

## 1 HOUSE BILL NO. 740

2 INTRODUCED BY C. POPE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A MUNICIPALITY OR A CONSOLIDATED  
5 CITY-COUNTY GOVERNMENT, BY VOTE OF THE ELECTORATE, TO ADOPT A LOCAL OPTION SALES TAX;  
6 PROVIDING THAT A PORTION OF THE REVENUE BE USED FOR PROPERTY TAX RELIEF FOR CLASS  
7 FOUR PROPERTY TAXPAYERS AND FOR REBATES FOR ADULTS WHO DO NOT OWN PROPERTY;  
8 AMENDING SECTIONS 7-7-4424 AND 7-7-4428, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

9

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

11

12 NEW SECTION. **Section 1. Purpose.** (1) Local government and local school district property tax levies  
13 constitute 75% to 80% of property taxes levied on Montana property taxpayers in most jurisdictions. Increasingly,  
14 property taxes are insufficient to meet the needs of Montana's heavily touristed, growing communities.

15 (2) It is the intent of the Montana legislature to provide Montana taxpayers within municipalities and  
16 consolidated city-county governments the option to impose a limited local option sales tax to offset increasingly  
17 onerous property taxes, and to fund essential community improvements in actively visited or otherwise quickly  
18 growing Montana locations.

19

20 NEW SECTION. **Section 2. Local option sales tax -- definitions.** As used in [sections 1 through 8],  
21 the following definitions apply:

22 (1) "Core capital expenditure" means an expenditure for a capital project that is located within the  
23 municipality or consolidated city-county government and that has been approved by the governing body.

24 (2) (a) "Food" means a substance, whether in liquid, concentrated, solid, frozen, dried, or dehydrated  
25 form, that is uncooked and unprepared, is sold for ingestion or chewing by humans, and is consumed for its taste  
26 or nutritional value.

27 (b) The term does not include alcoholic beverages, prepared food, or tobacco.

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

30 (4) "Medicine" means substances sold for curative or remedial properties, including both

1 physician-prescribed and over-the-counter medications.

2 (5) (a) "Prepared food" means food that:

3 (i) is sold in a heated state or is heated by the retailer;

4 (ii) consists of two or more foods mixed or combined by the retailer for sale as a single item; or

5 (iii) is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses,  
6 cups, napkins, or straws.

7 (b) The term does not include food the retailer sliced, repackaged, or pasteurized but did not heat, mix,  
8 or sell with eating utensils.

9 (6) "Utility service" means:

10 (a) the supplying of water, steam, or air through pipes or tubing for heating or cooling purposes;

11 (b) the supplying of electricity, artificial gas, or natural gas;

12 (c) water, wastewater, or garbage services; and

13 (d) telecommunications, broadband, or cable television services.

14

15 **NEW SECTION. Section 3. Local option taxing authority -- specific delegation.** (1) As required by  
16 7-1-112, [sections 1 through 8] specifically delegate to the qualified electors of each respective municipality or  
17 consolidated city-county government the power to authorize the municipality or consolidated city-county  
18 government to impose a local option tax within the corporate boundary of the municipality or consolidated  
19 city-county government.

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

22

23 **NEW SECTION. Section 4. Limit on local option tax rate -- goods and services subject to tax.** (1)  
24 The rate of a local option tax and the goods and services subject to the tax must be established by the election  
25 petition or resolution provided for in [section 5], which the rate may not exceed 4%.

26 (2) The tax may not be imposed on:

27 (a) critical services, including automotive repair and maintenance, accounting services, legal services,  
28 financial management services, utility services, and personal care services;

29 (b) food;

30 (c) medical services, medicine, or medical supplies;

- 1 (d) residential homemaking supplies;  
2 (e) educational supplies and office supplies; or  
3 (f) goods sold for resale within a municipality or consolidated city-county government.  
4

5 **NEW SECTION. Section 5. Local option tax -- election required -- procedure -- notice.** (1) A  
6 municipality or consolidated city-county government may not impose, reauthorize, amend, or repeal a local option  
7 tax unless the local option tax question has been submitted to the electorate of the municipality or consolidated  
8 city-county government and approved by a majority of the electors voting on the question.

9 (2) The local option tax question may be presented to the electors of a municipality or consolidated  
10 city-county government by:

11 (a) a petition of the electors as provided in 7-5-131 through 7-5-135 and 7-5-137, except that the petition  
12 must be signed by at least 5% of the qualified electors of the incorporated municipality or consolidated city-county  
13 government; or

14 (b) a resolution of the governing body of the municipality or consolidated city-county government.

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

16 (a) the rate of the local option tax, which may not exceed 4%;

17 (b) the duration of the local option tax, which may not exceed 10 years;

18 (c) the date when the local option tax becomes effective, which may not be earlier than 90 days after the  
19 election;

20 (d) subject to [section 4(2)], a description of the specific types of goods and services subject to the tax;  
21 and

22 (e) the purposes that may be funded by the local option tax revenue, including the amounts of property  
23 tax relief, the reimbursement for residents who do not own property, and core capital expenditures and  
24 descriptions of the core capital expenditures.

25 (4) (a) A petition or resolution referring the local option tax question for repeal must state the date the  
26 repeal becomes effective.

27 (b) If local option tax proceeds are pledged for bonding as provided in [section 7], a municipality or  
28 consolidated city-county government may not submit to the electorate a petition or resolution for repeal until the  
29 term of the bond expires.

30 (5) Upon receipt of an adequate petition or passage of a resolution, the governing body shall:

- 1 (a) call a special election on the local option tax question; or  
 2 (b) place the local option tax question on the ballot at the next regularly scheduled election.  
 3 (6) Notice of the election must be accomplished as provided in 13-1-108 and must include the  
 4 information contained in subsection (3) of this section.  
 5 (7) The question of the imposition, reauthorization, or repeal of a local option tax may not be placed  
 6 before the electors more than once in a year. The question of an amendment to the local option tax may be  
 7 placed before the electors more than once in a year provided that each question is for a different amendment.

8  
 9 **NEW SECTION. Section 6. Local option tax administration.** (1) Not less than 30 days prior to the  
 10 date that the local option tax becomes effective, the governing body shall enact an administrative ordinance  
 11 governing the collection and reporting of the local option tax. This administrative ordinance may be amended at  
 12 any time as needed to effectively administer the local option tax.

- 13 (2) The administrative ordinance must specify:  
 14 (a) the times that local option taxes collected by businesses are to be remitted to the governing body;  
 15 (b) the office, officer, or employee of the local government responsible for receiving and accounting for  
 16 the local option tax receipts;  
 17 (c) the office, officer, or employee of the local government responsible for enforcing the collection of the  
 18 local option tax and the methods and procedures to be used in enforcing the collection of local option taxes due;  
 19 (d) a requirement that the governing body provide an annual written notification to each property taxpayer  
 20 of the actual dollar amount of property tax relief required in [section 7(1)(a)]; and  
 21 (e) the penalties for failure to report local option taxes due, failure to remit taxes due, and violations of  
 22 the administrative ordinance. The penalties may include:  
 23 (i) criminal penalties not to exceed a fine of \$1,000, imprisonment for 6 months, or both;  
 24 (ii) if the governing body prevails in a suit for the collection of local option taxes, civil penalties not to  
 25 exceed 50% of the taxes found due plus the costs and attorney fees incurred by the governing body in the action;  
 26 (iii) revocation of a business license issued by the local government that is held by the offender; and  
 27 (iv) any other penalties that may be applicable for violation of an ordinance.  
 28 (3) The administrative ordinance may include:  
 29 (a) further clarification and specificity in the categories of goods and services that are subject to the local  
 30 option tax consistent with [section 4(2)];

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

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

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

7 (c) other administrative details necessary for the efficient and effective administration of the tax.  
8

9 **NEW SECTION. Section 7. Use of local option tax proceeds -- tax relief -- bond issue.** (1) After  
10 payment of the vendor allowance provided for in [section 6], the net proceeds of a local option tax imposed by  
11 a municipality or consolidated city-county government must be used as follows:

12 (a) not more than 40% of the proceeds to provide rebates for property taxes paid on class four residential  
13 property as provided for in 15-6-134. The governing body shall determine the amount of the rebates, which must  
14 be applied only to the first \$400,000 in market value of owner-occupied residential property.

15 (b) not more than 15% of the proceeds to provide tax relief for adult residents of the municipality or  
16 consolidated city-county who do not own property; and

17 (c) not less than 40% of the proceeds to be appropriated and used for core capital expenditures  
18 approved by the voters as provided in [section 5].

19 (2) The governing body shall determine the method for providing and the timing of providing tax relief  
20 for adult residents of the municipality or consolidated city-county as provided in subsection (1)(b). The amount  
21 distributed must be a flat per-person reimbursement and may be distributed using any method determined by the  
22 governing body.

23 (3) Unless otherwise restricted by the voter-approved tax authorization provided for in [section 5], a  
24 municipality or consolidated city-county government may appropriate and expend revenue derived from a local  
25 option tax for any core capital expenditure project and any costs resulting from the imposition of the tax.

26 (4) A municipality or consolidated city-county government may issue bonds to provide, install, or  
27 construct any of the core capital expenditures authorized under subsection (5) as provided for in 7-7-4101,  
28 7-7-4404, and 7-12-4102.

29 (5) Bonds issued under this section must be authorized by a resolution of the governing body stating the  
30 purposes, amounts, terms, conditions, and covenants of the municipality or consolidated city-county government

1 that the governing body considers appropriate. The bonds may be sold at a discount at a public or private sale.

2 (6) For repayment of bonds issued under this section, a municipality or consolidated city-county  
3 government may pledge the revenue derived from a local option tax or from special assessments levied for and  
4 revenue collected from the core capital expenditure for which the bonds are issued. The bonds do not constitute  
5 debt for purposes of any statutory debt limitation provided that, in the resolution authorizing the issuance of the  
6 bonds, the municipality or consolidated city-county government determines that the local option tax revenue or  
7 the special assessments levied for and revenue from the core capital expenditure pledged to the payment of the  
8 bonds will be sufficient in each year to pay the principal and interest of the bonds when due.

9 (7) Bonds may not be issued that pledge proceeds of the local option tax for repayment unless the  
10 municipality or consolidated city-county government in the resolution authorizing issuance of the bonds  
11 determines that in any fiscal year the annual revenue expected to be derived from the local option tax less the  
12 amount required to provide tax relief pursuant to subsections (1)(a) and (1)(b) equals at least 125% of the  
13 average amount of the principal and interest payable from the local option tax on the bonds and any other  
14 outstanding bonds payable from the local option tax, except any bonds to be refunded when the proposed bonds  
15 are issued.

16  
17 **NEW SECTION. Section 8. Coordination with resort tax.** A local option tax may not be imposed by  
18 a municipality or consolidated city-county government in a resort community, resort area, or resort area district  
19 that existed before [the effective date of this act]. However, an existing resort community, resort area, or resort  
20 area district may elect to terminate its resort tax and subject itself to a local option tax.

21  
22 **Section 9.** Section 7-7-4424, MCA, is amended to read:  
23 **"7-7-4424. Undertakings to be self-supporting.** (1) (a) Except as provided in subsections (1)(b) and  
24 (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect  
25 reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall revise  
26 the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains  
27 self-supporting.

28 (b) The property taxes specifically authorized to be levied for the general purpose served by an  
29 undertaking ~~or~~ any resort taxes approved, levied, and appropriated to an undertaking in compliance with  
30 7-6-1501 through 7-6-1509, or any local option taxes approved, levied, and appropriated to an undertaking in

1 compliance with [sections 1 through 8] constitute revenue of the undertaking and may not result in an undertaking  
2 being considered not self-supporting.

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

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

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

9 (b) provide for all expenses of operation and maintenance of the undertaking, including reserves."  
10

11 **Section 10.** Section 7-7-4428, MCA, is amended to read:

12 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions  
13 authorizing the issuance of bonds under this part may contain covenants as to:

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

16 (2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued,  
17 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion  
18 of the property and resort tax revenue referred to in 7-7-4424 or the local option tax revenue referred to in [section  
19 7];

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

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

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

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

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

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

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

30 (b) operate and maintain the undertaking;

1 (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and  
2 (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner  
3 as the municipality itself might do."  
4

5 NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 8] are intended to be  
6 codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1  
7 through 8].  
8

9 NEW SECTION. **Section 12. Effective date.** [This act] is effective January 1, 2020.

10 - END -