

1 SENATE BILL NO. 442  
 2 INTRODUCED BY M. LANG, M. CUFFE, T. MCGILLVRAY, R. LYNCH, S. HINEBAUCH, D. LOGE, D.  
 3 BARTEL, C. KNUDSEN, B. USHER, R. TEMPEL, B. LER, J. SCHILLINGER, K. SEEKINS-CROWE, M.  
 4 MALONE, C. HINKLE, M. BINKLEY, R. MARSHALL, S. ESSMANN, R. MINER, G. PARRY, N. NICOL, P.  
 5 FIELDER  
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DISTRIBUTION OF MARIJUANA  
 8 TAXES; REVISING THE ALLOCATION OF THE MARIJUANA STATE SPECIAL REVENUE ACCOUNT;  
 9 TRANSFERRING TAX REVENUE FROM MARIJUANA SALES TO THE DEPARTMENT OF  
 10 TRANSPORTATION FOR THE FUNDING OF COUNTY ROAD CONSTRUCTION AND MAINTENANCE;  
 11 PROVIDING A CALCULATION BASED ON THE ROAD MILES, STATE AND FEDERAL LAND AREA, AND  
 12 BLOCK MANAGEMENT ACRES IN COUNTIES AND CONSOLIDATED CITY-COUNTIES; ESTABLISHING A  
 13 HABITAT LEGACY ACCOUNT; REVISING THE MONTANA WILDLIFE HABITAT IMPROVEMENT ACT;  
 14 PROVIDING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 15-70-101, ~~AND 16-12-111, 17-7-~~  
 15 ~~502,~~ 87-5-801, 87-5-802, 87-5-803, 87-5-804, 87-5-806, 87-5-807, AND 87-5-808, MCA; AND PROVIDING AN  
 16 EFFECTIVE DATE."  
 17

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 19

20 NEW SECTION. Section 1. County road habitat access account. (1) There is a county road  
 21 habitat access account in the state special revenue fund established in 17-2-102. All funds received pursuant to  
 22 16-12-111(4)(b)(i)(H) must be deposited in the account.

23 (2) Money deposited in the account is ~~subject to appropriation by the legislature statutorily~~  
 24 ~~appropriated, as provided in 17-7-502, to the department of transportation~~ and may be used only for funding the  
 25 construction, reconstruction, maintenance, and repair of county roads in the manner provided in 15-70-101(4).  
 26

27 NEW SECTION. SECTION 2. HABITAT LEGACY ACCOUNT. (1) THERE IS A HABITAT LEGACY ACCOUNT IN THE  
 28 STATE SPECIAL REVENUE FUND ESTABLISHED IN 17-2-102. ALL FUNDS RECEIVED PURSUANT TO 16-12-111(4)(B) ~~are~~

**Amendment - 1st Reading/2nd House-blue - Requested by: (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

SB0442.003.004

1 statutorily appropriated, as provided in 17-7-502, and MUST BE DEPOSITED IN THE ACCOUNT AND TRANSFERRED TO  
2 THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS.

3 (2) AT THE END OF EACH FISCAL YEAR, 75% OF THE FUNDS RECEIVED PURSUANT TO 16-12-111(4)(B)  
4 MUST BE TRANSFERRED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO BE AND USED SOLELY AS FUNDING FOR  
5 WILDLIFE HABITAT IN THE SAME MANNER AS FUNDING GENERATED UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-  
6 209.

7 (3) IF, AT THE END OF ANY FISCAL YEAR, THE UNOBLIGATED CASH BALANCE IN THE ACCOUNT SET UP TO  
8 ADMINISTER FUNDING GENERATED UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-209 EQUALS OR EXCEEDS  
9 \$50,000,000, ADJUSTED ANNUALLY FOR INFLATION, THE TRANSFER MAY NOT BE MADE.

10 (4) IF, AT THE END OF ANY FISCAL YEAR, THE UNOBLIGATED CASH BALANCE IN THE ACCOUNT SET UP TO  
11 ADMINISTER FUNDING GENERATED UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-209 IS LESS THAN \$50 MILLION,  
12 ADJUSTED ANNUALLY FOR INFLATION, THEN AN AMOUNT LESS THAN OR EQUAL TO THE DIFFERENCE BETWEEN THE  
13 UNOBLIGATED CASH BALANCE AND \$50 MILLION, ADJUSTED ANNUALLY FOR INFLATION, BUT NOT TO EXCEED 75% OF THE  
14 TAXES RECEIVED PURSUANT TO 16-12-11(4)(B), MUST BE TRANSFERRED TO THE ACCOUNT SET UP TO ADMINISTER  
15 FUNDING GENERATED UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-209.

16 (5) THE INFLATION ADJUSTMENTS MADE UNDER THIS SECTION MUST BE BASED ON ANY CHANGE TO THE  
17 CONSUMER PRICE INDEX FROM THE PREVIOUS YEAR. THE CONSUMER PRICE INDEX TO BE USED FOR CALCULATIONS IS  
18 THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U).

19 (6) TWENTY-FIVE PERCENT, AND ANY AMOUNT NOT TRANSFERRED ACCORDING TO ABOVE THE CAP  
20 ESTABLISHED IN SUBSECTIONS (2) THROUGH (4), IS RETAINED IN THE HABITAT LEGACY ACCOUNT AND MUST BE USED  
21 EXCLUSIVELY IN THE SAME MANNER AS FUNDING UNDER 87-5-806 OR 87-1-209. FOR:

22 (A) WILDLIFE HABITAT IMPROVEMENT PROJECTS PURSUANT TO 87-5-806; AND

23 (B) WILDLIFE HABITAT IN THE SAME MANNER AS FUNDING GENERATED UNDER 87-1-242(3) AND USED  
24 PURSUANT TO 87-1-209.

25 (7) ANY INTEREST OR INCOME EARNED ON THE MONEY IN THE HABITAT LEGACY ACCOUNT MUST BE  
26 DEPOSITED INTO THE ACCOUNT.

27 (8) ANY UNSPENT OR UNENCUMBERED MONEY IN THE HABITAT LEGACY ACCOUNT AT THE END OF A FISCAL  
28 YEAR MUST REMAIN IN THE ACCOUNT.

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**Section 3.** Section 15-70-101, MCA, is amended to read:

**"15-70-101. Disposition of funds.** (1) Those funds allocated to cities, towns, counties, and consolidated city-county governments in this section must, in accordance with the provisions of 17-2-124, be paid by the department from the highway restricted account provided for in 15-70-126 to the cities, towns, counties, and consolidated city-county governments.

(2) The amount of \$16,816,000 of the taxes collected under this chapter and deposited in the highway restricted account in 15-70-126 is statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be distributed each fiscal year on a monthly basis to the counties, incorporated cities and towns, and consolidated city-county governments in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (2)(a) through (2)(c), as follows:

(a) The amount of \$150,000 must be designated for the purposes and functions of the Montana local technical assistance transportation program in Bozeman.

(b) The amount of \$6,306,000 must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the national highway system and the primary system, bears to the total rural road mileage in the state, exclusive of the national highway system and the primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county bears to the total land area of the state.

(c) The amount of \$10,360,000 must be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of

1 the national highway system and primary system, within the corporate limits of all cities and towns in Montana.

2 (3) (a) For the purpose of allocating the funds in subsections (2)(b) and (2)(c) to a consolidated  
3 city-county government, each entity must be considered to have separate city and county boundaries. The city  
4 limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on  
5 the location of the urban area have been approved by the department of transportation and must be used to  
6 determine city and county populations and road mileages in the following manner:

7 (i) Percentage factors must be calculated to determine separate populations for the city and rural  
8 county by using the last official decennial federal census population figures that recognized an incorporated city  
9 and the rural county. The factors must be based on the ratio of the city to the rural county population,  
10 considering the total population in the county minus the population of any other incorporated city or town in the  
11 county.

12 (ii) The city and county populations must be calculated by multiplying the total county population,  
13 as determined by the latest official decennial census or the latest interim year population estimates from the  
14 Montana department of commerce as supplied by the United States bureau of the census, minus the population  
15 of any other incorporated city or town in that county, by the factors established in subsection (3)(a)(i).

16 (b) The amount allocated by this method for the city and the county must be combined, and single  
17 monthly payments must be made to the consolidated city-county government.

18 (4) The amount of funds received from 16-12-111(4)(b)(i)(H) and deposited in the county road  
19 habitat access account provided in [section 1] is subject to legislative appropriation to the department of  
20 transportation and must be distributed each fiscal year on a monthly basis to the county and consolidated city-  
21 county governments in the state for the construction, reconstruction, maintenance, and repair of rural roads as  
22 provided in subsections (4)(a) through (4)(c). The total amount of funds received pursuant to this subsection (4)  
23 must be divided among the various counties and consolidated city-counties in the following manner:

24 (a) 50% in the ratio that the rural road mileage in each county or consolidated city-county,  
25 exclusive of the national highway system and primary system, bears to the total rural road mileage in the state,  
26 exclusive of the national highway system and primary system;

27 (b) 25% in the ratio that the total number of acres of property enrolled in the block management  
28 program established in 87-1-265 of each county or consolidated city-county bears to the total number of acres

1 enrolled in the block management program established in 87-1-265 in the state;

2 (c) 25% in the ratio that the total state and federal land area of each county or consolidated city-  
3 county bears to the total state and federal land area of the state.

4 ~~(4)~~(5) All funds allocated by this section to counties, cities, towns, and consolidated city-county  
5 governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or  
6 town streets and alleys or for the share that the city, town, county, or consolidated city-county government  
7 might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or  
8 streets that are part of the primary or secondary highway system or urban extensions to those systems. The  
9 governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25%  
10 of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be  
11 used for the maintenance and repair of town or third-class city streets and alleys. The governing body of a town  
12 or third-class city may place all or a part of the 25% in a restricted asset account within the gas tax  
13 apportionment fund that is carried forward until there is a need for the expenditure.

14 ~~(5)~~(6) All funds allocated by this section to counties, cities, towns, and consolidated city-county  
15 governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures  
16 followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of  
17 the amounts provided in 7-5-2301 and 7-5-4302.

18 ~~(6)~~(7) For the purposes of this section in which distribution of funds is made on a basis related to  
19 population, the population must be determined annually for counties and biennially for cities according to the  
20 latest official decennial census or the latest interim year population estimates from the Montana department of  
21 commerce as supplied by the United States bureau of the census.

22 ~~(7)~~(8) For the purposes of this section in which determination of mileage is necessary for distribution  
23 of funds, it is the responsibility of the cities, towns, counties, and consolidated city-county governments to  
24 furnish to the department of transportation a yearly certified statement indicating the total mileage within their  
25 respective areas applicable to this chapter. All mileage submitted is subject to review and approval by the  
26 department of transportation.

27 ~~(8)~~(9) Except by a town or third-class city as provided in subsection ~~(4)~~ (5), the funds authorized by  
28 this section may not be used for the purchase of capital equipment.

1           ~~(9)(10)~~ Funds authorized by this section must be used for construction and maintenance programs."

2

3           **Section 4.** Section 16-12-111, MCA, is amended to read:

4           **"16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess**  
5 **funds.** (1) There is a dedicated marijuana state special revenue account within the state special revenue fund  
6 established in 17-2-102, to be administered by the department.

7           (2) The account consists of:

8           (a) money deposited into the account pursuant to this chapter;

9           (b) the taxes collected pursuant to Title 15, chapter 64, part 1;

10          (c) license and registered cardholder fees deposited into the account pursuant to this chapter;

11          (d) taxes deposited into the account pursuant to 16-12-310; and

12          (e) civil penalties collected under this chapter.

13          (3) Except as provided in subsection (4), money in the account must be used by the department  
14 for the purpose of administering the provisions of this chapter.

15          (4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month  
16 operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following  
17 order:

18          (a) ~~an amount not to exceed \$6 million-11%~~ must be transferred to the healing and ending  
19 addiction through recovery and treatment (HEART) account established in 16-12-122;

20          **(B) 20% MUST BE TRANSFERRED TO THE HABITAT LEGACY ACCOUNT ESTABLISHED IN [SECTION 2];**

21          **(C) 4% MUST BE TRANSFERRED TO THE STATE PARK ACCOUNT ESTABLISHED IN 23-1-105(1);**

22          **(D) 4% MUST BE TRANSFERRED TO THE TRAILS AND RECREATIONAL FACILITIES ACCOUNT ESTABLISHED IN**  
23 **23-2-108;**

24          **(E) 4% MUST BE TRANSFERRED TO THE NONGAME WILDLIFE ACCOUNT ESTABLISHED IN 87-5-121;**

25          **(F) 5% MUST BE TRANSFERRED TO THE VETERANS AND SURVIVING SPOUSES STATE SPECIAL REVENUE**  
26 **ACCOUNT PROVIDED FOR IN 10-2-108;**

27          **(G) 0.2% MUST BE TRANSFERRED TO THE BOARD OF CRIME CONTROL TO FUND CRISIS INTERVENTION TEAM**  
28 **TRAINING AS PROVIDED IN 44-7-110;**

**Amendment - 1st Reading/2nd House-blue - Requested by: (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

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1           (H) 20% MUST BE TRANSFERRED TO THE DEPARTMENT OF TRANSPORTATION AND DEPOSITED IN THE  
2 COUNTY ROADS HABITAT ACCESS ACCOUNT PROVIDED FOR IN [SECTION 1] TO BE USED SOLELY AS FUNDING FOR THE  
3 CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, AND REPAIR OF COUNTY ROADS AND DISTRIBUTED AS PROVIDED IN  
4 15-70-101(4); AND

5           (I) THE REMAINDER MUST BE TRANSFERRED TO THE GENERAL FUND.

6           (b) ~~the net balance remaining after distribution to the HEART account must be distributed as~~  
7 follows:

8           (i) ~~20% to the credit of the department of fish, wildlife, and parks department of transportation and~~  
9 ~~deposited in the county roads habitat access account provided for in [section 1] to be used solely as funding for~~  
10 ~~wildlife habitat in the same manner as funding generated under 87-1-242 (3) and used pursuant to 87-1-209 the~~  
11 ~~construction, reconstruction, maintenance, and repair of county roads and distributed as provided in 15-70-~~  
12 ~~101(4) ;~~

13           (ii) ~~4% to the state park account established in 23-1-105 (1);~~

14           (iii) ~~4% to the trails and recreational facilities account established in 23-2-108 ;~~

15           (iv) ~~4% to the nongame wildlife account established in 87-5-121 ;~~

16           (v) ~~3% or \$200,000, whichever is less, to the veterans and surviving spouses state special~~  
17 ~~revenue account provided for in 10-2-108 ;~~

18           (vi) ~~for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer~~  
19 ~~grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug~~  
20 ~~detection canines and canine handlers, including canines owned by local law enforcement agencies to replace~~  
21 ~~canines who were trained to detect marijuana;~~

22           (vii) ~~\$150,000 to the board of crime control to fund crisis intervention team training as provided in~~  
23 ~~44-7-110 ; and~~

24           (viii) ~~the remainder to the general fund.~~(Subsection (4)(b)(vi) terminates June 30, 2025--sec.  
25 117(2), Ch. 576, L. 2021.)"

26

27 **Section 5.** Section 17-7-502, MCA, is amended to read:

28 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

1 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
2 the need for a biennial legislative appropriation or budget amendment.

3 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with  
4 both of the following provisions:

5 (a) The law containing the statutory authority must be listed in subsection (3).

6 (b) The law or portion of the law making a statutory appropriation must specifically state that a  
7 statutory appropriation is made as provided in this section.

8 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-  
9 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-  
10 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;  
11 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-  
12 70-130; [\[section 1\]](#); 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-  
13 215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-  
14 305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [ 20-15-328]; 20-26-617; 20-  
15 26-1503; 22-1-327; 22-3-116; 22-3-117; [ 22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-  
16 402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;  
17 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115;  
18 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-  
19 13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006;  
20 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [ 85-25-  
21 102]; 87-1-603; 87-5-909; [\[section 2\]](#); 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

22 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
26 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
27 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
28 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement



1 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
 2 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
 3 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
 4 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
 5 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,  
 6 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;  
 7 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,  
 8 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.  
 9 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,  
 10 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-  
 11 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates  
 12 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June  
 13 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to  
 14 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,  
 15 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion  
 16 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004  
 17 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,  
 18 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and  
 19 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

20

21 **Section 6.** SECTION 87-5-801, MCA, IS AMENDED TO READ:

22 **"87-5-801. (Temporary) Short title.** This part may be cited as the "Kelly Flynn Montana Wildlife  
 23 Habitat Improvement Program and Legacy Act". (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

24

25 **Section 7.** SECTION 87-5-802, MCA, IS AMENDED TO READ:

26 **"87-5-802. (Temporary) Definitions.** As used in this part, unless the context indicates otherwise, the  
 27 following definitions apply:

28 (1) "Commission" means the fish and wildlife commission established in 2-15-3402.

1           (2) "Council" means the wildlife habitat improvement advisory council established in 87-5-803.

2           (2)(3) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

3           (3)(4) ~~"Native plant" means a plant indigenous to the state of Montana.~~ "Habitat" means the natural  
4 environment where a species lives or thrives.

5           (4)(5) "Noxious weed" means a weed defined in 7-22-2101.

6           (5) ~~"Noxious weed management" means an integrated weed management program for the~~  
7 ~~containment, suppression, and, where possible, eradication of noxious weeds. The term includes a long-term~~  
8 ~~management approach toward noxious weeds that includes but is not limited to hand pulling, cultivation,~~  
9 ~~herbicide application, mechanical or biological control, prescribed grazing or burning, prevention, and~~  
10 ~~revegetation. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"~~

11

12           **Section 8. SECTION 87-5-803, MCA, IS AMENDED TO READ:**

13           **"87-5-803. (Temporary) Wildlife habitat improvement advisory council -- members.** (1) There is a  
14 wildlife habitat improvement advisory council ~~appointed by the director~~ that ranks projects pursuant to 87-5-804  
15 and 87-1-242 (3) and advises the department and the commission on the administration of this part. Except for  
16 members appointed pursuant to subsections (2)(i) and (2)(j), the governor shall appoint council members.

17           (2) The council consists of the following voting members:

18           (a) ~~the director of the department or a representative of the department~~ a terrestrial wildlife  
19 biologist;

20           (b) ~~a representative of a hunting organization in Montana~~ a fisheries biologist;

21           (c) ~~a representative of a multiple-use recreation organization in Montana~~ a member of an Indian  
22 tribe as defined in 2-5-141;

23           (d) ~~a representative of the timber industry in Montana~~ a representative of the livestock industry;

24           (e) ~~a livestock producer or a representative of a livestock producer organization in Montana~~ a  
25 representative of crop-producing industries;

26           (f) ~~a farmer or a representative of a farming organization in Montana~~ a member of a 501(c)(3)  
27 conservation organization that specializes in wildlife management;

28           (g) ~~a commercial applicator as defined in 80-8-102~~ a member of an accredited land trust;

- 1 (h) ~~a representative of biological research and control interests~~ a soil conservation scientist;
- 2 (i) ~~a representative of the Montana weed control association~~ a member of the senate, selected by
- 3 the committee on committees, who is not a member of the party of the representative selected pursuant to
- 4 subsection (2)(j); and
- 5 (j) ~~two county representatives, one each from the western and eastern parts of the state, who may~~
- 6 ~~include a county commissioner, district weed board member, or weed district supervisor.~~ a member of the
- 7 house of representatives, selected by the speaker of the house, who is not a member of the party of the senator
- 8 selected pursuant to subsection (2)(i).

9 ~~(2) Nonvoting members of the council include:~~

10 ~~(a) the state weed coordinator; and~~

11 ~~(b) one representative each from:~~

12 ~~(i) the United States bureau of land management;~~

13 ~~(ii) the United States forest service;~~

14 ~~(iii) the United States bureau of reclamation;~~

15 ~~(iv) the United States fish and wildlife service;~~

16 ~~(v) the Montana department of natural resources and conservation; and~~

17 ~~(vi) an Indian tribe as defined in 2-15-141. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"~~

18

19 **Section 9.** SECTION 87-5-804, MCA, IS AMENDED TO READ:

20 **"87-5-804. (Temporary) Wildlife habitat improvement projects -- requirements -- ranking. (1)**

21 **Project proposals must:**

22 ~~(a) address how projects would restore, rehabilitate, improve, or manage land as wildlife habitat~~  
23 ~~through noxious weed management;~~

24 ~~(b) include a plan to remove noxious weeds or prevent them from propagating or taking hold in the~~  
25 ~~project area;~~

26 ~~(c) include a commitment to match at least 25% of a grant in cash, goods, or services; and~~

27 ~~(d) include measurable objectives and a monitoring plan to allow the department to analyze how~~  
28 ~~noxious weed management is restoring, rehabilitating, improving, or managing land as wildlife habitat.~~

1           ~~(2)(1)~~ The council shall rank wildlife habitat improvement project proposals ~~according pursuant to 87-~~  
2 ~~5-806 according to~~ rules adopted by the department pursuant to 87-5-808 and make funding recommendations  
3 to the department.

4           ~~(3)(2)~~ In ranking the ~~proposals~~ projects, the council shall give preference to projects in wildlife habitat  
5 that include:

6           ~~(a)~~ ~~access for public hunting~~ public access;

7           ~~(b)~~ ~~multiple partners and landowners~~ the number of project partners; and

8           ~~(c)~~ the amount of additional funding provided to carry out a project.

9           ~~(3)~~ Factors providing preference under subsection (2) may not be considered mandatory.

10          ~~(e)~~ a commitment to match at least 25% of the final grant in cash.

11          ~~(4)~~ Additional preference must be given to a project that proposes to:

12          ~~(a)~~ address the primary spread of noxious weeds to adjacent areas of wildlife habitat with native  
13 plants;

14          ~~(b)~~ include a significant portion of ecologically important wildlife habitat that is in need of restoration;

15          ~~(c)~~ include a significant portion of a watershed; or

16          ~~(d)~~ maintain native plants after project completion. (Terminates June 30, 2023--sec. 11, Ch. 342, L.  
17 2017.)"

18

19           **Section 10.** SECTION 87-5-806, MCA, IS AMENDED TO READ:

20           **"87-5-806. (Temporary) Administration and expenditure of funds -- cooperation with other**

21 **entities.** (1) ~~(a)~~ State, tribal, and federal agencies, as well as conservation districts, irrigation districts, grazing  
22 associations, county weed boards, and 501(c)(3) organizations, may apply for project funding.

23           ~~(2)~~ The department may expend funds deposited under [section 2] and pursuant to 87-5-805  
24 through grants or contracts in order to: communities, noxious weed management districts, conservation  
25 districts, nonprofit organizations exempt from taxation under 26 U.S.C. 501(c)(3), or other entities that it  
26 considers appropriate for wildlife habitat improvement projects.

27           ~~(b)(a)~~ The department shall consider project recommendations from the council. improve, conserve,  
28 protect, and maintain terrestrial habitat;

**Amendment - 1st Reading/2nd House-blue - Requested by: (H) Appropriations**

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

SB0442.003.004

- 1           ~~(e)(b)~~ The department may cooperate in and coordinate the planning and disbursement of these  
2 funds with federal, state, and local agencies responsible for the management of noxious weeds. improve,  
3 conserve, and maintain aquatic habitat;
- 4           ~~(c)~~ participate in water enhancement projects to benefit aquatic habitat and allow for other  
5 watershed enhancements that benefit fish, wildlife, and water conservation;
- 6           ~~(d)~~ improve and maintain range conditions, restoration of habitat, and drought resilience designed  
7 to create habitat uplift on private, public, and tribal lands;
- 8           ~~(e)~~ address and mitigate impacts that are detrimental to wildlife habitat and the environment and  
9 improve the condition of the land due to noxious weeds, soil disturbance, and loss of diverse habitat  
10 communities;
- 11           ~~(f)~~ mitigate conflicts and reduce potential for disease transmission between wildlife and domestic  
12 livestock;
- 13           ~~(g)~~ help fund activities and employees of the state tribal wildlife programs; and
- 14           ~~(h)~~ create habitat uplift and net conservation gain for species of conservation need.
- 15           ~~(2)~~ A project is eligible to receive funds only if the county in which the project occurs has funded its  
16 own weed management program using one of the following methods, whichever is less:
- 17           ~~(a)~~ levying an amount of not less than 1.6 mills or an equivalent amount from another source; or
- 18           ~~(b)~~ appropriating an amount of not less than \$100,000 from any source.
- 19           ~~(3)~~ The department may expend money deposited pursuant to 87-5-805 to:
- 20           ~~(a)~~ restore, rehabilitate, improve, or manage areas of land as wildlife habitat by controlling noxious  
21 weeds;
- 22           ~~(b)~~ acquire goods and services that will help control noxious weeds in order to restore, rehabilitate,  
23 improve, or manage land as wildlife habitat;
- 24           ~~(c)~~ fund cost share noxious weed management programs with local noxious weed management  
25 districts; or
- 26           ~~(d)~~ provide special grants to local noxious weed management districts to eradicate or contain  
27 significant noxious weeds newly introduced into the county that affect wildlife habitat.
- 28           ~~(4)~~ Expenditures allowed pursuant to subsection (3) are limited to:

- 1           ~~(a) biological or mechanical control of noxious weeds;~~
- 2           ~~(b) purchases and application of approved herbicides;~~
- 3           ~~(c) seed purchases and application of seed; and~~
- 4           ~~(d) grazing costs as a component of an overall integrated noxious weed management plan.~~
- 5           ~~(5)(3)~~ The department may expend the funds deposited pursuant to [section 2] 87-5-805 to pay costs
- 6 incurred by the department for administering this part and providing support to the council, including but not
- 7 limited to personal services costs, operating costs, and other administrative costs. ~~After fiscal year 2019,~~
- 8 ~~administrative~~ Administrative costs may not exceed 15% of the total amount expended pursuant to subsection
- 9 ~~(3) (2)~~. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)

10           (4) ANY FUNDS USED PURSUANT TO AN APPROPRIATION OF SPECIAL FEDERAL RESERVE FUNDING AS

11 DESCRIBED IN 87-5-505 MUST COMPLY WITH 50 CFR, CHAPTER 1, SUBCHAPTER F, PART 80."

13           **Section 11.** SECTION 87-5-807, MCA, IS AMENDED TO READ:

14           **"87-5-807. (Temporary) Reporting -- evaluations.** (1) A project sponsor shall:

- 15           (a) monitor and document the timelines, progress, and results of the project;
- 16           (b) evaluate the overall effectiveness of the project; and
- 17           (c) provide project and fiscal reports as required by contract.
- 18           (2) ~~The department council~~ DEPARTMENT shall:
  - 19           (a) conduct field evaluations of projects;
  - 20           (b) require a project sponsor to initiate corrective action if an evaluation finds inadequacies in the
  - 21 project's progress or fiscal reporting; and
  - 22           (c) on or before September 1 of each year preceding the convening of a regular session of the
  - 23 legislature, provide a report to the ~~environmental quality council~~ legislature in accordance with 5-11-210. The
  - 24 report must include:
    - 25           (i) an overview of the program;
    - 26           (ii) a listing of projects funded during the reporting period;
    - 27           (iii) an analysis of how projects funded are ~~improving wildlife habitat~~ meeting the goals of 87-5-804;
    - 28           and

1 (iv) a summary of past and current funding. (Terminates June 30, 2023--sec. 11, Ch. 342, L.  
2 2017.)"

3

4 **Section 12.** SECTION 87-5-808, MCA, IS AMENDED TO READ:

5 **"87-5-808. (Temporary) Rulemaking authority.** The department shall adopt rules as proposed by  
6 the council to implement this part, including a scoring system for ranking projects proposed to the council under  
7 87-5-804. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

8

9 NEW SECTION. Section 13. Codification instruction. (1) [Section 1] is intended to be codified as  
10 an integral part of Title 15, chapter 70, part 1, and the provisions of Title 15, chapter 70, part 1, apply to [section  
11 1].

12 (2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 87, CHAPTER 5, AND THE  
13 PROVISIONS OF TITLE 87, CHAPTER 5, APPLY TO [SECTION 2].

14

15 NEW SECTION. Section 14. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT  
16 ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS  
17 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID  
18 APPLICATIONS.

19

20 COORDINATION SECTION. Section 15. Coordination instruction. If House Bill No. 86 and [this  
21 act] are passed and approved and if both contain a section that amends 87-5-806, then the sections amending  
22 87-5-806 are void and 87-5-806 must be amended as follows:

23 **"87-5-806. (Temporary) Administration and expenditure of funds -- cooperation with other**  
24 **entities.** (1) (a)-State, tribal, and federal agencies, as well as conservation districts, irrigation districts, grazing  
25 associations, county weed boards, and 501(c)(3) organizations, may apply for project funding.

26 (2) The department may expend funds deposited under [section 2] and pursuant to 87-5-805  
27 through grants or contracts in order to:

28 (a) improve, conserve, protect, and maintain terrestrial habitat;

(b) improve, conserve, and maintain aquatic habitat;

(c) participate in water enhancement projects to benefit aquatic habitat and allow for other watershed enhancements that benefit fish, wildlife, and water conservation;

(d) improve and maintain range conditions, restoration of habitat, and drought resilience designed to create habitat uplift on private, public, and tribal lands;

(e) address and mitigate impacts that are detrimental to wildlife habitat and the environment and improve the condition of the land due to noxious weeds, soil disturbance, and loss of diverse habitat communities;

(f) mitigate conflicts and reduce potential for disease transmission between wildlife and domestic livestock;

(g) help fund activities and employees of the state tribal wildlife programs;

(h) create habitat uplift and net conservation gain for species of conservation need;

(i) implement weed and soil treatment options and methods recommended by the council to reduce noxious weeds and support native vegetation; and

(j) fund grant administration, vegetation monitoring, and related administrative costs not to exceed 10% of a total project amount.

~~communities, noxious weed management districts, conservation districts, nonprofit organizations exempt from taxation under 26 U.S.C. 501(c)(3), or other entities that it considers appropriate for wildlife habitat improvement projects.~~

~~(b) The department shall consider project recommendations from the council.~~

~~(c) The department may cooperate in and coordinate the planning and disbursement of these funds with federal, state, and local agencies responsible for the management of noxious weeds.~~

~~(2) A project is eligible to receive funds only if the county in which the project occurs has funded its own weed management program using one of the following methods, whichever is less:~~

~~(a) levying an amount of not less than 1.6 mills or an equivalent amount from another source; or~~

~~(b) appropriating an amount of not less than \$100,000 from any source.~~

~~(3) The department may expend money deposited pursuant to 87-5-805 to:~~

~~(a) restore, rehabilitate, improve, or manage areas of land as wildlife habitat by controlling noxious~~



1 ~~weeds;~~

2 ~~(b)—acquire goods and services that will help control noxious weeds in order to restore, rehabilitate,~~  
3 ~~improve, or manage land as wildlife habitat;~~

4 ~~(c)—fund cost share noxious weed management programs with local noxious weed management~~  
5 ~~districts; or~~

6 ~~(d)—provide special grants to local noxious weed management districts to eradicate or contain~~  
7 ~~significant noxious weeds newly introduced into the county that affect wildlife habitat.~~

8 ~~(4)—Expenditures allowed pursuant to subsection (3) are limited to:~~

9 ~~(a)—biological or mechanical control of noxious weeds;~~

10 ~~(b)—purchases and application of approved herbicides;~~

11 ~~(c)—seed purchases and application of seed; and~~

12 ~~(d)—grazing costs as a component of an overall integrated noxious weed management plan.~~

13 ~~(5)(3)~~ The department may expend the funds deposited pursuant to ~~87-5-805 [section 2]~~ to pay costs  
14 incurred by the department for administering this part and providing support to the council, including but not  
15 limited to personal services costs, operating costs, and other administrative costs. ~~After fiscal year 2019,~~  
16 ~~administrative~~Administrative costs may not exceed 15% of the total amount expended pursuant to subsection  
17 (3). (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

18  
19 NEW SECTION. Section 16. Effective date. [This act] is effective July 1, 2023.

20 - END -