

HOUSE BILL NO. 621

INTRODUCED BY J. WINDY BOY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DISTRIBUTION OF RECREATIONAL MARIJUANA REVENUE AND PROVIDING TRIBAL GOVERNMENT ALLOCATIONS; REVISING THE ALLOCATION OF TAX REVENUE FROM MARIJUANA SALES; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR PROPORTIONAL DISTRIBUTION GRANTS TO TRIBAL GOVERNMENTS FOR PUBLIC PURPOSES; PROVIDING A STATUTORY APPROPRIATION TO THE DEPARTMENT OF REVENUE; AMENDING SECTIONS 16-12-101, 16-12-111, 16-12-401, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. State-tribal marijuana revenue sharing account -- legislative findings and purpose. (1) The legislature finds that the purpose of revenue sharing with tribal governments in [section 2] is as follows:

(a) As set forth in 25 U.S.C. 1602, it is the policy of the United States, in fulfillment of its special trust responsibilities and legal obligations to American Indians to:

(i) ensure the highest possible health status for American Indians and to provide all resources necessary to effect that policy;

(ii) raise the health status of American Indians to at least the levels set forth in the goals contained within the healthy people 2020 initiative or successor objectives; and

(iii) ensure tribal self-determination and maximum participation by American Indians in the direction of health care services to render the persons administering these services and the services themselves more responsive to the needs and desires of tribes and American Indian communities.

(b) According to the department of public health and human services, American Indians in the state experience health disparities that include premature mortality due to limited access to adequate health care and various chronic diseases.

(c) Tribes are best positioned to deliver culturally relevant, trauma-informed care to their tribal citizens.

(2) The legislature, therefore, intends to:

(a) work toward fulfillment of the state's unique relationships and shared respect between sovereign governments, through supporting the improved health outcomes of American Indians and preserving the cultural integrity of American Indians, as articulated in Article X, section 1, of the Montana constitution; and

(b) establish the state-tribal marijuana revenue sharing account to provide tribal governments with quarterly distribution grants that allow for the following purposes to be delivered in a culturally competent manner:

(i) ensuring that marijuana is controlled based on state law;

(ii) protecting the health and safety of the people within the exterior boundaries of a reservation from drug and alcohol abuse, including substance abuse education;

(iii) fire and police protection;

(iv) emergency-related or disaster-related expenses; and

(v) Indian health services or tribal health services.

NEW SECTION. Section 2. State-tribal marijuana revenue sharing account. (1) There is a state-tribal marijuana revenue sharing account in the state special revenue fund. The account receives tax revenue from marijuana sales taxes collected under the provisions of [sections 1 and 2] that are allocated pursuant to 16-12-111. The money in the account may be used only as provided in this section. The legislative findings and purpose of the account are provided for in [section 1].

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department for grants to Montana tribal governments.

(3) The money in the account must be allocated on a proportional basis for distribution grants to the:

(a) Assiniboine and Sioux tribes of the Fort Peck reservation;

(b) Blackfeet tribe;

(c) Chippewa Cree Indians of the Rocky Boy's reservation;

(d) Confederated Salish and Kootenai tribes;

(e) Crow tribe;

(f) Fort Belknap Indian community of the Fort Belknap reservation;

(g) Northern Cheyenne tribe; and

(h) Little Shell Chippewa tribe.

(4) The department shall provide distribution grants to the tribal governments on a quarterly basis.

The tribal governments in subsection (3) shall use the distribution grants for the following public purposes:

(a) ensuring that marijuana is controlled based on state law;

(b) protecting the health and safety of the people within the exterior boundaries of a reservation from drug and alcohol abuse, including substance abuse education;

(c) fire and police protection;

(d) emergency-related or disaster-related expenses; and

(e) Indian health services or tribal health services.

(5) The tribal governments in subsection (3) shall submit documentation to the department on at least a quarterly basis substantiating how the grant money in this section was expended.

(6) For the purposes of this section, "proportional basis" means a distribution of revenue to each tribal government in subsection (3) based on the population of enrolled tribal members that results in the same amount of money being distributed for each enrolled tribal member of all the tribal governments.

Section 3. Section 16-12-101, MCA, is amended to read:

"16-12-101. (Effective October 1, 2021) Short title -- purpose. (1) This chapter may be cited as the "Montana Marijuana Regulation and Taxation Act".

(2) The purpose of this chapter is to:

(a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of age or older;

(b) provide for the licensure and regulation of commercial cultivation, manufacture, production, distribution, and sale of marijuana and marijuana-infused products;

(c) allow for limited cultivation, manufacture, delivery, and possession of marijuana as permitted by this chapter;

- 1 (d) eliminate the illicit market for marijuana and marijuana-infused products;
2 (e) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age;
3 (f) ensure the safety of marijuana and marijuana-infused products;
4 (g) ensure the security of registered premises and adult-use dispensaries;
5 (h) establish reporting requirements for adult-use providers and adult-use marijuana-infused products
6 providers;
7 (i) establish inspection requirements for registered premises, including data collection on energy use,
8 chemical use, water use, and packaging waste to ensure a clean and healthy environment;
9 (j) provide for the testing of marijuana by licensed testing laboratories;
10 (k) give local governments a role in establishing standards for the cultivation, manufacture, and sale
11 of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;
12 (l) tax the sale of marijuana and marijuana-infused products to generate revenue for the state and
13 provide compensation for the economic and social costs of past and current marijuana cultivation, processing,
14 and use, by directing funding to:
15 (i) conservation programs to offset the use of water and soil in marijuana cultivation;
16 (ii) substance abuse treatment and prevention programs;
17 (iii) veterans' services and support;
18 (iv) health care;
19 (v) localities where marijuana is sold; and
20 (vi) tribal governments; and
21 ~~(vi)~~(vii) the state general fund;
22 (m) authorize courts to resentence persons who are currently serving sentences for acts that are
23 permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge
24 those offenses from the criminal records of persons who have completed their sentences as set forth in this
25 chapter."
26

27 **Section 4.** Section 16-12-111, MCA, is amended to read:

28 **"16-12-111. (Effective October 1, 2021) Marijuana compensation special revenue account. (1)**

1 There is a dedicated marijuana compensation state special revenue account within the state special revenue
2 fund established in 17-2-102, to be administered by the department.

3 (2) Marijuana sales taxes collected under the provisions of part 4 of this chapter must, in accordance
4 with the provisions of 17-2-124, be deposited into the account along with any interest and income earned on the
5 account.

6 (3) Funds deposited into the account must be transferred in the following amounts to provide funding
7 as set out below:

8 (a) ~~4.125%~~ 3.425% of the funds to be deposited into the nongame wildlife account established in 87-
9 5-121;

10 (b) ~~4.125%~~ 3.425% of the funds to be deposited into the state park account established in 23-1-
11 105(1);

12 (c) ~~4.125%~~ 3.425% of the funds to be deposited into the trails and recreational facilities account
13 established in 23-2-108;

14 (d) ~~37.125%~~ 30.825% of the funds to be deposited to the credit of the department of fish, wildlife, and
15 parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-
16 242(3) and used pursuant to 87-1-209;

17 ~~(e)~~ 8.4% to the state-tribal marijuana revenue sharing account provided in [section 2]:

18 ~~(e)(f)~~ 10.5% to the state general fund; and

19 ~~(f)(g)~~ the remainder in the subaccounts provided for in this subsection ~~(3)(f)~~ (3)(g). There are
20 subaccounts in the marijuana compensation special revenue account established by subsection (1). Funding
21 deposited into this account under subsection (2) is further deposited into subaccounts to be used only as
22 follows:

23 (i) 10% of the funds to be deposited into a subaccount to be administered by the department of public
24 health and human services to provide grants to existing agencies and not-for-profit organizations, whether
25 government or community-based, to increase access to evidence-based low-barrier drug addiction treatment,
26 prioritizing medically proven treatment and overdose prevention and reversal methods and public or private
27 treatment options with an emphasis on reintegrating recipients into their local communities, to support overdose
28 prevention education, and to support job placement, housing, and counseling for those with substance use

1 disorders;

2 (ii) 10% of the funds to be deposited into a subaccount to be administered by the department of
3 commerce for distribution to the local government representing the locality where the retail sales occurred;

4 (iii) 10% of the funds to be deposited into a subaccount to be administered by the veterans' affairs
5 division of the department of military affairs to provide services and assistance for all Montana veterans and
6 surviving spouses and dependents; and

7 (iv) 10% of the funds to be deposited into a subaccount to be administered by the Montana department
8 of public health and human services to administer medicaid rate increases that provide for a wage increase to
9 health care workers who provide direct medicaid-funded home and community health services for elderly and
10 disabled persons.

11 (4) (a) Funds transferred from the accounts and subaccounts provided in subsection (3) may be used
12 only to increase revenue for the purposes specified and may not be used to supplant other sources of revenue
13 used for these purposes.

14 (b) Funds deposited into the account provided in subsection (1) may be used only to increase
15 revenue to each special revenue account or subaccount set forth in subsection (3) and may not be used to
16 supplant other sources of revenue for these purposes."

17

18 **Section 5.** Section 16-12-401, MCA, is amended to read:

19 **"16-12-401. (Effective October 1, 2021) Tax on marijuana sales.** (1) A tax on the purchase of
20 marijuana and marijuana-infused products for consumption, use, or any purpose other than for use for a
21 debilitating medical condition as provided in Title 50, chapter 46, part 3, or for resale in the regular course of
22 business under the provisions of this chapter is imposed on the purchaser and must be collected at the time of
23 the sale and paid by the seller to the department for deposit in the marijuana compensation state special
24 revenue account provided for in 16-12-111. The tax is imposed at a rate of 20% of the retail price.

25 (2) Adult-use marijuana providers and adult-use marijuana-infused products providers shall submit
26 quarterly reports to the department listing the total dollar amount of sales to consumers from any registered
27 premises, as defined in 16-12-102, operated by the adult-use marijuana providers or adult-use marijuana-
28 infused products providers, including dispensaries. The report must be:

1 (a) made on forms prescribed by the department; and

2 (b) submitted within 15 days of the end of each calendar quarter.

3 (3) At the time the report is filed, the licensee shall submit a payment equal to the percentage
4 provided in subsection (1) of the total dollar amount of sales.

5 (4) The department shall deposit the taxes paid under this section in the dedicated marijuana
6 compensation state special revenue account established in 16-12-111 within the state special revenue fund
7 established in 17-2-102.

8 (5) The tax imposed by this part and related interest and penalties are a personal debt of the person
9 required to file a return from the time that the liability arises, regardless of when the time for payment of the
10 liability occurs.

11 (6) For the purpose of determining liability for the filing of statements and the payment of taxes,
12 penalties, and interest owed under 16-12-402 through 16-12-405:

13 (a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state
14 taxes provided for in 16-12-402 through 16-12-405 and who fails to pay the taxes is liable to the state for the
15 taxes and the penalty and interest due on the amounts;

16 (b) each officer of the corporation, to the extent that the officer has access to the requisite records, is
17 individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest
18 upon a determination that the officer:

19 (i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

20 (ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the
21 payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to
22 file statements required by this part or pay taxes due as required by this part;

23 (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any
24 statements, taxes, penalties, and interest due while a partner;

25 (d) each member of a limited liability company that is treated as a partnership or as a corporation for
26 income tax purposes is jointly and severally liable, along with the limited liability company, for any statements,
27 taxes, penalties, and interest due while a member;

28 (e) the member of a single-member limited liability company that is disregarded for income tax

purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

(f) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(7) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (6)(a) to establish individual liability and may consider any other available information.

(8) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the entity.

(9) The tax levied pursuant to this section is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which must continue to be collected and distributed as provided by law.

(10) The tax levied under this section must be used, as designated in 16-12-111, for purposes that provide compensation for the economic and social costs of past and current marijuana cultivation, processing, and use, including funding of conservation programs to offset the use of water and soil in marijuana cultivation, funding to offset costs of provisions of health care associated with prior uses and health impacts of unregulated marijuana, funding for substance abuse treatment and prevention, funding of veterans' programs to offset prior uses of unregulated marijuana in ways that harmed veterans, funding to localities where marijuana is sold to offset the costs associated with marijuana regulation, state grants to tribal governments for a public purpose, and funding for the general fund to account for any costs to the state from marijuana use and regulation."

Section 6. 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:

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

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

4 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-
5 407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;
6 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108;
7 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;
8 [section 2]; 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-
9 404; 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-
10 21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-
11 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-
12 113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-
13 113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-
14 1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-
15 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-
16 526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

17 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
18 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
19 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
20 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
21 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
22 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
23 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
24 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
25 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
26 benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion
27 of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115
28 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on

1 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
2 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates
3 December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023;
4 pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to
5 sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L.
6 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the
7 inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017,
8 the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-
9 103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates
10 September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029;
11 pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027;
12 pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5,
13 Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

14
15 **NEW SECTION. Section 7. Notification to tribal governments.** The secretary of state shall send a
16 copy of [this act] to each federally recognized tribal government in Montana.

17
18 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 and 2] are intended to be codified
19 as an integral part of Title 16, chapter 12, part 4, and the provisions of Title 16, chapter 12, part 4, apply to
20 [sections 1 and 2].

21
22 **NEW SECTION. Section 9. Effective date.** [This act] is effective October 1, 2021.

23 - END -