

SENATE BILL 445

Introduced by Mazurek, et al.

2/15	Introduced
2/15	Referred to Taxation
2/16	Fiscal Note Requested
2/16	Fiscal Note Received
2/28	Fiscal Note Printed
3/07	Hearing
3/13	Committee Report--Bill Passed as Amended
3/16	2nd Read Do Pass Motion Failed
3/16	2nd Reading Indefinitely Postponed

1 *Legate* BILL NO. *445*
 2 INTRODUCED BY *Van Valkenburg Yellowtail Cole Bishop*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE
 5 CIGARETTE SALES TAX AND THE TAX ON TOBACCO PRODUCTS OTHER
 6 THAN CIGARETTES; ALLOCATING THE REVENUE FROM THE TAX
 7 INCREASE TO THE GENERAL FUND FOR THE PURPOSE OF INCREASING
 8 THE MEDICAID REIMBURSEMENT FOR OBSTETRICAL SERVICES
 9 FURNISHED BY PHYSICIANS; AMENDING SECTIONS 16-11-111,
 10 16-11-119, 16-11-202, 16-11-206, AND 17-5-408, MCA; AND
 11 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."
 12

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

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

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

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

1 "16-11-119. Disposition of taxes -- retirement of
 2 bonds. All moneys collected under the provisions of
 3 16-11-111, less the expense of collecting all the taxes
 4 levied, imposed, and assessed by ~~said that~~ section, ~~shall~~
 5 must be paid to the state treasurer and deposited as
 6 follows:

7 (1) ~~79.75%~~ 60.76% in the long-range building program
 8 fund in the debt service fund type; and

9 (2) ~~20.25%~~ 15.43% in the long-range building program
 10 fund in the capital projects fund type; and

11 (3) 23.81% in the general fund for the purpose of
 12 increasing the medicaid reimbursement for obstetrical
 13 services furnished by physicians."

14 **Section 3.** Section 16-11-202, MCA, is amended to read:

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

separately display in the premises where ~~such~~ the 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~~ the tax as hereinafter provided in this part.

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

Section 4. 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 must~~ 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 must~~ 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; and

(b) 50% to the general fund for the purpose of increasing the medicaid reimbursement for obstetrical services furnished by physicians."

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

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

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

(2) The state pledges and appropriates and directs to be credited to the debt service account ~~79.75%~~ 60.76% of all

1 money received from the collection of the excise tax on
2 cigarettes ~~which~~ that 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~~ that are or may
7 hereafter be levied, imposed, and assessed by law for that
8 purpose, including the tax levied, imposed, and assessed by
9 16-11-202. Nothing ~~herein--shall--impair~~ in this section
10 impairs or otherwise ~~affect~~ affects the provisions and
11 covenants contained in the resolutions authorizing the
12 presently outstanding long-range building program bonds.
13 Subject to the provisions of the preceding sentence, the
14 pledge and appropriation ~~herein made shall--be~~ in this
15 section are and remain at all times a first and prior charge
16 upon all money received from the collection of all taxes
17 referred to in this subsection {2}."

18 NEW SECTION. Section 6. Extension of authority. Any
19 existing authority to make rules on the subject of the
20 provisions of [this act] is extended to the provisions of
21 [this act].

22 NEW SECTION. Section 7. Effective date --
23 applicability. [This act] is effective July 1, 1989, and
24 applies to sales of cigarettes and tobacco products other
25 than cigarettes reported to the department of revenue after

1 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 SB445, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the cigarette sales tax and the tax on tobacco products other than cigarettes; allocating the revenue from the tax increase to the general fund for the purpose of increasing the medicaid reimbursement for obstetrical services furnished by physicians; and providing an effective date and an applicability date.

ASSUMPTIONS:


1. Cigarette tax receipts, under current law, will be \$10,155,000 in FY90 and \$9,705,000 in FY91. (REAC)
2. The current effective tax rate on cigarettes of 15.3968 cents would remain constant under current law during the biennium. Under the proposed legislation, this rate would be 20.2083.
3. Tobacco product receipts, under current law, will be \$789,000 in FY90 and \$809,000 in FY91. (REAC)
4. Currently, the tax rate on tobacco products is 12.5% which is assumed constant throughout the biennium. Under the proposal, the tax rate would be 25% of the wholesale price.
5. Cigarette tax collections are allocated as follows under the proposed law: 60.76% debt service; 15.43% capital projects; 23.81% General Fund.
6. Under the proposed legislation, the additional revenue collected by the increase in the tobacco products tax rate would go to the General Fund.
7. There is no appropriation in this bill. Therefore expenditures for medicaid are not impacted.

FISCAL IMPACT:

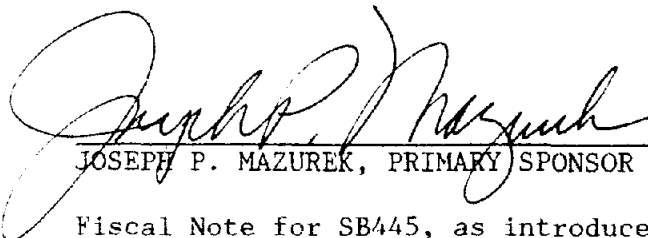
	Current	FY90		Current	FY91	
Revenue Impact:	Law	Proposed		Law	Proposed	
Cigarette Tax	\$10,155,000	\$13,063,932	\$2,908,932	\$9,705,000	\$12,737,696	\$3,032,696
Tobacco Products Tax	789,000	1,578,000	789,000	809,000	1,618,000	809,000
Total	\$10,944,000	\$14,641,932	\$3,697,932	\$10,514,000	\$14,355,696	\$3,841,696

Fund Information:

Long-Range Building						
Debt Service	\$ 8,887,612	\$ 8,887,347	(\$265)	\$ 8,548,737	\$ 8,548,424	(\$313)
Long-Range Building						
Capital Projects	2,056,388	2,056,554	166	1,965,263	1,965,426	163
General Fund	-0-	3,698,031	3,698,031	-0-	3,841,846	3,841,846
Total	\$10,944,000	\$14,641,932	\$3,697,932	\$10,514,000	\$14,355,696	\$3,841,696


 RAY SHACKLEFORD, BUDGET DIRECTOR
 OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/21/89


 JOSEPH P. MAZUREK, PRIMARY SPONSOR
 Fiscal Note for SB445, as introduced

SB 445

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 445

INTRODUCED BY MAZUREK, B. BROWN,

VAN VALKENBURG, YELLOWTAIL, ECK, BISHOP

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE CIGARETTE SALES TAX AND THE TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES; ALLOCATING THE REVENUE FROM THE TAX INCREASE TO THE GENERAL FUND FOR THE PURPOSE OF INCREASING THE MEDICAID REIMBURSEMENT FOR OBSTETRICAL SERVICES FURNISHED---BY---PHYSICIANS; AMENDING SECTIONS 16-11-111, 16-11-119, 16-11-202, 16-11-206, AND 17-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

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

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

"16-11-119. Disposition of taxes -- retirement of bonds. All moneys collected under the provisions of 16-11-111, less the expense of collecting all the taxes levied, imposed, and assessed by ~~said that~~ section, shall ~~must~~ be paid to the state treasurer and deposited as follows:

(1) ~~79.75%~~ 60.76% in the long-range building program fund in the debt service fund type; and

(2) ~~20.25%~~ 15.43% in the long-range building program fund in the capital projects fund type; and

(3) 23.81% in the general fund for the purpose of increasing the medicaid reimbursement for ~~obstetrical~~ services ~~furnished-by-physicians.~~

Section 3. 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~~ are 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 the payment shall--be~~ is considered as an advance payment and ~~shall--be~~ is added to the price of tobacco products other than cigarettes and recovered from the ultimate consumer or user. Any person selling tobacco

1 products other than cigarettes at retail shall state or
 2 separately display in the premises where such the products
 3 are sold a notice of the tax included in the selling price
 4 and charged or payable pursuant to this section. The
 5 provisions of this section shall in no way affect the method
 6 of collection of such the tax as hereinafter provided in
 7 this part.

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

16 **Section 4.** Section 16-11-206, MCA, is amended to read:

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

25 (2) Revenue from the tax on tobacco products other

1 than cigarettes is allocated as follows:

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

4 (b) 50% to the general fund for the purpose of
 5 increasing the medicaid reimbursement for obstetrical
 6 services furnished-by-physicians."

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

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

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

25 (2) The state pledges and appropriates and directs to

1 be credited to the debt service account ~~79.75%~~ 60.76% of all
 2 money received from the collection of the excise tax on
 3 cigarettes ~~which~~ that is levied, imposed, and assessed by
 4 16-11-111. The state also pledges and appropriates and
 5 directs to be credited as received to the debt service
 6 account 50% of all money received from the collection of the
 7 taxes on other tobacco products ~~which~~ that are or may
 8 hereafter be levied, imposed, and assessed by law for that
 9 purpose, including the tax levied, imposed, and assessed by
 10 16-11-202. Nothing ~~herein--shall--impair~~ in this section
 11 impairs or otherwise ~~affect~~ affects the provisions and
 12 covenants contained in the resolutions authorizing the
 13 presently outstanding long-range building program bonds.
 14 Subject to the provisions of the preceding sentence, the
 15 pledge and appropriation ~~herein made shall--be~~ in this
 16 section are and remain at all times a first and prior charge
 17 upon all money received from the collection of all taxes
 18 referred to in this subsection ~~†2†~~."

19 NEW SECTION. Section 6. Extension of authority. Any
 20 existing authority to make rules on the subject of the
 21 provisions of [this act] is extended to the provisions of
 22 [this act].

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 24 applicability. [This act] is effective July 1, 1989, and
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1 than cigarettes reported to the department of revenue after
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