

1 HOUSE BILL NO. 34

2 INTRODUCED BY F. SMITH

3 BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT RECOGNIZING THE FEDERAL RECOGNITION OF THE LITTLE
6 SHELL BAND OF CHIPPEWA INDIANS; REVISING LAWS TO REFLECT FEDERAL RECOGNITION OF
7 EIGHT INDIAN TRIBES IN MONTANA; AMENDING SECTIONS 15-65-101, 20-7-1403, 20-9-537, 20-25-421,
8 22-2-602, 22-3-804, 44-2-411, 50-71-115, 53-1-216, 90-1-131, AND 90-1-201, MCA; AND PROVIDING AN
9 IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 15-65-101, MCA, is amended to read:

14 **"15-65-101. Definitions.** For purposes of this part, the following definitions apply:

15 (1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use of
16 the facility for lodging, including bath house facilities, but excluding charges for meals, transportation,
17 entertainment, or any other similar charges.

18 (2) (a) "Campground" means a place, publicly or privately owned, used for public camping where
19 persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

20 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
21 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
22 more.

23 (3) "Council" means the tourism advisory council established in 2-15-1816.

24 (4) (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight
25 lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a
26 facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude
27 ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

28 (b) The term does not include any health care facility, as defined in 50-5-101, or any facility owned by

1 a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18
 2 years for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose
 3 average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized
 4 under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is
 5 rented solely on a monthly basis or for a period of 30 days or more.

6 (5) "Indian tourism region" includes the area recognized as being historically associated with the
 7 ~~seven~~ federally recognized reservations in Montana and the Little Shell Chippewa tribe.

8 (6) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under
 9 Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort
 10 area, or resort area district in which the bureau is located.

11 (7) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana
 12 law and recognized by the council as the entity for promoting tourism within one of several regions established
 13 by executive order of the governor.

14 (8) "Resort area" means an area established pursuant to 7-6-1508.

15 (9) "Resort area district" has the meaning provided in 7-6-1501."

16

17 **Section 2.** Section 20-7-1403, MCA, is amended to read:

18 **"20-7-1403. (Temporary) Definitions.** As used in this part, the following definitions apply:

19 (1) "Eligible district" means a school district encompassing or adjacent to an Indian reservation or a
 20 school district that includes one or more schools with an Indian population of 10% or greater.

21 (2) "Immersion program" means a program of an eligible district in which:

22 (a) all participating students receive content area instruction in an Indian language at least 50% of the
 23 day;

24 (b) teachers are fully proficient in the languages they use for instruction; and

25 (c) the goal of the program is perpetuating cultural integrity and promoting bilingualism and biliteracy.

26 (3) "Indian language" means any of the languages of ~~the tribes located on the seven Montana~~
 27 ~~reservations and the Little Shell Chippewa tribe~~ a federally recognized Indian tribe in Montana. (Terminates
 28 June 30, 2023--sec. 1, Ch. 171, L. 2019.)"

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Section 3. Section 20-9-537, MCA, is amended to read:

"20-9-537. (Temporary) Montana Indian language preservation program. (1) There is a Montana Indian language preservation program. The program is established to support efforts of Montana tribes to preserve and perpetuate Indian languages in the form of spoken, written, sung, or signed language and to assist in the preservation and curricular goals of Indian education for all pursuant to Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) (a) The state-tribal economic development commission established in 90-1-131 shall administer the program and, in collaboration with the Montana historical society, the state director of Indian affairs, and each tribal government ~~located on the seven Montana reservations and the Little Shell Chippewa~~ of a federally recognized Indian tribe in Montana, shall create program guidelines.

(b) The program guidelines must address performance and output standards, distribution of funds, accounting of funds, and use of funds.

(c) The performance and output standards must include:

- (i) development of audio and visual recordings;
- (ii) creation of reference materials, which may be in audio, visual, electronic, or written format;
- (iii) creation and publication of curricula, which may include electronic curricula; and
- (iv) administration and maintenance of a long-term language preservation strategic plan.

(d) The performance and output standards may include:

- (i) language classes;
- (ii) language immersion camps;
- (iii) storytelling;
- (iv) publication of literature; and
- (v) language programs, workshops, seminars, camps, and other presentations in formal or informal settings.

(3) Any tangible goods produced under this section must be submitted within 1 year of production to the Montana historical society for the benefit of related language preservation efforts and for preservation and archival purposes.

1 (4) Tribal governments or their designees receiving program funds may form local program advisory
2 boards. Members of a local program advisory board may include but are not limited to representatives from any
3 of the entities listed in subsection (6).

4 (5) (a) Each tribal government or designee shall provide reports on expenditures of grant funds,
5 overall program progress, and other criteria required under the guidelines established pursuant to subsection
6 (2)(a) to the state-tribal economic development commission.

7 (b) The state-tribal economic development commission shall report any findings, comments, or
8 recommendations regarding each local program and the Montana Indian language preservation program to the
9 legislature as provided in 5-11-210.

10 (6) Tribal governments and their designees are encouraged to maximize the impact of grant funds by
11 forming partnerships among state and tribal entities and leveraging existing resources for the preservation of
12 Indian languages and the education of all Montanans in a way that honors the cultural integrity of American
13 Indians. Suggested partner entities include but are not limited to:

- 14 (a) the governor's office of Indian affairs;
- 15 (b) school districts located on reservations;
- 16 (c) tribal colleges;
- 17 (d) tribal historic preservation offices;
- 18 (e) tribal language and cultural programs;
- 19 (f) units of the Montana university system;
- 20 (g) the Montana historical society;
- 21 (h) the office of public instruction;
- 22 (i) Montana public television organizations;
- 23 (j) school districts not located on reservations; and
- 24 (k) the Montana state library.

25 (7) State entities that operate film and video studios and equipment shall cooperate with each local
26 tribal preservation program in the production of materials for preservation and archival purposes.

27 (8) Any cultural and intellectual property rights from program efforts belong to the tribe. Use of the
28 cultural and intellectual property may be negotiated between the tribe and other partnering entities.

1 (9) A tribe may use payments received pursuant to this section as matching funds for federal or
 2 private fund sources to accomplish the purposes of this section. (Terminates June 30, 2023--secs. 1 through 7,
 3 Ch. 77, L. 2019.)"

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 5 **Section 4.** Section 20-25-421, MCA, is amended to read:

6 **"20-25-421. Charges for tuition -- waivers.** (1) The regents may prescribe tuition rates, matriculation
 7 charges, and incidental fees for students in institutions under their jurisdiction.

8 (2) The regents may utilize waivers in tuition and fees to aid in the recruitment of students to units of
 9 the university system and to promote the policy of assisting the categories of students specified in this
 10 subsection. The regents may:

11 (a) waive or discount nonresident tuition for selected and approved nonresident students, including
 12 nonresident students who enroll under provisions of any WICHE-sponsored state reciprocal agreements that
 13 provide for the payment, when required, of the student support fee by the reciprocal state;

14 (b) waive resident tuition for students at least 62 years of age;

15 (c) waive tuition and fees for:

16 (i) persons who have one-fourth Indian blood or more or are enrolled members of a ~~state-recognized~~
 17 ~~or~~-federally recognized Indian tribe located within the boundaries of the state of Montana and who have been
 18 bona fide residents of Montana for at least 1 year prior to enrollment in the Montana university system;

19 (ii) persons designated by the department of corrections pursuant to 52-5-112 or 53-1-214;

20 (iii) residents of Montana who served with the armed forces of the United States in any of its wars and
 21 who were honorably discharged from military service;

22 (iv) children of residents of Montana who served with the armed forces of the United States in any of
 23 its wars and who were killed in action or died as a result of injury, disease, or other disability incurred while in
 24 the service of the armed forces of the United States;

25 (v) the spouses or children of residents of Montana who have been declared to be prisoners of war or
 26 missing in action; or

27 (vi) the spouse or children of a Montana national guard member who was killed or died as a result of
 28 injury, disease, or other disability incurred in the line of duty while serving on state military duty;

1 (d) waive tuition charges for qualified survivors of Montana firefighters or peace officers killed in the
 2 course and scope of employment. For purposes of this subsection, a qualified survivor is a person who meets
 3 the entrance requirements at the state university or college of the person's choice and is the surviving spouse
 4 or child of any of the following who were killed in the course and scope of employment:

5 (i) a paid or volunteer member of a municipal or rural fire department;

6 (ii) a law enforcement officer as defined in 7-32-201; or

7 (iii) a full-time highway patrol officer."
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9 **Section 5.** Section 22-2-602, MCA, is amended to read:

10 **"22-2-602. Advisory committee -- composition -- duties.** (1) To coordinate the project provided for
 11 in 22-2-601(1), the governor shall appoint an advisory committee composed of the following 12 members:

12 (a) a representative from the Montana arts council;

13 (b) a representative from each of the ~~seven Indian reservations~~ federally recognized Indian tribes in
 14 Montana and the ~~Little Shell-Chippewa tribe~~;

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

17 (d) the state director of Indian affairs or the state director's designee; and

18 (e) a representative of the Montana historical society.

19 (2) The advisory committee shall make recommendations to the department of administration for an
 20 appropriate design and site for the monument on the grounds of the capitol complex. The monument may be
 21 located separately from the tribal flags authorized in 22-2-601(2).

22 (3) The advisory committee shall solicit and accept private contributions to finance the monument and
 23 the placement of the monument on the grounds of the capitol complex."
 24

25 **Section 6.** Section 22-3-804, MCA, is amended to read:

26 **"22-3-804. Board -- composition -- rights -- responsibilities.** (1) There is a burial preservation
 27 board. The board is composed of:

28 (a) one representative of each of the ~~seven reservations~~ federally recognized Indian tribes in

1 Montana, appointed by the governor from a list of up to three nominees provided by each of the respective
2 tribal governments;

3 ~~(b) one person appointed by the governor from a list of up to three nominees submitted by the Little
4 Shell band of Chippewa Indians;~~

5 ~~(e)~~ (b) one person appointed by the governor from a list of up to three nominees submitted by the
6 Montana state historic preservation officer;

7 ~~(d)~~(c) one representative of the Montana archaeological association appointed by the governor from a
8 list of up to three nominees submitted by the Montana archaeological association;

9 ~~(e)~~(d) one physical anthropologist appointed by the governor;

10 ~~(f)~~(e) one representative of the Montana coroners' association appointed by the governor from a list of
11 up to three nominees submitted by the Montana coroners' association; and

12 ~~(g)~~(f) one representative of the public, appointed by the governor, who is not associated with tribal
13 governments; state government; the fields of historic preservation, archaeology, or anthropology; or the
14 Montana coroners' association.

15 (2) Members of the board shall serve staggered 2-year terms. A vacancy on the board must be filled
16 in the same manner as the original appointment and only for the unexpired portion of the term.

17 (3) The board shall:

18 (a) provide for the establishment and maintenance of a registry of burial sites located in the state;

19 (b) designate the appropriate member or members of the board or a representative or representatives
20 of the board to conduct a field review upon notification of the discovery of human skeletal remains, a burial site,
21 or burial material;

22 (c) assist interested landowners in the development of agreements with the board for the treatment
23 and disposition, with appropriate dignity, of human skeletal remains and burial material;

24 (d) mediate, upon application of either party, disputes that may arise between a landowner and known
25 descendants that relate to the treatment and disposition of human skeletal remains and burial material;

26 (e) assume responsibility for final treatment and disposition of human skeletal remains and burial
27 material if the field review recommendation is not accepted by the board's representatives and the landowner;

28 (f) establish a nonrefundable application fee, not to exceed \$50, for a permit for scientific analysis of

1 human skeletal remains or burial material from burial sites as provided by 22-3-806;

2 (g) issue permits authorizing scientific analysis;

3 (h) accept grants or real or in-kind donations to carry out the purposes of this part;

4 (i) adopt rules necessary to administer and enforce the provisions of this part; and

5 (j) perform any other duties necessary to implement the provisions of this part.

6 (4) The board is allocated to the department of administration for administrative purposes only as
7 prescribed in 2-15-121.

8 (5) Each member of the board is entitled to be paid \$50 for each day in which the member is actually
9 and necessarily engaged in the performance of board duties and is also entitled to be reimbursed for travel,
10 meals, and lodging pursuant to 2-18-501 through 2-18-503."

11

12 **Section 7.** Section 44-2-411, MCA, is amended to read:

13 **"44-2-411. (Temporary) Missing indigenous persons task force -- membership -- duties.** (1)

14 There is a missing indigenous persons task force. The task force is allocated to the department of justice for
15 staffing services and administrative purposes only.

16 (2) Task force members, including the presiding officer, must be appointed by the attorney general or
17 a designee of the attorney general. The task force membership must include but is not limited to:

18 (a) an employee of the department of justice who has expertise in the subject of missing persons;

19 (b) a representative from each ~~tribal government located on the seven Montana reservations and the~~
20 Little Shell-Chippewa tribe federally recognized Indian tribe in Montana;

21 (c) a member from the Montana highway patrol; and

22 (d) a representative from the attorney general's office.

23 (3) While respecting the government-to-government relationship between the state and each tribe, the
24 primary duties of the task force are to:

25 (a) administer the looping in native communities network grant program provided for in 44-2-412; and

26 (b) (i) identify jurisdictional barriers between federal, state, local, and tribal law enforcement and
27 community agencies; and

28 (ii) work to identify strategies to improve interagency communication, cooperation, and collaboration to

1 remove jurisdictional barriers and increase reporting and investigation of missing indigenous persons.

2 (4) (a) The task force members must be appointed within 60 days after May 8, 2019. A vacancy on
3 the task force must be filled in the manner of the original appointment.

4 (b) The task force shall develop and finalize the looping in native communities network grant
5 application and award criteria no later than October 15, 2019.

6 (c) The task force shall select the recipient of the looping in native communities network competitive
7 grant under 44-2-412(2) and disburse the grant funds no later than March 15, 2020.

8 (d) The task force must select eligible grantees and disburse funds for any grants awarded pursuant
9 to 44-2-412(3) by June 30, 2020.

10 (e) The task force shall convene at least one meeting with tribal and local law enforcement agencies,
11 federally recognized tribes, and urban Indian organizations for the purposes of subsection (3)(b) and to
12 determine the scope of the problem of missing indigenous women and children.

13 (f) The task force shall prepare a written report of findings and recommendations for submission to
14 the state-tribal relations interim committee provided for in 5-5-229, no later than September 1, 2020. The report
15 must include a recommendation to the 67th legislature as to whether the task force should continue in
16 existence. (Terminates June 30, 2021--sec. 8, Ch. 373, L. 2019.)"

17

18 **Section 8.** Section 50-71-115, MCA, is amended to read:

19 **"50-71-115. Applicability of standards -- exceptions.** (1) The standards for safety and health and
20 the enforcement rules adopted pursuant to this part apply to all public sector employers in this state and to
21 public sector employees.

22 (2) The standards and enforcement rules adopted pursuant to this part do not apply to employment
23 by:

24 (a) private sector employers;

25 (b) the federal government and its instrumentalities; or

26 (c) a federally recognized tribal government; ~~or~~

27 (d) ~~a tribal government recognized by the state.~~"

28

1 **Section 9.** Section 53-1-216, MCA, is amended to read:

2 **"53-1-216. Montana criminal justice oversight council -- duties -- membership.** (1) There is a
3 Montana criminal justice oversight council. The council consists of 16 members as follows:

4 (a) (i) two members of the house of representatives, one selected by the speaker of the house and
5 one selected by the house minority leader; and

6 (ii) two members of the senate, one selected by the president of the senate and one selected by the
7 senate minority leader;

8 (b) one district court judge selected by the chief justice of the Montana supreme court;

9 (c) the director and the deputy director of the department of corrections;

10 (d) a county sheriff and a county attorney appointed by the attorney general; and

11 (e) the following individuals appointed by the governor:

12 (i) ~~a one~~ member of a ~~state-recognized or~~ federally recognized Indian tribe located within the
13 boundaries of the state of Montana who has expertise in criminal justice;

14 (ii) one member of the board of pardons and parole;

15 (iii) one member who represents the office of state public defender;

16 (iv) one representative of crime victims;

17 (v) one representative of civil rights advocates; and

18 (vi) two representatives of community corrections providers, one of whom must represent a treatment
19 facility and one of whom must represent a prerelease center.

20 (2) The department of corrections shall provide clerical and administrative staff services to the
21 council.

22 (3) The council shall elect a presiding officer.

23 (4) The council shall:

24 (a) review the recommendations of the commission on sentencing established in Chapter 343, Laws
25 of 2015;

26 (b) receive and analyze data collected by agencies and entities charged with implementing the
27 recommendations of the commission on sentencing and that are collecting data during the implementation and
28 management of specific recommendations;

1 (c) assess outcomes from the recommendations the commission on sentencing has made and
2 corresponding criminal justice reforms; and

3 (d) request, receive, and review data and report on performance outcome data relating to criminal
4 justice reform.

5 (5) Data evaluation performed by the council must:

6 (a) assess the current electronic records utilized by criminal justice agencies;

7 (b) review and list all variables collected in each agency's information management system;

8 (c) establish a baseline for historical data comparisons;

9 (d) determine whether data is linked to specific offenders through a unique identifying factor;

10 (e) review archival data and agencies' data retention policies;

11 (f) determine whether presentence investigation reports are completed electronically in the
12 department of corrections' case management system within established statutory timelines;

13 (g) review any established data protocols for pretrial services;

14 (h) assess if the data collected or recommended to be collected on offenders and programs will
15 provide criminal justice agencies, the legislature, and the public adequate information to determine whether
16 correctional programs produce standardized outcomes across the state and are an efficient use of state
17 resources; and

18 (i) review and suggest improvements for behavioral health screening instruments and other screening
19 instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information
20 management systems.

21 (6) The council shall examine the feasibility of creating and maintaining a public portal through which
22 criminal justice data can be accessed, including data on court case filings, correctional populations, and
23 historical and legacy data sets.

24 (7) The council shall submit by September 1 of each even-numbered year a biennial report to the
25 governor and legislature, as provided in 5-11-210. The report must include:

26 (a) a description of the council's proceedings since the previous report;

27 (b) a summary of savings from criminal justice reforms and recommendations for how the savings
28 should be reinvested to reduce recidivism;

- 1 (c) a description of performance measures and outcomes related to criminal justice reforms; and
2 (d) a narrative of the council's progress on establishing data collection and uniformity standards and
3 any changes that have been implemented as a result of the council's work.

4 (8) The council may appoint a working group to track any legislation resulting from criminal justice
5 reforms and to perform other detailed analysis as directed by the council. If appointed, the working group shall
6 meet regularly and report to the council as the council requires. The working group may include representatives
7 of criminal justice agencies and key constituencies that are not members of the council.

8 (9) Using the process established in legislative rules for executive agency legislative requests, the
9 council may request legislation to enact changes to the state's criminal justice system that the council finds
10 necessary.

11 (10) The judicial branch, the department of corrections, the department of public health and human
12 services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data
13 and information as requested by the council.

14 (11) Appointments made under subsection (1) must be made within 60 days after July 1, 2019. A
15 vacancy on the council must be filled in the manner of the original appointment.

16 (12) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-
17 503. Members of the council who are full-time salaried officers or employees of this state or any political
18 subdivision are entitled to their regular compensation. Legislative members must be compensated as provided
19 in 5-2-302.

20 (13) The council shall report to the law and justice interim committee and the legislative finance
21 committee as requested."

22

23 **Section 10.** Section 90-1-131, MCA, is amended to read:

24 **"90-1-131. State-tribal economic development commission -- composition -- compensation for**
25 **members.** (1) There is a state-tribal economic development commission administratively attached to the
26 department of commerce as prescribed in 2-15-121.

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

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

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

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

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

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

15 (6) Each member of the commission is entitled to reimbursement for expenses as provided in 2-18-
 16 501 through 2-18-503."

17
 18 **Section 11.** Section 90-1-201, MCA, is amended to read:

19 **"90-1-201. Big sky economic development program -- definitions.** (1) (a) There is a big sky
 20 economic development program that consists of:

- 21 (i) the big sky economic development fund established in 17-5-703; and
 22 (ii) the economic development special revenue account provided for in 90-1-205.

23 (b) Interest and income from the big sky economic development fund may be used to administer the
 24 big sky economic development program and to provide financial assistance for qualified economic development
 25 purposes under this part.

26 (2) As used in this part, the following definitions apply:

- 27 (a) "Certified regional development corporation" has the meaning provided in 90-1-116.
 28 (b) "Department" means the department of commerce provided for in 2-15-1801.

- 1 (c) "Economic development organization" means:
- 2 (i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation
- 3 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);
- 4 (B) an entity certified by the department under 90-1-116; or
- 5 (C) an entity established by a local government; or
- 6 (ii) an entity actively engaged in economic development and business assistance work in a region of
- 7 the state.
- 8 (d) "Employee benefits" means health, welfare, and pension contributions that meet the requirements
- 9 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.
- 10 (e) "High-poverty county" means a county in this state that has a poverty rate greater than Montana's
- 11 average poverty rate as determined by the U.S. bureau of the census estimates for the most current year
- 12 available.
- 13 (f) "Local government" means a county, consolidated government, city, town, or district or local public
- 14 entity with the authority to spend or receive public funds.
- 15 (g) "Tribal government" means ~~any~~one of the ~~seven~~federally recognized tribal governments of
- 16 Montana ~~and the Little Shell band of Chippewa Indians."~~

17
18 NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.

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20 - END -