

HOUSE BILL NO. 187

INTRODUCED BY D. FERN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A MUNICIPALITY, A CONSOLIDATED CITY-COUNTY, A COUNTY, OR A LOCAL OPTION TAX DISTRICT, BY VOTE OF THE ELECTORATE, TO ADOPT A LOCAL OPTION TAX ON GOODS; PROVIDING FOR GOODS THAT MAY BE TAXED; PROVIDING THAT AN EXISTING RESORT TAX MAY REMAIN IN EFFECT OR MAY BE DISCONTINUED; PROVIDING THAT A PORTION OF LOCAL OPTION TAX REVENUE MAY BE USED FOR PROPERTY TAX RELIEF; ALLOWING FOR AN INTERLOCAL AGREEMENT TO COLLECT LOCAL OPTION TAX FROM REMOTE SELLERS; 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. Short title.** [Sections 1 through 26] may be cited as the "Local Option Tax Act".

NEW SECTION. **Section 2. Local option tax -- definitions.** As used in [sections 1 through 26], the following definitions apply:

- (1) "Board of directors" means the board of directors of a local option tax district.
- (2) (a) "Good" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses.
- (b) The term does not include:
  - (i) food purchased unprepared, unserved, and primarily for off-premises consumption;
  - (ii) medicine or medical supplies;
  - (iii) appliances, hardware supplies, or tools;
  - (iv) motor vehicles or the sale, lease, loan, or provision of any item, product, or service by a franchise as that term is defined in 61-4-201; or

1 (v) gasoline or special fuel.

2 (3) "Governing body" means:

3 (a) the governing body of a municipality, consolidated city-county, or county in which a local option tax  
4 is proposed or approved; or

5 (b) if the qualified electors establish a local option tax district, the district board of directors.

6 (4) "Local option tax district" means a district created under [sections 1 through 26] that consists of:

7 (a) a contiguous unincorporated area within a county; or

8 (b) a contiguous area that includes one or more municipalities and may include unincorporated areas  
9 contiguous to the municipality or municipalities.

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

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

14 (7) "Motor vehicle" means a self-propelled or towed vehicle designed for personal or commercial use,  
15 including but not limited to an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle,  
16 snowmobile, camper, boat, or personal watercraft or a trailer used to transport a motorcycle, boat, camper, or  
17 personal watercraft.

18 (8) "Remote seller" means a seller that does not have a physical presence in the state but who sells  
19 goods for delivery into the state.

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21 **NEW SECTION. Section 3. Local option taxing authority -- specific delegation.** (1) As required by  
22 7-1-112, [sections 1 through 26] specifically delegate to the qualified electors of each respective municipality,  
23 consolidated city-county, county, or local option tax district the power to authorize their municipality,  
24 consolidated city-county, county, or local option tax district to impose a local option tax within the corporate  
25 boundary of the municipality, within the boundary of the consolidated city-county or county, or within the local  
26 option tax district.

27 (2) The power to impose a local option tax does not include the power to levy a franchise fee on  
28 utilities or cooperatives based on their revenue.

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**NEW SECTION. Section 4. Limit on local option tax rate -- goods subject to tax.** (1) The rate of a

local option tax must be established by the election petition or resolution provided for in [section 5], but the rate may not exceed 2%.

(2) (a) Except as provided in subsection (2)(b), a local option tax is a tax on the retail value of goods sold, except for goods sold for resale, within a municipality, consolidated city-county, county, or local option tax district. The election petition or resolution may identify the goods to be taxed by including the goods to be taxed or by excluding the goods not subject to the tax.

(b) The local option tax is levied on the first \$500 in value of taxable goods.

(3) Establishments that sell goods subject to the tax shall collect the tax.

**NEW SECTION. Section 5. Local option tax -- election required -- procedure -- notice.** (1) A

municipality, consolidated city-county, county, or local option tax district may not impose or, except as provided in [section 7], amend or repeal a local option tax unless the local option tax question has been submitted to the electorate of the municipality, consolidated city-county, county, or proposed local option tax district and approved by the electors voting on the question as provided in [section 6].

(2) The local option tax question may be presented to the electors of:

(a) a municipality by a petition of the electors, as provided in 7-1-4130, 7-5-131 through 7-5-135, and 7-5-137, or by a resolution of the governing body of the municipality;

(b) a consolidated city-county by a petition of electors, as provided in 7-5-131 through 7-5-135 and 7-5-137, or by a resolution of the governing body of the consolidated city-county;

(c) a county by a petition of electors, as provided in 7-5-131 through 7-5-135 and 7-5-137, or by a resolution of the board of county commissioners; or

(d) a proposed local option tax district by a petition of electors, as provided in [section 12].

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

(a) the rate of the local option tax, which may not exceed 2%;

(b) the duration of the local option tax, which may not exceed 20 years, by:

(i) establishing an automatic sunset date;

- 1 (ii) referencing a revenue bond payoff schedule; or
- 2 (iii) referencing completion of a specified project or projects;
- 3 (c) the date the local option tax becomes effective, which may not be earlier than 90 days after the
- 4 election; and
- 5 (d) the purposes that may be funded by the local option tax revenue.
- 6 (4) On passage of a resolution or on receipt of an adequate petition, the governing body or, for a
- 7 proposed local option tax district, the entity described in [section 16] shall:
- 8 (a) call a special election on the local option tax question; or
- 9 (b) place the local option tax question on the ballot at the next regularly scheduled election.
- 10 (5) Except as provided in subsection (6), notice of the election must be accomplished as provided in
- 11 13-1-108 and must include the information contained in subsection (3) of this section.
- 12 (6) An election for a proposed local option tax district must be conducted and noticed as provided in
- 13 [section 16].
- 14 (7) The question of the imposition of a local option tax may not be placed before the electors more
- 15 than once every 2 years.

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17 **NEW SECTION. Section 6. Determination of approval or rejection of local option tax.** (1) A local

18 option tax question, including the imposition, amendment, or repeal of a local option tax, is determined as

19 follows:

- 20 (a) The city clerk, county clerk, or entity identified in [section 16] shall:
- 21 (i) determine the total number of electors of the municipality, consolidated city-county, county, or
- 22 proposed local option tax district who are qualified to vote from the list of electors supplied by the city clerk or
- 23 county clerk on the local option tax question;
- 24 (ii) determine the total number of qualified electors voting at the local option tax election from the tally
- 25 sheets for the election; and
- 26 (iii) calculate the percentage of qualified electors voting at the local option tax election by dividing the
- 27 amount determined in subsection (1)(a)(ii) by the amount determined in subsection (1)(a)(i).
- 28 (b) When the percentage calculated according to subsection (1)(a)(iii) is 40% or more, the local option

1 tax question is approved if a majority of the votes were cast in favor of the question and is rejected if less than a  
2 majority were cast in favor or if fewer than 40% of qualified electors vote on the local option tax question.

3 (2) If the canvass of the vote establishes the approval of the local option tax question, the city clerk,  
4 county clerk, or entity identified in [section 16] shall issue a certificate proclaiming the approval of the local  
5 option tax question.

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7 **NEW SECTION. Section 7. Local option tax administration.** (1) Not less than 30 days prior to the  
8 date that the local option tax becomes effective, the governing body shall enact an administrative ordinance  
9 governing the collection and reporting of the local option tax. The administrative ordinance may be amended at  
10 any time as needed to effectively administer the local option tax.

11 (2) The administrative ordinance must specify:

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

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

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

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

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

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

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

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

26 (3) The administrative ordinance may include:

27 (a) further clarification and specificity in the categories of goods that are subject to the local option tax  
28 consistent with [section 4];

1 (b) authorization for business administration and prepayment discounts, including allowing each  
2 vendor and commercial establishment to:

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

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

8 (c) other administrative details needed to efficiently and effectively administer the tax.  
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10 **NEW SECTION. Section 8. Use of local option tax revenue -- bond issue -- pledge.** (1) Unless  
11 otherwise restricted by the voter-approved tax authorization provided for in [section 5], a municipality,  
12 consolidated city-county, county, or local option tax district may appropriate and expend revenue derived from a  
13 local option tax for any purpose allowed by law and any costs resulting from the imposition of the tax. The  
14 municipality, consolidated city-county, county, or local option tax district may share local option tax revenue with  
15 another municipality, consolidated city-county, county, or local option tax district through an interlocal  
16 agreement.

17 (2) (a) A municipality, consolidated city-county, or county may issue bonds authorized under  
18 subsection (3) to provide, install, or construct any projects as provided for under 7-7-4101, 7-7-4404, and 7-12-  
19 4102.

20 (b) A local option tax district may issue bonds as provided in [section 19].

21 (3) Bonds issued under this section must be authorized by a resolution of the governing body stating  
22 the purposes, amounts, terms, conditions, and covenants of the municipality, consolidated city-county, or  
23 county that the governing body considers appropriate. The bonds may be sold at a discount at a public or  
24 private sale.

25 (4) For repayment of bonds issued under this section, a municipality, consolidated city-county, or  
26 county may pledge the revenue derived from a local option tax or special assessments levied for and revenue  
27 collected from the projects for which the bonds are issued. The bonds do not constitute debt for purposes of  
28 any statutory debt limitation provided that, in the resolution authorizing the issuance of the bonds, the

1 municipality, consolidated city-county, or county determines that the local option tax revenue or special  
2 assessments levied for and revenue from the projects pledged to the payment of the bonds will be sufficient in  
3 each year to pay the principal and interest of the bonds when due.

4 (5) Bonds may not be issued that pledge proceeds of the local option tax for repayment unless the  
5 municipality, consolidated city-county, or county in the resolution authorizing issuance of the bonds determines  
6 that in any fiscal year the annual revenue expected to be derived from the local option tax less any amount  
7 designated for rebates pursuant to [section 9] equals at least 125% of the average amount of the principal and  
8 interest payable from the local option tax on the bonds and any other outstanding bonds payable from the local  
9 option tax, except any bonds to be refunded upon the issuance of the proposed bonds.

10

11 **NEW SECTION. Section 9. Tax relief.** (1) A municipality, consolidated city-county, county, or local  
12 option tax district that authorizes a local option tax pursuant to [sections 1 through 26] may provide rebates to  
13 offset the local option tax paid by residents and property owners.

14 (2) The rebates may be calculated and distributed in any manner approved by the governing body.

15

16 **NEW SECTION. Section 10. Coordination with other local option taxes.** (1) More than one local  
17 option tax may not be imposed in the same geographic area.

18 (2) A local option tax may not be imposed by a municipality, consolidated city-county, county, or local  
19 option tax district in a resort community, resort area, or resort area district that existed before [the effective date  
20 of this act]. However, an existing resort community, resort area, or resort area district may elect to terminate its  
21 resort tax and subject itself to a local option tax imposed by a municipality, consolidated city-county, county, or  
22 local option tax district.

23 (3) If a municipality, local option tax district, resort community, resort area, or resort area district  
24 imposes a local option tax or a resort tax in a portion of a county, the county may impose a local option tax as  
25 provided in [sections 1 through 26] in the portion of the county that is not subject to the local option tax or resort  
26 tax already imposed.

27

28 **NEW SECTION. Section 11. Collection from remote sellers.** To collect local option tax from remote

1 sellers, municipalities, consolidated city-county governments, counties, and local option tax districts levying a  
2 local option tax shall enter into a statewide interlocal agreement that includes:

- 3 (1) a remote seller threshold based on the dollar value of sales, the number of transactions, or both;
- 4 (2) uniformity in which goods are subject to the local option tax;
- 5 (3) uniform collection and reporting requirements; and
- 6 (4) administrative procedures for entering into the interlocal agreement.

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8 **NEW SECTION. Section 12. Local option tax district authorized.** The qualified electors of a  
9 proposed local option tax district may create a local option tax district by proceeding under the provisions of  
10 [sections 13 through 26].

11  
12 **NEW SECTION. Section 13. Petition to create local option tax district.** (1) The qualified electors  
13 of a proposed local option tax district may present, at a regular meeting, a petition requesting the establishment  
14 of a local option tax district as provided in this section.

15 (2) (a) If the proposed local option tax district is an unincorporated area, the petition must be  
16 presented to the board of county commissioners of the county in which the proposed local option tax district is  
17 located.

18 (b) If the proposed local option tax district includes one or more municipalities, the petition must be  
19 presented to the city council or city commission of each municipality included in the proposed district.

20 (3) The petition must be signed by at least 10% of the qualified electors of the proposed local option  
21 tax district.

22 (4) The petition must include a description or map of the proposed local option tax district boundaries.

23  
24 **NEW SECTION. Section 14. Local option tax district -- notice of petition -- hearing required.** (1)

25 (a) The board of county commissioners shall publish the text of the petition described in [section 13], as  
26 provided in 7-1-2121, in the county in which the proposed local option tax district lies and shall publish the date,  
27 time, and place that a public hearing on the petition will be held.

28 (b) The city council or city commission shall publish the text of the petition described in [section 13],



1 as provided in 7-1-4127, in a municipality to be included in the proposed local option tax district and shall  
 2 publish the date, time, and place that a public hearing on the petition will be held.

3 (2) In addition to the requirements in subsection (1), the board of county commissioners shall publish  
 4 the text of the petition described in [section 13] in a newspaper of general circulation in the county within which  
 5 the proposed local option tax district lies and the city council or city commission shall publish the text of the  
 6 petition described in [section 13] in a newspaper of general circulation in a municipality proposed to be included  
 7 in the local option tax district.

8 (3) A person wishing to comment on the creation of the proposed local option tax district may file, by  
 9 first-class mail or otherwise, comments with the clerk and recorder of the county in which the proposed local  
 10 option tax district lies or with the city clerk of a municipality to be included in the proposed local option tax  
 11 district.

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 13 **NEW SECTION. Section 15. Local option tax district -- hearing on petition.** (1) At the hearing for  
 14 which notification has occurred under [section 14], the board of county commissioners or the city council or city  
 15 commission shall accept comments supporting and opposing the petition. The board of county commissioners  
 16 or the city council or city commission may adjourn the hearing from time to time, but the hearing must be  
 17 completed within 4 weeks of its commencement.

18 (2) Upon concluding the hearing on the petition, the board of county commissioners or the city council  
 19 or city commission shall determine whether the petition complies with the requirements of [sections 13 through  
 20 26] and enter its determination into the minutes of a regularly scheduled meeting.

21  
 22 **NEW SECTION. Section 16. Local option tax district -- election required -- notice.** (1) Upon a  
 23 determination that the petition complies with the provisions of [sections 13 through 26]:

24 (a) the board of county commissioners of the county in which the proposed local option tax district lies  
 25 shall conduct an election in accordance with Title 13, chapter 1, part 5, if the proposed district includes only  
 26 unincorporated areas; or

27 (b) a city council or city commission to be included in the proposed local option tax district shall  
 28 conduct an election in accordance with Title 13, chapter 1, part 5, if the proposed district includes a

1 municipality. If the proposed district includes more than one municipality, the municipalities shall coordinate on  
2 conducting the election.

3 (2) Notice of the election must be made as provided in 13-1-108 and must:

4 (a) describe the purpose of the proposed local option tax district; and

5 (b) state the name of the proposed local option tax district, which must include the words "local option  
6 tax district".

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8 **NEW SECTION. Section 17. Resolution creating local option tax district on favorable vote.** (1) If  
9 the question of creating a local option tax district is approved as provided in [section 6], the board of county  
10 commissioners or the city council or city commission shall enter into its minutes an order, by resolution, creating  
11 the local option tax district.

12 (2) Immediately following adoption of the resolution creating the local option tax district, the board of  
13 county commissioners or the city council or city commission shall file with the secretary of state and the county  
14 clerk and recorder or city clerk a copy of the resolution.

15

16 **NEW SECTION. Section 18. General powers of local option tax district.** (1) A local option tax  
17 district may:

18 (a) have perpetual succession;

19 (b) sue and be sued in a court of competent jurisdiction;

20 (c) acquire by any legal means real and personal property necessary to the full exercise of its powers;

21 (d) make contracts, employ labor, and do all acts necessary for the full exercise of its powers; and

22 (e) issue and repay bonds as provided in 7-6-1542.

23 (2) (a) Subject to subsection (2)(b), the board of directors for a local option tax district that does not  
24 have perpetual succession may submit the question of extension of the term of the local option tax district  
25 directly to the qualified electors in an election conducted in accordance with Title 13, chapter 1, part 5. If the  
26 electorate extends the term of the local option tax district, the provisions of [sections 1 through 26] continue to  
27 apply.

28 (b) The board of directors may not submit a question to the qualified electors to extend the term of a

1 local option tax district until the expiration of at least one-half of the existing term of the local option tax, as  
2 provided for in [section 5]. If a vote to extend the term fails, successive votes to extend the term may be taken  
3 no more than once each year.

4 (3) The board of directors may exercise the powers described in [sections 13 through 26].

5  
6 **NEW SECTION. Section 19. Local option tax district board powers related to local option tax**

7 **revenue -- bonds -- election -- restrictions.** (1) The board of directors of a local option tax district may:

8 (a) appropriate and expend revenue from a local option tax for any activity, undertaking, or  
9 administrative service authorized in the resolution creating a local option tax and adopting a local option tax;

10 (b) adopt administrative ordinances necessary to aid in the collection or reporting of local option tax  
11 and in the expenditure of local option tax revenue; and

12 (c) except as provided in subsection (2), if approved by four of the five board members, issue bonds  
13 to provide, install, or construct any of the public facilities, improvements, or capital projects authorized as  
14 provided in subsection (1)(a) and pledge for repayment of the bonds the revenue derived from the local option  
15 tax.

16 (2) A local option tax district may not issue bonds to construct a single-purpose public facility,  
17 improvement, or capital project in an amount exceeding \$500,000 without the approval of the qualified electors,  
18 as provided in [section 6], voting at an election conducted in accordance with Title 13, chapter 1, part 5.

19 (3) The provisions of [section 8(3)] apply to the issuance of bonds by a local option tax district, and  
20 the projected useful life of the public facilities, improvements, or capital projects must be determined by the  
21 board of directors to be greater than the term of the bonds that were issued to construct the public facilities,  
22 improvements, or capital projects.

23 (4) Local option tax revenue that is pledged by a local option tax district to the repayment of bonds  
24 must be sufficient to pay the principal and interest on the bonds in each year when the principal and interest are  
25 due. Bonds do not constitute debt for the purpose of any statutory debt limitation. A local option tax district may  
26 not issue bonds pledging proceeds of the local option tax for repayment unless the board of directors in the  
27 resolution authorizing issuance of the bonds determines that the annual principal and interest payment on the  
28 bonds issued will not cumulatively exceed 25% of the average of local option tax revenue received by the

1 district during the preceding 5 years. Bonds may not be issued for a term longer than the remaining duration of  
2 the local option tax district.

3  
4 **NEW SECTION. Section 20. Local option tax district governed by board -- composition --**  
5 **qualifications -- terms of office.** (1) The board of directors is the governing body of the local option tax district  
6 and is composed of five members, to be elected as provided in [section 21].

7 (2) To qualify for the board of directors, a person must be a resident of the local option tax district.

8 (3) Directors shall serve for a term of 4 years from the date of their election, except, of the directors  
9 elected at the first election, three directors shall serve for a term of 2 years and two shall serve for a term of 4  
10 years.

11 (4) At the first meeting of the board, the directors shall determine by lot which of them shall serve the  
12 terms of less than 4 years. Each succeeding term is 4 years.

13  
14 **NEW SECTION. Section 21. Local option tax district board -- vacancy.** (1) If a vacancy on the  
15 board of directors occurs by death, resignation, or removal from the local option tax district, the remaining  
16 directors shall appoint a director to fill the vacancy. The term of the appointment coincides with the term that  
17 became vacant.

18 (2) An appointee to the board of directors must be elected by a majority of those voting at an election  
19 conducted in accordance with Title 13, chapter 1, part 5, as soon as possible following the appointment. If an  
20 appointee does not receive a majority of the votes cast in the election, the appointee's term expires and the  
21 board shall initiate the process to fill the vacancy as provided in subsection (1).

22  
23 **NEW SECTION. Section 22. Local option tax district board -- meetings.** (1) The board of directors  
24 shall meet at a regularly scheduled time and place. The board of directors shall provide public notice of any  
25 change in the time and place of the board meetings.

26 (2) All board of directors meetings are open to the public unless, under the terms of Article II, section  
27 9, of the Montana constitution or 2-3-203, the presiding officer determines that the demands of individual  
28 privacy clearly exceed the merits of public disclosure.

1 (3) A majority of the board of directors constitutes a quorum for the transaction of business.

2 (4) The board of directors may act only by ordinance or resolution.

3  
4 **NEW SECTION. Section 23. Referendum to dissolve local option tax district.** (1) On receipt of a  
5 petition to dissolve a local option tax district that has been signed by more than 50% of the qualified electors of  
6 the local option tax district, the board of directors shall set a date for a public hearing on dissolution of the local  
7 option tax district. The hearing date must be at least 45 days and no more than 60 days after the date on which  
8 the board schedules the date of the hearing. A notice of the public hearing on dissolution must be published as  
9 provided in 7-1-2121. The published notice must include notice to creditors of the local option tax district to  
10 present claims owed by the local option tax district to the board of directors prior to the date set for the  
11 dissolution hearing.

12 (2) After the hearing, the board of directors shall submit the question of the local option tax district's  
13 dissolution to a vote of the qualified electors voting in an election conducted in accordance with Title 13,  
14 chapter 1, part 5.

15  
16 **NEW SECTION. Section 24. Resolution dissolving local option tax district on favorable vote.**  
17 (1) If the question of dissolving a local option tax district is approved as provided in [section 6], the board of  
18 county commissioners or the city council or city commission shall enter into its minutes an order, by resolution,  
19 dissolving the local option tax district. The resolution must contain, explicitly or by reference, an orderly plan of  
20 dissolution.

21 (2) Immediately following adoption of the resolution dissolving the local option tax district, the board of  
22 county commissioners or the city council or city commission shall file with the secretary of state and the county  
23 clerk and recorder or city clerk a copy of the resolution.

24 (3) The local option tax district is dissolved as provided in the plan of dissolution.

25  
26 **NEW SECTION. Section 25. Annexation of property into local option tax district -- election.** (1)  
27 Property may be annexed into a local option tax district as provided in this section.

28 (2) The board of directors may recommend that property contiguous to an existing local option tax

1 district be annexed into the local option tax district.

2 (3) If the board of directors recommends annexation, the board shall submit its recommendation to  
3 the board of county commissioners or the city council or city commission, along with a description or map of the  
4 existing district and a description or map of the area proposed to be annexed.

5 (4) The board of county commissioners or the city council or city commission shall give notice as  
6 required in 13-1-108 of the election to be held in the area proposed to be annexed. The election must be held in  
7 accordance with Title 13, chapter 1, part 5.

8 (5) If the question of annexation of the property into the local option tax district is approved as  
9 provided in [section 6], the board of county commissioners or the city council or city commission shall enter into  
10 its minutes an order, by resolution, annexing the property into the district and shall cause to be created a map  
11 of the district that includes the annexed area. Immediately following the adoption of the resolution, the board of  
12 county commissioners or the city council or city commission shall file with the secretary of state and the county  
13 clerk and recorder or city clerk a copy of the resolution and the map.

14 (6) The secretary of state shall issue a certificate of incorporation as provided in 7-6-1540.

15 (7) The board of directors that governed the district before annexation shall continue to operate, and  
16 the members shall continue to serve the members' terms. On occurrence of a vacancy or the expiration of a  
17 member's term, residents of the area that has been annexed are eligible for election or appointment to the  
18 board of directors under the provisions of [sections 20 through 22].

19  
20 **NEW SECTION. Section 26. Local option tax advisory committee.** (1) A municipality, consolidated  
21 city-county, or county that levies a local option tax and a local option tax district shall appoint an advisory  
22 committee to make recommendations about the local option tax as provided in this section.

23 (2) The governing body shall appoint at least five members to the advisory committee. The members  
24 must be residents of the municipality, consolidated city-county, county, or local option tax district that is levying  
25 the local option tax and must include nongovernmental entities, such as representatives of the business  
26 community and citizens.

27 (3) The advisory committee shall advise the governing body about:

28 (a) matters related to the administration of local option tax, including the administrative ordinance

1 provided for in [section 7];

2 (b) the purposes funded with local option tax revenue; and

3 (c) whether to seek changes to the local option tax, including the tax rate, the duration, the purposes  
4 to be funded, and the area subject to the tax.

5

6 **Section 27.** Section 7-7-4424, MCA, is amended to read:

7 **"7-7-4424. Undertakings to be self-supporting.** (1) (a) Except as provided in subsections (1)(b)  
8 and (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect  
9 reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall  
10 revise the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains  
11 self-supporting.

12 (b) The property taxes specifically authorized to be levied for the general purpose served by an  
13 undertaking, ~~or any~~ resort taxes approved, levied, and appropriated to an undertaking in compliance with 7-6-  
14 1501 through 7-6-1509, ~~or any local option taxes approved, levied, and appropriated to an undertaking in~~  
15 compliance with [sections 1 through 26] constitute revenue of the undertaking and may not result in an  
16 undertaking being considered not self-supporting.

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

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

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

23 (b) provide for all expenses of operation and maintenance of the undertaking, including reserves."  
24

25

26 **Section 28.** Section 7-7-4428, MCA, is amended to read:

27 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions  
28 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

1 disposition of the proceeds;

2 (2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued,  
3 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion  
4 of the property and resort tax revenue referred to in 7-7-4424 or the local option tax revenue referred to in  
5 [section 8];

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

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

10 (5) the operation and maintenance of the undertaking;

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

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

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

15 (a) enter and take possession of the undertaking;

16 (b) operate and maintain the undertaking;

17 (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and

18 (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner  
19 as the municipality itself might do."

20

21 **NEW SECTION. Section 29. Codification instruction.** [Sections 1 through 26] are intended to be  
22 codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1  
23 through 26].

24

25 **NEW SECTION. Section 30. Saving clause.** [This act] does not affect rights and duties that  
26 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

27

28 **NEW SECTION. Section 31. Effective date.** [This act] is effective on passage and approval.



