



AN ACT GENERALLY REVISING THE DISTRIBUTION OF MARIJUANA TAXES; REVISING THE ALLOCATION OF THE MARIJUANA STATE SPECIAL REVENUE ACCOUNT; TRANSFERRING TAX REVENUE FROM MARIJUANA SALES TO THE DEPARTMENT OF TRANSPORTATION FOR THE FUNDING OF COUNTY ROAD CONSTRUCTION AND MAINTENANCE; PROVIDING A CALCULATION BASED ON THE ROAD MILES, STATE AND FEDERAL LAND AREA, AND BLOCK MANAGEMENT ACRES IN COUNTIES AND CONSOLIDATED CITY-COUNTIES; ESTABLISHING A HABITAT LEGACY ACCOUNT; REVISING THE MONTANA WILDLIFE HABITAT IMPROVEMENT ACT; AMENDING SECTIONS 15-70-101, 16-12-111, 87-5-801, 87-5-802, 87-5-803, 87-5-804, 87-5-806, 87-5-807, AND 87-5-808, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. County road habitat access account.** (1) There is a county road habitat access account in the state special revenue fund established in 17-2-102. All funds received pursuant to 16-12-111(4)(h) must be deposited in the account.

(2) Money deposited in the account is subject to appropriation by the legislature and may be used only for funding the construction, reconstruction, maintenance, and repair of county roads in the manner provided in 15-70-101(4).

**Section 2. Habitat legacy account.** (1) There is a habitat legacy account in the state special revenue fund established in 17-2-102. All funds received pursuant to 16-12-111(4)(b) must be deposited in the account and transferred to the department of fish, wildlife, and parks.

(2) At the end of each fiscal year, 75% of the funds received pursuant to 16-12-111(4)(b) must be transferred and used solely as funding for wildlife habitat in the same manner as funding under 87-1-242(3) and

used pursuant to 87-1-209.

(3) If, at the end of any fiscal year, the unobligated cash balance in the account set up to administer funding under 87-1-242(3) and used pursuant to 87-1-209 equals or exceeds \$50,000,000, adjusted annually for inflation, the transfer may not be made.

(4) If, at the end of any fiscal year, the unobligated cash balance in the account set up to administer funding under 87-1-242(3) and used pursuant to 87-1-209 is less than \$50 million, adjusted annually for inflation, then an amount less than or equal to the difference between the unobligated cash balance and \$50 million, adjusted annually for inflation, but not to exceed 75% of the taxes received pursuant to 16-12-11(4)(b), must be transferred to the account set up to administer funding under 87-1-242(3) and used pursuant to 87-1-209.

(5) The inflation adjustments made under this section must be based on any change to the consumer price index from the previous year. The consumer price index to be used for calculations is the consumer price index for all urban consumers (CPI-U).

(6) Twenty-five percent, and any amount above the cap established in subsection (2), is retained in the habitat legacy account and must be used exclusively in the same manner as funding under 87-5-806 or 87-1-209.

(7) Any interest or income earned on the money in the habitat legacy account must be deposited into the account.

(8) Any unspent or unencumbered money in the habitat legacy account at the end of a fiscal year must remain in the account.

**Section 3.** Section 15-70-101, MCA, is amended to read:

**"15-70-101. Disposition of funds.** (1) Those funds allocated to cities, towns, counties, and consolidated city-county governments in this section must, in accordance with the provisions of 17-2-124, be paid by the department from the highway restricted account provided for in 15-70-126 to the cities, towns, counties, and consolidated city-county governments.

(2) The amount of \$16,816,000 of the taxes collected under this chapter and deposited in the highway restricted account in 15-70-126 is statutorily appropriated, as provided in 17-7-502, to the department

of transportation and must be distributed each fiscal year on a monthly basis to the counties, incorporated cities and towns, and consolidated city-county governments in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (2)(a) through (2)(c), as follows:

(a) The amount of \$150,000 must be designated for the purposes and functions of the Montana local technical assistance transportation program in Bozeman.

(b) The amount of \$6,306,000 must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the national highway system and the primary system, bears to the total rural road mileage in the state, exclusive of the national highway system and the primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county bears to the total land area of the state.

(c) The amount of \$10,360,000 must be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national highway system and primary system, within the corporate limits of all cities and towns in Montana.

(3) (a) For the purpose of allocating the funds in subsections (2)(b) and (2)(c) to a consolidated city-county government, each entity must be considered to have separate city and county boundaries. The city limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on the location of the urban area have been approved by the department of transportation and must be used to determine city and county populations and road mileages in the following manner:

(i) Percentage factors must be calculated to determine separate populations for the city and rural county by using the last official decennial federal census population figures that recognized an incorporated city

and the rural county. The factors must be based on the ratio of the city to the rural county population, considering the total population in the county minus the population of any other incorporated city or town in the county.

(ii) The city and county populations must be calculated by multiplying the total county population, as determined by the latest official decennial census or the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census, minus the population of any other incorporated city or town in that county, by the factors established in subsection (3)(a)(i).

(b) The amount allocated by this method for the city and the county must be combined, and single monthly payments must be made to the consolidated city-county government.

(4) The amount of funds received from 16-12-111(4)(h) and deposited in the county road habitat access account provided in [section 1] is subject to legislative appropriation to the department of transportation and must be distributed each fiscal year on a monthly basis to the county and consolidated city-county governments in the state for the construction, reconstruction, maintenance, and repair of rural roads as provided in subsections (4)(a) through (4)(c). The total amount of funds received pursuant to this subsection (4) must be divided among the various counties and consolidated city-counties in the following manner:

(a) 50% in the ratio that the rural road mileage in each county or consolidated city-county, exclusive of the national highway system and primary system, bears to the total rural road mileage in the state, exclusive of the national highway system and primary system:

(b) 25% in the ratio that the total number of acres of property enrolled in the block management program established in 87-1-265 of each county or consolidated city-county bears to the total number of acres enrolled in the block management program established in 87-1-265 in the state:

(c) 25% in the ratio that the total state and federal land area of each county or consolidated city-county bears to the total state and federal land area of the state.

~~(4)(5)~~ All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or town streets and alleys or for the share that the city, town, county, or consolidated city-county government might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets that are part of the primary or secondary highway system or urban extensions to those systems. The

governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be used for the maintenance and repair of town or third-class city streets and alleys. The governing body of a town or third-class city may place all or a part of the 25% in a restricted asset account within the gas tax apportionment fund that is carried forward until there is a need for the expenditure.

~~(5)~~(6) All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of the amounts provided in 7-5-2301 and 7-5-4302.

~~(6)~~(7) For the purposes of this section in which distribution of funds is made on a basis related to population, the population must be determined annually for counties and biennially for cities according to the latest official decennial census or the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

~~(7)~~(8) For the purposes of this section in which determination of mileage is necessary for distribution of funds, it is the responsibility of the cities, towns, counties, and consolidated city-county governments to furnish to the department of transportation a yearly certified statement indicating the total mileage within their respective areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of transportation.

~~(8)~~(9) Except by a town or third-class city as provided in subsection ~~(4)~~ (5), the funds authorized by this section may not be used for the purchase of capital equipment.

~~(9)~~(10) Funds authorized by this section must be used for construction and maintenance programs."

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

**"16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess funds.** (1) There is a dedicated marijuana state special revenue account within the state special revenue fund established in 17-2-102, to be administered by the department.

(2) The account consists of:

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

- (b) the taxes collected pursuant to Title 15, chapter 64, part 1;
- (c) license and registered cardholder fees deposited into the account pursuant to this chapter;
- (d) taxes deposited into the account pursuant to 16-12-310; and
- (e) civil penalties collected under this chapter.

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

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

(a) ~~an amount not to exceed \$6 million, 11%~~ must be transferred to the healing and ending addiction through recovery and treatment (HEART) account established in 16-12-122;

(b) 20% must be transferred to the habitat legacy account established in [section 2];

(c) 4% must be transferred to the state park account established in 23-1-105(1);

(d) 4% must be transferred to the trails and recreational facilities account established in 23-2-108;

(e) 4% must be transferred to the nongame wildlife account established in 87-5-121;

(f) 5% must be transferred to the veterans and surviving spouses state special revenue account provided for in 10-2-108;

(g) 0.2% must be transferred to the board of crime control to fund crisis intervention team training as provided in 44-7-110;

(h) 20% must be transferred to the department of transportation and deposited in the county roads habitat access account provided for in [section 1] to be used solely as funding for the construction, reconstruction, maintenance, and repair of county roads and distributed as provided in 15-70-101(4); and

(i) the remainder must be transferred to the general fund.

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

~~(i) 20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209 the construction, reconstruction, maintenance, and repair of county roads and distributed as provided in 15-70-~~

101(4) ;

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

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

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

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

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

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

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

**Section 5.** Section 87-5-801, MCA, is amended to read:

**"87-5-801. (Temporary) Short title.** This part may be cited as the "Kelly Flynn Montana Wildlife Habitat Improvement Program and Legacy Act". (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

**Section 6.** Section 87-5-802, MCA, is amended to read:

**"87-5-802. (Temporary) Definitions.** As used in this part, unless the context indicates otherwise, the following definitions apply:

~~(1) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

~~(2) "Council" means the wildlife habitat improvement advisory council established in 87-5-803.~~

~~(2)(3) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.~~

~~(3)(4) "Native plant" means a plant indigenous to the state of Montana. "Habitat" means the natural environment where a species lives or thrives.~~

~~(4)(5) "Noxious weed" means a weed defined in 7-22-2101.~~

~~(5) "Noxious weed management" means an integrated weed management program for the containment, suppression, and, where possible, eradication of noxious weeds. The term includes a long-term management approach toward noxious weeds that includes but is not limited to hand-pulling, cultivation, herbicide application, mechanical or biological control, prescribed grazing or burning, prevention, and revegetation. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"~~

**Section 7.** Section 87-5-803, MCA, is amended to read:

**"87-5-803. (Temporary) Wildlife habitat improvement advisory council -- members.** (1) There is a wildlife habitat improvement advisory council ~~appointed by the director~~ that ranks projects pursuant to 87-5-804 and 87-1-242(3) and advises the department and the commission on the administration of this part. Except for members appointed pursuant to subsections (2)(i) and (2)(j), the governor shall appoint council members.

(2) The council consists of the following voting members:

- (a) ~~the director of the department or a representative of the department~~ a terrestrial wildlife biologist;
- (b) ~~a representative of a hunting organization in Montana~~ a fisheries biologist;
- (c) ~~a representative of a multiple-use recreation organization in Montana~~ a member of an Indian tribe as defined in 2-5-141;
- (d) ~~a representative of the timber industry in Montana~~ a representative of the livestock industry;
- (e) ~~a livestock producer or a representative of a livestock producer organization in Montana~~ a representative of crop-producing industries;
- (f) ~~a farmer or a representative of a farming organization in Montana~~ a member of a 501(c)(3) conservation organization that specializes in wildlife management;
- (g) ~~a commercial applicator as defined in 80-8-102~~ a member of an accredited land trust;
- (h) ~~a representative of biological research and control interests~~ a soil conservation scientist;
- (i) ~~a representative of the Montana weed control association~~ a member of the senate, selected by the committee on committees, who is not a member of the party of the representative selected pursuant to subsection (2)(j); and
- (j) ~~two county representatives, one each from the western and eastern parts of the state, who may~~



~~include a county commissioner, district weed board member, or weed district supervisor. a member of the~~  
house of representatives, selected by the speaker of the house, who is not a member of the party of the senator  
selected pursuant to subsection (2)(i).

~~(2) Nonvoting members of the council include:~~

~~(a) the state weed coordinator; and~~

~~(b) one representative each from:~~

~~(i) the United States bureau of land management;~~

~~(ii) the United States forest service;~~

~~(iii) the United States bureau of reclamation;~~

~~(iv) the United States fish and wildlife service;~~

~~(v) the Montana department of natural resources and conservation; and~~

~~(vi) an Indian tribe as defined in 2-15-144. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"~~

**Section 8.** Section 87-5-804, MCA, is amended to read:

**"87-5-804. (Temporary) Wildlife habitat improvement projects -- requirements -- ranking. (1)**

Project proposals must:

~~(a) address how projects would restore, rehabilitate, improve, or manage land as wildlife habitat~~  
~~through noxious weed management;~~

~~(b) include a plan to remove noxious weeds or prevent them from propagating or taking hold in the~~  
~~project area;~~

~~(c) include a commitment to match at least 25% of a grant in cash, goods, or services; and~~

~~(d) include measurable objectives and a monitoring plan to allow the department to analyze how~~  
~~noxious weed management is restoring, rehabilitating, improving, or managing land as wildlife habitat.~~

~~(2)(1)~~ The council shall rank wildlife habitat improvement project proposals ~~according pursuant to 87-~~  
~~5-806 according to~~ rules adopted by the department pursuant to 87-5-808 and make funding recommendations  
to the department.

~~(3)(2)~~ In ranking the ~~proposals projects~~, the council shall give preference to projects in wildlife habitat  
that include:

- (a) ~~access for public hunting~~ public access;
- (b) ~~multiple partners and landowners~~ the number of project partners; and
- (c) ~~the amount of additional funding provided to carry out a project.~~
- (3) ~~Factors providing preference under subsection (2) may not be considered mandatory.~~
- (c) ~~a commitment to match at least 25% of the final grant in cash.~~
- (4) ~~Additional preference must be given to a project that proposes to:~~
  - (a) ~~address the primary spread of noxious weeds to adjacent areas of wildlife habitat with native plants;~~
  - (b) ~~include a significant portion of ecologically important wildlife habitat that is in need of restoration;~~
  - (c) ~~include a significant portion of a watershed; or~~
  - (d) ~~maintain native plants after project completion.~~ (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

**Section 9.** Section 87-5-806, MCA, is amended to read:

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

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

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

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

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

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

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

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

(g) help fund activities and employees of the state tribal wildlife programs; and

(h) create habitat uplift and net conservation gain for species of conservation need.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(5)(3) The department may expend the funds deposited pursuant to [section 2] 87-5-805 to pay costs~~

incurred by the department for administering this part and providing support to the council, including but not limited to personal services costs, operating costs, and other administrative costs. ~~After fiscal year 2019,~~ ~~administrative~~ Administrative costs may not exceed 15% of the total amount expended pursuant to subsection ~~(3)~~ (2).

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

**Section 10.** Section 87-5-807, MCA, is amended to read:

**"87-5-807. (Temporary) Reporting -- evaluations.** (1) A project sponsor shall:

- (a) monitor and document the timelines, progress, and results of the project;
- (b) evaluate the overall effectiveness of the project; and
- (c) provide project and fiscal reports as required by contract.

(2) The ~~department~~ department shall:

- (a) conduct field evaluations of projects;
- (b) require a project sponsor to initiate corrective action if an evaluation finds inadequacies in the project's progress or fiscal reporting; and

(c) on or before September 1 of each year preceding the convening of a regular session of the legislature, provide a report to the ~~environmental quality council~~ legislature in accordance with 5-11-210. The report must include:

- (i) an overview of the program;
- (ii) a listing of projects funded during the reporting period;
- (iii) an analysis of how projects funded are ~~improving wildlife habitat~~ meeting the goals of 87-5-804;

and

(iv) a summary of past and current funding. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

**Section 11.** Section 87-5-808, MCA, is amended to read:

**"87-5-808. (Temporary) Rulemaking authority.** The department shall adopt rules to implement this part, including a scoring system for ranking projects proposed to the council under 87-5-804. (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

**Section 12. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 70, part 1, and the provisions of Title 15, chapter 70, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 5, and the provisions of Title 87, chapter 5, apply to [section 2].

**Section 13. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 14. Effective date.** [This act] is effective July 1, 2023.

- END -

I hereby certify that the within bill,  
SB 442, originated in the Senate.

---

Secretary of the Senate

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

SENATE BILL NO. 442

INTRODUCED BY M. LANG, M. CUFFE, T. MCGILLVRAY, R. LYNCH, S. HINEBAUCH, D. LOGE, D. BARTEL, C. KNUDSEN, B. USHER, R. TEMPEL, B. LER, J. SCHILLINGER, K. SEEKINS-CROWE, M. MALONE, C. HINKLE, M. BINKLEY, R. MARSHALL, S. ESSMANN, R. MINER, G. PARRY, N. NICOL, P. FIELDER

AN ACT GENERALLY REVISING THE DISTRIBUTION OF MARIJUANA TAXES; REVISING THE ALLOCATION OF THE MARIJUANA STATE SPECIAL REVENUE ACCOUNT; TRANSFERRING TAX REVENUE FROM MARIJUANA SALES TO THE DEPARTMENT OF TRANSPORTATION FOR THE FUNDING OF COUNTY ROAD CONSTRUCTION AND MAINTENANCE; PROVIDING A CALCULATION BASED ON THE ROAD MILES, STATE AND FEDERAL LAND AREA, AND BLOCK MANAGEMENT ACRES IN COUNTIES AND CONSOLIDATED CITY-COUNTIES; ESTABLISHING A HABITAT LEGACY ACCOUNT; REVISING THE MONTANA WILDLIFE HABITAT IMPROVEMENT ACT; AMENDING SECTIONS 15-70-101, 16-12-111, 87-5-801, 87-5-802, 87-5-803, 87-5-804, 87-5-806, 87-5-807, AND 87-5-808, MCA; AND PROVIDING AN EFFECTIVE DATE.