

HOUSE BILL NO. 228

INTRODUCED BY J. KEANE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FUNDING FOR THE MONTANA GREATER SAGE-GROUSE STEWARDSHIP ACT; DECREASING PREVIOUS TRANSFERS AND APPROPRIATIONS; PROVIDING FOR FUTURE TRANSFERS AND STATUTORY APPROPRIATIONS; ALLOWING FUNDING TO BE USED FOR ADMINISTRATIVE PURPOSES; AMENDING SECTIONS 15-1-122, 17-1-508, 17-7-502, AND 76-22-109, MCA, AND SECTION 18, CHAPTER 445, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

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

Section 1. Section 15-1-122, MCA, is amended to read:

"15-1-122. (Bracketed language effective July 1, 2021) Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For fiscal years 2016 through 2019, there is transferred \$1.275 million on an annual basis from the state general fund to the research and commercialization state special revenue account provided for in 90-3-1002.

(3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable

1 percentage to be:

2 (A) used to:

3 (I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

4 (II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

5 (III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

6 (IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle
7 recreational use, 16.7% in each fiscal year; and

8 (B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in
9 each fiscal year;

10 (ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50%
11 of the amount to be used for enforcing the purposes of Title 23, chapter 2, part 6, and 50% of the amount
12 designated for use in the development, maintenance, and operation of snowmobile facilities; and

13 (iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be
14 deposited in the motorboat account to be used as provided in 23-2-533;

15 (d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with
16 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be
17 deposited in the veterans' services account provided for in 10-2-112(1); and

18 (e) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue
19 deposited in the state general fund in each fiscal year.

20 (4) The amount of \$200,000 is transferred from the state general fund to the livestock loss [reduction
21 and] mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

22 (5) For fiscal years 2018 through 2021, there is transferred \$2 million on an annual basis from the state
23 general fund to the sage grouse stewardship account provided for in 76-22-109.

24 ~~(5)~~(6) For the purposes of this section, "motor vehicle revenue deposited in the state general fund"
25 means revenue received from:

26 (a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

27 (b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered
28 pursuant to 61-3-321 and 61-3-562;

29 (c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

30 (d) all money collected pursuant to 15-1-504(3).

1 ~~(6)(7)~~ Except as provided in ~~subsection~~ SUBSECTIONS (2) AND (5), the amounts transferred from the
 2 general fund to the designated recipient must be appropriated as state special revenue in the general
 3 appropriations act for the designated purposes. (Bracketed language in subsection (4) effective July 1, 2021--sec.
 4 8, Ch. 349, L. 2015.)"

5

6 **Section 2.** Section 17-1-508, MCA, is amended to read:

7 **"17-1-508. Review of statutory appropriations.** (1) Each biennium, the office of budget and program
 8 planning shall, in development of the executive budget, review and identify instances in which statutory
 9 appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

10 (2) The review of statutory appropriations must determine whether a statutory appropriation meets the
 11 requirements of 17-7-502. Except as provided in 76-22-109 and 77-1-108, a statutory appropriation from a
 12 continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and
 13 establishing statutory appropriations, the legislature shall consider the following guidelines. A proposed or existing
 14 statutory appropriation may not be considered appropriate if:

- 15 (a) the money is from a continuing, reliable, and estimable source;
- 16 (b) the use of the appropriation or the expenditure occurrence is predictable and reliable;
- 17 (c) the authority exists elsewhere;
- 18 (d) an alternative appropriation method is available, practical, or effective;
- 19 (e) it appropriates state general fund money for purposes other than paying for emergency services;
- 20 (f) the money is used for general purposes;
- 21 (g) the legislature wishes to review expenditure and appropriation levels each biennium; and
- 22 (h) an expenditure cap and sunset date are excluded.

23 (3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation
 24 that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section,
 25 review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained
 26 in the fiscal note accompanying that legislation."

27

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

29 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 30 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the

1 need for a biennial legislative appropriation or budget amendment.

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

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

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

7 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
8 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;
9 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101;
10 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215;
11 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;
12 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617;
13 20-26-1503; 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;
14 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;
15 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;
16 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 76-22-109; 77-1-108; 77-2-362; 80-2-222;
17 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;
18 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

19 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
20 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
21 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
22 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
23 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
24 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
25 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
26 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
27 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
28 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
29 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion
30 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004

1 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,
 2 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;
 3 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;
 4 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.
 5 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.
 6 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,
 7 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of
 8 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of
 9 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 10 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates
 11 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December
 12 31, 2023.)"

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14 **Section 4.** Section 76-22-109, MCA, is amended to read:

15 **"76-22-109. Sage grouse stewardship account.** (1) There is a sage grouse stewardship account in
 16 the state special revenue fund established in 17-2-102. ~~Subject to appropriation by the legislature, money~~ Money
 17 deposited in the account is statutorily appropriated, as provided in 17-7-502, and must be used for the
 18 administration of and pursuant to the provisions of this part to maintain, enhance, restore, expand, or benefit sage
 19 grouse habitat and populations for the heritage of Montana and its people.

20 (2) The following funds must be deposited in the account:

21 (a) each fiscal year, the amount provided in 15-1-122 that is transferred to the account from the state
 22 general fund;

23 ~~(a)~~(b) money received by the department in the form of grants, gifts, transfers, bequests, payments for
 24 credits or financial contributions made pursuant to 76-22-111, and donations, including donations limited in their
 25 purpose by the grantor, or appropriations from any source intended to be used for the purposes of this account;
 26 and

27 ~~(b)~~(c) any interest or income earned on the account.

28 (3) Subject to subsections (4) and (5), the department shall make disbursements from the account to
 29 projects approved by the oversight team to receive grants.

30 (4) The majority of the funds in the account may not be disbursed before the habitat quantification tool

1 has been adopted. The habitat quantification tool must be applied to any project funded after the habitat
2 quantification tool has been adopted. The majority of the account funds must be awarded to projects that
3 generate credits that are available for compensatory mitigation under 76-22-111. When selecting projects to
4 receive funds, the oversight team shall prioritize projects that maximize the amount of credits generated per
5 dollars of funds awarded.

6 (5) Money deposited in the account may not be used:

7 (a) for fee simple acquisition of private land;

8 (b) to purchase water rights;

9 (c) to purchase a lease or conservation easement that requires recreational access or prohibits hunting,
10 fishing, or trapping as part of its terms; or

11 (d) to allow the release of any species listed under 87-5-107 or the federal Endangered Species Act, 16
12 U.S.C. 1531, et seq.

13 (6) ADMINISTRATIVE COSTS PAID FROM THE ACCOUNT ARE LIMITED TO \$400,000 IN EACH FISCAL YEAR.

14 ~~(6)(7)~~ Any unspent or unencumbered money in the account at the end of a fiscal year must remain in
15 the account."

16

17 **Section 5.** Section 76-22-109, MCA, is amended to read:

18 **"76-22-109. Sage grouse stewardship account.** (1) There is a sage grouse stewardship account in
19 the state special revenue fund established in 17-2-102. ~~Subject to appropriation by the legislature, money~~ Money
20 deposited in the account is statutorily appropriated, as provided in 17-7-502, and must be used for the
21 administration of and pursuant to the provisions of this part to maintain, enhance, restore, expand, or benefit sage
22 grouse habitat and populations for the heritage of Montana and its people.

23 (2) The following funds must be deposited in the account:

24 (a) money received by the department in the form of grants, gifts, transfers, bequests, payments for
25 credits or financial contributions made pursuant to 76-22-111, and donations, including donations limited in their
26 purpose by the grantor, or appropriations from any source intended to be used for the purposes of this account;
27 and

28 (b) any interest or income earned on the account.

29 (3) Subject to subsections (4) and (5), the department shall make disbursements from the account to
30 projects approved by the oversight team to receive grants.

1 (4) The majority of the funds in the account may not be disbursed before the habitat quantification tool
 2 has been adopted. The habitat quantification tool must be applied to any project funded after the habitat
 3 quantification tool has been adopted. The majority of the account funds must be awarded to projects that
 4 generate credits that are available for compensatory mitigation under 76-22-111. When selecting projects to
 5 receive funds, the oversight team shall prioritize projects that maximize the amount of credits generated per
 6 dollars of funds awarded.

7 (5) Money deposited in the account may not be used:

8 (a) for fee simple acquisition of private land;

9 (b) to purchase water rights;

10 (c) to purchase a lease or conservation easement that requires recreational access or prohibits hunting,
 11 fishing, or trapping as part of its terms; or

12 (d) to allow the release of any species listed under 87-5-107 or the federal Endangered Species Act, 16
 13 U.S.C. 1531, et seq.

14 (6) ADMINISTRATIVE COSTS PAID FROM THE ACCOUNT ARE LIMITED TO \$400,000 IN EACH FISCAL YEAR.

15 ~~(6)~~(7) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in
 16 the account."

17

18 **Section 6.** Section 18, Chapter 445, Laws of 2015, is amended to read:

19 **"Section 18. Coordination instruction.** If both House Bill No. 2 and [this act] are passed and approved,
 20 then:

21 (1) [sections 14 and 15 of this act] are void;

22 (2) the general fund appropriation to the department of natural resources and conservation for the sage
 23 grouse conservation fund contained in House Bill No. 2 is void;

24 (3) for the biennium beginning July 1, 2015, ~~\$10~~ \$2 million is transferred from the general fund to the sage
 25 grouse stewardship account established in [section 7 of this act]; and

26 (4) for the biennium beginning July 1, 2015, ~~\$10~~ \$2 million is appropriated from the sage grouse
 27 stewardship account established in [section 7 of this act] to the department of natural resources and conservation
 28 for the purposes of [this act]. If the United States fish and wildlife service lists the greater sage-grouse
 29 (*Centrocercus urophasianus*) as endangered under the Endangered Species Act, 16 U.S.C. 1531, et seq., any
 30 unencumbered portion of the appropriation made pursuant to this subsection (4) must revert to the general fund."

