

IN THE HOUSE

APRIL 13, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 14, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 HOUSE BILL NO. 84
2 INTRODUCED BY WINSLOW

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A STATEWIDE 4
5 PERCENT TAX ON THE USERS OF HOTEL, MOTEL, OR CAMPGROUND
6 ACCOMMODATIONS; PROVIDING FOR DISTRIBUTION OF THE TAX
7 PROCEEDS TO THE DEPARTMENT OF COMMERCE, REGIONAL NONPROFIT
8 TOURISM CORPORATIONS, AND NONPROFIT CONVENTION AND VISITORS
9 BUREAUS FOR PROMOTION OF MONTANA TOURISM AND MOTION PICTURE
10 AND TELEVISION COMMERCIAL LOCATION; ESTABLISHING A TOURISM
11 ADVISORY COUNCIL; AMENDING SECTION 17-7-502, MCA; AND
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
13 DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16 NEW SECTION. Section 1. Definitions. For purposes of
17 [this act], the following definitions apply:

18 (1) "Council" means the tourism advisory council
19 established in [section 7].

20 (2) "Hotel" or "motel" means a building containing
21 individual sleeping rooms or suites, providing overnight
22 lodging facilities for periods of less than 30 days to the
23 general public for compensation. The term includes a
24 facility represented to the public as a hotel, motel,
25 resort, dormitory, condominium inn, dude ranch, guest ranch,

1 hostel, public lodginghouse, or bed and breakfast facility.
2 The term does not include a roominghouse, retirement home,
3 hospital, or other facility that is rented on other than a
4 daily or weekly basis.

5 (3) "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 (4) "Regional nonprofit tourism corporation" means a
10 nonprofit corporation organized under Montana law and
11 recognized by the council as the entity for promoting
12 tourism within one of several regions established by
13 executive order of the governor.

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

22 NEW SECTION. Section 2. Tax rate -- combined charge
23 for services. (1) There is imposed on the user of a hotel,
24 motel, or tourist campground a tax at a rate equal to 4% of
25 the accommodation charge collected by the hotel, motel, or



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1 campground.

2 (2) When accommodation charges are combined with food,
3 beverage, recreation, or other charges, such as with guest
4 ranches, the operator of the facility shall place a fair
5 market value on the accommodations portion of the charge and
6 impose upon the user a tax at a rate equal to 4% of the
7 accommodation charge.

8 (3) Accommodation charges do not include charges for
9 rooms used for purposes other than lodging.

10 NEW SECTION. Section 3. Collection and reporting. (1)
11 The owner or operator of a hotel, motel, or campground shall
12 collect the tax imposed by [section 2].

13 (2) The owner or operator shall report to the
14 department of revenue, at the end of each calendar quarter,
15 the gross receipts collected during that quarter
16 attributable to accommodation charges for the use of the
17 hotel, motel, or campground. The report is due within 30
18 days following the end of the calendar quarter and must be
19 accompanied by a payment in an amount equal to the tax
20 required to be collected under subsection (1).

21 NEW SECTION. Section 4. Failure to pay or file --
22 penalty -- interest. (1) An owner or operator of a hotel,
23 motel, or campground who fails to file the report as
24 required by [section 3] must be assessed a penalty of 2% of
25 the tax that should have been collected during the calendar

1 quarter. Upon a showing of good cause, the department of
2 revenue may waive the penalty.

3 (2) An owner or operator of a hotel, motel, or
4 campground who fails to make payment or fails to report and
5 make payment as required by [section 3] must be assessed a
6 penalty of 2% of the amount that was not paid. Upon a
7 showing of good cause, the department may waive the penalty.

8 (3) If an owner or operator of a hotel, motel, or
9 campground fails to file the report required by [section 3]
10 or if the department of revenue determines that the report
11 understates the amount of tax due, the department may
12 estimate the amount of the tax due and assess that amount
13 against the owner or operator.

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

17 NEW SECTION. Section 5. Distribution of tax proceeds
18 -- general fund loan authority. (1) The proceeds of the
19 tax imposed by [section 2] must be deposited in an account
20 in the state special revenue fund to the credit of the
21 department of revenue. The department may spend from that
22 account in accordance with an expenditure appropriation by
23 the legislature based on an estimate of the costs of
24 collecting and disbursing the proceeds of the tax. The
25 balance of the tax proceeds received each reporting period

1 and not deducted pursuant to the expenditure appropriation
 2 are statutorily appropriated as provided in 17-7-502 and
 3 must be transferred to an account in the state special
 4 revenue fund to the credit of the department of commerce for
 5 tourism promotion and promotion of the state as a location
 6 for the production of motion pictures and television
 7 commercials, as follows:

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

9 (b) except as provided in subsection (1)(c), 25% to be
 10 distributed by the department to regional nonprofit tourism
 11 corporations in the ratio of the proceeds collected in each
 12 tourism region to the total proceeds collected statewide;

13 (c) if 25% of the proceeds collected annually within
 14 the limits of a city or consolidated city-county exceeds
 15 \$35,000, 80% of the amount available for distribution to the
 16 regional nonprofit tourism corporation in the region where
 17 the city or consolidated city-county is located is to be
 18 distributed to the nonprofit convention and visitors bureau
 19 in that city or consolidated city-county.

20 (2) If a city or consolidated city-county qualifies
 21 under this section for funds but fails to either recognize a
 22 nonprofit convention and visitors bureau or submit and gain
 23 approval for an annual marketing plan as required in
 24 [section 6], then those funds must be allocated to the
 25 tourism region in which the city or consolidated city-county

1 is located.

2 (3) If a regional nonprofit tourism corporation fails
 3 to submit and gain approval for an annual marketing plan as
 4 required in [section 6], then those funds otherwise
 5 allocated to the regional nonprofit tourism corporation may
 6 be used by the department of commerce for tourism promotion
 7 and promotion of the state as a location for the production
 8 of motion pictures and television commercials.

9 (4) The department of commerce may use general fund
 10 loans for efficient implementation of this section.

11 NEW SECTION. Section 6. Qualification of nonprofit
 12 entities for receipt of funds -- limitation on
 13 administrative costs. (1) The department of revenue shall
 14 provide the council with quarterly reports of regional tax
 15 proceeds and tax proceeds of cities and consolidated
 16 city-counties that qualify for disbursement of funds under
 17 [section 5].

18 (2) No funds may be disbursed to a regional nonprofit
 19 tourism corporation or nonprofit convention and visitors
 20 bureau until that entity has submitted an annual marketing
 21 plan to the council and that plan has been approved by the
 22 council.

23 (3) A maximum of 20% of the funds received by a
 24 regional nonprofit tourism corporation or nonprofit
 25 convention and visitors bureau may be used for

1 administrative purposes as defined by the council.

2 NEW SECTION. Section 7. Tourism advisory council. (1)
3 There is created a tourism advisory council.

4 (2) The council is composed of not less than 12
5 members appointed by the governor from Montana's private
6 sector travel industry with representation from each tourism
7 region initially established by executive order of the
8 governor and as may be modified by the council under
9 subsection (5).

10 (3) Members of the council shall serve staggered
11 3-year terms, subject to replacement at the discretion of
12 the governor. The governor shall designate four of the
13 initial members to serve 1-year terms and four of the
14 initial members to serve 2-year terms.

15 (4) The council shall:

16 (a) oversee distribution of funds to regional
17 nonprofit tourism corporations for tourism promotion and to
18 nonprofit convention and visitors bureaus in accordance with
19 [this act];

20 (b) advise the department of commerce relative to
21 tourism promotion;

22 (c) advise the governor on significant matters
23 relative to Montana's travel industry; and

24 (d) prescribe allowable administrative expenses for
25 which accommodation tax proceeds may be used by regional

1 nonprofit tourism corporations and nonprofit convention and
2 visitors bureaus.

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

5 Section 8. Section 17-7-502, MCA, is amended to read:

6 "17-7-502. Statutory appropriations -- definition --
7 requisites for validity. (1) A statutory appropriation is an
8 appropriation made by permanent law that authorizes spending
9 by a state agency without the need for a biennial
10 legislative appropriation or budget amendment.

11 (2) Except as provided in subsection (4), to be
12 effective, a statutory appropriation must comply with both
13 of the following provisions:

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

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

19 (3) The following laws are the only laws containing
20 statutory appropriations:

21 (a) 2-9-202;

22 (b) 2-17-105;

23 (c) 2-18-812;

24 (d) 10-3-203;

25 (e) 10-3-312;

1 (f) 10-3-314;
 2 (g) 10-4-301;
 3 (h) 13-37-304;
 4 (i) 15-31-702;
 5 (j) 15-36-112;
 6 (k) 15-70-101;
 7 (l) 16-1-404;
 8 (m) 16-1-410;
 9 (n) 16-1-411;
 10 (o) 17-3-212;
 11 (p) 17-5-404;
 12 (q) 17-5-424;
 13 (r) 17-5-804;
 14 (s) 19-8-504;
 15 (t) 19-9-702;
 16 (u) 19-9-1007;
 17 (v) 19-10-205;
 18 (w) 19-10-305;
 19 (x) 19-10-506;
 20 (y) 19-11-512;
 21 (z) 19-11-513;
 22 (aa) 19-11-606;
 23 (bb) 19-12-301;
 24 (cc) 19-13-604;
 25 (dd) 20-6-406;

1 (ee) 20-8-111;
 2 (ff) 23-5-612;
 3 (gg) 37-51-501;
 4 (hh) 53-24-206;
 5 (ii) 75-1-1101;
 6 (jj) 75-7-305;
 7 (kk) 80-2-103;
 8 (ll) 80-2-228;
 9 (mm) 90-3-301;
 10 (nn) 90-3-302;
 11 (oo) 90-15-103; and
 12 (pp) Sec. 13, HB 861, L. 1985; and
 13 (qq) [section 5].

14 (4) There is a statutory appropriation to pay the
 15 principal, interest, premiums, and costs of issuing, paying,
 16 and securing all bonds, notes, or other obligations, as due,
 17 that have been authorized and issued pursuant to the laws of
 18 Montana. Agencies that have entered into agreements
 19 authorized by the laws of Montana to pay the state
 20 treasurer, for deposit in accordance with 17-2-101 through
 21 17-2-107, as determined by the state treasurer, an amount
 22 sufficient to pay the principal and interest as due on the
 23 bonds or notes have statutory appropriation authority for
 24 such payments."

25 NEW SECTION. Section 9. Extension of authority. Any

1 existing authority of the department of revenue to make
2 rules on the subject of the provisions of this act is
3 extended to the provisions of this act.

4 NEW SECTION. Section 10. Codification instructions.

5 (1) Sections 1 through 6 are intended to be codified as an
6 integral part of Title 15, and the provisions of Title 15
7 apply to sections 1 through 6.

8 (2) Section 7 is intended to be codified as an
9 integral part of Title 2, chapter 15, part 18, and the
10 provisions of Title 2, chapter 15, apply to section 7.

11 NEW SECTION. Section 11. Effective date --
12 applicability. This act is effective on passage and approval
13 to allow timely rulemaking and is applicable to taxable
14 transactions on or after May 1, 1987.

-End-

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 84

INTRODUCED BY WINSLOW

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A STATEWIDE 4
PERCENT TAX ON THE USERS OF HOTEL, MOTEL, OR CAMPGROUND
ACCOMMODATIONS AND SIMILAR FACILITIES; PROVIDING FOR
DISTRIBUTION OF THE TAX PROCEEDS TO THE DEPARTMENT OF
COMMERCE, REGIONAL NONPROFIT TOURISM CORPORATIONS, AND
NONPROFIT CONVENTION AND VISITORS BUREAUS FOR PROMOTION OF
MONTANA TOURISM AND MOTION PICTURE AND TELEVISION COMMERCIAL
LOCATION, TO THE MONTANA HISTORICAL SOCIETY FOR ROADSIDE
HISTORICAL SIGNS AND HISTORIC SITES, AND TO THE UNIVERSITY
SYSTEM FOR A MONTANA TRAVEL RESEARCH PROGRAM; ESTABLISHING A
TOURISM ADVISORY COUNCIL; PROVIDING FOR APPROPRIATIONS;
AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Definitions. For purposes of
[this act], the following definitions apply:

(1) "ACCOMMODATION CHARGE" MEANS THE FEE CHARGED BY
THE OWNER OR OPERATOR OF A FACILITY FOR USE OF THE FACILITY
FOR LODGING, INCLUDING BATH HOUSE FACILITIES, BUT EXCLUDING
CHARGES FOR MEALS, TRANSPORTATION, ENTERTAINMENT, OR ANY
OTHER SIMILAR CHARGES.

~~(1)~~(2) "Council" means the tourism advisory council
established in [section 7 9].

~~(2)~~(3) "~~Hotel~~-or-~~motel~~" "FACILITY" means a building
containing individual sleeping rooms or suites, providing
overnight lodging facilities for periods of less than 30
days to the general public for compensation. The term
includes a facility represented to the public as a hotel,
motel, CAMPGROUND, resort, dormitory, condominium inn, dude
ranch, guest ranch, hostel, public lodginghouse, or bed and
breakfast facility. The term does not include a
~~roominghouse, retirement-home, hospital,~~ ANY HEALTH CARE
FACILITY, AS DEFINED IN 50-5-101, ANY FACILITY OWNED BY A
CORPORATION ORGANIZED UNDER TITLE 35, CHAPTER 2 OR 3, THAT
IS USED PRIMARILY BY PERSONS UNDER THE AGE OF 18 YEARS FOR
CAMPING PURPOSES, or ANY other facility that is rented on
other-than-a-daily-or-weekly-basis SOLELY ON A MONTHLY BASIS
OR FOR A PERIOD OF 30 DAYS OR MORE.

~~(3)~~(4) "Nonprofit convention and visitors bureau"
means a nonprofit corporation organized under Montana law
and recognized by a majority of the governing body in the
city or consolidated city-county in which the bureau is
located.

~~(4)~~(5) "Regional nonprofit tourism corporation" means
a nonprofit corporation organized under Montana law and
recognized by the council as the entity for promoting

1 tourism within one of several regions established by
 2 executive order of the governor.

3 ~~{5}~~{6} "Campground" means a place, publicly or
 4 privately owned, used for public camping where persons may
 5 camp, secure tents, or park individual recreational vehicles
 6 for camping and sleeping purposes. The term does not include
 7 that portion of a trailer court, trailer park, or mobile
 8 home park intended for occupancy by trailers or mobile homes
 9 for resident dwelling purposes for periods of 30 consecutive
 10 days or more.

11 NEW SECTION. Section 2. Tax rate -- combined charge
 12 for services. (1) There is imposed on the user of a hotel,
 13 motel,~~or-tourist-campground~~ FACILITY a tax at a rate equal
 14 to 4% of the accommodation charge collected by the hotel,
 15 motel,~~or-campground~~ FACILITY.

16 ~~{2}--When-accommodation-charges-are-combined-with-food,
 17 beverage,-recreation,-or-other-charges,-such-as--with--guest
 18 ranches,-the-operator--of--the-facility-shall-place-a-fair
 19 market-value-on-the-accommodations-portion-of-the-charge-and
 20 impose-upon-the-user-a-tax-at-a-rate--equal--to--4%--of--the
 21 accommodation-charge.~~

22 ~~{3}~~{2} Accommodation charges do not include charges
 23 for rooms used for purposes other than lodging.

24 NEW SECTION. Section 3. Collection and reporting. (1)
 25 The owner or operator of a hotel,~~or-campground~~

1 FACILITY shall collect the tax imposed by [section 2].

2 (2) The owner or operator shall report to the
 3 department of revenue, at the end of each calendar quarter,
 4 the gross receipts collected during that quarter
 5 attributable to accommodation charges for the use of the
 6 hotel,~~or-motel,~~~~or-campground~~ FACILITY. The report is due
 7 within 30 days following the end of the calendar quarter and
 8 must be accompanied by a payment in an amount equal to the
 9 tax required to be collected under subsection (1).

10 NEW SECTION. SECTION 4. AUDITS -- RECORDS. (1) THE
 11 DEPARTMENT OF REVENUE MAY AUDIT THE BOOKS AND RECORDS OF ANY
 12 OWNER OR OPERATOR TO ENSURE THAT THE PROPER AMOUNT OF TAX
 13 IMPOSED BY [SECTION 2] HAS BEEN COLLECTED. AN AUDIT MAY BE
 14 DONE ON THE PREMISES OF THE OWNER OR OPERATOR OF A FACILITY
 15 OR AT ANY OTHER CONVENIENT LOCATION.

16 (2) THE DEPARTMENT MAY REQUEST THE OWNER OR OPERATOR
 17 OF A FACILITY TO PROVIDE THE DEPARTMENT WITH BOOKS, LEDGERS,
 18 REGISTERS, OR OTHER DOCUMENTS NECESSARY TO VERIFY THE
 19 CORRECT AMOUNT OF TAX.

20 (3) THE OWNER OR OPERATOR OF A FACILITY SHALL MAINTAIN
 21 AND HAVE AVAILABLE FOR INSPECTION BY THE DEPARTMENT BOOKS,
 22 LEDGERS, REGISTERS, OR OTHER DOCUMENTS SHOWING THE
 23 COLLECTION OF ACCOMMODATION CHARGES FOR THE PRECEDING 5
 24 YEARS.

25 NEW SECTION. SECTION 5. REGISTRATION NUMBER --

1 APPLICATION TO DEPARTMENT. (1) THE OWNER OR OPERATOR OF A
 2 FACILITY SHALL APPLY TO THE DEPARTMENT OF REVENUE FOR A
 3 REGISTRATION NUMBER.

4 (2) THE APPLICATION MUST BE MADE ON A FORM PROVIDED BY
 5 THE DEPARTMENT.

6 (3) UPON COMPLETION OF THE APPLICATION AND DELIVERY OF
 7 THE APPLICATION TO THE DEPARTMENT, THE DEPARTMENT MUST
 8 ASSIGN A REGISTRATION NUMBER TO THE OWNER, OPERATOR, OR
 9 FACILITY, AS APPROPRIATE.

10 NEW SECTION. Section 6. Failure to pay or file --
 11 penalty -- interest. (1) An owner or operator of a hotel,
 12 motel, or campground FACILITY who fails to file the report
 13 as required by [section 3] must be assessed a penalty of 2%
 14 of the tax that should have been collected during the
 15 calendar quarter. Upon a showing of good cause, the
 16 department of revenue may waive the penalty.

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

22 (3) If an owner or operator of a hotel, motel, or
 23 campground fails to file the report required by [section 3]
 24 or if the department of revenue determines that the report
 25 understates the amount of tax due, the department may

1 estimate DETERMINE the amount of the tax due and assess that
 2 amount against the owner or operator.

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

6 NEW SECTION. Section 7. Distribution of tax proceeds
 7 -- general fund loan authority. (1) The proceeds of the
 8 tax imposed by [section 2] must be deposited in an account
 9 in the state special revenue fund to the credit of the
 10 department of revenue. The department may-spend-from IS
 11 STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, 2% OF
 12 that account in-accordance-with-an-expenditure-appropriation
 13 by--the--legislature--based-on-an-estimate-of EACH REPORTING
 14 PERIOD FOR the costs of collecting and disbursing the
 15 proceeds of the tax. The balance of the tax proceeds
 16 received each reporting period and not deducted pursuant to
 17 the expenditure STATUTORY appropriation FOR COLLECTION AND
 18 DISBURSEMENT are IS statutorily appropriated as provided in
 19 17-7-502 and must be transferred to an account in the state
 20 special revenue fund to the credit of the department of
 21 commerce for tourism promotion and promotion of the state as
 22 a location for the production of motion pictures and
 23 television commercials, as follows:

- 24 (a) 75% to be used directly by the department;
- 25 (b) except as provided in subsection (1)(c), 25% 21.5%

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

5 (c) if ~~25%~~ 21.5% of the proceeds collected annually
 6 within the limits of a city or consolidated city-county
 7 exceeds \$35,000, ~~80%~~ 50% of the amount available for
 8 distribution to the regional nonprofit tourism corporation
 9 in the region where the city or consolidated city-county is
 10 located is to be distributed to the nonprofit convention and
 11 visitors bureau in that city or consolidated city-county;

12 (D) 1% TO THE MONTANA HISTORICAL SOCIETY TO BE USED
 13 FOR THE INSTALLATION OR MAINTENANCE OF ROADSIDE HISTORICAL
 14 SIGNS AND HISTORIC SITES; AND

15 (E) 2.5% TO THE UNIVERSITY SYSTEM FOR THE
 16 ESTABLISHMENT AND MAINTENANCE OF A MONTANA TRAVEL RESEARCH
 17 PROGRAM.

18 (2) If a city or consolidated city-county qualifies
 19 under this section for funds but fails to either recognize a
 20 nonprofit convention and visitors bureau or submit and gain
 21 approval for an annual marketing plan as required in
 22 [section 6 8], then those funds must be allocated to the
 23 tourism region in which the city or consolidated city-county
 24 is located.

25 (3) If a regional nonprofit tourism corporation fails

1 to submit and gain approval for an annual marketing plan as
 2 required in [section 6 8], then those funds otherwise
 3 allocated to the regional nonprofit tourism corporation may
 4 be used by the department of commerce for tourism promotion
 5 and promotion of the state as a location for the production
 6 of motion pictures and television commercials.

7 (4) The department of commerce may use general fund
 8 loans for efficient implementation of this section.

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

16 (2) No funds may be disbursed to a regional nonprofit
 17 tourism corporation or nonprofit convention and visitors
 18 bureau until that entity has submitted an annual marketing
 19 plan to the council and that plan has been approved by the
 20 council.

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

25 NEW SECTION. Section 9. Tourism advisory council. (1)

1 There is created a tourism advisory council.

2 (2) The council is composed of not less than 12
3 members appointed by the governor from Montana's private
4 sector travel industry with representation from each tourism
5 region initially established by executive order of the
6 governor and as may be modified by the council under
7 subsection (5).

8 (3) Members of the council shall serve staggered
9 3-year terms, subject to replacement at the discretion of
10 the governor. The governor shall designate four of the
11 initial members to serve 1-year terms and four of the
12 initial members to serve 2-year terms.

13 (4) The council shall:

14 (a) oversee distribution of funds to regional
15 nonprofit tourism corporations for tourism promotion and to
16 nonprofit convention and visitors bureaus in accordance with
17 [this act];

18 (b) advise the department of commerce relative to
19 tourism promotion;

20 (c) advise the governor on significant matters
21 relative to Montana's travel industry; and

22 (d) prescribe allowable administrative expenses for
23 which accommodation tax proceeds may be used by regional
24 nonprofit tourism corporations and nonprofit convention and
25 visitors bureaus.

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

3 Section 10. Section 17-7-502, MCA, is amended to read:

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5 requisites for validity. (1) A statutory appropriation is an
6 appropriation made by permanent law that authorizes spending
7 by a state agency without the need for a biennial
8 legislative appropriation or budget amendment.

9 (2) Except as provided in subsection (4), to be
10 effective, a statutory appropriation must comply with both
11 of the following provisions:

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

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

17 (3) The following laws are the only laws containing
18 statutory appropriations:

- 19 (a) 2-9-202;
- 20 (b) 2-17-105;
- 21 (c) 2-18-812;
- 22 (d) 10-3-203;
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 16 (w) 19-10-305;
 17 (x) 19-10-506;
 18 (y) 19-11-512;
 19 (z) 19-11-513;
 20 (aa) 19-11-606;
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1 (gg) 37-51-501;
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 3 (ii) 75-1-1101;
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 7 (mm) 90-3-301;
 8 (nn) 90-3-302;
 9 (oo) 90-15-103; and
 10 (pp) Sec. 13, HB 861, L. 1985; and
 11 (qq) [section 5 7].

12 (4) There is a statutory appropriation to pay the
 13 principal, interest, premiums, and costs of issuing, paying,
 14 and securing all bonds, notes, or other obligations, as due,
 15 that have been authorized and issued pursuant to the laws of
 16 Montana. Agencies that have entered into agreements
 17 authorized by the laws of Montana to pay the state
 18 treasurer, for deposit in accordance with 17-2-101 through
 19 17-2-107, as determined by the state treasurer, an amount
 20 sufficient to pay the principal and interest as due on the
 21 bonds or notes have statutory appropriation authority for
 22 such payments."

23 ~~NEW SECTION--Section 9--Extension of authority--Any~~
 24 ~~existing--authority--of--the--department--of--revenue--to--make~~
 25 ~~rules--on--the--subject--of--the--provisions--of--this--act--is~~

1 ~~extended-to-the-provisions-of-this-act-~~

2 NEW SECTION. SECTION 11. RULEMAKING AUTHORITY. THE
 3 DEPARTMENT OF REVENUE SHALL ADOPT SUCH RULES AS MAY BE
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8 NEW SECTION. Section 13. Codification instructions.
 9 (1) Sections 1 through 6 8 AND 11 are intended to be
 10 codified as an integral part of Title 15, and the provisions
 11 of Title 15 apply to sections 1 through 6 8 AND 11.

12 (2) ~~Section 7~~ is SECTIONS 9 AND 12 ARE intended to be
 13 codified as an integral part of Title 2, chapter 15, part
 14 18, and the provisions of Title 2, chapter 15, apply to
 15 ~~section 7~~ SECTIONS 9 AND 12.

16 NEW SECTION. SECTION 14. COORDINATION INSTRUCTION.
 17 IF EITHER SENATE BILL NO. 55 OR A BILL AUTHORIZING A LOCAL
 18 OPTION SALES TAX OF 3% OR MORE IS PASSED AND APPROVED, THE
 19 PERCENTAGE RATE OF TAX IN SECTION 2 IS AMENDED TO BE REDUCED
 20 FROM 4% TO 3%.

21 NEW SECTION. SECTION 15. APPROPRIATION. (1) THE
 22 DEPARTMENT OF REVENUE IS AUTHORIZED, AS PROVIDED IN
 23 17-2-107(2) TO OBTAIN A GENERAL FUND LOAN IN FISCAL YEAR
 24 1987 AND REPAY SUCH LOAN IN FISCAL YEAR 1988 FOR STARTUP
 25 COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS ACT. THE

1 LOAN MAY NOT EXCEED \$120,000.

2 (2) THERE IS HEREBY APPROPRIATED FROM THE STATE
 3 SPECIAL REVENUE FUND TO THE CREDIT OF THE DEPARTMENT OF
 4 REVENUE UP TO \$120,000 IN FISCAL YEAR 1988 TO REPAY THE
 5 AMOUNT OF ANY GENERAL FUND LOAN OBTAINED BY THE DEPARTMENT
 6 OF REVENUE IN FISCAL YEAR 1987.

7 NEW SECTION. Section 16. Effective date --
 8 applicability. This act is effective on passage and approval
 9 to allow timely rulemaking and is applicable to taxable
 10 transactions on or after May 1, 1987.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 84

3

4 This bill needs a statement of intent because it allows
5 the department of revenue and department of commerce to
6 adopt rules negotiating the administration of this act.

7 The rules will be necessary to effectively and
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9 includes rules clarifying persons subject to the tax,
10 reporting requirements, recordkeeping requirements,
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13 powers, and other requirements. Since this is a new tax in
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16 The intent of the legislature in exempting certain
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24 business of the facility. Rules adopted should be sensitive
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HOUSE BILL NO. 84
INTRODUCED BY WINSLOW

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A STATEWIDE 4
PERCENT TAX ON THE USERS OF HOTEL, MOTEL, OR CAMPGROUND
ACCOMMODATIONS AND SIMILAR FACILITIES; PROVIDING FOR
DISTRIBUTION OF THE TAX PROCEEDS TO THE DEPARTMENT OF
COMMERCE, REGIONAL NONPROFIT TOURISM CORPORATIONS, AND
NONPROFIT CONVENTION AND VISITORS BUREAUS FOR PROMOTION OF
MONTANA TOURISM AND MOTION PICTURE AND TELEVISION COMMERCIAL
LOCATION, TO THE MONTANA HISTORICAL SOCIETY FOR ROADSIDE
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SYSTEM FOR A MONTANA TRAVEL RESEARCH PROGRAM; ESTABLISHING A
TOURISM ADVISORY COUNCIL; PROVIDING FOR APPROPRIATIONS;
AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Definitions. For purposes of
[this act], the following definitions apply:

(1) "ACCOMMODATION CHARGE" MEANS THE FEE CHARGED BY
THE OWNER OR OPERATOR OF A FACILITY FOR USE OF THE FACILITY
FOR LODGING, INCLUDING BATH HOUSE FACILITIES, BUT EXCLUDING
CHARGES FOR MEALS, TRANSPORTATION, ENTERTAINMENT, OR ANY
OTHER SIMILAR CHARGES.

{1}{2} "Council" means the tourism advisory council
established in [section 7 9].

{2}{3} ~~"Hotel"-or-"motel"~~ "FACILITY" means a building
containing individual sleeping rooms or suites, providing
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includes a facility represented to the public as a hotel,
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ranch, guest ranch, hostel, public lodginghouse, or bed and
breakfast facility. The term does not include a
~~roominghouse, retirement-home, hospital,~~ ANY HEALTH CARE
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CORPORATION ORGANIZED UNDER TITLE 35, CHAPTER 2 OR 3, THAT
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AVERAGE DAILY ACCOMMODATION CHARGE FOR SINGLE OCCUPANCY DOES
NOT EXCEED 60% OF THE AMOUNT AUTHORIZED UNDER 2-18-501 FOR
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a--daily--or-weekly-basis SOLELY ON A MONTHLY BASIS OR FOR A
PERIOD OF 30 DAYS OR MORE.

{3}{4} "Nonprofit convention and visitors bureau"
means a nonprofit corporation organized under Montana law
and recognized by a majority of the governing body in the

1 city or consolidated city-county in which the bureau is
2 located.

3 ~~(4)~~(5) "Regional nonprofit tourism corporation" means
4 a nonprofit corporation organized under Montana law and
5 recognized by the council as the entity for promoting
6 tourism within one of several regions established by
7 executive order of the governor.

8 ~~(5)~~(6) "Campground" means a place, publicly or
9 privately owned, used for public camping where persons may
10 camp, secure tents, or park individual recreational vehicles
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23 ~~ranches,~~-the-operator-of-the-facility--shall--place--a--fair
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25 ~~impose--upon--the--user--a--tax-at-a-rate-equal-to-4%--of--the~~

1 ~~accommodation-charge.~~

2 ~~(3)~~(2) Accommodation charges do not include charges
3 for rooms used for purposes other than lodging.

4 NEW SECTION. Section 3. Collection and reporting. (1)
5 The owner or operator of a ~~hotel;~~-~~motel;~~-or-campground
6 FACILITY shall collect the tax imposed by [section 2].

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

15 NEW SECTION. SECTION 4. AUDITS -- RECORDS. (1) THE
16 DEPARTMENT OF REVENUE MAY AUDIT THE BOOKS AND RECORDS OF ANY
17 OWNER OR OPERATOR TO ENSURE THAT THE PROPER AMOUNT OF TAX
18 IMPOSED BY [SECTION 2] HAS BEEN COLLECTED. AN AUDIT MAY BE
19 DONE ON THE PREMISES OF THE OWNER OR OPERATOR OF A FACILITY
20 OR AT ANY OTHER CONVENIENT LOCATION.

21 (2) THE DEPARTMENT MAY REQUEST THE OWNER OR OPERATOR
22 OF A FACILITY TO PROVIDE THE DEPARTMENT WITH BOOKS, LEDGERS,
23 REGISTERS, OR OTHER DOCUMENTS NECESSARY TO VERIFY THE
24 CORRECT AMOUNT OF TAX.

25 (3) THE OWNER OR OPERATOR OF A FACILITY SHALL MAINTAIN

1 AND HAVE AVAILABLE FOR INSPECTION BY THE DEPARTMENT BOOKS,
 2 LEDGERS, REGISTERS, OR OTHER DOCUMENTS SHOWING THE
 3 COLLECTION OF ACCOMMODATION CHARGES FOR THE PRECEDING 5
 4 YEARS.

5 NEW SECTION. SECTION 5. REGISTRATION NUMBER --
 6 APPLICATION TO DEPARTMENT. (1) THE OWNER OR OPERATOR OF A
 7 FACILITY SHALL APPLY TO THE DEPARTMENT OF REVENUE FOR A
 8 REGISTRATION NUMBER.

9 (2) THE APPLICATION MUST BE MADE ON A FORM PROVIDED BY
 10 THE DEPARTMENT.

11 (3) UPON COMPLETION OF THE APPLICATION AND DELIVERY OF
 12 THE APPLICATION TO THE DEPARTMENT, THE DEPARTMENT MUST
 13 ASSIGN A REGISTRATION NUMBER TO THE OWNER, OPERATOR, OR
 14 FACILITY, AS APPROPRIATE.

15 NEW SECTION. Section 6. Failure to pay or file --
 16 penalty -- interest. (1) An owner or operator of a hotel,
 17 motel, or campground FACILITY who fails to file the report
 18 as required by [section 3] must be assessed a penalty of 2%
 19 of the tax that should have been collected during the
 20 calendar quarter. Upon a showing of good cause, the
 21 department of revenue may waive the penalty.

22 (2) An owner or operator of a hotel, motel, or
 23 campground FACILITY who fails to make payment or fails to
 24 report and make payment as required by [section 3] must be
 25 assessed a penalty of 2% of the amount that was not paid.

1 Upon a showing of good cause, the department may waive the
 2 penalty.

3 (3) If an owner or operator of a hotel, motel, or
 4 campground FACILITY fails to file the report required by
 5 [section 3] or if the department of revenue determines that
 6 the report understates the amount of tax due, the department
 7 may estimate DETERMINE the amount of the tax due and assess
 8 that amount against the owner or operator.

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

12 NEW SECTION. Section 7. Distribution of tax proceeds
 13 -- general fund loan authority. (1) The proceeds of the
 14 tax imposed by [section 2] must be deposited in an account
 15 in the state special revenue fund to the credit of the
 16 department of revenue. The department may spend from IS
 17 STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, 2% OF
 18 that account in accordance with an expenditure appropriation
 19 by the legislature based on an estimate of EACH REPORTING
 20 PERIOD FOR the costs of collecting and disbursing the
 21 proceeds of the tax. The balance of the tax proceeds
 22 received each reporting period and not deducted pursuant to
 23 the expenditure STATUTORY appropriation FOR COLLECTION AND
 24 DISBURSEMENT are IS statutorily appropriated as provided in
 25 17-7-502 and must be transferred to an account in the state

1 special revenue fund to the credit of the department of
2 commerce for tourism promotion and promotion of the state as
3 a location for the production of motion pictures and
4 television commercials, as follows:

5 (a) 75% to be used directly by the department;
6 (b) except as provided in subsection (1)(c), 25% 21.5%
7 to be distributed by the department to regional nonprofit
8 tourism corporations in the ratio of the proceeds collected
9 in each tourism region to the total proceeds collected
10 statewide;

11 (c) if 25% 21.5% 25% of the proceeds collected
12 annually within the limits of a city or consolidated
13 city-county exceeds \$35,000, 80% 50% of the amount available
14 for distribution to the regional nonprofit tourism
15 corporation in the region where the city or consolidated
16 city-county is located is to be distributed to the nonprofit
17 convention and visitors bureau in that city or consolidated
18 city-county;

19 (D) 1% TO THE MONTANA HISTORICAL SOCIETY TO BE USED
20 FOR THE INSTALLATION OR MAINTENANCE OF ROADSIDE HISTORICAL
21 SIGNS AND HISTORIC SITES; AND

22 (E) 2.5% TO THE UNIVERSITY SYSTEM FOR THE
23 ESTABLISHMENT AND MAINTENANCE OF A MONTANA TRAVEL RESEARCH
24 PROGRAM.

25 (2) If a city or consolidated city-county qualifies

1 under this section for funds but fails to either recognize a
2 nonprofit convention and visitors bureau or submit and gain
3 approval for an annual marketing plan as required in
4 [section 6 8], then those funds must be allocated to the
5 tourism region in which the city or consolidated city-county
6 is located.

7 (3) If a regional nonprofit tourism corporation fails
8 to submit and gain approval for an annual marketing plan as
9 required in [section 6 8], then those funds otherwise
10 allocated to the regional nonprofit tourism corporation may
11 be used by the department of commerce for tourism promotion
12 and promotion of the state as a location for the production
13 of motion pictures and television commercials.

14 (4) The department of commerce may use general fund
15 loans for efficient implementation of this section.

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

23 (2) No funds may be disbursed to a regional nonprofit
24 tourism corporation or nonprofit convention and visitors
25 bureau until that entity has submitted an annual marketing

1 plan to the council and that plan has been approved by the
2 council.

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

7 NEW SECTION. Section 9. Tourism advisory council. (1)
8 There is created a tourism advisory council.

9 (2) The council is composed of not less than 12
10 members appointed by the governor from Montana's private
11 sector travel industry with representation from each tourism
12 region initially established by executive order of the
13 governor and as may be modified by the council under
14 subsection (5).

15 (3) Members of the council shall serve staggered
16 3-year terms, subject to replacement at the discretion of
17 the governor. The governor shall designate four of the
18 initial members to serve 1-year terms and four of the
19 initial members to serve 2-year terms.

20 (4) The council shall:

21 (a) oversee distribution of funds to regional
22 nonprofit tourism corporations for tourism promotion and to
23 nonprofit convention and visitors bureaus in accordance with
24 [this act];

25 (b) advise the department of commerce relative to

1 tourism promotion;

2 (c) advise the governor on significant matters
3 relative to Montana's travel industry; and

4 (d) prescribe allowable administrative expenses for
5 which accommodation tax proceeds may be used by regional
6 nonprofit tourism corporations and nonprofit convention and
7 visitors bureaus.

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

10 Section 10. Section 17-7-502, MCA, is amended to read:

11 "17-7-502. Statutory appropriations -- definition --
12 requisites for validity. (1) A statutory appropriation is an
13 appropriation made by permanent law that authorizes spending
14 by a state agency without the need for a biennial
15 legislative appropriation or budget amendment.

16 (2) Except as provided in subsection (4), to be
17 effective, a statutory appropriation must comply with both
18 of the following provisions:

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

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

24 (3) The following laws are the only laws containing
25 statutory appropriations:

1 (a) 2-9-202;
 2 (b) 2-17-105;
 3 (c) 2-18-812;
 4 (d) 10-3-203;
 5 (e) 10-3-312;
 6 (f) 10-3-314;
 7 (g) 10-4-301;
 8 (h) 13-37-304;
 9 (i) 15-31-702;
 10 (j) 15-36-112;
 11 (k) 15-70-101;
 12 (l) 16-1-404;
 13 (m) 16-1-410;
 14 (n) 16-1-411;
 15 (o) 17-3-212;
 16 (p) 17-5-404;
 17 (q) 17-5-424;
 18 (r) 17-5-804;
 19 (s) 19-8-504;
 20 (t) 19-9-702;
 21 (u) 19-9-1007;
 22 (v) 19-10-205;
 23 (w) 19-10-305;
 24 (x) 19-10-506;
 25 (y) 19-11-512;

1 (z) 19-11-513;
 2 (aa) 19-11-606;
 3 (bb) 19-12-301;
 4 (cc) 19-13-604;
 5 (dd) 20-6-406;
 6 (ee) 20-8-111;
 7 (ff) 23-5-612;
 8 (gg) 37-51-501;
 9 (hh) 53-24-206;
 10 (ii) 75-1-1101;
 11 (jj) 75-7-305;
 12 (kk) 80-2-103;
 13 (ll) 80-2-228;
 14 (mm) 90-3-301;
 15 (nn) 90-3-302;
 16 (oo) 90-15-103; and
 17 (pp) Sec. 13, HB 861, L. 1985; and
 18 (qq) [section 5 7].

19 (4) There is a statutory appropriation to pay the
 20 principal, interest, premiums, and costs of issuing, paying,
 21 and securing all bonds, notes, or other obligations, as due,
 22 that have been authorized and issued pursuant to the laws of
 23 Montana. Agencies that have entered into agreements
 24 authorized by the laws of Montana to pay the state
 25 treasurer, for deposit in accordance with 17-2-101 through

1 17-2-107, as determined by the state treasurer, an amount
 2 sufficient to pay the principal and interest as due on the
 3 bonds or notes have statutory appropriation authority for
 4 such payments."

5 ~~NEW SECTION. Section 9. Extension of authority. Any~~
 6 ~~existing authority of the department of revenue to make~~
 7 ~~rules on the subject of the provisions of this act is~~
 8 ~~extended to the provisions of this act.~~

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 11 NECESSARY TO IMPLEMENT AND ADMINISTER [THIS ACT].

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15 NEW SECTION. SECTION 4. AUDITS -- RECORDS. (1) THE
16 DEPARTMENT OF REVENUE MAY AUDIT THE BOOKS AND RECORDS OF ANY
17 OWNER OR OPERATOR TO ENSURE THAT THE PROPER AMOUNT OF TAX
18 IMPOSED BY [SECTION 2] HAS BEEN COLLECTED. AN AUDIT MAY BE
19 DONE ON THE PREMISES OF THE OWNER OR OPERATOR OF A FACILITY
20 OR AT ANY OTHER CONVENIENT LOCATION.

21 (2) THE DEPARTMENT MAY REQUEST THE OWNER OR OPERATOR
22 OF A FACILITY TO PROVIDE THE DEPARTMENT WITH BOOKS, LEDGERS,
23 REGISTERS, OR OTHER DOCUMENTS NECESSARY TO VERIFY THE
24 CORRECT AMOUNT OF TAX.

25 (3) THE OWNER OR OPERATOR OF A FACILITY SHALL MAINTAIN

1 AND HAVE AVAILABLE FOR INSPECTION BY THE DEPARTMENT BOOKS,
 2 LEDGERS, REGISTERS, OR OTHER DOCUMENTS SHOWING THE
 3 COLLECTION OF ACCOMMODATION CHARGES FOR THE PRECEDING 5
 4 YEARS.

5 (4) EXCEPT IN THE CASE OF A PERSON WHO, WITH INTENT TO
 6 EVADE THE TAX, PURPOSELY OR KNOWINGLY FILES A FALSE OR
 7 FRAUDULENT RETURN VIOLATING THE PROVISIONS OF [THIS ACT],
 8 THE AMOUNT OF TAX DUE UNDER ANY RETURN MUST BE DETERMINED BY
 9 THE DEPARTMENT WITHIN 5 YEARS AFTER THE RETURN IS MADE, AND
 10 THE DEPARTMENT THEREAFTER IS BARRED FROM REVISING ANY SUCH
 11 RETURN OR RECOMPUTING THE TAX DUE THEREON, AND NO PROCEEDING
 12 IN COURT FOR THE COLLECTION OF THE TAX MAY BE INSTITUTED
 13 UNLESS NOTICE OF ANY ADDITIONAL TAX IS PROVIDED WITHIN SUCH
 14 PERIOD.

15 (5) AN APPLICATION FOR REVISION MAY BE FILED WITH THE
 16 DEPARTMENT BY AN OWNER OR OPERATOR OF A FACILITY WITHIN 5
 17 YEARS FROM THE ORIGINAL DUE DATE OF THE RETURN.

18 NEW SECTION. SECTION 5. REGISTRATION NUMBER --
 19 APPLICATION TO DEPARTMENT. (1) THE OWNER OR OPERATOR OF A
 20 FACILITY SHALL APPLY TO THE DEPARTMENT OF REVENUE FOR A
 21 REGISTRATION NUMBER.

22 (2) THE APPLICATION MUST BE MADE ON A FORM PROVIDED BY
 23 THE DEPARTMENT.

24 (3) UPON COMPLETION OF THE APPLICATION AND DELIVERY OF
 25 THE APPLICATION TO THE DEPARTMENT, THE DEPARTMENT MUST

1 ASSIGN A REGISTRATION NUMBER TO THE OWNER, OPERATOR, OR
 2 FACILITY, AS APPROPRIATE.

3 NEW SECTION. Section 6. Failure to pay or file --
 4 penalty -- interest. (1) An owner or operator of a ~~hotel~~
 5 ~~hotel~~-~~or-campground~~ FACILITY who fails to file the report
 6 as required by [section 3] must be assessed a penalty of 2%
 7 of the tax that should have been collected during the
 8 calendar quarter. Upon a showing of good cause, the
 9 department of revenue may waive the penalty.

10 (2) An owner or operator of a ~~hotel~~--~~hotel~~--~~or~~
 11 ~~campground~~ FACILITY who fails to make payment or fails to
 12 report and make payment as required by [section 3] must be
 13 assessed a penalty of 2% of the amount that was not paid.
 14 Upon a showing of good cause, the department may waive the
 15 penalty.

16 (3) If an owner or operator of a ~~hotel~~--~~hotel~~--~~or~~
 17 ~~campground~~ FACILITY fails to file the report required by
 18 [section 3] or if the department of revenue determines that
 19 the report understates the amount of tax due, the department
 20 may estimate DETERMINE the amount of the tax due and assess
 21 that amount against the owner or operator.

22 (4) The amount required to be paid under [section 3]
 23 accrues interest at the rate of 5/6-~~of~~ 1% a month OR PART
 24 THEREOF from delinquency until paid.

25 NEW SECTION. Section 7. Distribution of tax proceeds

1 -- general fund loan authority. (1) The proceeds of the
 2 tax imposed by [section 2] must be deposited in an account
 3 in the state special revenue fund to the credit of the
 4 department of revenue. The department ~~may spend from IS~~
 5 STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, 2% OF
 6 that account in accordance with an expenditure appropriation
 7 by the legislature based on an estimate of EACH REPORTING
 8 PERIOD FOR the costs of collecting and disbursing the
 9 proceeds of the tax. The balance of the tax proceeds
 10 received each reporting period and not deducted pursuant to
 11 the expenditure STATUTORY appropriation FOR COLLECTION AND
 12 DISBURSEMENT are IS statutorily appropriated as provided in
 13 17-7-502 and must be transferred to an account in the state
 14 special revenue fund to the credit of the department of
 15 commerce for tourism promotion and promotion of the state as
 16 a location for the production of motion pictures and
 17 television commercials, TO THE MONTANA HISTORICAL SOCIETY,
 18 AND TO THE UNIVERSITY SYSTEM, as follows:
 19 (A) 1% TO THE MONTANA HISTORICAL SOCIETY TO BE USED
 20 FOR THE INSTALLATION OR MAINTENANCE OF ROADSIDE HISTORICAL
 21 SIGNS AND HISTORIC SITES;
 22 (B) 2.5% TO THE UNIVERSITY SYSTEM FOR THE
 23 ESTABLISHMENT AND MAINTENANCE OF A MONTANA TRAVEL RESEARCH
 24 PROGRAM; AND
 25 (C) THE BALANCE OF THE PROCEEDS AS FOLLOWS:

1 ~~(a)(I)~~ 75% to be used directly by the department OF
 2 COMMERCE;
 3 ~~(b)(II)~~ except as provided in subsection (1)(c)(III),
 4 25% ~~21.5%~~ 25% to be distributed by the department to
 5 regional nonprofit tourism corporations in the ratio of the
 6 proceeds collected in each tourism region to the total
 7 proceeds collected statewide;
 8 ~~(c)(III)~~ if 25% ~~21.5%~~ 25% of the proceeds collected
 9 annually within the limits of a city or consolidated
 10 city-county exceeds \$35,000, 80% 50% of the amount available
 11 for distribution to the regional nonprofit tourism
 12 corporation in the region where the city or consolidated
 13 city-county is located is to be distributed to the nonprofit
 14 convention and visitors bureau in that city or consolidated
 15 city-county;
 16 ~~(D) 1% TO THE MONTANA HISTORICAL SOCIETY TO BE USED~~
 17 ~~FOR THE INSTALLATION OR MAINTENANCE OF ROADSIDE HISTORICAL~~
 18 ~~SIGNS AND HISTORIC SITES; AND~~
 19 ~~(E) 2.5% TO THE UNIVERSITY SYSTEM FOR THE~~
 20 ~~ESTABLISHMENT AND MAINTENANCE OF A MONTANA TRAVEL RESEARCH~~
 21 ~~PROGRAM.~~
 22 (2) If a city or consolidated city-county qualifies
 23 under this section for funds but fails to either recognize a
 24 nonprofit convention and visitors bureau or submit and gain
 25 approval for an annual marketing plan as required in

1 [section 6 8], then those funds must be allocated to the
2 tourism region in which the city or consolidated city-county
3 is located.

4 (3) If a regional nonprofit tourism corporation fails
5 to submit and gain approval for an annual marketing plan as
6 required in [section 6 8], then those funds otherwise
7 allocated to the regional nonprofit tourism corporation may
8 be used by the department of commerce for tourism promotion
9 and promotion of the state as a location for the production
10 of motion pictures and television commercials.

11 (4) The department of commerce may use general fund
12 loans for efficient implementation of this section.

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

20 (2) No funds may be disbursed to a regional nonprofit
21 tourism corporation or nonprofit convention and visitors
22 bureau until that entity has submitted an annual marketing
23 plan to the council and that plan has been approved by the
24 council.

25 (3) A maximum of 20% of the funds received by a

1 regional nonprofit tourism corporation or nonprofit
2 convention and visitors bureau may be used for
3 administrative purposes as defined by the council.

4 NEW SECTION. Section 9. Tourism advisory council. (1)
5 There is created a tourism advisory council.

6 (2) The council is composed of not less than 12
7 members appointed by the governor from Montana's private
8 sector travel industry with representation from each tourism
9 region initially established by executive order of the
10 governor and as may be modified by the council under
11 subsection (5).

12 (3) Members of the council shall serve staggered
13 3-year terms, subject to replacement at the discretion of
14 the governor. The governor shall designate four of the
15 initial members to serve 1-year terms and four of the
16 initial members to serve 2-year terms.

17 (4) The council shall:

18 (a) oversee distribution of funds to regional
19 nonprofit tourism corporations for tourism promotion and to
20 nonprofit convention and visitors bureaus in accordance with
21 [this act];

22 (b) advise the department of commerce relative to
23 tourism promotion;

24 (c) advise the governor on significant matters
25 relative to Montana's travel industry; and

1 (d) prescribe allowable administrative expenses for
 2 which accommodation tax proceeds may be used by regional
 3 nonprofit tourism corporations and nonprofit convention and
 4 visitors bureaus;

5 (E) DIRECT THE UNIVERSITY SYSTEM REGARDING MONTANA
 6 TRAVEL RESEARCH; AND

7 (F) APPROVE ALL TRAVEL RESEARCH PROGRAMS PRIOR TO
 8 THEIR BEING UNDERTAKEN.

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

11 Section 10. Section 17-7-502, MCA, is amended to read:

12 "17-7-502. Statutory appropriations -- definition --
 13 requisites for validity. (1) A statutory appropriation is an
 14 appropriation made by permanent law that authorizes spending
 15 by a state agency without the need for a biennial
 16 legislative appropriation or budget amendment.

17 (2) Except as provided in subsection (4), to be
 18 effective, a statutory appropriation must comply with both
 19 of the following provisions:

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

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

25 (3) The following laws are the only laws containing

1 statutory appropriations:

- 2 (a) 2-9-202;
- 3 (b) 2-17-105;
- 4 (c) 2-18-812;
- 5 (d) 10-3-203;
- 6 (e) 10-3-312;
- 7 (f) 10-3-314;
- 8 (g) 10-4-301;
- 9 (h) 13-37-304;
- 10 (i) 15-31-702;
- 11 (j) 15-36-112;
- 12 (k) 15-70-101;
- 13 (l) 16-1-404;
- 14 (m) 16-1-410;
- 15 (n) 16-1-411;
- 16 (o) 17-3-212;
- 17 (p) 17-5-404;
- 18 (q) 17-5-424;
- 19 (r) 17-5-804;
- 20 (s) 19-8-504;
- 21 (t) 19-9-702;
- 22 (u) 19-9-1007;
- 23 (v) 19-10-205;
- 24 (w) 19-10-305;
- 25 (x) 19-10-506;

1 (y) 19-11-512;
 2 (z) 19-11-513;
 3 (aa) 19-11-606;
 4 (bb) 19-12-301;
 5 (cc) 19-13-604;
 6 (dd) 20-6-406;
 7 (ee) 20-8-111;
 8 (ff) 23-5-612;
 9 (gg) 37-51-501;
 10 (hh) 53-24-206;
 11 (ii) 75-1-1101;
 12 (jj) 75-7-305;
 13 (kk) 80-2-103;
 14 (ll) 80-2-228;
 15 (mm) 90-3-301;
 16 (nn) 90-3-302;
 17 (oo) 90-15-103; and
 18 (pp) Sec. 13, HB 861, L. 1985; and
 19 (qq) [section 5 7].
 20 (4) There is a statutory appropriation to pay the
 21 principal, interest, premiums, and costs of issuing, paying,
 22 and securing all bonds, notes, or other obligations, as due,
 23 that have been authorized and issued pursuant to the laws of
 24 Montana. Agencies that have entered into agreements
 25 authorized by the laws of Montana to pay the state

1 treasurer, for deposit in accordance with 17-2-101 through
 2 17-2-107, as determined by the state treasurer, an amount
 3 sufficient to pay the principal and interest as due on the
 4 bonds or notes have statutory appropriation authority for
 5 such payments."

6 ~~NEW SECTION. Section 9. Extension of authority. Any~~
 7 ~~existing authority of the department of revenue to make~~
 8 ~~rules on the subject of the provisions of this act is~~
 9 ~~extended to the provisions of this act.~~

10 NEW SECTION. SECTION 11. RULEMAKING AUTHORITY. THE
 11 DEPARTMENT OF REVENUE SHALL ADOPT SUCH RULES AS MAY BE
 12 NECESSARY TO IMPLEMENT AND ADMINISTER [THIS ACT].

13 NEW SECTION. SECTION 12. RULEMAKING AUTHORITY. THE
 14 DEPARTMENT OF COMMERCE SHALL ADOPT SUCH RULES AS MAY BE
 15 NECESSARY TO IMPLEMENT AND ADMINISTER [THIS ACT].

16 NEW SECTION. Section 13. Codification instructions.
 17 (1) Sections 1 through 6 8 AND 11 are intended to be
 18 codified as an integral part of Title 15, and the provisions
 19 of Title 15 apply to sections 1 through 6 8 AND 11.

20 (2) ~~Section 7 is~~ SECTIONS 9 AND 12 ARE intended to be
 21 codified as an integral part of Title 2, chapter 15, part
 22 18, and the provisions of Title 2, chapter 15, apply to
 23 ~~section 7~~ SECTIONS 9 AND 12.

24 ~~NEW SECTION. SECTION 14. COORDINATION. INSTRUCTION.~~
 25 ~~IF EITHER SENATE BILL NO. 55 OR A BILL AUTHORIZING A LOCAL~~

1 ~~OPTION--SALES--TAX--OF--3%--OR--MORE--IS--PASSED--AND--APPROVED--THE~~
 2 ~~PERCENTAGE--RATE--OF--TAX--IN--SECTION--2--IS--AMENDED--TO--BE--REDUCED~~
 3 ~~FROM--4%--TO--3%.~~

4 NEW SECTION. SECTION 14. APPROPRIATION. (1) THE
 5 DEPARTMENT OF REVENUE IS AUTHORIZED, AS PROVIDED IN
 6 17-2-107(2) TO OBTAIN A GENERAL FUND LOAN IN FISCAL YEAR
 7 1987 AND REPAY SUCH LOAN IN FISCAL YEAR 1988 FOR STARTUP
 8 COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS ACT. THE
 9 LOAN MAY NOT EXCEED \$120,000.

10 (2) THERE IS HEREBY APPROPRIATED FROM THE STATE
 11 SPECIAL REVENUE FUND TO THE CREDIT OF THE DEPARTMENT OF
 12 REVENUE UP TO \$120,000 IN FISCAL YEAR 1988 TO REPAY THE
 13 AMOUNT OF ANY GENERAL FUND LOAN OBTAINED BY THE DEPARTMENT
 14 OF REVENUE IN FISCAL YEAR 1987.

15 NEW SECTION. Section 15. Effective date --
 16 applicability -- TERMINATION OF STATUTORY APPROPRIATION.
 17 This act is effective on passage and approval to allow
 18 timely rulemaking and is applicable to taxable transactions
 19 on or after May JULY 1, 1987. THE STATUTORY APPROPRIATION
 20 TO THE DEPARTMENT OF REVENUE IN SECTION 7 FOR THE COSTS OF
 21 COLLECTING AND DISBURSING THE PROCEEDS OF THE TAX TERMINATES
 22 ON JUNE 30, 1989. EFFECTIVE JULY 1, 1989, THE SECOND AND
 23 THIRD SENTENCES OF SECTION 7 ARE AMENDED TO READ: "THE
 24 DEPARTMENT MAY SPEND FROM THAT ACCOUNT IN ACCORDANCE WITH AN
 25 EXPENDITURE APPROPRIATION BY THE LEGISLATURE BASED ON AN

1 ESTIMATE OF THE COSTS OF COLLECTING AND DISBURSING THE
 2 PROCEEDS OF THE TAX. THE BALANCE OF THE TAX PROCEEDS
 3 RECEIVED EACH REPORTING PERIOD AND NOT DEDUCTED PURSUANT TO
 4 THE EXPENDITURE APPROPRIATION IS STATUTORILY APPROPRIATED,
 5 AS PROVIDED IN 17-7-502, AND MUST BE TRANSFERRED TO AN
 6 ACCOUNT IN THE STATE SPECIAL REVENUE FUND TO THE CREDIT OF
 7 THE DEPARTMENT OF COMMERCE FOR TOURISM PROMOTION AND
 8 PROMOTION OF THE STATE AS A LOCATION FOR THE PRODUCTION OF
 9 MOTION PICTURES AND TELEVISION COMMERCIALS, TO THE MONTANA
 10 HISTORICAL SOCIETY, AND TO THE UNIVERSITY SYSTEM, AS
 11 FOLLOWS:"

-End-

STANDING COMMITTEE REPORT

HB 84

scrhb84.scr

Page 2 of 3
HB84

April 6, 1987

SENATE

April 6, 1987

MR. PRESIDENT

Taxation

We, your committee on.....

House Bill 84

having had under consideration..... No.....

third blue

reading copy (color)

WINSLOW (BROWN)

4% TAX ON HOTEL, MOTEL, OR CAMPGROUND ACCOMMODATIONS

Respectfully report as follows: That House Bill No. 84

BE AMENDED AS FOLLOWS:

1. Page 2, line 15.
Strike: "DORMITORY,"

2. Page 5.
Following: line 4
Insert: "(4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false or fraudulent return violating the provisions of [this act], the amount of tax due under any return must be determined by the department within 5 years after the return is made and the department thereafter is barred from revising any such return or recomputing the tax due thereon, and no proceeding in court for the collection of the tax may be instituted unless notice of any additional tax is provided within such period.

(5) An application for revision may be filed with the department by an owner or operator of a facility within 5 years from the original due date of the return."

3. Page 7, line 4.
Following: "commercials,"
Insert: "to the Montana historical society, and to the university system,"

4. Page 7.
Following: line 4
Insert: "(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;
(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program; and
(c) the balance of the proceeds as follows:"

5. Page 7, line 5.
Strike: "(a)"
Insert: "(i)"
ReNUMBER: subsequent subsections
Following: "department"
Insert: "of commerce"

6. Page 7, line 6.
Following: "(1)(c)"
Insert: "(iii)"
Strike: "21.5%"
Insert: "25%"

7. Page 7, lines 18 through 24.
Strike: ";" on line 18 and subsections (d) and (e) through "PROGRAM" on line 24

8. Page 10, line 3.
Following: ";"
Strike: "and"

9. Page 10, line 7.
Following: "bureaus"
Insert: "; (e) direct the university system regarding Montana travel research; and
(f) approve all travel research programs prior to their being undertaken"

10. Page 13, line 23 through line 2, page 14.
Strike: section 14 in its entirety
ReNUMBER: subsequent sections

11. Page 14, line 15.
Following: "applicability"
Insert: "--termination of statutory appropriation"

DO PASS

DO NOT PASS

S. M.

CONTINUED

Chairman

4/6/87
4:15
JL C

S. M.
CONTINUED

4/6/87
4:15
JL S

April 6, 1987

12. Page 14, line 17.

Strike: "May"

Insert: "July"

Following: "."

Insert: "The statutory appropriation to the department of revenue in section 7 for the costs of collecting and disbursing the proceeds of the tax terminates on June 30, 1989. Effective July 1, 1989, the second and third sentences of section 7 are amended to read: "The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation are statutorily appropriated as provided in 17-7-502 and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, and to the university system, as follows:""

AND AS AMENDED

BE CONCURRED IN

George McCallum
Senator McCallum

4/6/87
4:11
J.