

HOUSE BILL NO. 506

INTRODUCED BY HARPER, MARKS, SPAETH, ASAY, KELLER, JANET MOORE,
O'CONNELL, HAYNE, WALLIN, PETERSON, HARBIN, THOFT,
HART, IVERSON, RAPP-SVRCEK, D. BROWN, SCHYE, RANEY

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

IN THE HOUSE

| | |
|-------------------|---|
| January 26, 1985 | Introduced and referred to Committee on Agriculture, Livestock and Irrigation. |
| January 29, 1985 | Fiscal Note requested. |
| February 4, 1985 | Fiscal Note returned. |
| February 22, 1985 | Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached. Bill printed and placed on members' desks. |
| February 23, 1985 | Second reading, do pass. Considered correctly engrossed. |
| February 26, 1985 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

| | |
|----------------|--|
| March 4, 1985 | Introduced and referred to Committee on Agriculture, Livestock and Irrigation. |
| March 22, 1985 | Committee recommend bill be concurrred in as amended. Report adopted. |
| March 25, 1985 | Second reading, concurrred in. |

March 27, 1985

Third reading, concurred in.
Ayes, 49; Noes, 1.

Returned to House with
amendments.

IN THE HOUSE

March 27, 1985

Received from Senate.

April 5, 1985

Second reading, amendments
concurred in.

April 8, 1985

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 506 *Janis Moore*
 2 INTRODUCED BY *Hayer* *Mark* *Spencer* *Crain* *Kille*
 3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE *Haynes*
 4 *McNeil* *Jean* *Kay Smith* *Debye* *Kane* *Steele*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A NOXIOUS *Haynes*
 6 WEED MANAGEMENT TRUST FUND; AUTHORIZING A NOXIOUS WEED *Haynes*
 7 MANAGEMENT ADVISORY COUNCIL; PROVIDING FUNDING FOR NOXIOUS
 8 WEED MANAGEMENT PROGRAMS; PROVIDING AN IMMEDIATE EFFECTIVE
 9 DATE; AND PROVIDING AN APPLICABILITY DATE FOR A PORTION OF
 10 THE ACT."

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

12 Section 1. Definitions. As used in [this act], the
13 following definitions apply:

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

16 (2) "Herbicide" means a substance or mixture of
17 substances for preventing, destroying, repelling, or
18 mitigating any noxious weed. The term does not include
19 herbicides labeled only for home, yard, or garden use and
20 sold in containers of less than 10 pounds or 1 gallon.

21 (3) "Noxious weed" means any weed defined and
22 designated as a noxious weed by rule of the department.

23 (4) "Retail value" means the suggested or retail price
24 to the consumer of a given herbicide as established by the
25

1 registrant, or as determined by a survey of dealers
2 conducted by the department.

3 (5) "Sale" includes only the sale of a herbicide to an
4 applicator or consumer. Sales between or to distributors,
5 dealers, or retailers are not included.

6 Section 2. Noxious weed management trust fund. There
7 is a noxious weed management trust fund, which must be
8 funded from revenue collected under [sections 3 through 5].
9 The department shall administer the trust fund in accordance
10 with [this act].

11 Section 3. Surcharge imposed on retail sales of
12 herbicides -- disposition of proceeds. (1) There is imposed
13 a surcharge of 1 cent per dollar of the retail value of all
14 registered herbicides sold for consumer use in the state.
15 The volume of sales of each registered herbicide must be
16 determined by the department from records required of
17 pesticide dealers and retailers.

18 (2) The surcharge must be collected by the department
19 on an annual calendar basis from the registrant of the
20 herbicide and is due and payable within 30 days after notice
21 of the amount has been given to the registrant.

22 (3) No registrant may be allowed to reregister a
23 herbicide if he has failed to pay in full the surcharge on
24 his product.

25 (4) The department may expend in a fiscal year not



1 more than one-half of the annual proceeds of the surcharge
 2 as provided in [section 6(2) and (3)]. All remaining annual
 3 proceeds of the surcharge and any interest income collected
 4 must be deposited into the noxious weed management trust
 5 fund.

6 Section 4. Property tax levy for noxious weed
 7 management. (1) There is levied upon the taxable value of
 8 all real and personal property in the state subject to
 9 taxation 0.1 mill to be used for noxious weed management.

10 (2) Money received from the tax levy must be
 11 transmitted monthly with other taxes for state purposes by
 12 the county treasurer of each county to the state treasurer.
 13 One-half of the amount collected from the noxious weed levy
 14 must be placed in the state special revenue fund, to be
 15 expended as provided in [section 6(2) and (3)] for surcharge
 16 revenue, and one-half of the amount must be placed in the
 17 noxious weed management trust fund.

18 Section 5. Acceptance and expenditure of gifts and
 19 other funds. The department may accept gifts, grants,
 20 contracts, or other funds designated for noxious weed
 21 management. Such funds may be expended to support any weed
 22 management project or may be deposited in the noxious weed
 23 management trust fund.

24 Section 6. Administration and expenditure of funds.
 25 (1) Money deposited in the noxious weed management trust

1 fund may not be committed or expended until the principal
 2 reaches \$2,500,000, except as provided by [section 7] in
 3 case of a noxious weed emergency. Once this amount is
 4 accumulated, any interest or revenue generated by the trust
 5 fund and by other funding measures provided by [this act]
 6 must be deposited in the special revenue fund and may be
 7 expended for noxious weed management projects in accordance
 8 with this section, so long as the principal of the trust
 9 fund remains at least \$2,500,000.

10 (2) The department may expend funds under this section
 11 through grants or contracts to communities, weed control
 12 districts, or other entities it considers appropriate for
 13 noxious weed management projects. A project is eligible to
 14 receive funds only if the county in which the project occurs
 15 has funded its own weed management program with a levy in an
 16 amount not less than 1.6 mills or an equivalent amount from
 17 another source.

18 (3) The department may expend funds without the
 19 restrictions specified in subsection (2) for the following:

20 (a) employment of a new and innovative noxious weed
 21 management project or the development, implementation, or
 22 demonstration of any noxious weed management project that
 23 may be proposed, implemented, or established by local,
 24 state, or national organizations, whether public or private.
 25 Such expenditures must be on a cost-share basis with such

1 organizations.

2 (b) cost-share noxious weed management programs with
3 local weed control districts;

4 (c) special grants to local weed control districts to
5 eradicate or contain significant noxious weeds newly
6 introduced into the county. These grants may be issued
7 without matching funds from the district.

8 (d) costs of collecting the surcharge imposed by
9 [section 3], not to exceed 3% of the total surcharge
10 proceeds; and

11 (e) administrative expenses incurred by the noxious
12 weed management advisory council.

13 (4) In making such expenditures, the department must
14 give preference to weed control districts and community
15 groups.

16 (5) If the noxious weed management trust fund is
17 terminated by law, the money in the fund must be divided
18 between all counties according to rules adopted by the
19 department for that purpose.

20 Section 7. Noxious weed emergency -- expenditure
21 authorized. (1) If a new and potentially harmful noxious
22 weed is discovered growing in the state and is verified by
23 the department, the governor may declare a noxious weed
24 emergency. In the absence of necessary funding from other
25 sources, this declaration authorizes the department to

1 allocate up to \$150,000 of the principal of the noxious weed
2 trust fund to government agencies for emergency relief to
3 eradicate or confine the new noxious weed species.

4 (2) If such expenditure causes the principal of the
5 trust fund to fall below \$2,500,000, it must be replenished
6 by proceeds of the surcharge imposed in [section 3].

7 Section 8. Penalty -- enforcement. (1) A person who
8 violates any provision of [section 3] is guilty of a
9 misdemeanor and upon conviction is punishable by a fine of
10 not less than \$500 or more than \$2,000 or by imprisonment
11 for not less than 30 days or more than 6 months, or by both
12 such fine and imprisonment. Upon conviction, the court shall
13 order payment of any unpaid surcharge, together with such
14 interest and costs as the court considers appropriate.

15 (2) The county attorney of the county in which the
16 offense occurred or the attorney general shall prosecute
17 this action.

18 Section 9. Rules. The department may adopt rules
19 necessary to implement [this act].

20 Section 10. Noxious weed management advisory council.
21 (1) The director of the department may appoint a noxious
22 weed management advisory council to provide advice to the
23 department concerning the administration of [this act].

24 (2) If appointed, the council must be composed of
25 eight members, as follows:

- 1 (a) the director of the department of agriculture, who
2 shall serve as chairman;
- 3 (b) one member from a livestock production
4 organization;
- 5 (c) one member from an agriculture crop production
6 organization;
- 7 (d) one member from a sportsman/wildlife group;
- 8 (e) one member who is a herbicide dealer or
9 applicator;
- 10 (f) one member from a conservation or consumer group;
- 11 (g) one member from the Montana weed control
12 association; and
- 13 (h) one at-large member.

14 Section 11. Severability. If a part of this act is
15 invalid, all valid parts that are severable from the invalid
16 part remain in effect. If a part of this act is invalid in
17 one or more of its applications, the part remains in effect
18 in all valid applications that are severable from the
19 invalid applications.

20 Section 12. Effective date -- applicability. This act
21 is effective on passage and approval. Section 4 applies to
22 taxable years beginning after December 31, 1984, and before
23 December 31, 1989.

24 Section 13. Repealer. Section 4 is repealed effective
25 June 30, 1990.

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 276-85

Form BD-15

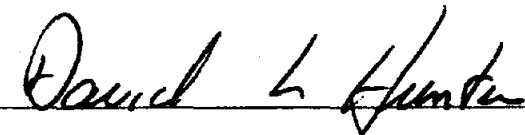
In compliance with a written request received January 29, 19 85, there is hereby submitted a Fiscal Note for House Bill 506 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to establish a Noxious Weed Management Trust Fund; authorizing a noxious weed management advisory council; provide long term funding for noxious weed management program; immediate effective date and applicability date for portion of act.

ASSUMPTIONS:

1. The taxable value of the state will be \$2,397,311,111 and \$2,444,888,889 in FY 86 and FY 87, respectively (OBPP).
2. Total of \$25,000,000 registered herbicides sold annually; surcharge imposed on retail sales @ \$.01 per dollar value.
3. One half of surcharge and tax levy collected be placed in noxious weed management trust fund.
4. One half of surcharge and tax levy collected be placed in special revenue fund to be expended for noxious weed control through grants.
5. Eight member noxious weed advisory council to meet quarterly be paid from surcharge and mill levy deposited to special revenue fund.
6. County transmit imposed tax levy to State Treasurer.
7. Dealers report annually (January) for previous calendar year of sales.
8. .25 FTE required.
9. Cost of collecting imposed surcharge not to exceed 3% of total proceeds (\$7,500).
10. Trust fund will earn 9% interest in 1987.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 4, 1985

FISCAL IMPACT:

| | <u>FY 86</u> | | | <u>FY 87</u> | | |
|---|----------------|-----------------|-------------------|----------------|-----------------|-------------------|
| | <u>Current</u> | <u>Proposed</u> | <u>Difference</u> | <u>Current</u> | <u>Proposed</u> | <u>Difference</u> |
| <u>Revenue To Trust Fund:</u> | | | | | | |
| Property Tax | \$ -0- | \$ 119,865 | \$ 119,865 | \$ -0- | \$ 122,244 | \$ 122,244 |
| Pesticide Surcharge | -0- | 125,000 | 125,000 | -0- | 125,000 | 125,000 |
| Interest | -0- | -0- | -0- | -0- | 44,500 | 44,500 |
| | \$ -0- | \$ 244,865 | \$ 244,865 | \$ -0- | \$ 291,744 | \$ 291,744 |
| <u>Revenue To State Special Revenue Fund:</u> | | | | | | |
| Property Tax | \$ -0- | \$ 119,865 | \$ 119,865 | \$ -0- | \$ 122,244 | \$ 122,244 |
| Pesticide Surcharge | -0- | 125,000 | 125,000 | -0- | 125,000 | 125,000 |
| | \$ -0- | \$ 244,865 | \$ 244,865 | \$ -0- | \$ 247,244 | \$ 247,244 |
| <u>Expenditures State Special Revenue:</u> | | | | | | |
| Personal Services | \$ -0- | \$ 5,200 | \$ 5,200 | \$ -0- | \$ 5,200 | \$ 5,200 |
| Operations | -0- | 13,970 | 13,970 | -0- | 13,970 | 13,970 |
| Grants | -0- | 225,695 | 225,695 | -0- | 228,074 | 228,074 |
| | \$ -0- | \$ 244,865 | \$ 244,865 | \$ -0- | \$ 247,244 | \$ 247,244 |

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Before a local project is eligible to receive grant funds, the county in which the project occurs has to fund its own weed management program with a levy in an amount not less than 1.6 mills or an equivalent amount from another source.

LONG RANGE EFFECTS:

None

TECHNICAL NOTES:

It is not clear whether the language in Sections 5, 6 or 7 is intended to be an appropriation of funds. If the language is meant to be an appropriation, the intent may need to be clarified and possibly coordinated with H.B. 12 which deals with statutory appropriations.

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

STATEMENT OF INTENT

HOUSE BILL 506

House Agriculture Committee

A statement of intent is required by this bill because rulemaking authority is granted to the Montana department of agriculture in section 8.

It is the intent of the legislature that the department of agriculture adopt rules for the orderly administration of the noxious weed management trust fund and collection and administration of revenue as provided in the bill. The department, through reports required of herbicide registrants, shall establish a collection system for the surcharge imposed in section 3, giving notice to the registrant and providing a procedure for the payment of the surcharge.

It is the intent of the legislature that the department adopt rules relating to the disbursement of funds generated by this act. Specifically, the department shall use the criteria stated in sections 5 and 6 as the basis for the distribution of the funds. The legislature intends that the money given in the form of grants and contracts be primarily on a cost-share basis. The department shall determine the ratio of cost sharing by considering the entity being given the money, its ability to find other sources of funding, the

need for the project for which it receives the money, and the amount of benefit it bestows on the area involved. The legislature intends that projects involving greater community action and benefit receive increased priority.

It is the intent of the legislature that if the trust fund should be terminated by the legislature, the funds to be distributed to the counties must be distributed in an equitable manner, taking into consideration the population of the counties, the participation in the program, and the needs of the counties with respect to noxious weed management.

The legislature intends that the department adopt rules identifying any weed which constitutes a new and potentially harmful noxious weed. The department shall take into consideration the possible harm the newly introduced weed will have on the Montana economy, the damage the weed will cause to the existing foliage and environment, and the likelihood that the noxious weed will spread throughout the state. The department shall also establish rules for verifying the existence of the weed. These rules shall take into consideration the scientific methods for verification and proper sampling techniques for determining the extent of the weed outbreak.

It is the intent of the legislature that the decision for the disbursement of the funds for the projects be made



1 by the director of the department of agriculture upon the
2 advice of the noxious weed management advisory council. The
3 directives of the director must be implemented by a noxious
4 weed management coordinator, who shall serve the director.
5 The noxious weed management coordinator shall maintain
6 records on the disbursement of the funds and the progress of
7 the funded projects. He shall make determinations as to the
8 effectiveness of the previously funded projects and provide
9 the director and the advisory council all relevant
10 information necessary to make decisions for future
11 disbursements of funds. He shall also work with and assist
12 county weed districts.

HOUSE BILL NO. 506

INTRODUCED BY HARPER, MARKS, SPAETH, ASAY, KELLER,
JANET MOORE, O'CONNELL, HAYNE, WALLIN, PETERSON,
HARBIN, THOFT, HART, IVERSON, RAPP-SVRCEK,
D. BROWN, SCHYE, RANEY
BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A NOXIOUS
WEED MANAGEMENT TRUST FUND; AUTHORIZING A NOXIOUS WEED
MANAGEMENT ADVISORY COUNCIL; PROVIDING FUNDING FOR NOXIOUS
WEED MANAGEMENT PROGRAMS; PROVIDING AN IMMEDIATE EFFECTIVE
DATE; ~~AND PROVIDING AN APPLICABILITY DATE FOR A PORTION OF~~
~~THE ACT."~~

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

Section 1. Definitions. As used in [this act], the
following definitions apply:

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

(2) "Herbicide" means a substance or mixture of
substances for preventing, destroying, repelling, or
mitigating any noxious weed. The term does not include
herbicides labeled only for home, yard, or garden use and
sold in containers of less than 10 pounds or 1 gallon.

(3) "Noxious weed" means any weed defined and

designated as a noxious weed by rule of the department.

(4) "Retail value" means the suggested or retail price
to the consumer of a given herbicide as established by the
registrant, or as determined by a survey of dealers
conducted by the department.

(5) "Sale" includes only the sale of a herbicide to an
applicator or consumer. Sales between or to distributors,
dealers, or retailers are not included.

Section 2. Noxious weed management trust fund. There
is a noxious weed management trust fund, which must be
funded from revenue collected under [sections 3 through-5
AND 4]. The department shall administer the trust fund in
accordance with [this act].

Section 3. Surcharge imposed on retail sales of
herbicides -- disposition of proceeds. (1) There is imposed
a surcharge of 1 cent per dollar of the retail value of all
registered herbicides sold for consumer use in the state.
The volume of sales of each registered herbicide must be
determined by the department from records required of
pesticide dealers and retailers.

(2) The surcharge must be collected by the department
on an annual calendar basis from the registrant of the
herbicide and is due and payable within 30 days after notice
of the amount has been given to the registrant.

(3) No registrant may be allowed to reregister a



1 herbicide if he has failed to pay in full the surcharge on
2 his product.

3 (4) The department may expend in a fiscal year not
4 more than one-half of the annual proceeds of the surcharge
5 as provided in [section 6 5(2) and (3)]. All remaining
6 annual proceeds of the surcharge and any interest income
7 collected must be deposited into the noxious weed management
8 trust fund.

9 ~~Section 4. Property tax levy for noxious weed
10 management. (1) There is levied upon the taxable value of
11 all real and personal property in the state subject to
12 taxation 0.1 mill to be used for noxious weed management.~~

13 ~~(2) Money received from the tax levy must be
14 transmitted monthly with other taxes for state purposes by
15 the county treasurer of each county to the state treasurer.
16 One-half of the amount collected from the noxious weed levy
17 must be placed in the state special revenue fund to be
18 expended as provided in (section 6(2) and (3)) for surcharge
19 revenue, and one-half of the amount must be placed in the
20 noxious weed management trust fund.~~

21 Section 4. Acceptance and expenditure of gifts and
22 other funds. The department may accept gifts, grants,
23 contracts, or other funds designated for noxious weed
24 management. Such funds may be expended to support any weed
25 management project or may be deposited in the noxious weed

1 management trust fund.

2 Section 5. Administration and expenditure of funds.
3 (1) Money deposited in the noxious weed management trust
4 fund may not be committed or expended until the principal
5 reaches \$2,500,000, except as provided by [section 7 6] in
6 case of a noxious weed emergency. Once this amount is
7 accumulated, any interest or revenue generated by the trust
8 fund and by other funding measures provided by [this act]
9 must be deposited in the special revenue fund and may be
10 expended for noxious weed management projects in accordance
11 with this section, so long as the principal of the trust
12 fund remains at least \$2,500,000.

13 (2) The department may expend funds under this section
14 through grants or contracts to communities, weed control
15 districts, or other entities it considers appropriate for
16 noxious weed management projects. A project is eligible to
17 receive funds only if the county in which the project occurs
18 has funded its own weed management program with a levy in an
19 amount not less than 1.6 mills or an equivalent amount from
20 another source.

21 (3) The department may expend funds without the
22 restrictions specified in subsection (2) for the following:

23 (a) employment of a new and innovative noxious weed
24 management project or the development, implementation, or
25 demonstration of any noxious weed management project that

1 may be proposed, implemented, or established by local,
2 state, or national organizations, whether public or private.
3 Such expenditures must be on a cost-share basis with such
4 organizations.

5 (b) cost-share noxious weed management programs with
6 local weed control districts;

7 (c) special grants to local weed control districts to
8 eradicate or contain significant noxious weeds newly
9 introduced into the county. These grants may be issued
10 without matching funds from the district.

11 (d) costs of collecting the surcharge imposed by
12 [section 3], not to exceed 3% of the total surcharge
13 proceeds; and

14 (e) administrative expenses incurred by the noxious
15 weed management advisory council.

16 (4) In making such expenditures, the department must
17 give preference to weed control districts and community
18 groups.

19 (5) If the noxious weed management trust fund is
20 terminated by law, the money in the fund must be divided
21 between all counties according to rules adopted by the
22 department for that purpose.

23 Section 6. Noxious weed emergency -- expenditure
24 authorized. (1) If a new and potentially harmful noxious
25 weed is discovered growing in the state and is verified by

1 the department, the governor may declare a noxious weed
2 emergency. In the absence of necessary funding from oth-
3 sources, this declaration authorizes the department to
4 allocate up to \$150,000 of the principal of the noxious weed
5 trust fund to government agencies for emergency relief to
6 eradicate or confine the new noxious weed species.

7 (2) If such expenditure causes the principal of the
8 trust fund to fall below \$2,500,000, it must be replenished
9 by proceeds of the surcharge imposed in [section 3].

10 Section 7. Penalty -- enforcement. (1) A person who
11 violates any provision of [section 3] is guilty of a
12 misdemeanor and upon conviction is punishable by a fine of
13 not less than \$500 or more than \$2,000 or by imprisonment
14 for not less than 30 days or more than 6 months, or by both
15 such fine and imprisonment. Upon conviction, the court shall
16 order payment of any unpaid surcharge, together with such
17 interest and costs as the court considers appropriate.

18 (2) The county attorney of the county in which the
19 offense occurred or the attorney general shall prosecute
20 this action.

21 Section 8. Rules. The department may adopt rules
22 necessary to implement [this act].

23 Section 9. Noxious weed management advisory council.
24 (1) The director of the department may SHALL appoint a
25 noxious weed management advisory council to provide advice

1 to the department concerning the administration of [this
2 act].

3 (2) If appointed, the council must be composed of
4 eight NINE members, as follows:

5 (a) the director of the department of agriculture, who
6 shall serve as chairman;

7 (b) one member from---a REPRESENTING livestock
8 production organization;

9 (c) one member from-an REPRESENTING agriculture crop
10 production organization;

11 (d) one member from a sportsman/wildlife group;

12 (e) one member who is a herbicide dealer or
13 applicator;

14 (f) one member from a ~~conservation-or~~ consumer group;

15 (G) ONE MEMBER REPRESENTING BIOLOGICAL RESEARCH AND
16 CONTROL INTERESTS;

17 ~~(g)~~(H) one member from the Montana weed control
18 association; and

19 ~~(h)~~(I) one at-large member.

20 Section 10. Severability. If a part of this act is
21 invalid, all valid parts that are severable from the invalid
22 part remain in effect. If a part of this act is invalid in
23 one or more of its applications, the part remains in effect
24 in all valid applications that are severable from the
25 invalid applications.

1 Section 11. Effective date ~~---applicability~~. This act
2 is effective on passage and approval. ~~Section-4--applies--to~~
3 ~~taxable--years--beginning--after--December--31--1984--and--before~~
4 ~~December--31--1989.~~
5 ~~Section-13--Repealer--Section-4--is--repealed--effective~~
6 ~~June--30--1990.~~

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 506

3 House Agriculture Committee
4

5 A statement of intent is required by this bill because
6 rulemaking authority is granted to the Montana department of
7 agriculture in section 8.

8 It is the intent of the legislature that the department
9 of agriculture adopt rules for the orderly administration of
10 the noxious weed management trust fund and collection and
11 administration of revenue as provided in the bill. The
12 department, through reports required of herbicide
13 registrants, shall establish a collection system for the
14 surcharge imposed in section 3, giving notice to the
15 registrant and providing a procedure for the payment of the
16 surcharge.

17 It is the intent of the legislature that the department
18 adopt rules relating to the disbursement of funds generated
19 by this act. Specifically, the department shall use the
20 criteria stated in sections 5 and 6 as the basis for the
21 distribution of the funds. The legislature intends that the
22 money given in the form of grants and contracts be primarily
23 on a cost-share basis. The department shall determine the
24 ratio of cost sharing by considering the entity being given
25 the money, its ability to find other sources of funding, the

1 need for the project for which it receives the money, and
2 the amount of benefit it bestows on the area involved. The
3 legislature intends that projects involving greater
4 community action and benefit receive increased priority.

5 It is the intent of the legislature that if the trust
6 fund should be terminated by the legislature, the funds to
7 be distributed to the counties must be distributed in an
8 equitable manner, taking into consideration the population
9 of the counties, the participation in the program, and the
10 needs of the counties with respect to noxious weed
11 management.

12 The legislature intends that the department adopt rules
13 identifying any weed which constitutes a new and potentially
14 harmful noxious weed. The department shall take into
15 consideration the possible harm the newly introduced weed
16 will have on the Montana economy, the damage the weed will
17 cause to the existing foliage and environment, and the
18 likelihood that the noxious weed will spread throughout the
19 state. The department shall also establish rules for
20 verifying the existence of the weed. These rules shall take
21 into consideration the scientific methods for verification
22 and proper sampling techniques for determining the extent of
23 the weed outbreak.

24 It is the intent of the legislature that the decision
25 for the disbursement of the funds for the projects be made

1 by the director of the department of agriculture upon the
2 advice of the noxious weed management advisory council. The
3 directives of the director must be implemented by a noxious
4 weed management coordinator, who shall serve the director.
5 The noxious weed management coordinator shall maintain
6 records on the disbursement of the funds and the progress of
7 the funded projects. He shall make determinations as to the
8 effectiveness of the previously funded projects and provide
9 the director and the advisory council all relevant
10 information necessary to make decisions for future
11 disbursements of funds. He shall also work with and assist
12 county weed districts.

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4 HARBIN, THOFT, HART, IVERSON, RAPP-SVRCEK,

5 D. BROWN, SCHYE, RANEY

6 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

7
8 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A NOXIOUS
9 WEED MANAGEMENT TRUST FUND; AUTHORIZING A NOXIOUS WEED
10 MANAGEMENT ADVISORY COUNCIL; PROVIDING FUNDING FOR NOXIOUS
11 WEED MANAGEMENT PROGRAMS; PROVIDING AN IMMEDIATE EFFECTIVE
12 DATE,--AND-PROVIDING-AN-APPLICABILITY-DATE-FOR-A--PORTION--OF
13 THE-ACT."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:16 Section 1. Definitions. As used in [this act], the
17 following definitions apply:18 (1) "Department" means the department of agriculture
19 established in 2-15-3001.20 (2) "Herbicide" means a substance or mixture of
21 substances for preventing, destroying, repelling, or
22 mitigating any noxious weed. The term does not include
23 herbicides labeled only for home, yard, or garden use and
24 sold in containers of less than 10 pounds or 1 gallon.

25 (3) "Noxious weed" means any weed defined and

1 designated as a noxious weed by rule of the department.

2 (4) "Retail value" means the suggested or retail price
3 to the consumer of a given herbicide as established by the
4 registrant, or as determined by a survey of dealers
5 conducted by the department.6 (5) "Sale" includes only the sale of a herbicide to an
7 applicator or consumer. Sales between or to distributors,
8 dealers, or retailers are not included.9 Section 2. Noxious weed management trust fund. There
10 is a noxious weed management trust fund, which must be
11 funded from revenue collected under [sections 3 through-5
12 AND 4]. The department shall administer the trust fund in
13 accordance with [this act].14 Section 3. Surcharge imposed on retail sales of
15 herbicides -- disposition of proceeds. (1) There is imposed
16 a surcharge of 1 cent per dollar of the retail value of all
17 registered herbicides sold for consumer use in the state.
18 The volume of sales of each registered herbicide must be
19 determined by the department from records required of
20 pesticide dealers and retailers.21 (2) The surcharge must be collected by the department
22 on an annual calendar basis from the registrant of the
23 herbicide and is due and payable within 30 days after notice
24 of the amount has been given to the registrant.

25 (3) No registrant may be allowed to reregister a

1 herbicide if he has failed to pay in full the surcharge on
2 his product.

3 (4) The department may expend in a fiscal year not
4 more than one-half of the annual proceeds of the surcharge
5 as provided in [section 6 5(2) and (3)]. All remaining
6 annual proceeds of the surcharge and any interest income
7 collected must be deposited into the noxious weed management
8 trust fund.

9 ~~Section 4.--Property---tax---levy---for---noxious---weed
10 management---(1) There is levied upon the taxable value of
11 all real and personal property in the state subject to
12 taxation 0.1 mill to be used for noxious weed management.~~

13 ~~(2)--Money received from the tax levy must be
14 transmitted monthly with other taxes for state purposes by
15 the county treasurer of each county to the state treasurer.
16 One-half of the amount collected from the noxious weed levy
17 must be placed in the state special revenue fund, to be
18 expended as provided in {section 6(2) and (3)} for surcharge
19 revenue, and one-half of the amount must be placed in the
20 noxious weed management trust fund.~~

21 Section 4. Acceptance and expenditure of gifts and
22 other funds. The department may accept gifts, grants,
23 contracts, or other funds designated for noxious weed
24 management. Such funds may be expended to support any weed
25 management project or may be deposited in the noxious weed

1 management trust fund.

2 Section 5. Administration and expenditure of funds.

3 (1) Money deposited in the noxious weed management trust
4 fund may not be committed or expended until the principal
5 reaches \$2,500,000, except as provided by [section 7 6] in
6 case of a noxious weed emergency. Once this amount is
7 accumulated, any interest or revenue generated by the trust
8 fund and by other funding measures provided by [this act]
9 must be deposited in the special revenue fund and may be
10 expended for noxious weed management projects in accordance
11 with this section, so long as the principal of the trust
12 fund remains at least \$2,500,000.

13 (2) The department may expend funds under this section
14 through grants or contracts to communities, weed control
15 districts, or other entities it considers appropriate for
16 noxious weed management projects. A project is eligible to
17 receive funds only if the county in which the project occurs
18 has funded its own weed management program with a levy in an
19 amount not less than 1.6 mills or an equivalent amount from
20 another source.

21 (3) The department may expend funds without the
22 restrictions specified in subsection (2) for the following:

23 (a) employment of a new and innovative noxious weed
24 management project or the development, implementation, or
25 demonstration of any noxious weed management project that

1 may be proposed, implemented, or established by local,
2 state, or national organizations, whether public or private.
3 Such expenditures must be on a cost-share basis with such
4 organizations.

5 (b) cost-share noxious weed management programs with
6 local weed control districts;

7 (c) special grants to local weed control districts to
8 eradicate or contain significant noxious weeds newly
9 introduced into the county. These grants may be issued
10 without matching funds from the district.

11 (d) costs of collecting the surcharge imposed by
12 [section 3], not to exceed 3% of the total surcharge
13 proceeds; and

14 (e) administrative expenses incurred by the noxious
15 weed management advisory council.

16 (4) In making such expenditures, the department must
17 give preference to weed control districts and community
18 groups.

19 (5) If the noxious weed management trust fund is
20 terminated by law, the money in the fund must be divided
21 between all counties according to rules adopted by the
22 department for that purpose.

23 Section 6. Noxious weed emergency -- expenditure
24 authorized. (1) If a new and potentially harmful noxious
25 weed is discovered growing in the state and is verified by

1 the department, the governor may declare a noxious weed
2 emergency. In the absence of necessary funding from other
3 sources, this declaration authorizes the department to
4 allocate up to \$150,000 of the principal of the noxious weed
5 trust fund to government agencies for emergency relief to
6 eradicate or confine the new noxious weed species.

7 (2) If such expenditure causes the principal of the
8 trust fund to fall below \$2,500,000, it must be replenished
9 by proceeds of the surcharge imposed in [section 3].

10 Section 7. Penalty -- enforcement. (1) A person who
11 violates any provision of [section 3] is guilty of a
12 misdemeanor and upon conviction is punishable by a fine of
13 not less than \$500 or more than \$2,000 or by imprisonment
14 for not less than 30 days or more than 6 months, or by both
15 such fine and imprisonment. Upon conviction, the court shall
16 order payment of any unpaid surcharge, together with such
17 interest and costs as the court considers appropriate.

18 (2) The county attorney of the county in which the
19 offense occurred or the attorney general shall prosecute
20 this action.

21 Section 8. Rules. The department may adopt rules
22 necessary to implement [this act].

23 Section 9. Noxious weed management advisory council.
24 (1) The director of the department may SHALL appoint a
25 noxious weed management advisory council to provide advice

1 to the department concerning the administration of [this
2 act].

3 (2) If appointed, the council must be composed of
4 eight NINE members, as follows:

5 (a) the director of the department of agriculture, who
6 shall serve as chairman;

7 (b) one member from ~~---a~~ REPRESENTING livestock
8 production organization;

9 (c) one member from ~~an~~ REPRESENTING agriculture crop
10 production organization;

11 (d) one member from a sportsman/wildlife group;

12 (e) one member who is a herbicide dealer or
13 applicator;

14 (f) one member from a conservation or consumer group;

15 (G) ONE MEMBER REPRESENTING BIOLOGICAL RESEARCH AND
16 CONTROL INTERESTS;

17 ~~(g)(H)~~ one member from the Montana weed control
18 association; and

19 ~~(h)(I)~~ one at-large member.

20 Section 10. Severability. If a part of this act is
21 invalid, all valid parts that are severable from the invalid
22 part remain in effect. If a part of this act is invalid in
23 one or more of its applications, the part remains in effect
24 in all valid applications that are severable from the
25 invalid applications.

1 Section 11. Effective date ~~---applicability~~. This act
2 is effective on passage and approval. ~~Section 4--applies to~~
3 ~~taxable--years--beginning--after--December--31--1984--and--before~~
4 ~~December--31--1989--~~

5 ~~Section 13. Repealer. Section 4 is repealed effective~~
6 ~~June 30, 1990.~~

-End-

STANDING COMMITTEE REPORT

SENATE

March 22 19 85

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration HOUSE BILL No. 506

third reading copy (blue) color

Harper (Lane)

ESTABLISHING NOXIOUS WEED MANAGEMENT TRUST FUND AND PROGRAM

Respectfully report as follows: That HOUSE BILL No. 506

be amended as follows:

- 1. Page 7, line 19.
Following: "member"
Insert: "from the agricultural community"

and as amended,
BE CONCURRED IN

XXXXXXXX

XXXXXXXX

Handwritten signature of Paul E. Boylan

PAUL E. BOYLAN, Chairman.

STATEMENT OF INTENT

HOUSE BILL 506

House Agriculture Committee

A statement of intent is required by this bill because rulemaking authority is granted to the Montana department of agriculture in section 8.

It is the intent of the legislature that the department of agriculture adopt rules for the orderly administration of the noxious weed management trust fund and collection and administration of revenue as provided in the bill. The department, through reports required of herbicide registrants, shall establish a collection system for the surcharge imposed in section 3, giving notice to the registrant and providing a procedure for the payment of the surcharge.

It is the intent of the legislature that the department adopt rules relating to the disbursement of funds generated by this act. Specifically, the department shall use the criteria stated in sections 5 and 6 as the basis for the distribution of the funds. The legislature intends that the money given in the form of grants and contracts be primarily on a cost-share basis. The department shall determine the ratio of cost sharing by considering the entity being given the money, its ability to find other sources of funding, the

need for the project for which it receives the money, and the amount of benefit it bestows on the area involved. The legislature intends that projects involving greater community action and benefit receive increased priority.

It is the intent of the legislature that if the trust fund should be terminated by the legislature, the funds to be distributed to the counties must be distributed in an equitable manner, taking into consideration the population of the counties, the participation in the program, and the needs of the counties with respect to noxious weed management.

The legislature intends that the department adopt rules identifying any weed which constitutes a new and potentially harmful noxious weed. The department shall take into consideration the possible harm the newly introduced weed will have on the Montana economy, the damage the weed will cause to the existing foliage and environment, and the likelihood that the noxious weed will spread throughout the state. The department shall also establish rules for verifying the existence of the weed. These rules shall take into consideration the scientific methods for verification and proper sampling techniques for determining the extent of the weed outbreak.

It is the intent of the legislature that the decision for the disbursement of the funds for the projects be made



1 by the director of the department of agriculture upon the
2 advice of the noxious weed management advisory council. The
3 directives of the director must be implemented by a noxious
4 weed management coordinator, who shall serve the director.
5 The noxious weed management coordinator shall maintain
6 records on the disbursement of the funds and the progress of
7 the funded projects. He shall make determinations as to the
8 effectiveness of the previously funded projects and provide
9 the director and the advisory council all relevant
10 information necessary to make decisions for future
11 disbursements of funds. He shall also work with and assist
12 county weed districts.

HOUSE BILL NO. 506

INTRODUCED BY HARPER, MARKS, SPAETH, ASAY, KELLER,

JANET MOORE, O'CONNELL, HAYNE, WALLIN, PETERSON,

HARBIN, THOFT, HART, IVERSON, RAPP-SVRCEK,

D. BROWN, SCHYE, RANEY

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A NOXIOUS WEED MANAGEMENT TRUST FUND; AUTHORIZING A NOXIOUS WEED MANAGEMENT ADVISORY COUNCIL; PROVIDING FUNDING FOR NOXIOUS WEED MANAGEMENT PROGRAMS; PROVIDING AN IMMEDIATE EFFECTIVE DATE; ~~AND PROVIDING AN APPLICABILITY DATE FOR A PORTION OF THE ACT.~~"

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

Section 1. Definitions. As used in [this act], the following definitions apply:

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

(2) "Herbicide" means a substance or mixture of substances for preventing, destroying, repelling, or mitigating any noxious weed. The term does not include herbicides labeled only for home, yard, or garden use and sold in containers of less than 10 pounds or 1 gallon.

(3) "Noxious weed" means any weed defined and

designated as a noxious weed by rule of the department.

(4) "Retail value" means the suggested or retail price to the consumer of a given herbicide as established by the registrant, or as determined by a survey of dealers conducted by the department.

(5) "Sale" includes only the sale of a herbicide to an applicator or consumer. Sales between or to distributors, dealers, or retailers are not included.

Section 2. Noxious weed management trust fund. There is a noxious weed management trust fund, which must be funded from revenue collected under [sections 3 through-5 AND 4]. The department shall administer the trust fund in accordance with [this act].

Section 3. Surcharge imposed on retail sales of herbicides -- disposition of proceeds. (1) There is imposed a surcharge of 1 cent per dollar of the retail value of all registered herbicides sold for consumer use in the state. The volume of sales of each registered herbicide must be determined by the department from records required of pesticide dealers and retailers.

(2) The surcharge must be collected by the department on an annual calendar basis from the registrant of the herbicide and is due and payable within 30 days after notice of the amount has been given to the registrant.

(3) No registrant may be allowed to reregister a

1 herbicide if he has failed to pay in full the surcharge on
2 his product.

3 (4) The department may expend in a fiscal year not
4 more than one-half of the annual proceeds of the surcharge
5 as provided in [section 6 5(2) and (3)]. All remaining
6 annual proceeds of the surcharge and any interest income
7 collected must be deposited into the noxious weed management
8 trust fund.

9 ~~Section 4. Property tax levy for noxious weed
10 management. (1) There is levied upon the taxable value of
11 all real and personal property in the state subject to
12 taxation 8.1 mill to be used for noxious weed management.~~

13 ~~(2) Money received from the tax levy must be
14 transmitted monthly with other taxes for state purposes by
15 the county treasurer of each county to the state treasurer.
16 One-half of the amount collected from the noxious weed levy
17 must be placed in the state special revenue fund, to be
18 expended as provided in {section 6(2) and (3)} for surcharge
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8 fund and by other funding measures provided by [this act]
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16 noxious weed management projects. A project is eligible to
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22 restrictions specified in subsection (2) for the following:

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24 management project or the development, implementation, or
25 demonstration of any noxious weed management project that

1 may be proposed, implemented, or established by local,
 2 state, or national organizations, whether public or private.
 3 Such expenditures must be on a cost-share basis with such
 4 organizations.

5 (b) cost-share noxious weed management programs with
 6 local weed control districts;

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 8 eradicate or contain significant noxious weeds newly
 9 introduced into the county. These grants may be issued
 10 without matching funds from the district.

11 (d) costs of collecting the surcharge imposed by
 12 [section 3], not to exceed 3% of the total surcharge
 13 proceeds; and

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 15 weed management advisory council.

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 17 give preference to weed control districts and community
 18 groups.

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 20 terminated by law, the money in the fund must be divided
 21 between all counties according to rules adopted by the
 22 department for that purpose.

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 24 authorized. (1) If a new and potentially harmful noxious
 25 weed is discovered growing in the state and is verified by

1 the department, the governor may declare a noxious weed
 2 emergency. In the absence of necessary funding from other
 3 sources, this declaration authorizes the department to
 4 allocate up to \$150,000 of the principal of the noxious weed
 5 trust fund to government agencies for emergency relief to
 6 eradicate or confine the new noxious weed species.

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 8 trust fund to fall below \$2,500,000, it must be replenished
 9 by proceeds of the surcharge imposed in [section 3].

10 Section 7. Penalty -- enforcement. (1) A person who
 11 violates any provision of [section 3] is guilty of a
 12 misdemeanor and upon conviction is punishable by a fine of
 13 not less than \$500 or more than \$2,000 or by imprisonment
 14 for not less than 30 days or more than 6 months, or by both
 15 such fine and imprisonment. Upon conviction, the court shall
 16 order payment of any unpaid surcharge, together with such
 17 interest and costs as the court considers appropriate.

18 (2) The county attorney of the county in which the
 19 offense occurred or the attorney general shall prosecute
 20 this action.

21 Section 8. Rules. The department may adopt rules
 22 necessary to implement [this act].

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 24 (1) The director of the department may SHALL appoint a
 25 noxious weed management advisory council to provide advice

1 to the department concerning the administration of [this
2 act].

3 (2) If appointed, the council must be composed of
4 eight NINE members, as follows:

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6 shall serve as chairman;

7 (b) one member from---a REPRESENTING livestock
8 production organization;

9 (c) one member from-an REPRESENTING agriculture crop
10 production organization;

11 (d) one member from a sportsman/wildlife group;

12 (e) one member who is a herbicide dealer or
13 applicator;

14 (f) one member from a conservation-or consumer group;

15 (G) ONE MEMBER REPRESENTING BIOLOGICAL RESEARCH AND
16 CONTROL INTERESTS;

17 (g)(H) one member from the Montana weed control
18 association; and

19 (h)(I) one at-large member FROM THE AGRICULTURAL
20 COMMUNITY.

21 Section 10. Severability. If a part of this act is
22 invalid, all valid parts that are severable from the invalid
23 part remain in effect. If a part of this act is invalid in
24 one or more of its applications, the part remains in effect
25 in all valid applications that are severable from the

1 invalid applications.

2 Section 11. Effective date ---applicability. This act
3 is effective on passage and approval. ~~Section 4 applies to~~
4 ~~taxable years beginning after December 31, 1984, and before~~
5 ~~December 31, 1989.~~

6 ~~Section 13. Repealer. Section 4 is repealed effective~~
7 ~~June 30, 1990.~~

-End-