MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON INSTITUTIONS & CULTURAL EDUCATION

Call to Order: By REP. ED GRADY, Chair, on January 20, 1993, at 9:00 AM

ROLL CALL

Members Present:
Rep. Ed Grady, Chair (R)
Sen. Eve Franklin, Vice Chair (D)
Sen. Tom Beck (R)
Sen. J.D. Lynch (D)
Rep. Red Menahan (D)
Rep. Linda Nelson (D)

Members Excused: SEN. AKLESTAD

Members Absent: NONE

Staff Present: Sandra Whitney, Legislative Fiscal Analyst
Mary LaFond, Office of Budget & Program Planning
Judy Murphy, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: **HB 16 and HB 46**
Executive Action: **NONE**

HEARING ON HB 16 and HB 46

Tape No. 1:A

CHAIRMAN GRADY introduced **REP. JOHN JOHNSON,** sponsor of HB 46.

Opening Statement by Sponsor:

REP. JOHN JOHNSON, HD 23, Gresham, stated HB 46 is an act reserving two-cents of the cigarette tax for the operation and maintenance of state veterans' nursing homes, one at Columbia Falls and the new proposed facility at Glendive.
Rep. Johnson explained there are corrections on the handouts pertaining to the bill. Line 24 on page one should read 10.69% instead of two cents, line 25, page one, should read collected instead of imposed, line 13, page two, should read 11.44% instead of two cents and line 14, page 2, should read collected instead

of imposed. **EXHIBIT 1** This tax would be used for the maintenance and operation of the two facilities.

Proponents' Testimony:

Verner Bartelsen, is representing the **Montana Legacy Legislature** in their support for HB 46. Legacy Legislators felt this legislation was so important that it is a priority bill for passage among their five priority pieces of legislation. Since this is not a new tax but rather funds which had been diverted for construction purposes it only seems appropriate the funds now be reserved for operation and maintenance of veterans nursing homes. **EXHIBIT 2**

Johnny Buck, VFW, Chairman of the Eastern Montana Veteran's Nursing Home Committee at Glendive firmly believes this tax money belongs to the veterans of Montana. The nursing home committee worked long hours to get the tax to fund in part the building of the nursing home in Glendive. **EXHIBIT 3**

Additional proponents who testified were:
Don Lies
Joe Schwab
Thomas Thompson
Dan Norton
Dick Baumberger
Jerry Collins
Tom Pouliot
Clyde Dailey
Jim Mular
John Maze
Rep. Bob Pavlovich
Larry Longfellow
EXHIBIT 4

Opponents' Testimony:

Bob Anderson, Administrator of Special Services Division, stated the two cent tax generates approximately $1.2 million dollars per year. The facilities at Glendive and Columbia Falls will require approximately $2.2 million in general funds to operate. This is a projected figure for the next biennium. If HB 46 is passed the bill will help support the operation of these two facilities but it will not be enough to take care of all the operational costs. There will also not be sufficient funds to take care of additional maintenance.

Tom O'Connell, Administrator of the Architect and Engineering Department, said he is concerned about all state agencies and their needs not just certain ones. His role in the Architect and Engineering Division is to administer state construction projects and the maintenance of those facilities. In the Long-Range Building Program Fund (LRBPF) the cigarette tax was $10.87 million in FY 1984-1985 and has gone to $5.77 million in FY 1994-

1995. The cigarette revenues have declined in the last ten years. In FY 1994-1995 the total LRBPF (cigarette tax requests) is $191 million and there is only $5.77 million to take care of all the needs throughout the state. **EXHIBIT 5**

Mr. O'Connell indicated he is not opposed to the Veteran's Home but does not feel it is any more special than any other building.

SEN. J.D. LYNCH said the only reason the two-cent cigarette tax passed was because the veterans lobbied the bill. It was not passed by the buildings that are screaming for care but was passed by the veterans who wanted to help their own. The veterans in 1989 lobbied for the two-cent cigarette tax.

Mr. O'Connell pointed out that in the bill which was passed, creating the two-cent tax increase, there was a section which said the state shall appropriate from the general fund to the Department of Institutions financial support necessary to provide for the continued operation and maintenance of the project upon completion. **Mr. O'Connell** said this is not general fund money, it is capital projects' money.

SEN. LYNCH told the committee another reason the bill passed was because western Montana was also going to get a 40-bed veteran's home on the Galen Campus. This is still an alternative the committee has been working on for the past 18 months. **REP. JOHNSON** replied there is still a need for beds and he would support this concept.

REP. JOHNSON explained the original bill for funding of the eastern montana nursing home was to be done with the two-cent cigarette tax. When the fund was at the amount necessary or required in the bill then the tax was to be removed. When the bill went through the legislature that particular item was line-item vetoed by the Governor so the two-cent cigarette tax continued. In 1991 it was not requested the tax be continued since it was already in place. What was requested, was that the funding and authorization for spending both state and federal money be continued into the next biennium.

REP. RED MENAHAN asked why a new facility is being built when the department cannot take care of the present facilities?

Mr. O'Connell replied that at this time no money has gone into the site. The legislature has approved construction of the Women's Correctional Center. Part of the bill also included the site selection. As the state has developed plans for the site which was selected, it has found there are some real difficult soil conditions. Caissons are going to have to be built to support the building. The department is looking at other alternatives since one-half million dollars would be spent on this phase of the project.

CHAIRMAN GRADY asked **REP. JOHNSON** about the "start-up" costs of this project?

REP. JOHNSON said there was money in the executive budget for "start-up" costs. The amount of $947,000 will come from what is left in the debt service fund. **REP. JOHNSON** said he wants to leave the $1,337,000 for operation and maintenance. **EXHIBIT 6**

CHAIRMAN GRADY introduced **REP. PAVLOVICH,** sponsor of HB 16

Opening Statement by Sponsor:

REP. BOB PAVLOVICH, HD 70, Butte, stated that HB 16 is basically the same as HB 46 only broader, it includes Galen as a state hospital. **EXHIBIT 7.** He reviewed the Amendments to HB 16 which are as follows: Page 2, line 23, delete "two-cents" replace with 10.38%, page 2, line 23, delete "on each package of cigarettes" replace with collected; page 3, line 17, delete "two-cents" replace with 10.38%, delete "on each package of cigarettes" replace with collected and on page 4, line 7, delete "two-cents" replace with 11.11%, and delete "on each package of cigarettes" replace with collected. **EXHIBIT 8**

REP. PAVLOVICH testified that in 1989 the two-cent cigarette tax was his bill, HB 202. The purpose of that bill was to build a Veterans' Home on the Galen campus. **REP. JOHNSON** suggested a Veterans' Home in Glendive. **REP. PAVLOVICH** and **REP. JOHNSON** agreed they would build a 100-bed unit in Glendive and possibly a 40-bed unit in Galen. The two-cent tax was to have been taken off by the provisions in HB 202 and was not. The monies collected have been put into long-range building.

Proponents:

Dick Baumberger
Hal Manson
George Poston
Johnny Buck
John W. Mahan
Joe Brand
John Trankle
Jim Jacobson
Jim Mular
Jerry Collins
George Rice
Mike Carlson
Dan Antonietti

Opponents' Testimony:

Bob Anderson, Administrator Special Services division The department needs additional money. The two-cent tax will not generate enough money to operate the existing two facilities. If another facility is added at Galen the operational costs of general funds needed would be increased by another $500,000. The Galen facility would take a lot of construction money to get the facility up and running according to code.

Tom O'Connell, Administrator of Architect and Engineering Division All state facilities are in need of repair. **Mr. O'Connell** asked that the committee take a long look at all the facilities and their needs before any decisions are made.

SEN. BECK said the general fund does support the Veteran's Home.

Mr. Anderson stated that $2.3 million is still needed for the project.

SEN. BECK asked if the cigarette tax should be taken out of debt service or out of capital projects? Debt service and capital projects funds are separate accounts.

CHAIRMAN GRADY asked **REP. PAVLOVICH** what was going to be the impact to the general fund for both bills? **REP. PAVLOVICH** suggested using the Coal Severance Tax money. This tax was put aside to use for future generations. He stated the money could be used now to repair buildings on campuses and for education purposes.

CHAIRMAN GRADY said that HB 16 and HB 46 will be combined to include a Veteran's Home at Galen.

SEN. BECK made a suggestion to support **REP. PAVLOVICH'S** bill only because it includes the home at Galen. **REP. PAVLOVICH** and **REP. JOHNSON** will work on combining the bills.

SEN. BECK asked to see the figures on what effect there would be to the general fund if all the money was taken out of capital projects.

A motion was made to adjourn.

ADJOURNMENT

Adjournment: 10:00 am

Rep. Grady
REP. ED GRADY, Chair

Judy Murphy
JUDY MURPHY, Secretary

ED/jm

HOUSE OF REPRESENTATIVES

INSTITUTIONS/CULTURAL EDU. SUB-COMMITTEE

ROLL CALL DATE 1-20-93

NAME	PRESENT	ABSENT	EXCUSED
SEN. GARY AKLESTAD			✓
SEN. TOM BECK	✓		
SEN. EVE FRANKLIN, VICE CHAIRMAN	✓		
SEN. J.D. LYNCH	✓		
REP. RED MENAHAN	✓		
REP. LINDA NELSON	✓		
REP. ED GRADY, CHAIRMAN	✓		

EXHIBIT 1
DATE 1-20-93
SB

HOUSE BILL NO. 46

INTRODUCED BY J. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT RESERVING 2 CENTS OF THE CIGARETTE TAX FOR THE OPERATION AND MAINTENANCE OF STATE VETERANS' NURSING HOMES; AMENDING SECTION 16-11-119, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 16-11-119, MCA, is amended to read:

"16-11-119. (Temporary) Disposition of taxes -- retirement of bonds. (1) Except as provided in subsection (2), all money collected under the provisions of 16-11-111, less the expense of collecting the taxes, must be paid to the state treasurer and deposited as follows: 72.79% in the long-range building program fund in the debt service fund type and 27.21% in the long-range building program fund in the capital projects fund type.

(2) In fiscal year 1993, $1,133,624 is transferred from the long-range building program fund in the capital projects fund type to the general fund. (Terminates June 30, 1993--sec. 2, Ch. 3, Sp. L. July 1992.)

16-11-119. (Effective July 1, 1993) Disposition of taxes -- retirement of bonds. Two cents of the cigarette tax imposed under the provisions of 16-11-111 on each package of cigarettes must be deposited in the state special revenue fund to the credit of the department of corrections and human services for the operation and maintenance of state veterans' nursing homes. All moneys remaining revenue collected under the provisions of 16-11-111, less the expense of collecting ~~all~~ the taxes ~~levied,-imposed,-and assessed-by-said-section,~~ ~~shall~~ must be paid to the state treasurer and deposited as follows: 72.79% in the long-range building program fund in the debt service fund type and 27.21% in the long-range building program fund in the capital projects fund type.

collected
11-49

16-11-119. (Effective August 15, 1993) Disposition of taxes -- retirement of bonds. Two cents of the cigarette tax imposed under the provisions of 16-11-111 on each package of cigarettes must be deposited in the state special revenue fund to the credit of the department of corrections and human services for the operation and maintenance of state veterans' nursing homes. All moneys remaining revenue collected under the provisions of 16-11-111, less the expense of collecting ~~all~~ the taxes ~~levied,--imposed,--and assessed--by--said--section,~~ ~~shall~~ must be paid to the state treasurer and deposited as follows: 70.89% in the long-range building program fund in the debt service fund type and 29.11% in the long-range building program fund in the capital projects fund type."

11-49
collected

HB 46
INTRODUCED BILL

NEW SECTION. **Section 2.** Effective date. [This act] is effective July 1, 1993.

-End-

EXHIBIT 2
DATE 1-20-93

House B46 - by John J. Johnson:
Testimony by Verner Bertelsen
Lobbyist for Montana Legacy Legislature.

Mr. Chairman, members of the Institutions and Cultural Education Committee.

I am Verner Bertelsen, today I am representing the Montana Legacy Legislature in their support for H.B 46. H.B. 46 seeks to reserve a percentage of the tax on cigarettes for the operation and maintenance of a state veterans nursing homes. Legacy Legislators felt that this legislation was so important that it is a priority bill for passage among their five priority pieces of legislation.

Now that we are constructing additional nursing home spaces for veterans, to meet the shortage which exists in Montana, it is vitally important to provide a stable source of funds for their maintenance and operation. Since this is not a new tax but rather funds which had been diverted for construction purposes it only seems appropriate that it now be reserved for the operation and maintenance of veterans nursing homes - Montana Legacy Legislature urges your approval and support of H. B. 46 - I thank you.

Verner Bertelsen - Lobbyist
Montana Legacy Legislature
1800 Winne Ave.
Helena, Mont.

EXHIBIT 3
DATE 1-20-93
~~SB~~

Mr Chairman, commitee members,

Im Johnny Buck a world War 2 Veteran, and Chairmen of the Eastern Mont. Veterans nursing home commitee of Glendive.

I'm asking for support of House Bill #46 which is a Bill to earmark the 2 cents cigarette taxs in a fund for operation and maintenance of the Veterans nursing [illegible] Columbia Falls & Glendive.

I firmly believe this taxe money belongs to the Veterans of Montana as we worked ~~long~~ and hard to get this tax to fund in part the building of this home in Glendive, and now Mr chair ask you & your committees support

Thank You.

In Closing had it not been for the Veterans we not be sitting here ~~today~~

EXHIBIT 4
DATE 1-20-93
~~SB~~

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

______________ SUBCOMMITTEE DATE ______________

DEPARTMENT(S) ______________ DIVISION ______________

PLEASE PRINT **PLEASE PRINT**

NAME	REPRESENTING	
John C Manz	AFSCME	
Tom O'Connell	AFE	
John G Thomas	POB	
John MAHAN	Veterans	HB16-46
Johnny Buck	V.F.W.	
JERRY COLLINS	FT. PECK TRIBES	
Don Lies	Amer Leg	
Joe Schwab	Legacy Legislature	R 46
Verner Bertelsen	Legacy Legislature	HB 46
Thomas Thompson	GLENDIVE, VFW	
DAN Norton	GLENDIVE VFW	
Dick Baumberger	DAV Dept. of Mont	HB 16-46
Tom Pouliot	Veterans	HB16-46
Larry Longfellow	VFW	HB-16-46
Clyde Dailey	Mt Senior Citizens Assn	HB46
Mike Cantrell	Glendive C of C	HB-46
Jim Culver	Glendive C of Commerce	HB46
[illegible]	Glendive C of Commerce	HB46

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXHIBIT 4
DATE 1-20-93

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

_______________ SUBCOMMITTEE DATE _______________

DEPARTMENT(S) _______________ DIVISION _______________

PLEASE PRINT **PLEASE PRINT**

NAME	REPRESENTING	
Dan Antonietti	Self	HB 16
Joe Brand	Veterans of Foreign Wars	HB 16
Jim Mular	Repr Myself as Vet	HB-16 HB-46
George Rice Sr	Self & Glendive Home	HB-46
George Poston	United Veterans Committee	HB 46 HB-16
Hal Manson	American Legion	HB-16 HB 46
Steve Cho	Glendive Vets Home	HB 16 HB 46
Jimmy Rice	Glendive Vet Home	HB 16 HB 46

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXHIBIT 5
DATE 1-20-93
~~SB~~

CAPITAL CONSTRUCTION PROGRAM
FACT SHEET

Long Range Building Program
1985 Biennium - 1995 Biennium
(Millions)

Biennium	Long Range Building Program Fund	Other Cash Projects	LRBP Bonds	Other Bonds	Total Program
1984-1985	$10.87	$15.69	$36.36	$3.08	$ 65.90
1986-1987	$10.52	$20.12	$ 0.00	$8.55	$ 39.19
1988-1989	$ 6.24	$11.44	$ 0.00	$0.00	$ 17.69
1990-1991	$ 5.51	$18.20	$ 0.00	$3.54	$ 27.25
1992-1993	$ 8.03	$64.21	$61.26	$8.67	$142.17
1994-1995	$ 5.77	$28.53	$ 0.00	$0.00	$ 34.50

LRBP Requests/LRBPF Revenue
1985 Biennium - 1995 Biennium

Biennium	Total Requests	LRBPF Requests	LRBPF Fund
1984-1985	$118 million	$ 95 million	$10.87
1986-1987	$171 " "	$136 " "	$10.52
1988-1989	$160 " "	$145 " "	$ 6.24
1990-1991	$188 " "	$150 " "	$ 5.51
1992-1993	$318 " "	$242 " "	$ 8.03
1994-1995	$239 " "	$191 " "	$ 5.77

EXHIBIT 6
DATE 1-20-93
SB

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0046, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act reserving 2 cents of the cigarette tax for the operation and maintenance of state veterans' nursing homes; and providing an effective date.

ASSUMPTIONS:

1. This proposal would become effective July 1, 1993.
2. Under current law cigarette tax is allocated through August 14, 1993 as follows after expenses: 72.79% long range building debt service fund type; 27.21% long-range building capital projects fund type.
3. Under current law cigarette tax is allocated beginning August 15, 1993 as follows: 70.89% long-range building debt service fund type; 29.11% long-range building capital projects fund type.
4. Under the proposal, two cents of the cigarette tax on each package of cigarettes sold is allocated to the operation and maintenance of state veterans' nursing homes. The remainder, after expenses, is allocated as under current law.
5. There will be 67.676 million packs of cigarettes stamped in FY 94 and 66.827 million packs stamped in FY 95.
6. The monthly distribution of cigarette indicia purchases is constant throughout each year of the biennium.
7. Under current law and the proposal the cigarette tax is 19.26 cents per pack (effective rate 18.53 cents) through August 14, 1993 and is 18 cents per pack (effective rate 17.32 cents) beginning August 15, 1993.
8. There is a one month time lag in collections of the cigarette tax from the 44.3% of retailers and wholesalers who purchase stamps on credit. For these purchasers there is an additional month of collections at the 19.26 cent rate in FY 94.

FISCAL IMPACT:

Revenues:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Cigarette Tax	11,852,000	11,852,000	0	11,572,000	11,572,000	0
Funding						
Debt Service (General Fund)	8,431,000	7,469,000	(963,000)	8,203,000	7,256,000	(947,000)
Capital Projects (LRBP)	3,421,000	3,029,000	(391,000)	3,369,000	2,979,000	(389,000)
Veterans' Homes	0	1,354,000	1,354,000	0	1,337,000	1,337,000
Total	11,852,000	11,852,000	0	11,572,000	11,572,000	0

David Lewis 1-7-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

John Johnson 1-7-93
JOHN JOHNSON, PRIMARY SPONSOR DATE
Fiscal Note for HB0046, as introduced

HB 46

EXHIBIT 1
DATE 1-30-93
SB

HOUSE BILL NO. 16

INTRODUCED BY PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE MAINTENANCE, OPERATION, IMPROVEMENT, AND CONSTRUCTION OF STATE NURSING HOMES AND DOMICILIARY HOMES FOR VETERANS IN MONTANA THROUGH CREATION OF THE VETERANS' HOME MAINTENANCE AND IMPROVEMENT ACCOUNT; DEDICATING A PORTION OF CIGARETTE TAX PROCEEDS TO THE ACCOUNT; STATUTORILY APPROPRIATING ACCOUNT FUNDS TO THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES FOR THE MAINTENANCE, OPERATION, AND IMPROVEMENT OF STATE NURSING HOMES AND DOMICILIARY HOMES FOR VETERANS AND TO THE DEPARTMENT OF ADMINISTRATION FOR CONSTRUCTION OF A 40-BED STATE NURSING HOME AND DOMICILIARY HOME FOR VETERANS IN GALEN IF THE STATE HOSPITAL AT GALEN IS CLOSED BY ACTION OF THE LEGISLATURE; AMENDING SECTIONS 16-11-119, 17-5-408, AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Veterans' home maintenance and improvement account -- statutory appropriation.** There is an account in the state treasury to be known as the veterans' home maintenance and improvement account, funds from which may be used only as follows:

(1) The department of corrections and human services shall use account funds for the maintenance, operation, and improvement of state nursing homes and domiciliary homes for veterans in Montana, and except as provided in subsection (2), all funds in the veterans' home maintenance and improvement account are statutorily appropriated, as provided in 17-7-502, to the department of corrections and human services, to be used for the maintenance, operation, and improvement of state nursing homes and domiciliary homes for veterans in Montana.

(2) If the state hospital at Galen is closed by action of the legislature, there is statutorily appropriated, as provided in 17-7-502, to the department of administration from the veterans' home maintenance and improvement account an amount sufficient to construct a 40-bed state nursing home and domiciliary home for veterans in Galen.

Section 2. Section 16-11-119, MCA, is amended to read:

"**16-11-119. (Temporary) Disposition of taxes -- retirement of bonds.** (1) Except as provided in subsection (2), all money collected under the provisions of 16-11-111, less the expense of collecting the taxes, must be paid to the state treasurer and deposited as follows:

<u>(a) 16.28% ~~2 cents~~ of the excise tax collected ~~on each~~ package of cigarettes in the veterans' home maintenance and improvement account created in [section 1];</u>

HB 16
INTRODUCED BILL

(b) 72.79% of the amount remaining after the deposit designated in subsection (1)(a) in the long-range building program fund in the debt service fund type; and

(c) 27.21% of the amount remaining after the deposit designated in subsection (1)(a) in the long-range building program fund in the capital projects fund type.

(2) In fiscal year 1993, $1,133,624 is transferred from the long-range building program fund in the capital projects fund type to the general fund. (Terminates June 30, 1993--sec. 2, Ch. 3, Sp. L. July 1992.)

16-11-119. (Effective July 1, 1993) Disposition of taxes -- retirement of bonds. All ~~moneys~~ money collected under the provisions of 16-11-111, less the expense of collecting ~~all~~ the taxes ~~levied,-imposed,--and--assessed--by said--section~~, ~~shall~~ must be paid to the state treasurer and deposited as follows:

(1) 10.28% ~~2 cents~~ of the excise tax collected ~~on each package of cigarettes~~ in the veterans' home maintenance and improvement account created in [section 1];

(2) 72.79% of the amount remaining after the deposit designated in subsection (1) in the long-range building program fund in the debt service fund type; and

(3) 27.21% of the amount remaining after the deposit designated in subsection (1) in the long-range building program fund in the capital projects fund type.

16-11-119. (Effective August 15, 1993) Disposition of taxes -- retirement of bonds. All ~~moneys~~ money collected under the provisions of 16-11-111, less the expense of collecting ~~all~~ the taxes ~~levied,-imposed,--and--assessed--by said--section~~, ~~shall~~ must be paid to the state treasurer and deposited as follows:

(1) 11.11% ~~2 cents~~ of the excise tax collected ~~on each package of~~ cigarettes in the veterans' home maintenance and improvement account created in [section 1];

(2) 70.89% of the amount remaining after the deposit designated in subsection (1) in the long-range building program fund in the debt service fund type; and

(3) 29.11% of the amount remaining after the deposit designated in subsection (1) in the long-range building program fund in the capital projects fund type."

Section 3. Section 17-5-408, MCA, is amended to read:

"**17-5-408. Percentage of income, corporation license, and cigarette tax pledged.** (1) (a) The state pledges and appropriates and directs to be credited as received to the debt service account ~~9.8%-for-fiscal-year-1990-and-8.7%--for fiscal--year--1991-of-all~~ money received from the collection of the individual income tax and ~~11%-for--fiscal--year--1990 and--10.5%--for--fiscal--year--1991--of-all-money~~, except as provided in 15-31-702, money received from the collection of the corporation license and income tax, as provided in

15-1-501, ~~and-such-additional-amount-of-said-taxes,-if-any,~~ as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405(4).

(b) ~~No---more---than---the---percentages--described--in subsection-(1)(a)-of-such-tax-collections-may-be-pledged-for the-purpose-of-17-5-403(2).~~ The pledge and appropriation ~~herein~~ made ~~shall-be-and-remain-at-all-times~~ by this section are a first and prior charge upon all money received from the collection of ~~said~~ the enumerated taxes.

(2) ~~The~~ Except for the amount credited to the veterans' home maintenance and improvement account under 16-11-119, the state pledges and appropriates and directs to be credited to the debt service account 70.89% of all money received from the collection of the excise tax on cigarettes ~~which~~ that is levied, imposed, and assessed by 16-11-111. The state also pledges and appropriates and directs to be credited as received to the debt service account all money received from the collection of the taxes on other tobacco products ~~which~~ that are or may ~~hereafter~~ be ~~levied,~~ imposed~~,~~ ~~and-assessed-by-law~~ for that purpose, including the tax ~~levied,~~ imposed~~,--and-assessed~~ by 16-11-202. ~~Nothing-herein shall~~ This section may not impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding

EXHIBIT 1
DATE 1-30-93

sentence, the pledge and appropriation ~~herein~~ made ~~shall--be and--remain--at--all--times~~ by this section are a first and prior charge upon all money received from the collection of all taxes referred to in this subsection ~~(2)~~."

Section 4. Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; [section 1]; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504;

19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

HB 0016/01

NEW SECTION. **Section 5.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 10, chapter 2, part 4, and the provisions of Title 10, chapter 2, part 4, apply to [section 1].

NEW SECTION. **Section 6.** Effective date. [This act] is effective on passage and approval.

-End-

EXHIBIT 7
DATE 1-20-93
SB

AMENDMENTS TO HOUSE BILL NO. 16

1. Page 2, line 23.
Following: "(a)"
Strike: "2 cents"
Insert: "10.38 percent"

2. Page 2, line 23.
Following: "tax"
Strike: "on each package of cigarettes"
Insert: "collected"

3. Page 3, line 17.
Following: "(1)"
Strike: "2 cents"
Insert: "10.38 percent"

4. Page 3, line 17.
Following: "tax"
Strike: "on each package of cigarettes"
Insert: "collected"

5. Page 4, line 7.
Following: "(1)"
Strike: "2 cents"
Insert: "11.11 percent"

6. Page 4, line 7.
Following: "tax"
Strike: "on each package of cigarettes"
Insert: "collected"

HB16 Explanation of Amendments

The bill as written is administratively difficult to manage.

*The legislation, before amendment, requires that a specific number of packages of cigarettes be related to each tax collection. Until monthly reports are received we are not sure of the number of packages stamped.

*There are packages of 20 and packages of 25; there may be cartons of 10 packages containing 200 cigarettes or 250 cigarettes or cartons of 8 packages containing 200 cigarettes.

*We do not collect 100% of the value of tax stamps; we collect approximately 97.15% because expenses (the stamping allowance) are deducted at the time the payment is remitted.

Using the percentage rather than the $.02/package, allows the department to immediately distribute collections without a month-end adjustment. The same amount is distributed to the Veterans' Home Maintenance and Improvement Account.

The percentage was calculated as follows:

$$\frac{.02}{.1926} = 10.38\% \qquad \frac{.02}{.18} = 11.11\%$$