

SENATE BILL NO. 384

INTRODUCED BY K. VAN DYK

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN COMMITTEES AND BOARDS WITHIN THE DEPARTMENT OF AGRICULTURE AND TRANSFERRING THEIR DUTIES TO THE DEPARTMENT OF AGRICULTURE; ELIMINATING THE BOARD OF HAIL INSURANCE AND TRANSFERRING ITS DUTIES TO THE DEPARTMENT OF AGRICULTURE; ELIMINATING THE MONTANA ALFALFA SEED COMMITTEE AND TRANSFERRING ITS DUTIES TO THE DEPARTMENT OF AGRICULTURE; ELIMINATING THE VERTEBRATE PEST MANAGEMENT ADVISORY COUNCIL; ELIMINATING THE MONTANA MINT COMMITTEE AND TRANSFERRING ITS DUTIES TO THE DEPARTMENT OF AGRICULTURE; AMENDING SECTIONS 80-2-201, 80-2-203, 80-2-206, 80-2-207, 80-2-208, 80-2-209, 80-2-221, 80-2-222, 80-2-228, 80-2-229, 80-2-232, 80-2-241, 80-2-242, 80-2-243, 80-2-244, 80-6-1102, 80-6-1103, 80-6-1105, 80-6-1106, 80-6-1108, 80-6-1109, 80-6-1110, 80-6-1111, 80-6-1112, 80-11-303, 80-11-304, 80-11-307, 80-11-310, 80-11-402, 80-11-403, 80-11-412, 80-11-413, 80-11-414, 80-11-415, 80-11-416, 80-11-417, 80-11-418, AND 80-11-419, MCA; REPEALING SECTIONS 2-15-3003, 2-15-3004, 2-15-3006, 80-2-202, 80-6-1104, 80-7-1104, 80-11-305, 80-11-404, AND 80-11-405, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 80-2-201, MCA, is amended to read:

"80-2-201. Powers and duties of ~~board of hail insurance~~ department. ~~The board of hail insurance provided for in 2-15-3003:~~

~~_____ (1) shall hold meetings when necessary for the conduct of its business;~~

~~_____ (2) The department:~~

~~(1)~~ (1) may adopt rules for the administration of this part;

~~(3)~~ (2) shall prescribe blank forms for all purposes necessary, proper, and incidental to the effective operation and enforcement of this part; and

~~(4)~~ (3) shall use any appropriate means of communication to inform Montana producers of the purposes, scope, and benefits of this part in furnishing protection against loss by hail at the actual cost of the risk to all persons who may elect to become subject to the provisions of this part."

1
2 **Section 2.** Section 80-2-203, MCA, is amended to read:

3 **"80-2-203. Participation in program -- fee.** (1) A person or an association of persons engaged in the
4 growing of crops or other agricultural or horticultural products subject to injury or destruction by hail may, by
5 individual or joint election filed with and approved by the ~~board of hail insurance~~ department, accept the
6 provisions of this part and elect to become subject to this part. The risks may be classified by the ~~board~~
7 department, and suitable fees may be imposed as agreed upon by the ~~board~~ department and the persons. The
8 persons are entitled to the benefits and protection afforded by the insurance provisions of this part.

9 (2) Each person who signifies a desire to become subject to the provisions of this part shall file with the
10 department of revenue the properly filled out form not later than August 15. The person is chargeable with the
11 fee provided for on lands growing crops subject to injury or destruction by hail and shall share in the protection
12 and benefits under the hail insurance provisions of this part. The application for hail insurance is in full force and
13 effect at 12:01 a.m. on the day immediately following the acceptance of the application by the department of
14 revenue.

15 (3) This part may not be construed to empower anyone except the actual owner of the land to make the
16 land subject to the hail fee provided in this part."

17
18 **Section 3.** Section 80-2-206, MCA, is amended to read:

19 **"80-2-206. Cash payment.** When an applicant for hail insurance tenders cash for the insurance to the
20 department of revenue, the applicant is allowed a discount of 4%. The hail insurance must be issued upon the
21 cash payment less the 4%. The charge for the insurance must be based on the maximum rates shown on the
22 application for hail insurance. If the current rates are reduced later, the ~~board of hail insurance~~ department shall
23 arrange for the proper refund to the insured. All cash received by the department of revenue must be deposited
24 with the state treasurer."

25
26 **Section 4.** Section 80-2-207, MCA, is amended to read:

27 **"80-2-207. Delinquent fees -- application by delinquent -- crop lien.** (1) An owner of land who has
28 more than 1 year's delinquent fees on the land ~~may is not be~~ allowed hail insurance under the provisions of this
29 part, unless the owner's application is accompanied by a cash payment for the amount that would be due on the
30 application for that year.

(2) Any grower who is unable to secure state hail insurance under the provisions of this part because of delinquent fees or for other reasons may make an application to the department of revenue, and the department of revenue may receive and accept the application when the applicant furnishes a sufficient crop lien that is subject only to a seed lien. The crop lien may be accepted only under rules and requirements that may be prescribed by the ~~board of hail insurance~~ department and under the provision that the ~~board~~ department may cancel any hail insurance accepted in violation of the rules and requirements. Upon receipt of the application, the department of revenue shall make a record of the application and shall file the original in the office of the clerk and recorder of the county. The department of revenue shall also send a bill to the grower for the proper amount due for hail insurance under the provisions of this part.

(3) A tenant who has delinquent hail insurance that was secured by a crop lien and was not secured by real estate may not be allowed another policy in any succeeding year until the delinquent amount is paid or until the tenant pays cash for the current hail insurance.

(4) If a tenant becomes delinquent for hail insurance after having failed to apply for relief as provided by the ~~board~~ department under 80-2-229, the tenant may apply to the ~~board~~ department for a reduction. If the reasons for requesting a reduction are approved by the ~~board~~ department, the ~~board~~ department may reduce the charge to not less than one-half the original amount charged."

Section 5. Section 80-2-208, MCA, is amended to read:

"80-2-208. Maximum insurance. When the reserve fund is determined actuarially sound, as provided in 80-2-228, the ~~board~~ department may write not more than \$50 insurance on each acre of crops on nonirrigated land and not more than \$76 on each acre on irrigated land. When more than one party desires hail insurance on the same crop, each party is entitled to the share of the maximum provided on each acre as represented by that person's interest in the crop. Either party may insure the party's share in the crop for any amount up to and including the maximum on each acre if the others waive their right to insure."

Section 6. Section 80-2-209, MCA, is amended to read:

"80-2-209. Reinsurance. Because of the unusual or unexpected variation in the severity of damage to crops that occurs from year to year and in order to enable the ~~hail insurance board~~ department to spread the effect of these variations more evenly over all years, the ~~board~~ department may negotiate for and secure reinsurance of a part of the risk in any year when the need for reinsurance appears advisable to the ~~board~~

1 ~~department~~. The ~~board~~ department may use money from hail insurance fees for the purchase of reinsurance
2 whenever it appears to the ~~board~~ department that reinsurance is necessary and advisable."

3
4 **Section 7.** Section 80-2-221, MCA, is amended to read:

5 **"80-2-221. Fee for hail insurance.** (1) A fee is imposed on all lands in this state growing crops subject
6 to injury or destruction by hail, the owners of which have elected to become subject to the provisions of this part.

7 (2) The ~~board of hail insurance~~ department shall annually estimate, as accurately as possible, the
8 amount required to pay all losses, interest on warrants, and costs of administration and shall recommend a fee
9 to be imposed on each kind of land respectively, subject to the provisions of this part, to the department of
10 revenue. The rates recommended to apply on the lands of owners must be applied in the same proportions to
11 the crops of those insured on a personal basis."

12
13 **Section 8.** Section 80-2-222, MCA, is amended to read:

14 **"80-2-222. Board Department to establish amount of rates -- disposition of funds.** (1) The ~~board~~
15 ~~of hail insurance~~ department may, ~~when it considers it advisable,~~ establish as many districts as it considers
16 advisable and may maintain maximum rates in various parts of the state. The rates must be commensurate with
17 the risk incurred as nearly as ~~it~~ the department can determine from past experiences or from any records
18 available.

19 (2) Notice of the various rates established for any year must be plainly printed on the application for hail
20 insurance, and the rates for the year must be determined and imposed by the ~~board of hail insurance~~ department
21 for each of the various districts as established, in proportions that will in the ~~board's~~ department's judgment be
22 fair and equitable.

23 (3) The ~~board of hail insurance~~ department may accept and expend all funds received by it, including
24 amounts repaid as principal and interest on investments. The funds are statutorily appropriated, as provided in
25 17-7-502, to the ~~board of hail insurance~~ department for the purposes of this chapter. Expenditures for actual and
26 necessary expenses required for the efficient administration of this part must be made from temporary
27 appropriations, as described in 17-7-501(1) or (2), made for that purpose.

28 (4) In establishing the rates provided in this section, the ~~board of hail insurance~~ department shall provide
29 for:

30 (a) the payment of all expenses of administration, together with all interest owed or to be owing on

1 registered warrants;

2 (b) that portion of the losses incurred during the current year that are not paid from funds drawn from
3 the reserve;

4 (c) the maintenance of the reserve, a part or all of which may be used in any 1 year for the purpose of
5 paying the costs of administration, interest on the warrants, and losses as settled and adjusted by the ~~board~~
6 department, including the losses sustained in any prior year or years under the hail insurance law that have not
7 been paid.

8 (5) If at the end of any hail insurance season the ~~board~~ department determines that more funds are
9 accumulating from the current year's rates than were estimated when the rates were established and are in
10 excess of the need for the payment of losses and expenses and maintenance of the reserve, the ~~board~~
11 department may, at its discretion, refund the excess to the persons insured for the year, on a pro rata or
12 percentage basis.

13 (6) The ~~board of hail insurance~~ department may direct the board of investments to invest funds from the
14 hail insurance account within the enterprise fund pursuant to the provisions of the unified investment program
15 for state funds. The income from the investments must be credited to the ~~board of hail insurance account in the~~
16 enterprise fund."

17
18 **Section 9.** Section 80-2-228, MCA, is amended to read:

19 **"80-2-228. Reserve fund.** (1) Each year when the ~~hail board~~ department sets ~~its annual fee the fees~~
20 for the payment of current losses, for expenses of administration, and for an addition to the reserve if conditions
21 permit, ~~it~~ the department may not increase the fee enough in any year so that the addition to the reserve will
22 exceed 5% of the maximum risk written for that year.

23 (2) The ~~board~~ department may engage the services of a qualified actuary to conduct an actuarial
24 valuation of the reserve. This valuation may include the actuary's determination of the amount of reserve
25 necessary to absorb all reasonably anticipated catastrophic losses. This amount is the maximum permissible
26 reserve fund for the next year.

27 (3) The reserve must be deposited in an enterprise fund.

28 (4) The ~~board~~ department may not draw on the reserve for any purpose unless the amount required for
29 the payment of losses for the current year, including interest on warrants and costs of administration, exceeds
30 the amount of the estimate made by the ~~board~~ department for the current year pursuant to 80-2-221."

1

2 **Section 10.** Section 80-2-229, MCA, is amended to read:

3 **"80-2-229. Withdrawal of crop in case of destruction through other means.** When any crop insured
4 under this part is destroyed by any other cause than hail, the applicant may, by furnishing the proof required by
5 the ~~board of hail insurance~~ department, cause the crop to be exempted from the regular fee of the ~~board~~
6 department for the current year. The proof must be submitted to the ~~board of hail insurance~~ department in
7 accordance with its rules. The rules must be plainly printed on the applications and policies issued by the
8 department. The rules must provide that the cost for withdrawn insurance must be varied as nearly as practical
9 according to the time the insurance is in force and according to the risk carried."

10

11 **Section 11.** Section 80-2-232, MCA, is amended to read:

12 **"80-2-232. Department of revenue's duty -- warrants -- transfers to state general fund.** (1) The
13 department of revenue shall receive all money paid under this part and shall place the money in trust for the hail
14 insurance program to the credit of the hail insurance account within the enterprise fund. All money collected by
15 the ~~board~~ department must be deposited in the ~~enterprise fund~~ account, and all losses must be paid from that
16 ~~fund~~ account. All other costs are administrative expenses and must be paid from the ~~board's enterprise fund~~ hail
17 insurance account. If registered warrants are presented and there is no money to pay the warrants, the warrants
18 must be registered and bear interest at the rate of 4% a year until called for payment by the state treasurer.

19 (2) The department of revenue may retain 2% of the gross annual fees imposed and collected under this
20 part for administrative costs associated with billing and collection of hail insurance premiums.

21 (3) Upon authorization from the ~~board of hail insurance~~ department, the state treasurer shall transfer out
22 of the ~~board's~~ hail insurance account within the enterprise fund to the general fund of the state of Montana 1.5%
23 of the gross annual fees imposed and collected in the state of Montana."

24

25 **Section 12.** Section 80-2-241, MCA, is amended to read:

26 **"80-2-241. Report of losses.** All losses by hail to crops insured under this part must be reported within
27 14 days after the loss by the owner of the crops or by the owner's agent or attorney to the ~~board of hail insurance~~
28 department. The ~~board~~ department shall require the claimant to make a statement of the losses sustained, the
29 cause of the losses, and other information that the ~~board~~ department may require on the forms to be provided
30 for that purpose. If a loss is reported more than 14 days after it occurs, the ~~board~~ department shall charge the

claimant for all costs incurred in making the adjustment."

Section 13. Section 80-2-242, MCA, is amended to read:

"80-2-242. Appraisers -- appointment -- qualifications -- duties. (1) The department of agriculture shall as soon as practicable each year retain a sufficient number of appraisers to appraise all losses by hail incurred under this part in the various counties. The persons so appointed shall be actively engaged in farming or shall have had practical experience in farming.

(2) The ~~board~~ department may call on one or more of the duly appointed appraisers for the adjustment of each and every loss, and the ~~said~~ appraisers shall promptly report their findings to the ~~board~~ department according to the rules ~~provided by the board of the department~~.

(3) ~~No appraiser who shall be~~ An appraiser who is a relative, attorney, agent, employee, or creditor or in any manner interested by lien, mortgage, or otherwise in the crop injured or destroyed ~~shall~~ may not assist in adjusting any ~~such~~ loss.

(4) The ~~board~~ department may send any duly appointed appraiser or appraisers into any county as the occasion may require."

Section 14. Section 80-2-243, MCA, is amended to read:

"80-2-243. Disputed appraisal. (1) If the party that has sustained the loss is dissatisfied with and refuses to accept the adjustment made by the official appraiser, the party has the right to appeal to the ~~board of hail insurance~~ department. The party shall make the appeal by certified mail within 10 days after receiving the adjustment offer of the ~~board~~ department in writing. ~~Also the board~~ The department may require the ~~posting of appealing party to post~~ a cash bond of \$25 with the request for reappraisal of the first adjustment. If the ~~board~~ department requires the ~~posting of the \$25 bond to be posted~~, the ~~board~~ department may retain it the bond if an increase is not allowed. If an increase is obtained, the ~~board~~ department shall return the bond to the claimant.

(2) If the adjuster who makes the second appraisal fails to secure an agreement, the claimant may submit the matter to arbitration as provided in this subsection or sue the ~~board~~ department in the district court of the county where the loss occurred, within 90 days from the date of receipt of written notice of the second appraisal. The actions must be trials de novo and the Montana Rules of Civil Procedure apply. If a claimant demands arbitration, the claimant shall, if required by the ~~board~~ department, furnish a cash bond to the ~~board~~ department in the sum of \$50, which must accompany the application. If there is not sufficient allowance made

1 to any claimant after arbitration to cover the cost of arbitration without the use of the \$50 bond, the ~~board~~
2 department may use a part or all of the cash bond. If the claimant secures an increase, the bond must be
3 promptly returned to the claimant. If the claimant elects to submit the matter to arbitration, the claimant shall then
4 appoint one disinterested person as appraiser, the official appraiser shall appoint another person as appraiser,
5 the two shall select a third disinterested person, and the three shall then proceed to adjust the loss in the same
6 manner as specified in 80-2-242. The judgment of the majority is the judgment of the appraisers and is binding
7 upon both parties as the final determination of the loss.

8 (3) (a) If the insured does not recover a greater sum than allowed by the official appraiser in the first
9 instance, the insured shall pay the expenses of the three appraisers and their witnesses in making the
10 adjustment, but if the insured is awarded a larger sum, the expenses must be paid by the ~~board~~ department.

11 (b) If the insured is required to pay the expenses of the reappraisal as provided in subsection (3)(a),
12 the ~~board~~ department may deduct the amount of the expenses from the amount allowed the insured before
13 making settlement for the loss.

14 (4) The ~~board~~ department shall examine all reports of appraisers and verify the reports and adjust all
15 losses and for those purposes may order hearings, subpoena witnesses, conduct examinations, and do all things
16 necessary to secure a fair and impartial appraisal of losses by hail."

17
18 **Section 15.** Section 80-2-244, MCA, is amended to read:

19 **"80-2-244. Payment of losses.** (1) The ~~board of hail insurance~~ department shall, as soon as practicable
20 after the loss has been sustained, arrange for the payment of the loss in the following manner. From the amount
21 of the loss as adjusted for each claimant, the ~~board~~ department shall deduct the amount that the claimant then
22 owes as a delinquent hail insurance fee and the maximum amount assessed as a hail insurance fee for the
23 current year.

24 (2) The ~~board~~ department shall on or before November 1 order payment for the balance of the
25 adjustment to be sent to the claimant, provided that the payment for loss may not exceed the maximum amounts
26 established in 80-2-208. A claimant may not receive payment for any loss incurred if the loss does not equal or
27 exceed 5% of the total value of the crop insured. If the losses in any year exceed the current fees plus the
28 reserve, then the payment of all losses must be prorated among all growers having loss claims adjusted and
29 approved, and the unpaid balance of the losses must be paid out of the reserve without interest in the order that
30 the ~~board~~ department directs when in the judgment of the ~~board~~ department, there is sufficient money to provide

1 for the payment of the claims and other items payable out of the reserve. In any year, the ~~board may by resolution~~
2 ~~authorize its presiding officer and secretary to~~ department may borrow money ~~that the board may consider~~
3 ~~necessary~~ for the purpose of paying all warrants as issued.

4 (3) For any money borrowed under the provisions of this part, the ~~board~~ department shall cause warrants
5 to be drawn. The warrants must bear interest at a rate not to exceed 6% a year, and the warrants and the interest
6 on the warrants must be paid out of funds from the state hail insurance program as they are collected. The ~~board~~
7 department may not at any time borrow a total sum greater than the amount of the fees imposed for the current
8 year, together with delinquent fees that remain unpaid."

9
10 **Section 16.** Section 80-6-1102, MCA, is amended to read:

11 **"80-6-1102. Definitions.** As used in this part, the following definitions apply:

12 (1) "Bee" means any stage in the life cycle of a bee of the species *Megachile rotundata* (F), commonly
13 known as the alfalfa leaf-cutting bee.

14 (2) "Certification" means the process of analyzing bees and equipment by the ~~committee~~ department
15 to determine whether they meet required standards.

16 (3) "Chalkbrood" means a fungal disease that attacks larvae of the alfalfa leaf-cutting bee.

17 ~~(4) "Committee" means the Montana alfalfa seed committee established in 2-15-3004.~~

18 ~~(5)~~(4) "Department" means the department of agriculture established in 2-15-3001.

19 ~~(6)~~(5) "Equipment" means shelters, trays, incubators, cell removers, tumblers, and other apparatus,
20 except nesting materials, used in rearing bees.

21 ~~(7)~~(6) "Nest destroyer" means any organism that competes with the bee larvae for nest provisions.

22 ~~(8)~~(7) "Nesting materials" means laminates, drilled boards, and other apparatus used in nesting bees.

23 ~~(9)~~(8) "Parasite" means an organism living in or on any stage of the alfalfa leaf-cutting bee obtaining
24 nutriment from the body of the bee.

25 ~~(10)~~(9) "Pathogen" means an organism that causes disease in the alfalfa leaf-cutting bee.

26 ~~(11)~~(10) "Person" means an individual, association, partnership, or corporation.

27 ~~(12)~~(11) "Predator" means any organism or insect that preys on, devours, or destroys bees or nests.

28 ~~(13)~~(12) "Wild trap" means to intentionally trap bees on property not owned or leased by the trapper."
29

30 **Section 17.** Section 80-6-1103, MCA, is amended to read:

"80-6-1103. Committee Department responsibilities -- adoption of rules. (1) The ~~committee~~

department is responsible for the administration of this part.

(2) The ~~committee~~ department:

(a) shall by rule adopt minimum standards for the presence of pathogens and parasites;

~~(3)(b) The committee~~ may adopt rules establishing minimum standards for the presence of predators and nest destroyers in bees to be certified, imported, quarantined, and possessed or controlled in the state of Montana;

~~(4)(c) The committee~~ may provide information and services relating to the rearing of alfalfa leaf-cutting bees and alfalfa seed production; and

~~(5)(d) The committee~~ may enter into agreements with other governmental agencies or private associations in carrying out the provisions of this part.

~~(6)(3)~~ In performing its duties under this part, the committee department may:

(a) enter upon any public or private premises to inspect equipment and sample bees;

(b) by rule establish quarantines to regulate the entry of bees, equipment, and nesting material into areas of Montana specified in the quarantines;

(c) quarantine any bees, equipment, or nesting material found to be infected or contaminated at levels exceeding importation or quarantine standards;

(d) order the disinfection, destruction, or removal of any bees, equipment, or nesting material that does not meet importation or quarantine standards.

~~(7)(4)~~ Upon receiving notification of nesting material or bees that appear to be abandoned, the ~~committee~~ department shall contact the owner as soon as possible to correct the problem. If the owner cannot be found, the nesting material or bees must be considered abandoned and the procedures for disposition of abandoned property set out in Title 70, chapter 9, must be followed.

~~(8)(5)~~ (a) Whenever the committee department has reasonable cause to believe a person is in possession of any bees or equipment in violation of this part or rules adopted under it, the ~~committee~~ department may order a quarantine of the suspected bees or equipment and may require any person in possession of the bees or equipment to hold them under specified conditions until notified otherwise in writing by the ~~committee~~ department.

(b) The ~~committee~~ department shall release any quarantine upon finding that the bees and equipment are in compliance with this part."

1
2 **Section 18.** Section 80-6-1105, MCA, is amended to read:

3 **"80-6-1105. Alfalfa leaf-cutting bees -- certification.** (1) A person possessing or controlling alfalfa
4 leaf-cutting bees in the state of Montana may annually certify all or part of the person's bees as provided in this
5 section.

6 (2) To certify bees, a person shall file a completed application form provided by the department, together
7 with a fee set by rule. The applicant shall provide the following:

8 (a) name and place of residence;

9 (b) the general location and number of bees to be certified; and

10 (c) other relevant information as may be required by ~~committee~~ department rule.

11 (3) After receipt of an application for certification, a sample of the total population of bees to be certified
12 must be selected by the ~~committee~~ department or its agent in a manner prescribed by the ~~committee~~ department.
13 The sample must be analyzed for pathogens, parasites, predators, nest destroyers, and live larvae count. If
14 certification standards are met, the sample must be certified.

15 (4) All bees to be certified may be stored in containers that can be officially sealed after sampling to
16 maintain their certification identity.

17 (5) When the ~~committee~~ department has in its possession a completed application form, an appropriate
18 fee, and a report that the sample meets certification standards, it may issue a certificate for the bees.

19 (6) The ~~committee~~ department shall by rule specify the date by which any applicant shall apply for
20 recertification the following year."

21
22 **Section 19.** Section 80-6-1106, MCA, is amended to read:

23 **"80-6-1106. Bee laboratory authorized.** The ~~committee~~ department or its agent may develop and
24 maintain a laboratory for the purpose of providing analytical services required to carry out the provisions of this
25 part. The department may authorize the laboratory ~~may be authorized by the committee~~ to provide services to
26 persons possessing any bees or equipment on a fee-for-service basis."

27
28 **Section 20.** Section 80-6-1108, MCA, is amended to read:

29 **"80-6-1108. Restrictions on rearing, moving, and trapping of bees and movement of equipment.**

30 (1) A person may not wild trap within 1 mile of registered bees without the written permission of the registrant.

(2) A person may not move any quarantined bee or equipment except by special permit issued by the ~~committee~~ department.

(3) A person may not wild trap or attempt to wild trap bees unless that person has been issued a permit for that activity in accordance with rules adopted by the ~~committee~~ department. The ~~committee~~ department shall by rule establish the permit fee."

Section 21. Section 80-6-1109, MCA, is amended to read:

"80-6-1109. Fees to be set by rule -- self-supporting program -- account established. (1) Fees authorized to be charged by this part must be set by ~~committee~~ department rule. The fees must be designed to reimburse the ~~committee~~ department for costs incurred in providing services and carrying out its duties under this part. It is the intent of the legislature that ~~committee~~ department activities under this part be self-supporting.

(2) There is an account in the state special revenue fund known as the leaf-cutting bee account for use by the ~~committee~~ department. Fees collected under this part must be paid into the leaf-cutting bee account.

(3) The ~~committee~~ department may direct the board of investments to invest money from the account pursuant to the provisions of the unified investment program. The income from investments must be credited to the leaf-cutting bee account."

Section 22. Section 80-6-1110, MCA, is amended to read:

"80-6-1110. Violation -- penalty. A person who imports, possesses, controls, moves, or wild traps or attempts to import, possess, control, move, or wild trap any bee or equipment in violation of this part or who interferes with or attempts to interfere with the efforts of the ~~committee~~ department or its agent to perform its duty under this part is guilty of a misdemeanor and upon conviction shall be fined not less than \$300 or more than \$500 for the first conviction and not less than \$300 or more than \$1,000 for each subsequent conviction."

Section 23. Section 80-6-1111, MCA, is amended to read:

"80-6-1111. Alfalfa leaf-cutting bees -- registration. (1) A person may not possess or control alfalfa leaf-cutting bees in this state unless the bees are registered as provided in this section.

(2) To register bees, a person shall file a completed application form provided by the department, together with the registration fee set by rule. The applicant shall provide the following:

(a) the name and place of residence;

1 (b) the general location of bees to be registered; and

2 (c) other relevant information as may be required by ~~committee~~ rule.

3 (3) A registration is continuous until the registrant notifies the ~~committee~~ department of cancellation."

5 **Section 24.** Section 80-6-1112, MCA, is amended to read:

6 **"80-6-1112. Funding limitation.** (1) The ~~committee~~ department shall expend only those funds ~~which~~
7 that are raised by fees under this part. In the event that funds are insufficient to finance the costs of services
8 under this part, the ~~committee~~ department may reduce services accordingly.

9 (2) The ~~committee~~ department may contract lab services with a qualified person and charge growers
10 at cost on a per-sample basis.

11 (3) The ~~committee~~ department may levy a fee set by ~~committee~~ rule not to exceed 30 cents for each
12 3,000 holes of nesting material deeper than 3 1/2 inches for the purpose of administering this part and for the
13 sampling and testing of bees. For nesting material 3 1/2 inches deep or less, the fee may not exceed 16 cents
14 per 2,000 holes of nesting material.

15 (4) Fees must be based on all nesting materials that are in field use on July 15 of each year. Fees are
16 due on November 1 of each year.

17 (5) The amount of fees paid must be credited against a grower's cost of sampling and certification.

18 (6) Certification fees for drilled boards or loose cells may not exceed ~~committee~~ department cost."

20 **Section 25.** Section 80-11-303, MCA, is amended to read:

21 **"80-11-303. Definitions.** As used in this part the following definitions apply:

22 ~~(1) "Committee" means the Montana alfalfa seed committee established in 2-15-3004.~~

23 ~~(2)~~ (1) "Dealer" means any person, partnership, association, corporation, cooperative, or other business
24 unit or device that first handles, packs, ships, buys, and sells alfalfa seed or that acts as sales or purchasing
25 agent, broker, or factor of alfalfa seed.

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

27 (3) "Grower" means any landowner personally engaged in growing alfalfa seed, a tenant personally
28 engaged in growing alfalfa seed, or both the owner and the tenant jointly, and includes a person, partnership,
29 association, corporation, cooperative organization, trust, sharecropper, or any and all other business units,
30 devices, and arrangements that grow alfalfa seed or are engaged in the pollination of alfalfa seed.

(4) "Handled in the primary channels of trade" means the time when any alfalfa seed is delivered under a sales contract, sold, or delivered for shipment and sale."

Section 26. Section 80-11-304, MCA, is amended to read:

"80-11-304. Powers of the ~~committee~~ department. The ~~committee~~ department may:

(1) provide, ~~through the department of agriculture~~, for the administration and enforcement of this part;

(2) enter into contracts ~~in the name of the committee~~;

(3) authorize the purchase of all office equipment or supplies and incur all other reasonable and necessary expenses and obligations required for the proper carrying out of the provisions of this part;

(4) become a member of and purchase membership in trade organizations and subscribe to and purchase trade bulletins, journals, and other trade publications;

(5) plan and conduct a research program to improve the quality of alfalfa seed, develop and improve control measures for disease and pests ~~which~~ that attack alfalfa and alfalfa seed pollinators, improve alfalfa growing culture, disseminate ~~such~~ the information among the growers and dealers of the state, and make ~~such~~ research contracts and other agreements as may be necessary;

(6) plan and conduct a publicity and sales promotion campaign to increase the sale and use of Montana alfalfa seed and make ~~such~~ publicity and sales promotion contracts and other agreements as may be necessary;

~~(7) in cooperation with the director of the department of agriculture, establish and maintain the executive offices of the committee at any place within the state, which designated place may be changed at the discretion of the director and the committee;~~

~~———(8)(7) recommend adopt rules and orders to be adopted for the exercise of its power and the performance of its duties, in accordance with the Montana Administrative Procedure Act;~~

~~(9)(8)~~ cooperate with any local, state, or national organization or agency, whether voluntary or created by the law of any state or the United States government, engaged in work or activities similar to the work and activities of the ~~committee~~ department under this part and enter into contracts or agreements with ~~such~~ the organizations or agencies for carrying on a joint campaign of research, education, product protection, publicity, and reciprocal enforcement of these objectives; and

~~(10)(9)~~ accept grants, donations, and gifts from any source for expenditure for any purpose consistent with this part, which may be specified as a condition of any grant, donation, or gift."

1 **Section 27.** Section 80-11-307, MCA, is amended to read:

2 **"80-11-307. Assessment on alfalfa seed.** (1) There is hereby levied upon all alfalfa seed grown in this
3 state and sold through commercial channels an assessment of 1/2 of 1% of the grower's price received at the
4 point of first sale.

5 (2) If it appears from an investigation that the revenue from the assessment levied under subsection (1)
6 is inadequate to accomplish the purposes of this part, the ~~committee~~ department shall ~~file with the director of~~
7 ~~agriculture~~ prepare a report showing the necessity of the industry, extent of public convenience, interest, and
8 necessity, and probable revenue from the additional assessment desired to be levied. The director of ~~agriculture~~
9 of the department may ~~thereupon~~ increase the assessment to a sum not to exceed 1% of the grower's price
10 received at the point of first sale. ~~No~~ An increase may not be made prior to filing completion of the report ~~and~~
11 ~~recommendation by the committee."~~

12
13 **Section 28.** Section 80-11-310, MCA, is amended to read:

14 **"80-11-310. Deposit and disbursement of funds -- investment.** (1) As soon as possible after receipt,
15 all money received by the department from the assessment levied under 80-11-307 and all other money received
16 must be deposited in the state special revenue fund.

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

21 (3) Money received under 80-11-312, 80-11-313, and this section that is not immediately required for
22 the purposes of this part must be invested under provisions of the unified investment program established in Title
23 17, chapter 6, part 2. The income from the investment must be deposited in the alfalfa seed account in the state
24 special revenue fund.

25 (4) Money received under 80-11-312, 80-11-313, and this section may be appropriated to the ~~committee~~
26 department for the purposes of this part."

27
28 **Section 29.** Section 80-11-402, MCA, is amended to read:

29 **"80-11-402. Definitions.** As used in this part, the following definitions apply:

30 (1) ~~"Committee" means the Montana mint committee established in 2-15-3006. "Department" means the~~

1 department of agriculture established in 2-15-3001.

2 (2) "First purchaser" means a person, partnership, association, cooperative, or other business unit or
3 device that first buys mint oil from a grower.

4 (3) "Grower" means a landowner who is personally engaged in growing mint, a tenant who is personally
5 engaged in growing mint, or both the landowner and tenant jointly, and includes a person, partnership,
6 association, corporation, trust, sharecropper, or other business unit, device, or arrangement that grows mint.

7 (4) "Sale" means the passing of title to mint oil from a grower to a first purchaser for a price."
8

9 **Section 30.** Section 80-11-403, MCA, is amended to read:

10 **"80-11-403. Powers of the ~~committee~~ department.** The ~~committee~~ department may:

11 (1) provide for the administration and enforcement of this part;

12 (2) enter into contracts or agreements with units of the Montana university system and other local, state,
13 or national organizations, public or private, for purposes of:

14 (a) improving mint quality;

15 (b) increasing the efficiency of production;

16 (c) developing marketing knowledge;

17 (d) developing markets;

18 (e) determining new uses for mint;

19 (f) developing alternative crops compatible with mint;

20 (g) carrying out all research and marketing contemplated by this part; and

21 (h) carrying out the purposes of this part;

22 (3) authorize the purchase of office equipment and supplies and incur other reasonable and necessary
23 expenses and obligations required to carry out this part;

24 (4) become a member of and purchase membership in trade organizations and subscribe to and
25 purchase trade bulletins, journals, and other trade publications;

26 (5) adopt rules and orders ~~for the exercise of its power and the performance of its duties in accordance~~
27 ~~with the Montana Administrative Procedure Act~~ to administer this part;

28 (6) cooperate with any local, state, or national organization or agency, whether voluntary or created by
29 the law of any state or the United States, engaged in work or activities similar to the work and activities of the
30 ~~committee~~ department under this part and enter into contracts with those organizations or agencies for conducting

1 joint campaigns of research, education, disease control, product protection, and reciprocal enforcement of
2 objectives;

3 (7) accept grants, donations, and gifts from any source for expenditure for any purpose consistent with
4 this part and spend the proceeds in compliance with the conditions of the grants, donations, and gifts; and

5 (8) establish by rule an integrated pest management program, complete with field scouting services. The
6 purpose of the program is to identify, as early as possible, any potentially damaging diseases, weeds, or pests
7 that could inhibit the long-term health of the Montana mint industry."
8

9 **Section 31.** Section 80-11-412, MCA, is amended to read:

10 **"80-11-412. Assessment on mint oil -- exception.** (1) Except as provided in subsection (4), there is
11 levied on all mint oil produced in this state and sold through normal commercial channels an assessment of not
12 less than 5 cents or more than 15 cents a pound. The assessment must be collected by the first purchaser from
13 the grower at the time of each settlement for mint oil purchased.

14 (2) The assessment must be collected whether the mint oil is stored in this state or any other state. The
15 assessment is imposed only on the initial sale in which a grower parts with title to the mint oil.

16 (3) The ~~committee~~ department shall by rule set the amount of the assessment in accordance with
17 subsection (1).

18 (4) A first purchaser is not required to collect or pay the assessment unless 1,000 pounds or more of mint
19 oil is purchased in a calendar year."
20

21 **Section 32.** Section 80-11-413, MCA, is amended to read:

22 **"80-11-413. Buyer's delivery of invoice to grower -- form.** The purchaser of mint oil at the time of sale
23 shall give a separate invoice for each purchase to the grower. The invoice must be on forms approved by the
24 ~~committee~~ department and must contain:

25 (1) the name and address of the grower and seller;

26 (2) the name and address of the purchaser;

27 (3) the number of pounds of mint oil sold;

28 (4) the date of purchase; and

29 (5) the amount of the assessment collected and remitted to the ~~committee~~ department."
30

1 **Section 33.** Section 80-11-414, MCA, is amended to read:

2 **"80-11-414. Payment of assessment -- sworn statement.** (1) The purchaser shall file with the
3 ~~committee department~~, on forms prescribed by the ~~committee department~~, within 20 days after the end of a month
4 in which mint oil is purchased, a sworn statement of the number of pounds of mint oil purchased in Montana. At
5 the time the statement is filed, the purchaser shall pay to the ~~committee department~~ the assessment provided
6 for in 80-11-412 for deposit in the mint account in the state special revenue fund, unless the purchaser is exempt
7 under 80-11-412(4).

8 (2) The sworn statement referred to in subsection (1) must be legible and free of corrections and
9 alterations."

10
11 **Section 34.** Section 80-11-415, MCA, is amended to read:

12 **"80-11-415. Mint account -- sources -- use -- expenditures.** (1) There is an account in the state
13 special revenue fund, known as the mint account. The following must be placed in the account:

14 (a) the proceeds of all assessments collected under this part; and

15 (b) the proceeds from all grants, gifts, or donations to the ~~committee department~~ for research authorized
16 under this part.

17 (2) The account must be maintained for the purposes of this part and is separate from all other accounts
18 of the department.

19 (3) The ~~committee department~~ may direct the board of investments to invest funds from the account
20 pursuant to the provisions of the unified investment program for state funds. The income from the investments
21 must be credited to the mint account."

22
23 **Section 35.** Section 80-11-416, MCA, is amended to read:

24 **"80-11-416. Records required.** Each first purchaser of mint oil shall maintain accurate records of all
25 mint oil handled, packed, shipped, or processed by the purchaser. The records must be in the form and contain
26 the information the ~~committee may by department prescribes by rule prescribe~~. The records must be preserved
27 for 2 years and are subject to inspection at any time upon request of the ~~committee department~~ or its agents."

28
29 **Section 36.** Section 80-11-417, MCA, is amended to read:

30 **"80-11-417. Mint oil purchaser license -- application -- fee -- exception.** (1) Unless exempt under

subsection (4), every person acting as a first purchaser shall file a written application with the ~~committee~~
department for a license. The application must include:

(a) the applicant's name;
(b) the applicant's principal business addresses, both within and outside Montana;
(c) the name of a person authorized to receive service of summons and legal notices of all kinds for the
applicant; and

(d) any other information the ~~committee~~ department may require.

(2) Each application must be accompanied by a license fee of \$20. A license is valid for 10 years.

(3) A license must be issued if the ~~committee~~ department is satisfied that the applicant is of good
character and reputation and is financially responsible.

(4) A license is not required for a person who purchases less than 1,000 pounds of mint oil in a calendar
year."

Section 37. Section 80-11-418, MCA, is amended to read:

"80-11-418. Penalty for nonpayment of assessment. Any grower or first purchaser of mint oil who fails
to make collection or pay an assessment within the time required pursuant to this part is subject to a penalty of
5% of the amount of the assessment determined to be due as provided in this part, plus 1% of that amount for
each month or fraction of a month of delay, ~~or fraction thereof~~, after the expiration of the month after the
assessment became due. The penalty must be paid to the ~~committee~~ department and disposed of as provided
in 80-11-415."

Section 38. Section 80-11-419, MCA, is amended to read:

"80-11-419. Penalty. In addition to the penalty specified in 80-11-418, any person who violates or aids
in the violation of any of the provisions of this part or any rules or orders of the ~~committee~~ department adopted
under this part is punishable upon conviction by a fine not to exceed \$500. All fines collected must be deposited
as provided in 80-11-415."

NEW SECTION. **Section 39. Repealer.** The following sections of the Montana Code Annotated are
repealed:

2-15-3003. Board of hail insurance.

- 1 2-15-3004. Montana alfalfa seed committee -- composition -- allocation.
2 2-15-3006. Montana mint committee -- composition -- allocation.
3 80-2-202. Compensation of presiding officer and officers.
4 80-6-1104. Advisory duty of committee.
5 80-7-1104. Vertebrate pest management advisory council.
6 80-11-305. Compensation -- per diem.
7 80-11-404. Compensation -- per diem.
8 80-11-405. Election of presiding officer -- time of meetings.
9
10 NEW SECTION. **Section 40. Effective date.** [This act] is effective July 1, 2011.
11 - END -