

1 SENATE BILL NO. 551
2 INTRODUCED BY C. POPE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A LOCAL OPTION SALES TAX; PROVIDING
5 FOR THE "MAKE CENTS MONTANA ACT"; AUTHORIZING CERTAIN LOCAL GOVERNMENTS BY VOTE
6 OF THE ELECTORATE TO ADOPT A LOCAL OPTION SALES TAX; PROVIDING THAT THE REVENUE BE
7 USED FOR PROPERTY TAX RELIEF, DISTRIBUTIONS TO COUNTIES, NONREIMBURSED TOURIST
8 IMPACTS, AND CRITICAL INFRASTRUCTURE PROJECTS; PROVIDING THAT CERTAIN COUNTIES
9 IMPACTED BY TOURISM MAY ENACT A LOCAL OPTION SALES TAX; PROVIDING FOR THE ISSUANCE
10 OF REVENUE BONDS; PROVIDING DEFINITIONS; AMENDING SECTIONS 7-7-4424 AND 7-7-4428, MCA;
11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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15 NEW SECTION. Section 1. Short title. [Sections 1 through 10] may be cited as the "Make Cents
16 Montana Act".

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

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

24 (3) It is the intent of the Montana legislature to provide Montana taxpayers within municipalities
25 and consolidated city-county governments the option to impose a limited local option sales tax on tourist-
26 oriented goods and services to offset increasingly onerous property taxes caused by impacts on local
27 government services from tourism and to fund essential community improvements in actively visited or
28 otherwise quickly growing Montana locations.



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NEW SECTION. Section 3. Definitions. As used in [sections 1 through 10], the following definitions

apply:

(1) "Critical infrastructure projects" means the construction, improvement, maintenance, or operation of streets, roads, sidewalks, water supply, wastewater treatment, sewer, and renovation of central public amenities identified in a petition provided for in [section 6(3)].

(2) "Department" means the department of commerce.

(3) "Governing body" means the governing body of a municipality, consolidated city-county government, or qualifying county.

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

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

(6) "Metropolitan tourism and trade district" means a municipality or consolidated city-county government that is certified by the department as:

(a) having a population of 20,000 or more; and

(b) that is served by one of the state's six largest international airports.

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

(8) "Qualifying county" means a county that:

(a) contains a metropolitan tourism and trade district with a local option sales tax provided for in [sections 1 through 10]; or

(b) is immediately adjacent and contiguous to a metropolitan tourism and trade district with a local option sales tax provided for in [sections 1 through 10].

(9) "Rental motor vehicle" means the rental of a motor vehicle.

(10) (a) "Tourist-oriented goods or services" means goods or services normally sold to transient

1 visitors or tourists, including:

- 2 (i) a rental motor vehicle;
- 3 (ii) services sold by hotels, motels, or other lodging or camping facilities;
- 4 (iii) food served or prepared by a restaurant, fast food store, or other food service establishment;
- 5 (iv) food and drinks served by taverns, bars, nightclubs, lounges, or other public establishments

6 that serve beer, wine, liquor, or other alcoholic beverages by the drink;

- 7 (v) services provided by a destination ski resort or other destination recreational services and
- 8 facilities;

- 9 (vi) events such as college or professional sporting games, movies, concerts, and performances;

10 and

- 11 (vii) guided services such as whitewater rafting, fishing, and hunting trips.

12 (b) The term does not include:

- 13 (i) food purchased unprepared, unserved, and primarily for off-premises consumption;
- 14 (ii) medicine or medical supplies;
- 15 (iii) appliances, hardware supplies, or tools;

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

- 18 (v) gasoline or special fuel;

- 19 (vi) any necessities of life;

- 20 (vii) accounting services;

- 21 (viii) education services;

- 22 (ix) legal services;

- 23 (x) housing that is provided for more than 30 days;

- 24 (xi) medical services;

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

- 27 (xiii) electric, natural gas, water, or similar utility services, or telecommunications, broadband, or
28 cable television services.

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2 **NEW SECTION. Section 4. Local option taxing authority -- specific delegation.** (1) As required by
 3 7-1-112, [sections 1 through 10] specifically delegate to the qualified electors of each respective metropolitan
 4 tourism and trade district and the qualified electors of each qualifying county the power to authorize the
 5 governing body to impose a local option sales tax within the corporate boundary of the metropolitan tourism and
 6 trade district or the boundaries of the qualifying county.

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

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10 **NEW SECTION. Section 5. Limit on local option sales tax rate -- goods and services subject to**
 11 **tax.** (1) The rate of a local option sales tax and the goods and services subject to the tax must be established
 12 by the election petition or resolution provided for in [section 6], the rate of which may not exceed 3%.

13 (2) A local option sales tax is a tax on the retail value of all tourism-oriented goods and services
 14 sold, except for goods and services sold for resale, within a metropolitan tourism and trade district or a
 15 qualifying county.

16 (3) Establishments that sell tourism-oriented goods and services shall collect a tax on tourism-
 17 oriented goods and services.

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

23 (2) The local option sales tax question may be presented to the electors of:

24 (a) a municipality by a petition of the electors as provided in 7-5-131 through 7-5-135 and 7-5-137,
 25 or by a resolution of the governing body of the municipality;

26 (b) a qualifying county by a petition as provided in 7-5-131 through 7-5-135 and 7-5-137, or by a
 27 resolution of the board of county commissioners; or

28 (c) a consolidated city-county by a petition of electors, as provided in 7-5-131 through 7-5-135 and

1 7-15-137, or by a resolution of the governing body of the consolidated city-county.

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

3 (a) the rate of the local option sales tax, which may not exceed 3%;

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

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

7 (d) subject to [section 5(2)], a description of the specific types of goods and services subject to the
8 local option sales tax; and

9 (e) subject to [sections 8 and 9], the purposes that may be funded by the local option sales tax
10 revenue, including which programs or departments will benefit from the increased revenue.

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

13 (b) If local option sales tax proceeds are pledged for bonding as provided in [section 9], a
14 metropolitan tourism and trade district or qualifying county may not submit to the electorate a petition or
15 resolution for repeal until the term of the bond expires.

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

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

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

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

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

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26 **NEW SECTION. Section 7. Local option sales tax administration.** (1) Not less than 30 days prior
27 to the date that the local option sales tax becomes effective, the governing body shall enact an administrative
28 resolution governing the collection and reporting of the local option sales tax. This administrative resolution may

1 be amended at any time as needed to effectively administer the local option sales tax.

2 (2) The administrative resolution must specify:

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

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

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

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

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

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

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

18 (iii) revocation of a business license issued by the local government that is held by the offender;

19 and

20 (iv) any other penalties that may be applicable for violation of an ordinance.

21 (3) The administrative resolution may include:

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

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

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

28 (ii) receive a refund of up to 5% of the local option sales tax payment received from the vendor or

1 establishment by the governing body 10 days prior to the collection due date established by the administrative
2 ordinance; and

3 (c) other administrative details necessary for the efficient and effective administration of the tax.
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5 **NEW SECTION. Section 8. Distribution of local option sales tax proceeds -- tax relief --**

6 **limitations.** (1) After payment of the vendor allowance provided for in [section 7], the net proceeds of a local
7 option sales tax imposed by a metropolitan tourism and trade district or qualifying county must be used as
8 follows:

9 (a) at least 50% of the proceeds to reduce property taxes as provided in subsection (2);

10 (b) the remaining proceeds minus any proceeds distributed pursuant to subsection (1)(c) to be
11 appropriated and used for nonreimbursed tourist impacts or directed to restoring core community capital
12 budgets for working family housing, public safety, and critical infrastructure projects. The funds provided by this
13 subsection (1)(b) may not be used for reoccurring government operations that do not address permanent and
14 reoccurring seasonal services directly related to tourism and the traveling public.

15 (c) if a county does not impose a local option sales tax, the allocation in subsection (1)(b) is
16 reduced by 5%, and the metropolitan tourism and trade district shall distribute the 5% to the county where the
17 metropolitan city is located. The county may use the revenue for any government purpose, including property
18 tax relief.

19 (2) (a) Annually anticipated receipts from the local option sales tax must be applied to reduce the
20 metropolitan tourism and trade district or qualifying county property tax levy for the fiscal year in an amount
21 equal to at least 50% of the local option sales tax revenues derived during the preceding fiscal year.

22 (b) A metropolitan tourism and trade district or qualifying county that received more local option
23 sales tax revenues than had been included in the annual budget shall establish a property tax relief fund. All
24 local option sales tax revenues received in excess of the budget amount must be placed in the fund. The entire
25 fund must be used to replace property taxes in the ensuing fiscal year. This subsection (2)(b) does not apply to
26 a county that receives a distribution of revenue from a metropolitan tourism and trade district and does not
27 impose a local option sales tax.
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1 **NEW SECTION. Section 9. Use of local option sales tax revenue -- bond issue -- pledge.** (1)

2 Unless otherwise restricted by the voter-approved tax authorization provided for in [section 6], a governing body
3 may appropriate and expend revenue derived from local option sales tax revenue received pursuant to [section
4 8(1)(b)] for any infrastructure project or affordable housing program and any costs resulting from the imposition
5 of the tax.

6 (2) A governing body may issue bonds to provide, install, or construct any of the infrastructure
7 projects or affordable housing programs authorized under subsection (3) as provided for in Title 7, chapter 7,
8 part 21, 7-7-4101, 7-7-4404, and 7-12-4102.

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

13 (4) For repayment of bonds issued under this section, a municipality, consolidated city-county
14 government, or county may pledge the revenue derived from the local option sales tax allocation in [section
15 8(1)(b)] or from special assessments levied for and revenue collected from the infrastructure project or
16 affordable housing program for which the bonds are issued. The bonds do not constitute debt for the purposes
17 of any statutory debt limitation provided that, in the resolution authorizing the issuance of the bonds, the
18 municipality, consolidated city-county government, or county determines that the local option sales tax revenue
19 or the special assessments levied for and revenue from the infrastructure project or affordable housing program
20 pledged to the payment of the bonds will be sufficient in each year to pay the principal and interest of the bonds
21 when due.

22 (5) Bonds may not be issued that pledge proceeds of the local option sales tax for repayment
23 unless the municipality, consolidated city-county government, or county in the resolution authorizing issuance of
24 the bonds determines that in any fiscal year the annual revenue expected to be derived from the local option
25 sales tax allocation in [section 8(1)(b)] equals at least 125% of the average amount of the principal and interest
26 payable from the local option sales tax on the bonds and any other outstanding bonds payable from the local
27 option sales tax, except any bonds to be refunded when the proposed bonds are issued.

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1 **NEW SECTION. Section 10. Coordination with resort tax -- no double taxation.** (1) A local option
2 sales tax may not be imposed by a municipality or consolidated city-county government in a resort community,
3 resort area, or resort area district that existed before [the effective date of this act]. However, an existing resort
4 community, resort area, or resort area district may elect to terminate its resort tax and subject itself to a local
5 option sales tax.

6 (2) A local option sales tax may not be imposed by a qualifying county inside the boundaries of a
7 municipality or consolidated city-county government that is imposing a local option sales tax pursuant to
8 [sections 1 through 10].

9

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

11 **"7-7-4424. Undertakings to be self-supporting.** (1) (a) Except as provided in subsections (1)(b) and
12 (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect
13 reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall
14 revise the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains
15 self-supporting.

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

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

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

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

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

28

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

2 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions
3 authorizing the issuance of bonds under this part may contain covenants as to:

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

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

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

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

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

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

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

17 (8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of
18 the bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver
19 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
24 manner as the municipality itself might do."

25
26 NEW SECTION. **Section 13. Codification instruction.** [Sections 1 through 10] are intended to be
27 codified as a new part in Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through
28 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 -