

SENATE BILL NO. 434

2/15 Introduced  
2/16 Referred to Taxation  
2/19 Fiscal Note Requested  
2/22 Fiscal Note Received  
2/22 Hearing  
3/12 Tabled in Committee

1 *Senate* BILL NO. *434*  
 2 INTRODUCED BY *Edo Kelly* *Ally*

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING LOCAL  
 5 GOVERNMENTS TO IMPOSE CERTAIN LOCAL OPTION TAXES IF APPROVED  
 6 BY THE ELECTORATE OF THE LOCAL GOVERNMENT; PROVIDING FOR A  
 7 LOCAL HOTEL AND MOTEL TAX, RESTAURANT TAX, LUXURY TAX,  
 8 INCOME TAX, PAYROLL TAX, AND ENTERTAINMENT TAX; PROVIDING  
 9 FOR THE ADMINISTRATION OF SUCH TAXES AND FOR PENALTIES."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Local option taxes. (1) A local government  
 13 may impose one or more of the taxes set forth in [section 2]  
 14 upon its residents and upon transactions occurring within  
 15 its jurisdiction if the enabling authorization for the  
 16 imposition of the tax is approved by the electorate of the  
 17 local government as provided in [section 3].

18 Section 2. Types of taxes that may be imposed. (1) As  
 19 provided in [this act], a local government may impose one or  
 20 more of the following taxes:

21 (a) a local hotel and motel tax, which may be a flat  
 22 rate or may be a percentage of the charges for overnight  
 23 accommodation at a hotel, motel, resort, inn, or campground.  
 24 A hotel or motel may not be defined to include a  
 25 roominghouse, retirement home, medical facility, or other

1 multiunit structure with accommodations rented on other than  
 2 a daily or weekly basis.

3 (b) a local restaurant tax, which may be a percentage  
 4 of the charges paid by a consumer for ready-to-eat food and  
 5 accompanying beverages sold by a retail establishment  
 6 licensed as a restaurant or bar or other facility where food  
 7 is prepared for immediate consumption by members of the  
 8 general public. A restaurant may not be defined to include  
 9 governmentally operated or owned food service  
 10 establishments, meals provided primarily for senior  
 11 citizens, school or educational institution food service  
 12 facilities, meals served as an integral part of an  
 13 accommodation, such as in boarding homes and medical  
 14 facilities, or other food services not primarily servicing  
 15 the public at large.

16 (c) a luxury tax, to be a percentage of the retail  
 17 sales price of luxury items. A luxury item may not be  
 18 defined to include foodstuffs; nonalcoholic beverages;  
 19 over-the-counter or prescription drugs or health supplies;  
 20 used automobiles; farm, construction, or other machinery or  
 21 lubricants or supplies necessary for the operation of such  
 22 machinery or other motor vehicles; tools or items generally  
 23 required for a person's trade or occupation; individual  
 24 items of clothing, including footwear, with a retail price  
 25 of less than \$100; real property and structures attached



1 thereto; or mobile or manufactured homes. Luxury items must  
 2 be specifically identified either in the enabling  
 3 authorization of the tax or in the implementing enactment,  
 4 and exceptions may be set forth for defined luxury items  
 5 used, although not required, in the course of a person's  
 6 business or occupation.

7 (d) a local income tax, which may be a percentage of  
 8 the income earned in the jurisdiction by its residents,  
 9 income earned in the jurisdiction by nonresidents, or income  
 10 earned outside the jurisdiction by its residents;

11 (e) a local payroll tax, which may be a flat rate or a  
 12 schedule of flat rates levied for specific time periods on  
 13 employees of licensed businesses or public employers  
 14 operating within the jurisdiction who are covered under the  
 15 workers' compensation laws of the state or for whom there  
 16 must be withholdings for state or federal taxes;

17 (f) a local entertainment tax, which may be a flat  
 18 rate on or a percentage of proceeds derived from an  
 19 entertainment enterprise or device operated for profit.

20 (2) The types of taxes set forth in subsection (1) may  
 21 be further defined in the enabling authorization to impose  
 22 the tax as provided in [section 3], but definitions may not  
 23 be less restrictive than the description of the tax as set  
 24 forth in this section.

25 Section 3. Enabling authorization for imposition of

1 tax. (1) The proposal to enable a local government to  
 2 impose taxes set forth in [section 2] may be initiated by a  
 3 petition of the electorate as provided in 7-5-131 through  
 4 7-5-135 or by a resolution of the governing body.

5 (2) The proposal must:

6 (a) set forth the specific type or types of taxes  
 7 authorized by [section 2] that are proposed;

8 (b) establish a rate or range of rates that may be  
 9 imposed; and

10 (c) if necessary, clearly set forth the definition of  
 11 the taxable items, services, or transactions or establish  
 12 guidelines for such definition by the governing body.

13 (3) The proposal may contain provisions that upon  
 14 approval:

15 (a) limit the authority of the governing body in the  
 16 imposition and use of the tax, such as exclusions, duration,  
 17 use of proceeds and similar limitations; and

18 (b) grant the governing body powers to establish  
 19 procedures, rates, and penalties and other powers.

20 (4) Upon approval by the electorate in accordance with  
 21 the provisions of 7-5-136, the proposal becomes the local  
 22 governing body's enabling authorization to impose the  
 23 specified tax, subject to the provisions of [this act].

24 Section 4. Implementation of tax. (1) The governing  
 25 body of a local government may implement the enabling

1 authorization to impose a tax, as may be convenient and  
2 necessary to administer the tax, not inconsistent with the  
3 provisions of [this act] or the enabling authorization.

4 (2) Subject to any restrictions set forth in the  
5 enabling authorization, the governing body, for the  
6 enforcement of provisions relating to the imposition and  
7 collection of a tax, may establish:

8 (a) criminal penalties, not to exceed the penalties  
9 for the violation of an ordinance as set forth in 7-5-109;  
10 and

11 (b) civil penalties that are monetary amounts, either  
12 fixed or by percentages.

13 (3) The proceeds of a tax authorized by [this act] may  
14 be used for the administration of the tax and, unless  
15 otherwise provided in the enabling authorization, may be  
16 used for any lawful purpose by the local government.

17 (4) The governing body may contract or enter into  
18 interlocal agreements with other local governments, state  
19 agencies, or any other entity for the administration of the  
20 tax.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 473-85

Form BD-15

In compliance with a written request received February 20, 19 85, there is hereby submitted a Fiscal Note for S.B. 434 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.

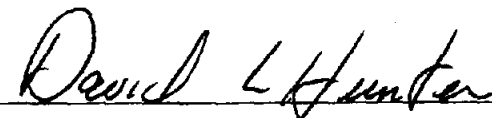
DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing local governments to impose certain local option taxes if approved by the electorate of the local government; providing for a local hotel and motel tax, restaurant tax, luxury tax, income tax, payroll tax, and entertainment tax; providing for the administration of such taxes and for penalties.

FISCAL IMPACT:

Any increase in state expenditures would be recovered as provided for in Section 4(4).

Any local option tax that is adopted would negatively effect state income tax revenues because the tax paid would be a deductible item. If local governments adopted a payroll tax in locations that have significant state employment, state expenditures could be effected if the tax required the employer to pay the tax.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 22, 1985  
SB 434