FISCAL NOTE

Bill #: SB 12

Title: General tax revision - cigarettes, lodging, car rental

Primary Sponsor: John Bohlinger

Status: As Introduced

Sponsor signature Date

Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY2003 Difference	FY2004 Difference	FY2005 Difference
Expenditures:			
General Fund	$352,806	$131,153	$132,622
State Special Revenue	$36,985	$50,792	$52,316
Federal Special Revenue	$1,751	$2,404	$2,476
Other	$57,006	$78,288	$80,636
Revenue:			
General Fund	$30,931,738	$43,208,204	$43,482,525
State Special Revenue	$152,828	$213,293	$223,569
Federal Special Revenue	$1,751	$2,404	$2,476
Other	($21,514)	($30,530)	($26,506)
Net Impact on General Fund Balance:	$30,578,932	$43,077,051	$43,349,903

Yes	No		Yes	No	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

Lodging Facility Use Tax

1) Beginning October 1, 2002, this bill would make the following changes to the lodging facility use tax:
   a) The tax rate increases from 4% to 9%.
   b) Reimbursements to state agencies increase from 4% to 9% of instate lodging expenses
   c) 55% of collections, net of the Dept of Revenue's appropriation for administration costs and state agency reimbursements is allocated to the general fund.
   d) The allocations in current law apply to the remaining revenue:
      $400,000 to the Montana heritage preservation and development account with the remainder allocated
      1% to the Historical Society for roadside signs and historic sites
      2.5% to the university system for travel research
      6.5% to the department of fish, wildlife and parks for park maintenance

67.5% to the department of commerce for tourism promotion
22.5% to regional and local tourism promotion

2) Lodging facility use tax collections in fiscal 2002 are $11,946,857. Taxable accommodations charges for fiscal 2002 were $298,671,430 ($11,946,857 = 4% x $298,671,430). The average growth rate of lodging facility use tax collections from 1995 to 2002 is 4.66%. Taxable accommodations charges will continue to grow by 4.66% per year.
3) In fiscal 2003, collections for three months will be at the current law rate of 4% of taxable accommodations charges. Collections for the remaining nine months of FY 2003 and for following fiscal years will be 9% of taxable accommodations charges. Table 1 shows taxable accommodations charges, tax collections under current law and under this bill, and the difference for FY 2003 through 2005.

Table 1
Lodging Facility Use Tax Collections

Fiscal Year	Taxable Accommodations Charges	Current Law Accommodations Tax Collections	Proposed Law Accommodations Tax Collections	Difference
2003	312,589,519	12,503,581	24,225,688	11,722,107
2004	327,156,190	13,086,248	29,444,057	16,357,810
2005	342,401,669	13,696,067	30,816,150	17,120,083

4) The Department of Revenue is appropriated $133,256 from lodging facility use tax receipts in FY 2003 to cover costs of administering the tax. This appropriation will be $140,000 in FY 2004 and in fiscal 2005.
5) Reimbursements to state agencies in fiscal 2002 are $135,488, with $36,339 (26.8%) to the general fund, $38,301 (28.3%) to state special revenue accounts, $1,813 (1.3%) to federal special revenue accounts and $59,035 (43.6%) to other accounts, such as agency proprietary funds. Under current law state agency in-state lodging expenses will grow by 3% per year, and proportions of expenses paid by different fund types will be the same as in fiscal 2002. Under this bill, state agency lodging expenses will be higher because of the higher tax rate and reimbursements to state agencies will increase by the same amount. Table 2 shows tax collections, the Department of Revenue appropriation, state agency reimbursements and revenue to distribute under current law and under this bill. It also shows the differences.

Table 2
Lodging Facility Use Tax Reimbursements to State Agencies

			State Agency Travel Reimbursements				
Fiscal Year	Collections	Dept. of Revenue Tax Administration Cost	General Fund	State Special Revenue Accounts	Federal Special Revenue Accounts	Other	Revenue to Distribute
Current Law							
2003	$12,503,581	$133,256	$37,429	$39,450	$1,867	$60,806	$12,230,772
2004	$13,086,248	$140,000	$38,552	$40,634	$1,923	$62,630	$12,802,508
2005	$13,696,067	$140,000	$39,709	$41,853	$1,981	$64,509	$13,408,015
Proposed Law							
2003	$24,225,688	$133,256	$72,519	$76,435	$3,618	$117,811	$23,822,048
2004	$29,444,057	$140,000	$86,742	$91,426	$4,328	$140,918	$28,980,643
2005	$30,816,150	$140,000	$89,344	$94,169	$4,458	$145,145	$30,343,034
Difference							
2003	$11,722,107	$0	$35,090	$36,985	$1,751	$57,006	$11,591,276
2004	$16,357,810	$0	$48,190	$50,792	$2,404	$78,288	$16,178,135
2005	$17,120,083	$0	$49,636	$52,316	$2,476	$80,636	$16,935,019

6) Table 3 shows the allocation of revenue net of the cost of administering the tax and reimbursements to state agencies under current law and under this bill, and it shows the differences.

Table 3
Distribution of Lodging Facility Use Tax Net Revenue

Fiscal Year	Revenue to Distribute	General Fund	Heritage Preservation	Signs and Historic Sites	Travel Research	State Parks	Statewide Travel Promotion	Regional and Local Travel Promotion
Current Law								
2003	$12,230,772	$0	$400,000	$118,308	$295,769	$769,000	$7,985,771	$2,661,924
2004	$12,802,508	$0	$400,000	$124,025	$310,063	$806,163	$8,371,693	$2,790,564
2005	$13,408,015	$0	$400,000	$130,080	$325,200	$845,521	$8,780,410	$2,926,803
Proposed Law								
2003	$23,822,048	$11,420,395	$400,000	$120,017	$300,041	$780,107	$8,101,116	$2,700,372
2004	$28,980,643	$15,939,354	$400,000	$126,413	$316,032	$821,684	$8,532,871	$2,844,290
2005	$30,343,034	$16,688,669	$400,000	$132,544	$331,359	$861,534	$8,946,697	$2,982,232
Difference								
2003	$11,591,276	$11,420,395	$0	$1,709	$4,272	$11,107	$115,345	$38,448
2004	$16,178,135	$15,939,354	$0	$2,388	$5,970	$15,521	$161,177	$53,726
2005	$16,935,019	$16,688,669	$0	$2,464	$6,159	$16,013	$166,286	$55,429

Allocations to accounts that receive a percentage of revenue are 1.4% higher in fiscal 2003 and 1.9% higher in fiscal years 2004 and 2005.

<u>Rental Car Tax</u>

7) Beginning October 1, 2002, this bill would impose a tax of 8% on the base rental price of passenger vehicles rented for 30 days or less. The tax would not apply to the rental of insurance or repair loaners. Vendors are to retain 5% of the tax as an administrative allowance.
8) Taxable vehicle rental charges would be $49.974 million in fiscal 2003, $54.473 million in fiscal 2004 and $53.017 million in fiscal 2005.
9) In fiscal 2003, the tax would apply for three quarters. Tax collections in fiscal 2003 would be $3,373,245 (3/4 x 9% x $49.974 million). Tax collections would be $4,902,570 in fiscal 2004 (9% x $54.473 million) and $4,771,530 in fiscal 2005 (9% x $53.017 million).
10) The Department of Revenue would have to implement a new computer system to administer the new rental car tax. This would require expenditures for contract services of $306,388 in fiscal 2003 and ongoing expenditures for operation and maintenance of $71,491 in fiscal 2004 and following years.
11) The Department of Revenue would need 0.25 additional FTE for compliance and administration work for the new rental car tax. Additional expenditures for personal services would be $10,032 in fiscal 2003, $10,171 in fiscal 2004 and $10,194 in fiscal 2005. Additional expenditures for equipment and supplies would be $1,296 in fiscal 2003, $1,301 in fiscal 2004 and $1,301 in fiscal 2005.

<u>Cigarette Tax</u>

12) Under current law, the cigarette tax rate is $0.18 per pack.

13) Under this proposal, the cigarette tax rate is increased to $0.60 per pack beginning October 1, 2002. The proposed tax applies to cigarettes in the possession of wholesalers on October 1, 2002. This proposal is shown Table 1.
14) Under current law, cigarette tax revenues, after tribal revenue sharing payments, are distributed 73.04% to the state general fund; 15.85% to the Long-Range Building Program Account; and 11.11% to the Department of Public Health and Human Services for the operation and maintenance of state veterans' nursing homes.
15) Under this proposal, cigarette tax revenues, after tribal revenue sharing payments, are distributed in the same manner as under current law for collections prior to October 1, 2002 from the $0.18 tax.
16) Under this proposal, cigarette tax revenues, after tribal revenue sharing payments, are distributed 91.912% to the state general fund; 4.755% to the Long-Range Building Program Account; and 3.333% to the Department of Public Health and Human Services for the operation and maintenance of state veterans' nursing homes. These distributions are for those tax collections beginning October 1, 2002. This proposal is shown Table 1.

Table 1
SB12 (Special Session 2002) As Introduced
Current Law and Proposed Law Tax Rates
and Distribution of Net Revenue

Revenue Fund	Tax Rate	Distribution of Net Revenue
Current Law	**$0.18**	
General Fund		73.040%
LRBP		15.850%
DPHHS (Veteran Nursing Homes)		11.110%
Proposed Law - July 1, 2002 to October 1, 2002	**$0.18**	
General Fund		73.040%
LRBP		15.850%
DPHHS (Veteran Nursing Homes)		11.110%
Proposed Law - October 1, 2002 and on	**$0.60**	
General Fund		91.912%
LRBP		4.755%
DPHHS (Veteran Nursing Homes)		3.333%

17) The impacts of the cigarette tax rate increase to $0.60 per pack will generate new net revenue of $15,969,449 in fiscal 2003, $22,132,984 in fiscal 2004, and $21,790,448 in fiscal 2005. Revenue to the state general fund will increase by $16,103,008 in fiscal 2003, $22,318,090 in fiscal 2004, and $21,972,690 in fiscal 2005. Revenue to the Long-Range Building Program Account will decrease by $78,520 in fiscal 2003, $108,826 in fiscal 2004, and $107,142 in fiscal 2005. Revenue to the Department of Public Health and Human Services for the operation and maintenance of state veterans' nursing homes will decrease by $55,038 in fiscal 2003, $76,281 in fiscal 2004, and $75,100 in fiscal 2005.
18) The impact in assumption 17 is calculated using a model developed by the Department of Revenue (DOR). The DOR cigarette tax revenue estimate under current law for fiscal years 2003 through 2005 is used as the base. In addition to DOR's base estimate, a price elasticity of demand for cigarettes of 0.44 is used in this model. Given a base cost of $2.82 per pack, which is used in this model, and an elasticity of 0.44, each penny increase in the price of a pack of cigarettes results in a decrease in demand of 0.16%.
19) The proposal to increase the cigarette tax to $0.60 has no impact on Department of Revenue administrative expenses.

FISCAL IMPACT:	FY2003 Difference	FY2004 Difference	FY2005 Difference
FTE	0.25	0.25	0.25
Expenditures:			
Travel	$130,832	$179,674	$185,064
Personal Services	$10,032	$10,171	$10,194
Operating Expenses	$306,388	$71,491	$71,491
Equipment	$1,296	$1,301	$1,301
TOTAL	$448,548	$262,637	$268,050
Funding:			
General Fund (01)	$352,806	$131,153	$132,622
State Special Revenue (02)	$36,985	$50,792	$52,316
Federal Special Revenue (03)	$1,751	$2,404	$2,476
Other	$57,006	$78,288	$80,636
TOTAL	$448,548	$262,637	$268,050
Revenues:			
General Fund (01)	$30,931,738	$43,208,204	$43,482,525
State Special Revenue (02)			
All SSR - travel reimbursement	$36,985	$50,792	$52,316
Historical Society - signs & historic sites	$1,709	$2,388	$2,464
University System - travel research	$4,272	$5,970	$6,159
DFWP - state parks	$11,107	$15,521	$16,013
Statewide Travel Promotion	$115,345	$161,177	$166,286
Regional and Local Travel Promotion	$38,448	$53,726	$55,429
State Veteran's Home	($55,038)	($76,281)	($75,100)
Federal Special Revenue (03)	$1,751	$2,404	$2,476
Other			
All Other travel reimbursement	$57,006	$78,288	$80,636
Long Range Building Program	($78,520)	($108,826)	($107,142)
Net Impact to Fund Balance (Revenue minus Expenditure):			
General Fund (01)	$30,578,932	$43,077,051	$43,349,903
State Special Revenue (02)			
All SSR travel reimbursement	$0	$0	$0
Historical Society - signs & historic sites	$1,709	$2,388	$2,464
University System - travel research	$4,272	$5,970	$6,159
DFWP - state parks	$11,107	$15,521	$16,013
Statewide Travel Promotion	$115,345	$161,177	$166,286
Regional and Local Travel Promotion	$38,448	$53,726	$55,429
State Veteran's Home	($55,038)	($76,281)	($75,100)
Federal Special Revenue (03)	$0	$0	$0
Other			
All Other travel Reimbursement	$0	$0	$0
Long Range Building Program	($78,520)	($108,826)	($107,142)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1) This bill would increase funding for regional and local tourism promotion by $38,448 in fiscal 20003, by $53,726 in fiscal 2004 and by $55,429 in fiscal 2005.

LONG-RANGE IMPACTS:

1) The revenue and expenditure changes resulting from this bill would grow over time as lodging, car rentals and cigarette consumption grow.

TECHNICAL NOTES:

1) This proposal will require the Department of Revenue to carefully review the September 2002 inventories and purchasing history of all the licensed cigarette wholesalers to insure the wholesalers do not stockpile $0.18 cigarette stamps. Currently the Department of Revenue receives a monthly filing of the current inventories and monthly sells from each wholesaler so the review will not require travel or field audit.
2) The estimates provided in this fiscal note assume there will not be significant stockpiling by the wholesalers or retailers of cigarettes taxed at $0.18 per pack. The current language of this bill doesn't necessarily prevent retailers from purchasing an unusual amount of cigarettes prior to the tax increase.
3) In estimating system development costs for the new rental car tax, the Department of Revenue has identified the following risks: Estimated costs were derived without the use of ISTD/CIO recommended project methodology. Estimated elapsed time to implementation of 5 ½ months will introduce project risks and will not allow for the ITSD recommended project methodology. Adding this application onto the POINTS application may put at risk the goal of reaching POINTS stability by December 31, 2002 and implementation of POINTS Phase II (individual income tax and corporate license tax) in the fall of 2003.
4) The information technology project required to implement this legislation would require the review and approval of the Chief Information Officer as provided in 1-17-512, MCA.
5) Sections 1 and 2 make the user of a lodging facility the taxpayer. MCA, 15-65-116, which deals with credit or refund of overpayment assumes that the taxpayer is the lodging facility owner. It needs to be amended to reflect the change in the taxpayer. The Department of Revenue has no way of knowing whether any individual consumer has been charged the correct amount of tax, only whether the lodging facility owner has remitted the correct amount. Thus, this bill should amend MCA, 15-65-116 to cover overpayments by lodging facility owners rather than overpayments by taxpayers.
6) Section 7 states that the rental car tax is to be 9% of the rental base price. The term "rental base price" is not defined. Section 6 defines "gross receipts," which is not used in the bill.
7) Section 7 defines "rental vehicle." It is not clear whether this definition includes snowmobiles, jet skis, motorcycles, go-carts or similar recreational vehicles.
8) Section 8 requires rental vehicle owners to obtain a permit from the Department of Revenue. This wording could be construed to imply that the department has regulatory authority over rental vehicle owners. Other chapters of Title 15 require entities that pay or collect a tax to register with the department, not to obtain a permit.
9) The bill includes provisions for penalties and interest in administration of the rental vehicle surcharge. The title mentions penalties but not interest. The title should be amended to read "PROVIDING FOR THE ADMINISTRATION OF THE RENTAL VEHICLE SURCHARGE, INCLUDING PENALTIES AND INTEREST."