

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

May 16, 2023

The Honorable Jason Ellsworth
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Matt Regier
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Ellsworth and Speaker Regier:

House Bill 797 requires the Office of Budget and Program Planning (OBPP) to submit an annual report of the financial and non-cash assistance state agencies provide directly or indirectly to tribal governments, including federal funds provided through a state agency to carry out a program. The bill requires a level of reporting to tribal governments that goes far beyond reporting to, for example, local governments in Montana. This alone is reason enough to prevent the bill from becoming law. But, more fundamentally, the bill relies upon imprecise, loosely defined terms that would make it exceedingly difficult for OBPP to properly fulfill the reporting mandate in the bill.

House Bill 797 provides an extremely broad definition of "financial assistance," in particular leaving what constitutes "noncash" assistance open to interpretation. Montana's state agencies interact and collaborate with tribal governments in various ways, including support services, technical assistance, and training. These interactions are an essential part of daily state government functions. Because the bill fails to precisely define noncash assistance, it is unclear whether these routine state agency interactions with tribal entities would trigger reporting under House Bill 797.

Moreover, the reporting deadline of August 15 is completely unrealistic -- final reports for the June 30 fiscal year are not completed or available until late July. The bill requires the tracking of state funds that go to third parties who implement services or projects to assist tribal entities. With the tight deadline included in the bill, it will be very difficult to ascertain and report the required data accurately, including subrecipient information, noncash assistance, entitlement

programs operated by a tribal entity to benefit individual members, and the distribution of agency administrative costs and other statewide costs per tribal entity.

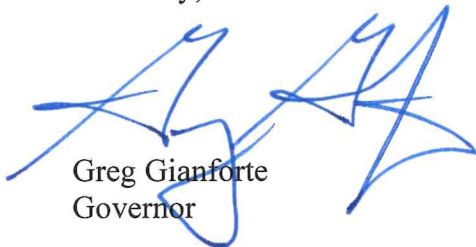
This bill could potentially open the various tribes to vulnerability in terms of how their governments operate. As we conduct government-to-government relationships with the tribes, we respect their sovereignty, and House Bill 797 could put those relationships at risk.

The report also would be duplicative and unnecessary. The governor's office currently produces a comprehensive annual report of state-tribal activities that is due on September 15. This report more than adequately addresses the transparency requirements outlined in MCA § 2-15-143. In addition, the tribes know, should they request additional information, the director of the Office of Indian Affairs would make every effort to fulfill any requests.

Lastly, House Bill 797's burdensome reporting requirement, which would require hundreds of hours of work in each agency, along with its imprecise guidance, is in direct opposition to our administration's Red Tape Relief Initiative (see Executive Order No. 1-2021), and it is unwise policy for the state.

For these reasons, and in accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto House Bill 797: "AN ACT REQUIRING DESIGNATED STATE AGENCIES TO SUBMIT REPORTS TO THE OFFICE OF BUDGET AND PROGRAM PLANNING ON INFORMATION RELATED TO FINANCIAL ASSISTANCE PROVIDED TO TRIBAL ENTITIES; REQUIRING THE OFFICE OF BUDGET AND PROGRAM PLANNING TO COMPILE A REPORT ON FINANCIAL ASSISTANCE PROVIDED BY DESIGNATED STATE AGENCIES DIRECTLY OR INDIRECTLY TO TRIBAL ENTITIES AND SUBMIT THE REPORT IN AN ELECTRONIC FORMAT TO THE STATE-TRIBAL RELATIONS COMMITTEE, THE LEGISLATIVE FINANCE COMMITTEE, AND THE OFFICE OF STATE DIRECTOR OF INDIAN AFFAIRS; REQUIRING THE REPORT COMPILED BY THE OFFICE OF BUDGET AND PROGRAM PLANNING TO BE POSTED ON THE WEBSITE OF THE OFFICE OF STATE DIRECTOR OF INDIAN AFFAIRS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Sincerely,



Greg Gianforte
Governor

cc: Legislative Services Division
Christi Jacobsen, Secretary of State