

HOUSE BILL 494

Introduced by Moore, et al.

1/28	Introduced
1/30	Referred to Taxation
1/31	Fiscal Note Requested
2/07	Fiscal Note Received
2/08	Fiscal Note Printed
2/09	Hearing
2/15	Tabled in Committee

1 House BILL NO. 494
2 INTRODUCED BY James Moore-Badger
3 Kyle Steve Frank Bradley Harvey Brooke
4 Stirling Cochran John Daniel Brown
A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE TAX ON

5 TOBACCO PRODUCTS OTHER THAN CIGARETTES AND ALLOCATING THE
6 INCREASED REVENUE TO STATE EQUALIZATION AID TO EDUCATION;
7 AMENDING SECTIONS 16-11-202, 16-11-206, 17-5-408, AND
8 20-9-343, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN
9 APPLICABILITY DATE."

10

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

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

13 "16-11-202. Tax on sale of tobacco other than
14 cigarettes -- imposed on retail consumer -- rate of tax. (1)
15 All taxes paid pursuant to the provisions of this section
16 ~~shall--be~~ are exclusively presumed to be direct taxes on the
17 retail consumer, precollected for the purpose of convenience
18 and facility only. When the tax is paid by any other person,
19 ~~such the payment shall--be~~ is considered as an advance
20 payment and ~~shall--be~~ is added to the price of tobacco
21 products other than cigarettes and recovered from the
22 ultimate consumer or user. Any person selling tobacco
23 products other than cigarettes at retail shall state or
24 separately display in the premises where ~~such the~~ the products
25 are sold a notice of the tax included in the selling price

1 and charged or payable pursuant to this section. The
2 provisions of this section ~~shall~~ in no way affect the method
3 of collection of ~~such~~ the tax as ~~hereinafter~~ provided in
4 this part.

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

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

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

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

24 (a) 50% to the long-range building program debt
25 service fund; and

1 (b) 50% to the state special revenue fund for state
2 equalization aid to public schools."

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

4 "17-5-408. Percentage of income, corporation license,
5 and cigarette tax pledged. (1) (a) The state pledges and
6 appropriates and directs to be credited as received to the
7 debt service account 10% of all money received from the
8 collection of the individual income tax and 11% of all
9 money, except as provided in 15-31-702, received from the
10 collection of the corporation license and income tax as
11 provided in 15-1-501, and such an additional amount of said
12 those taxes, if any, as may at any time be needed to comply
13 with the principal and interest and reserve requirements
14 stated in 17-5-405(4).

15 (b) No more than the percentages described in
16 subsection (1)(a) of such those tax collections may be
17 pledged for the purpose of 17-5-403(2). The pledge and
18 appropriation herein made shall-be in this section is and
19 remain remains at all times a first and prior charge upon
20 all money received from the collection of said those taxes.

21 (2) The state pledges and appropriates and directs to
22 be credited to the debt service account 79.75% of all money
23 received from the collection of the excise tax on cigarettes
24 which that is levied, imposed, and assessed by 16-11-111.
25 The state also pledges and appropriates and directs to be

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

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

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

22 (2) The legislative appropriation for state
23 equalization aid shall must be made in a single sum for the
24 biennium. The superintendent of public instruction has
25 authority-to may spend such the appropriation, together with

1 the earmarked revenues provided in subsection (3), as
2 required for foundation program purposes throughout the
3 biennium.

4 (3) The following ~~shall~~ must be paid into the state
5 special revenue fund for state equalization aid to public
6 schools of the state:

7 (a) 31.8% of all money received from the collection of
8 income taxes under chapter 30 of Title 15;

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

13 (c) ~~100% of~~ the money allocated to state equalization
14 from the collection of the severance tax on coal;

15 (d) ~~100% of~~ the money received from the treasurer of
16 the United States as the state's shares of oil, gas, and
17 other mineral royalties under the federal Mineral Lands
18 Leasing Act, as amended;

19 (e) 50% of the money received from the collection of
20 the tax on tobacco products other than cigarettes as
21 provided in 16-11-206;

22 ~~(e)~~ (f) interest and income money described in 20-9-341
23 and 20-9-342;

24 ~~(f)~~ (g) income from the education trust fund account;
25 and

1 ~~(g)~~ (h) in addition to these revenues, the surplus
2 revenues collected by the counties for foundation program
3 support according to 20-9-331 and 20-9-333.

4 (4) Any surplus revenue in the state equalization aid
5 account in the second year of a biennium may be used to
6 reduce the appropriation required for the next succeeding
7 biennium."

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

12 NEW SECTION. Section 6. Effective date --
13 applicability. [This act] is effective July 1, 1989, and
14 applies to sales of tobacco products other than cigarettes
15 reported to the department after July 31, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB494, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the tax on tobacco products other than cigarettes and allocating the increased revenue to state equalization aid to education; and providing an effective date and an applicability date.

ASSUMPTIONS:

1. Tobacco tax receipts, under the current law, will be \$789,375 in FY 90 and \$808,625 in FY 91 (REAC estimates.)
2. Tobacco tax collections are allocated as follows under the proposal: 50% long-range building program debt service fund; 50% special revenue fund for state equalization aid to public schools.
3. The effective date for the proposal is July 1, 1989, and applies to sales of tobacco products other than cigarettes reported to the department after July 31, 1989.
4. There is a one month lag time for collections of the tobacco tax, which delays the full impact of the proposal by one month in FY90.
5. Under current law the tobacco tax is 12.5% of the wholesale price and under this proposal it would be 25% of the wholesale price.

FISCAL IMPACT:Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Tobacco Tax	\$789,375	\$1,512,969	\$723,594	\$808,625	\$1,617,250	\$808,625
<u>Fund Information:</u>						
Long-Range Building						
Debt. Service	\$789,375	\$ 789,375	0	\$808,625	\$ 808,625	0
State Special Revenue						
School Equalization	0	\$ 723,594	\$723,594	0	\$ 808,625	\$808,625

Expenditure Impact:

There are no Department of Revenue expenditures associated with this proposal.

Ray Shackelford 2/6/89
 RAY SHACKLEFORD, BUDGET DIRECTOR DATE
 OFFICE OF BUDGET AND PROGRAM PLANNING

Janet Moore 2-7-89
 JANET MOORE, PRIMARY SPONSOR DATE

Fiscal Note for HB494, as introduced

HB 494