

**LEGISLATION CONSIDERED BY THE 2005 MONTANA LEGISLATURE
AFFECTING AMERICAN INDIANS**

Prepared for the State-Tribal Relations Committee

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LEGISLATION PASSED:

House Bill No. 2 (Witt) is the General Appropriations Act for the 2007 biennium. In the budget for the Department of Public Health and Human Services (DPHHS), \$104,000 was appropriated to:

- (1) develop expertise on tribal organization and tribal funding;
- (2) provide technical assistance to DPHHS staff; and
- (3) identify and resolve barriers and work on innovating programs for tribes to access federal Medicaid pass-through funding for allowable medical costs.

The DPHHS was also appropriated \$720,000 for tribal tobacco prevention contracts and \$60,000 for tribal peer counseling.

The Office of Public Instruction was appropriated \$2.3 million for the implementation of Indian Education for All. The Montana University System (MUS) received \$900,000 for nonbeneficiary student assistance; \$500,000 is one-time-only money. The MUS also received \$2 million to assist tribal colleges in developing tribal histories as part of Indian Education for All. (Chapter No. 607)

House Bill No. 16 (Ripley) was requested by the State-Tribal Relations Committee and increases the per-student distribution limit for resident nonbeneficiary students attending tribally controlled community colleges in Montana. The financial assistance is limited to nonbeneficiary students enrolled in courses that are transferable to another Montana college or university. An exception is made for students enrolled in courses that are directly related to a vocational degree program or to a 2- or 4-year degree program or certificate program. (Chapter No. 147)

House Bill No. 18 (Juneau) was requested by the State-Tribal Relations Committee and extends the life of the State-Tribal Economic Development Commission to 2009, reduces the required quorum for the Commission from seven members to six members, and appropriates \$120,000 for the Commission's continuing activities. (Chapter No.

460)

House Bill No. 80 (Campbell) allows the Department of Public Health and Human Services to receive referrals from or make referrals to tribal child support enforcement programs. (Chapter No. 21)

House Bill No. 379 (Windy Boy) establishes a permanent trust fund for the long-term or perpetual treatment of water at the Zortman and Landusky mine sites. The trust fund is to be financed with money transferred from the orphan share account and any other sources of funding that the Legislature or the U.S. Congress may provide. Beginning on July 1 2005, \$1.2 million must be transferred from the orphan share account to the permanent trust fund in each fiscal year until the Board of Investments determines that the amount of money in the trust fund will be sufficient, with future earnings, to provide a fund balance of \$19.3 million on January 1, 2018. Beginning in 2018, the annual earnings on the trust fund must be used exclusively to pay for the cost to the state for water treatment at the Zortman and Landusky mine sites. The principal of the trust fund may be appropriated only by a vote of two-thirds of each house of the Legislature, and any appropriation of the principal may only be used for water treatment at the mine sites. (Chapter No. 278)

House Bill No. 452 (Windy Boy) implements certain recommendations to redesign the Medicaid program relating to Indian tribes, tribal health care facilities, and Indian Health Service (IHS) health care facilities. The Department of Public Health and Human Services (DPHHS) is required to request a waiver of federal Medicaid law so that any reductions in Medicaid eligibility do not shift costs to tribal or IHS health care facilities. DPHHS is also required to work with tribal governments to explore possibilities for the Children's Health Insurance Program to leverage federal financial participation. DPHHS shall explore options or waivers for the purchase of prescription drugs on a reservation at a tribal or IHS health care facility. DPHHS shall also develop a policy and process to review Indian eligibility issues and shall also work with Indian tribes to improve the provision of Medicaid services to Indians. (Chapter No. 128)

House Bill No. 550 (Windy Boy) appropriates \$50,000 to the Department of Public Health and Human Services (DPHHS) to fund a Montana youth leadership forum for students with disabilities, including Indian students on reservations. (Chapter No. 501)

House Bill No. 696 (Jayne) states that an express purpose of the Montana Youth Court Act is to ensure that when a youth is removed from the home, the youth is entitled to maintain the youth's ethnic, cultural, or religious heritage when appropriate. (Chapter No. 512)

House Joint Resolution No. 11 (Windy Boy) urges cooperation between and among federal agricultural research stations and tribal agricultural research programs by sharing ongoing research, research scientists, and educational efforts to address critical agricultural issues on a statewide basis. The Montana agricultural research stations are also encouraged to report to the 60th Legislature regarding cooperative research efforts

and the sharing of educational information between and among state and federal agricultural research stations and tribal agricultural research programs.

House Joint Resolution No. 15 (Juneau) requests an interim study to review issues related to sentencing practices and the disproportionate representation of minorities in the criminal justice and corrections systems.

House Joint Resolution No. 41 (Campbell) requests an interim study to investigate the special challenges and opportunities facing Montana Indian tribes and their respective tribal lands or reservations with respect to economic development. The study should examine all of the factors impacting economic growth, including but not limited to tribal human and natural resource development, and provide a basis for improving the economic state of Indian country.

Senate Bill No. 86 (Smith) defines "Indian child", "Indian child's tribe", "Indian custodian", and "Indian tribe" for purposes of implementing the federal Indian Child Welfare Act. The bill also defines a "qualified expert witness" in cases involving Indian children in proceedings subject to the Indian Child Welfare Act. (Chapter No. 349)

Senate Bill No. 91 (Smith) allocates two free special wild buffalo licenses annually to individuals designated by the Montana Indian tribes. The wild buffalo must be harvested by tribal members in accordance with the traditional ceremonies of each tribe. The bill also designates the terms and conditions for the issuance of the special tribal licenses. The bill terminates in 2015. (Chapter No. 378)

Senate Bill No. 187 (Shockley) provides that, under the terms of the joint agreement between the state of Montana and the Confederated Salish and Kootenai Tribes, tribal court judgments for fish and game violations are entitled to full faith and credit in Montana courts. (Chapter No. 146)

Senate Bill No. 282 (Smith) revises the law prohibiting racial profiling by requiring law enforcement agencies to document all investigative stops and adopt written complaint procedures. The bill also requires cultural awareness and racial profiling training for all law enforcement officers. (Chapter No. 243)

Senate Bill No. 333 (Smith) requires a school district to charge the retirement fund for retirement benefits for an employee whose salary and benefits are paid from the district's impact aid fund. In 2003, the Legislature revised the retirement fund laws to require school districts to pay retirement benefits for employees from the same fund that paid the employees' salaries and benefits. Senate Bill No. 333 is a partial reversal of that decision. (Chapter No. 405)

Senate Joint Resolution No. 4 (Cobb) encourages Montana tribal governments to adopt secured transaction commercial codes as a tool for supporting tribal economic and housing development on reservations. The resolution also encourages the development of training courses for tribal courts on the use of secured transaction

commercial codes.

LEGISLATION PROPOSED:

House Bill No. 132 (Bixby) would have clarified the authority to the governor to negotiate and execute certain Class III gaming compacts with Montana Indian tribes and clarified the role of the Legislature in approving certain gaming compacts. The bill was tabled in the House Judiciary Committee.

House Bill No. 137 (Juneau) was requested by the State-Tribal Relations Committee. The bill would have appropriated \$50,000 to the Office of Public Instruction to establish a dropout prevention program that was integrated with Indian Education for All. The bill was never reported out of the House Education Committee.

House Bill No. 258 (Wanzenried) would have allowed a school district to adopt a policy establishing an employment preference for a qualified Indian applicant. The bill was never reported out of the House Education Committee.

House Bill No. 290 (Small-Eastman) would have required the Board of Pardons and Parole to have one American Indian member. The bill failed on Third Reading in the House.

House Bill No. 291 (Small-Eastman) would have revised the membership of the Coal Board. One member had to reside in a coal-producing county and one member had to be an American Indian. The bill failed on Second Reading in the House.

House Bill No. 335 (Small-Eastman) would have required the appointment of at least one American Indian voting member to any appointive board, commission, committee, or council of state government. The bill was never reported out of the House State Administration Committee.

House Bill No. 378 (Windy Boy) would have required the Department of Fish, Wildlife, and Parks to spend up to 7% of the federal aid received annually for sport fish restoration and wildlife restoration on eligible tribal wildlife and fish management programs. The bill was tabled in the House Fish, Wildlife, and Parks Committee.

House Bill No. 525 (Juneau) would have allowed for appointments to the Board of Regents and the Board of Public Education from the seven Indian reservations without considering the district in which a reservation is located. The bill was tabled in the House Education Committee.

House Bill No. 579 (Small-Eastman) would have allowed the Department of Commerce to award a coal impact grant for use in a census-designated place, as defined by the United States Bureau of the Census. The grantee of a grant awarded for

use in a census-designated place would be a local governing body, a state governmental unit or agency, or a tribal government. The bill was never reported out of the House Business and Labor Committee.

House Bill No. 595 (Juneau) would have required counties to consider gender and racial balance when appointing election judges. The bill would also have allowed electors to vote absentee at a temporary satellite office, such as a nursing home or convalescent center, established by the county election administrator at a location outside the county seat but within the county. The bill was tabled in the House State Administration Committee.

House Bill No. 635 (Windy Boy) would have revised the conservation district laws by requiring state conservation districts to annually consult with tribal conservation districts, clarifying that a county conservation district may not overlap a tribal conservation district, and allowing tribal conservation districts to apply for conservation district grants from the state. The bill was tabled in the House Agriculture Committee.

House Bill No. 791 (Juneau) would have appropriated \$6.1 million to the Superintendent of Public Instruction to implement Indian Education for All. The bill failed on Second Reading in the House.

House Resolution No. 3 (Gallik) would have urged Senator Conrad Burns to request that the federal budget include a \$3 million grant to the State of Montana to assist in the implementation of Indian Education for All. The resolution was never reported out of the House Select Committee on Education.

Senate Bill No. 353 (Pease) would have revised the management of wild buffalo or bison that require disease control by providing for the neutering and transfer of wild buffalo or bison to Indian tribal organizations as an alternative to slaughter. The bill was tabled in the House Agriculture Committee.