

HOUSE BILL NO. 194

INTRODUCED BY M. DUNWELL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAX LAWS; INCREASING THE TAX RATE
5 ON ACCOMMODATIONS AND CAMPGROUNDS AND ON THE BASE RENTAL CHARGE FOR A RENTAL
6 VEHICLE; PROVIDING AN INCOME TAX CREDIT FOR A PORTION OF STATE ACCOMMODATIONS AND
7 RENTAL VEHICLE SALES TAXES PAID; ALLOWING CERTAIN MUNICIPALITIES, COUNTIES, AND
8 CONSOLIDATED CITY-COUNTY GOVERNMENTS BY A VOTE OF THE ELECTORATE TO ADOPT A LOCAL
9 OPTION TAX ON ACCOMMODATIONS AND CAMPGROUNDS AND ON THE BASE RENTAL CHARGE FOR
10 A RENTAL VEHICLE; PROVIDING THE PURPOSES FOR WHICH THE LOCAL OPTION SALES AND USE TAX
11 REVENUE MUST BE USED; REVISING DEFINITIONS FOR THE LODGING AND FACILITY USE TAX TO
12 CHANGE THE BASIS OF THE TAX FROM THE AMOUNT COLLECTED BY THE FACILITY TO THE AMOUNT
13 PAID BY THE USER; REQUIRING A SHORT-TERM RENTAL MARKETPLACE TO REGISTER WITH THE
14 DEPARTMENT OF REVENUE AND COLLECT ACCOMMODATIONS TAXES, INCLUDING LOCAL OPTION
15 ACCOMMODATIONS TAXES; EXPANDING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-7-4424,
16 7-7-4428, 15-65-101, 15-65-111, 15-65-112, 15-65-113, 15-65-114, 15-65-115, 15-68-101, 15-68-102, 15-68-510,
17 AND 76-8-103, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE."

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

20
21 **NEW SECTION. Section 1. Local option accommodations and rental vehicle sales and use tax**

22 **-- definitions.** As used in [sections 1 through 8], the following definitions apply:

- 23 (1) "Accommodations" has the meaning provided in 15-68-101.
- 24 (2) "Base rental charge" has the meaning provided in 15-68-101.
- 25 (3) "Campground" has the meaning provided in 15-68-101.
- 26 (4) "Governing body" means the legislative authority of an incorporated municipality, a county, or a
27 consolidated city-county that has been designated as a tourist impact area.
- 28 (5) "Local option sales and use tax" means a tax imposed pursuant to [sections 1 through 8].
- 29 (6) "Qualified elector" means a person who is qualified to vote under 13-1-111 and is a resident of a
30 tourist impact area.

1 (7) "Rental vehicle" has the meaning provided in 15-68-101.

2 (8) "Tourist impact area" means an incorporated municipality, a county, or consolidated city-county that:

3 (a) follows an approach corridor to a national park or national monument, a state park, a major Montana
4 tourist attraction, or a Montana airport; and

5 (b) has been designated by the department of commerce as a tourist impact area.

6

7 **NEW SECTION. Section 2. Local option accommodations and rental vehicle sales and use tax**

8 -- **specific delegation.** As required by 7-1-112, [sections 1 through 8] specifically delegate to the qualified
9 electors of a tourist impact area the power to authorize a local option sales and use tax on accommodations and
10 campgrounds and on the base rental charge for rental vehicles within the tourist impact area.

11

12 **NEW SECTION. Section 3. Limit on local option accommodations and rental vehicle sales and**

13 **use tax.** (1) The rate of a local option sales and use tax on accommodations and campgrounds and on the base
14 rental charge for rental vehicles must be established by the election petition or resolution provided for in [section
15 4], but the rate may not exceed 3%.

16 (2) A local option sales and use tax authorized as provided in [sections 1 through 8] is a tax on the sales
17 and use of accommodations and campgrounds and on the base rental charge for rental vehicles as provided in
18 15-68-102. The approved rate is in addition to the tax provided for in 15-68-102 and a resort tax approved
19 pursuant to 7-6-1501 through 7-6-1507.

20 (3) The provisions of Title 15, chapter 68, apply to a local option sales and use tax authorized as provided
21 in [sections 1 through 8].

22

23 **NEW SECTION. Section 4. Local option accommodations and rental vehicle sales and use tax**

24 -- **election required.** (1) A local option sales and use tax on accommodations and campgrounds and on the base
25 rental charge for rental vehicles may not be imposed, amended, or repealed unless the question has been
26 submitted to the qualified electors of the tourist impact area and approved by a majority of the qualified electors
27 voting on the question.

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

- 1 (3) The petition or resolution referring the local option sales and use tax question must state:
- 2 (a) the rate of the local option sales and use tax on accommodations and campgrounds;
- 3 (b) the rate of the local option sales and use tax on the base rental charge for rental vehicles;
- 4 (c) the duration of the local option sales and use tax;
- 5 (d) the dates the local option sales and use tax will be collected;
- 6 (e) the date the local option sales and use tax becomes effective, which may not be earlier than 180 days
- 7 after the election;
- 8 (f) the purposes that may be funded by the local option sales and use tax revenue, which must comply
- 9 with [section 6]; and
- 10 (g) how the revenue will be shared among a municipality, a county, and a consolidated city-county, which
- 11 must comply with [sections 6 and 7].
- 12 (4) Upon passage of a resolution or upon receipt of an adequate petition, the governing body shall hold
- 13 an election in accordance with Title 13, chapter 1, part 5.
- 14 (5) Notice of the election must be given as provided in 13-1-108 and must include the information
- 15 required by subsection (3) of this section.
- 16 (6) The question of the imposition of a local option sales and use tax may not be placed before the
- 17 qualified electors more than once in any fiscal year.
- 18
- 19 **NEW SECTION. Section 5. Local option accommodations and rental vehicle sales and use tax**
- 20 **administration.** (1) Upon adoption of a local option sales and use tax on accommodations and campgrounds
- 21 and on the base rental charge for rental vehicles, the governing body shall notify the department of revenue of
- 22 the adoption of the local option sales and use tax, the rate of the tax, the effective date of the tax, and the dates
- 23 the tax will be collected.
- 24 (2) The department of revenue shall collect the local option sales and use tax at the time of collection
- 25 of the tax provided for in 15-68-102. The proceeds of the local option sales and use tax must, in accordance with
- 26 the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the
- 27 department for distribution to local governments. The department may spend from that account in accordance
- 28 with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing
- 29 the proceeds of the tax.
- 30 (3) The department shall distribute the local option sales and use tax and any associated penalties and

1 interest to the city, county, or consolidated city-county within 30 days of the end of the calendar quarter in which
2 the taxpayer is required to file returns with the department pursuant to 15-68-502.

3 (4) The administration provisions of Title 15, chapter 68, apply to the local option sales and use tax
4 provided for in [sections 1 through 8] including provisions related to collection, enforcement, exemptions, the
5 seller's permit, returns, payment of the tax, the vendor allowance, and penalties and interest.

6
7 **NEW SECTION. Section 6. Use of local option accommodations and rental vehicle sales and use**
8 **tax revenue -- bond issue -- pledge.** (1) (a) Unless otherwise restricted by the voter-approved tax authorization
9 provided for in [section 4], a governing body shall appropriate and expend revenue derived from a local option
10 sales and use tax for property tax relief as provided in [section 7], affordable housing, emergency services, public
11 health and safety, and any costs resulting from imposition of the tax.

12 (b) Except as provided in this subsection (1)(c), a governing body may share local option sales and use
13 tax revenue with another municipality, county, or consolidated city-county through an interlocal agreement.

14 (c) A municipality or consolidated city-county shall share at least 5% of the local option sales and use
15 tax revenue with a municipality within 10 miles of the municipality or consolidated city-county if the neighboring
16 municipality has not approved a local option sales and use tax.

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

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

23 (4) For repayment of bonds issued under this section, a municipality, county, or consolidated city-county
24 may pledge the revenue derived from a local option sales and use tax, special assessments levied for any
25 revenue collected from facilities, improvements, or undertakings for which the bonds are issued, and any other
26 source of revenue authorized by the legislature to be imposed or collected by the municipality, county, or
27 consolidated city-county. The bonds do not constitute debt for the purposes of any statutory debt limitation
28 provided that, in the resolution authorizing the issuance of the bonds, the municipality, county, or consolidated
29 city-county determines that the local option sales and use tax revenue, special assessments levied for and
30 revenue from the facilities, improvements, or undertakings, or other sources of revenue, if any, pledged to the

1 payment of the bonds will be sufficient in each year to pay the principal and interest on the bonds when due.

2 (5) Bonds may not be issued that pledge proceeds of the local option sales and use tax for repayment
3 unless the governing body in the resolution authorizing issuance of the bonds determines that in any fiscal year
4 the annual revenue expected to be derived from the local option sales and use tax less the amount required to
5 provide property tax relief pursuant to [section 7] equals at least 125% of the average amount of the principal and
6 interest payable from the local option sales and use tax on the bonds and any other outstanding bonds payable
7 from the local option sales and use tax, except any bonds to be refunded upon the issuance of the proposed
8 bonds.

9

10 **NEW SECTION. Section 7. Local option accommodations and rental vehicle sales and use tax**
11 **-- property tax relief.** (1) Annually anticipated receipts from the local option sales and use tax must be applied
12 to reduce the property taxes in the tourist impact area for the fiscal year in an amount equal to at least 5% of the
13 local option sales and use tax revenue received during the preceding fiscal year.

14 (2) A municipality that authorizes a local option sales and use tax shall share at least 5% of the revenue
15 designated for property tax relief with the county that contains the municipality if the county has not adopted a
16 local option sales and use tax. The county shall use the revenue for property tax relief for property owners within
17 the county but outside of the boundaries of the municipality authorizing the local option sales and use tax.

18 (3) A tourist impact area that receives more local option sales and use tax revenue than is included in
19 the annual budget shall establish a property tax relief fund. All local option sales and use tax revenue received
20 in excess of the budget amount must be placed in the fund. The entire fund must be used to replace property
21 taxes in the ensuing fiscal year.

22

23 **NEW SECTION. Section 8. Local option accommodations and rental vehicle sales and use tax**
24 **-- coordination with other local option taxes.** (1) (a) Except as provided in subsection (1)(b), a local option
25 sales and use tax may not be imposed on the same accommodations and campgrounds or on the same base
26 rental charges of rental vehicles by more than one city, county, or consolidated city-county.

27 (b) A local option sales and use tax may be imposed in a resort community, a resort area, or a resort
28 area district imposing a tax under Title 7, chapter 6, part 15. If the local option sales and use tax includes a tax
29 on accommodations and campgrounds, the local option sales and use tax is in addition to the resort tax.

30 (2) If a county adopts a local option sales and use tax and a municipality within the county already

1 imposes a local option sales and use tax, the county tax is not imposed within the municipality. The qualified
 2 electors of the municipality may terminate the municipality local option sales and use tax and subject themselves
 3 to the county tax as provided in [section 4].

4
 5 **NEW SECTION. Section 9. Tax credit for accommodations and rental vehicle sales and use tax.**

6 (1) There is allowed a tax credit against the tax imposed by this chapter for a portion of the state sales and use
 7 tax on accommodations and campgrounds and on the base rental charge for rental vehicles collected pursuant
 8 to Title 15, chapter 68.

9 (2) The amount of the credit is equal to 2% of the sales price paid on accommodations and campgrounds
 10 subject to the tax provided for in 15-68-102 and for 3% of the sales price paid on the base rental charge for rental
 11 vehicles subject to the tax provided for in 15-68-102 during the tax year.

12 (3) The credit may not exceed \$100 and may be refunded if it exceeds the taxpayer's tax liability.

13 (4) In the case of a married individual filing a separate return, the percentage amount of the credit and
 14 the dollar amount of the credit limit under subsection (2) are limited to one-half of the figures indicated in those
 15 subsections.

16
 17 **Section 10.** Section 7-7-4424, MCA, is amended to read:

18 **"7-7-4424. Undertakings to be self-supporting.** (1) (a) Except as provided in subsections (1)(b) and
 19 (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect
 20 reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall revise
 21 the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains
 22 self-supporting.

23 (b) The property taxes specifically authorized to be levied for the general purpose served by an
 24 undertaking ~~or, any~~ resort taxes approved, levied, and appropriated to an undertaking in compliance with
 25 7-6-1501 through 7-6-1509, or any local option sales and use taxes approved, levied, and appropriated to an
 26 undertaking in compliance with [sections 1 through 8] constitute revenue of the undertaking and may not result
 27 in an undertaking being considered not self-supporting.

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

30 (2) The rates, fees, or charges prescribed, along with any appropriated property tax collections, local

1 option sales and use tax collections, or resort tax collections, must produce revenue at least sufficient to:

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

4 (b) provide for all expenses of operation and maintenance of the undertaking, including reserves."
5

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

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

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

11 (2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued,
12 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion
13 of the property and resort tax revenue referred to in 7-7-4424 or the local option sales and use tax revenue
14 referred to in [section 6];

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

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

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

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

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

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

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

25 (b) operate and maintain the undertaking;

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

27 (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner
28 as the municipality itself might do."
29

30 **Section 12.** Section 15-65-101, MCA, is amended to read:

1 **"15-65-101. Definitions.** For purposes of this part, the following definitions apply:

2 (1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use of the
3 facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment,
4 or any other similar charges. "Accommodations" has the meaning provided in 15-68-101.

5 ~~(2) (a) "Campground" means a place, publicly or privately owned, used for public camping where
6 persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.~~

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

10 ~~(3)(2) "Council" means the tourism advisory council established in 2-15-1816.~~

11 ~~(4) (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight
12 lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a
13 facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch,
14 guest ranch, hostel, public lodginghouse, or bed and breakfast facility.~~

15 ~~———— (b) The term does not include any health care facility, as defined in 50-5-101, or any facility owned by
16 a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years
17 for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average
18 daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under
19 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented
20 solely on a monthly basis or for a period of 30 days or more.~~

21 ~~(5)(3) "Indian tourism region" includes the area recognized as being historically associated with the
22 seven federally recognized reservations in Montana and the Little Shell Chippewa tribe.~~

23 ~~(6)(4) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under
24 Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort area,
25 or resort area district in which the bureau is located.~~

26 (5) "Person" has the meaning provided in 15-68-101.

27 (6) "Purchaser" has the meaning provided in 15-68-101.

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

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

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

3 (10) "Sales price" has the meaning provided in 15-68-101.

4 (11) "Seller" has the meaning provided in 15-68-101.

5 (12) "Short-term rental" has the meaning provided in 15-68-101.

6 (13) "Short-term rental marketplace" has the meaning provided in 15-68-101."

7

8 **Section 13.** Section 15-65-111, MCA, is amended to read:

9 **"15-65-111. Tax rate.** (1) There is imposed on the user of a ~~facility accommodations~~ accommodations a tax at a rate equal
10 to 4% of the ~~accommodation charge collected by the facility~~ sales price paid by the purchaser.

11 (2) ~~Accommodation charges do~~ Sales price does not include charges for rooms accommodations used
12 for purposes other than lodging."

13

14 **Section 14.** Section 15-65-112, MCA, is amended to read:

15 **"15-65-112. Collection and reporting.** (1) ~~The owner or operator of a facility~~ The seller of
16 accommodations shall collect the tax imposed by 15-65-111.

17 (2) ~~The owner or operator~~ seller shall report to the department of revenue, at the end of each calendar
18 quarter, the gross receipts collected during that quarter attributable to ~~accommodation charges for the use of the~~
19 facility the sales price paid by the purchaser. The report is due on or before the last day of the month following
20 the end of the calendar quarter and must be accompanied by a payment in an amount equal to the tax required
21 to be collected under subsection (1)."

22

23 **Section 15.** Section 15-65-113, MCA, is amended to read:

24 **"15-65-113. Audits -- records.** (1) The department of revenue may audit the books and records of any
25 ~~owner or operator~~ seller to ensure that the proper amount of tax imposed by 15-65-111 has been collected. An
26 audit may be done on the premises of the ~~owner or operator of a facility~~ seller or at any other convenient location.

27 (2) The department may request the ~~owner or operator of a facility~~ seller to provide the department with
28 books, ledgers, registers, or other documents necessary to verify the correct amount of tax.

29 (3) ~~The owner or operator of a facility~~ seller shall maintain and have available for inspection by the
30 department books, ledgers, registers, or other documents showing the ~~collection of accommodation charges~~ sales

1 price and tax collections for the preceding 5 years.

2 (4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false
3 or fraudulent return violating the provisions of this part, the amount of tax due under any return must be
4 determined by the department within 5 years after the return is made, and the department thereafter is barred
5 from revising any such return or recomputing the tax due thereon, and no proceeding in court for the collection
6 of the tax may be instituted unless notice of any additional tax is provided within such period.

7 (5) An application for revision may be filed with the department by ~~an owner or operator of a facility~~ a
8 seller within 5 years from the original due date of the return."
9

10 **Section 16.** Section 15-65-114, MCA, is amended to read:

11 **"15-65-114. ~~Registration number~~ Seller's permit -- application to department -- collection by**
12 **short-term rental marketplace.** (1) ~~The owner or operator of a facility shall apply to the department of revenue~~
13 ~~for a registration number.~~

14 ~~—— (2) The application must be made on a form provided by the department.~~

15 ~~—— (3) Upon completion of the application and delivery of the application to the department, the department~~
16 ~~must assign a registration number to the owner, operator, or facility, as appropriate. The seller of~~
17 ~~accommodations must obtain a seller's permit before engaging in business within the state, in accordance with~~
18 ~~15-68-401.~~

19 (2) A short-term rental marketplace shall register with the department and collect the tax imposed by this
20 chapter as provided in [section 20]."
21

22 **Section 17.** Section 15-65-115, MCA, is amended to read:

23 **"15-65-115. ~~Failure to pay or file -- penalty and interest -- review -- interest.~~** (1) ~~An owner or operator~~
24 ~~of a facility~~ A seller who fails to file the report as required by 15-65-112 must be assessed a penalty as provided
25 in 15-1-216. The department may waive any penalty as provided in 15-1-206.

26 (2) ~~An owner or operator of a facility~~ A seller who fails to make payment or fails to report and make
27 payment as required by 15-65-112 must be assessed penalty and interest as provided in 15-1-216. The
28 department may waive any penalty pursuant to 15-1-206.

29 (3) (a) ~~If an owner or operator of a facility~~ a seller fails to file the report required by 15-65-112 or if the
30 department determines that the report understates the amount of tax due, the department may determine the

1 amount of the tax due and assess that amount against the ~~owner or operator~~ seller. The provisions of 15-1-211
 2 apply to any assessment by the department. The ~~taxpayer~~ seller may seek review of the assessment pursuant
 3 to 15-1-211.

4 (b) When a deficiency is determined and the tax becomes final, the department shall mail a notice and
 5 demand for payment to the ~~owner or operator~~ seller. Penalty and interest must be added to any deficiency
 6 assessment as provided in 15-1-216."

7

8 **Section 18.** Section 15-68-101, MCA, is amended to read:

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

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

13 (b) Accommodations includes a facility represented to the public as a hotel, motel, campground, resort,
 14 dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

15 (c) The term does not include a health care facility, as defined in 50-5-101, any facility owned by a
 16 corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under 18 years of age for
 17 camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average
 18 daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under
 19 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented
 20 solely on a monthly basis or for a period of 30 days or more.

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

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

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

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

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

27 (iii) charges for additional drivers or underage drivers; and

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

30 (b) The term does not include:

- 1 (i) rental vehicle price discounts allowed and taken;
- 2 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the
3 privilege of operating as a concessionaire at an airport terminal building;
- 4 (iii) motor fuel;
- 5 (iv) intercity rental vehicle drop charges; or
- 6 (v) taxes imposed by the federal government or by state or local governments.
- 7 (4) (a) "Campground" means a place used for public camping where persons may camp, secure tents,
8 or park individual recreational vehicles for camping and sleeping purposes.
- 9 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
10 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
11 more.
- 12 (5) "Engaging in business" means carrying on or causing to be carried on any activity with the purpose
13 of receiving direct or indirect benefit.
- 14 (6) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal
15 property for a fixed or indeterminate term for consideration. A lease or rental may include future options to
16 purchase or extend.
- 17 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of
18 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the
19 property, as defined in 26 U.S.C. 7701(h)(1).
- 20 (c) The term does not include:
- 21 (i) a transfer of possession or control of property under a security agreement or deferred payment plan
22 that requires the transfer of title upon completion of the required payments;
- 23 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title
24 upon completion of required payments and payment of an option price that does not exceed the greater of \$100
25 or 1% of the total required payments; or
- 26 (iii) providing tangible personal property with an operator if an operator is necessary for the equipment
27 to perform as designed and not just to maintain, inspect, or set up the tangible personal property.
- 28 (d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction
29 is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code,
30 the Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

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

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

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

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

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

9 (b) Motor vehicle includes:

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

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

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

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

15 (9) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
16 company, limited liability partnership, or any other legal entity.

17 (10) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is
18 furnished.

19 (11) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of the
20 motor vehicle through an arrangement and for consideration.

21 (12) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease, or
22 subrent.

23 (13) "Sale" or "selling" means the transfer of property for consideration or the performance of a service
24 for consideration.

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

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

30 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the

1 seller, all taxes imposed on the seller, and any other expense of the seller;

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

4 (iv) delivery charges; and

5 (v) installation charges;

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

8 ~~—— (vii) credit for any trade-in.~~

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

12 (c) Sales price includes any separate mandatory charge or fee that a purchaser must pay to receive use
13 of the accommodations or rental vehicle that is integral to the use of the accommodations or rental vehicle.

14 ~~—— (c) The term does not include:~~

15 ~~—— (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed~~
16 ~~by a seller and taken by a purchaser on a sale;~~

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

19 ~~or~~

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

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

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

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

28 (16) "Seller" means a person that makes sales, leases, or rentals of personal property or services.

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

1 or shareholders.

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

4 (18) "Short-term rental" means any individually or collectively owned single-family house or dwelling unit
5 or any unit or group of units in a condominium, cooperative or timeshare, or owner-occupied residential home
6 that is offered for a fee for 30 days or less.

7 (19) "Short-term rental marketplace" means a person that provides a platform through which a seller or
8 the authorized agent of the seller offers a short-term rental to an occupant.

9 ~~(18)~~(20) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use
10 solely outside this state, in the ordinary course of business."
11

12 **Section 19.** Section 15-68-102, MCA, is amended to read:

13 **"15-68-102. Imposition and rate of sales tax and use tax -- exceptions -- local option.** (1) A sales
14 tax of the following percentages is imposed on sales of the following property or services:

15 (a) ~~3%~~ 5% on accommodations and campgrounds;

16 (b) ~~4%~~ 7% on the base rental charge for rental vehicles.

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

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

23 (i) ~~3%~~ 5% on accommodations and campgrounds;

24 (ii) ~~4%~~ 7% on the base rental charge for rental vehicles.

25 (b) The use tax is imposed on property or services that were:

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

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

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

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

6 (4) A city, county, or consolidated city-county may impose a local option sales and use tax on
 7 accommodations and campgrounds and on the base rental charge for rental vehicles as provided in this chapter
 8 and [sections 1 through 8]. If a city, county, or consolidated city-county imposes the tax, the department shall
 9 collect the tax and distribute it as provided in [section 5].

10 ~~(4)(5)~~ For purposes of this section, the value of property must be determined as of the time of acquisition,
 11 introduction into this state, or conversion to use, whichever is latest.

12 ~~(5)(6)~~ The sale of property or services exempt or nontaxable under this chapter is exempt from the tax
 13 imposed in subsections (1) and (3).

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

17
 18 **NEW SECTION. Section 20. Collection of tax by short-term rental marketplace.** (1) A short-term
 19 rental marketplace shall register with the department for collection, reporting, and payment of the tax provided
 20 for in [sections 1 through 8], Title 15, chapter 65, and in this chapter on short-term rentals due from sellers on any
 21 sale facilitated by the short-term rental marketplace.

22 (2) A short-term rental marketplace shall collect, report, and pay taxes imposed by [sections 1 through
 23 8], Title 15, chapter 65, and this chapter.

24 (3) Upon registration, the department shall provide the short-term rental marketplace with the rates of
 25 local option accommodations sales and use taxes approved pursuant to [sections 1 through 8]. The department
 26 shall also notify short-term rental marketplaces of changes to the rates of state lodging taxes or local option
 27 lodging taxes provided for in [sections 1 through 8].

28
 29 **Section 21.** Section 15-68-510, MCA, is amended to read:

30 **"15-68-510. Vendor allowance.** (1) A person filing a timely return under 15-68-502 may claim a

1 quarterly vendor allowance for each permitted location in the amount of 5% of the tax determined to be payable
2 to the state including a tax imposed pursuant to [sections 1 through 8], not to exceed ~~\$1,000~~ \$2,000 a quarter.

3 (2) The allowance may be deducted on the return.

4 (3) A person that files a return or payment after the due date for the return or payment may not claim a
5 vendor allowance."

6

7 **Section 22.** Section 76-8-103, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

