

SENATE BILL 197

Introduced by Kennedy, et al.

1/25	Introduced
1/25	Referred to Taxation
1/25	First Reading
1/25	Fiscal Note Requested
1/29	Fiscal Note Received
1/29	Fiscal Note Printed
2/12	Hearing
2/20	Tabled in Committee

1 *Senate* BILL NO. 197
 2 INTRODUCED BY *Kennedy* *Vincent* *Ch* *Daniel*
 3 *Anderson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION
 5 OF A RESORT COMMUNITY FOR PURPOSES OF A RESORT TAX; DEFINING
 6 "RESORT AREA"; PROVIDING FOR A RESORT TAX IN UNINCORPORATED
 7 AREAS; EXTENDING THE TAX TO SKI RESORTS AND OTHER
 8 RECREATIONAL FACILITIES; AMENDING SECTIONS 7-6-4461,
 9 7-6-4463, 7-6-4464, AND 7-6-4465, MCA; AND PROVIDING AN
 10 EFFECTIVE DATE."
 11

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

13 **Section 1.** Section 7-6-4461, MCA, is amended to read:
 14 "7-6-4461. Resort community tax -- definitions. As used
 15 in 7-6-4461 through 7-6-4467 and [sections 2 and 6], the
 16 following definitions apply:

- 17 (1) "Luxuries" means any gift item, luxury item, or
 18 other item normally sold to the public or to transient
 19 visitors or tourists. The term does not include food
 20 purchased unprepared or unserved, medicine, medical supplies
 21 and services, or any necessities of life.
- 22 (2) "Medical supplies" means items that are sold to be
 23 used for curative, prosthetic, or medical maintenance
 24 purposes, whether or not prescribed by a physician.
- 25 (3) "Medicine" means substances sold for curative or

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

- 3 (4) "Resort area" means an area that:
 4 (a) derives a substantial portion of its economic
 5 well-being from businesses catering to the recreational and
 6 personal needs of persons traveling to or through the area
 7 for purposes not related to their work or business; and
 8 (b) has been designated a resort area by the county
 9 commissioners as provided in [section 2].

- 10 ~~{4}~~(5) "Resort community" means a community that:
 11 (a) is an incorporated municipality;
 12 (b) has a population of less than ~~2,500~~ 15,000
 13 according to the most recent federal census or federal
 14 estimate; and
 15 (c) ~~derives the major~~ derives a substantial portion of its
 16 economic well-being from businesses catering to the
 17 recreational and personal needs of persons traveling to or
 18 through the municipality for purposes not related to their
 19 ~~income-production; and~~ work or business.

20 ~~{d}--has-been-designated-by-the-department--of--commerce~~
 21 ~~as-a-resort-community."~~

22 **NEW SECTION. Section 2.** Establishment of resort area
 23 -- taxing authority. (1) The establishment of a resort area
 24 for the purpose of imposing a resort tax may be initiated by
 25 a written petition to the board of county commissioners of



1 the county in which the area is located. The petition must
2 contain a description of the proposed resort area and must
3 be signed by at least 15% of the electors residing in the
4 proposed area.

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

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

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

14 **"7-6-4463. Limit on resort community tax rate -- goods**
15 **and services subject to tax.** (1) The rate of the resort tax
16 must be established by the election petition or resolution
17 provided for in 7-6-4464, but the rate may not exceed 3%.

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

21 (i) hotels, motels, and other lodging or camping
22 facilities;

23 (ii) restaurants, fast food stores, and other food
24 service establishments; and

25 (iii) taverns, bars, night clubs, lounges, and other

1 public establishments that serve beer, wine, liquor, or
2 other alcoholic beverages by the drink; and

3 (iv) ski resorts and other recreational facilities.

4 (b) Establishments that sell luxuries must collect a
5 tax on such luxuries."

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

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

13 (2) The resort tax question may be presented to the
14 electors of:

15 (a) the a resort community by:

16 ~~(a)~~ a petition of the electors as provided by 7-1-4130,
17 7-5-132, and 7-5-134 through 7-5-137; or

18 ~~(b)~~ by a resolution of the governing body of the resort
19 community; or

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

23 (3) The petition or resolution referring the taxing
24 question must state:

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

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

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

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

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

10 ~~(4)(5)~~ Upon receipt of an adequate petition the
11 governing body may:

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

13 or

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

16 ~~(5)(6)~~ The question of the imposition of a resort tax
17 may not be placed before the electors more than once in any
18 fiscal year."

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

20 "7-6-4465. Resort community tax administration. (1) In
21 this section, "governing body" means the governing unit of
22 an incorporated resort community or, if the resort tax has
23 been approved by the electors of a resort area, the board of
24 county commissioners.

25 ~~(1)(2)~~ Not less than 30 days prior to the date the

1 resort tax becomes effective, the governing body ~~of--the~~
2 ~~resort--community~~ shall enact an administrative ordinance
3 governing the collection and reporting of the resort taxes.
4 This administrative ordinance may be amended at any time
5 thereafter as may be necessary to effectively administer the
6 resort tax.

7 ~~(2)(3)~~ The administrative ordinance shall specify:

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

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

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

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

20 (i) criminal penalties not to exceed a fine of \$1,000
21 or 6 months imprisonment or both the fine and imprisonment;

22 (ii) civil penalties if the ~~resort--community~~ governing
23 body prevails in a suit for the collection of resort taxes,
24 not to exceed 50% of the resort taxes found due plus the
25 costs and attorney fees incurred by the ~~resort-community~~

1 governing body in the action;

2 (iii) revocation of ~~the--offender's~~ any county or
3 municipal business license held by the offender; and

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

6 ~~(3)~~(4) The administrative ordinance may include:

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

10 (b) authorization for business administration and
11 prepayment discounts. The discount authorization may allow
12 each vendor and commercial establishment to:

13 (i) withhold up to 5% of the resort taxes collected to
14 defray their costs for the administration of the tax
15 collection; or

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

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

22 NEW SECTION. Section 6. Use of resort area tax. Unless
23 otherwise provided by the resolution approved by the
24 electors under 7-6-4464, the board of county commissioners
25 may appropriate and expend revenue derived from a resort

1 area tax for the purpose stated in the resolution.

2 NEW SECTION. Section 7. Codification instruction.

3 [Sections 2 and 6] are intended to be codified as an
4 integral part of 7-6-4461 through 7-6-4467, and the
5 provisions of 7-6-4461 through 7-6-4467 apply to [sections 2
6 and 6].

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

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0197, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act revising the definition of a resort community for purposes of a resort tax; defining "resort area"; providing for a resort tax in unincorporated areas; extending the tax to ski resorts and other recreational facilities; and providing an effective date.

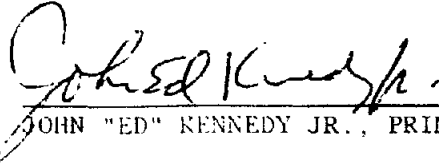
FISCAL IMPACT:

Passage of this proposal would not impact state revenues or expenditures.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

There is no means of ascertaining which communities will impose the tax, at what rate, or for what period of time; consequently, there is no means of determining the additional revenue that would accrue to local governments.


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning
DATE 1-28-91


JOHN "ED" KENNEDY JR., PRIMARY SPONSOR
DATE 1-29-91

Fiscal Note for SB0197, as introduced

SB 197