

HOUSE BILL NO. 826

INTRODUCED BY ELLERD, BOYLAN, ANDERSON, KEYSER

IN THE HOUSE

February 14, 1985	Introduced and referred to Committee on Taxation.
February 15, 1985	Fiscal Note requested.
February 20, 1985	Fiscal Note returned.
March 30, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
April 1, 1985	Second reading, do not pass.
April 3, 1985	On motion, rules suspended to allow motion to reconsider previous action.
	On motion, previous action reconsidered.
April 4, 1985	Second reading, do pass as amended.
April 5, 1985	Correctly engrossed.
April 8, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

April 13, 1985	On motion, rules suspended to accept HB 826. Motion adopted.
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April 15, 1985

Introduced and referred to  
Committee on Taxation.

April 17, 1985

On motion, rules temporarily  
suspended for the purpose of  
allowing all bills passed on  
second reading on the 88th  
Legislative Day to be advanced  
to third reading that same  
day.

April 23, 1985

Committee recommend bill be  
concurrent in as amended.  
Report adopted.

Second reading, concurrent in  
as amended.

Third reading, concurrent in.  
Ayes, 39; Noes, 9.

Returned to House with  
amendments.

#### IN THE HOUSE

April 23, 1985

Received from Senate.

April 24, 1985

Second reading, amendments  
concurrent in.

Third reading, amendments  
concurrent in.

Sent to enrolling.

Reported correctly enrolled.

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INTRODUCED BY *L. HOUSE BILL NO. 826*  
*Edward Boylan, Anderson Boyer*

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A DEFINED RESORT COMMUNITY TO ESTABLISH A RESORT TAX AFTER A VOTE OF ITS ELECTORS; ESTABLISHING CATEGORIES OF GOODS AND SERVICES EXEMPT FROM THE TAX; PROVIDING RESORT COMMUNITY PROPERTY TAX RELIEF; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, many municipalities in the State of Montana rely upon tourism for the bulk of their livelihood; and

WHEREAS, the tourist industry tends to be seasonally cyclical; and

WHEREAS, such cycles are reflected in demands for services and capital expenditures that do not occur for a community with a steady economy; and

WHEREAS, tourist income, tending to be spent for services and consumables originating in communities other than the resort community, is not translated into taxable real property; and

WHEREAS, the resort community must provide services not only for tourists but for its own residents, and those services are not commensurate with the taxable value of the resort community as compared with steady income municipalities of similar populations.

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THEREFORE, it is the intent of this act to rectify this inequity by providing for a resort tax that may be locally enacted which would tax tourists to reimburse the resort community for the services provided to tourists.

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

Section 1. Definitions. As used in [this act], the following definitions apply:

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

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

(3) "Resort community" means a community that:

(a) is an incorporated municipality;

(b) has a population of less than 10,000 according to the most recent federal census or official population estimate prepared by the state of Montana; and

(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.

Section 2. Taxing authority -- specific delegation. As



1 required by 7-1-112, [this act] specifically delegates to  
 2 the electors of each respective resort community the power  
 3 to authorize their municipality to impose a resort tax  
 4 within the corporate boundary of the municipality as  
 5 provided in [this act].

6 Section 3. Limit on tax rate -- exemption from tax.

7 (1) The rate of the resort tax must be established by the  
 8 election petition or resolution provided for in [section 4],  
 9 but the rate may not exceed 3%.

10 (2) The resort tax is a tax on the retail value of all  
 11 goods and services sold within the resort community. The  
 12 following categories of goods and services are exempt from  
 13 such taxation:

- 14 (a) foodstuffs;
- 15 (b) medicine and medical supplies;
- 16 (c) medical care; and
- 17 (d) liquor purchased at state-owned liquor outlets.

18 Section 4. Election required -- procedure. (1) A  
 19 resort community may not impose or, except as provided in  
 20 [section 5], amend or repeal a resort tax unless the resort  
 21 tax question has been submitted to the electorate of the  
 22 resort community and approved by a majority of the electors  
 23 voting on the question.

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

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

3 (b) a resolution of the governing body of the resort  
 4 community.

5 (3) The petition or resolution referring the taxing  
 6 question:

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

8 (b) must state the duration of the resort tax;

9 (c) must state the date when the tax becomes  
 10 effective, which date may not be earlier than 35 days after  
 11 the election; and

12 (d) may specify the purposes that may be funded by the  
 13 resort tax revenue.

14 (4) Upon receipt of an adequate petition the governing  
 15 body may:

16 (a) call a special election on the resort tax  
 17 question; or

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

20 (5) The question of the imposition of a resort tax may  
 21 not be placed before the electors more than once in any  
 22 fiscal year.

23 Section 5. Tax administration. (1) Not less than 30  
 24 days prior to the date the resort tax becomes effective, the  
 25 governing body of the resort community shall enact an

1 administrative ordinance governing the collection and  
 2 reporting of the resort taxes. This administrative ordinance  
 3 may be amended at any time thereafter as may be necessary to  
 4 effectively administer the resort tax.

5 (2) The administrative ordinance shall specify:

6 (a) the times taxes collected by business are to be  
 7 remitted to the resort community;

8 (b) the local government office, officer, or employee  
 9 responsible for receiving and accounting for the resort tax  
 10 receipts;

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

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

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

20 (ii) civil penalties if the resort community prevails  
 21 in a suit for the collection of resort taxes, not to exceed  
 22 50% of the resort taxes found due plus the costs and  
 23 attorney fees incurred by the resort community in the  
 24 action;

25 (iii) revocation of the offender's municipal business

1 license; and

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

4 (3) The administrative ordinance may include:

5 (a) further clarification and specificity in the  
 6 categories of goods and services that are exempt from the  
 7 resort tax consistent with [section 3];

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

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

14 (ii) receive a refund of up to 5% of the resort tax  
 15 payment received from them by the resort community 10 days  
 16 prior to the collection due date established by the  
 17 administrative ordinance; and

18 (c) other administrative details necessary for the  
 19 efficient and effective administration of the tax.

20 Section 6. Use of tax revenues. Unless otherwise  
 21 restricted by the voter-approved tax authorization provided  
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 23 expend revenues derived from a resort tax for any activity,  
 24 undertaking, or administrative service that the municipality  
 25 is authorized by law to perform, including costs resulting

1 from the imposition of the tax.

2 Section 7. Property tax relief. (1) Annually  
3 anticipated receipts from the resort tax must be applied to  
4 reduce the municipal property tax levy for the fiscal year  
5 in an amount equal to at least 5% of the resort tax revenues  
6 derived during the preceding fiscal year.

7 (2) A resort community that received more resort tax  
8 revenues than had been included in the annual municipal  
9 budget shall establish a municipal property tax relief fund.  
10 All resort tax revenues received in excess of the budget  
11 amount must be placed in the fund. The entire fund must be  
12 used to replace municipal property taxes in the ensuing  
13 fiscal year.

14 Section 8. Effective date. This act is effective on  
15 passage and approval.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN442-85

Form BD-15

In compliance with a written request received February 15 19 85, there is hereby submitted a Fiscal Note for H.B. 826 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Provides for imposition of a resort tax within a designated resort community.

ASSUMPTIONS:

1. The Department of Commerce will be responsible for designation of resort communities.
2. Determination of resort communities will be done through a contract for services.
3. Determination will be done once per biennium.
4. No public hearings or appeals are assumed.

FISCAL IMPACT ON STATE GENERAL FUND:

	<u>FY 1986</u>	<u>FY 1987</u>
Expenditures:	\$ 5,000	\$ -0-

LOCAL IMPACT:

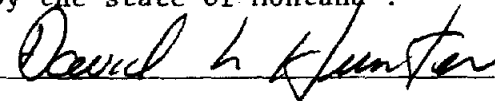
Local governments designated resort communities which elect to impose the tax will receive all proceeds and would be responsible for all costs.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

A funded state program for historical community population estimates is needed for this legislation if the federal revenue sharing program is abolished or severely restricted. The U.S. Bureau of the Census currently produces historical population estimates (with a three year lag) for the revenue sharing program. Annual cost of a state program would be about \$50,000.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The State of Montana basically does not have a community population estimates program. The U.S. Bureau of the Census currently does have a program to construct incorporated community estimates every two years between census years (e.g. 1980-1990) for revenue sharing purposes. It is suggested that "federal estimates" be substituted in Section 1-36 for the phrase "official population estimate prepared by the state of Montana".



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 20, 1985  
HB 826

APPROVED BY COMMITTEE  
ON TAXATION

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 2 INTRODUCED BY ELLERD, BOYLAN, ANDERSON, KEYSER  
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 7 EXEMPT FROM THE TAX; PROVIDING RESORT COMMUNITY PROPERTY TAX  
 8 RELIEF; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
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-End-

SENATE STANDING COMMITTEE REPORT Page 1 of 2  
April 23, 19 85

MR. PRESIDENT

We, your committee on Taxation  
having had under consideration House Bill No. 826  
third reading copy (blue color)

(Senator Boylan)

AUTHORIZES RESORT TAX.

Respectfully report as follows: That House Bill No. 826

be amended as follows:

- 1. Title, line 6.  
Following: "OF"  
Strike: "GOODS AND"
- 2. Title, line 7.  
Following: line 6  
Strike: "EXEMPT FROM"  
Insert: "SUBJECT TO"
- 3. Page 2, lines 7 through 15.  
Following: "Section 1." on line 7  
Strike: "Definitions"  
Insert: "Resort community defined"  
Following: "act)," on line 7  
Strike: remainder of line 7 through "Resort" on line 15  
Insert: "'resort"  
Renumber: subsequent subsections
- 4. Page 2, line 17.  
Following: "17,500"  
Strike: "\$2,500"  
Insert: "2,500"

- 5. Page 2, lines 18 and 19.  
Following: "or" on line 18  
Strike: "official population"  
Insert: "federal"  
Following: "estimate" on line 19  
Strike: "prepared by the state of Montana"

- 6. Page 3, line 8.  
Following: "--"  
Strike: "exemption from"  
Insert: "services subject to"


- 7. Page 3, lines 12 through 19.  
Following: "of" on line 12  
Strike: "all goods and"  
Following: "community" on line 13  
Strike: remainder of line 13 through end of line 19  
Insert: "by the following establishments: (a) hotels, motels, and other lodging or camping facilities;  
(b) restaurants, fast food stores, and other food service establishments; and  
(c) taverns, bars, night clubs, lounges, and other public establishments that serve beer, wine, liquor, or other alcoholic beverages by the drink."

- 8. Page 6, line 8.  
Following: "of"  
Strike: "goods and"  
Following: "are"  
Strike: "exempt from"  
Insert: "subject to"

18  
AND AS AMENDED  
BE CONCURRED IN

~~FOR PASS~~  
~~FOR NOT PASS~~

continued TET  
Chairman

  
Senator Thomas E. Towe, Chairman



## 1 HOUSE BILL NO. 826

2 INTRODUCED BY ELLERD, BOYLAN, ANDERSON, KEYSER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A DEFINED  
5 RESORT COMMUNITY TO ESTABLISH A RESORT TAX AFTER A VOTE OF  
6 ITS ELECTORS; ESTABLISHING CATEGORIES OF ~~GOODS-AND~~ GOODS AND  
7 SERVICES EXEMPT-FROM SUBJECT TO THE TAX; PROVIDING RESORT  
8 COMMUNITY PROPERTY TAX RELIEF; AND PROVIDING AN IMMEDIATE  
9 EFFECTIVE DATE."

10  
11 WHEREAS, many municipalities in the State of Montana  
12 rely upon tourism for the bulk of their livelihood; and

13 WHEREAS, the tourist industry tends to be seasonally  
14 cyclical; and

15 WHEREAS, such cycles are reflected in demands for  
16 services and capital expenditures that do not occur for a  
17 community with a steady economy; and

18 WHEREAS, tourist income, tending to be spent for  
19 services and consumables originating in communities other  
20 than the resort community, is not translated into taxable  
21 real property; and

22 WHEREAS, the resort community must provide services not  
23 only for tourists but for its own residents, and those  
24 services are not commensurate with the taxable value of the  
25 resort community as compared with steady income

1 municipalities of similar populations.

2 THEREFORE, it is the intent of this act to rectify this  
3 inequity by providing for a resort tax that may be locally  
4 enacted which would tax tourists to reimburse the resort  
5 community for the services provided to tourists.

6  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Definitions RESORT---COMMUNITY---DEFINED  
9 DEFINITIONS. As used in [this act], the--following  
10 definitions-apply: THE FOLLOWING DEFINITIONS APPLY:

11 {1}--"Medical-supplies"--means-items-that-are-sold-to-be  
12 used--for--curative,--prosthetic,--or--medical---maintenance  
13 purposes,--whether-or-not-prescribed-by-a-physician;

14 {2}--"Medicine"--means--substances-sold-for-curative-or  
15 remedial-properties,--including-both-physician-prescribed-and  
16 over-the-counter-medications;

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 ~~(3)~~--"Resort ~~\*RESORT~~ (4) "RESORT community" means a  
 4 community that:

5 ~~(a)~~~~(1)~~(A) is an incorporated municipality;

6 ~~(b)~~~~(2)~~(B) has a population of less than ~~10,000~~ 17,500  
 7 \$2,500 2,500 according to the most recent federal census or  
 8 official-population FEDERAL estimate prepared-by--the--state  
 9 of-Montana; and

10 ~~(c)~~~~(3)~~(C) derives the major portion of its economic  
 11 well-being from businesses catering to the recreational and  
 12 personal needs of persons traveling to or through the  
 13 municipality for purposes not related to their income  
 14 production; AND

15 ~~(d)~~~~(4)~~(D) has been designated by the department of  
 16 commerce as a resort community.

17 Section 2. Taxing authority -- specific delegation. As  
 18 required by 7-1-112, [this act] specifically delegates to  
 19 the electors of each respective resort community the power  
 20 to authorize their municipality to impose a resort tax  
 21 within the corporate boundary of the municipality as  
 22 provided in [this act].

23 Section 3. Limit on tax rate -- exemption--from 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 [section 4], but the rate may not exceed 3%.

2 (2) The resort tax is a tax on the retail value of ~~all~~  
 3 ~~goods--and~~ ALL GOODS AND services sold within the resort  
 4 ~~community--The following categories of--goods--and--services~~  
 5 ~~are exempt from such taxation:~~

- 6 ~~(a)~~--foodstuffs;
- 7 ~~(b)~~--medicine-and-medical-supplies;
- 8 ~~(c)~~--medical-care;-and
- 9 ~~(d)~~--liquor-purchased-at-state-owned-liquor-outlets;

10 BY THE FOLLOWING ESTABLISHMENTS:

11 (A) HOTELS, MOTELS, AND OTHER LODGING OR CAMPING  
 12 FACILITIES;

13 (B) RESTAURANTS, FAST FOOD STORES, AND OTHER FOOD  
 14 SERVICE ESTABLISHMENTS; AND

15 (C) TAVERNS, BARS, NIGHT CLUBS, LOUNGES, AND OTHER  
 16 PUBLIC ESTABLISHMENTS THAT SERVE BEER, WINE, LIQUOR, OR  
 17 OTHER ALCOHOLIC BEVERAGES BY THE DRINK-; AND

18 (D) ESTABLISHMENTS THAT SELL LUXURIES MUST COLLECT A  
 19 TAX ON SUCH LUXURIES.

20 Section 4. Election required -- procedure. (1) A  
 21 resort community may not impose or, except as provided in  
 22 [section 5], amend or repeal a resort tax unless the resort  
 23 tax question has been submitted to the electorate of the  
 24 resort community and approved by a majority of the electors  
 25 voting on the question.

1 (2) The resort tax question may be presented to the  
2 electors of the resort community by:

3 (a) a petition of the electors as provided by  
4 7-1-4130, 7-5-132, and 7-5-134 through 7-5-137; or

5 (b) a resolution of the governing body of the resort  
6 community.

7 (3) The petition or resolution referring the taxing  
8 question:

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

10 (b) must state the duration of the resort tax;

11 (c) must state the date when the tax becomes  
12 effective, which date may not be earlier than 35 days after  
13 the election; and

14 (d) may specify the purposes that may be funded by the  
15 resort tax revenue.

16 (4) Upon receipt of an adequate petition the governing  
17 body may:

18 (a) call a special election on the resort tax  
19 question; or

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

22 (5) The question of the imposition of a resort tax may  
23 not be placed before the electors more than once in any  
24 fiscal year.

25 Section 5. Tax administration. (1) Not less than 30

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

7 (2) The administrative ordinance shall specify:

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

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

13 (c) the local government office, officer, or employee  
14 responsible for enforcing the collection of resort taxes and  
15 the methods and procedures to be used in enforcing the  
16 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 prevails  
23 in a suit for the collection of resort taxes, not to exceed  
24 50% of the resort taxes found due plus the costs and  
25 attorney fees incurred by the resort community in the

1 action;

2 (iii) revocation of the offender's municipal business  
3 license; and

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

6 (3) The administrative ordinance may include:

7 (a) further clarification and specificity in the  
8 categories of ~~goods-and~~ GOODS AND services that are exempt  
9 from SUBJECT TO the resort tax consistent with [section 3];

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 10 days  
18 prior to the collection due date established by the  
19 administrative ordinance; and

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

22 Section 6. Use of tax revenues. Unless otherwise  
23 restricted by the voter-approved tax authorization provided  
24 for in [section 4], a resort community may appropriate and  
25 expend revenues derived from a resort tax for any activity,

1 undertaking, or administrative service that the municipality  
2 is authorized by law to perform, including costs resulting  
3 from the imposition of the tax.

4 Section 7. Property tax relief. (1) Annually  
5 anticipated receipts from the resort tax must be applied to  
6 reduce the municipal property tax levy for the fiscal year  
7 in an amount equal to at least 5% of the resort tax revenues  
8 derived during the preceding fiscal year.

9 (2) A resort community that received more resort tax  
10 revenues than had been included in the annual municipal  
11 budget shall establish a municipal property tax relief fund.  
12 All resort tax revenues received in excess of the budget  
13 amount must be placed in the fund. The entire fund must be  
14 used to replace municipal property taxes in the ensuing  
15 fiscal year.

16 Section 8. Effective date. This act is effective on  
17 passage and approval.

-End-