

SENATE BILL 177

Introduced by Eck, et al.

1/18	Introduced
1/18	Fiscal Note Requested
1/18	Referred to Public Health, Welfare & Safety
1/18	First Reading
1/23	Fiscal Note Received
1/26	Fiscal Note Printed
2/03	Hearing
3/18	Tabled in Committee

1 Senate BILL NO. 177
2 INTRODUCED BY Eck (Mile)
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING MEDICAID
5 ELIGIBILITY FOR PREGNANT WOMEN, INFANTS, AND CHILDREN;
6 INCREASING TAXES ON THE SALE OF CIGARETTES AND OTHER TOBACCO
7 PRODUCTS; DEDICATING THE REVENUE FROM INCREASED TAXES TO PAY
8 THE INCREASED COST OF THE MEDICAID PROGRAM ATTRIBUTABLE TO
9 EXPANDING MEDICAID ELIGIBILITY FOR PREGNANT WOMEN, INFANTS,
10 AND CHILDREN; REQUIRING UNEXPENDED REVENUE TO BE USED FOR
11 PREVENTIVE HEALTH SERVICES; AMENDING SECTIONS 16-11-111,
12 16-11-119, 16-11-202, 16-11-206, 17-5-408, AND 53-6-131,
13 MCA; AND PROVIDING EFFECTIVE DATES."

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

16 **Section 1.** Section 53-6-131, MCA, is amended to read:

17 "53-6-131. Eligibility requirements. (1) Medical
18 assistance under the Montana medicaid program may be granted
19 to a person who is determined by the department of social
20 and rehabilitation services to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the federal Social Security Act (42 U.S.C. 1381, et seq.) or aid to families with dependent children under Title IV of the federal Social Security Act (42 U.S.C. 601, et

1 seq.).

(b) The person would be eligible for assistance under a program described in subsection (1)(a) if he the person were to apply for ~~such~~ assistance.

5 (c) The person is in a medical facility that is a
6 medicaid provider and, but for residence in the facility, he
7 the person would be receiving assistance under one of the
8 programs in subsection (1)(a).

9 (d) The person is under 19 years of age and meets the
10 conditions of eligibility in the state plan for aid to
11 families with dependent children, other than with respect to
12 school attendance.

13 (e) The person is under 21 years of age and in foster
14 care under the supervision of the state or was in foster
15 care under the supervision of the state and has been adopted
16 as a hard-to-place child.

17 (f) The person meets the nonfinancial criteria of the
18 categories in subsections (1)(a) through (1)(e) and:

19 (i) the person's income does not exceed the medically
20 needy income level specified for federally aided categories
21 of assistance and ~~his~~ the person's resources are within the
22 resource standards of the federal supplemental security
23 income program; or

24 (ii) the person, while having income greater than the
25 medically needy income level specified for federally aided

1 categories of assistance, has an adjusted income level,
 2 after incurring medical expenses, that does not exceed the
 3 medically needy income level specified for federally aided
 4 categories of assistance and his the person's resources are
 5 within the resource standards of the federal supplemental
 6 security income program.

7 (g) The person is a qualified pregnant woman or child
 8 as defined in 42 U.S.C. 1396d(n).

9 (2) The Montana medicaid program shall pay for the
 10 premiums necessary for participation in the medicare program
 11 and may, within the discretion of the department, pay all or
 12 a portion of the medicare deductibles and coinsurance for a
 13 medicare-eligible person or for a qualified disabled and
 14 working individual, as defined in section 6408(d)(2) of the
 15 federal Omnibus Budget Reconciliation Act of 1989, Public
 16 Law 101-239, who:

17 (a) has income that does not exceed income standards as
 18 may be required by the federal Social Security Act; and

19 (b) has resources that do not exceed standards the
 20 department determines reasonable for purposes of the
 21 program.

22 (3) The department may pay a medicaid-eligible person's
 23 expenses for premiums, coinsurance, and similar costs for
 24 health insurance or other available health coverage, as
 25 provided in 42 U.S.C. 1396b(a)(1).

1 (4) The department, under the Montana medicaid program,
 2 may provide, if a waiver is not available from the federal
 3 government, medicaid and other assistance mandated by Title
 4 XIX of the federal Social Security Act (42 U.S.C. 1396, et
 5 seq.), as may be amended, and not specifically listed in
 6 this part to categories of persons that may be designated by
 7 the act for receipt of assistance.

8 (5) Notwithstanding any other provision of this
 9 chapter, medical assistance must be provided to ~~infants and~~
 10 ~~pregnant women whose family income does not exceed 133% of~~
 11 ~~the federal poverty threshold, as provided the following~~
 12 individuals, as authorized in 42 U.S.C.
 13 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(1)(2)(A)(i):

14 (a) a pregnant woman or an infant under 1 year of age
 15 whose family income:

16 (i) on or after July 1, 1993, does not exceed 150% of
 17 the federal poverty threshold; or

18 (ii) on or after July 1, 1994, does not exceed 185% of
 19 the federal poverty threshold;

20 (b) a child who is 1 year of age or older but under 6
 21 years of age and whose family income does not exceed 133% of
 22 the federal poverty threshold; and

23 (c) a child who is 6 years of age or older but under 19
 24 years of age and whose family income does not exceed 100% of
 25 the federal poverty threshold.

(6) A person described in subsection (5) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7)."

Section 2. Section 16-11-111, MCA, is amended to read:

"16-11-111. (Temporary) Cigarette sales tax. There is levied, imposed, and assessed and there must be collected and paid to the state of Montana upon cigarettes sold or possessed in this state an excise tax of 19.26 cents on each package containing 20 cigarettes and, when packages contain more or less than 20 cigarettes, a tax on each cigarette equal to 1/20th the tax on a package containing 20 cigarettes.

16-11-111. (Effective August 15, 1993) Cigarette sales tax. There is levied, imposed, and assessed and there must be collected and paid to the state of Montana upon cigarettes sold or possessed in this state an excise tax of ~~18~~ 28 cents on each package containing 20 cigarettes and, when packages contain more or less than 20 cigarettes, a tax on each cigarette equal to 1/20th the tax on a package containing 20 cigarettes."

Section 3. Section 16-11-119, MCA, is amended to read:

"16-11-119. (Temporary) Disposition of taxes -- retirement of bonds. (1) Except as provided in subsection (2), all money collected under the provisions of 16-11-111, less the expense of collecting the taxes, must be paid to

the state treasurer and deposited as follows: 72.79% in the long-range building program fund in the debt service fund type and 27.21% in the long-range building program fund in the capital projects fund type.

(2) In fiscal year 1993, \$1,133,624 is transferred from the long-range building program fund in the capital projects fund type to the general fund. (Terminates June 30, 1993--sec. 2, Ch. 3, Sp. L. July 1992.)

16-11-119. (Effective July 1, 1993) 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 section, shall be paid to the state treasurer and deposited as follows: 72.79% in the long-range building program fund in the debt service fund type and 27.21% in the long-range building program fund in the capital projects fund type.

16-11-119. (Effective August 15, 1993) Disposition of taxes -- retirement of bonds. All moneys money collected under the provisions of 16-11-111, less the expense of collecting all the taxes levied, imposed, and assessed by ~~said section, shall~~ under 16-11-111, must be paid to the state treasurer and deposited as follows:

(1) ~~70.89%~~ 45.58% in the long-range building program fund in the debt service fund type ~~and 29.11%;~~

(2) 18.71% in the long-range building program fund in

the capital projects fund type; and

(3) 35.71% in the special revenue account provided for in [section 7]."

Section 4. Section 16-11-202, MCA, is amended to read:

"16-11-202. (Temporary) 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 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 payment shall be considered as an advance payment and shall be added to the price of tobacco products other than cigarettes and recovered from the ultimate consumer or user. Any person selling tobacco products other than cigarettes at retail shall state or separately display in the premises where such 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 tax as hereinafter provided.

(2) There is hereby levied, imposed, and assessed upon tobacco products other than cigarettes sold or possessed in this state and there shall be collected and paid to the state of Montana a tax of 13.38% of the wholesale price of such products to the wholesaler, excepting therefrom such

products as may be shipped from Montana and destined for retail sale and consumption outside the state of Montana.

16-11-202. (Effective August 15, 1993) 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--exclusively~~ are conclusively 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~~ must be added to the price of tobacco products, other than cigarettes, and recovered from the ultimate consumer or user. Any person selling tobacco 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%~~ 22 1/2% 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 5. 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~~ expenses.
 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, must be deposited by the department as
follows:

(a) 55.55% to the long-range building program debt
service fund; and

(b) 44.45% to the special revenue account provided for
in [section 7]."

Section 6. Section 17-5-408, MCA, is amended to read:

"17-5-408. Percentage of income,--corporation--licensee
 and cigarette tax pledged. (1)-(a)-The-state-pledges-and
~~appropriates-and-directs-to-be-credited-as-received-to--the~~

debt--service-account-9.8%--for-fiscal-year-1990-and-8.7%--for
 fiscal-year-1991-of-all-money-received-from--the--collection
 of--the--individual--income-tax-and-11%--for-fiscal-year-1990
 and-10.5%--for-fiscal-year--1991--of--all--money,--except--as
 provided--in--15-31-7027-received-from-the-collection-of-the
 corporation-license-and-income-tax-as-provided-in--15-1-501,
 and--such-additional-amount-of-said-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-tax-collections-may-be-pledged-for
 the--purpose--of--17-5-403(2).--The-pledge-and-appropriation
 herein-made-shall-be-and-remain-at-all-times--a--first--and
 prior--charge-upon-all-money-received-from-the-collection-of
 said-taxes;

(2) The state pledges and appropriates and directs to
 be credited to the debt service account 70.89% 45.58% of all
 money received from the collection of the excise tax on
 cigarettes which that is levied, imposed, and assessed by
 16-11-111. The state also pledges and appropriates and
 directs to be credited as received to the debt service
 account 55.55% of all money received from the collection of
 the taxes on other tobacco products, which taxes are or may
 hereafter be levied, imposed, and assessed by law for that
 purpose, including the tax levied, imposed, and assessed by

1 16-11-202. Nothing ~~herein--shall--impair~~ in this section
 2 impairs or otherwise ~~affect~~ affects the provisions and
 3 covenants contained in the resolutions authorizing the
 4 presently outstanding long-range building program bonds.
 5 Subject to the provisions of the preceding sentence, the
 6 pledge and appropriation herein made ~~shall--be~~ in this
 7 section are and remain at all times a first and prior charge
 8 upon all money received from the collection of all taxes
 9 referred to in this ~~subsection--(2)~~ section."

10 NEW SECTION. Section 7. Special revenue account. (1)
 11 There is an account in the state special revenue fund in the
 12 state treasury. Money in the account must be used by the
 13 department of social and rehabilitation services to pay for
 14 the increased cost of the medicaid program attributable to
 15 providing expanded medicaid eligibility for pregnant women,
 16 infants, and children, as mandated in 53-6-131(5).

17 (2) Any money remaining in the account at the end of
 18 the fiscal year that is not paid to the department of social
 19 and rehabilitation services, as provided in subsection (1),
 20 is obligated for purposes of 17-2-111 and must be used by
 21 the department of health and environmental sciences to
 22 provide preventive health services for children and
 23 families, including immunization services and maternal and
 24 child health services.

25 NEW SECTION. Section 8. Nonsupplantation. Funds

1 received from the account created in [section 7] must be
 2 used to supplement, but may not supplant, other funds that,
 3 in the absence of funding received under [section 7], would
 4 be available for the same purpose.

5 NEW SECTION. Section 9. Codification instruction.
 6 [Sections 7 and 8] are intended to be codified as an
 7 integral part of Title 53, chapter 6, part 1, and the
 8 provisions of Title 53, chapter 6, part 1, apply to
 9 [sections 7 and 8].

10 NEW SECTION. Section 10. Effective dates. (1) [Section
 11 1 and this section] are effective July 1, 1993.

12 (2) [Sections 2 through 9] are effective August 15,
 13 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0177, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act expanding medicaid eligibility for pregnant women, infants, and children; increasing taxes on the sale of cigarettes and other tobacco products; dedicating the revenue from increased taxes to pay the increased cost of the medicaid program attributable to expanding medicaid eligibility for pregnant women, infants and children; requiring unexpended revenue to be used for preventive health services; and providing effective dates.

ASSUMPTIONS:

Department of Revenue:

1. The increase in cigarette tax under this proposal would become effective August 15, 1993.
2. A 1% increase in the price of cigarettes decreases consumption by 4/10 of 1% (Gary S. Becker, University of Chicago).
3. Under current law, there will be 67.676 million packs of cigarettes stamped in FY 94 and 66.827 million packs stamped in FY 95. (ROC, 1/5/93.)
4. The average price of a pack of cigarettes is \$2.00.
5. The proposed 10 cent increase in the tax on a pack of cigarettes would decrease consumption by 2%. Under the proposal, there will be 66.322 million packs of cigarettes stamped in FY 94 and 65.490 million packs stamped in FY 95.
6. Under current law cigarette collections will be \$11,834,000 in FY 94 and \$11,686,000 in FY 95. (ROC, 1/5/93.)
7. Under the proposal cigarette collections will be \$17,035,000 in FY 94 and \$17,813,000 in FY 95.
8. Under current law cigarette collections are allocated as follows: 70.89% long-range building debt service fund type; 29.11% long-range building capital projects fund type.
9. Under the proposal, cigarette tax is allocated beginning August 15, 1993 as follows: 45.58% long-range building debt service fund type; 18.71% long-range building capital projects fund type; and 35.71% in the special revenue account provided for under the proposal.
10. The monthly distribution of cigarette indicia purchases is constant throughout each year of the biennium.
11. Under current law the cigarette tax is 18 cents per pack (effective rate 17.4863 cents).
12. Under this bill the cigarette tax is 18 cents per pack (effective rate 17.4863 cents) through August 14, 1993 and is 28 cents per pack (effective rate 27.20 cents) beginning August 15, 1993.
13. There is a one month time lag in collections of the cigarette tax from the 44.3% of wholesalers who purchase stamps on credit. For these purchasers there is an additional month of collections at the 18 cent rate in FY 94.
14. Under current law tobacco products tax collections will be \$1,357,000 in FY 94 and \$1,515,000 in FY 95. (ROC, 1/5/93.)
15. Under current law tobacco products are taxed at 12.5% of wholesale price.

ASSUMPTIONS: (Continued next page)

David Lewis 1-23-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Dorothy Eck 1/26/93
DOROTHY ECK, PRIMARY SPONSOR DATE

Fiscal Note for SB0177, as introduced

SB 177

ASSUMPTIONS:

Department of Revenue: (continued)

16. Under the proposal tobacco products are taxed at 22.5% beginning August 15, 1993.
17. There is a one-month lag in the collection of tobacco taxes.
18. Under current law tobacco products taxes are allocated to the long-range building program debt service fund.
19. Under the proposal tobacco products taxes are allocated beginning August 15, 1993 as follows: 55.55% to the long-range building program debt service fund and 44.45% to the special revenue account provided for under this proposal.
20. To prevent a stockpiling of stamped cigarettes and tobacco products at the lower tax rate the department would audit wholesalers and subjobbers. This would increase operating expenses of the department by \$4,976 in FY 94.

Department of Social and Rehabilitation Services:

1. Total births covered in FY94 will be 3,571, an increase of 343 from the current level which covers up to 133% of poverty. The number of births covered by Medicaid will increase to 4,277 in FY95 when the eligibility increases to 185% of poverty.
2. For purposes of this fiscal note, the cost per birth is assumed to remain at the FY92 level of \$3,191/birth.
3. Expanding coverage for children ages 12-18 below 100% of the Federal poverty level will add 7,844 children to the Medicaid program at a cost of \$1,035 per child. It is assumed that this cost remains constant for purposes of this fiscal note. (Based on 1990 census data and Medicaid paid claims history.)
4. Federal match - FY94 - 71.71%; FY95 - 70.50%.

FISCAL IMPACT:

Revenues:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Cigarette Tax	11,834,000	17,035,000	5,201,000	11,686,000	17,813,000	6,127,000
Tobacco Tax	<u>1,357,000</u>	<u>2,216,000</u>	<u>859,000</u>	<u>1,515,000</u>	<u>2,727,000</u>	<u>1,212,000</u>
Total	13,191,000	19,251,000	6,060,000	13,201,000	20,540,000	7,339,000

Funding

Debt Service (General Fund)	9,746,000	9,445,000	(301,000)	9,799,000	9,634,000	(165,000)
Capital Projects (LRBP)	3,445,000	3,341,000	(104,000)	3,402,000	3,333,000	(69,000)
State Special - Medicaid (02)	<u>0</u>	<u>6,465,000</u>	<u>6,465,000</u>	<u>0</u>	<u>7,573,000</u>	<u>7,573,000</u>
Total	13,191,000	19,251,000	6,060,000	13,201,000	20,540,000	7,339,000

FISCAL IMPACT: (Continued next page)

SB177

FISCAL IMPACT: (Continued)

Expenditures:

Department of Revenue:

The Department of Revenue would experience an increase in operating expenses of \$4,976 (general fund) for the inventory audit.

Department of Social and Rehabilitation Services:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Medicaid Benefits	222,908,412	232,787,946	9,879,534	256,586,792	268,054,909	11,468,117
<u>Funding:</u>						
General Fund (01)	64,598,858	64,598,858	0	75,693,104	75,693,104	0
Federal Funds (03)	158,309,554	165,394,168	7,084,614	180,893,688	188,978,710	8,085,022
State Special - Medicaid (02)	<u>0</u>	<u>2,794,920</u>	<u>2,794,920</u>	<u>0</u>	<u>3,383,095</u>	<u>3,383,095</u>
Total	222,908,412	232,787,946	9,879,534	256,586,792	268,054,909	11,468,117

Net Impact:

Department of Health and Environmental Sciences:

State Special - Medicaid (02)			
Unexpended Balance	3,670,080		4,189,905

TECHNICAL NOTE:

A mechanism is needed for the Department of Health and Environmental Sciences to expend the balance of the unexpended revenue at the end of each fiscal year.

SB177