

SENATE BILL NO. 219

INTRODUCED BY

Weldon

Doherty, Stoney, Zellerbach, Wilson, Labin, Kattel, Franklin

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN ANNUAL PROPERTY TAX ON THE POSSESSION AND STORAGE OF DANGEROUS DRUGS; PROVIDING FOR THE VALUATION OF THE DANGEROUS DRUGS AND THE RATE OF TAX; PROVIDING FOR THE ADMINISTRATION OF THE TAX; PROVIDING FOR VARIOUS CIVIL AND CRIMINAL PENALTIES FOR VIOLATION OF THE TAX OR OTHER TAXATION LAWS; PROVIDING THAT THE REVENUE BE DEPOSITED IN THE STATE GENERAL FUND; AMENDING SECTION 17-7-502, MCA; REPEALING SECTIONS 15-25-101, 15-25-102, 15-25-111, 15-25-112, 15-25-113, 15-25-114, 15-25-115, 15-25-121, 15-25-122, AND 15-25-123, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the bill gives the department of revenue authority to adopt administrative rules. It is contemplated that the rules will address assessing the value of dangerous drugs, providing forms for reporting the possession and storage of dangerous drugs to the department, the issuance of receipts for payment of the tax, and other matters necessary for the proper administration of the tax to raise the maximum amount of revenue for the general fund of the state of Montana.

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

- (1) "Dangerous drug" has the meaning provided in 50-32-101.
- (2) "Department" means the department of revenue provided for in 2-15-1301.
- (3) "Person" means an individual, firm, association, corporation, partnership, or any other group or combination acting as a unit.

NEW SECTION. Section 2. Tax on dangerous drugs. (1) There is an annual tax on the possession

1 and storage of dangerous drugs. Except as provided in [section 3], each person possessing or storing
2 dangerous drugs is liable for the tax. The tax is upon possession or storage of specific reported drugs.
3 If the taxpayer replaces or otherwise comes into possession of different or additional dangerous drugs, the
4 taxpayer is liable for the tax on those dangerous drugs. A taxpayer is liable for the tax on all dangerous
5 drugs in the taxpayer's possession or stored by the taxpayer on January 1 of each year, whether or not
6 the tax was paid in regard to those drugs in the previous calendar year. The tax imposed is determined
7 pursuant to subsection (2).

8 (2) Each person possessing or storing dangerous drugs subject to taxation under [sections 1
9 through 6] shall, within 24 hours of possession, report the type and quantity of the dangerous drugs to the
10 department, together with other information that the department may require. Based upon information
11 provided by the taxpayer, the department shall appraise the dangerous drugs and notify the taxpayer of the
12 amount of the assessment. The tax is due and payable 7 days after the date of assessment.

13 (3) The annual tax on possession and storage of dangerous drugs is 35% of the assessed market
14 value of the drugs, as determined by the department.

15

16 NEW SECTION. **Section 3. Exemptions.** The tax imposed pursuant to [section 2] does not apply
17 to a person authorized by state or federal law to possess or store dangerous drugs. The burden of proof
18 of an exemption from [section 2] is on the person claiming it.

19

20 NEW SECTION. **Section 4. Administration and enforcement -- department rules.** (1) All law
21 enforcement personnel and peace officers shall promptly report each person that they believe is subject to
22 the tax under [sections 1 through 6] to the department. If a person in possession of dangerous drugs or
23 that is storing dangerous drugs is able to produce satisfactory proof of compliance with the reporting and
24 payment requirements of [section 2] for the drugs in the person's possession, the person need not be
25 reported to the department.

26 (2) (a) Taxes due under this chapter become delinquent if not reported or paid within the time limit
27 provided in [section 2]. The department shall add to the amount of all delinquent dangerous drug taxes a
28 penalty of 100% of the amount of dangerous drug taxes plus interest at the rate of 1% a month or fraction
29 of a month, computed on the total amount of unpaid dangerous drug taxes. Interest is computed from the
30 date on which the dangerous drug taxes were due to the date of payment.

1 (b) The 100% penalty provided for in subsection (2)(a) may be waived by the department if
2 reasonable cause for the failure to file the statement required by [section 2] or to pay the tax due is
3 provided to the department.

4 (3) The deficiency assessment provisions of 15-53-105, the criminal penalty provisions of
5 15-30-321(3), the estimation of tax provisions of 15-53-112, the confidentiality provisions of 15-30-303(1)
6 through (3), and the statute of limitations provisions of 15-53-115 apply to this tax and are fully
7 incorporated by reference in [sections 1 through 6]. The department may adopt rules necessary to
8 administer and enforce the tax.

9 (4) A person aggrieved by an assessment pursuant to [section 2] or an exemption decision
10 pursuant to [section 3] may seek a review of the assessment or exemption decision pursuant to 15-1-211.

11
12 **NEW SECTION. Section 5. Warrant for distraint -- suspension of lien during incarceration.** If all or
13 part of the tax imposed by [sections 1 through 6] is not paid when due, the department may issue a
14 warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any
15 other claim, lien, or demand thereafter filed and recorded. The period during which the lien may be enforced
16 is suspended during any period of incarceration of the taxpayer.

17
18 **NEW SECTION. Section 6. Disposition of proceeds.** The department shall, in accordance with the
19 provisions of 15-1-501(6), transfer all taxes collected pursuant to [sections 1 through 6] to the state
20 general fund.

21
22 **Section 7.** Section 17-7-502, MCA, is amended to read:

23 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
24 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
25 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

1 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
 2 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
 3 ~~15-25-123~~; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
 4 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409;
 5 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;
 6 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503;
 7 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;
 8 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504;
 9 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;
 10 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416;
 11 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331;
 12 90-7-220; 90-9-306; and 90-14-107.

13 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 14 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 15 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 16 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 17 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 18 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 19 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 20 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
 21 July 1, 1995.) "

22

23 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 6] are intended to be
 24 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 6].

25

26 NEW SECTION. **Section 9. Repealer.** Sections 15-25-101, 15-25-102, 15-25-111, 15-25-112,
 27 15-25-113, 15-25-114, 15-25-115, 15-25-121, 15-25-122, and 15-25-123, MCA, are repealed.

28

29 NEW SECTION. **Section 10. Effective date -- applicability.** [This act] is effective January 1, 1996,
 30 and applies to all tax years beginning after December 31, 1995.

-END-

- 4 -

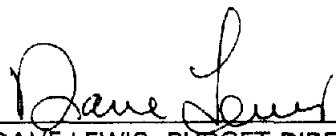
STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0219, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act providing for an annual property tax on the possession and storage of dangerous drugs; providing for the valuation of the dangerous drugs and the rate of tax; providing for the administration of the tax; providing for various civil and criminal penalties for violation of the tax or other taxation laws; providing that the revenue be deposited in the state general fund; and providing a delayed effective date and an applicability date.

FISCAL IMPACT:

Collection will be difficult under this tax, as it was under the previous Dangerous Drug Tax. As a result of collection problems, the Department assessed far more than was finally collected. The fiscal impact of the proposed legislation is unknown, however, it could be negative due to the potential for litigation and the difficulty in collecting the tax. The U.S. Supreme Court in Department of Revenue v. Kurth Ranch held that Montana's previous Dangerous Drug Tax was unconstitutional as a violation of the Double Jeopardy Clause. It is not clear that this bill solves the constitutional problem. The bill will be challenged in court and there is a significant chance the State will lose. The State could raise the same amount of revenue by making this tax a criminal penalty.

 1-26-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

STEVE DOHERTY, PRIMARY SPONSOR DATE
Fiscal Note for SB0219, as introduced

SB219

1 SENATE BILL NO. 219

2 INTRODUCED BY DOHERTY, STANG, WILSON, RYAN, GALVIN, WELDON, KOTTEL, FRANKLIN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN ANNUAL PROPERTY TAX ON A
5 MANDATORY FINE FOR THE POSSESSION AND STORAGE OF DANGEROUS DRUGS; PROVIDING FOR
6 THAT THE VALUATION OF THE DANGEROUS DRUGS AND THE RATE OF TAX; PROVIDING FOR THE
7 ADMINISTRATION OF THE TAX; PROVIDING FOR VARIOUS CIVIL AND CRIMINAL PENALTIES FOR
8 VIOLATION OF THE TAX OR OTHER TAXATION LAWS; PROVIDING THAT THE REVENUE FROM THE FINE
9 BE DEPOSITED IN THE STATE GENERAL FUND; AMENDING SECTION 17-7-502, MCA; REPEALING
10 SECTIONS 15-25-101, 15-25-102, 15-25-111, 15-25-112, 15-25-113, 15-25-114, 15-25-115, 15-25-121,
11 15-25-122, AND 15-25-123, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN
12 APPLICABILITY DATE."

13
14 STATEMENT OF INTENT

15 ~~A statement of intent is required for this bill because the bill gives the department of revenue~~
16 ~~authority to adopt administrative rules. It is contemplated that the rules will address assessing the value~~
17 ~~of dangerous drugs, providing forms for reporting the possession and storage of dangerous drugs to the~~
18 ~~department, the issuance of receipts for payment of the tax, and other matters necessary for the proper~~
19 ~~administration of the tax to raise the maximum amount of revenue for the general fund of the state of~~
20 ~~Montana.~~

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:23
24 ~~NEW SECTION. Section 1. Definitions. As used in [sections 1 through 6], unless the context~~
25 ~~requires otherwise, the following definitions apply:~~26 (1) ~~"Dangerous drug" has the meaning provided in 50-32-101.~~27 (2) ~~"Department" means the department of revenue provided for in 2-15-1301.~~28 (3) ~~"Person" means an individual, firm, association, corporation, partnership, or any other group~~
29 ~~or combination acting as a unit.~~

1 ~~NEW SECTION. Section 2. Tax on dangerous drugs. (1) There is an annual tax on the possession~~
2 ~~and storage of dangerous drugs. Except as provided in [section 3], each person possessing or storing~~
3 ~~dangerous drugs is liable for the tax. The tax is upon possession or storage of specific reported drugs.~~
4 ~~If the taxpayer replaces or otherwise comes into possession of different or additional dangerous drugs, the~~
5 ~~taxpayer is liable for the tax on those dangerous drugs. A taxpayer is liable for the tax on all dangerous~~
6 ~~drugs in the taxpayer's possession or stored by the taxpayer on January 1 of each year, whether or not~~
7 ~~the tax was paid in regard to those drugs in the previous calendar year. The tax imposed is determined~~
8 ~~pursuant to subsection (2).~~

9 ~~(2) Each person possessing or storing dangerous drugs subject to taxation under [sections 1~~
10 ~~through 6] shall, within 24 hours of possession, report the type and quantity of the dangerous drugs to the~~
11 ~~department, together with other information that the department may require. Based upon information~~
12 ~~provided by the taxpayer, the department shall appraise the dangerous drugs and notify the taxpayer of the~~
13 ~~amount of the assessment. The tax is due and payable 7 days after the date of assessment.~~

14 ~~(3) The annual tax on possession and storage of dangerous drugs is 35% of the assessed market~~
15 ~~value of the drugs, as determined by the department.~~

16
17 ~~NEW SECTION. Section 3. Exemptions. The tax imposed pursuant to [section 2] does not apply~~
18 ~~to a person authorized by state or federal law to possess or store dangerous drugs. The burden of proof~~
19 ~~of an exemption from [section 2] is on the person claiming it.~~

20
21 ~~NEW SECTION. Section 4. Administration and enforcement department rules. (1) All law~~
22 ~~enforcement personnel and peace officers shall promptly report each person that they believe is subject to~~
23 ~~the tax under [sections 1 through 6] to the department. If a person in possession of dangerous drugs or~~
24 ~~that is storing dangerous drugs is able to produce satisfactory proof of compliance with the reporting and~~
25 ~~payment requirements of [section 2] for the drugs in the person's possession, the person need not be~~
26 ~~reported to the department.~~

27 ~~(2) (a) Taxes due under this chapter become delinquent if not reported or paid within the time limit~~
28 ~~provided in [section 2]. The department shall add to the amount of all delinquent dangerous drug taxes a~~
29 ~~penalty of 100% of the amount of dangerous drug taxes plus interest at the rate of 1% a month or fraction~~
30 ~~of a month, computed on the total amount of unpaid dangerous drug taxes. Interest is computed from the~~

1 ~~date on which the dangerous drug taxes were due to the date of payment.~~

2 ~~(b) The 100% penalty provided for in subsection (2)(a) may be waived by the department if~~
 3 ~~reasonable cause for the failure to file the statement required by [section 2] or to pay the tax due is~~
 4 ~~provided to the department.~~

5 ~~(3) The deficiency assessment provisions of 15-53-105, the criminal penalty provisions of~~
 6 ~~15-30-321(3), the estimation of tax provisions of 15-53-112, the confidentiality provisions of 15-30-303(1)~~
 7 ~~through (3), and the statute of limitations provisions of 15-53-115 apply to this tax and are fully~~
 8 ~~incorporated by reference in [sections 1 through 6]. The department may adopt rules necessary to~~
 9 ~~administer and enforce the tax.~~

10 ~~(4) A person aggrieved by an assessment pursuant to [section 2] or an exemption decision~~
 11 ~~pursuant to [section 3] may seek a review of the assessment or exemption decision pursuant to 15-1-211.~~

12
 13 ~~**NEW SECTION. Section 5. Warrant for distraint suspension of lien during incarceration.** If all or~~
 14 ~~part of the tax imposed by [sections 1 through 6] is not paid when due, the department may issue a~~
 15 ~~warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any~~
 16 ~~other claim, lien, or demand thereafter filed and recorded. The period during which the lien may be enforced~~
 17 ~~is suspended during any period of incarceration of the taxpayer.~~

18
 19 ~~**NEW SECTION. Section 6. Disposition of proceeds.** The department shall, in accordance with the~~
 20 ~~provisions of 15-1-501(6), transfer all taxes collected pursuant to [sections 1 through 6] to the state~~
 21 ~~general fund.~~

22
 23 ~~**NEW SECTION. SECTION 1. MANDATORY FINE FOR POSSESSION AND STORAGE OF**~~
 24 ~~**DANGEROUS DRUGS -- DISPOSITION OF PROCEEDS. (1) IN ADDITION TO THE PUNISHMENTS AND**~~
 25 ~~**FINES SET FORTH IN TITLE 45, CHAPTER 9, PART 1, THE COURT SHALL FINE EACH PERSON FOUND**~~
 26 ~~**TO HAVE POSSESSED OR STORED DANGEROUS DRUGS 35% OF THE MARKET VALUE OF THE DRUGS**~~
 27 ~~**AS DETERMINED BY THE COURT.**~~

28 ~~**(2) THE FINES COLLECTED PURSUANT TO SUBSECTION (1) DURING EACH CALENDAR YEAR**~~
 29 ~~**MUST BE TRANSMITTED BY THE CLERK OF COURT TO THE STATE TREASURER NO LATER THAN 10**~~
 30 ~~**DAYS FOLLOWING THE END OF THE CALENDAR YEAR. THE STATE TREASURER SHALL DEPOSIT THE**~~

1 FINES IN THE STATE GENERAL FUND.

2

3 **Section 2.** Section 17-7-502, MCA, is amended to read:

4 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
5 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
6 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

12 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
13 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
14 ~~16-26-123~~; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
15 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409;
16 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;
17 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503;
18 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;
19 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504;
20 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;
21 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416;
22 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331;
23 90-7-220; 90-9-306; and 90-14-107.

24 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
25 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
26 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
27 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
28 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
29 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
30 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for

1 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
2 July 1, 1995.) "

3

4 NEW SECTION. Section 3. Codification instruction. ~~{Sections 1 through 6}~~ are [SECTION 1] IS
5 intended to be codified as an integral part of Title ~~45~~ 45, and the provisions of Title ~~45~~ 45 apply to
6 ~~{sections 1 through 6}~~ [SECTION 1].

7

8 NEW SECTION. Section 4. Repealer. Sections 15-25-101, 15-25-102, 15-25-111, 15-25-112,
9 15-25-113, 15-25-114, 15-25-115, 15-25-121, 15-25-122, and 15-25-123, MCA, are repealed.

10

11 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective January 1, 1996,
12 and applies to all ~~tax years beginning~~ PERSONS FOUND TO HAVE POSSESSED OR STORED DANGEROUS
13 DRUGS after December 31, 1995.

14

-END-

SENATE BILL NO. 219

INTRODUCED BY DOHERTY, STANG, WILSON, RYAN, GALVIN, WELDON, KOTTEL, FRANKLIN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN ANNUAL PROPERTY TAX ON A MANDATORY FINE FOR THE POSSESSION AND STORAGE OF DANGEROUS DRUGS; PROVIDING FOR THAT THE VALUATION OF THE DANGEROUS DRUGS AND THE RATE OF TAX; PROVIDING FOR THE ADMINISTRATION OF THE TAX; PROVIDING FOR VARIOUS CIVIL AND CRIMINAL PENALTIES FOR VIOLATION OF THE TAX OR OTHER TAXATION LAWS; PROVIDING THAT THE REVENUE FROM THE FINE BE DEPOSITED IN THE STATE GENERAL FUND; AMENDING SECTION 17-7-502, MCA; REPEALING SECTIONS 15-25-101, 15-25-102, 15-25-111, 15-25-112, 15-25-113, 15-25-114, 15-25-115, 15-25-121, 15-25-122, AND 15-25-123, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the bill gives the department of revenue authority to adopt administrative rules. It is contemplated that the rules will address assessing the value of dangerous drugs, providing forms for reporting the possession and storage of dangerous drugs to the department, the issuance of receipts for payment of the tax, and other matters necessary for the proper administration of the tax to raise the maximum amount of revenue for the general fund of the state of Montana.

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

- (1) "Dangerous drug" has the meaning provided in 50-32-101.
- (2) "Department" means the department of revenue provided for in 2-15-1301.
- (3) "Person" means an individual, firm, association, corporation, partnership, or any other group or combination acting as a unit.

1 ~~NEW SECTION. Section 2. Tax on dangerous drugs.~~ (1) There is an annual tax on the possession
 2 and storage of dangerous drugs. Except as provided in [section 3], each person possessing or storing
 3 dangerous drugs is liable for the tax. The tax is upon possession or storage of specific reported drugs.
 4 If the taxpayer replaces or otherwise comes into possession of different or additional dangerous drugs, the
 5 taxpayer is liable for the tax on those dangerous drugs. A taxpayer is liable for the tax on all dangerous
 6 drugs in the taxpayer's possession or stored by the taxpayer on January 1 of each year, whether or not
 7 the tax was paid in regard to those drugs in the previous calendar year. The tax imposed is determined
 8 pursuant to subsection (2).

9 ~~(2) Each person possessing or storing dangerous drugs subject to taxation under [sections 1~~
 10 ~~through 6] shall, within 24 hours of possession, report the type and quantity of the dangerous drugs to the~~
 11 ~~department, together with other information that the department may require. Based upon information~~
 12 ~~provided by the taxpayer, the department shall appraise the dangerous drugs and notify the taxpayer of the~~
 13 ~~amount of the assessment. The tax is due and payable 7 days after the date of assessment.~~

14 ~~(3) The annual tax on possession and storage of dangerous drugs is 35% of the assessed market~~
 15 ~~value of the drugs, as determined by the department.~~

17 ~~NEW SECTION. Section 3. Exemptions.~~ The tax imposed pursuant to [section 2] does not apply
 18 to a person authorized by state or federal law to possess or store dangerous drug. The burden of proof
 19 of an exemption from [section 2] is on the person claiming it.

21 ~~NEW SECTION. Section 4. Administration and enforcement — department rules.~~ (1) All law
 22 enforcement personnel and peace officers shall promptly report each person that they believe is subject to
 23 the tax under [sections 1 through 6] to the department. If a person in possession of dangerous drugs or
 24 that is storing dangerous drugs is able to produce satisfactory proof of compliance with the reporting and
 25 payment requirements of [section 2] for the drugs in the person's possession, the person need not be
 26 reported to the department.

27 ~~(2) (a) Taxes due under this chapter become delinquent if not reported or paid within the time limit~~
 28 ~~provided in [section 2]. The department shall add to the amount of all delinquent dangerous drug taxes a~~
 29 ~~penalty of 100% of the amount of dangerous drug taxes plus interest at the rate of 1% a month or fraction~~
 30 ~~of a month, computed on the total amount of unpaid dangerous drug taxes. Interest is computed from the~~

1 ~~date on which the dangerous drug taxes were due to the date of payment.~~

2 ~~(b) The 100% penalty provided for in subsection (2)(a) may be waived by the department if~~
 3 ~~reasonable cause for the failure to file the statement required by [section 2] or to pay the tax due is~~
 4 ~~provided to the department.~~

5 ~~(3) The deficiency assessment provisions of 15-53-105, the criminal penalty provisions of~~
 6 ~~15-30-321(3), the estimation of tax provisions of 15-53-112, the confidentiality provisions of 15-30-303(1)~~
 7 ~~through (3), and the statute of limitations provisions of 15-53-115 apply to this tax and are fully~~
 8 ~~incorporated by reference in [sections 1 through 6]. The department may adopt rules necessary to~~
 9 ~~administer and enforce the tax.~~

10 ~~(4) A person aggrieved by an assessment pursuant to [section 2] or an exemption decision~~
 11 ~~pursuant to [section 3] may seek a review of the assessment or exemption decision pursuant to 15-1-211.~~

12
 13 ~~**NEW SECTION. Section 5. Warrant for distraint -- suspension of lien during incarceration.** If all or~~
 14 ~~part of the tax imposed by [sections 1 through 6] is not paid when due, the department may issue a~~
 15 ~~warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any~~
 16 ~~other claim, lien, or demand thereafter filed and recorded. The period during which the lien may be enforced~~
 17 ~~is suspended during any period of incarceration of the taxpayer.~~

18
 19 ~~**NEW SECTION. Section 6. Disposition of proceeds.** The department shall, in accordance with the~~
 20 ~~provisions of 15-1-501(6), transfer all taxes collected pursuant to [sections 1 through 6] to the state~~
 21 ~~general fund.~~

22
 23 ~~**NEW SECTION. SECTION 1. MANDATORY FINE FOR POSSESSION AND STORAGE OF**~~
 24 ~~**DANGEROUS DRUGS -- DISPOSITION OF PROCEEDS. (1) IN ADDITION TO THE PUNISHMENTS AND**~~
 25 ~~**FINES SET FORTH IN TITLE 45, CHAPTER 9, PART 1, THE COURT SHALL FINE EACH PERSON FOUND**~~
 26 ~~**TO HAVE POSSESSED OR STORED DANGEROUS DRUGS 35% OF THE MARKET VALUE OF THE DRUGS**~~
 27 ~~**AS DETERMINED BY THE COURT.**~~

28 ~~**(2) THE FINES COLLECTED PURSUANT TO SUBSECTION (1) DURING EACH CALENDAR YEAR**~~
 29 ~~**MUST BE TRANSMITTED BY THE CLERK OF COURT TO THE STATE TREASURER NO LATER THAN 10**~~
 30 ~~**DAYS FOLLOWING THE END OF THE CALENDAR YEAR. THE STATE TREASURER SHALL DEPOSIT THE**~~

1 FINES IN THE STATE GENERAL FUND.

2

3 **Section 2.** Section 17-7-502, MCA, is amended to read:

4 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
5 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
6 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

12 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
13 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
14 ~~15-25-123~~; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
15 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409;
16 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;
17 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503;
18 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;
19 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504;
20 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;
21 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416;
22 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331;
23 90-7-220; 90-9-306; and 90-14-107.

24 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
25 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
26 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
27 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
28 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
29 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
30 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for

1 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
2 July 1, 1995.) "

3

4 NEW SECTION. Section 3. Codification instruction. ~~{Sections 1 through 6} are~~ [SECTION 1] IS
5 intended to be codified as an integral part of Title ~~45~~ 45, and the provisions of Title ~~45~~ 45 apply to
6 ~~{sections 1 through 6}~~ [SECTION 1].

7

8 NEW SECTION. Section 4. Repealer. Sections 15-25-101, 15-25-102, 15-25-111, 15-25-112,
9 15-25-113, 15-25-114, 15-25-115, 15-25-121, 15-25-122, and 15-25-123, MCA, are repealed.

10

11 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective January 1, 1996,
12 and applies to all ~~tax years beginning~~ PERSONS FOUND TO HAVE POSSESSED OR STORED DANGEROUS
13 DRUGS after December 31, 1995.

14

-END-

1 SENATE BILL NO. 219

2 INTRODUCED BY DOHERTY, STANG, WILSON, RYAN, GALVIN, WELDON, KOTTEL, FRANKLIN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ~~AN ANNUAL PROPERTY TAX ON A~~
 5 MANDATORY FINE FOR THE POSSESSION AND STORAGE OF DANGEROUS DRUGS; PROVIDING FOR
 6 THAT THE VALUATION OF THE DANGEROUS DRUGS AND THE RATE OF TAX; PROVIDING FOR THE
 7 ADMINISTRATION OF THE TAX; PROVIDING FOR VARIOUS CIVIL AND CRIMINAL PENALTIES FOR
 8 VIOLATION OF THE TAX OR OTHER TAXATION LAWS; PROVIDING THAT THE REVENUE FROM THE FINE
 9 BE DEPOSITED IN THE STATE GENERAL FUND; AMENDING SECTION 17-7-502, MCA; REPEALING
 10 SECTIONS 15-25-101, 15-25-102, 15-25-111, 15-25-112, 15-25-113, 15-25-114, 15-25-115, 15-25-121,
 11 15-25-122, AND 15-25-123, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN
 12 APPLICABILITY DATE."

13
14 STATEMENT OF INTENT

15 ~~A statement of intent is required for this bill because the bill gives the department of revenue~~
 16 ~~authority to adopt administrative rules. It is contemplated that the rules will address assessing the value~~
 17 ~~of dangerous drugs, providing forms for reporting the possession and storage of dangerous drugs to the~~
 18 ~~department, the issuance of receipts for payment of the tax, and other matters necessary for the proper~~
 19 ~~administration of the tax to raise the maximum amount of revenue for the general fund of the state of~~
 20 ~~Montana.~~

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:23
24 ~~NEW SECTION. Section 1. Definitions. As used in [sections 1 through 6], unless the context~~
25 ~~requires otherwise, the following definitions apply:~~26 (1) ~~"Dangerous drug" has the meaning provided in 50-32-101.~~27 (2) ~~"Department" means the department of revenue provided for in 2-15-1301.~~28 (3) ~~"Person" means an individual, firm, association, corporation, partnership, or any other group~~
29 ~~or combination acting as a unit.~~

1 ~~**NEW SECTION. Section 2. Tax on dangerous drugs.**~~ (1) There is an annual tax on the possession
 2 and storage of dangerous drugs. Except as provided in [section 3], each person possessing or storing
 3 dangerous drugs is liable for the tax. The tax is upon possession or storage of specific reported drugs.
 4 If the taxpayer replaces or otherwise comes into possession of different or additional dangerous drugs, the
 5 taxpayer is liable for the tax on these dangerous drugs. A taxpayer is liable for the tax on all dangerous
 6 drugs in the taxpayer's possession or stored by the taxpayer on January 1 of each year, whether or not
 7 the tax was paid in regard to these drugs in the previous calendar year. The tax imposed is determined
 8 pursuant to subsection (2).

9 ~~(2) Each person possessing or storing dangerous drugs subject to taxation under [sections 1~~
 10 ~~through 6] shall, within 24 hours of possession, report the type and quantity of the dangerous drugs to the~~
 11 ~~department, together with other information that the department may require. Based upon information~~
 12 ~~provided by the taxpayer, the department shall appraise the dangerous drugs and notify the taxpayer of the~~
 13 ~~amount of the assessment. The tax is due and payable 7 days after the date of assessment.~~

14 ~~(3) The annual tax on possession and storage of dangerous drugs is 35% of the assessed market~~
 15 ~~value of the drugs, as determined by the department.~~

16
 17 ~~**NEW SECTION. Section 3. Exemptions.**~~ The tax imposed pursuant to [section 2] does not apply
 18 to a person authorized by state or federal law to possess or store dangerous drugs. The burden of proof
 19 of an exemption from [section 2] is on the person claiming it.

20
 21 ~~**NEW SECTION. Section 4. Administration and enforcement — department rules.**~~ (1) All law
 22 enforcement personnel and peace officers shall promptly report each person that they believe is subject to
 23 the tax under [sections 1 through 6] to the department. If a person in possession of dangerous drugs or
 24 that is storing dangerous drugs is able to produce satisfactory proof of compliance with the reporting and
 25 payment requirements of [section 2] for the drugs in the person's possession, the person need not be
 26 reported to the department.

27 ~~(2) (a) Taxes due under this chapter become delinquent if not reported or paid within the time limit~~
 28 ~~provided in [section 2]. The department shall add to the amount of all delinquent dangerous drug taxes a~~
 29 ~~penalty of 100% of the amount of dangerous drug taxes plus interest at the rate of 1% a month or fraction~~
 30 ~~of a month, computed on the total amount of unpaid dangerous drug taxes. Interest is computed from the~~

1 ~~date on which the dangerous drug taxes were due to the date of payment.~~

2 ~~(b) The 100% penalty provided for in subsection (2)(a) may be waived by the department if~~
 3 ~~reasonable cause for the failure to file the statement required by [section 2] or to pay the tax due is~~
 4 ~~provided to the department.~~

5 ~~(3) The deficiency assessment provisions of 15-53-105, the criminal penalty provisions of~~
 6 ~~15-30-321(3), the estimation of tax provisions of 15-53-112, the confidentiality provisions of 15-30-303(1)~~
 7 ~~through (3), and the statute of limitations provisions of 15-53-115 apply to this tax and are fully~~
 8 ~~incorporated by reference in [sections 1 through 6]. The department may adopt rules necessary to~~
 9 ~~administer and enforce the tax.~~

10 ~~(4) A person aggrieved by an assessment pursuant to [section 2] or an exemption decision~~
 11 ~~pursuant to [section 3] may seek a review of the assessment or exemption decision pursuant to 15-1-211.~~

12
 13 ~~**NEW SECTION. Section 5. Warrant for distraint — suspension of lien during incarceration.** If all or~~
 14 ~~part of the tax imposed by [sections 1 through 6] is not paid when due, the department may issue a~~
 15 ~~warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any~~
 16 ~~other claim, lien, or demand thereafter filed and recorded. The period during which the lien may be enforced~~
 17 ~~is suspended during any period of incarceration of the taxpayer.~~

18
 19 ~~**NEW SECTION. Section 6. Disposition of proceeds.** The department shall, in accordance with the~~
 20 ~~provisions of 15-1-501(6), transfer all taxes collected pursuant to [sections 1 through 6] to the state~~
 21 ~~general fund.~~

22
 23 ~~**NEW SECTION. SECTION 1. MANDATORY FINE FOR POSSESSION AND STORAGE OF**~~
 24 ~~**DANGEROUS DRUGS -- DISPOSITION OF PROCEEDS. (1) IN ADDITION TO THE PUNISHMENTS AND**~~
 25 ~~**FINES SET FORTH IN TITLE 45, CHAPTER 9, PART 1, THE COURT SHALL FINE EACH PERSON FOUND**~~
 26 ~~**TO HAVE POSSESSED OR STORED DANGEROUS DRUGS 35% OF THE MARKET VALUE OF THE DRUGS**~~
 27 ~~**AS DETERMINED BY THE COURT.**~~

28 ~~**(2) THE FINES COLLECTED PURSUANT TO SUBSECTION (1) DURING EACH CALENDAR YEAR**~~
 29 ~~**MUST BE TRANSMITTED BY THE CLERK OF COURT TO THE STATE TREASURER NO LATER THAN 10**~~
 30 ~~**DAYS FOLLOWING THE END OF THE CALENDAR YEAR. THE STATE TREASURER SHALL DEPOSIT THE**~~

1 FINES IN THE STATE GENERAL FUND.

2
3 **Section 2.** Section 17-7-502, MCA, is amended to read:

4 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
5 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
6 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

12 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
13 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
14 ~~15-26-123~~; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
15 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409;
16 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;
17 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503;
18 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;
19 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504;
20 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;
21 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416;
22 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331;
23 90-7-220; 90-9-306; and 90-14-107.

24 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
25 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
26 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
27 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
28 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
29 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
30 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for

1 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
2 July 1, 1995.) "

3
4 NEW SECTION. Section 3. Codification instruction. ~~{Sections 1 through 6} are~~ [SECTION 1] IS
5 intended to be codified as an integral part of Title ~~45~~ 45, and the provisions of Title ~~45~~ 45 apply to
6 ~~{sections 1 through 6}~~ [SECTION 1].

7
8 NEW SECTION. Section 4. Repealer. Sections 15-25-101, 15-25-102, 15-25-111, 15-25-112,
9 15-25-113, 15-25-114, 15-25-115, 15-25-121, 15-25-122, and 15-25-123, MCA, are repealed.

10
11 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective January 1, 1996,
12 and applies to all ~~tax years beginning~~ PERSONS FOUND TO HAVE POSSESSED OR STORED DANGEROUS
13 DRUGS after December 31, 1995.

14 -END-