

FINAL REPORT ·
EXCISE TAXES ON INDIAN LANDS STUDY COMMITTEE

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EXCISE TAXES ON INDIAN LANDS STUDY COMMITTEE

January 1989

AUTHORIZATION AND APPOINTMENT

The Excise Taxes on Indian Lands Study Committee was established by the Legislative Council to study and make recommendations relating to the imposition and collection of state excise taxes on Indian lands. The Study Committee was established for the 1987 interim but was carried over to the 1988 interim.

Members serving on the Study Committee were:

Senator Emil J. Husak, Co-chairperson
Representative Tony Bisignano, Co-chairperson
Senator Kenneth Scott**
Senator Jack Hester
Representative Thomas Fey
Representative Virgil E. Corey
Ms. Mona Bearskin
Mr. Louis Mitchell*
Mr. Keith Davenport*

*These members replaced Mr. Homer Bear, Jr. and Mr. Don Wanatee, respectively, at the start of the 1987 interim as a result of tribal elections.

**Senator Scott replaced Senator Hurley Hall for the 1988 interim.

COMMITTEE PROCEEDINGS - 1987 INTERIM

The Study Committee was originally granted two meetings during the 1987 interim which were held on December 1, 1987, and January 6, 1988.

At those two meetings, the Study Committee heard oral presentations from the Department of Revenue and Finance on the general rules and procedures followed by the Department on taxation relating to Indians and Indian lands and from Mr. James Fenelon of the Bureau of Indian Affairs relating to the Sac and Fox Settlement at Tama. Information was distributed and discussed concerning United States Supreme Court rulings relating to the imposition and collection of state excise taxes on Indian lands and how other states were handling the issues involved in their excise taxes with

regard to transactions occurring on Indian lands or involving Indians.

At the January 6, 1988, meeting, the Study Committee approved the drafting of a bill proposal by the Legislative Service Bureau in conjunction with the Mesquaki and Winnebago Indian tribes based on the concept of Senate File 512 introduced during the 1987 Session. The Study Committee also approved the requesting of another meeting to consider this bill proposal and the continuation of the Study Committee through the 1988 interim. A letter to the Legislative Council to that effect and a Progress Report were submitted.

1988 INTERIM MEETINGS

The Study Committee was granted two meetings during the 1988 interim which were held on September 15, 1988, and November 17, 1988.

SEPTEMBER 15, 1988, MEETING - PRESENTATIONS AND DISCUSSION

During the September 15, 1988, meeting, the Study Committee discussed the contents of the bill proposal drafted by the Legislative Service Bureau in conjunction with the Indian tribes and considered the written comments submitted by Professor Robert N. Clinton of the University of Iowa Law School and the oral remarks of the Department of Revenue and Finance. The bill proposal provided for a general exemption from state taxes for transactions occurring on Indian lands. Having discussed the proposal and considered the comments, the Study Committee sought a consensus for exemptions for specific taxes and transactions. The Legislative Service Bureau was directed to redraft the bill proposal for the next meeting based upon the consensus reached. The items to be incorporated in the second bill draft included an exemption from state taxes for Indian tribes on all transactions related to tribal business, regardless of whether they occur on Indian lands, to the same extent the state is exempt; exemption from the sales tax of the operations of bingo games on Indian lands; exemption from corporate income tax of income earned from transactions occurring on Indian lands by a corporation where more than half of the value of all classes of stock is owned by an Indian tribe or members of the tribe; and a refund of sales tax on construction materials that are used in the construction of a project that is to be used for tribal purposes or in a tribal-owned business. The question of the taxation of cigarettes and tobacco products had been deferred at the request of the Mesquaki Indian tribe.

NOVEMBER 17, 1988, MEETING - COMMITTEE DECISION MAKING

At the last meeting of the Study Committee held on November 17, 1988, the Study Committee reexamined those exemptions that the members had reached a consensus on at the last meeting. Because of an absence of Indian members, the Study Committee was unable to vote any recommendations. However, the Study Committee did vote out without recommendation the second bill proposal drafted by the Legislative Service Bureau based upon the consensus reached at the September 15 meeting. The title is "A Bill For An Act relating to the exemption from taxation of certain transactions occurring in Indian country or involving an Indian tribe." A copy is attached and made a part of this final report.

A P P E N D I X

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SENATE FILE _____
BY (PROPOSED EXCISE TAX ON INDIAN
LANDS STUDY COMMITTEE BILL)

WITHOUT RECOMMENDATION

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the exemption from taxation of certain
2 transactions occurring in Indian country or involving an
3 Indian tribe.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 422.115 DEFINITIONS.

2 For the purpose of this division, unless the context
3 otherwise requires:

4 1. "Indian country" means the same as defined in 18 U.S.C.
5 § 1151 and includes, but is not limited to, the lands located
6 in the state of the Sac and Fox Tribe of the Mississippi.

7 2. "Indian tribe" means an Indian tribe, band, or nation
8 recognized as such by the United States secretary of the
9 interior.

10 Sec. 2. NEW SECTION. 422.116 INDIAN COUNTRY AND TRIBE
11 TAX EXEMPTION.

12 1. An Indian tribe is exempt from any state tax and motor
13 vehicle registration fees, except the state cigarette tax
14 under chapter 98, to the same extent that the state is exempt.
15 The provisions relating to the issuance of a tax exemption
16 certificate or providing for a refund which are applicable to
17 the state apply to an Indian tribe under this subsection.

18 2. The gross receipts from bingo games operated or
19 conducted in Indian country are exempt from the state sales
20 and services tax imposed under division IV.

21 3. Income earned by a corporation from transactions
22 occurring in Indian country is exempt from the state corporate
23 income tax under division III if more than fifty percent of
24 the value of all classes of stock of the corporation are owned
25 by an Indian tribe or members of an Indian tribe during the
26 entire tax year.

27 4. An Indian tribe may apply to the department for the
28 refund of sales, services, and use tax upon the gross receipts
29 of sales of goods, wares, or merchandise or from services
30 rendered, furnished, or performed, to a contractor, used in
31 the fulfillment of a written contract with the Indian tribe if
32 the property becomes an integral part of the project under
33 contract and at the completion of the project is to be used
34 for tribal purposes or in a tribal-owned business. The refund
35 shall be allowed under the same conditions as provided for the

1 state under section 422.45, subsection 7.

2 Sec. 3. CODIFICATION. The Code editor shall codify new
3 sections 422.115 and 422.116 as a separate division of chapter
4 422.

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EXPLANATION

6 The bill exempts Indian tribes from the assessment of state
7 taxes, except cigarette taxes, and motor vehicle registration
8 fees to the same extent that the state is exempt. Those
9 provisions that provide for tax exemption certificates or for
10 tax refunds for the state also apply to the Indian tribe.
11 Bingo operations conducted on Indian lands are exempt from the
12 state sales tax. Income earned from transactions on Indian
13 lands by a corporation which is more than fifty percent owned
14 by an Indian tribe or members of an Indian tribe is exempt
15 from the state corporate income tax. The bill also provides
16 for an Indian tribe to receive a refund of any sales and use
17 taxes paid by a construction contractor in fulfillment of a
18 contract with the Indian tribe.

19 The bill codifies these exemption provisions as a separate
20 division of chapter 422.

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