

HOUSE BILL NO. 650

INTRODUCED BY J. READ, J. FITZPATRICK, L. HELLEGAARD

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING DESIGNATED STATE AGENCIES TO SUBMIT REPORTS TO THE OFFICE OF BUDGET AND PROGRAM PLANNING ON INFORMATION RELATED TO FINANCIAL ASSISTANCE PROVIDED TO TRIBAL ENTITIES; REQUIRING THE OFFICE OF BUDGET AND PROGRAM PLANNING TO COMPILE A REPORT ON FINANCIAL ASSISTANCE PROVIDED BY DESIGNATED STATE AGENCIES DIRECTLY OR INDIRECTLY TO TRIBAL ENTITIES AND SUBMIT THE REPORT IN AN ELECTRONIC FORMAT TO THE STATE-TRIBAL RELATIONS COMMITTEE AND THE OFFICE OF STATE DIRECTOR OF INDIAN AFFAIRS; REQUIRING THE REPORT COMPILED BY THE OFFICE OF BUDGET AND PROGRAM PLANNING TO BE POSTED ON THE WEBSITE OF THE OFFICE OF STATE DIRECTOR OF INDIAN AFFAIRS; ESTABLISHING REPORTING REQUIREMENTS; ALLOWING THE DEPARTMENT OF ADMINISTRATION TO AUDIT USE OF STATE FUNDS BY TRIBAL ENTITIES; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, Article V, section 5(5) of the Montana Constitution provides: "No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state"; and

WHEREAS, the United States Congress passed the Indian Reorganization Act of 1935, which was an act to conserve and develop Indian lands and resources, to extend to Indians the right to form business and other organizations, to establish a credit system for Indians, to grant certain rights of home rule to Indians, to provide for vocational education for Indians, and for other purposes; and

WHEREAS, to ensure compliance with Article V, section 5(5), of the Montana Constitution, audits of tribal entities should be conducted on an as-needed basis.

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], unless the context clearly

1 indicates otherwise, the following definitions apply:

2 (1) (a) "Designated state agency" means:

3 (i) the department of administration;

4 (ii) the department of agriculture;

5 (iii) the arts council;

6 (iv) the office of the state auditor;

7 (v) the board of regents;

8 (vi) the department of commerce;

9 (vii) the department of corrections;

10 (viii) the department of environmental quality;

11 (ix) the department of fish, wildlife, and parks;

12 (x) the governor's office;

13 (xi) the department of labor and industry;

14 (xii) the department of livestock;

15 (xiii) the department of military affairs;

16 (xiv) the Montana board of crime control;

17 (xv) the department of natural resources and conservation;

18 (xvi) the commissioner of political practices;

19 (xvii) the office of state public defender;

20 (xviii) the board of public education;

21 (xix) the department of public health and human services;

22 (xx) the office of public instruction;

23 (xxi) the public service commission;

24 (xxii) the department of revenue;

25 (xxiii) the school for the deaf and blind;

26 (xxiv) the office of the secretary of state;

27 (xxv) the state fund;

28 (xxvi) the state library;

1 (xxvii) the department of transportation;

2 (xxviii) the office of the commissioner of higher education; or

3 (xxix) the department of justice;

4 (b) The term does not include the judicial branch, the legislative branch, or an office or other entity  
5 within the judicial branch or the legislative branch.

6 (2) (a) "Financial assistance" means assistance provided directly or indirectly to a tribal entity  
7 either as state funds or as federal funds provided through a state agency to carry out a program. Financial  
8 assistance may be in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property,  
9 interest subsidies, insurance, direct appropriations, or other noncash assistance. Financial assistance includes  
10 awards received directly or indirectly by a tribal entity either as state funds or as federal funds passed through a  
11 state agency directly or indirectly from a subrecipient. The granting agency is responsible for identifying the  
12 source of funds awarded to tribal entity recipients.

13 (b) The term does not include federal, state, or local government cash assistance provided directly  
14 to individuals.

15 (3) "Subrecipient" means a third party who receives state funds or federal funds through a state  
16 agency that the third party ultimately provides to a tribal entity in the form of financial assistance.

17 (4) "Tribal entity" means a tribal nation, tribal council, or tribal government located in the state of  
18 Montana.

19

20 **NEW SECTION. Section 2. Funding for tribal entities -- reporting.** (1) Following the close of each  
21 fiscal year, a designated state agency shall prepare a report that identifies all financial assistance distributed by  
22 the designated state agency directly or indirectly to a tribal entity in the previous fiscal year.

23 (2) The report must provide the following information:

24 (a) the amount distributed directly to a tribal entity;

25 (b) the amount distributed to a subrecipient that was ultimately distributed to a tribal entity;

26 (c) the date the amount was distributed to a tribal entity or subrecipient;

27 (d) the tribal entity receiving the financial assistance;

28 (e) the Catalog of Federal Domestic Assistance reference number, if applicable;

1 (f) the purpose of the distribution; and

2 (g) the amount of any management or administrative costs or fees assessed or charged by the  
3 designated state agency for distributing the financial assistance.

4 (2) A designated state agency that prepares a report in accordance with subsection (1) shall  
5 submit the report to the office of budget and program planning on or before August 1 of each year.

6 (3) The office of budget and program planning shall prepare an annual report that compiles and  
7 summarizes the reports that the office of budget and program planning receives in accordance with subsection  
8 (2).

9 (4) The office of budget and program planning shall submit the report required by subsection (3) to  
10 the state-tribal relations interim committee in accordance with 5-11-210 and to the office of the state director of  
11 Indian affairs on or before September 1 of each year. The report must be submitted in an electronic format.

12 (5) The report required by subsection (3) must be posted on the website of the office of state  
13 director of Indian affairs.

14  
15 **NEW SECTION. Section 3. Audit of funds to tribal entities.** (1) The department of administration  
16 through the local government services division may audit state grants received by a tribal entity that are not  
17 otherwise subject to audit.

18 (2) The department may conduct the audit at its discretion or if requested by a tribal member.

19  
20 **NEW SECTION. Section 4. Notification to tribal governments.** The secretary of state shall send a  
21 copy of [this act] to each federally recognized tribal government in Montana.

22  
23 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be  
24 codified as an integral part of Title 17, chapter 1, part 7, and the provisions of Title 17, chapter 1, part 7, apply  
25 to [sections 1 through 3].

26  
27 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

28 - END -