HOUSE BILL NO. 92

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INTRODUCED BY TUNBY BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

DECEMBER 31, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
JANUARY 4, 1993	FIRST READING.
JANUARY 28, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 29, 1993	PRINTING REPORT.
JANUARY 30, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 11, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 12, 1993	SECOND READING, DO PASS.
FEBRUARY 13, 1993	ENGROSSING REPORT.
FEBRUARY 15, 1993	THIRD READING, PASSED. AYES, 68; NOES, 31.
FEBRUARY 16, 1993	TRANSMITTED TO SENATE.
IN	THE SENATE
FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 12, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 13, 1993	SECOND READING, CONCURRED IN.
APRIL 14, 1993	THIRD READING, CONCURRED IN. AYES, 47; NOES, 2.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1993 SECOND READING, AMENDMENTS NOT CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 19, 1993 ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

APRIL 22, 1993 CONFERENCE COMMITTEE REPORT ADOPTED.

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IN THE HOUSE

APRIL 22, 1993 SECOND READING, CONFERENCE COMMITTEE REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE REPORT ADOPTED.

APRIL 23, 1993 SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1	HOUSE BILL NO. 92	1 v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 111 S.
2	INTRODUCED BY TUNBY	2 Ct. 905 (1991), stated, among alternatives, that the state
3	BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND	3 and a tribe may adopt a "mutually satisfactory regime" for
4	THE REVENUE OVERSIGHT COMMITTEE	4 collection of a tax but did not mandate that a state collect
5		5 the tax; and
6	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE	6 WHEREAS, in an effort to promote a
7	STATE-TRIBAL COOPERATIVE AGREEMENTS ACT INCLUDES	7 government-to-government relationship between the State of
8	AUTHORIZATION TO ASSESS AND COLLECT OR REFUND A TAX OR	8 Montana and Montana Indian Tribes and in recognition that
9	LICENSE OR PERMIT FEE; ESTABLISHING REQUIREMENTS FOR TAX	9 both the state and tribal governments must be trusted to act
10	ASSESSMENT AND COLLECTION UNDER A STATE-TRIBAL TAX	10 responsibly, it is appropriate that the party designated to
11	AGREEMENT; PROVIDING A STATUTORY APPROPRIATION; AMENDING	ll collect taxes on an Indian reservation pursuant to any
12	SECTIONS 15-70-234, 17-7-502, 18-11-103, AND 18-11-104, MCA;	12 agreement be subject to negotiation.
13	AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."	13 THEREFORE, the Legislature of the State of Montana finds
14		14 it appropriate to amend the State-Tribal Cooperative
15	WHEREAS, the Legislature finds it necessary to clarify	15 Agreements Act to specifically include tax assessment and
16	provisions of the State-Tribal Cooperative Agreements Act in	16 collection or refund and to establish specific requirements
17	order to reduce the delays in implementing taxation	17 for tax assessment and collection or refund by the state, a
18	agreements entered into between the State of Montana and	18 public agency, or a Montana Indian Tribe.
19	Montana Indian Tribes; and	19
20	WHEREAS, clarifying provisions of the State-Tribal	20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
21	Cooperative Agreements Act will also reduce the need for	21 NEW SECTION. Section 1. Purpose. (1) It is the intent
22	duplicative language, which results in increased costs	22 of the legislature that this part be used to promote
23	associated with publication of the Montana Code Annotated;	23 cooperation between the state or a public agency and a
24	and	24 sovereign tribal government in mutually beneficial
25	WHEREAS, the Supreme Court, in Oklahoma Tax Commission	25 activities and services.
		•
		HB 92 -2- INTRODUCED BILL

1 (2) It is the goal of the legislature to prevent the 2 possibility of dual taxation by governments while promoting 3 state, local, and tribal economic development.

Section 2. Section 18-11-103, MCA, is amended to read:
"18-11-103. Authorization to enter agreement -- general
contents. (1) Any one or more public agencies may enter into

an agreement with any one or more tribal governments to:

7

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

12 (b) assess and collect or refund any tax or license or 13 permit fee lawfully imposed by the state or a public agency 14 and a tribal government and to share or refund the revenue 15 from the assessment and collection.

16 (2) The agreement shall must be authorized and approved 17 by the governing body of each party to the agreement. If a 18 state agency is a party to an agreement, the director of the 19 agency is the governing body.

20 (2)(3) The agreement shall must set forth fully the
 21 powers, rights, obligations, and responsibilities of the
 22 parties to the agreement."

Section 3. Section 18-11-104, MCA, is amended to read:
 "18-11-104. Detailed contents of agreement. (1) The
 agreement authorized by 18-11-103 shell must specify the

1	following:
2	<pre>(1)(a) its duration;</pre>
3	(2) the precise organization, composition, and
4	nature of any separate legal entity created thereby by the
5	agreement;
6	(3) the purpose of the agreement;
7	<pre>t4;(d) the manner of financing the agreement and</pre>
8	establishing and maintaining a budget therefor for the
9	agreement;
10	(5)(e) the method to be employed in accomplishing the
11	partial or complete termination of the agreement and for
12	disposing of property upon such partial or complete
13	termination;
14	(6)<u>(f)</u> provision for administering the agreement, which
15	may include creation of a joint board responsible for such
16	administration;
17	<pre>f7;(g) the manner of acquiring, holding, and disposing</pre>
18	of real and personal property used in the agreement; and
19	(h) other necessary and proper matters.
20	(θ) when If an agreement involves law enforcement.
21	<u>it must also include</u> :
22	(a) the minimum training standards and qualifications
- 23	of law enforcement personnel;
24	(b) the respective liability of each public agency and
25	tribal government for the actions of law enforcement

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1	officers when acting under the provisions of an agreement;
2	(c) the minimum insurance required of both the public
3	agency and the tribal government; and
4	(d) the exact chain of command to be followed by law
5	enforcement officers acting under the provisions of an
6	agreement +- and .
7	(3) If an agreement involves the assessment and
8	collection or refund of a similar tax or license or permit
9	fee by the state or a public agency and a tribal government,
10	it must also include:
11	(a) the procedure for determining the amount of revenue
12	to be shared by the state or a public agency and the tribal
13	government;
14	(b) the administrative procedures for collection of the
15	shared revenue;
16	(c) the minimum insurance or bonding required by the
17	state or a public agency or the tribal government;
18	(d) a statement specifying the administrative expenses
19	to be deducted pursuant to [section 4] by the collector of
20	the tax or license or permit fee;
21	(e) a statement that the state or a public agency or
22	the tribal government collecting the tax or license or
23	permit fee is subject to an audit report by a mutually
24	agreed upon auditor of the revenue collected and
25	administrative_expenses;

1	(f) a statement that the state or a public agency and
2	the tribal government will cooperate to collect only one tax
3	and will share or refund the revenue as specified in the
4	agreement;
5	(g) a statement that a taxpayer may not be required to
6	pay both the state tax and the tribal tax but shall pay only
7	one tax to one government in an amount established in the
8	agreement; and
9	(h) a statement that the parties to the agreement are
10	not forfeiting any legal rights to apply their respective
11	taxes by entering into an agreement, except as specifically
12	set forth in the agreement
13	(9) any-other-necessary-and-proper-matters."
14	NEW SECTION. Section 4. Revenue account
15	administrative account distribution of revenue. (1) The
16	revenue collected by the state, a public agency, or a tribal
17	government under a state-tribal cooperative agreement and
18	the administrative expenses deducted under subsection (2)
19	from the total revenue collected must be deposited in
20	separate special revenue accounts.
21	(2) The administrative expenses deducted by the state,
22	a public agency, or a tribal government for collection of
23	revenue may not exceed the actual cost of collecting the

revenue on a reservation or 5%, whichever is less. Money 25 from an administrative account may be expended only for the

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purpose of administering the tax or fee imposed under the
 state-tribal cooperative agreement or for paying the costs
 incurred in terminating the agreement.

4 (3) Except for the administrative expenses amount 5 deducted under subsection (2), the revenue collected under a 6 state-tribal agreement must be deposited in a state special 7 revenue account or a separate tribal account and must be 8 disbursed as provided for in the agreement.

9 (4) Money deposited in a state administrative expenses 10 account and in a state special revenue account is 11 statutorily appropriated, as provided in 17-7-502, to the 12 department or public agency that is a party to a 13 state-tribal cooperative agreement under 18-11-103, for the 14 purpose of paying administrative expenses or paying to a 15 tribe its portion of the tax or fee.

(5) If a tax or license or permit fee is collected or 16 refunded pursuant to a state-tribal cooperative agreement, 17 18 each party must receive its share as provided in the agreement, notwithstanding any contrary state statutory or 19 tribal ordinance distribution formula. For distribution of 20 21 the remainder, the state statutory or tribal distribution formula must apply as if the amount remaining after each 22 party to the agreement receives its share were the total 23 revenue collected from the tax or license or permit fee. 24 Section 5. Section 15-70-234, MCA, is amended to read: 25

1 "15-70-234. Cooperative agreement -- allocation--of 2 motor fuels taxes to-tribal-governments. (1) In order to 3 prevent the possibility of dual taxation of motor fuels 4 purchased by Montana citizens and businesses on Indian 5 reservations, the department of transportation and an Indian tribe may enter into a cooperative agreement. The department 6 7 of transportation may, with the concurrence of the attorney 8 general, include as a member of the negotiating team a 9 representative of the department of justice who has 10 Indian matters. The expertise in department of 11 transportation shall report the status of cooperative 12 agreement negotiations to each meeting of the revenue oversight committee. After negotiations are complete, the 13 14 agreement---must--be--presented--to--the--revenue--oversight 15 committee-for-review-and-comment-before the final agreement 16 $\dot{\mathbf{t}}\mathbf{s}$ must be submitted to the attorney general for approval 17 pursuant to 18-11-105. The-agreement-must-provide-that-under 18 conditions-specified-in-this--section--the--state--and--the 19 tribe--will-cooperate-to-collect-only-one-tax-that-is-at-the 20 same--level--as--the--tax--outside--the--boundaries--of--the 21 reservation-and-will-share-the-revenue-as-provided--in--this 22 section---The--agreement-must-provide-that-the-state-and-the 23 tribe-are-not-forfeiting-any-legal--rights--to--apply--their 24 respective--taxes--by--entering-into-an-agreement7-except-as 25 specifically-set-forth-in-the-agreement-

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1 (2)--The-agreement-may-provide-that-the-distributor--may 2 not-be-required-to-pay-both-the-state-tax-and-the-tribal-tax 3 but--shall--pay-only-one-tax-to-the-state-in-an-amount-equal 4 to-the-tax-paid-on-gasoline-that-is-not-subject-to-a--tribal 5 tax-

6 (3)--The--agreement--may--provide--that--after-deducting 7 administrative-expenses-equal-to-5%-of-the-amount-determined 8 under-subsection-(2)-and-the-amounts-necessary-for--refunds; 9 the--department--of--transportation--shall;--on--a-quarterly 10 basis;--distribute--the--remaining--amount--to--the---tribal 11 government;

12 (4)--The--agreement-may-provide-for-the-collection7-usey 13 and-distribution-of-the-tax7"

Section 6. Section 17-7-502, MCA, is amended to read: "17-7-502. Statutory appropriations -- definition -requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

20 (2) Except as provided in subsection (4), to be
21 effective, a statutory appropriation must comply with both
22 of the following provisions:

23 (a) The law containing the statutory authority must be24 listed in subsection (3).

25 (b) The law or portion of the law making a statutory

appropriation must specifically state that a statutory
 appropriation is made as provided in this section.

3 (3) The following laws are the only laws containing 4 statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 5 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 6 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 7 15-65-121: 15-70-101; 16-1-404; 16-1-410; 16-1-411: 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 8 9 17-7-304: [section 4]; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 10 19-10-506: 11 19-11-512: 19-11-513; 19-11-606; 19-12-301; 19-13-604; 12 19-15-101: 20-4-109; 20-6-406: 20-8-111; 20-9-361; 13 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 14 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 15 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 16 53-6-150; 53-24-206; 61-5-121; 67-3-205: 75-1-1101; 75-5-1108; 75-11-313; 17 75-5-507: 76-12-123: 77-1-808: 18 80-2-103; 80-11-310; 82-11-136; 82-11-161: 85-1-220: 19 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying,
and securing all bonds, notes, or other obligations, as due,
that have been authorized and issued pursuant to the laws of
Montana. Agencies that have entered into agreements
authorized by the laws of Montana to pay the state

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1 treasurer, for deposit in accordance with 17-2-101 through 2 17-2-107, as determined by the state treasurer, an amount 3 sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for 4 5 the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon 6 death of last recipient eligible for supplemental benefit; 7 8 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 9 22-3-811 terminates June 30, 1993.)"

10 <u>NEW SECTION.</u> Section 7. Codification instruction. 11 [Sections 1 and 4] are intended to be codified as an 12 integral part of Title 18, chapter 11, part 1, and the 13 provisions of Title 18, chapter 11, part 1, apply to 14 [sections 1 and 4].

NEW SECTION. Section 8. Effective date -applicability. [This act] is effective July 1, 1993, and
applies to tax agreements entered into on or after July 1,
1993.

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STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0092, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act amending the state-tribal cooperative agreements act; clarifying that the act includes authorization to assess and collect or refund a tax or license or permit fee; establishing requirements for tax assessment and collection under a state-tribal tax agreement; 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; providing a statutory appropriation; and providing an effective date and an applicability date.

FISCAL IMPACT:

The impact of this proposal on expenditures of the Departments of Revenue; Fish, Wildlife and Parks; and Health and Environmental Sciences is minimal.

Due to the numerous variables involved in possible State-Tribal agreements, the impact of the bill on current revenues cannot be determined.

DAVID LEWIS, BUDGET DIRECTOR DATE Office of Budget and Program Planning

DATE

ROLPH TUNBY, PRIMARY SPONSOR

Fiscal Note for <u>HB0092, second reading</u>. **HB92**

53rd Legislature

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HB 0092/02

APPROVED BY COMMITTEE ON TAXATION

1	HOUSE BILL NO. 92
2	INTRODUCED BY TUNBY
3	BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND
4	THE REVENUE OVERSIGHT COMMITTEE
5	

A BILL FOR AN ACT ENTITLED: "AN ACT CLAREPTING--PHAP б 7 AMENDING THE STATE-TRIBAL COOPERATIVE AGREEMENTS ACT: CLARIFYING THAT THE ACT INCLUDES AUTHORIZATION TO ASSESS AND 8 COLLECT OR REFUND A TAX OR LICENSE OR PERMIT 9 FEE: ESTABLISHING REQUIREMENTS FOR TAX ASSESSMENT AND COLLECTION 10 11 UNDER A STATE-TRIBAL TAX AGREEMENT; REQUIRING A PUBLIC 12 AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN 13 AGREEMENT ON TAXATION, GAMBLING, FISH AND GAME, OR ENVIRONMENTAL REGULATION WITH A TRIBAL GOVERNMENT; PROVIDING 14 15 A STATUTORY APPROPRIATION: AMENDING SECTIONS 15-70-234, 16 17-7-502, 18-11-103, AND 18-11-104, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE." 17

18

19 WHEREAS, the Legislature finds it necessary to clarify 20 provisions of the State-Tribal Cooperative Agreements Act in 21 order to reduce the delays in implementing taxation 22 agreements entered into between the State of Montana and 23 Montana Indian Tribes; and

24 WHEREAS, clarifying provisions of the State-Tribal
 25 Cooperative Agreements Act will also reduce the need for

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duplicative language, which results in increased costs
 associated with publication of the Montana Code Annotated;
 and

4 WHEREAS, the Supreme Court, in <u>Oklahoma Tax Commission</u> 5 <u>v. Citizen Band Potawatomi Indian Tribe of Oklahoma</u>, 111 S. 6 Ct. 905 (1991), stated, among alternatives, that the state 7 and a tribe may adopt a "mutually satisfactory regime" for 8 collection of a tax but did not mandate that a state collect 9 the tax; and

10 WHEREAS . in an effort to promote а 11 government-to-government relationship between the State of 12 Montana and Montana Indian Tribes and in recognition that 13 both the state and tribal governments must be trusted to act 14 responsibly, it is appropriate that the party designated to 15 collect taxes on an Indian reservation pursuant to any 16 agreement be subject to negotiation.

17 THEREFORE, the Legislature of the State of Montana finds 18 it appropriate to amend the State-Tribal Cooperative 19 Agreements Act to specifically include tax assessment and 20 collection or refund and to establish specific requirements 21 for tax assessment and collection or refund by the state, a 22 public agency, or a Nontana Indian Tribe.

23

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

25 NEW SECTION. Section 1. Purpose. (1) It is the intent

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of the legislature that this part be used to promote
 cooperation between the state or a public agency and a
 sovereign tribal government in mutually beneficial
 activities and services.

5 (2) It is the goal of the legislature to prevent the 6 possibility of dual taxation by governments while promoting 7 state, local, and tribal economic development.

8 Section 2. Section 18-11-103, MCA, is amended to read:
9 "18-11-103. Authorization to enter agreement -- general
10 contents. (1) Any one or more public agencies may enter into
11 an agreement with any one or more tribal governments to:

12 (a) perform any administrative service, activity, or
13 undertaking that any-of-the <u>a</u> public agencies <u>agency</u> or <u>a</u>
14 tribal governments <u>government</u> entering into the contract is
15 authorised by law to perform; and

(b) assess and collect or refund any tax or license or
 permit fee lawfully imposed by the state or a public agency
 and a tribal government and to share or refund the revenue
 from the assessment and collection.

20 (2) The agreement shall must be authorized and approved
21 by the governing body of each party to the agreement. If a
22 state agency is a party to an agreement, the director of the
23 agency is the governing body.

24 (2)(3) The agreement shall must set forth fully the 25 powers, rights, obligations, and responsibilities of the 1 parties to the agreement.

2 (4) (A) PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION. GAMBLING, PISH AND GAME, OR ENVIRONMENTAL з REGULATION WITH A TRIBAL GOVERNMENT, A PUBLIC AGENCY SHALL 4 PROVIDE PUBLIC NOTICE AND HOLD A PUBLIC MEETING ON THE 5 6 RESERVATION WHOSE GOVERNMENT IS A PARTY TO THE PROPOSED AGREEMENT FOR THE PURPOSE OF RECEIVING COMMENTS FROM AND 7 PROVIDING WRITTEN AND OTHER INFORMATION TO INTERESTED 8 9 PERSONS WITH RESPECT TO THE PROPOSED AGREEMENT'S REFECT ON 10 THE COMMUNITY. 11 (B) AT LEAST 14 DAYS BUT NOT MORE THAN 30 DAYS PRIOR TO THE DATE SCHEDULED FOR THE PUBLIC MEETING, A NOTICE OF THE 12 13 PROPOSED AGREEMENT AND PUBLIC MEETING MUST BE PUBLISHED IN A 14 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES 15 IN WHICH THE RESERVATION IS LOCATED. 16 (C) AT THE TIME THE NOTICE OF THE MEETING IS PUBLISHED, 17 A SYNOPSIS OF THE PROPOSED AGREEMENT MUST BE MADE AVAILABLE 18 TO INTERESTED PERSONS." Section 3. Section 18-11-104, MCA, is amended to read: 19 *18-11-104. Detailed contents of agreement. (1) The 20 agreement authorized by 18-11-103 shell must specify the 21 22 following: 23 (a) its duration; 24 (2)(b) the precise organization, composition, and 25 nature of any separate legal entity created thereby by the

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1	agreement;	1	enforcement offic
2	(3)(c) the purpose of the agreement;	2	agreement;-and_
3	<pre>+4+(d) the manner of financing the agreement and</pre>	3	<u>(3) If an a</u>
4	establishing and maintaining a budget therefor for the	4	collection or re
5	agreement;	5	fee by the state of
6	<pre>{5}(e) the method to be employed in accomplishing the</pre>	6	it must also inclu
7	partial or complete termination of the agreement and for	7	(a) the proce
8	disposing of property upon such partial or complete	8	to be shared by th
9	termination;	9	government;
10	<pre>(6)(f) provision for administering the agreement, which</pre>	10	(b) the admin
11	may include creation of a joint board responsible for such	11	shared revenue;
12	administration;	12	(c) the min
13	(7)(g) the manner of acquiring, holding, and disposing	13	state or a public
14	of real and personal property used in the agreement; and	14	<u>(d) a statem</u>
15	(h) other necessary and proper matters.	15	to be deducted j
16	(θ) (2) when <u>If</u> an agreement involves law enforcement,	16	the tax or license
17	it must also include:	17	<u>(e) a statem</u>
18	(a) the minimum training standards and qualifications	18	the tribal gove
19	of law enforcement personnel;	19	permit fee is sub
20	(b) the respective liability of each public agency and	20	agreed upon a
21	tribal government for the actions of law enforcement	21	<u>administrative ex</u>
22	officers when acting under the provisions of an agreement;	22	<u>(f) a statem</u>
23	(c) the minimum insurance required of both the public	23	the tribal govern
24	agency and the tribal government; and	24	and will share
25	(d) the exact chain of command to be followed by law	25	agreement;
	<i>c</i>		

1	enforcement officers acting under the provisions of an
2	agre eme nt 7-and<u>.</u>
3	(3) If an agreement involves the assessment and
4	collection or refund of a similar tax or license or permit
5	fee by the state or a public agency and a tribal government,
6	it must also include:
7	(a) the procedure for determining the amount of revenue
8	to be shared by the state or a public agency and the tribal
9	government;
10	(b) the administrative procedures for collection of the
11	shared revenue;
12	(c) the minimum insurance or bonding required by the
13	state or a public agency or the tribal government;
14	(d) a statement specifying the administrative expenses
15	to be deducted pursuant to [section 4] by the collector of
16	the tax or license or permit fee;
17	(e) a statement that the state or a public agency or
18	the tribal government collecting the tax or license or
19	permit fee is subject to an audit report by a mutually
20	agreed upon auditor of the revenue collected and
21	administrative expenses;
22	(f) a statement that the state or a public agency and
23	the tribal government will cooperate to collect only one tax
24	and will share or refund the revenue as specified in the
25	agreement;

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1(q) a statement that a taxpayer may not be required to2pay both the state tax and the tribal tax but shall pay only3one tax to one government in an amount established in the4agreement; and5(h) a statement that the parties to the agreement are

not forfeiting any legal rights to apply their respective
taxes by entering into an agreement, except as specifically
set forth in the agreement

9 (9)--any-other-necessary-and-proper-matters."

10 <u>NEW SECTION.</u> Section 4. Revenue account --11 administrative account -- distribution of revenue. (1) The 12 revenue collected by the state, a public agency, or a tribal 13 government under a state-tribal cooperative agreement and 14 the administrative expenses deducted under subsection (2) 15 from the total revenue collected must be deposited in 16 separate special revenue accounts.

17 (2) The administrative expenses deducted by the state, a public agency, or a tribal government for collection of 18 19 revenue may not exceed the actual cost of collecting the revenue on a reservation or 5%, whichever is less. Money 20 21 from an administrative account may be expended only for the 22 purpose of administering the tax or fee imposed under the state-tribal cooperative agreement or for paying the costs 23 24 incurred in terminating the agreement.

25 (3) Except for the administrative expenses amount

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deducted under subsection (2), the revenue collected under a
 state-tribal agreement must be deposited in a state special
 revenue account or a separate tribal account and must be
 disbursed as provided for in the agreement. IF A PUBLIC
 AGENCY THAT IS A PARTY TO AN AGREEMENT IS A LOCAL
 GOVERNMENT, THE AGREEMENT MUST PROVIDE FOR THE DISPOSITION
 OF REVENUE.

8 (4) Money deposited in a state administrative expenses 9 account and in a state special revenue account is 10 statutorily appropriated, as provided in 17-7-502, to the 11 department or public agency that is a party to a 12 state-tribal cooperative agreement under 18-11-103, for the 13 purpose of paying administrative expenses or paying to a 14 tribe its portion of the tax or fee.

(5) If a tax or license or permit fee is collected or 15 16 refunded pursuant to a state-tribal cooperative agreement, 17 each party must receive its share as provided in the agreement, notwithstanding any contrary state statutory, 18 19 PUBLIC AGENCY ORDINANCE, or tribal ordinance distribution formula. For distribution of the remainder, the state 20 statutory, PUBLIC AGENCY, or tribal distribution formula 21 22 must apply as if the amount remaining after each party to 23 the agreement receives its share were the total revenue 24 collected from the tax or license or permit fee.

25 Section 5. Section 15-70-234, MCA, is amended to read:

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1 "15-70-234. Cooperative agreement -- allocation---of 2 motor fuels taxes to--tribal-governments. (1) In order to prevent the possibility of dual taxation of motor fuels 3 purchased by Montana citizens and businesses on Indian 4 reservations, the department of transportation and an Indian 5 6 tribe may enter into a cooperative agreement. The department 7 of transportation may, with the concurrence of the attorney general, include as a member of the negotiating team a 8 9 representative of the department of justice who has 10 in Indian matters. The department of expertise 11 transportation shall report the status of cooperative 12 agreement negotiations to each meeting of the revenue oversight committee. After negotiations are complete, the 13 agreement--must--be--presented--to--the--revenue---oversight 14 committee--for--review-and-comment-before THE AGREEMENT NUST 15 16 BE PRESENTED TO THE REVENUE OVERSIGHT COMMITTEE FOR REVIEW AND COMMENT BEFORE the final agreement is must be submitted 17 to the attorney general for approval pursuant to 18-11-105. 18 The---agreement---must-provide-that-under-conditions-specified 19 in-this-sectiony-the-state-and-the-tribe-will--cooperate--to 20 21 collect--only--one--tax-that-is-at-the-same-level-as-the-tax 22 outside-the-bounderies-of-the-reservation-and-will-share-the revenue-as-provided-in--this--section--The--agreement--must 23 provide---thet-the-state-and-the-tribe-are-not-forfeiting-any 24 25 legel-rights-to-apply-their--respective--taxes--by--entering

1	intoanagreementy-except-as-specifically-set-forth-in-the
2	ågreement.
3	{2}The-agreement-may-provide-that-the-distributormay
4	not-be-required-to-pay-both-the-state-tax-and-the-tribal-tax
5	butshallpay-only-one-tax-to-the-state-in-an-amount-equal
6	to-the-tax-paid-on-gasoline-that-is-not-subject-to-atribal
7	taxt
8	{3}Theagreementmayprovidethatafter-deducting
9	administrative-expenses-equal-to-5%-of-the-amount-determined
10	under-subsection-(2)-and-the-amounts-necessary-forrefunds;
11	thedepartmentoftransportationshall;ona-quarterly
12	basisydistributetheremainingamounttothetribal
13	government
14	<pre>t4)Theagreement-may-provide-for-the-collectiony-usey</pre>
15	and-distribution-of-the-tax."
16	Section 6. Section 17-7-502, MCA, is amended to read:
17	17-7-502. Statutory appropriations definition
18	requisites for validity. (1) A statutory appropriation is an
19	appropriation made by permanent law that authorizes spending
20	by a state agency without the need for a biennial
21	legislative appropriation or budget amendment.
22	(2) Except as provided in subsection (4), to be
23	effective, a statutory appropriation must comply with both
24	of the following provisions:

25 (a) The law containing the statutory authority must be

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1 listed in subsection (3).

2 (b) The law or portion of the law making a statutory
3 appropriation must specifically state that a statutory
4 appropriation is made as provided in this section.

(3) The following laws are the only laws containing 5 statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 6 7 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 8 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117: 9 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 10 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; [section 4]; 19-5-404; 19-6-709; 19-8-504; 11 **19-9-702: 19-9-1007: 19-10-205: 19-10-305;** 12 19-10-506: 13 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 14 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 15 23-5-409; 16 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 17 37-43-204: 37-51-501: 39-71-2504: 44-12-206: 44-13-102; 53-6-150: 53-24-206; 61-5-121; 67-3-205; 18 75-1-1101; 75-11-313; 75-5-507; 75-5-1108; 76-12-123; 77-1-808: 19 80-2-103: 80-11-310: 82-11-136: 82-11-161: 85-1-220: 20 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306. 21

(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying,
and securing all bonds, notes, or other obligations, as due,
that have been authorised and issued pursuant to the laws of

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1 Montana. Agencies that have entered into agreements 2 authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 3 17-2-107, as determined by the state treasurer, an amount 4 5 sufficient to pay the principal and interest as due on the 6 bonds or notes have statutory appropriation authority for 7 the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon 8 9 death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 10 11 22-3-811 terminates June 30, 1993.)"

12 <u>NEW SECTION.</u> Section 7. Codification instruction. 13 [Sections 1 and 4] are intended to be codified as an 14 integral part of Title 18, chapter 11, part 1, and the 15 provisions of Title 18, chapter 11, part 1, apply to 16 [sections 1 and 4].

17 <u>NEW SECTION.</u> Section 8. Effective date -applicability. [This act] is effective July 1, 1993, and
applies to tax agreements entered into on or after July 1,
1993.

-End-

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1 HOUSE BILL NO. 92 2 INTRODUCED BY TUNBY 3 BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND 4 THE REVENUE OVERSIGHT COMMITTEE 5 6 A BILL FOR AN ACT ENTITLED: "AN ACT CHARTPYING--THAT AMENDING THE STATE-TRIBAL COOPERATIVE AGREEMENTS ACT; 7 CLARIFYING THAT THE ACT INCLUDES AUTHORIZATION TO ASSESS AND 8 COLLECT OR REFUND A TAX OR LICENSE OR PERMIT FEE: 9 ESTABLISHING REQUIREMENTS FOR TAX ASSESSMENT AND COLLECTION 10 11 UNDER A STATE-TRIBAL TAX AGREEMENT; REQUIRING A PUBLIC 12 AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN 13 AGREEMENT ON TAXATION, GAMBLING, FISH AND GAME. OR ENVIRONMENTAL REGULATION WITH A TRIBAL GOVERNMENT; PROVIDING 14

15 A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-70-234,
16 17-7-502, 18-11-103, AND 18-11-104, MCA; AND PROVIDING AN
17 EPFECTIVE DATE AND AN APPLICABILITY DATE."

18

19 WHEREAS, the Legislature finds it necessary to clarify 20 provisions of the State-Tribal Cooperative Agreements Act in 21 order to reduce the delays in implementing taxation 22 agreements entered into between the State of Montana and 23 Montana Indian Tribes; and

24 WHEREAS, clarifying provisions of the State-Tribal
25 Cooperative Agreements Act will also reduce the need for



duplicative language, which results in increased costs
 associated with publication of the Montana Code Annotated;
 and

4 WHEREAS, the Supreme Court, in <u>Oklahoma Tax Commission</u> 5 <u>v. Citizen Band Potawatomi Indian Tribe of Oklahoma</u>, 111 S. 6 Ct. 905 (1991), stated, among alternatives, that the state 7 and a tribe may adopt a "mutually satisfactory regime" for 8 collection of a tax but did not mandate that a state collect 9 the tax; and

10 WHEREAS . effort in an to promote 11 government-to-government relationship between the State of 12 Montana and Montana Indian Tribes and in recognition that 13 both the state and tribal governments must be trusted to act 14 responsibly, it is appropriate that the party designated to 15 collect taxes on an Indian reservation pursuant to any 16 agreement be subject to negotiation.

17 THEREFORE, the Legislature of the State of Montana finds 18 it appropriate to amend the State-Tribal Cooperative 19 Agreements Act to specifically include tax assessment and 20 collection or refund and to establish specific requirements 21 for tax assessment and collection or refund by the state, a 22 public agency, or a Montana Indian Tribe.

23

25

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

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NEW SECTION. Section 1. Purpose. (1) It is the intent

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THIRD READING

of the legislature that this part be used to promote
 cooperation between the state or a public agency and a
 sovereign tribal government in mutually beneficial
 activities and services.

5 (2) It is the goal of the legislature to prevent the 6 possibility of dual taxation by governments while promoting 7 state, local, and tribal economic development.

8 Section 2. Section 18-11-103, MCA, is amended to read:

9 "18-11-103. Authorisation to enter agreement -- general
 10 contents. (1) Any one or more public agencies may enter into
 11 an agreement with any one or more tribal governments to:

12 (a) perform any administrative service, activity, or
 13 undertaking that any--of-the a public agencies agency or a
 14 tribal governments government entering into the contract is
 15 authorized by law to perform; and

(b) assess and collect or refund any tax or license or
 permit fee lawfully imposed by the state or a public agency
 and a tribal government and to share or refund the revenue
 from the assessment and collection.

<u>(2)</u> The agreement shall must be authorized and approved
by the governing body of each party to the agreement. <u>If a</u>
<u>state agency is a party to an agreement, the director of the</u>
<u>agency is the governing body.</u>

t2)(3) The agreement shall must set forth fully the
 powers, rights, obligations, and responsibilities of the

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parties to the agreement.

2	(4) (A) PRIOR TO ENTERING INTO AN AGREEMENT ON
3	TAXATION, GAMBLING, FISE AND GAME, OR ENVIRONMENTAL
4	REGULATION WITH A TRIBAL GOVERNMENT, A PUBLIC AGENCY SHALL
5	PROVIDE PUBLIC NOTICE AND HOLD A PUBLIC MEETING ON THE
6	RESERVATION WHOSE GOVERNMENT IS A PARTY TO THE PROPOSED
7	AGREEMENT FOR THE PURPOSE OF RECEIVING COMMENTS FROM AND
8	PROVIDING WRITTEN AND OTHER INFORMATION TO INTERESTED
9	PERSONS WITH RESPECT TO THE PROPOSED AGREEMENT'S EFFECT ON
10	THE COMMUNITY.
11	(B) AT LEAST 14 DAYS BUT NOT MORE THAN 30 DAYS PRIOR TO
12	THE DATE SCHEDULED FOR THE PUBLIC MEETING, A NOTICE OF THE
13	PROPOSED AGREEMENT AND PUBLIC MEETING MUST BE PUBLISHED IN A
14	NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES
15	IN WHICH THE RESERVATION IS LOCATED.
16	(C) AT THE TIME THE NOTICE OF THE MEETING IS PUBLISHED,
17	A SYNOPSIS OF THE PROPOSED AGREEMENT MUST BE MADE AVAILABLE
18	TO INTERESTED PERSONS."
19	Section 3. Section 18-11-104, MCA, is amended to read:
20	*18-11-104. Detailed contents of agreement. (1) The
21	agreement authorized by 18-11-103 shall must specify the
22	following:
23	(1)(a) its duration;
24	<pre>f#?(b) the precise organization, composition, and</pre>
25	nature of any separate legal entity created thereby by the

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1	agreement;	1	enforcement officers acting under the provisions of an
2	<pre>the purpose of the agreement;</pre>	2	agreement;-and.
3	<pre>(d) the manner of financing the agreement and</pre>	3	(3) If an agreement involves the assessment and
4	establishing and maintaining a budget therefor for the	4	collection or refund of a similar tax or license or permit
5	agreement;	5	fee by the state or a public agency and a tribal government,
6	<pre>f5;(e) the method to be employed in accomplishing the</pre>	6	it must also include:
7	partial or complete termination of the agreement and for	7	(a) the procedure for determining the amount of revenue
8	disposing of property upon such partial or complete	8	to be shared by the state or a public agency and the tribal
9	termination;	9	government;
10	<pre>(6)(f) provision for administering the agreement, which</pre>	10	(b) the administrative procedures for collection of the
11	may include creation of a joint board responsible for such	11	shared revenue;
12	administration;	12	(c) the minimum insurance or bonding required by the
13	(7)(g) the manner of acquiring, holding, and disposing	13	state or a public agency or the tribal government;
14	of real and personal property used in the agreement; and	14	(d) a statement specifying the administrative expenses
15	(h) other necessary and proper matters.	15	to be deducted pursuant to [section 4] by the collector of
16	(8)(2) when If an agreement involves law enforcement $_{L}$	16	the tax or license or permit fee;
17	it must also include:	17	(e) a statement that the state or a public agency or
18	(a) the minimum training standards and qualifications	18	the tribal government collecting the tax or license or
19	of law enforcement personnel;	19	permit fee is subject to an audit report by a mutually
20	(b) the respective liability of each public agency and	20	agreed upon auditor of the revenue collected and
21	tribal government for the actions of law enforcement	21	administrative expenses;
22	officers when acting under the provisions of an agreement;	22	(f) a statement that the state or a public agency and
23	(c) the minimum insurance required of both the public	23	the tribal government will cooperate to collect only one tax
24	agency and the tribal government; and	24	and will share or refund the revenue as specified in the
25	(d) the exact chain of command to be followed by law	25	agreement;

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1 (g) a statement that a taxpayer may not be required to 2 pay both the state tax and the tribal tax but shall pay only 3 one tax to one government in an amount established in the 4 agreement; and

5 (h) a statement that the parties to the agreement are 6 not forfeiting any legal rights to apply their respective 7 taxes by entering into an agreement, except as specifically 8 set forth in the agreement

9 (9)--any-other-necessary-and-proper-matters."

10 <u>NEW SECTION.</u> Section 4. Revenue account --11 administrative account -- distribution of revenue. (1) The 12 revenue collected by the state, a public agency, or a tribal 13 government under a state-tribal cooperative agreement and 14 the administrative expenses deducted under subsection (2) 15 from the total revenue collected must be deposited in 16 separate special revenue accounts.

17 (2) The administrative expenses deducted by the state, 18 a public agency, or a tribal government for collection of 19 revenue may not exceed the actual cost of collecting the 20 revenue on a reservation or 5%, whichever is less. Money from an administrative account may be expended only for the 21 22 purpose of administering the tax or fee imposed under the 23 state-tribal cooperative agreement or for paying the costs 24 incurred in terminating the agreement.

(3) Except for the administrative expenses amount

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25

deducted under subsection (2), the revenue collected under a
 state-tribal agreement must be deposited in a state special
 revenue account or a separate tribal account and must be
 disbursed as provided for in the agreement. <u>IF A PUBLIC</u>
 <u>AGENCY THAT IS A PARTY TO AN AGREEMENT IS A LOCAL</u>
 <u>GOVERNMENT, THE AGREEMENT MUST PROVIDE FOR THE DISPOSITION</u>
 OF REVENUE.

8 (4) Money deposited in a state administrative expenses 9 account and in a state special revenue account is 10 statutorily appropriated, as provided in 17-7-502, to the 11 department or public agency that is a party to a 12 state-tribal cooperative agreement under 18-11-103, for the 13 purpose of paying administrative expenses or paying to a 14 tribe its portion of the tax or fee.

15 (5) If a tax or license or permit fee is collected or 16 refunded pursuant to a state-tribal cooperative agreement, 17 each party must receive its share as provided in the 18 agreement, notwithstanding any contrary state statutory, 19 PUBLIC AGENCY ORDINANCE, or tribal ordinance distribution 20 formula. Por distribution of the remainder, the state 21 statutory, PUBLIC AGENCY, or tribal distribution formula 22 must apply as if the amount remaining after each party to 23 the agreement receives its share were the total revenue 24 collected from the tax or license or permit fee.

Section 5. Section 15-70-234, MCA, is amended to read:

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1 "15-70-234, Cooperative agreement -- allocation---of 2 motor fuels taxes to--tribel-governments. (1) In order to 3 prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian 4 reservations, the department of transportation and an Indian 5 6 tribe may enter into a cooperative agreement. The department 7 of transportation may, with the concurrence of the attorney general, include as a member of the negotiating team a 8 representative of the department of justice who 9 has 10 expertise in Indian matters. The department of 11 transportation shall report the status of cooperative 12 agreement negotiations to each meeting of the revenue 13 oversight committee. After negotiations are complete, the 14 agreement--must--be--presented--to--the--revenue---oversight 15 consittee--for--review-and-comment-before THE AGREEMENT MUST 16 BE PRESENTED TO THE REVENUE OVERSIGHT COMMITTEE FOR REVIEW 17 AND COMMENT BEFORE the final agreement is must be submitted to the attorney general for approval pursuant to 18-11-105. 18 19 The--agreement--must-provide-that-under-conditions-specified 20 in-this-sectiony-the-state-and-the-tribe-will--cooperate--to 21 collect--only--one--tax-that-is-at-the-same-level-as-the-tax 22 outside-the-boundaries-of-the-reservation-and-will-share-the 23 revenue-as-provided-in--this--section---The--agreement--must 24 provide--that-the-state-and-the-tribe-are-not-forfeiting-any 25 legal-rights-to-apply-their--respective--taxes--by--entering

1	intoanagreement;-except-as-specifically-set-forth-in-the
2	agreement
3	{2}The-agreement-may-provide-that-the-distributormay
4	not-be-required-to-pay-both-the-state-tax-and-the-tribal-tax
5	butshallpay-only-one-tax-to-the-state-in-an-amount-equal
6	to-the-tax-paid-on-gasoline-that-is-not-subject-to-atribal
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14	<pre>t4)Theagreement-may-provide-for-the-collection; use;</pre>
15	and-distribution-of-the-tax."
16	Section 6. Section 17-7-502, MCA, is amended to read:
17	"17-7-502. Statutory appropriations definition
18	requisites for validity. (1) A statutory appropriation is an
19	appropriation made by permanent law that authorizes spending
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22	(2) Except as provided in subsection (4), to be
23	effective, a statutory appropriation must comply with both
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25	(a) The law containing the statutory authority must be

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1 listed in subsection (3).

(b) The law or portion of the law making a statutory
appropriation must specifically state that a statutory
appropriation is made as provided in this section.

5 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 6 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 7 8 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117: Q 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 10 11 17-7-304; [section 4]; 19-5-404; 19-6-709; 19-8-504; 12 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 13 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 14 19-15-101; 20-4-109; 20-6-406; 20-8-111: 20-9-361; 15 20-26-1503; 22-3-811: 23-5-136; 23-5-306; 23-5-409; 16 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 17 37-43-204: 37-51-501: 39-71-2504: 44-12-206; 44-13-102; 18 53-6-150: 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 19 75-5-507: 75-5-1108: 75-11-313: 76-12-123; 77-1-808; 20 82-11-136; 82-11-161; 85-1-220; 80-2-103; 80-11-310; 21 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying,
and securing all bonds, notes, or other obligations, as due,
that have been authorized and issued pursuant to the laws of

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Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit;

10 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 11 22-3-811 terminates June 30, 1993.)*

 NEW SECTION.
 Section 7.
 Codification
 instruction.

 13
 [Sections 1 and 4] are intended to be codified as an
 integral part of Title 18, chapter 11, part 1, and the

 15
 provisions of Title 18, chapter 11, part 1, apply to
 [sections 1 and 4].

17 <u>NEW SECTION.</u> Section 8. Effective date -18 applicability. [This act] is effective July 1, 1993, and
19 applies to tex agreements entered into on or after July 1,
20 1993.

-End-

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SENATE STANDING COMMITTEE REPORT

Page 1 of 2 April 12, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 92 (third reading copy -- blue), respectfully report that House Bill No. 92 be amended as follows and as so amended be concurred in.

Signed: Chair

That such amendments read:

1. Title, lines 13 and 14. Following: "TAXATION" on line 13 Strike: the remainder of line 13 through "REGULATION" on line 14

2. Page 3, lines 22 and 23, Following: "the" on line 22 Strike: the remainder of line 22 through "agency" on line 23 Insert: "governor or the governor's designee"

3. Page 4, lines 3 and 4. Following: "<u>TAXATION</u>" on line 3 Strike: the remainder of line 3 through "REGULATION" on line 4

4. Page 4, lines 5 and 6. Strike: "ON" on line 5 through "<u>GOVERNMENT</u>" on line 6 Insert: "at a location agreed to by the tribal government that"

5. Page 4, lines 9 and 10. Following: "<u>PROPOSED</u>" on line 9 Strike: the remainder of line 9 through "<u>COMMUNITY</u>" on line 10 Insert: "AGREEMENT"

6. Page 6, line 12. Following: "bonding" Insert: ", if any,"

7. Page 6, line 14. Following: "expenses" Insert: ", if any,"

8. Page 6, line 21. Following: ";" Insert: "and"

9. Page 6, line 22 through page 7, line 4. Strike: subsections (f) and (g) in their entirety Renumber: subsequent subsection

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Following: "expenses" Insert: ", if any," 11. Page 7, line 17. Strike: "The administrative" Insert: "Administrative" 12. Page 7, line 25. Strike: "the" Strike: "amount" Insert: ", if any," 13. Page 8, line 1. Strike: "the" Following: "collected" Insert: "by a public agency" 14. Page 8, line 2. Strike: "a state" Insert: "separate" 15. Page 8, line 3. Strike: the first "account" Insert: "accounts"

Strike: "or a separate tribal account"

10. Page 7, line 14.

-END-

Page 2 of 2 April 12, 1993

1 HOUSE BILL NO. 92 2 INTRODUCED BY TUNBY BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND 3 THE REVENUE OVERSIGHT COMMITTEE 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING--PHAP 6 STATE-TRIBAL COOPERATIVE AGREEMENTS ACT; 7 AMENDING THE CLARIFYING THAT THE ACT INCLUDES AUTHORIZATION TO ASSESS AND 8 COLLECT OR REFUND & TAX OR LICENSE OR 9 PERMIT FEE: ESTABLISHING REQUIREMENTS FOR TAX ASSESSMENT AND COLLECTION 10 UNDER A STATE-TRIBAL TAX AGREEMENT; REQUIRING A PUBLIC 11 AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN 12 13 AGREEMENT ON TAXATION7--GAMBLENG7--PISH---AND---GAME7---OR ENVIRONMENTAL-REGULATION WITH A TRIBAL GOVERNMENT; PROVIDING 14 A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-70-234, 15 17-7-502, 18-11-103, AND 18-11-104, MCA; AND PROVIDING AN 16 EFFECTIVE DATE AND AN APPLICABILITY DATE." 17

18

19 WHEREAS, the Legislature finds it necessary to clarify 20 provisions of the State-Tribal Cooperative Agreements Act in 21 order to reduce the delays in implementing taxation 22 agreements entered into between the State of Montana and 23 Montana Indian Tribes; and

24 WHEREAS, clarifying provisions of the State-Tribal
 25 Cooperative Agreements Act will also reduce the need for

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duplicative language, which results in increased costs
 associated with publication of the Montana Code Annotated;
 and

4 WHEREAS, the Supreme Court, in <u>Oklahoma Tax Commission</u> 5 <u>v. Citizen Band Potawatomi Indian Tribe of Oklahoma</u>, 111 S. 6 Ct. 905 (1991), stated, among alternatives, that the state 7 and a tribe may adopt a "mutually satisfactory regime" for 8 collection of a tax but did not mandate that a state collect 9 the tax; and

10 WHEREAS, in effort an to promote а 11 government-to-government relationship between the State of Montana and Montana Indian Tribes and in recognition that 12 both the state and tribal governments must be trusted to act 13 14 responsibly, it is appropriate that the party designated to 15 collect taxes on an Indian reservation pursuant to any 16 agreement be subject to negotiation.

17 THEREFORE, the Legislature of the State of Montana finds 18 it appropriate to amend the State-Tribal Cooperative 19 Agreements Act to specifically include tax assessment and 20 collection or refund and to establish specific requirements 21 for tax assessment and collection or refund by the state, a 22 public agency, or a Montana Indian Tribe.

23

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

25 NEW SECTION. Section 1. Purpose. (1) It is the intent

-2- HB 92 REFERENCE BILL AS AMENDED of the legislature that this part be used to promote
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21 by the governing body of each party to the agreement. If a
22 state agency is a party to an agreement, the director-of-the
23 agency GOVERNOR OR THE GOVERNOR'S DESIGNEE is the governing
24 body.

25 (2)(3) The agreement shall must set forth fully the

1	powers, rights, obligations, and responsibilities of the
2	parties to the agreement.
3	(4) (A) PRIOR TO ENTERING INTO AN AGREEMENT ON
4	TAXATION7GAMBLING7PISHANDGAMB7ORBNVIRONMENTAL
5	REGULATION WITH A TRIBAL GOVERNMENT, A PUBLIC AGENCY SHALL
6	PROVIDE PUBLIC NOTICE AND HOLD A PUBLIC MEETING ON-THE
7	RESERVATION-WHOSE-GOVERNMENT AT A LOCATION AGREED TO BY THE
8	TRIBAL GOVERNMENT THAT IS A PARTY TO THE PROPOSED AGREEMENT
9	FOR THE PURPOSE OF RECEIVING COMMENTS FROM AND PROVIDING
10	WRITTEN AND OTHER INFORMATION TO INTERESTED PERSONS WITH
11	RESPECT TO THE PROPOSED AGREEMENT'S-EFFECT-ON-THE-COMMUNITY
12	AGREEMENT.
13	(B) AT LEAST 14 DAYS BUT NOT MORE THAN 30 DAYS PRIOR TO
14	THE DATE SCHEDULED FOR THE PUBLIC MEETING, A NOTICE OF THE
15	PROPOSED AGREEMENT AND PUBLIC MEETING MUST BE PUBLISHED IN A
16	NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES
17	IN WHICH THE RESERVATION IS LOCATED.
18	(C) AT THE TIME THE NOTICE OF THE MEETING IS PUBLISHED,
19	A SYNOPSIS OF THE PROPOSED AGREEMENT MUST BE MADE AVAILABLE
20	TO INTERESTED PERSONS."
21	Section 3. Section 18-11-104, MCA, is amended to read:
22	*18-11-104. Detailed contents of agreem ent. (1) The
23	agreement authorized by 18-11-103 shall must specify the
24	following:
25	<pre>tis duration;</pre>

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1	<pre>(b) the precise organization, composition, and</pre>	1
2	nature of any separate legal entity created thereby by the	2
3	agreement;	3
4	$+\frac{1}{2}$ the purpose of the agreement;	4
5	(d) the manner of financing the agreement and	5
6	establishing and maintaining a budget therefor for the	6
7	agreement;	7
8	<pre>f5t(e) the method to be employed in accomplishing the</pre>	8
9	partial or complete termination of the agreement and for	9
10	disposing of property upon such partial or complete	10
11	termination;	11
12	<pre>(f) provision for administering the agreement, which</pre>	12
13	may include creation of a joint board responsible for such	13
14	administration;	14
15	<pre>f7t(g) the manner of acquiring, holding, and disposing</pre>	15
16	of real and personal property used in the agreement; and	16
17	(h) other necessary and proper matters.	17
18	(0)(2) when If an agreement involves law enforcement.	18
19	<u>it must also include</u> :	19
20	(a) the minimum training standards and qualifications	20
21	of law enforcement personnel;	21
22	(b) the respective liability of each public agency and	22
23	tribal government for the actions of law enforcement	23
24	officers when acting under the provisions of an agreement;	24
25	(c) the minimum insurance required of both the public	25

agency and the tribal government; and
(d) the exact chain of command to be followed by law
enforcement officers acting under the provisions of an
agreement;-and.
(3) If an agreement involves the assessment and
collection or refund of a similar tax or license or permit
fee by the state or a public agency and a tribal government,
it must also include:
(a) the procedure for determining the amount of revenue
to be shared by the state or a public agency and the tribal
government;
(b) the administrative procedures for collection of the
shared revenue;
(c) the minimum insurance or bonding, IF ANY, required
by the state or a public agency or the tribal government;
(d) a statement specifying the administrative expenses,
IF ANY, to be deducted pursuant to [section 4] by the
collector of the tax or license or permit fee;
(e) a statement that the state or a public agency or
the tribal government collecting the tax or license or
permit fee is subject to an audit report by a mutually

- 22 agreed upon auditor of the revenue collected and
- 23 administrative expenses; AND
- 24 <u>ffj--a--statement--that-the-state-or-a-public-agency-and</u>

25 the-tribal-government-will-cooperate-to-collect-only-one-tax

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1	and-will-share-or-refund-the-revenueasspecifiedinthe
2	agreement;
3	(g)astatement-that-a-taxpayer-may-not-be-required-to
4	pay-both-the-state-tax-and-the-tribal-tax-but-shall-pay-only
5	one-tax-to-one-government-in-an-amountestablishedinthe
6	agreement;-and
7	<pre>fh+(F) a statement that the parties to the agreement</pre>
8	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	(9)any-other-necessary-and-proper-matters."
12	NEW SECTION. Section 4. Revenue account
13	administrative account distribution of revenue. (1) The
14	revenue collected by the state, a public agency, or a tribal
15	government under a state-tribal cooperative agreement and
16	the administrative expenses, IF ANY, deducted under
17	subsection (2) from the total revenue collected must be
18	deposited in separate special revenue accounts.
19	(2) The-administrative ADMINISTRATIVE expenses deducted
20	by the state, a public agency, or a tribal government for
21	collection of revenue may not exceed the actual cost of
22	collecting the revenue on a reservation or 5%, whichever is
23	less. Money from an administrative account may be expended
24	only for the purpose of administering the tax or fee imposed
25	under the state-tribal cooperative agreement or for paying

1 the costs incurred in terminating the agreement.

2 (3) Except for the administrative expenses amount, IF 3 ANY, deducted under subsection (2), the revenue collected BY A PUBLIC AGENCY under a state-tribal agreement must be 4 5 deposited in a--state SEPARATE special revenue account 6 ACCOUNTS or-a-separate-tribal-account and must be disbursed 7 as provided for in the agreement. IF A PUBLIC AGENCY THAT IS 8 A PARTY TO AN AGREEMENT IS A LOCAL GOVERNMENT, THE AGREEMENT 9 MUST PROVIDE FOR THE DISPOSITION OF REVENUE.

10 (4) Money deposited in a state administrative expenses 11 account and in a state special revenue account is 12 statutorily appropriated, as provided in 17-7-502, to the department or public agency that is a party to a 13 state-tribal cooperative agreement under 18-11-103, for the 14 purpose of paying administrative expenses or paying to a 15 16 tribe its portion of the tax or fee.

(5) If a tax or license or permit fee is collected or 17 18 refunded pursuant to a state-tribal cooperative agreement, 19 each party must receive its share as provided in the 20 agreement, notwithstanding any contrary state statutory, PUBLIC AGENCY ORDINANCE, or tribal ordinance distribution 21 22 formula. For distribution of the remainder, the state 23 statutory, PUBLIC AGENCY, or tribal distribution formula 24 must apply as if the amount remaining after each party to the agreement receives its share were the total revenue 25

1 collected from the tax or license or permit fee.

2 Section 5. Section 15-70-234, MCA, is amended to read: 3 "15-70-234. Cooperative agreement -- allocation---of 4 motor fuels taxes to--tribal-governments. (1) In order to 5 prevent the possibility of dual taxation of motor fuels 6 purchased by Montana citizens and businesses on Indian 7 reservations, the department of transportation and an Indian 8 tribe may enter into a cooperative agreement. The department 9 of transportation may, with the concurrence of the attorney 10 general, include as a member of the negotiating team a 11 representative of the department of justice who has 12 expertise in Indian matters. The department of 13 transportation shall report the status of cooperative 14 agreement negotiations to each meeting of the revenue oversight committee. After negotiations are complete, the 15 16 agreement--must--be--presented--to--the--revenue---oversight 17 committee--for--review-and-comment-before THE AGREEMENT MUST 18 BE PRESENTED TO THE REVENUE OVERSIGHT COMMITTEE FOR REVIEW AND COMMENT BEFORE the final agreement is must be submitted 19 to the attorney general for approval pursuant to 18-11-105. 20 21 The--agreement--must-provide-that-under-conditions-specified 22 in-this-sectiony-the-state-and-the-tribe-will--cooperate--to 23 collect--only--one--tax-that-is-at-the-same-level-as-the-tax 24 outside-the-boundaries-of-the-reservation-and-will-share-the 25 revenue-as-provided-in--this--section---The--agreement--must 1 provide--that-the-state-and-the-tribe-are-not-forfeiting-any 2 legal-rights-to-apply-their--respective--taxes--by--entering 3 into--an--agreementy-except-as-specifically-set-forth-in-the 4 agreement-

5 (2)--The-agreement-may-provide-that-the-distributor--may 6 not-be-required-to-pay-both-the-state-tax-and-the-tribal-tax 7 but--shall--pay-only-one-tax-to-the-state-in-an-amount-equal 8 to-the-tax-paid-on-gasoline-that-is-not-subject-to-a--tribal 9 tax-

10 (3)--The--agreement--may--provide--that--after-deducting 11 administrative-expenses-equal-to-5%-of-the-amount-determined 12 under-subsection-(2)-and-the-amounts-necessary-for--refunds7 13 the--department--of--transportation--shall7--on--a-quarterly 14 basis7--distribute--the--remaining--amount--to--the---tribal 15 government7

16 **(4)--The--agreement-may-provide**-for-the-collection;-use;

17 and-distribution-of-the-tax."

18 Section 6. Section 17-7-502, MCA, is amended to read:

19 "17-7-502. Statutory appropriations -- definition --20 requisites for validity. (1) A statutory appropriation is an 21 appropriation made by permanent law that authorizes spending 22 by a state agency without the need for a biennial 23 legislative appropriation or budget amendment.

24 (2) Except as provided in subsection (4), to be
25 effective, a statutory appropriation must comply with both

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1 of the following provisions:

2 (a) The law containing the statutory authority must be
3 listed in subsection (3).

4 (b) The law or portion of the law making a statutory
5 appropriation must specifically state that a statutory
6 appropriation is made as provided in this section.

7 (3) The following laws are the only laws containing 8 statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 9 **10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;** 10 **15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;** 11 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 12 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 13 17-7-304; [section 4]; 19-5-404; 19-6-709; 19-8-504; 14 **19-9-702; 19-9-1007; 19-10-205; 19-10-305;** 19-10-506; 15 **19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604;** 16 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 17 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409: 18 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 19 44-13-102; 20 53~6-150; 53-24-206; 61-5-121; 67-3-205: 75-1-1101; 75-5-507; 75-5-1108; 21 75-11-313; 76-12-123; 77-1-808: 22 80-11-310; 80-2-103; 82-11-136; 82-11-161; 85-1-220; 23 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

24 (4) There is a statutory appropriation to pay the
 25 principal, interest, premiums, and costs of issuing, paying,

and securing all bonds, notes, or other obligations, as due, 1 that have been authorized and issued pursuant to the laws of 2 Montana. Agencies that have entered into agreements 3 4 authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 5 17-2-107, as determined by the state treasurer, an amount 6 sufficient to pay the principal and interest as due on the 7 bonds or notes have statutory appropriation authority for 8 the payments. (In subsection (3): pursuant to sec. 7, Ch. 9 567. L. 1991, the inclusion of 19-6-709 terminates upon 10 death of last recipient eligible for supplemental benefit; 11 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 12 22-3-811 terminates June 30, 1993.)" 13

14NEW SECTION.Section 7. Codificationinstruction.15[Sections 1 and 4] are intended to be codified as an16integral part of Title 18, chapter 11, part 1, and the17provisions of Title 18, chapter 11, part 1, apply to18[sections 1 and 4].

<u>NEW SECTION.</u> Section 8. Effective date -applicability. [This act] is effective July 1, 1993, and
applies to tax agreements entered into on or after July 1,
1993.

-End-

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Conference Committee on House Bill 92 Report No.1, April 20, 1993

Page 1 of 2

For the House:

For the Senate:

Sen. Set

Mr. Speaker and Mr. President:

We, your Conference Committee on House Bill 92 met and considered:

1. Senate Taxation Committee amendments dated April 12, 1993

and recommend that House Bill 92 (reference copy -- salmon) be amended as follows:

1. Page 4, lines 7 and 8. Following: "GOVERNMENT" on line 7 Strike: remainder of line 7 through "THAT" on line 8 Insert: "on the reservation whose government"

2. Page 6, line 23. Following: "expenses;" Strike: "AND"

3. Page 7, line 7.

Following: line 6 Insert: (f) a statement that the state or a public agency and the tribal government will cooperate to collect only one tax and will share or refund the revenue as specified in the agreement;

(g) a statement that a taxpayer may not be required to pay both the state tax and the tribal tax but shall pay only one tax to one government in an amount established in the agreement; and " Renumber: subsequent subsection

Further, that this Conference Committee report be adopted.



April 20, 1993

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ADOPT

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 1
 HOUSE BILL NO. 92

 2
 INTRODUCED BY TUNBY

 3
 BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND

 4
 THE REVENUE OVERSIGHT COMMITTEE

 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIPYING--THAT 7 AMENDING THE STATE-TRIBAL COOPERATIVE AGREEMENTS ACT; 8 CLARIFYING THAT THE ACT INCLUDES AUTHORIZATION TO ASSESS AND COLLECT OR REFUND & TAX OR LICENSE OR 9 PERMIT FEE: 10 ESTABLISHING REQUIREMENTS FOR TAX ASSESSMENT AND COLLECTION 11 UNDER A STATE-TRIBAL TAX AGREEMENT; REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN 12 13 AGREEMENT ON TAXATION7--GAMBLING7--FISH---AND---GAME7---OR 14 ENVIRONMENTAL-REGULATION WITH A TRIBAL GOVERNMENT; PROVIDING 15 A STATUTORY APPROPRIATION: AMENDING SECTIONS 15-70-234, 17-7-502, 18-11-103, AND 18-11-104, MCA; AND PROVIDING AN 16 EFFECTIVE DATE AND AN APPLICABILITY DATE." 17

18

19 WHEREAS, the Legislature finds it necessary to clarify 20 provisions of the State-Tribal Cooperative Agreements Act in 21 order to reduce the delays in implementing taxation 22 agreements entered into between the State of Montana and 23 Montana Indian Tribes; and

24 WHEREAS, clarifying provisions of the State-Tribal
25 Cooperative Agreements Act will also reduce the need for

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duplicative language, which results in increased costs
 associated with publication of the Montana Code Annotated;
 and

4 WHEREAS, the Supreme Court, in <u>Oklahoma Tax Commission</u> 5 <u>v. Citizen Band Potawatomi Indian Tribe of Oklahoma</u>, 111 S. 6 Ct. 905 (1991), stated, among alternatives, that the state 7 and a tribe may adopt a "mutually satisfactory regime" for 8 collection of a tax but did not mandate that a state collect 9 the tax; and

10 WHEREAS, in effort an to promote а government-to-government relationship between the State of 11 12 Montana and Montana Indian Tribes and in recognition that 13 both the state and tribal governments must be trusted to act 14 responsibly, it is appropriate that the party designated to 15 collect taxes on an Indian reservation pursuant to any 16 agreement be subject to negotiation.

THEREFORE, the Legislature of the State of Montana finds it appropriate to amend the State-Tribal Cooperative Agreements Act to specifically include tax assessment and collection or refund and to establish specific requirements for tax assessment and collection or refund by the state, a public agency, or a Montana Indian Tribe.

23

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA;

25 <u>NEW SECTION.</u> Section 1. Purpose. (1) It is the intent

-2- HB 92 REFERENCE BILL: Includes Conference Committee report Dated <u>4-20.93</u>

of the legislature that this part be used to promote
 cooperation between the state or a public agency and a
 sovereign tribal government in mutually beneficial
 activities and services.

5 (2) It is the goal of the legislature to prevent the 6 possibility of dual taxation by governments while promoting 7 state, local, and tribal economic development.

8 Section 2. Section 18-11-103, MCA, is amended to read:
9 "18-11-103. Authorization to enter agreement -- general
10 contents. (1) Any one or more public agencies may enter into
11 an agreement with any one or more tribal governments to:
12 (a) perform any administrative service, activity, or

13 undertaking that $any-of-the \underline{a}$ public agencies <u>agency</u> or <u>a</u> 14 tribal governments <u>government</u> entering into the contract is 15 authorized by law to perform; and

(b) assess and collect or refund any tax or license or
permit fee lawfully imposed by the state or a public agency
and a tribal government and to share or refund the revenue
from the assessment and collection.

20 <u>(2)</u> The agreement shall must be authorized and approved 21 by the governing body of each party to the agreement. <u>If a</u> 22 <u>state agency is a party to an agreement, the director-of-the</u> 23 <u>agency GOVERNOR OR THE GOVERNOR'S DESIGNEE is the governing</u> 24 body.

25 f27(3) The agreement shall must set forth fully the

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1	powers, rights, obligations, and responsibilities of the
2	parties to the agreement.
3	(4) (A) PRIOR TO ENTERING INTO AN AGREEMENT ON
4	TAXATION7GAMBLING7FISHANDGAME7ORENVIRONMENTAL
5	REGULATION WITH A TRIBAL GOVERNMENT, A PUBLIC AGENCY SHALL
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7	RESERVATION-WHOSE-GOVERNMENT AT-A-LOCATION-AGREED-TO-BYTHE
8	TRIBALGOVERNMENTTHAT ON THE RESERVATION WHOSE GOVERNMENT
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1 (2)(b) the precise organization, composition, and nature of any separate legal entity created thereby by the agreement; 4 (3)(c) the purpose of the agreement; 5 (4)(d) the manner of financing the agreement and 6 establishing and maintaining a budget therefor for the 7 agreement; 8 (5)(e) the method to be employed in accomplishing the 9 partial or complete termination of the agreement and for 10 disposing of property upon such partial or complete 11 termination; 12 (6)(f) provision for administering the agreement, which
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18 t0;(2) when If an agreement involves law enforcement,
19 <u>it must also include</u> :
20 (a) the minimum training standards and qualifications
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23 tribal government for the actions of law enforcement
24 officers when acting under the provisions of an agreement;
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1	agency and the tribal government; and
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1 deposited in separate special revenue accounts.

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25 (5) If a tax or license or permit fee is collected or

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1 refunded pursuant to a state-tribal cooperative agreement. 2 each party must receive its share as provided in the 3 agreement, notwithstanding any contrary state statutory, PUBLIC AGENCY ORDINANCE, or tribal ordinance distribution ۸ 5 formula. For distribution of the remainder, the state statutory, PUBLIC AGENCY, or tribal distribution formula б 7 must apply as if the amount remaining after each party to 8 the agreement receives its share were the total revenue collected from the tax or license or permit fee. 9

10 Section 5. Section 15-70-234, MCA, is amended to read: 11 *15-70-234. Cooperative agreement -- allocation--of 12 motor fuels taxes to-tribal-covernments. (1) In order to 13 prevent the possibility of dual taxation of motor fuels 14 purchased by Montana citizens and businesses on Indian 15 reservations, the department of transportation and an Indian tribe may enter into a cooperative agreement. The department 16 17 of transportation may, with the concurrence of the attorney general, include as a member of the negotiating team a 18 19 representative of the department of justice who has 20 expertise in Indian matters. The department of 21 transportation shall report the status of cooperative 22 agreement negotiations to each meeting of the revenue 23 oversight committee. After negotiations are complete, the 24 agreement---must--be--presented--to--the--revenue--oversight 25 committee-for-review-and-comment-before THE AGREEMENT MUST

BE PRESENTED TO THE REVENUE OVERSIGHT COMMITTEE FOR REVIEW 1 2 AND COMMENT BEFORE the final agreement is must be submitted 3 to the attorney general for approval pursuant to 18-11-105, 4 The-agreement-must-provide-that-under--conditions--specified 5 in-this-sectiony-the-state-and-the-tribe-will-cooperate-to 6 collect-only-one-tax-that-is-at-the-same-level--as--the--tax 7 outside-the-boundaries-of-the-reservation-and-will-share-the 8 revenue--as--provided--in--this--section--The-agreement-must 9 provide-that-the-state-and-the-tribe-are-not-forfeiting--any 10 legal--rights--to--apply--their-respective-taxes-by-entering 11 into-an-agreementy-except-as-specifically-set-forth--in--the 12 agreement. 13 {2}--The--agreement-may-provide-that-the-distributor-may 14 not-be-required-to-pay-both-the-state-tax-and-the-tribal-tax 15 but-shall-pay-only-one-tax-to-the-state-in-an--amount--equal 16 to--the-tax-paid-on-qasoline-that-is-not-subject-to-a-tribal 17 taxt 18 +3+--The-agreement--may--provide--that--after--deducting 19 administrative-expenses-equal-to-5%-of-the-amount-determined under--subsection-(2)-and-the-amounts-necessary-for-refunds, 20 21 the-department--of--transportation--shally--on--a--quarterly 22 basis7---distribute--the--remaining--amount--to--the--tribai 23 government 24 (4)--The-agreement-may-provide-for-the-collection--user 25 and-distribution-of-the-tax-"

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Section 6. Section 17-7-502, MCA, is amended to read: "17-7-502. Statutory appropriations -- definition --requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

7 (2) Except as provided in subsection (4), to be
8 effective, a statutory appropriation must comply with both
9 of the following provisions:

10 (a) The law containing the statutory authority must be 11 listed in subsection (3).

12 (b) The law or portion of the law making a statutory
13 appropriation must specifically state that a statutory
14 appropriation is made as provided in this section.

15 (3) The following laws are the only laws containing 16 statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 17 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;18 15-23-706; 15-25-123: 15-31-702; 15-36-112; 15-37-117; 19 15-65-121: 15-70-101; 16-1-404: 16-1-410: 16~1-411: 20 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 21 17-7-304; [section 4]; 19-5-404; 19-6-709; 19-8-504; 22 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 23 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 24 19-15-101; 20-4-109: 20-6-406; 20-8-111; 20-9-361; 25 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409: 1 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204: 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 2 53-6-150; 3 53-24-206: 61-5-121; 67-3-205; 75-1-1101; 75-5-507: 75-5-1108; 76-12-123; 4 75-11-313: 77-1-808; 80-2-103: 5 80-11-310; 82-11-136; 85-1-220; 82-11-161; 6 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

7 (4) There is a statutory appropriation to pay the 8 principal, interest, premiums, and costs of issuing, paying, 9 and securing all bonds, notes, or other obligations, as due, 10 that have been authorized and issued pursuant to the laws of 11 Montana. Agencies that have entered into agreements 12 authorized by the laws of Montana to pay the state 13 treasurer, for deposit in accordance with 17-2-101 through 14 17-2-107, as determined by the state treasurer, an amount 15 sufficient to pay the principal and interest as due on the 16 bonds or notes have statutory appropriation authority for 17 the payments. (In subsection (3): pursuant to sec. 7, Ch. 18 567, L. 1991, the inclusion of 19-6-709 terminates upon 19 death of last recipient eligible for supplemental benefit; 20 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 21 22-3-811 terminates June 30, 1993.)"

NEW SECTION. Section 7. Codification instruction.
(Sections 1 and 4) are intended to be codified as an
integral part of Title 18, chapter 11, part 1, and the
provisions of Title 18, chapter 11, part 1, apply to

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1 [sections 1 and 4].

2 <u>NEW SECTION.</u> Section 8. Effective date --3 applicability. [This act] is effective July 1, 1993, and 4 applies to tax agreements entered into on or after July 1, 5 1993.

-End-