this act is invalid in
16 one or more of its applications, the part remains in effect
17 in all valid applications that are severable from the
18 invalid applications.

19 Section 21. Repealer. Sections 16-1701 through
20 16-1723, R.C.M. 1947, are repealed.

21 Section 22. Effective date. Sections 1 through 20 are
22 effective July 1, 1977. Section 21 is effective July 1,
23 1978.

-End-