

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on January 27, 1993, at
8:00 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary

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

Committee Business Summary:

Hearing: HB 283
HB 297
HB 312

Executive Action following page

Committee Business Summary continued:

Executive Action: HB 92 Do Pass As Amended
HB 186 Do Pass
HB 250 Do Pass As Amended
HB 254 Do Pass As Amended
HB 327 Do Pass As Amended
SB 10 Be Concurred In As
Amended
HB 297 Do Pass
HB 312 Do Pass

HEARING ON HOUSE BILL 283**Opening Statement by Sponsor:**

REP. JIM ELLIOTT, HD 51, Trout Creek, said HB 283 makes it possible for the state to collect taxes from non-Indians on Montana Indian reservations. Enrolled tribal members are exempt from any state tax while non-tribal members living on reservations are subject to all state taxes. Collection of those taxes has been a long-standing problem. Smoke shops on the reservations were allowed to get any amount of tax free cigarettes they wanted. In 1979, this was not a problem because only 4% of the Montana cigarette sales were tax free. By 1991, that figure had risen to 29% representing sales of 2.8 million cartons through the reservation smoke shops. The contention was that the bulk of the sales were to people from out-of-state. In 1990, the United States Supreme Court, with specific reference to smoke shops, ruled that states can collect taxes on cigarettes sold to non-Indians on Indian reservations. A 1991 bill instituted a quota system for cigarette sales on Montana reservations. It also contained a provision for a study of taxation issues on the reservations and encouraged the Department of Revenue (DOR) to enter into agreements with tribal governments in taxation issues. The quota provision was stripped in the Senate. The Department has, over the past two years, been conducting negotiations with all seven tribes in the state. Four of the tribes have agreed to the quota system and three others are in various negotiating stages at this time. HB 283 would impose quotas on the remaining three tribes, allow for continuing negotiations, and allow for the replacement of an imposed quota with a negotiated quota. This is not an Indian taxation issue, but rather a means of collecting taxes from non-Indians who are living on the reservations.

Proponents' Testimony:

Jeff Miller, Administrator, Income and Miscellaneous Tax Division, Department of Revenue (DOR), said the bill allows the state to regain control of the distribution of untaxed cigarettes on the state's reservations. If the tribe imposes a tax

identical to the state, there is a provision in the bill that allows the state to administer the tax for them. It will ensure the rights of the Indians to smoke tax free but it will allow the state to control the excess non-Indian sales. He reviewed the information contained in **EXHIBIT 1**, noting DOR has signed agreements with the Northern Cheyenne, Crow, Rocky Boy, and Fort Peck reservations.

He said it appears a significant numbers of cartons are being smuggled out of the state from the Flathead and Blackfoot reservations as well as being bought illegally by Montana residents. Exempt sales have dropped from 29% in 1990 and 1991 to 16% in 1992. A major enforcement activity occurred in November of 1991 with the cooperation of the Washington Department of Revenue, the Bureau of Alcohol, Tobacco and Firearms, the IRS, the Montana Department of Revenue, and numerous other law enforcement agencies, including tribal police. Search warrants were served simultaneously on 13 separate locations in Washington and Montana resulting in charges being filed against 24 individuals. Twenty-eight hundred separate counts were included in the indictment, including cigarette smuggling, money laundering totaling \$46 million, racketeering, conspiracy, and other related charges. The charges are still pending. Nine individuals in Montana were involved. The tribes had no involvement in the operation although a few have profited from the situation. Montana was the source of supply for a very large operation. The major drop in sales is a direct result of that action.

The bill contains a provision enabling the state to impose a quota if the tribes fail to arrive at a negotiated agreement. The quota would be based on tribal enrollment multiplied by national per capita consumption. There is also a provision for replacing the quota with the cooperative agreement, if and when such an agreement is negotiated with the tribes.

Mr. Miller submitted three sets of clarifying amendments to the Committee **EXHIBITS 2 and 3**.

SEN. BARRY STANG, SD 26, St. Regis, said he was going to introduce the bill in the Senate, but because the bill contains an appropriation, it had to originate in the House. **REP. STANG** has an off reservation retail business. He sells cigarettes in his store as do many other businessmen whom he also represents. He said years ago he sold a good number of cigarettes to people from Washington and Idaho due to the lower Montana tax. Off reservation businesses cigarette sales plummeted by over 50% after passage of the law allowing the sale of tax free cigarettes on the reservations. The bill is a fairness measure for those people who live and conduct business off, but adjacent to, the reservations. It allows tribal members to buy untaxed cigarettes

and keeps out-of-staters from buying carloads of cigarettes on the reservations. Non-tribal members will pay the tax whether they buy cigarettes on or off the reservation under the provisions of this bill.

Bill Stevens, Montana Food Distributors Association, said he previously owned a store in Boulder which was half the size of a store owned by a friend in St. Ignatius. The Boulder store, while smaller, sold 20,000 cartons of cigarettes a year compared to the larger store in St. Ignatius which sold only 2000 cartons a year. The reason for the difference was the proximity of the St. Ignatius store to the reservation. He said the bill restores fairness to cigarette retail sales and is long overdue and welcomed by his organization.

Opponents' Testimony:

Pat Smith, Staff Attorney, Salish and Kootenai Tribes, said he appeared as a hesitant opponent only because his tribe had not completed negotiations with the state. He presented a proposed amendment for the Committee's consideration which allows negotiation of the definition of "quota" **EXHIBIT 4**.

He said the tribe favors HB 92, which amends the State-Tribal Cooperative Agreements Act, and which would supersede HB 283 if it passes. The tribe is, for the first time, regulating the sale of cigarettes on the reservation. The tribal council has instituted an internal quota system, licensing regulations, and tribal identification cards. He said he had concerns about equitable distribution of cigarettes to tribal members re HB 283, but they have been somewhat alleviated after talking with DOR representatives and the sponsor of the bill.

Questions From Committee Members and Responses:

REP. TUNBY asked if DOR anticipates litigation over the arbitrary imposition of a quota in the absence of a negotiated agreement.

Mr. Miller said DOR does not anticipate any problem. The quota provision is based on a legal precedent established by the quota system that has been in force in Washington for the past 13 years. He pointed out the tribes have until July 1, 1993, to continue negotiations before the quota is set. They are free to continue negotiations after that time and to amend the quota based on a negotiated agreement.

REP. REAM asked about cigarette sales on military bases in the state.

Mr. Miller said enlisted and retired military are entitled to buy untaxed cigarettes on the base. They are restricted to four cartons per trip to the base exchange. He said total sales on the military reservations in 1992 (Malmstrom Air Force Base representing the majority of the sales) were 17,000 cartons as compared to 6.2 million on the Indian reservations in 1992.

REP. RANEY asked on what basis does DOR have the authority to impose arbitrary quota limits.

Mr. Miller replied DOR is trying to ensure the tribes have enough tax free cigarettes to meet the tribal needs. That is why the national average and enrolled tribal members numbers are used. The national per capita is 97 packs versus the statewide average of 83 packs. The quota is also based on all tribal members, not just adults over the age of 18. DOR feels this is a very generous allocation. In addition, case law supports the quota embargo. The United States Supreme Court held that methods such as the quota system are allowable as long as they do not unduly burden the congress on the reservation and do not impose requirements that are unique. He said this bill exactly mirrors the negotiated quota agreements already in place with the four other tribes. He repeated this is the same methodology that has been in force in Washington for 13 years without a challenge.

REP. Raney asked if the tribes are considering suing the state over the arbitrary imposition of non-negotiated quotas.

Mr. Smith said it depends on how the quota is implemented. If the tax allows for tribal members to receive an equitable share of tax free cigarettes there should be no problem. The only legal problem that could arise would be one of access, e.g., if the quota had been reached and the only cigarettes available to tribal members are taxed.

REP. ORR said both sets of amendments proposed by DOR reference revenue sharing. He asked if there are agreements with any other entities regarding revenue sharing and the cigarette tax.

Mr. Miller said the agreements in place with the four tribes do address revenue sharing re motor fuel taxes, but do not specify revenue sharing re cigarette sales. If the tribes were to impose a tax on cigarettes that mirrors the state tax, and it were administratively feasible, the amendments would allow the state to share revenue.

CHAIRMAN GILBERT said he would delay executive action on the bill until everyone concerned could review and agree on the proposed amendments.

Closing by Sponsor:

REP. ELLIOTT closed by saying the tribes, in 1991, asked for time to negotiate and thereby avoid imposition of a quota. Four of the tribes reached negotiated agreements in the past two years. The other three still have 5 months to complete their negotiations before arbitrary quotas are imposed. The figures contained in **EXHIBIT 1** confirm that DOR is generous in their negotiations and also in their projected quota system. Case law gives the state authority to impose a quota and collect taxes. He said the state is not embargoing non-taxed cigarette sales to tribal members. The state is, however, attempting to restrict the unchecked flow of tax free cigarettes to non-tribal members.

HEARING ON HOUSE BILL 297Opening Statement by Sponsor:

REP. BEA McCARTHY, HD 66, Anaconda, said HB 297 removes the capital gain exclusion from trust and estate taxable income to make Montana individual and trust taxable income statutes consistent. She said the bill simply makes Montana law consistent with federal law.

Proponents' Testimony:

Bob Turner, Chief, Income Tax Bureau, Miscellaneous and Income Tax Division, DOR, said the Legislature enacted the state trust and estate law in 1983. At that time, there was a 60% capital gains exclusion for individuals, estates, and trusts, at the federal level which was subsequently eliminated in 1986 by the Federal Tax Reform Act. At the Montana level, the exclusion was eliminated for individuals as Montana is tied to the federal adjusted gross income. It was not eliminated in Montana law for estates and trusts. This bill eliminates that inconsistency in Montana. He said this is basically a housekeeping measure. He pointed out the fiscal note says there is a minimal "negative" fiscal impact. It should be corrected to read a minimal "positive" fiscal impact.

Opponents' Testimony: NoneQuestions From Committee Members and Responses: NoneClosing by Sponsor:

REP. McCARTHY closed.

HEARING ON HOUSE BILL 312

Opening Statement by Sponsor:

REP. MIKE FOSTER, HD 32, Townsend, said HB 312 clarifies the beneficial use tax by specifying that the tax applies to the industrial, trade, or other business use of tax exempt property. Apparently, the law taxes the gainful use of tax exempt property. The word "gainful" is ambiguous and might be interpreted to allow the taxation of some beneficial uses of tax exempt property which the Legislature may not wish to tax, e.g., taxation of students who live in university dormitories or government employees who are required to live in government housing for their use of tax exempt property. This bill does not change the current method of taxing beneficial use of tax exempt property.

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, DOR, said the bill does not change the intent of the beneficial use tax. It clears up an ambiguity in the language which allowed for interpretation beyond the original legislative intent.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. FOSTER closed.

EXECUTIVE ACTION ON HOUSE BILL 92

Motion: REP. TUNBY MOVED HB 92 DO PASS.

Motion: REP. FOSTER MOVED THE ADOPTION OF AMENDMENTS AS PER EXHIBIT 5.

Discussion:

CHAIRMAN GILBERT said he, REP. TUNBY and Pat Smith had worked out on the proposed amendments and had come to a consensus between the tribes and the sponsor which is contained in the amendments EXHIBIT 5. The amendments require a public agency to hold a public meeting prior to entering into an agreement on taxation, gambling, fish and game, or environmental regulation with a tribal government. The amendments detail the hearing procedures and notification policies. The state has an obligation to provide hearing opportunities to its citizens on matters that affect the quality of their lives. Tribal and non-tribal members

living on Indian reservations are citizens of Montana and, therefore, the public hearing opportunity must be afforded if the state is party to an agreement with an Indian nation.

REP. ELLIOTT said he did not understand why fish and game and environmental regulation should be included in a taxation bill.

Mr. Heiman said the amendment is within the constitutional requirement that the bill not be changed during the course of passage.

REP. ELLIOTT said that does not answer his concern.

REP. REAM said he shared **REP. ELLIOTT's** concern. The same bill came before the Revenue Oversight Committee (ROC) and the same concerns were voiced at that time. A taxation bill does not seem to be the proper vehicle for gambling, fish and game, and environmental hearing procedures.

CHAIRMAN GILBERT said three more bills could be drafted at a cost of \$2500 each or it can be done here and now in one bill. Tribal representatives want to include the other matters and this is an easy way to accomplish it.

REP. HARPER asked if the second amendment relates to taxation and if it is codified in the code chapter re taxation.

Mr. Heiman said the is codified in Title 18 which is state government contracts and agreements.

REP. HARPER said he would prefer to strike the references to gambling, fish and game, and environmental regulations in **amendment 4, EXHIBIT 5**. The amendments would then pertain to the bill.

CHAIRMAN GILBERT said the **Mr. Heiman** has advised the Committee that the amendment, as written, does fall under the scope and title of the bill. He said he did not understand the objections to providing an opportunity for a public hearing process to Montana citizens on Indian reservations.

REP. HARPER said he felt the amendments should be confined to the subject matter of the title.

REP. FELAND said the title refers to taxes, licenses, and permit fees. If the state is trying to expedite agreements with the Indian tribes, these amendments would certainly fit with the title of the bill and aid in the cooperative effort.

Vote: Motion to amend the bill as per **EXHIBIT 5** carried 11 - 9 on a roll call vote.

Motion: **REP. McCAFFREE** MOVED THE ADOPTION OF THE AMENDMENTS AS PER **EXHIBIT 6**.

Discussion:

REP. McCAFFREE said the special revenue account between the state and the tribes is established in the bill. There is no direction given to the local government for handling the special revenue account funds. The amendments clarify that procedure.

REP. TUNBY asked **Mr. Woodgerd** if DOR is satisfied with the amendments.

Mr. Woodgerd said he had reviewed the amendments and they are appropriate.

Vote: Motion to amend the bill as per **EXHIBIT 6** carried unanimously.

Motion: **REP. MARIAN HANSON** MOVED THE ADOPTION OF THE AMENDMENTS AS PER **EXHIBIT 7**.

Discussion:

Mr. Heiman said this is a technical amendment that reinserts stricken language on page 8, line 15.

REP. DRISCOLL said the amendment is made to the section on motor fuel taxes.

CHAIRMAN GILBERT said the amendments would require that an agreement would be presented to the Revenue Oversight Committee for review and comment before they are signed. He said many agreements can have some affect on revenue projections for the next biennium and it is important for ROC to be aware of those potential impacts.

Vote: Motion to amend the bill as per **EXHIBIT 7** carried 13 - 7 on a roll call vote.

Discussion:

REP. DRISCOLL expressed concern about the language on page 3, lines 18 and 19, that says if a state agency is a party to an agreement, the director of the agency is the governing body. He said the Governor should be the only person to make an agreement with another nation on behalf of the state. He said the tribes would have to negotiate with a different department head for each agreement. He said it is unclear who really has the power to make the agreements.

CHAIRMAN GILBERT said he agreed with **REP. DRISCOLL**, as did **REP. TUNBY**, but he was surprised to learn from **Mr. Smith** that the tribes preferred to deal with the people they are comfortable with in each of the negotiating areas. He said **Mr. Smith** understands that the director of the pertinent department will

have to submit the agreement to the Governor for his approval and to the Attorney General for legal review before it is signed.

Motion/Vote:

REP. TUNBY MOVED HB 92 DO PASS AS AMENDED. Motion carried 11 - 9 on a roll call vote.

EXECUTIVE ACTION ON HOUSE BILL 186

Motion/Vote: REP. McCAFFREE MOVED HB 186 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 250

Motion: REP. REAM MOVED HB 250 DO PASS.

Motion/ Vote: REP. REAM MOVED ADOPTION OF AMENDMENTS AS PER EXHIBIT 8. Motion carried unanimously.

Motion/Vote: REP. REAM MOVED HB 250 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 254

Motion: REP. McCAFFREE MOVED HB 254 DO PASS.

Discussion:

REP. McCAFFREE said the County Treasurers requested the bill due to the increased work load necessitated by filing of motor vehicle liens. The current \$4 fee is remitted entirely to the state and there is no remuneration for the Treasurers. He said if they are the ones doing the work they should be paid for it.

Motion/Vote: REP. DRISCOLL MOVED TO AMEND THE BILL BY INSERTING ON PAGE 5, LINE 19, FOLLOWING "COUNTY TREASURER", THE FOLLOWING LANGUAGE: "BY THE PERSON WANTING THE VEHICLE ENCUMBERED". He gave Mr. Heiman the authority to adjust the language appropriately. Motion to amend carried unanimously.

Motion: REP. McCAFFREE MOVED HB 254 DO PASS AS AMENDED.

Discussion:

REP. FELAND said this seems to be another method of circumventing I-105. The County Treasurers need more money so they are simply adding on another fee.

REP. REAM said every time more paperwork is added to the work load it adds a cost which must be paid.

Vote: Motion that HB 254 Do Pass As Amended carried with REP. FELAND, REP. ORR, and REP. ANDERSON voting no.

EXECUTIVE ACTION ON HOUSE BILL 327

Motion: REP. McCAFFREE MOVED HB 327 DO PASS.

Motion: REP. McCAFFREE MOVED TO ADOPT THE AMENDMENTS AS PER EXHIBIT 9.

Discussion:

REP. TUNBY asked if there are any private individuals who would run into the same problems as the municipalities.

REP. McCAFFREE said the bill provides for recovering costs for taxes less than \$5. A bill passed in 1991 instituted the \$5 fee for real property taxes. This bill includes both real and personal property taxes in the \$5 minimum.

Vote: Motion to amend as per EXHIBIT 9 carried unanimously.

Motion/Vote: REP. McCAFFREE MOVED HB 327 DO PASS AS AMENDED. Motion carried with REP. FOSTER voting no.

EXECUTIVE ACTION ON SENATE BILL 10

Motion: REP. BOHLINGER MOVED SB 10 BE CONCURRED IN.

Motion: REP. BOHLINGER MOVED ADOPTION OF THE AMENDMENTS AS PER AMENDMENTS 1 AND 2, AND THE FIRST HALF OF AMENDMENT 3, EXHIBIT 10.

Discussion:

REP. ELLIOTT said he got a letter from the Missoula County Commissioners in support of the bill. He said he interprets the bill to say that a county that did not levy both a fair and parks cultural events levy could be covered by the provisions of this bill if the County Commissioners levied a parks cultural levy, combined the two levies, and put them on the ballot. He said the consolidation was a good idea for Cascade and Yellowstone Counties, but he did not want to see the counties who do not have both levies expand their taxes in order to qualify. He said Missoula and Flathead County levy both fair and parks cultural

levies. He suggested an amendment that stated if both levies were in place before January 1, 1993, the combined levy could be put to a public vote.

Vote: Motion to adopt amendments 1, 2, and the first half of amendment 3, **EXHIBIT 10**, carried unanimously.

Motion/Vote: REP. ELLIOTT MOVED TO AMEND THE BILL AS PER THE SECOND HALF OF AMENDMENT 3, EXHIBIT 10. Motion carried with REP. McCAFFREE voting no.

Motion/Vote: REP. BOHLINGER MOVED SB 10 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 297

Motion/Vote: REP. MCCARTHY MOVED HB 297 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 312

Motion/Vote: REP. FOSTER MOVED HB 312 DO PASS. Motion carried unanimously.

ADJOURNMENT

Adjournment: The meeting adjourned at 10:35 a.m.



BOB GILBERT, Chairman



JILL ROHYANS, Secretary

BG/jdr

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

1/27/93

| NAME | PRESENT | ABSENT | EXCUSED |
|------------------------|---------|--------|---------|
| REP. GILBERT, CHAIRMAN | ✓ | | |
| REP. FOSTER | ✓ | | |
| REP. HARRINGTON | ✓ | | |
| REP. ANDERSON | ✓ | | ✓ |
| REP. BOHLINGER | ✓ | | |
| REP. DOLEZAL | ✓ | | |
| REP. DRISCOLL | ✓ | | |
| REP. ELLIOTT | ✓ | | |
| REP. FELAND | ✓ | | |
| REP. HANSON | ✓ | | |
| REP. HARPER | ✓ | | |
| REP. HIBBARD | ✓ | | |
| REP. KELLER | ✓ | | |
| REP. McCAFFREE | ✓ | | |
| REP. MCCARTHY | ✓ | | |
| REP. NELSON | ✓ | | |
| REP. ORR | ✓ | | |
| REP. RANEY | ✓ | | |
| REP. REAM | ✓ | | |
| REP. TUNBY | ✓ | | |
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HOUSE STANDING COMMITTEE REPORT

January 27, 1993

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Mr. Speaker: We, the committee on Taxation report that House Bill 92 (first reading copy -- white) do pass as amended.

Signed: _____
Bob Gilbert, Chair

And, that such amendments read:

1. Title, line 6.

Strike: "CLARIFYING THAT"

Insert: "AMENDING"

2. Title, line 7.

Following: "ACT"

Insert: "; CLARIFYING THAT THE ACT"

3. Title, line 11.

Following: "AGREEMENT;"

Insert: "REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION, GAMBLING, FISH AND GAME, OR ENVIRONMENTAL REGULATION WITH A TRIBAL GOVERNMENT;"

4. Page 3, line 23.

Following: line 22

Insert: "(4) (a) Prior to entering into an agreement on taxation, gambling, fish and game, or environmental regulation with a tribal government, a public agency shall provide public notice and hold a public meeting on the reservation whose government is a party to the proposed agreement for the purpose of receiving comments from and providing written and other information to interested persons with respect to the proposed agreement's effect on the community.

(b) At least 14 days but not more than 30 days prior to the date scheduled for the public meeting, a notice of the proposed agreement and public meeting must be published in a newspaper of general circulation in the county or counties in which the reservation is located.

(c) At the time the notice of the meeting is published, a synopsis of the proposed agreement must be made available to interested persons."

5. Page 7, line 8.

Following: "agreement."

Insert: "If a public agency that is a party to an agreement is a local government, the agreement must provide for the disposition of revenue."

6. Page 7, line 19.

Following: "statutory"

Insert: ", public agency ordinance,"

7. Page 7, line 21.

Following: "statutory"

Insert: ", public agency,"

8. Page 8, line 15.

Following: "~~before~~"

Insert: "the agreement must be presented to the revenue oversight committee for review and comment before"

9. Page 11, line 17.

Following: "to"

Strike: "tax"

HOUSE STANDING COMMITTEE REPORT

January 27, 1993

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Mr. Speaker: We, the committee on Taxation report that House Bill 186 (first reading copy -- white) do pass .

Signed: _____
Bob Gilbert, Chair

HOUSE STANDING COMMITTEE REPORT

January 27, 1993

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Mr. Speaker: We, the committee on Taxation report that House Bill 250 (first reading copy -- white) do pass as amended.

Signed: _____
Bob Gilbert, Chair

And, that such amendments read:

1. Title, line 10.

Strike: "AND"

Following: "15-15-102,"

Insert: "AND 15-15-103,"

2. Page 3, line 15.

Strike: "20"

Insert: "30 calendar"

3. Page 4, line 12.

Strike: "department's agent"

Insert: "county assessor"

4. Page 8.

Following: line 5

Insert: "Section 4. Section 15-15-103, MCA. is amended to read:

"15-15-103. Examination of applicant -- failure to hear application. (1) Before the county tax appeal board grants any application or makes any reduction applied for, it must examine on oath the person or agent making the application, touching the value of the property of each person. No reduction must be made unless such person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. The testimony of all witnesses upon such hearing must be taken in shorthand or by stenotype or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by

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mail within 3 days thereafter. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book. An application is not automatically granted for the following appeals:

(a) ~~except, that~~ those listed in 15-2-302; and

(b) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current 60-day session the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book."

Renumber: subsequent section

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Taxation report that House Bill 254 (first reading copy -- white) do pass as amended.

Signed: _____
Bob Gilbert, Chair

And, that such amendments read:

1. Page 5, line 19.
Following: "paid"
Insert: "by the secured party"

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Taxation report that House Bill 327 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Gilbert, Chair

And, that such amendments read:

1. Title, line 7.

Following: "FUND;"

Insert: "PROVIDING THAT MINIMUM ASSESSMENT PAYMENTS DO NOT APPLY
TO GOVERNMENTAL ENTITIES UNLESS THE TOTAL OF LEVIED AMOUNTS
IS LESS THAN \$5;"

2. Page 2.

Following: line 5

Insert: "(4) The minimum assessment imposed by this section does
not apply to assessments levied against property owned by
the state or a county, consolidated local government, city,
town, school district, or other governmental entity unless
the total assessments levied against the all property owned
by the governmental entity is less than \$5."

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Taxation report that Senate Bill 10 (third reading copy -- blue) be concurred in as amended

Signed: _____

Bob Gilbert, Chair

And, that such amendments read:

Carried by: Rep. Bohlinger

1. Title, line 4.

Following: "COUNTY"

Insert: ",UNDER CERTAIN CIRCUMSTANCES,"

2. Page 1, line 14.

Strike: "that levies"

Insert: "who have levied"

3. Page 1, line 15.

Following: "7-21-3410"

Insert: "before January 1, 1993,"

Strike: "of"

Insert: "that may not exceed"

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Taxation report that House Bill 297 (first reading copy -- white) do pass .

Signed: _____
Bob Gilbert, Chair

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Taxation report that House Bill 312 (first reading copy -- white) do pass.

Signed: _____
Bob Gilbert, Chair

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 1/27/93 BILL NO. 92 NUMBER 1

MOTION: to amend bill as per
Ex. # 5 by Rep. Foster

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | ✓ | |
| REP. HARRINGTON | | ✓ |
| REP. ANDERSON | ✓ | |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | | ✓ |
| REP. DRISCOLL | | ✓ |
| REP. ELLIOTT | | ✓ |
| REP. FELAND | ✓ | |
| REP. HANSON | ✓ | |
| REP. HARPER | | ✓ |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | | ✓ |
| REP. MCCARTHY | | ✓ |
| REP. NELSON | ✓ | |
| REP. ORR | ✓ | |
| REP. RANEY | | ✓ |
| REP. REAM | | ✓ |
| REP. TUNBY | ✓ | |
| REP. GILBERT | ✓ | |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 1/27 BILL NO. 92 NUMBER 2

MOTION: by Rep. Hanson to adopt
amends as per Exhibit #8

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | X | |
| REP. HARRINGTON | X | |
| REP. ANDERSON | X | |
| REP. BOHLINGER | | X |
| REP. DOLEZAL | | X |
| REP. DRISCOLL | | X |
| REP. ELLIOTT | X | |
| REP. FELAND | X | |
| REP. HANSON | X | |
| REP. HARPER | | X |
| REP. HIBBARD | X | |
| REP. KELLER | X | |
| REP. McCAFFREE | X | |
| REP. MCCARTHY | X | |
| REP. NELSON | | X |
| REP. ORR | X | |
| REP. RANEY | | X |
| REP. REAM | | X |
| REP. TUNBY | X | |
| REP. GILBERT | X | |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 1/27/93 BILL NO. 92 NUMBER 3

MOTION: by Rep. Tunby that HB 92
Do Pass As Amended

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | ✓ | |
| REP. HARRINGTON | | ✓ |
| REP. ANDERSON | ✓ | |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | | ✓ |
| REP. DRISCOLL | | ✓ |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | ✓ | |
| REP. HANSON | | ✓ |
| REP. HARPER | | ✓ |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | | ✓ |
| REP. MCCARTHY | | ✓ |
| REP. NELSON | ✓ | |
| REP. ORR | ✓ | |
| REP. RANEY | | ✓ |
| REP. REAM | | ✓ |
| REP. TUNBY | ✓ | |
| REP. GILBERT | ✓ | |
| | | |

Cigarette Sales Comparison

U.S. - Montana - Reservation

Total Population Per Capita Consumption (year 1992 thru Nov.)










EXHIBIT

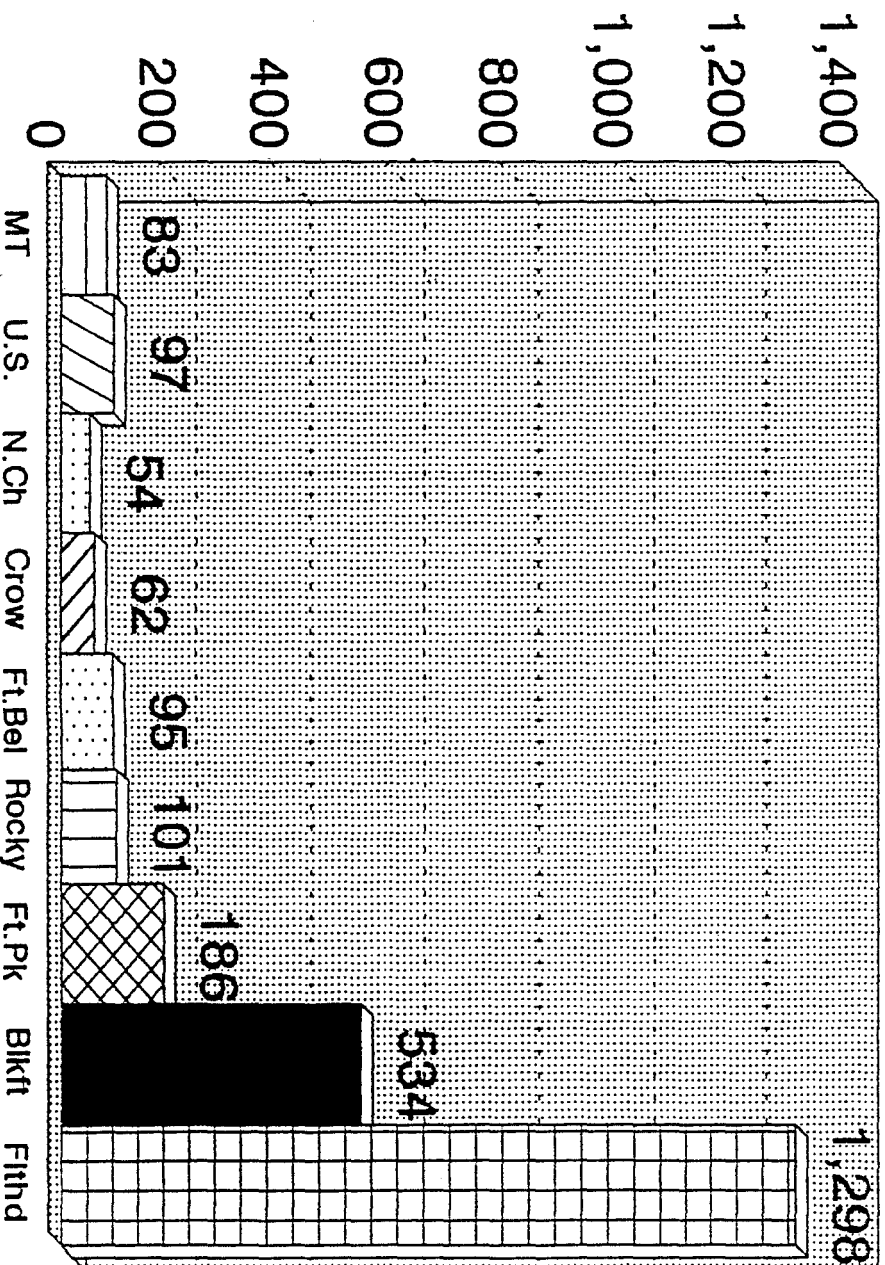
DATE

HB

1/27/93

263

| | |
|---|-----------------|
|  | Montana |
| | (799,065) |
|  | U.S. (national) |
| | (256,410,000) |
|  | N. Cheyenne |
| | (3,542) |
|  | Crow |
| | (4,724) |
|  | Fort Belknap |
| | (2,338) |
|  | Rocky Boy |
| | (1,882) |
|  | Fort Peck |
| | (5,782) |
|  | Blackfeet |
| | (7,025) |
|  | Flathead |
| | (5,130) |



Amounts are in packs of cigarettes

Amounts in () are population numbers

Population data from 1990 census

Montana Reservation- Exempt Cigarette Sales

1990 1991 1992 1993 Quotas

| | | | | |
|---------------|------------------|------------------|------------------|----------------|
| Rocky Boy | 15,553 | 17,469 | 14,989 | 18,500 |
| Crow | 38,038 | 34,983 | 29,372 | 27,000 |
| N.Cheyenne | 15,553 | 17,469 | 14,989 | 34,300 |
| Ft. Peck | 114,937 | 111,862 | 107,724 | 60,000 |
| Blackfeet | 230,862 | 130,202 | 375,194 | |
| Flathead | 2,355,414 | 2,130,452 | 665,896 | |
| Ft. Belknap | 21,027 | 23,031 | 22,137 | |
| Totals | 2,831,027 | 2,691,600 | 1,234,438 | 112,800 |

Amounts are in Cartons - (1992 Jan -Nov)

Montana Cigarette Sales

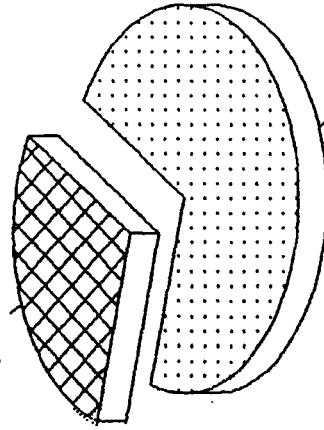
Percent of Total Sales

EXHIBIT #1

DATE 1-27-93

HB-283

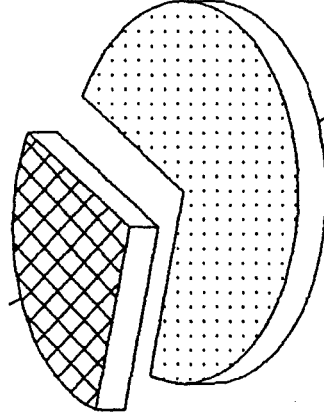
Exempt Sales
29%



Taxable Sales
71%

1990

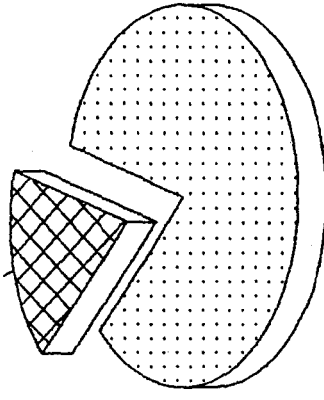
Exempt Sales
29%



Taxable Sales
71%

1991

Exempt Sales
16%



Taxable Sales
84%

1992

| | 1990 | 1991 | 1992 |
|---------------|-----------|-----------|-----------|
| Exempt Sales | 2,831,000 | 2,691,600 | 1,234,400 |
| Taxable Sales | 7,022,900 | 6,716,100 | 6,289,100 |
| Total Sales | 9,853,900 | 9,407,700 | 7,523,600 |

1992 Sales are for Jan thru Nov

Sales are in Cans

Cigarette Sales

Comparing Allocation for Enrolled Members With Montana & Nat'l Per Capita Consumption

| Signed Agreements with the State of Montana | | | |
|---|---|---------------------|---------------------------------|
| | Packs Quota | Enrolled Members | Enrolled Per Capita Quota |
| Northern Cheyenne | 343,540 | 4,138 | 83 |
| Crow | 534,700 | 6,367 | 84 |
| Rocky Boy | 185,240 | 1,858 | 100 |
| Ft Peck | 600,000 | 5,312 | 113 |
| Montana | Per Capita consumption per data from Tobacco Institute | | 83 |
| U.S. (National) | Per Capita consumption per data from Tobacco Institute | | 97 |

| No Agreements with the State of Montana | | | |
|---|---------------------|-----------------------------------|----------------|
| Allocations under HB 283 | | | |
| | Enrolled Members | U.S. Per Capita Consumption | Quota Packs |
| Ft Belknap | 2,352 | 97 | 228,144 |
| Flathead | 3,380 | 97 | 327,860 |
| Blackfeet | 7,406 | 97 | 715,382 |

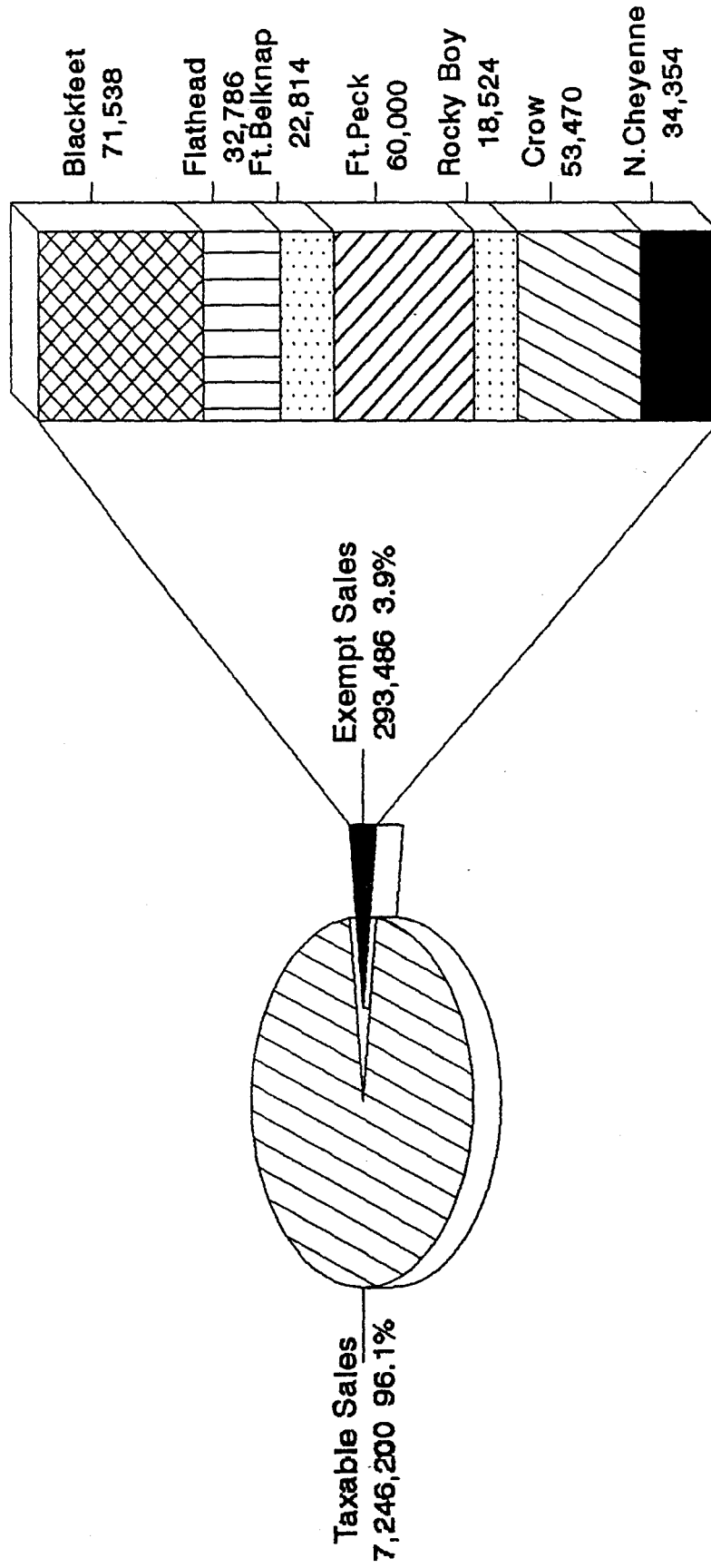
Exempt Cigarette Sales

As sales should be under quota agreements
Estimated Sales 7,539,686

#1

DATE 1-27-93

HB-283



Amounts are in cartons

EXHIBIT V

EXHIBIT 2
DATE 1/27/93
HB 283

Amendments to House Bill No. 283
First Reading Copy

Requested by Department of Revenue
For the Committee on Taxation

Prepared by Lee Heiman
January 26, 1993

1. Page 4, line 9.

Following: "16-1-111."

Insert: "A tribal tax must be distributed to the tribe as
determined in a negotiated formula based on population."

Reason for amendment: The department proposes this amendment to clarify that revenue sharing between a tribe and the state shall be determined in negotiated agreements and based on the number of tribal members residing on a reservation who are exempt from the state cigarette sales tax.

Amendments to House Bill No. 283
First Reading Copy

3
DATE 1/27/93
HB 283

For the Committee on Taxation

Prepared by Department of Revenue and
Lee Heiman
January 26, 1993

1. Page 3, line 17.

Following: the first "agreement"

Insert: "providing for revenue sharing of cigarette taxes with
the tribe or enlisting the tribe's assistance in enforcing
the provisions of this chapter"

Strike: "The"

Insert: "An"

Following: the second "agreement"

Insert: "sharing revenue of cigarette taxes with a tribe"

2. Page 8, line 8.

Following: "quota"

Insert: ", as established in a cooperative agreement between the
department and an Indian tribe or as set out in this
chapter, "

3. Page 9, line 2.

Strike: "populations determined"

Insert: "as provided"

4. Page 10, line 16.

Following: "quota"

Insert: ", as established in a cooperative agreement between the
department and an Indian tribe or as set out in this
chapter, "

5. Page 11, line 10.

Strike: "populations determined"

Insert: "as provided"

These amendments have been proposed by counsel representing the Assiniboiné and Sioux Tribes of the Fort Peck Reservation. The amendments clarify that Montana and Montana tribes may enter into cooperative agreements concerning the annual quota of tax free cigarettes entering Montana reservations. Montana currently has agreements imposing a quota with four tribes. The existing bill provides that the state and a tribe may enter into a cooperative agreement providing for a sharing of revenue generated by the tax. The department of revenue concurs in these proposed amendments.

EXHIBIT 4
DATE 1/27/93
HB 283

AMENDMENT TO HB 283

PROPOSED BY CONFEDERATED SALISH AND KOOTENAI TRIBES

January 27, 1992

On page 3, line 7, before the period, add the following:

" , or such other formula or amount agreed to in a state-tribal cooperative agreement"

Amendments to House Bill No. 92
First Reading Copy

EXHIBIT 5
DATE 1/27/93
HB 92

For the Committee on Taxation

Prepared by Lee Heiman
January 26, 1993

1. Title, line 6.

Strike: "CLARIFYING THAT"

Insert: "AMENDING"

2. Title, line 7.

Following: "ACT"

Insert: "; CLARIFYING THAT THE ACT"

3. Title, line 11.

Following: "AGREEMENT;"

Insert: "REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR
TO ENTERING INTO AN AGREEMENT ON TAXATION, GAMBLING, FISH
AND GAME, OR ENVIRONMENTAL REGULATION WITH A TRIBAL
GOVERNMENT;"

4. Page 3, line 23.

Following: line 22

Insert: "(4)(a) Prior to entering into an agreement on taxation,
gambling, fish and game, or environmental regulation with a
tribal government, a public agency shall provide public
notice and hold a public meeting on the reservation whose
government is a party to the proposed agreement for the
purpose of receiving comments from and providing written and
other information to interested persons with respect to the
proposed agreement's effect on the community.

(b) At least 14 days but not more than 30 days prior
to the date scheduled for the public meeting, a notice of
the proposed agreement and public meeting must be published
in a newspaper of general circulation in the county or
counties in which the reservation is located.

(c) At the time the notice of the meeting is
published, a synopsis of the proposed agreement must be made
available to interested persons."

5. Page 11, line 17.

Following: "to"

Strike: "tax"

EXHIBIT 6
DATE 1/27/93
HB 92

Amendments to House Bill No. 92
First Reading Copy

Requested by Representative McCaffree
For the House Taxation Committee

Prepared by Eddye McClure
January 16, 1993

1. Page 7, line 8.

Following: "agreement."

Insert: "If a public agency that is a party to an agreement is a
local government, the agreement must provide for the
disposition of revenue."

2. Page 7, line 19.

Following: "statutory"

Insert: ", public agency ordinance,"

3. Page 7, line 21.

Following: "statutory"

Insert: ", public agency,"

Amendments to House Bill No. 92
First Reading Copy

EXHIBIT 7
DATE 1/12/93
HB 92

For the Committee on Taxation

Prepared by Lee Heiman
January 13, 1993

1. Page 8, line 15.

Following: "~~before~~"

Insert: "the agreement must be presented to the revenue oversight
committee for review and comment before"

Amendments to House Bill No. 250
First Reading Copy

Requested by Department of Revenue
For the Committee on Taxation

Prepared by Bruce McGinnis, DOR
Lee Heiman, Legislative Council
January 26, 1993

1. Title, line 10.

Strike: "AND"

Following: "15-15-102,"

Insert: "AND 15-15-103,"

2. Page 3, line 15.

Strike: "20"

Insert: "30 calendar"

3. Page 4, line 12.

Strike: "department's agent"

Insert: "county assessor"

4. Page 8.

Following: line 5

Insert: "Section 4. Section 15-15-103, MCA, is amended to read:

"15-15-103. **Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants any application or makes any reduction applied for, it must examine on oath the person or agent making the application, touching the value of the property of each person. No reduction must be made unless such person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. The testimony of all witnesses upon such hearing must be taken in shorthand or by stenotype or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days thereafter. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book. An application is not automatically granted for the following appeals:

(a) ~~except, that those listed in 15-2-302,; and~~
(b) ~~if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current 60-day session the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book. ""~~

{ Internal References to 15-15-103: None. }

Renumber: subsequent section

Amendments to House Bill No. 327
First Reading Copy

EXHIBIT 9
DATE 1/27/93
HB 327

Requested by Rep. Mccaffree
For the Committee on Taxation

Prepared by Lee Heiman
January 26, 1993

1. Title, line 7.

Following: "FUND;"

Insert: "PROVIDING THAT MINIMUM ASSESSMENT PAYMENTS DO NOT APPLY
TO GOVERNMENTAL ENTITIES UNLESS THE TOTAL OF LEVIED AMOUNTS
IS LESS THAN \$5;"

2. Page 2.

Following: line 5

Insert: "(4) The minimum assessment imposed by this section does
not apply to assessments levied against property owned by
the state or a county, consolidated local government, city,
town, school district, or other governmental entity unless
the total assessments levied against the all property owned
by the governmental entity is less than \$5."

EXHIBIT 10
DATE 1/27/93
~~88~~ 10

Amendments to Senate Bill No. 10
Third Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
January 27, 1993

1. Title, line 4.
Following: "COUNTY"
Insert: ", UNDER CERTAIN CIRCUMSTANCES, "

2. Page 1, line 14.
Strike: "that levies"
Insert: "who have levied"

3. Page 1, line 15.
Following: "7-21-3410"
Insert: "before January 1, 1993,"
Strike: "of"
Insert: "that may not exceed"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Location

COMMITTEE

BILL NO.

HB 283
HB 297
HB 312

DATE 27 Jan 93 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|-------------------------|---|--------------|--------|
| <u>Jeff Miller</u> | DOR HB 283 | ✓ | |
| <u>Bob TURNER</u> | DOR HB 297 | ✓ | |
| <u>Rep. Judy Bird</u> | HB 282 | ✓ | |
| <u>PAT Smith</u> | Salish Nation HB 283 | | ✓ |
| <u>Bill Stevens</u> | 114 Food Diet Area | ✓ | |
| <u>GEORGE OLCHENSKI</u> | CONFEDERATED SALISH KOOTENAI TRIBE HB 283 | <u>Amend</u> | |
| <u>PAT SMITH</u> | | | |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.