

SENATE BILL 305

Introduced by Klampe, et al.

2/03	Introduced
2/03	Referred to Public Health, Welfare & Safety
2/03	First Reading
2/03	Fiscal Note Requested
2/09	Fiscal Note Received
2/09	Fiscal Note Printed
3/03	Hearing
3/12	Committee Report--Bill Passed as Amended
3/12	Taken from 2nd Reading and Rereferred to Taxation
3/26	Revised Fiscal Note Requested
3/27	Committee Report--Bill Passed as Amended
3/29	Revised Fiscal Note Received
3/29	Revised Fiscal Note Printed
3/29	2nd Reading Passed as Amended
3/30	3rd Reading Failed
3/31	Reconsidered Previous Action and Placed on 3rd Reading Next Leg. Day
4/01	3rd Reading Failed

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 do not~~ affect the method of collection of such the 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 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, must be deposited by the department as follows:

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

(b) the balance to the general fund."

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-9.8% for fiscal year 1998 and 8.7% for fiscal year 1999 of all money received from--the--collection of--the--individual--income-tax-and-11% for fiscal year 1998 and 10.5% for fiscal year 1999 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-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

1 be credited to the debt service account ~~70-89%~~ 35.44% of all
2 money received from the collection of the excise tax on
3 cigarettes which 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 taxes 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}~~ section."

19 NEW SECTION. Section 6. Effective date. [This act] is
20 effective August 15, 1993.

-End-

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--section7--shall~~ 16-11-111, must be paid to the state treasurer and deposited as follows:

(1) ~~70-89% 35.44%~~ in the long-range building program fund in the debt service fund type; ~~and-29-11%~~

(2) 14.56% in the long-range building program fund in the capital projects fund type;

(3) 1.5% in the state special revenue account to the MIAMI project for public education and community outreach under 50-19-311; and

(4) the remainder to the state special revenue account to medicaid programs under Title 53."

Section 3. 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

1 ~~Senate~~ BILL NO. 305
 2 INTRODUCED BY Kramer, Funkhouser, Bauland, Cobb
 3 Eck, Liguori, Kulas, B.C. Brown, Harding
 4 Blaylock, Wilkins A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALES
 5 TAX ON CIGARETTES AND ON TOBACCO OTHER THAN CIGARETTES;
 6 PROVIDING FOR THE DISPOSITION OF THE TAX INCREASE TO THE
 7 MIAMI PROJECT, MEDICAID PROGRAMS, LONG-RANGE BUILDING
 8 PROGRAM DEBT SERVICE FUND, AND GENERAL FUND; AMENDING
 9 SECTIONS 16-11-111, 16-11-119, 16-11-202, 16-11-206, AND
 10 17-5-408, 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. (Temporary) Cigarette sales tax. There is
 15 levied, imposed, and assessed and there must be collected
 16 and paid to the state of Montana upon cigarettes sold or
 17 possessed in this state an excise tax of 19.26 cents on each
 18 package containing 20 cigarettes and, when packages contain
 19 more or less than 20 cigarettes, a tax on each cigarette
 20 equal to 1/20th the tax on a package containing 20
 21 cigarettes.

22 16-11-111. (Effective August 15, 1993) Cigarette sales
 23 tax. There is levied, imposed, and assessed and there must
 24 be collected and paid to the state of Montana upon
 25 cigarettes sold or possessed in this state an excise tax of

1 18 36 cents on each package containing 20 cigarettes and,
 2 when packages contain more or less than 20 cigarettes, a tax
 3 on each cigarette equal to 1/20th the tax on a package
 4 containing 20 cigarettes."

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

6 "16-11-119. (Temporary) Disposition of taxes --
 7 retirement of bonds. (1) Except as provided in subsection
 8 (2), all money collected under the provisions of 16-11-111,
 9 less the expense of collecting the taxes, must be paid to
 10 the state treasurer and deposited as follows: 72.79% in the
 11 long-range building program fund in the debt service fund
 12 type and 27.21% in the long-range building program fund in
 13 the capital projects fund type.

14 (2) In fiscal year 1993, \$1,133,624 is transferred from
 15 the long-range building program fund in the capital projects
 16 fund type to the general fund. (Terminates June 30,
 17 1993--sec. 2, Ch. 3, Sp. L. July 1992.)

18 16-11-119. (Effective July 1, 1993) Disposition of
 19 taxes -- retirement of bonds. All moneys collected under the
 20 provisions of 16-11-111, less the expense of collecting all
 21 the taxes levied, imposed, and assessed by said section,
 22 shall be paid to the state treasurer and deposited as
 23 follows: 72.79% in the long-range building program fund in
 24 the debt service fund type and 27.21% in the long-range
 25 building program fund in the capital projects fund type.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0305, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the sales on cigarettes and on tobacco other than cigarettes; providing for the disposition of the tax increase to the MIAMI project, medicaid programs, long-range building program debt service fund, and general fund and providing an effective date.


ASSUMPTIONS:

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 FY94 and 66.827 million packs stamped in FY95. (ROC, 1/5/93.)
4. The average price of a pack of cigarettes is \$2.00.
5. The proposed 18 cent increase in the tax on a pack of cigarettes would decrease consumption by 3.6%. Under the proposal, there will be 65.240 million packs of cigarettes stamped in FY94 and 64.421 million packs stamped in FY95.
6. Under current law cigarette collections will be \$11,834,000 in FY94 and \$11,686,000 in FY95. (ROC, 1/5/93.)
7. Under the proposal cigarette collections will be \$21,037,000 in FY94 and \$22,530,000 in FY95.
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: 35.44% long-range building debt service fund type; 14.56% long-range building capital projects fund type; 1.5% in the state special revenue account to the MIAMI project; and the remainder to the state special revenue account to medicaid programs.
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 36 cents per pack (effective rate 34.9726 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 FY94.
14. Under current law tobacco products tax collections will be \$1,357,000 in FY 94 and \$1,515,000 in FY95. (ROC, 1/5/93.)
15. Under current law tobacco products are taxed at 12.5% of wholesale price.
16. Under the proposal tobacco products are taxed at 25% 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.

(Continued next page)

 2-8-93

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

 2/8/93

TERRY KLAMPE, PRIMARY SPONSOR DATE

Fiscal Note for SB0305, as introduced

ASSUMPTIONS: (Continued)

19. Under the proposal tobacco products taxes are allocated beginning August 15, 1993 as follows: 50% to the long-range building program debt service fund and the balance to the general fund.
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 of Revenue by \$4,976 in FY94.
21. The additional revenue available for Medicaid programs will result in a dollar-for-dollar decrease in the general fund matching requirement for Medicaid.

FISCAL IMPACT:

Department of Revenue:

Expenditures:

The Department of Revenue would experience an increase in operating expenses of \$4,976 (general fund) in FY94 for the inventory audit.

Revenues:

	FY '94			FY '95		
	<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	21,037,000	9,203,000	11,686,000	22,530,000	10,844,000
Tobacco Tax	<u>1,357,000</u>	<u>2,431,000</u>	<u>1,074,000</u>	<u>1,515,000</u>	<u>3,030,000</u>	<u>1,515,000</u>
Total	13,191,000	23,468,000	10,277,000	13,201,000	25,560,000	12,359,000
<u>Funding</u>						
Debt Service (General Fund)	9,746,000	9,280,000	(466,000)	9,799,000	9,499,000	(300,000)
Capital Projects (LRBP)	3,445,000	3,278,000	(167,000)	3,402,000	3,281,000	(121,000)
MIAMI (02)	0	293,000	293,000	0	338,000	338,000
Medicaid (02)	0	9,486,000	9,486,000	0	10,927,000	10,927,000
General Fund	<u>0</u>	<u>1,131,000</u>	<u>1,131,000</u>	<u>0</u>	<u>1,515,000</u>	<u>1,515,000</u>
Total	13,191,000	23,468,000	10,277,000	13,201,000	25,560,000	12,359,000

Department of Social and Rehabilitation Services:

Expenditures:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Medicaid Benefits	222,908,000	222,908,000	0	256,587,000	256,587,000	0
<u>Funding</u>						
General Fund (01)	64,599,000	55,113,000	(9,486,000)	75,693,000	64,766,000	(10,927,000)
Federal Funds (03)	158,309,000	158,309,000	0	180,894,000	180,894,000	0
State Special - Medicaid (02)	<u>0</u>	<u>9,486,000</u>	<u>9,486,000</u>	<u>0</u>	<u>10,927,000</u>	<u>10,927,000</u>
Total	222,908,000	222,908,000	0	256,587,000	256,587,000	0

SB 305

ASSUMPTIONS:

Department of Revenue: (continued)

16. Under the proposal tobacco products are taxed at 19.4% 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: 64.43% to the long-range building program debt service fund and 35.57% to the Medicaid 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 5,095, an increase of 740 from the current level which covers up to 133% of poverty. The number of births covered by Medicaid will increase by 2,523 to 6,878 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 11-18 below 100% of the Federal poverty level will add 8,907 children to the Medicaid Program at a cost of \$869 per child in FY94, the expansion for children ages 12-18 will add 7,844 children in FY95 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 - 71.02%; FY95 - 70.50%.
5. Medicaid Administration includes 2 FTE at grade 15 and 1 FTE at a grade 9; MMIS and outreach, and support funds in 1994 and 1995 and accompanying equipment at \$4,000 each.
6. Family Assistance administration includes 1 FTE at grade 15 starting in FY94 and an additional grade 14 starting in FY95, as well as program support and equipment at \$4,000. Cost totalling \$623,000 each year are included for outreach and assistance with eligibility determination in the counties.

FISCAL IMPACT:

Revenues:

	FY '94			FY '95		
	<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	17,814,000	6,128,000
Tobacco Tax	1,357,000	1,950,000	593,000	1,515,000	2,351,000	836,000
Total	13,191,000	18,985,000	5,794,000	13,201,000	20,165,000	6,964,000

Funding

Debt Service (General Fund)	9,746,000	9,599,000	(147,000)	9,799,000	9,798,000	(1,000)
Capital Projects (LRBP)	3,445,000	3,402,000	(43,000)	3,402,000	3,402,000	0
MIAMI State Special (02)	0	233,000	233,000	0	267,000	267,000
Medicaid State Special (02)	0	5,751,000	5,751,000	0	6,697,000	6,697,000
Total	13,191,000	18,985,000	5,794,000	13,201,000	20,165,000	6,964,000

FISCAL IMPACT: (Continued next page)

SB 305 #1

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0305, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the sales tax on cigarettes and on tobacco other than cigarettes; providing for the disposition of the tax increase to the MIAMI project, Medicaid, and preventive health care services, and the long-range building program debt service fund; and expanding medicaid eligibility for pregnant women, infants, and children.

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 \$17,814,000 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: 46.5% long-range building debt service fund type; 19.1% long-range building capital projects fund type; and 32.9% in the Medicaid special revenue account provided for under the proposal; and 1.5% to the MIAMI 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 3-29-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

3/29/93
TERRY KLAMPE, PRIMARY SPONSOR DATE

Fiscal Note for SB0305, second reading

SB 305 #2

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>
<u>FTE's:</u>						
Medicaid Administration	46.50	49.50	3.00	46.50	49.50	3.00
Family Assistance	41.00	42.00	1.00	41.00	43.00	2.00
<u>Expenditures:</u>						
Family Assistance Admin:	\$ 3,580,723	\$ 4,240,090	\$ 659,367	\$ 3,571,482	\$ 4,260,561	\$ 689,079
Medicaid Administration:	5,876,611	6,131,139	254,528	5,996,016	6,184,210	188,194
Medicaid Benefits	<u>222,908,412</u>	<u>233,009,934</u>	<u>10,101,522</u>	<u>256,586,792</u>	<u>272,758,451</u>	<u>16,171,659</u>
Total Expenses	\$232,365,746	\$243,381,163	\$11,015,417	\$266,154,290	\$283,203,222	\$17,048,932
<u>Funding:</u>						
General Fund	\$ 69,327,525	\$ 66,859,263	\$ (2,366,631)	\$ 80,476,853	\$ 78,989,129	\$ (1,487,724)
State Special-Medicaid (1)	0	2,366,631	2,366,631	0	1,487,724	1,487,724
State Special-Medicaid (2)	0	3,384,369	3,384,369	0	5,209,276	5,209,276
Federal Funds	<u>163,038,221</u>	<u>170,669,269</u>	<u>7,631,048</u>	<u>185,677,437</u>	<u>197,517,093</u>	<u>11,839,656</u>
Total Funding	\$232,365,746	\$243,381,163	\$11,015,417	\$266,154,290	\$283,203,222	\$17,048,932

- (1) These funds will be used to shift expenses for the base program from the General Fund to the State Special Account.
- (2) These funds are to finance the program expansion.

TECHNICAL NOTE: The appropriations in HB2 will need to be adjusted to reflect the change in revenue source and the program expansion.

SB305 #2

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 305

INTRODUCED BY KLAMPE, FRANKLIN, BARDANOUVE, COBB, ECK,
HAYNE, KADAS, B. BROWN, HARDING, STRIZICH, BLAYLOCK,
WELDON, REA, MASON, BIRD, SPRING

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALES
TAX ON CIGARETTES AND ON TOBACCO OTHER THAN CIGARETTES;
PROVIDING FOR THE DISPOSITION OF THE TAX INCREASE TO THE
MIAMI PROJECT, MEDICAID PROGRAMS, AND PREVENTIVE HEALTH CARE
SERVICES, AND THE LONG-RANGE BUILDING PROGRAM DEBT SERVICE
FUND, ~~AND GENERAL FUND~~, EXPANDING MEDICAID ELIGIBILITY FOR
PREGNANT WOMEN, INFANTS, AND CHILDREN; AMENDING SECTIONS
16-11-111, 16-11-119, 16-11-202, 16-11-206, AND 17-5-408,
AND 53-6-131, MCA; AND PROVIDING AN ~~EFFECTIVE DATE~~ EFFECTIVE
DATES."

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. (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 36 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 2. 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

1 the taxes levied, imposed, and assessed by said section,
 2 shall be paid to the state treasurer and deposited as
 3 follows: 72.79% in the long-range building program fund in
 4 the debt service fund type and 27.21% in the long-range
 5 building program fund in the capital projects fund type.

6 16-11-119. (Effective August 15, 1993) Disposition of
 7 taxes -- retirement of bonds. All moneys money collected
 8 under the provisions of 16-11-111, less the expense of
 9 collecting all the taxes levied, imposed, and assessed by
 10 said-section, shall 16-11-111, must be paid to the state
 11 treasurer and deposited as follows:

12 (1) ~~70-89%~~ ~~35-44%~~ 36.77% in the long-range building
 13 program fund in the debt service fund type; and ~~29-11%~~

14 (2) ~~14-56%~~ 15.10% in the long-range building program
 15 fund in the capital projects fund type;

16 (3) 1.5% in the state special revenue account to the
 17 MIAMI project for public education and community outreach
 18 under 50-19-311; and

19 (4) the remainder to the state special revenue account
 20 ~~to-medicaid-programs-under-Title-53~~ PROVIDED FOR IN [SECTION
 21 7]."

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

23 "16-11-202. (Temporary) Tax on sale of tobacco other
 24 than cigarettes -- imposed on retail consumer -- rate of
 25 tax. (1) All taxes paid pursuant to the provisions of this

1 section shall be exclusively presumed to be direct taxes on
 2 the retail consumer, precollected for the purpose of
 3 convenience and facility only. When the tax is paid by any
 4 other person, such payment shall be considered as an advance
 5 payment and shall be added to the price of tobacco products
 6 other than cigarettes and recovered from the ultimate
 7 consumer or user. Any person selling tobacco products other
 8 than cigarettes at retail shall state or separately display
 9 in the premises where such products are sold a notice of the
 10 tax included in the selling price and charged or payable
 11 pursuant to this section. The provisions of this section
 12 shall in no way affect the method of collection of such tax
 13 as hereinafter provided.

14 (2) There is hereby levied, imposed, and assessed upon
 15 tobacco products other than cigarettes sold or possessed in
 16 this state and there shall be collected and paid to the
 17 state of Montana a tax of 13.38% of the wholesale price of
 18 such products to the wholesaler, excepting therefrom such
 19 products as may be shipped from Montana and destined for
 20 retail sale and consumption outside the state of Montana.

21 16-11-202. (Effective August 15, 1993) Tax on sale of
 22 tobacco other than cigarettes -- imposed on retail consumer
 23 -- rate of tax. (1) All taxes paid pursuant to the
 24 provisions of this section shall--be---exclusively are
 25 conclusively presumed to be direct taxes on the retail

1 consumer, precollected for the purpose of convenience and
 2 facility only. When the tax is paid by any other person,
 3 such the payment ~~shall--be~~ is considered as an advance
 4 payment and ~~shall~~ must be added to the price of tobacco
 5 products other than cigarettes and recovered from the
 6 ultimate consumer or user. Any person selling tobacco
 7 products other than cigarettes at retail shall state or
 8 separately display in the premises where such the products
 9 are sold a notice of the tax included in the selling price
 10 and charged or payable pursuant to this section. The
 11 provisions of this section ~~shall-in-no-way~~ do not affect the
 12 method of collection of such the tax ~~as--hereinafter~~
 13 provided.

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

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

23 "16-11-206. Wholesaler's discount -- disposition of
 24 taxes. (1) The taxes specified in this part that are paid by
 25 the wholesaler ~~shall~~ must be paid to the department in full

1 less a 5% defrayment for his collection and administrative
 2 expense ~~and--shall--be--deposited--by--the--department--in--the~~
 3 ~~long-range-building-program-debt-service--fund~~. Refunds of
 4 the tax paid ~~shall~~ must be made as provided in 15-1-503 in
 5 cases where the tobacco products purchased become unsalable.

6 (2) Revenue from the tax on tobacco products, other
 7 than cigarettes, must be deposited by the department as
 8 follows:

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

11 (b) the balance to the general--fund STATE SPECIAL
 12 REVENUE ACCOUNT PROVIDED FOR IN [SECTION 7]."

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

14 "17-5-408. Percentage of income, corporation license,
 15 and cigarette tax pledged. (1) ~~the--state--pledges--and~~
 16 ~~appropriates--and--directs--to--be--credited--as--received--to--the~~
 17 ~~debt-service-account-9.8%--for--fiscal-year-1990--and--8.7%--for~~
 18 ~~fiscal--year--1991--of--all--money--received--from--the--collection~~
 19 ~~of--the--individual-income-tax--and--1%--for--fiscal--year--1990~~
 20 ~~and--10.5%--for--fiscal--year--1991--of--all--money,--except--as~~
 21 ~~provided--in--15-31-702,--received--from--the--collection--of--the~~
 22 ~~corporation--license--and--income--tax--as--provided--in--15-1-501,~~
 23 ~~and--such--additional--amount--of--said--taxes,--if--any,--as--may--at~~
 24 ~~any--time--be--needed--to--comply--with--the--principal--and--interest~~
 25 ~~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% ~~95.44%~~ 36.77% of all money received from the collection of the excise tax on cigarettes which 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 50% 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 16-11-202. Nothing ~~herein shall impair~~ in this section impairs or otherwise ~~affect~~ affects the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, 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 all taxes referred to in this ~~subsection (2) section.~~

~~NEW SECTION. Section 6. Effective date. (This act) is effective August 15, 1993.~~

SECTION 6. SECTION 53-6-131, MCA, IS AMENDED TO READ:

"53-6-131. Eligibility requirements. (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of social 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 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.

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

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

(e) The person is under 21 years of age and in foster

care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a hard-to-place child.

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

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

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance, has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance and his the person's resources are within the resource standards of the federal supplemental security income program.

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

(2) The Montana medicaid program shall pay for the premiums necessary for participation in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare deductibles and coinsurance for a medicare-eligible person or for a qualified disabled and

working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

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

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

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

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

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

1 1396a(1)(2)(A) through a(1)(2)(C):

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

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

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

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

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

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

17 NEW SECTION. SECTION 7. SPECIAL REVENUE ACCOUNT. THERE
18 IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND IN THE STATE
19 TREASURY. MONEY IN THE ACCOUNT MUST BE APPROPRIATED TO:

20 (1) PROVIDE MEDICAID ELIGIBILITY FOR PREGNANT WOMEN,
21 INFANTS, AND CHILDREN, AS MANDATED IN 53-6-131(5); AND

22 (2) ENHANCE ACCESS TO EXISTING PREVENTIVE HEALTH CARE
23 SERVICES.

24 NEW SECTION. SECTION 8. EFFECTIVE DATES. (1) [SECTION
25 6 AND THIS SECTION] ARE EFFECTIVE JULY 1, 1993.

1 (2) [SECTIONS 1 THROUGH 5 AND 7] ARE EFFECTIVE AUGUST
2 15, 1993.

-End-

SENATE BILL NO. 305

INTRODUCED BY KLAMPE, FRANKLIN, BARDANOUVE, COBB, ECK,
HAYNE, KADAS, B. BROWN, HARDING, STRIZICH, BLAYLOCK,
WELDON, REA, MASON, BIRD, SPRING

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALES
TAX ON CIGARETTES AND ON TOBACCO OTHER THAN CIGARETTES;
PROVIDING FOR THE DISPOSITION OF THE TAX INCREASE TO THE
MIAMI PROJECT, MEDICAID PROGRAMS, AND PREVENTIVE HEALTH CARE
SERVICES, AND THE LONG-RANGE BUILDING PROGRAM DEBT SERVICE
FUND, AND GENERAL FUND; EXPANDING MEDICAID ELIGIBILITY FOR
PREGNANT WOMEN, INFANTS, AND CHILDREN; AMENDING SECTIONS
16-11-111, 16-11-119, 16-11-202, 16-11-206, AND 17-5-408,
AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE EFFECTIVE
DATES."

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. (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
~~10 36 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 2. 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~~ 16-11-111, must be paid to the state treasurer and deposited as follows:

(1) ~~70.89% 35.44% 36.77% 46.50%~~ in the long-range building program fund in the debt service fund type; and ~~29.11%~~

(2) ~~14.56% 15.10% 19.10%~~ in the long-range building program fund in the capital projects fund type;

(3) 1.5% in the state special revenue account to the MIAMI project for public education and community outreach under 50-19-311; and

(4) the remainder to the state special revenue account to-medicaid-programs-under-Title-53 PROVIDED FOR IN [SECTION 7]."

Section 3. 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~~ are

1 conclusively presumed to be direct taxes on the retail
 2 consumer, precollected for the purpose of convenience and
 3 facility only. When the tax is paid by any other person,
 4 such the payment shall--be is considered as an advance
 5 payment and shall must be added to the price of tobacco
 6 products other than cigarettes and recovered from the
 7 ultimate consumer or user. Any person selling tobacco
 8 products other than cigarettes at retail shall state or
 9 separately display in the premises where such the products
 10 are sold a notice of the tax included in the selling price
 11 and charged or payable pursuant to this section. The
 12 provisions of this section shall-in-no-way do not affect the
 13 method of collection of such the tax as--hereinafter
 14 provided.

15 (2) There is hereby levied, imposed, and assessed upon
 16 tobacco products other than cigarettes sold or possessed in
 17 this state and there shall must be collected and paid to the
 18 state of Montana a tax of ~~12-1/2%~~ 25% 19.4% of the wholesale
 19 price of such the products to the wholesaler--excepting
 20 therefrom-such-products-as-may-be. Products that are shipped
 21 from Montana and destined for retail sale and consumption
 22 outside the state of Montana are exempt from the tax."

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

24 "16-11-206. Wholesaler's discount -- disposition of
 25 taxes. (1) The taxes specified in this part that are paid by

1 the wholesaler shall must be paid to the department in full
 2 less a 5% defrayment for his collection and administrative
 3 expense and-shall-be-deposited--by--the--department--in--the
 4 long-range--building--program--debt-service-fund. Refunds of
 5 the tax paid shall must be made as provided in 15-1-503 in
 6 cases where the tobacco products purchased become unsalable.

7 (2) Revenue from the tax on tobacco products, other
 8 than cigarettes, must be deposited by the department as
 9 follows:

10 (a) 50% 64.43% to the long-range building program debt
 11 service fund; and

12 (b) the balance to the general--fund STATE SPECIAL
 13 REVENUE ACCOUNT PROVIDED FOR IN [SECTION 7]."

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

15 "17-5-408. Percentage of income, corporation license,
 16 and cigarette tax pledged. (1)-(a)--The--state--pledges--and
 17 appropriates--and--directs-to-be-credited-as-received-to-the
 18 debt-service-account-9.8%--for-fiscal-year-1990-and-8.7%--for
 19 fiscal--year--1991-of-all-money-received-from-the-collection
 20 of-the-individual-income-tax-and-1%--for--fiscal--year--1990
 21 and--10.5%--for--fiscal--year--1991--of-all-money,--except-as
 22 provided-in-15-31-702,--received-from-the-collection--of--the
 23 corporation--license-and-income-tax-as-provided-in-15-1-501,
 24 and-such-additional-amount-of-said-taxes,--if-any,--as-may--at
 25 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% ~~35.44%~~ ~~36.77%~~
46.50% of all money received from the collection of the
excise tax on cigarettes which 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 ~~50%~~ 64.43% 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 16-11-202. Nothing herein-shall-impair in
this section impairs or otherwise affect affects the
provisions and covenants contained in the resolutions
authorizing the presently outstanding long-range building
program bonds. Subject to the provisions of the preceding
sentence, 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

all taxes referred to in this subsection-(2) section."

~~NEW-SECTION--Section 6--Effective-date--{This-act}-is--~~
~~effective-August-15,-1993:~~

SECTION 6. SECTION 53-6-131, MCA, IS AMENDED TO READ:

"53-6-131. Eligibility requirements. (1) Medical
assistance under the Montana medicaid program may be granted
to a person who is determined by the department of social
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
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.

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

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

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

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

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

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance, has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance and his the person's resources are within the resource standards of the federal supplemental security income program.

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

(2) The Montana medicaid program shall pay for the premiums necessary for participation in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare deductibles and coinsurance for a

medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

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

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

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

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

(5) Notwithstanding any other provision of this chapter, medical assistance must be provided to ~~infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided~~ the following individuals, as authorized in 42 U.S.C.

1 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C.
 2 1396a(i)(2)(A) through a(1)(2)(C):

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

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

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

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

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

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

18 NEW SECTION. SECTION 7. SPECIAL REVENUE ACCOUNT. THERE
 19 IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND IN THE STATE
 20 TREASURY. MONEY IN THE ACCOUNT MUST BE APPROPRIATED TO:

21 (1) PROVIDE MEDICAID ELIGIBILITY FOR PREGNANT WOMEN,
 22 INFANTS, AND CHILDREN, AS MANDATED IN 53-6-131(5); AND

23 (2) ENHANCE ACCESS TO EXISTING PREVENTIVE HEALTH CARE
 24 SERVICES.

25 NEW SECTION. SECTION 8. TRANSITION -- INVENTORY. ALL

1 CIGARETTES STAMPED BY WHOLESALERS ON OR AFTER AUGUST 15,
 2 1993, ARE TAXED AT THE RATE ESTABLISHED IN 16-11-111 AS
 3 AMENDED BY [THIS ACT]. THE DEPARTMENT OF REVENUE MAY NOT
 4 COLLECT THE NEW TAX ESTABLISHED IN 16-11-111 ON CIGARETTES
 5 THAT WERE STAMPED BEFORE AUGUST 15, 1993, AND HELD IN
 6 INVENTORY BY WHOLESALERS, SUBJOBBER, OR RETAILERS ON OR
 7 AFTER AUGUST 15, 1993.

8 NEW SECTION. SECTION 9. EFFECTIVE DATES. (1) [SECTION
 9 SECTIONS 6 AND 8 AND THIS SECTION] ARE EFFECTIVE JULY 1,
 10 1993.

11 (2) [SECTIONS 1 THROUGH 5 AND 7] ARE EFFECTIVE AUGUST
 12 15, 1993.

-End-

SENATE BILL NO. 305

INTRODUCED BY KLAMPE, FRANKLIN, BARDANOUVE, COBB, ECK,
HAYNE, KADAS, B. BROWN, HARDING, STRIZICH, BLAYLOCK,
WELDON, REA, MASON, BIRD, SPRING

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALES
TAX ON CIGARETTES AND ON TOBACCO OTHER THAN CIGARETTES;
PROVIDING FOR THE DISPOSITION OF THE TAX INCREASE TO THE
~~MIAMI-PROJECT, MEDICAID PROGRAMS, AND PREVENTIVE HEALTH CARE~~
~~SERVICES--AND THE LONG-RANGE BUILDING PROGRAM DEBT SERVICE~~
~~FUND--AND GENERAL FUND; AND GENERAL FUND; EXPANDING MEDICAID~~
~~ELIGIBILITY FOR PREGNANT WOMEN, INFANTS, AND CHILDREN;~~
AMENDING SECTIONS 16-11-111, 16-11-119, 16-11-202,
16-11-206, AND 17-5-408, AND 53-6-131, MCA; AND PROVIDING AN
EFFECTIVE-DATE EFFECTIVE DATES."

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. (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 36 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 2. 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~~ 16-11-111, must be paid to the state treasurer and deposited as follows:

(1) ~~70.89%~~ 35.44% ~~36.77%~~ 46.50% in the long-range building program fund in the debt service fund type; and ~~29.11%~~

(2) ~~14.56%~~ 15.10% 19.10% in the long-range building program fund in the capital projects fund type; AND

~~{3}--1.5%--in--the--state--special--revenue--account--to--the~~
~~MIAMI--project--for--public--education--and--community--outreach~~
~~under--50--19--311;--and~~

~~{4}{3} the remainder to the state--special--revenue~~
~~account to medicaid programs under Title 53 PROVIDED FOR IN~~
~~{SECTION 7} GENERAL FUND."~~

Section 3. 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

1 conclusively presumed to be direct taxes on the retail
 2 consumer, precollected for the purpose of convenience and
 3 facility only. When the tax is paid by any other person,
 4 such the payment ~~shall--be~~ is considered as an advance
 5 payment and ~~shall~~ must be added to the price of tobacco
 6 products other than cigarettes and recovered from the
 7 ultimate consumer or user. Any person selling tobacco
 8 products other than cigarettes at retail shall state or
 9 separately display in the premises where such the products
 10 are sold a notice of the tax included in the selling price
 11 and charged or payable pursuant to this section. The
 12 provisions of this section ~~shall-in-no-way~~ do not affect the
 13 method of collection of such the tax ~~as--hereinafter~~
 14 provided.

15 (2) There is hereby levied, imposed, and assessed upon
 16 tobacco products other than cigarettes sold or possessed in
 17 this state and there ~~shall~~ must be collected and paid to the
 18 state of Montana a tax of ~~12-1/2%~~ 25% 19.4% of the wholesale
 19 price of such the products to the wholesaler, ~~--excepting~~
 20 ~~therefrom-such-products-as-may-be.~~ Products that are shipped
 21 from Montana and destined for retail sale and consumption
 22 outside the state of Montana are exempt from the tax."

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

24 "16-11-206. Wholesaler's discount -- disposition of
 25 taxes. (1) The taxes specified in this part that are paid by

1 the wholesaler ~~shall~~ must be paid to the department in full
 2 less a 5% defrayment for his collection and administrative
 3 expense ~~and-shall-be-deposited--by--the--department--in--the~~
 4 ~~long-range--building--program--debt-service-fund.~~ Refunds of
 5 the tax paid ~~shall~~ must be made as provided in 15-1-503 in
 6 cases where the tobacco products purchased become unsalable.

7 (2) Revenue from the tax on tobacco products, other
 8 than cigarettes, must be deposited by the department as
 9 follows:

10 (a) 50% 64.43% to the long-range building program debt
 11 service fund; and

12 (b) the balance to the general--fund STATE--SPECIAL
 13 REVENUE-ACCOUNT-PROVIDED-FOR-IN-{SECTION-7} GENERAL FUND."

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

15 "17-5-408. Percentage of income, corporation license,
 16 and cigarette tax pledged. ~~{1}-{a}~~ ~~--The--state--pledges--and~~
 17 ~~appropriates--and--directs-to-be-credited-as-received-to-the~~
 18 ~~debt-service-account-9.8%--for-fiscal-year-1990--and-8.7%--for~~
 19 ~~fiscal--year--1991--of-all-money-received-from-the-collection~~
 20 ~~of-the-individual-income-tax-and-11%--for--fiscal--year--1990~~
 21 ~~and--10.5%--for--fiscal--year--1991--of-all-money,--except-as~~
 22 ~~provided-in-15-31-702,--received-from-the-collection--of--the~~
 23 ~~corporation--license-and-income-tax-as-provided-in-15-1-501,~~
 24 ~~and-such-additional-amount-of-said-taxes,--if-any,--as-may--at~~
 25 ~~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 70.09% 35.44% 36.77% 46.50% of all money received from the collection of the excise tax on cigarettes which 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 50% 64.43% 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 16-11-202. Nothing herein shall impair in this section impairs or otherwise affect affects the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, 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

all taxes referred to in this subsection (2) section."

~~NEW SECTION. Section 6. Effective date. (This act) is effective August 15, 1993.~~

SECTION 6. SECTION 53-6-131, MCA, IS AMENDED TO READ:

"53-6-131. Eligibility requirements. (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of social 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 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.

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

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

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

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

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

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance, has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance and his the person's resources are within the resource standards of the federal supplemental security income program.

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

(2) The Montana medicaid program shall pay for the premiums necessary for participation in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare deductibles and coinsurance for a

medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

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

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

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

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

(5) Notwithstanding any other provision of this chapter, medical assistance must be provided to ~~infants-and pregnant-women-whose-family-income-does-not-exceed--1334--of the--federal--poverty--threshold,--as-provided~~ the following individuals, as authorized in 42 U.S.C.

1396a(a)(10)(A)(ii)(IX) and 42 U.S.C.

1396a(f)(2)(A) through a(1)(2)(C):

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

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

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

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

(c) a child who is 6 years of age or older but under 19 years of age and whose family income does not exceed 100% of 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)."

~~NEW SECTION. -- SECTION 7. -- SPECIAL REVENUE ACCOUNT. -- THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND IN THE STATE TREASURY. -- MONEY IN THE ACCOUNT MUST BE APPROPRIATED TO:~~
~~(1) -- PROVIDE MEDICAID ELIGIBILITY FOR PREGNANT WOMEN, INFANTS, AND CHILDREN, AS MANDATED IN 53-6-131(5); -- AND~~
~~(2) -- ENHANCE ACCESS TO EXISTING PREVENTIVE HEALTH CARE SERVICES.~~

NEW SECTION. SECTION 7. TRANSITION -- INVENTORY. ALL

CIGARETTES STAMPED BY WHOLESALERS ON OR AFTER AUGUST 15, 1993, ARE TAXED AT THE RATE ESTABLISHED IN 16-11-111 AS AMENDED BY [THIS ACT]. THE DEPARTMENT OF REVENUE MAY NOT COLLECT THE NEW TAX ESTABLISHED IN 16-11-111 ON CIGARETTES THAT WERE STAMPED BEFORE AUGUST 15, 1993, AND HELD IN INVENTORY BY WHOLESALERS, SUBJOBBER, OR RETAILERS ON OR AFTER AUGUST 15, 1993.

NEW SECTION. SECTION 8. EFFECTIVE DATES. (1) [SECTION SECTIONS 6 AND 7 AND THIS SECTION] ARE EFFECTIVE JULY 1, 1993.

(2) [SECTIONS 1 THROUGH 5 AND 7] ARE EFFECTIVE AUGUST 15, 1993.

-End-