Fiscal Note 2011 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	SB0317	**Title:**	Increase non-cigarette tobacco taxes
Primary Sponsor:	Kaufmann, Christine	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	$6,440,444	$6,433,394	$6,434,975	$6,438,619
Revenue:				
General Fund	$134,955	$138,380	$138,380	$138,380
State Special Revenue	$9,186,564	$9,323,967	$9,323,967	$9,323,967
Net Impact-General Fund Balance:	$134,955	$138,380	$138,380	$138,380

Description of fiscal impact:

This bill increases the tax rate on tobacco products other than cigarettes from 50% of the wholesale price to 118% of the wholesale price and increases the tax rate on moist snuff from $0.85 per ounce to $2.01 per ounce. This bill also changes the distribution of tax revenues associated with the Tobacco and Health Initiatives account, most commonly referred to as I-149.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. Under current law, tobacco products other than cigarettes are taxed at 50% of the wholesale price and moist snuff is taxed at $0.85 per ounce. This bill increases those tax rates to 118% and $2.01 respectively.

2. The official tobacco products tax estimate from the legislative fiscal division is based on an assumption that the wholesale value of tobacco products other cigarettes sold in Montana will be $4,451,225 in FY 2010 and $4,001,127 in FY 2011. For the purposes of this fiscal note, it is assumed that the wholesale value of tobacco products other than cigarettes in FY 2012 and FY 2013 will be $4,001,127, the FY 2011 level.
3. This fiscal note uses a price elasticity of -0.4 for tobacco products other than cigarettes and moist snuff. This means that a 10% increase in retail price will decrease consumption by 4%, all else constant. This elasticity has been used in the past by the department to estimate revenue impacts for a change in cigarette prices and is consistent with experiences in other states.
4. The retail price of tobacco products other than cigarettes is estimated to be equal to the wholesale price plus the tax (Retail Price = Wholesale Price + [Wholesale Price x Tax Rate]). Using this formula for the retail price, a tax increase from 50% to 118% is equal to a price increase of 45.3%.
5. An increase of the retail price of 45.3% will decrease consumption by 18.12% (45.3% x -0.4 = -18.12%). This will make the wholesale value of tobacco products other than cigarettes sold in Montana $3,644,663 in FY 2010 ($4,451,225 x 81.88% = $3,644,663), $3,276,123 in FY 2011, $3,276,123 in FY 2012 and $3,276,123 in FY 2013.
6. The new tax revenue from tobacco products other than cigarettes will be $4,300,702 in FY 2010 ($3,644,663 x 118% = $4,300,702), $3,865,825 in FY 2011, $3,865,825 in FY 2012 and $3,865,825.
7. Under current law, the tax rate on moist snuff is $0.85 per ounce. This bill would increase the tax rate on moist snuff to $2.01 per ounce.
8. The official tobacco products tax estimate from the legislative fiscal division is based on the assumption that there will be 9,605,894 ounces of moist snuff sold in FY 2010 and 10,050,627 ounces sold in 2011. This fiscal note assumes that the consumption of moist snuff will be 10,050,627 ounces in FY 2012 and FY 2013, the same amount as in FY 2011.
9. The Department of Revenue does not have an average price per ounce of moist snuff so the data is not available to calculate the impact on the retail price
10. It is assumed that the tax increase on moist snuff raises the retail price of moist snuff by 45.3%, the same price increase as tobacco products other than cigarettes. This will decrease consumption by 18.12% so there will be 7,865,306 ounces of moist snuff sold in FY 2010 (9,605,894 x .8188 = 7,865,306), 8,229,453 ounces in FY 2011, 8,229,453 in FY 2012 and 8,229,453 in FY 2013.
11. The tax revenue will be $15,809,265 in FY 2010 (7,865,306 x $2.01 = $15,809,265), $16,541,201 in FY 2011, $16,541,201 in FY 2012 and $16,541,201 in FY 2013.
12. The total tax revenue will be $20,109,967 in FY 2010 ($4,300,702 + $15,809,265 = $20,109,967), $20,407,026 in FY 2011, $20,407,026 in FY 2012, $20,407,026 in FY 2013.
13. Tobacco distributors are allowed to keep 1.5% of other tobacco products revenue. In FY 2010 this would make total tax revenue paid to the state $19,808,318 in FY 2010 ($20,109,967 x 98.5% = $19,808,318), $20,100,921 in FY 2011, $20,100,921 in FY 2012 and $20,100,921 in FY 2013.
14. The state has revenue sharing agreements with five of the tribes in the state. In the official revenue estimates, the revenue sharing amount is approximately 4.8% of the total tobacco products revenue. The tribal revenue sharing amount would be equal to $950,799 in FY 2010 ($19,808,318 x 4.8% = $950,799), $968,844 in FY 2011, $964,844 in FY 2012 and $968,844 in FY 2013. The state portion of other tobacco products revenue would be $18,857,519 in FY 2010 ($19,808,318 - $950,799 = $18,857,519), $19,136,077 in FY 2011, $19,136,077 in FY 2012, and $19,136,077 in FY 2013.

15. This bill would distribute the revenue as follows: 26% to the state general fund, 26% in the state special revenue account for health and Medicaid initiatives, 16% in the community health center account and 32% in an account administered by the state auditor to assist eligible small employers with the cost of providing health insurance benefits. The table shows the amounts that would be deposited in each account.

	FY 2010	**FY 2011**	**FY 2012**	**FY 2013**
General Fund	$ 4,902,955	$ 4,975,380	$4,975,380	$4,975,380
Health and Medicaid Initiatives	$ 4,902,955	$ 4,975,380	$4,975,380	$4,975,380
Community Health Center	$ 3,017,203	$ 3,061,772	$3,061,772	$3,061,772
State Auditor	$ 6,034,406	$ 6,123,545	$6,123,545	$6,123,545

16. The HJR 2 revenue estimates show that there will be $4,768,000 other tobacco products tax revenue deposited in the general fund in FY 2010 and $4,837,000 deposited in the general fund in FY 2011. For the purposes of this fiscal note, it is assumed that the general fund revenue would be $4,837,000 in FY 2012 and FY 2013. This represents half the other tobacco products tax revenue; the other half is deposited in the state special revenue account for health and Medicaid initiatives.
17. This bill would increase general fund revenue by $136,955 in FY 2010 ($4,902,955 - $4,768,000 = $136,955), $138,380 in FY 2011, $138,380 in FY 2012 and $138,380 in FY 2013. This bill would also increase state special revenue funding by $9,186,564 in FY 2010, $9,323,697 in FY 2011, $9,323,697 in FY 2012 and $9,323,697 in FY 2013. The table below shows the increase in each special revenue account.

	FY 2010	**FY 2011**	**FY 2012**	**FY 2013**
General Fund	$ 134,955	$ 138,380	$ 138,380	$ 138,380
Health and Medicaid Initiatives	$ 134,955	$ 138,380	$ 138,380	$ 138,380
Community Health Center	$ 3,017,203	$ 3,061,772	$3,061,772	$3,061,772
State Auditor	$ 6,034,406	$ 6,123,545	$6,123,545	$6,123,545

18. This bill would adjust the tax rates on tobacco products other than cigarettes. This would require modifications to GenTax, the computer software used by the department to administer state taxes. These modifications would require 80 hours of development and 40 hours of testing. The development costs would be covered by existing maintenance agreements and the testing would be performed by existing personal that would redirect their time from other duties.
19. These new tax rates are effective on passage and approval, and it is assumed that this may be before the beginning of FY 2010. However, it is difficult to quantify the immediate effects that this bill may have on consumption. Therefore, it is assumed that the effects of this tax will not be specifically evident until FY 2010.

State Auditor's Office (SAO)

20. This bill reallocates the tobacco and moist snuff taxes and dedicates 16% to partially fund the small business health insurance program that is deposited into the "Health and Medicaid Initiatives" state special revenue fund.
21. There are currently 600+ businesses on the purchasing pool waiting list currently costing approximately $654 per month per business. Applications will continue to be submitted and it is assumed that by May 1, 2009 the program will have 700 businesses on the waiting list. The cost to add 700 businesses is $5,492,600 for FY 2010 through 2013.

22. There are currently 100+ businesses on the tax credit program waiting list. Applications will continue to be received and it is assumed that by May 1, 2009 the program will have 150 businesses on the waiting list. The cost to add 150 tax credit businesses is approximately $821,700 for FY 2010 through 2013.
23. SAO is requesting two full time employees beginning FY 2010; one for the increase in businesses participating in the program and one to complete case file audits. Estimated personal services and operating costs including electronic file transmittal notices mailings are approximately $125,244 for FY 2010, $118,094 FY 2011, $120,675 FY2012, and $123,319 FY 2013.

	FY 2010 Difference	**FY 2011 Difference**	**FY 2012 Difference**	**FY 2013 Difference**
Fiscal Impact:				
Department of Revenue				
Revenues:				
General Fund (01)	$134,955	$138,380	$138,380	$138,380
State Special Revenue (02)	$9,186,564	$9,323,697	$9,323,697	$9,323,697
TOTAL Revenues	$9,321,519	$9,462,077	$9,462,077	$9,462,077
Fiscal Impact:				
State Auditor's Office (SAO)				
FTE	2.00	2.00	2.00	2.00
Expenditures:				
Personal Services	$92,826	$92,926	$95,250	$97,631
Operating Expenses	$32,318	$25,168	$25,425	$25,688
Benefits				
PP Waiting List 700 busines	$5,493,600	$5,493,600	$5,493,600	$5,493,600
TC Waiting List 150 busine	$821,700	$821,700	$821,700	$821,700
TOTAL Expenditures	$6,440,444	$6,433,394	$6,435,975	$6,438,619
Funding of Expenditures:				
State Special Revenue (02)	$6,440,444	$6,433,394	$6,435,975	$6,438,619
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$134,955	$138,380	$138,380	$138,380
State Special Revenue (02)	$2,746,120	$2,890,303	$2,887,722	$2,885,078

Technical Notes:

1. Recently passed federal legislation (Feb. 4, 2009) will increase the federal tax on all tobacco products. This fiscal note is based on the HJR 2 estimates which do not include the new federal tax rates.

2. The wholesale price of tobacco products other than cigarettes includes all federal taxes. A tax increase in the federal tax rates will increase the wholesale price of tobacco products other than cigarettes and decrease consumption. The tax is based on the total wholesale value of tobacco products other than cigarettes

consumed in the state. It is not clear if the wholesale price increase will be large enough to offset the decrease in consumption or how this will impact anticipated revenues.

3. The tax increase on moist snuff will increase the price, which will decrease consumption. Because the tax on moist snuff is based on the number of ounces consumed, the additional revenue may be lower than the revenue based on HJR 2.

4. An amended fiscal note may be needed once the impact and effective date of the new federal legislation is known at the statewide level.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*