

## 1 HOUSE BILL NO. 586

2 INTRODUCED BY M. CUFFE

3 BY REQUEST OF THE HOUSE JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES

4 AND TRANSPORTATION

5  
6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO AQUATIC INVASIVE SPECIES;  
8 ESTABLISHING A STATEWIDE INVASIVE SPECIES MANAGEMENT AREA; AUTHORIZING USE OF  
9 QUARANTINE MEASURES AND CHECK STATIONS AT KEY ENTRY POINTS TO THE STATE; DEFINING  
10 AND AUTHORIZING INSPECTION OF EQUIPMENT; REVISING DEPARTMENTAL DUTIES, INCLUDING  
11 DUTIES OF THE DEPARTMENT OF TRANSPORTATION; GRANTING RULEMAKING AUTHORITY;  
12 TRANSFERRING MONEY FROM THE NATURAL RESOURCES PROJECTS STATE SPECIAL REVENUE  
13 ACCOUNT AND THE STATE GENERAL FUND; PROVIDING AN APPROPRIATION AND A STATUTORY  
14 APPROPRIATION; AMENDING SECTIONS 15-38-302, 17-7-502, 80-7-1002, 80-7-1003, 80-7-1004, 80-7-1006,  
15 80-7-1007, 80-7-1008, 80-7-1010, 80-7-1011, AND 80-7-1014, MCA; AND PROVIDING EFFECTIVE DATES."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18  
19 **NEW SECTION. Section 1. Statewide invasive species management area.** (1) There is established  
20 a statewide invasive species management area for the purpose of preventing the introduction, importation, and  
21 infestation of invasive species through the mandatory inspection of vessels and equipment at key entry points  
22 to the state on a seasonal basis and the mandatory decontamination of any vessel or equipment on or in which  
23 an invasive species is detected.

24 (2) As far as practical, signs indicating that the statewide invasive species management area is in place  
25 must be posted in an effective manner along the boundaries of and within the state. The signs must include  
26 information about the specific regulations that apply to the area. The signs must be paid for with funds from the  
27 invasive species account established in 80-7-1004. The departments may coordinate with any other governmental  
28 entity for the posting of signs.

29 (3) At a check station established pursuant to this section, the departments may examine vessels and  
30 equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant

1 to 80-7-1007. A department may examine any interior portion of a vessel or equipment that may contain water,  
 2 including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as  
 3 part of quarantine measures established pursuant to rules adopted under 80-7-1007.

4 (4) The owner, operator, or person in possession of a vessel or equipment shall:

5 (a) comply with this section and rules imposed under 80-7-1007; and

6 (b) stop at any check station established pursuant to this section unless a medical emergency makes  
 7 stopping likely to result in death or serious bodily injury.

8 (5) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that  
 9 vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated  
 10 in a manner established in accordance with rules adopted pursuant to 80-7-1007.

11 (6) After use in a body of water within the statewide invasive species management area, all vessels,  
 12 equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary  
 13 systems, must be drained in a way that does not impact any state waters before being transported on land or on  
 14 a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks.

15

16 **Section 2.** Section 15-38-302, MCA, is amended to read:

17 **"15-38-302. Natural resources projects state special revenue account created -- revenue allocated**  
 18 **-- limitations on appropriations from account.** (1) There is a natural resources projects state special revenue  
 19 account within the state special revenue fund established in 17-2-102.

20 (2) There must be paid into the natural resources projects state special revenue account money  
 21 allocated from:

22 (a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202;

23 (b) the resource indemnity and ground water assessment tax under the provisions of 15-38-106;

24 (c) the oil and natural gas production tax as provided in 15-36-331; and

25 (d) the excess of the coal severance tax proceeds allocated by 85-1-603 to the renewable resource loan  
 26 debt service fund above debt service requirements as provided in and subject to the conditions of 85-1-619.

27 (3) Appropriations may be made from the natural resources projects state special revenue account for  
 28 grants and loans for designated projects and the activities authorized in 85-1-602, ~~and 90-2-1102,~~ and subsection  
 29 (4) of this section.

30 (4) At the end of each biennium, any unencumbered ending fund balance in the natural resources

1 projects state special revenue account up to \$300,000 must be transferred into the invasive species account  
 2 established in 80-7-1004."

3

4 **Section 3.** Section 17-7-502, MCA, is amended to read:

5 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
 6 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
 7 need for a biennial legislative appropriation or budget amendment.

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

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

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

13 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;  
 14 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;  
 15 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;  
 16 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;  
 17 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;  
 18 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;  
 19 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;  
 20 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;  
 21 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;  
 22 80-7-1004; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603;  
 23 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

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

1 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.  
 2 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and  
 3 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.  
 4 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the  
 5 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621  
 6 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,  
 7 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.  
 8 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,  
 9 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of  
 10 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates  
 11 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates  
 12 June 30, 2017.)"

13

14 **Section 4.** Section 80-7-1002, MCA, is amended to read:

15 **"80-7-1002. Legislative findings and purpose.** (1) The legislature finds that:

16 (a) invasive species can wreak damage on the economy, environment, recreational opportunities, and  
 17 human health in Montana;

18 (b) there is reason to be concerned about the further introduction, importation, and infestation of Eurasian  
 19 watermilfoil (*Myriophyllum spicatum*) and the introduction, importation, and infestation of additional invasive  
 20 species in Montana, such as the zebra mussel (*Dreissena polymorpha*) and the quagga mussel (*Dreissena*  
 21 *bugensis*), that could cause catastrophic damage to not only our waterways, rivers, and lakes, our water storage,  
 22 delivery, and irrigation systems, our hydroelectric power structures and systems, and our aquatic ecosystems,  
 23 but also to the entire state economy;

24 (c) as infestations of threatening invasive species move ever closer to Montana's borders, protecting  
 25 Montana against these species is of utmost importance to the state economy, environment, recreational  
 26 opportunities, and human health for the benefit of all Montanans;

27 (d) preventing the introduction, importation, and infestation of invasive species is the most effective and  
 28 least costly strategy for combating invasive species that, once established, are often difficult to control or  
 29 eradicate;

30 (e) the use of check stations, at which vessels and ~~trailers transporting vessels~~ equipment may be

1 inspected for the presence of invasive species and cleaned if an invasive species is detected, is an effective way  
 2 to prevent the introduction, importation, and infestation of invasive species that are easily transferred from  
 3 infested areas to uninfested areas when proper precautions are not taken; and

4 (f) preventing the introduction, importation, and infestation of invasive species is best accomplished  
 5 through coordinated educational and management activities.

6 (2) The purpose of this part is to establish a mechanism for Montana to take concerted action to detect,  
 7 control, and manage invasive species, including preventing further introduction, importation, and infestation, by  
 8 educating the public about the threat of these species, coordinating public and private efforts and expertise to  
 9 combat these species, and authorizing the use of check stations to prevent the ~~intrastate~~ movement of invasive  
 10 species from infested areas to uninfested areas to protect the state's economy, environment, recreational  
 11 opportunities, and human health for the benefit of all Montanans."

12

13 **Section 5.** Section 80-7-1003, MCA, is amended to read:

14 **"80-7-1003. Definitions.** As used in this part, the following definitions apply:

15 (1) "Departments" means the department of agriculture, the department of fish, wildlife, and parks, ~~and~~  
 16 the department of natural resources and conservation, and the department of transportation.

17 (2) "Equipment" means an article, tool, implement, device, or machinery capable of carrying or containing  
 18 water or an invasive species, including but not limited to boat lifts, trailers transporting vessels, floating docks,  
 19 pilings, dredge pipe, irrigation structures, and buoys.

20 ~~(2)(3)~~ (3) "Invasive species" means, upon the mutual agreement of the directors of the departments, a  
 21 nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment,  
 22 recreational opportunities, or human health.

23 ~~(3)(4)~~ (4) "Invasive species management area" means a designation made by a department under  
 24 80-7-1008 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that  
 25 regulates invasive species or potential carriers of invasive species within the boundaries of that area.

26 ~~(4)(5)~~ (5) "Person" means an individual, partnership, corporation, association, limited partnership, limited  
 27 liability company, governmental subdivision, agency, or public or private organization of any character.

28 ~~(5)(6)~~ (6) "Vessel" has the meaning provided in 61-1-101."  
 29

30 **Section 6.** Section 80-7-1004, MCA, is amended to read:

1           **"80-7-1004. Invasive species account -- statutory appropriation.** (1) There is an invasive species  
2 account in the state special revenue fund. The account is administered by the department of ~~agriculture fish,~~  
3 wildlife, and parks.

4           (2) Money transferred from the general fund, transferred pursuant to 15-38-302(4), or received from any  
5 other lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or  
6 private, may be deposited in the account.

7           (3) Subject to subsection (4), money deposited in the account must be used to accomplish the purposes  
8 of this part.

9           (4) Any private contribution deposited in the account for a particular purpose, as stated by the donor,  
10 must be used exclusively for that purpose.

11           (5) Any interest and earnings on the account must be retained in the account.

12           (6) If the amount transferred into the account pursuant to 15-38-302(4) is less than \$300,000, the  
13 difference must be transferred to the account from the state general fund.

14           (7) An amount of money equal to the amount transferred into the account pursuant to 15-38-302(4) and  
15 subsection (6) of this section is statutorily appropriated to the department of natural resources and conservation  
16 to be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part."

17

18           **Section 7.** Section 80-7-1006, MCA, is amended to read:

19           **"80-7-1006. Departmental responsibilities.** (1) The departments shall prepare a list of invasive species  
20 and identify those departments and other public agencies with jurisdiction over each species on the list. The  
21 jurisdiction of each department for the prevention and control of invasive species is according to the department's  
22 powers and duties as established by law.

23           (2) For those invasive species under the jurisdiction of more than one department, the departments with  
24 jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

25           (3) Working in collaboration with each other, the departments, individually or collectively, shall develop  
26 and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans  
27 shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

28           (a) public awareness and education;

29           (b) prevention and detection of invasive species, including the use of invasive species management  
30 areas authorized under 80-7-1008 and the statewide invasive species management area established in [section

1 1];

2 (c) management, control, and restoration of infested areas; and

3 (d) emergency response.

4 (4) The departments ~~may~~ shall enforce quarantine regulations and measures imposed by law or rule in  
5 an invasive species management area under 80-7-1008 or in the statewide invasive species management area  
6 under [section 1], including the mandatory inspection of any interior portion of a vessel or equipment that may  
7 contain water for the presence of an invasive species.

8 (5) The departments may designate employees to carry out the provisions of this part.

9 ~~(5)(6)~~ The departments shall implement education and outreach programs that increase public  
10 knowledge and understanding of prevention, early detection, and control of invasive species."  
11

12 **Section 8.** Section 80-7-1007, MCA, is amended to read:

13 **"80-7-1007. Rulemaking authority.** (1) Unless otherwise provided in Title 81, chapters 2 and 7, or this  
14 chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive  
15 species under the departments' jurisdiction, including rules for the:

16 ~~(1)(a)~~ (a) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;

17 ~~(2)(b)~~ (b) transportation of an invasive species or any agent likely to be a carrier of an invasive species;

18 ~~(3)(c)~~ (c) designation, regulation, and treatment of an invasive species management area under 80-7-1008,  
19 including rules pertaining to:

20 ~~(a)(i)~~ (i) the use of quarantine regulations and measures;

21 ~~(b)(ii)~~ (ii) the movement of vessels and equipment within, to, or from the area; and

22 ~~(c)(iii)~~ (iii) the inspection and cleaning of vessels and equipment moving within, to, or from the area; and

23 ~~(4)(d)~~ (d) manner in which vessels and equipment, including bilges, livewells, bait containers, and other  
24 boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence  
25 of an invasive species.

26 (2) The departments shall adopt rules for the administration of the statewide species management area  
27 established in [section 1], including rules specifying the method or methods for preventing the introduction or  
28 further introduction of invasive species into the state, and shall adopt rules for:

29 (a) the use of quarantine measures;

30 (b) the movement of vessels and equipment into the state; and

1           (c) the manner in which check stations will be used to inspect, clean, and decontaminate vessels and  
2 equipment moving into the state."

3

4           **Section 9.** Section 80-7-1008, MCA, is amended to read:

5           **"80-7-1008. Invasive species management area -- authorization.** (1) ~~When~~ Except as provided in  
6 [section 1], when an invasive species is identified as infesting or threatening an area, the department with  
7 jurisdiction over that invasive species may designate and administer an invasive species management area for  
8 a specific area of land or for a body or bodies of water for a specific or indeterminate amount of time to prevent  
9 and control the infestation or spread of that invasive species.

10           (2) To the extent practicable, prior to the designation of an invasive species management area, the  
11 department making the designation shall coordinate with all of the departments in order to further the purposes  
12 of this part.

13           (3) The designation of an invasive species management area must specify:

14           (a) the invasive species present or considered threatening; and

15           (b) the method or methods for preventing the introduction of the species or controlling or eradicating the  
16 species, including regulations pertaining to:

17           (i) the use of quarantine measures;

18           (ii) the movement of vessels and equipment within, to, and from the area; and

19           (iii) whether check stations will be used to inspect and clean vessels and equipment moving within, to,  
20 or from the area. A department may conduct mandatory inspections of any interior portion of a vessel or  
21 equipment that may contain water only if the department has included the use of mandatory inspections as part  
22 of quarantine measures established pursuant to subsection (3)(b)(i).

23           (4) As far as practical, signs indicating that an invasive species management area is in place must be  
24 posted in an effective manner at access points to the designated area and along the boundaries and within the  
25 area. The signs must include information about the specific regulations that apply to the area. The signs must  
26 be paid for with funds from the invasive species account established in 80-7-1004. The departments may  
27 coordinate with any other governmental entity for the posting of signs."

28

29           **Section 10.** Section 80-7-1010, MCA, is amended to read:

30           **"80-7-1010. Invasive species management area -- regulation.** (1) The owner, operator, or person in

1 possession of any vessel or equipment authorized for use in an invasive species management area shall comply  
 2 with any regulations imposed pursuant to 80-7-1008(3)(b).

3 (2) After use in a body of water within an invasive species management area, all vessels, equipment,  
 4 bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must  
 5 be drained in a way that does not impact any state waters before being transported on land or a public highway,  
 6 as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks.

7 ~~————(3) In a body of water designated as an invasive species management area, taking from the water or~~  
 8 ~~possessing any bait animal, dead or alive, including but not limited to crayfish, leeches, and minnows, is~~  
 9 ~~prohibited unless approved by the department of fish, wildlife, and parks."~~

10

11 **Section 11.** Section 80-7-1011, MCA, is amended to read:

12 **"80-7-1011. Check stations.** (1) The departments shall establish a check station within or adjacent to  
 13 an invasive species management area to prevent the introduction, importation, infestation, and spread of the  
 14 invasive species for which the designation was issued.

15 (2) At a check station established under subsection (1), the departments may examine vessels and  
 16 ~~trailers transporting vessels~~ equipment for the presence of an invasive species and compliance with regulations  
 17 imposed under 80-7-1008(3)(b) and with this section. A department may examine any interior portion of a vessel  
 18 or equipment that may contain water, including bilges, livewells, and bait containers, for compliance only if  
 19 inspection of interior portions is included as part of quarantine measures established pursuant to  
 20 80-7-1008(3)(b)(i).

21 (3) The owner, operator, or person in possession of a vessel or equipment shall stop at any check station  
 22 unless a medical emergency makes stopping likely to result in death or serious bodily injury.

23 (4) If during an inspection of a vessel or ~~a trailer transporting a vessel~~ equipment the presence of an  
 24 invasive species is detected, that vessel or ~~trailer~~ equipment may not leave the check station without authorization  
 25 until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b)."

26

27 **Section 12.** Section 80-7-1014, MCA, is amended to read:

28 **"80-7-1014. Penalty.** (1) Except as provided in subsection (2), the following penalties apply:

29 (a) The offense of negligently violating the provisions of 80-7-1010 through 80-7-1012 and [section 1]  
 30 or rules adopted under 80-7-1010 through 80-7-1012 and [section 1] pertaining to an invasive species

1 management area or the statewide invasive species management area is a misdemeanor punishable by a fine  
2 not to exceed \$500.

3 (b) The offense of purposely or knowingly violating the provisions of 80-7-1010 through 80-7-1012 and  
4 [section 1] or rules adopted under 80-7-1010 through 80-7-1012 and [section 1] pertaining to an invasive species  
5 management area or the statewide invasive species management area is a misdemeanor punishable by a fine  
6 not to exceed \$1,000.

7 (c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any  
8 person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine  
9 not to exceed \$5,000, or both. A person convicted of violating this subsection (1)(c) may also be required to pay  
10 restitution for any cost incurred to mitigate the effect of the violation.

11 (d) A civil penalty not to exceed \$250 may be imposed on any person who violates any other provision  
12 of 80-7-1010 through 80-7-1012 and [section 1] or rules adopted under 80-7-1010 through 80-7-1012 and [section  
13 1] not enumerated in subsections (1)(a) through (1)(c).

14 (2) A warning without penalty may be issued to any person violating the provisions of 80-7-1010 through  
15 80-7-1012 and [section 1] or rules adopted under 80-7-1010 through 80-7-1012 and [section 1] if it is determined  
16 that a warning best serves the public interest.

17 (3) Civil penalties collected under this section must be deposited in the general fund."  
18

19 **NEW SECTION. Section 13. Appropriation.** In each year of the biennium beginning July 1, 2013, there  
20 is appropriated to the department of fish, wildlife, and parks \$500,000 from the state general fund for the  
21 prevention and control of any nonnative, aquatic invasive species pursuant to Title 80, chapter 7, part 10.  
22

23 **NEW SECTION. Section 14. Codification instruction.** [Section 1] is intended to be codified as an  
24 integral part of Title 80, chapter 7, part 10, and the provisions of Title 80, chapter 7, part 10, apply to [section 1].  
25

26 **NEW SECTION. Section 15. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
27 effective on passage and approval.

28 (2) [Section 13] is effective July 1, 2013.  
29

- END -