HOUSE BILL NO. 462

INTRODUCED BY M. BERTOGLIO AND J. FITZPATRICK

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING THE DISTRIBUTION OF MARIJUANA TAXES; CREATING A MARIJUANA ADMINISTRATION STATE SPECIAL REVENUE ACCOUNT FOR THE DEPARTMENT OF REVENUE; CREATING A STATE SPECIAL REVENUE ACCOUNT FOR THE BENEFIT OF THE DEPARTMENT OF CORRECTIONS; CREATING A STATE SPECIAL REVENUE ACCOUNT FOR THE BENEFIT OF THE DEPARTMENT OF JUSTICE; AUTHORIZING THE DEPARTMENT OF REVENUE TO SPEND APPROPRIATED LOCAL OPTION MARIJUANA TAX REVENUE; REVISING THE ALLOCATION OF THE MARIJUANA STATE SPECIAL REVENUE ACCOUNT; CREATING A STATUTORY APPROPRIATION; AMENDING SECTIONS 16-12-111, 16-12-310, 17-1-508, AND 17-7-502, MCA; AMENDING SECTION 117, CHAPTER 576, LAWS OF 2021; AND PROVIDING EFFECTIVE DATES.”

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

NEW SECTION. **Section 1. Marijuana administration state special revenue account -- use -- statutory appropriation.** (1) There is a special revenue account within the state special revenue fund established in 17-2-102. Money in the account is statutorily appropriated, as provided in 17-7-502, to the department of revenue and may only be used to administer the local-option marijuana excise tax pursuant to 16-12-309 through 16-12-312 and 16-12-317.

(2) There must be deposited in the account money received from tax revenue pursuant to 16-12-310(3)(c).

NEW SECTION. **Section 2. Correctional officer state special revenue account.** (1) There is a correctional officer account in the state special revenue fund to be administered by the department of corrections. The account consists of revenue deposited pursuant to 16-12-111.

(2) The account must be used for recruitment and retention efforts for correctional officers.

NEW SECTION. **Section 3. Marijuana distribution account.** (1) There is a marijuana distribution account in the state special revenue fund to be administered by the department of justice. The account consists of revenue deposited pursuant to 16-12-111.

(2) The account may be used for:

(a) program enhancements in combatting crime, to include human trafficking, investigations, narcotics, and the associated legal casework;

(b) additional resources to support the Montana highway patrol; and

(c) public safety grant programs funded at the board of crime control and associated administration of criminal justice programs.

(3) The department of justice may use up to 10% of the annual appropriation into the account for the purposes of subsection (2)(c).

Section 4. 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; and

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

~~(e)~~(d) 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~~ as follows:

(a) ~~an amount not to exceed $6 million must be transferred~~ 11% 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;~~

(b) 6% to the marijuana distribution state special revenue account provided for in [section 3];

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

~~(iii)~~(d) 4% to the trails and recreational facilities account established in 23-2-108;

~~(iv)~~(e) 4% to the nongame wildlife account established in 87-5-121;

~~(v)~~(f) ~~3% or $200,000, whichever is less,~~ 5% to the veterans and surviving spouses state special revenue account provided for in 10-2-108;

~~(vi) for the biennium beginning July 1, 2021, $300,000 to the department of justice to administer grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug detection canines and canine handlers, including canines owned by local law enforcement agencies to replace canines who were trained to detect marijuana;~~

~~(vii)~~(g) ~~$150,000~~ 0.2% to the board of crime control to fund crisis intervention team training as provided in 44-7-110; ~~and~~

(h) 1.5% to the correctional officer state special revenue account provided for in [section 2];

(i) 1.5% to the treatment court support account provided for in 46-1-1115; and

~~(viii)~~(j) the remainder to the general fund. ~~(Subsection (4)(b)(vi) terminates June 30, 2025--sec. 117(2), Ch. 576, L. 2021.)~~"

Section 5. Section 16-12-310, MCA, is amended to read:

"**16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax.** (1) The rate of the local-option marijuana excise tax must be established by the election petition or resolution provided for in 16-12-311, and the rate may not exceed 3%.

(2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary within a county.

(3) If a county imposes a local-option marijuana excise tax:

(a) 50% of the resulting tax revenue must be retained by the county;

(b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of the city or town to the total county population; and

(c) the remaining 5% of the resulting tax revenue ~~must be retained by~~ is allocated to the department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the department under this subsection (3)(c) must be deposited into the marijuana administration state special revenue account established under ~~16-12-111~~ [section 1].

(4) For the purposes of this section, "tax revenue" means the combined taxes collected under any local-option marijuana excise tax collected on retail sales within the county."

Section 6. Section 17-1-508, MCA, is amended to read:

"**17-1-508. Review of statutory appropriations.** (1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. Except as provided in [76-17-103,] 77-1-108, ~~and~~ 87-5-909, and [section 1], a statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A proposed or existing statutory appropriation may not be considered appropriate if:

(a) the money is from a continuing, reliable, and estimable source;

(b) the use of the appropriation or the expenditure occurrence is predictable and reliable;

(c) the authority exists elsewhere;

(d) an alternative appropriation method is available, practical, or effective;

(e) it appropriates state general fund money for purposes other than paying for emergency services;

(f) the money is used for general purposes;

(g) the legislature wishes to review expenditure and appropriation levels each biennium; and

(h) an expenditure cap and sunset date are excluded.

(3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation. (Bracketed language in subsection (2) terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

Section 7. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; [section 1], 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-

102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch, 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

Section 8. Section 117, Chapter 576, Laws of 2021, is amended to read:

"**Section 117. Termination.** (1) [Section 38(15)(b)(ii)] terminates October 1, 2023. After October 1, 2023, a hoop house is not an indoor cultivation facility.

(2) [Section 46(4)(b)(vi)] terminates June 30, ~~2025~~ 2023."

NEW SECTION. **Section 9. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 16, chapter 12, part 1, and the provisions of Title 16, chapter 12, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 53, chapter 1, part 1, and the provisions of Title 53, chapter 1, part 1, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 44, chapter 4, and the provisions of Title 44, chapter 4, apply to [section 3].

NEW SECTION. **Section 10. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2023.

(2) [Sections 1, 6, and 7] and this section are effective on passage and approval.

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