

For January 15, 2020

Economic Affairs Interim Committee  
Compiled by Pat Murdo, Committee Staff



# OVERVIEW: NOXIOUS WEED MANAGEMENT ADVISORY COUNCIL

The Noxious Weed Management Advisory Council is created under 80-7-805, MCA, with the director of the Department of Agriculture responsible for making appointments. The 11 members listed in statute represent livestock and agriculture crop producers, recreation/wildlife groups, herbicide dealers or applicators, consumers, biological research and control interests, and the Montana Weed Control Association plus the Department of Agriculture director. One member each is to represent the western and the eastern areas of the state, plus one member is at-large representing the agricultural community.

| Advisory Council Members       | Representing                   | Term Expires |
|--------------------------------|--------------------------------|--------------|
| Ben Thomas, Helena             | Director, Dept. of Agriculture | Statutory    |
| Linda Eklund, Shawmut          | Livestock producers            | 6/30/2021    |
| Todd Wagner, Nashua            | Agriculture crop producers     | 6/30/2021    |
| Jeanette Nordahl, Lincoln      | Recreation/Wildlife groups     | 6/30/2020    |
| Trent Brusseau, Caldwell ID    | Herbicide dealer/applicator    | 6/30/2021    |
| Joel Farkell, Brady            | Consumers                      | 6/30/2020    |
| Kenny Keever, Havre            | Biological Research/Control    | 6/30/2021    |
| Jack Eddie, Dillon             | Montana Weed Control Assn.     | 6/30/2020    |
| Margie Edsall, Virginia City   | At-large ag representative     | 6/30/2020    |
| Brian Ostwald, Joliet          | Eastern Montana                | 6/30/2020    |
| Kellieann Morris, Stevensville | Western Montana                | 6/30/2021    |

## Duties/Responsibilities

The advisory council is to advise the department on administering Title 80, chapter 7, part 8, regarding noxious weed management funds.

Noxious weeds are defined in 7-22-2101(9)(a) as those introduced into the state if they can render land unfit for agriculture, wildlife, or other beneficial uses or harm native plants. They must be designated either by the department or by a district weed board created under 7-22-2103, MCA.

Expenditure options include:

- Permission in the case of a noxious weed emergency, outlined in 80-7-815, MCA, to spend the principal of the noxious weed management trust fund, if appropriated by three-fourths of each house of the legislature.
- Use of the interest or revenue generated by the trust fund, as appropriated by a majority of each house of the Legislature if the principal amount has not reached \$10 million.
- Use of unspent but awarded grant funds that have reverted to the department for re-award if the trust fund principal exceeds \$10 million.

| Operating Expenses*    |                | Funding                    |              |
|------------------------|----------------|----------------------------|--------------|
| 11/1/17-10/31/2018     |                |                            |              |
| Personnel Services     | \$123,891.06   | State Special Revenue      | \$380,461.24 |
| Operating Expenses     | \$92,953.23    | General Fund               | 0            |
| Central Services Costs | \$35,504.80    | Forest Service Funding     | \$173,946.69 |
| Grants to counties     | \$1,499,971.04 | Forest Service Sage Grouse | \$2,501.00   |
| Grants to tribes       | \$93,102.00    | Bureau of Land Management  | \$10,000.00  |
| Other                  | \$425,343.66   | Reverted Funds (estimate)  | \$33,165.91  |
| <b>Total</b>           |                |                            |              |

\*By statute these may not exceed 12% of the prior year grant awards/authorizations.

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- Use of the principle of the trust fund in excess of \$10 million as appropriated by a majority vote of each house of the Legislature.
- Use of funds for innovative new projects proposed by national or local private or public organizations, cost-sharing programs with local weed management districts, or special grants to location weed management districts, regardless of whether matching funds are available, if the noxious weeds are newly introduced.

Potential recipients include communities, weed management districts, or other entities considered appropriate for noxious weed management projects that have levied or appropriated funds to match project funds. The department itself may not apply for a grant.

Although not a duty of the advisory council, a related Department of Agriculture duty is to file a biennial noxious weed report to the Legislature. The [report](#) submitted in January 2019 covered fiscal years 2016 and 2017 and noted that noxious weed infestations on state lands had increased more than 13% from the prior report, now causing problems on 334,117 acres of state lands. Treatment at a cost of \$59.84 an acre amounted to a total outlay of \$6,156,806.

## Funding

In addition to having a constitutionally established trust of \$10 million (under Article IX, section 6, of the Montana Constitution), the Noxious Weed Management Program may tap into the income and interest from the trust, using appropriated amounts for grants to local entities to prevent the spread of noxious weeds. Under 80-7-811, MCA, the department of agriculture also may include in the account any federal or state contributions or private donations. The current biennium increased by \$100,000 the amount available for grants, or \$50,000 each in FY2020 and FY2021.

Under the constitution, the \$10 million noxious weed management trust fund is inviolate unless approved by a three-fourths vote of each house of the Legislature. The interest and income may be appropriated “only to fund the noxious weed management program, as provided by law.” If the principal of the trust fund exceeds \$10 million, then the excess may be appropriated by a majority vote of each house but must be “used only to fund the noxious weed management program, as provided by law.” An example of how the “provided by law” has been used beyond “weed management” was creation in HB 434 (2017) of a wildlife habitat improvement program and advisory council, administered by the Department of Fish, Wildlife, and Parks with federal funds. (See [budget analysis](#), from November 2018.) Also see January 2019 Advisory Council [minutes](#) for a sample of how the council operates.

In 2013 the department saw cutbacks in department-based programs when the Legislature passed [SB144](#), encouraging an increase in grants especially from reverted funds; the bill also capped administrative expenditures at 12% of the total from FY2015 forward and prohibited the department from applying for grants to operate the program.

## Legislative Audits

A 2016 audit report recommended the development of a control to “ensure completeness of a transfer from the general fund to the noxious weed special revenue fund,” which was done, according to the 2018 financial-compliance [audit](#).

## Possible Topics of Interest

- Does the advisory council serve a continuing purpose in advising the department, including reviewing whether grants are distributed statewide or based on worst-case noxious weed infestations?

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