

SENATE BILL 445

IN THE SENATE

February 10, 1979	Introduced and referred to Committee on Taxation.
February 13, 1979	Fiscal note requested.
February 16, 1979	Fiscal note returned.
March 13, 1979	Committee recommend bill, do not pass.
March 14, 1979	On motion, Senate reconsider its action taken on adverse Committee report and order printed and placed on second reading. Motion failed.

1 *Senate* BILL NO. *445*  
 2 INTRODUCED BY *Sen. Mark Nelson*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE METHOD OF  
 5 COMPUTING THE EXCISE TAX ON CIGARETTES AND TO REVISE ITS  
 6 DISPOSITION; AMENDING SECTIONS 16-11-101, 16-11-112,  
 7 16-11-119, AND 17-5-408, MCA; AND REPEALING SECTION  
 8 16-11-111, MCA."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. Section 1. Cigarette excise tax. After  
 12 June 30, 1979, an excise tax is imposed and shall be  
 13 collected and paid to the state of Montana upon cigarettes  
 14 sold or possessed in this state at a rate equal to 50% of  
 15 the basic cost to the wholesaler of cigarettes, as defined  
 16 in 16-10-103(9).

17 Section 2. Section 16-11-101, MCA, is amended to read:

18 "16-11-101. Legislative intent. The legislature hereby  
 19 declares that its intent in enacting ~~16-11-111~~ [section 1]  
 20 is to enable those who are subject to the taxes imposed by  
 21 the federal tax laws to avail themselves of the deductions  
 22 respecting state and local taxes specified in section 164 of  
 23 the federal Internal Revenue Code of 1954 in computing their  
 24 taxable income."

25 Section 3. Section 16-11-112, MCA, is amended to read:

1 "16-11-112. Tax on ultimate consumer. All taxes paid  
 2 pursuant to ~~16-11-111~~ [section 1] shall be conclusively  
 3 presumed to be direct taxes on the retail consumer  
 4 precollected for the purpose of convenience and facility  
 5 only. The full face value of the insignia or tax shall be  
 6 added to the cost of the cigarettes and recovered from the  
 7 ultimate consumer or user. When the tax is paid by any other  
 8 person, such payment shall be considered as an advance  
 9 payment and shall be added to the price of the cigarettes  
 10 and recovered from the ultimate consumer or user. Any person  
 11 selling cigarettes at retail shall state or separately  
 12 display in the licensed premises a notice of the tax  
 13 included in the selling price and charged or payable  
 14 pursuant to this section. The provisions of this section  
 15 shall in no way affect the method of collection of such  
 16 tax."

17 Section 4. Section 16-11-119, MCA, is amended to read:

18 "16-11-119. Disposition of taxes -- war veterans'  
 19 compensation fund abolished -- retirement of bonds. (1) All  
 20 moneys collected under the provisions of ~~16-11-111(1)~~  
 21 [section 1], less the expense of collecting all the taxes  
 22 ~~levied~~ imposed ~~and assessed~~ by said section, shall be paid  
 23 to the state treasurer and deposited as follows:

- 24 (a) 50% ~~37.5%~~ in the general fund;
- 25 (b) ~~15%~~ 11.25% in the long-range building program

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 INTRODUCED BILL

1 account in the sinking fund; and:

2 ~~(c) 3% 26a25%~~ in the long-range building program  
3 account in the bond proceeds and insurance clearance fund;

4 ~~(2) All taxes levied, imposed, and assessed under the~~  
5 ~~provisions of 16-11-111(2) shall, when collected, be paid to~~  
6 ~~the state treasurer and credited~~

7 ~~(d) 16a61%~~ to a subfund in the sinking fund and shall,  
8 while any of the bonds issued and sold for the purpose of  
9 paying an honorarium or adjusted compensation to the  
10 residents of Montana who were in military service in the  
11 military forces of the United States in World War I or World  
12 War II or any of the interest thereon remain unpaid, be  
13 available for the payment thereof;

14 ~~(3) All taxes levied, imposed, and assessed under the~~  
15 ~~provisions of 16-11-111(3) shall, when collected, be paid to~~  
16 ~~the state treasurer and credited~~

17 ~~(e) 8a33%~~ to a subfund in the sinking fund, which  
18 shall, while any of the bonds hereafter issued and sold in  
19 addition to the bonds authorized by Initiative Measure No.  
20 54 as originally enacted or any of the interest upon such  
21 additional bonds remain unpaid, be used only for the payment  
22 thereof and of the expenses of administration of this part.

23 ~~(4)(2)~~ The war veterans' compensation fund established  
24 by Initiative No. 54, as amended by Chapter 44, Laws of  
25 1957, is abolished, and all moneys in the fund are

1 transferred to a subfund in the bond proceeds and insurance  
2 clearance fund. When all veterans' honoraria authorized by  
3 law have been paid, such moneys shall be transferred to the  
4 two accounts in the sinking fund established by this  
5 section.

6 ~~(5)(3)~~ After all of the outstanding war veterans'  
7 compensation bonds and World War I compensation bonds have  
8 been paid or redeemed or after the necessary funds have been  
9 set aside for their payment or redemption, the balance of  
10 the proceeds theretofore collected under the provisions of  
11 subsections ~~(2) (1)(d)~~ and ~~(3) (1)(e)~~ of 16-11-111 shall be  
12 transferred to the sinking fund account provided for in  
13 17-5-405."

14 Section 5. Section 17-5-408, MCA, is amended to read:  
15 "17-5-408. Percentage of income, corporation license,  
16 and cigarette tax pledged. (1) The state pledges and  
17 appropriates and directs to be credited as received to the  
18 sinking fund account 11% of all money received from the  
19 collection of the income tax and the corporation license tax  
20 referred to in 15-1-501 and such additional amount of said  
21 taxes, if any, as may at any time be needed to comply with  
22 the principal and interest and reserve requirements stated  
23 in 17-5-405(4), provided that no more than 11% of such tax  
24 collections shall be deemed to be pledged for the purpose of  
25 17-5-403(2). The pledge and appropriation herein made shall

1 be and remain at all times a first and prior charge upon all  
2 money received from the collection of said taxes.

3 (2) The state pledges and appropriates and directs to  
4 be credited to the sinking fund account ~~15% 11.25%~~ of all  
5 money received from the collection of the ~~9-cent~~ excise tax  
6 on cigarettes which is ~~levied, imposed, and assessed~~ by  
7 ~~16-11-111(1)~~ [section 1]. The state also pledges and  
8 appropriates and directs to be credited as received to the  
9 sinking fund account 25% of all money received from the  
10 collection of ~~each--of~~ the excise taxes ~~tax~~ on cigarettes  
11 which ~~are levied, is imposed, and assessed~~ by ~~subsection (2)~~  
12 ~~and (3) of 16-11-111 as amended~~ [section 1] after the  
13 payment and redemption in full of the outstanding bonds for  
14 which said taxes have heretofore been pledged and  
15 appropriated or after the necessary funds have been set  
16 aside for such payment and redemption as provided in this  
17 part. The state also pledges and appropriates and directs to  
18 be credited as received to the sinking fund account all  
19 money received from the collection of the taxes on other  
20 tobacco products which are or may hereafter be levied,  
21 imposed, and assessed by law for that purpose, including the  
22 tax levied, imposed, and assessed by 16-11-202. Nothing  
23 herein shall impair or otherwise affect the provisions and  
24 covenants contained in the resolutions authorizing the  
25 presently outstanding long-range building program bonds.

1 Subject to the provisions of the preceding sentence, the  
2 pledge and appropriation herein made shall be and remain at  
3 all times a first and prior charge upon all money received  
4 from the collection of all taxes referred to in this  
5 subsection (2)."

6 Section 6. Repealer. Section 16-11-111, MCA, is  
7 repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 344-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 13 , 19 79 , there is hereby submitted a Fiscal Note for Senate Bill 445 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

This proposed bill changes the method of computing the excise tax on cigarettes and revises its disposition.

ASSUMPTIONS

- 1) The number of packs of cigarettes sold in FY78 was 96.8 million. Assuming a 1.0% growth rate, the number of packs sold will be 100.8 million in FY80 and 101.8 million in FY81.
- 2) Under current law the effective tax is \$.1164 per pack of cigarettes.
- 3) The average cost of a pack of cigarettes for wholesalers will be \$.3250 in FY80 & FY81. (includes Federal tax)
- 4) Under the proposed law the effective tax would be \$.1576 per pack of cigarettes.
- 5) Administrative costs will remain unchanged.

FISCAL IMPACT

	<u>FY 80</u>	<u>FY 81</u>
Cigarette Tax		
under current law	\$11,733,120	\$11,849,520
under proposed law	<u>15,886,080</u>	<u>16,043,680</u>
Estimated Increase	<u>\$ 4,152,960</u>	<u>\$ 4,194,160</u>

FUND INFORMATION

General Fund		
under current law	\$ 4,173,120	\$4,214,520
under proposed law	<u>5,644,800</u>	<u>5,700,800</u>
Estimated Increase	<u>\$ 1,471,680</u>	<u>\$1,486,280</u>
Long Range Building Program Account		
(1) Sinking Fund		
under current law	\$ 4,384,800	\$ 4,428,300
under proposed law	<u>5,937,120</u>	<u>5,996,020</u>
Estimated Increase	<u>\$ 1,552,320</u>	<u>\$ 1,567,720</u>
(2) Bond Proceeds and Insurance Clearance Fund		
under current law	\$3,175,200	\$ 3,206,700
under proposed law	<u>4,304,160</u>	<u>4,346,860</u>
Estimated Increase	<u>\$1,128,960</u>	<u>\$ 1,140,160</u>

*Richard L. Franzen*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/16/79

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EFFECT ON LOCAL GOVERNMENTS

None

LONG-RANGE EFFECTS

The proposed legislation would increase revenues by at least \$4.1 million for each and every year it is in effect.

PREPARED BY DEPARTMENT OF REVENUE

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: .....