

HOUSE BILL NO. 621

INTRODUCED BY D. ANKNEY

BY REQUEST OF THE HOUSE JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE PREVENTION AND CONTROL OF AQUATIC INVASIVE SPECIES IN MONTANA; REVISING THE MONTANA AQUATIC INVASIVE SPECIES ACT; DESIGNATING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AS THE OVERALL COORDINATING AUTHORITY; AUTHORIZING COLLABORATION WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; ELIMINATING THE COORDINATING AUTHORITY; AUTHORIZING THE USE OF QUARANTINE MEASURES IN AN INVASIVE SPECIES MANAGEMENT AREA; APPROPRIATING FUNDS FROM THE NOXIOUS WEED MANAGEMENT TRUST FUND AND THE STATE GENERAL FUND; AMENDING SECTIONS ~~80-7-814~~, 80-7-1002, 80-7-1003, ~~80-7-1005~~, 80-7-1005, 80-7-1006, AND 80-7-1007, 80-7-1008, AND 80-7-1011, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

~~Section 1. Section 80-7-814, MCA, is amended to read:~~

~~"80-7-814. Administration and expenditure of funds. (1) The provisions of this section constitute the noxious weed management program.~~

~~(2) (a) Except as provided in subsection (2)(b), money deposited in the noxious weed management trust fund may not be committed or expended until the principal reaches \$10 million.~~

~~(b) In the case of a noxious weed emergency, as provided in 80-7-815, a vote of three-fourths of the members of each house of the legislature may appropriate principal from the trust fund.~~

~~(c) Interest or revenue generated by the trust fund, excluding unrealized gains and losses, must be deposited in the noxious weed management special revenue fund and may be expended for noxious weed management projects before the principal of the noxious weed management trust reaches \$10 million with a majority vote of each house of the legislature.~~

~~(d) Any grant funds, regardless of the time at which the grant was awarded, that are not fully expended upon termination of the contract or an extension of the contract, not to exceed 1 year, must revert to the~~



1 department. The department shall deposit any reverted funds into the noxious weed management trust fund as
 2 principal:

3 ~~——— (3) The principal of the noxious weed management trust fund in excess of \$10 million may be~~
 4 ~~appropriated by a majority vote of each house of the legislature. Appropriations of the principal in excess of \$10~~
 5 ~~million may be used only to fund the noxious weed management program, including appropriations for the~~
 6 ~~purpose of prevention and control of nonnative, aquatic invasive plant species NOXIOUS WEEDS pursuant to Title~~
 7 ~~80, chapter 7, part 10.~~

8 ~~——— (4) The department may expend funds under this section through grants or contracts to communities,~~
 9 ~~weed management districts, or other entities that it considers appropriate for noxious weed management projects.~~
 10 ~~A project is eligible to receive funds only if the county in which the project occurs has funded its own weed~~
 11 ~~management program with a levy in an amount not less than 1.6 mills or an equivalent amount from another~~
 12 ~~source or by an amount of not less than \$100,000 for first-class counties, as defined in 7-1-2111.~~

13 ~~——— (5) The department may expend funds without the restrictions specified in subsection (4) for the~~
 14 ~~following:~~

15 ~~——— (a) employment of a new and innovative noxious weed management project or the development,~~
 16 ~~implementation, or demonstration of any noxious weed management project that may be proposed, implemented,~~
 17 ~~or established by local, state, or national organizations, whether public or private. The expenditures must be on~~
 18 ~~a cost-share basis with the organizations.~~

19 ~~——— (b) cost-share noxious weed management programs with local weed management districts;~~

20 ~~——— (c) special grants to local weed management districts to eradicate or contain significant noxious weeds~~
 21 ~~newly introduced into the county. These grants may be issued without matching funds from the district.~~

22 ~~——— (d) administrative expenses of the department for managing the noxious weed management program~~
 23 ~~and other provisions of this part. The cost of administering the program may not exceed 12% of the total program~~
 24 ~~expenses.~~

25 ~~——— (e) administrative expenses incurred by the noxious weed management advisory council;~~

26 ~~——— (f) a project recommended by the noxious weed management advisory council, if the department~~
 27 ~~determines that the project will significantly contribute to the management of noxious weeds within the state; and~~

28 ~~——— (g) grants to the agricultural experiment station and the cooperative extension service for crop weed~~
 29 ~~management research, evaluation, and education.~~

30 ~~——— (6) The agricultural experiment station and cooperative extension service shall submit annual reports~~

1 ~~on current projects and future plans to the noxious weed management advisory council.~~

2 ~~——— (7) In making expenditures under subsections (3) through (5), the department shall give preference to~~
3 ~~weed management districts and community groups.~~

4 ~~——— (8) If the noxious weed management trust fund is terminated by constitutional amendment, the money~~
5 ~~in the fund must be divided between all counties according to rules adopted by the department for that purpose."~~

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7 **SECTION 1. SECTION 80-7-1002, MCA, IS AMENDED TO READ:**

8 **"80-7-1002. Legislative findings and purpose.** (1) The legislature finds that:

9 (a) invasive species can wreak damage on the economy, environment, recreational opportunities, and
10 human health in Montana;

11 (b) there is reason to be concerned about the further introduction, importation, and infestation of Eurasian
12 watermilfoil (*Myriophyllum spicatum*) and the introduction, importation, and infestation of additional invasive
13 species ~~not yet present~~ in Montana, such as the zebra mussel (*Dreissena polymorpha*) and the quagga mussel
14 (*Dreissena bugensis*), that could cause catastrophic damage to not only our waterways, rivers, and lakes, our
15 water storage, delivery, and irrigation systems, our hydroelectric power structures and systems, and our aquatic
16 ecosystems, but also to the entire state economy;

17 (c) as infestations of threatening invasive species move ever closer to Montana's borders, protecting
18 Montana against these species is of utmost importance to the state economy, environment, recreational
19 opportunities, and human health for the benefit of all Montanans;

20 (d) preventing the introduction, importation, and infestation of invasive species is the most effective and
21 least costly strategy for combating invasive species that, once established, are often difficult to control or
22 eradicate;

23 (e) the use of check stations, at which ~~the exterior of vessels~~ and trailers transporting vessels may be
24 inspected for the presence of invasive species and cleaned if an invasive species is detected, is an effective way
25 to prevent the introduction, importation, and infestation of invasive species that are easily transferred from
26 infested areas to uninfested areas when proper precautions are not taken; and

27 (f) preventing the introduction, importation, and infestation of invasive species is best accomplished
28 through coordinated educational and management activities.

29 (2) The purpose of this part is to establish a mechanism for Montana to take concerted action to detect,
30 control, and manage invasive species, including preventing further introduction, importation, and infestation, by

1 educating the public about the threat of these species, coordinating public and private efforts and expertise to
 2 combat these species, and authorizing the use of check stations to prevent the intrastate movement of invasive
 3 species from infested areas to uninfested areas to protect the state's economy, environment, recreational
 4 opportunities, and human health for the benefit of all Montanans."

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6 **Section 2.** Section 80-7-1003, MCA, is amended to read:

7 **"80-7-1003. Definitions.** As used in this part, the following definitions apply:

8 (1) "Departments" means the department of agriculture, ~~and the department of fish, wildlife, and parks,~~
 9 and the department of natural resources and conservation.

10 (2) "Invasive species" means, upon the mutual agreement of the directors of the departments, ~~of~~
 11 ~~agriculture and fish, wildlife, and parks,~~ a nonnative, aquatic species that has caused, is causing, or is likely to
 12 cause harm to the economy, environment, recreational opportunities, or human health. ~~THE TERM MAY INCLUDE~~
 13 AQUATIC NOXIOUS WEEDS.

14 (3) "Invasive species management area" means a designation made by a department for a specific area;
 15 OR for a body or bodies of water, ~~or for the entire state~~ for a specific or indeterminate amount of time that
 16 regulates invasive species or potential carriers of invasive species within the boundaries of that area.

17 (4) "Person" means an individual, partnership, corporation, association, limited partnership, limited
 18 liability company, governmental subdivision, agency, or public or private organization of any character.

19 (5) "Vessel" has the meaning provided in 61-1-101."
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21 ~~Section 2.~~ Section 80-7-1005, MCA, is amended to read:

22 ~~"80-7-1005. Cooperative agreement for invasive species detection and control.~~ (1) In order to
 23 ~~implement, administer, and accomplish the purposes of this part, the departments, collectively or individually, shall~~
 24 ~~enter into a cooperative agreement with each other or may enter into an agreement with any person with the~~
 25 ~~appropriate expertise and administrative capacity to perform the obligations of the agreement.~~

26 ~~(2) Prior to entering an agreement with a person other than a department, the departments shall work~~
 27 ~~in collaboration with each other to coordinate their respective responsibilities in order to further the purposes of~~
 28 ~~this part.~~

29 ~~(3) A cooperative agreement may include provisions for funding to implement the agreement.~~

30 ~~(4) The overall coordinating authority is the department of agriculture fish, wildlife, and parks."~~

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SECTION 3. SECTION 80-7-1005, MCA, IS AMENDED TO READ:

"80-7-1005. Cooperative agreement for invasive species detection and control. (1) In order to implement, administer, and accomplish the purposes of this part, the departments, collectively or individually, shall enter into a cooperative agreement with each other or may enter into an agreement with any person with the appropriate expertise and administrative capacity to perform the obligations of the agreement.

(2) Prior to entering an agreement with a person other than a department, the departments shall work in collaboration with each other to coordinate their respective responsibilities in order to further the purposes of this part.

(3) A cooperative agreement may include provisions for funding to implement the agreement.

~~(4) The overall coordinating authority is the department of agriculture."~~

~~Section 2.~~ Section 80-7-1006, MCA, is amended to read:

~~"80-7-1006. Departmental responsibilities.~~ (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department's powers and duties as established by law.

~~(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.~~

~~(3) Working in collaboration with each other the departments of agriculture FISH, WILDLIFE, AND PARKS and natural resources and conservation, the departments, individually or collectively, department of fish, wildlife, and parks AGRICULTURE shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:~~

- ~~(a) public awareness and education;~~
- ~~(b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008;~~
- ~~(c) management, control, and restoration of infested areas; and~~
- ~~(d) emergency response.~~

~~(4) The departments shall implement education and outreach programs that increase public knowledge~~

1 and understanding of prevention, early detection, and control of invasive species:

2 ~~——— (5) Any funds appropriated from the noxious weed management trust fund pursuant to 80-7-814(3) must~~
 3 ~~be used exclusively to prevent and control the infestation or spread of nonnative, aquatic invasive plant species~~
 4 ~~NOXIOUS WEEDS pursuant to this part."~~

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6 **SECTION 4. SECTION 80-7-1006, MCA, IS AMENDED TO READ:**

7 **"80-7-1006. Departmental responsibilities.** (1) The departments shall prepare a list of invasive species
 8 and identify those departments and other public agencies with jurisdiction over each species on the list. The
 9 jurisdiction of each department for the prevention and control of invasive species is according to the department's
 10 powers and duties as established by law.

11 (2) For those invasive species under the jurisdiction of more than one department, the departments with
 12 jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

13 (3) Working in collaboration with each other, the departments, individually or collectively, shall develop
 14 and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans
 15 shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

16 (a) public awareness and education;

17 (b) prevention and detection of invasive species, including the use of invasive species management
 18 areas authorized under 80-7-1008;

19 (c) management, control, and restoration of infested areas; and

20 (d) emergency response.

21 (4) The departments may enforce quarantine regulations and measures imposed by law or rule in an
 22 invasive species management area, including the mandatory inspection of any interior portion of a vessel that
 23 may contain water for the presence of an invasive species.

24 ~~(4)(5)~~ The departments shall implement education and outreach programs that increase public
 25 knowledge and understanding of prevention, early detection, and control of invasive species."

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27 **Section 5. Section 80-7-1007, MCA, is amended to read:**

28 **"80-7-1007. Rulemaking authority.** Unless otherwise provided in Title 81, chapters 2 and 7, or this
 29 chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive
 30 species under the departments' jurisdiction, including rules for the:

- 1 (1) implementation of ~~an~~ the invasive species strategic plan adopted pursuant to 80-7-1006;
- 2 (2) transportation of an invasive species or any agent likely to be a carrier of an invasive species;
- 3 (3) designation, regulation, and treatment of an invasive species management area, including rules
- 4 pertaining to;

5 (A) THE USE OF QUARANTINE REGULATIONS AND MEASURES;

6 (B) the movement of vessels within, to, or from the area; and

7 (C) the inspection and cleaning of ~~the exterior of~~ vessels moving within, to, or from the area; and

- 8 (4) manner in which vessels, including bilges, livewells, bait containers, and other boating-related
- 9 equipment, traveling in the state must be cleaned to ensure that they are free from the presence of an invasive
- 10 species."

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12 **SECTION 6. SECTION 80-7-1008, MCA, IS AMENDED TO READ:**

13 **"80-7-1008. Invasive species management area -- authorization.** (1) When an invasive species is

14 identified as infesting or threatening an area, the department with jurisdiction over that invasive species may

15 designate and administer an invasive species management area for a specific area of land; or for a body or

16 bodies of water, ~~or for the entire state~~ for a specific or indeterminate amount of time to prevent and control the

17 infestation or spread of that invasive species.

18 (2) To the extent practicable, prior to the designation of an invasive species management area, the

19 department making the designation shall coordinate with all of the departments in order to further the purposes

20 of this part.

21 (3) The designation of an invasive species management area must specify:

22 (a) the invasive species present or considered threatening; and

23 (b) ~~(i) subject to subsection (3)(b)(ii),~~ the method or methods for preventing the introduction of the

24 species or controlling or eradicating the species, including regulations pertaining to;

25 (i) the use of quarantine measures;

26 (ii) the movement of vessels within, to, and from the area; and

27 (iii) whether check stations will be used to inspect and clean ~~the exterior of~~ vessels moving within, to, or

28 from the area. A department may conduct mandatory inspections of any interior portion of a vessel that may

29 contain water only if the department has included the use of mandatory inspections as part of quarantine

30 measures established pursuant to subsection (3)(b)(i).

1 ~~(ii) If the invasive species management area encompasses the entire state, departmental authority to~~
 2 ~~prescribe requirements for cleaning and inspecting the exterior of vessels traveling within the state is limited to~~
 3 ~~those vessels required to stop at a check station pursuant to 80-7-1011(3)(b).~~

4 (4) As far as practical, signs indicating that an invasive species management area is in place must be
 5 posted in an effective manner at access points to the designated area and along the boundaries and within the
 6 area. The signs must include information about the specific regulations that apply to the area. The signs must
 7 be paid for with funds from the invasive species account established in 80-7-1004. The departments may
 8 coordinate with any other governmental entity for the posting of signs."

9
 10 **SECTION 7. SECTION 80-7-1011, MCA, IS AMENDED TO READ:**

11 **"80-7-1011. Check stations.** (1) The departments shall establish a check station within or adjacent to
 12 an invasive species management area to prevent the introduction, importation, infestation, and spread of the
 13 invasive species for which the designation was issued.

14 (2) At a check station, the departments may examine ~~the exterior of vessels~~ and trailers transporting
 15 vessels for the presence of an invasive species and compliance with regulations imposed under 80-7-1008(3)(b)
 16 and with this section. A department may examine any interior portion of a vessel that may contain water, including
 17 bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as part of
 18 quarantine measures established pursuant to 80-7-1008(3)(b)(i).

19 (3) ~~(a) Except as provided in subsection (3)(b), the~~ The owner, operator, or person in possession of a
 20 vessel shall stop at any check station unless a medical emergency makes stopping likely to result in death or
 21 serious bodily injury.

22 ~~(b) If a check station is established under regulations pertaining to a statewide invasive species~~
 23 ~~management area, a stop at that check station is required only for a vehicle transporting a vessel, excluding~~
 24 ~~vessels that have never been used.~~

25 (4) If during an inspection of ~~the exterior of a vessel~~ or a trailer transporting a vessel the presence of an
 26 invasive species is detected ~~upon the exterior of the vessel~~, that vessel or trailer may not leave the check station
 27 until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b)."

28
 29 ~~NEW SECTION. Section 6. Appropriation from noxious weed management trust fund.~~ (1) There
 30 is appropriated to the department of agriculture \$192,000 of principal from the noxious weed management trust

1 fund established in Article IX, section 6, of the Montana constitution for the biennium beginning July 1, 2011.
 2 ~~—— (2) The appropriation may not reduce the noxious weed management trust fund principal below \$10~~
 3 ~~million.~~
 4 ~~—— (3) The appropriation must be used exclusively to prevent and control the infestation or spread of~~
 5 ~~nonnative, aquatic invasive plant species NOXIOUS WEEDS pursuant to Title 80, chapter 7, part 10.~~

6
 7 **NEW SECTION. Section 8. Appropriations from state general fund.** For the biennium beginning July
 8 1, 2011, there is appropriated:

9 (1) to the department of agriculture ~~\$208,000~~ ~~\$58,000~~ \$558,000 from the state general fund for the
 10 prevention and control of any nonnative, aquatic invasive species pursuant to Title 80, chapter 7, part 10; ~~and~~

11 (2) TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS \$150,000 FROM THE STATE GENERAL FUND FOR THE
 12 PREVENTION AND CONTROL OF ANY NONNATIVE, AQUATIC INVASIVE SPECIES PURSUANT TO TITLE 80, CHAPTER 7, PART
 13 10; AND

14 ~~(2)(3)~~ to the department of natural resources and conservation \$190,000 from the state general fund for
 15 the prevention and control of ~~Eurasian watermilfoil~~ AQUATIC NOXIOUS WEEDS pursuant to Title 80, chapter 7, part
 16 10.

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 18 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2011.

19 - END -