

HOUSE BILL NO. 842

INTRODUCED BY S. KERNS, S. GIST, G. NIKOLAKAKOS, B. MITCHELL, G. PARRY, B. BARKER, R.

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ALLOCATION OF MARIJUANA TAX REVENUE FOR PSYCHIATRIC OPPORTUNITY ZONES; PROVIDING FOR PSYCHIATRIC OPPORTUNITY ZONES; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DESIGNATE PSYCHIATRIC OPPORTUNITY ZONES AND TO EVALUATE EXISTING AND POTENTIAL INCENTIVES FOR INCREASING MENTAL HEALTH SERVICES IN THE OPPORTUNITY ZONES; ALLOWING LOCAL GOVERNMENT INCENTIVES FOR MENTAL HEALTH PROFESSIONALS PRACTICING IN A PSYCHIATRIC OPPORTUNITY ZONE; PROVIDING AN INCOME TAX CREDIT FOR MENTAL HEALTH PROFESSIONALS PRACTICING IN A PSYCHIATRIC OPPORTUNITY ZONE; REQUIRING THE COLLECTION AND MAPPING OF MENTAL HEALTH WORKFORCE DATA BY THE DEPARTMENT OF LABOR AND INDUSTRY; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING A DEFINITION; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-30-2303, 16-12-111, 37-1-101, 53-21-1001, AND 53-21-1002, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Mental health professional workforce -- data collection and

mapping. (1) The department shall, through its licensing boards, compile the following data related to mental health professionals practicing in this state:

- (a) name;
 - (b) location and type of practice;
 - (c) license type; and
 - (d) whether the person is currently in practice.
- (2) Information must be collected on individuals licensed or certified under chapters 3, 8, 17, 20,

22, 23, 35, and 37 who practice specifically in a field involving mental health or substance use disorder

1 treatment.

2 (3) The department shall:

3 (a) make data collected pursuant to this section available to researchers and employers for use in
4 workforce planning; and

5 (b) create an interactive online map, using a geographic information system as defined in 90-1-
6 403, to display data related to actively practicing mental health professionals.

7 (4) The department shall collect and integrate into the map developed pursuant to subsection
8 (3)(b) other available information related to mental health needs, mental health professional shortage areas,
9 and mental health employers to assist in developing workforce development strategies to address shortages of
10 mental health care professionals licensed or certified by the department.

11

12 **Section 2.** Section 15-30-2303, MCA, is amended to read:

13 **"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits
14 must be reviewed during the biennium commencing July 1, 2019, and during each biennium commencing 10
15 years thereafter:

16 (a) the credit for contractor's gross receipts provided for in 15-50-207; and

17 (b) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

18 (2) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and
19 during each biennium commencing 10 years thereafter:

20 (a) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-
21 30-3110, and 15-31-158; ~~and~~

22 (b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-
23 30-3111, and 15-31-159; and

24 (c) the psychiatric opportunity zone tax credit provided for in [section 9].

25 (3) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and
26 during each biennium commencing 10 years thereafter:

27 (a) the credit for infrastructure use fees provided for in 17-6-316;

28 (b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-

1 2329, 15-31-161, and 15-31-162; and

2 (c) the credit for property to recycle or manufacture using recycled material provided for in Title 15,
3 chapter 32, part 6.

4 (4) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and
5 during each biennium commencing 10 years thereafter:

6 (a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

7 (b) the credit for unlocking state lands provided for in 15-30-2380;

8 (c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and

9 (d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174.

10 (5) The following tax credits must be reviewed during the biennium commencing July 1, 2027, and
11 during each biennium commencing 10 years thereafter:

12 (a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357
13 and 15-31-173;

14 (b) the earned income tax credit provided for in 15-30-2318; and

15 (c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

16 (6) The revenue interim committee shall review the tax credits scheduled for review and make
17 recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about
18 whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date
19 or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or
20 terminate.

21 (7) The revenue interim committee shall review the credits using the following criteria:

22 (a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions
23 that may have been made regardless of the existence of the tax credit;

24 (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

25 (c) whether the credit has out-of-state beneficiaries;

26 (d) the timing of costs and benefits of the credit and how long the credit is effective;

27 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
28 elimination outweigh adverse impacts; and

1 (f) the extent to which benefits of the credit affect the larger economy. (Subsection (4)(d)
2 terminates December 31, 2026--sec. 7, Ch. 248, L. 2021; subsection (4)(c) terminates December 31, 2028--
3 sec. 24(1), Ch. 550, L. 2021.)"

4

5 **Section 3.** Section 16-12-111, MCA, is amended to read:

6 **"16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess**

7 **funds.** (1) There is a dedicated marijuana state special revenue account within the state special revenue fund
8 established in 17-2-102, to be administered by the department.

9 (2) The account consists of:

10 (a) money deposited into the account pursuant to this chapter;

11 (b) the taxes collected pursuant to Title 15, chapter 64, part 1;

12 (c) license and registered cardholder fees deposited into the account pursuant to this chapter;

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

14 (e) civil penalties collected under this chapter.

15 (3) Except as provided in subsection (4), money in the account must be used by the department
16 for the purpose of administering the provisions of this chapter.

17 (4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month
18 operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following
19 order:

20 (a) an amount not to exceed \$6 million must be transferred to the healing and ending addiction
21 through recovery and treatment (HEART) account established in 16-12-122;

22 (b) the net balance remaining after distribution to the HEART account must be distributed as
23 follows:

24 (i) 20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for
25 wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209;

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

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

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

- 1 (v) 3% or \$200,000, whichever is less, to the veterans and surviving spouses state special
 2 revenue account provided for in 10-2-108;
- 3 (vi) up to 1% for the psychiatric opportunity zone tax credit program established in [section 9];
 4 ~~(vi)(vii)~~ for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer
 5 grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug
 6 detection canines and canine handlers, including canines owned by local law enforcement agencies to replace
 7 canines who were trained to detect marijuana;
- 8 ~~(vii)(viii)~~ \$150,000 to the board of crime control to fund crisis intervention team training as provided in
 9 44-7-110; and
- 10 ~~(viii)(ix)~~ the remainder to the general fund. ~~(Subsection (4)(b)(vi) terminates June 30, 2025--sec.~~
 11 ~~117(2), Ch. 576, L. 2021.)~~
- 12 (5) For the allocation of subsection (4)(b)(vi), the department shall transfer an amount equal to the
 13 credits claimed in a tax year to the general fund by October 1 of the following tax year. (Subsection (4)(b)(vii)
 14 terminates June 30, 2025--sec. 117(2), Ch. 576, L. 2021.)"

15

16 **Section 4.** Section 37-1-101, MCA, is amended to read:

17 **"37-1-101. Duties of department.** In addition to the provisions of 2-15-121, the department shall:

- 18 (1) establish and provide all the administrative, legal, and clerical services needed by the boards
 19 within the department, including corresponding, receiving and processing routine applications for licenses as
 20 defined by a board, issuing and renewing routine licenses as defined by a board, disciplining licensees, setting
 21 administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board
 22 meetings and hearings, and filing. In issuing routine licenses for a board, the department shall issue a license
 23 within 45 days from the time of receiving a completed application or, within 10 calendar days, provide notice
 24 and response timelines to the applicant of deficiencies in the application or provide information as to any
 25 exigent circumstances that may delay issuing a license. For nonroutine licenses, the department shall confer
 26 with the board to which the licensure application is made and provide an expected timeline to an applicant for
 27 issuing a license, including notifying the applicant from that time forward of any deviations from the expected
 28 timeline.

- 1 (2) standardize policies and procedures and keep in Helena all official records of the boards;
- 2 (3) make arrangements and provide facilities in Helena for all meetings, hearings, and
- 3 examinations of each board or elsewhere in the state if requested by the board;
- 4 (4) contract for or administer and grade examinations required by each board;
- 5 (5) investigate complaints received by the department of illegal or unethical conduct of a member
- 6 of the profession or occupation under the jurisdiction of a board or a program within the department;
- 7 (6) assess the costs of the department to the boards and programs on an equitable basis as
- 8 determined by the department;
- 9 (7) collect and display the data required under [section 1];
- 10 ~~(7)~~(8) adopt rules setting administrative fees and expiration, renewal, and termination dates for
- 11 licenses;
- 12 ~~(8)~~(9) issue a notice to and pursue an action against a licensed individual, as a party, before the
- 13 licensed individual's board after a finding of reasonable cause by a screening panel of the board pursuant to
- 14 37-1-307(1)(d);
- 15 ~~(9)~~(10) (a) provide notice to the board and to the appropriate legislative interim committee when a
- 16 board cannot operate in a cost-effective manner;
- 17 (b) suspend all duties under this title related to the board except for services related to renewal of
- 18 licenses;
- 19 (c) review the need for a board and make recommendations to the legislative interim committee
- 20 with monitoring responsibility for the boards for legislation revising the board's operations to achieve fiscal
- 21 solvency; and
- 22 (d) notwithstanding 2-15-121, recover the costs by one-time charges against all licensees of the
- 23 board after providing notice and meeting the requirements under the Montana Administrative Procedure Act;
- 24 ~~(10)~~(11) monitor a board's cash balances to ensure that the balances do not exceed two times the
- 25 board's annual appropriation level and adjust fees through administrative rules when necessary. [This
- 26 subsection does not apply to the board of public accountants, except that the department may monitor the
- 27 board's cash balances.]
- 28 ~~(11)~~(12) establish policies and procedures to set fees for administrative services, as provided in 37-1-

1 134, commensurate with the cost of the services provided. Late penalty fees may be set without being
2 commensurate with the cost of services provided.

3 ~~(42)~~(13) adopt uniform rules for all boards and department programs to comply with the public notice
4 requirements of 37-1-311 and 37-1-405. The rules may require the posting of only the licensee's name and the
5 fact that a hearing is being held when the information is being posted on a publicly available website prior to a
6 decision leading to a suspension or revocation of a license or other final decision of a board or the department.
7 (Bracketed language terminates September 30, 2023--sec. 5, Ch. 50, L. 2019.)"

8

9 **Section 5.** Section 53-21-1001, MCA, is amended to read:

10 **"53-21-1001. Definitions.** As used in this part, the following definitions apply:

11 (1) "Community mental health center" means a licensed mental health center that provides
12 comprehensive public mental health services in a multicounty region under contract with the department,
13 counties, or one or more service area authorities.

14 (2) "Licensed mental health center" means an entity licensed by the department of public health
15 and human services to provide mental health services and has the same meaning as mental health center as
16 defined in 50-5-101.

17 (3) "Psychiatric opportunity zone" means a defined geographic area that:

18 (a) meets the criteria established in [section 8]; and

19 (b) is established to increase the availability of mental health services in the geographic area.

20 ~~(3)~~(4) "Service area" means a region of the state as defined by the department by rule within which
21 mental health services are administered.

22 ~~(4)~~(5) "Service area authority" means an entity, as provided for in 53-21-1006, that has incorporated
23 to collaborate with the department for the planning and oversight of mental health services within a service
24 area."

25

26 **Section 6.** Section 53-21-1002, MCA, is amended to read:

27 **"53-21-1002. Duties of department.** The department:

28 (1) shall take cognizance of matters affecting the mental health of the citizens of the state;

1 (2) shall initiate mental health care and treatment, prevention, and research as can best be
2 accomplished by community-centered services. The department shall initiate and operate services in
3 cooperation with local agencies, service area authorities, mental health professionals, and other entities
4 providing services to persons with mental illness.

5 (3) shall specifically address:

6 (a) provider contracting;

7 (b) service planning;

8 (c) preadmission screening and discharge planning;

9 (d) quality management;

10 (e) utilization management and review;

11 (f) consumer and family education; and

12 (g) rights protection;

13 (4) shall collect and disseminate information relating to mental health;

14 (5) shall prepare and maintain a comprehensive plan to develop public mental health services in
15 the state and to establish service areas;

16 (6) must receive from agencies of the United States and other state agencies, persons or groups
17 of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials,
18 and contributions for the development of mental health services within the state;

19 (7) shall establish qualified provider certification standards by rule, which may include
20 requirements for national accreditation for mental health programs that receive funds from the department;

21 (8) shall perform an annual review and evaluation of mental health needs and services within the
22 state by region and evaluate the performance of programs that receive funds from the department for
23 compliance with federal and state standards;

24 (9) shall identify and designate psychiatric opportunity zones as provided in [section 7]:

25 (10) shall evaluate opportunities for using incentives to increase the number of mental health
26 professionals in rural and underserved areas of the state. The evaluation must include:

27 (a) identification of existing federal, state, and local incentives;

28 (b) assessment of the effectiveness of the incentives; and

1 (c) a determination of the types of incentives that may increase availability of and access to mental
2 health services;

3 ~~(9)~~(11) shall coordinate state and community resources to ensure comprehensive delivery of services
4 to children with emotional disturbances, as provided in Title 52, chapter 2, part 3; and

5 ~~(10)~~(12) shall coordinate the establishment of service area authorities, as provided in 53-21-1006, to
6 collaborate with the department in the planning and oversight of mental health services in a service area."
7

8 **NEW SECTION. Section 7. Psychiatric opportunity zones -- designation -- reporting**

9 **requirement.** (1) No later than June 30 of each even-numbered year, the department shall designate specific
10 communities, counties, or other geographic areas as psychiatric opportunity zones. The designation must be
11 based on factors that include but are not limited to:

12 (a) whether a community, county, or geographic area is located in a part of the state that has been
13 determined by the health resources and services administration of the United States department of health and
14 human services to be a mental health professional shortage area;

15 (b) the number of attempted and completed suicides during the past 2 years in the community,
16 county, or geographic area; and

17 (c) the unmet need for mental health services in the community, county, or geographic area.

18 Indications of unmet need include but are not limited to:

19 (i) the number of individuals detained in a city or county jail because community mental health
20 treatment was unavailable;

21 (ii) the number of community, county, or geographic area residents transported to the Montana
22 state hospital for an emergency or court-ordered detention; and

23 (iii) the distance that residents must travel to obtain the services of a mental health professional.

24 (2) Mental health professionals practicing in a psychiatric opportunity zone are eligible for:

25 (a) any local incentives offered pursuant to [section 8]; and

26 (b) the psychiatric opportunity zone tax credit provided for in [section 9].

27 (3) The department shall evaluate the list of psychiatric opportunity zones every 2 years to
28 determine whether a community, county, or geographic area must be:

1 (a) added to the list because it meets the requirements of subsection (1); or

2 (b) removed from the list because sufficient mental health services exist to meet the needs of the
3 community, county, or geographic area.

4 (4) The department shall, in accordance with 5-11-210, report to the children, families, health, and
5 human services interim committee no later than August 30 each interim on:

6 (a) the activities it has undertaken pursuant to 53-21-1002(10);

7 (b) the number and location of designated psychiatric opportunity zones;

8 (c) any state and local incentives, other than the income tax credit provided for in [section 9],
9 offered in psychiatric opportunity zones as a means of increasing the number of mental health professionals in
10 those areas; and

11 (d) the results of the incentives offered in psychiatric opportunity zones, including but not limited to
12 changes in the number of mental health professionals practicing in the zones, the number of attempted and
13 completed suicides, and efforts undertaken to divert people with mental illness from the criminal justice system.

14

15 **NEW SECTION. Section 8. Psychiatric opportunity zone incentives.** (1) The governing body of a
16 city, town, or county in an area designated as a psychiatric opportunity zone pursuant to [section 7] may offer
17 incentives as determined appropriate by the local government to obtain and retain the services of mental health
18 professionals in the city, town, or county.

19 (2) The incentives may be made available only to the following mental health professionals:

20 (a) a physician licensed under Title 37, chapter 3;

21 (b) a professional counselor licensed under Title 37, chapter 23;

22 (c) a psychologist licensed under Title 37, chapter 17;

23 (d) a social worker licensed under Title 37, chapter 22;

24 (e) a marriage and family therapist licensed under Title 37, chapter 37;

25 (f) an advanced practice registered nurse, as provided in 37-8-102, with a clinical specialty in
26 psychiatric mental health nursing; or

27 (g) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric
28 mental health.

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NEW SECTION. Section 9. Psychiatric opportunity zone tax credit -- limitation. (1) An individual taxpayer who is a mental health professional holding a license as specified in this section is allowed a credit against taxes otherwise due under this chapter if, during the tax year, the individual actively practiced in the mental health field in a psychiatric opportunity zone as defined in 53-21-1001.

(2) The tax credit may not exceed \$5,000 in a tax year.

(3) If the amount of the credit exceeds the taxpayer's income tax liability, the amount of the excess may not be refunded to the taxpayer. The credit may not be claimed if the taxpayer has no tax liability.

(4) The following mental health professionals may claim the tax credit:

- (a) a physician licensed under Title 37, chapter 3;
- (b) a professional counselor licensed under Title 37, chapter 23;
- (c) a psychologist licensed under Title 37, chapter 17;
- (d) a social worker licensed under Title 37, chapter 22;
- (e) a marriage and family therapist licensed under Title 37, chapter 37;
- (f) an advanced practice registered nurse, as provided for in 37-8-102, with a clinical specialty in psychiatric mental health nursing; or
- (g) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric mental health.

(5) A taxpayer may claim the tax credit for every tax year the taxpayer remains in a psychiatric opportunity zone and practices an occupation listed in subsection (4).

NEW SECTION. Section 10. Appropriation. There is appropriated \$2,000 from the general fund to the department of labor and industry in each year of the biennium beginning July 1, 2023, for the purposes of collecting and displaying information related to the mental health workforce as required under [section 1].

NEW SECTION. Section 11. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 37, chapter 2, part 3, and the provisions of Title 37, chapter 2, part 3, apply to [section 1].

1 (2) [Sections 7 and 8] are intended to be codified as an integral part of Title 53, chapter 21, part
2 10, and the provisions of Title 53, chapter 21, part 10, apply to [sections 7 and 8].

3 (3) [Section 9] is intended to be codified as an integral part of Title 15, chapter 30, part 23, and the
4 provisions of Title 15, chapter 30, part 23, apply to [section 9].

5
6 **NEW SECTION. Section 12. Effective dates.** (1) Except as provided in subsection (2), [this act] is
7 effective July 1, 2023.

8 (2) [Sections 2 and 9] are effective January 1, 2024.

9

10 **NEW SECTION. Section 13. Applicability.** [Section 9] applies to tax years beginning after
11 December 31, 2023.

12 - END -