

SB 312 INTRODUCED BY BROWN, R.
INCREASE OF 10 CENTS IN CIGARETTE TAX TO EQUALIZE
PART OF TEACHER RETIREMENT LEVY

2/10 INTRODUCED
2/10 REFERRED TO TAXATION
2/10 FISCAL NOTE REQUESTED
2/17 FISCAL NOTE RECEIVED
3/04 HEARING
3/06 TABLED IN COMMITTEE

1 Senate BILL NO. 312
2 INTRODUCED BY Bob Brown

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE
5 CIGARETTE SALES TAX FROM 16 TO 20 CENTS A PACKAGE; REQUIRING
6 REVENUE GENERATED BY THE INCREASE TO BE USED TO EQUALIZE A
7 PORTION OF THE FINANCING OF THE RETIREMENT FUND LEVY
8 REQUIREMENTS OF ELEMENTARY AND HIGH SCHOOL DISTRICTS;
9 AMENDING SECTIONS 16-11-111, 16-11-119, 17-5-408, 20-3-106,
10 AND 20-9-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 16-11-111, MCA, is amended to read:

14 "16-11-111. Cigarette sales tax. There is hereby
15 levied, imposed, and assessed and there shall be collected
16 and paid to the state of Montana upon cigarettes sold or
17 possessed in this state the following excise tax which shall
18 be paid prior to the time of sale and delivery thereof: ~~16~~
19 20 cents on each package containing not more than 20
20 cigarettes and, when packages contain more than 20
21 cigarettes, then a tax on each cigarette equal to 1/20th the
22 tax on a package containing not more than 20 cigarettes."

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

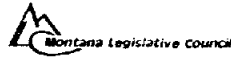
24 "16-11-119. Disposition of taxes -- retirement of
25 bonds. All moneys collected under the provisions of

1 16-11-111, less the expense of collecting all the taxes
2 levied, imposed, and assessed by said section, shall be paid
3 to the state treasurer and deposited as follows:

- 4 (1) ~~79.75%~~ 63.8% in the long-range building program
- 5 fund in the debt service fund type; and
- 6 (2) ~~20-25%~~ 16.2% in the long-range building program
- 7 fund in the capital projects fund type; and
- 8 (3) 20% in a retirement fund equalization aid account
- 9 in the state special revenue fund for the purposes of
- 10 [sections 6 and 7]."

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

12 "17-5-408. Percentage of income, corporation license,
13 and cigarette tax pledged. (1) The state pledges and
14 appropriates and directs to be credited as received to the
15 debt service account 11% of all money, except as provided in
16 15-31-702, received from the collection of the income tax
17 and the corporation license tax referred to in 15-1-501 and
18 such additional amount of said taxes, if any, as may at any
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
22 pledged for the purpose of 17-5-403(2). The pledge and
23 appropriation herein made shall be and remain at all times a
24 first and prior charge upon all money received from the
25 collection of said taxes.



-2- INTRODUCED BILL
SB 312

1 (2) The state pledges and appropriates and directs to
 2 be credited to the debt service account ~~79.75%~~ 63.8% of all
 3 money received from the collection of the excise tax on
 4 cigarettes which is levied, imposed, and assessed by
 5 16-11-111. The state also pledges and appropriates and
 6 directs to be credited as received to the debt service
 7 account all money received from the collection of the taxes
 8 on other tobacco products which are or may hereafter be
 9 levied, imposed, and assessed by law for that purpose,
 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
 15 sentence, the pledge and appropriation herein made shall be
 16 and remain at all times a first and prior charge upon all
 17 money received from the collection of all taxes referred to
 18 in this subsection (2)."

19 Section 4. Section 20-3-106, MCA, is amended to read:

20 "20-3-106. Supervision of schools -- powers and
 21 duties. The superintendent of public instruction has the
 22 general supervision of the public schools and districts of
 23 the state, and he shall perform the following duties or acts
 24 in implementing and enforcing the provisions of this title:

25 (1) resolve any controversy resulting from the

1 proration of costs by a joint board of trustees under the
 2 provisions of 20-3-362;

3 (2) issue, renew, or deny teacher certification and
 4 emergency authorizations of employment;

5 (3) negotiate reciprocal tuition agreements with other
 6 states in accordance with the provisions of 20-5-314;

7 (4) serve on the teachers' retirement board in
 8 accordance with the provisions of 2-15-1010;

9 (5) approve or disapprove the orders of a high school
 10 boundary commission in accordance with the provisions of
 11 20-6-311;

12 (6) approve or disapprove the opening or reopening of
 13 a school in accordance with the provisions of 20-6-502,
 14 20-6-503, 20-6-504, or 20-6-505;

15 (7) approve or disapprove school isolation within the
 16 limitations prescribed by 20-9-302;

17 (8) generally supervise the school budgeting
 18 procedures prescribed by law in accordance with the
 19 provisions of 20-9-102 and prescribe the school budget
 20 format in accordance with the provisions of 20-9-103 and
 21 20-9-506;

22 (9) establish a system of communication for
 23 calculating joint district revenues in accordance with the
 24 provisions of 20-9-151;

25 (10) approve or disapprove the adoption of a district's

1 emergency budget resolution under the conditions prescribed
 2 in 20-9-163 and publish rules for an application for
 3 additional state aid for an emergency budget in accordance
 4 with the approval and disbursement provisions of 20-9-166;
 5 (11) generally supervise the school financial
 6 administration provisions as prescribed by 20-9-201(2);
 7 (12) prescribe and furnish the annual report forms to
 8 enable the districts to report to the county superintendent
 9 in accordance with the provisions of 20-9-213(5) and the
 10 annual report forms to enable the county superintendents to
 11 report to the superintendent of public instruction in
 12 accordance with the provisions of 20-3-209;
 13 (13) approve, disapprove, or adjust an increase of the
 14 average number belonging (ANB) in accordance with the
 15 provisions of 20-9-313 and 20-9-314;
 16 (14) distribute state equalization aid in support of
 17 the foundation program in accordance with the provisions of
 18 20-9-342, 20-9-346, and 20-9-347;
 19 (15) distribute state impact aid in accordance with the
 20 provisions of 20-9-304;
 21 (16) provide for the uniform and equal provision of
 22 transportation by performing the duties prescribed by the
 23 provisions of 20-10-112;
 24 (17) approve or disapprove an adult education program
 25 for which a district proposes to levy a tax in accordance

1 with the provisions of 20-7-705;
 2 (18) request, accept, deposit, and expend federal
 3 moneys in accordance with the provisions of 20-9-603;
 4 (19) authorize the use of federal moneys for the
 5 support of an interlocal cooperative agreement in accordance
 6 with the provisions of 20-9-703 and 20-9-704;
 7 (20) prescribe the form and contents of and approve or
 8 disapprove interstate contracts in accordance with the
 9 provisions of 20-9-705;
 10 (21) approve or disapprove the conduct of school on a
 11 Saturday or on pupil-instruction-related days in accordance
 12 with the provisions of 20-1-303 and 20-1-304;
 13 (22) recommend standards of accreditation for all
 14 schools to the board of public education and evaluate
 15 compliance with such standards and recommend accreditation
 16 status of every school to the board of public education in
 17 accordance with the provisions of 20-7-101 and 20-7-102;
 18 (23) collect and maintain a file of curriculum guides
 19 and assist schools with instructional programs in accordance
 20 with the provisions of 20-7-113 and 20-7-114;
 21 (24) establish and maintain a library of visual, aural,
 22 and other educational media in accordance with the
 23 provisions of 20-7-201;
 24 (25) license textbook dealers and initiate prosecution
 25 of textbook dealers violating the law in accordance with the

1 provisions of the textbooks part of this title;
 2 (26) as the governing agent and executive officer of
 3 the state of Montana for vocational education, adopt the
 4 policies prescribed by and in accordance with the provisions
 5 of 20-7-301;
 6 (27) consider applications for the designation of a
 7 postsecondary vocational-technical center in accordance with
 8 the provisions of 20-7-311;
 9 (28) establish a fund for the handling of postsecondary
 10 vocational-technical center fees in accordance with the
 11 provisions of 20-7-333;
 12 (29) supervise and coordinate the conduct of special
 13 education in the state in accordance with the provisions of
 14 20-7-403;
 15 (30) administer the traffic education program in
 16 accordance with the provisions of 20-7-502;
 17 (31) administer the school food services program in
 18 accordance with the provisions of 20-10-201, 20-10-202, and
 19 20-10-203;
 20 (32) review school building plans and specifications in
 21 accordance with the provisions of 20-6-622;
 22 (33) prescribe the method of identification and signals
 23 to be used by school safety patrols in accordance with the
 24 provisions of 20-1-408; and
 25 (34) distribute state retirement fund equalization aid

1 in accordance with the provisions of [sections 6 and 7]; and
 2 ~~(34)~~(35) perform any other duty prescribed from time to
 3 time by this title, any other act of the legislature, or the
 4 policies of the board of public education."
 5 Section 5. Section 20-9-501, MCA, is amended to read:
 6 "20-9-501. Retirement fund. (1) The trustees of any
 7 district employing personnel who are members of the
 8 teachers' retirement system or the public employees'
 9 retirement system or who are covered by unemployment
 10 insurance or who are covered by any federal social security
 11 system requiring employer contributions shall establish a
 12 retirement fund for the purposes of budgeting and paying the
 13 employer's contributions to such systems. The district's
 14 contribution for each employee who is a member of the
 15 teachers' retirement system shall be calculated in
 16 accordance with Title 19, chapter 4, part 6. The district's
 17 contribution for each employee who is a member of the public
 18 employees' retirement system shall be calculated in
 19 accordance with 19-3-801. The district may levy a special
 20 tax to pay its contribution to the public employees'
 21 retirement system under the conditions prescribed in
 22 19-3-204. The district's contributions for each employee
 23 covered by any federal social security system shall be paid
 24 in accordance with federal law and regulation. The
 25 district's contribution for each employee who is covered by

1 unemployment insurance shall be paid in accordance with
2 Title 39, chapter 51, part 11.

3 (2) The trustees of any district required to make a
4 contribution to any such system shall include in the
5 retirement fund of the preliminary budget the estimated
6 amount of the employer's contribution and such additional
7 moneys, within legal limitations, as they may wish to
8 provide for the retirement fund cash reserve. After the
9 final retirement fund budget has been adopted, the trustees
10 shall pay the employer contributions to such systems in
11 accordance with the financial administration provisions of
12 this title.

13 (3) When the final retirement fund budget has been
14 adopted, the county superintendent shall establish the levy
15 requirement by:

16 (a) determining the sum of the moneys available to
17 reduce the retirement fund levy requirement by adding:

18 (i) any anticipated moneys that may be realized in the
19 retirement fund during the ensuing school fiscal year,
20 including anticipated motor vehicle fees and reimbursement
21 under the provisions of 61-3-532 and 61-3-536;

22 (ii) net proceeds taxes for new production, as defined
23 in 15-23-601; and

24 (iii) any cash available for reappropriation as
25 determined by subtracting the amount of the end-of-the-year

1 cash balance earmarked as the retirement fund cash reserve
2 for the ensuing school fiscal year by the trustees from the
3 end-of-the-year cash balance in the retirement fund. The
4 retirement fund cash reserve shall not be more than 35% of
5 the final retirement fund budget for the ensuing school
6 fiscal year and shall be used for the purpose of paying
7 retirement fund warrants issued by the district under the
8 final retirement fund budget.

9 (b) subtracting the total of the moneys available for
10 reduction of the levy requirement as determined in
11 subsection (3)(a) from the budgeted amount for expenditures
12 in the final retirement fund budget.

13 (4) The county superintendent shall:

14 (a) total the net retirement fund levy requirements
15 separately for all elementary school districts, all high
16 school districts, and all community college districts of the
17 county, including any prorated joint district or special
18 education cooperative agreement levy requirements;--and
19 shall;

20 (b) reduce the total retirement fund levy requirements
21 of elementary school districts and high school districts by
22 the amount available in state retirement fund equalization
23 aid as calculated by the superintendent of public
24 instruction under [section 7]; and

25 (c) report each such levy requirement to the county

1 commissioners on the second Monday of August as the
2 respective county levy requirements for elementary district,
3 high school district, and community college district
4 retirement funds.

5 (5) The county commissioners shall fix and set such
6 county levy in accordance with 20-9-142.

7 ~~(5)~~(6) The net retirement fund levy requirement for a
8 joint elementary district or a joint high school district
9 shall be prorated to each county in which a part of such
10 district is located in the same proportion as the district
11 ANB of the joint district is distributed by pupil residence
12 in each such county. The county superintendents of the
13 counties affected shall jointly determine the net retirement
14 fund levy requirement for each county as provided in
15 20-9-151.

16 ~~(6)~~(7) The net retirement fund levy requirement for
17 districts that are members of special education cooperative
18 agreements shall be prorated to each county in which such
19 district is located in the same proportion as the budget for
20 the special education cooperative agreement of the district
21 bears to the total budget of the cooperative. The county
22 superintendents of the counties affected shall jointly
23 determine the net retirement fund levy requirement for each
24 county in the same manner as provided in 20-9-151 and fix
25 and levy the net retirement fund levy for each county in the

1 same manner as provided in 20-9-152."

2 NEW SECTION. Section 6. Authorization to appropriate
3 from retirement fund equalization aid account. To equalize
4 the financing of the retirement fund levy requirements of
5 elementary and high school districts provided for in
6 20-9-501, the legislature may appropriate funds from the
7 retirement fund equalization aid account in the state
8 special revenue fund to the superintendent of public
9 instruction to be distributed to each county superintendent
10 on the basis of a dollar amount per average number belonging
11 (ANB) for the total ANB of the county school districts.

12 NEW SECTION. Section 7. Duties of the superintendent
13 of public instruction for distribution of retirement fund
14 equalization aid. To distribute the retirement fund
15 equalization aid as provided in [section 6], the
16 superintendent of public instruction shall:

17 (1) establish the dollar amount per ANB by dividing
18 the legislative appropriation for the school year by the
19 total state ANB in the prior school year;

20 (2) notify each county superintendent by the fourth
21 Monday of July of the total retirement fund equalization aid
22 available to the county, as calculated separately for
23 elementary and high school districts using the prior year's
24 ANB and prorated as specified in 20-9-501(6) for any joint
25 school district, so that each county superintendent may use

1 such amounts as prescribed in 20-9-501 to calculate the
2 total retirement fund levy requirement for elementary school
3 districts and the total retirement fund levy requirement for
4 high school districts; and

5 (3) distribute by state warrant the total amount of
6 retirement fund equalization aid for each county by October
7 1 of the school fiscal year.

8 NEW SECTION. Section 8. Codification instruction.
9 Sections 6 and 7 are intended to be codified as an integral
10 part of Title 20, chapter 9, part 5, and the provisions of
11 Title 20 apply to sections 6 and 7.

12 NEW SECTION. Section 9. Effective date. This act is
13 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 SB312, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the cigarette sales tax from 16 to 20 cents a package; requiring revenue generated by the increase to be used to equalize a portion of the financing of the retirement fund levy requirements of elementary and high school districts; providing an effective date.

ASSUMPTIONS:

1. Cigarette tax receipts, under the current law, will be \$10.908 million in FY88 and \$10.291 million in FY89 (REAC estimate).
2. It is assumed that the proposed increase in the cigarette sales tax will have an insignificant effect on cigarette consumption in Montana. A study by the National Bureau of Economic Research indicates that consumption of cigarettes falls by only 1 percent for each 10 percent increase in price. Other studies concur with this conclusion.
3. Cigarette sales tax collections are allocated as follows under the proposed law: 63.8% debt service; 16.2% cash program; 20.0% retirement fund.
4. Revenue effects include a one-month timing lag in the first year of the biennium.

FISCAL IMPACT:

Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Cigarette Tax	\$10,908,000	\$13,408,000	\$ 2,500,000	\$10,291,000	\$12,864,000	\$ 2,573,000

FUND INFORMATION:

Long-Range Building						
Debt Service	\$ 8,699,000	\$ 8,699,000	\$ 0	\$ 8,207,000	\$ 8,207,000	\$ 0
Long-Range Building						
Cash Program	2,209,000	2,209,000	0	\$ 2,084,000	\$ 2,084,000	0
Retirement Fund						
Equalization Aid	\$ 0	\$ 2,500,000	\$ 2,500,000	\$ 0	\$ 2,573,000	\$ 2,573,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The proposed law would enable county superintendents of public instruction to reduce total retirement fund levy requirements of elementary and high school districts by a total of \$2.500 million in FY88 and \$2.573 million in FY89.

David L. Hunter DATE 2/16/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Bob Brown DATE 2/17/87
 ROBERT BROWN, PRIMARY SPONSOR

Fiscal Note for SB312, as introduced.

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COUNTY RETIREMENT-SB312 -2/16/87

COUNTY NAME	ANB	FY88-AMT CNTY RET	SB312 IMPACT	DIFFERENCE FY88	DIFFERENCE FY89	MILLS DIFFER ENCE
BEAVERHEAD	1543	482136	25459.50	456676	478941	-1.87
BIG HORN	2326	865261	38379.00	826882	867038	-0.33
BLAINE	1584	583388	26136.00	557252	584320	-0.63
BROADWATER	694	162501	11451.00	151050	158476	-1.08
CARBON	1647	579388	27175.50	552212	579061	-0.98
CARTER	267	106996	4405.50	102591	107565	-0.58
CASCADE	13733	4697656	226594.5	4471061	4688579	-2.67
CHOUTEAU	1157	387250	19090.50	368160	386080	-0.68
CUSTER	2128	693189	35112.00	658077	690128	-2.04
DANIELS	540	240553	8910.00	231643	242855	-1.19
DAWSON	2234	696363	36861.00	659502	691657	-1.36
DEER LODGE	1980	626966	32670.00	594296	623260	-3.77
FALLON	794	348192	13101.00	335091	351314	-0.12
FERGUS	2184	774860	36036.00	738824	774739	-1.74
FLATHEAD	11508	3175984	189882.0	2986102	3132161	-2.29
GALLATIN	7131	2107639	117661.5	1989977	2087132	-2.03
GARFIELD	333	117103	5494.50	111609	117035	-0.78
GLACIER	2815	1163824	46447.50	1117377	1171530	-1.02
GOLDEN VALLEY	191	94262	3151.50	91110	95513	-0.64
GRANITE	567	186615	9355.50	177260	185891	-1.79
HILL	3153	1231297	52024.50	1179273	1236487	-1.14
JEFFERSON	1556	462999	25674.00	437325	458672	-1.59
JUDITH BASIN	484	180172	7986.00	172186	180547	-0.92
LAKE	4153	1225780	68524.50	1157256	1213758	-2.73
LEWIS & CLARK	8813	2689409	145414.5	2543995	2668096	-2.54
LIBERTY	470	173088	7755.00	165333	173364	-0.38
LINCOLN	3966	1253190	65439.00	1187751	1245642	-1.97
MADISON	1008	371715	16632.00	355083	372330	-1.01
McCONE	514	178997	8481.00	170516	178808	-0.84
MEAGHER	371	133699	6121.50	127577	133777	-0.81
MINERAL	852	320146	14058.00	306088	320950	-3.26
MISSOULA	12378	4171992	204237.0	3967755	4160852	-1.77
MUSSELSHELL	943	314040	15559.50	298481	313011	-0.58
PARK	2404	834918	39666.00	795252	833928	-2.26
PETROLEUM	128	58932	2112.00	56820	59569	-0.77
PHILLIPS	1095	400027	18067.50	381959	400516	-0.50
PONDREA	1365	540430	22522.50	517907	543028	-0.99
POWDER RIVER	518	176755	8547.00	168208	176392	-0.17
POWELL	1164	395763	19206.00	376557	394879	-1.45
PRAIRIE	366	115626	6039.00	109587	114928	-0.97
RAVALLI	4852	1224686	80058.00	1144628	1200763	-3.50
RICHLAND	2755	773366	45457.50	727908	763496	-0.43
ROOSEVELT	2713	990365	44764.50	945601	991540	-0.60
ROSEBUD	2849	1245320	47008.50	1198311	1256330	-0.22
SANDERS	1899	597398	31333.50	566064	593657	-1.61
SHERIDAN	1026	411338	16929.00	394408	413534	-0.20
SILVER BOW	6285	2418586	103702.5	2314883	2427226	-2.51
STILLWATER	1237	410196	20410.50	389786	408762	-1.43
SWEET GRASS	622	182977	10263.00	172714	181148	-1.60

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COUNTY RETIREMENT-SB312 -2/16/87

COUNTY NAME	ANB	FY88-AMT CNTY RET	SB312 IMPACT	DIFFERENCE FY88	DIFFERENCE FY89	MILLS DIFFER ENCE
TETON	1248	405273	20592.00	384681	403418	-1.07
TOOLE	1020	373595	16830.00	356765	374097	-0.37
TREASURER	191	74528	3151.50	71376	74839	-0.73
VALLEY	1929	818679	31828.50	786850	824967	-0.68
WHEATLAND	440	148473	7260.00	141213	148085	-1.09
WIBAUX	298	117192	4917.00	112275	117721	-0.20
YELLOWSTONE	21137	6693888	348760.5	6345127	6654372	-1.78
*** Total ***	151558	50204959	2500707	47704252	50026764	

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