_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING LAWS RELATED TO SAGE GROUSE MANAGEMENT; TRANSFERRING THE MONTANA SAGE GROUSE OVERSIGHT TEAM FROM THE GOVERNOR'S OFFICE TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; REVISING MEMBERSHIP OF THE OVERSIGHT TEAM; REVISING GRANT ELIGIBILITY UNDER THE MONTANA GREATER SAGE GROUSE ACT; REVISING LEASES AND EASEMENT REQUIREMENTS UNDER THE MONTANA GREATER SAGE GROUSE ACT; PROVIDING DEFINITIONS; AMENDING SECTIONS 2-15-243, 87-1-201, 87-5-903, 87-5-910, AND 87-5-912, MCA; AND PROVIDING AN EFFECTIVE DATE.”

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

Section 1. Section 2-15-243, MCA, is amended to read:

"**2-15-243. Montana sage grouse oversight team -- composition.** (1) There is a Montana sage grouse oversight team. The oversight team is attached to the ~~governor's office~~ department of natural resources and conservation for administrative purposes only, as prescribed in 2-15-121.

(2) The oversight team consists of:

(a) the directors or their designees of the departments of:

(i) environmental quality;

(ii) fish, wildlife, and parks;

(iii) natural resources and conservation; and

(iv) transportation;

(b) the administrator of the division of oil and gas conservation within the department of natural resources and conservation;

(c) one member of the rangeland resources committee established in 2-15-3305;

(d) one member of the senate appointed by the president of the senate;

(e) one member of the house of representatives appointed by the speaker of the house; and

(f) a designated representative of the governor. ~~The governor's designated representative is the presiding officer of the oversight team.~~

(3) The director of the department of natural resources and conservation or their designee is the presiding officer of the oversight team.

~~(3)~~ (4) The oversight team shall meet at least quarterly to fulfill the requirements of Title 87, chapter 5, part 9. Each meeting must be recorded electronically.

~~(4)~~ (5) Unless otherwise provided by law, each member is entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while performing oversight team duties."

Section 2. Section 87-1-201, MCA, is amended to read:

"**87-1-201. Powers and duties.** (1) Except as provided in subsection (13), the department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) Except as provided in subsection (13), the department shall enforce all the laws of the state regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is under the control of the department and is available for appropriation to the department.

(4) The department may discharge any appointee or employee of the department for cause at any

time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) (a) The department may not issue firearms within this state to anyone except:

(i) wardens; and

(ii) other qualified employees identified, trained, and certified by the department where necessary to perform assigned duties pursuant to subsection (7).

(b) Wardens, as authorized officers under 87-1-502, are the only department employees with the authority to enforce provisions of state law or administrative rule.

(7) (a) Department employees may be issued a firearm as allowed in subsection (6)(a)(ii) only after submitting a form of final approval as determined and approved by the department.

(b) Department-issued firearms may be carried by an employee other than a warden only when the employee is engaged in work that requires the carrying of a firearm, as determined by the department.

(c) When a department-issued firearm is no longer necessary to perform an employee's required duties, the employee shall return the issued firearm to secure storage in the regional office to which the employee is attached.

(8) Except as provided in subsection (13), the department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of chapter 2.

(9) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(10) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists

in the maintenance or recovery of those species;

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest and population objectives, request that land management agencies open public lands and public roads to public access during the big game hunting season.

(iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction.

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) Any management plan developed by the department pursuant to this subsection (10) is subject to the requirements of Title 75, chapter 1, part 1.

(d) This subsection (10) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

(11) The department shall publish an annual game count, estimating to the department's best ability the numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative regions of the state. In preparing the publication, the department may incorporate field observations, hunter reporting statistics, or any other suitable method of determining game numbers. The publication must include an explanation of the basis used in determining the game count.

(12) The department shall report current sage grouse population numbers, including the number of leks, to the Montana sage grouse oversight team~~, established in 2-15-243,~~ and the environmental quality council in accordance with 5-11-210 on an annual basis. The report must include seasonal and historic population data available from the department or any other source.

(13) The department may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons and the special muzzleloader heritage hunting season established in 87-1-304;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(14) The department shall publish an annual public report that shows the number of licenses sold to nonresidents in the previous license year for each species in which the purchase of a license or permit is required. The report must also show how many licenses were issued through opportunities or programs for nonresidents, such as those for the following:

(a) youths;

(b) college students;

(c) nonresidents who were former residents;

(d) nonresident licenses purchased by utilizing an outfitter preference point;

(e) sponsorships by a landowner, family member, or current Montana resident; or

(f) any other license opportunity or program for nonresidents.

(15) The department shall publish an annual public report that shows the data on each hunting district for elk, deer, and antelope by both resident and nonresident hunters. The report must be created using currently available data and must include:

(a) the estimated number of resident hunters, nonresident hunters, and total hunters who hunted in the district;

(b) the estimated number of days the district was hunted by resident hunters, nonresident hunters, and total hunters;

(c) the estimated average number of days that resident hunters, nonresident hunters, and total hunters used the district per hunter; and

(d) the species being hunted in the district."

Section 3. Section 87-5-903, MCA, is amended to read:

"**87-5-903. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Connectivity area" means an area that provides an important linkage among populations of sage grouse, particularly between core areas or priority populations in adjacent states and across international borders.

(2) "Conservation bank" means a site or group of sites established through an agreement with the United States fish and wildlife service to provide ecological functions and services expressed as credits that are conserved and managed for sage grouse habitat and populations and used to offset debits occurring elsewhere.

(3) "Core area" means an area that has the highest conservation value for sage grouse and has the greatest number of displaying male sage grouse and associated sage grouse habitat.

(4) "Credit" means a defined unit of trade representing the accrual or attainment of resource functions or value at a proposed project site.

(5) "Debit" means a defined unit of trade representing the loss of resource functions or value at an impact or project site. The unit of measure is the same as that for a credit within a specific mitigation system.

(6) "Department" means the department of natural resources and conservation.

(7) "Easement" means a conservation easement that is perpetual in duration.

~~(7)~~ (8) "General habitat" means an area providing habitat for sage grouse but not identified as a core area or connectivity area.

~~(8)~~ (9) "Habitat exchange" means a market-based system that facilitates the exchange of credits and debits between interested parties.

~~(9)~~ (10) "Habitat quantification tool" means the scientific method used to evaluate vegetation and environmental conditions related to the quality and quantity of sage grouse habitat and to quantify and calculate the value of credits and debits.

(11) "Lease" means a conservation lease that is for a specifically limited duration.

~~(10)~~ (12) "Oversight team" means the Montana sage grouse oversight team established in 2-15-

243.

(13) "Permitting agency" means a state agency or other instrumentality of state government that has jurisdiction to review, approve, or authorize a project developer's request for new land uses or activities in a core area, connectivity area, or general habitat area.

~~(11)~~ (14) "Project developer" means an entity proposing an action that will result in a debit.

~~(12)~~ (15) "Sage grouse" means the greater sage-grouse (Centrocercus urophasianus)."

Section 4. Section 87-5-910, MCA, is amended to read:

"**87-5-910. Grants -- eligibility.** (1) Subject to the provisions of 87-5-912, to be eligible to receive funds pursuant to this part, a proposed project must maintain, enhance, restore, expand, or benefit sage grouse habitat and populations for the heritage of Montana and its people through voluntary, incentive-based efforts, including:

(a) reduction of conifer encroachment;

(b) reduction of the spread of invasive weeds that harm sagebrush health or sage grouse habitat;

(c) maintenance, restoration, or improvement of sagebrush health or quality;

(d) ~~purchase or~~ acquisition or issuance of leases, term conservation easements, or permanent conservation easements that conserve or maintain sage grouse habitat, protect grazing lands, or conserve sage grouse populations;

(e) incentives to reduce the conversion of grazing land to cropland;

(f) restoration of cropland to grazing land;

(g) modification of fire management to conserve sage grouse habitat and populations;

(h) demarcation of fences to reduce sage grouse collisions;

(i) reduction of unnatural perching platforms for raptors;

(j) reduction of unnatural safe havens for predators;

(k) sage grouse habitat enhancement that provides project developers the ability to use improved habitat for compensatory mitigation under 87-5-911;

(l) establishment of a habitat exchange to develop and market credits consistent with the purposes of this part. The habitat exchange must be authorized by the United States fish and wildlife service

and must use the habitat quantification tool to quantify and calculate the value of credits and debits. Funds may be allocated to a habitat exchange:

(i) if the funds are used:

(A) to create and market credits in a manner consistent with the habitat quantification tool;

(B) for operational purposes, including monitoring the effectiveness of projects; or

(C) for costs associated with establishing the habitat exchange; and

(ii) if the habitat exchange reimburses the state for its proportionate share of proceeds generated from the sale of credits created with funds distributed pursuant to this part. Any proceeds received by the state pursuant to this subsection (1)(l)(ii) must be deposited in the sage grouse stewardship account established in 87-5-909 and must be used only to acquire additional credits or for operational purposes, including monitoring the long-term effectiveness of compensatory mitigation projects.

(m) other project proposals that the oversight team determines are consistent with the purposes of this part.

(2) Projects proposed by grant applicants may involve land owned by multiple landowners, including state and federal land, provided that the majority of the involved acres are privately held and that the proposed project benefits sage grouse across all of the land included in the project.

~~(3) Grants may be awarded only to organizations and agencies that hold and maintain conservation easements or leases or that are directly involved in sage grouse habitat mitigation and enhancement activities approved by the oversight team.~~

~~(4)~~ (3) Grants may not be used to supplement or replace the operating budget of an agency or organization except for budget items that directly relate to the purposes of the grant.

~~(5)~~ (4) If a grant is awarded to a proposed project that uses matching funds from a source that prohibits the generation of credits for compensatory mitigation, the oversight team, when possible, shall allocate the credits generated by the proposed project on a pro rata basis and make available for compensatory mitigation under 87-5-911 only those credits attributable to funds awarded pursuant to this section and any unrestricted matching funds."

Section 5. Section 87-5-912, MCA, is amended to read:

"**87-5-912. Leases and conservation easements.** A lease or conservation easement selected to receive funds pursuant to this part binds the parties involved to an agreement. If funds are paid to a party for the acquisition of a lease or easement, ~~in which~~ the state is a third-party beneficiary to the lease or easement with the contingent right to enforce the terms of the lease or easement if the grantee fails to do so. The agreement must provide that the lease or easement may not be transferred for value, sold, or extinguished without consent of the department. The state may take legal action to enforce the terms of the lease or easement or to recover from the proceeds of the transfer for value, sale, or extinguishment the state's pro rata share of the proceeds based on the funds the state provided pursuant to this part for the creation of the lease or easement."

NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2027.

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