

Legislative Finance Committee
Oct. 4, 2017
Exhibit 24

October 4, 2017

TESTIMONY BEFORE THE LEGISLATIVE FINANCE COMMITTEE – Opposing Elimination of the Big Sky Rx Program

The Honorable Representative Nancy Ballance, Chair
Legislative Finance Committee
State Capitol Building, Room 102
P.O. Box 201711
Helena, MT 59620-1711

Chairman Ballance and Members of the Legislative Finance Committee,

For the record, my name is Connie Welsh. I am an agent with Jacoby and Dee, Insurance LLC in Helena, MT representing the National Association of Insurance and Financial Advisors (NAIFA).

The Big Sky Rx program has been identified for elimination in the Governor's proposed reductions. We ask that you **oppose this proposal**.

I. Big Sky Rx was created, funded, and directed by a popular citizen's initiative - I-149

Rarely as elected officials and policy makers do we get detailed instructions from our "bosses", the citizens of Montana, regarding the creation, purpose, and funding of government. With Big Sky Rx, we did. The citizens of Montana placed a citizen's initiative, I-149, on the ballot to:

- Increase tobacco taxes on various tobacco products (cigarette tax from \$0.70 per pack to \$1.70, a 142% increase),
- Deposit "...*(b) one-half in the state special revenue fund account for health and Medicaid initiatives*", and
- "...*(3) This account shall be used only to provide funding for... (b) a new needs-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program*".

The above wording was taken directly from the 2004 Voter Information Pamphlet. A copy of the I-149 portion of the pamphlet is before you and the pertinent sections are highlighted.

I-149 was passed by a direct vote of Montana citizens on November 2, 2004 by a **63.32% (yes)** to 36.68% (no) margin.

II. The program directly pays for prescription drug insurance for low-income and disabled individuals

Medicare does not pay for prescription drugs outside of the hospital (paid by Medicare Part A) and doctor's office (paid by Part B). The following are the most common ways seniors or disabled individuals pay for prescription drugs:

- Buying a Medicare Part D prescription drug plan. This is insurance.
- Having insurance coverage under an employer or former employer's health plan.

- Being eligible for Medicaid.
- Paying out-of-pocket.

Big Sky Rx pays the Medicare Part D plan premiums and associated cost sharing for eligible seniors and disabled individuals. Without this assistance, most of the 11,000 beneficiaries would not be able to afford coverage of any type for prescription drugs.

The Governor recognized this need in his 2015 biennium budget when he requested funds to expand the program to serve the additional caseload and costs. Below is the requested budget item.

2015 Biennium Governor's Budget – DPHHS Program 11 (Health Resources Division)

	<i>Total Agency Impact</i>	<i>General Fund Total</i>
<i>FY 2014</i>	<i>\$539,180</i>	<i>\$0</i>
<i>FY 2015</i>	<i>\$539,180</i>	<i>\$0</i>

PL - 11212 - Big Sky RX Caseload - This present law adjustment requests \$1,078,360 state special revenue (I-149 funds) over the biennium. This request reflects changes necessary in the Big Sky RX program in the Health Resources Division for caseload including the number of eligibles, utilization and premium payment adjustments.

III. Participants in Big Sky Rx don't use higher cost services and programs

Participants who have funding through Big Sky Rx stay out of the emergency rooms and nursing homes. One of the goals in 2004 in creation of the program was to reduce the incidence of displaced seniors who couldn't afford medication and wound up in the Emergency Room or could no longer stay in their homes and needed nursing home care. Many of the applicants for Big Sky Rx are able to manage well on their own with this minimal help, but often access to their medication is the tipping point between independence and their need for higher level care.

As tempting as it is to consider the savings by eliminating this program, it is likely a short-term savings and will rapidly develop into either uncompensated care costs for local hospitals or expansion of Medicaid services. The cost of one nursing home slot alone will fund several Big Sky Rx participants.

Ironically, the budget discussion during the most recent session, and continuing right now, involves requests to increase the tobacco tax while seeking to divert the very funds that were provided for Big Sky Rx. Montana voters were very forward thinking and wise in 2004. Big Sky Rx was started **at the initiative of the people to serve the people of Montana** in a cost-effective manner, while allowing them to live in their homes and communities. We ask that you recognize the wisdom of that initiative and not divert these funds to other purposes.

Thank you, Madam Chairman, for your attention. I am available to answer any questions the Committee may have.

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2004 Voter Information Pamphlet



Vote November 2

**An official publication of
Montana Secretary of State Bob Brown**

A Message from Secretary of State Bob Brown



Dear Montana Voter,

A democracy is only as strong as the voice of its people. When we mark our ballots on Election Day, we make sure our voices are heard. We become soldiers for democracy.

This Voter Information Pamphlet is intended to help you make informed decisions when you vote November 2. It contains information both in support of and opposition to each of the seven ballot measures that will appear on the ballot. Please feel free to mark up your VIP and take it with you to the polls on Election Day.

Additionally this November, Montanans will be voting on a selection of state and local offices including a lone congressional seat, the governor and lieutenant governor, the secretary of state, the attorney general, the state auditor, the state superintendent of public instruction, three supreme court justices, half of the state senate and all of our state representatives.

Differences of opinion are to be expected and natural, but we can show our unity by exercising the fundamental right of a free people: We can vote in the general election.

Let your voice be heard. Your vote – your voice – *does* make a difference. Please join me in voting on November 2.

If you would like more information about the upcoming election, visit my web site at www.sos.state.mt.us, or call my office toll-free at 1-888-884-VOTE (8683).

See you at the polls!

A handwritten signature in black ink that reads "Bob Brown". The signature is written in a cursive, slightly slanted style.

Bob Brown, Secretary of State

Published in 2004 by the Office of the Montana Secretary of State. Cover artwork by Frank R. "Bob" Davenport titled "Lewis and Clark: West to the Pacific." Painting used with permission of the Lewis and Clark Trail Heritage Foundation, Inc. 1-888-701-3434, www.lewisandclark.org.

If you would like to receive additional copies of the VIP, or would like to receive it in large print, in Braille, on a CD or cassettes, electronically, online, or in another accessible format, please contact the Secretary of State's Office at 1-888-884-VOTE (8683), go to our website at www.sos.state.mt.us, or email soselection@state.mt.us.

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INITIATIVE NO. 149

A LAW PROPOSED BY INITIATIVE PETITION

This initiative increases tobacco taxes by approximately 140%, to \$1.70 per pack of cigarettes, 85¢ per ounce of moist snuff, and 50% on all other tobacco products, and changes the use of these revenues. The initiative reserves approximately 45% of these revenues for: additional enrollment in the children's health insurance program; increased Medicaid services and provider rates; and, if created by the legislature, a supplemental need-based prescription drug program for certain groups, and programs to help small businesses provide employee health insurance. Remaining revenues are allocated to state veterans' nursing homes, the state building fund, and the general fund.

In fiscal year 2005 this initiative would raise \$38,400,000 for new health insurance and Medicaid initiatives, and an additional \$400,000 for state buildings and \$6,000,000 for the general fund. These revenues could decrease over time as fewer persons consume tobacco. Funding for state veterans' nursing homes would remain at \$2,000,000.

- FOR increasing tobacco taxes and changing the use of tobacco tax revenues to include specific health insurance and Medicaid programs.
- AGAINST increasing tobacco taxes and changing the use of tobacco tax revenues to include specific health insurance and Medicaid programs.

The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.

The PROPONENT argument and rebuttal for this measure were prepared by Bob Bartholomew, Richard P. Sargent, M.D., and Cliff Christian.

The OPPONENT argument and rebuttal for this measure were prepared by Representative Jack Ross, Ronna Alexander, Dan Antonietti and Mark Staples.

ARGUMENT FOR I-149

Vote FOR I-149 because it will save our kids' lives and save money.

Every year 2,000 of Montana's kids become new daily smokers, and the addiction is lasting, 90% of all long-term smokers will start the habit before they turn 18 years old. Tobacco-related diseases **kill** more than **1,400 Montanans** a year and **cost every Montana taxpayer**, smoker and non-smoker alike, **\$216 a year**. *Tobacco is killing our kids and costing us a fortune.* However, it is a health crisis we can prevent.

The best way to stop our children from starting smoking or using other tobacco products is to raise the price of tobacco. Increasing price also helps smokers quit.

- **I-149's price increase will result in a 16.2% reduction in youth smoking.** 8,900 kids alive today will not start smoking and 8,100 current smokers will quit if I-149 passes. Scientific studies show price has a significant impact on smokers, especially children. I-149 will lower smoking rates.
- **Montanans want needy children to be covered by insurance.** 44% of I-149's revenue will be set aside for the Legislature to fund health care, including the Children's Health Insurance Program (CHIP). This new revenue will also fund a supplemental prescription drug program for low-income children, seniors, chronically ill and disabled persons. Additionally it will allow funding for programs to help small businesses pay employee health insurance and to fund Medicaid expenditures. The remaining 56% of revenue will continue to fund the state veterans' nursing homes, the state building program, and the general fund.
- **Montana will see significant health benefits from reduced tobacco use.** Under I-149, 2,700 children alive today will not die from a premature smoking-caused death. 1,300 adults that currently smoke will stop smoking and avoid dying prematurely. 1,700 smoking-affected and premature births will be averted in the next 5 years. I-149 will protect our children and save lives.
- **I-149 makes financial sense, and saves you money.** Today, all Montana taxpayers pay an average of \$465 per household per year for smoking-caused health care spending. The reduction in smoking will save \$2.5 million from fewer smoking-affected pregnancies, \$3 million from smoking-caused heart attacks and strokes, and \$173.6 million in long-term disability and health costs.

The I-149 Healthy Kids Healthy Montana tobacco tax increase is supported by: AARP Montana, American Cancer Society, American Heart Association, American Lung Association of the Northern Rockies, BlueCross BlueShield of Montana, Deaconess Billings Clinic, Montana Academy of Pediatricians, Montana Hospital Association, Montana Pharmacy Association, Montana Medical Association, Montana Nurses Association, Montana Public Health Association, Montana Council for Maternal and Child Health, New West Health, Montana Association for Disability Services, Montana Chapter-American Academy of Pediatrics, Montana Diabetes Association, Montana Physicians for Prevention, ProtectMontanaKids.org, and St. Vincent Healthcare.

We join with these caring sponsors in urging you to vote for health, for protecting our children from a lifetime of tobacco addiction, for Montana's financial well-being, for saving lives and FOR I-149.

PROPOSERS' REBUTTAL OF ARGUMENT AGAINST I-149

Vote FOR I-149, the Health Kids Healthy Montana tobacco tax increase.

It will save our children's lives and save us money.

Big tobacco spends an estimated \$35.6 million per year (\$100,000 a day) peddling their deadly products in Montana and they gain huge profits. Montanans suffer the loss of friends, neighbors and loved ones **and** get stuck with the related healthcare bills.

Big Tobacco wants to hook our children. Higher prices will reduce youth smoking, save lives and money.

The tobacco lobby uses wrong and misleading information. Don't be fooled by their arguments.

- I-149 **reduces** the tax burden on **all** Montanans by reducing tobacco consumption. Current tobacco taxes do not even come close to repaying the healthcare cost to Montanans.
- I-149 has specific language that **increases** the funds available for our veterans' nursing homes. Once again, Big Tobacco is wrong.
- I-149 provides **funds for CHIP, prescription drugs for low income and elderly Montanans and insurance for small business owners**. Healthcare programs will receive 44% of the funds generated as a result of this tobacco tax increase. Montana can use these funds to gain additional matching federal dollars for healthcare, thus significantly increasing access to healthcare – a primary need in Montana.
- **I-149 will prevent our children from using tobacco**. Don't trust Big Tobacco on their smuggling claims. Washington State saw teen tobacco use drop by 53,000 after they increased prices and conducted youth prevention education.

Help protect our kids from big tobacco ... Vote **FOR** I-149.

OPPOSERS' REBUTTAL OF ARGUMENT FOR I-149

I-149 IS PUNITIVE TAXATION WHICH THREATENS VETERANS' HOME FUNDING IN MONTANA, WOULD CREATE MORE GOVERNMENT PROGRAMS AND BUREAUCRACY, AND ENCOURAGES CRIMINAL TRAFFICKING.

Veterans Could Lose & Weren't Even Consulted in the Drafting of I-149

- I-149 puts Veterans' Home funding – now guaranteed – into state revenue accounts where veterans will have to compete with I-149 proposed programs, thus actually endangering this crucial funding.

Punitive, Discriminatory Tax Policy

- Our legislature just increased the Montana cigarette tobacco tax by nearly 300% (18¢ - 70¢). Now I-149 would more than double that to \$1.70, resulting in a more than 900% increase in just a year and a half. How much is enough?

Increased Tax = Increased Untaxed Sales

- There is no way to gauge whether such draconian tax increases, as sought in I-149, actually **reduce** cigarette/tobacco use. But, we do know that they dramatically **increase** untaxed, illegal sales, and criminal activity, such as in Washington State, where 40% of their sales are now illegal and untaxed.

More Bureaucracy and Unstable Revenue for Entrenched Programs

- Massive tax increases will increase "untaxed" sales, yet the new government programs this bill creates will be, like current programs, almost impossible to do away with. All Montana taxpayers will be left with the tab – long after smokers have chosen to buy out of state, from the Internet, or from smugglers, to avoid our outrageous taxes.

THE COMPLETE TEXT OF INITIATIVE NO. 149 (I-149)

PREAMBLE

WHEREAS, tobacco related disease is the single most preventable cause of death in Montana.

WHEREAS, tobacco related disease kills more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.

WHEREAS, 1,400 Montanans die each year from their addiction to smoking.

WHEREAS, smokeless tobacco use can lead to oral cancer, gum disease, and nicotine addiction; and increases the risk of cardiovascular disease, including heart attacks.

WHEREAS, over 18% of Montana high school students use spit tobacco, more than double the national average of 7.8 %.

WHEREAS, 17,100 Montana children, now under 18, will ultimately die prematurely from smoking.

WHEREAS, Montanans spend \$216 million annually on health care costs in Montana directly caused by smoking.

WHEREAS, studies have also found that adolescents and young adults are 2 to 3 times more likely to quit than adults due to tobacco price increases.

WHEREAS, significant tax increases on all tobacco products will reduce consumption, prevent kids from becoming addicted, and increase quitting success for all Montanans.

WHEREAS, Montana loses federal matching dollars every year by under funding Medicaid.

WHEREAS, 173,000 Montanans, including 41,500 children, lack health care coverage.

WHEREAS, 56% of uninsured Montanans are self-employed or work for small businesses with 10 or fewer employees; and 60% of small businesses cannot afford to offer health benefits.

WHEREAS, prescription drug costs are increasing 10% per year and are not affordable for many families, seniors or people with disabilities.

NOW THEREFORE, BE IT RESOLVED BY THE PEOPLE OF THE STATE OF MONTANA: That we raise the tax on cigarettes by \$1.00 per pack (from 70 cents to \$1.70 per pack) and increase the tax on smokeless tobacco by a proportional amount and dedicate use of those tax funds for health care needs.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:

SECTION 1. Section 10-2-417, MCA is amended to read:

“Section 10-2-417. Use of funds generated by taxation on cigarettes. (1) Revenue generated by 16-11-119 and allocated to the department of public health and human services must be used to support the operation and maintenance of the Montana veterans’ homes programs or for the health and medicaid initiatives specified by [section 7].

(2) The legislature shall appropriate from the account established in 16-11-119 the funds required for the operation and maintenance of the Montana veterans’ homes or required for the health and medicaid initiatives specified by [section 7].”

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

“16-11-111. Cigarette sales tax—exemption for sale to tribal member.

(1) (a) A tax on the purchase of cigarettes for consumption, use, or any purpose other than resale in the regular course of business is imposed and must be precollected by the wholesaler and paid to the state of Montana. The tax is ~~70 cents~~ \$1.70 on each package containing 20 cigarettes. Whenever packages contain other than 20 cigarettes, there is a tax on each cigarette equal to 1/20 the tax on a package containing 20 cigarettes.

(b) The tax computed under subsection (1)(a) applies to illegally packaged cigarettes under 16-11-307.

(2) The tax imposed in subsection (1) does not apply to quota cigarettes.

(3) Subject to the refund or credit provided in subsection (4), the tax must be precollected on all cigarettes entering a Montana Indian reservation.

(4) Pursuant to the procedure provided in subsection (5), a wholesaler making a sale of cigarettes to a retailer within the boundaries of a Montana Indian reservation may apply to the department for a refund or credit for taxes precollected on cigarettes sold by the retailer to a member of the federally recognized Indian tribe or tribes on whose reservation the sale is made. A wholesaler who does not file a claim within 1 year of the shipment date forfeits the refund or credit.

(5) The distribution of tax-free cigarettes to a tribal member must be implemented through a system of preapproved wholesaler shipments. A licensed Montana wholesaler shall contact the department for approval prior to the shipment of the untaxed cigarettes. The department may authorize sales based on whether the quota, as established in a cooperative agreement between the department and an Indian tribe or as set out in this chapter, has been met. If authorized as a tax-exempt sale, the wholesaler, upon providing proof of order and delivery to a retailer within the boundaries of a Montana Indian reservation selling cigarettes to members of a federally recognized tribe or tribes of that reservation, must be given a refund or credit. Once the quota has been filled, the department shall immediately notify all affected wholesalers that further sales on that reservation must be taxed and that a claim for a refund or credit will not be honored for the remainder of the quota period. Quota allocations are not transferable between quota periods or between reservations.

(6) The total amount of refunds or credits allowed by the department to all wholesalers claiming the refund or credit under subsection (4) for any month may not exceed an amount that is equal to the tax due on the quota allocation. The department shall determine the amount of refunds or credits for each Indian reservation at the beginning of each fiscal year, using the most recent census data available from the bureau of Indian affairs or as provided in a cooperative agreement with the tribe or tribes of the Indian reservation.”

SECTION 3. Section 16-11-114, MCA is amended to read:

“Section 16-11-114. Insignia discount. Each licensed wholesaler is entitled to purchase an insignia at full face value less the following percentage of the face value upon payment for the insignia as defrayment of the costs of affixing insignia and precollecting the tax on behalf of the state of Montana:

(1) ~~1.66%~~ 0.90% for the first 2,580 cartons or portion of 2,580 cartons purchased in any calendar month;

(2) ~~1.11%~~ 0.60% for the next 2,580 cartons or portion of 2,580 cartons purchased in any calendar month; and

(3) ~~0.83%~~ 0.45% for purchases in excess of 5,160 cartons in any calendar month.”

SECTION 4. Section 16-11-119, MCA is amended to read:

“16-11-119. Disposition of taxes. (1) Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 15-1-501, be deposited as follows:

(a) 8.3% or \$2 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

(b) ~~4.3%~~ 2.6% in the long-range building program account provided for in 17-7-205; and

(c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in [section 7]; and

~~(d)~~ (d) the remainder to the state general fund.

(2) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund."

SECTION 5. Section 16-11-202, MCA is amended to read:

"16-11-202. 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 are considered 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, the payment is considered as an advance payment and must be added to the price of tobacco products and recovered from the ultimate consumer or user. A person selling tobacco products at retail shall state or separately display in the premises where 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 do not affect the method of collection of the tax as provided in this part.

(2) There must be collected and paid to the state of Montana a tax of ~~2.5%~~ 50% of the wholesale price, to the wholesaler, of all tobacco products, other than moist snuff. The tax on moist snuff is ~~35~~ 85 cents an ounce based upon the net weight of the package listed by the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be proportional to the size of the package. Tobacco products shipped from Montana and destined for retail sale and consumption outside the state are not subject to this tax."

SECTION 6. 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 must be paid to the department in full less a ~~2.5%~~ 1.50% defrayment for the wholesaler's collection and administrative expense and must, in accordance with the provisions of 15-1-501, be deposited by the department as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in [section 7].

(2) Refunds of the tax paid must be made as provided in 15-1-503 in cases in which the tobacco products purchased become unsalable."

New Section. Section 7. Special Revenue Fund – Health and Medicaid Initiatives. (1)

There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

(a) money from cigarette taxes deposited under 16-11-119(1)(c); and

(b) money from taxes on tobacco products other than cigarettes deposited under 16-11-206(1)(b).

(3) This account shall be used only to provide funding for:

(a) the state funds necessary to take full advantage of available federal matching funds in order to maximize enrollment of eligible children under the children's health insurance program, provided for under Title 53, chapter 4, part 10, and to provide outreach to the eligible children. The increased revenue

in this account is intended to increase enrollment rates for eligible children in the program and not to be used to support existing levels of enrollment based upon appropriations for the biennium ending June 30, 2005.

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits or to fund new programs to assist small businesses with the costs of providing health insurance benefits to employees, if these tax credits or programs are established by the legislature after the effective date of this section.

(4) Until the programs or credits described in subsections 3(b) and 3(d) are established, the funding shall be used exclusively for the purposes described in subsections 3(a) and 3(c).

(5) The phrase "trended traditional level of appropriation" as used in subsection 3(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized and payment amount during the past five biennial budgets.

(6) The department of public health and human services may adopt rules to implement this section.

New Section. Section 8. Codification instruction – Section 7 is intended to be codified as part of Title 53, chapter 6 and the provisions of Title 53, chapter 6 apply to [section 7].

New Section. Section 9. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.

New Section. Section 10. Effective date. This act is effective January 1, 2005.

New Section. Section 11. Applicability. This act applies to cigarettes and other tobacco products received by wholesalers after December 31, 2004.