

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

March 21, 1985

The meeting of the Taxation Committee was called to order by Chairman Devlin on March 21, 1985, at 8 a.m. in Room 312-1 of the State Capitol.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF SENATE BILL 309: Senator John Mohar, District 1, sponsor of Senate Bill 309, told committee members the bill is an attempt to deal with the growing air pollution problem being experienced in Montana. He said Missoula was the first major city in the State to be affected by air pollution and others have followed, which created concern for what is considered to be a significant problem.

Senator Mohar explained the bill would create an energy credit program for purchasers of low emission wood-burning stoves, from December 1, 1984 to January 1, 1993. Referring to the statement of intent, Senator Mohar said the bill "piggybacks" regulations of the State of Oregon, which has tested and set low emission standards for wood-burning stoves (Exhibit 0).

PROPONENTS: Mr. Jim Carlson, Missoula County Health Department, told committee members he supports the bill as residuals from wood-burning stoves have caused considerable air pollution problems in the State. He explained that stoves meeting Oregon standards emit one-thirtieth the residuals of "normal" wood-burning stoves and that the stoves cost about one-third of the technological costs. He said the bill encourages use of renewable energy resources and would provide incentives toward emission compliance, since it is difficult to enforce present air quality regulations.

Mr. Bob Raisch, Supervisor of Operations, Air Quality Bureau, Department of Health and Environmental Sciences, told committee members he supports the bill and clean air, and said most large cities in the State experience smoke pollution problems in the winter. He explained the bill would stimulate consumer demand for low emission stoves and thus, the technology to build more efficient low emission stoves. Mr. Raisch said the fiscal impact to the State would be minor.

Mrs. Mary Vant Hull, Bozeman City Commissioner, told the Committee there are more and more problems in the Gallatin Valley with air quality and that the bill would be particularly good for mountain valleys (Exhibit 1).

Ms. Harlene Fortune, Missoula fireplace and masonry business owner, told the Committee she and her husband engage in retail stove and wood-burning pellet sales. Ms. Fortune read from a prepared statement and asked the Committee to support the problem addressed in Senate Bill 309 (Exhibit 2).

Mr. Will Selser, Lewis and Clark County Health Department, stated his support of the bill.

Mr. Merlin Hickman, Bozeman, advised the Committee he is a manufacturer of wood-burning stoves and read from a prepared statement in support of the bill (Exhibit 3).

Mr. Loren Collins, inventor of the Collins-Hopper stove and partner in Mountain Air of Livingston, stated his support of the Senate bill. He commented that the State of Idaho offers more tax advantages for low emission stoves than does Montana, thus the difference between 22 such stove manufacturers in Idaho and 6 in Montana.

Mr. John Skees told members of the Committee he is a distributor of Arrow wood stoves for Montana and neighboring states and asked that the Committee support the bill.

There were no other proponents and no opponents of Senate Bill 309.

QUESTIONS: Representative Hanson asked Senator Mohar if the bill provides only for a one-time tax credit. Senator Mohar replied that 10% of the first \$1,000 and 5% of the next \$3,000 would provide for a \$90 or \$100 tax credit for an average-priced stove.

Representative Koehnke asked if inserts now available for wood-furning fireplaces would be included. Senator Mohar replied they would be.

Representative Williams asked if natural gas was not available in most areas. Senator Mohar replied it was, but not in the Libby area, where the majority of homes are heated by wood-burning stoves.

Representative Williams stated there is a surplus of natural gas, unlike the supply of wood, and that gas burns cleaner. He commented he would rather credit those who burn good, clean fuel than those who burn wood. Senator Mohar replied he did not believe the trend toward wood burning would change.

Representative Williams stated he believes this is a personal decision and wood burning should not be credited. Senator Mohar explained he believes a tax credit is an effective way of creating a social change and that the bill will help air quality in the State.

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Representative Sands asked if there were a fiscal note for Senate Bill 309. Senator Mohar replied there is and that no fiscal impact is estimated for FY86, although it is anticipated that effect will be \$33,000 for the second half of FY87.

Representative Sands stated the two basic causes of air pollution are automobiles and wood-burning stoves. He advised Senator Mohar that the Local Government Committee discussed putting a \$1.50 tax on automobiles, toward improving air quality, and that it does not seem fair to then credit wood-burning stoves.

Representative Patterson asked how the consumer would know if the stove he purchased qualified for a tax credit. Senator Mohar replied the Department of Health and Environmental Sciences would mail a list of low emission stoves to dealers in accord with administrative rules and that stickers may be put on the approved stoves as an additional aid.

Chairman Devlin asked Senator Mohar if it were correct to assume that a stove purchased last fall would not be eligible for the proposed credit. Senator Mohar replied this is correct.

Representative Williams asked about the safety factor of wood-burning stoves and commented there were four house fires from wood-burning stoves in his home community last winter. Senator Mohar replied that the newer stoves with catalytic converters would burn more creosote and be less likely to cause such fires.

Representative Williams asked what alternate fuels were available in the Kalispell-Libby area. Senator Mohar replied that both fuel oil and propane are available, however, 75% of the populace uses wood for fuel.

Representative Williams asked Senator Mohar if he would be willing to give a credit to natural gas and fuel oil users. Senator Mohar replied there would be considerably greater fiscal impact if those fuels were added to the bill.

Representative Ellison asked if tax credit could be claimed up until January 1, 1993, for a stove purchased recently, for which credit had not yet been claimed. Senator Mohar replied the bill reads that way, and may need to be amended to clarify the fact that only stoves purchased after December 1, 1984, may qualify for credit.

Representative Ellison asked if the bill would then extend the program from 1986 to January 1, 1993. Senator Mohar replied it would.

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Chairman Devlin asked Mr. Raisch if the State would be testing the stoves for emission levels. Mr. Raisch replied the State would rely upon tests already completed by the State of Oregon.

Chairman Devlin asked how the Department foresees designating the credit to the consumer. Mr. Raisch replied the Department of Health and Environmental Sciences is involved only in making a list of eligible stoves and that the Department of Revenue would be involved in the tax credit.

Chairman Devlin asked if the Department of Revenue had estimated its costs for administering the credit. Senator Mohar replied there should be no additional cost to the Department of Revenue.

Representative Williams asked who would check the stoves. Senator Mohar replied it would not be necessary as they would have met Oregon standards.

Representative Zabrocki asked why the bill did not state that dealers could not sell stoves which don't meet low emission standards and commented there would then be no need for a tax credit. Senator Mohar replied this was a good point, but it would take away the freedom to choose for the consumer.

Chairman Devlin asked if Oregon tried the "carrot method" first. Mr. Raisch replied Oregon did not. Senator Mohar commented that Oregon will test a stove for approximately \$5,000.

Representative Sands asked about the cost of catalytic converters for stoves. Senator Mohar replied they are approximately \$200, and are ceramic-coated with paladium, which reacts with oxygen to burn nearly 90% of the creosote present in wood fuel. He commented the converters need to be replaced every three to five years, at a cost of approximately \$100.

Representative Ellison asked if an existing stove could be converted. Senator Mohar replied such a stove could be retrofit for approximately \$200.

Representative Ellison asked if the consumer would receive a tax credit for a retrofit. Senator Mohar replied retrofits have not been tested by the State of Oregon.

In closing, Senator Mohar told the Committee he thought the bill received a good hearing and he preferred the "carrot stick" to the "regulation" approach, in addition to liking Missoula's approach to clean air. Senator Mohar asked the Committee to support Senate Bill 309.

CONSIDERATION OF SENATE BILL 464: Senator Elmer Severson, District 33, sponsor of Senate Bill 464, told the Committee he was concerned with disability exclusions for people under the age of 65. He explained the bill is a Senate Taxation Committee bill, which would exclude certain disability benefits from adjusted gross income in computing state income tax liability (Exhibit 3a).

PROPOSERS: Mr. Ken Morrison, Administrator, Income Tax Division, Department of Revenue, said the federal government excluded disability payments and implemented a credit for disabled persons, as referred to by Senator Severson, and implemented a credit. He explained that Montana is presently taxing disability income and the proposed legislation would provide for a tax roughly equivalent to the federal tax, in conformity with the old federal tax law. Mr. Morrison advised the Committee, exclusions and limitations are addressed on page 2 of the bill, and that they may want to pay particular attention to line 1 and lines 9-13 on page 5 of the bill, which pertain to adjusted gross income.

There were no other proponents and no opponents of the bill.

There were no questions from the Committee, and in closing, Senator Severson told committee members the Senate Taxation Committee would prefer that the bill pass as quickly as possible, to save the Department of Revenue additional costs in refunds.

Senator Severson requested that Representative Thomas be allowed to carry Senate Bill 464.

DISPOSITION OF SENATE BILL 464: Representative Williams made a motion that Senate Bill 464 BE CONCURRENT IN. The motion was given unanimous approval by the Committee.

CONSIDERATION OF HOUSE BILL 45: Representative Steve Waldron, District 58, sponsor of House Bill 45, told members of the Committee the bill would increase the cigarette tax by 8 cents, but there will be no net difference in cost to cigarette purchasers. He said House Bill 45 does not earmark the proceeds of the tax, which will go to the general fund.

Representative Waldron explained the revenue projection of the Office of Budget and Program Planning (OBPP), is \$12.8 million and commented that it will be extremely difficult to balance the budget for the coming biennium without this additional revenue.

Representative Waldron told the Committee the bill is based upon word from the President and Congress that the federal cigarette tax will be cut and said there is no extortion in this issue. He commented there is some talk in Congress of keeping the 8 cent tax, but none from the Presidential Staff.

Representative Waldron advised the Committee several other states have already implemented similar cigarette tax measures, based upon Congressional action. He commented this may be an opportunity for the states to dictate to Congress rather than the reverse, which seems to be more prevalent.

PROPONENTS: Mrs. Mary Vant Hull, Bozeman City Commissioner, told the Committee her husband is in favor of the cigarette tax (even though he is a smoker), and said smokers create costs too (Exhibit 4).

Mr. Dave Lackman, volunteer lobbyist, Montana Public Health Association, told the Committee he believes House Bill 45 proposes a good and fair tax and read from a prepared statement in support of the bill (Exhibit 5). Mr. Lackman asked the Committee to give the bill favorable consideration.

Mr. Dave Hunter, Director, Office of Budget and Program Planning, advised the Committee House Bill 45 was drafted at the Governor's request, and referred to the \$15 million ending fund balance proposed in the Governor's budget, of which he said, the bill would provide a significant portion.

Mr. Hunter explained this is not a new tax or a tax increase and as more states pass such legislation, Congress will find it more and more difficult to reimpose the 8 cent cigarette tax at the federal level. He said he believes the House Appropriations Committee has done a good job, considering the difficulties it has faced, and asked the Committee to support the bill.

Mr. Don Allen, Montana Hospital Association, stated his support of House Bill 45, and said he is concerned with cost containment of health care problems. He told the Committee the Governor just appointed a cost control study group, who will made recommendations for the next legislative session.

Mr. Earl Thomas, Executive Director, American Lung Association in Montana, told the Committee there was a 4% decrease in smoking for each 10% increase in price of cigarettes, in a study completed in New Mexico. He said the decrease in youths who smoke was 14% for each 10% increase in the price of cigarettes (Exhibit 6).

CONSIDERATION OF HOUSE BILL 120: Members of the Committee agreed to hear house Bill 120 and then hear opponents to both bills simultaneously, due to the similar nature of House Bill 45 and House Bill 120.

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Representative Dennis Nathe, District 19, sponsor of House Bill 120 told the Committee there is essentially no difference between House Bill 120 and House Bill 45, except to the impact of the general fund. He explained House Bill 120 would split earmarked funds equally between medicaid, developmentally disabled and renal (kidney) disease.

Representative Nathe explained he introduced the bill as cigarettes are related to health problems and it is his belief that funds from the cigarette tax need to be used toward eliminating these health problems rather than for construction of state buildings.

OPPONENTS TO HOUSE BILLS 45 and 120: Mr. Jerome Anderson, Billings attorney and representative of the Tobacco Institute, told the Committee he believes the bills impose an unfair and progressive sales tax on tobacco products. He said the tax is aimed at a select group (smokers), who comprise 30-35% of the taxpaying public, and that the bills are self-defeating as the Indian reservations undercut the price of tobacco distributors in the State. He commented that Idaho and Wyoming have a lower cigarette tax than does Montana.

Mr. Anderson reminded committee members the cigarette tax was increased in 1983 and said another 8 cent increase would equal 100% in two years. He asked why the Legislature would want to "pick on" tobacco to fund medicare and medicaid and commented that Washington State has proposed funding such programs from a tax on medical fees, which will be paid by patients receiving those services.

Referring to the letter of Governor Schwinden sent to the House Leadership concerning the federal cigarette tax sunset, Mr. Anderson said it fails to state there is any commitment on the part of President Reagan or congressional taxation committees to veto a new cigarette tax. He told the Committee the federal sunset on cigarette tax was a concession for decreases in the block grant program.

Mr. Anderson said the federal government will lose approximately \$3 billion in revenue if the present tax is sunset, but he believes the President will concede to retain the tax for defense programs which eventually will require funding. He cited legislation at the national level, (House Resolutions 265 and 1200), which has been introduced and pertains to the tax.

Included in Mr. Anderson's testimony is a copy of an article from the Wall Street Journal, January 17, 1985, quoting Senator Packwood, chairman of the Senate Finance Committee, along with statistics prepared by the Tobacco Institute supporting its position (Exhibit 7).

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Mr. Anderson stated that as taxes go up in Montana, cigarette sales decrease. He commented that between 15 and 20% of Montana cigarette sales are on Reservations and are untaxed. Mr. Anderson read from statements made by several political figures, who questioned excise taxes and fairness of the same, (published by the Tobacco Institute), and made reference to a statement made a few days prior by Senator Stan Stephens, who allegedly said Montana should start taxing fact.

Mr. Richard Stroup, Professor of Economics, Montana State University, told the Committee he and fellow professor, Terry Anderson, compiled data relating to the cigarette tax for committee review (Exhibit 8). Mr. Stroup stressed the data reflects his and Mr. Anderson's private views and not those of Montana State University, and read from the report.

Mr. Charlie Haddock, Shelby, told the Committee he is a wholesale distributor of candy and tobacco in Glacier and Toole Counties. He stated that 44% of the wholesale level goes to taxes and that he, personally, marks up cigarettes only 5%. Mr. Haddock explained to the Committee he believed the bill would be an incentive for a "black market".

Mr. Tom Maddox, Executive Director, Montana Association of Tobacco and Candy Distributors, provided committee members with a list of distributorships in the State, which are family-owned, and read from that prepared testimony (Exhibit 9). Mr. Maddox commented that contrary to testimony from proponents of House Bills 45 and 120, Congress needs the tax income from cigarettes badly. He told the Committee a proposal to increase the cigarette tax in Idaho was defeated and said 35 states have experienced a decrease in cigarette sales this year.

QUESTIONS: Representative Williams asked Budget Director, Dave Hunter, (OBPP), if he had any comment on the different funding proposals in House Bills 45 and 120. Mr. Hunter replied the Governor's proposal is to put the money into the general fund. He explained either bill would have the same net effect on the general fund as general fund dollars would have to be replaced with earmarked funds.

Representative Williams asked what would happen if Congress does not repeal the cigarette tax. Mr. Hunter replied it has already been repealed and, if no further action is taken by Congress, it will remain so.



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Representative Gilbert asked how the bills could be proposed if the federal dollars are not released and how a balanced budget could be based upon such a situation. Mr. Hunter replied his office is trying to present its best recommendations and if the Committee disagrees it can kill the bills and/or come up with an alternative source of funding to balance the budget.

Representative Gilbert asked Representative Waldron for his thoughts on such funding. Representative Waldron replied if the funds are earmarked, then some general fund dollars will be removed by the Appropriations Committee. He said, in a general sense, he has a problem with earmarking the monies, as they can be more closely scrutinized by the Legislature (if they are in the general fund). Representative Waldron referred to past problems with the Department of Highways and the Department of Fish, Wildlife and Parks, concerning earmarked accounts.

Representative Gilbert asked Representative Nathe if he would be amenable to amending House Bill 45 to make the tax contingent upon federal action on the cigarette tax. Representative Nathe replied the federal cigarette tax has already been repealed and would require congressional action to reinstate, and said he stood with Representative Waldron on the matter.

Chairman Devlin asked if the bills would have been introduced at 8 cents tax if there had been no federal sunset clause. Representative Nathe replied there would have been a lesser tax or funds would have been taken from Long Range Planning. Representative Nathe told the Committee he believes cigarettes contribute to health problems and that the tax should be used toward treating health problems and not for funding Long Range Planning.

Chairman Devlin asked Mr. Hunter how many states had passed such a cigarette tax. Mr. Hunter replied four states have already passed similar legislation and 22 others have legislation pending.

Chairman Devlin asked Mr. Anderson if any states had included a contingency for a change in the cigarette tax at the federal level. Mr. Anderson replied Maine and Utah have done so. Mr. Hunter commented that Mississippi overrode a gubernatorial veto, to pass its cigarette tax.

Representative Ellison asked for the basic philosophy behind taxation of cigarettes and why tobacco was chosen versus income. Mr. Hunter replied that both the 3 cent gas tax and the 8 cent cigarette tax, (proposed by the Governor), are estimated to have no great impact upon the consumer, and both would allow the budget to be balanced.

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Representative Ellison asked if gas prices were not going to rise again and commented that the OBPP and LFA both estimated a decline in oil prices for the coming biennium.

Representative Patterson asked if renal disease was not already funded elsewhere. Representative Nathe replied it was and that the bill proposes less funds for medicaid from the general fund since they are earmarked in House Bill 120. He commented that one-third of the tax to renal disease may be too much and referred to the statement made by the Hospital Association lobbyist recommending 50% for medicaid, stating the bill may need to be changed in this respect.

Representative Patterson asked for the definition of renal disease. Representative Nathe told him the funds provide help to those experiencing kidney failure, in the form of dialysis and transplants.

Representative Ream asked Mr. Jerome Anderson if there were not a discrepancy in Table 1 of the Cigarette Excise Tax Factsheet (Exhibit 10), concerning Mr. Anderson's statement that higher taxes result in lower sales, since the Table shows the opposite. Mr. Anderson replied that Idaho is a Mormon state and has fewer smokers, but he is not able to provide clarification of his previous statement.

In closing, Representative Waldron told the Committee, the State is faced with severe problems in balancing the budget and, with this additional funding, can be balanced with no impact to smokers.

Referring to a Wall Street Journal article, from February 22, 1985, Representative Waldron said it would appear the tobacco industry is trying to insure there will be no reinstatement of the federal tax and he urged the Committee to support House Bill 45.

In closing, Representative Nathe told the Committee the net effect to the general fund would be very similar with either House Bill 45 or 120.

The Committee reconvened following a five minute break.

DISPOSITION OF HOUSE BILL 701: Chairman Devlin reminded committee members House Bill 701 had been passed out of committee and was referred back to the Committee for amendments.

Representative Asay, reporting as subcommittee chairman, advised the Committee the Subcommittee met with members of the Historical Society, the Department of Administration, the Attorney's General's Office and Hamilton area residents in an effort to ensure the State is not committing itself inappropriately.

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Representative Asay told the Committee the proposed amendments are similar in nature to those drafted by Representative Swift and propose a six member committee comprised of one county commissioner, one state representative, one state senator and three members of the community at large, who will study the situation and make a recommendation to the Revenue Oversight Committee and Department of Revenue (copy of subcommittee minutes attached-Exhibit 11).

Dr. Bob Archibald, Director, Montana Historical Society, told the Committee the Society is governed by a 15-member board of trustees, who are appointed by the Governor and are confirmed by the Senate. He said the board is responsible ultimately, to the Legislature, for its activity and possesses extensive management experience with historical sites.

Dr. Archibald stated it would be foolhardy to recommend an acquisition over the decision of the Revenue Oversight Committee. He said the Society would like to acquire the Daly Mansion, but is looking at how it can be supported and operated, for example by earned revenue, gate receipts, etc.

Representative Asay introduced Mr. Jim Parker, who heads the local group supporting the Daly Mansion. Mr. Parker stated his group has been building a solid organization since January, 1985, and believes that House Bill 701 will give the community a chance to do its part. He added the bill has the necessary safeguards to protect the State in its investment.

Representative Asay told the Committee he believes the project is worth looking into and provided committee members with copies of a gray bill (Exhibit 12), noting changes recommended by the Subcommittee. He said proposed changes include a provision for veto by the Governor and recommendations of the county commissioners.

Representative Zabrocki said Representative Fritz told him there would be no cost involved in renovating the Mansion and asked if this information were correct. Representative Asay replied the costs of renovating the Conrad Mansion in Kalispell, were approximately \$100,000, and that the Mansion is now in a position to be self-supporting.

Representative Sands said he has reservations about the bill as it permits the Department of Revenue to accept property in lieu of payment of taxes without Legislative action (between \$1 and \$2 million in taxes). He said the estate should pay the taxes and the matter could then be reviewed in the Appropriations Committee. Representative Sands commented he understands there is a time problem and that if the bill passes, revenue estimates will need to be changed accordingly. He stated that on the alternative side the Daly Mansion is a valuable piece of property with historical significance.

Representative Schye asked if the acquisition of the property would offset taxes owed. Representative Asay asked Mr. Parker to address the question, who said the project would not have significant impact on any given biennium.

Representative Ream asked if the Legislature needed to wait until next session or if there are enough safeguards to proceed now. He commented he believes there are enough safeguards and that they are sufficient.

Representative Zabrocki asked what condition the Mansion is in. Chairman Devlin stated the foundation and walls are good, but the roof is questionable. Dr. Archibald replied that an architect looked at the Mansion and found no structural problems. He said the Mansion has been closed up for 40 years and is in remarkable condition after being closed for that length of time.

Representative Patterson asked when the State would take possession of the Mansion. Representative Asay replied it should be done within the next 18 months.

DISPOSITION OF HOUSE BILL 701: Representative Schye made a motion that House Bill 701 DO PASS AS AMENDED and that the former amendments be removed. The motion to remove the former amendments was given unanimous committee approval (Exhibit 13).

Representative Asay made a motion that the Committee adopt the amendments proposed by the Subcommittee. The motion was given unanimous approval of the Committee.

Representative Sands made a motion that "or trust" be inserted on page 2, line 17; that subsection (b) on page 4, lines 12 and 13, be stricken; that "from a donor" be reinserted on page 6, line 2; that "trust" be reinserted on page 7, line 22.

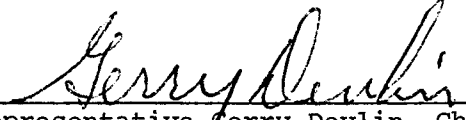
Representative Williams stated the receiving entity could be the Department of Fish, Wildlife and Parks and not the Historical Society.

The motion made by Representative Sands was approved with all members voting aye except Representative Cohen, who voted no.

The motion made by Representative Schye that House Bill 701 DO PASS AS AMENDED was subject to a Roll Call Vote (attached), and approved with 15 members voting aye, and four voting no. Representative Harp was not present for the vote.

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There being no further businesss before the Committee, the meeting  
was adjourned at 11:10 a.m.

  
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Representative Gerry Devlin, Chairman

DAILY ROLL CALL

HOUSE TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 21, 1985

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, GERRY, Chrm.	X		
WILLIAMS, MEL, V. Chrm.	X		
ABRAMS, HUGH	X		
ASAY, TOM	X		
COHEN, BEN	X		
ELLISON, ORVAL	X		
GILBERT, BOB	X		
HANSON, MARIAN	X		
HARRINGTON, DAN	X		
HARP, JOHN	X		
IVERSON, DENNIS	X		
KEENAN, NANCY	X		
KOEHNKE, FRANCIS	X		
PATTERSON, JOHN	X		
RANEY, BOB	X		
REAM, BOB	X		
SANDS, JACK	X		
SCHYE, TED	X		
SWITZER, DEAN	X		
ZABROCKI, CARL	X		

# STANDING COMMITTEE REPORT

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MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 701

first reading copy ( white )  
color

## PAYMENT OF INHERITANCE TAX WITH PROPERTY OF HISTORIC OR CULTURAL VALUE

Respectfully report as follows: That HOUSE Bill No. 701

be amended as follows:

1. Title, line 6.

Following: "REVENUE"

Insert: ", AFTER CONSULTATION WITH THE REVENUE OVERSIGHT  
COMMITTEE,"

2. Title, line 7.

Following: "OF"

Strike: "EXTREMELY"

3. Title, line 10.

Following: "VALUE;"

Strike: remainder of line 10 through "AUTHORITY;" on line 11

DO PASS

4. Page 1, line 15.  
Following: "[this act]"  
Strike: remainder of line 15 through "chapter," on line 17

5. Page 1, line 24.  
Following: "land"  
Strike: "."  
Insert: ", while limiting the impact of such transfers on the revenue collected under this chapter. It is the intent of [this act] to allow in-kind payment for a short period of time to evaluate the impact of [this act] on revenue, to evaluate the types of in-kind payments which are received by the department of revenue, and to evaluate the ability of receiving entities to manage the in-kind payments."

6. Page 2, line 16.  
Following: "is of"  
Strike: "extremely"

7. Page 2, line 25.  
Following: "is of"  
Strike: "extremely"

8. Page 3, line 8.  
Following: line 7  
Strike: "extremely"

9. Page 3.  
Following: line 15  
Insert: "Section 3. Application for in-kind payment -- in-kind review committee -- review process. (1) Upon written application from a receiving entity, the department of revenue shall notify the revenue oversight committee that such an application has been received.  
(2) Upon receipt of such notification, the revenue oversight committee shall appoint an in-kind review committee. The in-kind review committee must be comprised of the following persons, appointed by the revenue oversight committee:  
(a) a representative of the receiving entity; and  
(b) six members representing the county in which the property proposed for in-kind payment lies or was situated at the time of death of the person whom the donor represents, as follows:



- (i) one member of the county commission;
  - (ii) one state senator;
  - (iii) one state representative; and
  - (iv) three residents from the community at large.
- (3) The in-kind review committee is a voluntary review committee and is entitled to no compensation or reimbursement of expenses for its review, recommendation, or any other activity.
- (4) The in-kind review committee will advise the department and the revenue oversight committee as to the following:
- (a) proposed and potential uses of the property;
  - (b) where applicable, methods and potential sources for rehabilitation, maintenance, and general support of the property alternative to the statement submitted by the receiving entity pursuant to [section 4].
- (5) Upon completion of its review, the in-kind review committee shall submit a report in written form to the revenue oversight committee and the department, which must be considered in determining whether to approve or disapprove the application.
- (6) The in-kind review committee has 50 days from the date written application is received by the department from the receiving entity within which to make its report.
- (7) The department shall, as provided in 72-16-435, defer payment of inheritance or estate tax that is under review for in-kind payment, so that the tax due is exempt from the interest penalty imposed under 72-15-441."

Remember: subsequent sections

10. Page 3, line 17.

Following: "Upon"

Insert: "receipt of the"

11. Page 3, line 18.

Following: "entity"

Insert: "and the report, if any, of the in-kind review committee"

Following: "revenue"

Insert: ", after consultation with the revenue oversight committee,"

12. Page 4, line 1.

Strike: "an assurance by"

Insert: "a statement from"

13. Page 4, line 2.

Strike: "that it can assume responsibility"

Insert: "concerning the methods available"

14. Page 4.

Following: line 7

Strike: subsection (4) in its entirety

15. Page 5, line 1.

Following: "revenue"

Insert: "and the revenue oversight committee"

16. Page 5.

Following: line 7

Strike: section 6 in its entirety

Renumber: subsequent sections

17. Page 5, line 15.

Following: "and"

Strike: "remainder of line 15 through line 17"

Insert: "to the estates of persons who died after January 1, 1984. This act does not apply to any estate or the termination of a joint tenancy of any person who died after January 1, 1985."

AND AS AMENDED  
DO PASS

ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE March 26, 1985 BILL NO. 701 TIME 11:10 am

NAME	AYE	NAY
DEVLIN, GERRY, Chrm.		X
WILLIAMS, MEL, V.Chrm.	X	
ABRAMS, HUGH	XX	
ASAY, TOM	X	
COHEN, BEN	X	
ELLISON, ORVAL		X
GILBERT, BOB		XX
HANSON, MARIAN	X	
HARRINGTON, DAN	X	
HARP, JOHN <i>absent</i>		
IVERSON, DENNIS	X	
KEENAN, NANCY	XX	
KOEHNKE, FRANCIS	XX	
PATTERSON, JOHN	XX	
RANEY, BOB	XX	
REAM, BOB	X	
SANDS, JACK		X
SCHYE, TED	X	
SWITZER, DEAN	XX	
ZABROCKI, CARL	X	
	15	4

Secretary Alice Omang

Chairman Gerry Devlin

Motion: Rep. Schye - DPAA

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# STANDING COMMITTEE REPORT

March 21, 19 85

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 464

third reading copy ( blue )  
color

**AN ACT TO EXCLUDE CERTAIN DISABILITY BENEFITS FROM ADJUSTED  
GROSS INCOME IN COMPUTING STATE INCOME TAX LIABILITY;**

Respectfully report as follows: That SENATE Bill No. 464

BE CONCURRED IN

DO-BASS

**TAX CREDIT 10%**

**PROS**

**: CLEANER ENVIRONMENT**

*1.6 grams per hour*

**: SAFER**

*burns 90% creosote*

**: ECONOMICAL**

*1/3 more heat per lb. wood*

**CONS**

**: ADDITIONAL**

*purchase price*

**: MAINTENANCE**

*(catalyst replacement)*

**CATALYTIC STOVES**

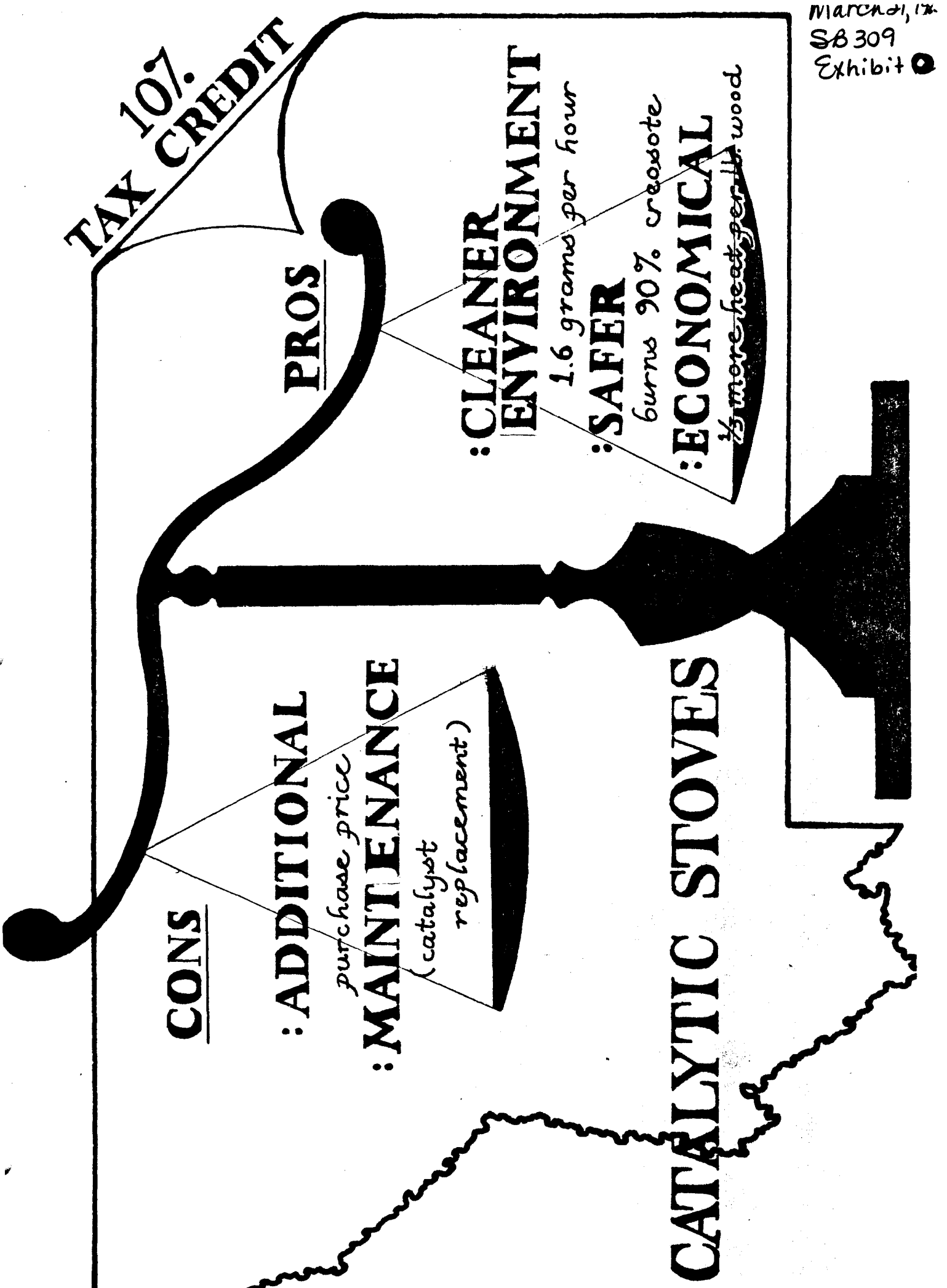
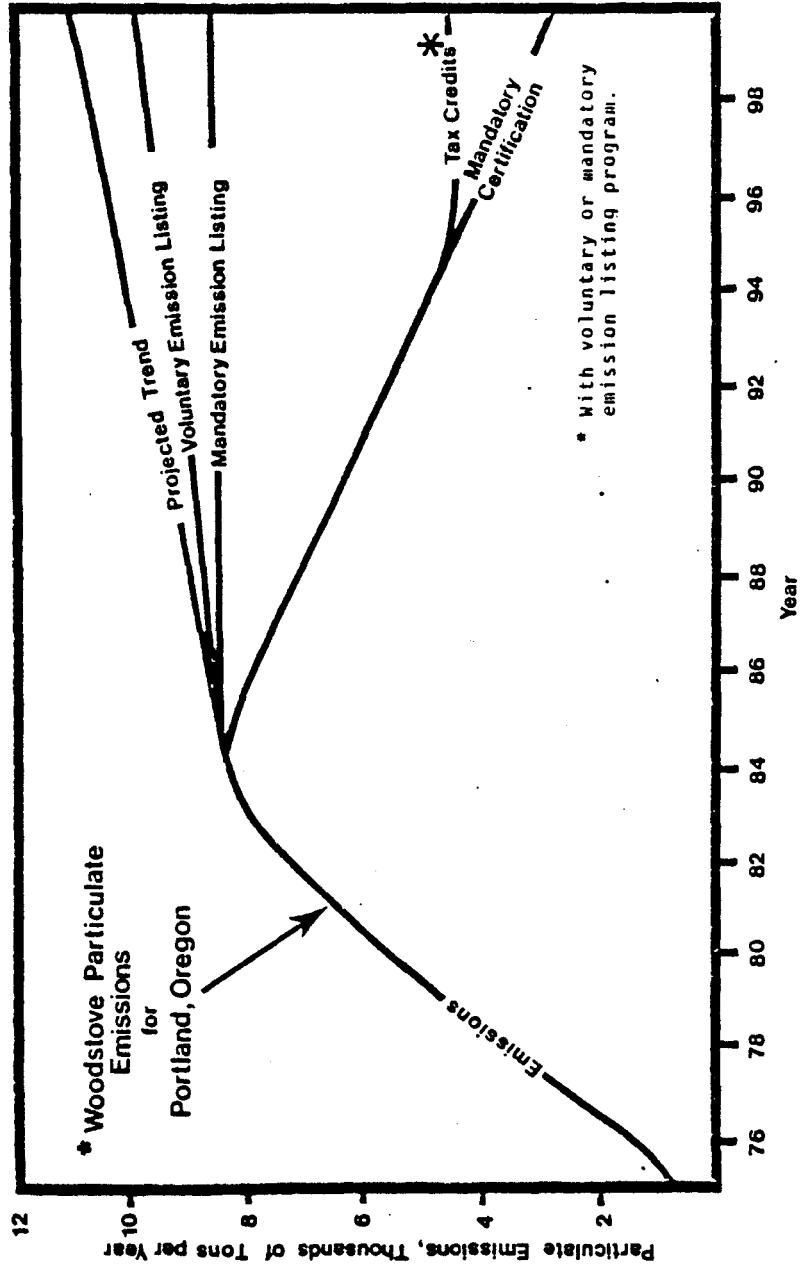


Figure 2.  
Effects of Potential Programs to Promote  
Cleaner Burning Woodstoves



Taken From:

A POTENTIAL WOODSTOVE CERTIFICATION PROGRAM

FY

John F. Kowalczyk & Barbara J. Tombleson

Oregon Department of Environmental Quality

## RESULTS OF EFFICIENCY TESTING ON BLAZE KING

PROJECT :#SG045-1

STOVE MODEL: KING CATALYTIC, KEJ-1101

DATE OF TEST: AUGUST 1984

### TEST DATA

HEAT OUTPUT IN BTU/HR	9,954	13,923	19,520	35,691
BURN RATE, LB/HR	1.71	2.58	3.84	6.84
WOOD MOISTURE (WET BASIS)	16.63	18.43	17.87	17.48
AVERAGE STACK TEMPERATURE (DEG.F)	142	180	225	337

### AVERAGE EFFICIENCIES

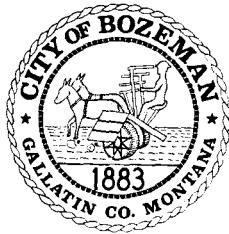
COMBUSTION EFFICIENCY	94.8	92.2	90.7	89.3
HEAT TRANSFER EFFICIENCY	87.6	84.6	81.5	82.3
OVERALL EFFICIENCY	83.1	78.0	73.9	73.5
(CORRECTED FOR STOVE THERMAL MASS)				

### EMISSIONS

PARTICULATES IN GRAMS/HR	1.162	1.5566	2.069	3.004
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### BURN TIME

CALCULATED MAXIMUM BURN TIME AT 10,000 BTU = 27.4 HOURS



MEMORANDUM

March 21, 1985  
SB 309  
Exhibit 1

From the Office of  
The City Commission  
Bozeman, Montana

Date 3/21/85

TESTIMONY SUPPORTING SB 309, ALLOWING A TAX-CREDIT  
FOR CLEAN-BURNING WOOD STOVES

In Montana's many mountain valleys today, the burning of woodstoves is causing our pristine air quality to decline dangerously. People today have no incentive to spend the extra money to get a clean-burning stove or to put on a catalytic attachment to make it burn cleaner.

Since the people who use wood stoves are definitely interested in saving money, a tax credit for clean-burning stoves is perhaps our best hope to avoid so many more dirty-burning wood stoves that our air quality becomes really terrible.

Montana's image to the world is one of having clean air and a generally clean environment. The small expense of this bill to the state is well worth helping to keep Montana's clean image in the rest of the world -- as well as -- most importantly -- adding to the healthful environment of Montanans.

Sincerely,

*Mary Vant Hull*

Mary Vant Hull, City Commissioner  
416 E. Story, Bozeman MT 59715





# Missoula Fireplace & Masonry Supply

March 21, 1985  
Senate Bill 309  
Exhibit 2

1750 IDAHO STREET  
MISSOULA, MT 59801

*"Your Fireplace Friends"*

PHONE 728-6790  
AREA CODE 406

March 21, 1985

My husband and I own a retail business in Missoula. We sell woodburning stoves, wood pellet stoves and Collins Hoppers. We also sell the wood pellets which we purchase from a Montana plant in Livingston.

I am speaking in favor of Senate Bill 309. I firmly believe that the passage of this bill will have a very positive effect in helping to clean up many of Montana's air polluted towns and cities.

Our industry is very fortunate, at this time, to have a few very clean burning devices we can offer consumers. We really need an incentive to convince the customer to upgrade his existing stove with a more efficient, clean burning unit. This bill has the potential to help us do so.

This bill will not only help to clean up Montana's air but it will create more jobs and utilize our waste forest products. There are several Montana manufactures of clean burning units and bio-mass wood pellets that would directly benefit from the passage of this bill.

Senate Bill 309 will not have a large impact on the State Treasury. A typical clean burning unit costs approximately \$900.00 to \$1400.00. The tax credit received by the taxpayer would only be \$90.00 to \$120.00. The installation cost should be minimal because we feel the majority of the people, who buy these units already heat with wood and have their own chimney system.

These clean burning units are much more affordable and practical than solar and windpower, especially for the people living in Western Montana.

Please give Senate Bill 309 your careful and affirmative consideration because this is a NOW problem! The passage of this bill can have a very positive effect on Montana's future.

*Harlene Fortune*

Presented by Merlin Hickman, President, Blaze King of Montana, Bozeman MT

I Concern for air quality in the State of Montana

- A. Definite change in air quality in Gallatin Valley in past 6 years
- B. Change due primarily to wood heat
  1. Advantages to wood heat
    - a. economy
    - b. renewable resource
  2. BUT we do not want (or need) to sacrifice air quality
- C. Several years have been spent in developing a wood-burning stove which will help solve the problem

II Current goal: to get consumers to buy the clean burners

- A. Advantages of catalytic model to the consumer
  1. Economy (1/3 more heat per lb. of wood)
  2. Safety (burns 90% of creosote)
  3. Cleaner environment
- F. Disadvantages
  1. Additional initial expense of catalytic model
  2. Extra maintenance it might require
- C. Tax credit would tip the scale in favor of buying the clean burning stove.

III Benefit of tax credit to the state

- A. Air quality
- B. Economy  
More Montana built products sold means more jobs for Montanans and hence more revenue.

WITNESS STATEMENT

NAME Merlin Hickman (Blaze King of Mt.) BILL NO. SB 309  
ADDRESS 4070 Sawmill Rd. Bozeman, MT. DATE 3-21-85  
WHOM DO YOU REPRESENT? Blaze King of Mt. Inc. stove mfg.  
SUPPORT  OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

March 21, 1985  
SB 464  
Exhibit 3a

Exclusion of Disability Payments for Persons Under Age of 65

Prior to January 1, 1984, federal law (IRC 105d) allowed the exclusion of disability payments of up to \$100 per week (\$5,200 per year) by people under the age of 65. This exclusion was decreased dollar for dollar by the amount of gross income exceeding \$15,000.

Public Law 98-21 repealed the federal law excluding disability payments and allowed a credit for a portion of the disability (IRC section 22).

Since this income is now included in Federal Adjusted Gross income, it has become taxable to Montana.

Montana does not have a disability credit such as the federal. The credit replaced the \$5,200.00 exclusion that was in effect in prior years.

Since the exclusion was replaced, Montana now taxes 100% of the disability income.

## Disability Income Exclusion

Example of how exclusion and limitation are applied

A taxpayer under age 65 who was disabled for the entire year received \$6,000 in payments in lieu of wages. He had adjusted gross income of \$16,000. Assume that, before reduction, the taxpayer is entitled to an exclusion of \$5,200 for the year. Since the taxpayer's adjusted gross income exceeds \$15,000, his exclusion is reduced by the \$1,000 excess. Consequently, his maximum exclusion is \$4,200 (\$5,200 minus \$1,000).

A. Old law allows a maximum exclusion of \$5,200.00. It was limited to what you actually received or \$100.00 a week, which ever was less.

\*\*\*\*\*

Assume:            Disability Income    =    8,000                            Age = 62  
                     Social Security        =    2,000                            1 exemption

Old Federal Law

Income	=	8,000.00
Exclusion	=	<u>(5,200.00)</u>
Income	=	2,800.00
Exemption	=	<u>(1,000.00)</u>
Taxable Income	=	1,800.00
Federal Tax	=	-0-

Old Montana Law

Income	=	8,000.00
Exclusion	=	<u>(5,200.00)</u>
Income	=	2,800.00
Standard Ded.	=	<u>(560.00)</u>
		2,240.00
Exemption	=	<u>(1,000.00)</u>
Taxable Income	=	1,240.00
Montana Tax	=	24.80

- B. New law allows a credit against the taxpayer's federal tax liability.

The maximum credits are:

1. \$750.00 for single people and married people with only one spouse retired on permanent and total disability.
2. \$1,125.00 where both spouses are 65 or older and either one or both has retired on permanent and total disability.
3. \$562.50 for a married person who was on permanent and total disability who filed a separate return.

Single person  
Age 62  
Disability income = 8,000.00  
Social Security = 2,000.00

New Federal Law

Income	=	8,000.00
Exemption	=	(1,000.00)
Taxable income	=	<u>7,000.00</u>
Tax	=	614.00
Disability tax credit	=	<u>(412.50)</u>
Net federal tax	=	<u>201.50</u>

New Montana Law

Taxable income	=	8,000.00
Standard Ded.	=	<u>(1,600.00)</u>
		6,400.00
Exemption	=	<u>(1,000.00)</u>
Taxable income	=	<u>5,400.00</u>
Montana tax	=	182.00

March 21, 1985

Exhibit 4

HB 45

HB 45 + 120

NAME Mary Vart Hull (Married) BILL NO. ~~SB 367~~

ADDRESS 416 E. Story DATE 3/21/85

WHOM DO YOU REPRESENT Bozeman City Commission

SUPPORT  OPPOSE  AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This tax will help contribute a ~~part~~ solution to our financial problems.

It is a fair tax to smokers - despite some objectors. My husband, Mike Ward, is a heavy, non-filtered Camel smoker, and he advocates a higher tax on cigarettes to merely help make a start towards solving some of the financial costs that cigarette smoking lays on all of us, whether we smoke or not.



March 21, 1985  
Exhibit 5  
House Bill 45  
120

NAME: DAVID LACKMAN DATE: March 21, 1985

ADDRESS: 1400 Winne Avenue, Helena, MT 59601

PHONE: 443-3494 (Helena)

REPRESENTING WHOM? Volunteer Lobbyist for the Montana Public Health Association.

APPEARING ON WHICH PROPOSAL: HB 45 (Steve Waldron) Increase the cigarette

excise tax to 24 cents per package. Committee: Taxation Rm: 312-1 8:00 A.M.  
Thursday, March 21, 1985

DO YOU: SUPPORT? XXXX AMEND?            OPPOSE?             
Our category: Prevention

COMMENTS: THIS IS A GOOD TAX THIS IS A FAIR TAX

One reason for the shortfall in the budget is the increase in dollars required for Medicaide. An important factor contributing to this increase is the result of the use of tobacco.

Exposure to smoke from tobacco; or the use of it, has multiple deliterious effects on the human body. It can be the underlying etiology in lung cancer, heart disease, emphysema, and other respiratory afflictions. Cardiovascular pathology such as arterioclerosis and thromboangitis obliterans may also be enhanced by substances in tobacco. There are on record at least 17,000 cases of lung cancer in non-smokers, the etiology of which is most likely exposure to tobacco smoke. Such exposure in pregnant women may result in fetal injury, premature birth, and lower birth-weight.

Although we are much in sympathy with HB 120 following, we know the

legislature's feeling about ear-marked revenue funds. I consider HB 45 as the one most likely to receive favorable action. Than you!

(In testimony Wed. on HB 183, David Weeks, M.D., from Idaho, was the "expert" witness brought in by the tobacco industry. He reminded me so much of Goethe's Faust who sold his soul to the devil. I understand that the Governor of Idaho recently signed legislation similar to HB 183- No smoking area in public places! (Also favor a surtax on income to help with the budget.)

March 21, 1984  
H.B. 45 & 120  
Exhibit #6



# AMERICAN LUNG ASSOCIATION OF MONTANA

Christmas Seal Bldg. — 825 Helena Ave.  
Helena, MT 59601 — Ph. 442-6556

EARL W. THOMAS  
EXECUTIVE DIRECTOR

## WHY IS H.B. 45 A GOOD BILL?

THE 1984 U.S. SURGEON GENERAL'S REPORT<sup>\*1</sup> STATES THAT CIGARETTES ARE THE MOST IMPORTANT INDIVIDUAL HEALTH RISK IN THIS COUNTRY, RESPONSIBLE FOR MORE PREMATURE DEATHS AND DISABILITY THAN ANY OTHER KNOWN AGENT.

RECENT STUDIES<sup>\*2</sup> HAVE SHOWN A 4% DECREASE IN SMOKING FOR EVERY 10% INCREASE IN PRICE. AMONG YOUTH THE DECREASE IS 14%.

FROM A STRICTLY ECONOMIC VIEWPOINT, SMOKING ACCOUNTS FOR ABOUT \$13 BILLION IN DIRECT HEALTH CARE EXPENSES EVERY YEAR IN THE U.S., WITH AN ADDITIONAL ANNUAL COST OF \$25 BILLION IN LOST PRODUCTIVITY, WAGES AND ABSENTEEISM.

\*1. The Health Consequences of Smoking, CHRONIC OBSTRUCTIVE DISEASE, a report of the Surgeon General, 1984, U.S. Dept. of Health and Human Services.

\*2. Harry F. Hull, M.D., State Epidemiologist, State of New Mexico.

March 21, 1985  
HB 45 + 120  
Exhibit 7

CIGARETTE EXCISE TAX FACTSHEET

MONTANA

JANUARY 1985

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POTENTIAL TAX REVENUES AND THE STATE OF MONTANA

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BOOTLEGGING

A COMPARISON OF STATE RATES AND TAX REVENUES

IMPACTS OF AN INCREASE IN THE MONTANA CIGARETTE EXCISE TAX

THE BURDEN OF EXISTING TAXES

## POTENTIAL TAX REVENUES AND THE STATE OF MONTANA

In FY 1984, Montana collected \$21.98 in cigarette excise taxes for every person aged 18 or over in the state. This excise tax revenue of \$13.1 million represented the sale of 90.6 million packs. Between FY 83 and FY 84, the state excise was increased 33% in Montana, from 12 to 16¢. Since the tax increase, sales from this significant tax resource have been reduced. A further increase of 8¢ would mean a 100% increase in the tax rate in less than two years, and would be an unconscionable action against the state's smokers.

An increase of 8¢ in the state cigarette tax will erode the tax base still further by reducing sales. For Montana, a specific state econometric demand model indicates a possible sales decline of 3.76% for every 8% increase in the tax rate. Therefore, it can be expected that an addition of an 8¢ excise tax increase to the current average retail price will lead to a decline in legitimate FY 1986 cigarette sales in Montana of about 3.41 million packs. This decline will probably consist of an actual cutback combined with increased illegal purchases and interstate smuggling. As a result, legitimate wholesalers and retailers will experience significant revenue losses.

## MONTANA AND THE CIGARETTE TAX

Montana has been taxing cigarettes since 1947. Since 1950, the tax rate has climbed from 2¢ to 16¢ a pack. To date, this tax has generated more than \$256 million in gross revenues for the state.

In the fiscal year ending June 30, 1984, gross revenue from the cigarette tax in the state amounted to more than \$13 million, an increase in annual revenue of more than 700% from 1950.

## EARMARKING OF TOBACCO TAXES

To increase a tax specifically to fund a particular program artificially patches a funding problem from one place in the budget to another without solving it. Tobacco excise taxes under the present system contributed \$13 million in gross revenue in FY 1984 in Montana. To increase the tax and earmark the unknown additional revenue to fund a specific program would add further rigidity to the state fiscal system. This could eventually restrict the ability of government to meet pressing operational needs outside the designated field.

Earmarking of revenue removes from the legislature one more segment of control over state budgeting and expenditures. The further the principle of earmarking revenue sources for specific programs is carried, the less government can do to achieve fiscal discipline and establish rational budgetary priorities.

Earmarking of taxes, for whatever purpose, has become an increasingly questionable practice. Clearly, a system of taxation where every program will have to raise its own support presents numerous concerns. Such a system would necessitate the creation of another level of government bureaucracy to handle the administrative, management and accounting functions that would be required.

Experience has shown that such bureaucracies have a strong tendency to perpetuate themselves indefinitely without regard to their usefulness. The same holds true for those programs being earmarked. When not competing with other interests for funding, such programs often escape public and legislative scrutiny. The continuance of unnecessary programs will likely entail increased costs that will be passed on to consumers through additional tax levies.

Dedicating funds is not only questionable as a matter of government fiscal policy; almost invariably it represents an additional cost to be borne by taxpayers. With regard to cigarette excise taxes, the cost is borne disproportionately by lower income individuals.

In these days of budget crunches, it makes more sense to not start unnecessary new programs and to cut back on outdated programs. State government is often perceived by the public as too big already. In fact, a recent survey by the Advisory Council on Intergovernmental Relations found that 36% of the people surveyed felt that both taxes and services should be decreased. Lawmakers, frustrated by a revenue-short general fund that prohibits their launching many new programs which they deem worthy persist in dedicating special taxes to these causes. This is a desperate and dangerous trend that must be reversed. When cigarette taxes go into the general revenue fund, the competition for these dollars assures appropriate legislative examination and wise use of tax dollars.



## BOOTLEGGING

One indirect but important measure of both organized and individual (i.e., casual) smuggling is the difference between a state's per capita cigarette sales and those of a neighboring state or the U.S. average. States into which individuals or organized crime smuggle a substantial amount of cigarettes would be expected to have a markedly lower per capita consumption. Conversely, states in which substantial sales are made for out-of-state consumption will likely exhibit relatively higher per capita cigarette consumption figures. Data for 1984 show that overall per capita consumption in Montana is 110.0 packs. (Table I). The U.S. unweighted average per capita is 122.7 packs. Montana is also at a 4 cents/pack tax disadvantage with three of four surrounding states, and recorded a per capita sales disadvantage with all four of its neighboring states. This comparison implies some potential smuggling of cigarettes into Montana from states with lower tax rates as well as substantial untaxed sales on Indian Reservations which are estimated to be 15-20% of total taxes and untaxed cigarette sales in this state.

Any tax increase would depress legal sales in Montana and would lead to increases in bootlegging and further losses in expected revenue. In other states where high cigarette taxes exist, the criminal element has become involved. If Montana were to raise its tax on cigarettes, the bootlegging problem will likely grow in proportion to the tax increase.

TABLE I

MONTANA AND SURROUNDING STATES, CIGARETTE TAX DATA, 1984

<u>State</u>	<u>Cigarette Tax Rate</u>	<u>Sales Tax Per Pack</u>	<u>State Total Tax Per Pack</u>	<u>FY 84 Difference with Montana</u>
Idaho	9.1¢	4¢	13.1¢	- 2.9¢
Wyoming	8.0	-	8.0	- 8.0
North Dakota	18.0	4	22.0	+ 6.0
South Dakota	15.0	-	15.0	- 1.0

---

Montana	16.0	-	16.0	-----
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<u>State</u>	<u>Tax-Paid Sales Per Capita</u>	<u>FY 84 Difference with Montana</u>
Idaho	103.6	+ 6.7
Wyoming	128.9	+32.0
North Dakota	109.4	+12.5
South Dakota	105.7	+ 8.8
Montana	110.1	-----

---

## A COMPARISON OF STATE RATES AND TAX REVENUES

Montana is already at a competitive disadvantage with three of four neighboring states in terms of its cigarette excise tax rate. (See Table I). Any increase in the tax rate would erase the advantage over North Dakota and would widen the disadvantage with South Dakota, Idaho and Wyoming.

From 1983 to 1984, cigarette excise tax revenue increased in Montana to more than \$13 million. This amount represents 2.5% of the state's 1983 total tax revenue, and an impressive 12.2% of the state's total sales and gross receipts tax revenue. Cigarette taxes generate more revenue for Montana than taxes on beer, liquor and wine, and public utilities. (Data from U.S. Bureau of the Census, State Government Tax Collections in 1983. Cigarette excise figures from Miscellaneous Tax Division, Montana Department of Revenue.)

## IMPACTS OF AN INCREASE IN THE MONTANA CIGARETTE EXCISE TAX

Higher cigarette taxes will affect revenues and work weeks in sectors both directly and indirectly involved in the tobacco industry in Montana. Most of these effects will be in the form of revenue losses to wholesalers and retailers.

Higher cigarette taxes and the resulting decline in the purchase of tax-paid cigarettes will also reduce state revenue from other sources, such as corporate income tax, and the individual income tax. For example, cigarettes are traffic-builders for the state's thousands of retail establishments which sell cigarettes. When people reduce purchases of cigarettes, or turn to bootlegged cigarettes, the revenue derived from the sales and profits of other products suffers as in-store traffic declines. In addition to retailers, Montana has several primary tobacco wholesalers, other large grocers, drug and miscellaneous wholesalers who handle cigarettes across the state.

Decreased consumption due to a higher cigarette tax rate will affect supermarkets and convenience stores as well. According to the September 1984 issue of Supermarket Business, tobacco products account for about 15% of all non-food sales in the United States. More than 40% of the cigarettes sold for domestic consumption are sold in supermarkets. Those cigarettes and other tobacco products account for 3.5% of all supermarket sales. In convenience stores, excluding gasoline sales, cigarettes are the number one product sold. Tobacco products comprise 16.7% of gross profits in convenience stores, according to Convenience Store News (June 1984).

## THE BURDEN OF EXISTING TAXES

The Montana cigarette tax is already a regressive and inequitable tax. The cigarette tax discriminates against the estimated 200,000 residents of the state who smoke, but the tax falls most heavily on those least able to afford it. Because the percentage of income devoted to buying cigarettes falls as income rises, Montana cigarette taxes are already levied at higher effective rates on the disadvantaged and those on fixed incomes than on the more affluent. Any increase in the current tax rate will add to the tax burden on the lower income groups and will contribute further to the overall regressivity of the state tax structure. An increase of 8¢ would mean a 100% increase in the tax in less than two years.

In 1984, 33.5% of what Montana smokers paid for a pack of cigarettes went to the Federal and state governments in the form of taxes. For a family with two average smokers, the following chart illustrates the burden of cigarette taxes in Montana as they fall on different income levels at the current and potential future rates. (See Table II).

More than 21% of Montana families have an effective buying income of less than \$10,000 per year. All told, nearly 36% have incomes less than \$15,000. It is these families who will suffer the most from an increase in the cigarette tax rate. A family with an income below the poverty level with two average smokers pays almost five times as much of its income for the pleasure of smoking as does a more affluent family making \$25,000 a year.

In addition, about 11% of Montana residents are aged 65 or over. For these elderly persons, many of whom are living on a fixed income, any increase in the cigarette tax rate could threaten this affordable pleasure.

Median household effective buying income in Montana is only \$20,253 per year, compared with a national average of \$23,400. Under the current tax, a household in Montana with two average smokers pays \$350.00 in state and federal taxes on cigarettes a year for the pleasure of smoking. If the state were to increase its tax another 8¢ - a 50% increase - that tax figure would soar to \$438 annually.

TABLE II

PERCENTAGE OF INCOME PAID IN ALL TAXES ON CIGARETTES AT CURRENT  
AND POTENTIAL FUTURE RATES

FOR A FAMILY WITH TWO AVERAGE SMOKERS IN MONTANA

<u>Income</u>	<u>Percentage of Income Paid in Taxes on Cigarettes (current rate)</u>	<u>Percentage of Income Paid in Taxes on Cigarettes (with proposed 8¢ hike)</u>
\$ 5,000	7.0%	8.8%
8,000	4.4	5.5
10,000	3.5	4.4
15,000	2.3	2.9
20,253	1.7	2.2
25,000	1.4	1.8

## Tax on Cigarettes Won't Be Reduced As Scheduled on Oct. 1, Packwood Says

By DAVID SHRIBMAN

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—The chairman of the Senate Finance Committee predicted that Congress would block a scheduled cut in the federal excise tax on cigarettes.

"If I were betting—and this is just a hunch because we haven't even addressed ourselves to that task—my hunch would be the tax will be extended," Sen. Bob Packwood (R., Ore.) told wire-service reporters yesterday. "It won't be raised. It won't be lowered, but it will be extended."

Mr. Packwood's remarks were the first time the new committee chairman has addressed the issue of the tax, which is scheduled to drop from 16 cents a pack to eight cents on Oct. 1, and fueled a debate that began earlier this month when Margaret Heckler, secretary of Health and Human Services, suggested extending the tax and using the revenue to boost the financially troubled Medicare system.

Mr. Packwood didn't specify what the money might be used for.

Renewing the excise tax would provide the Treasury with an additional \$1.7 billion in fiscal 1986, and with Congress in the mood to trim the federal deficit, some legislators believe the cigarette tax cut may be in jeopardy.

At the same time, however, some congressional Republicans and some White House officials argue that canceling a tax cut amounts to a tax increase, which President Reagan has opposed. Any attempt to cancel the cut, moreover, would face the strenuous opposition of lawmakers from tobacco-producing states, including Sen. Jesse Helms (R., N.C.), chairman of the Senate Agriculture Committee.

"We shouldn't even be talking about any tax increase right now," said Republican Sen. Mack Matungly of Georgia, another tobacco state. "The president said we're not going to tinker with taxes, and we shouldn't tinker with taxes. If you start tinkering with taxes, you won't get the spending cuts you want."

Mr. Matungly was one of nine Republican legislators who attended a White House luncheon meeting with David Stockman, the budget director; James Baker, the White House chief of staff and Treasury Secretary-designate, and Richard Darman, a presidential assistant. The meeting was one of a series of sessions with Republican senators and, according to Sen. Slade Gorton of Washington state, a member of the Budget Committee, the result is that "there will be some significant differences in the budget produced by the White House."

Meanwhile, Sen. Alan Simpson of Wyoming, the deputy majority leader, said that cuts in military spending and in cost-of-living adjustments for recipients of Social Security would be necessary if the budget cuts are to avoid being "tokenism."

Mr. Simpson suggested that progress at

arms negotiations talks with the Soviet Union might dictate military spending cuts, adding that entire military systems may have to be eliminated, perhaps at the cost of paying penalties for breaking procurement contracts. "We may have to pay the damages and step away instead of saying, 'You can't stop now,'" he said.

Mr. Simpson, speaking at a breakfast meeting with reporters, said that Congress would consider limiting Social Security increases to "two or three" percentage points less than the consumer price index. He added, in a reference to those who oppose such cuts, "When we show them the figures of where we are, they'll know that the other things are cosmetic."

Sen. Packwood said that he believes that there may be sufficient votes to approve such a plan.

Separately, Mr. Stockman said after a meeting yesterday evening with Sen. Robert Dole of Kansas, the majority leader, and Senate staff directors that he sensed a growing consensus that deep budget cuts would be acceptable on Capitol Hill. "Most of them are saying that their committees are willing to go along," Mr. Stockman said. "If there's a big package and everyone's in it."



FOR IMMEDIATE RELEASE  
WEDNESDAY, FEBRUARY 6, 1985

PRESS RELEASE #1  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
1102 LONGWORTH HOUSE OFFICE BLDG.  
WASHINGTON, D.C. 20515  
TELEPHONE: (202) 225-3627

THE HONORABLE DAN ROSTENKOWSKI (D., ILL.), CHAIRMAN,  
COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES,  
ANNOUNCES HEARINGS ON FUNDAMENTAL TAX REFORM AND OTHER TAX ISSUES

The Honorable Dan Rostenkowski (D., Ill.), Chairman, Committee on Ways and Means, U.S. House of Representatives, today announced public hearings on the basic concepts involved in fundamental tax reform and hearings on other specific tax issues pending before the Committee.

Hearings on Fundamental Tax Reform

The Committee will begin public hearings on the basic concepts involved in tax reform, simplification and fairness on Wednesday, February 27, 1985. The hearings will be held in the main hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m. The first witness will be the Secretary of the Treasury, the Honorable James A. Baker III.

The hearings will involve testimony on the policy concepts underlying fundamental tax reform proposals, including the Treasury proposal announced in November, 1984, and other similar proposals that have been the subject of recent analysis and debate.

The general public is requested to prepare testimony with reference to the basic policy issues in the tax reform proposals that have been put forward. A specific date for beginning the public phase of these hearings will be announced after an appropriate interval to afford the public an opportunity to evaluate Secretary Baker's testimony.

In announcing these hearings, Chairman Rostenkowski stated, "It is essential that we begin consideration of fundamental tax reform. We cannot ignore the opportunity -- or responsibility -- that has been presented. To understate the obvious, the American people are frustrated by the complexity of the tax form and disillusioned by a sense of unfairness in the law. Thus, it is imperative that the tax code be scrutinized from top to bottom with simplicity, equity and fairness as our goals."

Hearings on Other Tax Issues *over*

Once the Committee's agenda relative to fundamental tax reform and deficit reduction is established, the Committee anticipates scheduling consideration of other tax issues -- many of which

-MORE-

At a time when concern about farm and pollution problems caused by agricultural runoff is growing in Congress, the Reagan Administration this week proposed massive cuts in conservation programs that would shift the lion's share of responsibility to control runoff from the federal government to the states and individuals. Reagan's plan as disclosed in budget documents would within a year eliminate half a dozen Agriculture Dept. cost-sharing programs that now distribute hundreds of millions of dollars yearly to farmers to promote soil and water conservation, retaining only "a basic level of federal technical assistance." The Administration's principal rationale is that the \$25-billion spent on agricultural conservation since the first program was instituted in 1936 "simply has not worked."

For a savings of some \$400-million next year and \$700-million in 1996, the Administration is proposing to terminate the Agricultural Conservation Program, Emergency Conservation Program, Great Plains Conservation Program, Water Bank Program, Forestry Incentives Program, Resource Conservation and Development Program, and Small Watershed Planning Program. Some small flood control and drainage projects still would be financed by the Army Corps of Engineers, according to the documents. The Administration plan would retain the Soil Survey program, Plant Materials Centers, and technical assistance to soil conservation districts and landowners.

The Administration plan dashes hopes reportedly held by some in Congress that Reagan would use existing conservation programs to help get a rein on water and groundwater pollution caused by erosion and pesticides runoff, though the USDA programs originally were designed to conserve land and water for farm purposes. Congress last year came close to passing legislation to create a whole new incentives program to deal with runoff pollution, but many felt any new environmental program would be ineffective unless coordinated with USDA soil conservation programs. In documents provided by the Office of Management & Budget, the Administration asserts that erosion is no longer "a serious problem" on all cropland, and that individual farmers and states should become fully responsible for conservation decisions in the future. The same documents note, though, that states currently are spending only \$245-million yearly on agricultural conservation and could not immediately make up for the \$800-million USDA now spends annually.

## REAGAN, AVERTING TOBACCO POLITICS, LEAVES CIGARETTE TAX RENEWAL TO CONGRESS

The Reagan Administration, in a strategic move to court support from powerful tobacco-state Senators for its market-oriented 1985 farm bill, has avoided the politically explosive issue of a federal cigarette tax in its FY-86 budget. The budget does not extend the expiring 16¢ federal cigarette tax, worth an estimated \$4-billion in revenues. But Administration silence on the issue presumes that Congress will extend, and possibly, increase the tax, thereby preserving it as a revenue-raiser but allowing the White House to avert conflict with important tobacco-country Senators like Jesse Helms (R-NC). Without an extension, the tax will revert back to a pre-1982 rate of 8¢.

The Reagan Administration is currently trying to lessen intense opposition to its 1985 farm bill and is particularly interested in wooing Helms, Agriculture Committee chairman. It was Helms who fought hardest for a sunset provision — in the 1982 Tax Equity & Financial Responsibility Act which raised the tax from 8¢ to 16¢ through September 1985 — to retire the higher tax.

The Administration's avoidance of the cigarette tax issue has not eluded Senate Finance Committee Chairman Bob Packwood (R-OR) who said recently he "has a hunch" the committee will move swiftly to consider a new tax. The House is also beginning to consider legislation, with Rep. Andrew Jacobs (D-IN) planning to introduce a bill this week that would increase the tax to 24¢/pack and earmark the funds for Medicare and federally funded cancer research and treatment.

Congressional observers predict the cigarette tax debate will erupt in an emotional battle between the powerful \$26-billion tobacco industry and the increasingly vocal anti-tobacco coalition. The federal revenues from the tax are considerable, with estimates projecting a \$4-billion/year reduction if the tax is reduced to 8¢.

HHS Secretary Margaret Heckler supports earmarking tax revenues for Medicare, according to informed sources who say officials of the Dept. of Health & Human Services have proposed the idea. Administration sources, charging that tobacco companies will reap greater profits rather than reduce costs to the smoking consumer, support the "unofficial proposal" to earmark cigarette tax revenues for federally funded cancer research. But the Administration is not expected to either propose or endorse such a proposal.

Pro-tobacco interests are expected to argue against retaining the 16¢ tax rate on grounds that it unfairly discriminates against taxpayers who "happen to smoke" — an argument that is not expected to carry much weight in congressional debates. Anti-tax lobbyists charge a permanent tax will set an "unwarranted precedent" position, saying that legislation to either retain or increase the 16¢ tax would provide Congress a revenue-raising vehicle it will unfairly turn to each year to hike revenues.

# TECHNICALS

## Congress Shouldn't Reduce the Tax on Cigarettes

The federal tax on cigarettes, currently 16 cents a pack, is scheduled to be cut by half next fall. One Cabinet member, Health and Human Services Secretary Margaret Heckler, wants to keep the tax at its present level and earmark the additional money for Medicare.

Is that a good idea? Well, yes and no. Extending the tax is definitely prudent, given the size of the federal deficit; the administration should endorse that part of Heckler's proposal. But dedicating the revenue to Medicare — or to any other specific purpose — is another matter.

Congress doubled the cigarette tax from 8 cents a pack to 16 cents in 1983 as part of an effort to reduce the deficit. But the increase was only temporary, and unless Congress extends the present tax, it will revert to 8 cents on Oct. 1.

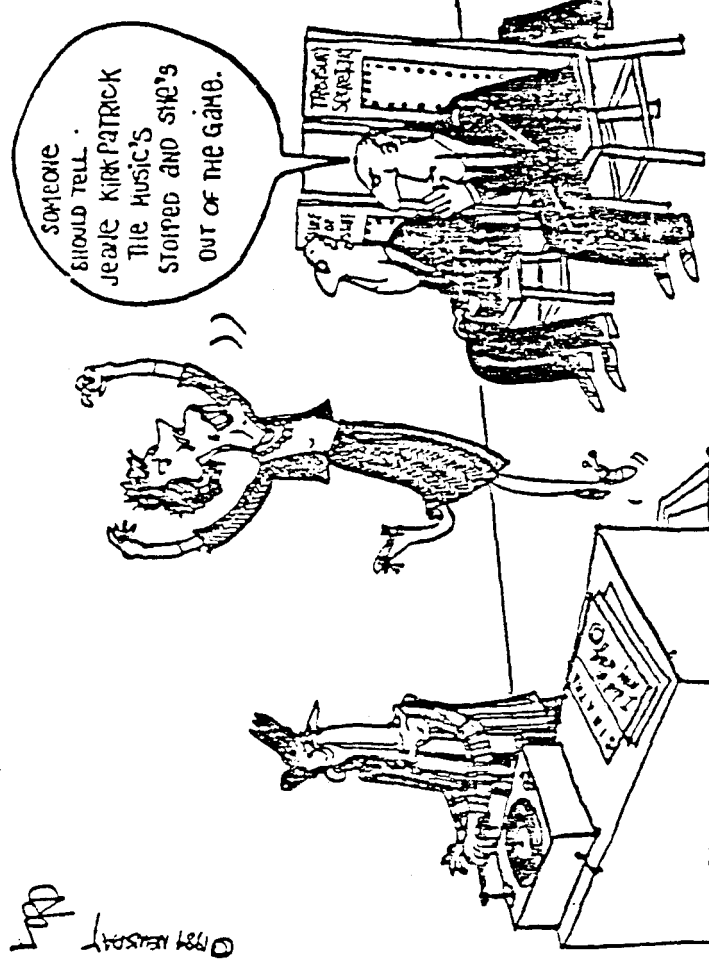
The tax should be maintained at 16 cents instead of being allowed to fall. When it was set at 8 cents in 1951, the federal tax represented about 37 percent of the average price of a pack of cigarettes. At current cigarette prices, the tax is something like 20 percent of the cost of a pack. Considering the health hazard that cigarettes represent, there's no reason to further reduce the rate at which smokers are taxed.

Besides, the deficits that the new rev-

enue was meant to reduce haven't been cut at all. In fiscal 1986, the first budget year that would be affected by the loss of cigarette tax revenue, the administration expects income to fall \$225 billion short of outlay, compared to a \$208-billion shortfall in 1983. Holding the cigarette tax at 16 cents would bring in at least \$1.7 bil-

lion a year more in sorely needed revenue. But that revenue should go into the treasury, not specifically to Medicare. Ear-marking taxes is too rigid; spending decisions shouldn't be tied to specific revenue sources. Medicare needs to be bolstered, but not in a way that makes it dependent in any way on Americans' smoking habits.

W.D.  
JAN 10 1985



Newsday Cartoon/M.G. Lord

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JAN 25 1985

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## Where there's smoke

Margaret Heckler, President Reagan's Secretary of Health and Human Services, has made an innovative proposal that links the cigarette tax to funding of Medicare. Although the proposal will not solve the long-term problems of the Medicare system, it deserves support from the President and Congress.

Medicare, funded by the payroll tax, is expected to slip into deficit sometime this year or, at the latest, next year. By 1993 it will have liquidated surplus funds built up over the years, according to forecasts.

Heckler suggests that the cigarette tax be kept at 16 cents a pack rather than dropping to eight cents, as scheduled for Oct. 1, and that the proceeds be dedicated to Medicare. Such a tie-in would be appropriate, since massive evidence has linked smoking with many medical problems.

Heckler's proposal would also establish a sound precedent for funding Medicare from sources other than the payroll tax. Medicare outlays, unlike the pension, disability and

survivors portions of the Social Security system, have no relationship to the beneficiaries' income levels and tax payments. Benefits are paid solely on the basis of the medical needs of the beneficiaries. Funding such benefits on the regressive payroll tax has always been inappropriate; using the cigarette tax would serve to break out of that policy.

The cigarette tax is also regressive, since it is blind to the income level of those who pay it. Despite this flaw, nothing should be done that encourages smoking — since the afflictions of smoking are also visited upon victims without regard to income level.

Congress can take the initiative by repealing the reduction in the cigarette tax, adding about \$1.7 billion a year to Medicare revenues. Ideally, from the health-care point of view, this would be a diminishing source of income if the number of smokers declines. That, in turn, would focus attention on the need for still broader revenue support for Medicare.

## Socking It to Smokers

Come Oct. 1 the current 16-cent-a-pack tax on cigarettes is scheduled to drop to 8 cents, a move that would deprive the Treasury of needed revenue even as it undercut a modest economic disincentive to smoking. Health and Human Services Secretary Margaret M. Heckler believes, as anyone with any sense must, that Congress made a mistake when it voted last year to let the cigarette tax fall. She is arguing for a retention of the 16-cent tax, but she wants about half the \$4 billion a year that it raises earmarked for the Medicare hospital insurance trust fund.

Heckler makes an interesting argument for dedicating part of the tax to a specific use. The trust fund spends \$6 billion a year on elderly and disabled people with lung cancer and other smoking-related illnesses. The fund also faces the prospect of going broke in the early 1990s, when its expenses are projected to exceed its income from payroll taxes. Heckler suggests that the cigarette levy be regarded as a user fee. Since smokers run greater health risks than non-smokers, they should contribute directly to costs of their later medical care.

Our own view is that the 16-cent tax ought to be not just retained but also radically increased—as a revenue-raising measure certainly and, more to the point, an effort to make cigarettes so expensive that young people tempted to take up smoking might find them happily unaffordable. The best way to deal with the addiction of smoking is not to treat its health consequences after the fact but to discourage dependency in the first place.

We cannot, though, support the idea of earmarking the cigarette tax. Get into the pattern of committing specific revenues to specific purposes and there's no end to it. Smoking is indeed a costly health problem. But so, for example, are obesity and overindulgence in artery-clogging foods. Should there then be a "fat" tax to help pay for the diseases brought on by bad eating habits? With few exceptions the best destination for taxes is the general fund. That fund deservedly ought to be added to with a cigarette tax much higher than it is now, and certainly much higher than it is due to become in October unless Congress has wiser second thoughts.

A SUMMARY OF CIGARETTE TAX TRENDS AND IMPACTS IN MONTANA

The Tobacco Institute  
Washington, D. C.  
January, 1985.

## MONTANA'S TAX STRUCTURE AND COMPARISONS TO STATE AVERAGES

Montana ranks relatively low in per capita income (37th). It is low in manufacturing employment (45th) at 7.7% of non-agricultural work force, and high in government employment, (3rd and 26.5 %).

Montana is high (11th) in per capita state & local revenues and state & local taxes (14th) per capita, but it is low in debt as a percent of taxes.

Montana has no general sales tax and local government must rely heavily on property taxes as a revenue source (47.4% vs an average 30.8% for all taxes, 25.8% vs an average 18.0% from all revenue sources, and \$582 per capita).

Montana's tax effort is only 92 percent of the all state average, but its ACIR fiscal capacity ranks a high 8th.

Montana is higher than average in selective sales taxes and in individual income taxes (10th per \$1000 income) as state tax sources. MT receives relatively high federal aid per \$1000 income, and it is moderate (27th) in total state tax revenue per \$1000 of personal income.

Montana has a high per capita beer consumption (4th) and a relatively low tax as a percent of average price (2.8% vs an average of 7.7%), and has low electric utility tax rates.

As stated, Montana derives a large percentage by source of its tax revenue from selective sales taxes on fuels, insurance, alcoholic beverages, and particularly tobacco as a source (4th) with 10.4% vs an average 4.77%.

A general sales tax on other retail products and services would seem to be logical if tax revenues must be increased.

ECONOMIC IMPACTS IN FY 1986 FROM SMOKERS' ALTERNATIVES ACROSS A RANGE OF STATE EXCISE TAX RATES FOR MONTANA

<u>State Tax Rate In Cents/Pack</u>	<u>Expected FY86 Cigarette Sales In Million Packs</u>	<u>Expected Losses In Wholesale/Retail Income Associated With the State Tax Rate In Millions Of Dollars</u>
-0-	97.472	-0-
10	93.213	0.767
16 current	90.657	1.227 current
24	87.249	1.840

Smokers' alternatives include interstate purchases in Wyoming and Idaho, on MT Indian reservations, use of other forms of tobacco, and cutting back on cigarettes.

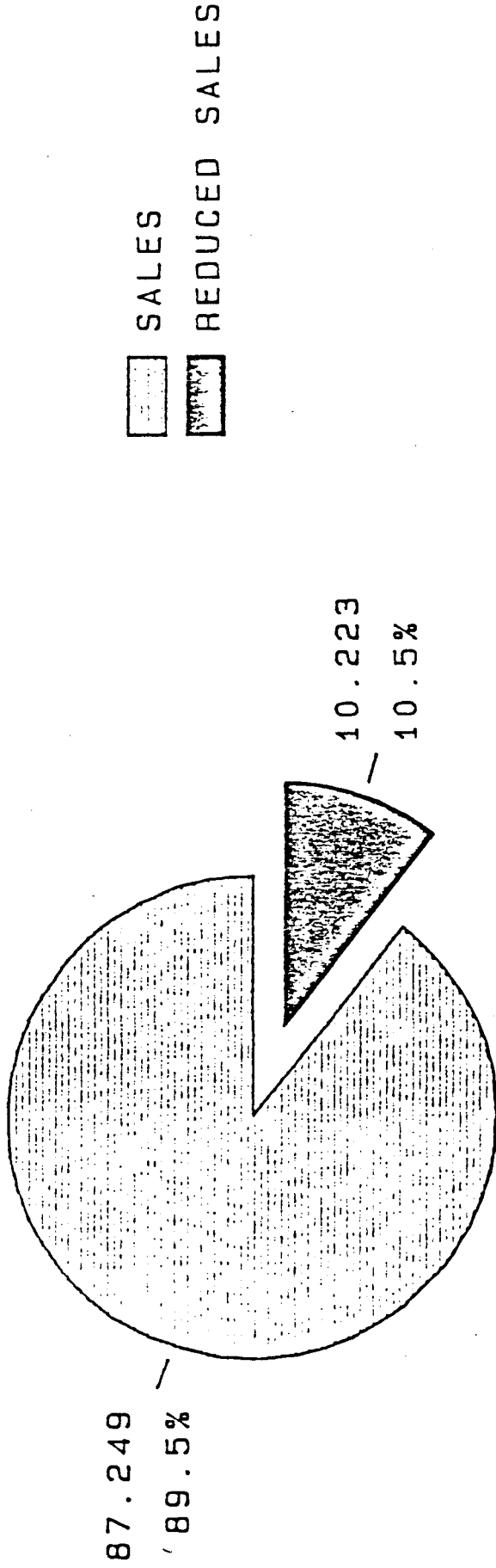
Since Montana's average cigarette price is higher than its neighboring states (two), interstate buying can be expected as well as off reservation sales, both of which reduce MT's tax revenue and per capita apparent consumption of cigarettes.

Projections are estimated from the most recent econometric model of Montana's cigarette sales.



# MONTANA FY 86 CIGARETTE SALES AND REDUCED SALES

Associated With A \$.24 State Tax Rate  
(Millions Of Packs)

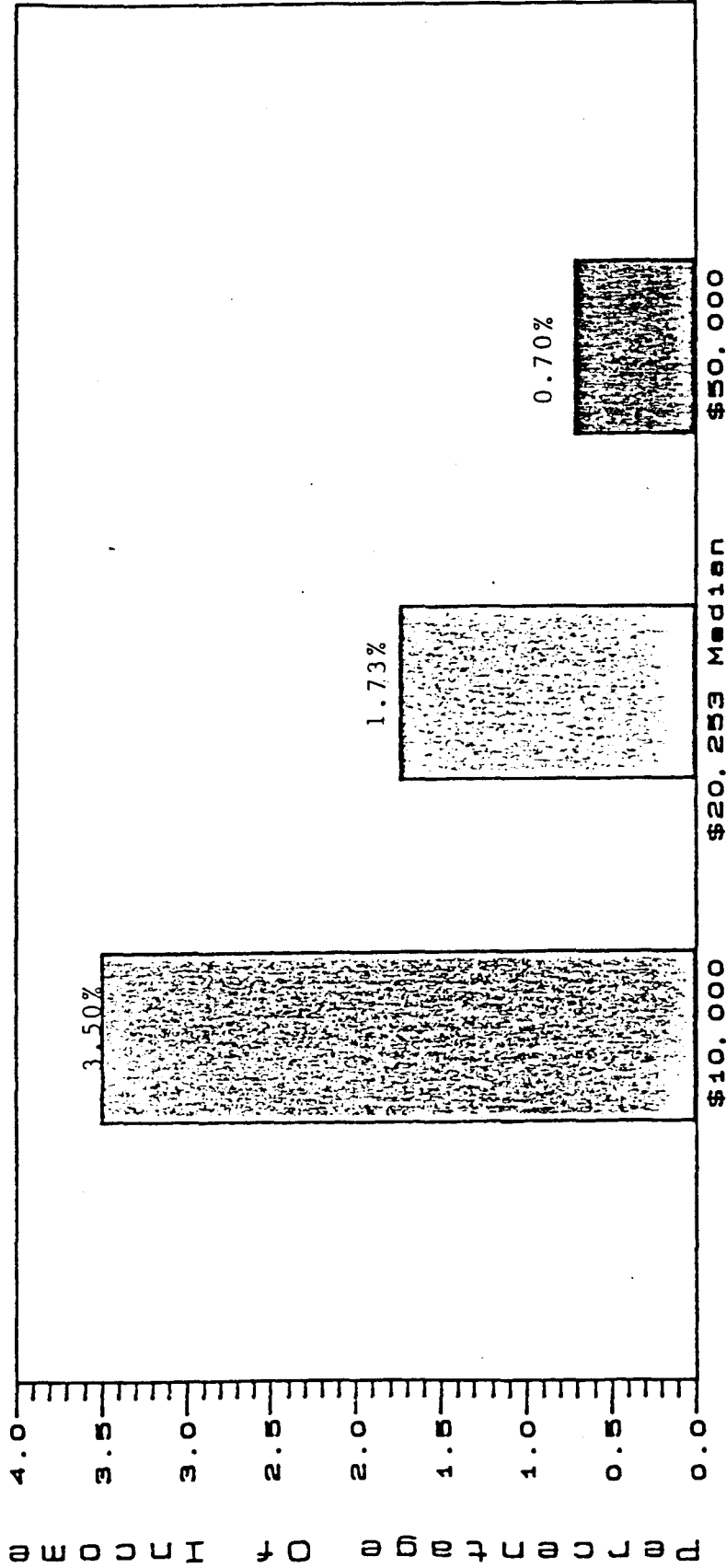


The Tobacco Institute

THE CHART INDICATES THE ESTIMATED REDUCED SALES COMPARED TO SALES IF THE TAX RATE WERE ZERO. REDUCED SALES ARE ACCOUNTED FOR BY REDUCED SMOKING, OUT OF STATE PURCHASES IN WYOMING AND IDAHO, PURCHASE FROM RESERVATIONS, AND ALTERNATIVE FORMS OF TOBACCO USE.

# ANNUAL FY84 CIGARETTE TAX BURDEN

For An Average Two Smoker Household  
In Montana



Household Income, FY84

The Tobacco Institute

THE CHART INDICATES THE CIGARETTE TAX BURDEN ON SMOKERS AND THE TAX REGRESSIVITY ON LOWER INCOME HOUSEHOLD MEMBERS WHO SMOKE.

March 21, 1985  
HB 45 + 127  
Exhibit 8

Statement by  
Terry L. Anderson  
and  
Richard Stroup  
to  
House Taxation Committee

March 21, 1985

Representative Devlin and Members of the House Taxation Committee, I am Richard Stroup, Professor of Economics at Montana State University, presenting this testimony prepared by Terry L. Anderson also a Professor of Economics at Montana State University and myself on behalf of the Tobacco, Washington, D.C. The views which follow are those of the authors and do not necessarily represent the position of Montana State University or the university system.

This statement is designed to alert the committee to two important facts regarding cigarette excise tax increases. First, the cigarette tax is an extremely regressive tax, and second tax increases of all sorts drive a wedge between buyers and sellers thus reducing the potential for gains from trade which characterize the market system. Let us consider these two facts in turn.

The word "regressive" is a term used to describe whether the burden of a tax falls more heavily on individuals with lower incomes. The tax burden of a progressive tax, on the other hand, increases as income increases. An examination of the cigarette tax reveals that it is in the regressive category. As table 1 indicates, the tax burden--the percentage of income

taken by the tax--falls dramatically as income increases. The effective tax rate on individuals in the lowest tax brackets is ten times as high as that paid by individuals who earn in excess of \$50,000 per year.

Table 1

Percentage of Income Paid  
in All Taxes on Cigarettes  
at Current Rates

(Family with 2 Average Smokers)

<u>Annual Income</u>	<u>Effective Tax Rates</u>
\$ 5,000	6.35%
8,000	3.97
10,000	3.12
15,000	2.11
25,000	1.27
50,000	0.64

The main reason for this regressivity is that a significantly higher proportion of lower income individuals smoke than persons with higher incomes. The latest survey data from the National Center for Health Statistics reveal that persons earning \$7000 or less are 50 percent more likely to smoke than persons earning \$25,000 or more. Table 2 shows that for each age category except for those 65 and older, the percentage of smokers as a proportion of the total group declines as income increases. In general those hardest hit by the cigarette excise tax are those in the lowest income category.

Table 2

Percentage of Smokers by Income\*

<u>Age Group</u>	<u>Less than \$7,000</u>	<u>\$7,000- \$14,999</u>	<u>\$15,000- \$24,999</u>	<u>\$25,000</u>
17-19	30.1%	27.9%	23.0%	17.2%
20-24	37.8	40.8	30.5	33.4
25-34	45.9	41.9	36.3	29.0
35-44	51.4	41.8	37.2	35.0
45-65	40.1	38.8	35.8	31.0
65+	17.4	18.0	15.6	18.2

\*Unpublished data from the National Health Interview Survey, National Center for Health Statistics. Survey interviews took place during the last six months of 1980.

The regressivity of the tax in Montana is even more dramatic when one considers that fact that our per capita incomes are below the national average. For the past two decades our personal income per capita has been 10 percent or more below the national average. Since the above data are based on national income figures, regressivity would be worse in Montana.

The evidence on regressivity is further corroborated by the incidence of cigarette taxes among occupational groups. Persons working in occupations traditionally classified as blue-collar are most affected by the cigarette tax because they are much more likely to be smokers than persons working in occupations classified as white-collar and professional. Tables 3 and 4 reveal that smoking is more characteristic among lower paid workers. For example, garage laborers, cooks, and pressmen are three times more likely to smoke than electrical engineers. Similarly, waitresses are three times more likely to smoke than are librarians. Again, it is clear from these data that low and moderate income individuals generally working in blue-collar jobs are hardest hit by taxes placed on tobacco. Given our relatively low incomes in Montana and the

relatively large number of blue-collar jobs, there is no question that the tax is regressive.

Table 3

Percentage Male Smokers by Occupational Category

<u>Category</u>	<u>Percentage Smokers</u>
Garage Laborers	58.5%
Cooks (not private household)	57.5
Maintenance Painters	56.3
Pressmen and Plateprinters	55.7
Auto Mechanics	54.6
Assemblers	52.7
Shipping and Receiving Clerks	50.0
Personnel, Labor Relations	36.9
Draftsmen	34.2
Accountants and Auditors	33.3
Lawyers	30.3
Engineers, Aeronautical	26.2
Engineers, Electrical	20.3

Source: Sterling, T., and Weinkam, J., "Smoking Characteristics by Type of Employment," Journal of Occupational Medicine, 18 (11), 1976, pp. 743-754.

Table 4

Percentage Female Smokers by Occupation Category

<u>Category</u>	<u>Percentage Smokers</u>
Waitresses	49.6%
Shipping and Receiving Clerks	48.5
Assemblers	43.5
Bookkeepers	38.6
Nurses, Professional	38.4
Laundry and Drycleaning Operators	38.3
Secretaries	37.8
Accountants and Auditors	30.8
Stenographers	28.4
Technicians, Medical and Dental	23.6
Elementary School Teachers	19.4
Librarians	16.4

Source: See Table 3.

The data presented above show that the cigarette excise tax is borne more by low and moderate income working people than by upper income people. Therefore any increase in the tax rate will simply add to this regressivity by shifting the burden more to those at the lower end of the income scale. Some, of course, will argue that allowing the state to increase its tax by 8 cents if the federal government reduces its tax by the same amount is not an increase but rather a shift in the collection point. The fact, however, is that in 1983 the federal government doubled its tax rate to 16 cents per pack while Montana increased its tax rate by 25 percent to 16 cents per pack. If the federal government reduces its rate back to 8 cents, the tax will have decreased; if the state subsequently raises its rate to 24 cents, Montana will have increased the tax rate on cigarettes.

→ The second major point which should be considered in the tax debate is that taxes do drive a wedge between buyers and sellers thus reducing the potential for gains from trade. During this session of the legislature and the congress there has been much talk of tax reform. At the state level there have not been such broad attempts to modify income tax laws, but there have been a number of bills introduced to change tax rates on specific goods and services. For example, House Bill 392 would have added a 10 percent tax statewide to the daily charge on hotel and motel rooms and campgrounds. Needless to say, hotel and motel owners launched an attack against the bill charging that it is a "selective sales tax" which will affect industry profits and hurt Montanans more than tourists. The same can certainly be said of excise taxes on cigarettes. Proponents of such taxes favor them because only selected individuals and industries bear the burden while those who are forced to pay claim such taxes are unfair. The result of arguments such as this is that tax reform turns into "tax tinkering."

The problem with tax tinkering is that it results in a tax system which is highly inconsistent. For example, our federal and state income taxes are designed to be progressive in an attempt to shift the burden of payment to those with relatively high incomes. But taxes like the cigarette excise tax work in the opposite direction with their regressivity. As long as the debate over tax reform focuses on who should bear the burden, the assorted winners and losers will continue to fight an economic tug-of-war.

Real tax reform must be aimed at reducing economic disincentives that accompany taxes. If we can accomplish this task, we can reduce tax rates while maintaining and even increasing tax revenues. Whether taxes are placed on income or cigarettes, they drive a wedge between the buyer and seller and inhibit wealth creation.

In the case of income, the results are most dramatic. The main point emphasized by supply side economists is that high marginal income tax rates have contributed to slower productivity in the U.S. They have argued that reducing tax rates increases the size of the pie so that government revenues need not fall. Furthermore if rates fall for the rich, they have argued that the percentage collected from the rich will increase. The evidence is all on their side. When tax rates were cut dramatically in the 1920s, the economy boomed, tax revenues increased slightly, and the those earning over \$100,000 ended up more than doubling their burden of federal income tax paid to over 50% of the total collected. When rates again were raised between 1931 and 1932, the exact opposite occurred with those earning over \$100,000 going from paying 45% of all federal income taxes to 36%. By the time taxes rose over the ensuing three decades to a top rate of 91% in 1963, the per capita equivalent of \$100,000 had risen to \$1,000,000.



Those people earning this amount were paying only 0.7% of all federal income taxes. The point of this discussion is to emphasize that taxes do make a difference to economic activity. Simply raising tax rates does not necessarily increase revenues because people do respond when relative prices are changed.

A recent study completed by two of our colleagues at Montana State University shows that the same is true for business taxes. A one percent increase in a state's business tax relative to other states causes a 1.02 percent decrease in total capital investment. Though it takes over 6 years for this adjustment to take place, there is little doubt that taxes do make a difference.

The same point holds for all forms of excise taxes. There can be no doubt that a higher tax on cigarettes raises the price and reduces the quantity sold. For those consumers and producers who voluntarily want to engage in these exchanges, gains from trade have been reduced. Revenue for business is reduced and jobs are lost. Of course, many of these impacts are felt in the tobacco producing states, but we cannot believe that we are immune to the impacts.

Another real impact of cigarette excise taxes is that they encourage people to engage in tax evasion, and given that lower tax alternatives are available, this is common. One need only cross the border into Idaho or Wyoming to observe that prices are different. Idaho's rate is 9.1 cents per pack and Wyoming's rate is 8 cents. Such a differential cannot help but encourage "bootlegging" across state lines.

The same type of price differential can be found on Indian reservations where the state tax is not paid. Earlier in the session of this legislature an official from the Department of Revenue testified before the Senate Taxation Committee that between 15% and 20% of all

cigarette sales in the state are on reservation. The lesson to be learned from this is that while taxes may discourage gains from trade, consumers and producers seek out ways to continuing capturing them. When tax rates get too high, private individuals are more likely to engage in tax evasion and other activities which are illegal.

Taxes are the price we must pay for government services; unfortunately, they often cost us more that we realize in the form of lost gains from trade. As this legislature considers various ways of reforming our tax system, this latter point must be kept in mind. Governor Schwinden's proposal to reduce the coal severance tax in Montana would stimulate economic activity by reducing the wedge being driven between the price paid by coal purchasers and that received by coal producers. If we are to stimulate economic growth in the state, this is the type of signal we must send. By grasping at every tax straw available, the legislature sends a message that Montana is not interested in tax reform that will increase the size of the pie. While the cigarette excise tax is only a small part of the total tax picture, it is a part of our total business environment. Since all taxes drive a wedge between the price paid and the price received, no taxes can be ignored in a true reform package. Everything from income taxes to excise taxes must be considered. Only through real tax reform--not tinkering--can we stimulate gains from trade and the wealth of our state and nation. The choice is yours; shall we continue to play pie slicing games or encourage pie enlarging.

WITNESS STATEMENT

NAME Thomas W Maddox House BILL NO. 120 <sup>45 #</sup>

ADDRESS P.O. Box 123, Helena MT 59624 DATE 3/21/85

WHOM DO YOU REPRESENT? Montana Association of Tobacco and Candy Distributors

SUPPORT \_\_\_\_\_ OPPOSE  \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

ATTACHED

# Tobacco and Candy Distributors

## EXHIBIT IN OPPOSITION TO HB 45

When the Montana Association of Tobacco Distributors was organized in 1949, there were 55 licensees on whom the state of Montana depended to prepay and administer precollection of cigarette sales taxes. This tax began as 2¢ a pack of 20 cigarettes. This tax has increased 700 per cent. Wholesale distributors have prepaid \$256 million in state cigarette taxes. They have been caught in an ever-tightening squeeze until their numbers have been reduced to 13 Montana *family* owned wholesale cigarette distributors.

The following Montana family-owned distributors are licensed by the state to prepay state cigarette sales taxes:

1. Beaverhead Bar Supply, Dillon
2. EastMont Enterprises, Sidney
3. Gierke Distributing Co., Miles City
4. Glacier Wholesalers Inc., Kalispell
5. Harkins Wholesale Co., Butte
6. Hi-Line Wholesale Co., Wolf Point
7. (Pennington's of Great Falls  
(Pennington's of Havre  
(Pennington's of Shelby
8. F. T. Reynolds, Glendive
9. Roach & Smith Co., Anaconda
10. (Service Candy, Billings  
(Service Candy, Bozeman  
(Service Candy, Livingston
11. (Sheehan's of Helena Inc., Helena  
(Sheehan-Majestic Inc., Missoula
12. Spitz Wholesale, Missoula
13. Two Medicine Family Whls., Browning

' SAVE MONTANA  
BUSINESS! '

Enactment of HB45 could add momentum to the reduction of Montana family — owned cigarette distributor business.

If you want to "BUILD MONTANA" you must first vote to SAVE THE MONTANA BUSINESS we already have, by voting to kill HB45

Other prepayers and administrators of state cigarette tax are out-of-state corporations:

- |                                 |  |
|---------------------------------|--|
| 14. (Associated Foods, Billings | — subsidiaries of Salt Lake City-based |
| (Associated Foods, Helena       | — corporation.                         |
| 15. (Buttrey Foods, Great Falls | — of Jewel Tea Corporation, Chicago    |
| 16. (Ryan's, Billings           | — subsidiaries of Super-Value, of      |
| (Ryan's, Great Falls            | — South Dakota-Minnesota               |
| 17. West Coast Grocery          | — of Portland, Oregon                  |
| 18. U R M Stores                | — of Spokane, Washington               |

The history of the Montana cigarette sales tax parallels failures among the resident Montana family-owned wholesale distributor businesses — from 55 to 13. The tremendous increases in cigarette taxes in only two years and resultant loss of sales is proof that "The Power to Tax is the Power to Destroy!" The latter quotation is that of the Chief Justice of the United States in 1819, John Marshall (McCoullough vs. Maryland).

Please VOTE TO KILL HB45 — a punitive, regressive special sales tax!  
Executive Director Tom Maddox, P. O. Box 1 2 3, Helena, MT 59601 • Telephone (406) 442-1582  
59624

I N F O R M A T I O N B U L L E T I N

March 21, 1985  
Exhibit 9  
HB 45 + 120

Montana Association of  
**Tobacco and Candy Distributors**

1777 Le Grande Cannon Blvd., P.O. Box 123, Helena MT 59624

Telephone (406) 442-1582

Tom Maddox,  
Executive Director

Pages: IN OPPOSITION TO HB45 AND HB 120,

THE FOLLOWING MATERIALS ARE PRESENTED:

1. List of surviving state-licensed Montana wholesale distributors
2. The special government burden of prepaying cigarette taxes by wholesale distributors.

There will be NO SUNSET ON FEDERAL CIGARETTE TAX.

3. Cigarette sales are on the decline. Indian sales without state tax are escalating, with state revenue losses in the millions.
4. What further sales tax would mean; losses to people, and state government.
5. Sales tax is regressive; hits all low income people hardest — including Montana's 65-plus population.  
Government — biggest partner in cigarette business — ought NOT profit from its people's weaknesses.

Addenda:

Some cigarette tax facts

News story format of worst scenario for consumer if all tobacco taxes are enacted.

Mr. Chairman and members of the committee: I'm Tom Maddox, representing the organized Montana distributors of tobacco products.

So that you may better relate to these businesses, I offer you the current list of the tobacco distributors licensed by the state of Montana. ....

In the 1930s and before, I believe there were more than 60 Montana businesses engaged in the tobacco business. I will leave the reading of the detail to you, in the exhibit just distributed. The thought here is that with the legislative or government squeezing of this segment of Montana business, with ever increasing taxes, there are only about a dozen of these Montana family-owned tobacco businesses left.

The government has imposed a special financial burden on these business citizens: We usually think of business carrying its inventories on a basis of extended credit or even consignment. That is they are not "out" ever, because they sell their products and with such current income, they pay for their inventories. NOT SO WITH TOBACCO DISTRIBUTORS! WITH THE STATE LICENSE GOES THEIR BURDEN OF FIRST ADVANCING THE TAXES TO THE GOVERNMENT, AND VIRTUAL CASH PAYMENT TO THE SIX MAJOR MANUFACTURERS, BEFORE THEY CAN SELL THEIR TOBACCO PRODUCTS. THE GOVERNMENT HAS CREATED THIS STRANGE FINANCIAL BURDEN ON THIS SPECIAL SMALL GROUP.

IN MONTANA this all began in 1949, with the first cigarette tax collections of 1950 amounting to 2 cents a pack of 20 cigarettes. The U. S. tax was 8 cents. Today the total tax on a sale of one pack of 20 cigarettes is 32 cents. THAT'S 35 PER CENT. AND THE STATE AND THE MANUFACTURERS WANT THAT PAID UP FRONT.

LET'S LOOK AT RECENT AND CURRENT TAX INCREASES: In 1983, the federal government increased its cigarette taxes 100 per cent — to 16 cents a pack of 20, from 8 cents. Also, in '83, Montana increased its state sales tax 33 1/3 per cent — to 16 cents from 12 cents.

THERE WILL BE NO "SUNSET" ON THE FEDERAL TAX INCREASE! If you understand our federal debt — if you understand what is meant when it is said that there will be no new federal taxes, then isn't it clear that the congress is NOT going to allow dropping of an OLD, continuing tax? A tax which yields the federal government 2 billion dollars a year? INSTEAD THE NEWS MEDIA REPORTS ONE BILL FOR A 32 CENT FEDERAL

Tobacco and Candy Distributors

EXHIBIT IN OPPOSITION TO HB 45

When the Montana Association of Tobacco Distributors was organized in 1949, there were 55 licensees on whom the state of Montana depended to prepay and administer precollection of cigarette sales taxes. This tax began as 2¢ a pack of 20 cigarettes. This tax has increased 700 per cent. Wholesale distributors have prepaid \$256 million in state cigarette taxes. They have been caught in an ever-tightening squeeze until their numbers have been reduced to 13 Montana-owned wholesale cigarette distributors.

The following Montana family-owned distributors are licensed by the state to prepay state cigarette sales taxes:

1. Beaverhead Bar Supply, Dillon
2. EastMont Enterprises, Sidney
3. Gierke Distributing Co., Miles City
4. Glacier Wholesalers Inc., Kalispell
5. Harkins Wholesale Co., Butte
6. Hi-Line Wholesale Co., Wolf Point
7. ( Pennington's of Great Falls  
( Pennington's of Havre  
( Pennington's of Shelby
8. F. T. Reynolds, Glendive
9. Roach & Smith Co., Anaconda
10. ( Service Candy, Billings  
( Service Candy, Bozeman  
( Service Candy, Livingston
11. ( Sheehan's of Helena Inc., Helena  
( Sheehan-Majestic Inc., Missoula
12. Spitz Wholesale, Missoula
13. Two Medicine Family Whls., Browning

' SAVE MONTANA  
BUSINESS! '

Enactment of HB45 could add momentum to the reduction of Montana family-owned cigarette distributor business.

If you want to "BUILD MONTANA" you must first vote to SAVE THE MONTANA BUSINESS we already have, by voting to kill HB45

Other prepayers and administrators of state cigarette tax are out-of-state corporations:

14. ( Associated Foods, Billings — subsidiaries of Salt Lake City-based  
( Associated Foods, Helena — corporation.
15. (Buttrely Foods, Great Falls — of Jewel Tea Corporation, Chicago
16. ( Ryan's , Billings — subsidiaries of Super-Value, of  
( Ryan's , Great Falls — South Dakota-Minnesota
17. West Coast Grocery — of Portland, Oregon
- 18 U R M Stores — of Spokane, Washington

The history of the Montana cigarette sales tax parallels failures among the resident Montana family-owned wholesale distributor businesses — from 55 to 13. The tremendous increases in cigarette taxes in only two years and resultant loss of sales is proof that "The Power to Tax is the Power to Destroy!" The latter quotation is that of the Chief Justice of the United States in 1819, John Marshall (McCoullough vs. Maryland).

Please VOTE TO KILL HB45 — a punitive, regressive special sales tax!

INFORMATION BULLETIN

If HB45 would be enacted, it would mean a 100 per cent increase in the state sales tax on cigarettes in two years — from 12 cents for a pack of 20 to 24 cents. The state-federal tax jump in two years would be to 40 cents a pack of 20 from 20 cents.

Idaho just adjourned its legislature. A proposal to increase the Idaho tax from 9.1 cents was rejected. Legislators were quoted as recognizing that since the latest cigarette tax increases of '83 cigarette sales have DECLINED.

In Alaska, a bill was introduced which proposed that the state cigarette tax would be decreased if the federal government again increases its tax from 16 cents a pack.

The latest statistics on cigarette sales show sales dropped in Montana — more than 10 per cent; dropped in Idaho, Wyoming, (-11.24%), North Dakota — (6.91 or nearly 7%). Thirty-five states in all showed sales declines from the previous year.

IT IS IMPORTANT TO KEEP IN MIND ALL SUCH FIGURES REFLECT ONLY SALES OF STATE-TAXED CIGARETTES. THEY DO NOT REFLECT THE EVER-INCREASING SALES OF CIGARETTES WITHOUT STATE TAXES. THE MONTANA DEPARTMENT OF REVENUE FIGURES SHOW THAT WITH THE LATEST BIG JUMP IN CIGARETTE TAXES, THE SALES OF CIGARETTES WITHOUT STATE TAXES HAVE SKYROCKETED.

THE HIGHER THE STATE TAXES GROW, THE GREATER THE GROWTH OF SALES OF CIGARETTES WITHOUT STATE TAXES. THE MONTANA REVENUE DEPARTMENT HAS BEEN TRACKING NON-STATE-TAXED SALES SINCE THE 1970S. SINCE THEN SMALL ROADSIDE SMOKESHOPS HAVE GROWN INTO LARGE GENERAL STORES OR SHOPPING MALLS—EVEN WITH MUSEUMS WITH PAVED PARKING AREAS, ON OUR HEAVILY TRAFFICKED HIGHWAYS.

WITH THE COMBINATION OF HIGHER TAXES, DECLINING STATE-TAXED SALES AND GROWING RESERVATION SALES, THE STATE IS IN THE LOSING COLUMN NOW, AND IN THE LONG RUN IS KILLING THE GOOSE THAT HAS LAID GOLDEN EGGS.

COLO. 83  
-11.83



AN ANALYSIS OF THE IMPACT OF TAX INCREASES ON SALES OF CIGARETTES SHOULD BE CONSIDERED, AS APPLIED TO MONTANA —

An increase of another 8 cents tax will erode the tax base even more: A specific state econometric model indicates a possible sales decline of 3.76 per cent for every 8 per cent increase in the tax rates.

Therefore, it could be expected that an addition of an 8 cents sales tax would lead to a decline of state-taxed Montana cigarettes sales of about 3.41 million packs a year.

WHAT WOULD THIS MEAN ? —

- (\*1) A FURTHER ESCALATION OF ILLEGAL PURCHASES, INTERSTATE SMUGGLING AND PURCHASES FROM MONTANA RETAIL OUTLETS ESCAPING THE STATE TAX.
- (\*2) THE NUMBERS OF MONTANA RETAIL STORES SELLING CIGARETTES WITHOUT STATE TAX WILL INCREASE ALL OVER THE STATE.
- (\*3) THE TAX-PAYING, LEGITIMATE WHOLESALERS AND RETAILERS WILL EXPERIENCE SIGNIFICANT LOSSES OF REVENUES. IN THIS AREA, SUCH BASIC INCOME LOSSES MEAN DECLINING BUSINESS, FORCED LAYOFFS, — GROWING RANKS OF THE UNEMPLOYED — WITH RESULTANT STATE INCOME TAX REVENUE LOSSES.

THIS IS NOT THE WAY TO BUILD MONTANA!

The government is already the most substantial revenue-taker in the cigarette business. The legislature is the board of directors of government business.

IT IS NO LONGER GOOD BUSINESS MANAGEMENT TO BASE FINANCING OVER LONG TERMS ON SALES OF A SINGLE PRODUCT LINE. STATISTICS SHOW DECREASING PER CAPITA CONSUMPTION OF THIS COLLATERAL PRODUCT.



U. S. PER CAPITA CONSUMPTION OF CIGARETTES PEAKED IN THE MID 1970S AT CLOSE TO 150 PACKS A YEAR, AND HAS BEEN ON THE DECLINE SINCE THEN. IT NOW IS CLOSE TO 125 PACKS A YEAR FOR 1985.

MONTANA PER CAPITA CONSUMPTION OF CIGARETTES IS LOWER -- FOR 1984 110 PACKS A YEAR PER CAPITA. (DOWN FROM 127.2 IN '78.)

THE CIGARETTE SALES TAX IS REGRESSIVE. In Montana, the cigarette tax discriminates against the estimated 200,000 persons who enjoy cigarettes. This tax falls most heavily on those least able to afford it.

The percentage of income devoted to buying cigarettes, or all necessities, falls as income rises. That's regressive taxation. Any increase adds to the burden of the lower income groups. One of Montana's best industries — as one legislator puts it — is the 11 per cent of the Montana population aged <sup>or</sup> 65 over. For the 65-plus — some 80,000 — many of whom are living on fixed income, any increase in the tax rate threatens this now-affordable pleasure.

Our state services have escalated, and state employment has jumped from about 4,000 when I first worked with this legislature to about 14,000. There has been a mushrooming of state buildings, funded by cigarette smokers. Some say we have more government than is needed. Less is often better.

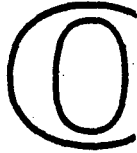
The Billings Gazette comments, "Government, like gamblers, ALWAYS needs more. Senator Crippen was quoted in that editorial: "Government ought not to profit from its people's weaknesses." The editorial concludes: "The legislature must remember that. It's important."

Thank you, for your consideration. Please vote to kill HB45 and HB120.

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Additional statistics available for refence, upon request.

Submitted by Thomas W. Maddox, Executive Director, Montana Association of Tobacco and Candy Distributors Inc., P. O. Box 123, Helena MT 59624 — (406) 442-1582



# The Billings Gazette

## Gazette opinion

# Well said

## Senate correct on lottery

The lottery debate swirled back and forth through the Senate.

Proponents talked about money.

The state is in dire need of new sources of revenue. Taxpayers are on the edge of revolt. The current administration hasn't dealt realistically with the budget.

The lottery would raise about \$4 million in the next biennium. It must be passed.

Opponents talked about morality ...

Church groups gathered in Helena to speak against the bill. There are other sources of revenue. Low income families would suffer most. Parents searching for the golden fleece would spend their families into poverty.

... And money, too.

Horse racing advocates said the lottery would cut into race tracks takes. The sport would suffer.

But in the end, Sen. Bruce Crippen, R-Billings, said it best.

Government ought not, Crippen said, to profit from its people's weaknesses, and he is absolutely right.

There are other arguments against a lottery.

It would necessitate the creation of another bureaucracy to manage it. We already have enough bureaucracies; we certainly don't need any more.

As initially proposed, the bill called for an "electronic" lottery with machines set up that would show winners immediately. That sounds a little like the one armed bandits in Las Vegas, doesn't it? It only sounds that way because it is.

And that's one of the problems with gambling. Its advocates never seem to get enough. Gambling grows, and grows, and grows, feeding on the weaknesses of people and society.

The net, \$4 million over the next two years, is peanuts compared to the financial problems the state faces now.

But if gambling were put in place, its advocates would argue that chances are the industry could bring the state more if ... if slot machines were allowed, if casinos were allowed, if ... if ...

Government, like gamblers, *always* needs more. The temptation would prove too great.

Still, Crippen said it best.

Government ought not to profit from its people's weaknesses. The Legislature must remember that it's important.

Some folks are hooked on cigarettes  
Though they're told it's a sin;  
Some folks are hooked on all the dough  
That cigarettes bring in.

They use this dough for buildings  
For all the world to see;  
They don't care that it's collected  
From a small minority.

If this dough was used for helping  
Those folks who need our aid--  
T'would make more sense to those of us  
Who have payed and payed and payed.

But instead the only reason  
That this tax keeps getting higher  
Is because we need more buildings  
For state government's empire.

Now there's impending legislation,  
Which surely is a joke--  
Though cigarettes pay for buildings  
While you're in them you can't smoke!

We should all encourage smoking  
Even though it ruins our health--  
'Cuz every pack that people buy  
Adds to Montana's wealth.

For publication as desired—all or any portion.

From the Montana Association of Tobacco and Candy Distributors (See further at end)

HELENA MT — Did you hear the one about the cigarette smoker who suffered a nightmare? Well, he went to his neighborhood store and asked for a carton of his latest favorite cigarettes. The clerk said, "That's \$6.21 for the cigarettes, sir, and, um-m-m, let's see, and another \$7.08 for the state-federal sales taxes." The smoker cried, "Oh, no, Can't be." The clerk was firm, "Yes, it is—tax to help reduce the federal debt; tax to balance Montana's state budget; tax to aid public schools, and for the teachers' pensions, tax to service the debt on state buildings, and there's more tax on smokeless tobacco to fix our city streets. ..."

The smoker groans, opens the carton and extracts a cigarette.

"Oh, sir. You can't smoke here," the clerk admonishes. "The legislature has outlawed smoking in public places."

Shocked, the smokeless smoker awakes at 4 a. m. , to the sounds of his own screaming. Finally, he dozes off again, until the sound of his telephone ringing brings him to wakefulness. "Hello," he answers.

"Good morning, sir," the caller says. "I'm calling to invite you to attend our new state-sponsored clinic on how to stop smoking. It doesn't cost you anything. The smokers' tax pays for it."

Does all that sound a little wierd to you? If it does, then you're not aware of what all is being proposed to those legislators we elected to congress and to the legislature in Helena.

The \$7.08 state-federal tax on a carton of cigarettes is the total tax being proposed in the smoker's worst real life scenario. At the federal level, a \$4 a carton federal tax is proposed; another proposal is for a mere 100 per cent increase from today's \$1.60 U. S. tax a carton. Then at least five bills in the

Based on the latest minimum costs computed by the Montana Department of Revenue, regular and king size cigarettes among major brands cost \$9.12 a carton. Of this Montana smokers today pay 35.1 per cent of this cost in state-federal tax on the sale.

Congress increased the federal tax 100 per cent in 1983 to \$1.60 a carton. Then the Montana legislature increased the state sales tax 33 per cent to \$1.60, to make the total carton tax \$3.20. (The carton size is used here because the state department calculates tax units on a carton basis. The Tobacco Institute reports about half of cigarette sales are by the carton of 10 packs of cigarettes.)

Governor Ted Schwinden has asked for the state tax to be increased 100 per cent within two years, to \$2.40 a carton in HB45. His bill beat another bill to the Legislative Council (HB120), which also asks for \$2.40 state tax a carton, for research into certain diseases. Senate Bill 442 states that even if HB45 is enacted, another 50 cents a carton is wanted, to help fund teachers' pensions. Whatever tax prevails, HB833 wants a cut of one per cent to fund educational programs on how to stop smoking, to be supervised by the state superintendent of public instruction.

State law defines a pack of cigarettes as containing 20 cigarettes. Now major manufacturers have produced a pack containing 25 cigarettes. So this has generated SB249 to tax each cigarette in excess of 20 in a pack at the rate of 1/20th of the base 20-pack tax. Thus, if the state tax is \$2.90 a carton of 20, the state tax would be \$3.04-1/2 for a pack of 25.

Montana started taxing cigarettes in 1957, and has increased the tax 700 per cent since then — before the 1985 proposals. Our record keepers report that cigarette smokers have paid the state in taxes \$256 million through 1984.

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Smoker for smoker, they made their finest contribution to build state buildings in fiscal 1982. By then the state-federal tax rates had prevailed for several years, at \$2 a carton (\$1.20 for the state, 80¢ for the federal tax). They paid tax of \$11,649,438.

Some might think if the government doubled such tax, it would double revenue, say to more than \$23 million for the next fiscal year. Budget Director David Hunter's fiscal note on HB45 tells the legislature he expects doubling from 1982 should gross the state only about \$20 million. What happens to the missing \$3 million?

The Tobacco Institute of Washington, D. C., supports calculations showing a "loss" would ensue. Not only in tax, but the TI declares there would be further losses in businesses.

The institute adds:

"For Montana, a specific state econometric demand model indicates a possible sales decline of 3.76 per cent for every 8 per cent increase in the tax rate. Therefore, it could be expected that an addition of an eight cent excise tax increase to the current average retail price will lead to a decline in legitimate fiscal year '86 cigarette sales in Montana of about 3.41 million packs.

"This decline would probably consist of an actual cutback, combined with increased illegal purchases and interstate smuggling. As a result, legitimate wholesalers and retailers would experience significant revenue losses."

The Montana Association of Tobacco and Candy Distributors states that, "As sales of state-taxed cigarettes decline, there has been a substantial increase in cigarette purchases without the state tax from Indian reservation-based retail outlets, called 'smoke shops', on heavily trafficked highways. The Department of Revenue reports millions of dollars in losses, and rapidly escalating with the latest state cigarette tax increase."

The institute report goes on, "In other states where high cigarette taxes exist, the criminal element has become involved. If Montana were to raise its tax on cigarettes, the bootlegging problem will grow in proportion to the tax increase."

There is a statistical indicator to trends in purchases of cigarettes from legitimate or state-taxed cigarettes to purchases from stores which do not pay state taxes. A markedly lower per capita consumption is reflected in states with growing federal reservation sales, or with substantial smuggling from other states by individuals or organized crime. On the other hand, states with substantial cigarette sales for out-of-state consumption exhibit relatively higher per capita consumption figures.

A new Tobacco Institute report states, "Data for 1984 show that overall per capita consumption in Montana was 96.9 packs. The U. S. unweighted average per capita was 122.7 packs.

"Montana now is at a 4 cents a pack tax disadvantage with three or four surrounding states. Montana also recorded a per capita sales disadvantage with all four of its neighboring states. This comparison implies some potential smuggling of cigarettes into Montana from states with lower tax rates."

The institute reports that cigarette taxes provided 2.5 per cent of the state's 1983 total tax revenue and an impressive 12.2 per cent of the state's total sales and gross receipts tax revenue. Cigarette taxes generate more revenue for Montana than taxes on beer, liquor or wine, or utilities. It credits this data to the U. S. Bureau of the Census and the Montana Department of Revenue.

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The nonprofit TI sees a direct impact on the state's economy. TI explains:

“Higher cigarette taxes affect revenue and work weeks in private sectors, both directly and indirectly involved in the tobacco industry within Montana. Most of these effects will be in the form of revenue losses to wholesalers and retailers.

“Higher cigarette taxes and the resulting decline in the purchase of tax-paid cigarettes will also reduce state revenue from other sources, such as corporate income tax, and individual income tax. For example, cigarettes are a traffic-builder for the state's thousands of retail establishments which sell cigarettes. When people reduce purchase of cigarettes, or turn to bootlegged cigarettes, the revenue derived from the sales and profits of other products suffers as in-store traffic declines.”

The Tobacco Institute contends, “The Montana cigarette tax is already a regressive and inequitable tax. The cigarette tax discriminates against the estimated 200,000 residents of the state who smoke, but the tax falls most heavily on those least able to afford it.

“Because the percentage of income devoted to buying cigarettes falls as income rises, Montana cigarette taxes are already levied at higher effective rates on the disadvantaged and those on fixed incomes than on the more affluent. Any increase in the current tax rate will add to the tax burden on lower income groups and will contribute further to the overall regressivity of the state tax structure. An increase of 8 cents a pack would mean a 100 per cent increase in the tax in two years. . . .

“More than 21 per cent of Montana families have an effective buying income of less than \$10,000 a year. All told, nearly 36 per cent have incomes less than \$15,000. It is these families who will suffer most from the increase.

A family with an income below the poverty level with two average smokers pays almost five times as much of its income for the pleasure of smoking as does the more affluent family making \$25,000 a year.

“In addition, about 11 per cent of Montana residents are aged 65 or older. For these plus-65 persons, many of whom are living on a fixed income, any increase in the cigarette tax rate could threaten this affordable pleasure. A household in Montana with two average smokers pays \$350 in state-federal taxes on cigarettes a year. If the state were to increase its tax another 8 cents — a 50 per cent increase, that tax figure would soar to \$438 annually.”

Some smokers may quit cigarettes, and turn to smokeless tobacco.

Some legislators have already thought of this. HB838 would increase the state tax on smokeless tobacco 100 per cent. This is earmarked: 25 per cent to build and repair city streets, 25 per cent for state aid to schools, and 50 per cent to be added to the service cost of bonded debt on construction of state building.

Finally, there's HB183 which would bar smoking in public places or provide a mandatory nonsmoking area. This squeaked through the House, 52 - 48, and now is in the Senate.

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The foregoing is submitted by Tom Maddox, former Associated Press bureau chief for Montana, and now executive director for the Montana Association of Tobacco and Candy Distributors, a nonprofit group of local independent, service wholesale distributors; P. O. Box 123, Helena MT 59624. Telephone (406) 442-1582.

March 21, 1985  
Exhibit 1  
HB 45 & 170

CIGARETTE EXCISE TAX FACTSHEET

MONTANA

JANUARY 1985

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## POTENTIAL TAX REVENUES AND THE STATE OF MONTANA

In FY 1984, Montana collected \$21.98 in cigarette excise taxes for every person aged 18 or over in the state. This excise tax revenue of \$13.1 million represented the sale of 90.6 million packs. Between FY 83 and FY 84, the state excise was increased 33% in Montana, from 12 to 16¢. Since the tax increase, sales from this significant tax resource have been reduced. A further increase of 8¢ would mean a 100% increase in the tax rate in less than two years, and would be an unconscionable action against the state's smokers.

An increase of 8¢ in the state cigarette tax will erode the tax base still further by reducing sales. For Montana, a specific state econometric demand model indicates a possible sales decline of 3.76% for every 8% increase in the tax rate. Therefore, it can be expected that an addition of an 8¢ excise tax increase to the current average retail price will lead to a decline in legitimate FY 1986 cigarette sales in Montana of about 3.41 million packs. This decline will probably consist of an actual cutback combined with increased illegal purchases and interstate smuggling. As a result, legitimate wholesalers and retailers will experience significant revenue losses.

## MONTANA AND THE CIGARETTE TAX

Montana has been taxing cigarettes since 1947. Since 1950, the tax rate has climbed from 2¢ to 16¢ a pack. To date, this tax has generated more than \$256 million in gross revenues for the state.

In the fiscal year ending June 30, 1984, gross revenue from the cigarette tax in the state amounted to more than \$13 million, an increase in annual revenue of more than 700% from 1950.

## EARMARKING OF TOBACCO TAXES

To increase a tax specifically to fund a particular program artificially patches a funding problem from one place in the budget to another without solving it. Tobacco excise taxes under the present system contributed \$13 million in gross revenue in FY 1984 in Montana. To increase the tax and earmark the unknown additional revenue to fund a specific program would add further rigidity to the state fiscal system. This could eventually restrict the ability of government to meet pressing operational needs outside the designated field.

Earmarking of revenue removes from the legislature one more segment of control over state budgeting and expenditures. The further the principle of earmarking revenue sources for specific programs is carried, the less government can do to achieve fiscal discipline and establish rational budgetary priorities.

Earmarking of taxes, for whatever purpose, has become an increasingly questionable practice. Clearly, a system of taxation where every program will have to raise its own support presents numerous concerns. Such a system would necessitate the creation of another level of government bureaucracy to handle the administrative, management and accounting functions that would be required.

Experience has shown that such bureaucracies have a strong tendency to perpetuate themselves indefinitely without regard to their usefulness. The same holds true for those programs being earmarked. When not competing with other interests for funding, such programs often escape public and legislative scrutiny. The continuance of unnecessary programs will likely entail increased costs that will be passed on to consumers through additional tax levies.

Dedicating funds is not only questionable as a matter of government fiscal policy; almost invariably it represents an additional cost to be borne by taxpayers. With regard to cigarette excise taxes, the cost is borne disproportionately by lower income individuals.

In these days of budget crunches, it makes more sense to not start unnecessary new programs and to cut back on outdated programs. State government is often perceived by the public as too big already. In fact, a recent survey by the Advisory Council on Intergovernmental Relations found that 36% of the people surveyed felt that both taxes and services should be decreased. Lawmakers, frustrated by a revenue-short general fund that prohibits their launching many new programs which they deem worthy persist in dedicating special taxes to these causes. This is a desperate and dangerous trend that must be reversed. When cigarette taxes go into the general revenue fund, the competition for these dollars assures appropriate legislative examination and wise use of tax dollars.



## BOOTLEGGING

One indirect but important measure of both organized and individual (i.e., casual) smuggling is the difference between a state's per capita cigarette sales and those of a neighboring state or the U.S. average. States into which individuals or organized crime smuggle a substantial amount of cigarettes would be expected to have a markedly lower per capita consumption. Conversely, states in which substantial sales are made for out-of-state consumption will likely exhibit relatively higher per capita cigarette consumption figures. Data for 1984 show that overall per capita consumption in Montana is 110.0 packs. (Table I). The U.S. unweighted average per capita is 122.7 packs. Montana is also at a 4 cents/pack tax disadvantage with three of four surrounding states, and recorded a per capita sales disadvantage with all four of its neighboring states. This comparison implies some potential smuggling of cigarettes into Montana from states with lower tax rates as well as substantial untaxed sales on Indian Reservations which are estimated to be 15-20% of total taxes and untaxed cigarette sales in this state.

Any tax increase would depress legal sales in Montana and would lead to increases in bootlegging and further losses in expected revenue. In other states where high cigarette taxes exist, the criminal element has become involved. If Montana were to raise its tax on cigarettes, the bootlegging problem will likely grow in proportion to the tax increase.

TABLE I

MONTANA AND SURROUNDING STATES, CIGARETTE TAX DATA, 1984

<u>State</u>	<u>Cigarette Tax Rate</u>	<u>Sales Tax Per Pack</u>	<u>State Total Tax Per Pack</u>	<u>FY 84 Difference with Montana</u>
Idaho	9.1¢	4¢	13.1¢	- 2.9¢
Wyoming	8.0	-	8.0	- 8.0
North Dakota	18.0	4	22.0	+ 6.0
South Dakota	15.0	-	15.0	- 1.0

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Montana	16.0	-	16.0	-----
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<u>State</u>	<u>Tax-Paid Sales Per Capita</u>	<u>FY 84 Difference with Montana</u>
Idaho	103.6	+ 6.7
Wyoming	128.9	+32.0
North Dakota	109.4	+12.5
South Dakota	105.7	+ 8.8
Montana	110.1	-----

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## A COMPARISON OF STATE RATES AND TAX REVENUES

Montana is already at a competitive disadvantage with three of four neighboring states in terms of its cigarette excise tax rate. (See Table I). Any increase in the tax rate would erase the advantage over North Dakota and would widen the disadvantage with South Dakota, Idaho and Wyoming.

From 1983 to 1984, cigarette excise tax revenue increased in Montana to more than \$13 million. This amount represents 2.5% of the state's 1983 total tax revenue, and an impressive 12.2% of the state's total sales and gross receipts tax revenue. Cigarette taxes generate more revenue for Montana than taxes on beer, liquor and wine, and public utilities. (Data from U.S. Bureau of the Census, State Government Tax Collections in 1983. Cigarette excise figures from Miscellaneous Tax Division, Montana Department of Revenue.)

## IMPACTS OF AN INCREASE IN THE MONTANA CIGARETTE EXCISE TAX

Higher cigarette taxes will affect revenues and work weeks in sectors both directly and indirectly involved in the tobacco industry in Montana. Most of these effects will be in the form of revenue losses to wholesalers and retailers.

Higher cigarette taxes and the resulting decline in the purchase of tax-paid cigarettes will also reduce state revenue from other sources, such as corporate income tax, and the individual income tax. For example, cigarettes are traffic-builders for the state's thousands of retail establishments which sell cigarettes. When people reduce purchases of cigarettes, or turn to bootlegged cigarettes, the revenue derived from the sales and profits of other products suffers as in-store traffic declines. In addition to retailers, Montana has several primary tobacco wholesalers, other large grocers, drug and miscellaneous wholesalers who handle cigarettes across the state.

Decreased consumption due to a higher cigarette tax rate will affect supermarkets and convenience stores as well. According to the September 1984 issue of Supermarket Business, tobacco products account for about 15% of all non-food sales in the United States. More than 40% of the cigarettes sold for domestic consumption are sold in supermarkets. Those cigarettes and other tobacco products account for 3.5% of all supermarket sales. In convenience stores, excluding gasoline sales, cigarettes are the number one product sold. Tobacco products comprise 16.7% of gross profits in convenience stores, according to Convenience Store News (June 1984).

## THE BURDEN OF EXISTING TAXES

The Montana cigarette tax is already a regressive and inequitable tax. The cigarette tax discriminates against the estimated 200,000 residents of the state who smoke, but the tax falls most heavily on those least able to afford it. Because the percentage of income devoted to buying cigarettes falls as income rises, Montana cigarette taxes are already levied at higher effective rates on the disadvantaged and those on fixed incomes than on the more affluent. Any increase in the current tax rate will add to the tax burden on the lower income groups and will contribute further to the overall regressivity of the state tax structure. An increase of 8¢ would mean a 100% increase in the tax in less than two years.

In 1984, 33.5% of what Montana smokers paid for a pack of cigarettes went to the Federal and state governments in the form of taxes. For a family with two average smokers, the following chart illustrates the burden of cigarette taxes in Montana as they fall on different income levels at the current and potential future rates. (See Table II).

More than 21% of Montana families have an effective buying income of less than \$10,000 per year. All told, nearly 36% have incomes less than \$15,000. It is these families who will suffer the most from an increase in the cigarette tax rate. A family with an income below the poverty level with two average smokers pays almost five times as much of its income for the pleasure of smoking as does a more affluent family making \$25,000 a year.

In addition, about 11% of Montana residents are aged 65 or over. For these elderly persons, many of whom are living on a fixed income, any increase in the cigarette tax rate could threaten this affordable pleasure.

Median household effective buying income in Montana is only \$20,253 per year, compared with a national average of \$23,400. Under the current tax, a household in Montana with two average smokers pays \$350.00 in state and federal taxes on cigarettes a year for the pleasure of smoking. If the state were to increase its tax another 8¢ - a 50% increase - that tax figure would soar to \$438 annually.

TABLE II

PERCENTAGE OF INCOME PAID IN ALL TAXES ON CIGARETTES AT CURRENT  
AND POTENTIAL FUTURE RATES

FOR A FAMILY WITH TWO AVERAGE SMOKERS IN MONTANA

<u>Income</u>	<u>Percentage of Income Paid in Taxes on Cigarettes (current rate)</u>	<u>Percentage of Income Paid in Taxes on Cigarettes (with proposed 8¢ hike)</u>
\$ 5,000	7.0%	8.8%
8,000	4.4	5.5
10,000	3.5	4.4
15,000	2.3	2.9
20,253	1.7	2.2
25,000	1.4	1.8

## Tax on Cigarettes Won't Be Reduced As Scheduled on Oct. 1, Packwood Says

By DAVID SHRIBMAN

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—The chairman of the Senate Finance Committee predicted that Congress would block a scheduled cut in the federal excise tax on cigarettes.

"If I were betting—and this is just a hunch because we haven't even addressed ourselves to that task—my hunch would be the tax will be extended," Sen. Bob Packwood (R., Ore.) told wire-service reporters yesterday. "It won't be raised. It won't be lowered, but it will be extended."

Mr. Packwood's remarks were the first time the new committee chairman has addressed the issue of the tax, which is scheduled to drop from 16 cents a pack to eight cents on Oct. 1, and fueled a debate that began earlier this month when Margaret Heckler, secretary of Health and Human Services, suggested extending the tax and using the revenue to boost the financially troubled Medicare system.

Mr. Packwood didn't specify what the money might be used for.

Renewing the excise tax would provide the Treasury with an additional \$1.7 billion in fiscal 1986, and with Congress in the mood to trim the federal deficit, some legislators believe the cigarette tax cut may be in jeopardy.

At the same time, however, some congressional Republicans and some White House officials argue that canceling a tax cut amounts to a tax increase, which President Reagan has opposed. Any attempt to cancel the cut, moreover, would face the strenuous opposition of lawmakers from tobacco-producing states, including Sen. Jesse Helms (R., N.C.), chairman of the Senate Agriculture Committee.

"We shouldn't even be talking about any tax increase right now," said Republican Sen. Muck Mattingly of Georgia, another tobacco state. "The president said we're not going to tinker with taxes, and we shouldn't tinker with taxes. If you start tinkering with taxes, you won't get the spending cuts you want."

Mr. Mattingly was one of nine Republican legislators who attended a White House luncheon meeting with David Stockman, the budget director; James Baker, the White House chief of staff and Treasury Secretary-designate, and Richard Darman, a presidential assistant. The meeting was one of a series of sessions with Republican senators and, according to Sen. Slade Gorton of Washington state, a member of the Budget Committee, the result is that "there will be some significant differences in the budget produced by the White House."

Meanwhile, Sen. Alan Simpson of Wyoming, the deputy majority leader, said that cuts in military spending and in cost-of-living adjustments for recipients of Social Security would be necessary if the budget cuts are to avoid being "tokenism."

Mr. Simpson suggested that progress at

arms negotiations talks with the Soviet Union might dictate military spending cuts, adding that entire military systems may have to be eliminated, perhaps at the cost of paying penalties for breaking procurement contracts. "We may have to pay the damages and step away instead of saying, 'You can't stop now,'" he said.

Mr. Simpson, speaking at a breakfast meeting with reporters, said that Congress would consider limiting Social Security increases to "two or three" percentage points less than the consumer price index. He added, in a reference to those who oppose such cuts, "When we show them the figures of where we are, they'll know that the other things are cosmetic."

Sen. Packwood said that he believes that there may be sufficient votes to approve such a plan.

Separately, Mr. Stockman said after a meeting yesterday evening with Sen. Robert Dole of Kansas, the majority leader, and Senate staff directors that he sensed a growing consensus that deep budget cuts would be acceptable on Capitol Hill. "Most of them are saying that their committees are willing to go along," Mr. Stockman said, "if there's a big package and everyone's in it."



FOR IMMEDIATE RELEASE  
WEDNESDAY, FEBRUARY 6, 1985

PRESS RELEASE #1  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
1102 LONGWORTH HOUSE OFFICE BLDG  
WASHINGTON, D.C. 20515  
TELEPHONE: (202) 225-3627

THE HONORABLE DAN ROSTENKOWSKI (D., ILL.), CHAIRMAN,  
COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES,  
ANNOUNCES HEARINGS ON FUNDAMENTAL TAX REFORM AND OTHER TAX ISSUES

The Honorable Dan Rostenkowski (D., Ill.), Chairman, Committee on Ways and Means, U.S. House of Representatives, today announced public hearings on the basic concepts involved in fundamental tax reform and hearings on other specific tax issues pending before the Committee.

Hearings on Fundamental Tax Reform

The Committee will begin public hearings on the basic concepts involved in tax reform, simplification and fairness on Wednesday, February 27, 1985. The hearings will be held in the main hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m. The first witness will be the Secretary of the Treasury, the Honorable James A. Baker III.

The hearings will involve testimony on the policy concepts underlying fundamental tax reform proposals, including the Treasury proposal announced in November, 1984, and other similar proposals that have been the subject of recent analysis and debate.

The general public is requested to prepare testimony with reference to the basic policy issues in the tax reform proposals that have been put forward. A specific date for beginning the public phase of these hearings will be announced after an appropriate interval to afford the public an opportunity to evaluate Secretary Baker's testimony.

In announcing these hearings, Chairman Rostenkowski stated, "It is essential that we begin consideration of fundamental tax reform. We cannot ignore the opportunity -- or responsibility -- that has been presented. To understate the obvious, the American people are frustrated by the complexity of the tax form and disillusioned by a sense of unfairness in the law. Thus, it is imperative that the tax code be scrutinized from top to bottom with simplicity, equity and fairness as our goals."

Hearings on Other Tax Issues *over*

Once the Committee's agenda relative to fundamental tax reform and deficit reduction is established, the Committee anticipates scheduling consideration of other tax issues -- many of which

-MORE-

At a time when concern about farm and pollution problems caused by agricultural runoff is growing in Congress, the Reagan Administration this week proposed massive cuts in conservation programs that would shift the lion's share of responsibility to control runoff from the federal government to the states and individuals. Reagan's plan as disclosed in budget documents would within a year eliminate half a dozen Agriculture Dept. cost-sharing programs that now distribute hundreds of millions of dollars yearly to farmers to promote soil and water conservation, retaining only "a basic level of federal technical assistance." The Administration's principal rationale is that the \$25-billion spent on agricultural conservation since the first program was instituted in 1936 "simply has not worked."

For a savings of some \$400-million next year and \$700-million in 1996, the Administration is proposing to terminate the Agricultural Conservation Program, Emergency Conservation Program, Great Plains Conservation Program, Water Bank Program, Forestry Incentives Program, Resource Conservation and Development Program, and Small Watershed Planning Program. Some small flood control and drainage projects still would be financed by the Army Corps of Engineers, according to the documents. The Administration plan would retain the Soil Survey program, Plant Materials Centers, and technical assistance to soil conservation districts and landowners.

The Administration plan dashes hopes reportedly held by some in Congress that Reagan would use existing conservation programs to help get a rein on water and groundwater pollution caused by erosion and pesticides runoff, though the USDA programs originally were designed to conserve land and water for farm purposes. Congress last year came close to passing legislation to create a whole new incentives program to deal with runoff pollution, but many felt any new environmental program would be ineffective unless coordinated with USDA soil conservation programs. In documents provided by the Office of Management & Budget, the Administration asserts that erosion is no longer "a serious problem" on all cropland, and that individual farmers and states should become fully responsible for conservation decisions in the future. The same documents note, though, that states currently are spending only \$245-million yearly on agricultural conservation and could not immediately make up for the \$800-million USDA now spends annually.

## REAGAN, AVERTING TOBACCO POLITICS, LEAVES CIGARETTE TAX RENEWAL TO CONGRESS

The Reagan Administration, in a strategic move to court support from powerful tobacco-state Senators for its market-oriented 1985 farm bill, has avoided the politically explosive issue of a federal cigarette tax in its FY-86 budget. The budget does not extend the expiring 16¢ federal cigarette tax, worth an estimated \$4-billion in revenues. But Administration silence on the issue presumes that Congress will extend, and possibly, increase the tax, thereby preserving it as a revenue-raiser but allowing the White House to avert conflict with important tobacco-country Senators like Jesse Helms (R-NC). Without an extension, the tax will revert back to a pre-1982 rate of 8¢.

The Reagan Administration is currently trying to lessen intense opposition to its 1985 farm bill and is particularly interested in wooing Helms, Agriculture Committee chairman. It was Helms who fought hardest for a sunset provision — in the 1982 Tax Equity & Financial Responsibility Act which raised the tax from 8¢ to 16¢ through September 1985 — to retire the higher tax.

The Administration's avoidance of the cigarette tax issue has not eluded Senate Finance Committee Chairman Bob Packwood (R-OR) who said recently he "has a hunch" the committee will move swiftly to consider a new tax. The House is also beginning to consider legislation, with Rep. Andrew Jacobs (D-IN) planning to introduce a bill this week that would increase the tax to 24¢/pack and earmark the funds for Medicare and federally funded cancer research and treatment.

Congressional observers predict the cigarette tax debate will erupt in an emotional battle between the powerful \$26-billion tobacco industry and the increasingly vocal anti-tobacco coalition. The federal revenues from the tax are considerable, with estimates projecting a \$4-billion/year reduction if the tax is reduced to 8¢.

HHS Secretary Margaret Heckler supports earmarking tax revenues for Medicare, according to informed sources who say officials of the Dept. of Health & Human Services have proposed the idea. Administration sources, charging that tobacco companies will reap greater profits rather than reduce costs to the smoking consumer, support the "unofficial proposal" to earmark cigarette tax revenues for federally funded cancer research. But the Administration is not expected to either propose or endorse such a proposal.

Pro-tobacco interests are expected to argue against retaining the 16¢ tax rate on grounds that it unfairly discriminates against taxpayers who "happen to smoke" — an argument that is not expected to carry much weight in congressional debates. Anti-tax lobbyists charge a permanent tax will set an "unwarranted precedent" position, saying that legislation to either retain or increase the 16¢ tax would provide Congress a revenue-raising vehicle it will unfairly turn to each year to hike revenues.

Field  
Henderson  
Yanowina

# EDITORIALS

## Congress Shouldn't Reduce the Tax on Cigarettes

The federal tax on cigarettes, currently 16 cents a pack, is scheduled to be cut by half next fall. One Cabinet member, Health and Human Services Secretary Margaret Heckler, wants to keep the tax at its present level and earmark the additional money for Medicare.

Is that a good idea? Well, yes and no. Extending the tax is definitely prudent, given the size of the federal deficit; the administration should endorse that part of Heckler's proposal. But dedicating the revenue to Medicare — or to any other specific purpose — is another matter.

Congress doubled the cigarette tax from 8 cents a pack to 16 cents in 1933 as part of an effort to reduce the deficit. But the increase was only temporary, and unless Congress extends the present tax, it will revert to 8 cents on Oct. 1.

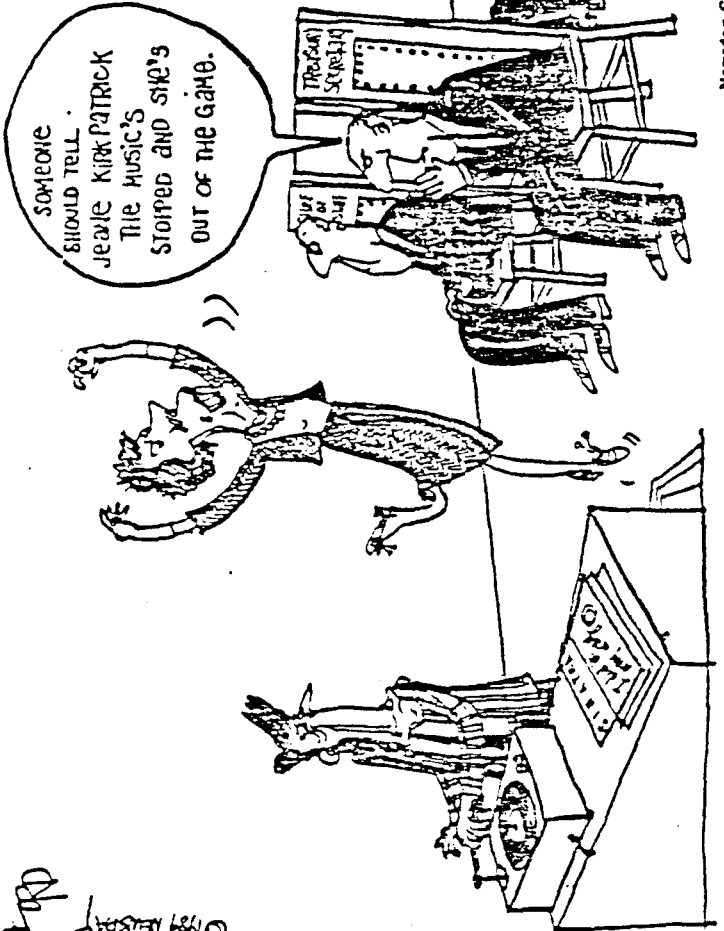
The tax should be maintained at 16 cents instead of being allowed to fall. When it was set at 8 cents in 1951, the federal tax represented about 37 percent of the average price of a pack of cigarettes. At current cigarette prices, the tax is something like 20 percent of the cost of a pack. Considering the health hazard that cigarettes represent, there's no reason to further reduce the rate at which smokers are taxed.

Besides, the deficits that the new rev-

enue was meant to reduce haven't been cut at all. In fiscal 1986, the first budget year that would be affected by the loss of cigarette tax revenue, the administration expects income to fall \$225 billion short-outlay, compared to a \$208-billion shortfall in 1983. Holding the cigarette tax at 16 cents would bring in at least \$1.7 bil-

lion a year more in sorely needed revenue. But that revenue should go into the treasury, not specifically to Medicare. Ear-marking taxes is too rigid; spending decisions shouldn't be tied to specific revenue sources. Medicare needs to be bolstered, but not in a way that makes it dependent in any way on Americans' smoking habits.

MP  
1985 NEWSDAY



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## Where there's smoke

Margaret Heckler, President Reagan's Secretary of Health and Human Services, has made an innovative proposal that links the cigarette tax to funding of Medicare. Although the proposal will not solve the long-term problems of the Medicare system, it deserves support from the President and Congress.

Medicare, funded by the payroll tax, is expected to slip into deficit sometime this year or, at the latest, next year. By 1993 it will have liquidated surplus funds built up over the years, according to forecasts.

Heckler suggests that the cigarette tax be kept at 16 cents a pack rather than dropping to eight cents, as scheduled for Oct. 1, and that the proceeds be dedicated to Medicare. Such a tie-in would be appropriate, since massive evidence has linked smoking with many medical problems.

Heckler's proposal would also establish a sound precedent for funding Medicare from sources other than the payroll tax. Medicare outlays, unlike the pension, disability and

survivors portions of the Social Security system, have no relationship to the beneficiaries' income levels and tax payments. Benefits are paid solely on the basis of the medical needs of the beneficiaries. Funding such benefits on the regressive payroll tax has always been inappropriate; using the cigarette tax would serve to break out of that policy.

The cigarette tax is also regressive, since it is blind to the income level of those who pay it. Despite this flaw, nothing should be done that encourages smoking - since the afflictions of smoking are also visited upon victims without regard to income level.

Congress can take the initiative by repealing the reduction in the cigarette tax, adding about \$1.7 billion a year to Medicare revenues. Ideally, from the health-care point of view, this would be a diminishing source of income if the number of smokers declines. That, in turn, would focus attention on the need for still broader revenue support for Medicare.

## Socking It to Smokers

Come Oct. 1 the current 16-cent-a-pack tax on cigarettes is scheduled to drop to 8 cents, a move that would deprive the Treasury of needed revenue even as it undercut a modest economic disincentive to smoking. Health and Human Services Secretary Margaret M. Heckler believes, as anyone with any sense must, that Congress made a mistake when it voted last year to let the cigarette tax fall. She is arguing for a retention of the 16-cent tax, but she wants about half the \$4 billion a year that it raises earmarked for the Medicare hospital insurance trust fund.

Heckler makes an interesting argument for dedicating part of the tax to a specific use. The trust fund spends \$6 billion a year on elderly and disabled people with lung cancer and other smoking-related illnesses. The fund also faces the prospect of going broke in the early 1990s, when its expenses are projected to exceed its income from payroll taxes. Heckler suggests that the cigarette levy be regarded as a user fee. Since smokers run greater health risks than non-smokers, they should contribute directly to costs of their later medical care.

Our own view is that the 16-cent tax ought to be not just retained but also radically increased—as a revenue-raising measure certainly and, more to the point, an effort to make cigarettes so expensive that young people tempted to take up smoking might find them happily unaffordable. The best way to deal with the addiction of smoking is not to treat its health consequences after the fact but to discourage dependency in the first place.

We cannot, though, support the idea of earmarking the cigarette tax. Get into the pattern of committing specific revenues to specific purposes and there's no end to it. Smoking is indeed a costly health problem. But so, for example, are obesity and overindulgence in artery-clogging foods. Should there then be a "fat" tax to help pay for the diseases brought on by bad eating habits? With few exceptions the best destination for taxes is the general fund. That fund deservedly ought to be added to with a cigarette tax much higher than it is now, and certainly much higher than it is due to become in October unless Congress has wiser second thoughts.

March 21, 1985

To Members of the Montana House of Representatives:

Enclosed is material concerning cigarette excise taxes in Montana. You will note that the present state tax is 16¢ per pack of 20 cigarettes. The Federal tax is another 16¢ per pack for a total tax of 32¢. This constitutes approximately 35% of the average price of 91¢ per pack of cigarettes in 1984. The state tax was raised by 4¢ per pack in 1983.

The Federal government raised its tax by 8¢ per pack in 1982. This raise is scheduled to sunset in October of this year. However, since the 8¢ amounts to about three billion dollars of Federal revenue, it is not anticipated that the Congress will allow the tax to sunset. In the enclosed material there are comments by Senator Packwood, Chairman of the Senate Finance Committee and others indicating that the Federal tax will undoubtedly be retained at its present level.

This material is being furnished to you in support of our opposition to any cigarette tax increases.

Sincerely yours,

Jerome Anderson  
The Tobacco Institute

JA/prs

Enclosure

A 46

A SUMMARY OF CIGARETTE TAX TRENDS AND IMPACTS IN MONTANA

The Tobacco Institute  
Washington, D. C.  
January, 1985.

## MONTANA'S TAX STRUCTURE AND COMPARISONS TO STATE AVERAGES

Montana ranks relatively low in per capita income (37th). It is low in manufacturing employment (45th) at 7.7% of non-agricultural work force, and high in government employment, (3rd and 26.5 %).

Montana is high (11th) in per capita state & local revenues and state & local taxes (14th) per capita, but it is low in debt as a percent of taxes.

Montana has no general sales tax and local government must rely heavily on property taxes as a revenue source (47.4% vs an average 30.8% for all taxes, 25.8% vs an average 18.0% from all revenue sources, and \$582 per capita).

Montana's tax effort is only 92 percent of the all state average, but its ACIR fiscal capacity ranks a high 8th.

Montana is higher than average in selective sales taxes and in individual income taxes (10th per \$1000 income) as state tax sources. MT receives relatively high federal aid per \$1000 income, and it is moderate (27th) in total state tax revenue per \$1000 of personal income.

Montana has a high per capita beer consumption (4th) and a relatively low tax as a percent of average price (2.8% vs an average of 7.7%), and has low electric utility tax rates.

As stated, Montana derives a large percentage by source of its tax revenue from selective sales taxes on fuels, insurance, alcoholic beverages, and particularly tobacco as a source (4th) with 10.4% vs an average 4.77%.

A general sales tax on other retail products and services would seem to be logical if tax revenues must be increased.



ECONOMIC IMPACTS IN FY 1986 FROM SMOKERS' ALTERNATIVES ACROSS A RANGE OF STATE EXCISE TAX RATES FOR MONTANA

State Tax Rate In Cents/Pack	Expected FY86 Cigarette Sales In Million Packs	Expected Losses In Wholesale/Retail Income Associated With the State Tax Rate In Millions Of Dollars
-0-	97.472	-0-
10	93.213	0.767
16 current	90.657	1.227 current
24	87.249	1.840

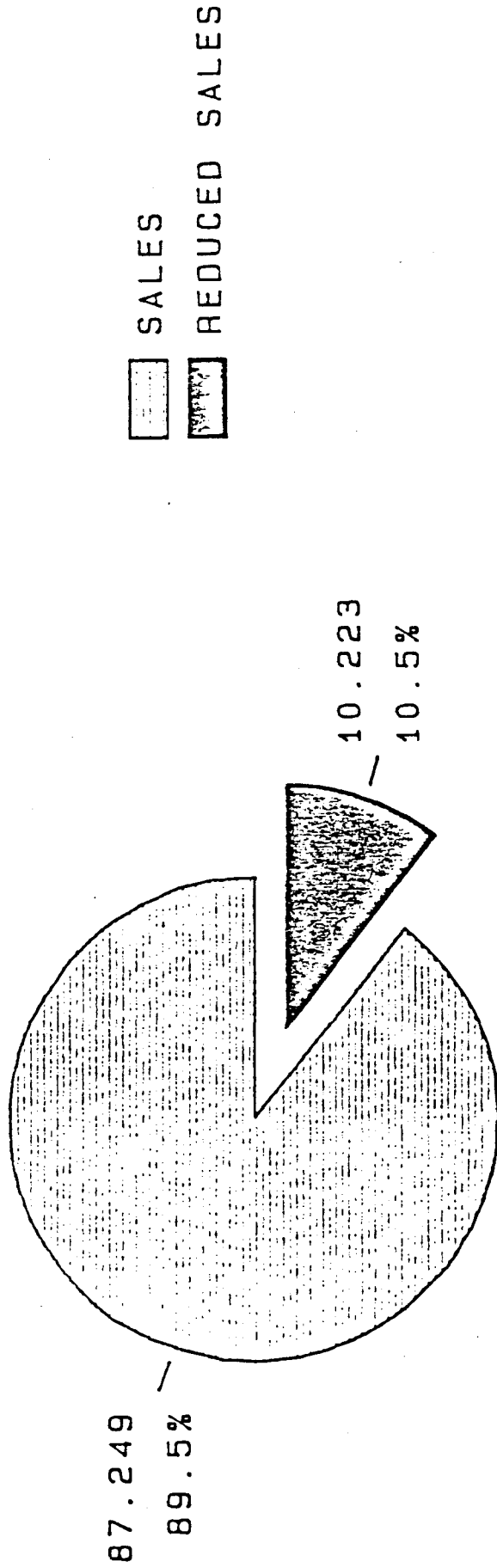
Smokers' alternatives include interstate purchases in Wyoming and Idaho, on MT Indian reservations, use of other forms of tobacco, and cutting back on cigarettes.

Since Montana's average cigarette price is higher than its neighboring states (two), interstate buying can be expected as well as off reservation sales, both of which reduce MT's tax revenue and per capita apparent consumption of cigarettes.

Projections are estimated from the most recent econometric model of Montana's cigarette sales.

# MONTANA FY 86 CIGARETTE SALES AND REDUCED SALES

Associated With A \$.24 State Tax Rate  
(Millions Of Packs)

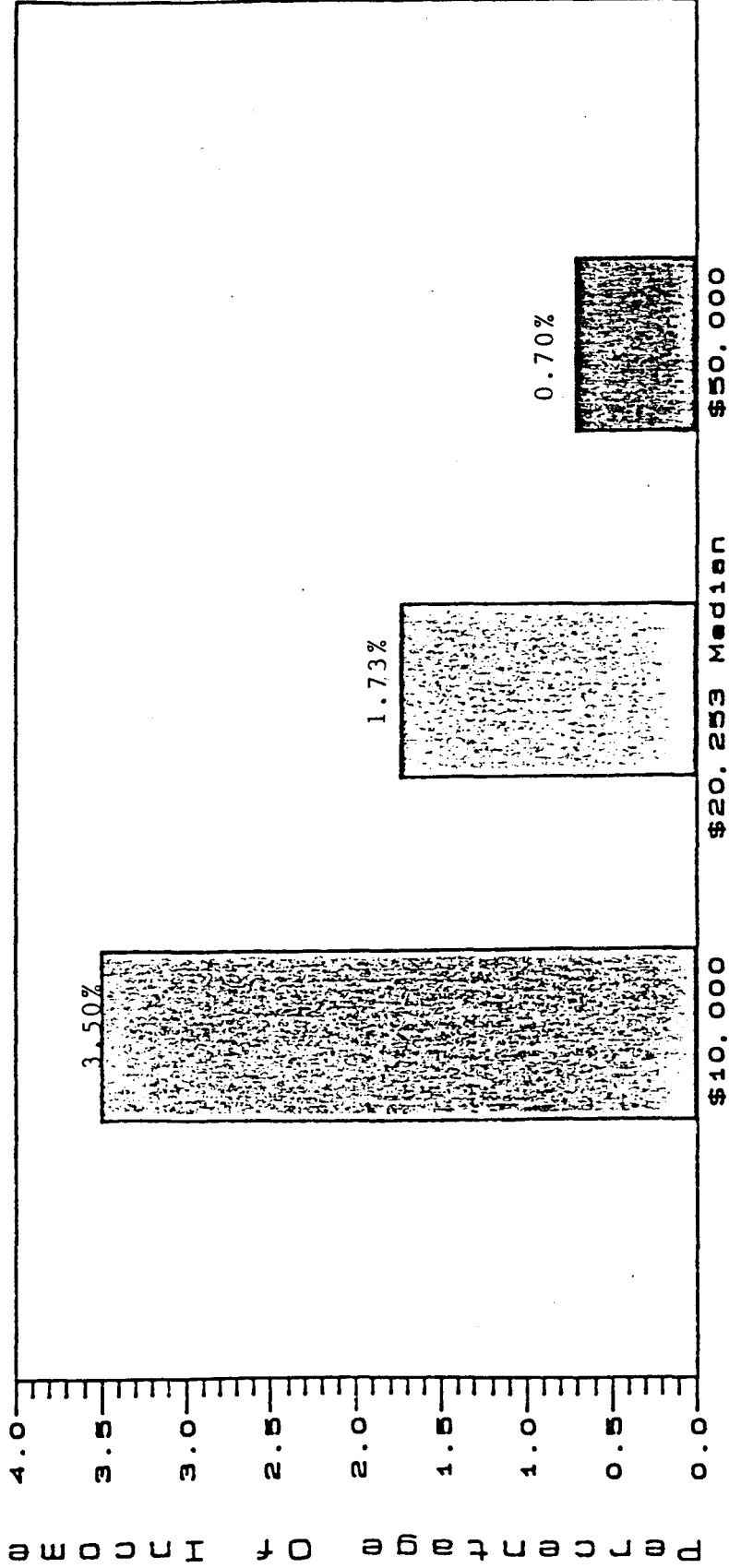


The Tobacco Institute

THE CHART INDICATES THE ESTIMATED REDUCED SALES COMPARED TO SALES IF THE TAX RATE WERE ZERO. REDUCED SALES ARE ACCOUNTED FOR BY REDUCED SMOKING, OUT OF STATE PURCHASES IN WYOMING AND IDAHO, PURCHASE FROM RESERVATIONS, AND ALTERNATIVE FORMS OF TOBACCO USE.

# ANNUAL FY84 CIGARETTE TAX BURDEN

For An Average Two Smoker Household  
In Montana



Household Income, FY84

The Tobacco Institute

THE CHART INDICATES THE CIGARETTE TAX BURDEN ON SMOKERS AND THE TAX REGRESSIVITY ON LOWER INCOME HOUSEHOLD MEMBERS WHO SMOKE.



*The Big Sky Country*

MONTANA HOUSE OF REPRESENTATIVES

3-21-85  
HB 701  
Subcommittee  
Report  
Exhibit

REPRESENTATIVE HARRY FRITZ

HOUSE DISTRICT 56

675 EAST CENTRAL AVENUE  
MISSOULA, MONTANA 59801

CAPITOL STATION  
HELENA, MONTANA 59620  
PHONE: (406) 444-4800

March 20, 1985

TO: HB 701 Taxation Subcommittee Members  
and Other Interested Parties

FROM: H. Fritz

RE: Relevant Material

I attach a package of three (3) items which I hope will form the basis of the Subcommittee's deliberations.

1. Introductory Memorandum
2. Suggested Amendments to HB 701
3. "Gray Bill" with Amendments

Thanks for your interest and consideration.



*The Big Sky Country*

MONTANA STATE HOUSE OF REPRESENTATIVES

March 18, 1985

HB 701  
IN-KIND INHERITANCE TAX PAYMENTS

A BRIEF EXPLANATION:

HB 701 is an enabling act. On the surface it is quite simple and easily understood. It allows the state to accept objects or property of unique historical significance in lieu of inheritance or estate taxes. It surrounds this potential transfer with numerous limitations and restrictions: the "impact of such transfers on the revenue" must not be detrimental; an historical site must be certified as "extremely unique and peculiar"; the Department of Revenue has discretionary power; the receiving entity must provide assurance that it can maintain the property; the in-kind payment must equal or exceed the taxes due.

The bill may stand alone as an expression of public policy. But as everyone knows, the inspiration for the measure, and the possible first fruits of its passage, is the mansion and surrounding grounds on the estate created by Marcus Daly near Hamilton, Montana.

The Daly Mansion is a structurally sound, 75-year old, 40 bedroom estate. It has not been occupied since 1942.

The possible acquisition of the mansion raises a new set of questions technically extraneous but actually inherent to the bill. These questions include the potential cost to the state and the future renovation, restoration, maintenance and upkeep of the house.

WHAT'S HAPPENED TO THE BILL:

HB 701 was heard in the House Taxation Committee on February 15. Because it is a revenue bill, executive action did not occur until after transmittal. On Monday, March 11, the committee approved an extensive amendment with elaborate procedures for review and approval. While much of the proposed process is laudatory, the amendment defeats the primary purpose of the bill, which is "to allow the Department of Revenue to accept in-kind payments."

HB 701  
March 18, 1985  
Page 2

WHERE WE ARE NOW:

I have prepared a new set of amendments which incorporate most of the March 11 material while preserving the heart and intent of the bill. I hope the subcommittee will approve this material. The recommended procedure is: Remove the March 11 amendments, add the Fritz amendments and recommend DO PASS to the House Taxation Committee!

THE POINTS AT ISSUE:

1. The March 11 amendments call upon the in-kind review committee to develop a recommendation based on "the value of the property". With all respect, the committee has neither the expertise nor the wherewithal to determine the price. This is the job of the receiving entity, the estate's appraisers and the Revenue Department.

2. Likewise with respect to the cost to rebuild, refurbish or rehabilitate.

3. The March 11 amendments move the process from the Revenue Oversight Committee to the legislature. This is the key to the matter. My version reads:

Upon receipt of the written application of the receiving entity, and the report, if any, of the in-kind review committee, the Department of Revenue, after consultation with the legislative Revenue Oversight Committee, may at its discretion, accept as in-kind payment. . .

The point is, that we allow the process to be completed during the 18-month probate period - in this case, by April, 1986.

4. There is concern over renovation and maintenance costs. The Director of the Historical Society will speak to this issue. Essentially, we neither wish nor intend to saddle the state with unanticipated upkeep bills. The Society has extended experience in accomplishing its goals without General Funds.

SUM-UP:

There is tremendous community support for this project, up and down the Bitterroot Valley. I have heard from the commissioners of Ravalli County, the mayor of Hamilton and a wide variety of interested individuals. Newspaper coverage of the measure has been extensive. This bill provides a way for the state to acquire significant historical property without General Fund appropriations.

Harry Fritz  
Representative  
District 56

HF/ba

HOUSE BILL NO. 701

INTRODUCED BY FRITZ, B. BROWN, FULLER, HALLIGAN, SPAETH,  
D. BROWN, REAM, MENAHAN, THOFT, THOMAS, SEVERSON,  
SWIFT, FARRELL, KEENAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT  
OF REVENUE, AFTER CONSULTATION WITH THE REVENUE OVERSIGHT  
COMMITTEE, TO ACCEPT IN-KIND PAYMENTS OF CERTAIN INHERITANCE  
AND ESTATE TAXES WITH OBJECTS, SITES, OR ITEMS OF EXTREMELY  
UNIQUE HISTORICAL AND CULTURAL SIGNIFICANCE OR WITH  
INTERESTS IN REAL PROPERTY HAVING CONSERVATION, RECREATION,  
OR WILDLIFE PRESERVATION VALUE; ~~GRANTING-THE--DEPARTMENT--OF  
REVENUE--RULEMAKING--AUTHORITY;~~ AND PROVIDING AN IMMEDIATE  
EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Intent. It is the intent of [this act],  
~~while--limiting-the-impact-of-such-transfers-on-the-revenues  
collected-under--this--chapter;~~ to allow the payment of  
inheritance and estate taxes by the transfer to the state of  
EXTREMELY unique objects of significant historical or  
artistic interest, extremely unique sites or buildings of  
historical interest, and easements and other recognized  
interests in land to conserve unique open space and to

1 preserve wildlife habitat, park, recreational, historic,  
 2 aesthetic, cultural, and natural values on or related to  
 3 land, WHILE LIMITING THE IMPACT OF SUCH TRANSFERS ON THE  
 4 REVENUE COLLECTED UNDER THIS CHAPTER. IT IS THE INTENT OF  
 5 [THIS ACT] TO ALLOW IN-KIND PAYMENT FOR A SHORT PERIOD OF  
 6 TIME TO EVALUATE THE IMPACT OF [THIS ACT] ON REVENUE, TO  
 7 EVALUATE THE TYPES OF IN-KIND PAYMENTS WHICH ARE RECEIVED BY  
 8 THE DEPARTMENT OF REVENUE, AND TO EVALUATE THE ABILITY OF  
 9 RECEIVING ENTITIES TO MANAGE THE IN-KIND PAYMENTS. It is not  
 10 the intent of [this act] to create a right in any donor to  
 11 pay estate or inheritance taxes with an in-kind payment.

12 Section 2. Definitions. As used in [this act], the  
 13 following definitions apply:

14 (1) "Donor" means the personal representative,  
 15 administrator, joint tenant, heir, legatee, devisee,  
 16 trustee, tenant in common, conservator, person interested in  
 17 the estate ~~or trust~~, or any person responsible for the  
 18 payment of inheritance or estate taxes to the state.

19 (2) "In-kind payment" means a payment of inheritance  
 20 or estate taxes or a portion thereof by the transfer to the  
 21 state of personal property, real property, or an interest in  
 22 real property as defined in Title 70, chapters 15 and 17.

23 (3) "Interest in real property having recreational,  
 24 conservation, or wildlife value" means any interest in real  
 25 property recognized in Title 70, chapters 15 and 17, that,



1 in the opinion of the receiving entity, is of extremely  
2 unique value as a scenic, historic, archaeological,  
3 scientific, or recreational resource to the state and which  
4 will contribute to the cultural, recreational, or economic  
5 life of the people and their health or is unique and  
6 critical habitat for wildlife in the state.

7 (4) "Object of significant artistic merit" means any  
8 object of art, a collection of records or minerals, or a  
9 painting, engraving, relic, coin, furniture, or fixture  
10 which in the opinion of the receiving entity is of extremely  
11 unique and peculiar artistic value and of historical  
12 significance to Montana.

13 (5) "Receiving entity" means the Montana historical  
14 society or the department of fish, wildlife, and parks.

15 (6) "Site of significant historical interest" means  
16 any building, fixture, real property, or any combination  
17 thereof that in the opinion of the receiving entity is of  
18 extremely unique and peculiar historical significance to  
19 Montana.

20 (7) "Value of in-kind payment" means the value of an  
21 object of significant artistic merit, a site of EXTREMELY  
22 significant historical interest, or an interest in real  
23 property having recreational, conservation, or wildlife  
24 value reflecting its intrinsic value to Montana and the  
25 public as determined by the receiving entity.

1           SECTION 3. APPLICATION FOR IN-KIND PAYMENT -- IN-KIND  
 2 REVIEW COMMITTEE -- REVIEW PROCESS. (1) UPON WRITTEN  
 3 APPLICATION FROM A RECEIVING ENTITY, THE DEPARTMENT OF  
 4 REVENUE SHALL NOTIFY THE REVENUE OVERSIGHT COMMITTEE THAT  
 5 SUCH AN APPLICATION HAS BEEN RECEIVED.

6           (2) UPON RECEIPT OF SUCH NOTIFICATION, THE REVENUE  
 7 OVERSIGHT COMMITTEE SHALL APPOINT AN IN-KIND REVIEW  
 8 COMMITTEE. THE IN-KIND REVIEW COMMITTEE MUST BE COMPRISED OF  
 9 THE FOLLOWING PERSONS, APPOINTED BY THE REVENUE OVERSIGHT  
 10 COMMITTEE:

11           (A) A REPRESENTATIVE OF THE RECEIVING ENTITY;

12           (B) ONE MEMBER OF THE BOARD OF TRUSTEES OF THE MONTANA  
 13 HISTORICAL SOCIETY; AND

14           (C) SIX MEMBERS REPRESENTING THE COUNTY IN WHICH THE  
 15 PROPERTY PROPOSED FOR IN-KIND PAYMENT LIES OR WAS SITUATED  
 16 AT THE TIME OF DEATH OF THE PERSON WHOM THE DONOR  
 17 REPRESENTS, AS FOLLOWS:

18           (I) ONE MEMBER OF THE COUNTY COMMISSION;

19           (II) ONE STATE SENATOR;

20           (III) ONE STATE REPRESENTATIVE; AND

21           (IV) THREE RESIDENTS FROM THE COMMUNITY AT LARGE.

22           (3) THE IN-KIND REVIEW COMMITTEE IS A VOLUNTARY REVIEW  
 23 COMMITTEE AND IS ENTITLED TO NO COMPENSATION OR  
 24 REIMBURSEMENT OF EXPENSES FOR ITS REVIEW, RECOMMENDATION, OR  
 25 ANY OTHER ACTIVITY.

1           (4) THE IN-KIND REVIEW COMMITTEE WILL ADVISE THE  
2 DEPARTMENT AND THE REVENUE OVERSIGHT COMMITTEE AS TO THE  
3 FOLLOWING:

4           (A) PROPOSED AND POTENTIAL USES OF THE PROPERTY;

5           (B) WHERE APPLICABLE, METHODS AND POTENTIAL SOURCES  
6 FOR REHABILITATION, MAINTENANCE, AND GENERAL SUPPORT OF THE  
7 PROPERTY ALTERNATIVE TO THE STATEMENT SUBMITTED BY THE  
8 RECEIVING ENTITY PURSUANT TO [SECTION 4].

9           (5) UPON COMPLETION OF ITS REVIEW, THE IN-KIND REVIEW  
10 COMMITTEE SHALL SUBMIT A REPORT IN WRITTEN FORM TO THE  
11 REVENUE OVERSIGHT COMMITTEE AND THE DEPARTMENT, WHICH MUST  
12 BE CONSIDERED IN DETERMINING WHETHER TO APPROVE OR  
13 DISAPPROVE THE APPLICATION.

14           (6) THE IN-KIND REVIEW COMMITTEE HAS 90 DAYS FROM THE  
15 DATE WRITTEN APPLICATION IS RECEIVED BY THE DEPARTMENT FROM  
16 THE RECEIVING ENTITY WITHIN WHICH TO MAKE ITS REPORT.

17           (7) THE DEPARTMENT SHALL, AS PROVIDED IN 72-16-438,  
18 DEFER PAYMENT OF INHERITANCE OR ESTATE TAX THAT IS UNDER  
19 REVIEW FOR IN-KIND PAYMENT, SO THAT THE TAX DUE IS EXEMPT  
20 FROM THE INTEREST PENALTY IMPOSED UNDER 72-16-441.

21           Section 4. Receipt of in-kind property for payment of  
22 taxes -- limitations. (1) Upon RECEIPT OF THE written  
23 application of a receiving entity AND THE REPORT, IF ANY, OF  
24 THE IN-KIND REVIEW COMMITTEE, the department of revenue,  
25 AFTER CONSULTATION WITH THE REVENUE OVERSIGHT COMMITTEE,

1 may, at its discretion and for the benefit of Montana,  
 2 accept ~~from--a-donor~~ as in-kind payment of all or a portion  
 3 of estate or inheritance taxes property consisting of any  
 4 object of significant artistic merit, any site of  
 5 significant historical interest, or any interest in real  
 6 property having recreational, conservation, or wildlife  
 7 value.

8 (2) A written application pursuant to subsection (1)  
 9 must be accompanied by ~~an-assurance-by~~ A STATEMENT FROM the  
 10 receiving entity ~~that---it---can---assume---responsibility~~  
 11 CONCERNING THE METHODS AVAILABLE for the maintenance,  
 12 supervision, and care of the object, site, or interest in  
 13 real property.

14 (3) The department may accept in-kind payment only  
 15 when the total estate and inheritance taxes due exceed  
 16 \$250,000.

17 ~~{4}--An--in-kind--payment--that--results--in--a--decrease--in~~  
 18 ~~the--value--of--the--taxable--property--in--a--county--must--be~~  
 19 ~~approved--by--the--county--commissioners--of--the--county--in--which~~  
 20 ~~the--property--is--located.~~

21 Section 5. Valuation of in-kind payment. (1) The value  
 22 of any in-kind payment of all or a portion of the  
 23 inheritance or estate taxes must equal or exceed the  
 24 monetary value of all or the portion of the inheritance or  
 25 estate tax against which the in-kind payment is to be

1 applied.

2 (2) The receiving entity shall certify the value of  
 3 the in-kind payment to the department of revenue and provide  
 4 such documentation or other evidence of the value of the  
 5 in-kind payment as the department may require.

6 Section 6. Receipts of in-kind payments. Title or  
 7 possession of the in-kind payment must be taken in the name  
 8 of the state of Montana by the receiving entity. The  
 9 receiving entity shall promptly notify the department of  
 10 revenue AND THE REVENUE OVERSIGHT COMMITTEE of the receipt  
 11 of the in-kind payment and the proper recording of any  
 12 interest in real property. Upon such notification, the  
 13 department shall notify the county treasurer and state  
 14 treasurer of the in-kind payment. The in-kind payment must  
 15 be recorded and credited as if money had been received for  
 16 payment of the inheritance or estate tax.

17 ~~Section 6. Rulemaking authority. The department of~~  
 18 ~~revenue may adopt rules necessary for the administration of~~  
 19 ~~{this act}.~~

20 Section 7. Applicability. This act applies  
 21 retroactively, within the meaning of 1-2-109, to all  
 22 estates, <sup>trusts</sup> ~~trusts~~ and terminations of joint tenancies that  
 23 have not completed probate or paid Montana inheritance or  
 24 estate taxes as of the effective date of this act and in  
 25 ~~which the decedent died after December 31, 1983, and before~~

1 ~~January-17-1985:~~ TO THE ESTATES OF PERSONS WHO DIED AFTER  
2 JANUARY 1, 1984. THIS ACT DOES NOT APPLY TO ANY ESTATE OR  
3 THE TERMINATION OF A JOINT TENANCY OF ANY PERSON WHO DIED  
4 AFTER JANUARY 1, 1985.

5 Section 8. Codification instruction. Sections 1  
6 through 6 are intended to be codified as an integral part of  
7 Title 72, chapter 16.

8 Section 9. Effective date. This act is effective on  
9 passage and approval.

-End-

March 21, 198  
Exhibit 13  
HB 701

House Bill 701 (amend introduced bill)

1. Title, line 6.

Following: "REVENUE"

Insert: ", AFTER CONSULTATION WITH THE REVENUE OVERSIGHT  
COMMITTEE,"

2. Title, line 10.

Following: "VALUE;"

Strike: remainder of line 10 through "AUTHORITY;" on line 11

3. Page 1, line 15.

Following: "[this act]"

Strike: remainder of line 15 through "chapter," on line 17

4. Page 1.

Following: line 18

Insert: "extremely"

5. Page 1, line 24.

Following: "land"

Strike: "."

Insert: ", while limiting the impact of such transfers on the  
revenue collected under this chapter. It is the intent of  
[this act] to allow in-kind payment for a short period of  
time to evaluate the impact of [this act] on revenue, to  
evaluate the types of in-kind payments which are received by  
the department of revenue, and to evaluate the ability of  
receiving entities to manage the in-kind payments."

6. Page 2, line 7.

Strike: "or trust"

7. Page 3, line 11.

Following: "a site of"

Insert: "extremely"

8. Page 3.

Following: line 15

Insert: "Section 3. Application for in-kind payment -- in-kind  
review committee -- review process. (1) Upon written  
application from a receiving entity, the department of  
revenue shall notify the revenue oversight committee that  
such an application has been received.

(2) Upon receipt of such notification, the revenue  
oversight committee shall appoint an in-kind review  
committee. The in-kind review committee must be comprised  
of the following persons, appointed by the revenue oversight  
committee:

(a) a representative of the receiving entity;

(b) one member of the board of trustees of the Montana historical society; and

(c) six members representing the county in which the property proposed for in-kind payment lies or was situated at the time of death of the person whom the donor represents, as follows:

(i) one member of the county commission;

(ii) one state senator;

(iii) one state representative; and

(iv) three residents from the community at large.

(3) The in-kind review committee is a voluntary review committee and is entitled to no compensation or reimbursement of expenses for its review, recommendation, or any other activity.

(4) The in-kind review committee will advise the department and the revenue oversight committee as to the following:

(a) proposed and potential uses of the property;

(b) where applicable, methods and potential sources for rehabilitation, maintenance, and general support of the property alternative to the statement submitted by the receiving entity pursuant to [section 4].

(5) Upon completion of its review, the in-kind review committee shall submit a report in written form to the revenue oversight committee and the department, which must be considered in determining whether to approve or disapprove the application.

(6) The in-kind review committee has 90 days from the date written application is received by the department from the receiving entity within which to make its report.

(7) The department shall, as provided in 72-16-438, defer payment of inheritance or estate tax that is under review for in-kind payment, so that the tax due is exempt from the interest penalty imposed under 72-16-441."

Renumber: subsequent sections

9. Page 3, line 17.

Following: "Upon"

Insert: "receipt of the"

10. Page 3, line 18.

Following: "entity"

Insert: "and the report, if any, of the in-kind review committee"

Following: "revenue"

Insert: ", after consultation with the revenue oversight committee,"

11. Page 3, line 19.

Following: "accept"

Strike: "from a donor"

12. Page 4, line 1.

Strike: "an assurance by"

Insert: "a statement from"



13. Page 4, line 2.

Strike: "that it can assume responsibility"

Insert: "concerning the methods available"

14. Page 4.

Following: line 7

Strike: subsection (4) in its entirety

15. Page 5, line 1.

Following: "revenue"

Insert: "and the revenue oversight committee"

16. Page 5.

Following: line 7

Strike: section 6 in its entirety

Renumber: subsequent sections

17. Page 5, line 13.

Strike: ", trusts,"

18. Page 5, line 15.

Following: "and"

Strike: "remainder of line 15 through line 17

Insert: "to the estates of persons who died after January 1, 1984. This act does not apply to any estate or the termination of a joint tenancy of any person who died after January 1, 1985."

4

VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. HB 45

DATE March 21, 1985

SPONSOR REP. WALDRON

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Leland Smith (Smitty's Fireplace)	2406 Chaparral		
DAVID LACKMAN	1400 Winne Hlna	X	
C. R. Haddock	Box 336 SHELBY		X
Tom Maddox	1777 La. GRANDE CANNON BLVD Helena MT 59624		X
Gary Stroup	Bozeman		
William Leary	Mont. Hosp. Assn. Helena	X	
Mary Vant Huff	416 E. Story Bozeman	X	
Bob Rausch	1027 Birch Helena Dept. of Health	X	
<del>Jim Parker</del>	<del>H</del>		
Earl Skonan	American Lung Assn	X	
Jon Allen	Mont. Hosp. Assn.	X	
Tucker Hill	Philip Morris		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. HB 120

DATE March 21, 1985

SPONSOR Rep. Nathe

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
William E. Leamy	Mt. Hope Assn Hulewa	X	
Thomas W Maddox	MT. ASSN of TOBACCO & CANDY DISTRIBUTORS		X
C.R. Harwood	Box 226 SHELBY		X
Don Allen	Mt. Hope Assn	X	
Earl Thomas	Apartment 125 West Mt	X	
TUCKER HILL	Philip Morris		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. SB 309

DATE March 21, 1985

SPONSOR SENATOR MOHAR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Leland Smith (Smitty's Fireplace)	2906 Chaparral Rd	yes	
Merlin Hickman	4070 Sawmill Rd. Bozeman	yes	
LOREN E. COLLINS	403 HELEN Bulgrade	yes	
Will Selsler	728 N. Warren Helena	✓	
Mary Vant Hull	416 E. Story, Bozeman	✓	
Pam Campbell	523 Breckenridge Helena	✓	
DON REED, MT EIC	P.O. Box 1184 Helena	✓	
<sup>Missoula, Idaho</sup> Orlene & Fred Fortune	1750 Idaho Vista	✓	
John Skeen (Arrow Staves)	Great Falls 4125 - 2 Ave NO	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.