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INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CERTAIN STATUTORY ADVISORY COUNCILS FOR THE DEPARTMENTS OF AGRICULTURE AND COMMERCE AND THE STATE AUDITOR'S OFFICE; REVISING AGENCY DUTIES RELATED TO REPEALED OR REVISED ADVISORY COUNCILS; RETAINING GUIDELINES TO AGENCIES IF ADVISORY COUNCILS ARE TO BE APPOINTED BY EXECUTIVE ORDER; ELIMINATING THE ECONOMIC DEVELOPMENT ADVISORY COUNCIL; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1816, 15-65-101, 15-65-122, 22-3-1002, 33-17-1204, 33-23-520, 80-7-801, 80-7-805, 80-7-814, 90-1-116, AND 90-1-164, MCA; AND REPEALING SECTION 2-15-1820, MCA."

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~~ The director of the department of commerce may appoint a tourism advisory council.

(2) ~~The~~ If appointed, the council is ~~must be~~ composed of not less than 12 members ~~appointed by the governor~~ from Montana's private sector travel industry and ~~includes~~ include 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)~~ executive order of the governor.

~~(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)~~(3) The ~~If appointed, the~~ council shall:

(a) ~~oversee~~ make recommendations on the 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) advise the department of commerce relative to tourism promotion;

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

~~(d)~~(c) ~~prescribe~~ recommend to the department of commerce allowable administrative expenses for which



1 accommodation tax proceeds may be used by regional nonprofit tourism corporations and nonprofit convention
2 and visitors bureaus;

3 ~~(e)(d)~~ direct make recommendations to the university system regarding Montana travel research; and

4 ~~———(f) approve all travel research programs prior to their being undertaken; and~~

5 ~~(g)(e)~~ 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)(4)~~ The department of commerce shall adopt such rules as that 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 of the
14 facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment,
15 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 intended
19 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
20 more.

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

22 ~~(4)(3)~~ (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight
23 lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a
24 facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch,
25 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 by a
27 corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years
28 for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average
29 daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under
30 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented

1 solely on a monthly basis or for a period of 30 days or more.

2 ~~(5)~~(4) "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, consolidated city-county, resort area,
4 or resort area district in which the bureau is located.

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

8 ~~(7)~~(6) "Resort area" means an area established pursuant to 7-6-1508.

9 ~~(8)~~(7) "Resort area district" has the meaning provided in 7-6-1531."

10

11 **Section 3.** Section 15-65-122, MCA, is amended to read:

12 **"15-65-122. Qualification of nonprofit entities for receipt of funds -- limitation on administrative**

13 **costs.** (1) The department of revenue shall provide the ~~council~~ department of commerce with quarterly reports
14 of regional tax proceeds and tax proceeds of ~~cities~~ any city, consolidated ~~city-counties~~ city-county, resort ~~areas~~
15 area, and ~~or~~ resort area ~~districts~~ district that ~~qualify~~ qualifies for disbursement of funds under 15-65-121.

16 (2) Funds may not be disbursed to a regional nonprofit tourism corporation or nonprofit convention and
17 visitors bureau until that entity has submitted an annual marketing plan to the ~~council~~ department of commerce
18 and that plan has been approved by the ~~council~~ department of commerce.

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

22 (4) For the purposes of this section, the department of commerce has the authority to draft rules to
23 implement subsections (2) and (3)."

24

25 **Section 4.** Section 22-3-1002, MCA, is amended to read:

26 **"22-3-1002. Montana heritage preservation and development commission.** (1) There is a Montana
27 heritage preservation and development commission. The commission is attached to the department of commerce
28 for administrative purposes only, pursuant to 2-15-121. The commission and the department shall negotiate a
29 specific indirect administrative rate annually, with biennial review by a designated, appropriate legislative interim
30 committee.

1 (2) The commission consists of 14 members. The members shall broadly represent the state. Nine
 2 members must be appointed by the governor, one member must be appointed by the president of the senate,
 3 and one member must be appointed by the speaker of the house. The director of the Montana historical society,
 4 the director of the department of fish, wildlife, and parks, and the director of the department of commerce shall
 5 serve as members. Of the members appointed by the governor:

6 (a) one member must have extensive experience in managing facilities that cater to the needs of tourists;

7 (b) one member must have experience in community planning;

8 (c) one member must have experience in historic preservation;

9 (d) at least two members must have broad experience in business;

10 ~~(e) one member must be a member of the tourism advisory council established in 2-15-1816;~~

11 ~~(f)~~(e) one member must be a Montana historian; and

12 ~~(g)~~(f) at least two members must be from the public at large.

13 (3) Except for the initial appointments, members appointed by the governor shall serve 3-year terms.
 14 Legislative appointees shall serve 2-year terms. If a vacancy occurs, the appointing authority shall make an
 15 appointment for the unexpired portion of the term.

16 (4) (a) The commission may employ:

17 (i) an executive director who has general responsibility for the selection and management of commission
 18 staff, developing recommendations for the purchase of property, and overseeing the management of acquired
 19 property;

20 (ii) a curator who is responsible for the display and preservation of the acquired property; and

21 (iii) other staff that the commission and the executive director determine are necessary to manage and
 22 operate commission properties.

23 (b) The commission shall prescribe the duties and annual salary of the executive director, the curator,
 24 and other commission staff."
 25

26 **Section 5.** Section 33-17-1204, MCA, is amended to read:

27 **"33-17-1204. Review and approval of continuing education courses by commissioner -- advisory**
 28 **council.** (1) The commissioner shall, ~~after review by and at the recommendations of the advisory council~~
 29 ~~established under subsection (2)~~, approve only those continuing education courses, lectures, seminars, and
 30 instructional programs that the commissioner determines would improve the product knowledge, management,

1 ethics, or marketing capability of the licensee. Course content, instructors, material, instructional format, and the
 2 sponsoring organization must be approved and periodically reviewed by the commissioner. The fee for approval
 3 of a course, lecture, seminar, or instructional program is listed in 33-2-708(2). The commissioner shall also
 4 determine the number of credit hours to be awarded for completion of an approved continuing education activity.

5 (2) The commissioner ~~shall~~ may appoint an advisory council, pursuant to 2-15-122, ~~consisting of to~~
 6 provide advice on continuing education programs and credit hours. If an advisory council is appointed,
 7 membership must include at least one representative of the independent insurance agents of Montana, one
 8 representative of the national association of insurance and financial advisors - Montana, one representative of
 9 the professional insurance agents of Montana, one representative of the Montana state adjusters association,
 10 one title insurance producer, two public members who are not directly employed by the insurance industry, one
 11 insurance producer or consultant not affiliated with any of the three listed organizations, and a nonvoting presiding
 12 officer from the department ~~who will~~ to be appointed by the commissioner as a representative of the department.
 13 ~~The members of the council shall serve a term of 2 years, except that the initial term of the representative from~~
 14 ~~each organization is 3 years. The commissioner shall consult with the council~~ may advise the commissioner in
 15 formulating rules and standards for the approval of continuing education activities and prior to approving specific
 16 education activities. The provisions of 2-15-122(9) and (10) do not apply to this council.

17 (3) In conducting periodic review of course content, instructors, material, instructional format, or a
 18 sponsoring organization, the commissioner may exercise any investigative power of the commissioner provided
 19 for in 33-1-311 or 33-1-315.

20 (4) If after review or investigation the commissioner determines an approved continuing education activity
 21 is not being operated in compliance with the standards established under this section, the commissioner may
 22 revoke approval, place the activity under probationary approval, or issue a cease and desist order under
 23 33-1-318."

24
 25 **Section 6.** Section 33-23-520, MCA, is amended to read:
 26 **"33-23-520. Risk management.** (1) The association shall establish a risk management program for
 27 persons or entities insured by the association.

28 (2) The risk management program must include:

29 (a) standards for systematic investigation and reporting of claims and incidents; and

30 (b) a loss control program. The loss control program must include procedures for:

- 1 (i) analysis of claim frequency, severity, and causes of loss;
 2 (ii) identification of situations that may produce large losses;
 3 (iii) development of measures to control losses;
 4 (iv) monitoring of the effectiveness of the loss control measures that are implemented; and
 5 (v) education of insured health care providers and health care facilities on methods to reduce or prevent
 6 losses.

7 (3) The commissioner ~~shall~~ may appoint an advisory council consisting of three health care providers
 8 and three professional insurance risk managers to provide advice to the association on risk management
 9 activities."
 10

11 **Section 7.** Section 80-7-801, MCA, is amended to read:

12 **"80-7-801. Definitions.** As used in this part, the following definitions apply:

13 (1) "Crop weed" means any plant commonly accepted as a weed and for which grants for management
 14 research, evaluation, and education under ~~80-7-814(5)(g)~~ 80-7-814(5)(e) may be given.

15 (2) "Department" means the department of agriculture established in 2-15-3001.

16 (3) "Noxious weed" means any weed defined in 7-22-2101(8)(a)."
 17

18 **Section 8.** Section 80-7-805, MCA, is amended to read:

19 **"80-7-805. Noxious weed management advisory council.** (1) The director of the department ~~shall~~ may
 20 appoint a noxious weed management advisory council to provide advice to the department concerning the
 21 administration of this part.

22 (2) If appointed, the council must be composed of 11 members, as follows:

23 (a) the director of the department of agriculture, who shall serve as presiding officer;

24 (b) one member representing livestock production;

25 (c) one member representing agriculture crop production;

26 (d) one member from a recreationist/wildlife group;

27 (e) one member who is a herbicide dealer or applicator;

28 (f) one member from a consumer group;

29 (g) one member representing biological research and control interests;

30 (h) one member from the Montana weed control association;

- 1 (i) two members representing counties, one each from the western and eastern parts of the state, which
2 may include a county commissioner, district weed board member, or weed district supervisor; and
3 (j) one at-large member from the agricultural community."
4

5 **Section 9.** Section 80-7-814, MCA, is amended to read:

6 **"80-7-814. Administration and expenditure of funds.** (1) The provisions of this section constitute the
7 noxious weed management program.

8 (2) (a) Except as provided in subsection (2)(b), money deposited in the noxious weed management trust
9 fund may not be committed or expended until the principal reaches \$10 million.

10 (b) In the case of a noxious weed emergency, as provided in 80-7-815, a vote of three-fourths of the
11 members of each house of the legislature may appropriate principal from the trust fund.

12 (c) Interest or revenue generated by the trust fund, excluding unrealized gains and losses, must be
13 deposited in the noxious weed management special revenue fund and may be expended for noxious weed
14 management projects before the principal of the noxious weed management trust reaches \$10 million with a
15 majority vote of each house of the legislature.

16 (d) Any grant funds, regardless of the time at which the grant was awarded, that are not fully expended
17 upon termination of the contract or an extension of the contract, not to exceed 1 year, must revert to the
18 department. The department shall use any reverted funds for future grant awards, provided the noxious weed
19 management trust fund principal exceeds \$10 million as provided in subsection (2)(a).

20 (e) The department may not apply for or receive grant awards from the noxious weed management
21 special revenue fund.

22 (3) The principal of the noxious weed management trust fund in excess of \$10 million may be
23 appropriated by a majority vote of each house of the legislature. Appropriations of the principal in excess of \$10
24 million may be used only to fund the noxious weed management program.

25 (4) The department may expend funds under this section through grants or contracts to communities,
26 weed management districts, or other entities that it considers appropriate for noxious weed management projects.
27 A project is eligible to receive funds only if the county in which the project occurs has funded its own weed
28 management program using one of the following methods, whichever is less:

- 29 (a) levying an amount of not less than 1.6 mills or an equivalent amount from another source; or
30 (b) appropriating an amount of not less than \$100,000 from any source.

1 (5) The department may expend funds without the restrictions specified in subsection (4) for the
2 following:

3 (a) employment of a new and innovative noxious weed management project or the development,
4 implementation, or demonstration of any noxious weed management project that may be proposed, implemented,
5 or established by local, state, or national organizations, whether public or private. The expenditures must be on
6 a cost-share basis with the organizations.

7 (b) cost-share noxious weed management programs with local weed management districts;

8 (c) special grants to local weed management districts to eradicate or contain significant noxious weeds
9 newly introduced into the county. These grants may be issued without matching funds from the district.

10 (d) costs incurred by the department for administering the noxious weed management program as
11 follows:

12 (i) In fiscal year 2014, the funds used by the department for administering the program, including but not
13 limited to personal services costs, operating costs, and other administrative and program costs attributable to the
14 program, may not exceed 16% of the total amount expended through grants and contracts made under
15 subsection (4). No additional administrative or other costs may be taken by the department on reverted funds
16 used for future grant awards.

17 (ii) In fiscal year 2015 and in each succeeding fiscal year, the funds used by the department for
18 administering the program, including but not limited to personal services costs, operating costs, and other
19 administrative and program costs attributable to the program, may not exceed 12% of the total amount expended
20 through grants and contracts made under subsection (4). No additional administrative or other costs may be taken
21 by the department on reverted funds used for future grant awards.

22 ~~(e) administrative expenses incurred by the noxious weed management advisory council;~~

23 ~~(f) a project recommended by the noxious weed management advisory council, if the department~~
24 ~~determines that the project will significantly contribute to the management of noxious weeds within the state; and~~

25 ~~(g)~~(e) grants to the agricultural experiment station and the cooperative extension service for crop weed
26 management research, evaluation, and education.

27 (6) The agricultural experiment station and cooperative extension service shall submit annual reports
28 on current projects and future plans to the ~~noxious weed management advisory council~~ department.

29 (7) In making expenditures under subsections (3) through (5), the department shall give preference to
30 weed management districts and community groups.

1 (8) If the noxious weed management trust fund is terminated by constitutional amendment, the money
 2 in the fund must be divided ~~between~~ among all counties according to rules adopted by the department for that
 3 purpose."

4

5 **Section 10.** Section 90-1-116, MCA, is amended to read:

6 **"90-1-116. State matching funds program for economic development -- distribution of proceeds**
 7 **-- criteria for grants -- local economic development matching funds.** (1) As used in this section, the following
 8 definitions apply:

9 (a) "Certified regional development corporation" means a private, nonprofit corporation that has been
 10 designated by the department through a competitive process to manage and administer funds and programs for
 11 the department on a regional basis.

12 ~~—— (b) "Council" means the economic development advisory council established in 2-15-1820.~~

13 ~~(c)~~(b) "Department" means the department of commerce provided for in 2-15-1801.

14 ~~(d)~~(c) "Treasure community" means a community that meets and maintains requirements for certification
 15 established by the department and administered by the certified regional development corporation.

16 (2) The department shall create a program to provide state funds to match local economic development
 17 funds and to fund up to 12 certified regional development corporations. The provision of state matching funds is
 18 contingent upon specific appropriations to the department for that purpose.

19 (3) An assistance grant to a certified regional development corporation ~~will~~ may be made ~~based on only~~
 20 in compliance with rules adopted by the department for the state matching funds program. The rules for
 21 distribution of funds must include consideration of:

22 (a) the size of the geographic area represented by the certified regional development corporation;

23 (b) the number of communities served by the certified regional development corporation;

24 (c) the population served by the certified regional development corporation; and

25 (d) the services offered by the certified regional development corporation.

26 (4) To be eligible to receive a grant, a certified regional development corporation:

27 (a) must be designated as the certified regional development corporation by the department;

28 (b) shall maintain department requirements for certification;

29 (c) shall match each \$1 of the grant with \$1 raised from public or private sources;

30 (d) shall administer the treasure community designation and reporting process for the communities and

1 counties in the region;

2 (e) shall encourage and organize full participation in regional economic development activities, meetings,
3 projects, and planning by the treasure communities in the region; and

4 (f) shall deliver services and resources to the citizens, businesses, and treasure communities throughout
5 the region.

6 (5) Grants under this section must be used to conduct economic development programs consistent with
7 strategic plans that are adopted by the certified regional development corporations and the treasure communities
8 in the region and that are filed with the department."

9

10 **Section 11.** Section 90-1-164, MCA, is amended to read:

11 **"90-1-164. Heritage and cultural tourism promotion and development plan.** (1) A heritage
12 preservation and cultural tourism commission may prepare a heritage and cultural tourism promotion and
13 development plan and shall operate according to the provisions of that plan.

14 (2) A heritage and cultural tourism promotion and development plan must be created in consultation with
15 the ~~tourism advisory council~~ department of commerce, the Montana historical society, the Montana arts council,
16 and interested stakeholders, including businesses and institutions that have a demonstrable interest in cultural
17 tourism, historic preservation, economic development, the arts, and cultural affairs.

18 (3) A heritage and cultural tourism promotion and development plan:

19 (a) may include but is not limited to:

20 (i) inventories of public displays and interpretations of heritage and cultural tourism resources;

21 (ii) mapping of and guidance to heritage and cultural tourism resources; and

22 (iii) advertising and promoting heritage and cultural tourism resources, economic development, heritage
23 protection, and heritage incentives; and

24 (b) may recommend ordinances or resolutions to counties, consolidated governments, and municipalities
25 to assist and protect the qualities of heritage and cultural tourism resources as long as those ordinances are
26 based on uniform standards and procedures."

27

28 **NEW SECTION. Section 12. Repealer.** The following section of the Montana Code Annotated is
29 repealed:

30 2-15-1820. Economic development advisory council.

