

SENATE BILL NO. 284

INTRODUCED BY M. LANG, P. CONNELL

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA GREATER SAGE-GROUSE STEWARDSHIP ACT; REQUIRING PROJECTS TO IMPACT HABITAT AND POPULATIONS; REQUIRING CONSIDERATION OF APPLICABLE U.S. FISH AND WILDLIFE SERVICE POLICIES; AMENDING SECTIONS 76-22-104, 76-22-110, AND 76-22-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 76-22-104, MCA, is amended to read:

**"76-22-104. Montana sage grouse oversight team -- rulemaking.** The oversight team shall adopt rules to administer the provisions of this part, including:

(1) eligibility and evaluation criteria for grants distributed pursuant to 76-22-110 for projects that maintain, enhance, restore, expand, or benefit sage grouse habitat ~~or~~ and populations, including but not limited to requirements for matching funds and in-kind contributions and consideration of the socioeconomic impacts of a proposed project on the local community. The evaluation criteria must give greater priority to proposed projects that:

- (a) involve partnerships between public and private entities;
- (b) provide matching funds;
- (c) use the habitat quantification tool adopted pursuant to subsection (2); and
- (d) maximize the amount of credits generated per dollars of funds awarded.

(2) the designation of a habitat quantification tool, ~~subject to the approval of the~~ in consideration of applicable United States fish and wildlife service sage grouse policies, state law, and any rules adopted pursuant to this part;

(3) subject to the provisions of 76-22-105(2), a method to track and maintain the number of credits attributable to projects funded pursuant to this part that are available to a project developer to purchase for compensatory mitigation to offset debits under 76-22-111;

(4) methods of compensatory mitigation available under 76-22-111;

(5) review and monitoring of projects funded pursuant to this part;



1 (6) criteria for the acceptance or rejection of grants, gifts, transfers, bequests, and donations, including  
2 interests in real or personal property; and

3 (7) guidance on management options for any real property conveyed to the state under this part,  
4 including its sale or lease."  
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6 **Section 2.** Section 76-22-110, MCA, is amended to read:

7 **"76-22-110. Grants -- eligibility.** (1) Subject to the provisions of 76-22-112, to be eligible to receive  
8 funds pursuant to this part, a proposed project must maintain, enhance, restore, expand, or benefit sage grouse  
9 habitat and populations for the heritage of Montana and its people through voluntary, incentive-based efforts,  
10 including:

- 11 (a) reduction of conifer encroachment;
- 12 (b) reduction of the spread of invasive weeds that harm sagebrush health or sage grouse habitat;
- 13 (c) maintenance, restoration, or improvement of sagebrush health or quality;
- 14 (d) purchase or acquisition of leases, term conservation easements, or permanent conservation  
15 easements that conserve or maintain sage grouse habitat, protect grazing lands, or conserve sage grouse  
16 populations;
- 17 (e) incentives to reduce the conversion of grazing land to cropland;
- 18 (f) restoration of cropland to grazing land;
- 19 (g) modification of fire management to conserve sage grouse habitat ~~or~~ and populations;
- 20 (h) demarcation of fences to reduce sage grouse collisions;
- 21 (i) reduction of unnatural perching platforms for raptors;
- 22 (j) reduction of unnatural safe havens for predators;

23 (k) TRANSLOCATION OF SAGE GROUSE TO AUGMENT OR REESTABLISH POPULATIONS IN SUITABLE BUT  
24 UNDERUTILIZED OR UNOCCUPIED HABITAT;

25 ~~(k)(L)~~ sage grouse habitat enhancement that provides project developers the ability to use improved  
26 habitat for compensatory mitigation under 76-22-111;

27 ~~(k)(M)~~ establishment of a habitat exchange to develop and market credits consistent with the purposes  
28 of this part. The habitat exchange must be authorized by the United States fish and wildlife service and must use  
29 the habitat quantification tool to quantify and calculate the value of credits and debits. Funds may be allocated  
30 to a habitat exchange:

- 1 (i) if the funds are used:
- 2 (A) to create and market credits in a manner consistent with the habitat quantification tool;
- 3 (B) for operational purposes, including monitoring the effectiveness of projects; or
- 4 (C) for costs associated with establishing the habitat exchange; and
- 5 (ii) if the habitat exchange reimburses the state for its proportionate share of proceeds generated from
- 6 the sale of credits created with funds distributed pursuant to this part. Any proceeds received by the state
- 7 pursuant to this subsection ~~(1)(I)(ii)~~ (1)(M)(II) must be deposited in the sage grouse stewardship account
- 8 established in 76-22-109 and must be used only to acquire additional credits or for operational purposes,
- 9 including monitoring the long-term effectiveness of compensatory mitigation projects.
- 10 ~~(m)(N)~~ other project proposals that the oversight team determines are consistent with the purposes of
- 11 this part.
- 12 (2) Projects proposed by grant applicants may involve land owned by multiple landowners, including
- 13 state and federal land, provided that the majority of the involved acres are privately held and that the proposed
- 14 project benefits sage grouse across all of the land included in the project.
- 15 (3) Grants may be awarded only to organizations and agencies that hold and maintain conservation
- 16 easements or leases or that are directly involved in sage grouse habitat mitigation and enhancement activities
- 17 approved by the oversight team.
- 18 (4) Grants may not be used to supplement or replace the operating budget of an agency or organization
- 19 except for budget items that directly relate to the purposes of the grant.
- 20 (5) If a grant is awarded to a proposed project that uses matching funds from a source that prohibits the
- 21 generation of credits for compensatory mitigation, the oversight team, when possible, shall allocate the credits
- 22 generated by the proposed project on a pro rata basis and make available for compensatory mitigation under
- 23 76-22-111 only those credits attributable to funds awarded pursuant to this section and any unrestricted matching
- 24 funds."

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26 **Section 3.** Section 76-22-111, MCA, is amended to read:

27 **"76-22-111. Compensatory mitigation -- findings.** (1) The legislature finds that allowing a project

28 developer to provide compensatory mitigation for the debits of a project is consistent with the purpose of

29 incentivizing voluntary conservation measures for sage grouse habitat and populations. The project developer

30 may provide compensatory mitigation by:

- 1 (a) using the habitat quantification tool to calculate the debits attributable to the project; and
- 2 (b) under a mitigation plan approved by the oversight team, offsetting those debits in whole or in part by:
- 3 (i) purchasing an equal number of credits from a habitat exchange authorized by the United States fish
- 4 and wildlife service or from the available credits tracked by the oversight team pursuant to 76-22-104. Payments
- 5 received for credits tracked by the oversight team must be deposited in the sage grouse stewardship account
- 6 established in 76-22-109.
- 7 (ii) if sufficient conservation credits are unavailable for purchase, making a financial contribution to the
- 8 sage grouse stewardship account established in 76-22-109 that is equal to the average cost of the credits that
- 9 would otherwise be required;
- 10 (iii) providing funds to establish a habitat exchange or finance a conservation project for the purpose of
- 11 creating credits to offset debits. However, the funds may not be used to subsidize mitigation by or decrease the
- 12 mitigation obligations of any party involved in the project.
- 13 (iv) undertaking other mitigation options identified and approved by the oversight team, including but not
- 14 limited to sage grouse habitat enhancement, participation in a conservation bank, or funding stand-alone
- 15 mitigation actions.
- 16 (2) All mitigation undertaken pursuant to this section must be ~~consistent with the~~ taken in consideration
- 17 of applicable United States fish and wildlife ~~service's greater sage grouse range-wide mitigation framework,~~
- 18 service sage grouse policies, state law, and any rules adopted pursuant to this part.
- 19 (3) A mitigation action taken under this section must be conducted within general habitat, core areas,
- 20 or connectivity areas."
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22 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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