

1 HOUSE BILL NO. 410

2 INTRODUCED BY A. OLSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR A
5 STATE POLICY ON POLLINATORS; REQUIRING NOXIOUS WEED MANAGEMENT PROGRAMS FOR
6 CERTAIN STATE LANDS TO SEED OR PLANT NATIVE PLANTS FRIENDLY TO ANIMAL POLLINATORS,
7 TO PROHIBIT THE USE OF NEONICOTINOID INSECTICIDES, AND TO REIMBURSE PERSONS FOR
8 DAMAGE TO APIARIES; AUTHORIZING POLLINATOR SPECIALTY LICENSE PLATES TO FUND THE
9 POLLINATOR SPECIAL REVENUE ACCOUNT; PROVIDING THAT THE DEPARTMENT OF AGRICULTURE
10 ESTABLISH AND ADMINISTER A PROGRAM TO REIMBURSE FOR LOSSES AND DAMAGES TO
11 APIARIES; AUTHORIZING DISTRIBUTION OF FUNDS TO COUNTY WEED DISTRICTS FOR POLLINATOR
12 HABITAT; AMENDING SECTIONS 23-1-127, 23-2-113, 60-2-208, 76-12-121, 77-1-101, 77-1-810, 87-1-241,
13 AND 87-5-802, MCA; AND PROVIDING AN EFFECTIVE DATE."

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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17 NEW SECTION. **Section 1. State policy for pollinators -- definition.** (1) It is the state policy that a
18 noxious weed management program developed pursuant to 7-22-2121 or revegetation or reseeding project for
19 state parks, fishing access sites, summer motorized recreation trails, transportation commission-designated
20 highways, natural areas, state lands, state wildlife habitat, and state wildlife habitat improvement projects must
21 include the seeding or planting of native plants friendly to animal pollinators.

22 (2) A noxious weed management program or revegetation or reseeding project developed for these
23 parks, sites, trails, highways, areas, lands, or habitat must prohibit the use of neonicotinoid insecticides.

24 (3) As used in this section, "animal pollinator" means any bee, butterfly, moth, wasp, fly, beetle, ant,
25 hummingbird, bat, or other animal that is known to pollinate plants.
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27 NEW SECTION. **Section 2. Pollinator license plates -- surcharge -- disposition.** (1) Subject to 61-
28 3-472 through 61-3-481 and this section, the board may sponsor a generic specialty license plate designed to

1 support:

2 (a) the seeding or planting of native plants friendly to animal pollinators;

3 (b) noxious weed control without the use of neonicotinoid insecticides; and

4 (c) compensation for losses and damages from the use of neonicotinoid insecticides to a colony at an
5 apiary site authorized by this part.

6 (2) A Montana resident may purchase pollinator plates for a \$15 surcharge to be paid for each
7 original set of plates and each renewal. The surcharge is in addition to the one-time administrative fee charged
8 pursuant to 61-3-480(1).

9 (3) The surcharge collected pursuant to this section must be remitted as provided in 61-3-480 and
10 deposited to the pollinator special revenue account established in [section 3].

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12 **NEW SECTION. Section 3. Pollinator special revenue account -- sources of funds -- designated**

13 **uses.** (1) There is a pollinator special revenue account in the state special revenue fund, established pursuant
14 to 17-2-102(1)(b), to the credit of the department of agriculture for the purposes of [section 1].

15 (2) The department shall:

16 (a) establish and administer a program to reimburse a person for losses and damages caused by the
17 use of neonicotinoid insecticides to a colony at an apiary site authorized by this part;

18 (b) establish eligibility requirements for reimbursement;

19 (c) reimburse confirmed and probable losses at an amount not to exceed fair market value as
20 determined by the department; and

21 (d) establish a claim process to be used when a person suffers a loss or damage from the use of
22 neonicotinoid insecticides to a colony at an apiary site authorized by this part. The claim process must set out a
23 clear and concise method for documenting and processing claims for reimbursement.

24 (3) (a) After all claims subject to subsection (2) are paid on an annual basis, the department shall
25 distribute equally among Montana's counties that have established a noxious weed management program the
26 funds in the pollinator special revenue account provided for in this section to be deposited in the county noxious
27 weed fund as provided in 7-22-2141.

28 (b) The weed management districts shall use the funds on a county level for noxious weed

1 management programs that require the seeding or planting of native plants friendly to animal pollinators and the
 2 prohibition of the use of neonicotinoid insecticides.

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4 **Section 4.** Section 23-1-127, MCA, is amended to read:

5 **"23-1-127. Maintenance priority -- maintenance defined.** With regard to state parks and fishing
 6 access sites, implementation of the good neighbor policy requires that priority is to be given to maintenance of
 7 existing facilities, rather than to development or improvement. For purposes of 23-1-126 and this section,

8 "maintenance" means:

- 9 (1) placing, cleaning, and stocking of latrines;
- 10 (2) garbage and litter removal;
- 11 (3) fence installation and repair of existing fences;
- 12 (4) weed control, subject to [section 1];
- 13 (5) implementation of safety and health measures required by law to protect the public;
- 14 (6) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in
 15 state parks and fishing access sites on October 1, 1999;
- 16 (7) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of
 17 those existing facilities with facilities that have less impact on the state park or fishing access site;
- 18 (8) erosion control;
- 19 (9) streambank stabilization;
- 20 (10) erection of barriers necessary to preserve riparian vegetation and habitat;
- 21 (11) minimal signage necessary to inform users of appropriate state park or fishing access site use
 22 and applicable regulations and of historical, natural, cultural, geographical, and geological features in the area;
- 23 (12) measures necessary to ensure compliance with the federal Americans With Disabilities Act of
 24 1990, when applicable;
- 25 (13) planting of native trees, grasses, and shrubs for habitat stabilization and privacy shielding;
- 26 (14) seeding or planting of native plants friendly to animal pollinators;
- 27 ~~(14)~~(15) installation of fire rings, picnic tables, and trash collection facilities; and
- 28 ~~(15)~~(16) other necessary activities and expenditures consistent with the good neighbor policy and the

1 intent of 23-1-126, 23-1-128, and this section, including new trails, new boat ramps, and necessary new access
2 roads into and within the state park or fishing access site."

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4 **Section 5.** Section 23-2-113, MCA, is amended to read:

5 **"23-2-113. Summer motorized recreation trail grant program -- rulemaking.** (1) There is a
6 summer motorized recreation trail grant program by which the department may grant funds deposited in the
7 account established in 23-2-112 to private clubs and organizations for the following purposes:

8 (a) to mark or sign, maintain, and improve summer motorized recreation trails; and

9 (b) to mitigate and eradicate noxious weeds along summer motorized recreation trails subject to
10 [section 1].

11 (2) In utilizing funds pursuant to this section, the department shall consider the recommendations of
12 the state trails advisory committee established pursuant to 23 U.S.C. 206.

13 (3) The department may adopt rules to implement the provisions of 23-2-110 through 23-2-113."
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15 **Section 6.** Section 60-2-208, MCA, is amended to read:

16 **"60-2-208. Seeding along highways -- weed management program.** (1) After a segment of a
17 commission-designated highway system or state highway is constructed, the department shall seed barrow
18 pits, slopes, and shoulders to an adaptable perennial grass or combination of perennial grasses, ~~and legumes,~~
19 and native plants friendly to animal pollinators ~~whenever establishment of perennial grass covers seem~~
20 ~~suitable.~~ The seed must be certified.

21 (2) The department shall seek joint recommendations and specifications as to time and method of
22 seeding, fertilizing practices, and grass species from the Montana extension service, the experiment station,
23 and the natural resources conservation service.

24 (3) After a right-of-way in open range has been fenced pursuant to 60-7-103, the department may
25 seed the land within the fence with a grass that may be cropped for hay and may lease the land or sell the right
26 to take the hay to qualified persons.

27 (4) The department shall comply with the applicable noxious weed management program developed
28 by a county weed district pursuant to 7-22-2121 and [section 1]."

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Section 7. Section 76-12-121, MCA, is amended to read:

"76-12-121. Duties of department -- plan for natural areas system. The department may:

(1) identify the existing and potential natural areas on lands under its jurisdiction and annually prepare a register listing the existing natural areas on private, county, state, and federal land;

(2) prepare and implement a biennial administrative plan for a natural areas system that will:

(a) assure equitable representation of the diversity of natural area types that are found to occur on private, county, state, and federal lands; and

(b) include identification of important natural area needs, viable methods to make eligible lands a part of the natural areas system, responsible management entities, goals for establishing natural areas, obligations of cooperating agencies, organizations, and individuals, and administrative procedures for registering natural areas with the department;

(3) consider the concerns and comments of the board and the public in preparing and implementing the administrative plan described in subsection (2);

(4) make recommendations to the board for designation of natural areas on state lands and for acquisition of interests in other lands for the preservation of natural areas;

(5) provide that designated natural areas on state lands are available for multiple uses, including but not limited to grazing, recreation, and snowmobiling, if such uses are consistent with the state's obligations under The Enabling Act and do not interfere with the management or integrity of the natural area; and

(6) provide that the management of natural areas on state lands includes provisions for weed control consistent with 7-22-2151 and [section 1]. The department assumes any levy under 7-22-2142 in natural areas; the lessee is not responsible for fire suppression costs in natural areas, and the lessee is not responsible for keeping natural areas free of garbage and debris."

Section 8. Section 77-1-101, MCA, is amended to read:

"77-1-101. Definitions. Unless the context requires otherwise and except for the definition of state land in 77-1-701, in this title, the following definitions apply:

(1) "Board" means the board of land commissioners provided for in Article X, section 4, of the

1 Montana constitution.

2 (2) "Commercial or concentrated recreational use" means any recreational use that is organized,
3 developed, or coordinated, whether for profit or otherwise. Commercial or concentrated recreational use
4 includes all outfitting activity and all activities not included within the definition of general recreational use.

5 (3) "Department" means the department of natural resources and conservation provided for in Title 2,
6 chapter 15, part 33.

7 (4) "Distributable revenue" applies to all land trusts managed by the board, except property held
8 pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through
9 329, and includes:

10 (a) 95% of all revenue from the management of school trust lands and the common school permanent
11 fund, except for mineral royalties or land sale proceeds that are deposited directly in the permanent fund;

12 (b) the interest and income described in 20-9-341, less any unrealized gains or losses;

13 (c) the interest and income received from the leasing, licensing, or other use of state trust lands; and

14 (d) subject to 17-3-1003, the proceeds and income from the sale of timber from capitol building land
15 grant and university system lands.

16 (5) (a) "General recreational use" includes noncommercial and nonconcentrated hunting, fishing, and
17 other activities determined by the board to be compatible with the use of state lands.

18 (b) The term does not include the use of streams and rivers by the public under the stream access
19 laws provided in Title 23, chapter 2, part 3.

20 (6) "Legally accessible state lands" means state lands that can be accessed by:

21 (a) dedicated public road, right-of-way, or easement;

22 (b) public waters;

23 (c) adjacent federal, state, county, or municipal land if the land is open to public use; or

24 (d) adjacent contiguous private land if permission to cross the land has been secured from the
25 landowner. The granting of permission by a private landowner to cross private property in a particular instance
26 does not subject the state land that is accessed to general recreational use by members of the public, other
27 than those granted permission.

28 (7) "Noxious weeds" or "weeds" means any exotic plant species established or that may be

- 1 introduced in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial
 2 uses or that may harm native plant communities and that is designated:
- 3 (a) as a statewide noxious weed by rule of the department of agriculture; or
 - 4 (b) as a district noxious weed by a district weed board organized under 7-22-2103.
- 5 (8) (a) "State land" or "lands" means:
- 6 (i) lands granted to the state by the United States for any purpose, either directly or through exchange
 7 for other lands;
 - 8 (ii) lands deeded or devised to the state from any person; and
 - 9 (iii) lands that are the property of the state through the operation of law.
- 10 (b) The term does not include:
- 11 (i) lands that the state conveys through the issuance of patent;
 - 12 (ii) lands that are used for building sites, campus grounds, or experimental purposes by a state
 13 institution and that are the property of that institution;
 - 14 (iii) lands that the board of regents of higher education has authority to dispose of pursuant to 20-25-
 15 307; or
 - 16 (iv) lands acquired through investments under the provisions of 17-6-201.
- 17 (9) "State trust land" means lands or property interests held in trust by the state:
- 18 (a) under Article X, sections 2 and 11, of the Montana constitution;
 - 19 (b) through The Enabling Act of Congress (approved February 22, 1889, 25 Stat. 676), as amended;
 - 20 and
 - 21 (c) through the operation of law for specified trust beneficiaries.
- 22 (10) "Weed management" or "control" has the meaning provided in 7-22-2101 and is subject to
 23 [section 1]."

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25 **Section 9.** Section 77-1-810, MCA, is amended to read:

26 **"77-1-810. Weed control management.** (1) The department shall establish a weed control
 27 management program for the control of noxious weeds reasonably proved to be caused by the recreational use
 28 of state lands. The department may by rule establish a noxious weed management program that may include

1 direct compensation for noxious weed control activities or participation in district and county weed control
2 projects or department-initiated weed control activities. The noxious weed management program is subject to
3 [section 1].

4 (2) Funding for this program must come from appropriations from the trust land administration
5 account provided for in 77-1-108."

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7 **Section 10.** Section 87-1-241, MCA, is amended to read:

8 **"87-1-241. Acquisition of wildlife habitat -- rules.** (1) Before acquisition of any interest in land for
9 the primary purpose of securing wildlife habitat the commission shall by rule establish a policy for making such
10 acquisitions. With regard to any specific acquisition the policy shall provide for a comprehensive analysis of:

11 (a) the wildlife populations and use currently associated with the property;

12 (b) the potential value of the land for protection, preservation, and propagation of wildlife;

13 (c) management goals proposed for the land and wildlife populations, and where feasible, any
14 additional uses of the land such as livestock grazing or timber harvest;

15 (d) any potential impacts to adjacent private land resulting from proposed management goals, and
16 plans to address such impacts;

17 (e) any significant potential social and economic impacts to affected local governments and the state,
18 including but not limited to impacts on:

19 (i) tax revenue available for the operation of taxing jurisdictions within the county;

20 (ii) services required to be provided by local governments;

21 (iii) employment opportunities within the counties;

22 (iv) local schools; and

23 (v) private businesses supplying goods and services to the community;

24 (f) a land maintenance program to control weeds subject to [section 1] and to maintain roads and
25 fences; and

26 (g) any other matter considered necessary or appropriate by the commission.

27 (2) The analysis made of any proposed acquisition must be made available for review by each owner
28 of land adjacent to the property that is the subject of analysis, and to any member of the public. A public

1 hearing must be held in the affected area after the analysis has been made available to the public."

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3 **Section 11.** Section 87-5-802, MCA, is amended to read:

4 **"87-5-802. (Temporary) Definitions.** As used in this part, unless the context indicates otherwise, the
5 following definitions apply:

6 (1) "Council" means the wildlife habitat improvement advisory council established in 87-5-803.

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

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

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

10 (5) "Noxious weed management" means an integrated weed management program subject to
11 [section 1] for the containment, suppression, and, where possible, eradication of noxious weeds. The term
12 includes a long-term management approach toward noxious weeds that includes but is not limited to hand-
13 pulling, cultivation, herbicide application, mechanical or biological control, prescribed grazing or burning,
14 prevention, and revegetation subject to [section 1]. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

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16 NEW SECTION. **Section 12. Codification instruction.** [Sections 1 through 3] are intended to be
17 codified as an integral part of Title 80, chapter 6, part 1, and the provisions of Title 80, chapter 6, part 1, apply
18 to [sections 1 through 3].

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20 NEW SECTION. **Section 13. Effective date.** [This act] is effective July 1, 2021.

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- END -