

HOUSE BILL NO. 193

INTRODUCED BY AUGARE, STEWART-PEREGOY, JUNEAU, BELCOURT, BOSS RIBS, CAMPBELL,
FRENCH, PEASE-LOPEZ, ROUNDSTONE, WINDY BOY

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE NAME OF THE STATE COORDINATOR OF INDIAN AFFAIRS TO STATE DIRECTOR OF INDIAN AFFAIRS; AMENDING SECTIONS 2-15-102, 2-15-149, 2-15-217, 2-15-225, 2-15-1205, 22-2-602, 90-1-104, 90-1-131, 90-1-132, 90-1-133, 90-11-101, AND 90-11-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

SECTION 1. SECTION 2-15-102, MCA, IS AMENDED TO READ:

"2-15-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Advisory capacity" means furnishing advice, gathering information, making recommendations, and performing other activities that may be necessary to comply with federal funding requirements and does not mean administering a program or function or setting policy.

(2) "Agency" means an office, position, commission, committee, board, department, council, division, bureau, section, or any other entity or instrumentality of the executive branch of state government.

(3) "Data" means any information stored on information technology resources.

(4) "Department" means a principal functional and administrative entity that:

(a) is created by this chapter within the executive branch of state government;

(b) is one of the 20 principal departments permitted under the constitution; and

(c) includes its units.

(5) "Department head" means a director, commission, board, commissioner, or constitutional officer in charge of a department created by this chapter.

(6) (a) "Director" means a department head specifically referred to as a director in this chapter and does not mean a commission, board, commissioner, or constitutional officer.

(b) The term does not include the state director of Indian affairs provided for in 2-15-217.

(7) "Executive branch" means the executive branch of state government referred to in Article III, section 1, and Article VI of the Montana constitution.

(8) "Function" means a duty, power, or program, exercised by or assigned to an agency, whether or not

specifically provided for by law.

(9) "Information technology resources" means hardware, software, and associated services and infrastructure used to store or transmit information in any form, including voice, video, and electronic data.

(10) "Quasi-judicial function" means an adjudicatory function exercised by an agency, involving the exercise of judgment and discretion in making determinations in controversies. The term includes but is not limited to the functions of:

- (a) interpreting, applying, and enforcing existing rules and laws;
- (b) granting or denying privileges, rights, or benefits;
- (c) issuing, suspending, or revoking licenses, permits, and certificates;
- (d) determining rights and interests of adverse parties;
- (e) evaluating and passing on facts;
- (f) awarding compensation;
- (g) fixing prices;
- (h) ordering action or abatement of action;
- (i) adopting procedural rules;
- (j) holding hearings; and
- (k) any other act necessary to the performance of a quasi-judicial function.

(11) "Quasi-legislative function" generally means making or having the power to make rules or set rates and all other acts connected with or essential to the proper exercise of a quasi-legislative function.

(12) "Unit" means an internal subdivision of an agency, created by law or by administrative action, including a division, bureau, section, or department, and an agency allocated to a department for administrative purposes only by this chapter."

Section 2. Section 2-15-149, MCA, is amended to read:

"2-15-149. Naming of sites and geographic features -- replacement of word "squaw" -- advisory group. (1) The ~~coordinator~~ state director of Indian affairs shall appoint an advisory group that will serve on a volunteer basis to consult with local agencies, organizations, and individuals in developing names to replace present site or geographic names that contain the word "squaw".

(2) Each agency of state government that owns or manages public land in the state shall identify any features or places under its jurisdiction that contain the word "squaw" and inform the advisory group of the agency's identification of features or places containing that word. The agency shall ensure that whenever the

agency updates a map or replaces a sign, interpretive marker, or any other marker because of wear or vandalism, the word "squaw" is removed and replaced with the name chosen by the advisory group.

(3) The advisory group shall:

(a) notify the U.S. forest service, the Montana departments of commerce and natural resources and conservation, and any other entity that compiles information for and develops maps for the state or for public use of the name change so that it may be reflected on subsequent editions of any maps or informational literature produced by those entities; and

(b) place a formal request with the United States board on geographic names to render a decision on the proposed name change so that the new name will be reflected on all United States board on geographic names maps."

Section 3. Section 2-15-217, MCA, is amended to read:

"2-15-217. Office of state ~~coordinator~~ director of Indian affairs. (1) There is an office of state ~~coordinator~~ director of Indian affairs. The office is allocated to the governor's office for administrative purposes only as prescribed in 2-15-121.

(2) The ~~coordinator~~ state director must be appointed by the governor from a list of five qualified Indian applicants agreed upon by the tribal councils of the respective Indian tribes of the state. The ~~coordinator~~ STATE director shall serve at the pleasure of the governor.

(3) Except as provided in subsection (4), the qualifications for applicants must include but are not limited to:

- (a) a bachelor's degree in a relevant public policy field, as determined by the governor;
- (b) not less than 3 years experience in a professional administrative capacity; and
- (c) demonstrated skills in conducting policy research and obtaining grant funds from federal, state, or private sector sources.

(4) The governor may appoint an applicant agreed upon by the tribal councils as provided in subsection (2) whose skills and experience are commensurate with the qualifications set forth in subsection (3)."

Section 4. Section 2-15-225, MCA, is amended to read:

"2-15-225. Interagency coordinating council for state prevention programs. (1) There is an interagency coordinating council for state prevention programs consisting of the following members:

- (a) the attorney general provided for in 2-15-501;

- (b) the director of the department of public health and human services provided for in 2-15-2201;
- (c) the superintendent of public instruction provided for in 2-15-701;
- (d) the presiding officer of the Montana children's trust fund board;
- (e) two persons appointed by the governor who have experiences related to the private or nonprofit provision of prevention programs and services;
- (f) the administrator of the board of crime control provided for in 2-15-2006;
- (g) the commissioner of labor and industry provided for in 2-15-1701;
- (h) the director of the department of corrections provided for in 2-15-2301;
- (i) the state ~~coordinator~~ director of Indian affairs provided for in 2-15-217;
- (j) the adjutant general of the department of military affairs provided for in 2-15-1202;
- (k) the director of the department of transportation provided for in 2-15-2501;
- (l) the commissioner of higher education provided for in 2-15-1506; and
- (m) the designated representative of a state agency desiring to participate who is accepted as a member by a majority of the current coordinating council members.

(2) The coordinating council shall perform the following duties:

- (a) develop, through interagency planning efforts, a comprehensive and coordinated prevention program delivery system that will strengthen the healthy development, well-being, and safety of children, families, individuals, and communities;
- (b) develop appropriate interagency prevention programs and services that address the problems of at-risk children and families and that can be provided in a flexible manner to meet the needs of those children and families;
- (c) study various financing options for prevention programs and services;
- (d) ensure that a balanced and comprehensive range of prevention services is available to children and families with specific or multiagency needs;
- (e) assist in development of cooperative partnerships among state agencies and community-based public and private providers of prevention programs; and
- (f) develop, maintain, and implement benchmarks for state prevention programs. As used in this subsection, "benchmark" means a specified reference point in the future that is used to measure the state of affairs at that point in time and to determine progress toward or the attainment of an ultimate goal, which is an outcome reflecting the desired state of affairs.

(3) The coordinating council shall cooperate with and report to any standing or interim legislative

committee that is assigned to study the policies and funding for prevention programs or other state programs and policies related to children and families.

(4) The coordinating council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.

(5) The coordinating council is attached for administrative purposes only to the governor's office, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.

(6) Staffing and other resources may be provided to the coordinating council only from state and nonstate resources donated to the council and from direct appropriations by each legislature."

Section 5. Section 2-15-1205, MCA, is amended to read:

"2-15-1205. Board of veterans' affairs -- composition -- quorum -- voting -- compensation -- allocation. (1) There is a board of veterans' affairs.

(2) (a) The board consists of 20 members. All members must be residents of this state. Eleven members are voting members, who must be confirmed by the senate, and nine members are nonvoting, ex officio members.

(b) The governor shall appoint 19 members in a manner that provides for staggered terms. The members are:

(i) five regional representatives, who must be voting members and who must have been honorably discharged from service in the military forces of the United States. Each must be appointed to represent a different geographic region of the state and must be a resident of that geographic region. The board shall establish the geographic regions by rule. A member who represents a geographic region and who changes residence to a different geographic region may no longer serve on the board unless appointed as a representative for the new location or as a representative meeting other criteria.

(ii) one honorably discharged veteran, who must be a voting member and serve as a representative of veterans at large;

(iii) one tribal member, who must be an honorably discharged veteran and who is a voting member;

(iv) three members who must have training, education, or experience related to veterans' issues, including but not limited to health and medical care, mental health care, chemical or drug dependency, homelessness, or job training and placement. These three members are voting members.

(v) a representative of the office of state ~~coordinator~~ director of Indian affairs, who is a nonvoting member;

(vi) a representative from the department of public health and human services, who is a nonvoting member;

(vii) a representative of the United States department of veterans affairs, who is a nonvoting member;

(viii) a representative of the veterans' employment and training service office in the United States department of labor, who is a nonvoting member;

(ix) a representative of the state administration and veterans' affairs interim committee, who is a nonvoting member;

(x) three members, one representing each house and senate member of Montana's congressional delegation, who are nonvoting members; and

(xi) the director of the department of military affairs, who is a nonvoting member.

(c) The tribal leaders of the eight tribal councils in Montana may appoint one voting member who is affiliated with a Montana tribe and is an honorably discharged veteran. If a tribal member is not appointed by the Montana tribal leaders, the governor shall choose this member by lot from a pool of names submitted by the eight tribal councils in the state, with each tribal council submitting one name.

(3) A vacancy occurring on the board must be filled by the governor, subject to the conditions of subsection (2).

(4) A quorum is six voting members.

(5) A vote resulting in a tie is the same as a negative vote.

(6) Each voting member must receive meals, lodging, and travel expenses as provided for in 2-18-501 through 2-18-503. Compensation for the legislator who represents the state administration and veterans' affairs interim committee must be paid from the board of veterans' affairs budget.

(7) The board shall meet at least three times a year. Special meetings may be called by the administrator or by a majority of voting members. Meetings may be held at different locations around the state to give local veterans an opportunity to attend. Advance notice of meetings must be provided to all veterans' groups and to any individual who requests notification.

(8) Each voting member may serve for a maximum of two terms. Each term is for 4 years.

(9) A member may be removed by the governor only for incompetence, malfeasance, or neglect of duty.

(10) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, including an administrator. The administrator shall serve as the secretary of the board and may represent the board in communications with the governor and with other state agencies, notwithstanding the provisions of 2-15-121(3)(a)."

Section 6. Section 22-2-602, MCA, is amended to read:

"22-2-602. Advisory committee -- composition -- duties. (1) To coordinate the project provided for in 22-2-601, the governor shall appoint an advisory committee composed of the following 11 members:

(a) a representative from the Montana arts council;

(b) a representative from each of the state's seven Indian reservations;

(c) a representative from the architecture and engineering division of the department of administration;

(d) the ~~governor's state coordinator~~ director of Indian affairs or the ~~coordinator's~~ STATE director's designee; and

(e) a representative of the Montana historical society.

(2) The advisory committee shall review the proposals submitted in the design competition for the monument and flag circle and select an appropriate design.

(3) The advisory committee shall make recommendations to the department of administration for an appropriate site for the monument and the flag circle on the grounds of the capitol complex. The monument and flag circle may be located separately on the grounds.

(4) The advisory committee shall solicit and accept private contributions to finance the monument and the placement of the monument and the flag circle on the grounds of the capitol complex."

Section 7. Section 90-1-104, MCA, is amended to read:

"90-1-104. Functions of department of commerce -- recreational development. The department of commerce shall:

(1) exercise state responsibility for that part of recreational planning and development that is directly related to private investment in recreational facilities;

(2) assemble and correlate information that may influence the development of recreational enterprises and disseminate it to persons, firms, or corporations interested in constructing or maintaining recreational facilities open to the public; and

(3) coordinate the promotion of Indian tourism activities in the state in cooperation with the seven tribal governments and the ~~coordinator~~ state director of Indian affairs."

Section 8. Section 90-1-131, MCA, is amended to read:

"90-1-131. State-tribal economic development commission -- composition -- compensation for members. (1) There is a state-tribal economic development commission administratively attached to the

department of commerce as prescribed in 2-15-121.

(2) The commission is composed of 11 members, each appointed by the governor to 3-year staggered terms commencing on July 1 of each year of appointment, and must include:

- (a) the state ~~coordinator~~ director of Indian affairs;
- (b) one member from the department of commerce;
- (c) one member from the governor's office of economic development;

(d) one member from each of the seven federally recognized tribes in Montana and one member from the Little Shell band of Chippewa Indians. A tribal government may advertise for individuals interested in serving on the commission and develop a list of applicants from which it may choose its nominee to recommend to the governor. In place of choosing from a list of applicants, a tribal government may select an elected tribal official to recommend for membership on the commission. If a tribal government nominates or otherwise recommends more than one person for membership on the commission, the governor shall select one individual from among those recommended persons.

(3) The members of the commission shall elect a presiding officer from among the members.

(4) Six members of the commission constitute a quorum, and the affirmative vote of the majority of the members present is sufficient for any action taken by the commission.

(5) Any vacancy on the commission must be filled in the same manner as the original appointment.

(6) Each member of the commission is entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503."

Section 9. Section 90-1-132, MCA, is amended to read:

"90-1-132. Commission purposes -- duties and responsibilities. (1) The general purposes of the state-tribal economic development commission include:

(a) assisting, promoting, encouraging, developing, and advancing economic prosperity and employment on Indian reservations in Montana by fostering the expansion of business, manufacturing, tourism, agriculture, and community development programs;

(b) cooperating and acting in conjunction with other organizations, public and private, to benefit tribal communities;

(c) recruiting business enterprises to locate on or invest in enterprises on the reservations; and

(d) identifying, obtaining, and coordinating federal, state, and private sector gifts, grants, loans, and donations to further economic development on the Indian reservations in Montana.

(2) The state-tribal economic development commission shall:

(a) determine, with assistance from the tribal business center coordinator and the federal grants coordinator in the office of the state director of Indian affairs ~~coordinator~~, the availability of federal, state, and private sector gifts, grants, loans, and donations to tribal governments, Indian business enterprises, and communities located on Indian reservations in Montana;

(b) apply for grants listed in the Catalog of Federal Domestic Assistance for which the commission is eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian reservations in Montana;

(c) in cooperation with a tribal government, and when allowed by federal law and regulation, assist the tribe in applying for grants listed in the Catalog of Federal Domestic Assistance for which an appropriate tribal entity is eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian reservations in Montana;

(d) evaluate the apportionment of current spending of federal funds by state agencies in areas including but not limited to economic development, housing, community infrastructure, business finance, tourism promotion, transportation, and agriculture;

(e) conduct or commission and oversee a comprehensive assessment of the economic development needs and priorities of each Indian reservation in the state;

(f) notify tribal governments, the governor, the state director of Indian affairs ~~coordinator~~, and the directors of the departments of commerce, agriculture, and transportation, of the availability of specific federal, state, or private sector funding programs or opportunities that would directly benefit Indian communities in Montana;

(g) assist tribal governments and other tribal entities that are eligible for federal assistance programs as provided in the most recent published edition in the Catalog of Federal Domestic Assistance in applying for funds that would contribute to the respective tribes' economic development;

(h) work cooperatively with tribal government officials, the state ~~coordinator~~ director of Indian affairs, and other appropriate state officials to help foster state-tribal cooperative agreements pursuant to Title 18, chapter 11, part 1, that will:

(i) enhance economic development on the Indian reservations in Montana; and

(ii) help the department of commerce to fully implement and comply with the provisions of 90-1-105; and

(i) provide to the governor, the legislative council, the legislative auditor, and to each of the presiding officers of the tribal governments in Montana a biennial report that summarizes the activities of the commission."

Section 10. Section 90-1-133, MCA, is amended to read:

"90-1-133. Comprehensive assessment on reservations. (1) The state-tribal economic development commission shall conduct an accurate, comprehensive, detailed, and objective assessment of economic conditions on each of the Indian reservations in the state. In addition to an initial assessment, the commission may also require periodic updates of the data and analysis contained in the assessment, mainly for the purpose of monitoring progress toward goals and objectives set forth by the commission.

(2) The commission, the ~~coordinator~~ state director of Indian affairs, or the governor may issue a request for proposals and, on the basis of a competitive bidding process, select a qualified researcher or research team from the private sector or a college or university to conduct the assessment and report findings and conclusions to the commission.

(3) If the commission has adequate financial resources, the commission may, at its discretion, conduct or commission subsequent followup studies or assessments to obtain updated information.

(4) An assessment of economic conditions on the Indian reservations in Montana must include the consideration of multiple dimensions of economic development, including reservation demographics, economic development strengths and weaknesses, salient factors relating to economic development, natural resources, conditions in the natural environment, human resources, financial resources, business assistance programs, job training programs, education curriculum, the availability of technical training and assistance, and relevant tribal, state, and federal policies."

Section 11. Section 90-11-101, MCA, is amended to read:

"90-11-101. Legislative policy. The legislature finds and declares that:

(1) a considerable portion of the citizens of the state of Montana are American Indians;

(2) since statehood, Indian citizens of the state of Montana have lived on reservations set apart for those purposes by the United States of America, and by virtue of their isolation and supervision by the federal government, great problems of economic and social significance have arisen and presently exist;

(3) the best interests of Montana Indian tribes will be served by engaging in government-to-government relationships designed to recognize the rights, duties, and privileges of full citizenship that Indians are entitled to as citizens of this state;

(4) because the tribes are domestic dependent nations, agencies of the federal government retain jurisdiction and a fiduciary duty throughout the state of Montana for the administration of economic, social, health, education, and welfare programs for Indians;

(5) unique differences exist between the tribes, their reservations, customs, and treaties, and their respective relationships with the federal government, all of which influence the relationships among tribes and between the tribes and the state;

(6) there are sizeable numbers of off-reservation enrolled and unenrolled Indians residing in our state whose needs for social, environmental, educational, and economic assistance are borne in part by state and local agencies;

(7) programs of the state of Montana should not duplicate those supported by agencies of the federal government or tribal governments with regard to jurisdiction of Indian people, because state responsibility includes off-reservation Indians and because those Indians require assistance to coordinate their affairs with various tribal groups and federal agencies where they have no official recognition;

(8) the state and the tribes working together in a government-to-government relationship and engaging in compacts and other cooperative agreements for the benefit of Indian and non-Indian residents will promote economic development, environmental protection, education, social services support, and enduring good will;

(9) to facilitate the discussion and resolution of issues and concerns that Indian tribes have in relation to the state, the federal government, and among themselves, the ~~coordinator~~ state director of Indian affairs shall:

(a) maintain effective tribal-state communications;

(b) assess tribal and individual Indian concerns and interests to seek ways and means of communicating these concerns and interests to relevant state agencies and to the legislature and actively assist in organizing these efforts; and

(c) act as a liaison for tribes and Indian people, whether the Indian people reside on or off reservations, whenever assistance is required;

(10) the ~~coordinator~~ state director of Indian affairs shall endeavor to assist tribes to seek agreements between the state and tribes and to work toward a consensus among the tribes and other parties on shared goals and principles."

Section 12. Section 90-11-102, MCA, is amended to read:

"90-11-102. Duties and assistance. (1) It is the duty of the state ~~coordinator~~ director of Indian affairs to carry out the legislative policy set forth in 90-11-101.

(2) The state ~~coordinator~~ director shall:

(a) meet at least quarterly with tribal governments and become acquainted with the problems confronting the Indians of Montana;

- (b) meet with executive branch directors on issues arising between Montana's Indian citizens, tribes, and state agency personnel and programs;
- (c) report to the governor's cabinet meeting concerning issues confronting Indian people and tribal governments;
- (d) advise the legislative and executive branches of the state of Montana of those problems and issues;
- (e) make recommendations for the alleviation of those problems and issues;
- (f) serve the Montana delegation in the federal congress as an adviser and intermediary in the field of Indian affairs;
- (g) act as a liaison for representative Indian organizations and groups, public and private, whenever the state ~~coordinator's~~ director's support is solicited by tribal governmental entities;
- (h) serve on the state-tribal economic development commission established in 90-1-131;
- (i) report in detail at every meeting of the interim committee of the legislature responsible for acting as a liaison between the legislature and the tribal governments those actions taken by the state-tribal economic development commission established by 90-1-131 to carry out its duties; and
- (j) hire, with the concurrence of the other members of the state-tribal economic development commission, a tribal business center coordinator and a federal grants coordinator, and subsequently provide administrative support for both positions.

(3) All executive and legislative agencies of state government may within the area of their expertise and authority provide assistance to tribal councils or their official designees requesting assistance on any matter relating to education, health, natural resources, and economic development on Indian reservation lands."

NEW SECTION. **Section 13. Name change -- directions to code commissioner.** In any legislation enacted by the 2009 legislature that refers to the state coordinator of Indian affairs, the code commissioner is directed to change the term to state director of Indian affairs.

NEW SECTION. **Section 14. Effective date.** [This act] is effective on passage and approval.

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