

SB 47 INTRODUCED BY GAGE
STATE-TRIBAL COOPERATIVE AGREEMENTS TO ASSESS AND
 COLLECT TAXES
 BY REQUEST OF DEPARTMENT OF REVENUE, COMMITTEE ON
 INDIAN AFFAIRS, AND REVENUE
 OVERSIGHT COMMITTEE

1/06	INTRODUCED		
1/06	FISCAL NOTE REQUESTED		
1/06	REFERRED TO TAXATION		
1/09	FISCAL NOTE RECEIVED		
1/13	HEARING		
1/13	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/15	2ND READING PASSED	50	0
1/17	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
2/04	REFERRED TO TAXATION		
3/12	HEARING		
3/16	COMMITTEE REPORT--BILL NOT PASSED		
3/17	ADVERSE COMMITTEE REPORT ADOPTED	83	10
3/17	RETURNED TO SENATE NOT CONCURRED		

1 SENATE BILL NO. 47
 2 INTRODUCED BY GAGE
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE,
 4 THE COMMITTEE ON INDIAN AFFAIRS, AND
 5 THE REVENUE OVERSIGHT COMMITTEE

6
 7 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING
 8 STATE-TRIBAL COOPERATIVE AGREEMENTS FOR ASSESSMENT AND
 9 COLLECTION OF ANY TAX OR LICENSE OR PERMIT FEE LAWFULLY
 10 IMPOSED; PROVIDING FOR DISTRIBUTION OF REVENUE COLLECTED;
 11 AND AMENDING SECTIONS 15-1-501, 15-1-502, 18-11-103, AND
 12 18-11-104, MCA."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 15-1-501, MCA, is amended to read:
 16 "15-1-501. Disposition of moneys from certain
 17 designated license and other taxes. Unless a state-tribal
 18 cooperative agreement entered into pursuant to Title 18,
 19 chapter 11, for the assessment and collection of a tax or
 20 license or permit fee provides a different procedure for
 21 sharing revenue with a tribal government:

22 (1) The the state treasurer shall deposit to the
 23 credit of the state general fund all moneys received by him
 24 from the collection of:

25 (a) fees from driver's licenses, motorcycle

1 endorsements, and duplicate driver's licenses as provided in
 2 61-5-121;
 3 (b) electrical energy producer's license taxes under
 4 chapter 51;
 5 (c) severance taxes allocated to the general fund
 6 under chapter 36;
 7 (d) liquor license taxes under Title 16;
 8 (e) telephone [company] license taxes under chapter
 9 53; and
 10 (f) inheritance and estate taxes under Title 72,
 11 chapter 16;

12 (2) Seventy-five seventy-five percent of all moneys
 13 received from the collection of income taxes under chapter
 14 30 and corporation license and income taxes under chapter
 15 31, except as provided in 15-31-702, shall be deposited in
 16 the general fund subject to the prior pledge and
 17 appropriation of such income tax and corporation license tax
 18 collections for the payment of long-range building program
 19 bonds. The remaining 25% of the proceeds of the corporation
 20 license tax, excluding that allocated to the counties under
 21 15-31-702, corporation income tax, and income tax shall be
 22 deposited to the credit of the state special revenue fund
 23 for state equalization aid to the public schools of Montana.

24 (3) The the state treasurer shall also deposit to the
 25 credit of the state general fund all moneys received by him



-2- INTRODUCED BILL
 SB-47

1 from the collection of license taxes, fees, and all net
2 revenues and receipts from all other sources under the
3 operation of the Montana Alcoholic Beverage Code; and

4 (4) ~~Thirty-three~~ thirty-three and one-third percent of
5 the total collections of the oil severance tax under chapter
6 36 shall be deposited into the local government block grant
7 account within the state special revenue fund. After the
8 distribution provided for in 15-36-112, the remainder of the
9 oil severance tax collections shall be deposited in the
10 general fund."

11 Section 2. Section 15-1-502, MCA, is amended to read:

12 "15-1-502. Suspense account for receipts, and refunds,
13 and revenue to be shared under state-tribal agreement. The
14 department of revenue shall establish a suspense account in
15 the state treasury for the purpose of conveniently
16 processing receipts, and for paying refunds for overpayments
17 of inheritance taxes collected by county treasurers and all
18 other taxes collected by the department, and for making
19 payments of revenue to be shared with tribal governments
20 under a state-tribal cooperative agreement entered into
21 pursuant to Title 18, chapter 11. All moneys received by
22 the department shall be temporarily credited by the state
23 treasurer to the department's suspense account. Each month
24 the department of revenue shall send to the department of
25 administration a distribution sheet designating the amount

1 to be deposited in each treasury fund and in each account
2 and the amount to be paid to tribal governments under a
3 state-tribal cooperative agreement."

4 Section 3. Section 18-11-103, MCA, is amended to read:

5 "18-11-103. Authorization to enter agreement --
6 general contents. (1) Any one or more public agencies may
7 enter into an agreement with any one or more tribal
8 governments to:

9 (a) perform any administrative service, activity, or
10 undertaking that any of the public agencies or tribal
11 governments entering into the contract is authorized by law
12 to perform; and

13 (b) assess and collect any tax or license or permit
14 fee lawfully imposed by the tribal government and public
15 agencies and to share the revenues from such assessment and
16 collection.

17 (2) The agreement shall be authorized and approved by
18 the governing body of each party to the agreement.

19 (3) The agreement shall set forth fully the powers,
20 rights, obligations, and responsibilities of the parties to
21 the agreement."

22 Section 4. Section 18-11-104, MCA, is amended to read:

23 "18-11-104. Detailed contents of agreement. The
24 agreement authorized by 18-11-103 shall specify the
25 following:

- 1 (1) its duration;
- 2 (2) the precise organization, composition, and nature
3 of any separate legal entity created thereby;
- 4 (3) the purpose of the agreement;
- 5 (4) the manner of financing the agreement and
6 establishing and maintaining a budget therefor;
- 7 (5) the method to be employed in accomplishing the
8 partial or complete termination of the agreement and for
9 disposing of property upon such partial or complete
10 termination;
- 11 (6) provision for administering the agreement, which
12 may include creation of a joint board responsible for such
13 administration;
- 14 (7) the manner of acquiring, holding, and disposing of
15 real and personal property used in the agreement;
- 16 (8) when an agreement involves law enforcement:
- 17 (a) the minimum training standards and qualifications
18 of law enforcement personnel;
- 19 (b) the respective liability of each public agency and
20 tribal government for the actions of law enforcement
21 officers when acting under the provisions of an agreement;
- 22 (c) the minimum insurance required of both the public
23 agency and the tribal government; and
- 24 (d) the exact chain of command to be followed by law
25 enforcement officers acting under the provisions of an

- 1 agreement; and
- 2 (9) when an agreement involves the assessment and
3 collection of any tax or license or permit fee, the
4 procedure for determining the amount and distribution of the
5 revenue shared with the tribal government; and
6 (9)(10) any other necessary and proper matters."
- 7 NEW SECTION. Section 5. Agreements on taxation --
8 tribal government share deducted before calculation of other
9 distributions. In calculating the distribution of the
10 revenue from any tax or license or permit fee collected
11 pursuant to a state-tribal cooperative agreement, the tribal
12 government shall receive its share as provided in the
13 agreement, notwithstanding a contrary statutory distribution
14 formula. For purposes of distribution of the remainder, the
15 statutory distribution formula must apply as if the amount
16 remaining after the tribal government receives its share
17 were the total revenue collected from the tax or license or
18 permit fee.
- 19 NEW SECTION. Section 6. Codification instruction.
20 Section 5 is intended to be codified as an integral part of
21 Title 15, chapter 1, part 5, and the provisions of Title 15,
22 chapter 1, part 5, apply to section 5.
- 23 NEW SECTION. Section 7. Extension of authority. Any
24 existing authority of the department of revenue to make
25 rules on the subject of the provisions of this act is

LC 0065/01

1 extended to the provisions of this act.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB047, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing state-tribal cooperative agreements for assessment and collection of any tax or license or permit fee lawfully imposed; providing for distribution of revenue collected; and amending sections 15-1-501, 15-1-502, 18-11-103, and 18-11-104, MCA.

ASSUMPTIONS:

N/A

FISCAL IMPACT:

SB047 authorizes state-tribal agreements for the assessment and collection of taxes, licenses, and fees. The fiscal impact of this bill would depend on specific agreements from area to area.

Where state-tribal agreements would establish a mechanism to collect taxes, licenses, and fees due the state, revenue would increase.

In future agreements, where the state concurs that collection of a given tax conflicts with tribal authority or the tax exempt status of indians, revenue would decline. Both the state and the tribal government could lose revenue in instances where agreement is reached to eliminate double taxation on a reservation. However, taxpayers would benefit by an equal amount from the elimination of any instances of double taxation.

It is possible under SB047, that state-tribal agreements would cover taxes that both increase and decrease state revenue. In these cases, revenue losses in some areas would be offset by gains in other areas.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

 DATE 1/8/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE _____
DELWYN GAGE, PRIMARY SPONSOR

Fiscal Note for SB047, as introduced.

SB 77

APPROVED BY COMMITTEE
ON TAXATION

1 SENATE BILL NO. 47
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10 IMPOSED; PROVIDING FOR DISTRIBUTION OF REVENUE COLLECTED;
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15 Section 1. Section 15-1-501, MCA, is amended to read:

16 "15-1-501. Disposition of moneys from certain
17 designated license and other taxes. Unless a state-tribal
18 cooperative agreement entered into pursuant to Title 18,
19 chapter 11, for the assessment and collection of a tax or
20 license or permit fee provides a different procedure for
21 sharing revenue with a tribal government:

22 (1) ~~The~~ the state treasurer shall deposit to the
23 credit of the state general fund all moneys received by him
24 from the collection of:

25 (a) fees from driver's licenses, motorcycle

1 endorsements, and duplicate driver's licenses as provided in
2 61-5-121;

3 (b) electrical energy producer's license taxes under
4 chapter 51;

5 (c) severance taxes allocated to the general fund
6 under chapter 36;

7 (d) liquor license taxes under Title 16;

8 (e) telephone [company] license taxes under chapter
9 53; and

10 (f) inheritance and estate taxes under Title 72,
11 chapter 16;

12 (2) ~~Seventy-five~~ seventy-five percent of all moneys
13 received from the collection of income taxes under chapter
14 30 and corporation license and income taxes under chapter
15 31, except as provided in 15-31-702, shall be deposited in
16 the general fund subject to the prior pledge and
17 appropriation of such income tax and corporation license tax
18 collections for the payment of long-range building program
19 bonds. The remaining 25% of the proceeds of the corporation
20 license tax, excluding that allocated to the counties under
21 15-31-702, corporation income tax, and income tax shall be
22 deposited to the credit of the state special revenue fund
23 for state equalization aid to the public schools of Montana.

24 (3) ~~The~~ the state treasurer shall also deposit to the
25 credit of the state general fund all moneys received by him

1 from the collection of license taxes, fees, and all net
2 revenues and receipts from all other sources under the
3 operation of the Montana Alcoholic Beverage Code; and

4 (4) ~~Thirty-three~~ thirty-three and one-third percent of
5 the total collections of the oil severance tax under chapter
6 36 shall be deposited into the local government block grant
7 account within the state special revenue fund. After the
8 distribution provided for in 15-36-112, the remainder of the
9 oil severance tax collections shall be deposited in the
10 general fund."

11 ~~Section 2. Section 15-1-502, MCA, is amended to read:~~

12 ~~"15-1-502. A suspense account for receipts and refunds~~
13 ~~and revenue to be shared under state tribal agreement. The~~
14 ~~department of revenue shall establish a suspense account in~~
15 ~~the state treasury for the purpose of conveniently~~
16 ~~processing receipts and for paying refunds for overpayments~~
17 ~~of inheritance taxes collected by county treasurers and all~~
18 ~~other taxes collected by the department and for making~~
19 ~~payments of revenue to be shared with tribal governments~~
20 ~~under a state tribal cooperative agreement entered into~~
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4 Section 2. Section 18-11-103, MCA, is amended to read:

5 "18-11-103. Authorization to enter agreement --
6 general contents. (1) Any one or more public agencies may
7 enter into an agreement with any one or more tribal
8 governments to:

9 (a) perform any administrative service, activity, or
10 undertaking that any of the public agencies or tribal
11 governments entering into the contract is authorized by law
12 to perform; and

13 (b) assess and collect any tax or license or permit
14 fee lawfully imposed by the tribal government and public
15 agencies and to share the revenues from such assessment and
16 collection.

17 (2) The agreement shall be authorized and approved by
18 the governing body of each party to the agreement.

19 (3) The agreement shall set forth fully the powers,
20 rights, obligations, and responsibilities of the parties to
21 the agreement."

22 Section 3. Section 18-11-104, MCA, is amended to read:

23 "18-11-104. Detailed contents of agreement. The
24 agreement authorized by 18-11-103 shall specify the
25 following:

1 (1) its duration;

2 (2) the precise organization, composition, and nature
3 of any separate legal entity created thereby;

4 (3) the purpose of the agreement;

5 (4) the manner of financing the agreement and
6 establishing and maintaining a budget therefor;

7 (5) the method to be employed in accomplishing the
8 partial or complete termination of the agreement and for
9 disposing of property upon such partial or complete
10 termination;

11 (6) provision for administering the agreement, which
12 may include creation of a joint board responsible for such
13 administration;

14 (7) the manner of acquiring, holding, and disposing of
15 real and personal property used in the agreement;

16 (8) when an agreement involves law enforcement:

17 (a) the minimum training standards and qualifications
18 of law enforcement personnel;

19 (b) the respective liability of each public agency and
20 tribal government for the actions of law enforcement
21 officers when acting under the provisions of an agreement;

22 (c) the minimum insurance required of both the public
23 agency and the tribal government; and

24 (d) the exact chain of command to be followed by law
25 enforcement officers acting under the provisions of an

1 agreement; and

2 (9) when an agreement involves the assessment and
3 collection of any tax or license or permit fee, the
4 procedure for determining the amount and distribution of the
5 revenue shared with the tribal government; and
6 (9)(10) any other necessary and proper matters."

7 NEW SECTION. Section 4. Agreements on taxation --
8 tribal government share deducted before calculation of other
9 distributions. In calculating the distribution of the
10 revenue from any tax or license or permit fee collected
11 pursuant to a state-tribal cooperative agreement, the tribal
12 government shall receive its share as provided in the
13 agreement, notwithstanding a contrary statutory distribution
14 formula. For purposes of distribution of the remainder, the
15 statutory distribution formula must apply as if the amount
16 remaining after the tribal government receives its share
17 were the total revenue collected from the tax or license or
18 permit fee.

19 NEW SECTION. Section 5. Codification instruction.
20 Section 5 4 is intended to be codified as an integral part
21 of Title 15, chapter 1, part 5, and the provisions of Title
22 15, chapter 1, part 5, apply to section 5 4.

23 NEW SECTION. Section 6. Extension of authority. Any
24 existing authority of the department of revenue to make
25 rules on the subject of the provisions of this act is

SB 0047/02

1 extended to the provisions of this act.

-End-

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