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March 2, 2021

The Hon. Becky Beard
Chair, Taxation Committee
Montana House of Representatives
P.O. Box 200400
Helena, MT 59620-0400

Dear Representative Beard:

I write today on behalf of the American Society of Travel Advisors (ASTA) and the 45 retail travel agencies in Montana to express our concern about Senate Bill (SB) 52, which would impose new taxes on travel agencies at a time when our members are facing an existential crisis due to the coronavirus (COVID-19) pandemic.

As a result of COVID-19 and the governmental response to it, the travel agency business has come to an almost complete halt and has remained there since March 2020. According to our member surveys, average travel agency business income was down 82 percent in 2020 as compared to 2019 according to ASTA member surveys. Even factoring in the relief programs created by the federal CARES Act and successor legislation, the average travel agency has laid off close to 60 percent of its staff. With that context, we respectfully question the wisdom of the House of Representatives considering any form of a tax increase on this decimated industry at this moment in time.

To the issue at hand. As you may know, over the years debate over tax proposals targeted at online travel companies (OTCs) has been raging across the country for years – and the vast majority of courts and legislatures that have considered the issue have ruled in favor of the travel agency industry, including Delaware, West Virginia and Virginia. Policymakers are often told that these proposals will only impact large, out-of-state online agencies such as Priceline and Expedia who, it is argued, are shortchanging state and local governments on sales and hotel occupancy taxes and will have no impact on traditional “brick and mortar” travel agencies. Upon reading the text of the bills, this is simply not the case. Here is why:

- **SB 52’s definition of “tax rate” covers some traditional travel agencies.** By applying the tax rate to the “sales price paid by the purchaser,” the tax will apply to the sales fees that travel advisors – regardless of whether or not they are based in Montana – charge their customers for hotel bookings in the state. These service fees would then be subject to both Montana’s sales and use tax and local occupancy taxes. This is problematic because as our industry has evolved advisors are charging service fees to their clients while relying to a lesser extent on commissions from travel suppliers, a trend that may accelerate as hotel

chains increasingly look to reduce agency commissions.¹ In 2019 – a year when travel agencies booked \$33 billion worth of hotel rooms – 45 percent of agents charged a fee for hotel-only bookings and 42 percent charged a fee for an air, hotel and car package. These fees are charged for a service – saving consumers time and money by helping them navigate a travel marketplace that offers an overwhelming number of options. ASTA's long-held position is that this revenue, already subject to federal and state income taxes, should not be taxed a third time through taxes traditionally applied on hotel room stays or car rentals.

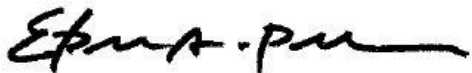
- **SB 52 would impose new administrative burdens on traditional travel agencies.** Under the bill travel advisors – both inside and outside Montana – would have to register with state and local taxing authorities and at least in theory be subject to detailed accounting and recordkeeping measures for every hotel transaction in that locality. How else will these taxes be calculated and collected? This burden would not be insubstantial for our industry, the vast majority of whom are very small businesses. In Montana alone, according to the latest U.S. Census Bureau figures, 86 percent of travel agencies employ fewer than ten people.

Contrary to the misplaced notion of travel agents and advisors as a dying breed, travel agencies who adapted to the internet era in the years before COVID-19 not only survived but thrived. Part and parcel of that evolution has been a shift in business model, from one based strictly on commissions to one based on service fees as well. Simply put, many traditional travel agencies are now generating revenue in a manner similar to the large OTCs and thus would also be impacted by SB 52 and bills like it.

While we are under no illusions about the budgetary challenges facing the State of Montana, we respectfully urge you to oppose these new taxes and administrative burdens on Montana travel agencies.

Thank you for considering our views on this important issue. If you or your staff have any questions, please do not hesitate to contact me at (703) 739-6842 or epeck@asta.org.

Yours Sincerely,



Eben Peck
Executive Vice President, Advocacy
American Society of Travel Advisors (ASTA)

¹ See King, Danny. "[Hilton, too, will cut commissions on group bookings.](#)" *Travel Weekly*. 23 March 2018.