1   SENATE BILL NO. 230

2   INTRODUCED BY

3

4   A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ALL COUNTIES AND INCORPORATED

5   MUNICIPALITIES TO ADOPT A RESORT TAX; REQUIRING 50% OF THE TAX PROCEEDS TO GO TO

6   PROPERTY TAX RELIEF; AMENDING SECTIONS 7-6-4461, 7-6-4462, 7-6-4464, 7-6-4466, 7-6-4467,

7   7-6-4468, AND 7-6-4469, MCA; AND PROVIDING AN EFFECTIVE DATE."

8

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

10

11   **Section 1.** Section 7-6-4461, MCA, is amended to read:

12   **"7-6-4461. Resort tax -- definitions.** As used in 7-6-4461 through 7-6-4469 and [sections 8 and

13   9], the following definitions apply:

14   (1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to

15   transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine,

16   medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

17   (2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical

18   maintenance purposes, whether or not prescribed by a physician.

19   (3) "Medicine" means substances sold for curative or remedial properties, including both physician

20   prescribed and over-the-counter medications.

21   (4) "Resort area" means a county or an area that:

22   (a) is an unincorporated area and is a defined contiguous geographic area;

23   (b) has a population of less than 2,500 according to the most recent federal census or federal

24   estimate;

25   (c) derives the major portion of its economic well-being from businesses catering to the recreational

26   and personal needs of persons traveling to or through the area for purposes not related to their income

27   production; and

28   (d) has been designated by the department of commerce as a resort area prior to its establishment

29   by the county commissioners as provided in 7-6-4468.

30   (5) "Resort community" means a community that:

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1   (a) is an incorporated municipality;.

2   (b) has a population of less than 2,500 according to the most recent federal census or federal

3   estimate;

4   (c) derives the major portion of its economic well-being from businesses catering to the recreational

5   and personal needs of persons traveling to or through the municipality for purposes not related to their

6   income production; and

7   (d) has been designated by the department of commerce as a resort community."

8

9   **Section 2.** Section 7-6-4462, MCA, is amended to read:

10   "**7-6-4462. Resort community and area taxing authority -- specific delegation.** As required by

11   7-1-112, 7-6-4461 through 7-6-4467 7-6-4469 specifically delegate to the electors of each respective

12   resort community or resort area the power to authorize their municipality or county to impose a resort tax

13   within the corporate boundary of the municipality or the boundary of the resort area as provided in

14   7-6-4461 through 7-6-4467 7-6-4469 and [sections 8 and 9]."

15

16   **Section 3.** Section 7-6-4464, MCA, is amended to read:

17   "**7-6-4464. Resort tax -- election required -- procedure.** (1) A resort community or area may not

18   impose or, except as provided in 7-6-4465, amend or repeal a resort tax unless the resort tax question has

19   been submitted to the electorate of the resort community or area and approved by a majority of the electors

20   voting on the question.

21   (2) The resort tax question may be presented to the electors of:

22   (a) a resort community by a petition of the electors as provided by 7-1-4130, 7-5-132, and 7-5-134

23   through 7-5-137 or by a resolution of the governing body of the resort community; or

24   (b) a resort area by a resolution of the board of county commissioners, following receipt of a

25   petition of electors as provided in 7-6-4468.

26   (3) If a resort area is in more than one county, the resort tax question must be presented to and

27   approved by the electors in the resort area of each county.

28   (4) The petition or resolution referring the taxing question must state:

29   (a) the rate of the resort tax;

30   (b) the duration of the resort tax;

1   (c) the date when the tax becomes effective, which date may not be earlier than 35 days after the

2   election; and

3   (d) the purposes that may be funded by the resort tax revenue.

4   (5) Upon receipt of an adequate petition, the governing body may:

5   (a) call a special election on the resort tax question; or

6   (b) have the resort tax question placed on the ballot at the next regularly scheduled election.

7   (6) The question of the imposition of a resort tax may not be placed before the electors more than

8   once in any fiscal year."

9

10   **Section 4.** Section 7-6-4466, MCA, is amended to read:

11   **"7-6-4466. Use of resort ~~community~~ tax ~~revenues~~ revenue -- bond issue -- pledge.** (1) Unless

12 otherwise restricted by the voter-approved tax authorization provided for in 7-6-4464, a resort community

13 or area may appropriate and expend ~~revenues~~ revenue derived from a resort tax for any activity,

14 undertaking, or administrative service that the municipality or county is authorized by law to perform,

15 including costs resulting from the imposition of the tax.

16   (2) A resort community or county may issue bonds to provide, install, or construct any of the

17 public facilities, improvements, or undertakings authorized under 7-7-4101, 7-7-4404, and 7-12-4102.

18 Bonds issued under this section must be authorized by a resolution of the governing body, stating the

19 terms, conditions, and covenants of the municipality or county as the governing body considers

20 appropriate. The bonds may be sold at a discount at a public or private sale.

21   (3) A resort community or county may pledge for repayment of bonds issued under this section

22 the ~~revenues~~ revenue derived from a resort tax, special assessments levied for and ~~revenues~~ revenue

23 collected from the facilities, improvements, or undertakings for which the bonds are issued, and any other

24 source of revenue authorized by the legislature to be imposed or collected by the resort community or

25 county. ~~Such~~ The bonds do not constitute debt for purposes of any statutory debt limitation~~, provided that~~

26 if, in the resolution authorizing the issuance of the bonds, the municipality or county determines that the

27 resort tax ~~revenues~~ revenue, special assessments levied for and ~~revenues~~ revenue from ~~such~~ facilities,

28 improvements or undertakings, or other sources of revenue, if any, pledged to the payment of the bonds

29 will be sufficient in each year to pay the principal ~~thereof~~ and interest ~~thereon~~ on the bonds when due.

30 Bonds may not be issued pledging proceeds of the resort tax for repayment unless the municipality or

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1   county in the resolution authorizing issuance of the bonds determines that in any fiscal year the annual

2   revenues revenue expected to be derived from the resort tax, less the amount required to reduce property

3   taxes pursuant to 7-6-4467, equals at least 125% of the average amount of the principal and interest

4   payable from the resort tax revenues revenue on the bonds and any other outstanding bonds payable from

5   the resort tax except any bonds to be refunded upon the issuance of the proposed bonds."

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7   **Section 5.** Section 7-6-4467, MCA, is amended to read:

8   "**7-6-4467. Resort community tax -- property tax relief.** (1) Annually anticipated receipts from the

9   resort tax enacted by a municipality or county must be applied to reduce the municipal or county property

10   tax levy for the fiscal year in an amount equal to at least 5% 50% of the resort tax revenues revenue

11   derived during the preceding fiscal year.

12   (2) A resort community or county that received more resort tax revenues revenue than had been

13   included in the annual municipal or county budget shall establish a municipal property tax relief fund. All

14   resort tax revenues received in excess of the budget amount must be placed in the fund. The entire fund

15   must be used to replace municipal property taxes in the ensuing fiscal year."

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17   **Section 6.** Section 7-6-4468, MCA, is amended to read:

18   "**7-6-4468. Establishment of a resort area -- taxing authority -- approval by electorate.** (1) The

19   establishment of a resort area within a county for the purpose of imposing a resort tax may be initiated by

20   a written petition to the board of county commissioners of the county in which the area is located. The

21   petition must contain a description of the proposed resort area unless the proposed resort area is

22   countywide and must be signed by at least 15% of the electors residing in the proposed area.

23   (2) The petition must include a proposal to impose a resort tax within the proposed resort area,

24   including the rate, duration, effective date, and purpose of the tax as provided in 7-6-4464.

25   (3) Upon receiving a petition to establish a resort area, the board of county commissioners shall

26   present the question to the electors residing in the proposed resort area, as provided in 7-6-4464, if the

27   area is not countywide or in the county."

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29   **Section 7.** Section 7-6-4469, MCA, is amended to read:

30   "**7-6-4469. Use of resort area tax.** (1) Unless otherwise provided by the resolution approved by

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1 the electors under 7-6-4464, the board of county commissioners shall appropriate and spend revenue

2 derived from a resort area tax for the purpose stated in the resolution, subject to the provisions of

3 7-6-4467.

4 (2) The resort area, if not countywide, shall reimburse the board of county commissioners for costs

5 associated with the collection, administration, and litigation of the resort area tax."

6

7 NEW SECTION. **Section 8. Distribution of tax proceeds.** A resort tax imposed by a county for a

8 resort area encompassing the entire county must be levied countywide. Unless otherwise provided by

9 agreement with the municipalities, the county shall distribute resort tax revenue to the municipalities in the

10 following manner:

11 (1) 50% of the amount collected in the county based on the ratio of population of the municipality

12 to the population of the county derived from the most recent population estimates provided by the U.S.

13 bureau of the census or, if estimates are not available, derived from the 1990 census; and

14 (2) 50% based on the point of origin of the resort tax revenue.

15

16 NEW SECTION. **Section 9. Double taxation prohibited.** (1) A resort tax may not be levied on the

17 same person or transaction by more than one local government.

18 (2) If the electorate of a county approves a resort tax after the electorate of a municipality in the

19 county has approved a resort tax on the same person or transaction at the same or higher rate, persons

20 or transactions in the municipality are exempt from the county tax as long as the municipal tax is in effect.

21 If the municipal tax is at a lower rate than the county tax, the governing body of the municipality shall

22 repeal its tax without a vote of the electorate.

23

24 NEW SECTION. **Section 10. Codification instruction.** (1) [Section 8] is intended to be codified

25 as an integral part of Title 7, chapter 6, part 22, and the provisions of Title 7, chapter 6, part 22, apply to

26 [section 8].

27 (2) [Section 9] is intended to be codified as an integral part of Title 7, chapter 6, part 44, and the

28 provisions of Title 7, chapter 6, part 44, apply to [section 9].

29

30 NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 1995.

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