

SENATE BILL NO. 439

INTRODUCED BY L. GROSFIELD, BOHLINGER, CHRISTIAENS, CRISMORE, JENT, STONINGTON, WITT

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING TOURISM AND TOURISM PROMOTION; REVISING THE LODGING FACILITY USE TAX; CLARIFYING THAT THE TAX IS PAID BY THE CONSUMER; INCREASING THE TAX RATE; PROVIDING AN INCOME AND CORPORATION TAX CREDIT FOR A PORTION OF ALL LODGING FACILITY USE TAXES AND ALL RENTAL VEHICLE SURCHARGES PAID; REVISING THE ALLOCATION OF THE TAX; PROVIDING THAT THE OWNER OR OPERATOR OF A LODGING FACILITY KEEPS 5 PERCENT OF THE TAX FOR ADMINISTERING THE COLLECTION OF THE TAX; PROVIDING THAT THE BALANCE OF THE LODGING FACILITY USE TAX AND RENTAL VEHICLE SURCHARGE THAT IS NOT OTHERWISE ALLOCATED BE DEPOSITED FOR THE USE OF K-12 EDUCATION; ESTABLISHING A RENTAL VEHICLE SURCHARGE; PROVIDING THAT THE PROCEEDS OF THE SURCHARGE BE DISTRIBUTED TOGETHER WITH THE PROCEEDS OF THE LODGING FACILITY USE TAX; PROVIDING FOR THE ADMINISTRATION OF THE SURCHARGE AND PROVIDING FOR PENALTIES AND INTEREST; REQUIRING THAT A RENTAL VEHICLE OWNER OR OPERATOR MUST HAVE A PERMIT TO OPERATE; PROVIDING THAT THE RENTAL VEHICLE OWNER OR OPERATOR KEEPS 5 PERCENT OF THE SURCHARGE FOR ADMINISTERING THE COLLECTION OF THE SURCHARGE; CREATING THE COMMUNITY HERITAGE GRANT PROGRAM; CREATING THE MAIN STREET PROGRAM; CREATING THE MONTANA BUSINESS MARKETING AND RECRUITMENT PROGRAM; AMENDING SECTIONS 2-15-150, 15-65-101, 15-65-111, 15-65-112, 15-65-121, AND 15-65-122, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 2-15-150, MCA, is amended to read:

"2-15-150. (Temporary) Lewis and Clark bicentennial commission -- membership -- purpose -- account. (1) There is a Lewis and Clark bicentennial commission.

(2) The commission consists of 12 members, as follows:

(a) nine members who must be appointed by the governor, at least three of whom must be enrolled members of a Montana Indian tribe and live on a Montana Indian reservation, who shall serve 3-year staggered terms, who shall represent Montana's different geographical areas, and who must have an interest in the history

of the Lewis and Clark expedition;

(b) the director of the Montana historical society, established in 22-3-101;

(c) the administrator of the parks division within the department of fish, wildlife, and parks, established in 2-15-3401; and

(d) the director of travel Montana.

(3) The commission is responsible for coordinating and promoting observance of Montana's bicentennial commemoration of the Lewis and Clark expedition and the importance of the roles played by Montana's Indian people to the Lewis and Clark expedition. The commission may:

(a) cooperate with national, regional, statewide, and local events promoting the bicentennial;

(b) plan and coordinate or assist in planning and coordinating bicentennial events;

(c) engage in fundraising activities, including revenue-earning enterprises and the solicitation of grants, gifts, and donations;

(d) promote public education concerning the Lewis and Clark expedition and the history and culture of Montana's Indian people at the time of the Lewis and Clark expedition;

(e) implement a grant program to assist communities and nonprofit groups in the planning, design, and construction of bicentennial programs, projects, or infrastructure. At least two-thirds of the grants must go to communities and projects located along the Lewis and Clark trail. All other grants must be for programs, projects, or infrastructure related to the Lewis and Clark expedition and the bicentennial commemoration.

(f) plan, coordinate, and implement programs, projects, or infrastructure to fulfill the commission's goals in the area of education, funding, fiscal responsibility, communication, leadership, and bicentennial legacies for the state; and

~~(e)~~(g) perform other related duties.

(4) There is a Montana Lewis and Clark bicentennial account. Money in the account may include money from revenue-earning enterprises, grants, gifts, or donations, money appropriated by the legislature, and interest earned on the account. Account funds must be used for the purposes described in this section.

(5) The commission is attached to the Montana historical society for administrative purposes only as provided in 2-15-121. (Terminates December 31, 2007--sec. 2, Ch. 428, L. 1997.)"

NEW SECTION. Section 2. Tax credit -- lodging facility use tax -- RENTAL VEHICLE SURCHARGE. (1)

A taxpayer is allowed a credit against taxes otherwise due under this chapter AND CHAPTER 31 in an amount equal to:

(A) 56% of the amount of lodging facility use taxes actually paid by the taxpayer; AND

(B) AN AMOUNT EQUAL TO THE AMOUNT OF THE RENTAL VEHICLE SURCHARGE ACTUALLY PAID BY THE TAXPAYER.

(2) THERE IS NO CARRYBACK OR CARRYFORWARD OF THE CREDIT PERMITTED UNDER THIS SECTION, AND THE CREDIT MUST BE APPLIED TO THE TAX YEAR IN WHICH THE LODGING FACILITY USE TAX OR RENTAL VEHICLE SURCHARGE IS PAID.

(3) A CREDIT MAY NOT BE CLAIMED UNDER THIS SECTION IF THE TAXPAYER HAS INCLUDED THE AMOUNT OF THE TAXES UPON WHICH THE CREDIT WAS COMPUTED AS A DEDUCTION UNDER THIS CHAPTER OR UNDER 15-31-114.

NEW SECTION. SECTION 3. TAX CREDIT -- LODGING FACILITY USE TAX -- RENTAL VEHICLE SURCHARGE. (1)

A CREDIT IS ALLOWED FOR TAXES OTHERWISE DUE UNDER THIS CHAPTER FOR THE LODGING FACILITY USE TAX IMPOSED UNDER 15-65-111 AND RENTAL VEHICLE SURCHARGE IMPOSED UNDER [SECTION 10].

(2) IF THE TAXPAYER IS A SMALL BUSINESS CORPORATION OR A PARTNERSHIP, THE CREDIT MUST BE ATTRIBUTED TO SHAREHOLDERS AND PARTNERS USING THE SAME PROPORTION USED TO REPORT THE PARTNERSHIP'S INCOME OR LOSS FOR MONTANA TAX PURPOSES.

Section 4. Section 15-65-101, MCA, is amended to read:

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

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

(2) "Campground" means a place, publicly or privately owned, used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes. The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(3) "Consumer" means the user of a facility. For the purposes of 15-65-111, the consumer is the taxpayer.

~~(3)~~(4) "Council" means the tourism advisory council established in 2-15-1816.

~~(4)~~(5) (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

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

~~(5)~~(6) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana law and recognized by a majority of the governing body in the city or consolidated city-county in which the bureau is located.

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

Section 5. Section 15-65-111, MCA, is amended to read:

"15-65-111. Tax rate. (1) There is imposed on the ~~user of~~ consumer who uses a facility a tax at a rate equal to ~~4%~~ 9% of the accommodation charge collected by the facility.

(2) Accommodation charges do not include charges for rooms used for purposes other than lodging."

Section 6. Section 15-65-112, MCA, is amended to read:

"15-65-112. Collection and reporting. (1) The owner or operator of a facility shall collect the tax imposed by 15-65-111 from the consumer.

(2) The owner or operator shall report to the department of revenue, at the end of each calendar quarter, the gross receipts collected during that quarter attributable to accommodation charges for the use of the facility. The report is due on or before the last day of the month following the end of the calendar quarter and must be accompanied by a payment in an amount equal to 95% OF the tax required to be collected under subsection (1). THE REMAINING 5% OF THE AMOUNT OF THE TAX MUST BE RETAINED BY THE OWNER OR OPERATOR AS AN ADMINISTRATIVE ALLOWANCE FOR COLLECTION OF THE TAX."

Section 7. Section 15-65-121, MCA, is amended to read:

"15-65-121. (Temporary) Distribution of LODGING FACILITY USE tax AND RENTAL VEHICLE SURCHARGE proceeds. (1) The proceeds of the tax imposed by 15-65-111 AND THE RENTAL VEHICLE SURCHARGE IMPOSED BY

[SECTION 10] must, in accordance with the provisions of 15-1-501, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. ~~The appropriation may not exceed \$200,000.~~ Before allocating the balance of the tax proceeds in accordance with the provisions of 15-1-501 and as provided in subsections (1)(a) through (1)(e) (1)(m) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct ~~4%~~ 9% of that amount from the LODGING FACILITY USE tax AND RENTAL VEHICLE SURCHARGE proceeds received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies. ~~The amount of \$400,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004. On July 1, 1997, the amount of \$45,000 is transferred to the department of commerce for purposes of a grant to the Fort Peck interpretive center. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies or in the Montana heritage preservation and development account is~~ statutorily appropriated, as provided in 17-7-502, and must be IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, ~~transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials; allocated~~ TO THE DEPARTMENT OF COMMERCE, to the Montana historical society, to the university system institute for tourism and recreation research at the university of Montana-Missoula, ~~to the heritage preservation and development account, to the Lewis and Clark bicentennial commission, to the cultural and aesthetic projects account, to the cultural and aesthetics projects trust fund, to the community heritage grants GRANT program, to the main street program; AND~~ and to the department of fish, wildlife, and parks; ~~and to local governments;~~ IN THE AMOUNT ACTUALLY RECEIVED IN THE FISCAL YEAR ENDING JUNE 30, 2001. ALL REMAINING FUNDS MUST BE APPROPRIATED BY THE LEGISLATURE. THE PROCEEDS OF THE TAX, INCLUDING THE AMOUNTS STATUTORILY APPROPRIATED, ARE ALLOCATED as follows:

- (a) ~~1% up to \$550,000~~ 2.04% to the Montana historical society;
 - (i) ~~up to \$100,000~~ 18% of which is to be used for the installation or maintenance of roadside historical signs and historic sites; and
 - (ii) ~~up to \$450,000~~ THE BALANCE of which is to be used for maintaining and managing historic sites and mansions, conducting tours, maintaining exhibits, protecting heritage resources, and providing professional assistance to communities;

~~(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program up to \$400,000 for the fiscal year beginning July 1, 2001, and up to an additional \$25,000 for each subsequent fiscal year 1.48% to the institute for tourism and recreation research at the university of Montana-Missoula, which is statutorily appropriated, as provided in 17-7-502, for the establishment and maintenance of a Montana travel research program;~~

~~(c) 6.5% up to \$900,000 3.34% to the department of fish, wildlife, and parks for the maintenance and operation of facilities in state parks that have both resident and nonresident use, at least \$100,000 11% of which must be used for the purposes of maintaining and managing heritage properties and other facilities in historically significant state parks;~~

~~(d) up to \$450,000 in the fiscal year beginning July 1, 2001, and up to an additional \$250,000 for each subsequent fiscal year 1.67% to the heritage preservation and development account to be used as provided in 22-3-1004(2)(b) and (2)(c);~~

~~(e) up to \$375,000 for the fiscal year beginning July 1, 2001, and up to an additional \$25,000 for each subsequent fiscal year 1.39% to the cultural and aesthetic projects account to be used as provided in Title 22, chapter 2, part 3;~~

~~(f) up to \$500,000 for the fiscal year beginning July 1, 2001, and up to an additional \$50,000 for each subsequent fiscal year 1.86% to the cultural and aesthetic projects trust fund provided for in 15-35-108;~~

~~(g) up to \$2 million 7.42% TO THE DEPARTMENT OF COMMERCE to be distributed to local governments as provided in subsections (2) and (3), WITH 10% TO BE DIVIDED EQUALLY AMONG THE COUNTIES AND THE BALANCE TO BE DIVIDED PROPORTIONALLY AMONG MUNICIPALITIES AND UNINCORPORATED AREAS OF COUNTIES BASED UPON THE POINT OF COLLECTION, to be used only for tourism-related infrastructure, tourism-related promotion, and tourism-related local government services and program needs;~~

~~(d)(h) 67.5% to be used directly by up to \$7.5 million for the fiscal year beginning July 1, 2001, and up to an additional \$250,000 for each subsequent fiscal year 27.83% 29.63% to the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials AND FOR THE PROMOTION OF A MONTANA BUSINESS MARKETING AND RECRUITMENT PROGRAM; and~~

~~(i) beginning July 1, 2002, and until June 30, 2007, up to \$250,000 2.78% to the Lewis and Clark bicentennial commission, WITH ONE-THIRD to be used as provided in 2-15-150(3)(f) and up to \$500,000 THE BALANCE to be used as provided in 2-15-150(3)(e);~~

~~(e)(j) (i) except as provided in subsection (1)(e)(ii), 22.5% up to \$3 million for the fiscal year beginning July 1, 2001, and up to an additional \$100,000 for each subsequent fiscal year to be transferred to an account~~

~~in the state special revenue fund to the credit of the department of commerce, which is statutorily appropriated, as provided in 17-7-502, and is 11.13%~~ to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds OF THE LODGING FACILITY USE TAX collected annually within the limits of a city or consolidated city-county exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city or consolidated city-county is located, to be distributed to the nonprofit convention and visitors bureau in that city or consolidated city-county;

(k) ~~up to \$500,000~~ 1.86% to the community heritage grant program established in [section 8 15];

(l) ~~up to \$300,000~~ 1.11% to the main street program established in [section 9 16]; and

(m) ~~any remaining amount to the general fund~~ A THE STATE SPECIAL REVENUE ACCOUNT FOR THE SUPPORT OF K-12 EDUCATION FUND FOR STATE EQUALIZATION AID.

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

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation ~~may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials~~ must be reallocated to the remaining regional nonprofit tourism corporations that do submit and gain approval for an annual marketing plan as required in 15-65-122 in the ratio of the proceeds collected in each of the qualifying tourism regions to the total proceeds collected in all of the qualifying tourism regions. (Terminates July 1, 2001--sec. 23(3), Ch. 469, L. 1997.)

15-65-121. (Effective July 1, 2001) Distribution of LODGING FACILITY USE tax AND RENTAL VEHICLE SURCHARGE proceeds. (1) The proceeds of the tax imposed by 15-65-111 AND THE RENTAL VEHICLE SURCHARGE IMPOSED BY [SECTION 10] must, in accordance with the provisions of 15-1-501, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. ~~The appropriation may not exceed \$200,000.~~ Before allocating the balance of the tax proceeds in accordance with the provisions of 15-1-501 and as provided in subsections (1)(a) through ~~(1)(e)~~ (1)(m) of this section, the department shall determine the expenditures by state agencies for

in-state lodging for each reporting period and deduct ~~4%~~ 9% of that amount from the LODGING FACILITY USE tax AND RENTAL VEHICLE SURCHARGE proceeds received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies is ~~statutorily appropriated, as provided in 17-7-502, and must be~~ IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials; allocated TO THE DEPARTMENT OF COMMERCE, to the Montana historical society, to the university system institute for tourism and recreation research at the university of Montana-Missoula, to the heritage preservation and development account, to the Lewis and Clark bicentennial commission, to the cultural and aesthetic projects account, to the cultural and aesthetic projects trust fund, to the community heritage grants GRANT program, to the main street program; AND and to the department of fish, wildlife, and parks; and to local governments; IN THE AMOUNT ACTUALLY RECEIVED IN THE FISCAL YEAR ENDING JUNE 30, 2001. ALL REMAINING FUNDS MUST BE APPROPRIATED BY THE LEGISLATURE. THE PROCEEDS OF THE TAX, INCLUDING THE AMOUNTS STATUTORILY APPROPRIATED, ARE ALLOCATED as follows:

- (a) ~~1% up to \$550,000~~ 2.04% to the Montana historical society;
 - (i) ~~up to \$100,00~~ 18% of which is to be used for the installation or maintenance of roadside historical signs and historic sites; and
 - (ii) ~~up to \$450,000~~ THE BALANCE of which is to be used for maintaining and managing historic sites and mansions, conducting tours, maintaining exhibits, protecting heritage resources, and providing professional assistance to communities;
- (b) ~~2.5% to the university system up to \$400,000 for the fiscal year beginning July 1, 2001, and up to an additional \$25,000 for each subsequent fiscal year~~ 1.48% to the institute for tourism and recreation research at the university of Montana-Missoula, ~~which is statutorily appropriated, as provided in 17-7-502,~~ for the establishment and maintenance of a Montana travel research program;
- (c) ~~6.5% up to \$900,000~~ 3.34% to the department of fish, wildlife, and parks for the maintenance and operation of facilities in state parks that have both resident and nonresident use, ~~at least \$100,000~~ 11% of which must be used for the purposes of maintaining and managing heritage properties and other facilities in historically significant state parks;
- (d) ~~up to \$450,000 in the fiscal year beginning July 1, 2001, and up to an additional \$250,000 for each~~

subsequent fiscal year 1.67% to the heritage preservation and development account to be used as provided in 22-3-1004(2)(b) and (2)(c);

(e) up to \$375,000 for the fiscal year beginning July 1, 2001, and up to an additional \$25,000 for each subsequent fiscal year 1.39% to the cultural and aesthetic projects account to be used as provided in Title 22, chapter 2, part 3;

(f) up to \$500,000 for the fiscal year beginning July 1, 2001, and up to an additional \$50,000 for each subsequent fiscal year 1.86% to the cultural and aesthetic projects trust fund provided for in 15-35-108;

(g) up to \$2 million 7.42% TO THE DEPARTMENT OF COMMERCE to be distributed to local governments as provided in subsections (2) and (3), WITH 10% TO BE DIVIDED EQUALLY AMONG THE COUNTIES AND THE BALANCE TO BE DIVIDED PROPORTIONALLY AMONG MUNICIPALITIES AND UNINCORPORATED AREAS OF COUNTIES BASED UPON THE POINT OF COLLECTION, to be used only for tourism-related infrastructure, tourism-related promotion, and tourism-related local government services and program needs;

(d)(h) 67.5% to be used directly by up to \$7.5 million for the fiscal year beginning July 1, 2001, and up to an additional \$250,000 for each subsequent fiscal year 27.83% 29.63% to the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials AND FOR THE PROMOTION OF A MONTANA BUSINESS MARKETING AND RECRUITMENT PROGRAM; and

(i) beginning July 1, 2002, and until June 30, 2007, up to \$250,000 2.78% to the Lewis and Clark bicentennial commission, WITH ONE-THIRD to be used as provided in 2-15-150(3)(f) and up to \$500,000 THE BALANCE to be used as provided in 2-15-150(3)(e);

(e)(j) (i) except as provided in subsection (1)(e)(ii), 22.5% up to \$3 million for the fiscal year beginning July 1, 2001, and up to an additional \$100,000 for each subsequent fiscal year to be transferred to an account in the state special revenue fund to the credit of the department of commerce, which is statutorily appropriated, as provided in 17-7-502, and is 11.13% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds OF THE LODGING FACILITY USE TAX collected annually within the limits of a city or consolidated city-county exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city or consolidated city-county is located, to be distributed to the nonprofit convention and visitors bureau in that city or consolidated city-county;

(k) up to \$500,000 1.86% to the community heritage grant program established in [section 8 15];

(l) up to \$300,000 1.11% to the main street program established in [section 9 16]; and

~~(m) any remaining amount to the general fund~~ A STATE SPECIAL REVENUE ACCOUNT FOR THE SUPPORT OF K-12 EDUCATION.

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

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation ~~may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials~~ must be reallocated to the remaining regional nonprofit tourism corporations that do submit and gain approval for an annual marketing plan as required in 15-65-122 in the ratio of the proceeds collected in each of the qualifying tourism regions to the total proceeds collected in all of the qualifying tourism regions."

Section 8. Section 15-65-122, MCA, is amended to read:

"15-65-122. Qualification of nonprofit entities for receipt of funds -- limitation on administrative costs. (1) The department of revenue shall provide the council with quarterly reports of regional tax proceeds and tax proceeds of cities and consolidated city-counties that qualify for disbursement of funds under 15-65-121.

(2) ~~(a) No funds~~ Funds may not be disbursed to a regional nonprofit tourism corporation or nonprofit convention and visitors bureau until that entity has submitted an annual marketing plan to the council and that plan has been approved by the council. ~~The council shall approve reasonable plans that have the concurrence of the affected local government governing bodies and~~ BEEN APPROVED BY the regional nonprofit tourism corporation or nonprofit convention and visitors bureau.

(b) Annual marketing plans under this subsection (2):

(i) must include detailed budgets that include funding for administration, local and regional tourism promotion, and local and regional tourism infrastructure maintenance and development, including local tourist information centers;

(ii) must first be submitted to the local governments in the area affected in order to solicit input from and coordination with local government tourism-related spending under 15-65-121(1)(g) or other funding sources; and

(iii) may then be modified based upon the input received under subsection (2)(b)(ii) before being submitted to the council.

(3) A maximum of 20% of the funds received by a regional nonprofit tourism corporation or nonprofit convention and visitors bureau may be used for administrative purposes as defined by the council."

NEW SECTION. SECTION 9. DEFINITIONS. AS USED IN [SECTIONS 9 THROUGH 14], THE FOLLOWING DEFINITIONS APPLY:

(1) (A) "GROSS RECEIPTS" MEANS ALL RECEIPTS FROM SOURCES WITHIN THE STATE, WHETHER IN MONEY OR OTHER CONSIDERATION, RECEIVED FROM ENGAGING IN THE BUSINESS OF RENTING RENTAL VEHICLES.

(B) THE TERM DOES NOT INCLUDE THE AMOUNT RECEIVED FOR MOTOR FUEL.

(2) (A) "RENTAL VEHICLE" MEANS A PASSENGER VEHICLE THAT:

(I) IS RENTED FOR A PERIOD OF NOT MORE THAN 30 DAYS;

(II) IS RENTED WITHOUT A DRIVER;

(III) IS DESIGNED TO TRANSPORT 15 OR FEWER PASSENGERS; AND

(IV) HAS A MANUFACTURER'S RATED CAPACITY OF 1 TON OR LESS.

(B) THE TERM DOES NOT INCLUDE:

(I) A VEHICLE RENTED PURSUANT TO AN INSURANCE CONTRACT; OR

(II) A VEHICLE PROVIDED TO A CUSTOMER TO USE WHILE THE CUSTOMER'S VEHICLE IS BEING REPAIRED OR MAINTAINED.

(3) "RENTAL VEHICLE OWNER OR OPERATOR" MEANS A PERSON WHO OWNS OR LEASES RENTAL VEHICLES AND WHO RENTS OR OFFERS TO RENT THE RENTAL VEHICLES.

NEW SECTION. SECTION 10. RATE OF RENTAL VEHICLE SURCHARGE -- COLLECTION AND REPORTING -- DISTRIBUTION. (1) THERE IS IMPOSED A SURCHARGE ON RENTAL VEHICLES. THE SURCHARGE IS 9% OF THE RENTAL BASE PRICE, EXCLUSIVE OF INSURANCE, AS STATED IN THE RENTAL CONTRACT. THE SURCHARGE MUST BE STATED IN THE RENTAL CONTRACT AND COLLECTED IN ACCORDANCE WITH THE TERMS OF THE CONTRACT.

(2) THE RENTAL VEHICLE OWNER OR OPERATOR SHALL REPORT TO THE DEPARTMENT, AT THE END OF EACH CALENDAR QUARTER, THE GROSS RECEIPTS ACTUALLY COLLECTED DURING THAT QUARTER ATTRIBUTABLE TO THE RENTAL CONTRACTS, EXCLUSIVE OF GROSS RECEIPTS ATTRIBUTABLE TO CONTRACTS FOR INSURANCE. THE REPORT MUST BE ON A FORM PROVIDED BY THE DEPARTMENT. THE REPORT IS DUE ON OR BEFORE THE LAST DAY OF THE MONTH FOLLOWING THE END OF THE CALENDAR QUARTER AND MUST BE ACCOMPANIED BY A PAYMENT IN AN AMOUNT EQUAL TO 95% OF THE SURCHARGE REQUIRED TO BE COLLECTED UNDER SUBSECTION (1). THE REMAINING 5% OF THE AMOUNT OF THE SURCHARGE MUST BE RETAINED BY THE RENTAL VEHICLE OWNER OR OPERATOR AS AN ADMINISTRATIVE ALLOWANCE FOR

COLLECTION OF THE SURCHARGE.

(3) THE DEPARTMENT SHALL DEPOSIT THE PROCEEDS IN THE ACCOUNT IN THE STATE SPECIAL REVENUE FUND ESTABLISHED IN 15-65-121(1). THE PROCEEDS OF THE RENTAL VEHICLE SURCHARGE MUST BE ADDED TO THE PROCEEDS OF THE LODGING FACILITY USE TAX, AND THE TOTAL AMOUNT MUST BE DISTRIBUTED AS PROVIDED IN 15-65-121.

NEW SECTION. SECTION 11. PERMIT APPLICATION -- PLACE OF BUSINESS. (1) PRIOR TO ENGAGING IN THE BUSINESS OF RENTING VEHICLES, A PROSPECTIVE RENTAL VEHICLE OWNER OR OPERATOR SHALL FILE WITH THE DEPARTMENT AN APPLICATION FOR A PERMIT. IF THE PROSPECTIVE RENTAL VEHICLE OWNER OR OPERATOR HAS MORE THAN ONE LOCATION IN WHICH THE OWNER OR OPERATOR MAINTAINS AN OFFICE OR OTHER PLACE OF BUSINESS, AN APPLICATION MAY INCLUDE MULTIPLE LOCATIONS.

(2) EACH RENTAL VEHICLE OWNER OR OPERATOR WHO IS REQUIRED TO FILE A REPORT UNDER [SECTIONS 9 THROUGH 14] IS REQUIRED TO FILE AN APPLICATION FOR A PERMIT.

(3) EACH APPLICATION FOR A PERMIT MUST BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND MUST SET FORTH THE NAME UNDER WHICH THE APPLICANT INTENDS TO TRANSACT BUSINESS, THE LOCATION OF THE APPLICANT'S PLACE OR PLACES OF BUSINESS, AND OTHER INFORMATION THAT THE DEPARTMENT MAY REQUIRE. THE APPLICATION MUST BE FILED BY THE RENTAL VEHICLE OWNER OR OPERATOR IF THE OWNER OR OPERATOR IS A NATURAL PERSON, BY A MEMBER OR PARTNER IF THE OWNER OR OPERATOR IS AN ASSOCIATION OR PARTNERSHIP, OR BY A PERSON AUTHORIZED TO SIGN THE APPLICATION IF THE OWNER OR OPERATOR IS A CORPORATION.

(4) A RENTAL VEHICLE OWNER OR OPERATOR WHO FAILS TO COMPLY WITH THIS SECTION IS SUBJECT TO A FINE OF NOT LESS THAN \$50 AND NOT MORE THAN \$100.

NEW SECTION. SECTION 12. AUDITS -- RECORDS. (1) THE DEPARTMENT MAY AUDIT THE BOOKS AND RECORDS OF A RENTAL VEHICLE OWNER OR OPERATOR TO ENSURE THAT THE PROPER AMOUNT OF THE SURCHARGE IMPOSED BY [SECTION 10] HAS BEEN COLLECTED. AN AUDIT MAY BE DONE ON THE PREMISES OF THE RENTAL VEHICLE OWNER OR OPERATOR OR AT ANY OTHER CONVENIENT LOCATION.

(2) THE DEPARTMENT MAY REQUEST THAT THE RENTAL VEHICLE OWNER OR OPERATOR PROVIDE THE DEPARTMENT WITH BOOKS, LEDGERS, REGISTERS, OR OTHER DOCUMENTS NECESSARY TO VERIFY THE CORRECT AMOUNT OF THE SURCHARGE.

(3) THE RENTAL VEHICLE OWNER OR OPERATOR SHALL MAINTAIN AND HAVE AVAILABLE FOR INSPECTION BY THE DEPARTMENT BOOKS, LEDGERS, REGISTERS, OR OTHER DOCUMENTS SHOWING THE COLLECTION OF THE RENTAL VEHICLE SURCHARGE FOR THE PRECEDING 5 YEARS.

(4) EXCEPT IN THE CASE OF A PERSON WHO, WITH INTENT TO EVADE THE SURCHARGE, PURPOSELY OR KNOWINGLY FILES A FALSE OR FRAUDULENT REPORT VIOLATING THE PROVISIONS OF [SECTIONS 9 THROUGH 14], THE AMOUNT OF SURCHARGE DUE UNDER ANY REPORT MUST BE DETERMINED BY THE DEPARTMENT WITHIN 5 YEARS AFTER THE RETURN IS MADE. AFTER 5 YEARS, THE DEPARTMENT IS BARRED FROM REVISING ANY REPORT OR RECOMPUTING THE SURCHARGE DUE, AND A PROCEEDING IN COURT FOR THE COLLECTION OF THE SURCHARGE MAY NOT BE INSTITUTED UNLESS NOTICE OF ANY ADDITIONAL SURCHARGE IS PROVIDED WITHIN THE 5-YEAR PERIOD.

(5) AN APPLICATION FOR REVISION MAY BE FILED WITH THE DEPARTMENT BY A RENTAL VEHICLE OWNER OR OPERATOR WITHIN 5 YEARS FROM THE ORIGINAL DUE DATE OF THE REPORT.

NEW SECTION. SECTION 13. PENALTY FOR FAILURE TO FILE OR PAY. (1) A RENTAL VEHICLE OWNER OR OPERATOR WHO FAILS TO FILE THE REPORT AS REQUIRED BY [SECTION 10] MUST BE ASSESSED A PENALTY AS PROVIDED IN 15-1-216. THE DEPARTMENT MAY WAIVE THE PENALTY AS PROVIDED IN 15-1-206.

(2) A RENTAL VEHICLE OWNER OR OPERATOR WHO FAILS TO MAKE PAYMENT OR FAILS TO REPORT AND MAKE PAYMENT AS REQUIRED BY [SECTION 10] MUST BE ASSESSED A PENALTY AND INTEREST AS PROVIDED IN 15-1-216. THE DEPARTMENT MAY WAIVE ANY PENALTY PURSUANT TO 15-1-206.

(3) (A) IF A RENTAL VEHICLE OWNER OR OPERATOR FAILS TO FILE THE REPORT REQUIRED BY [SECTION 10] OR IF THE DEPARTMENT DETERMINES THAT THE REPORT UNDERSTATES THE AMOUNT OF SURCHARGE DUE, THE DEPARTMENT MAY DETERMINE THE AMOUNT OF THE SURCHARGE DUE AND ASSESS THAT AMOUNT AGAINST THE OWNER OR OPERATOR. THE PROVISIONS OF 15-1-211 APPLY TO ANY ASSESSMENT BY THE DEPARTMENT. THE TAXPAYER MAY SEEK REVIEW OF THE ASSESSMENT PURSUANT TO 15-1-211.

(B) WHEN A DEFICIENCY IS DETERMINED AND THE SURCHARGE BECOMES FINAL, THE DEPARTMENT SHALL MAIL A NOTICE AND DEMAND FOR PAYMENT TO THE RENTAL VEHICLE OWNER OR OPERATOR. THE SURCHARGE IS DUE AND PAYABLE AT THE EXPIRATION OF 30 DAYS AFTER THE NOTICE AND DEMAND WERE MAILED. INTEREST ON ANY DEFICIENCY ASSESSMENT MUST BE COMPUTED AS PROVIDED IN 15-1-216.

NEW SECTION. SECTION 14. OVERPAYMENT AND UNDERPAYMENT. (1) IF THE DEPARTMENT DETERMINES THAT THE AMOUNT OF SURCHARGE, PENALTY, OR INTEREST PAID FOR ANY YEAR IS MORE THAN THE AMOUNT DUE, THE AMOUNT OF THE OVERPAYMENT MUST BE CREDITED AGAINST ANY SURCHARGE, PENALTY, OR INTEREST THEN DUE FROM THE RENTAL VEHICLE OWNER OR OPERATOR AND THE BALANCE MUST BE REFUNDED TO THE OWNER OR OPERATOR, TO THE OWNER'S OR OPERATOR'S SUCCESSOR THROUGH REORGANIZATION, MERGER, OR CONSOLIDATION, OR TO THE OWNER'S OR OPERATOR'S SHAREHOLDERS UPON DISSOLUTION.

(2) EXCEPT AS PROVIDED IN SUBSECTION (3), INTEREST IS ALLOWED ON OVERPAYMENTS AT THE SAME RATE THAT IS CHARGED ON UNPAID TAXES AS PROVIDED IN 15-1-216 FROM THE DUE DATE OF THE RETURN OR FROM THE DATE OF OVERPAYMENT, WHICHEVER IS LATER, TO THE DATE THAT THE DEPARTMENT APPROVES REFUNDING OR CREDITING OF THE OVERPAYMENT.

(3) (A) INTEREST DOES NOT ACCRUE DURING A PERIOD IN WHICH THE PROCESSING OF A CLAIM FOR REFUND IS DELAYED MORE THAN 30 DAYS BY REASON OF FAILURE OF THE RENTAL VEHICLE OWNER OR OPERATOR TO FURNISH INFORMATION REQUESTED BY THE DEPARTMENT FOR THE PURPOSE OF VERIFYING THE AMOUNT OF THE OVERPAYMENT.

(B) INTEREST IS NOT ALLOWED:

(I) IF THE OVERPAYMENT IS REFUNDED WITHIN 6 MONTHS FROM THE DATE THE RETURN IS DUE OR FROM THE DATE THE RETURN IS FILED, WHICHEVER IS LATER; OR

(II) IF THE AMOUNT OF INTEREST IS LESS THAN \$1.

(C) ONLY A PAYMENT MADE INCIDENT TO A BONA FIDE AND ORDERLY DISCHARGE OF ACTUAL SURCHARGE LIABILITY OR ONE REASONABLY ASSUMED TO BE IMPOSED BY [SECTIONS 9 THROUGH 14] IS CONSIDERED AN OVERPAYMENT WITH RESPECT TO WHICH INTEREST IS ALLOWABLE.

NEW SECTION. Section 15. Community heritage grant program committee -- composition -- powers and duties. (1) There is a community heritage grant program committee.

(2) The committee consists of eight members, appointed by the president of the board of trustees of the state historical society established in 2-15-1512, as follows:

- (a) three members of the board of trustees of the state historical society;
- (b) one member of the Montana heritage preservation and development commission established in 22-3-1002;
- (c) one member of the tourism advisory council, established in 2-15-1816; and
- (d) one member each representing a recognized:
 - (i) state museum association;
 - (ii) organization dedicated to historic preservation; and
 - (iii) state archaeological association.

(3) In making appointments to the committee, the president of the board of trustees of the state historical society shall consider individuals with experience and expertise relevant to both preserving and protecting heritage properties and enhancing heritage tourism.

(4) The committee shall:

- (a) establish the criteria that an applicant must meet to be eligible for an award from the community heritage grant program;
 - (b) apply the criteria to recommend whether an applicant may be awarded a grant from the program;
 - (c) make a determination of the amount to award successful applicants; and
 - (d) present its recommendations for a final decision to the board of trustees of the state historical society.
- (5) The board of trustees of the state historical society shall consider the committee's recommendations and present its findings and recommendations for grant awards to the house appropriations committee, the senate finance committee, or the appropriate joint subcommittee.

NEW SECTION. Section 16. Main street program -- establishment -- purpose -- rulemaking. (1)

There is a main street program in the department of commerce developed in conjunction with the main street program of the national trust for historic preservation.

- (2) The purpose of the program is to:
 - (a) assist communities in restoring and retaining the historic character of their downtown areas and historic districts;
 - (b) stimulate business investment, assist in retaining existing small businesses, and promote new businesses in those areas;
 - (c) strengthen the local tax base;
 - (d) create employment opportunities in community downtown areas and historic districts; and
 - (e) generally enhance the economic viability of downtown areas and historic districts.
- (3) (a) The department of commerce shall adopt rules governing the operation of the main street program.
 - (b) In developing the rules, the department of commerce shall consult with the national trust for historic preservation, provided for in 16 U.S.C. 468, to ensure that Montana's main street program is consistent with the main street program operated by the national trust for historic preservation.

NEW SECTION. Section 17. Codification instruction. (1) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 2].

(2) [SECTION 3] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, CHAPTER 31, AND THE PROVISIONS OF TITLE 15, CHAPTER 31, APPLY TO [SECTION 3].

(3) [SECTIONS 9 THROUGH 14] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, AND THE

PROVISIONS OF TITLE 15 APPLY TO [SECTIONS 9 THROUGH 14].

~~(2)~~(4) [Section ~~8~~ 15] is intended to be codified as an integral part of Title 22, chapter 3, and the provisions of Title 22, chapter 3, apply to [section ~~8~~ 15].

~~(3)~~(5) [Section ~~9~~ 16] is intended to be codified as an integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section ~~9~~ 16].

NEW SECTION. SECTION 18. COORDINATION INSTRUCTION. IF SENATE BILL NO. 213 IS PASSED AND APPROVED, THEN [SECTION 1 OF SENATE BILL NO. 213] MUST READ AS FOLLOWS:

"NEW SECTION. Section 1. Local option sales tax -- definitions. As used in [sections 1 through 9], the following definitions apply:

(1) (a) "Luxury goods and services" means any gift item, luxury item, or other item or any service normally sold to the public and to transient visitors or tourists, including but not limited to the following:

~~(i)~~ (i) ~~lodging facilities and campgrounds as defined in 15-65-101;~~

~~(ii)~~(i) meals prepared either for onsite consumption or to take out;

~~(iii)~~(ii) alcoholic beverages sold by the drink;

~~(iv)~~(iii) rentals of ~~automobiles~~, boats, snowmobiles, off-road vehicles, and other vehicles used for travel or recreation;

~~(v)~~(iv) rentals of camping, hunting, fishing, or other recreational equipment;

~~(vi)~~(v) ski lift tickets at destination resorts, hunting and fishing guide services, guided tours, trail rides, and other recreational services and facilities;

~~(vii)~~(vi) admissions for movies, theatrical presentations, exhibits, and sporting events other than school-related events or nonprofit events;

~~(viii)~~(vii) daily fees at golf courses that are not owned by a governmental entity;

~~(ix)~~(viii) admissions for water slides, amusement parks, or hot springs or other resorts; and

~~(x)~~(ix) souvenir items.

(b) The term does not include food purchased unprepared or unserved, lodging facilities and campgrounds, rentals of automobiles, medicine, medical supplies and services, appliances, hardware supplies and tools, clothing other than souvenirs, household bedding and furnishings, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

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

physician-prescribed and over-the-counter medications."

NEW SECTION. Section 19. Effective date. [This act] is effective July 1, 2001.

NEW SECTION. SECTION 20. APPLICABILITY. (1) [THIS ACT] APPLIES TO ACCOMMODATION CHARGES COLLECTED AND RENTAL VEHICLE RECEIPTS COLLECTED AFTER JUNE 30, 2001.

(2) THE DISTRIBUTION PROVISIONS OF 15-65-121 AS AMENDED BY [THIS ACT] APPLY TO THE DISTRIBUTIONS OF REVENUE FROM THE LODGING FACILITY USE TAX AND RENTAL VEHICLE SURCHARGE COLLECTED ON ACCOMMODATIONS CHARGES AND VEHICLE RENTALS AFTER JUNE 30, 2001.

(3) [SECTIONS 2 AND 3] APPLY TO LODGING FACILITY USE TAXES PAID AFTER JUNE 30, 2001.

- END -

