

HB 85      INTRODUCED BY FRITZ  
TAX OF 5 PERCENT ON HOTEL, MOTEL, CAMPGROUND  
            ACCOMMODATIONS; DISTRIBUTION OF PROCEEDS

1/05    INTRODUCED  
1/05    FISCAL NOTE REQUESTED  
1/05    REFERRED TO TAXATION  
1/12    FISCAL NOTE RECEIVED  
1/16    HEARING  
3/16    TABLED IN COMMITTEE

1                     HOUSE     BILL NO.   85  
2   INTRODUCED BY   FRITZ

3  
4   A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A STATEWIDE   5  
5   PERCENT TAX ON THE USERS OF HOTEL, MOTEL, OR TOURIST  
6   CAMPGROUND ACCOMMODATIONS; PROVIDING FOR DISTRIBUTION OF THE  
7   TAX PROCEEDS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING  
8   AN EFFECTIVE DATE."  
9

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

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

13         (1) "Hotel" or "motel" means a building containing  
14   individual sleeping rooms or suites, providing overnight  
15   lodging facilities to the general public for compensation.  
16   The term includes a facility represented to the public as a  
17   hotel, motel, resort, inn, guest ranch, or public  
18   lodginghouse. The term does not include a roominghouse,  
19   retirement home, or other multiunit structure that is rented  
20   on other than a daily or weekly basis.

21         (2) "Tourist campground" means a place used for public  
22   camping, primarily by automobile tourists, where persons may  
23   camp, secure tents, or park travel trailers or recreational  
24   vehicles for camping and sleeping purposes. The term does  
25   not include a trailer court, trailer park, or mobile home

1   park intended for occupancy by trailers or mobile homes for  
2   nonrecreational dwelling purposes.

3         NEW SECTION. Section 2. Tax rate. There is imposed on  
4   the user of a hotel, motel, or tourist campground a tax at a  
5   rate equal to 5% of the accommodation charge collected by  
6   the hotel, motel, or tourist campground.

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

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

18         NEW SECTION. Section 4. Failure to pay or file --  
19   penalty -- interest. (1) An owner or operator of a hotel,  
20   motel, or tourist campground who fails to file the report as  
21   required by [section 3] must be assessed a penalty of 5% of  
22   the tax that should have been collected during the month. On  
23   a showing of good cause, the department of revenue may waive  
24   the penalty.

25         (2) An owner or operator of a hotel, motel, or tourist

1 campground who fails to make payment or fails to report and  
 2 make payment as required by [section 3] must be assessed a  
 3 penalty of 10% of the amount that was not paid. On a showing  
 4 of good cause, the department may waive the penalty.

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

11 (4) The amount required to be paid under [section 3]  
 12 accrues interest at the rate of 1% a month or part of a  
 13 month until paid. Accrual begins on the first day following  
 14 the day the report is due.

15 NEW SECTION. Section 5. Distribution of tax proceeds.  
 16 (1) The proceeds of the tax imposed by [section 2] must be  
 17 distributed as follows:

18 (a) \$50,000 annually to the department of revenue for  
 19 the purpose of administering [this act]; and

20 (b) the remainder as follows:

21 (i) 40% to the state general fund;

22 (ii) 40% to the department of commerce to be used for  
 23 Montana promotion purposes;

24 (iii) 10% to the municipality in which the tax was  
 25 collected or, if the tax was collected in an unincorporated

1 area, to the county in which the tax was collected, which  
 2 revenue must be used by the municipality or the county for  
 3 travel promotion purposes;

4 (iv) 5% to the department of fish, wildlife, and parks  
 5 to be used for travel promotion purposes;

6 (v) 2 1/2% to the Montana historical society to be  
 7 used for the installation or maintenance of roadside  
 8 historical signs; and

9 (vi) 2 1/2% to the university of Montana for the  
 10 establishment and maintenance of a Montana travel research  
 11 program.

12 (2) The distributions made under subsection (1) are  
 13 statutory appropriations as defined in 17-7-502.

14 Section 6. Section 17-7-502, MCA, is amended to read:  
 15 "17-7-502. Statutory appropriations -- definition --  
 16 requisites for validity. (1) A statutory appropriation is an  
 17 appropriation made by permanent law that authorizes spending  
 18 by a state agency without the need for a biennial  
 19 legislative appropriation or budget amendment.

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

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

25 (b) The law or portion of the law making a statutory

1 appropriation must specifically state that a statutory  
2 appropriation is made as provided in this section.

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

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

1 (v) 19-10-205;  
2 (w) 19-10-305;  
3 (x) 19-10-506;  
4 (y) 19-11-512;  
5 (z) 19-11-513;  
6 (aa) 19-11-606;  
7 (bb) 19-12-301;  
8 (cc) 19-13-604;  
9 (dd) 20-6-406;  
10 (ee) 20-8-111;  
11 (ff) 23-5-612;  
12 (gg) 37-51-501;  
13 (hh) 53-24-206;  
14 (ii) 75-1-1101;  
15 (jj) 75-7-305;  
16 (kk) 80-2-103;  
17 (ll) 80-2-228;  
18 (mm) 90-3-301;  
19 (nn) 90-3-302;  
20 (oo) 90-15-103; and  
21 (pp) Sec. 13, HB 861, L. 1985; and  
22 (qq) section 5.

23 (4) There is a statutory appropriation to pay the  
24 principal, interest, premiums, and costs of issuing, paying,  
25 and securing all bonds, notes, or other obligations, as due,

1 that have been authorized and issued pursuant to the laws of  
2 Montana. Agencies that have entered into agreements  
3 authorized by the laws of Montana to pay the state  
4 treasurer, for deposit in accordance with 17-2-101 through  
5 17-2-107, as determined by the state treasurer, an amount  
6 sufficient to pay the principal and interest as due on the  
7 bonds or notes have statutory appropriation authority for  
8 such payments."

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

13 NEW SECTION. Section 8. Codification instruction.  
14 Sections 1 through 5 are intended to be codified as an  
15 integral part of Title 15, and the provisions of Title 15  
16 apply to sections 1 through 5.

17 NEW SECTION. Section 9. Effective date. This act is  
18 effective July 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 HB084, Version: as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act imposing a statewide 4 percent tax on the users of hotel, motel, or campground accommodations; providing for the distribution of the tax proceeds to the Department of Commerce, regional nonprofit tourism corporations, and nonprofit convention and visitors bureaus for the promotion of Montana tourism and motion picture and television commercial location; establishing a tourism advisory council; 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. For simplicity, it is assumed that the effective date of the proposal (May 1, 1987) will prevent 1/12 of the annual proceeds from being collected in FY88.
3. It is assumed that local nonprofit tourism promotion corporations will submit (and have approved) marketing plans and they will receive 25 percent of the net collections each year of the biennium.
4. Administrative costs of the Department of Revenue will be \$58,323 in FY88 and \$57,574 in FY89. In addition, \$97,000 in start-up costs will be incurred in FY87 in order to implement the tax by May 1, 1987. These start-up costs are assumed to be covered by a general fund loan. (Section 5, (4)).

FISCAL IMPACT:Revenue:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Hotel/Motel Tax	\$ 0	\$ 4,583,000	\$ 4,583,000	\$ 0	\$ 5,000,000	\$ 5,000,000
<u>Expenditure:</u>						
Total Expenditures	\$ 0	\$ 155,323	\$ 155,323	\$ 0	\$ 57,574	\$ 57,574
Net Effect	\$ 0	\$ 4,427,677	\$ 4,427,677	\$ 0	\$ 4,942,426	\$ 4,942,426

Fund Information:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Dept. of Commerce	\$ 0	\$ 3,320,758	\$ 3,320,758	\$ 0	\$ 3,706,820	\$ 3,706,820
Local Travel Promotion	\$ 0	\$ 1,106,919	\$ 1,106,919	\$ 0	\$ 1,235,606	\$ 1,235,606

  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

DATE 1/10/87

  
 CAL WINSLOW, PRIMARY SPONSOR

DATE 1/14/87

Fiscal Note for HB084, as introduced.

HB-84

Fiscal Note Request, HB084, as introduced

Form Bd-15

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EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

HB 84

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB085, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act imposing a statewide 5 percent tax on the users of hotel, motel, or tourist campground accommodations; providing for the distribution of the tax proceeds; and providing 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. For simplicity, it is assumed that the effective date of the proposal (July 1, 1987) and the monthly remittance of the tax will prevent 1/12 of the annual proceeds from being collected in FY88.
3. The monthly reporting requirements and tracking by government unit where the tax was collected will result in administrative costs for the Department of Revenue of \$97,383 in FY88 and \$96,234 in FY89. In addition, \$116,250 start-up costs will be incurred in FY87 in order to implement the tax by July 1, 1987. The proposal provides the Department with \$50,000 to cover its administrative cost, which is insufficient and will require cuts in other program areas.

FISCAL IMPACT:Expenditures:

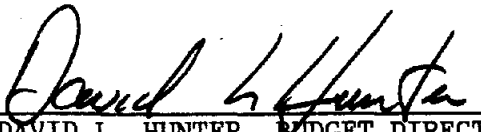
N/A


Revenues:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Hotel/Motel Tax	\$ 0	\$ 5,729,000	\$ 5,729,000	\$ 0	\$ 6,250,000	\$ 6,250,000

Fund Information:

	FY88	FY89
Dept. of Revenue	\$ 50,000	\$ 50,000
Dept. of Commerce	\$ 2,271,600	\$ 2,480,000
General Fund	\$ 2,271,600	\$ 2,480,000
Local Travel Promo.	\$ 567,900	\$ 620,000
Fish, Wildlife & Parks	\$ 283,950	\$ 310,000
Historical Society	\$ 141,975	\$ 155,000
Univ. of Montana	\$ 141,975	\$ 155,000

 DATE 4/10/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

 DATE 1/12/87  
 HARRY FRITZ, PRIMARY SPONSOR  
 Fiscal Note for HB085, as introduced.



Fiscal Note Request, HB085, as introduced.

Form BD-15

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EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

A number of technical problems are contained in the proposal:

1. The proposal contains vague definitions of who is liable for the tax.
2. The proposal would be difficult to enforce. It imposes the hotel/motel tax on the user of the facility and does not make the owner liable for the tax. It does not require the owner to hold to tax in trust for the state and it does not provide audit authority to the Department. The proposal does not impose record keeping requirements on the owner.
3. The definition of "hotel" or "motel" [Section 1(1)] does not include "condominiums, dormitories, hostel, or bed and breakfast facilities." The section does not determine the length of stay.
4. The definition of "tourist campground" [Section 1(2)] does not determine the length of stay.