

1 HOUSE BILL NO. 19

2 INTRODUCED BY T. RUNNING WOLF

3 BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO INDIAN AFFAIRS;
6 CLARIFYING THE DUTIES OF STATE DIRECTOR OF INDIAN AFFAIRS; MODIFYING THE
7 REQUIREMENTS OF THE DEPARTMENT OF COMMERCE AND THE STATE-TRIBAL ECONOMIC
8 DEVELOPMENT COMMISSION RELATED TO ASSESSMENTS AND REPORTS OF THE ECONOMIC
9 ACTIVITY OF TRIBES IN MONTANA; REMOVING STATUTORY REFERENCES TO THE POSITIONS OF
10 TRIBAL BUSINESS CENTER COORDINATOR AND FEDERAL GRANTS COORDINATOR IN THE OFFICE
11 OF THE STATE DIRECTOR OF INDIAN AFFAIRS; PROVIDING AN APPROPRIATION; AMENDING
12 SECTIONS 2-15-217, 90-1-105, 90-1-132, 90-1-134, 90-1-135, 90-11-101, AND 90-11-102, MCA; REPEALING
13 SECTION 90-1-133, MCA; AND PROVIDING AN EFFECTIVE DATE."

14

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

16

17 **Section 1.** Section 2-15-217, MCA, is amended to read:

18 **"2-15-217. Office of state director of Indian affairs.** (1) There is an office of state director of Indian
19 affairs. The office is allocated to the governor's office for administrative purposes only as prescribed in 2-15-
20 121.

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

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

26 (a) a bachelor's degree in a relevant public policy field, as determined by the governor;

27 (b) not less than 3 years experience in a professional administrative capacity; and

28 (c) demonstrated skills in conducting policy research and obtaining grant funds from federal, state,

1 or private sector sources.

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

4 (5) The state director of Indian affairs shall carry out the legislative policy set forth in 90-11-101
5 and perform the duties assigned under 90-11-102."

6

7 **Section 2.** Section 90-1-105, MCA, is amended to read:

8 **"90-1-105. Functions of department of commerce -- economic development.** The department of
9 commerce shall:

10 (1) provide coordinating services to aid state and local groups and Indian tribal governments in the
11 promotion of new economic enterprises and conduct publicity and promotional activities within the state,
12 nationally, and internationally in connection with new economic enterprises;

13 (2) collect and disseminate information regarding the advantages of developing agricultural,
14 recreational, commercial, and industrial enterprises within this state;

15 (3) serve as an official state liaison between persons interested in locating new economic
16 enterprises in Montana and state and local groups and Indian tribal governments seeking new enterprises;

17 (4) aid communities and Indian tribal governments interested in obtaining new business or
18 expanding existing business;

19 (5) (a) study and promote means of expanding markets for Montana products within the state,
20 nationally, and globally; and

21 (b) provide training and assistance for Montana small businesses and entrepreneurs to expand
22 markets for made-in-Montana products;

23 (6) encourage and coordinate public and private agencies or bodies in publicizing the facilities and
24 attractions of the state;

25 (7) ~~starting in 2020, publish a decennial report, to be authored by the bureau of business and~~
26 ~~economic research at the university of Montana, on the economic contributions and impacts of Indian~~
27 ~~reservations in Montana based on federal, state, local, tribal, and private inputs. Copies of the report must be~~
28 ~~provided to the governor, each tribal government in Montana, the state tribal economic development~~

1 ~~commission, and the state-tribal relations committee in accordance with 5-11-210, and the report must be~~
 2 ~~published on the department's website~~ in collaboration with the state-tribal economic development commission,
 3 ~~tribal governments, and other partners, develop a system for the gathering of data allowing the department to~~
 4 ~~quantify on an ongoing basis the economic contributions of Indian reservations~~ THE TRIBES in Montana ~~and the~~
 5 ~~Little Shell Chippewa tribe based on federal, state, local, tribal, and private input.~~ THE DEPARTMENT MAY EXECUTE
 6 DATA SHARING AND USE AGREEMENTS WITH EACH TRIBAL GOVERNMENT. The department shall update the state-tribal
 7 relations committee on this effort and, beginning no later than December 1, 2024, and in a manner beneficial to
 8 tribal governments, policymakers, and the public, make AGGREGATE data on the economic contributions of
 9 ~~Indian reservations~~ THE TRIBES in Montana ~~and the Little Shell Chippewa tribe~~ readily available on an ongoing
 10 basis. DISAGGREGATED DATA PROVIDED BY A TRIBAL GOVERNMENT PURSUANT TO A DATA SHARING AND USE
 11 AGREEMENT WITH THE DEPARTMENT AND IDENTIFIED BY THE TRIBAL GOVERNMENT AS CONFIDENTIAL MUST BE
 12 CONSIDERED "CONFIDENTIAL INFORMATION" AS DEFINED IN 2-6-1002(1)(D). The department may accept
 13 contributions and donations from individuals and organizations for the purposes of this subsection.

14 (8) explore the use of cooperative agreements, as provided in Title 18, chapter 11, part 1, for the
 15 promotion and enhancement of economic opportunities on the Indian reservations in Montana; and

16 (9) assist the state-tribal economic development commission established in 90-1-131 in:

17 (a) identifying federal government and private sector funding sources for economic development
 18 on Indian reservations in Montana; and

19 (b) fostering and providing assistance to prepare, develop, and implement cooperative
 20 agreements, in accordance with Title 18, chapter 11, part 1, with each of the tribal governments in Montana."

21

22 **Section 3.** Section 90-1-132, MCA, is amended to read:

23 **"90-1-132. Commission purposes -- duties and responsibilities.** (1) The general purposes of the
 24 state-tribal economic development commission include:

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

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

1 tribal communities;

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

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

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

6 (a) in conjunction with the tourism advisory council provided for in 2-15-1816, oversee use of
7 proceeds to expand tourism activities and visitation in the Indian tourism region;

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

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

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

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

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

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

27 ~~(h)~~(g) assist tribal governments and other tribal entities that are eligible for federal assistance
28 programs as provided in the most recent published edition in the Catalog of Federal Domestic Assistance in

1 applying for funds that would contribute to the respective tribes' economic development;

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

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

6 (ii) help the department of commerce to fully implement and comply with the provisions of 90-1-
7 105; and

8 ~~(i)~~ provide to the governor, the legislative council, the state-tribal relations committee, the
9 legislative auditor, and to each of the presiding officers of the tribal governments in Montana a biennial report in
10 accordance with 5-11-210 that summarizes the activities of the commission."
11

12 **Section 4.** Section 90-1-134, MCA, is amended to read:

13 **"90-1-134. No waiver of tribal sovereignty.** Sections 90-1-105 and 90-1-132 ~~and 90-1-133~~ do not
14 constitute or imply any waiver of sovereignty on the part of any of the federally recognized tribes in Montana."
15

16 **Section 5.** Section 90-1-135, MCA, is amended to read:

17 **"90-1-135. Special revenue accounts.** (1) There is a state special revenue account in the state
18 treasury for the receipt of state and private funds and a federal special revenue account in the state treasury for
19 the receipt of federal funds for expenditure by the state-tribal economic development commission established in
20 90-1-131.

21 (2) Money in the state special revenue account from proceeds distributed under 15-65-121~~(2)(g)~~
22 and 15-68-820 is to be used for activities for the Indian tourism region, defined in 15-65-101.

23 (3) Except as provided in subsection (2), money in the accounts established in subsection (1) must
24 be used to pay:

25 ~~(a)~~ the commission's administrative costs;

26 ~~(b)~~ the salary, benefits, and administrative expenses of the tribal business center coordinator and the
27 federal grants coordinator; and

28 ~~(c)~~ the costs of conducting or commissioning and periodically updating or otherwise modifying a

1 ~~comprehensive assessment of economic development needs and priorities on each of the Indian reservations~~
2 ~~in the state.~~

3 (4) Money in the accounts that is not expended for the purposes identified in subsection (2) or (3)
4 may be used for other purposes that the commission considers prudent or necessary.

5 (5) Interest and income earned on the money in the accounts must be deposited in the accounts
6 for the commission's use."

7

8 **Section 6.** Section 90-11-101, MCA, is amended to read:

9 **"90-11-101. Legislative policy.** The legislature finds and declares that:

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

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

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

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

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

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

26 (7) programs of the state of Montana should not duplicate those supported by agencies of the
27 federal government or tribal governments with regard to jurisdiction of Indian people, because state
28 responsibility includes off-reservation Indians and because those Indians require assistance to coordinate their

- 1 affairs with various tribal groups and federal agencies where they have no official recognition;
- 2 (8) the state and the tribes working together in a government-to-government relationship and
- 3 engaging in compacts and other cooperative agreements for the benefit of Indian and non-Indian residents will
- 4 promote economic development, environmental protection, education, social services support, and enduring
- 5 good will;
- 6 (9) to facilitate the discussion and resolution of issues and concerns that Indian tribes have in
- 7 relation to the state, the federal government, and among themselves, the state director of Indian affairs,1
- 8 established in 2-15-217, shall:
- 9 (a) maintain effective tribal-state communications;
- 10 (b) assess tribal and individual Indian concerns and interests to seek ways and means of
- 11 communicating these concerns and interests to relevant state agencies and to the legislature and actively
- 12 assist in organizing these efforts; and
- 13 (c) act as a liaison for tribes and Indian people, whether the Indian people reside on or off
- 14 reservations, whenever assistance is required;
- 15 (10) the state director of Indian affairs shall endeavor to assist tribes to seek agreements between
- 16 the state and tribes and to work toward a consensus among the tribes and other parties on shared goals and
- 17 principles."

- 18
- 19 **Section 7.** Section 90-11-102, MCA, is amended to read:
- 20 **"90-11-102. Duties and assistance.** (1) It is the duty of the state director of Indian affairs, established
- 21 in 2-15-217, to carry out the legislative policy set forth in 90-11-101.
- 22 (2) The state director shall:
- 23 (a) meet at least quarterly with tribal governments and become acquainted with the problems
- 24 confronting the Indians of Montana;
- 25 (b) meet with executive branch directors on issues arising between Montana's Indian citizens,
- 26 tribes, and state agency personnel and programs;
- 27 (c) report to the governor's cabinet meeting concerning issues confronting Indian people and tribal
- 28 governments;

1 (d) advise the legislative and executive branches of the state of Montana of those problems and
2 issues;

3 (e) make recommendations for the alleviation of those problems and issues;

4 (f) serve the Montana delegation in the federal congress as an adviser and intermediary in the
5 field of Indian affairs;

6 (g) act as a liaison for representative Indian organizations and groups, public and private,
7 whenever the state director's support is solicited by tribal governmental entities;

8 (h) serve on the state-tribal economic development commission established in 90-1-131; and

9 (i) report in detail at every meeting of the state-tribal relations committee those actions taken by
10 the state-tribal economic development commission established by 90-1-131 to carry out its duties; ~~and~~

11 ~~(j) hire, with the concurrence of the other members of the state-tribal economic development~~
12 ~~commission, a tribal business center coordinator and a federal grants coordinator, and subsequently provide~~
13 ~~administrative support for both positions.~~

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

18

19 **NEW SECTION. Section 8. Repealer.** The following section of the Montana Code Annotated is
20 repealed:

21 90-1-133. Comprehensive assessment on reservations.

22

23 **NEW SECTION. Section 9. Appropriation.** There is appropriated \$1 from the general fund to the
24 department of commerce for the biennium beginning July 1, 2023, for the purpose of developing the data
25 system to quantify on an ongoing basis the economic contributions of ~~Indian reservations~~ THE TRIBES in
26 Montana ~~and the Little Shell Chippewa tribe~~ pursuant to 90-1-105.

27

28 **NEW SECTION. Section 10. Notification to tribal governments.** The secretary of state shall send a

1 copy of [this act] to each federally recognized tribal government in Montana.

2

3 NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 2023.

4 - END -