

1 SENATE BILL NO. 73

2 INTRODUCED BY K. REGIER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DISTRIBUTION OF THE SALES TAX ON
5 LODGING TO PROVIDE FOR DISTRIBUTION TO THE CITY OR COUNTY IN WHICH THE REVENUE IS
6 COLLECTED; REQUIRING A PORTION OF THE REVENUE DISTRIBUTED TO CITIES AND COUNTIES TO
7 BE USED FOR PROPERTY TAX RELIEF; AMENDING SECTIONS 15-10-420, 15-16-101, 15-68-502, 15-68-
8 820, 22-3-1303, 22-3-1304, AND 22-3-1307, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN
9 APPLICABILITY DATE."

10

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

12

13 NEW SECTION. **Section 1. Lodging sales and use tax distribution account.** (1) There is a lodging
14 sales and use tax distribution account in the state special revenue fund. The revenue allocated to the account
15 as provided in 15-68-820(3) must be deposited in the account and distributed as provided in this section.

16 (2) The department shall determine at the end of each fiscal year the amount of tax, late payment
17 interest, and penalties deposited in the account that was collected from sales of accommodations in each
18 incorporated city or town and each county and distribute by August 31 the tax, late payment interest, and
19 penalties as provided in this subsection (2). If the accommodations are located in an incorporated city or town,
20 the department shall distribute the tax, interest, and penalties to the incorporated city or town. If the
21 accommodations are not located in an incorporated city or town, the department shall distribute the tax,
22 interest, and penalties to the county in which the accommodations are located. The department shall distribute
23 equally among the counties the tax, interest, and penalties from sales of accommodations for which the
24 department cannot determine the location.

25 (3) A payment required pursuant to this section may be withheld if, for more than 90 days, a local
26 government fails to:

27 (a) file a financial report required by 15-1-504;

28 (b) remit any amounts collected on behalf of the state as required by 15-1-504; or

1 (c) remit any other amounts owed to the state or another taxing jurisdiction.

2

3 **NEW SECTION. Section 2. Lodging sales and use tax account.** (1) The governing body of an
4 incorporated city or town or county receiving lodging sales and use tax under [section 1] shall establish a
5 lodging sales and use tax account to hold the collections.

6 (2) An incorporated city or town or county shall use at least two-thirds of the revenue deposited in the
7 account each year to reduce the incorporated city or town or county's property tax levy in the next year. The
8 revenue used to reduce property tax levies must be transferred to the account in which property tax revenue is
9 deposited.

10 (3) The lodging sales and use taxes remaining in the account after the transfer required by subsection
11 (2) may be used by the incorporated city or town or county for any purpose allowed by law.

12

13 **Section 3.** Section 15-10-420, MCA, is amended to read:

14 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
15 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
16 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
17 years. The maximum number of mills that a governmental entity may impose is established by calculating the
18 number of mills required to generate the amount of property tax actually assessed in the governmental unit in
19 the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half
20 of the average rate of inflation for the prior 3 years.

21 (b) A governmental entity that does not impose the maximum number of mills authorized under
22 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
23 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill
24 authority carried forward may be imposed in a subsequent tax year.

25 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate
26 of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers,
27 using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of
28 labor.

1 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any
2 additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit,
3 including newly taxable property.

4 (3) (a) For purposes of this section, newly taxable property includes:

5 (i) annexation of real property and improvements into a taxing unit;

6 (ii) construction, expansion, or remodeling of improvements;

7 (iii) transfer of property into a taxing unit;

8 (iv) subdivision of real property; and

9 (v) transfer of property from tax-exempt to taxable status.

10 (b) Newly taxable property does not include an increase in value that arises because of an increase in
11 the incremental value within a tax increment financing district.

12 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
13 release of taxable value from the incremental taxable value of a tax increment financing district because of:

14 (i) a change in the boundary of a tax increment financing district;

15 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

16 (iii) the termination of a tax increment financing district.

17 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
18 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
19 financing district terminates. If a tax increment financing district terminates after the certification of taxable
20 values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax
21 year.

22 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
23 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
24 year market value of that property less the previous year market value of that property.

25 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of
26 real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
27 agricultural land as described in 15-6-133(1)(c).

28 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

1 (a) school district levies established in Title 20; or

2 (b) a mill levy imposed for a newly created regional resource authority.

3 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes
4 received under 15-6-131 and 15-6-132.

5 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

6 (a) may increase the number of mills to account for a decrease in reimbursements or for a decrease
7 in lodging tax distributions under [section 1]; and

8 (b) may not increase the number of mills to account for a loss of tax base because of legislative action
9 that is reimbursed under the provisions of 15-1-121(7).

10 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for
11 purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated
12 by the department may not exceed the mill levy limits established in those sections. The mill calculation must
13 be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
14 calculation must be rounded up to the nearest tenth of a mill.

15 (9) (a) The provisions of subsection (1) do not prevent or restrict:

16 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

17 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

18 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

19 (iv) a levy for the support of a study commission under 7-3-184;

20 (v) a levy for the support of a newly established regional resource authority;

21 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
22 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

23 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining
24 county under 7-2-2807 upon relocation of a county boundary;

25 (viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b); or

26 (ix) a governmental entity from levying mills for the support of an airport authority in existence prior to
27 May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past.

28 The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

1 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
2 actually assessed in a subsequent year.

3 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-
4 301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
5 authority in either of the previous 2 years and the airport or airport authority has not been appropriated
6 operating funds by a county or municipality during that time.

7 (11) The department may adopt rules to implement this section. The rules may include a method for
8 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
9 improvements, or newly taxable value in a governmental unit."
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10

11 **Section 4.** Section 15-16-101, MCA, is amended to read:

12 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the
13 receipt of the property tax record, the county treasurer shall publish a notice specifying:

14 (a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next
15 November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount
16 then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency
17 until paid and 2% will be added to the delinquent taxes as a penalty;

18 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the
19 next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate
20 of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a
21 penalty; and

22 (c) the time and place at which payment of taxes may be made.

23 (2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice,
24 postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due
25 and delinquent for other years. The written notice must include:

26 (i) the taxable value of the property;

27 (ii) the total mill levy applied to that taxable value;

28 (iii) itemized city services and special improvement district assessments collected by the county;

1 (iv) the number of the school district in which the property is located;

2 (v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax,
3 and other tax; ~~and~~

4 (vi) a notice of the availability of all the property tax assistance programs available to property
5 taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax
6 assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the elderly
7 under 15-30-2337 through 15-30-2341; and

8 (vii) the amount by which the incorporated city or town and county reduced their mill levies pursuant to
9 [section 2(2)].

10 (b) If a tax lien is attached to the property, the notice must also include, in a manner calculated to
11 draw attention, a statement that a tax lien is attached to the property, that failure to respond will result in loss of
12 property, and that the taxpayer may contact the county treasurer for complete information.

13 (3) The municipality shall, upon request of the county treasurer, provide the information to be included
14 under subsection (2)(a)(iii) and (2)(a)(vii) ready for mailing.

15 (4) The notice in every case must be given as provided in 7-1-2121. Failure to publish or post notices
16 does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year
17 or of delinquent tax will not affect the legality of the tax.

18 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an
19 additional tax is not owed and a new tax bill does not need to be prepared."

20

21 **Section 5.** Section 15-68-502, MCA, is amended to read:

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

1 **(b) A person selling accommodations must include in the return the physical address of the**
2 **accommodation.**

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

5 (3) (a) For the purposes of the sales tax or use tax, a return must be filed by:

6 (i) a retailer required to collect the tax; and

7 (ii) a person that:

8 (A) purchases any items the storage, use, or other consumption of which is subject to the sales tax or
9 use tax; and

10 (B) has not paid the tax to a retailer required to pay the tax.

11 (b) Each return must be authenticated by the person filing the return or by the person's agent
12 authorized in writing to file the return.

13 (4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall
14 keep records, render statements, make returns, and comply with the provisions of this chapter and the rules
15 prescribed by the department. Each return or statement must include the information required by the rules of
16 the department.

17 (b) For the purpose of determining compliance with the provisions of this chapter, the department is
18 authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making
19 a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property
20 of or in the possession of the person filing the return or another person. In determining compliance, the
21 department may use statistical sampling and other sampling techniques consistent with generally accepted
22 auditing standards. The department may also:

23 (i) require the attendance of a person having knowledge or information relevant to a return;

24 (ii) compel the production of books, papers, records, or memoranda by the person required to attend;

25 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is
26 or may be jeopardized because of delay;

27 (iv) take testimony on matters material to the determination; and

28 (v) administer oaths or affirmations.

1 (5) Pursuant to rules established by the department, returns may be computer-generated and
2 electronically filed."

3

4 **Section 6.** Section 15-68-820, MCA, is amended to read:

5 **"15-68-820. Sales tax and use tax proceeds.** (1) ~~Except as provided in subsections (2) through (6),~~
6 ~~all~~All money collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by
7 the department ~~into the general fund~~ as provided in subsections (2) through (6).

8 (2) ~~Twenty-five percent of the~~ The revenue collected on the base rental charge for rental vehicles
9 under 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited as follows:

10 (a) 75% in the general fund; and

11 (b) 25% in the state special revenue fund to the credit of the senior citizen and persons with
12 disabilities transportation services account provided for in 7-14-112.

13 (3) ~~Until December 30, 2024, a portion of the~~ The revenue collected on the sale or use of
14 accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited as follows:

15 (a) 75% in the lodging sales and use tax distribution account provided for in [section 1]; and

16 (b) 25% as provided in subsection (4).

17 (4) (a) Through December 31, 2024, the revenue deposited pursuant to subsection (3)(b) must be
18 deposited as follows:

19 (i) 20% in the account established in 22-3-1303 for construction of the Montana heritage center; and

20 (b)(ii) 5% in the account established in 22-3-1307 for historic preservation grants.

21 (4)(b) ~~Starting January 1, 2025, a portion of the revenue collected on the sale or use of~~
22 ~~accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i)~~ the revenue deposited pursuant to
23 subsection (3)(b) must be deposited or distributed as follows:

24 (a)(i) 6% in the account established in 22-3-1304 for operation and maintenance of the Montana
25 heritage center;

26 (b)(ii) 6% distributed as provided in subsection (5);

27 (c)(iii) 6% in the account established in 22-3-1307 for historic preservation grants; and

28 (d)(iv) 7% in the account established in 17-7-209.

1 (5) (a) Before allocating the balance of the tax proceeds provided for in subsection (4)(b)(ii) in
2 accordance with the provisions of 17-2-124 and as provided in subsection (5)(b) of this section, the department
3 shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 1%
4 of that amount from the tax proceeds received each reporting period. The department shall distribute the
5 portion of the 1% that was paid with federal funds to the agency that made the in-state lodging expenditure and
6 deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund.

7 (b) The balance of the tax proceeds received each reporting period and not distributed to agencies
8 that paid the tax with federal funds must be transferred to an account in the state special revenue fund to the
9 credit of the department of commerce for tourism promotion and promotion of the state as a location for the
10 production of motion pictures and television commercials, to the department of fish, wildlife, and parks, and to
11 the state-tribal economic development commission as follows:

12 (i) 7% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that
13 have both resident and nonresident use;

14 (ii) 68.5% to be used directly by the department of commerce;

15 (iii) (A) except as provided in subsection (5)(b)(iii)(B), 24% to be distributed by the department of
16 commerce to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism
17 region to the total proceeds collected statewide; and

18 (B) if 24% of the proceeds collected annually within the limits of a city, consolidated city-county, resort
19 area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional
20 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
21 district is located to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-
22 county, resort area, or resort area district; and

23 (iv) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal
24 economic development commission established in 90-1-131 for activities in the Indian tourism region.

25 (6) The tax proceeds received that are transferred to a state special revenue account pursuant to
26 subsection (5)(b) are allocated to the entities."

27

28 **Section 7.** Section 22-3-1303, MCA, is amended to read:

1 **"22-3-1303. Account -- Montana heritage center construction.** There is an account in the capital
 2 projects fund established in 17-2-102 known as the Montana heritage center construction account. The tax
 3 collections allocated in 15-68-820~~(3)(a)~~ must be deposited in the account until December 30, 2024. The money
 4 in the account is authorized to the department of administration and may be used only for capital construction of
 5 the Montana heritage center."
 6

7 **Section 8.** Section 22-3-1304, MCA, is amended to read:

8 **"22-3-1304. Account -- Montana heritage center operations.** There is an account in the state
 9 special revenue fund established in 17-2-102 known as the Montana heritage center operations account. The
 10 tax collections allocated in 15-68-820~~(4)(a)~~ must be deposited in the account. The money in the account may
 11 be used only for expenses incurred in the operation and maintenance of the Montana heritage center, which
 12 may include the veterans' and pioneer memorial building."
 13

14 **Section 9.** Section 22-3-1307, MCA, is amended to read:

15 **"22-3-1307. Historic preservation grant program account.** (1) There is an account in the state
 16 special revenue fund established in 17-2-102 known as the historic preservation grant program account. The
 17 tax collections allocated in 15-68-820~~(3)(b) and (4)(c)~~ must be deposited in the account.

18 (2) Money deposited in the account is subject to appropriation by the legislature and may be used
 19 only for historic preservation grants to be administered by the department of commerce.

20 (3) The department shall allocate and disburse historic preservation account funds as appropriated by
 21 the legislature."
 22

23 NEW SECTION. **Section 10. Transition.** The first distribution to cities and counties pursuant to
 24 [section 1] must be made by August 31, 2022, for taxes collected in fiscal year 2022.
 25

26 NEW SECTION. **Section 11. Codification instruction.** [Sections 1 and 2] are intended to be codified
 27 as an integral part of Title 15, chapter 68, and the provisions of Title 15, chapter 68, apply to [sections 1 and 2].
 28

1 NEW SECTION. **Section 12. Effective date.** [This act] is effective July 1, 2021.

2

3 NEW SECTION. **Section 13. Applicability.** [This act] applies to sales of accommodations or
4 campgrounds that occur on or after [the effective date of this act], and to the use of accommodations or use of
5 campgrounds on or after [the effective date of this act], even if the sale occurred before [the effective date of
6 this act].

7

- END -