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SENATE BILL NO. 145

INTRODUCED BY K. REGIER, T. MCGILLVRAY, B. KEENAN, C. GLIMM, R. LYNCH, F. MANDEVILLE, C. POPE, D. BARTEL, J. FULLER, P. FLOWERS, A. BUCKLEY, J. GILLETTE, S. O'BRIEN, J. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LOCAL DISTRIBUTION OF REVENUE FROM THE ~~SALES TAX ON LODGING AND THE~~ LODGING FACILITIES USE TAX; ~~DISTRIBUTING A PORTION OF THE SALES TAX ON LODGING TO THE CITY OR COUNTY WHERE THE ACCOMMODATION IS LOCATED;~~ DISTRIBUTING A PORTION OF THE LODGING FACILITIES USE TAX TO COUNTIES; REQUIRING THE REVENUE DISTRIBUTED TO ~~CITIES AND~~ COUNTIES TO BE USED FOR PROPERTY TAX RELIEF FOR RESIDENTIAL PROPERTY; PROVIDING FOR THE SALES TAX REVENUE PROPERTY TAX ASSISTANCE PROGRAM; PROVIDING A DEFINITION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-10-420, 15-16-101, 15-65-112, 15-65-121, ~~15-68-502, 15-68-820, 22-3-1303, 22-3-1304, 22-3-1307,~~ AND 90-1-135, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. SECTION 1. SALES TAX REVENUE PROPERTY TAX ASSISTANCE -- RULEMAKING --

DEFINITION. (1) THE DEPARTMENT SHALL PROVIDE SALES TAX REVENUE PROPERTY TAX ASSISTANCE TO OWNERS OF RESIDENTIAL PROPERTY WITHOUT AN APPLICATION PROCESS. THE ASSISTANCE IS PROVIDED WITH FUNDING FROM THE LODGING SALES AND USE TAX DISTRIBUTION ACCOUNT PROVIDED IN [SECTION 2] THAT IS ALLOCATED TO THE GOVERNING BODY OF ~~AN INCORPORATED CITY OR TOWN OR A~~ COUNTY AS PROVIDED IN [SECTION 3].

(2) THE DEPARTMENT SHALL PROVIDE ~~EACH INCORPORATED CITY OR TOWN AND~~ EACH COUNTY THAT RECEIVES A DISTRIBUTION UNDER [SECTION 2] WITH SUFFICIENT INFORMATION TO ENABLE THE COUNTY TO ADMINISTER THE REPORTING OF THE REDUCTION IN PROPERTY TAX IN 15-16-101(2)(A)(II) AND (2)(A)(V). THE INFORMATION MUST INCLUDE A LISTING OF ALL PROPERTY IN THE TAXING JURISDICTION THAT QUALIFIES AS RESIDENTIAL PROPERTY, THE TAXABLE VALUE OF EACH RESIDENTIAL PROPERTY, THE TOTAL TAXABLE VALUE OF ALL RESIDENTIAL PROPERTY, AND THE MILL LEVY REDUCTION REFLECTED AS A NEGATIVE MILL VALUE FOR THE TAXING JURISDICTION THAT IS APPLIED ON THE TAX BILL FOR EACH RESIDENTIAL PROPERTY. THE MILL LEVY REDUCTION IS CALCULATED USING THE AMOUNT OF THE

Amendment - 1st Reading-white - Requested by: John Esp - (S) Finance and Claims

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

SB0145.002.002

1 DISTRIBUTION UNDER [SECTION 2] AND MUST BE THE SAME NEGATIVE MILL VALUE FOR EACH RESIDENTIAL PROPERTY IN
2 THE TAXING JURISDICTION.

3 (3) A TAXPAYER THAT RECEIVES SALES TAX REVENUE ASSISTANCE IS NOT PROHIBITED FROM RECEIVING
4 PROPERTY TAX ASSISTANCE UNDER ANOTHER PROPERTY TAX ASSISTANCE PROGRAM.

5 (4) THE DEPARTMENT MAY ADOPT RULES, PREPARE FORMS, AND MAINTAIN RECORDS THAT ARE
6 NECESSARY TO IMPLEMENT THIS PART.

7 (5) FOR THE PURPOSE OF THIS SECTION, "RESIDENTIAL PROPERTY" MEANS ANY CLASS FOUR RESIDENTIAL
8 PROPERTY DESCRIBED IN 15-6-134(1)(A) THROUGH (1)(D) THAT IS SUBJECT TO PROPERTY TAXES AS CLASS FOUR
9 RESIDENTIAL PROPERTY.

10
11 NEW SECTION. Section 2. Lodging sales and use tax distribution account. (1) There is a lodging
12 sales and use tax distribution account in the state special revenue fund. The revenue allocated to the account
13 as provided in 15-65-121(2)(f) ~~and 15-68-820(3)~~ must be deposited in the account and distributed as provided
14 in this section.

15 ~~(2) The department shall determine at the end of each fiscal year the amount of tax, late payment~~
16 ~~interest, and penalties deposited in the account as provided in 15-68-820(3) from sales of accommodations in~~
17 ~~each incorporated city or town and each county and distribute the tax, late payment interest, and penalties as~~
18 ~~provided in this subsection (2) by August 31. If the accommodations are located in an incorporated city or town,~~
19 ~~the department shall distribute the tax, late payment interest, and penalties to the incorporated city or town. If~~
20 ~~the accommodations are not located in an incorporated city or town, the department shall distribute the tax, late~~
21 ~~payment interest, and penalties to the county in which the accommodations are located. The department shall~~
22 ~~distribute equally among the counties the tax, late payment interest, and penalties from sales of~~
23 ~~accommodations for which the department cannot determine the location.~~

24 ~~(3)(2)~~ The department shall determine at the end of each fiscal year the amount of tax, late payment
25 interest, and penalties deposited in the account as provided in 15-65-121(2)(f) from the use of accommodations
26 and distribute equally among the counties by August 31 the tax, late payment interest, and penalties.

27 ~~(4)(3)~~ A payment required pursuant to this section may be withheld if, for more than 90 days, a local
28 government fails to:

- 1 (a)____file a financial report required by 15-1-504;
- 2 (b)____remit any amounts collected on behalf of the state as required by 15-1-504; or
- 3 (c)____remit any other amounts owed to the state or another taxing jurisdiction.

4

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

8 (2) The revenue deposited in the account each year must be used to reduce the ~~incorporated city's~~
 9 ~~or town's or~~ county's property tax levy ON TAXPAYERS THAT QUALIFY FOR SALES TAX REVENUE ASSISTANCE
 10 PURSUANT TO [SECTION 1] in the next year. The revenue used to reduce property tax levies must be transferred
 11 to the account in which property tax revenue is deposited.

12

13 **Section 4.** 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
 26 rate 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.

1 115.

2 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-
3 820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or
4 submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be
5 allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county,
6 resort area, or resort area district is located.

7 (4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual
8 marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism
9 corporation may be used by the department of commerce for tourism promotion and promotion of the state as a
10 location for the production of motion pictures and television commercials.

11 (5) The tax proceeds received that are transferred to a state special revenue account pursuant to
12 subsections (2)(a) through (2)(c), (2)(e), and ~~(2)(f)~~ (2)(g) are statutorily appropriated to the entities as provided
13 in 17-7-502.

14 (6) The tax proceeds received that are transferred to the invasive species state special revenue
15 account pursuant to subsection (2)(d) and to the Montana historical interpretation state special revenue account
16 pursuant to subsection ~~(2)(h)~~ (2)(i) are subject to appropriation by the legislature."

17

18 **Section 8. Section 15-68-502, MCA, is amended to read:**

19 ~~"15-68-502. Returns — payment — authority of department. (1) (a) Except as provided in~~
20 ~~subsection (2), on or before the last day of the month following the calendar quarter in which the transaction~~
21 ~~subject to the tax imposed by this chapter occurred, a return, on a form provided by the department, and~~
22 ~~payment of the tax for the preceding quarter must be filed with the department.~~

23 ~~(b) — Each person engaged in business within this state or using property or services within this state~~
24 ~~that are subject to tax under this chapter shall file a return.~~

25 ~~(c) — A person making retail sales at two or more places of business shall file a separate return for~~
26 ~~each separate place of business.~~

27 ~~(d) — A person selling accommodations shall include in the return the physical address of the~~
28 ~~accommodation.~~

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

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

4 ~~(i) — a retailer required to collect the tax; and~~

5 ~~(ii) — a person that:~~

6 ~~(A) — purchases any items the storage, use, or other consumption of which is subject to the sales tax~~
7 ~~or use tax; and~~

8 ~~(B) — has not paid the tax to a retailer required to pay the tax.~~

9 ~~(b) — Each return must be authenticated by the person filing the return or by the person's agent~~
10 ~~authorized in writing to file the return.~~

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

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

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

22 ~~(ii) — compel the production of books, papers, records, or memoranda by the person required to~~
23 ~~attend;~~

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

26 ~~(iv) — take testimony on matters material to the determination; and~~

27 ~~(v) — administer oaths or affirmations.~~

28 ~~(5) — Pursuant to rules established by the department, returns may be computer generated and~~

1 ~~electronically filed."~~

2

3 **Section 9.** ~~Section 15-68-820, MCA, is amended to read:~~

4 ~~"15-68-820. Sales tax and use tax proceeds. (1) Except as provided in subsections (2) through (6),~~
5 ~~all All money collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by~~
6 ~~the department into the general fund as provided in subsections (2) through (6).~~

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

9 ~~(a) — 75% in the general fund; and~~

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

12 ~~(3) — Until December 31, 2024, a portion of the The revenue collected on the sale or use of~~
13 ~~accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited as follows:~~

14 ~~(a) — 75% in the lodging sales and use tax distribution account provided for in [section 1-2]; and~~

15 ~~(b) — 25% as provided in subsection (4).~~

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

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

19 ~~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~~
13 ~~that 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,~~
19 ~~resort 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 10.** ~~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 31, 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 11.** 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 12.** 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~~
 21 ~~by the legislature."~~

22
 23 **Section 8.** Section 90-1-135, MCA, is amended to read:

24 ~~"90-1-135. Special revenue accounts. (1) There is a state special revenue account in the state~~
 25 ~~treasury for the receipt of state and private funds and a federal special revenue account in the state treasury for~~
 26 ~~the receipt of federal funds for expenditure by the state-tribal economic development commission established in~~
 27 ~~90-1-131.~~

28 ~~(2) Money in the state special revenue account from proceeds distributed under 15-65-121(2)(g)~~

1 15-65-121(2)(h) is to be used for activities for the Indian tourism region, defined in 15-65-101.

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

4 (a) the commission's administrative costs;

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

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

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

12 (5) Interest and income earned on the money in the accounts must be deposited in the accounts
13 for the commission's use."
14

15 NEW SECTION. Section 9. Transition. The first distribution to ~~cities and~~ counties pursuant to
16 [section 4 2] must be made by August 31, 2024, for taxes collected in fiscal year 2024.
17

18 NEW SECTION. Section 10. Codification instruction. [Sections 1 ~~and 2~~ THROUGH 3] are intended to
19 be codified as an integral A NEW part of Title 15, chapter 68 6, and the provisions of Title 15, chapter 68 6, apply
20 to [sections 1 ~~and 2~~ THROUGH 3].
21

22 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2023.
23

24 NEW SECTION. Section 12. Applicability. [This act] applies to sales of accommodations or
25 campgrounds that occur on or after [the effective date of this act], and to the use of accommodations or
26 campgrounds on or after [the effective date of this act], even if the sale occurred before [the effective date of
27 this act].
28

- END -