

HB 52 INTRODUCED BY JANET MOORE, ET AL.
RAISE TAX ON SMOKELESS TOBACCO FOR AID TO SCHOOLS

6/28	INTRODUCED	
6/28	REFERRED TO TAXATION	
6/28	HEARING	
6/28	ON MOTION, TAKEN FROM COMMITTEE AS AMENDED AND PLACED ON 2ND READING	49 43
6/28	2ND READING DO NOT PASS AS AMENDED	52 45
6/28	ON MOTION, RECONSIDERED ACTION ON 2ND READING; PLACED BACK ON 2ND READING ON MONDAY (06/30)	67 28
6/30	2ND READING DO NOT PASS BILL KILLED	54 45

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House BILL NO. *52*
INTRODUCED BY *Don't Moore* **SALES**
Rocke *Leahy* *Miller* *Connelly*
A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE TAX ON
TOBACCO PRODUCTS OTHER THAN CIGARETTES AND ALLOCATING ALL
THE REVENUE TO STATE AID TO EDUCATION; AMENDING SECTIONS
16-11-202, 16-11-206, 17-5-408, AND 20-9-343, MCA; AND
PROVIDING AN IMMEDIATE 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

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

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

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

12 "16-11-206. Wholesaler's discount -- disposition of
13 taxes. The taxes specified in this part that are paid by the
14 wholesaler shall be paid to the department in full less a 5%
15 defrayment for his collection and administrative expense and
16 shall be deposited by the department in the long-range
17 building program debt service fund for state equalization
18 aid to public schools. Refunds of the tax paid shall be made
19 as provided in 15-1-503 in cases where the tobacco products
20 purchased become unsalable."

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

22 "17-5-408. (Effective unless contingency occurs--see
23 compiler's comments) Percentage of income, corporation
24 license, and cigarette tax pledged. (1) The state pledges
25 and appropriates and directs to be credited as received to

INTRODUCED BILL

HBS2

1 the debt service account 11% of all money, except as
 2 provided in 15-31-702, received from the collection of the
 3 income tax and the corporation license tax referred to in
 4 15-1-501 and such additional amount of said taxes, if any,
 5 as may at any time be needed to comply with the principal
 6 and interest and reserve requirements stated in 17-5-405(4),
 7 provided that no more than 11% of such tax collections shall
 8 be deemed to be pledged for the purpose of 17-5-403(2). The
 9 pledge and appropriation herein made shall be and remain at
 10 all times a first and prior charge upon all money received
 11 from the collection of said taxes.

12 (2) The state pledges and appropriates and directs to
 13 be credited to the debt service account 79.75% of all money
 14 received from the collection of the excise tax on cigarettes
 15 which is levied, imposed, and assessed by 16-11-111. The
 16 ~~state also pledges and appropriates and directs to be~~
 17 ~~credited as received to the debt service account all money~~
 18 ~~received from the collection of the taxes on other tobacco~~
 19 ~~products which are or may hereafter be levied, imposed, and~~
 20 ~~assessed by law for that purpose, including the tax levied,~~
 21 ~~imposed, and assessed by 16-11-202.~~ Nothing herein shall
 22 impair or otherwise affect the provisions and covenants
 23 contained in the resolutions authorizing the presently
 24 outstanding long-range building program bonds. Subject to
 25 the provisions of the preceding sentence, the pledge and

1 appropriation herein made shall be and remain at all times a
 2 first and prior charge upon all money received from the
 3 collection of all taxes referred to in this subsection (2).
 4 (Revived July 1, 1987--sec. 4, Ch. 704, L. 1985.)

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

20 (2) The state pledges and appropriates and directs to
 21 be credited to the debt service account 53.17% of all money
 22 received from the collection of the excise tax on cigarettes
 23 which is levied, imposed, and assessed by 16-11-111. The
 24 ~~state also pledges and appropriates and directs to be~~
 25 ~~credited as received to the debt service account all money~~

1 ~~received from the collection of the taxes on other tobacco~~
 2 ~~products which are or may hereafter be levied, imposed, and~~
 3 ~~assessed by law for that purpose, including the tax levied,~~
 4 ~~imposed, and assessed by 16-11-202.~~ Nothing herein shall
 5 impair or otherwise affect the provisions and covenants
 6 contained in the resolutions authorizing the presently
 7 outstanding long-range building program bonds. Subject to
 8 the provisions of the preceding sentence, the pledge and
 9 appropriation herein made shall be and remain at all times a
 10 first and prior charge upon all money received from the
 11 collection of all taxes referred to in this subsection (2)."

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

13 "20-9-343. Definition of and revenue for state
 14 equalization aid. (1) As used in this title, the term "state
 15 equalization aid" means those moneys deposited in the state
 16 special revenue fund as required in this section plus any
 17 legislative appropriation of moneys from other sources for
 18 distribution to the public schools for the purpose of
 19 equalization of the foundation program.

20 (2) The legislative appropriation for state
 21 equalization aid shall be made in a single sum for the
 22 biennium. The superintendent of public instruction has
 23 authority to spend such appropriation, together with the
 24 earmarked revenues provided in subsection (3), as required
 25 for foundation program purposes throughout the biennium.

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

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

6 (b) 25% of all moneys, except as provided in
 7 15-31-702, received from the collection of corporation
 8 license taxes under chapter 31 of Title 15, as provided by
 9 15-1-501;

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

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

16 (e) the money received from the collection of the tax
 17 on tobacco products other than cigarettes, as provided in
 18 16-11-206;

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

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

23 ~~(g)(h)~~ in addition to these revenues, the surplus
 24 revenues collected by the counties for foundation program
 25 support according to 20-9-331 and 20-9-333 shall be paid

1 into the same state special revenue fund.

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

8 NEW SECTION. Section 5. Extension of authority. Any
9 existing authority of the department of revenue to make
10 rules on the subject of the provisions of this act is
11 extended to the provisions of this act.

12 NEW SECTION. Section 6. Effective date --
13 applicability. This act is effective on passage and approval
14 and applies to sales of tobacco products other than
15 cigarettes reported to the department after July 31, 1986.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB052 , Version: as introduced

Description of Proposed Legislation:

A bill increasing the tax on tobacco products other than cigarettes and allocating all the revenue to state aid to education.

Assumptions:

1. The Revenue Estimating Advisory Council's estimate provides the basis of comparison.
2. FY 87 collection under current law will be \$776,000.

Fiscal Impact:

		FY 87	
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Increase</u>
Tobacco Products Tax	\$776,000	\$1,552,000	\$776,000

Fund Information:

Long-Range Building Bond Debt Service Account	\$776,000	\$	0	(\$776,000)
State Equalization Aid	\$	0	\$1,552,000	\$1,552,000

Long-Range Effects of Proposed Legislation:

The proposal will divert an estimated \$857,000 from the long-range debt service account to the school foundation program in FY 88. An additional \$857,000 will be generated for the school foundation program by the higher tax rate in FY 88.

Technical Note:

In section 2 of the bill, the reference to the long-range building program debt service account was not deleted.

David L. Hunter 5/27/86
BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Paul Moore 6-28-86
PRIMARY SPONSOR DATE

Fiscal Note for HB052 as introduced