

HOUSE BILL NO. 838

2/15 Introduced
2/15 Fiscal Note Requested
2/15 Referred to Taxation
2/21 Fiscal Note Received
3/08 Hearing
3/28 Committee Report-Bill Pass As Amended
3/30 2nd Reading Do Not Pass
4/01 Reconsideration
Died in Process

HOUSE BILL NO. 838

INTRODUCED BY

J. Brown

Janet McClell Peterson O'Hara
Secretary, John Bradley Compton

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES AND ALLOCATING THE INCREASED REVENUE EQUALLY TO STATE EQUALIZATION AID TO EDUCATION AND CITIES AND TOWNS; AMENDING SECTIONS 16-11-202, 16-11-206, 17-5-408, AND 20-9-343, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 16-11-202, MCA, is amended to read:

"16-11-202. Tax on sale of tobacco other than cigarettes -- imposed on retail consumer -- rate of tax. (1) All taxes paid pursuant to the provisions of this section shall be exclusively presumed to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person, such payment shall be considered as an advance payment and shall be added to the price of tobacco products other than cigarettes and recovered from the ultimate consumer or user. Any person selling tobacco products other than cigarettes at retail shall state or separately display in the premises where such products are sold a notice of the tax included in the selling price and charged or payable pursuant to this

section. The provisions of this section shall in no way affect the method of collection of such tax as hereinafter provided.

(2) There is hereby levied, imposed, and assessed upon tobacco products other than cigarettes sold or possessed in this state and there shall be collected and paid to the state of Montana a tax of ~~12-1/2%~~ 25% of the wholesale price of such products to the wholesaler, excepting therefrom such products as may be shipped from Montana and destined for retail sale and consumption outside the state of Montana."

Section 2. Section 16-11-206, MCA, is amended to read:

"16-11-206. Wholesaler's discount -- disposition of taxes. (1) The taxes specified in this part that are paid by the wholesaler shall be paid to the department in full less a 5% defrayment for his collection and administrative expense ~~and shall be deposited by the department in the long-range building program debt service fund.~~ Refunds of the tax paid shall be made as provided in 15-1-503 in cases where the tobacco products purchased become unsalable.

(2) Revenue from the tax on tobacco products other than cigarettes is allocated as follows:

- (a) 50% to the long-range building program debt service fund;
- (b) 25% to the state special revenue fund for state equalization aid to public schools; and



1 (c) 25% to the counties to be distributed by the
2 county treasurer to the incorporated cities and towns in the
3 ratio that the population within the corporate limits of
4 each city or town bears to the total population within
5 corporate limits of all the cities and towns in Montana.

6 (3) All funds allocated to cities and towns under this
7 section must be used for construction, maintenance, and
8 repair of streets and for property tax relief."

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

10 "17-5-408. Percentage of income, corporation license,
11 and cigarette tax pledged. (1) The state pledges and
12 appropriates and directs to be credited as received to the
13 debt service account 11% of all money, except as provided in
14 15-31-702, received from the collection of the income tax
15 and the corporation license tax referred to in 15-1-501 and
16 such additional amount of said taxes, if any, as may at any
17 time be needed to comply with the principal and interest and
18 reserve requirements stated in 17-5-405(4), provided that no
19 more than 11% of such tax collections shall be deemed to be
20 pledged for the purpose of 17-5-403(2). The pledge and
21 appropriation herein made shall be and remain at all times a
22 first and prior charge upon all money received from the
23 collection of said taxes.

24 (2) The state pledges and appropriates and directs to
25 be credited to the debt service account 79.75% of all money

1 received from the collection of the 16-cent excise tax on
2 cigarettes which is levied, imposed, and assessed by
3 16-11-111. The state also pledges and appropriates and
4 directs to be credited as received to the debt service
5 account 50% of all money received from the collection of the
6 taxes on other tobacco products which are or may hereafter
7 be levied, imposed, and assessed by law for that purpose,
8 including the tax levied, imposed, and assessed by
9 16-11-202. Nothing herein shall impair or otherwise affect
10 the provisions and covenants contained in the resolutions
11 authorizing the presently outstanding long-range building
12 program bonds. Subject to the provisions of the preceding
13 sentence, the pledge and appropriation herein made shall be
14 and remain at all times a first and prior charge upon all
15 money received from the collection of all taxes referred to
16 in this subsection (2)."

17 Section 4. Section 20-9-343, MCA, is amended to read:

18 "20-9-343. Definition of and revenue for state
19 equalization aid. (1) As used in this title, the term "state
20 equalization aid" means those moneys deposited in the state
21 special revenue fund as required in this section plus any
22 legislative appropriation of moneys from other sources for
23 distribution to the public schools for the purpose of
24 equalization of the foundation program.

25 (2) The legislative appropriation for state

1 equalization aid shall be made in a single sum for the
2 biennium. The superintendent of public instruction has
3 authority to spend such appropriation, together with the
4 earmarked revenues provided in subsection (3), as required
5 for foundation program purposes throughout the biennium.

6 (3) The following shall be paid into the state special
7 revenue fund for state equalization aid to public schools of
8 the state:

9 (a) 25% of all moneys received from the collection of
10 income taxes under chapter 30 of Title 15;

11 (b) 25% of all moneys, except as provided in
12 15-31-702, received from the collection of corporation
13 license taxes under chapter 31 of Title 15, as provided by
14 15-1-501;

15 (c) 10% of the moneys received from the collection of
16 the severance tax on coal under chapter 35 of Title 15;

17 (d) 62 1/2% of the moneys received from the treasurer
18 of the United States as the state's shares of oil, gas, and
19 other mineral royalties under the federal Mineral Lands
20 Leasing Act, as amended;

21 (e) 25% of the money received from the collection of
22 the tax on tobacco products other than cigarettes, as
23 provided in 16-11-206;

24 (e)(f) interest and income moneys described in
25 20-9-341 and 20-9-342;

1 ~~(f)~~(g) income from the local impact and education
2 trust fund account; and

3 ~~(g)~~(h) in addition to these revenues, the surplus
4 revenues collected by the counties for foundation program
5 support according to 20-9-331 and 20-9-333 shall be paid
6 into the same state special revenue fund.

7 (4) Any surplus revenue in the state equalization aid
8 account in the second year of a biennium may be used to
9 reduce the appropriation required for the next succeeding
10 biennium [or may be transferred to the state permissive
11 account if revenues in that fund are insufficient to meet
12 the state's permissive amount obligation]."

13 NEW SECTION. Section 5. Extension of authority. Any
14 existing authority of the department of revenue to make
15 rules on the subject of the provisions of this act is
16 extended to the provisions of this act.

17 NEW SECTION. Section 6. Effective date --
18 applicability. This act is effective July 1, 1985, and
19 applies to sales of tobacco products other than cigarettes
20 reported to the department after July 31, 1985.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 445-85

Form BD-15

In compliance with a written request received February 18, 19 85, there is hereby submitted a Fiscal Note for H.B. 838 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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 OF PROPOSED LEGISLATION:

An act increasing the tax on tobacco products other than cigarettes and allocating the increased revenue equally to state equalization aid to education and cities and towns.

FISCAL IMPACT:

	Under Current Law	<u>FY 1986</u> Under Proposed Law	Difference	Under Current Law	<u>FY 1987</u> Under Proposed Law	Difference
Tobacco Products Tax	\$ 828,000	\$1,587,000	\$ 759,000	\$ 916,000	\$1,832,000	\$ 916,000
TOTAL REVENUE	\$ 828,000	\$1,587,000	\$ 759,000	\$ 916,000	\$1,832,000	\$ 916,000
 Fund Information						
Long Range Building Program						
Debt Service Fund	\$ 828,000	\$ 828,000	\$ -0-	\$ 916,000	\$ 916,000	\$ -0-
Equalization Aid to						
Public Schools	-0-	414,000	414,000	-0-	458,000	458,000
Cities and Towns	-0-	414,000	414,000	-0-	458,000	458,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Under the proposed law 25% of the tobacco products tax is allocated to cities and towns for construction, maintenance, and repair of streets and for property tax relief.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Future revenue under this proposal will depend on tobacco product sales.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 21, 1985

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 838

INTRODUCED BY JANET MOORE, PETERSON, O'HARA,
J. BROWN, KENNERLY, COHEN, BRADLEY, COMPTON

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE TAX ON
TOBACCO PRODUCTS OTHER THAN CIGARETTES AND ALLOCATING
REALLOCATING THE INCREASED REVENUE EQUALLY TO STATE
EQUALIZATION AID TO EDUCATION AND CITIES-AND-TOWNS TO THE
STATE GENERAL FUND; AMENDING SECTIONS 16-11-202, 16-11-206,
17-5-408, AND 20-9-343, MCA; AND PROVIDING AN EFFECTIVE DATE
AND AN APPLICABILITY DATE."

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

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cigarettes -- imposed on retail consumer -- rate of tax. (1)
All taxes paid pursuant to the provisions of this section
shall be exclusively presumed to be direct taxes on the
retail consumer, precollected for the purpose of convenience
and facility only. When the tax is paid by any other person,
such payment shall be considered as an advance payment and
shall be added to the price of tobacco products other than
cigarettes and recovered from the ultimate consumer or user.
Any person selling tobacco products other than cigarettes at
retail shall state or separately display in the premises

where such products are sold a notice of the tax included in
the selling price and charged or payable pursuant to this
section. The provisions of this section shall in no way
affect the method of collection of such tax as hereinafter
provided.

(2) There is hereby levied, imposed, and assessed upon
tobacco products other than cigarettes sold or possessed in
this state and there shall be collected and paid to the
state of Montana a tax of ~~12-1/2%~~ 25% of the wholesale price
of such products to the wholesaler, excepting therefrom such
products as may be shipped from Montana and destined for
retail sale and consumption outside the state of Montana."

Section 2. Section 16-11-206, MCA, is amended to read:

"16-11-206. Wholesaler's discount -- disposition of
taxes. (1) The taxes specified in this part that are paid by
the wholesaler shall be paid to the department in full less
a 5% defrayment for his collection and administrative
expense ~~and--shall--be--deposited--by--the--department--in--the~~
~~long-range-building-program-debt-service-fund.~~ Refunds of
the tax paid shall be made as provided in 15-1-503 in cases
where the tobacco products purchased become unsalable.

(2) Revenue from the tax on tobacco products other
than cigarettes is allocated as follows:

(a) 50% 75% to the long-range-building-program-debt
service STATE GENERAL fund; AND

1 (b) 25% to the state special revenue fund for state
2 equalization aid to public schools, and

3 ~~(c) 25% to the counties to be distributed by the~~
4 ~~county treasurer to the incorporated cities and towns in the~~
5 ~~ratio that the population within the corporate limits of~~
6 ~~each city or town bears to the total population within~~
7 ~~corporate limits of all the cities and towns in Montana.~~

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9 ~~section must be used for construction, maintenance, and~~
10 ~~repair of streets and for property tax relief."~~

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19 time be needed to comply with the principal and interest and
20 reserve requirements stated in 17-5-405(4), provided that no
21 more than 11% of such tax collections shall be deemed to be
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10 including the tax levied, imposed, and assessed by
11 16-11-202. Nothing herein shall impair or otherwise affect
12 the provisions and covenants contained in the resolutions
13 authorizing the presently outstanding long-range building
14 program bonds. Subject to the provisions of the preceding
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22 equalization aid" means those moneys deposited in the state
23 special revenue fund as required in this section plus any
24 legislative appropriation of moneys from other sources for
25 distribution to the public schools for the purpose of

1 equalization of the foundation program.

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3 equalization aid shall be made in a single sum for the
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5 authority to spend such appropriation, together with the
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