

HOUSE BILL NO. 423

INTRODUCED BY T. BELCOURT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT LEGALIZING BLACKJACK; DEDICATING PART OF THE REVENUE
5 DERIVED FROM PERMITTING FEES TO FUND CERTAIN SOCIAL SERVICE PROGRAMS ADMINISTERED
6 BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; CREATING AN ACCOUNT IN THE
7 SPECIAL REVENUE FUND; STATUTORILY APPROPRIATING MONEY IN THE ACCOUNT TO THE
8 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; REQUIRING THE ADOPTION OF
9 ADMINISTRATIVE RULES; AND AMENDING SECTIONS 17-7-502, 23-5-110, 23-5-112, 23-5-306, AND
10 23-5-311, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. **Section 1. State special revenue account for blackjack permit fees -- statutory**
15 **appropriation -- department to adopt rules for apportionment of fees.** (1) There is an account in the state
16 special revenue fund provided for in 17-2-102 for the deposit of fees collected by the department of justice as
17 provided in 23-5-115 and 23-5-306 from a permit fee for live card game tables at which blackjack is played.
18 Money in the account is statutorily appropriated, as provided in 17-7-502, to the department of public health and
19 human services for the purposes of the account as provided in this section.

20 (2) In addition to money deposited in the account pursuant to 23-5-306 and subsection (1) of this section,
21 money may also be deposited in the account from gifts, grants, and other sources received for the purpose of
22 the account and the programs provided for in subsection (3).

23 (3) Money in the account may be used by the department only for the purposes of providing additional
24 funding for the following programs administered by the department:

- 25 (a) suicide prevention, as provided for in 53-21-1101;
- 26 (b) services for the disabled, as provided for in Title 53, chapter 19;
- 27 (c) services for the seriously mentally ill, as provided for in Title 53, chapter 21;
- 28 (d) services for the prevention of abuse of elderly persons and persons with developmental disabilities
29 provided pursuant to Title 52, chapter 3, part 8;
- 30 (e) long-term care services, as provided for in Title 52, chapter 3, part 6;

- 1 (f) home and community-based long-term care services, as provided in Title 53, chapter 6, part 4;
 2 (g) child foster care services; and
 3 (h) services for the prevention of domestic violence, as authorized in 52-6-103, including the operation
 4 of shelters for victims of domestic violence as provided for in 52-6-104.

5 (4) The department shall adopt rules to equitably divide money in the account among the programs and
 6 services listed in subsection (3) and rules to otherwise administer this section.

7 (5) Money in the account must be invested as provided in Title 17, chapter 6, and interest and earnings
 8 on the account must be retained within the account for use as provided in this section. The department may use
 9 up to 5% of the money in the account to pay the actual and necessary expenses of administering this section.

10
 11 **NEW SECTION. Section 2. Maximum blackjack bet.** A person may not knowingly or purposely place
 12 and a licensed dealer may not knowingly or purposely accept a bet that is larger than \$25 in a game of blackjack.
 13 A person violating this section shall be punished as provided in 23-5-161.

14
 15 **Section 3.** Section 17-7-502, MCA, is amended to read:

16 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 17 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 18 need for a biennial legislative appropriation or budget amendment.

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

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

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

24 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
 25 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
 26 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
 27 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
 28 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
 29 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;
 30 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101;

1 44-12-206; 44-13-102; 50-4-623; 53-1-109; [section 1]; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
2 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518;
3 81-10-103; 82-11-161; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and
4 90-9-306.

5 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
6 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
7 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
8 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
9 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
10 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
11 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
12 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
13 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
14 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
15 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
16 supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113
17 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30,
18 2013; and pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019.)"

19

20 **Section 4.** Section 23-5-110, MCA, is amended to read:

21 **"23-5-110. Public policy of state concerning gambling.** (1) The legislature finds that for the purpose
22 of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy
23 regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

24 (a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and
25 others that the gambling industry in this state is fair and is not influenced by corrupt persons, organizations, or
26 practices;

27 (b) protect legal public gambling activities from unscrupulous players and vendors and detrimental
28 influences;

29 (c) protect the public from unscrupulous proprietors and operators of gambling establishments, games,
30 and devices;

1 (d) protect the state and local governments from those who would conduct illegal gambling activities that
2 deprive those governments of their tax revenues;

3 (e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble,
4 by regulating gambling activities; ~~and~~

5 (f) dedicate a portion of the money received from certain types of gambling for the care of unfortunate
6 and disabled persons; and

7 ~~(f)~~(g) promote programs necessary to provide assistance to those who are adversely affected by
8 legalized gambling, including compulsive gamblers and their families.

9 (2) The legislature adopts the policy that an applicant for a license or permit or other department approval
10 under parts 1 through 8 of this chapter does not have a right to the issuance of a license or permit or the granting
11 of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant
12 to the provisions of parts 1 through 8 of this chapter is a privilege revocable only for good cause. A holder does
13 not acquire a vested right in the license or permit issued or other department approval granted. A license or
14 permit issued under parts 1 through 8 of this chapter may not be sold, assigned, leased, or transferred.

15 (3) Revenue to fund the expense of administration and control of gambling as regulated by parts 1
16 through 8 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities, except the
17 gambling activities of the Montana state lottery and the parimutuel industry."
18

19 **Section 5.** Section 23-5-112, MCA, is amended to read:

20 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to parts
21 1 through 8 of this chapter:

22 (1) "Applicant" means a person who has applied for a license or permit issued by the department
23 pursuant to parts 1 through 8 of this chapter.

24 (2) "Application" means a written request for a license or permit issued by the department. The
25 department shall adopt rules describing the forms and information required for issuance of a license.

26 (3) "Associated gambling business" means a person who provides a service or product to a licensed
27 gambling business and who:

28 (a) has a reason to possess or maintain control over gambling devices;

29 (b) has access to proprietary information or gambling tax information; or

30 (c) is a party in processing gambling transactions.

1 (4) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected
2 by the department and that randomly selects the numbers.

3 (5) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns.
4 The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. More than 75
5 numbers may not be used. One or more numbers may appear in each square, except for the center square,
6 which may be considered a free play. Numbers must be randomly drawn using authorized equipment until the
7 game is won by the person or persons who first cover one or more previously designated arrangements of
8 numbers on the bingo card.

9 (6) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces
10 the order of the numbers drawn in live bingo.

11 (7) "Card game table" or "table" means a live card game table:

12 (a) authorized by permit and made available to the public on the premises of a licensed gambling
13 operator; or

14 (b) operated by a senior citizen center.

15 (8) "Card game tournament" means a gambling activity for which a permit has been issued involving
16 participants who pay valuable consideration for the opportunity to compete against each other in a series of live
17 card games conducted over a designated period of time.

18 (9) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

19 (10) "Department" means the department of justice.

20 (11) "Distributor" means a person who:

21 (a) purchases or obtains from a licensed manufacturer, distributor, or route operator equipment of any
22 kind for use in gambling activities; and

23 (b) sells the equipment to a licensed distributor, route operator, or operator.

24 (12) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property, or
25 other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling
26 device or gambling enterprise.

27 (b) The term does not mean conducting or participating in a promotional game of chance and does not
28 include amusement games regulated by Title 23, chapter 6, part 1.

29 (c) The term does not include social card games played solely for prizes of minimal value, defined as
30 class I gaming by 25 U.S.C. 2703.

1 (13) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot
2 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling
3 activity.

4 (14) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme,
5 or agreement to provide gambling or a gambling device to the public.

6 (15) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property to
7 be awarded by purchasing or agreeing to purchase goods or services.

8 (b) The term does not mean:

9 (i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural
10 fairs and rodeo associations may give away at public drawings at fairs and rodeos;

11 (ii) a promotional game of chance; or

12 (iii) an amusement game regulated under Title 23, chapter 6.

13 (16) "Gross proceeds" means gross revenue received less prizes paid out.

14 (17) "House player" means a person participating in a card game who has a financial relationship with
15 the operator, card room contractor, or dealer or who has received money or chips from the operator, card room
16 contractor, or dealer to participate in a card game.

17 (18) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the
18 rules of the department. The term includes:

19 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match
20 numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip
21 board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, or under part 5 of this
22 chapter or in a promotional game of chance approved by the department; and

23 (b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in
24 conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps
25 table, or slot machine, except as provided in 23-5-153.

26 (19) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically
27 authorized by a statute or a rule of the department. The term includes:

28 (a) a card game, by whatever name known, involving any bank or fund from which a participant may win
29 money or other consideration and that receives money or other consideration lost by the participant and includes
30 the card games of ~~blackjack, twenty-one,~~ jacks or better, baccarat, or chemin de fer;

1 (b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of
2 one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;

3 (c) sports betting, by whatever name known, in which a person places a wager on the outcome of an
4 athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities
5 authorized in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

6 (d) credit gambling; and

7 (e) internet gambling.

8 (20) (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of any
9 legal or illegal gambling enterprise through the use of communications technology that allows a person using
10 money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards, or any other
11 instrumentality to transmit to a computer information to assist in the placing of a bet or wager and corresponding
12 information related to the display of the game, game outcomes, or other similar information.

13 (b) The term does not include the operation of a simulcast facility or advance deposit wagering with a
14 licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, or the state lottery provided for
15 in Title 23, chapter 7. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes
16 and with administrative regulations of the national Indian gaming commission, the term does not include class
17 II gaming or class III gaming as defined by 25 U.S.C. 2703.

18 (21) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows
19 and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall
20 select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

21 (22) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces
22 the order of the numbers drawn in live keno.

23 (23) "License" means a license for an operator, dealer, card room contractor, manufacturer of devices
24 not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other
25 manufacturer, distributor, or route operator that is issued to a person by the department.

26 (24) "Licensee" means a person who has received a license from the department.

27 (25) "Live card game" or "card game" means a card game that is played in public between persons on
28 the premises of a licensed gambling operator or in a senior citizen center.

29 (26) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property
30 among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property

1 or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that
2 it is to be distributed or disposed of by lot or chance.

3 (b) The term does not mean lotteries authorized under Title 23, chapter 7.

4 (27) "Manufacturer" means a person who:

5 (a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment
6 of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route
7 operator, or operator; or

8 (b) possesses gambling devices or components of gambling devices for the purpose of testing them.

9 (28) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic,
10 educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established to support
11 charitable activities, scholarships or educational grants, or community service projects.

12 (29) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and
13 operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through
14 8 of this chapter.

15 (30) "Permit" means approval from the department to make available for public play a gambling device
16 or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

17 (31) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations,
18 associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

19 (32) "Premises" means the physical building or property within or upon which a licensed gambling activity
20 occurs, as stated on an operator's license application and approved by the department.

21 (33) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or
22 distribution of property among persons who have not paid or are not expected to pay any valuable consideration
23 or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the
24 property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling
25 enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the
26 department that was manufactured or intended for use for purposes other than gambling.

27 (34) "Public gambling" means gambling conducted in:

28 (a) a place, building, or conveyance to which the public has access or may be permitted to have access;

29 (b) a place of public resort, including but not limited to a facility owned, managed, or operated by a
30 partnership, corporation, association, club, fraternal order, or society, including a religious or charitable

1 organization; or

2 (c) a place, building, or conveyance to which the public does not have access if players are publicly
3 solicited or the gambling activity is conducted in a predominantly commercial manner.

4 (35) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to
5 become eligible to win a prize. Winners must be determined by a random selection process approved by
6 department rule.

7 (36) "Route operator" means a person who:

8 (a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind for use
9 in a gambling activity;

10 (b) leases the equipment to a licensed operator for use by the public; and

11 (c) may sell to a licensed operator equipment that had previously been authorized to be operated on a
12 premises.

13 (37) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that
14 provides services to senior citizens in the form of daytime or evening educational or recreational activities and
15 does not provide living accommodations to senior citizens. Services qualifying under this definition must be
16 recognized in the state plan on aging adopted by the department of public health and human services.

17 (38) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance,
18 or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any
19 valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the
20 skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or
21 operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether
22 the payoff is made automatically from the machine or in any other manner.

23 (b) This definition does not apply to video gambling machines authorized under part 6 of this chapter.

24 (39) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and
25 the rules of the department."

26

27 **Section 6.** Section 23-5-306, MCA, is amended to read:

28 **"23-5-306. Live card game table -- permit -- fees -- disposition of fees.** (1) (a) A person who has
29 been granted an operator's license under 23-5-177 and who holds an appropriate license to sell alcoholic
30 beverages for consumption on the premises, as provided in 23-5-119, may be granted an annual permit for the

1 placement of live card game tables.

2 (b) A permit is not required for social games played for prizes of minimal value, defined as class I gaming
3 by 25 U.S.C. 2703.

4 (c) The department may issue an annual permit for the placement of live card game tables to a person
5 operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

6 (i) one or more live card game tables were legally operated on the premises on January 15, 1989;

7 (ii) the premises were licensed on January 15, 1989, to sell food, cigarettes, or any other consumable
8 product;

9 (iii) the person has been granted an operator's license under 23-5-177; and

10 (iv) at the time of application for the permit:

11 (A) the person has continuously operated a live card game table on the premises since January 15,
12 1989; and

13 (B) the natural person or persons who own the business operated on the premises are the same as on
14 January 15, 1989.

15 (2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's
16 premises may not be prorated and must be:

17 (a) \$250 for the first table; ~~and~~

18 (b) \$500 for each additional table; and

19 (c) regardless of whether an annual permit fee for a table has already been paid pursuant to this
20 subsection (2), an additional \$500 for each table at which blackjack may be played.

21 (3) The department shall retain for administrative purposes \$100 of the fee collected under this part for
22 each live card game table.

23 (4) (a) The Except as provided in subsection (4)(b), the department shall forward on a quarterly basis
24 the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance
25 officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or
26 municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in
27 incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated
28 to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

29 (b) The department shall forward on a quarterly basis the fee collected under subsection (2)(c) for the
30 licensure of each live card game table at which blackjack is played to the state treasurer for deposit in the

1 account established by [section 1]."

2

3 **Section 7.** Section 23-5-311, MCA, is amended to read:

4 **"23-5-311. Authorized card games.** (1) The card games authorized by this part are and are limited to
5 the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, blackjack,
6 and whist.

7 (2) A person may conduct or participate in a live card game or make a live card game table available for
8 public play of a live card game only if it is specifically authorized by this part and described by department rules.

9 (3) This part does not apply to games simulated on electronic video gambling machines authorized under
10 part 6 of this chapter."

11

12 NEW SECTION. **Section 8. Notification to tribal governments.** The secretary of state shall send a
13 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
14 Chippewa tribe.

15

16 NEW SECTION. **Section 9. Codification instruction.** (1) [Section 1] is intended to be codified as an
17 integral part of Title 53, chapter 2, part 1, and the provisions of Title 53, chapter 2, part 1, apply to [section 1].

18 (2) [Section 2] is intended to be codified as an integral part of Title 23, chapter 5, part 1, and the
19 provisions of Title 23, chapter 5, part 1, apply to [section 2].

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- END -