

## 1 SENATE BILL NO. 332

2 INTRODUCED BY R. WEBB

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TAXES ON THE SALE OR USE OF LODGING WITHOUT  
5 INCREASING THE COMBINED RATES OF TAXATION; COMBINING THE LODGING FACILITIES USE TAX  
6 AND THE SALES TAX ON LODGING; PROVIDING THAT THE TAX IS A SALES TAX ON ACCOMMODATIONS  
7 AND PROPERTY, INCLUDING SALES AND RENTALS FROM A HOSTING PLATFORM; PROVIDING A RATE  
8 OF TAX CONSISTENT WITH CURRENT LAW FOR A THIRD-PARTY RESERVATION INTERMEDIARY;  
9 PROVIDING FOR SHARING OF CONFIDENTIAL INFORMATION WITH JURISDICTIONS THAT IMPOSE  
10 RESORT TAXES; PROVIDING DEFINITIONS; REVISING A STATUTORY APPROPRIATION; AMENDING  
11 SECTIONS 2-15-1816, 7-12-1121, 7-12-1132, 7-14-112, 15-1-216, 15-65-122, 15-65-131, 15-68-101, 15-68-102,  
12 15-68-103, 15-68-106, 15-68-110, 15-68-202, 15-68-401, 15-68-402, 15-68-405, 15-68-501, 15-68-502,  
13 15-68-513, 15-68-805, 15-68-808, 15-68-815, 15-68-820, 17-7-502, 22-3-115, 76-8-103, AND 90-1-135, MCA;  
14 REPEALING SECTIONS 15-65-101, 15-65-102, 15-65-111, 15-65-112, 15-65-113, 15-65-114, 15-65-115,  
15 15-65-116, 15-65-121, 15-68-207, 15-68-210, 15-68-211, AND 15-68-212, MCA; AND PROVIDING AN  
16 EFFECTIVE DATE AND AN APPLICABILITY DATE."

17

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

19

20 **Section 1.** Section 2-15-1816, MCA, is amended to read:21 **"2-15-1816. Tourism advisory council.** (1) There is created a tourism advisory council.

22 (2) The council is composed of not less than 12 members appointed by the governor from Montana's  
23 private sector travel industry and includes at least one member from Indian tribal governments and one tribal  
24 member from the private sector, with representation from each tourism region initially established by executive  
25 order of the governor and as may be modified by the council under subsection (5).

26 (3) Members of the council shall serve staggered 3-year terms, subject to replacement at the discretion  
27 of the governor.

28 (4) The council shall:

29 (a) oversee distribution of funds to regional nonprofit tourism corporations for tourism promotion,  
30 nonprofit convention and visitors bureaus, and the state-tribal economic development commission established

1 in 90-1-131 on behalf of an Indian tourism region in accordance with Title 15, ~~chapter 65, part 4~~ chapter 68, and  
 2 this section;

3 (b) advise the department of commerce relative to tourism promotion;

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

5 (d) prescribe allowable administrative expenses for which accommodation tax proceeds may be used  
 6 by regional nonprofit tourism corporations and nonprofit convention and visitors bureaus;

7 (e) direct the university system regarding Montana travel research;

8 (f) approve all travel research programs prior to their being undertaken;

9 (g) encourage the state-tribal economic development commission and regional nonprofit tourism  
 10 corporations to promote tourist activities on Indian reservations in their regions;

11 (h) encourage regional nonprofit tourism corporations and nonprofit convention and visitors bureaus  
 12 receiving money under subsection (4)(a) to promote public and nonprofit history museums in their regions; and

13 (i) urge the department of transportation to include museums recognized by the museums association  
 14 of Montana when it updates and publishes the state maps.

15 (5) The council may modify the tourism regions established by executive order of the governor.

16 (6) The department of commerce shall adopt rules to implement and administer Title 15, ~~chapter 65, part~~  
 17 4 chapter 68, and this section."

18

19 **Section 2.** Section 7-12-1121, MCA, is amended to read:

20 **"7-12-1121. Board of trustees -- appointment -- number -- term of office.** (1) When the governing  
 21 body of a local government adopts an ordinance creating a business improvement district, the appointing  
 22 authority, with the approval of the governing body, shall appoint not less than five or more than seven owners of  
 23 property within the district or their assignees to compose the board of trustees of the district. The director for a  
 24 business improvement district created for the purpose of 7-12-1102(4) must be the executive director of a  
 25 nonprofit convention and visitors bureau, as defined in ~~15-65-104~~ 15-68-101, if a nonprofit convention and visitors  
 26 bureau is operating within the governing body's jurisdiction.

27 (2) The number of members of the board, once established, may be changed within these limits from  
 28 time to time by subsequent resolutions of the governing body of the local government. A resolution to reduce  
 29 board membership may not require resignation of any member prior to completion of the member's appointed  
 30 term.

1 (3) Three of the members who are first appointed must be designated to serve for terms of 1, 2, and 3  
 2 years, respectively, from the date of their appointments, and two must be designated to serve for terms of 4 years  
 3 from the date of their appointments. For a seven-member commission, there must be two additional appointments  
 4 for terms of 2 years and 3 years, respectively.

5 (4) After initial appointment, members must be appointed for a term of office of 4 years, except that a  
 6 vacancy occurring during a term must be filled for the unexpired term. A member holds office until a successor  
 7 has been appointed and qualified."

8

9 **Section 3.** Section 7-12-1132, MCA, is amended to read:

10 **"7-12-1132. Annual budget and work plan -- approval -- procedure -- tax.** (1) At a time determined  
 11 by the governing body, the board shall submit to the governing body for approval a work plan and budget for the  
 12 ensuing fiscal year.

13 (2) A board created for the purpose of 7-12-1102(4) in a municipality or county where a nonprofit  
 14 convention and visitors bureau, as defined in ~~45-65-104~~ 15-68-101, is operating shall consult with the nonprofit  
 15 convention and visitors bureau in developing a work plan and budget for the ensuing fiscal year.

16 (3) Following public notice that a work plan and budget have been submitted and that the governing body  
 17 will levy an assessment to defray the cost of the work plan and budget, the governing body shall hold a public  
 18 hearing on objections to the work plan and budget. After the hearing, the governing body may modify the work  
 19 plan and budget as it considers necessary and appropriate.

20 (4) After approval of the work plan and budget and to defray the cost of the work plan and budget for the  
 21 next fiscal year, the governing body shall by resolution levy an assessment upon all of the property in the district  
 22 using as a basis one of the methods prescribed in 7-12-1133.

23 (5) A copy of the resolution must be delivered to the treasurer of the local government to be placed on  
 24 the tax roll and collected in the same manner as other taxes."

25

26 **Section 4.** Section 7-14-112, MCA, is amended to read:

27 **"7-14-112. Senior citizen and persons with disabilities transportation services account -- use.** (1)  
 28 There is a senior citizen and persons with disabilities transportation services account in the state special revenue  
 29 fund. Money must be deposited in the account pursuant to ~~45-68-820(2)~~ 15-68-820(10).

30 (2) The account must be used to provide operating funds or matching funds for operating grants pursuant

1 to 49 U.S.C. 5311 to counties, incorporated cities and towns, tribal governments, urban transportation districts,  
2 or nonprofit organizations for transportation services for persons 60 years of age or older and for persons with  
3 disabilities.

4 (3) (a) Subject to the conditions of subsection (3)(b), the department of transportation is authorized to  
5 award grants to counties, incorporated cities and towns, tribal governments, urban transportation districts, and  
6 nonprofit organizations for transportation services using guidelines established in the state management plan for  
7 the purposes described in 49 U.S.C. 5310 and 5311.

8 (b) Priority for awarding grants must be determined according to the following factors:

9 (i) the most recent census or federal estimate of persons 60 years of age or older and persons with  
10 disabilities in the area served by a county, incorporated city or town, tribal government, urban transportation  
11 district, or nonprofit organization;

12 (ii) the annual number of trips provided by the transportation provider to persons 60 years of age or older  
13 and to persons with disabilities in the transportation service area; and

14 (iii) the coordination of services as required in subsection (4).

15 (4) In awarding grants, the department of transportation shall give preference to proposals that:

16 (a) include participation in a local transportation advisory committee;

17 (b) address and document the transportation needs within the community, county, and service area or  
18 region;

19 (c) identify all other transportation providers in the community, county, and service area or region;

20 (d) explain how services are going to be coordinated with the other transportation providers in the service  
21 area or region by creating a locally developed transportation coordination plan;

22 (e) indicate how services are going to be expanded to meet the unmet needs of senior citizens and  
23 disabled persons within the community, county, and service area or region who are dependent upon public transit;

24 (f) include documentation of coordination with other local transportation programs within the community,  
25 county, and service area or region, including:

26 (i) utilization of existing resources and equipment to maximize the delivery of service; and

27 (ii) the projected increase in ridership and expansion of service;

28 (g) invite school districts to participate or be included in the transportation coordination efforts within the  
29 community, county, and service area or region; and

30 (h) at a minimum, comply with the provisions in subsections (4)(b) through (4)(f)."

1

2 **Section 5.** Section 15-1-216, MCA, is amended to read:

3 **"15-1-216. Uniform penalty and interest assessments for violation of tax provisions -- applicability**

4 **-- exceptions -- uniform provision for interest on overpayments.** (1) A person who fails to file a required tax  
5 return or other report with the department by the due date of the return or report, including any extension of time  
6 allowed for in Title 15, chapter 30 or 31, must be assessed a late filing penalty. The penalty is the greater of \$50  
7 or 5% of the tax due for each month during which there is a failure to file the return or report, not to exceed an  
8 amount up to 25% of the tax due. The late filing penalty is calculated from the due date or extended due date until  
9 the department actually receives the late return or report. The penalty is computed only on the net amount of tax  
10 due, if any, as of the original due date or extended due date provided for in Title 15, chapter 30 or 31, after credit  
11 has been given for amounts paid through withholding, estimated tax payments, or other credits claimed on the  
12 return.

13 (2) (a) (i) Except as provided in subsections (2)(a)(ii), (2)(b), and (2)(d), a person who fails to pay a tax  
14 when due must be assessed a late payment penalty of 0.5% a month on the unpaid tax. The penalty may not  
15 exceed 12% of the tax due.

16 (ii) A penalty imposed under subsection (2)(a)(i) may be waived if:

17 (A) the taxpayer pays the tax and interest due with the tax return or report within 30 days following the  
18 first notice from the department to the taxpayer of the amount due; or

19 (B) subject to the conditions of 15-30-2512(1)(a)(i), the taxpayer pays at least 90% of the tax, when due,  
20 for the current year.

21 (b) (i) Except as provided in subsections (2)(b)(ii) and (2)(d), a person who fails to pay a tax when due  
22 under Title 15, chapter 30, part 25, chapter 53, ~~chapter 65~~, or chapter 68, or Title 53, chapter 19, part 3, must be  
23 assessed a late payment penalty of 1.5% a month on the unpaid tax. The penalty may not exceed 15% of the tax  
24 due.

25 (ii) A penalty imposed under subsection (2)(b)(i) may be waived if the taxpayer pays the tax and interest  
26 due with the tax return or report within 30 days following the first notice from the department to the taxpayer of  
27 the amount due.

28 (c) The penalty imposed under subsection (2)(a) or (2)(b) accrues daily on the unpaid tax from the  
29 original due date of the return regardless of whether the taxpayer has received an extension of time for filing a  
30 return.

1 (d) A penalty may not be imposed under subsection (2)(a) or (2)(b) on the amount of unpaid tax if the  
2 taxpayer demonstrates there is reasonable cause for the failure to pay the tax.

3 (3) (a) Subject to subsection (3)(b), a person who makes a substantial understatement of tax imposed  
4 under Title 15, Title 16, chapter 11, or Title 53, chapter 19, part 3, must be assessed a substantial understatement  
5 penalty in an amount equal to 20% of the understatement. As used in this subsection (3), "understatement"  
6 means the amount of the tax required to be shown on the return for the tax year less the amount of tax that the  
7 taxpayer reported on the return. For purposes of this subsection (3):

8 (i) there is a substantial understatement of tax penalty imposed under Title 15, chapter 30, except for  
9 Title 15, chapter 30, part 33, if the understatement exceeds the greater of 10% of the amount of tax required to  
10 be shown on the return or \$3,000; and

11 (ii) there is a substantial understatement of tax penalty imposed for all other chapters under Title 15,  
12 including Title 15, chapter 30, part 33, and for Title 16, chapter 11, and Title 53, chapter 19, part 3, if the  
13 understatement exceeds the lesser of:

14 (A) 10% of the amount of tax required to be shown on the return if the understatement is greater than  
15 \$10,000; or

16 (B) \$500,000.

17 (b) The amount of substantial understatement of tax penalty must be reduced by the amount of the  
18 understatement that is attributable to:

19 (i) the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment;  
20 or

21 (ii) any item if the relevant facts affecting the tax treatment of the item are adequately disclosed in the  
22 return or in a statement attached to the return and there is a reasonable basis for the tax treatment of the item  
23 by the taxpayer.

24 (4) (a) Except as provided in subsection (4)(b), a person who purposely or knowingly, as those terms  
25 are defined in 45-2-101, fails to file a return or report as required under Title 15 when due or fails to file a return  
26 or report within 60 days after receiving written notice from the department that a return or report must be filed is  
27 liable for an additional penalty of 15% of the tax due for each month or fraction of a month during which the  
28 person purposely or knowingly fails to file a return or report, but not to exceed 75% of the tax due as determined  
29 by the department. The department may bring an action in the name of the state to recover the penalty and any  
30 delinquent taxes.

1 (b) A person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return  
2 or report as required under Title 15, chapter 30, part 33, when due or fails to file a return or report within 60 days  
3 after receiving written notice from the department that a return or report must be filed is liable for an additional  
4 penalty of \$1,000. The department may bring an action in the name of the state to recover the penalty and any  
5 delinquent taxes.

6 (5) (a) A person who files a fraudulent return or report under Title 15 is liable for an additional penalty  
7 of 75% of the tax due on the underpayment of tax attributable to the fraudulent amount reported on the return or  
8 report. The department may bring an action in the name of the state to recover the penalty, interest, and any  
9 delinquent taxes.

10 (b) A person who has no tax liability for the tax year and who files a fraudulent claim for a credit under  
11 Title 15 is liable for an additional penalty of 75% of the amount attributable to the fraudulent amount of the credit  
12 claimed. The department may bring an action in the name of the state to recover the penalty, interest, and amount  
13 paid.

14 (6) A person who files a frivolous return or report under Title 15 is liable, in addition to any other penalty  
15 imposed, for a penalty of \$2,500. A frivolous return or report is one that is filed by a person and that omits  
16 information necessary to determine the taxpayer's tax liability, shows a substantially incorrect tax, is based on  
17 a frivolous position, or is based on the taxpayer's action to impede collection of taxes. Frivolous positions are  
18 those identified in 26 U.S.C. 6702 as those provisions may apply to provisions of Title 15. The department may  
19 bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

20 (7) (a) Interest on taxes not paid when due must be assessed by the department. The department shall  
21 determine the interest rate established under subsection (7)(a)(i) for each calendar year by rule subject to the  
22 conditions of this subsection (7)(a). Interest rates on taxes not paid when due for a calendar year are as follows:

23 (i) Beginning January 1, 2018, for individual income taxes not paid when due, including delinquent taxes  
24 and deficiency assessments, the interest rate is equal to the underpayment rate for individual taxpayers  
25 established by the secretary of the United States department of the treasury pursuant to section 6621 of the  
26 Internal Revenue Code, 26 U.S.C. 6621, for the third quarter of the preceding year.

27 (ii) (A) For all taxes other than individual income taxes not paid when due, including delinquent taxes and  
28 deficiency assessments, the interest rate is 12% a year.

29 (B) Beginning July 1, 2019, the interest rate is 3 percentage points above the prime rate published by  
30 the federal reserve system in its statistical release H.15 Selected Interest Rates for bank prime loans for the last

1 business day of the third quarter of the preceding year.

2 (b) Interest on delinquent taxes and on deficiency assessments is computed from the original due date  
3 of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return  
4 regardless of whether the taxpayer has received an extension of time for filing the return.

5 (8) (a) Except as provided in subsection (8)(b), this section applies to taxes, fees, remittances, and other  
6 assessments imposed under Title 15, Title 16, and Title 53, chapter 19, part 3.

7 (b) This section does not apply to:

8 (i) property taxes; or

9 (ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15,  
10 chapter 70.

11 (9) Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate in  
12 effect at the time the tax accrued.

13 (10) Penalty and interest must be calculated and assessed commencing with the due date of the return.

14 (11) Deficiency assessments are due and payable 30 days from the date of the deficiency assessment.

15 (12) Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or  
16 delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the  
17 interest rate determined in subsection (7)(a)(i)."

18

19 **Section 6.** Section 15-65-122, MCA, is amended to read:

20 **"15-65-122. Qualification of nonprofit entities for receipt of funds -- limitation on administrative**  
21 **costs.** (1) The department of revenue shall provide the council with quarterly reports of regional tax proceeds  
22 and tax proceeds of cities, consolidated city-counties, resort areas, and resort area districts that qualify for  
23 disbursement of funds under ~~15-65-121~~ 15-68-820.

24 (2) Funds may not be disbursed to a regional nonprofit tourism corporation or nonprofit convention and  
25 visitors bureau until that entity has submitted an annual marketing plan to the council and that plan has been  
26 approved by the council.

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

29

30 **Section 7.** Section 15-65-131, MCA, is amended to read:



1           **"15-65-131. State agencies to account for in-state lodging expenditures.** Each state agency shall  
 2 account for in-state lodging expenditures in a manner that will enable the department to determine total  
 3 expenditures for in-state lodging by state agencies in order to make a deposit of a portion of the tax proceeds  
 4 imposed by ~~15-65-144~~ 15-68-102 in the state general fund and distribute the portion of taxes paid with federal  
 5 funds to the agency that made the in-state lodging expenditure."  
 6

7           **Section 8.** Section 15-68-101, MCA, is amended to read:

8           **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the  
 9 following definitions apply:

10           (1) (a) "Accommodations" means a building or structure containing individual sleeping rooms or suites  
 11 that provides overnight lodging facilities for periods of less than 30 days to the general public for compensation.

12           (b) Accommodations includes a facility or property represented to the public as a hotel, motel,  
 13 campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, ~~or~~ bed  
 14 and breakfast facility, or vacation home, home, apartment, timeshare, room, or rooms rented by or on behalf of  
 15 the owner.

16           (c) The term does not include:

17           (i) a health care facility, as defined in 50-5-101;

18           (ii) any facility owned by a corporation organized under Title 35, chapter 2 or 3; or

19           (iii) a facility that is used primarily by persons under 18 years of age for camping purposes; ~~any hotel,~~  
 20 ~~motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for~~  
 21 ~~single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging~~  
 22 ~~for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period~~  
 23 ~~of 30 days or more.~~

24           (2) (a) "Admission" means payment made for the privilege of being admitted to a facility, place, or event.

25           (b) The term does not include payment for admittance to a movie theater or to a sporting event  
 26 sanctioned by a school district, college, or university.

27           (3) (a) "Base rental charge" means the following:

28           (i) charges for time of use of the rental vehicle and mileage, if applicable;

29           (ii) charges accepted by the renter for personal accident insurance;

30           (iii) charges for additional drivers or underage drivers; ~~and~~ or

1 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the  
2 rental vehicle.

3 (b) The term does not include:

4 (i) rental vehicle price discounts allowed and taken;

5 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the  
6 privilege of operating as a concessionaire at an airport terminal building;

7 (iii) motor fuel;

8 (iv) intercity rental vehicle drop charges; or

9 (v) taxes imposed by the federal government or by state or local governments.

10 (4) (a) "Campground" means a place used for public camping where persons may camp, secure tents,  
11 or park individual recreational vehicles for camping and sleeping purposes.

12 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended  
13 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or  
14 more.

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

16 ~~(5)~~(6) "Engaging in business" means carrying on or causing to be carried on any activity with the purpose  
17 of receiving direct or indirect benefit.

18 (7) "Hosting platform" means any person that provides an online application, software, website, or  
19 system through which accommodations or property are offered to prospective guests or renters for rental.

20 (8) "Indian tourism region" includes the area recognized as being historically associated with the  
21 reservations of the seven federally recognized Montana tribes and the Little Shell Chippewa tribe.

22 ~~(6)~~(9) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal  
23 property for a fixed or indeterminate term for consideration. A lease or rental may include future options to  
24 purchase or extend.

25 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of  
26 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the  
27 property, as defined in 26 U.S.C. 7701(h)(1).

28 (c) The term does not include:

29 (i) a transfer of possession or control of property under a security agreement or deferred payment plan  
30 that requires the transfer of title upon completion of the required payments;

1 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title  
 2 upon completion of required payments and payment of an option price that does not exceed the greater of \$100  
 3 or 1% of the total required payments; or

4 (iii) providing tangible personal property with an operator if an operator is necessary for the equipment  
 5 to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

6 (d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction  
 7 is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code,  
 8 the Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

9 (e) This definition must be applied only prospectively from the date of adoption and has no retroactive  
 10 impact on existing leases or rentals.

11 ~~(7)(10)~~ (a) "Motor vehicle" means a light vehicle as defined in 61-1-101, a motorcycle as defined in  
 12 61-1-101, a motor-driven cycle as defined in 61-1-101, a quadricycle as defined in 61-1-101, a motorboat or a  
 13 sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

14 (i) is rented for a period of not more than 30 days;

15 (ii) is rented without a driver, pilot, or operator; and

16 (iii) is designed to transport 15 or fewer passengers.

17 (b) Motor vehicle includes:

18 (i) a rental vehicle rented pursuant to a contract for insurance; and

19 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented  
 20 without a driver, and that is used in the transportation of personal property.

21 (c) The term does not include farm vehicles, machinery, or equipment.

22 (11) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana  
 23 law and recognized by a majority of the governing body in the city, consolidated city-county, resort area, or resort  
 24 area district in which the bureau is located.

25 ~~(8)(12)~~ "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.

26 ~~(9)(13)~~ "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability  
 27 company, limited liability partnership, hosting platform, or any other legal entity.

28 ~~(4)(14)~~ "Purchaser" means a person to whom a sale of accommodations or personal property is made  
 29 or to whom a service is furnished.

30 (15) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana

1 law and recognized by the council as the entity for promoting tourism within one of several regions established  
 2 by executive order of the governor.

3 ~~(14)~~(16) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of  
 4 the motor vehicle through an arrangement and for consideration.

5 (17) "Resort area" means an area established pursuant to 7-6-1508.

6 (18) "Resort area district" has the meaning provided in 7-6-1501.

7 (19) "Resort community" has the meaning provided in 7-6-1501.

8 ~~(12)~~(20) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease,  
 9 or subrent.

10 ~~(13)~~(21) "Sale" or "selling" means the transfer, rental, or use of accommodations or property for  
 11 consideration or the performance of a service for consideration.

12 ~~(14)~~(22) (a) "Sales price" applies to the measure subject to sales tax and means the total amount or  
 13 consideration, including cash, credit, property, and services, for which accommodations, personal property,  
 14 services are provided, sold, leased, or rented or valued in money, whether received in money or otherwise,  
 15 without any deduction for the following:

16 (i) the seller's cost of the property sold;

17 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the  
 18 seller, all taxes imposed on the seller, and any other expense of the seller; and

19 (iii) charges by the seller for any services necessary to complete the sale, other than delivery and  
 20 installation charges;

21 (iv) delivery charges;

22 (v) installation charges;

23 (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal  
 24 property have been bundled together and sold by the seller as a single product or piece of merchandise; and

25 (vii) credit for any trade-in.

26 (b) The amount received for charges listed in subsections ~~(14)(a)(iii)~~ (22)(a)(iii) through ~~(14)(a)(vii)~~  
 27 (22)(a)(vii) are excluded from the sales price if they are separately stated on the invoice, billing, or similar  
 28 document given to the purchaser and can be declined and not paid by the purchaser.

29 (c) The term does not include:

30 (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed

1 by a seller and taken by a purchaser on a sale;

2 (ii) interest, financing, and carrying charges from credit extended on the sale of personal property or  
3 services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

4 or

5 (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of  
6 sale, or similar document given to the purchaser.

7 (d) In an exchange in which the money or other consideration received does not represent the value of  
8 the property or service exchanged, sales price means the reasonable value of the property or service exchanged.

9 (e) When the sale of property or services is made under any type of charge or conditional or time-sales  
10 contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price,  
11 excluding any type of time-price differential, under the contract as the sales price at the time of the sale.

12 ~~(15)(23)~~ "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

13 ~~(16)(24)~~ "Seller" means a person that sells, makes sales, leases, or rentals of accommodations, personal  
14 property, or services, including a hosting platform.

15 ~~(17)(25)~~ (a) "Service" means an activity that is engaged in for another person for consideration and that  
16 is distinguished from the sale or lease of accommodations or property. Service includes activities performed by  
17 a person for its members or shareholders.

18 (b) In determining what a service is, the intended use, principal objective, or ultimate objective of the  
19 contracting parties is irrelevant.

20 ~~(26)~~ (a) "Third-party reservation intermediary" means a person who sells an accommodation, including  
21 facilitation of accommodations, or acts as an intermediary between the seller and the purchaser for  
22 accommodations through any hosting platform available to a prospective purchaser.

23 (b) The term does not include an owner or operator of an accommodation.

24 ~~(27)~~ "Timeshare" means any facility in which multiple parties or individuals own a right to use the facility,  
25 for lodging purposes, and these parties or individuals do not hold a claim to ownership of the physical property.

26 ~~(18)(28)~~ "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use  
27 solely outside this state, in the ordinary course of business."

28

29 **Section 9.** Section 15-68-102, MCA, is amended to read:

30 **"15-68-102. Imposition and rate of sales tax and use tax—exceptions.** (1) A sales tax of the

1 following percentages is imposed on the sales price of the following accommodations, property, or services:

2 (a) ~~(i)~~ 3% on accommodations ~~and campgrounds~~ by a seller that is a third-party reservation intermediary;

3 or

4 (ii) 7% on accommodations by a seller that is not a third-party reservation intermediary;

5 (b) 4% on the base rental charge for rental vehicles.

6 (2) (a) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the  
7 department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be  
8 applied to the sales price.

9 (b) A third-party reservation intermediary shall collect and remit the sales tax for accommodations under  
10 subsection (1)(a)(i) on behalf of the owner or seller when the third-party reservation intermediary facilitates a  
11 booking transaction for the accommodations, property, or service.

12 (3) (a) For the privilege of using property or services within this state, there is imposed on the person  
13 using the following accommodations, property, or services a use tax equal to the following percentages of the  
14 value of the accommodations, property, or services:

15 (i) 3% on accommodations ~~and campgrounds~~ by a seller that is a third-party reservation intermediary;

16 (ii) 7% on accommodations by a seller that is not a third-party reservation intermediary;

17 ~~(ii)~~(iii) 4% on the base rental charge for rental vehicles.

18 (b) The use tax is imposed on accommodations, property, or services that were:

19 (i) acquired outside this state as the result of a transaction that would have been subject to the sales tax  
20 had it occurred within this state;

21 (ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a  
22 transaction that would have been subject to the sales tax had it occurred outside the exterior boundaries of an  
23 Indian reservation within this state;

24 (iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by  
25 subsection (1) or the use tax imposed by subsection (3)(a) but which transaction, because of the buyer's  
26 subsequent use of the property, is subject to the sales tax or use tax; or

27 (iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that  
28 because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

29 (4) For purposes of this section, the value of property must be determined as of the time of acquisition,  
30 introduction into this state, or conversion to use, whichever is latest.

1 (5) The sale of property or services exempt or nontaxable under this chapter is exempt from the tax  
2 imposed in subsections (1) and (3).

3 ~~————(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and  
4 (3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed  
5 charge for accommodations or campgrounds."~~

6

7 **Section 10.** Section 15-68-103, MCA, is amended to read:

8 **"15-68-103. Presumption of taxability -- value -- rules.** (1) In order to prevent evasion of the sales tax  
9 or use tax and to aid in its administration, it is presumed that:

10 (a) all sales of accommodations or property by a person engaging in business are subject to the sales  
11 tax or use tax; and

12 (b) all property bought or sold by any person for delivery into this state is bought or sold for a taxable use  
13 within this state.

14 (2) In determining the amount of ~~use~~ sales tax due on the use of accommodations, property, or services,  
15 it is presumed, in the absence of preponderant evidence of another value, that value means the ~~total amount of~~  
16 ~~property or service or the reasonable value of other consideration paid for the use of the property or service,~~  
17 ~~exclusive of any type of time-price differential~~ sales price or base rental charge. However, in an exchange in  
18 which the amount of money paid does not represent the value of the ~~property~~ accommodations, property, or  
19 service purchased, the ~~use~~ sales tax must be imposed on the reasonable value of the ~~property~~ sales of  
20 accommodations, property, or service purchased, as determined by the department.

21 ~~(3) The department shall adopt rules providing for the payment of the sales tax and use tax based on~~  
22 ~~a rounding method."~~

23

24 **Section 11.** Section 15-68-106, MCA, is amended to read:

25 **"15-68-106. Separate statement of tax -- no advertising to absorb or refund tax -- rules.** (1) If a  
26 person collects a tax in excess of the tax imposed by 15-68-102, both the tax and the excess tax must be remitted  
27 to the department.

28 (2) ~~Except as provided in subsection (4), the~~ The sales tax must be stated separately for all sales, ~~except~~  
29 ~~for sales from coin-operated or currency-operated machines.~~

30 (3) A person may not advertise, hold out, or state to the public or to any customer that the tax imposed

1 by this chapter will be absorbed or refunded.

2 (4) The department may adopt rules permitting sellers the option of stating sales tax based upon a  
3 percentage of taxable sales."

4

5 **Section 12.** Section 15-68-110, MCA, is amended to read:

6 **"15-68-110. Collection of sales tax and use tax -- listing of business locations and agents --**  
7 **severability.** (1) A person engaging in the business of selling accommodations, property, or services subject to  
8 taxation under this chapter shall collect the sales tax from the purchaser and pay the sales tax collected to the  
9 department.

10 (2) A person engaging in business within this state shall, before making any sales subject to this chapter,  
11 obtain a seller's permit, as provided in 15-68-401, and at the time of making a sale, whether within or outside the  
12 state, collect the sales tax imposed by 15-68-102 from the purchaser and give to the purchaser a receipt, in the  
13 manner and form prescribed by rule, for the sales tax paid.

14 (3) The department may authorize the collection of the sales tax imposed by 15-68-102 by any retailer  
15 who does not maintain a place of business within this state but who, to the satisfaction of the department, is in  
16 compliance with the law. When authorized, the person shall collect the ~~use~~ tax upon all property, sales, and  
17 services that, to the person's knowledge, are for use within this state and subject to taxation under this chapter.

18 (4) All sales tax and use tax required to be collected and all sales tax and use tax collected by any  
19 person under this chapter constitute a debt owed to this state by the person required to collect the sales tax and  
20 use tax.

21 (5) ~~A~~ Upon request, a person engaging in business within this state that is subject to this chapter shall  
22 provide to the department:

23 ~~—(a) the names and addresses of all of the person's agents operating within this state; and~~

24 ~~—(b) the location of each of the person's distribution houses or offices, sales houses or offices, and other~~  
25 ~~places of business within this state.~~

26 ~~—(c) If any application of this section is held invalid, the application to other situations or persons is not~~  
27 ~~affected."~~

28

29 **Section 13.** Section 15-68-202, MCA, is amended to read:

30 **"15-68-202. Nontaxable transaction certificate -- form.** (1) The department shall provide for a uniform



1 nontaxable transaction certificate. A purchaser shall use the certificate when purchasing goods or services for  
2 resale or for other nontaxable transactions.

3 (2) At a minimum, the certificate must provide:

- 4 (a) the number of the seller's permit issued to the purchaser as provided in 15-68-401;
- 5 (b) the general character of property or service sold by the purchaser in the regular course of business;
- 6 (c) the property or service purchased for resale;
- 7 (d) the name and address of the purchaser; and
- 8 (e) a signature line for the purchaser.

9 ~~(3) The department shall adopt rules to provide procedures for application for and provision of a~~  
10 ~~certificate to a person engaging in business within this state for renting accommodations and campgrounds prior~~  
11 ~~to June 1, 2003, and renting vehicles prior to July 1, 2003. The rules adopted by the department must ensure that~~  
12 ~~each person engaging in business within this state for renting accommodations and campgrounds prior to June~~  
13 ~~1, 2003, and renting vehicles prior to July 1, 2003, that has applied in a timely fashion is issued a certificate for~~  
14 ~~renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003."~~

15

16 **Section 14.** Section 15-68-401, MCA, is amended to read:

17 **"15-68-401. Seller's permit.** (1) A person that wishes to engage in business within this state that is  
18 subject to this chapter shall obtain a seller's permit before engaging in business within this state.

19 (2) Upon an applicant's compliance with this chapter, the department shall issue to the applicant a  
20 ~~separate, numbered seller's permit for each location in which the applicant maintains an office or other place of~~  
21 ~~business within Montana.~~ A permit is valid until revoked or suspended but is not assignable. ~~A permit is valid only~~  
22 ~~for the person in whose name it is issued and for the transaction of business at the place designated. The permit~~  
23 ~~must be conspicuously displayed at all times at the place for which it is issued.~~

24 ~~————(3) The department shall adopt rules to provide procedures for application for and provision of a seller's~~  
25 ~~permit to a person engaging in business within this state that is subject to this chapter for renting~~  
26 ~~accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003. The rules~~  
27 ~~adopted by the department must ensure that each person engaging in business within this state for renting~~  
28 ~~accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003, is issued~~  
29 ~~a seller's permit for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior~~  
30 ~~to July 1, 2003. The department may adopt rules providing for seasonal permits."~~

1

2           **Section 15.** Section 15-68-402, MCA, is amended to read:

3           "**15-68-402. Permit application -- requirements -- place of business -- form.** (1) ~~(a)~~ A person that  
4 wishes to engage in the business of ~~making retail sales or providing services~~ selling accommodations, property,  
5 or services in Montana that are subject to this chapter shall file with the department an application for a permit.  
6 ~~If the person has more than one location in which the person maintains an office or other place of business, an~~  
7 ~~application may include multiple locations.~~

8           ~~—— (b) An applicant who does not maintain an office or other place of business and who moves from place~~  
9 ~~to place is considered to have only one place of business and shall attach the permit to the applicant's cart, stand,~~  
10 ~~truck, or other merchandising device.~~

11           (2) Each person ~~or class of persons~~ required to file a return under this chapter is required to file an  
12 application for a permit.

13           (3) Each application for a permit must be on a form prescribed by the department ~~and must set forth the~~  
14 ~~name under which the applicant intends to transact business, the location of the applicant's place or places of~~  
15 ~~business, and other information that the department may require. The application must be filed by the owner if~~  
16 ~~the owner is a natural person or by a person authorized to sign the application if the owner is a corporation,~~  
17 ~~partnership, limited liability company, or some other business entity."~~

18

19           **Section 16.** Section 15-68-405, MCA, is amended to read:

20           "**15-68-405. Revocation or suspension of permit -- appeal.** (1) Subject to the provisions of subsection  
21 (2), the department may, for reasonable cause, revoke or suspend any permit held by a person that fails to  
22 comply with the provisions of this chapter.

23           (2) The department shall provide dispute resolution on a proposed revocation or suspension pursuant  
24 to 15-1-211.

25           (3) If a permit is revoked, the department may not issue a new permit except upon application  
26 accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of this  
27 chapter. ~~The department may require security in addition to that authorized by 15-68-512 in an amount~~  
28 ~~reasonably necessary to ensure compliance with this chapter as a condition for the issuance of a new permit to~~  
29 ~~the applicant.~~

30           (4) A person aggrieved by the department's final decision to revoke a permit, as provided in subsection

1 (1), may appeal the decision to the state tax appeal board within 30 days after the date on which the department  
2 issued its final decision."

3

4 **Section 17.** Section 15-68-501, MCA, is amended to read:

5 **"15-68-501. Liability for payment of tax -- security for retailer seller without place of business --**  
6 **penalty.** (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been  
7 paid to the department.

8 (2) A retailer seller that does not maintain an office or other place of business within this state is liable  
9 for the sales tax or use tax in accordance with this chapter and ~~may be required to furnish adequate security, as~~  
10 ~~provided in 15-68-512, to~~ shall ensure collection and payment of the taxes. ~~When authorized and except~~ Except  
11 as otherwise provided in this chapter, the retailer seller is liable for the taxes ~~upon all property sold and services~~  
12 ~~provided in this state~~ in the same manner as a retailer seller who maintains an office or other place of business  
13 within this state. ~~The seller's permit provided for in 15-68-401 may be canceled at any time if the department~~  
14 ~~considers the security inadequate or believes that the taxes can be collected more effectively in another manner.~~

15 ~~———(3) An agent, canvasser, or employee of a retailer doing business within this state may not sell, solicit~~  
16 ~~orders for, or deliver any property or services within Montana unless the principal, employer, or retailer possesses~~  
17 ~~a seller's permit issued by the department. If an agent, canvasser, or employee violates the provisions of this~~  
18 ~~chapter, the person is subject to a fine of not more than \$100 for each separate transaction or event."~~

19

20 **Section 18.** Section 15-68-502, MCA, is amended to read:

21 **"15-68-502. Returns -- payment -- authority of department.** (1) Except as provided in subsection (2),  
22 on or before the last day of the month following the calendar quarter in which the transaction subject to the tax  
23 imposed by this chapter occurred, a return, on a form provided by the department, and payment of the tax for the  
24 preceding quarter must be filed with the department. Each person engaged in business within this state or using  
25 property or services within this state that are subject to tax under this chapter shall file a return. A person ~~making~~  
26 ~~retail sales at two or more places of business shall file a separate return for each separate place of business~~  
27 selling accommodations or property at two or more places of business shall file a separate return for each  
28 separate place of business unless approved to do otherwise by the department.

29 (2) A person who has been issued a seasonal seller's permit shall file a return and pay the tax on the  
30 date or dates set by the department.

- 1 (3) (a) For the purposes of the sales tax or use tax, a return must be filed by:
- 2 (i) a ~~retailer~~ seller required to collect the tax; and
- 3 (ii) a person that:
- 4 (A) purchases any items the storage, use, or other consumption of which is subject to the sales tax or
- 5 use tax; and
- 6 (B) has not paid the tax to a retailer required to pay the tax.
- 7 (b) Each return must be authenticated by the person filing the return or by the person's agent authorized
- 8 in writing or electronically to file the return.
- 9 ~~(4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall~~
- 10 ~~keep records, render statements, make returns, and comply with the provisions of this chapter and the rules~~
- 11 ~~prescribed by the department. Each return or statement must include the information required by the rules of the~~
- 12 ~~department.~~
- 13 ~~\_\_\_\_\_ (b) For the purpose of determining compliance with the provisions of this chapter, the department is~~
- 14 ~~authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making~~
- 15 ~~a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property~~
- 16 ~~of or in the possession of the person filing the return or another person. In determining compliance, the~~
- 17 ~~department may use statistical sampling and other sampling techniques consistent with generally accepted~~
- 18 ~~auditing standards. The department may also:~~
- 19 ~~\_\_\_\_\_ (i) require the attendance of a person having knowledge or information relevant to a return;~~
- 20 ~~\_\_\_\_\_ (ii) compel the production of books, papers, records, or memoranda by the person required to attend;~~
- 21 ~~\_\_\_\_\_ (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or~~
- 22 ~~may be jeopardized because of delay;~~
- 23 ~~\_\_\_\_\_ (iv) take testimony on matters material to the determination; and~~
- 24 ~~\_\_\_\_\_ (v) administer oaths or affirmations.~~
- 25 ~~\_\_\_\_\_ (5) Pursuant to rules established by the department, returns may be computer-generated and~~
- 26 ~~electronically filed."~~

27

28 **Section 19.** Section 15-68-513, MCA, is amended to read:

29 **"15-68-513. Examination of return -- adjustments -- penalty and interest -- delivery of notices and**

30 **demands.** (1) The department of revenue may audit the books and records of any seller to ensure that the proper

1 amount of tax imposed by 15-68-102 has been collected. An audit may be done on the premises of the seller or  
 2 at any other convenient location.

3 (2) The department may request the seller to provide the department with books, ledgers, registers, or  
 4 other documents necessary to verify the correct amount of tax.

5 (3) The seller shall maintain and have available for inspection by the department books, ledgers,  
 6 registers, or other documents showing the collection of accommodation charges for the preceding 3 years.

7 (4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false  
 8 or fraudulent return violating the provisions of this part, the amount of tax due under any return must be  
 9 determined by the department within 3 years after the tax is due, and no proceeding in court for the collection of  
 10 the tax may be instituted unless notice of any additional tax is provided within that period.

11 (5) An application for revision may be filed with the department by a seller within 3 years from the original  
 12 due date of the return.

13 (6) If the department determines that the amount of tax due is different from the amount reported, the  
 14 amount of tax computed on the basis of the examination conducted pursuant to 15-68-502 subsection (1)  
 15 constitutes the tax to be paid.

16 ~~(2)~~(7) (a) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess  
 17 must be paid to the department unless the taxpayer files a timely objection as provided in 15-1-211.

18 (b) Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.

19 ~~(3)~~(8) If the amount of the tax found due by the department is less than that reported as due on the return  
 20 and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the  
 21 person making the return.

22 ~~(4)~~(9) The notice and demand provided for in this section must contain a statement of the computation  
 23 of the tax and interest and must be ~~sent by mail~~ provided to the taxpayer at the address given in the taxpayer's  
 24 return, if any, or to the taxpayer's last-known address, or by using other contact information available.

25 ~~(5)~~(10) A taxpayer filing an objection to the demand for payment is subject to and governed by the  
 26 uniform dispute review procedure provided in 15-1-211."

27

28 **Section 20.** Section 15-68-805, MCA, is amended to read:

29 **"15-68-805. Revocation of corporate license -- appeal.** (1) If a ~~corporation~~ person authorized to do  
 30 business within this state and required to pay the taxes imposed under this chapter fails to comply with any of

1 the provisions of this chapter or any rule of the department, the department may, for reasonable cause, revoke  
 2 the seller's permit. In the case of a person, the department may certify to the secretary of state a copy of an order  
 3 finding that the ~~corporation~~ person has failed to comply with specific statutory provisions or rules.

4 (2) The secretary of state shall, upon receipt of the certification, revoke the certificate authorizing the  
 5 ~~corporation~~ person to do business within this state and may issue a new certificate only when the ~~corporation~~  
 6 person has obtained from the department an order finding that the ~~corporation~~ person has complied with its  
 7 obligations under this chapter.

8 (3) An order authorized in this section may not be made until the ~~corporation~~ person is given an  
 9 opportunity for dispute resolution as provided in 15-1-211.

10 (4) A final decision of the department may be appealed to the state tax appeal board."  
 11

12 **Section 21.** Section 15-68-808, MCA, is amended to read:

13 **"15-68-808. Taxpayer quitting business -- liability of successor.** (1) (a) All taxes payable under this  
 14 chapter are due and payable immediately whenever a ~~taxpayer~~ person quits business, sells, exchanges, or  
 15 otherwise disposes of the business or disposes of the stock of goods.

16 (b) The ~~taxpayer~~ person shall make a return and pay the taxes due within 10 days after the ~~taxpayer~~  
 17 person quits business, sells, exchanges, or otherwise disposes of the business or disposes of the stock of goods.

18 (2) Except as provided in subsection (4), a person that becomes a successor is liable for the full amount  
 19 of the tax and shall withhold from the sales price payable to the taxpayer a sum sufficient to pay any tax due until  
 20 the ~~taxpayer~~ person produces either a receipt from the department showing payment in full of any tax due or a  
 21 statement from the department that tax is not due.

22 (3) If a tax is due but has not been paid as provided in subsection (1)(b), the successor is liable for the  
 23 payment of the full amount of tax. The payment of the tax by the successor is considered to be a payment upon  
 24 the sales price, and if the payment is greater in amount than the sales price, the amount of the difference  
 25 becomes a debt due to the successor from the ~~taxpayer~~ person owing the tax under subsection (1).

26 (4) (a) A successor is not liable for any tax due from the person that the successor acquired a business  
 27 or stock of goods from if:

28 (i) the successor gives written notice to the department of the acquisition; and

29 (ii) an assessment is not issued by the department against the former operator of the business within 6  
 30 months of receipt of the notice from the successor.

1 (b) If an assessment is issued by the department, a copy of the assessment must also be ~~mailed~~  
 2 provided to the successor, or if an assessment is not ~~mailed~~ provided to the successor, the successor is not liable  
 3 for the tax due."

4

5 **Section 22.** Section 15-68-815, MCA, is amended to read:

6 **"15-68-815. Information -- confidentiality -- agreements with another state -- assistance with**  
 7 **resort tax administration.** (1) (a) Except as provided in subsections (2) through (4), it is unlawful for an  
 8 employee of the department, resort area, resort area district, resort community, or any other public official or  
 9 public employee to divulge or otherwise make known information that is disclosed in a report or return required  
 10 to be filed under this chapter or information that concerns the affairs of the person making the return and that is  
 11 acquired from the person's records, officers, or employees in an examination or audit.

12 (b) This section may not be construed to prohibit the department from publishing statistics if they are  
 13 classified in a way that does not disclose the identity and content of any particular report or return. A person  
 14 violating the provisions of this section is subject to the penalty provided in 15-30-2618 or 15-31-511 for violating  
 15 the confidentiality of individual income tax or corporate income tax information.

16 (2) (a) The department may enter into an agreement with the taxing officials of another state for the  
 17 interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax  
 18 in order to promote fair and equitable administration of the laws and to eliminate double taxation.

19 (b) In order to implement the provisions of this chapter, the department may furnish information on a  
 20 reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within  
 21 the state receiving the information that are similar to this section.

22 (c) In order to assist a resort area, resort area district, or resort community with the auditing and  
 23 collection of resort taxes, the department shall furnish information to a taxing official of a resort area, resort area  
 24 district, or resort community if the tax official agrees in writing to keep the information confidential. This subsection  
 25 (2)(c) does not prevent usage of information received from the department by a tax official to collect and enforce  
 26 a resort tax against a taxpayer that does not comply with resort tax laws.

27 (3) In order to facilitate processing of returns and payment of taxes required by this chapter, the  
 28 department may contract with vendors and may disclose data to the vendors. The data disclosed must be  
 29 administered by the vendor in a manner consistent with this section.

30 (4) This section may not be construed to limit the investigative authority of the legislative branch, as

1 provided in 5-11-106, 5-12-303, or 5-13-309."

2

3 **Section 23.** Section 15-68-820, MCA, is amended to read:

4 **"15-68-820. Sales tax and use tax proceeds.** (1) ~~Except as provided in subsection (2), all~~ All money  
5 collected ~~for accommodations under this chapter 15-68-102(1)(a)(i) and 15-68-102(3)(a)(i) and three-sevenths~~  
6 of the money collected under 15-68-102(1)(a)(ii) and 15-68-102(3)(a)(ii) must, in accordance with the provisions  
7 of 17-2-124, must be deposited by the department into the general fund.

8 ~~(2) Twenty-five percent of the revenue collected on the base rental charge for rental vehicles under~~  
9 ~~15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the state special revenue fund to the credit of the~~  
10 ~~senior citizen and persons with disabilities transportation services account provided for in 7-14-112.~~

11 (2) The remaining four-sevenths of the revenue collected for accommodations under 15-68-102(1)(a)(ii)  
12 and 15-68-102(3)(a)(ii), in accordance with the provisions of 17-2-124, must be deposited in an account in the  
13 state special revenue fund to the credit of the department. The department may spend from that account in  
14 accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting  
15 and disbursing the proceeds of the tax.

16 (3) (a) Before allocating the balance of the tax proceeds described in subsection (2) and as provided in  
17 subsections (4) and (5), the department shall determine the expenditures by state agencies for in-state lodging  
18 for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period.

19 (b) The department shall distribute the portion of the 4% that was paid with federal funds to the  
20 department of administration for return to the United States government.

21 (c) The department shall deposit 30% of the amount deducted less the portion paid with federal funds  
22 in the state general fund.

23 (4) The amount of \$400,000 each year must be deposited in the Montana heritage preservation and  
24 development account provided for in 22-3-1004.

25 (5) The balance of the tax proceeds received each reporting period and not deducted pursuant to  
26 subsections (1) through (4) must be allocated as follows:

27 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside  
28 historical signs and historic sites;

29 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research  
30 program;



- 1           (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that  
2 have both resident and nonresident use;
- 3           (d) 64.4% to be used directly by the department of commerce;
- 4           (e) (i) except as provided in subsection (5)(e)(ii), 22.5% to be distributed by the department to regional  
5 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds  
6 collected statewide; and
- 7           (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort  
8 area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit  
9 tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is  
10 located to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county,  
11 resort area, or resort area district;
- 12           (f) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic  
13 development commission established in 90-1-131 for activities in the Indian tourism region; and
- 14           (g) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-115.
- 15           (6) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for  
16 funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an  
17 annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit  
18 tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is  
19 located.
- 20           (7) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing  
21 plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation  
22 may be used by the department of commerce for tourism promotion and promotion of the state as a location for  
23 the production of motion pictures and television commercials.
- 24           (8) The tax proceeds received that are transferred to a state special revenue account pursuant to  
25 subsections (5)(a) through (5)(f) are statutorily appropriated to the entities as provided in 17-7-502.
- 26           (9) The tax proceeds received that are transferred to the Montana historical interpretation state special  
27 revenue account pursuant to subsection (5)(g) are subject to appropriation by the legislature.
- 28           (10) The money collected for the base rental charge for rental vehicles provided for in 15-68-102(1)(b)  
29 and 15-68-102(3)(a)(iii), in accordance with the provisions of 17-2-124, must be deposited by the department as  
30 follows:

- 1           (a) 75% in the general fund; and
- 2           (b) 25% in the state special revenue fund to the credit of the senior citizen and persons with disabilities
- 3 transportation services account provided for in 7-14-112."

4

5           **Section 24.** Section 17-7-502, MCA, is amended to read:

6           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

7 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the

8 need for a biennial legislative appropriation or budget amendment.

9           (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

10 of the following provisions:

- 11           (a) The law containing the statutory authority must be listed in subsection (3).
- 12           (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
- 13 appropriation is made as provided in this section.

14           (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;

15 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;

16 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110;

17 ~~15-65-424~~; 15-68-820; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212;

18 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702;

19 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534;

20 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306;

21 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503;

22 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113;

23 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214;

24 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416;

25 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505;

26 [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

27           (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,

28 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued

29 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana

30 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state

1 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
 2 appropriation authority for the payments.(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
 3 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded  
 4 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and  
 5 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.  
 6 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under  
 7 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion  
 8 of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112  
 9 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015,  
 10 the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of  
 11 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates  
 12 June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of  
 13 contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant  
 14 to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec.  
 15 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457,  
 16 L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the  
 17 inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304  
 18 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates  
 19 June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant  
 20 to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023;  
 21 pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2,  
 22 Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10,  
 23 Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

24

25 **Section 25.** Section 22-3-115, MCA, is amended to read:

26 **"22-3-115. Montana historical interpretation state special revenue account.** (1) There is a Montana  
 27 historical interpretation state special revenue account within the state special revenue fund established in  
 28 17-2-102.

29 (2) There must be paid into the Montana historical interpretation state special revenue account money  
 30 allocated from the lodging facility use tax proceeds allocated by ~~45-65-424~~ 15-68-820.

1 (3) Money in the account is available to the Montana historical society by appropriation and must be used  
2 to pay costs associated with historical interpretation and the Robert Scriver collection."  
3

4 **Section 26.** Section 76-8-103, MCA, is amended to read:

5 **"76-8-103. Buildings for lease or rent -- exemptions.** (1) A building created for lease or rent on a  
6 single tract is exempt from the provisions of this part if:

7 (a) the building is in conformance with applicable zoning regulations adopted pursuant to Title 76,  
8 chapter 2, parts 1 through 3, provided that the zoning contains the elements of 76-8-107; or

9 (b) when applicable zoning regulations are not in effect:

10 (i) the building was in existence or under construction before September 1, 2013;

11 (ii) the building ~~is a facility~~ provides accommodations as defined in ~~15-65-101~~ 15-68-101 that are  
12 subject to the ~~lodging facility use~~ sales tax under Title 15, chapter ~~65 68~~, except for recreational camping vehicles  
13 or mobile home parks;

14 (iii) the building is created for lease or rent for farming or agricultural purposes;

15 (iv) the building is not served by water and wastewater and will not be leased or rented;

16 (v) the building is served by water and wastewater and the landowner records a notarized declaration  
17 with the clerk and recorder of the county in which the property is located stating that the proposed building will  
18 not be leased or rented. The declaration recorded pursuant to this subsection (1)(b)(v) runs with the land and is  
19 binding on the landowner and all subsequent landowners and successors in interest to the property. The  
20 declaration must include but is not limited to:

21 (A) the name and address of the landowner;

22 (B) a legal description of the tract upon which the proposed building will be located; and

23 (C) a specific description of the building on the tract of record.

24 (2) Any building that is exempt under subsection (1) from the provisions of this part and that is or will be  
25 served by water or wastewater must be in compliance with the provisions of 76-8-106.

26 (3) The exemption provided in subsection (1)(b)(i) is limited to the first three buildings created for lease  
27 or rent on a single tract."  
28

29 **Section 27.** Section 90-1-135, MCA, is amended to read:

30 **"90-1-135. Special revenue accounts.** (1) There is a state special revenue account in the state treasury

1 for the receipt of state and private funds and a federal special revenue account in the state treasury for the receipt  
2 of federal funds for expenditure by the state-tribal economic development commission established in 90-1-131.

3 (2) Money in the state special revenue account from proceeds distributed under ~~15-65-121(2)(f)~~  
4 15-68-820(5)(f) is to be used for activities for the Indian tourism region, defined in ~~15-65-101~~ 15-68-101.

5 (3) Except as provided in subsection (2), money in the accounts established in subsection (1) must be  
6 used to pay:

7 (a) the commission's administrative costs;

8 (b) the salary, benefits, and administrative expenses of the tribal business center coordinator and the  
9 federal grants coordinator; and

10 (c) the costs of conducting or commissioning and periodically updating or otherwise modifying a  
11 comprehensive assessment of economic development needs and priorities on each of the Indian reservations  
12 in the state.

13 (4) Money in the accounts that is not expended for the purposes identified in subsection (2) or (3) may  
14 be used for other purposes that the commission considers prudent or necessary.

15 (5) Interest and income earned on the money in the accounts must be deposited in the accounts for the  
16 commission's use."

17  
18 **NEW SECTION. Section 28. Repealer.** The following sections of the Montana Code Annotated are  
19 repealed:

20 15-65-101. Definitions.

21 15-65-102. Rulemaking authority.

22 15-65-111. Tax rate.

23 15-65-112. Collection and reporting.

24 15-65-113. Audits -- records.

25 15-65-114. Registration number -- application to department.

26 15-65-115. Failure to pay or file -- penalty and interest -- review -- interest.

27 15-65-116. Credit for overpayment -- interest on overpayment.

28 15-65-121. Distribution of tax proceeds.

29 15-68-207. Exemption -- isolated or occasional sale or lease of property.

30 15-68-210. Nontaxability -- lease for subsequent lease.

1 15-68-211. Nontaxability -- use of property for leasing.

2 15-68-212. Nontaxability -- nonprofits.

3

4 NEW SECTION. **Section 29. Notification to tribal governments.** The secretary of state shall send  
5 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
6 Chippewa tribe.

7

8 NEW SECTION. **Section 30. Severability.** If a part of [this act] is invalid, all valid parts that are  
9 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
10 the part remains in effect in all valid applications that are severable from the invalid applications.

11

12 NEW SECTION. **Section 31. Directions to code commissioner.** (1) Sections 15-65-122 and  
13 15-65-131 are intended to be renumbered and codified as an integral part of Title 15, chapter 68.

14 (2) The code commissioner is instructed to change all internal references within and to the renumbered  
15 sections in the Montana Code Annotated, including within sections enacted or amended by the 2019 legislature,  
16 to reflect the new section numbers assigned pursuant to this section.

17

18 NEW SECTION. **Section 32. Effective date.** [This act] is effective July 1, 2019.

19

20 NEW SECTION. **Section 33. Applicability.** [This act] applies to sales of accommodations, property,  
21 or services that occur on or after July 1, 2019, and the use of accommodations, property, or services on or after  
22 July 1, 2019, even if the sale occurred before July 1, 2019.

23

- END -