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SENATE BILL NO. 442

INTRODUCED BY M. LANG, M. CUFFE, T. MCGILLVRAY, R. LYNCH, S. HINEBAUCH, D. LOGE, D. BARTEL, C. KNUDSEN, B. USHER, R. TEMPEL, B. LER, J. SCHILLINGER, K. SEEKINS-CROWE, M. MALONE, C. HINKLE, M. BINKLEY, R. MARSHALL, S. ESSMANN, R. MINER, G. PARRY, N. NICOL, P. FIELDER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DISTRIBUTION OF MARIJUANA TAXES; REVISING THE ALLOCATION OF THE MARIJUANA STATE SPECIAL REVENUE ACCOUNT; TRANSFERRING TAX REVENUE FROM MARIJUANA SALES TO THE DEPARTMENT OF TRANSPORTATION FOR THE FUNDING OF COUNTY ROAD CONSTRUCTION AND MAINTENANCE; PROVIDING A CALCULATION BASED ON THE ROAD MILES, STATE AND FEDERAL LAND AREA, AND BLOCK MANAGEMENT ACRES IN COUNTIES AND CONSOLIDATED CITY-COUNTIES; ESTABLISHING A HABITAT LEGACY ACCOUNT; REVISING THE MONTANA WILDLIFE HABITAT IMPROVEMENT ACT; PROVIDING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 15-70-101, AND 16-12-111, 17-7-502, 87-5-801, 87-5-802, 87-5-803, 87-5-804, 87-5-806, 87-5-807, AND 87-5-808, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. County road habitat access account. (1) There is a county road habitat access account in the state special revenue fund established in 17-2-102. All funds received pursuant to 16-12-111(4)(b)(i)(H) must be deposited in the account.

(2) Money deposited in the account is ~~subject to appropriation by the legislature statutorily appropriated, as provided in 17-7-502, to the department of transportation~~ and may be used only for funding the construction, reconstruction, maintenance, and repair of county roads in the manner provided in 15-70-101(4).

NEW SECTION. SECTION 2. HABITAT LEGACY ACCOUNT. (1) THERE IS A HABITAT LEGACY ACCOUNT IN THE STATE SPECIAL REVENUE FUND ESTABLISHED IN 17-2-102. ALL FUNDS RECEIVED PURSUANT TO 16-12-111(4)(B) ~~are~~

Amendment - 1st Reading/2nd House-blue - Requested by: (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

SB0442.003.004

1 statutorily appropriated, as provided in 17-7-502, and MUST BE DEPOSITED IN THE ACCOUNT AND TRANSFERRED TO
2 THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS.

3 (2) AT THE END OF EACH FISCAL YEAR, 75% OF THE FUNDS RECEIVED PURSUANT TO 16-12-111(4)(B)
4 MUST BE TRANSFERRED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO BE AND USED SOLELY AS FUNDING FOR
5 WILDLIFE HABITAT IN THE SAME MANNER AS FUNDING GENERATED UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-
6 209.

7 (3) IF, AT THE END OF ANY FISCAL YEAR, THE UNOBLIGATED CASH BALANCE IN THE ACCOUNT SET UP TO
8 ADMINISTER FUNDING GENERATED UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-209 EQUALS OR EXCEEDS
9 \$50,000,000, ADJUSTED ANNUALLY FOR INFLATION, THE TRANSFER MAY NOT BE MADE.

10 (4) IF, AT THE END OF ANY FISCAL YEAR, THE UNOBLIGATED CASH BALANCE IN THE ACCOUNT SET UP TO
11 ADMINISTER FUNDING GENERATED UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-209 IS LESS THAN \$50 MILLION,
12 ADJUSTED ANNUALLY FOR INFLATION, THEN AN AMOUNT LESS THAN OR EQUAL TO THE DIFFERENCE BETWEEN THE
13 UNOBLIGATED CASH BALANCE AND \$50 MILLION, ADJUSTED ANNUALLY FOR INFLATION, BUT NOT TO EXCEED 75% OF THE
14 TAXES RECEIVED PURSUANT TO 16-12-11(4)(B), MUST BE TRANSFERRED TO THE ACCOUNT SET UP TO ADMINISTER
15 FUNDING GENERATED UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-209.

16 (5) THE INFLATION ADJUSTMENTS MADE UNDER THIS SECTION MUST BE BASED ON ANY CHANGE TO THE
17 CONSUMER PRICE INDEX FROM THE PREVIOUS YEAR. THE CONSUMER PRICE INDEX TO BE USED FOR CALCULATIONS IS
18 THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U).

19 (6) TWENTY-FIVE PERCENT, AND ANY AMOUNT NOT TRANSFERRED ACCORDING TO ABOVE THE CAP
20 ESTABLISHED IN SUBSECTIONS (2) THROUGH (4), IS RETAINED IN THE HABITAT LEGACY ACCOUNT AND MUST BE USED
21 EXCLUSIVELY IN THE SAME MANNER AS FUNDING UNDER 87-5-806 OR 87-1-209. FOR:

22 (A) WILDLIFE HABITAT IMPROVEMENT PROJECTS PURSUANT TO 87-5-806; AND

23 (B) WILDLIFE HABITAT IN THE SAME MANNER AS FUNDING GENERATED UNDER 87-1-242(3) AND USED
24 PURSUANT TO 87-1-209.

25 (7) ANY INTEREST OR INCOME EARNED ON THE MONEY IN THE HABITAT LEGACY ACCOUNT MUST BE
26 DEPOSITED INTO THE ACCOUNT.

27 (8) ANY UNSPENT OR UNENCUMBERED MONEY IN THE HABITAT LEGACY ACCOUNT AT THE END OF A FISCAL
28 YEAR MUST REMAIN IN THE ACCOUNT.

Amendment - 1st Reading/2nd House-blue - Requested by: (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

SB0442.003.004

1 (H) 20% MUST BE TRANSFERRED TO THE DEPARTMENT OF TRANSPORTATION AND DEPOSITED IN THE
2 COUNTY ROADS HABITAT ACCESS ACCOUNT PROVIDED FOR IN [SECTION 1] TO BE USED SOLELY AS FUNDING FOR THE
3 CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, AND REPAIR OF COUNTY ROADS AND DISTRIBUTED AS PROVIDED IN
4 15-70-101(4); AND

5 (I) THE REMAINDER MUST BE TRANSFERRED TO THE GENERAL FUND.

6 (b) ~~the net balance remaining after distribution to the HEART account must be distributed as~~
7 follows:

8 (i) ~~20% to the credit of the department of fish, wildlife, and parks department of transportation and~~
9 ~~deposited in the county roads habitat access account provided for in [section 1] to be used solely as funding for~~
10 ~~wildlife habitat in the same manner as funding generated under 87-1-242 (3) and used pursuant to 87-1-209 the~~
11 ~~construction, reconstruction, maintenance, and repair of county roads and distributed as provided in 15-70-~~
12 ~~101(4) ;~~

13 (ii) ~~4% to the state park account established in 23-1-105 (1);~~

14 (iii) ~~4% to the trails and recreational facilities account established in 23-2-108 ;~~

15 (iv) ~~4% to the nongame wildlife account established in 87-5-121 ;~~

16 (v) ~~3% or \$200,000, whichever is less, to the veterans and surviving spouses state special~~
17 ~~revenue account provided for in 10-2-108 ;~~

18 (vi) ~~for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer~~
19 ~~grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug~~
20 ~~detection canines and canine handlers, including canines owned by local law enforcement agencies to replace~~
21 ~~canines who were trained to detect marijuana;~~

22 (vii) ~~\$150,000 to the board of crime control to fund crisis intervention team training as provided in~~
23 ~~44-7-110 ; and~~

24 (viii) ~~the remainder to the general fund.~~(Subsection (4)(b)(vi) terminates June 30, 2025--sec.
25 117(2), Ch. 576, L. 2021.)"

26

27 **Section 5.** Section 17-7-502, MCA, is amended to read:

28 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

1 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
2 the need for a biennial legislative appropriation or budget amendment.

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

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

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

8 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
9 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-
10 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;
11 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-
12 70-130; [\[section 1\]](#); 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-
13 215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-
14 305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-
15 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; 23-7-
16 402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;
17 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115;
18 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-
19 13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006;
20 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-
21 102]; 87-1-603; 87-5-909; [\[section 2\]](#); 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

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

1 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
 2 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
 3 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
 4 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 5 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,
 6 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;
 7 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,
 8 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.
 9 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,
 10 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-
 11 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates
 12 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June
 13 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to
 14 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,
 15 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion
 16 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004
 17 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,
 18 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and
 19 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

20

Section 6. SECTION 87-5-801, MCA, IS AMENDED TO READ:

21

"87-5-801. (Temporary) Short title. This part may be cited as the "Kelly Flynn Montana Wildlife
 22 Habitat Improvement Program and Legacy Act". (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

23

24

Section 7. SECTION 87-5-802, MCA, IS AMENDED TO READ:

25

"87-5-802. (Temporary) Definitions. As used in this part, unless the context indicates otherwise, the
 26 following definitions apply:
 27

26

27

(1) "Commission" means the fish and wildlife commission established in 2-15-3402.

28

1 (iv) a summary of past and current funding. (Terminates June 30, 2023--sec. 11, Ch. 342, L.
2 2017.)"

3

4 **Section 12.** SECTION 87-5-808, MCA, IS AMENDED TO READ:

5 **"87-5-808. (Temporary) Rulemaking authority.** The department shall adopt rules as proposed by
6 the council to implement this part, including a scoring system for ranking projects proposed to the council under
7 87-5-804. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

8

9 NEW SECTION. Section 13. Codification instruction. (1) [Section 1] is intended to be codified as
10 an integral part of Title 15, chapter 70, part 1, and the provisions of Title 15, chapter 70, part 1, apply to [section
11 1].

12 (2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 87, CHAPTER 5, AND THE
13 PROVISIONS OF TITLE 87, CHAPTER 5, APPLY TO [SECTION 2].

14

15 NEW SECTION. Section 14. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT
16 ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
17 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
18 APPLICATIONS.

19

20 COORDINATION SECTION. Section 15. Coordination instruction. If House Bill No. 86 and [this
21 act] are passed and approved and if both contain a section that amends 87-5-806, then the sections amending
22 87-5-806 are void and 87-5-806 must be amended as follows:

23 **"87-5-806. (Temporary) Administration and expenditure of funds -- cooperation with other**
24 **entities.** (1) (a)-State, tribal, and federal agencies, as well as conservation districts, irrigation districts, grazing
25 associations, county weed boards, and 501(c)(3) organizations, may apply for project funding.

26 (2) The department may expend funds deposited under [section 2] and pursuant to 87-5-805
27 through grants or contracts in order to:

28 (a) improve, conserve, protect, and maintain terrestrial habitat;

(b) improve, conserve, and maintain aquatic habitat;

(c) participate in water enhancement projects to benefit aquatic habitat and allow for other watershed enhancements that benefit fish, wildlife, and water conservation;

(d) improve and maintain range conditions, restoration of habitat, and drought resilience designed to create habitat uplift on private, public, and tribal lands;

(e) address and mitigate impacts that are detrimental to wildlife habitat and the environment and improve the condition of the land due to noxious weeds, soil disturbance, and loss of diverse habitat communities;

(f) mitigate conflicts and reduce potential for disease transmission between wildlife and domestic livestock;

(g) help fund activities and employees of the state tribal wildlife programs;

(h) create habitat uplift and net conservation gain for species of conservation need;

(i) implement weed and soil treatment options and methods recommended by the council to reduce noxious weeds and support native vegetation; and

(j) fund grant administration, vegetation monitoring, and related administrative costs not to exceed 10% of a total project amount.

~~communities, noxious weed management districts, conservation districts, nonprofit organizations exempt from taxation under 26 U.S.C. 501(c)(3), or other entities that it considers appropriate for wildlife habitat improvement projects.~~

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

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

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

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

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

~~(3) The department may expend money deposited pursuant to 87-5-805 to:~~

~~(a) restore, rehabilitate, improve, or manage areas of land as wildlife habitat by controlling noxious~~

1 ~~weeds;~~

2 ~~(b)—acquire goods and services that will help control noxious weeds in order to restore, rehabilitate,~~

3 ~~improve, or manage land as wildlife habitat;~~

4 ~~(c)—fund cost share noxious weed management programs with local noxious weed management~~

5 ~~districts; or~~

6 ~~(d)—provide special grants to local noxious weed management districts to eradicate or contain~~

7 ~~significant noxious weeds newly introduced into the county that affect wildlife habitat.~~

8 ~~(4)—Expenditures allowed pursuant to subsection (3) are limited to:~~

9 ~~(a)—biological or mechanical control of noxious weeds;~~

10 ~~(b)—purchases and application of approved herbicides;~~

11 ~~(c)—seed purchases and application of seed; and~~

12 ~~(d)—grazing costs as a component of an overall integrated noxious weed management plan.~~

13 ~~(5)(3)~~ The department may expend the funds deposited pursuant to ~~87-5-805 [section 2]~~ to pay costs

14 incurred by the department for administering this part and providing support to the council, including but not

15 limited to personal services costs, operating costs, and other administrative costs. ~~After fiscal year 2019,~~

16 ~~administrative~~Administrative costs may not exceed 15% of the total amount expended pursuant to subsection

17 (3). (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

NEW SECTION. **Section 16.** **Effective date.** [This act] is effective July 1, 2023.

- END -