

1 SENATE BILL NO. 285

2 INTRODUCED BY W. MCNUTT, P. CLARK

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING FUNDING OF THE HUNTER MANAGEMENT AND
5 HUNTING ACCESS ENHANCEMENT PROGRAMS BY CREATING RESIDENT AND NONRESIDENT WILDLIFE
6 CONSERVATION HUNTING ACCESS ENHANCEMENT FEES, TO BE USED BY THE DEPARTMENT OF FISH,
7 WILDLIFE, AND PARKS TO ENCOURAGE ENHANCED HUNTING ACCESS TO PRIVATE AND PUBLIC
8 LANDS THROUGH VOLUNTARY PROGRAMS; PROVIDING THAT THE HUNTING ACCESS ENHANCEMENT
9 FEE IS CHARGEABLE ONLY ONCE EACH LICENSE YEAR; INCREASING FROM \$8,000 TO \$12,000 THE
10 INCENTIVE AMOUNT THAT MAY BE PAID TO LANDOWNERS PARTICIPATING IN THE HUNTER
11 MANAGEMENT PROGRAM OR HUNTING ACCESS ENHANCEMENT PROGRAM; AMENDING SECTIONS
12 87-1-265, 87-1-267, 87-1-270, 87-2-202, 87-2-505, 87-2-510, AND 87-2-711, MCA; AND PROVIDING
13 A DELAYED EFFECTIVE DATE AND A TERMINATION DATE."

14

15 WHEREAS, the Private Land/Public Wildlife Advisory Council is charged with the responsibility to
16 make suggestions for funding, modification, or improvement of the hunting access enhancement program;
17 and

18 WHEREAS, although the hunting access enhancement program has enjoyed considerable success
19 to date in providing greater opportunities for Montana hunters, the Private Land/Public Wildlife Advisory
20 Council recognizes the potential to increase hunting access through expansion of the program; and

21 WHEREAS, increasing the size of the current program through a once-a-season hunting access
22 enhancement fee on resident and most nonresident hunters would provide revenue to allow greater
23 landowner incentives, improve hunting access to private and public lands, improve program management
24 and services, increase upland bird hunting opportunities, and provide for future increased program costs
25 because of inflation.

26

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

28

29 **Section 1.** Section 87-1-265, MCA, is amended to read:30 **"87-1-265. (Temporary) Hunter management and hunting access enhancement programs created**

1 -- **private landowner assistance to promote public hunting access -- rules.** (1) The department may
 2 establish within the block management program established by administrative rule pursuant to authority
 3 contained in 87-1-301 and 87-1-303 programs of landowner assistance that encourage public access to
 4 private and public lands for purposes of hunting and may adopt rules to carry out program purposes. Rules
 5 may address but are not limited to incentives provided under:

6 (a) a hunter management program as set out in 87-1-266, consisting of a cooperative agreement
 7 between a landowner and the department and including other resource management agencies when
 8 appropriate, that allows public hunting with certain restrictions or use rules; and

9 (b) a hunting access enhancement program as set out in 87-1-267, consisting of incentives for
 10 private landowners who allow public hunting access on their lands.

11 (2) The department may also develop similar efforts outside the scope of the block management
 12 program that are designed to promote public access to private lands for hunting purposes.

13 (3) Participation in a program established under ~~subsection (1)~~ THIS SECTION is voluntary. A LEASE,
 14 ACQUISITION, OR OTHER ARRANGEMENT FOR PUBLIC ACCESS ACROSS PRIVATE PROPERTY THAT IS INITIATED THROUGH A
 15 PROGRAM ESTABLISHED UNDER THIS PART MUST BE NEGOTIATED ON A COOPERATIVE BASIS AND MAY ONLY BE INITIATED
 16 WITH THE VOLUNTARY PARTICIPATION OF PRIVATE LANDOWNERS.

17 (4) Programs may not be structured in a manner that provides assistance to a private landowner
 18 who charges a fee for hunting access to private land that is enrolled in the program or who does not
 19 provide reasonable public hunting access to private land that is enrolled in the program. The commission
 20 shall develop criteria by which tangible benefits are allocated to participating landowners, and the
 21 department may distribute the benefits to participating landowners. The department may by rule limit the
 22 number of licenses that can be provided as incentives. (Terminates March 1, 2006--sec. 6, Ch. 544, L.
 23 1999.)"

24

25 **Section 2.** Section 87-1-267, MCA, is amended to read:

26 **"87-1-267. (Temporary) Hunting access enhancement program -- benefits for providing hunting**
 27 **access -- cooperative agreement -- factors for determining benefits earned -- restriction on landowner**
 28 **liability.** (1) As provided in 87-1-265, the department may establish and administer a voluntary program
 29 to enhance the block management program, to be known as the hunting access enhancement program.
 30 The program must be designed to provide tangible benefits to participating private landowners who grant

1 access to their land for public hunting.

2 (2) Land is not eligible for inclusion in the hunting access enhancement program if outfitting or
3 commercial hunting restricts public hunting opportunities.

4 (3) A contract for participation in the hunting access enhancement program is established through
5 a cooperative agreement between the landowner and the department that will guarantee reasonable access
6 for public hunting. Landowners may also form a voluntary association when development of a unified
7 cooperative agreement is advantageous. A cooperative agreement must contain a detailed description of
8 the plan developed by the landowner and the department and may include but is not limited to:

9 (a) hunting access management;

10 (b) services to be provided to the public;

11 (c) ranch rules and other restrictions; and

12 (d) any other management information to be gathered, which must be made available to the public.

13 (4) If the department determines that the plan referred to in subsection (3) may adversely influence
14 game management decisions or wildlife habitat on public lands outside the block management area, then
15 other public land agencies, interested sportspersons, and affected landowners must be consulted. An
16 affected landowner's management goals and personal observations regarding game populations and habitat
17 use must be considered in developing the plan.

18 (5) The commission shall develop rules for determining tangible benefits to be provided to a
19 landowner for providing public hunting access. Benefits will be provided to offset potential impacts
20 associated with public hunting access, including but not limited to those associated with general ranch
21 maintenance, conservation efforts, weed control, fire protection, liability insurance, roads, fences, and
22 parking area maintenance. Factors used in determining benefits may include but are not limited to:

23 (a) the number of days of public hunting provided by a participating landowner;

24 (b) wildlife habitat provided;

25 (c) resident game populations;

26 (d) number, sex, and species of animals taken; and

27 (e) access provided to adjacent public lands.

28 (6) Benefits earned by a landowner under this section may be applied in, but application is not
29 limited to, the following manner:

30 (a) A landowner may direct weed control payments to be made directly to the county weed control

1 board or may elect to receive payments directly.

2 (b) A landowner may direct fire protection payments to be made to the local fire district or the
3 county where the landowner resides or may elect to receive payments directly.

4 (c) A landowner may receive direct payment to offset insurance costs incurred for allowing public
5 hunting access.

6 (d) The department may provide assistance in the construction and maintenance of roads, gates,
7 and parking facilities and in the signing of property.

8 (7) The commission may provide a total of not more than ~~\$8,000~~ \$12,000 a year to a landowner
9 who participates in the hunter management program or hunting access enhancement program, or both,
10 subject to the conditions set out in 87-1-266(4).

11 (8) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)
12 applies to a landowner who participates in the hunting access enhancement program. (Terminates March
13 1, 2006--sec. 6, Ch. 544, L. 1999.)"

14

15 **Section 3.** Section 87-1-270, MCA, is amended to read:

16 **"87-1-270. (Temporary) Allocation of license fee fees to hunting access enhancement program.**

17 (1) The amount of \$55 from the sale of each Class B-1 nonresident upland game bird license must be used
18 by the department to encourage public access to private lands for hunting purposes in accordance with
19 87-1-265 through 87-1-267.

20 (2) The resident hunting access enhancement fee in 87-2-202(3)(c) and the nonresident hunting
21 access enhancement fee in 87-2-202(3)(d) must be used by the department to encourage public access
22 to private and public lands for hunting purposes in accordance with 87-1-265 through 87-1-267.

23 (Terminates March 1, 2006--sec. 8, Ch. 544, L. 1999.)"

24

25 **Section 4.** Section 87-2-202, MCA, is amended to read:

26 **"87-2-202. Application -- fee -- expiration.** (1) A wildlife conservation license must be sold upon
27 written application. The application must contain the applicant's name, age, social security number,
28 occupation, street address of permanent residence, mailing address, qualifying length of time as a resident
29 in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by
30 the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's

1 identification card, or other identification specified by the department to substantiate the required
2 information when applying for a wildlife conservation license. It is the applicant's burden to provide
3 documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation
4 license. It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an
5 applicant who fails to produce the required identification at the time of application for licensure.

6 (2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be
7 recorded according to rules that the department may prescribe.

8 (3) (a) Resident wildlife conservation licenses may be purchased for a fee of \$4.

9 (b) Nonresident wildlife conservation licenses may be purchased for a fee of \$5.

10 (c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses
11 the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting
12 access enhancement fee of \$2 is assessed. The additional fee may be used by the department only to
13 encourage enhanced hunting access through the hunter management and hunting access enhancement
14 programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked
15 appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement
16 fee is chargeable only once during any license year.

17 (d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident
18 uses the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably
19 priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting
20 access enhancement fee of \$10 is assessed. The additional fee may be used by the department only to
21 encourage enhanced hunting access through the hunter management and hunting access enhancement
22 programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked
23 appropriately when the hunting access enhancement fee is paid. The nonresident hunting access
24 enhancement fee is chargeable only once during any license year.

25 (4) Licenses issued are void after the last day of February next succeeding their issuance.

26 (5) The department shall keep the applicant's social security number confidential, except that the
27 number may be provided to the department of public health and human services for use in administering
28 Title IV-D of the Social Security Act.

29 (6) The department shall delete the applicant's social security number in any electronic database
30 5 years after the date that application is made for the most recent license."

1

2 **Section 5.** Section 87-2-505, MCA, is amended to read:

3 **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** (1) Except as
4 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12
5 years of age or older or who will turn 12 years old before or during the season for which the license is
6 issued may, upon payment of the fee of \$475 plus the nonresident hunting access enhancement fee in
7 87-2-202(3)(d), or upon payment of the fee established as provided in 87-1-268 if the license is one of
8 the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a
9 licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the
10 fish and game office, Helena, Montana, to purchase a B-10 nonresident big game combination license that
11 entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7
12 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in
13 87-2-202. Not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

14 (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10
15 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer
16 and elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993;
17 sec. 6, Ch. 544, L. 1999.)

18 **87-2-505. (Effective March 1, 2006) Class B-10--nonresident big game combination license.** (1)
19 Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but
20 who is 12 years of age or older or who will turn 12 years old before or during the season for which the
21 license is issued may, upon payment of the fee of \$398 or upon payment of the fee of \$408 if the license
22 is one of the 5,600 licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the
23 services of a licensed outfitter and subject to the limitations prescribed by law and department regulation,
24 apply to the fish and game office, Helena, Montana, to purchase a B-10 nonresident big game combination
25 license which shall entitle a holder who is 12 years of age or older to all the privileges of Class B, Class
26 B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as
27 prescribed in 87-2-202. Not more than 17,000 Class B-10 licenses may be sold in any one license year.

28 (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10
29 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer
30 and elk permits established by the commission."

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2 **Section 6.** Section 87-2-510, MCA, is amended to read:

3 **"87-2-510. (Temporary) Class B-11--nonresident deer combination license.** (1) Except as
4 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12
5 years of age or older or who will turn 12 years old before or during the season for which the license is
6 issued may, upon payment of a fee of \$245 plus the nonresident hunting access enhancement fee in
7 87-2-202(3)(d), or upon payment of the fee established as provided in 87-1-268 if the license is one of
8 those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed
9 outfitter, or upon payment of the fee of \$250 plus the nonresident hunting access enhancement fee in
10 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their
11 intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations
12 prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to
13 purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age
14 or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the
15 nonresident wildlife conservation license as prescribed in 87-2-202.

16 (2) Not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

17 (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11
18 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and
19 elk permits established by the commission. (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993; sec.
20 6, Ch. 544, L. 1999.)

21 **87-2-510. (Effective March 1, 2006) Class B-11--nonresident deer combination license.** (1) Except
22 as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is
23 12 years of age or older or who will turn 12 years old before or during the season for which the license
24 is issued may, upon payment of a fee of \$220 or upon payment of the fee of \$225 if the license is one
25 of the 4,000 reserved pursuant to 87-2-511 for applicants indicating their intent either to use the services
26 of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor and subject to the
27 limitations prescribed by law and department regulation, apply to the fish and game office, Helena,
28 Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12
29 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license
30 includes the nonresident wildlife conservation license as prescribed in 87-2-202.

1 (2) Six thousand Class B-11 licenses are authorized for sale each license year.

2 (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11
3 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and
4 elk permits established by the commission."

5

6 **Section 7.** Section 87-2-711, MCA, is amended to read:

7 **"87-2-711. Class AAA--combination sports license.** (1) A resident, as defined by 87-2-102, who
8 is 12 years of age or older or who will turn 12 years old before or during the season for which the license
9 is issued is entitled to:

10 (a) upon payment of the sum of \$54, plus the resident hunting access enhancement fee in
11 87-2-202(3)(c), a combination sports license that permits a holder who is 12 years of age or older to
12 exercise all rights granted to holders of Class A, A-1, A-3, A-5, and resident conservation licenses as
13 prescribed in 87-2-202; or

14 (b) upon payment of the sum of \$64, plus the resident hunting access enhancement fee in
15 87-2-202(3)(c), a combination sports license that permits a holder who is 12 years of age or older to
16 exercise all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6
17 license.

18 (2) The department may furnish each holder of a combination sports license an appropriate decal."

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20 NEW SECTION. **Section 8. Effective date.** [This act] is effective March 1, 2002.

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22 NEW SECTION. **Section 9. Termination.** [This act] terminates March 1, 2006.

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- END -