

HOUSE BILL NO. 98

INTRODUCED BY J. WELBORN

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THAT MONEY RECEIVED FROM THE SALE OR LEASE OF STATE PARKS PROPERTIES BE DEPOSITED IN THE STATE SPECIAL REVENUE FUND INSTEAD OF THE PERMANENT FUND; DIRECTING THE USE OF THE MONEY FOR STATE PARKS PURPOSES; AMENDING SECTIONS 10-3-801, 77-1-804, AND 87-1-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 10-3-801, MCA, is amended to read:

**"10-3-801. Account created for funding search and rescue operations -- rules.** (1) There is an account in the state special revenue fund established in 17-2-102. The account must be administered by the disaster and emergency services division of the department exclusively for the purposes of search and rescue as provided in this section. The department may retain up to 5% of the money in the account to pay its costs of administering this section.

(2) There must be deposited in the account:

(a) fund transfers pursuant to 15-1-122(2)(f);

(b) fund transfers pursuant to 87-1-601~~(9)~~(10). These funds may be used only as provided in 87-1-601~~(9)~~(10).

(c) all money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for search and rescue operations.

(3) (a) Not less than 50% of the money in the account must be used by the department to defray costs of:

(i) local search and rescue units for search and rescue missions conducted through a county sheriff's office at a maximum of \$6,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved. To fulfill the purposes of this subsection (3)(a)(i), the department shall transmit reimbursement money to the county treasurer, who shall deposit the funds in a separate search and rescue fund

1 accessible by the local search and rescue unit that requested the reimbursement. The county treasurer shall  
2 notify the reimbursed local search and rescue unit by mail when the deposit occurs.

3 (ii) a county sheriff's office at a maximum of \$6,000 for each rescue mission, regardless of the number  
4 of counties or county search and rescue organizations involved.

5 (b) The remaining money in the account may be used by the department:

6 (i) to match local funds for the purchase of equipment for use by local search and rescue units at a  
7 maximum of \$6,000 for each unit in a calendar year. The cost-sharing match must be 35% local funds to 65%  
8 from the account.

9 (ii) for reimbursement of expenses related to the training of search and rescue volunteers.

10 (4) The department may adopt rules to implement the proper administration of the account. The rules  
11 may include:

12 (a) a method of reimbursing local search and rescue units or a county sheriff's office, on a case-by-case  
13 basis, for authorized search and rescue operations conducted pursuant to subsection (3)(a), including verification  
14 of search missions, claims procedures, fiscal accountability, and the number and circumstances of search  
15 missions involving persons engaged in hunting, fishing, and trapping in a fiscal year;

16 (b) methods for processing requests for equipment matching funds and training funds made pursuant  
17 to subsection (3)(b), including any verification and accounting necessary to ensure that the provisions of  
18 subsection (3)(b) are met, and determining the percentage of all search missions involving persons engaged in  
19 hunting, fishing, or trapping in a fiscal year;

20 (c) a system involving input from representatives of county sheriff organizations and state and local  
21 search and rescue organizations for assistance in verifying and processing claims for reimbursement, equipment,  
22 and training; and

23 (d) a method for compiling and keeping current a contact list of all search and rescue units in Montana  
24 and in neighboring states and provinces in order to ensure collaboration, communication, and cooperation  
25 between the various county search and rescue units and between the department and the county units and  
26 dedication of a page on the department's website for posting the contact list and other relevant search and rescue  
27 information."

28

29 **Section 2.** Section 77-1-804, MCA, is amended to read:

30 **"77-1-804. Rules for recreational use of state lands -- penalty.** (1) The board shall adopt rules

1 authorizing and governing the recreational use of state lands allowed under 77-1-203. The board shall use local  
2 offices of the department to administer this program whenever practical.

3 (2) Rules adopted under this section must address the circumstances under which the board may close  
4 legally accessible state lands to recreational use. Action by the board may be taken upon its own initiative or upon  
5 petition by an individual, organization, corporation, or governmental agency. Closures may be of an emergency,  
6 seasonal, temporary, or permanent nature. State lands may be closed by the board only after public notice and  
7 opportunity for public hearing in the area of the proposed closure, except when the department is acting under  
8 rules adopted by the board for an emergency closure. Closed lands must be posted by the lessee at customary  
9 access points, with signs provided or authorized by the department.

10 (3) Closure rules adopted pursuant to subsection (2) may categorically close state lands whose use or  
11 status is incompatible with recreational use. Categorical or blanket closures may be imposed on state lands due  
12 to:

- 13 (a) cabin site and home site leases and licenses;
- 14 (b) the seasonal presence of growing crops; and
- 15 (c) active military, commercial, or mineral leases.

16 (4) The board shall adopt rules that provide an opportunity for any individual, organization, or  
17 governmental agency to petition the board for purposes of excluding a specified portion of state land from a  
18 categorical closure that has been imposed under subsection (3).

19 (5) Under rules adopted by the board, state lands may be closed on a case-by-case basis for certain  
20 reasons, including but not limited to:

- 21 (a) damage attributable to recreational use that diminishes the income-generating potential of the state  
22 lands;
- 23 (b) damage to surface improvements of the lessee;
- 24 (c) the presence of threatened, endangered, or sensitive species or plant communities;
- 25 (d) the presence of unique or special natural or cultural features;
- 26 (e) wildlife protection;
- 27 (f) noxious weed control; or
- 28 (g) the presence of buildings, structures, and facilities.

29 (6) Rules adopted under this section may impose restrictions upon general recreational activities,  
30 including the discharge of weapons, camping, open fires, vehicle use, and any use that will interfere with the

1 presence of livestock. The board may also by rule restrict access on state lands in accordance with a block  
 2 management program administered by the department of fish, wildlife, and parks. Motorized vehicle use by  
 3 recreationists on state lands is restricted to federal, state, and dedicated county roads and to those roads  
 4 designated by the department to be open to motorized vehicle use.

5 (7) The board shall adopt rules providing for the issuance of a recreational special use license.  
 6 Commercial or concentrated recreational use, as defined in 77-1-101, is prohibited on state lands unless it occurs  
 7 under the provisions of a recreational special use license. The board may also adopt rules requiring a recreational  
 8 special use license for recreational use that is not commercial, concentrated, or within the definition of general  
 9 recreational use.

10 (8) For a violation of rules adopted by the board pursuant to this section, the department may assess  
 11 a civil penalty of up to \$1,000 for each day of violation. The board shall adopt rules providing for notice and  
 12 opportunity for hearing in accordance with Title 2, chapter 4, part 6. Civil penalties collected under this subsection  
 13 must be deposited as provided in 87-1-601~~(7)~~(8)."

14

15 **Section 3.** Section 87-1-601, MCA, is amended to read:

16 **"87-1-601. (Temporary) Use of fish and game money.** (1) (a) Except as provided in subsections ~~(7)~~  
 17 (8) and ~~(9)~~ (10), all money collected or received from the sale of hunting and fishing licenses or permits, from the  
 18 sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or  
 19 from appropriations or received by the department from any other state source must be turned over to the  
 20 department of revenue and placed in the state special revenue fund to the credit of the department.

21 (b) Any money received from federal sources must be deposited in the federal special revenue fund to  
 22 the credit of the department.

23 (c) All interest earned on money from the following sources must be placed in the state special revenue  
 24 fund to the credit of the department:

25 (i) the general license account;

26 (ii) the license drawing account;

27 (iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411,  
 28 87-2-722, and 87-2-724; and

29 (iv) money received from the sale of any other hunting and fishing license.

30 (2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart

1 and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be  
2 made by the department under the terms of this title. The money described in subsection (1) must be spent for  
3 those purposes by the department, subject to appropriation by the legislature.

4 (3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special  
5 revenue fund and the federal special revenue fund.

6 (4) Except as provided in subsections ~~(7)~~ (8) and ~~(8)~~ (9), all money collected or received from fines and  
7 forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and  
8 game laws under Title 87 must be deposited by the department of revenue and credited to the department in a  
9 state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish  
10 and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which  
11 the fine is not imposed in addition to the costs of prosecution.

12 (5) (a) Except as provided in 87-1-621, ~~and~~ section 2(3), Chapter 560, Laws of 2005, and subsection  
13 (6) of this section, money must be deposited in an account in the permanent fund if it is received by the  
14 department from:

15 (i) the sale of surplus real property;

16 (ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department,  
17 except royalties or other compensation based on production; and

18 (iii) leases of interests in department real property not contemplated at the time of acquisition.

19 (b) The interest derived from the account, but not the principal, may be used only for the purpose of  
20 operation, development, and maintenance of real property of the department and only upon appropriation by the  
21 legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or  
22 state statutes specifically naming the department or money received by the department, then the use of this  
23 money must be limited in the manner, method, and amount to those uses that do not result in a violation.

24 (6) Money received from the sale or lease of lands acquired and managed for the purposes of Title 23,  
25 chapter 1, must be deposited in the state special revenue fund in the account established for miscellaneous funds  
26 received for state parks and may be used only for the purposes of Title 23, chapter 1.

27 ~~(6)(7)~~ Money received from the collection of license drawing applications is subject to the deposit  
28 requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit  
29 schedule pursuant to 17-6-105(8).

30 ~~(7)(8)~~ Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806,

1 or rules adopted under 77-1-804 must be deposited in the state general fund.

2 ~~(8)~~(9) The department of revenue shall deposit in the state general fund one-half of the money received  
3 from the fines pursuant to 87-1-102.

4 ~~(9)~~(10) (a) The department shall deposit all money received from the search and rescue surcharge in  
5 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as  
6 provided for in 10-3-801.

7 (b) Upon certification by the department of reimbursement requests submitted by the department of  
8 military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the  
9 department may transfer funds from the special revenue account to the search and rescue account provided for  
10 in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

11 (c) Using funds in the department's search and rescue account that are not already committed to  
12 reimbursement for search and rescue missions, the department may provide matching funds to the department  
13 of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion  
14 that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears  
15 to the statewide total of search and rescue missions.

16 (d) Any money deposited in the special revenue account is available for reimbursement of search and  
17 rescue missions and to provide matching funds to reimburse counties for search and rescue training and  
18 equipment costs.

19 **87-1-601. (Effective March 1, 2011) Use of fish and game money.** (1) (a) Except as provided in  
20 87-1-290 and subsections ~~(7)~~ (8) and ~~(9)~~ (10) of this section, all money collected or received from the sale of  
21 hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for  
22 violations of the fish and game laws of this state, or from appropriations or received by the department from any  
23 other state source must be turned over to the department of revenue and placed in the state special revenue fund  
24 to the credit of the department.

25 (b) Any money received from federal sources must be deposited in the federal special revenue fund to  
26 the credit of the department.

27 (c) All interest earned on money from the following sources must be placed in the state special revenue  
28 fund to the credit of the department:

29 (i) the general license account;

30 (ii) the license drawing account;

1 (iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411,  
2 87-2-722, and 87-2-724; and

3 (iv) money received from the sale of any other hunting and fishing license.

4 (2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart  
5 and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be  
6 made by the department under the terms of this title. The money described in subsection (1) must be spent for  
7 those purposes by the department, subject to appropriation by the legislature.

8 (3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special  
9 revenue fund and the federal special revenue fund.

10 (4) Except as provided in subsections ~~(7)~~ (8) and ~~(8)~~ (9), all money collected or received from fines and  
11 forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and  
12 game laws under Title 87 must be deposited by the department of revenue and credited to the department in a  
13 state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish  
14 and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which  
15 the fine is not imposed in addition to the costs of prosecution.

16 (5) (a) Except as provided in 87-1-621, ~~and~~ section 2(3), Chapter 560, Laws of 2005, and subsection  
17 (6) of this section, money must be deposited in an account in the permanent fund if it is received by the  
18 department from:

19 (i) the sale of surplus real property;

20 (ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department,  
21 except royalties or other compensation based on production; and

22 (iii) leases of interests in department real property not contemplated at the time of acquisition.

23 (b) The interest derived from the account, but not the principal, may be used only for the purpose of  
24 operation, development, and maintenance of real property of the department and only upon appropriation by the  
25 legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or  
26 state statutes specifically naming the department or money received by the department, then the use of this  
27 money must be limited in the manner, method, and amount to those uses that do not result in a violation.

28 (6) Money received from the sale or lease of lands acquired and managed for the purposes of Title 23,  
29 chapter 1, must be deposited in the state special revenue fund in the account established for miscellaneous funds  
30 received for state parks and may be used only for the purposes of Title 23, chapter 1.

1           ~~(6)~~(7) Money received from the collection of license drawing applications is subject to the deposit  
2 requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit  
3 schedule pursuant to 17-6-105(8).

4           ~~(7)~~(8) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806,  
5 or rules adopted under 77-1-804 must be deposited in the state general fund.

6           ~~(8)~~(9) The department of revenue shall deposit in the state general fund one-half of the money received  
7 from the fines pursuant to 87-1-102.

8           ~~(9)~~(10) (a) The department shall deposit all money received from the search and rescue surcharge in  
9 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as  
10 provided for in 10-3-801.

11           (b) Upon certification by the department of reimbursement requests submitted by the department of  
12 military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the  
13 department may transfer funds from the special revenue account to the search and rescue account provided for  
14 in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

15           (c) Using funds in the department's search and rescue account that are not already committed to  
16 reimbursement for search and rescue missions, the department may provide matching funds to the department  
17 of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion  
18 that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears  
19 to the statewide total of search and rescue missions.

20           (d) Any money deposited in the special revenue account is available for reimbursement of search and  
21 rescue missions and to provide matching funds to reimburse counties for search and rescue training and  
22 equipment costs."

23

24           NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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