

HOUSE BILL 589

Introduced by Hoffman, et al.

2/06	Introduced
2/07	Referred to Taxation
2/08	Fiscal Note Requested
2/13	Fiscal Note Received
2/16	Fiscal Note Printed
2/17	Hearing
3/08	Committee Report--Bill Passed as Amended
3/10	2nd Reading Do Pass as Amended Motion Failed

House BILL NO. 589

INTRODUCED BY

Hoffman Moore
Stacy and Michael Hoffman

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF A RESORT COMMUNITY FOR PURPOSES OF A RESORT COMMUNITY TAX; PROVIDING FOR A RESORT TAX IN UNINCORPORATED AREAS; EXTENDING THE TAX TO SKI RESORTS AND OTHER RECREATIONAL FACILITIES; AMENDING SECTIONS 7-6-4461 AND 7-6-4463 THROUGH 7-6-4465, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 7-6-4461, MCA, is amended to read:

"7-6-4461. Resort community tax -- definitions. As used in 7-6-4461 through 7-6-4467, the following definitions apply:

(1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(3) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and

over-the-counter medications.

(4) "Resort area" means an area that:

(a) derives a substantial portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their work or business;

(b) has been designated a resort area by the county commissioners as provided in [section 2]; and

(c) is an area comprising not more than 10 square miles that does not include any portion of an incorporated city or town.

~~(4)~~(5) "Resort community" means a community that:

(a) is an incorporated municipality; and

~~(b) --has-a-population-of-less-than--2,500--according--to the-most-recent-federal-census-or-federal-estimate;~~

~~(c)~~(b) derives the--major a substantial portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income-production;--and work or business.

~~(d) --has--been--designated-by-the-department-of-commerce as-a-resort-community."~~

NEW SECTION. **Section 2.** Resort area -- taxing authority. (1) The establishment of a resort area for the purpose of imposing a resort tax may be initiated by a

1 written petition to the board of county commissioners of the
2 county in which the area is located. The petition must
3 contain a description of the proposed resort area and must
4 be signed by at least 15% of the electors residing in the
5 proposed area.

6 (2) The petition must also include a proposal to impose
7 a resort tax within the proposed resort area, including the
8 rate, duration, effective date, and purpose of the tax as
9 provided in 7-6-4464.

10 (3) Upon receiving a petition to establish a resort
11 area, the board of county commissioners shall present the
12 question to the electors residing in the proposed resort
13 area as provided in 7-6-4464.

14 **Section 3.** Section 7-6-4463, MCA, is amended to read:

15 "7-6-4463. Limit on resort community tax rate -- goods
16 and services subject to tax. (1) The rate of the resort tax
17 must be established by the election petition or resolution
18 provided for in 7-6-4464, but the rate may not exceed 3%.

19 (2) (a) The resort tax is a tax on the retail value of
20 all goods and services sold within the resort community or
21 area by the following establishments:

22 (i) hotels, motels, and other lodging or camping
23 facilities;

24 (ii) restaurants, fast food stores, and other food
25 service establishments; and

1 (iii) taverns, bars, night clubs, lounges, and other
2 public establishments that serve beer, wine, liquor, or
3 other alcoholic beverages by the drink;

4 (iv) ski resorts and other recreational facilities;

5 (v) establishments or organizations that charge
6 admission for movies, concerts, theatrical performances,
7 sporting events, or other entertainment.

8 (b) Establishments that sell luxuries must collect a
9 tax on such luxuries."

10 **Section 4.** Section 7-6-4464, MCA, is amended to read:

11 "7-6-4464. Resort community tax -- election required --
12 procedure. (1) A resort community or area may not impose or,
13 except as provided in 7-6-4465, amend or repeal a resort tax
14 unless the resort tax question has been submitted to the
15 electorate of the resort community or area and approved by a
16 majority of the electors voting on the question.

17 (2) The resort tax question may be presented to the
18 electors of:

19 (a) the a resort community by:

20 ~~(a)~~ a petition of the electors as provided by 7-1-4130,
21 7-5-132, and 7-5-134 through 7-5-137; or

22 ~~(b)~~ by a resolution of the governing body of the resort
23 community; or

24 (b) a resort area by a resolution of the board of
25 county commissioners, following receipt of a petition of

1 electors as provided in [section 2].

2 (3) The petition or resolution referring the taxing
3 question must state:

4 (a) ~~must-state~~ the exact rate of the resort tax;

5 (b) ~~must-state~~ the duration of the resort tax;

6 (c) ~~must-state~~ the date when the tax becomes effective,
7 which date may not be earlier than 35 days after the
8 election; and

9 (d) ~~may--specify~~ the purposes that may be funded by the
10 resort tax revenue.

11 (4) The petition or resolution referring the resort tax
12 question may provide for a seasonal tax, which must be
13 effective for at least 3 months of each calendar year.

14 ~~(4)(5)~~ Upon receipt of an adequate petition the
15 governing body may:

16 (a) call a special election on the resort tax question;
17 or

18 (b) have the resort tax question placed on the ballot
19 at the next regularly scheduled election.

20 ~~(5)(6)~~ The question of the imposition of a resort tax
21 may not be placed before the electors more than once in any
22 fiscal year."

23 **Section 5.** Section 7-6-4465, MCA, is amended to read:

24 "7-6-4465. Resort community tax administration. (1) In
25 this section, "governing body" means the governing body of

1 an incorporated resort community or, if the resort tax has
2 been approved by the electors of an unincorporated resort
3 area, the board of county commissioners.

4 ~~(1)(2)~~ Not less than 30 days prior to the date the
5 resort tax becomes effective, the governing body ~~of the~~
6 ~~resort-community~~ shall enact an administrative ordinance
7 governing the collection and reporting of the resort taxes.
8 This administrative ordinance may be amended at any time
9 thereafter as may be necessary to effectively administer the
10 resort tax.

11 ~~(2)(3)~~ The administrative ordinance shall specify:

12 (a) the times taxes collected by ~~business~~ businesses
13 are to be remitted to the ~~resort-community~~ governing body;

14 (b) the local government office, officer, or employee
15 of the governing body responsible for receiving and
16 accounting for the resort tax receipts;

17 (c) the local government office, officer, or employee
18 of the governing body responsible for enforcing the
19 collection of resort taxes and the methods and procedures to
20 be used in enforcing the collection of resort taxes due; and

21 (d) the penalties for failure to report taxes due,
22 failure to remit taxes due, and violations of the
23 administrative ordinance. The penalties may include:

24 (i) criminal penalties not to exceed a fine of \$1,000
25 or 6 months imprisonment or both the fine and imprisonment;

1 (ii) civil penalties if the resort-community governing
2 body prevails in a suit for the collection of resort taxes,
3 not to exceed 50% of the resort taxes found due plus the
4 costs and attorney fees incurred by the resort--community
5 governing body in the action;

6 (iii) revocation of the--offender's any county or
7 municipal business license held by the offender; and

8 (iv) any other penalties that may be applicable for
9 violation of an ordinance.

10 {3}{4} The administrative ordinance may include:

11 (a) further clarification and specificity in the
12 categories of goods and services that are subject to the
13 resort tax consistent with 7-6-4463;

14 (b) authorization for business administration and
15 prepayment discounts. The discount authorization may allow
16 each vendor and commercial establishment to:

17 (i) withhold up to 5% of the resort taxes collected to
18 defray their costs for the administration of the tax
19 collection; or

20 (ii) receive a refund of up to 5% of the resort tax
21 payment received from them by the resort-community governing
22 body 10 days prior to the collection due date established by
23 the administrative ordinance; and

24 (c) other administrative details necessary for the
25 efficient and effective administration of the tax."

1 NEW SECTION. Section 6. Use of resort area tax --
2 property tax relief. (1) Unless otherwise provided by the
3 resolution approved by the electors under 7-6-4464, the
4 board of county commissioners may appropriate and expend
5 revenue derived from a resort area tax for the purpose
6 stated in the resolution.

7 (2) (a) Anticipated revenue from a resort area tax must
8 be applied to reduce the tax levy on property within the
9 resort area for the fiscal year in an amount equal to at
10 least 5% of the resort tax revenue derived during the
11 preceding fiscal year.

12 (b) When revenue from a resort area tax exceeds the
13 anticipated amount, the board of county commissioners shall
14 establish a property tax relief fund for the resort area.
15 All resort area tax revenues received in excess of the
16 anticipated amount must be placed in the fund, and the
17 entire fund must be used to replace the equivalent amount of
18 property taxes in the resort area in the ensuing fiscal
19 year.

20 NEW SECTION. Section 7. Codification instruction.
21 [Sections 2 and 6] are intended to be codified as an
22 integral part of 7-6-4461 through 7-6-4467, and the
23 provisions of 7-6-4461 through 7-6-4467 apply to [sections 2
24 and 6].

25 NEW SECTION. Section 8. Effective date. [This act] is

LC 1347/01

1 effective July 1, 1989.

-End-

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 589

INTRODUCED BY HOFFMAN, MOORE, COHEN,

ADDY, STORY, ANDERSON, HOFMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF A RESORT COMMUNITY FOR PURPOSES OF A RESORT COMMUNITY TAX; PROVIDING FOR A RESORT TAX IN UNINCORPORATED AREAS; EXTENDING THE TAX TO SKI RESORTS AND OTHER RECREATIONAL FACILITIES; AMENDING SECTIONS 7-6-4461 AND 7-6-4463 THROUGH 7-6-4465, MCA; AND PROVIDING AN EFFECTIVE DATE."

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remedial properties, including both physician prescribed and over-the-counter medications.

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(a) derives a substantial portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their work or business;

(b) has been designated a resort area by the county commissioners as provided in [section 2]; and

(c) is an area comprising not more than 10 square miles that does not include any portion of an incorporated city or town.

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(a) is an incorporated municipality; and

~~{b}--has--a--population-of-less-than-2,500-according-to the-most-recent-federal-census-or-federal-estimate;~~

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NEW SECTION. **Section 2.** Resort area -- taxing authority. (1) The establishment OR REPEAL of a resort area

1 DESIGNATION for the purpose of imposing OR REPEALING a
2 resort tax may be initiated by a written petition to the
3 board of county commissioners of the county in which the
4 area is located. The petition must contain a description of
5 the proposed OR EXISTING resort area and must be signed by
6 at least 15% of the electors residing in the proposed area.

7 (2) The petition must also include a proposal to
8 impose OR REPEAL a resort tax within the proposed resort
9 area, including the rate, duration, effective date, and
10 purpose of the tax as provided in 7-6-4464.

11 (3) Upon receiving a petition to establish a resort
12 area, the board of county commissioners shall present the
13 question to the electors residing in the proposed resort
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24 facilities;

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3 public establishments that serve beer, wine, liquor, or
4 other alcoholic beverages by the drink;

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6 ~~(v) establishments or organizations that charge~~
7 ~~admission for movies, concerts, theatrical performances,~~
8 ~~sporting events, or other entertainment.~~

9 (b) Establishments that sell luxuries must collect a
10 tax on such luxuries."

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12 "7-6-4464. Resort community tax -- election required
13 -- procedure. (1) A resort community or area may not impose
14 or, except as provided in 7-6-4465, amend or repeal a resort
15 tax unless the resort tax question has been submitted to the
16 electorate of the resort community or area and approved by a
17 majority of the electors voting on the question.

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19 electors of:

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22 7-1-4130, 7-5-132, and 7-5-134 through 7-5-137; or

23 {b} by a resolution of the governing body of the
24 resort community; or

25 (b) a resort area by a resolution of the board of

1 county commissioners, following receipt of a petition of
 2 electors as provided in [section 2].

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 4 question must state:

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7 (c) must---state the date when the tax becomes
 8 effective, which date may not be earlier than 35 days after
 9 the election; and

10 (d) may-specify the purposes that may be funded by the
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 14 effective for at least 3 months of each calendar year.

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 16 governing body may:

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 18 question; or

19 (b) have the resort tax question placed on the ballot
 20 at the next regularly scheduled election.

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 22 may not be placed before the electors more than once in any
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1 this section, "governing body" means the governing body of
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 9 This administrative ordinance may be amended at any time
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 14 are to be remitted to the ~~resort-community~~ governing body;

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 16 of the governing body responsible for receiving and
 17 accounting for the resort tax receipts;

18 (c) the local government office, officer, or employee
 19 of the governing body responsible for enforcing the
 20 collection of resort taxes and the methods and procedures to
 21 be used in enforcing the collection of resort taxes due; and

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 23 failure to remit taxes due, and violations of the
 24 administrative ordinance. The penalties may include:

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1 or 6 months imprisonment or both the fine and imprisonment;
 2 (ii) civil penalties if the resort-community governing
 3 body prevails in a suit for the collection of resort taxes,
 4 not to exceed 50% of the resort taxes found due plus the
 5 costs and attorney fees incurred by the resort--community
 6 governing body in the action;
 7 (iii) revocation of the--offender's any county or
 8 municipal business license held by the offender; and
 9 (iv) any other penalties that may be applicable for
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 9 must be applied to reduce the tax levy on property within
 10 the resort area for the fiscal year in an amount equal to at
 11 least 5% of the resort tax revenue derived during the
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 14 anticipated amount, the board of county commissioners shall
 15 establish a property tax relief fund for the resort area.
 16 All resort area tax revenues received in excess of the
 17 anticipated amount must be placed in the fund, and the
 18 entire fund must be used to replace the equivalent amount of
 19 property taxes in the resort area in the ensuing fiscal
 20 year.

21 (C) THE GOVERNING BODY MUST BE REIMBURSED FROM THE TAX
 22 RELIEF FUND FOR COSTS ASSOCIATED WITH THE COLLECTION,
 23 ADMINISTRATION, AND LITIGATION OF THE RESORT AREA TAX.

24 NEW SECTION. Section 7. Codification instruction.
 25 [Sections 2 and 6] are intended to be codified as an

1 integral part of 7-6-4461 through 7-6-4467, and the
2 provisions of 7-6-4461 through 7-6-4467 apply to [sections 2
3 and 6].

4 NEW SECTION. **Section 8.** Effective date. [This act] is
5 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB589, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the definition of a resort community for purposes of a resort community tax; providing for a resort tax in unincorporated areas; extending the tax to ski resorts and other recreational facilities; and providing an effective date.

FISCAL IMPACT:

Passage of this proposal would not impact state revenues or expenditures.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The resort tax must be approved by a majority of the electors in each area or community.

Those areas and communities that elect to impose this tax will receive additional revenue. There is no means of ascertaining which communities will impose the tax, at what rate, or for what period of time; consequently, there is no means of determining the additional revenue that will be received, or the amount of property tax relief that will be provided.



DATE 2/13/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE 2/15/89

ROBERT E. HOFFMAN, PRIMARY SPONSOR

Fiscal Note for HB589, as introduced

HB 589