

HOUSE BILL 34

Introduced by S. Rice, et al.

7/09	Introduced
7/09	Referred to Taxation
7/09	First Reading
7/09	Fiscal Note Requested
7/11	Fiscal Note Received
7/14	Hearing
7/14	Fiscal Note Printed
	Died in Committee

1
2 House BILL NO. 34
3 INTRODUCED BY G. Rice, Eck, Beverly, Bantust
Chubb, et al.

4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE TAX ON
5 CIGARETTES BY 7 CENTS A PACK; INCREASING THE TAX ON TOBACCO
6 PRODUCTS OTHER THAN CIGARETTES FROM 12 1/2 PERCENT TO 17 1/4
7 PERCENT OF THE WHOLESALE PRICE; PROVIDING THAT THE INCREASED
8 TAXES BE USED FOR HEALTH CARE SERVICES; AMENDING SECTIONS
9 16-11-111, 16-11-119, 16-11-202, 16-11-206, AND 17-5-408,
10 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
11 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 levied,
16 imposed, and assessed and there must be collected and paid
17 to the state of Montana upon cigarettes sold or possessed in
18 this state an excise tax of ~~10~~ 25 cents on each package
19 containing 20 cigarettes and, when packages contain more or
20 less than 20 cigarettes, a tax on each cigarette equal to
21 1/20th the tax on a package containing 20 cigarettes."

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

23 "16-11-119. Disposition of taxes -- retirement of
24 bonds. All moneys collected under the provisions of
25 16-11-111, less the expense of collecting all the taxes

1 levied, imposed, and assessed by said section, shall be paid
2 to the state treasurer and deposited as follows:

3 (1) 70-09% 51.04% in the long-range building program
4 fund in the debt service fund type; and

5 (2) 29-11% 20.96% in the long-range building program
6 fund in the capital projects fund type; and

7 (3) 28% in the state special revenue fund to be
8 appropriated for health care purposes."

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

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

1 (2) There is hereby levied, imposed, and assessed upon
 2 tobacco products other than cigarettes sold or possessed in
 3 this state and there shall be collected and paid to the
 4 state of Montana a tax of ~~12-1/2%~~ 17 1/4% of the wholesale
 5 price of such products to the wholesaler, excepting
 6 therefrom such products as may be shipped from Montana and
 7 destined for retail sale and consumption outside the state
 8 of Montana."

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

10 "**16-11-206. Wholesaler's discount -- disposition of**
 11 **taxes.** (1) The taxes specified in this part that are paid by
 12 the wholesaler shall be paid to the department in full less
 13 a 5% defrayment for his collection and administrative
 14 expense and.

15 (2) The taxes collected by the department under this
 16 part shall be deposited by the department as follows:

17 (a) 72% shall be deposited in the long-range building
 18 program debt service fund; and

19 (b) 28% shall be deposited in the state special revenue
 20 fund to be appropriated for health care purposes.

21 (3) Refunds of the tax paid shall be made as provided
 22 in 15-1-503 in cases where the tobacco products purchased
 23 become unsalable."

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

25 "**17-5-408. Percentage of income, corporation license,**

1 **and cigarette tax pledged.** (1) (a) The state pledges and
 2 appropriates and directs to be credited as received to the
 3 debt service account 9.8% for fiscal year 1990 and 8.7% for
 4 fiscal year 1991 of all money received from the collection
 5 of the individual income tax and 11% for fiscal year 1990
 6 and 10.5% for fiscal year 1991 of all money, except as
 7 provided in 15-31-702, received from the collection of the
 8 corporation license and income tax as provided in 15-1-501,
 9 and such additional amount of said taxes, if any, as may at
 10 any time be needed to comply with the principal and interest
 11 and reserve requirements stated in 17-5-405(4).

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

18 (2) The state pledges and appropriates and directs to
 19 be credited to the debt service account ~~70-89%~~ 51.04% of all
 20 money received from the collection of the excise tax on
 21 cigarettes which is levied, imposed, and assessed by
 22 16-11-111. The state also pledges and appropriates and
 23 directs to be credited as received to the debt service
 24 account ~~at~~ a portion of the money received from the
 25 collection of the taxes on other tobacco products which are

1 or may hereafter be levied, imposed, and assessed by law for
2 that purpose, including 72% of the tax levied, imposed, and
3 assessed by 16-11-202. Nothing herein shall impair or
4 otherwise affect the provisions and covenants contained in
5 the resolutions authorizing the presently outstanding
6 long-range building program bonds. Subject to the provisions
7 of the preceding sentence, the pledge and appropriation
8 herein made shall be and remain at all times a first and
9 prior charge upon all money received from the collection of
10 all taxes referred to in this subsection (2)."

11 NEW SECTION. **Section 6.** Effective date --
12 applicability. (1) [This act] is effective October 1, 1992.
13 (2) [This act] applies to cigarettes and tobacco
14 products other than cigarettes brought into the state for
15 retail sale after September 30, 1992.
16 (3) The apportionment of tax revenue provided in [this
17 act] applies to the distribution of tax revenue from
18 cigarettes and other tobacco products brought into the state
19 after September 30, 1992. The apportionment of tax revenue
20 from cigarettes and other tobacco products brought into this
21 state prior to October 1, 1992, must be apportioned pursuant
22 to the law as the law read prior to October 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0034, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the tax on cigarettes by 7 cents a pack; increasing the tax on tobacco products other than cigarettes from 12.5 percent to 17.25% of the wholesale price; providing that the increased taxes be used for health care services; and providing an effective date and an applicability date.

ASSUMPTIONS:


1. The new cigarette and tobacco products tax rates will go into effect FOR ANY STAMP PURCHASES MADE ON OR AFTER OCTOBER 1, 1992. (See technical note.)
2. NEW ALLOCATIONS WILL GO INTO EFFECT NOVEMBER 1, 1992. (See technical note.)
3. There will be no "stock-piling" of inventory prior to October 1, 1992.
4. Cigarette tax collections, under current law, will be \$11,585,750 in FY 93. (95.75% of FY 92 collections of \$12.1 million.)
5. Cigarettes, under current law, are taxed at the rate of \$0.18 per pack. Under the proposal, cigarettes will be taxed at the rate of \$0.25 per pack.
6. There is a one month time lag for the collection of cigarette tax.
7. Cigarette tax collections are allocated as follows under the proposal: 51.04% in the debt-service fund that flows into the general fund; 20.96% in the capital projects fund; and 28% in the special revenue fund for health care purposes.
8. Tobacco products tax collections, under current law, will be \$1.1 million in FY 93. (FY 92 collections were \$1.1 million.)
10. Tobacco products, under current law, are taxed at 12.5% of the wholesale price. Under the proposal, tobacco products would be taxed at 17.25% of the wholesale price.
11. Tobacco tax collections are allocated as follows under the proposal: 72% in the debt service fund and 28% in the state special revenue fund for health care programs.
12. There is a one month time lag in the collections of tobacco tax.

FISCAL IMPACT:

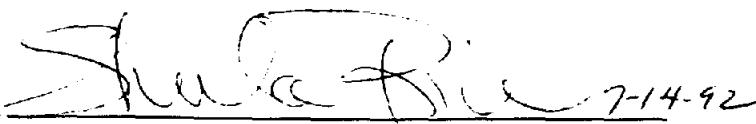
Expenditures:

If a voluntary inventory approach is taken, it would cost the department \$1,500 in postage and printing costs to notify 25 wholesalers and 2,100 retailers of the rate changes.

If a physical count of inventory is required by the department an additional \$4,000 in auditing costs would be required for the 25 wholesalers.


STEVE YEAKEL, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

7/14/92


SHEILA RICE, PRIMARY SPONSOR DATE
Fiscal Note for HB0034, as introduced

HB34

Revenues:

	<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Cigarette Tax	11,585,750	14,589,463	3,003,713
Tobacco Tax	<u>1,100,000</u>	<u>1,378,667</u>	<u>278,667</u>
Total	12,685,750	15,968,130	3,282,380

Funding:

General Fund	9,313,138	9,308,359	(4,779)
Capital Projects	3,372,612	3,372,698	86
Health Care	<u>0</u>	<u>3,287,073</u>	<u>3,287,073</u>
Total	12,685,750	15,968,130	3,282,380

TECHNICAL NOTES:

This FISCAL NOTE HAS BEEN PREPARED UNDER ASSUMPTIONS 1, 2 and 3. As written the new tax would apply only to products brought into the state for retail sale after September 30, 1992. It would be difficult to track which cigarettes and tobacco products were brought into the state before 10-1-92 and subsequently sold at retail after 10-1-92. Since there is approximately a one-month lag in tax collections for both cigarettes and tobacco products; the November 1, 1992 date was selected for the new allocation rates.