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SENATE BILL NO. 538

INTRODUCED BY C. FRIEDEL, E. BUTTREY, D. ZOLNIKOV, D. BARTEL, J. SMALL, M. HOPKINS, J. ELLSWORTH, J. KASSMIER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; CREATING A MARIJUANA ADMINISTRATION STATE SPECIAL REVENUE ACCOUNT FOR THE DEPARTMENT OF REVENUE; CREATING A HABITAT LEGACY ACCOUNT FOR THE BENEFIT OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; 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; REVISING THE MONTANA WILDLIFE HABITAT IMPROVEMENT ACT; CREATING STATUTORY APPROPRIATIONS; ADDING A FEE FOR DISPENSARIES FOR DRUG EDUCATION PROGRAMS; INCREASING THE PENALTY FOR FRAUDULENT REPRESENTATION; ALLOWING A LAW ENFORCEMENT OFFICIAL TO SEIZE MARIJUANA AND MARIJUANA PRODUCTS IN CERTAIN CASES; AMENDING SECTIONS 16-12-111, 16-12-224, AND 16-12-302, 16-12-310, 17-1-508, 17-7-502, AND 87-5-806, MCA; AND PROVIDING AN A DELAYED EFFECTIVE DATE 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).

1 NEW SECTION. SECTION 2. HABITAT LEGACY ACCOUNT. (1) THERE IS A HABITAT LEGACY ACCOUNT IN THE  
2 STATE SPECIAL REVENUE FUND ESTABLISHED IN 17-2-102. ALL FUNDS RECEIVED PURSUANT TO 16-12-111 ARE  
3 STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, AND MUST BE DEPOSITED IN THE ACCOUNT AND TRANSFERRED  
4 TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS.

5 (2) AT THE END OF EACH FISCAL YEAR, 75% OF THE FUNDS RECEIVED PURSUANT TO 16-12-111 MUST BE  
6 TRANSFERRED AND USED SOLELY AS FUNDING FOR WILDLIFE HABITAT IN THE SAME MANNER AS FUNDING UNDER 87-1-  
7 242(3) AND USED PURSUANT TO 87-1-209.

8 (3) IF, AT THE END OF ANY FISCAL YEAR, THE UNOBLIGATED CASH BALANCE IN THE ACCOUNT SET UP TO  
9 ADMINISTER FUNDING UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-209 EQUALS OR EXCEEDS \$50 MILLION,  
10 ADJUSTED ANNUALLY FOR INFLATION, THE TRANSFER MAY NOT BE MADE.

11 (4) IF, AT THE END OF ANY FISCAL YEAR, THE UNOBLIGATED CASH BALANCE IN THE ACCOUNT SET UP TO  
12 ADMINISTER FUNDING UNDER 87-1-242(3) AND USED PURSUANT TO 87-1-209 IS LESS THAN \$50 MILLION, ADJUSTED  
13 ANNUALLY FOR INFLATION, THEN AN AMOUNT LESS THAN OR EQUAL TO THE DIFFERENCE BETWEEN THE UNOBLIGATED  
14 CASH BALANCE AND \$50 MILLION, ADJUSTED ANNUALLY FOR INFLATION, BUT NOT TO EXCEED 75% OF THE TAXES  
15 RECEIVED PURSUANT TO 16-12-111, MUST BE TRANSFERRED TO THE ACCOUNT SET UP TO ADMINISTER FUNDING UNDER  
16 87-1-242(3) AND USED PURSUANT TO 87-1-209.

17 (5) THE INFLATION ADJUSTMENTS MADE UNDER THIS SECTION MUST BE BASED ON ANY CHANGE TO THE  
18 CONSUMER PRICE INDEX FROM THE PREVIOUS YEAR. THE CONSUMER PRICE INDEX TO BE USED FOR CALCULATIONS IS  
19 THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U).

20 (6) TWENTY-FIVE PERCENT, AND ANY AMOUNT ABOVE THE CAP ESTABLISHED IN SUBSECTION (2), IS  
21 RETAINED IN THE HABITAT LEGACY ACCOUNT, AND MUST BE USED EXCLUSIVELY IN THE SAME MANNER AS FUNDING  
22 UNDER 87-5-806 OR 87-1-209.

23 (7) ANY INTEREST OR INCOME EARNED ON THE MONEY IN THE HABITAT LEGACY ACCOUNT MUST BE  
24 DEPOSITED INTO THE ACCOUNT.

25 (8) ANY UNSPENT OR UNENCUMBERED MONEY IN THE HABITAT LEGACY ACCOUNT AT THE END OF A FISCAL  
26 YEAR MUST REMAIN IN THE ACCOUNT.

27  
28 NEW SECTION. SECTION 3. MARIJUANA DISTRIBUTION ACCOUNT. (1) THERE IS A MARIJUANA DISTRIBUTION

1 ACCOUNT IN THE STATE SPECIAL REVENUE FUND TO BE ADMINISTERED BY THE DEPARTMENT OF JUSTICE. THE ACCOUNT  
2 CONSISTS OF REVENUE DEPOSITED PURSUANT TO 16-12-111 AND FEES COLLECTED UNDER 16-12-224(7).

3 (2) THE ACCOUNT MAY BE USED FOR:

4 (A) PROGRAM ENHANCEMENTS IN COMBATting CRIME, TO INCLUDE HUMAN TRAFFICKING, INVESTIGATIONS,  
5 NARCOTICS, AND THE ASSOCIATED LEGAL CASEWORK;

6 (B) ADDITIONAL RESOURCES TO SUPPORT THE MONTANA HIGHWAY PATROL; AND

7 (C) PUBLIC SAFETY GRANT PROGRAMS FUNDED FOR LAW ENFORCEMENT SUPPORT.

8 (3) THE DEPARTMENT OF JUSTICE MAY USE UP TO 10% OF THE ANNUAL APPROPRIATION INTO THE  
9 ACCOUNT FOR THE PURPOSES OF SUBSECTION (2)(C).

10

11 **SECTION 4. SECTION 16-12-111, MCA, IS AMENDED TO READ:**

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

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

15 (2) The account consists of:

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

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

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

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

20 ~~(e)(d)~~ civil penalties collected under this chapter.

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

23 (4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month  
24 operating reserve necessary to fund operating costs at the beginning of the next fiscal year ~~in the following~~  
25 ~~order~~ as follows:

26 (a) 20% to the habitat legacy account provided for in [section 2];

27 ~~(a)(b) an amount not to exceed \$6 million must be transferred~~ 15% to the healing and ending  
28 addiction through recovery and treatment (HEART) account established in 16-12-122;

- 1           ~~(b) the net balance remaining after distribution to the HEART account must be distributed as follows:~~
- 2           ~~(i) 20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for~~
- 3 ~~wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209 ;~~
- 4           ~~(ii) 4% to the state park account established in 23-1-105(1);~~
- 5           ~~(iii) 4% to the trails and recreational facilities account established in 23-2-108 ;~~
- 6           ~~(iv) 4% to the nongame wildlife account established in 87-5-121 ;~~
- 7           (c) 10% to the marijuana distribution state special revenue account provided for in [section 3];
- 8           ~~(v)(d) 3% or \$200,000, whichever is less, 6% to the veterans and surviving spouses state special~~
- 9 ~~revenue account provided for in 10-2-108;~~
- 10           ~~(vi)(e) for the biennium beginning July 1, 2021-2023, \$300,000 to the department of justice to~~
- 11 ~~administer grant funding to local and state law enforcement agencies for the purpose of purchasing and training~~
- 12 ~~drug detection canines and canine handlers, including canines owned by local law enforcement agencies to~~
- 13 ~~replace canines who were trained to detect marijuana; and~~
- 14           ~~(vii) \$150,000 to the board of crime control to fund crisis intervention team training as provided in 44-7-~~
- 15 ~~110 ; and~~
- 16           ~~(viii)(f) the remainder to the general fund. (Subsection (4)(b)(vi) (4)(e) terminates June 30, 2025--sec.~~
- 17 ~~117(2), Ch. 576, L. 2021.)"~~

18

19           **Section 5.** Section 16-12-224, MCA, is amended to read:

20           **"16-12-224. Licensing of dispensaries.** (1) Except as provided in 16-12-201(2), an applicant for a

21 dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been

22 satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be

23 located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the

24 November 3, 2020, general election.

25           (2) When evaluating an initial or renewal application, the department shall evaluate each proposed

26 dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

27           (3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana

28 dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

1 (4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders  
2 marijuana, marijuana products, and live marijuana plants.

3 (5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana  
4 plants to consumers or registered cardholders.

5 (6) The department shall charge a dispensary license fee for an initial application and at each  
6 renewal. The dispensary license fee is \$5,000 for each location that a licensee operates as an adult-use  
7 dispensary or a medical marijuana dispensary.

8 ~~(7) The department shall charge a dispensary an additional \$50 fee at each renewal for a drug~~  
9 ~~education program THE PURPOSES UNDER [SECTION 3]. The DEPARTMENT SHALL USE THE fees collected under this~~  
10 ~~subsection (7) are transferred quarterly to the department of justice to administer the drug education program~~  
11 ~~ARE TRANSFERRED QUARTERLY TO THE MARIJUANA DISTRIBUTION ACCOUNT UNDER [SECTION 3].~~

12 ~~(7)(8)~~ The department may adopt rules:

13 (a) for inspection of proposed dispensaries;

14 (b) for investigating owners or applicants for a determination of financial interest; and

15 (c) establishing or limiting the THC content of the marijuana or marijuana products that may be  
16 sold at an adult-use dispensary or medical marijuana dispensary.

17 ~~(8)(9)~~ (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis  
18 of the concentration of THC in the products and not by weight.

19 (b) Except as provided in subsection ~~(8)(e)~~ ~~(9)(c)~~, for purposes of this chapter, a single package is  
20 limited to:

21 (i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive  
22 THC of marijuana flower may not exceed 35%.

23 (ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule  
24 and no more than 800 milligrams of THC per package.

25 (iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

26 (iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of  
27 THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.

28 (v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and

1 no more than 800 milligrams of THC per package;

2 (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100  
3 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package;  
4 and

5 (vii) for any other marijuana product, no more than 800 milligrams of THC.

6 (c) A dispensary may sell marijuana or marijuana products having higher THC potency levels than  
7 described in subsection (8) (9) to registered cardholders.

8 (9)(10) A licensee or employee is prohibited from conducting a transaction that would result in a  
9 consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-  
10 12-515."

11

12 **Section 2.** Section 16-12-302, MCA, is amended to read:

13 ~~"16-12-302. Fraudulent representation -- penalties. (1) In addition to any other penalties provided~~  
14 ~~by law, an individual who fraudulently represents to a law enforcement official that the individual is a cultivator,~~  
15 ~~manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter~~  
16 ~~or has a marijuana worker permit is guilty of a civil fine not to exceed \$1,000 \$1,500.~~

17 ~~(2) Subject to the provisions of 16-12-304, a law enforcement official may seize marijuana and~~  
18 ~~marijuana products from an individual in violation of 16-12-107 and subsection (1) of this section and may~~  
19 ~~charge the individual with a misdemeanor.~~

20 ~~(2)(3) An individual convicted under this section may not be licensed under this chapter."~~

21

22 **SECTION 6. SECTION 16-12-310, MCA, IS AMENDED TO READ:**

23 **"16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax.** (1) The rate  
24 of the local-option marijuana excise tax must be established by the election petition or resolution provided for in  
25 16-12-311, and the rate may not exceed 3%.

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

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

- 1 (a) 50% of the resulting tax revenue must be retained by the county;
- 2 (b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the
- 3 ratio of the population of the city or town to the total county population; and
- 4 (c) the remaining 5% of the resulting tax revenue ~~must be retained by~~ is allocated to the
- 5 department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The
- 6 funds retained by the department under this subsection (3)(c) must be deposited into the marijuana
- 7 administration state special revenue account established under ~~16-12-114~~ [section 1].
- 8 (4) For the purposes of this section, "tax revenue" means the combined taxes collected under any
- 9 local-option marijuana excise tax collected on retail sales within the county."

10  
11 **SECTION 7. SECTION 17-1-508, MCA, IS AMENDED TO READ:**

12 **"17-1-508. Review of statutory appropriations.** (1) Each biennium, the office of budget and

13 program planning shall, in development of the executive budget, review and identify instances in which

14 statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

15 (2) The review of statutory appropriations must determine whether a statutory appropriation meets

16 the requirements of 17-7-502. Except as provided in [ 76-17-103,] 77-1-108, ~~and~~ 87-5-909, and [section 1], a

17 statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative

18 costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following

19 guidelines. A proposed or existing statutory appropriation may not be considered appropriate if:

- 20 (a) the money is from a continuing, reliable, and estimable source;
- 21 (b) the use of the appropriation or the expenditure occurrence is predictable and reliable;
- 22 (c) the authority exists elsewhere;
- 23 (d) an alternative appropriation method is available, practical, or effective;
- 24 (e) it appropriates state general fund money for purposes other than paying for emergency
- 25 services;
- 26 (f) the money is used for general purposes;
- 27 (g) the legislature wishes to review expenditure and appropriation levels each biennium; and
- 28 (h) an expenditure cap and sunset date are excluded.

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

6

7 **SECTION 8. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

8 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
9 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
10 the need for a biennial legislative appropriation or budget amendment.

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

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

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

16 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-  
17 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-  
18 807; 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;  
19 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-  
20 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-  
21 215; 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-  
22 305; 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-  
23 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-  
24 402; 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;  
25 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;  
26 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-  
27 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;  
28 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-



1 102]; 87-1-603; 87-5-909; [section 2]; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

2 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
3 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
4 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
5 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
6 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
7 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
8 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement  
9 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
10 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
11 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
12 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
13 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,  
14 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;  
15 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,  
16 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.  
17 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,  
18 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-  
19 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates  
20 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June  
21 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to  
22 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,  
23 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion  
24 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004  
25 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,  
26 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and  
27 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

28

1            **SECTION 9. SECTION 87-5-806, MCA, IS AMENDED TO READ:**

2            **"87-5-806. (Temporary) Administration and expenditure of funds — ~~cooperation with other~~**  
3 **~~entities.~~** (1) ~~(a) State, tribal, and federal agencies, as well as conservation districts, irrigation districts, grazing~~  
4 ~~associations, county weed boards, and 501(c)(3) organizations, may apply for project funding.~~

5            ~~(2) \_\_\_\_\_ The department may expend funds deposited under [section 2] and pursuant to 87-5-805~~  
6 ~~through grants or contracts in order to: communities, noxious weed management districts, conservation~~  
7 ~~districts, nonprofit organizations exempt from taxation under 26 U.S.C. 501(c)(3), or other entities that it~~  
8 ~~considers appropriate for wildlife habitat improvement projects.~~

9            ~~(b)(a) The department shall consider project recommendations from the council. improve, conserve,~~  
10 ~~protect, and maintain terrestrial habitat;~~

11            ~~(c)(b) The department may cooperate in and coordinate the planning and disbursement of these~~  
12 ~~funds with federal, state, and local agencies responsible for the management of noxious weeds. improve,~~  
13 ~~conserve, and maintain aquatic habitat;~~

14            ~~(c) \_\_\_\_\_ participate in water enhancement projects to benefit aquatic habitat and allow for other~~  
15 ~~watershed enhancements that benefit fish, wildlife, and water conservation;~~

16            ~~(d) \_\_\_\_\_ improve and maintain range conditions, restoration of habitat, and drought resilience designed~~  
17 ~~to create habitat uplift on private, public, and tribal lands;~~

18            ~~(e) \_\_\_\_\_ address and mitigate impacts that are detrimental to wildlife habitat and the environment and~~  
19 ~~improve the condition of the land due to noxious weeds, soil disturbance, and loss of diverse habitat~~  
20 ~~communities;~~

21            ~~(f) \_\_\_\_\_ mitigate conflicts and reduce potential for disease transmission between wildlife and domestic~~  
22 ~~livestock;~~

23            ~~(g) \_\_\_\_\_ help fund activities and employees of the state tribal wildlife programs; and~~

24            ~~(h) \_\_\_\_\_ create habitat uplift and net conservation gain for species of conservation need.~~

25            ~~(2) — A project is eligible to receive funds only if the county in which the project occurs has funded its~~  
26 ~~own weed management program using one of the following methods, whichever is less:~~

27            ~~(a) — levying an amount of not less than 1.6 mills or an equivalent amount from another source; or~~

28            ~~(b) — appropriating an amount of not less than \$100,000 from any source.~~

1           ~~(3) The department may expend money deposited pursuant to 87-5-805 to:~~

2           ~~(a) restore, rehabilitate, improve, or manage areas of land as wildlife habitat by controlling noxious~~  
3 ~~weeds;~~

4           ~~(b) acquire goods and services that will help control noxious weeds in order to restore, rehabilitate,~~  
5 ~~improve, or manage land as wildlife habitat;~~

6           ~~(c) fund cost share noxious weed management programs with local noxious weed management~~  
7 ~~districts; or~~

8           ~~(d) provide special grants to local noxious weed management districts to eradicate or contain~~  
9 ~~significant noxious weeds newly introduced into the county that affect wildlife habitat.~~

10          ~~(4) Expenditures allowed pursuant to subsection (3) are limited to:~~

11          ~~(a) biological or mechanical control of noxious weeds;~~

12          ~~(b) purchases and application of approved herbicides;~~

13          ~~(c) seed purchases and application of seed; and~~

14          ~~(d) grazing costs as a component of an overall integrated noxious weed management plan.~~

15          ~~(5)(3)~~ The department may expend the funds deposited pursuant to 87-5-805 [section 2] to pay costs  
16 incurred by the department for administering this part and providing support to the council, including but not  
17 limited to personal services costs, operating costs, and other administrative costs. ~~After fiscal year 2019,~~  
18 ~~administrative~~ Administrative costs may not exceed 15% of the total amount expended pursuant to subsection  
19 ~~(3) (2).~~

20          ~~(4)~~ Any funds used pursuant to an appropriation of special federal reserve funding as described in  
21 87-5-505 must comply with 50 CFR, chapter 1, subchapter F, part 80. (Terminates June 30, 2023--sec. 11, Ch.  
22 342, L. 2017.)"

24          NEW SECTION. SECTION 10. CODIFICATION INSTRUCTION. (1) [SECTION 1] IS INTENDED TO BE CODIFIED AS  
25 AN INTEGRAL PART OF TITLE 16, CHAPTER 12, PART 1, AND THE PROVISIONS OF TITLE 16, CHAPTER 12, PART 1, APPLY  
26 TO [SECTION 1].

27          ~~(2)~~ [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 87, CHAPTER 5, AND THE  
28 PROVISIONS OF TITLE 87, CHAPTER 5, APPLY TO [SECTION 2].

1           (3) [SECTION 3] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 44, CHAPTER 4, AND THE  
2 PROVISIONS OF TITLE 44, CHAPTER 4, APPLY TO [SECTION 3].

3

4           ~~NEW SECTION. Section 3. — Effective date. [This act] is effective July 1, 2023~~ JANUARY 1, 2024.

5

6           ~~COORDINATION SECTION. SECTION 11. — COORDINATION INSTRUCTION. (1) IF SENATE BILL NO. 442 AND~~  
7 ~~[THIS ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN SECTIONS THAT AMEND 16-12-111, THEN SENATE BILL~~  
8 ~~NO. 442 IS VOID.~~

9

10           ~~COORDINATION SECTION. SECTION 11. — COORDINATION INSTRUCTION. IF HOUSE BILL NO. 86 AND [THIS~~  
11 ~~ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMENDS 87-5-806, THEN THE SECTIONS~~  
12 ~~AMENDING 87-5-806 ARE VOID AND 87-5-806 MUST BE AMENDED AS FOLLOWS:~~

13           **"87-5-806. (Temporary) Administration and expenditure of funds -- cooperation with other**  
14 **entities.** (1) (a) State, tribal, and federal agencies, as well as conservation districts, irrigation districts, grazing  
15 associations, county weed boards, and 501(c)(3) organizations, may apply for project funding.

16           (2) The department may expend funds deposited under [section 2] and pursuant to 87-5-805  
17 through grants or contracts in order to:

18           (a) improve, conserve, protect, and maintain terrestrial habitat;

19           (b) improve, conserve, and maintain aquatic habitat;

20           (c) participate in water enhancement projects to benefit aquatic habitat and allow for other  
21 watershed enhancements that benefit fish, wildlife, and water conservation;

22           (d) improve and maintain range conditions, restoration of habitat, and drought resilience designed  
23 to create habitat uplift on private, public, and tribal lands;

24           (e) address and mitigate impacts that are detrimental to wildlife habitat and the environment and  
25 improve the condition of the land due to noxious weeds, soil disturbance, and loss of diverse habitat  
26 communities;

27           (f) mitigate conflicts and reduce potential for disease transmission between wildlife and domestic  
28 livestock;

- 1            (g) help fund activities and employees of the state tribal wildlife programs;
- 2            (h) create habitat uplift and net conservation gain for species of conservation need;
- 3            (i) implement weed and soil treatment options and methods recommended by the council to
- 4 reduce noxious weeds and support native vegetation; and
- 5            (j) fund grant administration, vegetation monitoring, and related administrative costs not to exceed
- 6 10% of a total project amount.

7            ~~communities, noxious weed management districts, conservation districts, nonprofit organizations~~  
 8 ~~exempt from taxation under 26 U.S.C. 501(c)(3), or other entities that it considers appropriate for wildlife habitat~~  
 9 ~~improvement projects.~~

10           ~~(b) The department shall consider project recommendations from the council.~~

11           ~~(c) The department may cooperate in and coordinate the planning and disbursement of these funds~~  
 12 ~~with federal, state, and local agencies responsible for the management of noxious weeds.~~

13           ~~(2) A project is eligible to receive funds only if the county in which the project occurs has funded its~~  
 14 ~~own weed management program using one of the following methods, whichever is less:~~

15           ~~(a) levying an amount of not less than 1.6 mills or an equivalent amount from another source; or~~

16           ~~(b) appropriating an amount of not less than \$100,000 from any source.~~

17           ~~(3) The department may expend money deposited pursuant to 87-5-805 to:~~

18           ~~(a) restore, rehabilitate, improve, or manage areas of land as wildlife habitat by controlling noxious~~  
 19 ~~weeds;~~

20           ~~(b) acquire goods and services that will help control noxious weeds in order to restore, rehabilitate,~~  
 21 ~~improve, or manage land as wildlife habitat;~~

22           ~~(c) fund cost share noxious weed management programs with local noxious weed management~~  
 23 ~~districts; or~~

24           ~~(d) provide special grants to local noxious weed management districts to eradicate or contain~~  
 25 ~~significant noxious weeds newly introduced into the county that affect wildlife habitat.~~

26           ~~(4) Expenditures allowed pursuant to subsection (3) are limited to:~~

27           ~~(a) biological or mechanical control of noxious weeds;~~

28           ~~(b) purchases and application of approved herbicides;~~

**Amendment - 2nd Reading-yellow - Requested by: Nelly Nicol - (H) Committee of the Whole**

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

SB0538.003.002

1 (c) ~~seed purchases and application of seed; and~~  
2 (d) ~~grazing costs as a component of an overall integrated noxious weed management plan.~~  
3 ~~(5)(3)~~ The department may expend the funds deposited pursuant to 87-5-805 [section 2] to pay costs  
4 incurred by the department for administering this part and providing support to the council, including but not  
5 limited to personal services costs, operating costs, and other administrative costs. ~~After fiscal year 2019,~~  
6 administrative Administrative costs may not exceed 15% of the total amount expended pursuant to subsection  
7 ~~(3)~~ (2). (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

8  
9 **NEW SECTION. SECTION 12. EFFECTIVE DATES. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT]**  
10 IS EFFECTIVE JULY 1, 2023

11 (2) [SECTIONS 1, 7, AND 8] AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND APPROVAL.

12 - END -