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House BILL NO. 465

INTRODUCED BY

John Bryan

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE DISTRIBUTION OF THE REVENUE FROM THE LODGING FACILITY USE TAX TO FACILITATE LOCAL BUILDING, REPAIRING, AND MAINTENANCE OF TOURISM-RELATED PROJECTS; ELIMINATING DISTRIBUTION TO REGIONAL NONPROFIT TOURISM CORPORATIONS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 2-15-1816, 15-65-101, 15-65-121, AND 17-7-502, MCA; REPEALING SECTION 15-65-122, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 2-15-1816, MCA, is amended to read:

"2-15-1816. Tourism advisory council. (1) There is created a tourism advisory council.

(2) The council is composed of not less than 12 members appointed by the governor from Montana's private sector travel industry and includes at least one member from Indian tribal governments, with representation from each tourism region initially established by executive order of the governor and as may be modified by the council under subsection (5).

(3) Members of the council shall serve staggered 3-year terms, subject to replacement at the discretion of the governor. The governor shall designate four of the initial members to serve 1-year terms and four of the initial members to serve 2-year terms.

(4) The council shall:

~~(a) oversee distribution of funds to regional nonprofit tourism corporations for tourism promotion and to nonprofit convention and visitors bureaus in accordance with Title 15, chapter 65, part 1, and this section;~~

~~(b)(a)~~ advise the department of commerce relative to tourism promotion;

~~(e)(b)~~ advise the governor on significant matters relative to Montana's travel industry;

~~(d) prescribe allowable administrative expenses for which accommodation tax proceeds may be used by regional nonprofit tourism corporations and nonprofit convention and visitors bureaus;~~

~~(e)(c)~~ direct the university system regarding Montana travel research;

1 ~~(d)~~ approve all travel research programs prior to their being undertaken; and

2 (e) recommend to the governor the grants to be awarded from the tourism-related facilities account
 3 established under [section 4] to entities to be used for building, repairing, and maintaining tourism-related
 4 projects.

5 ~~(g) encourage regional nonprofit tourism corporations to promote tourist activities on Indian~~
 6 ~~reservations in their regions.~~

7 (5) The council may modify the tourism regions established by executive order of the governor.

8 (6) The department of commerce shall adopt ~~such~~ rules ~~as may be~~ necessary to implement and
 9 administer Title 15, chapter 65, part 1, and this section."

10
 11 **Section 2.** Section 15-65-101, MCA, is amended to read:

12 "**15-65-101. Definitions.** For purposes of this part, the following definitions apply:

13 (1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use
 14 of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation,
 15 entertainment, or any other similar charges.

16 (2) (a) "Campground" means a place, publicly or privately owned, used for public camping where
 17 persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

18 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park
 19 intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30
 20 consecutive days or more.

21 (3) "Council" means the tourism advisory council established in 2-15-1816.

22 (4) (a) "Facility" means a building containing individual sleeping rooms or suites, providing
 23 overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term
 24 includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium
 25 inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

26 (b) The term does not include any health care facility, as defined in 50-5-101, any facility owned
 27 by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age
 28 of 18 years for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast
 29 facility whose average daily accommodation charge for single occupancy does not exceed 60% of the
 30 amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or

1 any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

2 (5) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under
3 Montana law and recognized by a majority of the governing body in the city or consolidated city-county
4 in which the bureau is located.

5 ~~(6) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under~~
6 ~~Montana law and recognized by the council as the entity for promoting tourism within one of several~~
7 ~~regions established by executive order of the governor."~~

8

9 **Section 3.** Section 15-65-121, MCA, is amended to read:

10 **"15-65-121. Distribution of tax proceeds -- general fund loan authority.** (1) The proceeds of the
11 tax imposed by 15-65-111 must, in accordance with the provisions of 15-1-501(6), be deposited in an
12 account in the state special revenue fund to the credit of the department of revenue. The department may
13 spend from that account in accordance with an expenditure appropriation by the legislature based on an
14 estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of
15 the tax proceeds in accordance with the provisions of 15-1-501(6) and as provided in subsections (1)(a)
16 through (1)(d) of this section, the department shall determine the expenditures by state agencies for in-state
17 lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each
18 reporting period. The amount deducted must be deposited in the general fund. The balance of the tax
19 proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or
20 deposited in the general fund is statutorily appropriated, as provided in 17-7-502, and must be transferred
21 to an account in the state special revenue fund to the credit of the department of commerce for tourism
22 promotion and promotion of the state as a location for the production of motion pictures and television
23 commercials, to the Montana historical society, to the university system, and to the department of fish,
24 wildlife, and parks, as follows:

25 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
26 historical signs and historic sites;

27 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel
28 research program;

29 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state
30 parks that have both resident and nonresident use, subject to 23-1-131; and

1 (d) the balance of the proceeds as follows:

2 (i) 12% to be deposited in the tourism-related facilities account established under [section 4];

3 ~~(ii) 75%~~ 69% to be used directly by the department of commerce;

4 ~~(iii) except as provided in subsection (1)(d)(iii), 25%~~ 19% to be distributed by the department
5 of commerce to regional nonprofit tourism corporations counties in the ratio of the proceeds collected in
6 each ~~tourism region~~ county to the total proceeds collected statewide; and

7 ~~(iii) if 25% of the proceeds collected annually within the limits of a city or consolidated city county~~
8 ~~exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation~~
9 ~~in the region where the city or consolidated city county is located is,~~ to be distributed to the nonprofit
10 convention and visitors bureau in that ~~city or consolidated city county~~ county.

11 ~~(2) If a city or consolidated city county qualifies under this section for funds but fails to either~~
12 ~~recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing~~
13 ~~plan as required in 15-65-122, then these funds must be allocated to the regional nonprofit tourism~~
14 ~~corporation in the region in which the city or consolidated city county is located.~~

15 ~~(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual~~
16 ~~marketing plan as required in 15-65-122, then these funds otherwise allocated to the regional nonprofit~~
17 ~~tourism corporation may be used by the department of commerce for tourism promotion and promotion of~~
18 ~~the state as a location for the production of motion pictures and television commercials.~~

19 ~~(4)~~ (2) The department of commerce may use general fund loans for efficient implementation of this
20 section."

21
22 **NEW SECTION. Section 4. Tourism-related facilities account -- statutory appropriation.** (1) There
23 is a tourism-related facilities account in the state special revenue fund. The purpose of the account is to
24 provide a source of revenue for local nonprofit convention and visitors bureaus to use to secure matching
25 funds, grants, or other money to be used for building, repairing, and maintaining tourism-related projects.

26 (2) The fees deposited in the tourism-related facilities account under 15-65-121 are statutorily
27 appropriated, as provided in 17-7-502, to the tourism advisory council for the purposes set forth in
28 subsection (1). The funds must be granted by the council to local nonprofit convention and visitors
29 bureaus. The grants must be recommended by the council pursuant to 2-15-1816 and must be approved
30 by the governor.

1 **Section 5.** Section 17-7-502, MCA, is amended to read:

2 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
4 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

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

22 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
26 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
27 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
28 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
29 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
30 July 1, 1995.)"

1 NEW SECTION. Section 6. Repealer. Section 15-65-122, MCA, is repealed.

2

3 NEW SECTION. Section 7. Effective date. [This act] is effective January 1, 1996.

4

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0465, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act changing the distribution of the revenue from the lodging facility use tax to facilitate local building, repairing, and maintenance of tourism-related projects; eliminating distribution to regional nonprofit tourism corporations; providing a statutory appropriation; and providing a delayed effective date.

ASSUMPTIONS:

1. The funds are statutorily appropriated.
2. The bill is effective January 1, 1996.
3. Accommodation tax receipts are received in the month following the end of a calendar quarter. It is estimated that 65% of the annual receipts are received in July and October of each year due to increased use of lodging facilities in the summer and early fall. Therefore, 35% of the annual receipts will be available for distribution as provided in this bill for FY96.
4. Distribution of the lodging facility use tax as outlined in the bill will eliminate the funds going to the regional non-profit tourism corporations, and reduce the amount available to the Department of Commerce.
5. A portion of the lodging facility use tax will be distributed by the Department of Commerce to counties in the ratio of the proceeds collected in each county to the total proceeds collected statewide. The funds are then to be distributed to non-profit convention and visitors bureaus in that county.
6. A tourism-related facilities account is to be established, the purpose of which is to provide a source of revenue for local non-profit convention and visitor bureaus to use to secure matching funds, grants, or other money to be used for building, repairing, and maintaining tourism-related projects.
7. The Tourism Advisory Council will recommend to the Governor the grants to be awarded from the tourism-related facilities account.
8. Lodging facility use tax collections will grow at a rate of 2-3% for the biennium, and estimated total collections are \$8.4 million in FY96 and \$8.6 million for FY97.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Montana Promotions Division	(153,468)	(451,635)
Regional Non-profit Tourism Corp	(639,450)	(1,881,810)
Tourism-related Facilities Account	306,936	903,269
Counties, Non-Profit Convention	<u>485,982</u>	<u>1,430,176</u>
Total	0	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Elimination of the direct distribution of the regional non-profit tourism funds could impact some ongoing projects; however, the county funds would be available. Counties would receive a portion of the tax proceeds based upon a ratio of the amount collected in the county to the total proceeds collected statewide.

David Lewis 2-15-95
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

William Ryan
 WILLIAM RYAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0465, as introduced

HB 465