

HOUSE BILL NO. 241  
INTRODUCED BY SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING ~~A MORATORIUM~~ RESTRICTIONS ON NEW UPLAND GAME BIRD HABITAT ENHANCEMENT PROJECTS, ~~EXCEPT PROJECTS FOR SAGE GROUSE,~~ WHILE ALLOWING CONTINUED SPENDING OF PROGRAM FUNDS ON SUITABLE UPLAND GAME BIRD RELEASES AND AUTHORIZED SUPPLEMENTAL FEEDING PROGRAMS; AUTHORIZING EXPENDITURES FOR A LANDOWNER INCENTIVE PROGRAM; REQUIRING AN ASSESSMENT OF ~~ALL~~ UPLAND GAME BIRD RELEASES AND HABITAT ENHANCEMENT PROJECTS AND THE DEVELOPMENT OF A PROGRAM MANAGEMENT PLAN DURING ~~THE MORATORIUM~~ A 2-YEAR PERIOD; REQUIRING PRESENTATION OF THE MANAGEMENT PLAN TO THE LEGISLATURE, WITH RECOMMENDATIONS FOR PROJECT MODIFICATION TO ACHIEVE COST-EFFECTIVENESS AND INCREASED UPLAND GAME BIRD PRODUCTION OR FOR TERMINATION; INCREASING THE PERCENTAGE OF MONEY GENERATED FROM CERTAIN HUNTING LICENSES THAT IS AVAILABLE FOR CERTAIN UPLAND GAME BIRD ACTIVITIES; REDUCING THE PERCENTAGE OF MONEY REQUIRED TO BE SET ASIDE EACH FISCAL YEAR FOR BIRD RELEASE EXPENDITURES; AMENDING SECTIONS 87-1-246, 87-1-247, 87-1-248, 87-1-249, AND 87-1-250, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. ~~Moratorium on upland~~ UPLAND game bird habitat enhancement projects -- ~~exception for sage grouse projects~~ RESTRICTIONS -- LANDOWNER INCENTIVE PROGRAM -- project assessment and presentation of management plan to legislature. (1) Except as provided in this section, for FOR a period of ~~3~~ 2 years from [the effective date of this act], ~~the department may not implement any new upland game bird habitat enhancement projects, except projects designed specifically for sage grouse. Money~~ MONEY expended for ~~sage grouse~~ UPLAND GAME BIRD HABITAT ENHANCEMENT projects ~~during this period~~ may not exceed 25% of the total funds available annually for the upland game bird enhancement program.**

(2) DURING THE 2-YEAR PERIOD PROVIDED FOR IN SUBSECTION (1), THE DEPARTMENT MAY ALSO EXPEND UP TO \$1.4 MILLION FROM THE UPLAND GAME BIRD FUNDS, PROVIDED FOR IN 87-1-246, AS MATCHING FUNDS TO PROTECT SAGEBRUSH-GRASSLAND HABITAT ASSOCIATED WITH SAGE GROUSE LEKS AND WINTERING AREAS THROUGH A LANDOWNER INCENTIVE PROGRAM.

~~(2)~~(3) During the ~~3-year~~ 2-YEAR period provided for in subsection (1), the department shall employ contractors who possess upland game bird expertise to assess ~~all~~ UPLAND GAME BIRD RELEASES AND habitat enhancement projects applied for or begun prior to [the effective date of this act]. The assessment must address the biological and fiscal aspects of each TYPE OF project. Based on the assessment, the department shall develop a management plan for presentation to the legislature by December 1, 2004. The management plan must be designed to be fiscally sound, to increase upland game bird production in a cost-effective manner, and to enhance upland game bird habitat. Any department suggestions for the modification of UPLAND GAME BIRD RELEASES OR habitat enhancement projects to achieve cost-effectiveness and increased upland game bird production, as well as any recommendations for the termination of UPLAND GAME BIRD RELEASES OR habitat enhancement projects that are not cost-effective or that do not increase upland game bird production, must be included in the management plan.

~~(3)~~(4) If the conclusion of the assessment under subsection ~~(2)~~(3) is that the upland game bird program cannot be administered on a sound biological and fiscal basis, the department shall include in the management plan submitted to the legislature a recommendation that the upland game bird enhancement program be terminated and that the funding source in 87-1-246 be eliminated.

~~(4)~~(5) Money specified in 87-1-246 may not be spent on NEW upland game bird habitat enhancement projects during the ~~moratorium~~ 2-YEAR period, except ~~sage-grouse enhancement projects~~ as provided in subsection (1) OR (2), until the upland game bird program assessment required in subsection ~~(2)~~ (3) is completed and a management plan is submitted to the legislature for consideration of project modifications or termination. Money specified in 87-1-246 may continue to be spent during the ~~moratorium~~ 2-YEAR period on suitable upland game bird releases and authorized supplemental feeding programs.

**Section 2.** Section 87-1-246, MCA, is amended to read:

**"87-1-246. Funding of upland game bird enhancement program.** ~~The~~ Subject to the provisions of [section 1], ~~the~~ amount of money specified in this section from the sale of each hunting license listed must be used exclusively by the department to preserve and enhance upland game bird populations in Montana in accordance with 87-1-246 through 87-1-249, subject to appropriation by the legislature:

- (1) Class A-1, resident upland game bird, \$2;
- (2) Class B-1, nonresident upland game bird, \$23;
- (3) Class AAA, combination sports, \$2; and
- (4) Class B-10, nonresident big game combination, \$23."

**Section 3.** Section 87-1-247, MCA, is amended to read:

**"87-1-247. Authorized use of funds.** (1) Not more than ~~45%~~ 20% of the money generated under 87-1-246 may be used by the department to:

(A) PREPARE AND DISSEMINATE INFORMATION TO LANDOWNERS AND ORGANIZATIONS CONCERNING THE UPLAND GAME BIRD ENHANCEMENT PROGRAM;

(B) REVIEW POTENTIAL UPLAND GAME BIRD RELEASE SITES;

(C) ASSIST APPLICANTS IN PREPARING MANAGEMENT PLANS FOR PROJECT AREAS; AND:

~~— (a) prepare and disseminate information to landowners and organizations concerning the upland game bird enhancement program;~~

~~— (b) review potential upland game bird release sites;~~

~~— (c) assist applicants in preparing management plans for project areas; and~~

~~— (d)~~ (D) assess UPLAND GAME BIRD RELEASES AND habitat enhancement projects and evaluate the upland game bird enhancement program, as provided for in [section 1].

(2) The remainder of the money raised must be used for releasing upland game birds in suitable habitat and for the development, enhancement, and conservation of upland game bird habitat in Montana, subject to the provisions of [section 1].

(3) (a) At least ~~45%~~ 10% of the funds collected under 87-1-246 must be set aside each fiscal year for expenditures related to upland game bird releases AS FOLLOWS:

(I) AT LEAST 5% FOR RELEASE OF CAPTIVE-RAISED BIRDS; AND

(II) AT LEAST 5% FOR CAPTURE AND RELEASE OF WILD BIRDS FOR TRANSLOCATION.

(b) At least 25% of the funds set aside for upland game bird release must be spent each year."

**Section 4.** Section 87-1-248, MCA, is amended to read:

**"87-1-248. Qualification of upland game bird enhancement projects.** (1) A project eligible for funding under the upland game bird release program must contain the proper combination of winter cover, food, nesting cover, and other upland game bird habitat components determined necessary to provide for establishment of a viable upland game bird population.

(2) After [the effective date of this act], all upland game bird habitat enhancement projects are subject to the provisions of [section 1]. A project eligible for funding under the habitat enhancement program must include assistance to applicants in the establishment of suitable nesting cover, winter cover, or feeding areas through cost-sharing, leases, or conservation easements.

(3) A project containing hunting preserves or any commercial hunting enterprise or in which hunting rights are leased or paid for is not eligible for funding.

(4) Preference must be given for project applications submitted by youth organizations, 4-H clubs, sports groups, and other associations of sufficient size to guarantee completion of all project requirements. However, individual landowners may also apply, as long as the land in the project area remains open to public hunting in accordance with reasonable use limitations imposed by the landowner.

(5) (a) Except when a greater amount, up to \$200,000, is authorized by the commission, a project may not receive more than \$100,000 in funds collected under 87-1-246.

(b) Total purchases of equipment, land, and buildings under the habitat enhancement program may not exceed \$25,000 for each project.

(c) The construction of wells, pipelines, or roads using funds collected under 87-1-246 is only allowed on a cost-share basis, when the applicant pays at least 50% of the funded costs.

(d) Any equipment purchased with funds collected under 87-1-246 remains the property of the department.

(e) A shelterbelt may not be constructed within 400 feet of any residential building or building occupied by livestock.

(f) Funds collected under 87-1-246 may be expended for supplemental feeding programs that are authorized by the department."

**Section 5.** Section 87-1-249, MCA, is amended to read:

**"87-1-249. Rules.** (1) ~~The~~ Subject to the provisions of [section 1], the department shall adopt rules for the administration of the upland game bird enhancement program created in 87-1-246 through 87-1-249.

(2) The rules must:

(a) provide for eligibility criteria for project applications, including project evaluation criteria that incorporate the following factors:

(i) proposed project acreage of suitable size;

(ii) proposed project acreage and adjoining lands that are suitable for upland game bird habitat;

(iii) evidence that existing and potential species will benefit from the project;

(iv) the number of acres that will be open to and suitable for public bird hunting under the proposal; and

(v) in addition to the criteria in subsections (2)(a)(i) through (2)(a)(iv), preference to proposed projects

with:

- (A) longer contract length and larger landowner cost share;
- (B) lands with special or unique components, such as wetlands; and
- (C) a landowner history of providing hunter access and habitat enhancement;

(b) be consistent with general requirements of the federal conservation reserve program, the agricultural conservation program, the state hunter management program, and the state hunting access enhancement program so that landowners who participate in those programs may also be eligible for participation in the upland game bird enhancement program;

(c) specifically indicate specifications under which upland game birds will be released in project areas, including but not limited to:

- (i) habitat requirements;
- (ii) number of upland game birds to be released;
- (iii) health requirements;
- (iv) banding requirements;
- (v) time for release;
- (vi) age of birds to be released; and
- (vii) reimbursement amount for each bird released;

(d) establish application procedures for project funding and review and for approval or denial of applications; and

(e) establish project monitoring and reporting procedures, including a requirement that payments for projects authorized pursuant to 87-1-247 be supported by contracts, invoices, receipts, or other supporting documentation."

**Section 6.** Section 87-1-250, MCA, is amended to read:

**"87-1-250. Report.** The department shall report to the fish and game committee of each house of the legislature concerning upland game bird enhancement activities undertaken pursuant to 87-1-246 through 87-1-249 during the preceding biennium, together with any recommendations concerning the operation of the program. The report must include information regarding progress on the upland game bird RELEASE AND habitat enhancement project assessment and management plan required in [section 1]."

NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 1].

NEW SECTION. **Section 8. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

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