

HB 545 INTRODUCED BY MOORE, ET AL.
RAISE TAX ON SMOKELESS TOBACCO FOR AID TO SCHOOLS

1/30 INTRODUCED
1/30 REFERRED TO TAXATION
1/30 FISCAL NOTE REQUESTED
2/04 FISCAL NOTE RECEIVED
2/20 HEARING
3/17 HEARING
3/19 TABLED IN COMMITTEE

1 House BILL NO. 545
 2 INTRODUCED BY Stella Jean Hansen
 3 Connelly Tony
 4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE TAX ON
 5 TOBACCO PRODUCTS OTHER THAN CIGARETTES AND ALLOCATING ALL
 6 THE REVENUE TO STATE AID TO EDUCATION; AMENDING SECTIONS
 7 16-11-202, 16-11-206, 17-5-408, AND 20-9-343, MCA; AND
 8 PROVIDING AN EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 16-11-202, MCA, is amended to read:
 12 "16-11-202. Tax on sale of tobacco other than
 13 cigarettes -- imposed on retail consumer -- rate of tax. (1)
 14 All taxes paid pursuant to the provisions of this section
 15 shall be exclusively presumed to be direct taxes on the
 16 retail consumer, precollected for the purpose of convenience
 17 and facility only. When the tax is paid by any other person,
 18 such payment shall be considered as an advance payment and
 19 shall be added to the price of tobacco products other than
 20 cigarettes and recovered from the ultimate consumer or user.
 21 Any person selling tobacco products other than cigarettes at
 22 retail shall state or separately display in the premises
 23 where such products are sold a notice of the tax included in
 24 the selling price and charged or payable pursuant to this
 25 section. The provisions of this section shall in no way

1 affect the method of collection of such tax as hereinafter
 2 provided.

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

10 Section 2. Section 16-11-206, MCA, is amended to read:
 11 "16-11-206. Wholesaler's discount -- disposition of
 12 taxes. The taxes specified in this part that are paid by the
 13 wholesaler shall be paid to the department in full less a 5%
 14 defrayment for his collection and administrative expense and
 15 shall be deposited by the department in the ~~long-range~~
 16 ~~building-program-debt-service~~ state special revenue fund for
 17 state equalization aid to public schools. Refunds of the tax
 18 paid shall be made as provided in 15-1-503 in cases where
 19 the tobacco products purchased become unsalable."

20 Section 3. Section 17-5-408, MCA, is amended to read:
 21 "17-5-408. Percentage of income, corporation license,
 22 and cigarette tax pledged. (1) The state pledges and
 23 appropriates and directs to be credited as received to the
 24 debt service account 11% of all money, except as provided in
 25 15-31-702, received from the collection of the income tax



-2- INTRODUCED BILL
 HB 545

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

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

1 collection of all taxes referred to in this subsection (2)."

2 Section 4. Section 20-9-343, MCA, is amended to read:
 3 "20-9-343. Definition of and revenue for state
 4 equalization aid. (1) As used in this title, the term "state
 5 equalization aid" means those moneys deposited in the state
 6 special revenue fund as required in this section plus any
 7 legislative appropriation of moneys from other sources for
 8 distribution to the public schools for the purpose of
 9 equalization of the foundation program.

10 (2) The legislative appropriation for state
 11 equalization aid shall be made in a single sum for the
 12 biennium. The superintendent of public instruction has
 13 authority to spend such appropriation, together with the
 14 earmarked revenues provided in subsection (3), as required
 15 for foundation program purposes throughout the biennium.

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

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

21 (b) 25% of all moneys, except as provided in
 22 15-31-702, received from the collection of corporation
 23 license taxes under chapter 31 of Title 15, as provided by
 24 15-1-501;

25 (c) 10% of the moneys received from the collection of

1 the severance tax on coal under chapter 35 of Title 15;

2 (d) 100% of the moneys received from the treasurer of
3 the United States as the state's shares of oil, gas, and
4 other mineral royalties under the federal Mineral Lands
5 Leasing Act, as amended;

6 (e) the money received from the collection of the tax
7 on tobacco products other than cigarettes, as provided in
8 16-11-206;

9 ~~(f)~~ interest and income moneys described in
10 20-9-341 and 20-9-342;

11 ~~(g)~~ income from the local impact and education
12 trust fund account; and

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

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

23 NEW SECTION. Section 5. Extension of authority. Any
24 existing authority of the department of revenue to make
25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.

2 NEW SECTION. Section 6. Effective date. This act is
3 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB545, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act increasing the tax on tobacco products other than cigarettes and allocating all the revenue to state aid for equalization; and providing an effective date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimate of receipts from the tobacco products tax provides the basis for comparison.
2. Receipts will be \$716,000 in FY 88 and \$743,000 in FY 89.
3. It is assumed that the tax increase will have an insignificant effect on consumption. If findings on the effects of price increases on cigarette consumption apply to other tobacco products, this assumption is correct. A study by The National Bureau of Economic Research shows that consumption of cigarettes falls by only 1 percent for each 10 percent increase in price. Other studies agree with this conclusion.
4. Revenue effects include a one month timing lag in the first year of the biennium.

FISCAL IMPACT:Revenue Impact:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Tobacco Products Tax	\$ 716,000	\$ 1,373,000	\$ 657,000	\$ 743,000	\$ 1,486,000	\$ 743,000

Expenditure Impact:

None

Fund Information:Long-Range Building Program

Debt Service Fund	\$ 716,000	\$ 60,000	(\$ 656,000)	\$ 743,000	\$ 0	(\$ 743,000)
School Equalization	\$ 0	\$ 1,313,000	\$ 1,313,000	\$ 0	\$ 1,486,000	\$ 1,486,000

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposal will reduce the amount of money flowing into the debt service account established to pay principal and interest on General Obligation Long-Range Building Program bonds. If this revenue is not available for debt service as previously planned, the general fund may have to use other general fund revenue sources to meet debt service requirements. Any balance in the debt service fund not needed for debt service flows into the general fund to be used for other purposes. Therefore the effect is to reduce general fund revenues from the debt service account.

David L. Hunter DATE 2/4/89
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Janet Moore DATE 2-4-89
 JANET MOORE, PRIMARY SPONSOR

Fiscal Note for HB545, as introduced.HB 545