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As of: June 26, 2018 (3:08pm)

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**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act authorizing a gateway local option tax by a vote of the qualified electors; providing that the gateway local option tax question define the geographic area where the tax is collected, the rate of the tax, and how the revenue will be split within the county; providing the goods and services subject to the tax; providing for a portion of gateway local option tax to be used for property tax relief; providing that an existing resort tax may remain in effect or may be discontinued; amending sections 7-7-4424 and 7-7-4428, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Gateway local option tax -- definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) "Gateway county" means a county that directly borders or includes a national park.

(2) "Gateway community" means a municipality in a gateway county that is included in a tourist impact zone.

(3) "Governing body" means the political subdivision that governs the tourist impact zone. The county is the governing body if the tourist impact zone encompasses both a gateway county and

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gateway community.

(4) "Luxury" means any gift item, luxury item, or other item normally sold to the public or transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

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

(6) "Medicine" means substances sold for curative or remedial properties, including both physician-prescribed and over-the-counter medications.

(7) "Outdoor gear" means gear for camping, hunting, hiking, skiing, biking, fishing, rafting, and other outdoor activities.

(8) "Qualified elector" means a person who is qualified to vote under 13-1-111 and is a resident of a tourist impact zone.

(9) "Tourist impact zone" means a geographic area in a gateway county defining where gateway taxes are collected. The area must:

- (a) have a high volume of tourist traffic;
- (b) follow approach corridors to a national park; and
- (c) have significant impacts from tourist traffic.

NEW SECTION. Section 2. Gateway local option taxing authority -- specific delegation. As required by 7-1-112, [sections 1 through 9] specifically delegate to the qualified electors of a tourist impact zone the power to authorize the

tourist impact zone to impose a gateway local option tax within the boundary of the tourist impact zone.

NEW SECTION. **Section 3. Limit on gateway local option tax rate -- goods and services subject to tax.** (1) The rate of a gateway local option tax must be established by the election petition or resolution provided for in [section 4], but the rate may not exceed 4%.

(2) (a) A gateway local option tax is a tax on the retail value of all goods and services sold, except for goods and services sold for resale, within a tourist impact zone by the following establishments:

(i) hotels, motels, and other lodging or camping facilities including vacation rentals;

(ii) restaurants, fast food stores, caterers, and other food service establishments;

(iii) taverns, bars, nightclubs, lounges, and other public establishments that serve beer, wine, liquor, or other alcoholic beverages by the drink;

(iv) destination ski resorts and other destination recreational facilities;

(v) outfitters, hunting guides, fishing guides, and rafting companies;

(vi) tour companies including but not limited to those that provide bus, car, or walking tours; and

(vii) art galleries.

(b) Establishments that sell luxuries shall collect a tax

on the luxuries.

(c) Establishments that sell outdoor gear shall collect a tax on the outdoor gear.

NEW SECTION. **Section 4. Gateway local option tax -- election required -- procedure -- notice.** (1) A gateway local option tax may not be imposed or, except as provided in [section 5], amended or repealed unless the gateway local option tax question has been submitted to the qualified electors of the tourist impact zone and approved by a majority of the qualified electors voting on the question.

(2) The gateway local option tax question may be presented to the qualified electors of a tourist impact zone by a petition of the qualified electors, as provided in 7-5-131 through 7-5-135 and 7-5-137, to the governing body of the tourist impact zone or by a resolution of the governing body of the tourist impact zone.

(3) The petition or resolution referring the gateway local option tax question must state:

- (a) the rate of the gateway local option tax;
- (b) the duration of the gateway local option tax;
- (c) the boundaries of all tourist impact zones to be subject to the local option gateway tax;
- (d) the dates the gateway local option tax will be collected;
- (e) the date the gateway local option tax becomes effective, which may not be earlier than 35 days after the election;

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(f) the purposes that may be funded by the gateway local option tax revenue; and

(g) how the gateway local option tax revenue will be split among the gateway county and gateway communities.

(4) Upon passage of a resolution or upon receipt of an adequate petition, the governing body shall hold an election in accordance with Title 13, chapter 1, part 5.

(5) (a) Before the gateway local option tax question is submitted to the qualified electors of a tourist impact zone, the governing body shall provide notice of the goods and services subject to the local option gateway tax by a method described in 13-1-108.

(b) The notice must be given two times, with at least 6 days separating the notices. The first notice must be no more than 45 days prior to the election, and the last notice must be no less than 30 days prior to the election.

(6) Notice of the election must be given as provided in 13-1-108 and must include the information contained in subsection (3) of this section.

(7) The question of the imposition of a gateway local option tax may not be placed before the qualified electors more than once in any fiscal year.

NEW SECTION. Section 5. Gateway local option tax administration. (1) Not less than 30 days prior to the date the gateway local option tax becomes effective, the governing body shall enact an administrative ordinance governing the collection

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and reporting of the gateway local option tax. The administrative ordinance may be amended at any time as needed to effectively administer the gateway local option tax.

(2) The administrative ordinance must specify:

(a) the times that gateway local option taxes collected by businesses are to be remitted to the governing body;

(b) the office, officer, or employee of the governing body responsible for receiving and accounting for the gateway local option tax receipts;

(c) the office, officer, or employee of the governing body responsible for enforcing the collection of the gateway local option taxes and the methods and procedures to be used in enforcing the collection of gateway local option taxes due; and

(d) the penalties for failure to report gateway local option taxes due, failure to remit taxes due, and violations of the administrative ordinance. The penalties may include:

(i) criminal penalties not to exceed a fine of \$1,000 or 6 months imprisonment, or both;

(ii) if the governing body prevails in a suit for the collection of gateway local option taxes, civil penalties not to exceed 50% of the gateway local option taxes found due plus the costs and attorney fees incurred by the county in the action;

(iii) revocation of a county or municipal business license held by the offender; and

(iv) any other penalties that may apply for violation of an ordinance.

(4) The administrative ordinance may include:

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(a) further clarification and specificity in the categories of goods and services that are subject to the gateway local option tax consistent with [section 3];

(b) authorization for business administration and prepayment discounts. The discount authorization may allow each vendor and commercial establishment to:

(i) withhold up to 5% of the gateway local option taxes collected to defray their costs of administering the tax collection; or

(ii) receive a refund of up to 5% of the gateway local option tax payment received from the vendor or establishment by the governing body 10 days prior to the collection due date established by the administrative ordinance.

(c) other administrative details needed to efficiently and effectively administer the tax.

NEW SECTION. Section 6. Use of gateway local option tax revenue -- bond issue -- pledge. (1) Unless otherwise restricted by the voter-approved tax authorization provided for in [section 4], a gateway county or gateway community may appropriate and expend revenue derived from a gateway local option tax for any activity, undertaking, or administrative service that the gateway county or gateway community is authorized by law to perform, including costs resulting from imposition of the tax.

(2) A gateway county or gateway community may issue bonds to provide, install, or construct any of the public facilities, improvements, or undertakings authorized under 7-7-4101,

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7-7-4404, and 7-12-4102.

(3) Bonds issued under this section must be authorized by a resolution of the gateway county or gateway community stating the terms, conditions, and covenants that the gateway county or gateway community considers appropriate. The bonds may be sold at a discount at a public or private sale.

(4) A gateway county or gateway community may pledge for repayment of bonds issued under this section the revenue derived from a gateway local option tax, special assessments levied for and revenue collected from the facilities, improvements, or undertakings for which the bonds are issued, and any other source of revenue authorized by the legislature to be imposed or collected by the gateway county or gateway community. The bonds do not constitute debt for purposes of any statutory debt limitation provided that, in the resolution authorizing the issuance of the bonds, the gateway county or gateway community determines that the gateway local option tax revenue, special assessments levied for and revenue from the facilities, improvements, or undertakings, or other sources of revenue, if any, pledged to the payment of the bonds will be sufficient in each year to pay the principal and interest of the bonds when due.

(5) Bonds may not be issued that pledge proceeds of the gateway local option tax for repayment unless the gateway county or gateway community in the resolution authorizing issuance of the bonds determines that in any fiscal year the annual revenue expected to be derived from the gateway local option tax less the

amount required to reduce property taxes pursuant to [section 7] equals at least 125% of the average amount of the principal and interest payable from the gateway local option tax on the bonds and any other outstanding bonds payable from the gateway local option tax, except any bonds to be refunded upon the issuance of the proposed bonds.

NEW SECTION. **Section 7. Gateway local option tax -- property tax relief.** (1) Annually anticipated receipts from the gateway local option tax must be applied to reduce the tourist impact zone's property taxes for the fiscal year in an amount equal to at least 5% of the gateway local option tax revenues received during the preceding fiscal year.

(2) A gateway county or gateway community that receives more gateway local option tax revenue than is included in the annual budget shall establish a property tax relief fund. All gateway local option tax revenue received in excess of the budget amount must be placed in the fund. The entire fund must be used to replace property taxes in ensuing fiscal year.

NEW SECTION. **Section 8. Gateway local option tax -- revision of boundaries -- election.** (1) Property may be annexed into or removed from a tourist impact zone as provided in this section.

(2) The governing body may recommend that property be annexed into or removed from a tourist impact zone. Property annexed into a tourist impact zone must be contiguous to the

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existing tourist impact zone.

(3) The governing body shall give notice as required in 13-1-108 of the election to be held in the area proposed to be annexed into or removed from the tourist impact zone. The election must be held in accordance with Title 13, chapter 1, part 5.

(4) If a majority of the votes cast by qualified electors on the question of annexation or removal of the property are in favor of annexation or removal, the governing body shall enter into its minutes an order, by resolution, annexing or removing the property and shall cause to be created a map of the tourist impact zone that shows the annexed property and the removed property. Immediately following the adoption of the resolution, the governing body shall file with the county clerk and recorder a copy of the resolution and the map.

NEW SECTION. Section 9. Coordination with other local option taxes. (1) A geographic area may only be included in one tourist impact zone.

(2) A gateway local option tax may not be imposed in a resort community, resort area, or resort area district that existed before [the effective date of this act]. However, an existing resort community, resort area, or resort area district may elect to terminate its resort tax and subject itself to a gateway local option tax.

Section 10. Section 7-7-4424, MCA, is amended to read:

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"7-7-4424. Undertakings to be self-supporting. (1) (a)

Except as provided in subsections (1)(b) and (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall revise the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains self-supporting.

(b) The property taxes specifically authorized to be levied for the general purpose served by an undertaking ~~or~~, any resort taxes approved, levied, and appropriated to an undertaking in compliance with 7-6-1501 through 7-6-1509, or any gateway local option tax approved, levied, and appropriated to an undertaking in compliance with [sections 1 through 9] constitute revenue of the undertaking and may not result in an undertaking being considered not self-supporting.

(c) Revenue from assessments and fees enacted by local ordinance constitutes revenue of the undertaking and may not result in an undertaking being considered not self-supporting.

(2) The rates, fees, or charges prescribed, along with any appropriated property tax collections, gateway local option tax collections, or resort tax collections, must produce revenue at least sufficient to:

(a) pay when due all bonds and interest on the bonds for the payment of which the revenue has been pledged, charged, or otherwise encumbered, including reserves for the bonds; and

(b) provide for all expenses of operation and maintenance

of the undertaking, including reserves."

{*Internal References to 7-7-4424:*
7-7-4428a}

Section 11. Section 7-7-4428, MCA, is amended to read:

"7-7-4428. Covenants in resolution authorizing issuance of bonds. Any resolution or resolutions authorizing the issuance of bonds under this part may contain covenants as to:

(1) the purpose or purposes to which the proceeds of sale of the bonds may be applied and the disposition of the proceeds;

(2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued, including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion of the property and resort tax revenue referred to in 7-7-4424 or the gateway local option tax revenue referred to in [section 5];

(3) the transfer, from the general fund of the municipality to the account or accounts of the undertaking, of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or agencies with the services, facilities, or commodities of the undertaking;

(4) the issuance of other or additional bonds payable from the revenue of the undertaking;

(5) the operation and maintenance of the undertaking;

(6) the insurance to be carried on the undertaking and the use and disposition of insurance money;

(7) books of account and the inspection and audit of the books; and

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(8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of the bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver may:

- (a) enter and take possession of the undertaking;
- (b) operate and maintain the undertaking;
- (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and
- (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner as the municipality itself might do."

{*Internal References to 7-7-4428: None.*}

NEW SECTION. Section 12. Codification instruction.

[Sections 1 through 9] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 9].

NEW SECTION. Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 14. Effective date. [This act] is effective on passage and approval.

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