

House Bill 2401

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates excise tax on wild bird feed. Directs 50 percent of revenues from tax to Greater Sage Grouse Conservation Fund and 50 percent of revenues to Wild Bird Conservation Fund. Applies tax to wild bird feed distributed for retail sale on or after January 1, 2016, and before January 1, 2023.

Establishes Greater Sage Grouse Conservation Fund. Continuously appropriates moneys in fund to State Department of Fish and Wildlife for greater sage grouse conservation purposes. Establishes Greater Sage Grouse Conservation Fund Oversight Committee. Directs committee to make recommendations to department for use of moneys in Greater Sage Grouse Conservation Fund. Sunsets fund and committee on July 1, 2023.

Establishes Wild Bird Conservation Fund. Continuously appropriates moneys in fund to State Department of Fish and Wildlife for nongame wild bird conservation. Establishes Wild Bird Conservation Fund Oversight Committee. Directs committee to make recommendations to department for use of moneys in Wild Bird Conservation Fund.

Makes provisions for establishing committees operative on January 1, 2017.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to wild bird conservation; creating new provisions; and prescribing an effective date.

3 Whereas populations of approximately one in four wild bird species in Oregon have experienced
4 or are currently experiencing significant population declines; and

5 Whereas some of Oregon's most iconic species, such as Oregon's state bird, the western
6 meadowlark, are species of conservation concern; and

7 Whereas a number of other iconic species, including the greater sage grouse, streaked horned
8 lark, western burrowing owl, bobolink, tufted puffin, Lewis's woodpecker, Oregon vesper sparrow
9 and western bluebird, are of conservation concern or are threatened with extirpation; and

10 Whereas wildlife observation, including bird viewing, benefits Oregon residents, attracts visitors
11 to this state and adds over \$1 billion per year to Oregon's economy; and

12 Whereas continued declines in wild bird species can have significant negative impacts on
13 Oregon's wildlife heritage as well as Oregon's economic and community vitality through increased
14 regulatory impacts as well as loss of recreational and other opportunities; and

15 Whereas the health of Oregon's rangelands and the pending federal decision on whether to list
16 the greater sage grouse under the Endangered Species Act are urgent matters of relevance to
17 Oregon's social, economic, and environmental future; and

18 Whereas conservation and restoration of wild bird species and their habitats is necessary to
19 preserve the diversity and productivity of natural systems, ensure local community and economic
20 health, and provide a broad range of economic and recreational opportunities, including wild bird
21 viewing; now, therefore,

22 **Be It Enacted by the People of the State of Oregon:**

23 **SECTION 1. Sections 2 to 5, 7, 8, 10 and 11 of this 2015 Act shall be known and may be**
24 **cited as the Wild Bird Conservation Act.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

WILD BIRD FEED EXCISE TAX

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SECTION 2. As used in sections 2 to 6 of this 2015 Act:

(1) “Initial distributor” means a person who first distributes a commercial feed in or into the State of Oregon.

(2) “Wild bird feed” has the meaning given that term in ORS 633.006.

SECTION 3. (1) Except as provided in subsection (2) of this section, an excise tax at the rate of five cents per pound shall be imposed on wild bird feed distributed in or into this state, to be paid to the State Department of Agriculture by the initial distributor.

(2) A person other than the initial distributor may assume liability for the tax imposed under this section.

(3) This section does not apply to wild bird feed that is used as an ingredient in the manufacture of commercial feed that is registered with the department under ORS 633.015.

(4) The department shall establish by rule procedures for collecting the tax imposed under this section.

SECTION 4. (1) Each initial distributor subject to the tax imposed under section 3 of this 2015 Act shall:

(a) No later than the last day of January each year, provide the State Department of Agriculture with an annual statement specifying the number of pounds of wild bird feed that the initial distributor distributed in Oregon during the preceding calendar year and pay to the department the tax imposed under section 3 of this 2015 Act.

(b) Maintain records relating to the initial distributor’s determination of the number of pounds described in paragraph (a) of this subsection for examination by the department for the purpose of verifying the number of pounds of wild bird feed distributed by the initial distributor in Oregon.

(2) The department may not disclose records of an initial distributor obtained by the department pursuant to subsection (1) of this section.

(3)(a) The department may collect a penalty for a delinquent payment of the tax imposed under section 3 of this 2015 Act if an initial distributor has failed to make full payment before the 60th day after the payment is due. All penalties collected under this paragraph shall be deposited into the Wild Bird Conservation Fund established under section 10 of this 2015 Act.

(b) An initial distributor shall continue to owe to the department any unpaid tax imposed under section 3 of this 2015 Act and any unpaid penalty under paragraph (a) of this subsection. Before taking any action or procedures against a person owing the tax, the department shall forward a written notice to the person, by certified mail at the last known address of the person as shown on the records of the department, advising of the amount owing. The notice shall give the person 20 days from the mailing date to pay the amount owing or to present written or oral information or argument as to why the person believes the tax is not owing. If, after such period, the department is of the opinion that the tax is owing, the department may initiate actions or procedures to collect the amount due.

SECTION 5. After the payment of administrative and enforcement expenses, the balance of moneys received by the State Department of Agriculture under sections 2 to 4 of this 2015 Act shall be transferred as follows:

(1) Fifty percent to the Greater Sage Grouse Conservation Fund established under section 7 of this 2015 Act.

1 (2) Fifty percent to the Wild Bird Conservation Fund established under section 10 of this
2 2015 Act.

3 **SECTION 6.** Sections 2 to 5 of this 2015 Act apply to wild bird feed distributed for retail
4 sale on or after January 1, 2016, and before January 1, 2023.

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6 **GREATER SAGE GROUSE CONSERVATION FUND AND OVERSIGHT COMMITTEE**
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8 **SECTION 7.** (1) The Greater Sage Grouse Conservation Fund is established in the State
9 Treasury, separate and distinct from the General Fund. Interest earned by the Greater Sage
10 Grouse Conservation Fund shall be credited to the fund. Moneys in the fund are continuously
11 appropriated to the State Department of Fish and Wildlife.

12 (2) The department may accept contributions of funds and assistance from the United
13 States Government and its agencies, or from any other source, public or private, and agree
14 to conditions thereon not inconsistent with the purposes of the fund.

15 (3) Moneys in the fund may be used only for the following purposes:

16 (a) Providing for the voluntary fee simple acquisition of priority greater sage grouse
17 habitat in order to protect, manage and restore ecosystem conditions that benefit greater
18 sage grouse populations;

19 (b) Purchasing conservation easements or other less than fee simple property interests,
20 including leases, from private persons interested in selling such property interests for the
21 purpose of protecting, managing and restoring habitat conditions that benefit greater sage
22 grouse populations;

23 (c) Engaging in habitat restoration efforts in priority greater sage grouse habitat, in-
24 cluding but not limited to efforts to promote the resiliency of priority greater sage grouse
25 habitats to wildfire and invasive species;

26 (d) Engaging in activities that generate advance mitigation credits, the revenue from the
27 sale of which shall be deposited in the fund; and

28 (e) Supporting or engaging in research, monitoring and evaluation activities as necessary
29 to evaluate the effectiveness of actions taken under paragraphs (a) to (d) of this subsection.

30 (4) Activities funded under this section must be consistent with:

31 (a) The "Oregon Conservation Strategy" adopted by the State Fish and Wildlife Com-
32 mission and published by the State Department of Fish and Wildlife in 2006 or any pursuant
33 strategy or rule adopted by the State Fish and Wildlife Commission relating to the conser-
34 vation of the greater sage grouse; or

35 (b) The Resource Management Plan adopted by the United States Department of the In-
36 terior Bureau of Land Management relating to Greater Sage-Grouse in the Oregon Sub-
37 Region.

38 **SECTION 8.** (1) The Greater Sage Grouse Conservation Fund Oversight Committee is
39 established for the purpose of making recommendations to the State Fish and Wildlife
40 Commission for the implementation of greater sage grouse conservation efforts and provid-
41 ing evaluation reports to the Legislative Assembly.

42 (2) The committee will consist of seven members appointed by the State Fish and Wildlife
43 Director as follows:

44 (a) Two members that are landowners within, or otherwise represent the interests of,
45 soil and water conservation districts engaged in greater sage grouse conservation work in

1 counties where priority greater sage grouse habitat exists;

2 (b) Two members to represent conservation organizations with an interest in greater
3 sage grouse conservation; and

4 (c) Three members with applied scientific or management expertise in greater sage
5 grouse habitat, rangeland health and sagebrush ecosystem conservation.

6 (3) Members of the committee are not entitled to compensation, but in the discretion of
7 the commission, may be reimbursed from funds available to the commission for actual and
8 necessary travel and other expenses incurred by them in the performance of their official
9 duties in the manner and amounts provided for in ORS 292.495.

10 (4) The committee shall provide advice and recommendations on:

11 (a) Project opportunities for the conservation of greater sage grouse that are consistent
12 with the uses authorized under section 7 of this 2015 Act for moneys in the Greater Sage
13 Grouse Conservation Fund;

14 (b) Integrated, multispecies conservation efforts consistent with the “Oregon Conserva-
15 tion Strategy” adopted by the State Fish and Wildlife Commission and published by the State
16 Department of Fish and Wildlife in 2006 that will promote ecological conditions that benefit
17 greater sage grouse and other wild bird species that depend on the same ecosystem;

18 (c) Collaborative greater sage grouse conservation efforts with local communities, busi-
19 nesses, landowners, other government agencies and nonprofit organizations;

20 (d) Engagements with new, diverse and underserved audiences in greater sage grouse
21 conservation efforts; and

22 (e) Matching fund opportunities for projects recommended under this section.

23 (5) The committee shall also ensure the monitoring and evaluation of the effectiveness
24 of projects and actions implemented under this section and section 7 of this 2015 Act and the
25 implementation of the “Oregon Conservation Strategy” in relation to the conservation of the
26 greater sage grouse and greater sage grouse habitat.

27 (6) The State Fish and Wildlife Commission shall review and may approve or disapprove
28 the recommendations of the committee. The State Department of Fish and Wildlife may
29 expend moneys from the Greater Sage Grouse Conservation Fund to carry out the recom-
30 mendations that have been approved by the commission.

31 (7) The committee shall meet at least twice annually.

32 (8) The department and the committee shall jointly submit a biennial report to an interim
33 committee of the Legislative Assembly related to agriculture and natural resources on or
34 before September 15 of each odd-numbered year regarding implementation of the recom-
35 mendations made under this section.

36 **SECTION 9.** (1) Sections 7 and 8 of this 2015 Act are repealed on July 1, 2023.

37 (2) Any balance in the Greater Sage Grouse Conservation Fund that is unexpended and
38 unobligated on the date of the repeal of section 7 of this 2015 Act, and all moneys that would
39 have been deposited in the Greater Sage Grouse Conservation Fund had section 7 of this 2015
40 Act remained in effect, shall be transferred to and deposited in the Wild Bird Conservation
41 Fund established under section 10 of this 2015 Act, and are appropriated for expenditure as
42 in the case of other moneys deposited in the fund.

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44 **OREGON WILD BIRD CONSERVATION FUND AND OVERSIGHT COMMITTEE**
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1 **SECTION 10.** (1) The Wild Bird Conservation Fund is established in the State Treasury,
 2 separate and distinct from the General Fund. Interest earned by the Wild Bird Conservation
 3 Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the
 4 State Department of Fish and Wildlife.

5 (2) The fund shall consist of all moneys placed in the fund as provided by law and any
 6 gifts, grants, donations, endowments or bequests from any public or private source. The
 7 State Department of Fish and Wildlife may seek out and receive any gifts, grants, donations,
 8 endowments or bequests for the purposes of the fund.

9 (3) Moneys in the fund must be used only for the following purposes:

10 (a) Funding wild bird conservation programs and projects that are:

11 (A) Consistent with ORS 496.390;

12 (B) Related to wild birds in urban, rural and wild landscapes and that may include but
 13 not be limited to programs and projects for habitat restoration, outreach, provision of edu-
 14 cational materials, and research and monitoring of priority wild bird species; and

15 (C) Consistent with the “Oregon Conservation Strategy” adopted by the State Fish and
 16 Wildlife Commission and published by the State Department of Fish and Wildlife in 2006.

17 (b) Engaging new and diverse collaborators in wild bird conservation efforts.

18 (c) Prioritizing actions and collaborative partnerships under the “Oregon Conservation
 19 Strategy” to improve ecosystems by reducing survival hazards and threats to wild bird spe-
 20 cies associated with those ecosystems, with the goal of maintaining or increasing wild bird
 21 species populations and thereby preventing their decline.

22 (d) Establishing and maintaining up to one full-time equivalent avian conservation coor-
 23 dinator position within the State Department of Fish and Wildlife to coordinate the use of
 24 the various funds available to the department and the programs, projects or activities
 25 undertaken or staffed by the department for the purpose of wild bird conservation.

26 **SECTION 11.** (1) The Oregon Wild Bird Conservation Fund Oversight Committee is es-
 27 tablished for the purposes of:

28 (a) Making recommendations to the State Fish and Wildlife Commission for the State
 29 Department of Fish and Wildlife’s expenditure of funds deposited in the Wild Bird Conser-
 30 vation Fund; and

31 (b) Providing evaluation reports to the Legislative Assembly.

32 (2) The committee shall consist of seven members appointed by the State Fish and
 33 Wildlife Director and shall be selected to represent Oregon’s geographic diversity from both
 34 urban and rural communities. Specific areas of expertise that will be represented include
 35 nongame avian conservation, habitat management, environmental justice and recreation on
 36 urban, rural and wild lands.

37 (3) Members of the committee are not entitled to compensation, but in the discretion of
 38 the commission, may be reimbursed from funds available to the commission for actual and
 39 necessary travel and other expenses incurred by them in the performance of their official
 40 duties in the manner and amounts provided for in ORS 292.495.

41 (4) The committee shall:

42 (a) Provide advice and recommendations on project opportunities consistent with the
 43 “Oregon Conservation Strategy” adopted by the State Fish and Wildlife Commission and
 44 published by the State Department of Fish and Wildlife in 2006 and with the uses authorized
 45 under section 10 of this 2015 Act for moneys in the Oregon Wild Bird Conservation Fund;

