

1 HOUSE BILL NO. 434

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 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA WILDLIFE HABITAT IMPROVEMENT
 8 AND PUBLIC ACCESS ACT; ALLOWING THE USE OF FEDERAL FUNDS TO COMBAT NOXIOUS WEEDS
 9 AND RESTORE WILDLIFE HABITAT, AND IMPROVE PUBLIC ACCESS; ESTABLISHING A WILDLIFE
 10 HABITAT IMPROVEMENT AND PUBLIC ACCESS ADVISORY COUNCIL; PROVIDING RULEMAKING
 11 AUTHORITY; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."
 12

13 WHEREAS, noxious weeds already encroach on wildlife habitat throughout Montana and are propagating
 14 at rising rates; and

15 WHEREAS, a noxious weed control program administered by the department of fish, wildlife, and parks
 16 will complement and enhance existing noxious weed control efforts; and

17 WHEREAS, the program would use federal funds to restore wildlife habitat AND IMPROVE PUBLIC ACCESS
 18 for the benefit of the public; and

19 WHEREAS, wildlife habitat noxious weed MANAGEMENT projects will enhance and steward habitat for the
 20 benefit of wildlife.
 21

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 23

24 NEW SECTION. Section 1. Short title. [Sections 1 through 8 9] may be cited as the "Montana Wildlife
 25 Habitat Improvement AND PUBLIC ACCESS Act".
 26

27 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 8 9], unless the context
 28 indicates otherwise, the following definitions apply:

29 (1) "Council" means the wildlife habitat improvement AND PUBLIC ACCESS advisory council established
 30 in [section 2 3].

1 (2) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

2 (3) "Native plant" means a plant indigenous to the state of Montana.

3 (4) "Noxious weed" means a weed defined in 7-22-2101.

4 (5) "Noxious weed management" means an integrated weed management program for the containment,
5 suppression, and, where possible, eradication of noxious weeds. The term includes a long-term management
6 approach toward noxious weeds that includes but is not limited to hand-pulling, cultivation, herbicide application,
7 mechanical or biological control, prescribed grazing or burning, prevention, and revegetation.

8

9 **NEW SECTION. Section 3. Wildlife habitat improvement AND PUBLIC ACCESS advisory council --**

10 **members.** (1) There is a wildlife habitat improvement AND PUBLIC ACCESS advisory council appointed by the
11 director that ranks projects pursuant to [section 4] and advises the department on the administration of [sections
12 1 through 8 9]. The council consists of the following voting members:

13 (a) the director of the department or a representative of the department;

14 ~~(b) three representatives of wildlife conservation groups or sports person organizations in Montana;~~

15 (B) A REPRESENTATIVE OF A HUNTING ORGANIZATION;

16 (C) A REPRESENTATIVE OF A MULTIPLE-USE RECREATION ORGANIZATION;

17 (D) A REPRESENTATIVE OF THE TIMBER INDUSTRY;

18 ~~(e)~~(E) a livestock producer or a representative of a livestock producer organization in Montana;

19 ~~(d)~~(F) a farmer or a representative of a farming organization in Montana;

20 ~~(e)~~(G) a commercial applicator as defined in 80-8-102;

21 ~~(f)~~(H) a representative of biological research and control interests;

22 ~~(g)~~(I) a representative of the Montana weed control association; and

23 ~~(h)~~(J) two county representatives, one each from the western and eastern parts of the state, who may
24 include a county commissioner, district weed board member, or weed district supervisor.

25 (2) Nonvoting members of the council include:

26 (a) the state weed coordinator; and

27 (b) one representative each from:

28 (i) the United States bureau of land management;

29 (ii) the United States forest service;

30 (iii) the United States bureau of reclamation;

- 1 (iv) the United States fish and wildlife service;
 2 (v) the Montana department of natural resources and conservation; and
 3 (vi) an Indian tribe as defined in 2-15-141.

4
 5 **NEW SECTION. Section 4. Wildlife habitat improvement AND PUBLIC ACCESS projects --**
 6 **requirements -- ranking.** (1) Project proposals must:

7 (a) address how projects would restore, rehabilitate, improve, or manage land as wildlife habitat through
 8 noxious weed management;

9 **(B) INCLUDE A PLAN TO REMOVE NOXIOUS WEEDS OR PREVENT THEM FROM PROPAGATING OR TAKING HOLD IN**
 10 **THE PROJECT AREA;**

11 ~~(b)~~(c) include a commitment to match at least 25% of a grant in cash, goods, or services; and

12 ~~(c)~~(d) include measurable objectives and a monitoring plan to allow the department to analyze how
 13 noxious weed management is restoring, rehabilitating, improving, or managing land as wildlife habitat.

14 (2) The council shall rank wildlife habitat improvement PUBLIC ACCESS project proposals according to
 15 rules adopted by the department pursuant to [section 8 9] and make funding recommendations to the department.

16 (3) In ranking the proposals, the council must give preference to projects in wildlife habitat that include:

17 (a) access for public hunting;

18 (b) multiple partners and landowners; and

19 (c) a commitment to match at least 25% of the final grant in cash.

20 (4) Additional preference must be given to a project that proposes to:

21 (a) address the primary spread of noxious weeds to adjacent areas of wildlife habitat with native plants;

22 (b) include a significant portion of ecologically important wildlife habitat that is in need of restoration;

23 (c) include a significant portion of a watershed; or

24 (d) maintain native plants after project completion.

25
 26 **NEW SECTION. Section 5. Account -- deposits.** (1) There is a wildlife habitat improvement account
 27 in the federal special revenue fund established in 17-2-102. Up to \$2 million annually in federal special revenue
 28 funds for wildlife purposes as appropriated by the legislature may be deposited in the account.

29 (2) The department may accept gifts, grants, contracts, or other funds designated for the purposes of
 30 [sections 1 through 8 9]. Money received by the state in the form of gifts, grants, reimbursements, or allocations

1 from any source intended to be used for the purposes of [sections 1 through & 9] must be deposited as
 2 appropriate in the federal special revenue fund or in the state special revenue fund established in 17-2-102.

3
 4 **NEW SECTION. Section 6. Administration and expenditure of funds -- cooperation with other**
 5 **entities.** (1) (a) The department may expend funds deposited pursuant to [section 5] through grants or contracts
 6 to communities, noxious weed management districts, conservation districts, nonprofit organizations exempt from
 7 taxation under section 26 U.S.C. 501(c)(3), or other entities that it considers appropriate for wildlife habitat
 8 ~~noxious weed management~~ IMPROVEMENT AND PUBLIC ACCESS projects.

9 (b) The department shall consider project recommendations from the council.

10 (c) The department may cooperate in and coordinate the planning and disbursement of these funds with
 11 federal, state, and local agencies responsible for the management of noxious weeds.

12 (2) A project is eligible to receive funds only if the county in which the project occurs has funded its own
 13 weed management program using one of the following methods, whichever is less:

14 (a) levying an amount of not less than 1.6 mills or an equivalent amount from another source; or

15 (b) appropriating an amount of not less than \$100,000 from any source.

16 (3) The department may expend money deposited pursuant to [section 5] to:

17 (a) restore, rehabilitate, improve, or manage areas of land as wildlife habitat by controlling noxious
 18 weeds;

19 (b) acquire goods and services that will help control noxious weeds in order to restore, rehabilitate,
 20 improve, or manage land as wildlife habitat;

21 (c) fund cost-share noxious weed management programs with local noxious weed management districts;

22 or

23 (d) provide special grants to local noxious weed management districts to eradicate or contain significant
 24 noxious weeds newly introduced into the county that affect wildlife habitat.

25 (4) Expenditures allowed pursuant to subsection (3) are limited to:

26 (a) biological or mechanical control of noxious weeds;

27 (b) purchases and application of approved herbicides; ~~and~~

28 (c) seed purchases and application of seed; AND

29 (D) GRAZING COSTS AS A COMPONENT OF AN OVERALL INTEGRATED NOXIOUS WEED MANAGEMENT PLAN.

30 (5) The department may expend the funds deposited pursuant to [section 5] to pay costs incurred by the

1 department for administering [sections 1 through 8 9] and providing support to the council, including but not
 2 limited to personal services costs, operating costs, and other administrative costs. After fiscal year 2019,
 3 administrative costs may not exceed 15% of the total amount expended pursuant to subsection (3).

4

5 **NEW SECTION. Section 7. Reporting -- evaluations.** (1) A project sponsor shall:

6 (a) monitor and document the TIMELINES, progress, and results of the project;

7 (b) evaluate the overall effectiveness of the project; and

8 (c) provide project and fiscal reports as required by contract.

9 (2) The department shall:

10 (a) conduct field evaluations of projects;

11 (b) require a project sponsor to initiate corrective action if an evaluation finds inadequacies in the
 12 project's progress or fiscal reporting; and

13 (c) on or before September 1 of each year preceding the convening of a regular session of the
 14 legislature, provide a report to the environmental quality council in accordance with 5-11-210. The report must
 15 include:

16 (i) an overview of the program;

17 (ii) a listing of projects funded during the reporting period;

18 (iii) an analysis of how projects funded are improving wildlife habitat; ~~and~~

19 (iv) a summary of past and current funding; AND

20 (V) A DESCRIPTION OF PUBLIC ACCESS PROJECTS AND WEED COORDINATION ACTIVITIES UNDERTAKEN PURSUANT
 21 TO [SECTION 8].

22

23 **NEW SECTION. SECTION 8. PUBLIC LANDS ACCESS ADVOCATE AND NOXIOUS WEED COORDINATOR.** (1) (A)

24 THERE IS A PUBLIC LANDS ACCESS ADVOCATE AND NOXIOUS WEED COORDINATOR WHO IS APPOINTED AND DIRECTED BY
 25 THE BOARD OF LAND COMMISSIONERS.

26 (B) THE PUBLIC LANDS ACCESS ADVOCATE AND NOXIOUS WEED COORDINATOR IS AN EMPLOYEE OF THE
 27 DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY.

28 (C) THE SECRETARY OF STATE SHALL PROVIDE OFFICE SPACE FOR THE PUBLIC LANDS ACCESS ADVOCATE AND
 29 NOXIOUS WEED COORDINATOR.

30 (D) COSTS ASSOCIATED WITH THE PUBLIC LANDS ACCESS ADVOCATE AND NOXIOUS WEED COORDINATOR MAY

1 BE CONSIDERED ADMINISTRATIVE COSTS PAID FROM FUNDS DEPOSITED PURSUANT TO [SECTION 5].

2 (2) (A) THE PUBLIC LANDS ACCESS ADVOCATE AND NOXIOUS WEED COORDINATOR IS DEDICATED TO INCREASING
 3 PUBLIC ACCESS OPPORTUNITIES ON AND TO PUBLIC LANDS, AS DEFINED IN 15-30-2380, AND TO SURFACE WATERS WITHIN
 4 THE STATE THAT ARE CAPABLE OF RECREATIONAL USE.

5 (B) THE PUBLIC LANDS ACCESS ADVOCATE AND NOXIOUS WEED COORDINATOR SHALL COORDINATE NOXIOUS
 6 WEED EFFORTS UNDERTAKEN ON PUBLIC LANDS PURSUANT TO [SECTIONS 1 THROUGH 9].

7 (3) THE PUBLIC LANDS ACCESS ADVOCATE AND NOXIOUS WEED COORDINATOR SHALL:

8 (A) PROMOTE EFFECTIVE ENGAGEMENT IN AND USE OF EXISTING PUBLIC LAND ACCESS PROGRAMS AND
 9 OPPORTUNITIES;

10 (B) RESEARCH AND IDENTIFY ADDITIONAL OPPORTUNITIES TO INCREASE PUBLIC ACCESS ON AND TO PUBLIC LANDS
 11 AND TO SURFACE WATERS WITHIN THE STATE THAT ARE CAPABLE OF RECREATIONAL USE;

12 (C) PROPOSE ACCESS PROJECTS TO THE BOARD OF LAND COMMISSIONERS FOR CONSIDERATION, WITH AN
 13 EMPHASIS ON PROJECTS THAT UTILIZE LAND EXCHANGES, PROCUREMENT OF ACCESS EASEMENTS, AND CONSOLIDATION
 14 OF CHECKERBOARDED LANDS, AND THAT PROTECT AND ENHANCE WILDLIFE HABITAT. APPROVAL OF THE BOARD IS
 15 REQUIRED FOR ACCESS PROJECTS PROPOSED PURSUANT TO THIS SECTION.

16 (D) WORK WITH THE DEPARTMENT AND REPORT TO THE BOARD OF LAND COMMISSIONERS ON ALL NOXIOUS WEED
 17 PROJECTS UNDERTAKEN PURSUANT TO [SECTIONS 1 THROUGH 9].

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 19 NEW SECTION. Section 9. Rulemaking authority. The department shall adopt rules to implement
 20 [sections 1 through 8], including a scoring system for ranking projects proposed to the council.

21
 22 NEW SECTION. Section 10. Codification instruction. [Sections 1 through 8 9] are intended to be
 23 codified as an integral part of Title 87, and the provisions of Title 87 apply to [sections 1 through 8 9].

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 25 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2017.

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 27 NEW SECTION. Section 12. Termination. [This act] terminates June 30, 2023.

28 - END -