

HOUSE BILL NO. 932

INTRODUCED BY K. WALSH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO FUNDING FOR CONSERVATION; REVISING THE ALLOCATION OF THE MARIJUANA STATE SPECIAL REVENUE ACCOUNT; ESTABLISHING A HABITAT LEGACY ACCOUNT; ESTABLISHING STATE SPECIAL REVENUE ACCOUNTS FOR WILDLIFE HABITAT CONSERVATION, WILDLIFE IMPROVEMENT PROJECTS, AND WILDLIFE CROSSINGS; REVISING MEMBERSHIP FOR THE WILDLIFE HABITAT IMPROVEMENT ADVISORY COUNCIL; REVISING THE KELLY FLYNN MONTANA WILDLIFE HABITAT IMPROVEMENT ACT; REVISING RANKING CRITERIA FOR WILDLIFE HABITAT IMPROVEMENT PROJECTS; REVISING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 16-12-111, 87-5-801, 87-5-802, 87-5-803, 87-5-804, 87-5-806, AND 87-5-808, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. Section 1. Habitat legacy account. (1) There is a habitat legacy account in the state special revenue fund established in 17-2-102. The account is administered by the department of fish, wildlife, and parks. All funds received pursuant to 16-12-111(4)(b) must be deposited in the account.

(2) Except as provided in subsection (3), at the end of each fiscal year the state treasurer shall make the following transfers from this account:

(a) 75% to the land and wildlife stewardship account established in [section 2] to be used solely, together with the interest and income from the money, as funding to secure wildlife habitat pursuant to 87-1-209 AND [SECTION 2];

(b) 20% to the account established in [section 3]; and

(c) 5% to the account established in [section 4].

(3) If the account established in [section 2] has a balance of unobligated and unexpended funds that exceeds \$50 million, then the transfers provided for in subsection (2) may not be made, and the

department shall instead make the following transfers:

(a) 80% to the account established in [section 3]; and

(b) 20% to the account established in [section 4].

(4) The amount in subsection (3) must increase each year by an inflation adjustment that is based on any change to the consumer price index from the previous year. The consumer price index to be used for the calculation is the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor.

NEW SECTION. Section 2. Land and wildlife stewardship state special revenue account. There is a land and wildlife stewardship account in the state special revenue fund established in 17-2-102 that is administered by the department of fish, wildlife, and parks for the benefit of the department of fish, wildlife, and parks. All funds received pursuant to [section 1] must be deposited in the account.

(2) Funds in the account may be used, together with the interest and income from the money, only as funding to secure wildlife habitat pursuant to 87-1-209. ;

(A) TO SECURE WILDLIFE HABITAT PURSUANT TO 87-1-209;

(B) FOR STATE WATER PROJECTS UP TO \$4 MILLION PER FISCAL YEAR IN COORDINATION WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; OR

(C) FOR ANY CONSERVATION PROJECTS THAT INCLUDE A PUBLIC ACCESS COMPONENT.

(3) The account retains its own interest.

(4) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

NEW SECTION. Section 3. Wildlife habitat improvement project state special revenue account. There is a wildlife habitat improvement project account in the state special revenue fund established in 17-2-102 that is administered by the department of fish, wildlife, and parks for the benefit of the department of fish, wildlife, and parks. All funds received pursuant to [section 1] must be deposited in the account.

(2) Funds in the account may be used only as funding for wildlife improvement projects in the same manner as funding under 87-5-806.

(3) The account retains its own interest.

(4) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

NEW SECTION. Section 4. Big game and wildlife highway crossings and accommodations

account -- purpose -- funds invested. (1) There is a big game and wildlife highway crossings and accommodations state special revenue account in the state special revenue fund established in 17-2-102 administered by the department of fish, wildlife, and parks.

(2) The purpose of the account is to provide money exclusively for the design, construction, identification, maintenance, and conservation of wildlife crossings and other related crossing accommodations to improve wildlife permeability in the state, which may include but is not limited to:

(a) matching any federal money for a project to design, construct, identify, maintain, or protect wildlife crossings and other related crossing accommodation features;

(b) conducting studies on wildlife crossings and other related crossing accommodations;

(c) designing or constructing wildlife crossings and other related crossing accommodation features;

(d) planning related to wildlife crossings and other related crossing accommodation features, including assessing risk of wildlife disease transmission;

(e) staffing needs related to the design, construction, identification, maintenance, and conservation of wildlife crossings and other related crossing accommodation features; and

(f) any other needs the department identified in consultation with the department of transportation related to wildlife highway crossing accommodations.

(3) There must be deposited into the account transfers, gifts, grants, donations, income from investment of the fund, and any other money distributed or otherwise allocated to the fund.

(4) Money in the account may be used to fund the department of transportation for eligible projects or programs as determined by the department of fish, wildlife, and parks. The department of fish, wildlife, and parks shall consult with the department of transportation before funding qualifying projects in the state in accordance with subsection (2).

(5) Money that was not encumbered or expended from the account during the previous biennium must remain in the account.

(6) Deposits to the account must be placed in short-term investments to accrue interest. The interest must be deposited in the account.

Section 5. Section 16-12-111, MCA, is amended to read:

"16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess funds. (1) There is a dedicated marijuana state special revenue account within the state special revenue fund established in 17-2-102, to be administered by the department.

(2) The account consists of:

(a) money deposited into the account pursuant to this chapter;

(b) the taxes collected pursuant to Title 15, chapter 64, part 1;

(c) license and registered cardholder fees deposited into the account pursuant to this chapter;

(d) taxes deposited into the account pursuant to 16-12-310; and

(e) civil penalties collected under this chapter.

(3) Except as provided in subsection (4), money in the account must be used by the department for the purpose of administering the provisions of this chapter.

(4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following order:

(a) ~~an amount not to exceed \$6 million~~ 11% must be transferred to the healing and ending addiction through recovery and treatment (HEART) account established in 16-12-122;

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

(i) ~~20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242 (3) and used pursuant to 87-1-209 habitat legacy account provided for in [section 1];~~

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

- 1 (iii) 4% to the trails and recreational facilities account established in 23-2-108;
2 (iv) 4% to the nongame wildlife account established in 87-5-121;
3 (v) 3% or \$200,000, whichever is less, to the veterans and surviving spouses state special
4 revenue account provided for in 10-2-108;
5 (vi) for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer
6 grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug
7 detection canines and canine handlers, including canines owned by local law enforcement agencies to replace
8 canines who were trained to detect marijuana;
9 (vii) \$150,000 to the board of crime control to fund crisis intervention team training as provided in
10 44-7-110; and
11 (viii) the remainder to the general fund. (Subsection (4)(b)(vi) terminates June 30, 2025--sec.
12 117(2), Ch. 576, L. 2021.)"

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14 **Section 6.** Section 87-5-801, MCA, is amended to read:

15 **"87-5-801. Short title.** This part may be cited as the "Kelly Flynn Montana Wildlife Habitat
16 Improvement Program and Legacy Act"."

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18 **Section 7.** Section 87-5-802, MCA, is amended to read:

19 **"87-5-802. Definitions.** As used in this part, unless the context indicates otherwise, the following
20 definitions apply:

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

22 ~~(2)~~ (1) "Council" means the wildlife habitat improvement advisory council established in 87-5-803.

23 ~~(2)(3)~~ (2) "Department" means the department of fish, wildlife, and parks established in 2-15-
24 3401.

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

26 ~~(4)~~ (3) "Habitat" means the natural environment where a species lives or thrives.

27 ~~(4)(5)~~ (4) "Noxious weed" means a weed has the same meaning as provided defined in 7-22-
28 2101.

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

Section 8. Section 87-5-803, MCA, is amended to read:

"87-5-803. Wildlife habitat improvement advisory council -- duties -- members. (1) There is a wildlife habitat improvement advisory council appointed by the director that ranks projects pursuant to 87-5-804 and advises the department ~~and the commission~~ on the administration of this part, including making recommendations on additional weed and soil treatment options and methods that are eligible for funding under this part. ~~Except for members appointed pursuant to subsections (2)(h) and (2)(i), the director shall appoint council members.~~

(2) The council consists of the following voting members:

(a) ~~the director of the department or a representative of the department~~ a terrestrial wildlife biologist;

~~(b) — a representative of a hunting organization in Montana~~ a fisheries biologist ;

~~(c) (B) a representative of a multiple-use recreation organization in Montana~~ a member of an Indian tribe WITHIN MONTANA as defined in 2-15-141;

~~(d) — a representative of the timber industry in Montana;~~

~~(e)(d) (C) a~~ AN AGRICULTURAL OR livestock producer or a representative of ~~a~~ AN AGRICULTURAL OR livestock producer organization in Montana;

~~(f)(e) — a farmer or a representative of a farming organization~~ crop-producing industries in Montana;

~~(g)(f) (D) a commercial applicator as defined in 80-8-102~~ a member of AN ACCREDITED LAND TRUST A CONSERVATION ORGANIZATION; AND

~~(h)(g) — a representative of biological research and control interests~~ a soil conservation scientist ;

~~(i)(h) (E) a representative of the Montana weed control association; a member of the senate, selected by the committee on committees, who is not a member of the party of the representative selected pursuant to~~

~~subsection (2)(i) A REPRESENTATIVE OF THE MONTANA WEED CONTROL ASSOCIATION ; and ;~~

~~(j)(i) — two county representatives, one each from the western and eastern parts of the state, who may include a county commissioner, district weed board member, or weed district supervisor a member of the house of representatives, selected by the speaker of the house, who is not a member of the party of the senator selected pursuant to subsection (2)(h) .~~

(2) — Nonvoting members of the council include:

(a) — the state weed coordinator; and

(b) — one representative each from:

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

(ii) — the United States forest service;

(iii) — the United States bureau of reclamation;

(iv) — the United States fish and wildlife service;

(v) — the Montana department of natural resources and conservation; and

(vi) — an Indian tribe as defined in 2-15-141."

Section 9. Section 87-5-804, MCA, is amended to read:

"87-5-804. Wildlife habitat improvement projects -- requirements -- ranking. (1) Project proposals must:

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

(b) — include a plan to remove noxious weeds or prevent them from propagating or taking hold in the project area;

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

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

(2)(1) The council shall rank wildlife habitat improvement project proposals pursuant to 87-5-806 and according to rules adopted by the department pursuant to 87-5-808 and make funding recommendations to the department.

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

(a) ~~access for public hunting~~ public access;

(b) ~~multiple partners and landowners~~ the number of project partners involved; and

(c) ~~the amount of additional funding provided to carry out a project~~;

(3) Factors providing for preference under subsection (2) may not be considered mandatory.

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

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

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

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

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

(d) ~~maintain native plants after project completion."~~

Section 10. Section 87-5-806, MCA, is amended to read:

"87-5-806. Administration and expenditure of funds --~~cooperation with other entities.~~ (1) (a) State, tribal, and federal agencies, as well as conservation districts, irrigation districts, grazing associations, county weed boards, WEED CONTROL DISTRICTS, OTHER ENTITIES THE DEPARTMENT CONSIDERS APPROPRIATE FOR WILDLIFE HABITAT IMPROVEMENT PROJECTS, and nonprofit organizations exempt from taxation under section 26 U.S.C. 501(c)(3), may apply for project funding.

(2) ~~The department may expend funds deposited pursuant to [section 3] and 87-5-805 through grants or contracts to: 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 weeds;~~

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

(c) — ~~fund cost share noxious weed management programs with local noxious weed management districts; or~~

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

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

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

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

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

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

(e) — ~~other weed and soil treatment options and methods recommended by the council to reduce noxious weeds and support native vegetation; and~~

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

(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; and

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

(5)(3) The department may expend the funds deposited pursuant to 87-5-805 [section 3] to pay costs incurred by the department for administering this part and providing support to the council, including but not limited to personal services costs, operating costs, and other administrative costs. After fiscal year 2019, administrative Administrative costs may not exceed 15% of the total amount expended pursuant to subsection (3) (2)."

Section 11. Section 87-5-808, MCA, is amended to read:

"87-5-808. Rulemaking authority. The department shall adopt rules to implement this part, including a scoring system for ranking projects proposed to the council under 87-5-804."

NEW SECTION. Section 12. Appropriation. (1) There is appropriated \$100 \$7.5 MILLION from the general fund FROM THE ACCOUNT PROVIDED FOR IN [SECTION 2] to the department of fish, wildlife, and parks for the biennium beginning July 1, 2025, for the purposes of implementing [this act].

(2) THERE IS APPROPRIATED \$2,000,000 FROM THE FUND ESTABLISHED IN [SECTION 3] TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR THE BIENNIUM BEGINNING JULY 1, 2025, FOR THE PURPOSES OF IMPLEMENTING [THIS ACT].

(3) THERE IS APPROPRIATED \$500,000 FROM THE FUND ESTABLISHED IN [SECTION 4] TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR THE BIENNIUM BEGINNING JULY 1, 2025, FOR THE PURPOSES OF IMPLEMENTING [THIS ACT].

NEW SECTION. Section 13. NOTIFICATION TO TRIBAL GOVERNMENTS. THE SECRETARY OF STATE SHALL

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3 NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 4] are intended to be

4 codified as an integral part of Title 87, chapter 5, and the provisions of Title 87, chapter 5, apply to [sections 1

5 through 4].

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9 NEW SECTION. SECTION 16. TERMINATION. [SECTION 2(2)(B)] TERMINATES JUNE 30, 2033.

10 - END -