

SENATE BILL NO. 428

INTRODUCED BY NATHE, GAGE, CODY

IN THE SENATE

FEBRUARY 18, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

                                      FIRST READING.

APRIL 1, 1991                        COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

APRIL 2, 1991                        PRINTING REPORT.

                                      ON MOTION, SECOND READING  
INDEFINITELY POSTPONED.

APRIL 3, 1991                        ON MOTION, PREVIOUS ACTION  
RECONSIDERED.

                                      SECOND READING, DO PASS.

APRIL 4, 1991                        ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
AYES, 46; NOES, 4.

                                      TRANSMITTED TO HOUSE.

IN THE HOUSE

APRIL 4, 1991                        INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

                                      FIRST READING.

APRIL 15, 1991                       ON MOTION, TAKEN FROM THE TABLE IN  
TAXATION, PRINTED AND PLACED ON  
SECOND READING THE 81ST  
LEGISLATIVE DAY.

APRIL 17, 1991                       SECOND READING, CONCURRED IN AS  
AMENDED.

                                      ON MOTION, RULES SUSPENDED. BILL  
PLACED ON THIRD READING THIS DAY.

                                      THIRD READING, CONCURRED IN.  
AYES, 86; NOES, 12.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 17, 1991

RECEIVED FROM HOUSE.

APRIL 18, 1991

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED.

APRIL 19, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 22, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 23, 1991

ON MOTION, CONFERENCE COMMITTEE  
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 23, 1991

ON MOTION, CONFERENCE COMMITTEE  
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 23, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 24, 1991

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 25, 1991

FREE CONFERENCE COMMITTEE ADOPTED.

IN THE SENATE

APRIL 25, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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*Senate* BILL NO. 428  
*NATHAN Duff Cody*

INTRODUCED BY \_\_\_\_\_  
A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ALLOCATION OF MOTOR FUELS TAXES TO TRIBAL GOVERNMENTS THAT ENACT MOTOR FUELS TAXES AT RATES THAT ARE IDENTICAL TO THE RATES IMPOSED BY THE STATE; PROVIDING A METHOD OF CALCULATING THE AMOUNT OF TAX; PROVIDING FOR DISTRIBUTION OF THE TAX; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Allocation of motor fuels taxes to tribal governments. (1) If a tribal government in the state enacts a basic gasoline license tax on distributors doing business on the reservation and requires the tax to be paid to the state under identical terms and conditions as those imposed by this part, the department of revenue shall collect the tax for the tribe. The distributor is entitled to a credit against the state tax in an amount equal to the tax payable under the tribal tax.

(2) The department shall calculate the tribal tax quarterly, as follows:

(a) after deducting the amounts necessary for refunds or credits, the department shall compute the statewide average per capita net revenue per quarter from taxes

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collected under this part, including those attributable to tribal taxes imposed in accordance with subsection (1);

(b) the department shall determine the ratio of the miles of gravel and paved roads maintained within the reservation by the bureau of Indian affairs and the tribal government to the total miles of gravel and paved roads within the reservation; and

(c) the department shall multiply the amount determined under subsection (2)(a) by the ratio determined under subsection (2)(b) and multiply the product by the enrolled tribal member population residing on the reservation.

(3) After deducting administrative expenses equal to 5% of the amount determined under subsection (2), the department shall, on a quarterly basis, distribute the remaining amount to the tribal government.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 70, part 2, and the provisions of Title 15, chapter 70, part 2, apply to [section 1].

NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 1991.

-End-



INTRODUCED BILL  
SB 428

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0428, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

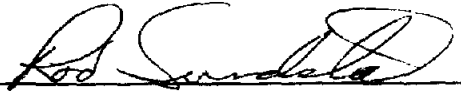
An act providing for the allocation of motor fuels taxes to tribal governments that enact motor fuels taxes at rates that are identical to the rates imposed by the state; providing a method of calculating the amount of tax; providing for distribution of the tax; and providing an effective date.

ASSUMPTIONS:

1. Gasoline distributors license tax collections will be \$87,733,000 in FY92 and \$87,693,000 in FY93. Gasoline license tax refunds will be \$3,838,000 in FY92, and \$3,836,000 in FY93.
2. The estimated enrollment of Native Americans on reservations in Montana is 20,048 residents. Approximately 3,779 miles of gravel and paved roadways are included in the road systems under the Bureau of Indian Affairs and/or tribal government jurisdiction.
3. The population in Montana will be 799,065 in both fiscal years (1990 figures, Bureau of the Census).
4. The statewide average per capita net revenue from gasoline license tax will be \$104.99 in FY92 and \$104.94 in FY93.
5. Reimbursements to tribal governments will be based on 95% of the statewide per capita gas tax (assumption 4) times the ratio of BIA-maintained miles to total miles on the reservation times the number of enrolled Indians on the reservation. The remaining 5% goes to the Department of Revenue for administration.
6. All tribal governments in the state will enact a basic gasoline license tax on distributors doing business on the reservation under identical terms and conditions as those imposed by the State of Montana.
7. Under this proposal, \$575,308 will be distributed to tribal governments in FY92 and \$575,034 in FY93.
8. The Department of Revenue will retain \$30,279 in FY92 and \$30,265 in FY93 to administer the provisions of the proposed legislation.

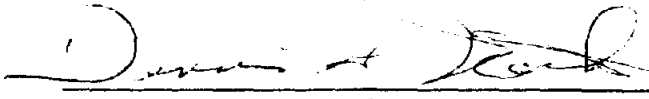
FISCAL IMPACT:

	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenues:</u>						
Gasoline License Tax	87,733,000	87,733,000	0	87,693,000	87,693,000	0
<u>Distribution of Tax:</u>						
State Motor Boat Fund	789,597	789,597	0	789,237	789,237	0
Snowmobile Park	438,665	438,665	0	438,465	438,465	0
Aeronautics Revenue	35,093	35,093	0	35,077	35,077	0
Tribal Distribution	0	575,308	575,308	0	575,034	575,034
Administrative Costs-DOR	0	30,279	30,279	0	30,265	30,265
Dept. of Highways-Gross	<u>86,469,645</u>	<u>85,864,058</u>	<u>(605,587)</u>	<u>86,430,221</u>	<u>85,824,922</u>	<u>(605,299)</u>
Total	87,733,000	87,733,000	0	87,693,000	87,693,000	0

  
ROD SUNDSTED, BUDGET DIRECTOR

2-22-91  
DATE

Office of Budget and Program Planning

  
DENNIS G. NATHE, PRIMARY SPONSOR

2/25/91  
DATE

Fiscal Note for SB0428, as introduced

SB 428

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 428

INTRODUCED BY NATHE, GAGE, CODY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ALLOCATION OF MOTOR FUELS TAXES TO TRIBAL GOVERNMENTS THAT ENACT MOTOR FUELS TAXES AT RATES THAT ARE IDENTICAL TO THE RATES IMPOSED BY THE STATE; ~~PROVIDING--A--METHOD--OF--CALCULATING--THE--AMOUNT--OF--TAX;~~ PROVIDING FOR THE COLLECTION AND DISTRIBUTION OF THE TAX; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Allocation COOPERATIVE AGREEMENT -- ALLOCATION of motor fuels taxes to tribal governments. (1) IN ORDER TO PREVENT THE POSSIBILITY OF DUAL TAXATION OF MOTOR FUELS PURCHASED BY MONTANA CITIZENS AND BUSINESSES ON INDIAN RESERVATIONS, THE DEPARTMENT OF REVENUE AND AN INDIAN TRIBE MAY ENTER INTO A COOPERATIVE AGREEMENT. THE AGREEMENT MUST PROVIDE 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. THE AGREEMENT MUST PROVIDE 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 SET FORTH IN THE AGREEMENT.

~~(1)(2) If a tribal government in the state enacts a basic gasoline license tax on distributors doing business on the reservation and requires the tax to be paid to the state under identical terms and conditions as those imposed by this part, the department of revenue shall collect the tax for the tribe. The distributor is--entitled--to--a--credit against--the--state--tax--in--an--amount--equal--to--the--tax--payable under--the--tribal--tax-~~ 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 GASOLINE THAT IS NOT SUBJECT TO A TRIBAL TAX.

~~(2)--The--department--shall--calculate--the--tribal--tax quarterly,--as--follows:~~

~~(a)--after--deducting--the--amounts--necessary--for--refunds or--credits,--the--department--shall--compute--the--statewide average--per--capita--net--revenue--per--quarter--from--taxes collected--under--this--part,--including--those--attributable--to tribal--taxes--imposed--in--accordance--with--subsection--(1);~~

~~(b)--the--department--shall--determine--the--ratio--of--the miles--of--gravel--and--paved--roads--maintained--within--the reservation--by--the--bureau--of--Indian--affairs--and--the--tribal government--to--the--total--miles--of--gravel--and--paved--roads within--the--reservation;--and~~

~~(c) the department shall multiply the amount determined under subsection (2)(a) by the ratio determined under subsection (2)(b) and multiply the product by the enrolled tribal member population residing on the reservation.~~

(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 quarterly basis, distribute the remaining amount to the tribal government.

NEW SECTION. SECTION 2. TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT. (1) THERE IS A SPECIAL REVENUE ACCOUNT CALLED THE TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT.

(2) THE ADMINISTRATIVE EXPENSES AND REFUND AMOUNTS DEDUCTED BY THE DEPARTMENT OF REVENUE UNDER [SECTION 1(3)] MUST BE DEPOSITED IN THE TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT.

(3) THE TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT MAY BE EXPENDED BY THE DEPARTMENT ONLY FOR THE PURPOSES OF ADMINISTERING THE MOTOR FUELS TAX AND PROVIDING REFUNDS UNDER [SECTION 1].

NEW SECTION. SECTION 3. TRIBAL MOTOR FUELS TAX ACCOUNT. (1) THERE IS A SPECIAL REVENUE ACCOUNT CALLED THE TRIBAL MOTOR FUELS TAX ACCOUNT.

(2) THE TAX COLLECTED UNDER [SECTION 1], EXCEPT THE

ADMINISTRATIVE EXPENSES AND REFUND AMOUNTS DEDUCTED UNDER [SECTION 1(3)], MUST BE DEPOSITED IN THE TRIBAL MOTOR FUELS TAX ACCOUNT.

(3) THE MONEY IN THE TRIBAL MOTOR FUELS TAX ACCOUNT MUST BE DISBURSED TO THE TRIBE, AS PROVIDED FOR IN THE AGREEMENT ENTERED INTO PURSUANT TO [SECTION 1], ON A QUARTERLY BASIS.

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 70, part 2, and the provisions of Title 15, chapter 70, part 2, apply to [section 1].

NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. IF SENATE BILL NO. 164 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION THAT PROVIDES FOR THE TRANSFER OF MOTOR FUELS TAX FUNCTIONS TO THE DEPARTMENT OF TRANSPORTATION, THEN ANY REFERENCE TO THE DEPARTMENT OF REVENUE IN [THIS ACT] IS CHANGED TO THE DEPARTMENT OF TRANSPORTATION.

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 1991.

-End-

## SENATE BILL NO. 428

INTRODUCED BY NATHE, GAGE, CODY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ALLOCATION OF MOTOR FUELS TAXES TO TRIBAL GOVERNMENTS THAT ENACT MOTOR FUELS TAXES AT RATES THAT ARE IDENTICAL TO THE RATES IMPOSED BY THE STATE; PROVIDING--A--METHOD--OF--CALCULATING--THE--AMOUNT--OF--TAX; PROVIDING FOR THE COLLECTION AND DISTRIBUTION OF THE TAX; AND PROVIDING AN EFFECTIVE DATE."

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

**NEW SECTION. Section 1.** ~~Allocation~~ COOPERATIVE AGREEMENT -- ALLOCATION of motor fuels taxes to tribal governments. (1) IN ORDER TO PREVENT THE POSSIBILITY OF DUAL TAXATION OF MOTOR FUELS PURCHASED BY MONTANA CITIZENS AND BUSINESSES ON INDIAN RESERVATIONS, THE DEPARTMENT OF REVENUE AND AN INDIAN TRIBE MAY ENTER INTO A COOPERATIVE AGREEMENT. THE AGREEMENT MUST PROVIDE 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. THE AGREEMENT MUST PROVIDE 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 SET FORTH IN THE AGREEMENT.

~~(1)~~ (2) If a tribal government in the state enacts a basic gasoline license tax on distributors doing business on the reservation and requires the tax to be paid to the state under identical terms and conditions as those imposed by this part, the department of revenue shall collect the tax for the tribe. The distributor ~~is--entitled--to--a--credit--against--the--state--tax--in--an--amount--equal--to--the--tax--payable--under--the--tribal--tax.~~ 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 GASOLINE THAT IS NOT SUBJECT TO A TRIBAL TAX.

~~(2)--The--department--shall--calculate--the--tribal--tax--quarterly,--as--follows:~~

~~(a)--after--deducting--the--amounts--necessary--for--refunds--or--credits,--the--department--shall--compute--the--statewide--average--per--capita--net--revenue--per--quarter--from--taxes--collected--under--this--part,--including--those--attributable--to--tribal--taxes--imposed--in--accordance--with--subsection--(1);~~

~~(b)--the--department--shall--determine--the--ratio--of--the--miles--of--gravel--and--paved--roads--maintained--within--the--reservation--by--the--bureau--of--Indian--affairs--and--the--tribal--government--to--the--total--miles--of--gravel--and--paved--roads--within--the--reservation;--and~~



~~(c) the department shall multiply the amount determined under subsection (2)(a) by the ratio determined under subsection (2)(b) and multiply the product by the enrolled tribal member population residing on the reservation.~~

(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 quarterly basis, distribute the remaining amount to the tribal government.

NEW SECTION. SECTION 2. TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT. (1) THERE IS A SPECIAL REVENUE ACCOUNT CALLED THE TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT.

(2) THE ADMINISTRATIVE EXPENSES AND REFUND AMOUNTS DEDUCTED BY THE DEPARTMENT OF REVENUE UNDER [SECTION 1(3)] MUST BE DEPOSITED IN THE TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT.

(3) THE TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT MAY BE EXPENDED BY THE DEPARTMENT ONLY FOR THE PURPOSES OF ADMINISTERING THE MOTOR FUELS TAX AND PROVIDING REFUNDS UNDER [SECTION 1].

NEW SECTION. SECTION 3. TRIBAL MOTOR FUELS TAX ACCOUNT. (1) THERE IS A SPECIAL REVENUE ACCOUNT CALLED THE TRIBAL MOTOR FUELS TAX ACCOUNT.

(2) THE TAX COLLECTED UNDER [SECTION 1], EXCEPT THE

ADMINISTRATIVE EXPENSES AND REFUND AMOUNTS DEDUCTED UNDER [SECTION 1(3)], MUST BE DEPOSITED IN THE TRIBAL MOTOR FUELS TAX ACCOUNT.

(3) THE MONEY IN THE TRIBAL MOTOR FUELS TAX ACCOUNT MUST BE DISBURSED TO THE TRIBE, AS PROVIDED FOR IN THE AGREEMENT ENTERED INTO PURSUANT TO [SECTION 1], ON A QUARTERLY BASIS.

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 70, part 2, and the provisions of Title 15, chapter 70, part 2, apply to [section 1].

NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. IF SENATE BILL NO. 164 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION THAT PROVIDES FOR THE TRANSFER OF MOTOR FUELS TAX FUNCTIONS TO THE DEPARTMENT OF TRANSPORTATION, THEN ANY REFERENCE TO THE DEPARTMENT OF REVENUE IN [THIS ACT] IS CHANGED TO THE DEPARTMENT OF TRANSPORTATION.

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 1991.

-End-

HOUSE COMMITTEE OF THE WHOLE AMENDMENT  
Senate Bill 428  
Representative Cody

April 16, 1991 10:52 am  
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 428 (third reading copy -- blue).

Signed: Rep. Dorothy A. Cody  
Representative Cody

And, that such amendments to Senate Bill 428 read as follows:

- 1. Title, line 4.  
Following: "FOR"  
Insert: "THE NEGOTIATION OF COOPERATIVE AGREEMENTS FOR"
- 2. Title, line 8.  
Strike: "PROVIDING"  
Insert: "ALLOWING THE AGREEMENTS TO PROVIDE FOR"  
Following: "COLLECTION"  
Insert: ", USE,"
- 3. Title, line 9.  
Following: ";"  
Insert: "PROVIDING FOR STATUS REPORTS TO THE COMMITTEE ON INDIAN AFFAIRS AND THE PRESENTATION OF THE AGREEMENTS TO THE LEGISLATURE FOR APPROVAL;"
- 4. Page 1, line 19.  
Following: "."  
Insert: "The department may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters. The department shall report the status of cooperative agreement negotiations to each meeting of the committee on Indian affairs."
- 5. Page 2, line 3.  
Strike: "if"  
Insert: "The agreement may provide that if"
- 6. Page 2, line 10.  
Strike: "IS NOT"  
Insert: "may not be"

- 7. Page 3, line 5.  
Strike: "After"  
Insert: "The agreement may provide that after"
- 8. Page 3, line 10.  
Following: line 9  
Insert: "(4) The agreement may provide for the collection, use, and distribution of the tax."
- 9. Page 3, line 10 through page 4, line 11.  
Strike: sections 2 through 4 in their entirety  
Insert: "NEW SECTION. Section 2. Approval by legislature. A cooperative agreement negotiated as provided in [section 1] must be submitted to the legislature. A cooperative agreement negotiated as provided in [section 1] may not become effective until approved by the legislature."  
Renummer: subsequent sections

ADOPT

REJECT

SB428.1  
811052CW.HSF

HOUSE COMMITTEE OF THE WHOLE AMENDMENT  
Senate Bill 428  
Representative Stepler

April 16, 1991 11:08 am  
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 428 (third reading copy -- blue -- as amended by Rep. Cody amendment dated April 16, 1991, 10:52 a.m.).

Signed: Don Stepler  
Representative Stepler

And, that such amendments to Senate Bill 428 read as follows:

1. Amend the Rep. Cody amendment #5 as follows:  
In Insert, Strike: "if"

And further amend the third reading copy as follows:

2. Page 2, lines 3 through 8.  
Strike: from "a tribal" on line 3 through "The" on line 8  
Insert: "the"

ADOPT

REJECT

811107CW.HSF

## SENATE BILL NO. 428

INTRODUCED BY NATHE, GAGE, CODY

1 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
 2 NEGOTIATION OF COOPERATIVE AGREEMENTS FOR THE ALLOCATION OF  
 3 MOTOR FUELS TAXES TO TRIBAL GOVERNMENTS THAT ENACT MOTOR  
 4 FUELS TAXES AT RATES THAT ARE IDENTICAL TO THE RATES IMPOSED  
 5 BY THE STATE; PROVIDING A METHOD OF CALCULATING THE AMOUNT  
 6 OF TAX; PROVIDING ALLOWING THE AGREEMENTS TO PROVIDE FOR THE  
 7 COLLECTION, USE, AND DISTRIBUTION OF THE TAX; PROVIDING FOR  
 8 STATUS REPORTS TO THE COMMITTEE ON INDIAN AFFAIRS AND THE  
 9 PRESENTATION OF THE AGREEMENTS TO THE LEGISLATURE FOR  
 10 APPROVAL; AND PROVIDING AN EFFECTIVE DATE."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Allocation COOPERATIVE  
 13 AGREEMENT -- ALLOCATION of motor fuels taxes to tribal  
 14 governments. (1) IN ORDER TO PREVENT THE POSSIBILITY OF  
 15 DUAL TAXATION OF MOTOR FUELS PURCHASED BY MONTANA CITIZENS  
 16 AND BUSINESSES ON INDIAN RESERVATIONS, THE DEPARTMENT OF  
 17 REVENUE AND AN INDIAN TRIBE MAY ENTER INTO A COOPERATIVE  
 18 AGREEMENT. THE DEPARTMENT MAY, WITH THE CONCURRENCE OF THE  
 19 ATTORNEY GENERAL, INCLUDE AS A MEMBER OF THE NEGOTIATING  
 20 TEAM A REPRESENTATIVE OF THE DEPARTMENT OF JUSTICE WHO HAS  
 21 EXPERTISE IN INDIAN MATTERS. THE DEPARTMENT SHALL REPORT THE

1 STATUS OF COOPERATIVE AGREEMENT NEGOTIATIONS TO EACH MEETING  
 2 OF THE COMMITTEE ON INDIAN AFFAIRS. THE AGREEMENT MUST  
 3 PROVIDE THAT UNDER CONDITIONS SPECIFIED IN THIS SECTION, THE  
 4 STATE AND THE TRIBE WILL COOPERATE TO COLLECT ONLY ONE TAX  
 5 THAT IS AT THE SAME LEVEL AS THE TAX OUTSIDE THE BOUNDARIES  
 6 OF THE RESERVATION AND WILL SHARE THE REVENUE AS PROVIDED IN  
 7 THIS SECTION. THE AGREEMENT MUST PROVIDE THAT THE STATE AND  
 8 THE TRIBE ARE NOT FORFEITING ANY LEGAL RIGHTS TO APPLY THEIR  
 9 RESPECTIVE TAXES BY ENTERING INTO AN AGREEMENT, EXCEPT AS  
 10 SPECIFICALLY SET FORTH IN THE AGREEMENT.

11 (2) if THE AGREEMENT MAY PROVIDE THAT IF a--tribal  
 12 government--in-the-state-enacts-a-basic-gasoline-license-tax  
 13 on--distributors--doing--business--on--the--reservation--and  
 14 requires-the-tax-to-be-paid-to--the--state--under--identical  
 15 terms--and--conditions--as--those--imposed-by-this-party--the  
 16 department-of-revenue-shall-collect-the-tax-for--the--tribe.  
 17 The THE distributor is--entitled--to-a-credit-against-the  
 18 state-tax-in-an-amount-equal-to-the-tax--payable--under--the  
 19 tribal-tax. IS NOT MAY NOT BE REQUIRED TO PAY BOTH THE STATE  
 20 TAX AND THE TRIBAL TAX BUT SHALL PAY ONLY ONE TAX TO THE  
 21 STATE IN AN AMOUNT EQUAL TO THE TAX PAID ON GASOLINE THAT IS  
 22 NOT SUBJECT TO A TRIBAL TAX.

23 (2)--The--department--shall--calculate--the--tribal--tax  
 24 quarterly,--as--follows:

25 (a)--after-deducting-the-amounts-necessary--for--refunds

1 or credits, the department shall compute the statewide  
2 average per capita net revenue per quarter from taxes  
3 collected under this part, including those attributable to  
4 tribal taxes imposed in accordance with subsection (1);

5 (b) the department shall determine the ratio of the  
6 miles of gravel and paved roads maintained within the  
7 reservation by the bureau of Indian affairs and the tribal  
8 government to the total miles of gravel and paved roads  
9 within the reservation; and

10 (c) the department shall multiply the amount determined  
11 under subsection (2)(a) by the ratio determined under  
12 subsection (2)(b) and multiply the product by the enrolled  
13 tribal member population residing on the reservation;

14 (3) After THE AGREEMENT MAY PROVIDE THAT AFTER  
15 deducting administrative expenses equal to 5% of the amount  
16 determined under subsection (2) AND THE AMOUNTS NECESSARY  
17 FOR REFUNDS, the department shall, on a quarterly basis,  
18 distribute the remaining amount to the tribal government.

19 (4) THE AGREEMENT MAY PROVIDE FOR THE COLLECTION, USE,  
20 AND DISTRIBUTION OF THE TAX.

21 NEW SECTION: SECTION 2. TRIBAL MOTOR FUELS  
22 ADMINISTRATION ACCOUNT. (1) THERE IS A SPECIAL REVENUE  
23 ACCOUNT CALLED THE TRIBAL MOTOR FUELS ADMINISTRATION  
24 ACCOUNT:

25 (2) THE ADMINISTRATIVE EXPENSES AND REFUND AMOUNTS

1 DEDUCTED BY THE DEPARTMENT OF REVENUE UNDER SECTION (3)  
2 MUST BE DEPOSITED IN THE TRIBAL MOTOR FUELS ADMINISTRATION  
3 ACCOUNT:

4 (3) THE TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT MAY  
5 BE EXPENDED BY THE DEPARTMENT ONLY FOR THE PURPOSES OF  
6 ADMINISTERING THE MOTOR FUELS TAX AND PROVIDING REFUNDS  
7 UNDER SECTION (1):

8 NEW SECTION: SECTION 3. TRIBAL MOTOR FUELS TAX  
9 ACCOUNT. (1) THERE IS A SPECIAL REVENUE ACCOUNT CALLED THE  
10 TRIBAL MOTOR FUELS TAX ACCOUNT:

11 (2) THE TAX COLLECTED UNDER SECTION (1), EXCEPT THE  
12 ADMINISTRATIVE EXPENSES AND REFUND AMOUNTS DEDUCTED UNDER  
13 SECTION (3), MUST BE DEPOSITED IN THE TRIBAL MOTOR FUELS  
14 TAX ACCOUNT:

15 (3) THE MONEY IN THE TRIBAL MOTOR FUELS TAX ACCOUNT  
16 MUST BE DISBURSED TO THE TRIBE, AS PROVIDED FOR IN THE  
17 AGREEMENT ENTERED INTO PURSUANT TO SECTION (1), ON A  
18 QUARTERLY BASIS:

19 NEW SECTION: Section 4. Codification instruction.  
20 (Section 1) is intended to be codified as an integral part  
21 of Title 15, chapter 70, part 2, and the provisions of Title  
22 15, chapter 70, part 2, apply to (section 1):

23 NEW SECTION. SECTION 2. APPROVAL BY LEGISLATURE. A  
24 COOPERATIVE AGREEMENT NEGOTIATED AS PROVIDED IN SECTION 1  
25 MUST BE SUBMITTED TO THE LEGISLATURE. A COOPERATIVE

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1 AGREEMENT NEGOTIATED AS PROVIDED IN [SECTION 1] MAY NOT  
2 BECOME EFFECTIVE UNTIL APPROVED BY THE LEGISLATURE.

3 NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF  
4 SENATE BILL NO. 164 IS PASSED AND APPROVED AND IF IT  
5 INCLUDES A SECTION THAT PROVIDES FOR THE TRANSFER OF MOTOR  
6 FUELS TAX FUNCTIONS TO THE DEPARTMENT OF TRANSPORTATION,  
7 THEN ANY REFERENCE TO THE DEPARTMENT OF REVENUE IN [THIS  
8 ACT] IS CHANGED TO THE DEPARTMENT OF TRANSPORTATION.

9 NEW SECTION. Section 4. Effective date. [This act] is  
10 effective July 1, 1991.

-End-

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 428, met, considered, and we recommend that Senate Bill No. 428 (reference copy - salmon) be amended as follows:

1. Title, lines 11 through 13.

Following: "TO THE" on line 11

Strike: remainder of line 11 through "APPROVAL" on line 13

Insert: "REVENUE OVERSIGHT COMMITTEE AND PROVIDING AN OPPORTUNITY FOR THE COMMITTEE TO REVIEW AND COMMENT BEFORE APPROVAL OF AN AGREEMENT BY THE ATTORNEY GENERAL"

2. Page 2, line 2.

Following: "OF THE"

Strike: "COMMITTEE ON INDIAN AFFAIRS"

Insert: "revenue oversight committee"

Following: " - "

Insert: "After negotiations are complete, the agreement must be presented to the revenue oversight committee for review and comment before the final agreement is submitted to the attorney general for approval."

3. Page 4.

Following: line 22

Insert: "NEW SECTION. Section 2. Tribal motor fuels administration account. (1) There is a special revenue account called the tribal motor fuels administration account.

(2) The administrative expenses and refund amounts deducted by the department of revenue under [section 1(3)] must be deposited in the tribal motor fuels administration account.

(3) The tribal motor fuels administration account may be expended by the department only for the purposes of administering the motor fuels tax and providing refunds under [section 1].

NEW SECTION. Section 3. Tribal motor fuels tax account. (1) There is a special revenue account called the tribal motor fuels tax account.

(2) The tax collected under [section 1], except the administrative expenses and refund amounts deducted under [section 1(3)], must be deposited in the tribal motor fuels tax account.

(3) The money in the tribal motor fuels tax account must be disbursed to the tribe, as provided for in the agreement entered into pursuant to [section 1], on a quarterly basis.

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of

ADOPT

REJECT

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Title 15, chapter 70, part 2, and the provisions of Title 15, chapter 70, part 2, apply to [section 1]."  
Renumber: subsequent sections

4. Page 4, line 23, through page 5, line 2.  
Strike: section 2 in its entirety  
Renumber: subsequent sections

And that this Free Conference Committee report be adopted.

For the Senate:

Wm Yellowtail  
Chair, Sen. Yellowtail

L. Pinsonneault  
Sen. Pinsonneault

Dennis A. Wathe  
Sen. Wathe

For the House:

Anthony A. Cody  
Chair, Rep. Cody

Ted Schye  
Rep. Schye

Bob Gilbert  
Rep. Gilbert

4-24-91  
And. Coord.

Sec. of Senate

FCCR #1  
SB 428  
871637CC.Sji

## 1 SENATE BILL NO. 428

2 INTRODUCED BY NATHE, GAGE, CODY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
5 NEGOTIATION OF COOPERATIVE AGREEMENTS FOR THE ALLOCATION OF  
6 MOTOR FUELS TAXES TO TRIBAL GOVERNMENTS THAT ENACT MOTOR  
7 FUELS TAXES AT RATES THAT ARE IDENTICAL TO THE RATES IMPOSED  
8 BY THE STATE; PROVIDING A METHOD OF CALCULATING THE AMOUNT  
9 OF TAX; PROVIDING ALLOWING THE AGREEMENTS TO PROVIDE FOR THE  
10 COLLECTION, USE, AND DISTRIBUTION OF THE TAX; PROVIDING FOR  
11 STATUS REPORTS TO THE COMMITTEE ON INDIAN AFFAIRS AND THE  
12 PRESSENTATION OF THE AGREEMENTS TO THE LEGISLATURE FOR  
13 APPROVAL REVENUE OVERSIGHT COMMITTEE AND PROVIDING AN  
14 OPPORTUNITY FOR THE COMMITTEE TO REVIEW AND COMMENT BEFORE  
15 APPROVAL OF AN AGREEMENT BY THE ATTORNEY GENERAL; AND  
16 PROVIDING AN EFFECTIVE DATE."

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Allocation COOPERATIVE  
20 AGREEMENT -- ALLOCATION of motor fuels taxes to tribal  
21 governments. (1) IN ORDER TO PREVENT THE POSSIBILITY OF  
22 DUAL TAXATION OF MOTOR FUELS PURCHASED BY MONTANA CITIZENS  
23 AND BUSINESSES ON INDIAN RESERVATIONS, THE DEPARTMENT OF  
24 REVENUE AND AN INDIAN TRIBE MAY ENTER INTO A COOPERATIVE  
25 AGREEMENT. THE DEPARTMENT MAY, WITH THE CONCURRENCE OF THE

1 ATTORNEY GENERAL, INCLUDE AS A MEMBER OF THE NEGOTIATING  
2 TEAM A REPRESENTATIVE OF THE DEPARTMENT OF JUSTICE WHO HAS  
3 EXPERTISE IN INDIAN MATTERS. THE DEPARTMENT SHALL REPORT THE  
4 STATUS OF COOPERATIVE AGREEMENT NEGOTIATIONS TO EACH MEETING  
5 OF THE COMMITTEE ON INDIAN AFFAIRS REVENUE OVERSIGHT  
6 COMMITTEE. AFTER NEGOTIATIONS ARE COMPLETE, THE AGREEMENT  
7 MUST BE PRESENTED TO THE REVENUE OVERSIGHT COMMITTEE FOR  
8 REVIEW AND COMMENT BEFORE THE FINAL AGREEMENT IS SUBMITTED  
9 TO THE ATTORNEY GENERAL FOR APPROVAL. THE AGREEMENT MUST  
10 PROVIDE THAT UNDER CONDITIONS SPECIFIED IN THIS SECTION, THE  
11 STATE AND THE TRIBE WILL COOPERATE TO COLLECT ONLY ONE TAX  
12 THAT IS AT THE SAME LEVEL AS THE TAX OUTSIDE THE BOUNDARIES  
13 OF THE RESERVATION AND WILL SHARE THE REVENUE AS PROVIDED IN  
14 THIS SECTION. THE AGREEMENT MUST PROVIDE THAT THE STATE AND  
15 THE TRIBE ARE NOT FORFEITING ANY LEGAL RIGHTS TO APPLY THEIR  
16 RESPECTIVE TAXES BY ENTERING INTO AN AGREEMENT, EXCEPT AS  
17 SPECIFICALLY SET FORTH IN THE AGREEMENT.

18 (2) If THE AGREEMENT MAY PROVIDE THAT IF a tribal  
19 government in the state enacts a basic gasoline license tax  
20 on distributors doing business on the reservation and  
21 requires the tax to be paid to the state under identical  
22 terms and conditions as those imposed by this part, the  
23 department of revenue shall collect the tax for the tribe.  
24 The distributor is entitled to a credit against the  
25 state tax in an amount equal to the tax payable under the



1 tribal tax IS NOT MAY NOT BE REQUIRED TO PAY BOTH THE STATE  
2 TAX AND THE TRIBAL TAX BUT SHALL PAY ONLY ONE TAX TO THE  
3 STATE IN AN AMOUNT EQUAL TO THE TAX PAID ON GASOLINE THAT IS  
4 NOT SUBJECT TO A TRIBAL TAX.

5 {2}--The--department--shall--calculate--the--tribal--tax  
6 quarterly,--as--follows:

7 {a}--after--deducting--the--amounts--necessary--for--refunds  
8 or--credits,--the--department--shall--compute--the--statewide  
9 average--per--capita--net--revenue--per--quarter--from--taxes  
10 collected--under--this--part,--including--those--attributable--to  
11 tribal--taxes--imposed--in--accordance--with--subsection--(1);

12 {b}--the--department--shall--determine--the--ratio--of--the  
13 miles--of--gravel--and--paved--roads--maintained--within--the  
14 reservation--by--the--bureau--of--Indian--affairs--and--the--tribal  
15 government--to--the--total--miles--of--gravel--and--paved--roads  
16 within--the--reservation;--and

17 {c}--the--department--shall--multiply--the--amount--determined  
18 under--subsection--(2){a}--by--the--ratio--determined--under  
19 subsection--(2){b}--and--multiply--the--product--by--the--enrolled  
20 tribal--member--population--residing--on--the--reservation.

21 (3) After THE AGREEMENT MAY PROVIDE THAT AFTER  
22 deducting administrative expenses equal to 5% of the amount  
23 determined under subsection (2) AND THE AMOUNTS NECESSARY  
24 FOR REFUNDS, the department shall, on a quarterly basis,  
25 distribute the remaining amount to the tribal government.

1 (4) THE AGREEMENT MAY PROVIDE FOR THE COLLECTION, USE,  
2 AND DISTRIBUTION OF THE TAX.

3 NEW SECTION--SECTION 2--TRIBAL--MOTOR--FUELS  
4 ADMINISTRATION ACCOUNT--(1)--THERE--IS--A--SPECIAL--REVENUE  
5 ACCOUNT--CALLED--THE--TRIBAL--MOTOR--FUELS--ADMINISTRATION  
6 ACCOUNT;

7 {2}--THE--ADMINISTRATIVE--EXPENSES--AND--REFUND--AMOUNTS  
8 DEDUCTED BY THE DEPARTMENT OF REVENUE UNDER--(SECTION--1(3))  
9 MUST--BE--DEPOSITED--IN--THE--TRIBAL--MOTOR--FUELS--ADMINISTRATION  
10 ACCOUNT;

11 {3}--THE--TRIBAL--MOTOR--FUELS--ADMINISTRATION--ACCOUNT--MAY  
12 BE--EXPENDED--BY--THE--DEPARTMENT--ONLY--FOR--THE--PURPOSES--OF  
13 ADMINISTERING--THE--MOTOR--FUELS--TAX--AND--PROVIDING--REFUNDS  
14 UNDER--(SECTION--1);

15 NEW SECTION--SECTION 3--TRIBAL--MOTOR--FUELS--TAX  
16 ACCOUNT--(1)--THERE--IS--A--SPECIAL--REVENUE--ACCOUNT--CALLED--THE  
17 TRIBAL--MOTOR--FUELS--TAX--ACCOUNT;

18 {2}--THE--TAX--COLLECTED--UNDER--(SECTION--1);--EXCEPT--THE  
19 ADMINISTRATIVE--EXPENSES--AND--REFUND--AMOUNTS--DEDUCTED--UNDER  
20 (SECTION--1(3));--MUST--BE--DEPOSITED--IN--THE--TRIBAL--MOTOR--FUELS  
21 TAX--ACCOUNT;

22 {3}--THE--MONEY--IN--THE--TRIBAL--MOTOR--FUELS--TAX--ACCOUNT  
23 MUST--BE--DISBURSED--TO--THE--TRIBE,--AS--PROVIDED--FOR--IN--THE  
24 AGREEMENT--ENTERED--INTO--PURSUANT--TO--(SECTION--1);--ON--A  
25 QUARTERLY--BASIS;

1 ~~NEW SECTION. Section 4. Codification instruction.~~  
 2 ~~{Section 1} is intended to be codified as an integral part~~  
 3 ~~of Title 15, Chapter 70, Part 2, and the provisions of Title~~  
 4 ~~15, Chapter 70, Part 2, apply to {section 1}.~~

5 NEW SECTION. SECTION 2. TRIBAL MOTOR FUELS  
 6 ADMINISTRATION ACCOUNT. (1) THERE IS A SPECIAL REVENUE  
 7 ACCOUNT CALLED THE TRIBAL MOTOR FUELS ADMINISTRATION  
 8 ACCOUNT.

9 (2) THE ADMINISTRATIVE EXPENSES AND REFUND AMOUNTS  
 10 DEDUCTED BY THE DEPARTMENT OF REVENUE UNDER [SECTION 1(3)]  
 11 MUST BE DEPOSITED IN THE TRIBAL MOTOR FUELS ADMINISTRATION  
 12 ACCOUNT.

13 (3) THE TRIBAL MOTOR FUELS ADMINISTRATION ACCOUNT MAY  
 14 BE EXPENDED BY THE DEPARTMENT ONLY FOR THE PURPOSES OF  
 15 ADMINISTERING THE MOTOR FUELS TAX AND PROVIDING REFUNDS  
 16 UNDER [SECTION 1].

17 NEW SECTION. SECTION 3. TRIBAL MOTOR FUELS TAX  
 18 ACCOUNT. (1) THERE IS A SPECIAL REVENUE ACCOUNT CALLED THE  
 19 TRIBAL MOTOR FUELS TAX ACCOUNT.

20 (2) THE TAX COLLECTED UNDER [SECTION 1], EXCEPT THE  
 21 ADMINISTRATIVE EXPENSES AND REFUND AMOUNTS DEDUCTED UNDER  
 22 [SECTION 1(3)], MUST BE DEPOSITED IN THE TRIBAL MOTOR FUELS  
 23 TAX ACCOUNT.

24 (3) THE MONEY IN THE TRIBAL MOTOR FUELS TAX ACCOUNT  
 25 MUST BE DISBURSED TO THE TRIBE, AS PROVIDED FOR IN THE

1 AGREEMENT ENTERED INTO PURSUANT TO [SECTION 1], ON A  
 2 QUARTERLY BASIS.

3 NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION.  
 4 [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART  
 5 OF TITLE 15, CHAPTER 70, PART 2, AND THE PROVISIONS OF TITLE  
 6 15, CHAPTER 70, PART 2, APPLY TO [SECTION 1].

7 ~~NEW SECTION. SECTION 2. APPROVAL BY LEGISLATURE. A~~  
 8 ~~COOPERATIVE AGREEMENT NEGOTIATED AS PROVIDED IN {SECTION 1}~~  
 9 ~~MUST BE SUBMITTED TO THE LEGISLATURE. A COOPERATIVE~~  
 10 ~~AGREEMENT NEGOTIATED AS PROVIDED IN {SECTION 1} MAY NOT~~  
 11 ~~BECOME EFFECTIVE UNTIL APPROVED BY THE LEGISLATURE.~~

12 NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. IF  
 13 SENATE BILL NO. 164 IS PASSED AND APPROVED AND IF IT  
 14 INCLUDES A SECTION THAT PROVIDES FOR THE TRANSFER OF MOTOR  
 15 FUELS TAX FUNCTIONS TO THE DEPARTMENT OF TRANSPORTATION,  
 16 THEN ANY REFERENCE TO THE DEPARTMENT OF REVENUE IN [THIS  
 17 ACT] IS CHANGED TO THE DEPARTMENT OF TRANSPORTATION.

18 NEW SECTION. Section 6. Effective date. [This act] is  
 19 effective July 1, 1991.

-End-