

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
57th LEGISLATURE - SPECIAL SESSION  
COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIR BOB STORY**, on August 8, 2002 at 8:00  
A.M., in Room 137 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Bob Story, Chair (R)  
Rep. Ron Erickson, Vice Chair (D)  
Rep. Roger Somerville, Vice Chair (R)  
Rep. Joan Andersen (R)  
Rep. Keith Bales (R)  
Rep. Joe Balyeat (R)  
Rep. Gary Branae (D)  
Rep. Eileen J. Carney (D)  
Rep. Larry Cyr (D)  
Rep. Rick Dale (R)  
Rep. Ronald Devlin (R)  
Rep. John Esp (R)  
Rep. Gary Forrester (D)  
Rep. Daniel Fuchs (R)  
Rep. Verdell Jackson (R)  
Rep. Jesse Laslovich (D)  
Rep. Butch Waddill (R)  
Rep. Karl Waitschies (R)  
Rep. David E. Wanzenried (D)

**Members Excused:** Rep. Trudi Schmidt (D)

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Branch  
Pam Schindler, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB23, HB19, 8/01/2002  
Executive Action: HB19, Tabled

**HEARING ON HB23****Sponsor :****Rep. Waddill-HD 62-Florence, Montana**

"An act reducing the shortfall in General fund revenue by increasing the cigarette tax from 18 cents to 68 cents on a pack of cigarettes and depositing the amount from the increase in the tax in the state General Fund. Increasing the tax on tobacco products from 12.5% to 50%".

Raises the tax on tobacco from 18 cents to 68 cents. Tobacco products 15%. Page 2 line 17,20,22 %'s have been adjusted to same amount of funding for Veteran's Homes, Building Funds, etc. Page 3, line 4 12.5%-15% tobacco products. We also have amendments. Facts: Montana tax on cigarettes is 18 cents. 12th lowest in U.S. 3rd lowest in U.S. with excise tax. Only Kentucky, North Carolina, and Virginia are lower. Last increase 1993. Burden of cost is on everyone else but smokers. Health care costs \$216M, Medicaid \$52M costs, \$490/per household cost. \$247M on work force costs. Those who smoke should bear the costs.

*{Tape : 1; Side : A; Approx. Time Counter : 0 - 81}*

**Proponents :****Dr. Shepherd- Physician, American Cancer Society, Montana Tobacco Use Council**

Task Force studied issues (24 citizens from around state). Tobacco taxes: 30% of all cancers are caused by tobacco smoke, 120,000 heart disease tobacco related, emphysema, chronic bronchitis, premature babies, miscarriages and so forth. Per pack costs would have to be per pack \$7.00. \$3.50 per pack lost productivity. Smokers live 14 years less than non-smokers. Health care costs per pack \$3.50. For every 10% raise in tobacco products tax, sales go down 4%. New York City just raised city tax-was 8cents now \$1.50 per pack. Revenues for NYC \$2.5M to over \$12M. 50% drop in sales. Drop in sales is less than the increase. 68 cents is so far short-still not paying health care. Win for government and win for health care. Tax on poor-it is true, poor disproportionately represented among smokers-the greatest tax on the poor is the addictive quality of cigarettes to which they are lured to as children by the tobacco industry. That very addiction which impoverishes them, not the tax.

**Erin McGowan-American Cancer Society, American Heart Assoc., American Lung Assoc. of the Northern Rockies Protect Montana Kids. org**

Any increase in the tobacco tax will be good. Research -10 cents reduces youth smoking rates decline 6.5%. Protect Montana Kids. org supports \$1.50 increase in tobacco tax. If that tax was instated \$80M would be raised. 30% decline in youth smoking. 16,200 youths alive today would not become smokers. \$289M resulting in long term health care savings. Win/win situation.

**Vernon Bertelsson-Montana Senior Citizens Association**

We are the ones who see our fellow senior citizens walking around with oxygen tanks. Major problem we face in Montana. Youth is easily led by tobacco co's. Raise taxes-use decreases. Do you vote to protect the health of Montanans's or do you vote to protect the health of the tobacco companies.

**Cliff Christian-American Heart Association**

Heart disease is the number one killer of Montanans's. #1 preventable cause of heart disease is smoking. American Heart Assoc. does not receive money from any government source. Never has, never will. Tax increase vs. user fees. Serious problem with tobacco in our nation. \$52M spent on health costs in Montana. \$52M on Medicaid then lets get \$52M in user fees. "Twinkie Defense"-tobacco today, food tomorrow. Twinkies aren't addictive, they don't have nicotine nor ammonia. Market conditions will adjust. People need to eat healthier. There is a question about buying cigarettes off the internet; most people buy 1 pack at a time. Smuggling? Other states around Montana have higher taxes than Montana. Least able to pay? Maybe if we increase the tobacco user fees, maybe we'll see a reduction in smoking. I ask for Parody.

**Eric Feaver-MEA/MFT**

Already heard the cost benefit on why we should raise taxes. Primary argument is "we need the money, NOW". Re: dangerous cuts that have been made in education, human services, etc. 17-18 states have increased their cigarette taxes. Increase in taxes may invoke better health practices.

**Dirk Paulsen-American Lung Association of the Northern Rockies**

In support of any raise in tax. Should start at \$1.50. Tobacco companies are not afraid to raise the cost of their products.

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Opponents:

**Jerome Anderson-Attorney, R.J. Reynolds**

24 states have killed increase in cigarette taxes. RJ Reynolds was not involved, was NOT convicted of smuggling in Canada. According to our calculations that is a 375% increase. People who pay that tax are in the lower income bracket. Montanan's pay 18 cents a pack and 39cents to federal government. 1998 National agreement with tobacco companies compensates for tobacco costs. Montana over 25 years will receive \$832M plus or \$33M a year. Formula put in place that cuts down the annual payments with any decrease in the use of the product. 1999-25% of Montanan's used the product, 2002-19% use the product. Sp payments were reduced by \$26M. Tax payment from federal government-\$12M. Total \$30M to General Fund. This bill diverts 40% to a trust fund. Cigarette's return to Montana \$38M or 38 cents a pack. 72.6% of smokers make \$less than 35K a year, over 50% make over 25K a year. 1/5 of constituents will pay this. Raising the cost over \$500 per year and settlement payments plus the individual cost of a pack of cigarettes to the consumer. Money from the 68 cent tax go from \$38M per year, to \$84M per year. Fiscal Note-use of cigarettes will go down therefore will go down also from the settlement. Taxes paid in other states: Montana 46th in list of salaries, other states higher, easier to pay additional taxes.

**EXHIBIT(tah04a0**

1)

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3)

(See above Ex. 1, 2 and 3 for detailed summary of Mr. Anderson, also see Tape 1 for detailed summary)

This is "Social Engineering". This product is legal; next the taxes will go to food, then liquor, etc. General Fund deficit should not be on low income people.

**Steve Wade- Attorney, Phillip Morris**

Tax increases: incentive for other sources to get product. Push consumer to cheaper products; who do not participate in the "Settlement" group. Burden on small segment of population. Loss of jobs: 450-668 employees. State of Montana will loose \$11M in income tax revenue. Social Engineering should not be part of tax base. 45% of money spent on pack of cigarettes goes to government. Smuggling-very real problem.

**EXHIBIT(tah04a0**

4)

**Mark Baker- Attorney, U.S. Tobacco-Skoal, Copenhagen**

HB 23 increases the OTP from 12% to 50% on wholesale prices. 1993-2001 tax: 52% per can of smokeless tobacco. Collected \$1.19M-2.08M Rate increase to 50% wholesale prices. If Rate were

enacted to \$1.29 per can. \$3.00 cigar tax is 37.5 cents to \$1.50 per cigar

**EXHIBIT(tah04a0**

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Cigar prices? Consumers for smokeless tobacco-Adult male, outdoor workers. Loggers, miners, farmers, ranchers. Shifts purchaser from premium brand to cheaper brand. Current tax on OTP products is 12.5%. May force purchasers to cross state lines to purchase products. Thereby reducing revenue from tobacco products taxes.

**Mark Staples- Attorney, Montana Wholesalers**

They distribute tobacco products. Since 1993, to address the costs related to tobacco use, \$800B settlement was reached. Montana will receive hundreds of millions from it. Smuggling and the Internet? It is a reality. 18th lowest tax on tobacco, the problem is we're 46th in lowest wages. Is this where we want our society to go? Bad choices-we attempt to tax.

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**Mary Whittinghill-Montana Taxpayers Association**

Montana relies heavily on "selection sales taxes". 295% increase with smuggling when cigarette taxes are raised. \$1B is what states loose in taxes due to smuggling. 454% in cross boarder purchases.

**Informational Testimony:**

None

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**EXHIBIT(ta**

**Questions from Committee Members and Responses:**

**Rep. Carney to Dr. Shepherd** - Are tobacco companies still allowed to add addictive substances to products? **Dr. Shepherd** -No laws; FDA does not have authority. **Rep. Carney to Shepherd** -Any idea what goes in to make addictive? **Dr. Shepherd** -Nicotine, Ammonia. **Rep. Carney to Shepherd** -Consequences from inhaling ammonia? **Dr. Shepherd** -Lung damage. **Rep. Carney to Whittinghill** -I pay \$465 in health insurance premiums each month; that's a 40% increase. **Ms. Whittinghill** -Increases in medical insurance premiums due to uninsured people. **Rep. Carney to Whittinghill** -Decreasing the costs of government? If we could decrease the amount of smoker's, would that not decrease the costs of health care? **Ms. Whittinghill** -Significant increase in taxes promote people to use the "black market". **Rep. Erickson to Shepherd** -Kids smoking

less? With price increase? **Dr. Shepherd** -California did a study in 1990's decided to use increase in taxes to pay for a campaign to reduce tobacco use. They watched cross-border sales closely. 5% of total sales was the result. 50% of that was legitimate purchases. Lots of ways to measure use, part of that is purchases. Many other ways to measure. Re: snuff- I prefer to call it "spit tobacco". 30-35% users are high school males. One of largest uses in the U.S. **Rep. Erickson** to **Shepherd** -"Spit Tobacco"-health effects in general-better or worse. You don't get lung cancer from spit tobacco, but you get oral, tongue, throat and cancer of the stomach from spit tobacco. Overall cancer rates are not as high as cigarettes.

**Rep. Carney** to **Christian** -Insurance has gone up 40% increase. Most of that is to pay for smoking, please comment. **Mr.**

**Christian** -Paying a significant cost for smokers can't pay for their own health. **Rep. Carney** to **Christian** -Low income people smoke more? Why? **Mr. Christian** -Lack of education.

**Rep. Bales** to **Shepherd** -Do you have figures comparing Native Americans smoking to rest of population? **Dr. Shepherd** -20% of Montanan's smoke, smoking rate on the reservation is 40-50%. **Rep.**

**Bales** to **Shepherd** -Exemption of taxes on reservations? Quota system? **Dr. Shepherd** - not familiar with all the rules on a sovereignty. **Rep. Bales** to **Shepherd** -Shouldn't that take place; this meeting with Native Americans, previous to raising the taxes? **Dr. Shepherd** -Not the case; smuggling issue is over rated. **Rep. Bales** to **Shepherd** -Quota? **Dr. Shepherd** -Packs per Indian; if exceeds that amount, they have to pay taxes.

**Rep. Esp** to **Shepherd** -Loss of productivity? 14 years less? **Dr. Shepherd** -Yes, that's correct; CDC arrived at numbers. **Rep. Esp**

to **Shepherd** -How old were the people? **Dr. Shepherd** -They took averages. **Rep. Esp** to **Shepherd** -Background information? **Dr.**

**Shepherd** -Yes, I will get that to you. **Rep. Esp** to **Baker** -Less tax revenue on the page regarding OTP products. Please explain.

**Mr. Baker** -OTP products are taxed at a "advaloren"(?) tax. **Rep.**

**Esp** to **Baker** -Value brand vs. premium brand. Flight from premium to value brands? You're not saying that Montana would receive less tax revenue due to changing from premium brands to value brands? **Mr. Baker** -No.

**Rep. Balyeat** to **Shepherd** -Has a problem with "forced government taxation" to influence social behavior. Get clear facts; CDC study-reflect the cost to society, packs of cigarettes would have to be \$7. Any calculations as to reduced costs to society as to the savings of social security? Delicate question. **Dr. Shepherd** - CDC did not make any off-setting adjustments. I would consider such a question beyond the pale, frankly, more than just callous, I would consider it obscene. Will get copy of study to you. Whole economics issue: are you happy that the costs of medicaid are due to tobacco use? Fairness issue.

**Rep. Bales to Shepherd** -Main causes of smoker related deaths are: cancer, heart disease, emphysema. What are the causes of deaths for non-smokers? **Dr. Shepherd** -Heart disease. 20% of all heart diseases occur pre-maturely due to smoking. Lung cancer is 90% caused by tobacco. 10% caused by radon, and a fraction that is caused by asbestos. So, virtually all lung cancers are smoking related. 120K to 140K lung cancer deaths a year, so about 100K are easily attributable to tobacco. Emphysema-98% of emphysema cases are caused by tobacco. Cancer of the bladder-95% caused by tobacco. Total costs: 20% of all deaths are premature deaths caused by tobacco. **Rep. Bales to Shepherd** -Cost-heart disease vs. cancer by someone's death. **Dr. Shepherd** -Depends on how quickly someone dies. Lung cancer cost between \$50-70K per case.

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**Rep. Bales to Shepherd** -We all die of something. Appears to cost more due to smoking. Does it cost more to die due to being a smoker? **Dr. Shepherd** - There's not that much difference in the cost of dying, it's a question of when you die. Issue is premature deaths, which are a loss to society.

Closing by Sponsor:

**Rep. Waddill**- Recent survey states 68% of Montanan's support this tax increase on tobacco. That number is a greater number than what elected our governor, and what got our president into office. We should put the burden of deficit on the backs of the smokers; if we didn't have smokers, re: costs, we wouldn't be here today. We wouldn't have this deficit. Would accept amendment for Veteran's homes and Building Fund to protect. Tobacco is the leading cause of preventable deaths in Montana. Montanan's will spend \$260M to treat tobacco related disease, including \$15M covered by state Medicaid.

HEARING ON HB19

Sponsor:

**Rep. Waddill-HD 62-Florence, Montana**

"An act reducing the shortfall in General Fund revenue by reducing the salary of Executive Branch officials for the remainder of the current fiscal year and reducing legislator salaries in succeeding sessions.

Reduces salaries of elected officials. Page 1-list of effected. Essentially, our bases are on a rolling basis. Taught in the USMC, to "lead by example".

**Proponents:**

None

**Opponents:**

None

**Informational Testimony:**

None

**Questions from Committee Members and Responses:**

**Rep. Carney** to **Rep. Wadill**-Survey-we elected officials get the average of that, am I correct? **Rep. Waddill**-Yes. **Rep. Carney** to **Waddill**-This would change because they would automatically have to stay at where they are? **Rep. Waddill**-That is correct. **Rep. Jackson** to **Rep. Waddill**-Main argument against this is going to be that we have to get good, staff, hold good staff, or elected officials. How can we counter that argument? **Rep. Waddill**-If we weren't in a budget deficit, I wouldn't have this bill.

**Rep. Balyeat** to **Rep. Waddill**-For legislator's, it delays us a year in time. And will this go on in time? **Rep. Waddill**-I'm not exactly sure. This was my intent. **Rep. Balyeat** to **Jeff Martin** - Is this just a temporary thing? **Mr. Martin**-Temporary, convening in 2003. There is a kind of disconnect between the language and the applicability date. **Rep. Waddill**-That was not my intent; would be amenable to amendments. **Rep. Balyeat**-Now to the elected officials, that appears to be temporary? **Rep. Waddill**-That is what I understand. **Rep. Balyeat** to **Rep. Waddill**-What % of cut is for elected officials. **Rep. Waddill**-I can' tell you, that is on the Fiscal Note. Ranges up to 18% on the elected officials.

**Rep. Bales** to **Rep. Waddill**-We have not cut any of the salaries of employees in the state government? **Rep. Waddill**-No. **Rep. Bales** to **Rep. Waddill**-So we're cutting the salaries of elected officials but not employees, what is that rationale? **Rep. Waddill**-Moral responsibility.

**Rep. Esp** to **Rep. Waddill**-Are raises automatic? We voted these raises in? **Rep. Waddill**-Elected officials are automatic.

{Tape : 2; Side : B; Approx. Time Counter : 0 - 250}

Closing by Sponsor:

**Rep. Waddill**- You've heard all I have to say, I leave it in your hands.

EXECUTIVE ACTION ON HB19

Motion: REP. WADDILL moved that HB19 DO PASS.

REP. WADDILL HAS AMENDMENTS:

Discussion:

**Rep. Forrester**-Clarification needed.

**Rep. Waddill**-May I make a "conceptual amendment" regarding this upcoming session, not following ones.

Jeff Martin, staffer-Clarify: Would this be for the whole biennium? Yes.

**Rep. Erickson**-We are in the 2003 biennium. **Jeff Martin** -I meant 2003 session. It would end 12/31/04.

**Rep. Story**- I don't see any wrong with the bill the way it is. Just backs up the process into the next biennium. Double jump next year.

Vote: Motion that HB19 BE AMENDED passed unanimously.

Motion: REP. WADDILL moved that HB19 DO PASS AS AMENDED.

Discussion:

**Rep. Balyeat**-I will vote for this. I don't believe in the power of the majority to take away the power of the minority.

**Rep. Forrester**-LFD cuts so far; include salaries. How much?

**Rep. Wanzenrid**-They did a voluntary 2.8% cut. How much totaled?

Karen Burger-LFD- 3.5% cuts in June, amounts to \$650K out of a total budget of \$16M, right now around \$10M.

Jeff Martin-Clarify termination date applies only to the legislative salaries not the executive branch.

**Rep. Bales**-Voted against the bill when reducing our salaries.

Elected officials ran for a commitment that was already there for salaries. Same thing would be to be contract with the employees.

**Rep. Carney**-Counties thought they were going to get a certain amount of money; we cut them, services thought a certain amount of money; we cut them etc.

**Rep. Waddill**-There would be lay offs in some state agencies.  
Promised them a job.

**Rep. Story**-We made a mistake in 1995 when we went to the "roll-in" average, good deal for a short period of time.

Motion/Vote: REP. WADDILL moved that HB19 DO PASS AS AMENDED.  
Motion failed 9-11 with Andersen, Bales, Branae, Cyr, Dale, Devlin, Erickson, Esp, Schmidt, Story, and Waitschies voting nay.

Motion/Vote: REP. STORY moved that HB19 BE TABLED. Motion PASSED unanimously.

*{Tape : 2; Side : B; Approx. Time Counter : 250 - 507}*

**ADJOURNMENT**

Adjournment: 10:00 A.M.

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REP. BOB STORY, Chair

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PAM SCHINDLER, Secretary

BS/PS

**EXHIBIT** (tah04aad)