



2017 State-Tribal Legislative Impacts

June 2017

State and federal budgets both play a significant role in relieving poverty, promoting health, and building economic opportunity in Indian Country. Both also have a substantial impact on the lives of American Indians living on- and off-reservation in Montana. Recently, the 2017 Montana legislature considered a number of bills that held direct implications for American Indians in our state. Below is an overview.

Bill No.	Title	Outcome	Page
HB 2	Investment in Indian Country Economic Development (ICED)	Passed, OTO	2
HB 2	Investment in Tribal College Assistance Program	Passed	2
HB 6	Renewable Resource Grants	Passed as amended	2
HB 37	Revise Montana Indian Language Preservation Program	Passed	3
HB 108	Allocate Wild Buffalo Licenses to Tribes for Traditional Purposes	Passed	3
HB 113	Indian Language Immersion Funds Revision	Passed	3
HB 114	Prohibit the Sale or Trade of Cultural Patrimony and Sacred Objects	Failed	4
HB 118	Revise and Provide Additional Funding for Suicide Prevention Activities	Passed as amended	4
HB 185	Montana Promise Act to Increase College Affordability	Passed as amended	4
HB 333	Help Save Lives from Overdose Act	Passed as amended	5
HB 391	Montana Earned Income Tax Credit	Passed as amended	5
HB 473	Revise Highway Revenue Laws	Passed as amended	5
HB 605	Montana Reservation Economic Development Act	Failed	6
HB 622	Generally Revise Laws Related to Invasive Species	Passed as amended	6
HB 655	Revising Employment Incentive Laws for Hiring American Indians	Failed	6
SB 287	Reallocation of Funds Related to the Blackfeet Water Compact	Passed	7
SB 309	Revise Economic Development Laws Related to Indian Country, Tourism	Passed as amended	7
SB 310	Revise Laws Related to Criminal Jurisdiction on the Flathead Indian Reservation	Passed	7
SB 319	Allow Individuals to Wear Traditional Regalia, Objects of Cultural Significance	Passed	8

SB 328	Revisions to Alcohol Tax Laws	Failed	8
SB 354	Revisions to Tobacco, Nicotine, and Tobacco Product Taxes for Healthcare Services	Failed	8
HR 3	Resolution in Support of Permanent Authorization of the Indian Healthcare Improvement Act	Passed	8
SR 57	Resolution in Support of Permanent Authorization of the Indian Healthcare Improvement Act	Passed	8
HJ 5	Resolution Recognizing the Anniversary of the Fort Robinson Breakout	Passed	9
SJ 3	Study of Tribal Resources for Tribal Members Involved in the State Criminal Justice System	Passed	9
SJ 20	Study of Intractable Unemployment in High-Poverty Counties	Passed	9

Indian Country Economic Development (ICED) Program

Bill Number: HB 2

Outcome: PASSED, ONE-TIME-ONLY FUNDING

The Indian Country Economic Development (ICED) programs provide funding for tribal government priority projects (i.e., tribal enterprise feasibility studies), the Native American Business Advisors (NABA) program, and the Indian Equity Fund small business grants to individual entrepreneurs. Despite the Governor’s request to move ICED to the base budget, the legislature funded ICED on a one-time-only basis at \$1.6 million for the 2019 biennium. To read more about the value of the ICED programs, see MBPC’s recent report, “Economic Development In Indian Country: A State Investment with Continued Returns.”¹

Tribal College Assistance Program (TCAP)

Bill Number: HB 2

Outcome: PASSED

Montana will continue to reimburse tribal colleges for the educational services they provide to resident full-time, non-beneficiary students (non-Indians and anyone who is not a member or first-generation descendant of a federally-recognized tribe). For many years, tribal colleges in Montana did not receive funding to support the education services they provide to non-beneficiary students and were left to absorb the cost in their budgets. To help offset this cost, the 1995 legislature established the Tribal College Assistance Program, which became permanent in 1997. Montana is one of only three states that provide some funding for non-beneficiary students. Funding for the 2019 biennium is \$1.682 million. To learn more about the benefits that tribal colleges bring to Montana, read MBPC’s report, “An Outstanding Return on Investment: Tribal Colleges and Their Contributions to Montana.”²

Renewal Resource Grants

Bill Number: HB 6

Sponsor: Jim Keane, HD 73

Outcome: PASSED AS AMENDED

This bill appropriates funding for renewable resource grants for numerous water resources projects, including several located on Indian reservations across the state. HB 6 also specifies conditions for application and dispersal of grant funds and identifies projects of highest priority. These include wastewater collection system improvement; irrigation system, riverbank erosion, and canal rehabilitation; water storage and distribution improvements; well and aquifer evaluations; and flood studies, among others.

Revise Montana Indian Language Preservation Program

Bill Number: HB 37

Sponsor: Jonathan Windy Boy, HD 32

Outcome: PASSED

HB 37 provides \$1 million to extend the Montana Indian Language Program (MILP), which provides support to Montana tribes to preserve and perpetuate tribal languages in the form of spoken, written, sung, and signed language. Read MBPC's report, "Continued Preservation of Tribal Languages in Montana," to learn more about MILP.³ Another related bill, SB 261, puts in place certain budgetary cuts, should levels of revenue come in lower than expected. If revenue comes in below \$2.18 billion in FY17 (roughly \$32.5 million below projections), SB 261 imposes a \$125,000 cut in FY18 and \$125,000 in FY19 to MILP. The state treasurer will determine final revenue levels for FY17 in August of 2017 to determine what cuts, if any, are necessary.

Allocate Wild Buffalo Licenses to Tribes for Traditional Purposes

Bill Number: HB 108

Sponsor: Bridget Smith, HD 31

Outcome: PASSED

This bill requires Montana Fish, Wildlife & Parks to issue special free-of-charge licenses to tribes in Montana when there are sufficient bison numbers, indicated by the department issuing forty or more special wild bison licenses. A license will be issued to two tribal members from each reservation and the Little Shell to hunt wild bison during the regular season in accordance with department rules. Bison taken with these special licenses must be used for traditional purposes, which are defined as "the harvesting of buffalo by Plains Indians through utilitarian and spiritual practices handed down from generation to generation to obtain food, shelter, and clothing and to conduct ceremonies and celebrations."

Indian Language Immersion Funds Revision

Bill Number: HB 113

Sponsor: Edward Greef, HD 88

Outcome: PASSED

Montana school districts are encouraged to create Indian language immersion programs in collaboration with other school districts, the Montana digital academy, tribal governments, and tribal colleges. They are also encouraged to utilize the materials produced in the Montana Indian Language Program and to employ tribal language and culture specialists as teachers. As a result of the increased costs, school districts that create language immersion programs are entitled to additional American Indian achievement gap, Indian Education for All, and quality educator payments. HB 113 allows districts to use these payments as matching funds for federal or private funding sources.

Prohibit the Sale or Trade of Cultural Patrimony and Sacred Objects

Bill Number: HB 114

Sponsor: George Kipp, III, HD 15

Outcome: FAILED

HB 114 would have prohibited the sale or trade of any object that has ongoing historical, traditional, or cultural importance central to an Indian tribe, group, or culture itself. It also would have prohibited the sale or trade of sacred objects, defined as those necessary to traditional Native American ceremonial leaders' practice of their ceremonies by their present-day participants and which requires a ceremonial transfer to be given from one person to another. Individuals knowingly buying, selling, exchanging, distributing, marketing, or otherwise conducting a commercial transaction for profit would have been guilty of a misdemeanor crime and subjected to a fine equal to the value of the object or sentenced to imprisonment in the county jail for less than six months, or both.

Revise and Provide Additional Funding for Suicide Prevention Activities

Bill Number: HB 118

Sponsor: Jonathan Windy Boy, HD 32

Outcome: PASSED AS AMENDED

Montana has had one of the highest suicide rates in the nation for nearly forty years. As MBPC recently reported in "Indian Country Suicide Prevention: A Critical Investment for Our Communities," American Indians in Montana have a disproportionately higher suicide rate when compared to non-Indians.⁴ Most astounding is the fact that in Montana, American Indian youth ages 11 to 17 are four times more likely to die by suicide than their white counterparts. To combat this prolonged public health crisis, the legislature passed HB 118, allocating \$1 million to statewide suicide prevention efforts. Of this, \$250,000 will go specifically to implementing the action steps outlined in the Montana Native Youth Suicide Reduction Strategic Plan.⁵

Montana Promise Act to Increase College Affordability

Bill Number: HB 185

Sponsor: Shane Morigeau, HD 95

Outcome: PASSED AS AMENDED

The Montana Promise Act establishes a grant program that aims to reduce or eliminate tuition costs in order to increase college affordability and attainment for Montana residents attending community and tribal colleges in the state. Although the legislature passed a law creating the grant program, they did not appropriate any money for it. However, the law gives the Office of the Commissioner of Higher Education the ability to accept private or out-of-state public donations for the grants. If funded in the future, the program would provide grants to first and second-year Montana resident students enrolled at least half-time and taking courses that lead to an associate's degree, professional credential, or the ability to transfer to another Montana institution of higher education.

Help Save Lives from Overdose Act

Bill Number: HB 333

Sponsor: Frank Garner, HD 7

Outcome: PASSED AS AMENDED

Tens of thousands of Americans die from overdose each year, prompting the Center for Disease Control to declare that opioid-related deaths are a national epidemic. Because opioid antagonist drugs, or medication that blocks the effects of opioids, has proven highly effective in countering the effects of opioid overdose, the Save Lives from Overdose Act aims to increase the number of lives saved by: (1) providing the broadest possible access to lifesaving opioid antagonist medication; (2) facilitating the availability and use of opioid antagonist medication by providing professional, civil, and criminal immunity to people who prescribe, dispense, distribute, or administer an opioid antagonist; and (3) encouraging people to seek medical treatment by providing immunity from prosecution for certain criminal offenses for people who seek or receive treatment. This act specifically allows contract physicians at urban Indian health clinics to dispense opioid antagonist drugs to qualified patients of the clinic.

Montana Earned Income Tax Credit

Bill Number: HB 391

Sponsor: Tom Jacobson, HD 21

Outcome: PASSED AS AMENDED

This bill establishes a state earned income tax credit (EITC) based on the federal EITC qualification requirements. Like other state citizens, eligible American Indians in Montana who file a state tax return may claim the credit, which is set at 3% of the federal EITC. Learn the details in MBPC's recent report, "HB 391 – The Montana Earned Income Credit: Helping Montana's Working families and Economy."⁶

Revise Highway Revenue Laws

Bill Number: HB 473

Sponsor: Frank Garner, HD 7

Outcome: PASSED AS AMENDED

This bill revises highway funding and expenditure laws. It provides for an increase in the fuel tax and special fuel tax, which will result in an increase to the per capita calculation upon which the state-tribal gas tax agreements are based.

Montana Reservation Economic Development Act

Bill Number: HB 605

Sponsor: Greg Hertz, HD 12

Outcome: FAILED

This bill would have created a tax benefit for new or expanded businesses located on or adjacent to an Indian reservation in Montana. The tax credit would have been calculated according to five percent of the gross wages paid in general for employees making \$15 an hour or more, with a tax credit increase to twenty percent for employing enrolled tribal members or veterans. The maximum credit possible to claim under this bill would have been \$2,000 per employee per year and could not exceed the taxpayer's income tax liability. HB 605 would have also created a small business investment tax credit with the goal of encouraging investment in small businesses and increasing the number of high-wage jobs on or adjacent to Indian reservations in Montana.

Generally Revise Laws Related to Invasive Species

Bill Number: HB 622

Sponsor: Mike Cuffe, HD 2

Outcome: PASSED AS AMENDED

This revises existing laws related to controlling the spread of invasive species. First, it creates a twenty-two member Invasive Species Council within the Montana Department of Natural Resources and Conservation to advise the Governor on a science-based, comprehensive program to identify, prevent, eliminate, reduce, and mitigate invasive species in Montana and to coordinate with public and private partners to develop and implement statewide invasive species strategic plans. HB 622 also creates the Upper Columbia Conservation Commission to protect the aquatic environment in tributaries to the Columbia River from the threat of invasive species. Representatives from each reservation in Montana will sit on the Invasive Species Council and a representative from the Confederated Salish and Kootenai Tribes will be appointed to the Upper Columbia Conservation Commission. Additionally, HB 622 revises the locations and timing of inspections in the statewide invasive species management area, as well as authorizing counties within the Columbia River basin to create invasive species control ordinances. Furthermore, it establishes the Missouri River Containment and Quarantine

Program and the Upper Columbia Pilot Program. Finally, it expands the penalties for knowingly violating invasive species management rules and significantly increases fines.

Revising Employment Incentive Laws for Hiring American Indians

Bill Number: HB 655

Sponsor: George Kipp, III, HD 15

Outcome: FAILED

HB 655 proposed tax credit incentives for private employers who hire American Indians in Montana. These tax credits would have been based on a portion of the wages paid to enrolled members of a state or federally-recognized tribe in Montana when: (1) most of the services performed by the employee are performed in Montana; (2) the wages paid to the employee on which the tax credit is based includes wages paid plus any contribution paid by the employer for health insurance to the employee's health insurance coverage; (3) the employee is not a five percent owner or employed in an enterprise involved in gaming; (4) the employee worked fifty-two weeks, less vacation or sick leave, for the employer in the tax year for which the credit is claimed; and (5) the tax credit is equal to the Indian employment credit an employer may claim under 26 U.S.C. 45A or \$1,000, whichever is greater. Finally, the credit could not have exceeded the taxpayer's income liability.

Reallocation of Funds Related to the Blackfeet Water Compact

Bill Number: SB 287

Sponsor: Llew Jones, SD 9

Outcome: PASSED

SB 287 fulfills a portion of the Blackfeet Tribe's water rights compact agreement, transferring \$14 million from the tribe's compact infrastructure account to their mitigation account. The funds will be spent according to the Birch Creek agreement.

Revise Economic Development Laws Related to Indian Country, Tourism

Bill Number: SB 309

Sponsor: Lea Whitford, SD 8

Outcome: PASSED AS AMENDED

As MBPC recently reported in, "Tourism Could Be an Economic Driver in Indian Country With Focus and Investment," tourism is one of Montana's leading industries, creating thousands of jobs and contributing billions of dollars to our state's economy each year.⁷ SB 309 aims to increase tourism in Indian Country and Montana by: (1) creating a specific Indian Country Tourism Region from within the state's existing tourism regions; (2) designating a member of the Governor's Tourism Advisory Council (TAC) to be a tribal member from the private sector; and (3) recognizing the State Tribal Economic Development Commission as the point of contact to work collaboratively with TAC to expand tourism in Indian Country.

Revise Laws Related to Criminal Jurisdiction on the Flathead Indian Reservation

Bill Number: SB 310

Sponsor: Lea Whitford, SD 8

Outcome: PASSED

SB 310 amends existing state law passed in 1963 to allow the Confederated Salish and Kootenai Tribes (CSKT) to withdraw from Public Law 83-280, which enabled the state of Montana to assume criminal and civil jurisdiction on the Flathead Reservation. The amendment strikes a single word from the existing law ([2-1-306 MCA](#)) to now read that the CSKT “may, by tribal resolution, withdraw consent to be subject to criminal ~~misdemeanor~~ jurisdiction of the state of Montana.”

Allow Individuals to Wear Traditional Regalia and Objects of Cultural Significance

Bill Number: SB 319

Sponsor: Jen Gross, SD 25

Outcome: PASSED

To further Montana’s constitutional recognition of the “distinct and unique cultural heritage of the American Indians and the state’s commitment to preserving the American Indians’ cultural integrity,” SB 319 bars a state agency or local government from prohibiting individuals from wearing traditional tribal regalia or objects of cultural significance at certain public events, including awards ceremonies, graduation ceremonies, and public meetings.

Revisions to Alcohol Tax Laws

Bill Number: SB 328

Sponsor: Lea Whitford, SD 8

Outcome: FAILED

SB 328 would have increased the excise tax collected at the time of the sale and delivery of liquor, beer, wine, and hard cider in Montana. It also proposed an additional tax on certain table wine. Had this bill passed, it would have increased the amounts tribes receive through the state-tribal revenue sharing agreements.

Revisions to Tobacco, Nicotine, and Tobacco Product Taxes for Healthcare Services

Bill Number: SB 354

Sponsor: Mary Caferro, SD 41

Outcome: FAILED

SB 354 would have increased the tobacco and tobacco products tax, generating increased revenue that would have gone towards providing a wage increase and additional employer expenses for direct care workers who provide Medicaid services, as well as for tobacco use prevention or cessation programs administered by the Montana Department of Public Health and Human Services. The increased revenue was intended to increase Medicaid services and

Medicaid provider rates and not to supplant the state's general fund in the trended traditional level of appropriation for Medicaid services and Medicaid provider rates. Like SB 328, had this bill passed, it would have increased the amounts tribes receive through the state-tribal revenue sharing agreements.

Resolution in Support of Permanent Authorization of the Indian Healthcare Improvement Act

Bill Numbers: HR 3, SR 57

Sponsors: Jonathan Windy Boy, HD 32; Lea Whitford, SD 8

Outcome: PASSED

These resolutions urge President Trump and the United States Congress to retain permanent reauthorization of the Indian Healthcare Improvement Act (IHCIA) when making changes to the Patient Protection and Affordable Care Act (ACA). The IHCIA was passed in 1976, declaring that it is the goal of the United States to provide the highest possible health status to American Indians and to provide the Indian Health Services with all the resources necessary to affect this goal. IHCIA has been reauthorized numerous times until 2010, when its authorization was made permanent by the passage of the ACA. HR 3/SR 57 stresses the importance of IHCIA and the necessity that its reauthorization remain permanent despite other changes made to the ACA. See our report, "Medicaid Expansion in Indian Country: Effective Strategies for Outreach and Enrollment," to learn more about IHCIA and its relationship to Medicaid Expansion in creating a more solid foundation for ensuring the health of American Indians in Montana.⁸

Resolution Recognizing the Anniversary of the Fort Robinson Breakout

Bill Number: HJ 5

Sponsor: Kelly McCarthy, HD 49

Outcome: PASSED

HJ 5 officially recognizes 138th anniversary of the Northern Cheyenne's breakout from Fort Robinson, Nebraska and the historical significance of the struggles that led it. It also commends the young participants in the Fort Robinson Memorial Breakout Run, which retraces the 400-mile trek through Nebraska, South Dakota, Wyoming, and Montana.

Study of Tribal Resources for Tribal Members Involved in the State Criminal Justice System

Bill Number: SJ 3

Sponsor: Cynthia Wolken, SD 48

Outcome: PASSED

A 2015 study from the Commission on Sentencing researched Montana's criminal justice system and found that although American Indians comprised just seven percent of the state's population, they made up 27 percent of all arrests related to failure to appear for court events or for violations of conditions related to community supervision. The interim study authorized

by SJ 3 will explore how the state could transfer tribal members who are subject to state supervision from state or county custody to tribal custody; allow tribal members to fulfill conditions of state court-ordered programming by participating in programs offered by the tribes or tribal organizations; and create a grant program to enable the Office of the State Public Defender to enlist tribal defense attorneys in place of an appointed public defender for tribal members. The study is to be concluded by September 15, 2018.

Study of Intractable Unemployment in High-Poverty Counties

Bill Number: SJ 20

Sponsor: Jason Small, SD 21

Outcome: PASSED

Montana's overall unemployment rate was 4.0 percent in December 2016, compared to a national average of 4.7 percent. This comparison is problematic because it glosses over the high-unemployment and high-poverty areas scattered across the state, including on Indian reservations. SJ 20 seeks to understand the factors involved in creating the disparities. The resolution directs researchers to examine the location and placement success of job services and apprenticeship programs or other training opportunities. In addition, researchers will review course offerings at community and tribal colleges as they relate to local employer needs and activities, and assess the availability of Internet and broadband and other components that enable workers to work from home.

To read the full text of each bill, visit leg.mt.gov.

¹ Montana Budget and Policy Center, "Economic Development in Indian Country: A State Investment with Continued Returns." February 2017. www.montanabudget.org/wp-content/uploads/2017/02/ICED-2017-FINAL.pdf

² Montana Budget and Policy Center, "An Outstanding Return on Investment: Tribal Colleges and Their Contributions to Montana." February 2017. www.montanabudget.org/wp-content/uploads/2017/02/2017-Tribal-College-Report-Update.pdf

³ Montana Budget and Policy Center, "Continued Preservation of Tribal Languages in Montana." December 2016. www.montanabudget.org/wp-content/uploads/2017/01/Language-Preservation-2016-FINAL.pdf

⁴ www.montanabudget.org/wp-content/uploads/2017/04/Suicide-prevention.pdf

⁵ Kauffman and Associates, Inc., "Montana Native Youth Suicide Reduction Strategic Plan," January 2017. <https://dphhs.mt.gov/Portals/85/amdd/documents/Substance%20Abuse/MontanaNativeYouthSuicideStrategicPlan.pdf>

⁶ Montana Budget and Policy Center, "HB 391 – The Montana Earned Income Credit: Helping Montana's Working families and Economy." March 2017. www.montanabudget.org/wp-content/uploads/2017/03/HB-391-EIC.pdf

⁷ Montana Budget and Policy Center, "Tourism Could Be an Economic Driver in Indian Country With Focus and Investment." March 2017. www.montanabudget.org/wp-content/uploads/2017/03/Tourism-in-Indian-Country.pdf

⁸ Montana Budget and Policy Center, "Medicaid Expansion in Indian Country: Effective Strategies for Outreach and Enrollment." September 2016. www.montanabudget.org/wp-content/uploads/2016/09/AI-MedEx-report-FINAL.pdf