

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on April 12, 1991, at 8:30 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: None

EXECUTIVE ACTION ON HOUSE BILL 312

Amendments, Discussion, and Votes:

Senator Doherty moved the amendments as per the attached standing committee report.

The motion CARRIED.

Recommendation and Vote:

Senator Doherty moved SB 312 Be Concurred In As Amended.

The motion CARRIED.

EXECUTIVE ACTION ON HB 781

Amendments, Discussion, and Votes:

Senator Doherty moved to adopt the amendments as proposed by the Northern Plains Resource Council (Exhibit #1).

He said everyone wants this bill and he felt the coalition is not the only interested party. Montana needs the bill for primacy and the Air Quality Bureau wants some degree of flexibility in establishing enforcement procedures.

Senator Eck asked if there is a need for studies, who will pay for them?

Jeff Chaffee, Department of Health, said the DHES would have to seek state or federal funding. At present, there is only money available to continue monitoring effort in Billings.

Senator Towe said the amendments are critical to implementation of studies. The studies must be completed before new industry can be developed.

Senator Gage asked if fees are included in HB 2.

Mr. Chaffee replied fees are included in the DHES budget in the Governor's budget bill. They would take effect in the fall of 1991 and are the basic operating fees.

Senator Halligan said the sponsor feels the amendments put the bill in jeopardy. However, Senator Halligan feels the primacy issues are extremely important and he supports the amendments.

Senator Doherty asked when the \$25 per ton of pollutant fees would take effect if state primacy is not enacted.

Mr. Chaffee replied the EPA would sanction the state and would come in and impose the fees. Without the bill, which establishes primacy, the fees would be imposed somewhere in the three to five year time period.

The motion to amend HB 718 CARRIED on a roll call vote (attached).

Recommendation and Vote:

Senator Towe moved HB 781 Be Concurred In As Amended.

The motion CARRIED on a roll call vote (attached).

EXECUTIVE ACTION ON HOUSE BILL 1012Amendments, Discussion, and Votes:

Eddye McClure, Legislative Council, presented proposed amendments to the committee (Exhibits #1 and #1a). She explained amendments #1a are modeled after SB 428 and would require the tax to be collected and negotiations to take place between the tribes and the state and establishing an immediate effective date. The amendments #1 would mandate negotiations between the tribes and the state and a report to the interim Committee on Indian Affairs before the tax is implemented and collected.

Senator Harp and Senator Towe said it is not reasonable to start collecting the tax and then negotiate the collection.

Senator Harp said a compromise was reached based on similar language in gas and severance tax bills. He said people are deliberately evading taxes and the situation needs to be brought under control.

Representative Elliott said the method used to collect taxes on non-Indians is being negotiated the first year. These people are already evading the tax. He said he would support the amendment.

The motion to adopt the amendments (#1a) FAILED on a roll call vote (attached).

Senator Harp moved to adopt the amendments as per Exhibit #1b (amendments numbered 101202).

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Harp moved HB 1012 Be Concurred In As Amended.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 973Motion:

Senator Brown moved to Reconsider action on HB 973.

The motion CARRIED unanimously.

Discussion:

Jeff Martin presented proposed amendments to the bill (Exhibit #2).

Jean Riley said the amendments would remove commercial diesel tanks from the present fund and cover all heating oil tanks and farm and residential tanks. There will be fees on all tanks but the commercial diesel tanks.

Senator Halligan asked what would be the effect of adopting amendment #8 only.

Rep. Stang said it would take longer to build up the fund by taking the truckers out of the fund. He said he does not want the amendments and would prefer to leave it the way it came to the Senate from the House.

Mr. Havdahl said the amendments are an overreaction to his testimony. He said they go far beyond what he advocated. The only concern he had was a question about using highway funds for the payment of the insurance fees for small tank clean up. He said the amendments are not in the best public interest for the protection of the environment.

Amendments, Discussion, and Votes:

Senator Eck moved to strip the Harp 50% - 50% amendments from the bill which were adopted in previous committee action on April 11.

The motion CARRIED with Senators Harp, Gage, Thayer, and Brown voting no.

Senator Doherty moved to amend the bill as per the amendments presented by Jeff Martin (Exhibit #2).

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Doherty moved HB 793 Be Concurred In As Amended.

The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 9:20 a.m.



SENATOR MIKE HALLIGAN, Chairman



JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 4/17/91

57nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

Northern Plains Resource Council

SENATE TAXATION

SENATE NO. 1

DATE

4/13/91

BILL NO.

HB 281

AMENDMENT TO HB 781 FOR SPECIAL GEOGRAPHIC STUDIES FOR NON-ATTAINMENT AREAS April 10, 1991

The Yellowstone Valley Citizens Council, a local affiliate of the Northern Plains Resource Council, is offering an amendment to HB 781 to ensure that the Montana Air Quality Bureau will have the authority to conduct special geographic studies that could be needed for the following reasons.

Permitting new industries in non-attainment areas

Existing industries in Yellowstone County argue that their monitoring indicates that progress has been made in cleaning up the Billings/Laurel area voluntarily through the efforts of the Billings/Laurel Air Quality Technical Committee (BLAQTC). However, according to the Air Quality Bureau, *"The minimum number of monitors needed [in conjunction with a special study] to conclusively predict ambient air impacts from existing industries [in the Billings/Laurel area] would be about 20 sites."* Since BLAQTC was created, however, there have been only 5 monitors. So while current monitoring may indicate limited improvement in air quality, the data being relied upon to make this claim is inconclusive.

Even if the industries have made limited progress in cleaning up the air, the EPA will not look at actual emissions to determine whether new industries may be permitted in a non-attainment area. Instead, they will review whether allowable emissions would need to be reduced in order to site new industry sources. Allowable emissions for existing industries in the Billings/Laurel area are likely to cause exceedences of federal air quality standards, and so could block the permitting of new industries. *Special geographic studies may be needed to site new industries in non-attainment areas like Yellowstone County in order to allow for new economic development in Montana.*

Existing polluters are lobbying vigorously against this amendment because they effectively have a lock and key on the airsheds in non-attainment areas. The state does not have strong technical or legal grounds to make them clean up either for siting new industries, or for enforcement of air quality standards.

Bolstering the Air Quality Bureau's enforcement authority

According to the Air Quality Bureau, a source apportionment study is likely to be needed in Yellowstone County because:

Although the Billings/Laurel area has an EPA-approved state implementation plan (SIP) which contains an SO2 control plan, it is difficult (if not impossible) to show that the area can meet and maintain ambient standards with the current SIP [plan]. [Air Quality Bureau Special Studies Fact Sheet.]

Special geographic studies may be needed in other potential non-attainment areas such as East Helena, Butte, Columbia Falls and Thompson Falls.

Ensuring that only polluters responsible for non-attainment pay for needed special studies

With the current language in HB 781, the Air Quality Bureau would probably have to charge all industrial sources across the state to pay for a special study needed in a non-attainment area. *The proposed amendment would give the department the authority to charge only those polluters within a non-attainment area for the needed studies.*

DON'T TIE MONTANA'S AIR QUALITY PROGRAM TO THE WHIMS OF THE EPA

HB 781 as currently drafted unnecessarily ties the fate of Montana's air quality program to the uncertain whims of the EPA. Without the proposed special studies amendment, the Air Quality Bureau's hands may be unnecessarily tied by new rules that EPA is scheduled to implement for the Clean Air Act Amendments next fall. *The new EPA rules may not be flexible enough to allow the state to move ahead with special studies even if the state determines that they are necessary to permit new industries, or to enforce air quality standards.*

Additionally, EPA may delay implementation of the Clean Air Act. (The EPA has still not yet fully implemented the Resource Conservation & Recovery Act which was passed in 1976.) *The proposed amendment would allow the state to move forward with special studies for permitting new industries, or for enforcement purposes, if EPA should delay implementation of the Clean Air Act Amendments.*

Amendments to House Bill No. 781
Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
April 1, 1991

1. Title, line 13.

Following: "PERMITS;"

Insert: "ALLOWING FEE ASSESSMENTS TO FUND DEPARTMENTAL AIR
QUALITY ACTIVITIES FOR PARTICULAR GEOGRAPHIC AREAS;"

2. Page 3.

Following: line 23

Insert: "This bill also allows for the assessment of those fees necessary to fund activities of the department that are intended to address specific air quality problems in the state. For example, it may be necessary to conduct additional ambient monitoring in a particular geographic area in order to determine the compliance status of that area with applicable ambient air quality standards. The legislature intends that this provision be used only to fund those activities that examine specific problems in particular geographical areas. The assessments for funding should be levied in an equitable fashion and only upon those sources whose emissions are both of the type being focused upon and thought to impact the geographical area."

3. Page 8.

Following: line 4.

Insert: "(5) In addition to the fee required under subsection (4), the board may order the assessment of additional fees required to fund specific activities of the department that are directed at a particular geographic area, including emissions or ambient monitoring, modeling analysis or demonstrations, or emissions inventories or tracking. Additional assessments may be levied only on those sources that are within or are believed by the department to be impacting the geographical area and whose emissions are of the type within the focus of the activities to be funded. Before the board may require the assessments, it shall first determine, after opportunity for hearing, that the activities to be funded are necessary for the administration or implementation of this chapter and that the assessments apportion the required funding in a equitable manner."

Renumber: subsequent subsections

4. Page 9, line 13.

Strike: "(8)(A)"

Insert: "(9)(a)"

5. Page 9, line 17.

Strike: "(8)"

Insert: "(9)"

6. Page 10, line 6.

Strike: "(6)"

Insert: "(7)"

Strike: "(11)"

Insert: "(12)"

7. Page 10, line 19.

Strike: "(12)"

Insert: "(13)"

8. Page 11, line 5.

Strike: "(12)"

Insert: "(13)"

9. Page 11, line 24.

Strike: "(5)"

Insert: "(6)"

10. Page 12, line 4.

Strike: "(6)"

Insert: "(7)"

11. Page 12, line 13.

Strike: "(15)"

Insert: "(16)"

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 4/13/81 11B Bill No. 781 Time

NAME	YES	NO
SEN. HALLIGAN	X	
SEN. BROWN		X
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG	X	
SEN. HARP		X
SEN. YELLOWTAIL	X	
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE	X	
SEN. DOHERTY	X	

Bill Rogers
Secretary

Senator Bill Brown
Chairman

Motion: by Senator Towe that HB 781
Be Enrolled in As Amended

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 4/12/91 H/B Bill No. 781 Time

NAME	YES	NO
SEN. HALLIGAN	X	
SEN. BROWN		X
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG	X	
SEN. HARP		X
SEN. YELLOWTAIL	X	
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE		X
SEN. DOHERTY	X	

W. Polyzos
Secretary

Senator Mike Halligan
Chairman

Motion: by Senator Polyzos that H/B 781
Be amended

GRAY BILL

Amendments HR 101201

SENATE TAXATION

52nd Legislature

HB 1012/02

HB 1012/02

19
4/13/91
HB 1012
SENATE NO.
DATE
BILL NO.

REQUIRE THE DEPARTMENT OF REVENUE TO PROVIDE
A MECHANISM FOR REVENUE SHARING WITH A TRIBAL
GOVERNMENT THAT HAS ENACTED A CIGARETTE TAX
HOUSE BILL NO. 1012

INTRODUCED BY ELLIOTT

BY REQUEST OF THE HOUSE TAXATION COMMITTEE

1 A BILL FOR AN ACT ENTITLED: "AN ACT TO APPLY APPLYING THE
2 CIGARETTE SALES TAX TO ALL USE AND CONSUMPTION OF CIGARETTES
3 ON AN INDIAN RESERVATION EXCEPT BY MEMBERS OF AN INDIAN
4 TRIBE ON AN INDIAN RESERVATION; PROVIDING FOR A REFUND OF OR
5 CREDIT FOR TAXES PAID ON CIGARETTES SOLD TO TRIBAL MEMBERS;
6 PROVIDING AN INCREASE IN THE APPROPRIATION TO THE DEPARTMENT
7 OF REVENUE FOR FISCAL ~~YEAR 1993~~ ^{YEAR} 1993 TO ADMINISTER
8 COLLECTION OF CIGARETTE TAXES; PROVIDING A CIVIL PENALTY FOR
9 THE POSSESSION OF UNSTAMPED CIGARETTES; REQUIRING A REPORT
10 TO THE 53RD LEGISLATURE; AMENDING SEVERAL SECTIONS
11 16-11-111, 16-11-113, 16-11-119, 16-11-131, AND 16-11-133,
12 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN
13 APPLICABILITY DATE, AND A TERMINATION DATE."

1 WHEREAS, the legislature also recognizes that Indian
2 tribes in Montana also view certain state taxes being
3 assessed against the tribes and tribal members on the
4 reservation, including fuel and alcohol taxes, as being
5 unlawful; and
6 WHEREAS, although the legislature proposes to exercise
7 its constitutional authority to seek assistance from tribal
8 authorities in collecting cigarette taxes from non-Indians
9 on the reservations, it also recognizes the need for
10 discussion and negotiation with Indian tribes in Montana to
11 avoid dual taxation and to develop a comprehensive
12 resolution of all reservation taxation issues affecting both
13 the state and the tribes.
14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16
17 NEW SECTION. Section 1. Definitions. As used in
18 [sections 1 through 3], the following definitions apply:
19 (1) "Indian reservation" means Indian lands federally
20 declared to be a reservation for an Indian tribe by treaty
21 between the tribe and any territorial government or state
22 government or the United States government or established by
23 acts of the United States Congress or by formal decision of
24 the executive branch of the United States.
25 (2) "Indian retailer" means a business or enterprise
that is wholly owned and operated by an Indian tribe in

1 Montana or a business or enterprise that is wholly owned and
2 operated by one or more members of a tribe in Montana on
3 whose reservation the business or enterprise is located.

4 NEW SECTION. SECTION 2. STAMPS AFFIXED ON ALL
5 CIGARETTES -- EXCEPTION. EXCEPT FOR CIGARETTES SOLD ON
6 MILITARY RESERVATIONS, ALL CIGARETTES SOLD IN MONTANA MUST
7 HAVE A MONTANA CIGARETTE TAX STAMP AFFIXED PRIOR TO SALE.

8 Section 3. Section 16-11-111, MCA, is amended to read:

9 "16-11-111. Cigarette sales tax -- EXEMPTION FOR SALES
10 TO INDIANS. There--is--hereby (1) A tax on the purchase of
11 cigarettes for consumption, use, or any purpose other than
12 resale in the regular course of business is levied, imposed,
13 and assessed at the following rate and there shall must be
14 collected precollected by the wholesaler and paid to the
15 state of Montana upon cigarettes sold or possessed in this
16 state the following excise tax which shall be paid prior--to
17 the--time--of--sale--and--delivery--of--cigarettes: 18 cents on
18 each package containing 20 cigarettes and, when packages
19 contain more or less than 20 cigarettes, then a tax on each
20 cigarette equal to 1/20th the tax on a package containing 20
21 cigarettes.

22 (2) The tax imposed by this section does not apply to
23 cigarettes sold by an Indian retailer to members of a
24 federally recognized Indian tribe within the boundaries of
25 the tribe's reservation located in Montana.

1 (3) The tax imposed by this section must be
2 precollected, subject to refund or credit as provided in
3 subsection (4), on all cigarettes entering Montana Indian
4 reservations.

5 (4) Wholesalers PURSUANT TO THE PROCEDURE PROVIDED IN
6 SUBSECTION (5), WHOLESALERS making sales of cigarettes to
7 Indian retailers may apply to the department for a refund of
8 or credit for taxes precollected on cigarettes sold by the
9 retailers to members of an Indian tribe on whose reservation
10 the retail sale is made. The claim for credit or refund must
11 be made on the wholesaler's cigarette tax return for the
12 reporting period immediately following the period during
13 which the cigarettes were sold by the wholesaler to the
14 retailer. If not claimed, the credit or refund is lost.

15 (5) THE DISTRIBUTION OF TAX-FREE CIGARETTES TO INDIANS
16 MUST BE IMPLEMENTED THROUGH A SYSTEM OF PREAPPROVED,
17 WHOLESALE SHIPMENTS. LICENSED MONTANA WHOLESALERS SHALL
18 CONTACT THE DEPARTMENT FOR APPROVAL PRIOR TO SHIPMENT OF THE
19 UNTAXED CIGARETTES. THE DEPARTMENT MAY AUTHORIZE SALES BASED
20 ON WHETHER THE QUOTA FOR THAT PARTICULAR SERVICE AREA HAS
21 BEEN MET. IF THE SALE IS AUTHORIZED AS TAX EXEMPT, THE
22 WHOLESALE, UPON PROVIDING PROOF OF ORDER AND DELIVERY TO AN
23 EXEMPT RETAILER, MUST BE PROVIDED A CREDIT OR A REFUND. ONCE
24 THE ALLOCATION FOR THE PARTICULAR SERVICE AREA HAS BEEN
25 FILLED, THE DEPARTMENT SHALL IMMEDIATELY NOTIFY ALL

1 WHOLESALERS THAT ALL FURTHER SALES ON THAT RESERVATION MUST
2 BE TAXED AND THAT CLAIMS FOR REFUND OR CREDIT WILL NOT BE
3 HONORED FOR THE REMAINDER OF THE MONTH. ALLOCATIONS ARE NOT
4 TRANSFERABLE BETWEEN MONTHS OR BETWEEN INDIAN RESERVATIONS.
5 (5)(6) The total amount of refunds or credits allowed
6 by the department to all wholesalers claiming the refund or
7 credit under subsection (4) for any reporting period MONTH
8 may not exceed an amount that is equal to the tax due on the
9 average individual consumption of cigarettes determined in
10 a manner provided by department rule multiplied by the
11 tribal member population of the reservation on which the
12 sales are made. THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF
13 REFUNDS OR CREDITS FOR EACH INDIAN RESERVATION AT THE
14 BEGINNING OF EACH FISCAL YEAR, USING POPULATION ESTIMATES
15 AND OTHER DATA ISSUED BY THE UNITED STATES GOVERNMENT. IF
16 the total amount of refunds claimed by wholesalers exceeds
17 the amount computed by the claims by the wholesalers must be
18 reduced proportionally based on the total amount of
19 on-reservation business conducted by each wholesaler to the
20 amounts necessary to make the total of all the claims equal
21 to the allowable maximum.
22 (6)(7) A refund or credit may not be allowed to a
23 wholesaler unless the wholesaler certifies to the department
24 PURSUANT TO 16-11-132(2) that the economic benefit of the
25 credit or refund has been passed on to the Indian retailers

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4. Page 6.
Following: line 8
Insert: "NEW SECTION. Section 5. Cooperative agreement --
revenue sharing of cigarette taxes with tribal governments.
(1) In order to prevent the possibility of dual taxation of
cigarettes purchased on Indian reservations, the department
and an Indian tribe may enter into a cooperative agreement.

authorities
tribal

1 agreement or proposed legislation to the interim committee
2 on Indian affairs prior to the 53rd legislative session.

3 (2) The legislature also directs the interim committee
4 on Indian affairs to work with the Montana tribal chairman's
5 association, the state coordinator of Indian affairs, and
6 individual tribes to:

7 (a) monitor tax collection made pursuant to 16-11-111;

8 (b) consider alternatives for cigarette tax collection,
9 including possible cooperative agreements to avoid dual
10 taxation by state and tribal governments;

11 (c) identify other unresolved taxation issues,
12 including but not limited to the imposition of fuel and
13 alcohol taxes on Indian reservations, between the state and
14 Montana Indian tribes; and

15 (d) propose legislation to the 53rd legislature that
16 would facilitate a cooperative government-to-government
17 resolution of all Indian reservation taxation issues.

18 SECTION 6. SECTION 16-11-113, MCA, IS AMENDED TO READ:

19 "16-11-113. Tax insignia. (1) Within 72 hours after
20 receipt by the distributor or dealer of any cigarettes,
21 except as hereinafter provided, he shall cause to be
22 securely affixed thereto the required insignia denoting the
23 tax thereon. A--person--specifically--exempted--under--the
24 provisions-of-16-11-132(2)--may--not--be--considered--to--be
25 acting-unlawfully-under-this-section.

1 (2) Said insignia shall be properly canceled prior to
2 sale or removal for consumption, under such regulations as
3 the department may prescribe.

4 (3) Each package shall have the required insignia to
5 affix thereto in such a manner that the insignia will be
6 destroyed when the package is opened.

7 (4) Wholesalers and retailers licensed under this part
8 may buy, sell, or have in their possession only cigarettes
9 which have the insignia provided for in this part on each
10 package. The insignia provided for in this part shall be
11 sold to and affixed by licensed wholesalers and licensed
12 retailers only.

13 (5) Whenever any cigarettes are found in the place of
14 business of any unlicensed wholesaler, retailer, or other
15 person without the insignia affixed and canceled or not
16 marked as having been received by the unlicensed wholesaler,
17 retailer, or person within the preceding 72 hours, the
18 presumption shall be that such cigarettes are kept therein
19 in violation of the provisions of this part."

20 SECTION 7. SECTION 16-11-119, MCA, IS AMENDED TO READ:

21 "16-11-119. Disposition of taxes -- retirement of
22 bonds. Att (1) Except as provided in subsection (2), all
23 moneys collected under the provisions of 16-11-111, less the
24 expense of collecting all the taxes levied, imposed, and
25 assessed by said section, shall be paid to the state

1 treasurer and deposited as follows: 70.89% in the long-range
2 building program fund in the debt service fund type and
3 29.11% in the long-range building program fund in the
4 capital projects fund type.

5 (2) The following money, collected pursuant to
6 16-11-111, is appropriated to the department:

7 ~~Since year 1993~~ 304,272
8 Fiscal year 1993 56,872"

9 **SECTION 8. SECTION 16-11-131, MCA, IS AMENDED TO READ:**

10 "16-11-131. Transporting cigarettes without insignia a
11 misdemeanor. It shall be unlawful for any person to
12 transport into, receive, carry, or move from place to place
13 within this state, except in the course of interstate
14 commerce, any cigarettes which do not bear the insignia
15 required by this part--except--for--a--person--specifically
16 exempted--in--16-11-131(2). Any person violating the
17 provisions of this section is guilty of a misdemeanor and
18 shall be punished as hereinafter provided."

19 **SECTION 9. SECTION 16-11-133, MCA, IS AMENDED TO READ:**

20 "16-11-133. Sale and use of cigarettes without insignia
21 unlawful. Every person who sells any package of cigarettes
22 which does not bear the insignia required by this part and
23 every person who uses or consumes a cigarette within this
24 state, taken from a package which does not bear the required
25 insignia, is guilty of a misdemeanor and shall be punished

1 as hereinafter provided--except that a--person--specifically
2 exempted--under--the--provisions--of--16-11-131(2)--may--not--be
3 considered--to--be--acting--unlawfully--under--this--section."

4 **NEW SECTION. Section 10. Codification**

5 Section 11 is [SECTIONS 1, 2, AND 4] ARE intended to be
6 codified as an integral part of Title 16, chapter 11, part
7 1, and the provisions of Title 16, chapter 11, part 1, apply
8 to Section 11 [SECTIONS 1, 2, AND 4].

9 **NEW SECTION. Section 11. Effective**

10 APPLICABILITY. (1) Sections 5-8, and this section--3 on
11 effective July 1, 1993.

12 **PASSAGE AND APPROVAL AND APPROVED TO DATE MADE BY**

13 ~~HOUSE CALLED AFTER JUNE 20, 1991~~

14 **NEW SECTION. Section 12. Termination.**

15 terminates July 1, 1993.

-End-

(2) [Sections 1 - 4 and 9-13
are effective July 1, 1992, and
apply to sales made by the
wholesaler after June 30, 1992.

[Section 8]
[date]

Amendments to House Bill No. 1012
Third Reading Copy (Blue)

Requested by Sen. Harp
For the Senate Committee on Taxation

Prepared by Eddy McClure
April 11, 1991

1. Title, line 10.

Following: line 9

Insert: "REQUIRING THE DEPARTMENT OF REVENUE TO PROVIDE A
MECHANISM FOR REVENUE SHARING WITH A TRIBAL GOVERNMENT THAT
HAS ENACTED A CIGARETTE TAX IDENTICAL TO THAT IMPOSED BY THE
STATE;"

2. Title, line 11.

Following: "FISCAL"

Strike: "YEARS 1992 AND"

Insert: "YEAR"

3. Title, line 16.

Strike: "IMMEDIATE"

Following: "EFFECTIVE"

Strike: "DATE"

Insert: "DATES"

4. Page 6.

Following: line 8

Insert: "NEW SECTION. Section 5. Cooperative agreement --
revenue sharing of cigarette taxes with tribal governments.

(1) In order to prevent the possibility of dual taxation of
cigarettes purchased on Indian reservations, the department
and an Indian tribe may enter into a cooperative agreement.

The agreement must provide:

(a) that under conditions specified in this section, the
state and the tribe will cooperate to collect only one tax that
is at the same level as the tax outside the boundaries of the
reservation and will share the revenue as provided in this
section; and

(b) that the state and the tribe are not forfeiting
any legal rights to apply their respective taxes by entering into
an agreement, except as specifically provided for in the
agreement.

(2) If a tribal government in the state adopts an
ordinance imposing a cigarette tax on cigarettes sold on the
reservation and requires the tax to be paid to the state under
identical terms and conditions as those imposed by the state, the
department shall collect the tax for the tribe. The consumer is
not required to pay both the state tax and the tribal tax but
shall pay only one tax to the state in an amount equal to the tax
paid on cigarettes pursuant to 16-11-111.

(3) After deducting administrative expenses equal to
5% of the amount determined under subsection (2) and the amounts
necessary for refunds, the department shall, on a monthly basis,

distribute the remaining amount to the tribal government.

NEW SECTION. Section 6. Tribal cigarette administration account. (1) There is a special revenue account called the tribal cigarette administration account.

(2) The administrative expenses and refund amounts deducted by the department under [section 5(3)] must be deposited in the tribal cigarette administration account.

(3) The tribal cigarette administration account may be expended by the department only for the purposes of administering the cigarette tax and providing for refunds under [section 5].

NEW SECTION. Section 7. Tribal cigarette tax account. (1) There is a special revenue account called the tribal cigarette tax account.

(2) The tax collected under [section 5], except the administrative expenses and refund amounts deducted under [section 5(3)], must be deposited in the tribal cigarette tax account.

(3) The money in the tribal cigarette tax account must be disbursed on a monthly basis to the tribe, as provided for in the agreement entered into pursuant to [section 5]."

Renumber: subsequent sections

5. Page 6, line 17.

Following: "representatives"

Insert: ", the Montana tribal chairman's association, and the state coordinator of Indian affairs"

6. Page 9, line 7.

Following: line 6

Strike: line 7 in its entirety

7. Page 10, lines 5 and 8.

Following: "4"

Insert: "through 7"

8. Page 10, line 9.

Following: "Effective"

Strike: "date"

Insert: "dates"

9. Page 10, lines 10.

Following: "APPLICABILITY."

Strike: "[This act] is"

Insert: "(1) [Sections 5 through 8 and this section] are"

10. Page 10, lines 11 and 12.

Following: "APPROVAL"

Strike: remainder of line 11 through "1991" on line 12

11. Page 10.

Following: line 12

Insert: "(2) [Sections 1 through 4, 9 through 13 and 15] are effective July 1, 1992, and apply to sales made by the

wholesaler after June 30, 1992.

12. Page 10, line 13.

Following: "Termination."

Strike: "[This act]"

Insert: "[Section 8]"

wholesaler after June 30, 1992.

12. Page 10, line 13.

Following: "Termination."

Strike: "[This act]"

Insert: "[Section 8]"

GRAY BILL
Amendments HB 101202

See 101202
4-10-01
HB 1012

52nd Legislature

HB 1012/02

REQUIRING NEGOTIATIONS BETWEEN THE STATE OF A
AND TRIBAL GOVERNMENTS FOR COLLECTION OF A
CIGARETTE SALES TAX FROM NON-INDIAN PURCHASERS
CIGARETTES SOLD ON INDIAN RESERVATIONS. REQUIRING THE
FOR CIGARETTES OF REVENUE TO REPORT FINANCIAL CONCERNING NEGOTIATIONS TO THE INTERIM
HOUSE BILL NO. 1012 COMMITTEE ON INDIAN AFFAIRS.

INTRODUCED BY ELIOTT

BY REQUEST OF THE HOUSE TAXATION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO APPLY ~~ARTICLE~~ THE

~~CIGARETTE SALES TAX TO ALL~~ AND CONSUMPTION OF CIGARETTES

~~ON AN INDIAN RESERVATION EXCEPT BY MEMBERS OF AN INDIAN~~

~~TRIBES ON AN INDIAN RESERVATION, PROVIDING FOR A REFUND OF OR~~

~~CREDIT FOR TAXES PAID ON CIGARETTES SOLD TO TRIBAL MEMBERS;~~

~~PROVIDING AN INCREASE IN THE APPROPRIATION TO THE DEPARTMENT~~

~~OF REVENUE FOR FISCAL YEARS 1992 AND 1993 TO ADMINISTER~~

~~COLLECTION OF CIGARETTE TAXES; PROVIDING A CIVIL PENALTY FOR~~

~~THE POSSESSION OF CIGARETTES EXCEEDING THE QUANTITY~~

~~AT THE 53RD LEGISLATURE; AMENDING SEVERAL SECTIONS~~

~~16-11-112, 16-11-113, 16-11-114, 16-11-115, 16-11-116, 16-11-117,~~

~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~

~~SECTION 1. DEFINITIONS. As used in~~

~~SECTION 1. DEFINITIONS. As used in~~

~~SECTION 1. DEFINITIONS. As used in~~

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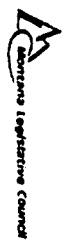
~~SECTION 1. DEFINITIONS. As used in~~

~~SECTION 1. DEFINITIONS. As used in~~

~~SECTION 1. DEFINITIONS. As used in~~

~~SECTION 1. DEFINITIONS. As used in~~

THE COMMITTEE ON INDIAN AFFAIRS TO REPORT FINANCIAL CONCERNING NEGOTIATIONS TO THE INTERIM



WHEREAS, the Legislature also recognizes that Indian
tribes in Montana also view certain state taxes being
assessed against the tribes and tribal members on the
reservation, including fuel and alcohol taxes, as being
unlawful; and
WHEREAS, although the Legislature proposes to exercise
its constitutional authority to seek assistance from tribal
authorities in collecting cigarette taxes from non-Indians
on the reservations it also recognizes the need for
discussion and negotiation with Indian tribes in Montana to
avoid dual taxation and to develop a comprehensive
resolution of all reservation taxation issues affecting both
the state and the tribes.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
NEW SECTION. Section 1. Definitions. As used in
[sections 1 through 3], the following definitions apply:
(1) "Indian reservation" means Indian lands federally
declared to be a reservation for an Indian tribe by treaty
between the tribe and any territorial government or state
government or the United States government or established by
acts of the United States congress or by formal decision of
the executive branch of the United States.
(2) "Indian retailer" means a business or enterprise
that is wholly owned and operated by an Indian tribe in

1 Montana or a business or enterprise that is wholly owned and
2 operated by one or more members of a tribe in Montana on
3 whose reservation the business or enterprise is located.

4 **NEW SECTION. SECTION 2. STAMPS AFFIXED ON ALL**

5 CIGARETTES -- EXCEPTION. EXCEPT FOR CIGARETTES SOLD ON
6 MILITARY RESERVATIONS, ALL CIGARETTES SOLD IN MONTANA MUST
7 HAVE A MONTANA CIGARETTE TAX STAMP AFFIXED PRIOR TO SALE.

8 **Section 3. Section 16-11-111, MCA, is amended to read:**

9 "16-11-111. Cigarette sales tax -- EXEMPTION FOR SALES
10 TO INDIANS. where--is--hereby (1) A tax on the purchase of
11 cigarettes for consumption, use, or any purpose other than
12 resale in the regular course of business is levied, imposed,
13 and assessed at the following rate and there shall must be
14 collected precollected by the wholesaler and paid to the
15 state of Montana upon--cigarettes--sold--or--possessed--in--this
16 state--the--following--excise--tax--which--shall--be--paid--prior--to
17 the--time--of--sale--and--delivery--of--cigarettes: 18 cents on
18 each package containing 20 cigarettes and, when packages
19 contain more or less than 20 cigarettes, then a tax on each
20 cigarette equal to 1/20th the tax on a package containing 20
21 cigarettes.

22 (2) The tax imposed by this section does not apply to
23 cigarettes sold by an Indian retailer to members of a
24 federally recognized Indian tribe within the boundaries of
25 the tribe's reservation located in Montana.

1 (3) The tax imposed by this section must be
2 precollected, subject to refund or credit as provided in
3 subsection (4), on all cigarettes entering Montana Indian
4 reservations.

5 (4) Wholesalers pursuant to the procedure provided in
6 subsection (5), wholesalers making sales of cigarettes to
7 Indian retailers may apply to the department for a refund of
8 or credit for taxes precollected on cigarettes sold by the
9 retailers to members of an Indian tribe on whose reservation
10 the retail sale is made. The claim for credit or refund must
11 be made on the wholesaler's cigarette tax return for the
12 reporting period immediately following the period during
13 which the cigarettes were sold by the wholesaler to the
14 retailer. If not claimed, the credit or refund is lost.

15 (5) THE DISTRIBUTION OF TAX-FREE CIGARETTES TO INDIANS
16 MUST BE IMPLEMENTED THROUGH A SYSTEM OF PREAPPROVED,
17 WHOLESALER SHIPMENTS. LICENSED MONTANA WHOLESALERS SHALL
18 CONTACT THE DEPARTMENT FOR APPROVAL PRIOR TO SHIPMENT OF THE
19 UNTAXED CIGARETTES. THE DEPARTMENT MAY AUTHORIZE SALES BASED
20 ON WHETHER THE QUOTA FOR THAT PARTICULAR SERVICE AREA HAS
21 BEEN MET. IF THE SALE IS AUTHORIZED AS TAX EXEMPT, THE
22 WHOLESALER, UPON PROVIDING PROOF OF ORDER AND DELIVERY TO AN
23 EXEMPT RETAILER, MUST BE PROVIDED A CREDIT OR A REFUND ONCE
24 THE ALLOCATION FOR THE PARTICULAR SERVICE AREA HAS BEEN
25 FILLED. THE DEPARTMENT SHALL IMMEDIATELY NOTIFY ALL

1 ~~WHOLESALESAERS THAT ALL FURTHER SALES ON THAT RESERVATION MUST~~
 2 ~~BE TAXED AND THAT CLAIMS FOR REFUND OR CREDIT WILL NOT BE~~
 3 ~~HONORED FOR THE REMAINDER OF THE MONTH. ALLOCATIONS ARE NOT~~
 4 ~~TRANSFERABLE BETWEEN MONTHS OR BETWEEN INDIAN RESERVATIONS.~~
 5 ~~(5)(6) The total amount of refunds or credits allowed~~
 6 ~~by the department to all wholesalers claiming the refund or~~
 7 ~~credit under subsection (4) for any reporting period MONTH~~
 8 ~~may not exceed an amount that is equal to the tax due on the~~
 9 ~~average individual consumption of cigarettes determined in~~
 10 ~~a manner provided by department--refer multiplied by the~~
 11 ~~tribal member population of the reservation on which the~~
 12 ~~sales are made. THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF~~
 13 ~~REFUNDS OR CREDITS FOR EACH INDIAN RESERVATION AT THE~~
 14 ~~BEGINNING OF EACH FISCAL YEAR, USING POPULATION ESTIMATES~~
 15 ~~AND OTHER DATA ISSUED BY THE UNITED STATES GOVERNMENT. IF~~
 16 ~~the total amount of refunds claimed by wholesalers exceeds~~
 17 ~~the amount computed the claims by the wholesalers must be~~
 18 ~~reduced proportionately based on the total amount of~~
 19 ~~on-reservation business conducted by each wholesaler to the~~
 20 ~~amounts necessary to make the total of all the claims equal~~
 21 ~~to the allowable maximum.~~
 22 ~~(6)(7) A refund or credit may not be allowed to a~~
 23 ~~wholesaler unless the wholesaler certifies to the department~~
 24 ~~PURSUANT TO 16-11-132(2) that the economic benefit of the~~
 25 ~~credit or refund has been passed on to the Indian retailers~~

1 to whom the sales were made."
 2 ~~NEW SECTION. SECTION 4. CIVIL PENALTY FOR POSSESSIO~~
 3 ~~OF UNSTAMPED CIGARETTES. IN LIEU OF THE CRIMINAL PENALTY~~
 4 ~~PROVIDED IN TITLE 16, CHAPTER 11, PART 1, THE DEPARTMENT MA~~
 5 ~~ASSESSES A PERSON POSSESSING UNSTAMPED CIGARETTES A CIVIL~~
 6 ~~PENALTY OF \$250 FOR THE FIRST FULL OR PARTIAL PACK O~~
 7 ~~UNSTAMPED CIGARETTES AND \$10 FOR EACH ADDITIONAL FULL O~~
 8 ~~PARTIAL PACK OF UNSTAMPED CIGARETTES.~~
 9 ~~NEW SECTION. Section 5. Revenue oversight -- state and~~
 10 ~~tribal negotiations -- report to legislature. (1) The~~
 11 ~~legislature directs the department of revenue to:~~
 12 ~~(a) negotiate with individual tribes within the state~~
 13 ~~on the methods of implementing [this act];~~
 14 ~~(b) discuss and negotiate alternative methods for the~~
 15 ~~collection of cigarette taxes, including the possibility of~~
 16 ~~future tribal taxation, with the tribal governments of~~
 17 ~~the Mt. Tribal Chairman's office, and the~~
 18 ~~Montana reservation or their designated representatives;~~
 19 ~~(c) discuss and negotiate with individual Indian tribes~~
 20 ~~in Montana the possibility of resolving other state taxation~~
 21 ~~issues, including but not limited to the imposition of fuel~~
 22 ~~and alcohol taxes on Indian reservations, through~~
 23 ~~state-tribal cooperative agreements; and~~
 24 ~~(d) report its findings on the collection of cigarette~~
 25 ~~taxes pursuant to 16-11-131 and on negotiations with tribal~~
 authorities on a comprehensive state-tribal taxation

HB 1012/02

(2) The legislature also directs the interim committee

4 on Indian affairs to work with the Montana tribal chairman's

6 individual tribes to:
~~Neathams~~ conducted pursuant to (1)(a) -

8 (b) consider alternatives for cigarette tax collection,

10 taxation by state and tribal governments;

12 including but not limited to the imposition of fuel and

14 Montana Indian tribes; and

15 would facilitate a cooperative government-to-government

SECTION 6. SECTION 16-11-113, MCA, IS AMENDED TO READ:

19 ~~*16-11-113. Tax insignia. (1) Within 72 hours after~~

21 except as hereinafter ~~provided~~, he shall cause to be

23 tax thereon. A ~~person~~ specifically exempted under the

25 ~~acting-unlawfully-under-this-section:~~

HB 1012

2 sale or removal for consumption, under such regulations as

(3) Each package shall have the required insignia to

6 destroyed when the package is opened.

8 may buy, sell, or have in their possession only cigarettes

10 package. The insignia provided for in this part shall be

12 retailers only.

14 business of any unlicensed wholesaler, retailer, or other

16 marked as having been received by the unlicensed wholesaler,

18 presumption shall be that such cigarettes are kept therein

19 In violation of the ~~provisions~~ of this part."

21	*16-11-119	disposition of taxes -- retirement of
----	------------	---------------------------------------

23 moneys collected under the provisions of 16-11-111, less the

25 by said certificate shall be paid to the state.

HB 1012

1 treasurer and deposited as follows: 70.89% in the long-range
2 building program fund in the debt service fund type and
3 29.11% in the long-range building program fund in the
4 capital projects fund type.

5 (2) The following money, collected pursuant to
6 16-11-111, is appropriated to the department:

7 Fiscal year 1992	\$64,272
8 Fiscal year 1993	56,872

9 **SECTION 8.** ~~SECTION 16-11-131, MCA, IS AMENDED TO READ:~~

10 "16-11-131. Transporting cigarettes without insignia a
11 misdemeanor. It shall be unlawful for any person to
12 transport into, receive, carry, or move from place to place
13 within this state, except in the course of interstate
14 commerce, any cigarettes which do not bear the insignia
15 required by this part--except for a person--specifically
16 exempted--in--16-11-131(2). Any person violating the
17 provisions of this section is guilty of a misdemeanor and
18 shall be punished as hereinafter provided."

19 **SECTION 9.** ~~SECTION 16-11-133, MCA, IS AMENDED TO READ:~~

20 "16-11-133. Sale and use of cigarettes without insignia
21 unlawful. Every person who sells any package of cigarettes
22 which does not bear the insignia required by this part and
23 every person who uses or consumes a cigarette within this
24 state, taken from a package which does not bear the required
25 insignia, is guilty of a misdemeanor and shall be punished

1 as hereinafter provided--except that a person--specifically
2 exempted--under--the--provisions--of--16-11-131(2)--may--not--be
3 considered--to--be--acting--unlawfully--under--this--section."

4 **NEW SECTION.** Section 10. Codification instruction.

5 Section 11 is [SECTIONS 1, 2, AND 4] ARE intended to be
6 codified as an integral part of Title 16, chapter 11, part
7 1, and the provisions of Title 16, chapter 11, part 1, apply
8 to Section 11 [SECTIONS 1, 2, AND 4].

9 **NEW SECTION.** Section 11. Effective date

10 ~~SECTION 11.~~ [This act] is effective July 1, 1993 ON
11 PASSAGE AND APPROVAL AND APPLIES TO SALES MADE BY A
12 ~~WHOLESALE RETAILER FROM JULY 1, 1991.~~

13 **NEW SECTION.** Section 12. Termination. [This act]
14 terminates July 1, 1993.

-End-

Amendments to House Bill No. 973
Third Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
April 11, 1991

1. Page 14, line 5.

Strike: "and"

2. Page 14, line 8.

Following: "purposes"

Insert: "; and

(iii) a tank used for storing diesel fuel sold as
motor fuel for commercial highway use"

3. Page 14, line 9.

Strike: "(C)"

Insert: "(3)"

4. Page 14, line 11.

Following: "FROM"

Insert: "the following"

5. Page 14, line 12.

Strike: "LISTED IN SUBSECTION (2)(B) ONLY"

Insert: ":

(a) a tank used for storing heating oil for
consumptive use on the premises where stored; and

(b) a farm or residential tank that is used for
storing motor fuel for noncommercial uses"

6. Page 21, line 7.

Strike: "(2)(b)"

Insert: "(3)"

7. Page 23, line 5.

Strike: "AND"

8. Page 23, line 6.

Following: "railroad"

Insert: "; and

(e) special fuels sold for highway use"

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 4/12/91 House Bill Bill No. 1112 Time

NAME	YES	NO
SEN. HALLIGAN		X
SEN. BROWN	X	
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG		X
SEN. HARP	X	
SEN. YELLOWTAIL	X	
SEN. THAYER		X
SEN. TOWE		X
SEN. KOEHNKE		X
SEN. DOHERTY		X

Bill Rhyans
Secretary

Sen. Mike Halligan
Chairman

Motion: by Senator Hark to adopt
amendments 101201 (1a)

Failed

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 12, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 312 (third reading copy -- blue), respectfully report that House Bill No. 312 be amended and as so amended be concurred in:

1. Title, line 15.

Strike: "USE ALL"

Insert: "A PORTION"

Strike: "VEHICLE OPTION"

Insert: "OPTION VEHICLE"

2. Title, line 16.

Following: "PURPOSES;"

Insert: "TO PROVIDE FOR THE DISTRIBUTION OF A PORTION OF THE TAX TO THE COUNTY AND MUNICIPALITIES."

3. Page 22, lines 21 through 23.

Strike: "in" on line 21 through "county" on line 23

Insert: "as follows:

(a) 50% to the county; and

(b) the remaining 50% to the county and the incorporated cities and towns within the county, apportioned on the basis of population. The distribution to a city or town is determined by multiplying the amount of money available by the ratio of the population of the city or town to the total county population. The distribution to the county is determined by multiplying the amount of money available by the ratio of the population of unincorporated areas within the county to the total county population."

Signed: _____

Mike Halligan, Chairman

496 4-12-91
Am. Coord.

Sec. of Senate

78143200.811

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 12, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 1012 (third reading copy -- blue), respectfully report that House Bill No. 1012 be amended and as so amended be concurred in:

1. Title, lines 5 through 13.

Following: "APPLY"

Strike: remainder of line 5 through "CIGARETTES;" on line 13

Insert: "REQUIRING NEGOTIATIONS BETWEEN THE STATE AND TRIBAL GOVERNMENTS FOR COLLECTION OF A CIGARETTE SALES TAX FROM NON-INDIAN PURCHASERS FOR CIGARETTES SOLD ON INDIAN RESERVATIONS; REQUIRING THE DEPARTMENT OF REVENUE TO REPORT FINDINGS CONCERNING NEGOTIATIONS TO THE INTERIM COMMITTEE ON INDIAN AFFAIRS;"

2. Title, line 13.

Following: "REQUIRING"

Strike: "A REPORT"

Insert: "THE INTERIM COMMITTEE ON INDIAN AFFAIRS TO PROPOSE LEGISLATION"

3. Title, lines 14 through 17.

Following: "LEGISLATURE;" on line 14

Strike: remainder of line 14 through "HCA;" on line 16

Following: "DATE" on line 16

Strike: remainder of line 16 through "DATE," on line 17

4. Page 1, line 19 through page 6, line 8.

Strike: page 1, line 19 through page 6, line 8 in their entirety

Renumber: subsequent sections

5. Page 6, lines 12 and 13.

Following: line 11

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

6. Page 6, line 17.

Following: "representatives"

Insert: ", the Montana Tribal chairman's association, and the state coordinator of Indian affairs"

7. Page 6, lines 23 and 24.

Following: "on" on line 23

Strike: remainder of line 23 through "on" on line 24

8. Page 7, line 7.

Following: "monitor"

Insert: "negotiations conducted pursuant to subsection (1)(a) for proposed cigarette"

Following: "collection"

Strike: remainder of line 7 through "16-11-111"

9. Page 7, line 11.

Following: line 10

Insert: "(c) after public hearings and consultation with tobacco wholesalers and retailers, propose legislation to the 53rd legislature to provide for collection of the cigarette sales tax from non-Indian purchasers for cigarettes sold on Indian reservations. The legislation must include a mechanism to prevent dual taxation by providing for revenue sharing between the state and a tribal government that has adopted an ordinance imposing a cigarette tax that is identical to that imposed by the state."

Renumber: subsequent subsections

10. Page 7, line 18 through page 10, line 8.

Strike: sections 6 through 10 in their entirety

Renumber: subsequent sections

11. Page 10, lines 9 and 10.

Following: "date"

Strike: "--- APPLICABILITY"

12. Page 10, lines 11 and 12.

Following: "APPROVAL" on line 11

Strike: remainder of line 11 through "1991" on line 12

Signed: _____

Mike Halligan, Chairman

4-12-91
Amd. Coord.

SB 413-91
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 12, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 973 (third reading copy -- blue), respectfully report that House Bill No. 973 be amended and as so amended be concurred in:

1. Page 7, line 10.

Following: "15-70-201."

Insert: "For the purposes of this chapter, gasoline does not include JP-4 jet fuel sold to the federal defense fuel supply center."

Signed: _____

Mike Halligan, Chairman

MA 4-12-91
Am. Coord.

MA 4-12 8:55
Sec. of Senate

78154630.111