

ENROLLED ACT NO. 7, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2020 BUDGET SESSION

AN ACT relating to sales tax; imposing a statewide assessment on sales of lodging services; providing for distribution of the assessment collected; providing an exemption; revising the local optional lodging tax; amending authorized expenditures; repealing conflicting provisions; creating the Wyoming tourism account; creating the Wyoming tourism reserve and projects account; providing for implementation of the new assessment; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 39-15-104 by creating a new subsection (h), 39-15-105(a) by creating a new paragraph (x), 39-15-111(b)(intro) and by creating new subsections (p) and (q), 39-15-203(a)(ii)(D), 39-15-204(a)(ii) and 39-15-211(a)(ii)(B)(I), (III)(intro) and by creating a new subparagraph (H) are amended to read:

39-15-104. Taxation rate.

(h) In addition to the sales tax under subsections (a) and (b) of this section there is imposed an assessment upon the sale of lodging services of five percent (5%) as follows:

(i) Three percent (3%) to be distributed as provided in W.S. 39-15-111(p)(i); and

(ii) Two percent (2%) to be distributed as provided in W.S. 39-15-111(p)(ii).

39-15-105. Exemptions.

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(a) The following sales or leases are exempt from the excise tax imposed by this article:

(x) Sales of lodging services offered by any county fair board during a county fair or other board authorized events.

39-15-111. Distribution.

(b) Revenues earned under W.S. 39-15-104 during each fiscal year shall be recognized as revenue during that fiscal year for accounting purposes. Except as otherwise provided in subsection (p) of this section, for all revenue collected by the department under W.S. 39-15-104 the department shall:

(p) All revenue collected by the department under W.S. 39-15-104(h) shall be distributed as follows:

(i) The department shall credit the revenue collected under W.S. 39-15-104(h)(i) as follows:

(A) Eighty percent (80%) of the average annual revenue collected under this paragraph during the immediately preceding five (5) years shall be deposited each year in the Wyoming tourism account, which is hereby created. No funds shall be expended from the account until appropriated by the legislature. Funds in the account shall be used for the operation of the Wyoming tourism board and the Wyoming office of tourism;

(B) Any amount of revenue that exceeds the amount determined under subparagraph (A) of this paragraph shall be deposited as provided in this subparagraph. Revenue under this subparagraph shall be transferred to the

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Wyoming tourism reserve and projects account, which is hereby created. No funds shall be expended from the account until appropriated by the legislature.

(ii) The assessment revenue collected under W.S. 39-15-104(h)(ii) shall be distributed to each county on a monthly basis in proportionate shares determined by the amount of revenue collected within the county and its municipalities under W.S. 39-15-104(h)(ii) in relation to the entire amount collected under W.S. 39-15-104(h)(ii), to be distributed as follows:

(A) If the county imposes a countywide lodging tax under W.S. 39-15-204(a)(ii), the assessment revenue shall be distributed in the same manner as taxes collected under that paragraph are distributed under W.S. 39-15-211(a)(ii)(B) through (E);

(B) If the county has not imposed a countywide lodging tax under W.S. 39-15-204(a)(ii), the assessment revenue shall be distributed as follows:

(I) If no city or town in the county has imposed a lodging tax under W.S. 39-15-204(a)(ii), the assessment revenue shall be distributed to the county to be expended as provided in W.S. 39-15-211(a)(ii)(B);

(II) If any city or town in the county has imposed a lodging tax under W.S. 39-15-204(a)(ii), assessment revenue equal to the amount of the tax imposed by the city or town shall be distributed to the city or town to be used as provided in W.S. 39-15-211(a)(ii)(B) through (E). The remainder shall be distributed to the county to be expended as provided in W.S. 39-15-211(a)(ii)(B).

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(q) No funds distributed to the Wyoming tourism account or the Wyoming tourism reserve and projects account as provided by subsection (p) of this section shall be expended for lobbying or legislative activities associated with any Wyoming local government or the Wyoming legislature.

39-15-203. Imposition.

(a) Taxable event. The following shall apply:

(ii) The following provisions apply to imposition of the lodging excise tax under W.S. 39-15-204(a)(ii):

(D) The proposition may be submitted at an election held on a date authorized under W.S. 22-21-103. A notice of election shall be given in at least one (1) newspaper of general circulation published in the county in which the election is to be held or in the city or town if only a city wide or town wide tax is proposed, and the notice shall specify the object of the election. The notice shall be published at least once each week for a thirty (30) day period preceding the election. At the election the ballots shall contain the words "for the county (or city or town) lodging tax" and "against the county (or city or town) lodging tax". If the proposition is approved the same proposition shall be submitted at subsequent general elections as provided in this subparagraph until the proposition is defeated. If the proposition to impose the lodging tax pursuant to W.S. 39-15-204(a)(ii) is approved, the same proposition shall be submitted, until defeated, at the second general election following the election at which the proposition was initially approved and at the general

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election held every four (4) years thereafter. If a county, city or town has in place a lodging tax pursuant to W.S. 39-15-204(a)(ii), either through a petition or by request of the county, city or town, the proposition posed at the next election may contain a larger tax not to exceed ~~four percent (4%)~~ two percent (2%);

39-15-204. Taxation rate.

(a) In addition to the state tax imposed under W.S. 39-15-101 through 39-15-111 any county of the state may impose the following excise taxes and any city or town may impose the tax authorized by paragraph (ii) of this subsection and any resort district may impose the tax authorized by paragraph (v) of this subsection:

(ii) An excise tax at a rate in increments of one percent (1%) not to exceed a rate of ~~four percent (4%)~~ two percent (2%) upon the sales price paid for lodging services as defined under W.S. 39-15-101(a)(i), the primary purpose of which is for local travel and tourism promotion;

39-15-211. Distribution.

(a) For all revenue collected by the department from the taxes imposed under W.S. 39-15-204(a)(i), (ii), (v) and (vi) the department shall:

(ii) For revenues collected under W.S. 39-15-204(a)(ii):

(B) Except as provided in subparagraph (a)(ii)(C) of this section, distribute the balance on a monthly basis to the treasurer of each county, city or town imposing the tax in an amount equal to the amount collected

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in each entity less the costs of collection as provided by subparagraph (a)(ii)(A) of this section. Amounts distributed under this subparagraph shall be used for the following purposes:

(I) Except as provided by subdivision (III) of this subparagraph, at least ninety percent (90%) of the amount distributed shall be used to promote travel and tourism within the county, city or town imposing the tax. Expenditures for travel and tourism promotion shall be limited to promotional materials, television and radio advertising, printed advertising, digital content, social media, promotion of tours, staging of events, educational materials, and other specific tourism related objectives, provided that none of these funds shall be spent for capital construction or improvements. ~~and not more than forty thousand dollars (\$40,000.00) of these funds shall be spent for purposes of matching state general funds under the matching funds program administered by the Wyoming business council.~~ If the amount is collected under a tax imposed countywide, expenditures of this amount shall be made in accordance with the Uniform Municipal Fiscal Procedures Act by a joint powers board established pursuant to law by the county and a majority of incorporated municipalities within the county. Membership of the board shall include at least one (1) representative appointed by each governmental entity made a party to the agreement and the majority of the board membership shall be comprised of representatives of the travel and tourism industry;

(III) If any of the conditions specified in ~~subparagraphs (D) through (G)~~ subparagraph (H) of this paragraph are met, the amount collected less the cost of collection as provided by subparagraph (a)(ii)(A) of this section shall be distributed as follows:

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(H) The amount collected shall be distributed as provided in subdivision (B)(III) of this paragraph if the revenue collected by the county, city or town equals or exceeds the amounts as specified in subdivisions (I) through (III) of this subparagraph, adjusted annually for the percentage increase in the Wyoming cost-of-living index for the previous fiscal year as determined by the division of economic analysis of the department of administration and information:

(I) If the county, city or town is not imposing a lodging tax under W.S. 39-15-204(a)(ii), the amount of assessment revenue received from the two percent (2%) assessment on lodging services imposed pursuant to W.S. 39-15-104(h)(ii) for each of the preceding three (3) years equals or exceeds one million eight hundred fifty thousand dollars (\$1,850,000.00) or it can reasonably be presumed, based on sales tax collection records, that the annual amount that will be received by the city, town or county will equal or exceed one million eight hundred fifty thousand dollars (\$1,850,000.00);

(II) If the county, city or town has imposed a one percent (1%) lodging tax under W.S. 39-15-204(a)(ii), the amount of assessment revenue received from that tax plus the two percent (2%) assessment on lodging services imposed pursuant to W.S. 39-15-104(h)(ii) for each of the preceding three (3) years equals or exceeds two million seven hundred eighty thousand dollars (\$2,780,000.00) or it can reasonably be presumed, based on sales tax collection records, that the annual amount that will be received by the city, town or county will equal or exceed two million seven hundred eighty thousand dollars (\$2,780,000.00);

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(III) If the county, city or town has imposed a two percent (2%) lodging tax under W.S. 39-15-204(a)(ii), the amount of assessment revenue received from that tax plus the two percent (2%) assessment on lodging services imposed pursuant to W.S. 39-15-104(h)(ii) for each of the preceding three (3) years equals or exceeds three million seven hundred thousand dollars (\$3,700,000.00) or it can reasonably be presumed, based on sales tax collection records, that the annual amount that will be received by the city, town or county will equal or exceed three million seven hundred thousand dollars (\$3,700,000.00).

Section 2. W.S. 39-15-211(a)(ii)(D) through (G) is repealed.

Section 3.

(a) If any city, town or county has in place a lodging tax under W.S. 39-15-204(a)(ii) as of January 1, 2021, the current rate of the tax shall continue until the next general election at which the tax would be considered as provided in W.S. 39-15-203(a)(ii)(D). No lodging tax imposed under W.S. 39-15-204(a)(ii) in excess of two percent (2%) shall be continued pursuant to an election under W.S. 39-15-203(a)(ii)(D). A proposition to continue any lodging tax under W.S. 39-15-204(a)(ii) in excess of two percent (2%) at the next election following the effective date of this act shall be presented on the ballot as "for or against the (county, city or town) (one percent (1%) or two percent (2%)) lodging tax.

(b) Notwithstanding W.S. 39-15-104(h)(ii) as created by section 1 of this act, the two percent (2%) assessment

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on lodging services under W.S. 39-15-104(h)(ii) shall be imposed as follows:

(i) If the county has in place a countywide lodging tax under W.S. 39-15-204(a)(ii) as of January 1, 2021, the two percent (2%) assessment on lodging services shall be effective in that county on the date of the next general election at which the county lodging tax would be considered as provided in W.S. 39-15-203(a)(ii)(D), subject to subsection (a) of this section;

(ii) If a county does not have a countywide lodging tax in place, the two percent (2%) assessment on lodging services shall be effective in that county on the effective date of this act, provided that if any city or town in the county has imposed a lodging tax under W.S. 39-15-204(a)(ii), the two percent (2%) assessment on lodging services shall not be effective within the boundaries of the city or town until the date of the next general election at which the lodging tax would be considered as provided in W.S. 39-15-203(a)(ii)(D), subject to subsection (a) of this section.

ORIGINAL HOUSE
BILL NO. HB0134

ENGROSSED

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Section 4. This act is effective January 1, 2021.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk