

SENATE BILL 107

Introduced by Gage

1/08	Introduced
1/08	Referred to Taxation
1/11	Rereferred to Rules
1/11	Tabled in Committee

Senate BILL NO. 107

INTRODUCED BY [Signature]

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE NEGOTIATION OF A COOPERATIVE AGREEMENT FOR THE COLLECTION AND DISTRIBUTION OF ALCOHOLIC BEVERAGES TAXES TO A TRIBAL GOVERNMENT THAT IMPOSES AN ALCOHOLIC BEVERAGES TAX AT AN IDENTICAL RATE TO THE STATE RATE; AUTHORIZING AN AGREEMENT TO PROVIDE FOR THE COLLECTION AND DISTRIBUTION OF REVENUE; PROVIDING FOR A STATUTORY APPROPRIATION OF ALCOHOLIC BEVERAGES TAXES; AMENDING SECTION 17-7-502, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Cooperative agreement -- collection and allocation of alcoholic beverages taxes to a tribal government. (1) In order to prevent the possibility of dual taxation of alcoholic beverages distributed or purchased by Montana citizens and businesses on an Indian reservation, the department and an Indian tribal government that has provided for the introduction of alcoholic beverages onto the reservation by applicable federal law may enter into a cooperative agreement.

- (2) The agreement must provide that:
 - (a) the state and the tribal government will cooperate to:
 - (i) assess and collect taxes imposed on alcoholic beverages or distributors of alcoholic beverages by the tribal government and the state; and
 - (ii) share the revenue from the assessment and collection;
 - (b) a taxpayer may not be required to pay both the state tax and the tribal tax but shall pay only one tax in an amount equal to the state tax on alcoholic beverages;
 - (c) the state and the tribe do not forfeit any legal rights to apply their respective taxes except as specifically set forth in the agreement; and
 - (d) the state is designated as the agent for collection of the tribal tax.
 - (3) The agreement may provide for the deduction of administrative expenses not to exceed 5% of the total revenue collected.
 - (4) The agreement must be submitted to the attorney general for review in accordance with 18-11-105.
- NEW SECTION. Section 2. Tribal alcoholic beverages tax administrative account. (1) There is a special revenue account called the tribal alcoholic beverages tax administrative account.

1 (2) The administrative expenses deducted by the
2 department under {section 1(3)} must be deposited in the
3 account and may be used only for the purpose of
4 administering the tax imposed under the cooperative
5 agreement entered into pursuant to {section 1}.

6 (3) Money in the account is statutorily appropriated,
7 as provided in 17-7-502, to the department.

8 **NEW SECTION. Section 3. Tribal alcoholic beverages tax**
9 **account.** (1) There is a special revenue account called the
10 tribal alcoholic beverages tax account.

11 (2) Except for the administrative expenses deducted
12 under {section 1(3)}, the tribal tax collected for the
13 benefit of the tribal government under [section 1] must be
14 deposited in the account and must be distributed to the
15 tribe as provided in the cooperative agreement entered into
16 pursuant to [section 1].

17 (3) Money in the account is statutorily appropriated,
18 as provided in 17-7-502, to the department.

19 **Section 4.** Section 17-7-502, MCA, is amended to read:

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

25 (2) Except as provided in subsection (4), to be

1 effective, a statutory appropriation must comply with both
2 of the following provisions:

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

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

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

25 (4) There is a statutory appropriation to pay the

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

15 NEW SECTION. Section 5. Coordination instruction. If
 16 _____ Bill No. _____ [LC 145] is passed and approved and if
 17 it includes a section amending the State-Tribal Cooperative
 18 Agreements Act to specifically include the assessment and
 19 collection of a tax lawfully imposed by a tribal government
 20 and specifies the requirements for an agreement to share
 21 revenue between the state or a public agency and a Montana
 22 Indian tribe, then [this act] is void.

23 NEW SECTION. Section 6. Codification instruction.
 24 [Sections 1 through 3] are intended to be codified as an
 25 integral part of Title 16, chapter 1, part 1, and the

1 provisions of Title 16, chapter 1, part 1, apply to
 2 [sections 1 through 3].

3 NEW SECTION. Section 7. Retroactive applicability.
 4 [This act] applies retroactively, within the meaning of
 5 1-2-109, to tax years beginning after December 31, 1992.

6 NEW SECTION. Section 8. Effective date. [This act] is
 7 effective on passage and approval.

-End-