

House BILL NO. 235

INTRODUCED BY

Steady

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE FUNDING OF CERTAIN DEPARTMENT OF AGRICULTURE PROGRAMS; ALLOWING ADMINISTRATIVE COSTS AS A PERMISSIBLE USE OF REVENUE FROM THE NOXIOUS WEED MANAGEMENT PROGRAM; CREATING A STATE SPECIAL REVENUE ACCOUNT FOR THE NOXIOUS WEED MANAGEMENT PROGRAM; ALLOWING THE DEPARTMENT OF AGRICULTURE TO INVEST THE FUNDS IN THE ANHYDROUS AMMONIA ACCOUNT AND DEPOSIT THE INCOME IN THE ACCOUNT; REQUIRING THE DEPARTMENT OF AGRICULTURE TO DEPOSIT INVESTMENT INCOME IN THE ALFALFA SEED ACCOUNT; ELIMINATING STATUTORY REFERENCES TO THE TERMINATED SURCHARGE ON THE RETAIL SALE OF HERBICIDES; ELIMINATING THE STATE'S IMMUNITY FROM LIABILITY FOR ACTIONS OF THE ALFALFA SEED COMMITTEE; AMENDING SECTIONS 80-7-801, 80-7-811, 80-7-813, 80-7-814, 80-7-815, 80-10-207, AND 80-11-310, MCA; REPEALING SECTIONS 80-7-812, 80-7-821, AND 80-11-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 80-7-801, MCA, is amended to read:

"80-7-801. Definitions. As used in this part, the following definitions apply:

(1) "Crop weed" means any plant commonly accepted as a weed and for which grants for management research, evaluation, and education under 80-7-814(3)(g) may be given.

~~(1)~~(2) "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 weed, as defined in 80-8-102. 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 in 7-22-2101(7)(a).

~~(4) "Retail value" means the suggested or retail price to the consumer of a given herbicide as~~

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

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

4
 5 **Section 2.** Section 80-7-811, MCA, is amended to read:

6 **"80-7-811. Noxious weed management trust fund.** There is a noxious weed management trust
 7 fund, ~~which must be funded from revenue collected under 80-7-812 and 80-7-813 of \$2.5 million.~~ The
 8 department shall administer the trust fund in accordance with this part."

9
 10 **Section 3.** Section 80-7-813, MCA, is amended to read:

11 **"80-7-813. Acceptance and expenditure of gifts and other funds.** The department may accept gifts,
 12 grants, contracts, or other funds designated for noxious weed management. ~~Such The funds may be~~
 13 ~~expended to support any weed management project or may~~ must be deposited in the noxious weed
 14 management trust fund or in the account established in [section 6] and may be expended to support a
 15 noxious weed management project."

16
 17 **Section 4.** Section 80-7-814, MCA, is amended to read:

18 **"80-7-814. Administration and expenditure of funds.** (1) Money deposited in the noxious weed
 19 management trust fund may not be committed or expended until the principal reaches ~~\$2,500,000~~ \$2.5
 20 million, except ~~as provided by 80-7-815~~ in case of a noxious weed emergency as provided in 80-7-815.
 21 Once this amount is accumulated, ~~any~~ interest or revenue generated by the trust fund and by other funding
 22 measures provided by this part must be deposited in the special revenue fund and may be expended for
 23 noxious weed management projects in accordance with this section, ~~so~~ as long as the principal of the trust
 24 fund remains at least ~~\$2,500,000~~ \$2.5 million.

25 (2) The department may expend funds under this section through grants or contracts to
 26 communities, weed control districts, or other entities it considers appropriate for noxious weed management
 27 projects. A project is eligible to receive funds only if the county in which the project occurs has funded its
 28 own weed management program with a levy in an amount not less than 1.6 mills or an equivalent amount
 29 from another source or by an amount of not less than \$100,000 for ~~first-class~~ first-class counties, as
 30 defined in 7-1-2111.

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

3 (a) employment of a new and innovative noxious weed management project or the development,
4 implementation, or demonstration of any noxious weed management project that may be proposed,
5 implemented, or established by local, state, or national organizations, whether public or private. ~~Such~~ The
6 expenditures must be on a cost-share basis with ~~such~~ the organizations.

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

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

10 (d) ~~costs of collecting the surcharge imposed by 80-7-812, not to exceed 3% of the total surcharge~~
11 proceeds; administrative expenses of the department for managing the noxious weed management program
12 and other provisions of this part. The cost of administering the program may not exceed 12% of the total
13 program expenses.

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

15 (f) ~~any~~ a project recommended by the noxious weed management advisory council, if the
16 department determines the project will significantly contribute to the management of noxious weeds within
17 the state; and

18 (g) grants to the agricultural experiment station and the cooperative extension service for crop
19 weed management research, evaluation, and education.

20 (4) The agricultural experiment station and cooperative extension service shall submit annual
21 reports on current projects and future plans to the noxious weed management advisory council.

22 (5) In making expenditures under subsections (2) and (3), the department ~~must~~ shall give
23 preference to weed control districts and community groups.

24 (6) If the noxious weed management trust fund is terminated by law, the money in the fund must
25 be divided between all counties according to rules adopted by the department for that purpose."
26

27 **Section 5.** Section 80-7-815, MCA, is amended to read:

28 **"80-7-815. Noxious weed emergency -- expenditure authorized.** (1) If a new and potentially harmful
29 noxious weed is discovered growing in the state and is verified by the department, the governor may
30 declare a noxious weed emergency. In the absence of necessary funding from other sources, this

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

4 (2) If ~~such~~ the expenditure causes the principal of the trust fund to fall below ~~\$2,500,000~~ \$2.5
 5 million, it must be replenished ~~by proceeds of the surcharge imposed in 80-7-812 or, if the surcharge has~~
 6 ~~been terminated as provided in 80-7-812(5),~~ by the interest or revenue generated by the trust fund, by the
 7 other revenue provided by this part, or by revenue obtained from the fee imposed by 61-3-510, as
 8 determined by the department."

9

10 **NEW SECTION. Section 6. Account -- deposit -- investment.** (1) There is an account in the state
 11 special revenue fund established in 17-2-102. The interest from the noxious weed trust fund and the fee
 12 imposed in 61-3-510 must be deposited in the account and must be expended as provided in 80-7-814.

13 (2) The department may direct the board of investments to invest the funds collected under
 14 subsection (1) pursuant to the provisions of 17-6-201. The income from the investments must be credited
 15 to the account in the state special revenue fund.

16

17 **Section 7.** Section 80-10-207, MCA, is amended to read:

18 "**80-10-207. Fees.** (1) (a) A manufacturer registering under 80-10-201(1) shall pay to the
 19 department fees on all commercial fertilizer distributed in this state, except specialty fertilizers and
 20 unmanipulated animal and vegetable manures, provided that sales to manufacturers or exchanges between
 21 them are exempt. The fees are:

22 (i) inspection of fertilizers other than anhydrous ammonia, 20 cents per ton. The department may
 23 by rule after hearing adjust the inspection fee not to exceed a maximum of 25 cents per ton to maintain
 24 adequate funding for the administration of this part. ~~Any A~~ change in fee becomes effective on the first day
 25 of a reporting period. All manufacturers ~~shall~~ must be given notice of ~~any a~~ change in fees before the
 26 effective date.

27 (ii) inspection of anhydrous ammonia, 20 cents per ton. The department may by rule after hearing
 28 adjust the anhydrous ammonia inspection fee not to exceed a maximum of 65 cents per ton to maintain
 29 adequate funding for the administration and enforcement of part 5 of this chapter. ~~Any A~~ change in fee
 30 becomes effective on the first day of a reporting period. All registrants and manufacturers of anhydrous

1 ammonia ~~shall~~ must be given notice of ~~any~~ a change in fees before the effective date of the fee adjustment.

2 (iii) assessment, the fee prescribed in 80-10-103. The assessment fee ~~shall~~ must be used to fund
3 educational and experimental programs as provided in 80-10-103 through 80-10-106.

4 (b) If fertilizer or soil amendment material is added to fertilizer for which a fee has been paid under
5 subsection (1)(a), a fee must be paid under that subsection, but only on the added fertilizer or soil
6 amendment.

7 (2) There ~~shall~~ must be paid to the department on all soil amendments distributed in this state an
8 inspection fee of 10 cents per ton subject to the following provisions:

9 (a) sales to manufacturers or exchanges between them are exempt; and

10 (b) when less than 50 tons of registered soil amendment is sold ~~per~~ in a 6-month period, there ~~shall~~
11 must be paid to the department a fee of \$5 ~~per~~ for each soil amendment ~~per~~ for each 6-month period in lieu
12 of the fee of 10 cents per ton ~~fee~~. Inspection fees ~~shall~~ must be used by the department for administration
13 of this part.

14 (3) (a) (i) ~~Every~~ Each licensee who distributes a soil amendment or commercial fertilizer, except
15 specialty fertilizer and unmanipulated manures, to an unlicensed or unregistered person in this state shall
16 file with the department on forms furnished or approved by the department a semiannual statement for the
17 periods ending June 30 and December 31 setting forth the number of net tons of each commercial fertilizer
18 ~~and/or~~ or soil amendment distributed in this state during the 6-month period. The report is due on or before
19 the 30th day of the month following the close of each period.

20 (ii) ~~Every~~ Each manufacturer who registers or a person who registers on the manufacturer's behalf
21 a soil amendment or commercial fertilizer in this state ~~or a person who registers on the manufacturer's~~
22 ~~behalf~~, except specialty fertilizer and unmanipulated manures, shall file with the department on forms
23 furnished or approved by the department a monthly statement setting forth the number of net tons of each
24 registered commercial fertilizer and soil amendment distributed in this state during the month and to whom
25 it was distributed. The report is due on or before the 30th day of the following month. The manufacturer
26 or person registering on behalf of the manufacturer shall pay the fees set forth in subsection (1) at that
27 time.

28 (b) If the tonnage report required by subsection (3)(a)(ii) is not filed and the payment of fees is not
29 made within 30 days after the end of the period, a collection fee amounting to 10% of the amount due but
30 not less than \$10 ~~shall~~ must be assessed against the manufacturer and the amount of fees due ~~shall~~

1 ~~constitute~~ constitutes a debt and ~~become~~ becomes the basis of a judgment against the manufacturer.

2 (4) Except as provided in subsection (5), all fees collected for licenses, registration, and inspection
3 and ~~moneys~~ money collected as penalties ~~shall~~ must be deposited in the state treasury to the credit of the
4 state special revenue fund for the purpose of administering this chapter, including the cost of equipment
5 and facilities and the cost of inspecting, analyzing, and examining commercial fertilizer and soil amendments
6 manufactured or distributed in this state. Reserve funds may be invested by the department with interest
7 credited to the state special revenue fund.

8 (5) All fees collected under subsection (1)(a)(ii) ~~shall~~ must be deposited in the state treasury to the
9 credit of the state special revenue fund, anhydrous ammonia account, for the administration and
10 enforcement of part 5 of this chapter and the rules adopted ~~thereunder~~ under part 5. The department may
11 direct the board of investments to invest the funds collected under subsection (1)(a)(ii) pursuant to the
12 provisions of 17-6-201. The income from the investment must be deposited in the anhydrous ammonia
13 account in the state special revenue fund."

14
15 **Section 8.** Section 80-11-310, MCA, is amended to read:

16 **"80-11-310. Deposit and disbursement of funds -- records -- investment.** (1) As soon as possible
17 after receipt, all money received by the department from the assessment levied under 80-11-307 and all
18 other money received ~~shall~~ must be deposited in the state special revenue fund.

19 (2) All money referred to in subsection (1) is statutorily appropriated, as provided in 17-7-502, to
20 the committee and may be used only for the payment of expenses incurred in carrying out the provisions
21 of this part. The committee may be assessed costs by the department for the services it provides upon
22 request or pursuant to 2-15-121; ~~however, the~~ The costs charged must have a substantial relationship to
23 the cost of services supplied.

24 (3) Money received under ~~this section~~, 80-11-312, ~~and~~ 80-11-313, and this section that is not
25 immediately required for the purposes of this part must be invested under provisions of the unified
26 investment program established in Title 17, chapter 6, part 2. The income from the investment must be
27 deposited in the alfalfa seed account in the state special revenue fund.

28 (4) Money received under ~~this section~~, 80-11-312, ~~and~~ 80-11-313, and this section is appropriated
29 to the committee for the purposes of this part."
30

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0235, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: The bill revises the funding of certain Department of Agriculture programs, amends the Noxious Weed Trust Fund Act, the Fertilizer (Anhydrous Ammonia) Act and the Alfalfa Seed Act.

ASSUMPTIONS:

Noxious Weed Trust Fund Act

1. Amendments clarify that funds received must be deposited in either the noxious weed trust fund or in the state special account established in Section 6. The current act states that a state special revenue fund is established and funds received may be deposited in the noxious weed management trust fund. Amendments also clarify and allow for investment of the funds and allow interest earned to be credited to the noxious weed account in the state special revenue fund.
2. Amendments clarify that the Department of Agriculture is allowed to use funds for administrative costs, as identified by legislative audit recommendations, up to 12% of program costs.
3. Amendments delete any reference to the herbicide surcharge, its collection and use. In FY93 the noxious weed trust reached its maximum of \$2.5 million and by 80-7-812 (5), MCA, the herbicide surcharge terminated.

Fertilizer (Anhydrous Ammonia) Act

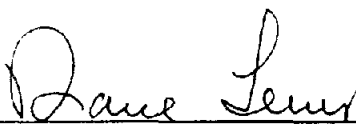
4. Amendment clarifies the investment of and interest income from investments must be deposited into the anhydrous ammonia account.

Alfalfa Seed Act

5. The amendment specifies that interest income from investments must be deposited in the alfalfa seed account.

FISCAL IMPACT:

There is no fiscal impact to the Department of Agriculture.

 1-23-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 _____
ED GRADY, PRIMARY SPONSOR DATE

Fiscal Note for HB0235, as introduced

HB 235

APPROVED BY COM ON AGRICULTURE,
LIVESTOCK & IRRIGATION

House BILL NO. 235

INTRODUCED BY Grady

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE FUNDING OF CERTAIN DEPARTMENT OF AGRICULTURE PROGRAMS; ALLOWING ADMINISTRATIVE COSTS AS A PERMISSIBLE USE OF REVENUE FROM THE NOXIOUS WEED MANAGEMENT PROGRAM; CREATING A STATE SPECIAL REVENUE ACCOUNT FOR THE NOXIOUS WEED MANAGEMENT PROGRAM; ALLOWING THE DEPARTMENT OF AGRICULTURE TO INVEST THE FUNDS IN THE ANHYDROUS AMMONIA ACCOUNT AND DEPOSIT THE INCOME IN THE ACCOUNT; REQUIRING THE DEPARTMENT OF AGRICULTURE TO DEPOSIT INVESTMENT INCOME IN THE ALFALFA SEED ACCOUNT; ELIMINATING STATUTORY REFERENCES TO THE TERMINATED SURCHARGE ON THE RETAIL SALE OF HERBICIDES; ELIMINATING THE STATE'S IMMUNITY FROM LIABILITY FOR ACTIONS OF THE ALFALFA SEED COMMITTEE; AMENDING SECTIONS 80-7-801, 80-7-811, 80-7-813, 80-7-814, 80-7-815, 80-10-207, AND 80-11-310, MCA; REPEALING SECTIONS 80-7-812, 80-7-821, AND 80-11-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 80-7-801, MCA, is amended to read:

"80-7-801. Definitions. As used in this part, the following definitions apply:

(1) "Crop weed" means any plant commonly accepted as a weed and for which grants for management research, evaluation, and education under 80-7-814(3)(g) may be given.

~~(1)(2)~~ "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 weed, as defined in 80-8-102. 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 in 7-22-2101(7)(a).~~

~~(4) "Retail value" means the suggested or retail price to the consumer of a given herbicide as~~

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

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

4

5 **Section 2.** Section 80-7-811, MCA, is amended to read:

6 **"80-7-811. Noxious weed management trust fund.** There is a noxious weed management trust
 7 fund, ~~which must be funded from revenue collected under 80-7-812 and 80-7-813 of \$2.5 million.~~ The
 8 department shall administer the trust fund in accordance with this part."

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10 **Section 3.** Section 80-7-813, MCA, is amended to read:

11 **"80-7-813. Acceptance and expenditure of gifts and other funds.** The department may accept gifts,
 12 grants, contracts, or other funds designated for noxious weed management. ~~Such~~ The funds may be
 13 ~~expended to support any weed management project or may~~ must be deposited in the noxious weed
 14 management trust fund or in the account established in [section 6] and may be expended to support a
 15 noxious weed management project."

16

17 **Section 4.** Section 80-7-814, MCA, is amended to read:

18 **"80-7-814. Administration and expenditure of funds.** (1) Money deposited in the noxious weed
 19 management trust fund may not be committed or expended until the principal reaches ~~\$2,500,000~~ \$2.5
 20 million, except ~~as provided by 80-7-815~~ in case of a noxious weed emergency as provided in 80-7-815.
 21 Once this amount is accumulated, ~~any~~ interest or revenue generated by the trust fund and by other funding
 22 measures provided by this part must be deposited in the special revenue fund and may be expended for
 23 noxious weed management projects in accordance with this section, ~~se~~ as long as the principal of the trust
 24 fund remains at least ~~\$2,500,000~~ \$2.5 million.

25 (2) The department may expend funds under this section through grants or contracts to
 26 communities, weed control districts, or other entities it considers appropriate for noxious weed management
 27 projects. A project is eligible to receive funds only if the county in which the project occurs has funded its
 28 own weed management program with a levy in an amount not less than 1.6 mills or an equivalent amount
 29 from another source or by an amount of not less than \$100,000 for ~~first class~~ first-class counties, as
 30 defined in 7-1-2111.

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

3 (a) employment of a new and innovative noxious weed management project or the development,
4 implementation, or demonstration of any noxious weed management project that may be proposed,
5 implemented, or established by local, state, or national organizations, whether public or private. ~~Such~~ The
6 expenditures must be on a cost-share basis with ~~such~~ the organizations.

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

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

10 (d) ~~costs of collecting the surcharge imposed by 80-7-812, not to exceed 3% of the total surcharge~~
11 ~~proceeds; administrative expenses of the department for managing the noxious weed management program~~
12 ~~and other provisions of this part. The cost of administering the program may not exceed 12% of the total~~
13 ~~program expenses.~~

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

15 (f) ~~any~~ a project recommended by the noxious weed management advisory council, if the
16 department determines the project will significantly contribute to the management of noxious weeds within
17 the state; and

18 (g) grants to the agricultural experiment station and the cooperative extension service for crop
19 weed management research, evaluation, and education.

20 (4) The agricultural experiment station and cooperative extension service shall submit annual
21 reports on current projects and future plans to the noxious weed management advisory council.

22 (5) In making expenditures under subsections (2) and (3), the department ~~must~~ shall give
23 preference to weed control districts and community groups.

24 (6) If the noxious weed management trust fund is terminated by law, the money in the fund must
25 be divided between all counties according to rules adopted by the department for that purpose."
26

27 **Section 5.** Section 80-7-815, MCA, is amended to read:

28 **"80-7-815. Noxious weed emergency -- expenditure authorized.** (1) If a new and potentially harmful
29 noxious weed is discovered growing in the state and is verified by the department, the governor may
30 declare a noxious weed emergency. In the absence of necessary funding from other sources, this

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

4 (2) If ~~such~~ the expenditure causes the principal of the trust fund to fall below ~~\$2,500,000~~ \$2.5
 5 million, it must be replenished ~~by proceeds of the surcharge imposed in 80-7-812 or, if the surcharge has~~
 6 ~~been terminated as provided in 80-7-812(5),~~ by the interest or revenue generated by the trust fund, by the
 7 other revenue provided by this part, or by revenue obtained from the fee imposed by 61-3-510, as
 8 determined by the department."
 9

10 **NEW SECTION. Section 6. Account -- deposit -- investment.** (1) There is an account in the state
 11 special revenue fund established in 17-2-102. The interest from the noxious weed trust fund and the fee
 12 imposed in 61-3-510 must be deposited in the account and must be expended as provided in 80-7-814.

13 (2) The department may direct the board of investments to invest the funds collected under
 14 subsection (1) pursuant to the provisions of 17-6-201. The income from the investments must be credited
 15 to the account in the state special revenue fund.
 16

17 **Section 7.** Section 80-10-207, MCA, is amended to read:

18 **"80-10-207. Fees.** (1) (a) A manufacturer registering under 80-10-201(1) shall pay to the
 19 department fees on all commercial fertilizer distributed in this state, except specialty fertilizers and
 20 unmanipulated animal and vegetable manures, provided that sales to manufacturers or exchanges between
 21 them are exempt. The fees are:

22 (i) inspection of fertilizers other than anhydrous ammonia, 20 cents per ton. The department may
 23 by rule after hearing adjust the inspection fee not to exceed a maximum of 25 cents per ton to maintain
 24 adequate funding for the administration of this part. ~~Any~~ A change in fee becomes effective on the first day
 25 of a reporting period. All manufacturers ~~shall~~ must be given notice of ~~any~~ a change in fees before the
 26 effective date.

27 (ii) inspection of anhydrous ammonia, 20 cents per ton. The department may by rule after hearing
 28 adjust the anhydrous ammonia inspection fee not to exceed a maximum of 65 cents per ton to maintain
 29 adequate funding for the administration and enforcement of part 5 of this chapter. ~~Any~~ A change in fee
 30 becomes effective on the first day of a reporting period. All registrants and manufacturers of anhydrous

1 ammonia ~~shall~~ must be given notice of ~~any~~ a change in fees before the effective date of the fee adjustment.

2 (iii) assessment, the fee prescribed in 80-10-103. The assessment fee ~~shall~~ must be used to fund
3 educational and experimental programs as provided in 80-10-103 through 80-10-106.

4 (b) If fertilizer or soil amendment material is added to fertilizer for which a fee has been paid under
5 subsection (1)(a), a fee must be paid under that subsection, but only on the added fertilizer or soil
6 amendment.

7 (2) There ~~shall~~ must be paid to the department on all soil amendments distributed in this state an
8 inspection fee of 10 cents per ton subject to the following provisions:

9 (a) sales to manufacturers or exchanges between them are exempt; and

10 (b) when less than 50 tons of registered soil amendment is sold ~~per~~ in a 6-month period, there ~~shall~~
11 must be paid to the department a fee of \$5 ~~per~~ for each soil amendment ~~per~~ for each 6-month period in lieu
12 of the fee of 10 cents per ton ~~fee~~. Inspection fees ~~shall~~ must be used by the department for administration
13 of this part.

14 (3) (a) (i) ~~Every~~ Each licensee who distributes a soil amendment or commercial fertilizer, except
15 specialty fertilizer and unmanipulated manures, to an unlicensed or unregistered person in this state shall
16 file with the department on forms furnished or approved by the department a semiannual statement for the
17 periods ending June 30 and December 31 setting forth the number of net tons of each commercial fertilizer
18 ~~and/or~~ or soil amendment distributed in this state during the 6-month period. The report is due on or before
19 the 30th day of the month following the close of each period.

20 (ii) ~~Every~~ Each manufacturer who registers or a person who registers on the manufacturer's behalf
21 a soil amendment or commercial fertilizer in this state ~~or a person who registers on the manufacturer's~~
22 ~~behalf~~, except specialty fertilizer and unmanipulated manures, shall file with the department on forms
23 furnished or approved by the department a monthly statement setting forth the number of net tons of each
24 registered commercial fertilizer and soil amendment distributed in this state during the month and to whom
25 it was distributed. The report is due on or before the 30th day of the following month. The manufacturer
26 or person registering on behalf of the manufacturer shall pay the fees set forth in subsection (1) at that
27 time.

28 (b) If the tonnage report required by subsection (3)(a)(ii) is not filed and the payment of fees is not
29 made within 30 days after the end of the period, a collection fee amounting to 10% of the amount due but
30 not less than \$10 ~~shall~~ must be assessed against the manufacturer and the amount of fees due ~~shall~~

1 ~~constitute~~ constitutes a debt and ~~become~~ becomes the basis of a judgment against the manufacturer.

2 (4) Except as provided in subsection (5), all fees collected for licenses, registration, and inspection
3 and ~~monies~~ money collected as penalties ~~shall~~ must be deposited in the state treasury to the credit of the
4 state special revenue fund for the purpose of administering this chapter, including the cost of equipment
5 and facilities and the cost of inspecting, analyzing, and examining commercial fertilizer and soil amendments
6 manufactured or distributed in this state. Reserve funds may be invested by the department with interest
7 credited to the state special revenue fund.

8 (5) All fees collected under subsection (1)(a)(ii) ~~shall~~ must be deposited in the state treasury to the
9 credit of the state special revenue fund, anhydrous ammonia account, for the administration and
10 enforcement of part 5 of this chapter and the rules adopted ~~thereunder~~ under part 5. The department may
11 direct the board of investments to invest the funds collected under subsection (1)(a)(ii) pursuant to the
12 provisions of 17-6-201. The income from the investment must be deposited in the anhydrous ammonia
13 account in the state special revenue fund."

14

15 **Section 8.** Section 80-11-310, MCA, is amended to read:

16 **"80-11-310. Deposit and disbursement of funds -- records -- investment.** (1) As soon as possible
17 after receipt, all money received by the department from the assessment levied under 80-11-307 and all
18 other money received ~~shall~~ must be deposited in the state special revenue fund.

19 (2) All money referred to in subsection (1) is statutorily appropriated, as provided in 17-7-502, to
20 the committee and may be used only for the payment of expenses incurred in carrying out the provisions
21 of this part. The committee may be assessed costs by the department for the services it provides upon
22 request or pursuant to 2-15-121; ~~however, the~~ The costs charged must have a substantial relationship to
23 the cost of services supplied.

24 (3) Money received under ~~this section~~, 80-11-312, ~~and~~ 80-11-313, and this section that is not
25 immediately required for the purposes of this part must be invested under provisions of the unified
26 investment program established in Title 17, chapter 6, part 2. The income from the investment must be
27 deposited in the alfalfa seed account in the state special revenue fund.

28 (4) Money received under ~~this section~~, 80-11-312, ~~and~~ 80-11-313, and this section is appropriated
29 to the committee for the purposes of this part."
30

House BILL NO. 235

INTRODUCED BY

Grady

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE FUNDING OF CERTAIN DEPARTMENT OF AGRICULTURE PROGRAMS; ALLOWING ADMINISTRATIVE COSTS AS A PERMISSIBLE USE OF REVENUE FROM THE NOXIOUS WEED MANAGEMENT PROGRAM; CREATING A STATE SPECIAL REVENUE ACCOUNT FOR THE NOXIOUS WEED MANAGEMENT PROGRAM; ALLOWING THE DEPARTMENT OF AGRICULTURE TO INVEST THE FUNDS IN THE ANHYDROUS AMMONIA ACCOUNT AND DEPOSIT THE INCOME IN THE ACCOUNT; REQUIRING THE DEPARTMENT OF AGRICULTURE TO DEPOSIT INVESTMENT INCOME IN THE ALFALFA SEED ACCOUNT; ELIMINATING STATUTORY REFERENCES TO THE TERMINATED SURCHARGE ON THE RETAIL SALE OF HERBICIDES; ELIMINATING THE STATE'S IMMUNITY FROM LIABILITY FOR ACTIONS OF THE ALFALFA SEED COMMITTEE; AMENDING SECTIONS 80-7-801, 80-7-811, 80-7-813, 80-7-814, 80-7-815, 80-10-207, AND 80-11-310, MCA; REPEALING SECTIONS 80-7-812, 80-7-821, AND 80-11-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

1 HOUSE BILL NO. 235

2 INTRODUCED BY GRADY

3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE FUNDING OF CERTAIN
6 DEPARTMENT OF AGRICULTURE PROGRAMS; ALLOWING ADMINISTRATIVE COSTS AS A PERMISSIBLE
7 USE OF REVENUE FROM THE NOXIOUS WEED MANAGEMENT PROGRAM; CREATING A STATE SPECIAL
8 REVENUE ACCOUNT FOR THE NOXIOUS WEED MANAGEMENT PROGRAM; ALLOWING THE
9 DEPARTMENT OF AGRICULTURE TO INVEST THE FUNDS IN THE ANHYDROUS AMMONIA ACCOUNT
10 AND DEPOSIT THE INCOME IN THE ACCOUNT; REQUIRING THE DEPARTMENT OF AGRICULTURE TO
11 DEPOSIT INVESTMENT INCOME IN THE ALFALFA SEED ACCOUNT; ELIMINATING STATUTORY
12 REFERENCES TO THE TERMINATED SURCHARGE ON THE RETAIL SALE OF HERBICIDES; ELIMINATING
13 THE STATE'S IMMUNITY FROM LIABILITY FOR ACTIONS OF THE ALFALFA SEED COMMITTEE;
14 AMENDING SECTIONS 80-7-801, 80-7-811, 80-7-813, 80-7-814, 80-7-815, 80-10-207, AND 80-11-310,
15 MCA; REPEALING SECTIONS 80-7-812, 80-7-821, AND 80-11-306, MCA; AND PROVIDING AN
16 IMMEDIATE EFFECTIVE DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1920 **Section 1.** Section 80-7-801, MCA, is amended to read:21 **"80-7-801. Definitions.** As used in this part, the following definitions apply:22 (1) "Crop weed" means any plant commonly accepted as a weed and for which grants for
23 management research, evaluation, and education under 80-7-814(3)(g) may be given.24 ~~{1}(2)~~ "Department" means the department of agriculture established in 2-15-3001.25 ~~(2) "Herbicide" means a substance or mixture of substances for preventing, destroying, repelling,~~
26 ~~or mitigating any weed, as defined in 80-8-102. The term does not include herbicides labeled only for home,~~
27 ~~yard, or garden use and sold in containers of less than 10 pounds or 1 gallon.~~28 (3) "Noxious weed" means any weed defined and designated as a noxious weed by rule of the
29 department in 7-22-2101(7)(a).30 ~~(4) "Retail value" means the suggested or retail price to the consumer of a given herbicide as~~

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

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

4
 5 **Section 2.** Section 80-7-811, MCA, is amended to read:

6 **"80-7-811. Noxious weed management trust fund.** There is a noxious weed management trust
 7 fund, ~~which must be funded from revenue collected under 80-7-812 and 80-7-813~~ of \$2.5 million. The
 8 department shall administer the trust fund in accordance with this part."

9
 10 **Section 3.** Section 80-7-813, MCA, is amended to read:

11 **"80-7-813. Acceptance and expenditure of gifts and other funds.** The department may accept gifts,
 12 grants, contracts, or other funds designated for noxious weed management. ~~Such~~ The funds may be
 13 ~~expended to support any weed management project or may~~ must be deposited in the noxious weed
 14 management trust fund or in the account established in [section 6] and may be expended to support a
 15 noxious weed management project."

16
 17 **Section 4.** Section 80-7-814, MCA, is amended to read:

18 **"80-7-814. Administration and expenditure of funds.** (1) Money deposited in the noxious weed
 19 management trust fund may not be committed or expended until the principal reaches ~~\$2,500,000~~ \$2.5
 20 million, except ~~as provided by 80-7-815~~ in case of a noxious weed emergency as provided in 80-7-815.
 21 Once this amount is accumulated, ~~any~~ interest or revenue generated by the trust fund and by other funding
 22 measures provided by this part must be deposited in the special revenue fund and may be expended for
 23 noxious weed management projects in accordance with this section, ~~so~~ as long as the principal of the trust
 24 fund remains at least ~~\$2,500,000~~ \$2.5 million.

25 (2) The department may expend funds under this section through grants or contracts to
 26 communities, weed control districts, or other entities it considers appropriate for noxious weed management
 27 projects. A project is eligible to receive funds only if the county in which the project occurs has funded its
 28 own weed management program with a levy in an amount not less than 1.6 mills or an equivalent amount
 29 from another source or by an amount of not less than \$100,000 for ~~first-class~~ first-class counties, as
 30 defined in 7-1-2111.

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

3 (a) employment of a new and innovative noxious weed management project or the development,
4 implementation, or demonstration of any noxious weed management project that may be proposed,
5 implemented, or established by local, state, or national organizations, whether public or private. ~~Such~~ The
6 expenditures must be on a cost-share basis with ~~such~~ the organizations.

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

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

10 (d) ~~costs of collecting the surcharge imposed by 80-7-812, not to exceed 3% of the total surcharge~~
11 ~~proceeds; administrative expenses of the department for managing the noxious weed management program~~
12 ~~and other provisions of this part. The cost of administering the program may not exceed 12% of the total~~
13 ~~program expenses.~~

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

15 (f) ~~any~~ a project recommended by the noxious weed management advisory council, if the
16 department determines the project will significantly contribute to the management of noxious weeds within
17 the state; and

18 (g) grants to the agricultural experiment station and the cooperative extension service for crop
19 weed management research, evaluation, and education.

20 (4) The agricultural experiment station and cooperative extension service shall submit annual
21 reports on current projects and future plans to the noxious weed management advisory council.

22 (5) In making expenditures under subsections (2) and (3), the department ~~must~~ shall give
23 preference to weed control districts and community groups.

24 (6) If the noxious weed management trust fund is terminated by law, the money in the fund must
25 be divided between all counties according to rules adopted by the department for that purpose."
26

27 **Section 5.** Section 80-7-815, MCA, is amended to read:

28 **"80-7-815. Noxious weed emergency -- expenditure authorized.** (1) If a new and potentially harmful
29 noxious weed is discovered growing in the state and is verified by the department, the governor may
30 declare a noxious weed emergency. In the absence of necessary funding from other sources, this

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

4 (2) If ~~such~~ the expenditure causes the principal of the trust fund to fall below ~~\$2,500,000~~ \$2.5
 5 million, it must be replenished ~~by proceeds of the surcharge imposed in 80-7-812 or, if the surcharge has~~
 6 ~~been terminated as provided in 80-7-812(5),~~ by the interest or revenue generated by the trust fund, by the
 7 other revenue provided by this part, or by revenue obtained from the fee imposed by 61-3-510, as
 8 determined by the department."

9
 10 **NEW SECTION. Section 6. Account -- deposit -- investment.** (1) There is an account in the state
 11 special revenue fund established in 17-2-102. The interest from the noxious weed trust fund and the fee
 12 imposed in 61-3-510 must be deposited in the account and must be expended as provided in 80-7-814.

13 (2) The department may direct the board of investments to invest the funds collected under
 14 subsection (1) pursuant to the provisions of 17-6-201. The income from the investments must be credited
 15 to the account in the state special revenue fund.

16
 17 **Section 7.** Section 80-10-207, MCA, is amended to read:

18 **"80-10-207. Fees.** (1) (a) A manufacturer registering under 80-10-201(1) shall pay to the
 19 department fees on all commercial fertilizer distributed in this state, except specialty fertilizers and
 20 unmanipulated animal and vegetable manures, provided that sales to manufacturers or exchanges between
 21 them are exempt. The fees are:

22 (i) inspection of fertilizers other than anhydrous ammonia, 20 cents per ton. The department may
 23 by rule after hearing adjust the inspection fee not to exceed a maximum of 25 cents per ton to maintain
 24 adequate funding for the administration of this part. ~~Any~~ A change in fee becomes effective on the first day
 25 of a reporting period. All manufacturers ~~shall~~ must be given notice of ~~any~~ a change in fees before the
 26 effective date.

27 (ii) inspection of anhydrous ammonia, 20 cents per ton. The department may by rule after hearing
 28 adjust the anhydrous ammonia inspection fee not to exceed a maximum of 65 cents per ton to maintain
 29 adequate funding for the administration and enforcement of part 5 of this chapter. ~~Any~~ A change in fee
 30 becomes effective on the first day of a reporting period. All registrants and manufacturers of anhydrous

1 ammonia ~~shall~~ must be given notice of ~~any~~ a change in fees before the effective date of the fee adjustment.

2 (iii) assessment, the fee prescribed in 80-10-103. The assessment fee ~~shall~~ must be used to fund
3 educational and experimental programs as provided in 80-10-103 through 80-10-106.

4 (b) If fertilizer or soil amendment material is added to fertilizer for which a fee has been paid under
5 subsection (1)(a), a fee must be paid under that subsection, but only on the added fertilizer or soil
6 amendment.

7 (2) There ~~shall~~ must be paid to the department on all soil amendments distributed in this state an
8 inspection fee of 10 cents per ton subject to the following provisions:

9 (a) sales to manufacturers or exchanges between them are exempt; and

10 (b) when less than 50 tons of registered soil amendment is sold ~~per~~ in a 6-month period, there ~~shall~~
11 must be paid to the department a fee of \$5 ~~per~~ for each soil amendment ~~per~~ for each 6-month period in lieu
12 of the fee of 10 cents per ton ~~fee~~. Inspection fees ~~shall~~ must be used by the department for administration
13 of this part.

14 (3) (a) (i) ~~Every~~ Each licensee who distributes a soil amendment or commercial fertilizer, except
15 specialty fertilizer and unmanipulated manures, to an unlicensed or unregistered person in this state shall
16 file with the department on forms furnished or approved by the department a semiannual statement for the
17 periods ending June 30 and December 31 setting forth the number of net tons of each commercial fertilizer
18 ~~and/or~~ or soil amendment distributed in this state during the 6-month period. The report is due on or before
19 the 30th day of the month following the close of each period.

20 (ii) ~~Every~~ Each manufacturer who registers or a person who registers on the manufacturer's behalf
21 a soil amendment or commercial fertilizer in this state ~~or a person who registers on the manufacturer's~~
22 ~~behalf~~, except specialty fertilizer and unmanipulated manures, shall file with the department on forms
23 furnished or approved by the department a monthly statement setting forth the number of net tons of each
24 registered commercial fertilizer and soil amendment distributed in this state during the month and to whom
25 it was distributed. The report is due on or before the 30th day of the following month. The manufacturer
26 or person registering on behalf of the manufacturer shall pay the fees set forth in subsection (1) at that
27 time.

28 (b) If the tonnage report required by subsection (3)(a)(ii) is not filed and the payment of fees is not
29 made within 30 days after the end of the period, a collection fee amounting to 10% of the amount due but
30 not less than \$10 ~~shall~~ must be assessed against the manufacturer and the amount of fees due ~~shall~~

1 ~~constitute~~ constitutes a debt and ~~become~~ becomes the basis of a judgment against the manufacturer.

2 (4) Except as provided in subsection (5), all fees collected for licenses, registration, and inspection
3 and ~~moneys~~ money collected as penalties ~~shall~~ must be deposited in the state treasury to the credit of the
4 state special revenue fund for the purpose of administering this chapter, including the cost of equipment
5 and facilities and the cost of inspecting, analyzing, and examining commercial fertilizer and soil amendments
6 manufactured or distributed in this state. Reserve funds may be invested by the department with interest
7 credited to the state special revenue fund.

8 (5) All fees collected under subsection (1)(a)(ii) ~~shall~~ must be deposited in the state treasury to the
9 credit of the state special revenue fund, anhydrous ammonia account, for the administration and
10 enforcement of part 5 of this chapter and the rules adopted ~~thereunder~~ under part 5. The department may
11 direct the board of investments to invest the funds collected under subsection (1)(a)(ii) pursuant to the
12 provisions of 17-6-201. The income from the investment must be deposited in the anhydrous ammonia
13 account in the state special revenue fund."

14
15 **Section 8.** Section 80-11-310, MCA, is amended to read:

16 **"80-11-310. Deposit and disbursement of funds -- records -- investment.** (1) As soon as possible
17 after receipt, all money received by the department from the assessment levied under 80-11-307 and all
18 other money received ~~shall~~ must be deposited in the state special revenue fund.

19 (2) All money referred to in subsection (1) is statutorily appropriated, as provided in 17-7-502, to
20 the committee and may be used only for the payment of expenses incurred in carrying out the provisions
21 of this part. The committee may be assessed costs by the department for the services it provides upon
22 request or pursuant to 2-15-121; ~~however, the~~ The costs charged must have a substantial relationship to
23 the cost of services supplied.

24 (3) Money received under ~~this section, 80-11-312, and 80-11-313, and this section that is~~ not
25 immediately required for the purposes of this part must be invested under provisions of the unified
26 investment program established in Title 17, chapter 6, part 2. The income from the investment must be
27 deposited in the alfalfa seed account in the state special revenue fund.

28 (4) Money received under ~~this section, 80-11-312, and 80-11-313, and this section~~ is appropriated
29 to the committee for the purposes of this part."
30

1 NEW SECTION. **Section 9. Codification instruction.** [Section 6] is intended to be codified as an
2 integral part of Title 80, chapter 7, part 8, and the provisions of Title 80, chapter 7, part 8, apply to
3 [section 6].

4

5 NEW SECTION. **Section 10. Repealer.** Sections 80-7-812, 80-7-821, and 80-11-306, MCA, are
6 repealed.

7

8 NEW SECTION. **Section 11. Effective date.** [This act] is effective on passage and approval.

9

-END-