

1 SENATE BILL NO. 313

2 INTRODUCED BY C. POPE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A MUNICIPALITY OR CONSOLIDATED CITY-
5 COUNTY GOVERNMENT, BY VOTE OF THE ELECTORATE, TO ADOPT A LOCAL OPTION SALES TAX;
6 PROVIDING THAT THE REVENUE BE USED FOR PROPERTY TAX RELIEF, DISTRIBUTIONS TO
7 COUNTIES, INFRASTRUCTURE, AND AFFORDABLE HOUSING PROGRAMS; AMENDING SECTIONS 7-7-
8 4424 AND 7-7-4428, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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12 NEW SECTION. Section 1. Short title. [Sections 1 through 10] may be cited as the "Montana Tax
13 Fairness and Rural Revenue Initiative".

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15 NEW SECTION. Section 2. Purpose. (1) Local government and local school district property tax
16 levies constitute 75% to 80% of property taxes levied on Montana property taxpayers in most jurisdictions.
17 Increasingly, property taxes are insufficient to meet the needs of the state's heavily touristed, growing
18 communities.

19 (2) In many communities, escalating property taxes are directly correlated to an alarming shortage of
20 affordable housing for working Montana families.

21 (3) It is the intent of the Montana legislature to provide Montana taxpayers within municipalities and
22 consolidated city-county governments the option to impose a limited local option sales tax on nonessential,
23 luxury goods and services to offset increasingly onerous property taxes and to fund essential community
24 improvements in actively visited or otherwise quickly growing Montana locations.

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26 NEW SECTION. Section 3. Local option sales tax -- definitions. As used in [sections 1 through
27 10], the following definitions apply:

28 (1) "Governing body" means the governing body of a municipality or consolidated city-county

1 government in which a local option sales tax is proposed or approved.

2 (2) "Infrastructure project" means the construction, improvement, maintenance, or operation of a local
3 capital improvement that drives continued economic growth, including streets, roads, sidewalks, bicycle trails,
4 pedestrian trails, bridges, water supply, wastewater treatment, sewer, and other locally prioritized public
5 facilities identified in a petition provided for in [section 6(3)].

6 (3) (a) "Luxury good" means a gift item, luxury item, or other item normally sold to the public or to
7 transient visitors or tourists.

8 (b) The term does not include:

9 (i) food purchased unprepared, unserved, and primarily for off-premises consumption;

10 (ii) medicine or medical supplies;

11 (iii) appliances, hardware supplies, or tools;

12 (iv) motor vehicles or the sale, lease, loan, or provision of any item, product, or service by a franchise
13 as that term is defined in 61-4-201;

14 (v) gasoline or special fuel; or

15 (vi) any necessities of life.

16 (4) (a) "Luxury service" means a service normally sold to the public or to transient visitors or tourists,
17 including:

18 (i) a rental motor vehicle;

19 (ii) services sold by hotels, motels, or other lodging or camping facilities;

20 (iii) food served prepared by a restaurant, fast food store, or other food service establishment;

21 (iv) food and drinks served by taverns, bars, nightclubs, lounges, or other public establishments that
22 serve beer, wine, liquor, or other alcoholic beverages by the drink; and

23 (v) services provided by a destination ski resort or other destination recreational services and
24 facilities.

25 (b) The term does not include:

26 (i) medical services;

27 (ii) the sale, lease, loan, or provision of any item, product, or service by a franchise as that term is
28 defined in 61-4-201; or

1 (iii) electric, natural gas, water, or similar utility services, or telecommunications, broadband, or cable
2 television services.

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

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

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

11 (8) "Rental motor vehicle" means the rental of a motor vehicle defined in subsection (7).
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13 **NEW SECTION. Section 4. Local option taxing authority -- specific delegation.** (1) As required by
14 7-1-112, [sections 1 through 10] specifically delegate to the qualified electors of each respective municipality or
15 consolidated city-county government with a population of 5,000 or more the power to authorize the municipality
16 or consolidated city-county government to impose a local option sales tax within the corporate boundary of the
17 municipality or consolidated city-county government.

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

21 **NEW SECTION. Section 5. Limit on local option sales tax rate -- goods and services subject to**
22 **tax.** (1) The rate of a local option sales tax and the goods and services subject to the tax must be established
23 by the election petition or resolution provided for in [section 6], the rate of which may not exceed 4%.

24 (2) A local option sales tax is a tax on the retail value of all luxury goods and luxury services sold,
25 except for goods and services sold for resale, within a municipality or consolidated city-county government with
26 a population of 5,000 or more.

27 (3) Establishments that sell luxury goods or luxury services shall collect a tax on the luxury goods or
28 luxury services.

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2 **NEW SECTION. Section 6. Local option sales tax -- election required -- procedure -- notice.** (1)

3 A municipality or consolidated city-county government may not impose, reauthorize, amend, or repeal a local
4 option sales tax unless the local option sales tax question has been submitted to the electorate of the
5 municipality or consolidated city-county government and approved by a majority of the electors voting on the
6 question.

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

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

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

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

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

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

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

18 (d) subject to [section 5(2)], a description of the specific types of goods and services subject to the
19 tax; and

20 (e) subject to [sections 8 and 9], the purposes that may be funded by the local option sales tax
21 revenue, including a description of the infrastructure projects and affordable housing programs.

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

24 (b) If local option sales tax proceeds are pledged for bonding as provided in [section 9], a municipality
25 or consolidated city-county government may not submit to the electorate a petition or resolution for repeal until
26 the term of the bond expires.

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

28 (a) call a special election on the local option sales tax question; or

1 (b) place the local option sales tax question on the ballot at the next regularly scheduled election.

2 (6) Notice of the election must be accomplished as provided in 13-1-108 and must include the
3 information contained in subsection (3) of this section.

4 (7) The question of the imposition, reauthorization, or repeal of a local option sales tax may not be
5 placed before the electors more than once a year. The question of an amendment to the local option sales tax
6 may be placed before the electors more than once a year provided that each question is for a different
7 amendment.

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

13 (2) The administrative resolution must specify:

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

16 (b) the office, officer, or employee of the local government responsible for receiving and accounting
17 for the local option sales tax receipts;

18 (c) the office, officer, or employee of the local government responsible for enforcing the collection of
19 the local option sales tax and the methods and procedures to be used in enforcing the collection of local option
20 sales taxes due;

21 (d) a requirement that the governing body provide an annual written notification to each property
22 taxpayer of the actual dollar amount of property tax relief provided pursuant to [section 8(1)(a)]; and

23 (e) the penalties for failure to report local option sales taxes due, failure to remit taxes due, and
24 violations of the administrative resolution. The penalties may include:

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

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

- 1 (iii) revocation of a business license issued by the local government that is held by the offender; and
 2 (iv) any other penalties that may be applicable for violation of an ordinance.

3 (3) The administrative resolution may include:

4 (a) further clarification and specificity in the categories of goods and services that are subject to the
 5 local option sales tax consistent with [section 5(2)];

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

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

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

13 (c) other administrative details necessary for the efficient and effective administration of the tax.
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15 **NEW SECTION. Section 8. Distribution of local option sales tax proceeds -- tax relief.** (1) After
 16 payment of the vendor allowance provided for in [section 7], the net proceeds of a local option sales tax
 17 imposed by a municipality or consolidated city-county government must be used as follows:

18 (a) 25% of the proceeds to reduce the municipal or consolidated city-county government property tax
 19 levy for the fiscal year;

20 (b) as provided in subsection (2) and except as provided in subsection (2)(a)(ii), 20% of the proceeds
 21 to be distributed to counties to be used for any purpose allowed by law;

22 (c) 50% of the proceeds to be appropriated and used for infrastructure, affordable housing, and
 23 administration approved by the voters as provided in [section 6]; and

24 (d) 5% of the proceeds to cover administrative costs of the municipality or consolidated city-county
 25 government.

26 (2) (a) Except as provided in subsection (2)(b):

27 (i) a municipality imposing a local option sales tax shall annually distribute the revenue provided for in
 28 subsection (1)(b) to the county in which the municipality is located; and

1 (ii) a consolidated city-county government shall retain the 20% of proceeds designated for distribution
2 to the county.

3 (b) A municipality or consolidated city-county government may distribute a portion of the revenue
4 provided for in subsection (1)(b) to adjacent counties.

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6 **NEW SECTION. Section 9. Use of local option sales tax revenue -- bond issue -- pledge.** (1)
7 Unless otherwise restricted by the voter-approved tax authorization provided for in [section 6], a municipality or
8 consolidated city-county government may appropriate and expend revenue derived from a local option sales tax
9 for any infrastructure project or affordable housing program and any costs resulting from the imposition of the
10 tax.

11 (2) A municipality or consolidated city-county government may issue bonds to provide, install, or
12 construct any of the infrastructure projects or affordable housing programs authorized under subsection (3) as
13 provided for in 7-7-4101, 7-7-4404, and 7-12-4102.

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

18 (4) For repayment of bonds issued under this section, a municipality or consolidated city-county
19 government may pledge the revenue derived from a local option sales tax or from special assessments levied
20 for and revenue collected from the infrastructure project or affordable housing program for which the bonds are
21 issued. The bonds do not constitute debt for purposes of any statutory debt limitation provided that, in the
22 resolution authorizing the issuance of the bonds, the municipality or consolidated city-county government
23 determines that the local option sales tax revenue or the special assessments levied for and revenue from the
24 infrastructure project or affordable housing program pledged to the payment of the bonds will be sufficient in
25 each year to pay the principal and interest of the bonds when due.

26 (5) Bonds may not be issued that pledge proceeds of the local option sales tax for repayment unless
27 the municipality or consolidated city-county government in the resolution authorizing issuance of the bonds
28 determines that in any fiscal year the annual revenue expected to be derived from the local option sales tax

1 less the amount required to provide tax relief pursuant to subsection (1)(a) equals at least 125% of the average
 2 amount of the principal and interest payable from the local option sales tax on the bonds and any other
 3 outstanding bonds payable from the local option sales tax, except any bonds to be refunded when the proposed
 4 bonds are issued.

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 6 **NEW SECTION. Section 10. Coordination with resort tax.** A local option sales tax may not be
 7 imposed by a municipality or consolidated city-county government in a resort community, resort area, or resort
 8 area district that existed before [the effective date of this act]. However, an existing resort community, resort
 9 area, or resort area district may elect to terminate its resort tax and subject itself to a local option sales tax.

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11 **Section 11.** Section 7-7-4424, MCA, is amended to read:

12 **"7-7-4424. Undertakings to be self-supporting.** (1) (a) Except as provided in subsections (1)(b)
 13 and (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect
 14 reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall
 15 revise the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains
 16 self-supporting.

17 (b) The property taxes specifically authorized to be levied for the general purpose served by an
 18 undertaking, ~~or any~~ resort taxes approved, levied, and appropriated to an undertaking in compliance with 7-6-
 19 1501 through 7-6-1509, or any local option sales taxes approved, levied, and appropriated to an undertaking in
 20 compliance with [sections 1 through 10] constitute revenue of the undertaking and may not result in an
 21 undertaking being considered not self-supporting.

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

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

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

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

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2 **Section 12.** Section 7-7-4428, MCA, is amended to read:

3 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions
4 authorizing the issuance of bonds under this part may contain covenants as to:

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

7 (2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued,
8 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion
9 of the property and resort tax revenue referred to in 7-7-4424 or the local option sales tax revenue referred to in
10 [section 9];

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

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

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

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

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

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

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

21 (b) operate and maintain the undertaking;

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

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

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26 NEW SECTION. **Section 13. Codification instruction.** [Sections 1 through 10] are intended to be
27 codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1
28 through 10].

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NEW SECTION. **Section 14. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 15. Effective date.** [This act] is effective on passage and approval.

- END -