

SENATE BILL NO. 128

INTRODUCED BY HALLIGAN, WYATT, HOFFMAN, LEE, CRIPPEN,  
REAM, B. BROWN, COHEN, THOMAS, STRIZICH, WALLIN,  
T. NELSON, FRITZ, ECK, KEATING, BIANCHI, BENEDICT,  
WANZENRIED, RYE, ANDERSON, LARSON

IN THE SENATE

JANUARY 17, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

                                      FIRST READING.

FEBRUARY 5, 1991                   COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 6, 1991                   PRINTING REPORT.

                                      SECOND READING, DO PASS AS AMENDED.

FEBRUARY 7, 1991                   ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
                                      AYES, 39; NOES, 10.

                                      TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 7, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

FEBRUARY 9, 1991                   FIRST READING.

MARCH 16, 1991                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

APRIL 10, 1991                   SECOND READING, CONCURRED IN.

APRIL 11, 1991                   THIRD READING, CONCURRED IN.  
                                      AYES, 58; NOES, 37.

                                      RETURNED TO SENATE.

IN THE SENATE

APRIL 12, 1991                   RECEIVED FROM HOUSE.

                                      SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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*Senators* *Bill Brown 128*  
 INTRODUCED BY *Hallgren, Wright, Hoffman, Lee, G. Cook*  
*Thomas, Nallin, Nelson, Futz, G. Cook*  
 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN  
 UNINCORPORATED RESORT AREA TO IMPOSE A RESORT TAX; DEFINING

"RESORT AREA"; EXTENDING THE TAX TO SKI RESORTS AND OTHER  
 RECREATIONAL FACILITIES; AMENDING SECTIONS 7-6-4461,  
 7-6-4463, 7-6-4464, AND 7-6-4465, MCA; AND PROVIDING AN  
 EFFECTIVE DATE."

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

**Section 1.** Section 7-6-4461, MCA, is amended to read:

"7-6-4461. Resort community tax -- definitions. As used in 7-6-4461 through 7-6-4467 and [sections 2 and 6], the following definitions apply:

(1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, or any necessities of life.

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

(3) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and

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over-the-counter medications.

(4) "Resort area" means an area that:

(a) is an unincorporated area;

(b) has a population of less than 2,500 according to the most recent federal census or federal estimate;

(c) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production; and

(d) has been designated by the department of commerce as a resort area prior to its establishment by the county commissioners as provided in [section 2].

(4)(b) "Resort community" means a community that:

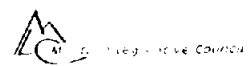
(a) is an incorporated municipality;

(b) has a population of less than 2,500 according to the most recent federal census or federal estimate;

(c) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income production; and

(d) has been designated by the department of commerce as a resort community."

**NEW SECTION. Section 2.** Establishment of a resort area -- taxing authority -- approval by electorate. (1) The



1 establishment of a resort area for the purpose of imposing a  
2 resort tax may be initiated by a written petition to the  
3 board of county commissioners of the county in which the  
4 area is located. The petition must contain a description of  
5 the proposed resort area and must be signed by at least 15%  
6 of the electors residing in the proposed area.

7 (2) The petition must include a proposal to impose a  
8 resort tax within the proposed resort area, including the  
9 rate, duration, effective date, and purpose of the tax as  
10 provided in 7-6-4464.

11 (3) Upon receiving a petition to establish a resort  
12 area, the board of county commissioners shall present the  
13 question to the electors residing in the proposed resort  
14 area as provided in 7-6-4464.

15 **Section 3.** Section 7-6-4463, MCA, is amended to read:

16 "7-6-4463. Limit on resort community tax rate -- goods  
17 and services subject to tax. (1) The rate of the resort tax  
18 must be established by the election petition or resolution  
19 provided for in 7-6-4464, but the rate may not exceed 3%.

20 (2) (a) The resort tax is a tax on the retail value of  
21 all goods and services sold within the resort community or  
22 area by the following establishments:

23 (i) hotels, motels, and other lodging or camping  
24 facilities;

25 (ii) restaurants, fast food stores, and other food

1 service establishments; and

2 (iii) taverns, bars, night clubs, lounges, and other  
3 public establishments that serve beer, wine, liquor, or  
4 other alcoholic beverages by the drink; and

5 (iv) ski resorts and other recreational facilities.

6 (b) Establishments that sell luxuries must collect a  
7 tax on such luxuries."

8 **Section 4.** Section 7-6-4464, MCA, is amended to read:

9 "7-6-4464. Resort community tax -- election required --  
10 procedure. (1) A resort community or area may not impose or,  
11 except as provided in 7-6-4465, amend or repeal a resort tax  
12 unless the resort tax question has been submitted to the  
13 electorate of the resort community or area and approved by a  
14 majority of the electors voting on the question.

15 (2) The resort tax question may be presented to the  
16 electors of:

17 (a) ~~the~~ a resort community by:

18 ~~ta~~ a petition of the electors as provided by 7-1-4130,  
19 7-5-132, and 7-5-134 through 7-5-137; or

20 ~~fb~~ by a resolution of the governing body of the resort  
21 community; or

22 (b) a resort area by a resolution of the board of  
23 county commissioners, following receipt of a petition of  
24 electors as provided in [section 2].

25 (3) The petition or resolution referring the taxing

1 question must state:

- 2 (a) ~~must-state~~ the exact rate of the resort tax;
- 3 (b) ~~must-state~~ the duration of the resort tax;
- 4 (c) ~~must-state~~ the date when the tax becomes effective,  
5 which date may not be earlier than 35 days after the  
6 election; and
- 7 (d) ~~may--specify~~ the purposes that may be funded by the  
8 resort tax revenue.

9 (4) The petition or resolution referring the resort tax  
10 question may provide for a seasonal tax, which must be  
11 effective for at least 3 months of each calendar year.

12 ~~(4)(5)~~ Upon receipt of an adequate petition, the  
13 governing body may:

- 14 (a) call a special election on the resort tax question;  
15 or
- 16 (b) have the resort tax question placed on the ballot  
17 at the next regularly scheduled election.

18 ~~(5)(6)~~ The question of the imposition of a resort tax  
19 may not be placed before the electors more than once in any  
20 fiscal year."

21 **Section 5.** Section 7-6-4465, MCA, is amended to read:

22 "7-6-4465. Resort community tax administration. (1) In  
23 this section, "governing body" means the governing body of a  
24 resort community or, if the resort tax has been approved by  
25 the electors of a resort area, the board of county

1 commissioners.

2 ~~(1)(2)~~ Not less than 30 days prior to the date the  
3 resort tax becomes effective, the governing body ~~of-the~~  
4 ~~resort-community~~ shall enact an administrative ordinance  
5 governing the collection and reporting of the resort taxes.  
6 This administrative ordinance may be amended at any time  
7 thereafter as may be necessary to effectively administer the  
8 resort tax.

9 ~~(2)(3)~~ The administrative ordinance ~~shall~~ must specify:

10 (a) the times taxes collected by business businesses  
11 are to be remitted to the resort-community governing body;

12 (b) the ~~local-government~~ office, officer, or employee  
13 of the governing body responsible for receiving and  
14 accounting for the resort tax receipts;

15 (c) the ~~local-government~~ office, officer, or employee  
16 of the governing body responsible for enforcing the  
17 collection of resort taxes and the methods and procedures to  
18 be used in enforcing the collection of resort taxes due; and

19 (d) the penalties for failure to report taxes due,  
20 failure to remit taxes due, and violations of the  
21 administrative ordinance. The penalties may include:

22 (i) criminal penalties not to exceed a fine of \$1,000  
23 or 6 months months' imprisonment, or both ~~the-fine-and~~  
24 ~~imprisonment~~;

25 (ii) civil penalties if the ~~resort--community~~ governing

1 body prevails in a suit for the collection of resort taxes,  
 2 not to exceed 50% of the resort taxes found due plus the  
 3 costs and attorney fees incurred by the ~~resort-community~~  
 4 governing body in the action;

5 (iii) revocation of ~~the-offender's~~ a county or municipal  
 6 business license held by the offender; and

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

9 ~~(3)~~(4) The administrative ordinance may include:

10 (a) further clarification and specificity in the  
 11 categories of goods and services that are subject to the  
 12 resort tax consistent with 7-6-4463;

13 (b) authorization for business administration and  
 14 prepayment discounts. The discount authorization may allow  
 15 each vendor and commercial establishment to:

16 (i) withhold up to 5% of the resort taxes collected to  
 17 defray their costs for the administration of the tax  
 18 collection; or

19 (ii) receive a refund of up to 5% of the resort tax  
 20 payment received from them by the ~~resort-community~~ governing  
 21 body 10 days prior to the collection due date established by  
 22 the administrative ordinance; and

23 (c) other administrative details necessary for the  
 24 efficient and effective administration of the tax."

25 NEW SECTION. Section 6. Use of resort area tax. (1)

1 Unless otherwise provided by the resolution approved by the  
 2 electors under 7-6-4464, the board of county commissioners  
 3 shall appropriate and spend revenue derived from a resort  
 4 area tax for the purpose stated in the resolution.

5 (2) The resort area shall reimburse the board of county  
 6 commissioners for costs associated with the collection,  
 7 administration, and litigation of the resort area tax.

8 NEW SECTION. Section 7. Codification instruction.

9 [Sections 2 and 6] are intended to be codified as an  
 10 integral part of 7-6-4461 through 7-6-4467, and the  
 11 provisions of 7-6-4461 through 7-6-4467 apply to [sections 2  
 12 and 6].

13 NEW SECTION. Section 8. Effective date. [This act] is  
 14 effective July 1, 1991.

-End-

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 128

INTRODUCED BY HALLIGAN, WYATT, HOFFMAN, LEE, CRIPPEN,  
REAM, B. BROWN, COHEN, THOMAS, STRIZICH, WALLIN,  
T. NELSON, FRITZ, ECK, KEATING, BIANCHI, BENEDICT,  
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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN  
UNINCORPORATED RESORT AREA TO IMPOSE A RESORT TAX; DEFINING  
"RESORT AREA"; EXTENDING THE TAX TO DESTINATION SKI RESORTS  
AND OTHER DESTINATION RECREATIONAL FACILITIES; AMENDING  
SECTIONS 7-6-4461, 7-6-4463, 7-6-4464, AND 7-6-4465. MCA;  
AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 7-6-4461, MCA, is amended to read:

"7-6-4461. Resort community tax -- definitions. As used  
in 7-6-4461 through 7-6-4467 and [sections 2 and 6], the  
following definitions apply:

(1) "Luxuries" means any gift item, luxury item, or  
other item normally sold to the public or to transient  
visitors or tourists. The term does not include food  
purchased unprepared or unserved, medicine, medical supplies  
and services, APPLIANCES, HARDWARE SUPPLIES AND TOOLS, or  
any necessities of life.

(2) "Medical supplies" means items that are sold to be

used for curative, prosthetic, or medical maintenance  
purposes, whether or not prescribed by a physician.

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

(4) "Resort area" means an area that:

(a) ~~is--an--unincorporated-area~~ IS A DEFINED CONTIGUOUS  
GEOGRAPHIC AREA;

(B) DOES NOT MEET THE CRITERIA FOR INCORPORATION AS  
PROVIDED IN 7-2-4103;

~~(b)~~(C) has a population of less than 2,500 according to  
the most recent federal census or federal estimate;

~~(c)~~(D) derives the major portion of its economic  
well-being from businesses catering to the recreational and  
personal needs of persons traveling to or through the area  
for purposes not related to their income production; and

~~(d)~~(E) has been designated by the department of  
commerce as a resort area prior to its establishment by the  
county commissioners as provided in [section 2].

~~(4)~~(5) "Resort community" means a community that:

(a) is an incorporated municipality;

(b) has a population of less than 2,500 according to  
the most recent federal census or federal estimate;

(c) derives the major portion of its economic  
well-being from businesses catering to the recreational and

**SECOND READING**



1 personal needs of persons traveling to or through the  
2 municipality for purposes not related to their income  
3 production; and

4 (d) has been designated by the department of commerce  
5 as a resort community."

6 **NEW SECTION. Section 2. Establishment of a resort area**  
7 **-- taxing authority -- approval by electorate.** (1) The  
8 establishment of a resort area for the purpose of imposing a  
9 resort tax may be initiated by a written petition to the  
10 board of county commissioners of the county in which the  
11 area is located. The petition must contain a description of  
12 the proposed resort area and must be signed by at least 15%  
13 of the electors residing in the proposed area.

14 (2) The petition must include a proposal to impose a  
15 resort tax within the proposed resort area, including the  
16 rate, duration, effective date, and purpose of the tax as  
17 provided in 7-6-4464.

18 (3) Upon receiving a petition to establish a resort  
19 area, the board of county commissioners shall present the  
20 question to the electors residing in the proposed resort  
21 area as provided in 7-6-4464.

22 **Section 3.** Section 7-6-4463, MCA, is amended to read:

23 "7-6-4463. **Limit on resort community tax rate -- goods**  
24 **and services subject to tax.** (1) The rate of the resort tax  
25 must be established by the election petition or resolution

1 provided for in 7-6-4464, but the rate may not exceed 3%.

2 (2) (a) The resort tax is a tax on the retail value of  
3 all goods and services sold within the resort community or  
4 area by the following establishments:

5 (i) hotels, motels, and other lodging or camping  
6 facilities;

7 (ii) restaurants, fast food stores, and other food  
8 service establishments; and

9 (iii) taverns, bars, night clubs, lounges, and other  
10 public establishments that serve beer, wine, liquor, or  
11 other alcoholic beverages by the drink; and

12 (iv) DESTINATION ski resorts and other DESTINATION  
13 recreational facilities.

14 (b) Establishments that sell luxuries must collect a  
15 tax on such luxuries."

16 **Section 4.** Section 7-6-4464, MCA, is amended to read:

17 "7-6-4464. **Resort community tax -- election required --**  
18 **procedure.** (1) A resort community or area may not impose or,  
19 except as provided in 7-6-4465, amend or repeal a resort tax  
20 unless the resort tax question has been submitted to the  
21 electorate of the resort community or area and approved by a  
22 majority of the electors voting on the question.

23 (2) The resort tax question may be presented to the  
24 electors of:

25 (a) the a resort community by:



1       {a} a petition of the electors as provided by 7-1-4130,  
2 7-5-132, and 7-5-134 through 7-5-137; or

3       {b} by a resolution of the governing body of the resort  
4 community; or

5       **(b) a resort area by a resolution of the board of**  
6 **county commissioners, following receipt of a petition of**  
7 **electors as provided in [section 2].**

8       **(3) IF A RESORT AREA IS IN MORE THAN ONE COUNTY, THE**  
9 **RESORT TAX QUESTION MUST BE PRESENTED TO AND APPROVED BY THE**  
10 **ELECTORS IN THE RESORT AREA OF EACH COUNTY.**

11       {3}{4} The petition or resolution referring the taxing  
12 question must state:

13       (a) ~~must-state~~ the exact rate of the resort tax;

14       (b) ~~must-state~~ the duration of the resort tax;

15       (c) ~~must-state~~ the date when the tax becomes effective,  
16 which date may not be earlier than 35 days after the  
17 election; and

18       (d) ~~may--specify~~ the purposes that may be funded by the  
19 resort tax revenue.

20       ~~{4}--The-petition-or-resolution-referring-the-resort-tax~~  
21 ~~question-may-provide-for-a--seasonal--tax--which--must--be~~  
22 ~~effective-for-at-least-3-months-of-each-calendar-year.~~

23       {4}{5} Upon receipt of an adequate petition, the  
24 governing body may:

25       (a) call a special election on the resort tax question;

1 or

2       (b) have the resort tax question placed on the ballot  
3 at the next regularly scheduled election.

4       {5}{6} The question of the imposition of a resort tax  
5 may not be placed before the electors more than once in any  
6 fiscal year."

7       **Section 5.** Section 7-6-4465, MCA, is amended to read:

8       "7-6-4465. Resort community tax administration. (1) In  
9 this section, "governing body" means the governing body of a  
10 resort community or, if the resort tax has been approved by  
11 the electors of a resort area, the board of county  
12 commissioners.

13       {2}{2} Not less than 30 days prior to the date the  
14 resort tax becomes effective, the governing body ~~of--the~~  
15 ~~resort--community~~ shall enact an administrative ordinance  
16 governing the collection and reporting of the resort taxes.  
17 This administrative ordinance may be amended at any time  
18 thereafter as may be necessary to effectively administer the  
19 resort tax.

20       {2}{3} The administrative ordinance shall must specify:

21       (a) the times taxes collected by business businesses  
22 are to be remitted to the ~~resort-community~~ governing body;

23       (b) the ~~local--government~~ office, officer, or employee  
24 of the governing body responsible for receiving and  
25 accounting for the resort tax receipts;

1 (c) the local--government office, officer, or employee  
2 of the governing body responsible for enforcing the  
3 collection of resort taxes and the methods and procedures to  
4 be used in enforcing the collection of resort taxes due; and

5 (d) the penalties for failure to report taxes due,  
6 failure to remit taxes due, and violations of the  
7 administrative ordinance. The penalties may include:

8 (i) criminal penalties not to exceed a fine of \$1,000  
9 or ~~6 months~~ months' imprisonment, or both ~~the--fine--and~~  
10 ~~imprisonment~~;

11 (ii) civil penalties if the ~~resort-community governing~~  
12 body prevails in a suit for the collection of resort taxes,  
13 not to exceed 50% of the resort taxes found due plus the  
14 costs and attorney fees incurred by the ~~resort--community~~  
15 governing body in the action;

16 (iii) revocation of ~~the-offender's~~ a county or municipal  
17 business license held by the offender; and

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

20 ~~†3†~~(4) The administrative ordinance may include:

21 (a) further clarification and specificity in the  
22 categories of goods and services that are subject to the  
23 resort tax consistent with 7-6-4463;

24 (b) authorization for business administration and  
25 prepayment discounts. The discount authorization may allow

1 each vendor and commercial establishment to:

2 (i) withhold up to 5% of the resort taxes collected to  
3 defray their costs for the administration of the tax  
4 collection; or

5 (ii) receive a refund of up to 5% of the resort tax  
6 payment received from them by the ~~resort-community governing~~  
7 body 10 days prior to the collection due date established by  
8 the administrative ordinance; and

9 (c) other administrative details necessary for the  
10 efficient and effective administration of the tax."

11 NEW SECTION. Section 6. Use of resort area tax. (1)

12 Unless otherwise provided by the resolution approved by the  
13 electors under 7-6-4464, the board of county commissioners  
14 shall appropriate and spend revenue derived from a resort  
15 area tax for the purpose stated in the resolution.

16 (2) The resort area shall reimburse the board of county  
17 commissioners for costs associated with the collection,  
18 administration, and litigation of the resort area tax.

19 NEW SECTION. Section 7. Codification instruction.

20 [Sections 2 and 6] are intended to be codified as an  
21 integral part of 7-6-4461 through 7-6-4467, and the  
22 provisions of 7-6-4461 through 7-6-4467 apply to [sections 2  
23 and 6].

24 NEW SECTION. Section 8. Effective date. [This act] is  
25 effective July 1, 1991.

## SENATE BILL NO. 128

INTRODUCED BY HALLIGAN, WYATT, HOFFMAN, LEE, CRIPPEN,  
 REAM, B. BROWN, COHEN, THOMAS, STRIZICH, WALLIN,  
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 other item normally sold to the public or to transient  
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 purchased unprepared or unserved, medicine, medical supplies  
 and services, APPLIANCES, HARDWARE SUPPLIES AND TOOLS, or  
 any necessities of life.

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used for curative, prosthetic, or medical maintenance  
 purposes, whether or not prescribed by a physician.

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 remedial properties, including both physician prescribed and  
 over-the-counter medications.

(4) "Resort area" means an area that:

(a) IS AN UNINCORPORATED AREA AND ~~is an unincorporated~~  
area IS A DEFINED CONTIGUOUS GEOGRAPHIC AREA;

~~(b) -- DOES NOT MEET THE CRITERIA FOR INCORPORATION -- AS~~  
~~PROVIDED IN 7-2-4103;~~

~~(b)(B)~~ has a population of less than 2,500 according  
to the most recent federal census or federal estimate;

~~(c)(B)(C)~~ derives the major portion of its economic  
well-being from businesses catering to the recreational and  
personal needs of persons traveling to or through the area  
for purposes not related to their income production; and

~~(d)(E)(D)~~ has been designated by the department of  
commerce as a resort area prior to its establishment by the  
county commissioners as provided in [section 2].

~~(4)(5)~~ "Resort community" means a community that:

(a) is an incorporated municipality;

(b) has a population of less than 2,500 according to  
 the most recent federal census or federal estimate;

(c) derives the major portion of its economic  
 well-being from businesses catering to the recreational and

**THIRD READING**

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1 personal needs of persons traveling to or through the  
2 municipality for purposes not related to their income  
3 production; and

4 (d) has been designated by the department of commerce  
5 as a resort community."

6 **NEW SECTION. Section 2. Establishment of a resort area**  
7 **-- taxing authority -- approval by electorate.** (1) The  
8 establishment of a resort area for the purpose of imposing a  
9 resort tax may be initiated by a written petition to the  
10 board of county commissioners of the county in which the  
11 area is located. The petition must contain a description of  
12 the proposed resort area and must be signed by at least 15%  
13 of the electors residing in the proposed area.

14 (2) The petition must include a proposal to impose a  
15 resort tax within the proposed resort area, including the  
16 rate, duration, effective date, and purpose of the tax as  
17 provided in 7-6-4464.

18 (3) Upon receiving a petition to establish a resort  
19 area, the board of county commissioners shall present the  
20 question to the electors residing in the proposed resort  
21 area as provided in 7-6-4464.

22 **Section 3.** Section 7-6-4463, MCA, is amended to read:

23 **"7-6-4463. Limit on resort community tax rate -- goods**  
24 **and services subject to tax.** (1) The rate of the resort tax  
25 must be established by the election petition or resolution

1 provided for in 7-6-4464, but the rate may not exceed 3%.

2 (2) (a) The resort tax is a tax on the retail value of  
3 all goods and services sold within the resort community or  
4 area by the following establishments:

5 (i) hotels, motels, and other lodging or camping  
6 facilities;

7 (ii) restaurants, fast food stores, and other food  
8 service establishments; and

9 (iii) taverns, bars, night clubs, lounges, and other  
10 public establishments that serve beer, wine, liquor, or  
11 other alcoholic beverages by the drink; and

12 (iv) DESTINATION ski resorts and other DESTINATION  
13 recreational facilities.

14 (b) Establishments that sell luxuries must collect a  
15 tax on such luxuries."

16 **Section 4.** Section 7-6-4464, MCA, is amended to read:

17 **"7-6-4464. Resort community tax -- election required --**  
18 **procedure.** (1) A resort community or area may not impose or,  
19 except as provided in 7-6-4465, amend or repeal a resort tax  
20 unless the resort tax question has been submitted to the  
21 electorate of the resort community or area and approved by a  
22 majority of the electors voting on the question.

23 (2) The resort tax question may be presented to the  
24 electors of:

25 (a) the a resort community by-

1        ~~1a~~ a petition of the electors as provided by 7-1-4130,  
 2        7-5-132, and 7-5-134 through 7-5-137; or

3        ~~1b~~ by a resolution of the governing body of the resort  
 4        community; or

5        1b a resort area by a resolution of the board of  
 6        county commissioners, following receipt of a petition of  
 7        electors as provided in [section 2].

8        (3) IF A RESORT AREA IS IN MORE THAN ONE COUNTY, THE  
 9        RESORT TAX QUESTION MUST BE PRESENTED TO AND APPROVED BY THE  
 10       ELECTORS IN THE RESORT AREA OF EACH COUNTY.

11       ~~3~~(4) The petition or resolution referring the taxing  
 12       question must state:

- 13       (a) ~~must-state~~ the exact rate of the resort tax;
- 14       (b) ~~must-state~~ the duration of the resort tax;
- 15       (c) ~~must-state~~ the date when the tax becomes effective,  
 16       which date may not be earlier than 35 days after the  
 17       election; and
- 18       (d) ~~may--specify~~ the purposes that may be funded by the  
 19       resort tax revenue.

20       ~~4~~--The-petition-or-resolution-referring-the-resort-tax  
 21       question-may-provide-for--a--seasonal--tax--which--must--be  
 22       effective-for-at-least-3-months-of-each-calendar-year.

23       ~~4~~(5) Upon receipt of an adequate petition, the  
 24       governing body may:

- 25       (a) call a special election on the resort tax question;

1       or

2       (b) have the resort tax question placed on the ballot  
 3       at the next regularly scheduled election.

4       ~~5~~(6) The question of the imposition of a resort tax  
 5       may not be placed before the electors more than once in any  
 6       fiscal year."

7       **Section 5.** Section 7-6-4465, MCA, is amended to read:

8       "7-6-4465. Resort community tax administration. (1) In  
 9       this section, "governing body" means the governing body of a  
 10       resort community or, if the resort tax has been approved by  
 11       the electors of a resort area, the board of county  
 12       commissioners.

13       ~~1~~(2) Not less than 30 days prior to the date the  
 14       resort tax becomes effective, the governing body ~~of-the~~  
 15       ~~resort-community~~ shall enact an administrative ordinance  
 16       governing the collection and reporting of the resort taxes.  
 17       This administrative ordinance may be amended at any time  
 18       thereafter as may be necessary to effectively administer the  
 19       resort tax.

20       ~~2~~(3) The administrative ordinance shall must specify:

- 21       (a) the times taxes collected by business businesses  
 22       are to be remitted to the ~~resort-community~~ governing body;
- 23       (b) the ~~local-government~~ office, officer, or employee  
 24       of the governing body responsible for receiving and  
 25       accounting for the resort tax receipts;

1 (c) the ~~local~~-government office, officer, or employee  
2 of the governing body responsible for enforcing the  
3 collection of resort taxes and the methods and procedures to  
4 be used in enforcing the collection of resort taxes due; and

5 (d) the penalties for failure to report taxes due,  
6 failure to remit taxes due, and violations of the  
7 administrative ordinance. The penalties may include:

8 (i) criminal penalties not to exceed a fine of \$1,000  
9 or 6 months ~~months'~~ imprisonment, or both ~~the fine and~~  
10 ~~imprisonment~~;

11 (ii) civil penalties if the ~~resort--community~~ governing  
12 body prevails in a suit for the collection of resort taxes,  
13 not to exceed 50% of the resort taxes found due plus the  
14 costs and attorney fees incurred by the ~~resort-community~~  
15 governing body in the action;

16 (iii) revocation of ~~the offender's~~ a county or municipal  
17 business license held by the offender; and

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

20 ~~(3)~~(4) The administrative ordinance may include:

21 (a) further clarification and specificity in the  
22 categories of goods and services that are subject to the  
23 resort tax consistent with 7-6-4463;

24 (b) authorization for business administration and  
25 prepayment discounts. The discount authorization may allow

1 each vendor and commercial establishment to:

2 (i) withhold up to 5% of the resort taxes collected to  
3 defray their costs for the administration of the tax  
4 collection; or

5 (ii) receive a refund of up to 5% of the resort tax  
6 payment received from them by the ~~resort-community~~ governing  
7 body 10 days prior to the collection due date established by  
8 the administrative ordinance; and

9 (c) other administrative details necessary for the  
10 efficient and effective administration of the tax."

11 NEW SECTION. Section 6. Use of resort area tax. (1)

12 Unless otherwise provided by the resolution approved by the  
13 electors under 7-6-4464, the board of county commissioners  
14 shall appropriate and spend revenue derived from a resort  
15 area tax for the purpose stated in the resolution.

16 (2) The resort area shall reimburse the board of county  
17 commissioners for costs associated with the collection,  
18 administration, and litigation of the resort area tax.

19 NEW SECTION. Section 7. Codification instruction.

20 [Sections 2 and 6] are intended to be codified as an  
21 integral part of 7-6-4461 through 7-6-4467, and the  
22 provisions of 7-6-4461 through 7-6-4467 apply to [sections 2  
23 and 6].

24 NEW SECTION. Section 8. Effective date. [This act] is

25 effective July 1, 1991.

## 1 SENATE BILL NO. 128

2 INTRODUCED BY HALLIGAN, WYATT, HOFFMAN, LEE, CRIPPEN,

3 REAM, B. BROWN, COHEN, THOMAS, STRIZICH, WALLIN,

4 T. NELSON, FRITZ, ECK, KEATING, BIANCHI, BENEDICT,

5 WANZENRIED, RYE, ANDERSON, LARSON

6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN  
8 UNINCORPORATED RESORT AREA TO IMPOSE A RESORT TAX; DEFINING  
9 "RESORT AREA"; EXTENDING THE TAX TO DESTINATION SKI RESORTS  
10 AND OTHER DESTINATION RECREATIONAL FACILITIES; AMENDING  
11 SECTIONS 7-6-4461, 7-6-4463, 7-6-4464, AND 7-6-4465, MCA;  
12 AND PROVIDING AN EFFECTIVE DATE."  
13

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

15 **Section 1.** Section 7-6-4461, MCA, is amended to read:

16 "7-6-4461. Resort community tax -- definitions. As used  
17 in 7-6-4461 through 7-6-4467 and [sections 2 and 6], the  
18 following definitions apply:

19 (1) "Luxuries" means any gift item, luxury item, or  
20 other item normally sold to the public or to transient  
21 visitors or tourists. The term does not include food  
22 purchased unprepared or unserved, medicine, medical supplies  
23 and services, APPLIANCES, HARDWARE SUPPLIES AND TOOLS, or  
24 any necessities of life.

25 (2) "Medical supplies" means items that are sold to be

1 used for curative, prosthetic, or medical maintenance  
2 purposes, whether or not prescribed by a physician.

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

6 (4) "Resort area" means an area that:

7 (a) IS AN UNINCORPORATED AREA AND is-an-unincorporated  
8 area IS A DEFINED CONTIGUOUS GEOGRAPHIC AREA;

9 (B)--DOES-NOT-MEET-THE--CRITERIA--FOR--INCORPORATION--AS  
10 PROVIDED-IN-7-2-4103;

11 (b)+(E)(B) has a population of less than 2,500 according  
12 to the most recent federal census or federal estimate;

13 (c)+(B)(C) derives the major portion of its economic  
14 well-being from businesses catering to the recreational and  
15 personal needs of persons traveling to or through the area  
16 for purposes not related to their income production; and

17 (d)+(E)(D) has been designated by the department of  
18 commerce as a resort area prior to its establishment by the  
19 county commissioners as provided in [section 2].

20 (4)(5) "Resort community" means a community that:

21 (a) is an incorporated municipality;

22 (b) has a population of less than 2,500 according to  
23 the most recent federal census or federal estimate;

24 (c) derives the major portion of its economic  
25 well-being from businesses catering to the recreational and

REFERENCE BILL

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1 personal needs of persons traveling to or through the  
2 municipality for purposes not related to their income  
3 production; and

4 (d) has been designated by the department of commerce  
5 as a resort community."

6 NEW SECTION. Section 2. Establishment of a resort area  
7 -- taxing authority -- approval by electorate. (1) The  
8 establishment of a resort area for the purpose of imposing a  
9 resort tax may be initiated by a written petition to the  
10 board of county commissioners of the county in which the  
11 area is located. The petition must contain a description of  
12 the proposed resort area and must be signed by at least 15%  
13 of the electors residing in the proposed area.

14 (2) The petition must include a proposal to impose a  
15 resort tax within the proposed resort area, including the  
16 rate, duration, effective date, and purpose of the tax as  
17 provided in 7-6-4464.

18 (3) Upon receiving a petition to establish a resort  
19 area, the board of county commissioners shall present the  
20 question to the electors residing in the proposed resort  
21 area as provided in 7-6-4464.

22 **Section 3.** Section 7-6-4463, MCA, is amended to read:

23 "7-6-4463. Limit on resort community tax rate -- goods  
24 and services subject to tax. (1) The rate of the resort tax  
25 must be established by the election petition or resolution

1 provided for in 7-6-4464, but the rate may not exceed 3%.

2 (2) (a) The resort tax is a tax on the retail value of  
3 all goods and services sold within the resort community or  
4 area by the following establishments:

5 (i) hotels, motels, and other lodging or camping  
6 facilities;

7 (ii) restaurants, fast food stores, and other food  
8 service establishments; and

9 (iii) taverns, bars, night clubs, lounges, and other  
10 public establishments that serve beer, wine, liquor, or  
11 other alcoholic beverages by the drink; and

12 (iv) DESTINATION ski resorts and other DESTINATION  
13 recreational facilities.

14 (b) Establishments that sell luxuries must collect a  
15 tax on such luxuries."

16 **Section 4.** Section 7-6-4464, MCA, is amended to read:

17 "7-6-4464. Resort community tax -- election required --  
18 procedure. (1) A resort community or area may not impose or,  
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21 electorate of the resort community or area and approved by a  
22 majority of the electors voting on the question.

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24 electors of:

25 (a) the a resort community by:



1        ~~(a)~~ a petition of the electors as provided by 7-1-4130,  
2        7-5-132, and 7-5-134 through 7-5-137; or  
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4        community; or  
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6        county commissioners, following receipt of a petition of  
7        electors as provided in [section 2].  
8        (3) IF A RESORT AREA IS IN MORE THAN ONE COUNTY, THE  
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17       election; and  
18       (d) ~~may--specify~~ the purposes that may be funded by the  
19       resort tax revenue.  
20       ~~(4)--The-petition-or-resolution-referring-the-resort-tax~~  
21       ~~question-may-provide-for--a--seasonal--tax,--which--must--be~~  
22       ~~effective-for-at-least-3-months-of-each-calendar-year.~~  
23       ~~(4)~~(5) Upon receipt of an adequate petition, the  
24       governing body may:  
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