

HOUSE FINAL STATUS

HB 8 INTRODUCED BY SPAETH, ET AL.
 CREATING A 5 PERCENT ACCOMMODATIONS AND MEALS TAX

3/18 INTRODUCED
3/18 REFERRED TO TAXATION
3/19 FISCAL NOTE REQUESTED
3/24 FISCAL NOT RECEIVED
3/30 TABLED IN COMMITTEE

1 House BILL NO. 8
 2 INTRODUCED BY Sp Seth Kedar Kerna
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A 5 PERCENT
 5 TAX ON THE USERS OF HOTEL, MOTEL, OR CAMPGROUND
 6 ACCOMMODATIONS AND ON THE PURCHASERS OF MEALS; PROVIDING FOR
 7 DISTRIBUTION OF THE TAX PROCEEDS; ESTABLISHING A TOURISM
 8 ADVISORY COUNCIL; APPROPRIATING PORTIONS OF THE TAX
 9 PROCEEDS; AMENDING SECTIONS 15-10-105, 17-7-502, AND
 10 20-9-343, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
 11 AN APPLICABILITY DATE."

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

14 NEW SECTION. Section 1. Definitions. For purposes of
 15 [sections 1 through 9], the following definitions apply:

16 (1) "Campground" means a place, publicly or privately
 17 owned, used for public camping where persons may camp,
 18 secure tents, or park individual recreational vehicles for
 19 camping and sleeping purposes. The term does not include
 20 that portion of a trailer court, trailer park, or mobile
 21 home park intended for occupancy by trailers or mobile homes
 22 for resident dwelling purposes for periods of 30 consecutive
 23 day or more.

24 (2) "Council" means the tourism advisory council
 25 established in [section 10].

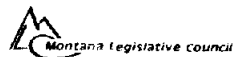
1 (3) "Hotel" or "motel" means a building containing
 2 individual sleeping rooms or suites, providing overnight
 3 lodging facilities for periods of less than 30 days to the
 4 general public for compensation. The term includes a
 5 facility represented to the public as a hotel, motel,
 6 resort, dormitory, condominium inn, dude ranch, guest ranch,
 7 hostel, public lodging house, or bed and breakfast facility.
 8 The term does not include a roominghouse, retirement home,
 9 hospital, or other facility that is rented on other than a
 10 daily or weekly basis.

11 (4) "Local government" means an incorporated city or
 12 town, a county, or a consolidated government.

13 (5) "Meal" means food products for human consumption
 14 that are:

15 (a) furnished, prepared, or served for consumption at
 16 tables, chairs, or counters or from trays, glasses, dishes,
 17 or other tableware, whether provided by the operator or by a
 18 person with whom the operator contracts to furnish, prepare,
 19 or serve food products to others;

20 (b) sold for immediate consumption on or near a
 21 location at which parking facilities are provided primarily
 22 for the ease of patrons in consuming the products purchased
 23 at the location, even though such products are sold on a
 24 "take out", "to go", or "U-bake" order and are actually
 25 packaged or wrapped and taken from the premises of the



1 operator; or

2 (c) sold for consumption within a place, the entrance
3 to which is subject to an admission charge, except for
4 national and state parks and monuments.

5 (6) "Nonprofit convention and visitors bureau" means a
6 nonprofit corporation organized under Montana law and
7 recognized by a majority of the governing body in the city
8 or consolidated city-county in which the bureau is located.

9 (7) "Operator" means a person or his agent who:

10 (a) operates a campground, hotel, or motel, whether as
11 owner, proprietor, lessee, sublessee, mortgagee, licensee or
12 otherwise;

13 (b) charges for a meal; or

14 (c) is engaged in both activities described in
15 subsections (6)(a) and (6)(b).

16 (8) "Regional nonprofit tourism corporation" means a
17 nonprofit corporation organized under Montana law and
18 recognized by the council as the entity for promoting
19 tourism within one of several regions established by
20 executive order of the governor.

21 NEW SECTION. Section 2. Tax on accommodations and
22 meals. (1) There is imposed on the user of a hotel, motel,
23 or campground a tax at a rate equal to 5% of the
24 accommodation charge collected by the operator.

25 (2) There is imposed on the purchaser of a meal a tax

1 at a rate equal to 5% of the charge collected by the
2 operator for providing the meal.

3 NEW SECTION. Section 3. Collection and reporting. (1)
4 Each operator shall collect the applicable tax imposed by
5 [section 2].

6 (2) The operator shall report to the department of
7 revenue, at the end of each calendar quarter, the gross
8 receipts collected during that quarter attributable to
9 charges for the use of the hotel, motel, or campground,
10 charges for meals, or both such charges. The report is due
11 within 30 days following the end of the calendar quarter and
12 must be accompanied by a payment in an amount equal to the
13 tax required to be collected under subsection (1).

14 NEW SECTION. Section 4. Failure to pay or file --
15 penalty -- interest. (1) An operator who fails to file the
16 report required by [section 3] must be assessed a penalty of
17 2% of the tax that should have been collected during the
18 calendar quarter. Upon a showing of good cause, the
19 department of revenue may waive the penalty.

20 (2) An operator who fails to make payment or fails to
21 report and make payment as required by [section 3] must be
22 assessed a penalty of 2% of the amount that was not paid.
23 Upon a showing of good cause, the department may waive the
24 penalty.

25 (3) If an operator fails to file the report required

1 by [section 3] or if the department of revenue determines
2 that the report understates the amount of tax due, the
3 department may estimate the amount of the tax due and assess
4 that amount against the operator.

5 (4) The amount required to be paid under [section 3]
6 accrues interest at the rate of 5/6 of 1% a month from
7 delinquency until paid.

8 NEW SECTION. Section 5. Distribution of tax proceeds.
9 The proceeds of the taxes imposed by [section 2] must be
10 deposited in an account in the state special revenue fund to
11 the credit of the department of revenue. The department may
12 spend from that account, in accordance with an expenditure
13 appropriation by the legislature, based on an estimate of
14 the costs of collecting and disbursing the proceeds of the
15 taxes. The balance of the tax proceeds received each
16 reporting period and not deducted pursuant to the
17 expenditure appropriation must be transferred as follows:

18 (1) 18% to an account in the state special revenue
19 fund to the credit of the department of commerce for
20 distribution as provided in [section 7];

21 (2) 9.8% to an account in the state special revenue
22 fund to the credit of the department of commerce for travel
23 development grants as provided in [section 9];

24 (3) 34.36% to an account in the state special revenue
25 fund to reduce the mill levy for the university system

1 required under 15-10-105;

2 (4) 17.17% to an account in the state special revenue
3 fund to the credit of the university system, to be spent in
4 accordance with an expenditure appropriation by the
5 legislature;

6 (5) 17.17% to the state equalization aid account in
7 the state special revenue fund; and

8 (6) 3.5% to an account in the state special revenue
9 fund to the credit of the department of revenue for
10 distribution to the local government jurisdiction wherein
11 the taxes imposed by [section 2] were collected, in the
12 proportion that the collections of each local government
13 jurisdiction bear to the total statewide collections.

14 NEW SECTION. Section 6. Certain tax proceeds
15 statutorily appropriated. The tax proceeds transferred under
16 [section 5(1) and (6)] are statutorily appropriated as
17 provided in 17-7-502.

18 NEW SECTION. Section 7. Distribution of certain tax
19 proceeds. (1) Proceeds from the accommodations and meals
20 taxes credited to the department of commerce under [section
21 5(1)] must be used for tourism promotion and promotion of
22 the state as a location for the production of motion
23 pictures and television commercials, as follows:

24 (a) 75% to be used directly by the department;

25 (b) except as provided in subsection (1)(c), 25% to be

1 distributed by the department to regional nonprofit tourism
2 corporations in the ratio of the proceeds collected in each
3 tourism region to the total proceeds collected statewide;

4 (c) if 25% of the proceeds collected annually within
5 the limits of a city or consolidated city-county exceeds
6 \$35,000, 80% of the amount available for distribution to the
7 regional nonprofit tourism corporation in the region where
8 the city or consolidated city-county is located is to be
9 distributed to the nonprofit convention and visitors bureau
10 in that city or consolidated city-county.

11 (2) If a city or consolidated city-county qualifies
12 under this section for funds but fails to either recognize a
13 nonprofit convention and visitors bureau or submit and gain
14 approval for an annual marketing plan as required in
15 [section 8], those funds must be allocated to the tourism
16 region in which the city or consolidated city-county is
17 located.

18 (3) If a regional nonprofit tourism corporation fails
19 to submit and gain approval for an annual marketing plan as
20 required in [section 8], those funds otherwise allocated to
21 the regional nonprofit tourism corporation may be used by
22 the department of commerce for tourism promotion and
23 promotion of the state as a location for the production of
24 motion pictures and television commercials.

25 (4) The department of commerce may use general fund

1 loans for efficient implementation of this section.

2 NEW SECTION. Section 8. Qualification of nonprofit
3 entities for receipt of funds -- limitation on
4 administrative costs. (1) The department of revenue shall
5 provide the council with quarterly reports of regional tax
6 proceeds and tax proceeds of cities and consolidated
7 city-counties that qualify for disbursement of funds under
8 [section 7].

9 (2) No funds may be disbursed to a regional nonprofit
10 tourism corporation or nonprofit convention and visitors
11 bureau until the entity has submitted an annual marketing
12 plan to the council and the plan has been approved by the
13 council.

14 (3) A maximum of 20% of the funds received by a
15 regional nonprofit tourism corporation or nonprofit
16 convention and visitors bureau may be used for
17 administrative purposes as defined by the council.

18 NEW SECTION. Section 9. Travel development grant
19 program. (1) There is a travel development grant program.

20 (2) A person, organization, or state or local
21 governmental agency may submit a grant proposal for a travel
22 development project to the department of commerce by
23 September 1 of the year preceding the convening of a regular
24 legislative session.

25 (3) The council shall review each grant proposal

1 submitted to the department and make recommendations to the
2 legislature as to which proposals should be awarded grants.
3 The council shall present its recommendations to the
4 legislature by the 15th day of each regular legislative
5 session.

6 (4) The department shall adopt rules specifying
7 criteria for the council to use in evaluating proposals and
8 making recommendations to the legislature.

9 (5) The legislature shall appropriate funds from the
10 account in the state special revenue fund provided for in
11 [section 5(2)] before a grant for a travel development
12 project is awarded.

13 (6) A grant proposal submitted during the biennium
14 ending June 30, 1989, must be for the creation of a visitors
15 center to be located at one of the state's ports of entry.
16 The legislature may award grants to a maximum of six such
17 proposals.

18 NEW SECTION. Section 10. Tourism advisory council.

19 (1) There is created a tourism advisory council.

20 (2) The council is composed of not less than 12
21 members, appointed by the governor from Montana's private
22 sector travel industry, with representation from each
23 tourism region as initially established by executive order
24 of the governor or as modified by the council under
25 subsection (5).

1 (3) Members of the council shall serve staggered
2 3-year terms, subject to replacement at the discretion of
3 the governor. The governor shall designate four of the
4 initial members to serve 1-year terms and four of the
5 initial members to serve 2-year terms.

6 (4) The council shall:

7 (a) oversee distribution of funds to regional
8 nonprofit tourism corporations for tourism promotion and to
9 nonprofit convention and visitors bureaus in accordance with
10 {sections 7 and 8};

11 (b) review travel development grant proposals and make
12 recommendations to the legislature as provided in [section
13 9];

14 (c) advise the department of commerce relative to
15 tourism promotion;

16 (d) advise the governor on significant matters
17 relative to Montana's travel industry; and

18 (e) prescribe allowable administrative expenses for
19 which tax proceeds may be used by regional nonprofit tourism
20 corporations and nonprofit convention and visitors bureaus.

21 (5) The council may modify the tourism regions
22 established by executive order of the governor.

23 Section 11. Section 15-10-105, MCA, is amended to
24 read:

25 "15-10-105. Tax levy for the university system -- levy

1 to be reduced to reflect proceeds of accommodations and
 2 meals taxes. (1) There is levied upon the taxable value of
 3 all real and personal property in the state of Montana,
 4 subject to taxation, 6 mills or so much thereof as is
 5 necessary, after considering the amount appropriated under
 6 subsection (2), to raise the amount appropriated by the
 7 legislature from the state special revenue fund for the
 8 support, maintenance, and improvement of the Montana
 9 university system and other public educational institutions
 10 subject to board of regents' supervision, as provided in
 11 referendum measure No. 75 passed by vote of the people at
 12 the general election held November 7, 1978; and the funds
 13 raised therefrom shall be deposited in the state special
 14 revenue fund.

15 (2) The mill levy required under subsection (1) must
 16 be reduced to reflect the amount appropriated for the
 17 university system from the proceeds of the accommodations
 18 and meals taxes as provided in [section 5(3)]."

19 Section 12. Section 17-7-502, MCA, is amended to read:

20 "17-7-502. Statutory appropriations -- definition --
 21 requisites for validity. (1) A statutory appropriation is an
 22 appropriation made by permanent law that authorizes spending
 23 by a state agency without the need for a biennial
 24 legislative appropriation or budget amendment.

25 (2) Except as provided in subsection (4), to be

1 effective, a statutory appropriation must comply with both
 2 of the following provisions:

3 (a) The law containing the statutory authority must be
 4 listed in subsection (3).

5 (b) The law or portion of the law making a statutory
 6 appropriation must specifically state that a statutory
 7 appropriation is made as provided in this section.

8 (3) The following laws are the only laws containing
 9 statutory appropriations:

- 10 (a) 2-9-202;
 11 (b) 2-17-105;
 12 (c) 2-18-812;
 13 (d) 10-3-203;
 14 (e) 10-3-312;
 15 (f) 10-3-314;
 16 (g) 10-4-301;
 17 (h) 13-37-304;
 18 (i) 15-31-702;
 19 (j) 15-36-112;
 20 (k) 15-70-101;
 21 (l) 16-1-404;
 22 (m) 16-1-410;
 23 (n) 16-1-411;
 24 (o) 17-3-212;
 25 (p) 17-5-404;

1 (q) 17-5-424;
 2 (r) 17-5-804;
 3 (s) 19-8-504;
 4 (t) 19-9-702;
 5 (u) 19-9-1007;
 6 (v) 19-10-205;
 7 (w) 19-10-305;
 8 (x) 19-10-506;
 9 (y) 19-11-512;
 10 (z) 19-11-513;
 11 (aa) 19-11-606;
 12 (bb) 19-12-301;
 13 (cc) 19-13-604;
 14 (dd) 20-6-406;
 15 (ee) 20-8-111;
 16 (ff) 23-5-612;
 17 (gg) 37-51-501;
 18 (hh) 53-24-206;
 19 (ii) 75-1-1101;
 20 (jj) 75-7-305;
 21 (kk) 80-2-103;
 22 (ll) 80-2-228;
 23 (mm) 90-3-301;
 24 (nn) 90-3-302;
 25 (oo) 90-15-103; and

1 (pp) Sec. 13, HB 861, L. 1985; and
 2 (qq) [section 5(1) and (6)].
 3 (4) There is a statutory appropriation to pay the
 4 principal, interest, premiums, and costs of issuing, paying,
 5 and securing all bonds, notes, or other obligations, as due,
 6 that have been authorized and issued pursuant to the laws of
 7 Montana. Agencies that have entered into agreements
 8 authorized by the laws of Montana to pay the state
 9 treasurer, for deposit in accordance with 17-2-101 through
 10 17-2-107, as determined by the state treasurer, an amount
 11 sufficient to pay the principal and interest as due on the
 12 bonds or notes have statutory appropriation authority for
 13 such payments."
 14 Section 13. Section 20-9-343, MCA, is amended to read:
 15 "20-9-343. Definition of and revenue for state
 16 equalization aid. (1) As used in this title, the term "state
 17 equalization aid" means those moneys deposited in the state
 18 special revenue fund as required in this section plus any
 19 legislative appropriation of moneys from other sources for
 20 distribution to the public schools for the purpose of
 21 equalization of the foundation program.
 22 (2) The legislative appropriation for state
 23 equalization aid shall be made in a single sum for the
 24 biennium. The superintendent of public instruction has
 25 authority to spend such appropriation, together with the

1 earmarked revenues provided in subsection (3), as required
2 for foundation program purposes throughout the biennium.

3 (3) The following shall be paid into the state special
4 revenue fund for state equalization aid to public schools of
5 the state:

6 (a) 25% of all moneys received from the collection of
7 income taxes under chapter 30 of Title 15;

8 (b) 25% of all moneys, except as provided in
9 15-31-702, received from the collection of corporation
10 license taxes under chapter 31 of Title 15, as provided by
11 15-1-501;

12 (c) 10% of the moneys received from the collection of
13 the severance tax on coal under chapter 35 of Title 15;

14 (d) 100% of the moneys received from the treasurer of
15 the United States as the state's shares of oil, gas, and
16 other mineral royalties under the federal Mineral Lands
17 Leasing Act, as amended;

18 (e) interest and income moneys described in 20-9-341
19 and 20-9-342;

20 (f) 17.17% of all moneys received from the collection
21 of accommodations and meals taxes as provided in (section
22 5);

23 ~~(f)~~(g) income from the local impact and education
24 trust fund account; and

25 ~~(g)~~(h) in addition to these revenues, the surplus

1 revenues collected by the counties for foundation program
2 support according to 20-9-331 and 20-9-333 shall be paid
3 into the same state special revenue fund.

4 (4) Any surplus revenue in the state equalization aid
5 account in the second year of a biennium may be used to
6 reduce the appropriation required for the next succeeding
7 biennium [or may be transferred to the state permissive
8 account if revenues in that fund are insufficient to meet
9 the state's permissive amount obligation]."

10 NEW SECTION. Section 14. Extension of authority. Any
11 existing authority of the department of revenue to make
12 rules on the subject of the provisions of this act is
13 extended to the provisions of this act.

14 NEW SECTION. Section 15. Codification instructions.
15 (1) Sections 1 through 9 are intended to be codified as an
16 integral part of Title 15, and the provisions of Title 15
17 apply to sections 1 through 9.

18 (2) Section 10 is intended to be codified as an
19 integral part of Title 2, chapter 15, part 18, and the
20 provisions of Title 2, chapter 15, apply to section 10.

21 NEW SECTION. Section 16. Effective date --
22 applicability. This act is effective on passage and approval
23 to allow timely rulemaking and is applicable to taxable
24 transactions on or after May 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB008, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act imposing a 5 percent tax on the users of hotel, motel, or campground accommodations and on the purchases of meals; providing for the distribution of the tax proceeds; appropriating a portion of the tax proceeds; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. A hotel/motel/campground tax will generate gross collections of \$1.25 million per percent per year (OBPP). This estimate is assumed constant for each year.
2. The revenue from the tax on meals is estimated using the database prepared by the Bureau of Business and Economic Research for the Revenue Oversight Committee. The tax is estimated to raise \$19.7 million per year.
3. For simplicity, it is assumed that the effective date of the proposal (May 1, 1987) and the quarterly remittance of the tax will prevent 1/12 of the annual proceeds from being collected in FY88.
4. Administrative costs of the Department of Revenue will be \$186,345 in FY88 and FY89. In addition, \$141,610 start-up costs will be incurred in FY87 in order to implement the tax by May 1, 1987. The proposal does not provide the Department with \$141,610 to cover the start-up costs of the program.

FISCAL IMPACT:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue Impact:</u>						
Hotel and Meals Tax	\$ 0	\$ 23,787,500	\$23,787,500	\$ 0	\$ 25,950,000	\$25,950,000
<u>Expenditure Impact:</u>						
General Fund	\$ 0	\$ 186,345	\$ 186,345	\$ 0	\$ 186,345	\$ 186,345
<u>Net Revenue:</u>	\$ 0	\$ 23,601,155	\$23,601,155	\$ 0	\$ 25,763,655	\$ 25,763,655

David L. Hunter DATE 3/24/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Gary Spaeth DATE 24 March 87
 GARY SPAETH, PRIMARY SPONSOR

Fiscal Note for HB008, as introduced.

HB 8

Fiscal Note Request, HB008, as introduced.

Form BD-15

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	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Fund Information:</u>						
<u>Dept. of Commerce:</u>						
Dept. of Commerce	\$ 0	\$ 3,186,156	\$ 3,186,156	\$ 0	\$ 3,478,093	\$ 3,478,093
Regional Travel Promo.	0	1,062,052	1,062,052	0	1,159,364	1,159,364
Travel Grants	0	2,312,914	2,312,914	0	2,524,838	2,524,838
University Levy Buy Down*	0	8,109,357	8,109,357	0	8,852,392	8,852,392
University System	0	4,052,318	4,052,318	0	4,423,620	4,423,620
School Equalization	0	4,052,318	4,052,318	0	4,423,620	4,423,620
<u>Local Governments</u>	<u>0</u>	<u>826,040</u>	<u>826,040</u>	<u>0</u>	<u>901,728</u>	<u>901,728</u>
TOTAL	\$ 0	\$23,601,155	\$23,601,155	\$ 0	\$25,763,655	\$25,763,655

* This revenue is used to reduce the university mill levy from 6 mills to approximately 2 mills in each year.

TECHNICAL NOTE:

The proposal does not provide funding for the start-up costs to implement the tax. These costs are estimated to be \$141,610 in FY87. (General Fund)

HB 8