

HB 707 INTRODUCED BY BROWN, D.
 IMPOSING A 5 PERCENT HOTEL/MOTEL TAX; PROVIDING FOR
 DISTRIBUTION OF TAX PROCEEDS

2/11 INTRODUCED
2/11 REFERRED TO TAXATION
2/11 FISCAL NOTE REQUESTED
2/16 FISCAL NOTE RECEIVED
3/04 HEARING
3/16 TABLED IN COMMITTEE

1 House BILL NO. 707
2 INTRODUCED BY Dave Brown
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A STATEWIDE
5 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, FOR PROMOTION OF
8 MONTANA TOURISM AND MOTION PICTURE AND TELEVISION COMMERCIAL
9 LOCATIONS, AND TO LOCAL GOVERNMENTS; ESTABLISHING A TOURISM
10 ADVISORY COUNCIL; AMENDING SECTION 17-7-502, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
12 DATE."

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

17 (1) "Council" means the tourism advisory council
18 established in [section 6].

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

1 The term does not include a roominghouse, retirement home,
2 hospital, or other facility that is rented on other than a
3 daily or weekly basis.

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

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

14 NEW SECTION. Section 2. Tax rate -- combined charge
15 for services. (1) There is imposed on the user of a hotel,
16 motel, or tourist campground a tax at a rate equal to 5% of
17 the accommodation charge collected by the hotel, motel, or
18 campground.

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

25 (3) Accommodation charges do not include charges for

rooms used for purposes other than lodging.

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

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

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

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

(3) If an owner or operator of a hotel, motel, or

campground fails to file the report required by [section 3] or if the department of revenue determines that the report understates the amount of tax due, the department may estimate the amount of the tax due and assess that amount against the owner or operator.

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

NEW SECTION. Section 5. Distribution of tax proceeds. The proceeds of the tax imposed by [section 2] must be deposited in an account in the state special revenue fund to the credit of the department of revenue. 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 is statutorily appropriated as provided in 17-7-502 and must be transferred as follows:

(1) 50% 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; and

(2) 50% to an account in the state special revenue

1 (i) 15-31-702;
 2 (j) 15-36-112;
 3 (k) 15-70-101;
 4 (l) 16-1-404;
 5 (m) 16-1-410;
 6 (n) 16-1-411;
 7 (o) 17-3-212;
 8 (p) 17-5-404;
 9 (q) 17-5-424;
 10 (r) 17-5-804;
 11 (s) 19-8-504;
 12 (t) 19-9-702;
 13 (u) 19-9-1007;
 14 (v) 19-10-205;
 15 (w) 19-10-305;
 16 (x) 19-10-506;
 17 (y) 19-11-512;
 18 (z) 19-11-513;
 19 (aa) 19-11-606;
 20 (bb) 19-12-301;
 21 (cc) 19-13-604;
 22 (dd) 20-6-406;
 23 (ee) 20-8-111;
 24 (ff) 23-5-612;
 25 (gg) 37-51-501;

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

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

22 NEW SECTION. Section 8. Rulemaking authority. The
 23 department of revenue may make such rules as may be
 24 necessary to implement and effectively administer [sections
 25 1 through 5].

fund to the credit of the department of revenue for distribution to the local government jurisdiction wherein the tax imposed by [section 2] was collected, in the proportion that the collections of each local government jurisdiction bear to the total statewide collections.

NEW SECTION. Section 6. Tourism advisory council. (1) There is created a tourism advisory council.

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

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

(4) The council shall:

(a) advise the department of commerce relative to tourism promotion; and

(b) advise the governor on significant matters relative to Montana's travel industry.

(5) The council may modify the tourism regions

established by executive order of the governor.

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

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

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

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

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

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

(a) 2-9-202;

(b) 2-17-105;

(c) 2-18-812;

(d) 10-3-203;

(e) 10-3-312;

(f) 10-3-314;

(g) 10-4-301;

(h) 13-37-304;

1 NEW SECTION. Section 9. Codification instructions.

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

5 (2) Section 6 is intended to be codified as an
6 integral part of Title 2, chapter 15, part 18, and the
7 provisions of Title 2, chapter 15, apply to section 6.

8 NEW SECTION. Section 10. Effective date --
9 applicability. This act is effective on passage and approval
10 to allow rulemaking and is applicable to taxable
11 transactions beginning 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 HB707, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act imposing a statewide 5 percent tax on the users of hotel, motel, or campground accommodations; providing for distribution of the tax proceeds to the Department of Commerce, for promotion of Montana tourism and motion picture and television commercial locations, and to local governments; establishing a tourism advisory council; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

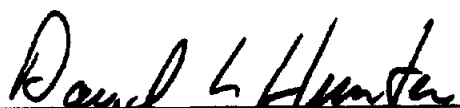
1. A hotel/motel/campground tax will generate gross collections of \$1.25 million per percent per year (OBPP). This estimate is assumed constant for each year.
2. The applicability date of this proposal (May 1, 1987) and the quarterly remittance requirement will prevent 1/12 (one month) of the annual proceeds from being collected in FY88.
3. Administrative costs of the Department of Revenue will be \$80,783 in FY88 and \$79,634 in FY89. In addition, \$119,000 start-up costs will be incurred in FY87 to implement the proposed law. The proposed law does not provide the Department with \$119,000 to cover FY87 start-up costs of the program. Administrative costs in this proposal are higher than the Governor's Executive Budget due to tracking the local government entity where the tax was collected.

FISCAL IMPACT:Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Hotel/Motel Tax	\$ 0	\$ 5,729,167	\$ 5,729,167	\$ 0	\$ 6,250,000	\$ 6,250,000

Fund Information:

Dept. of Revenue	\$ 0	\$ 80,783	\$ 80,783	\$ 0	\$ 79,634	\$ 79,634
Dept. of Commerce	\$ 0	\$ 2,824,192	\$ 2,824,192	\$ 0	\$ 3,085,183	\$ 3,085,183
Local Governments	\$ 0	\$ 2,824,192	\$ 2,824,192	\$ 0	\$ 3,085,183	\$ 3,085,183

 DATE 2/16/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 2/17/87
 DAVE BROWN, PRIMARY SPONSOR

Fiscal Note for HB707, as introduced.

HB 707