



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **SB0379.01: Revise laws related to state-tribal consultation**

Primary Sponsor: **Susan Webber**

Status: **As Introduced**

☐ Included in the Executive Budget

☒ Needs to be included in HB 2

☐ Significant Local Gov Impact

☐ Significant Long-Term Impacts

☒ Technical Concerns

☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

| | <u>FY 2026 Difference</u> | <u>FY 2027 Difference</u> | <u>FY 2028 Difference</u> | <u>FY 2029 Difference</u> |
|-----------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| Expenditures | | | | |
| General Fund (01) | \$201,289 | \$190,189 | \$193,366 | \$192,374 |
| State Special Revenue (02) | \$266,998 | \$256,098 | \$259,765 | \$259,609 |
| Revenues | | | | |
| General Fund (01) | \$0 | \$0 | \$0 | \$0 |
| State Special Revenue (02) | \$0 | \$0 | \$0 | \$0 |
| Net Impact | <u>(\$201,289)</u> | <u>(\$190,189)</u> | <u>(\$193,366)</u> | <u>(\$192,374)</u> |
| General Fund Balance | | | | |

Description of fiscal impact

FISCAL ANALYSIS

Assumptions

Governor's Office

1. The governor's office already has a tribal liaison with the Office of Indian Affairs and complies with 2-15-143, MCA.

Department of Natural Resources and Conservation

2. DNRC assumes SB 389 requires consultation and development of policy beyond the State Antiquities Act and DNRCs current rules.
3. DNRC prepares approximately 160 MEPA documents per year. DNRC assumes all these projects will require tribal consultation.
4. Implementation of SB 379 would require DNRC to hire 1.00 FTE, policy analyst 2, to act as the agency's tribal liaison and lead the development of policies, agreements, administrative rules and a written consultation policy across the agency. The Forestry and Trust Land Division (FTLD) and Board of Oil and Gas Conservation (BOGC) will each need 1.00 FTE, compliance specialist 3, to collaborate with tribal governments in development of program specific policies, agreements, and program implementation. WRD has staff that work with state water compacts and the international joint commission. DNRC assumes the work those staff do will comply with the tribal consultation provisions set forth in SB 379, however there will be an increase in operating expenses due to increased travel to comply with the requirements in the bill.
 - a. 2.00 FTE, compliance specialist 3, will cost \$217,117 per year in FY 2026 and FY 2027, \$220,741 in FY 2028 and \$219,249 in FY 2029 including salary and benefits. A 1.5% inflationary increase is applied in FY 2028 and FY 2029. FTLD's 1.00 FTE and operating will be funded fifty percent in state special

revenue and fifty percent in general fund to align with the current funding for the forestry and trust lands programs. BOGC's 1.00 FTE and operating associated will be funded out of state special revenue.

- b. 1.00 FTE, policy analyst 2, will cost \$121,181 in FY 2026 and FY 2027, \$123,231 in FY 2028 and \$122,387 in FY 2029 including salary and benefits. A 1.5% inflationary increase is applied in FY 2028 and FY 2029. This position and operating will be funded out of the general fund.
 - c. One-time-only costs for office set-up for 3.00 FTE will cost \$8,400 in FY 2026 (\$2,800 per FTE).
 - d. The 3.00 FTE will require network service at a cost of \$4,605 in FY 2026 and FY 2027 and phone service at a cost of \$777 in FY 2026 and FY 2027. An inflationary rate of 1.5% inflationary increase is applied in FY 2028 and FY 2029.
 - e. Supplies and materials for these positions will cost \$675 in FY 2026 and FY 2027. An inflationary rate of 1.5% inflationary increase is applied in FY 2028 and FY 2029.
 - f. Travel expenses for DNRC staff consultation development meetings with eight tribes across the state include lodging, per diem, and mileage, and will cost \$31,200 in FY 2026 and \$20,400 in FY 2027. An inflationary rate of 1.5% inflationary increase is applied in FY 2028 and FY 2029.
5. SB 379 is closely tied to federal consultation guidance where projects can incur fees for consultation. Projects may incur unpredictable and potentially substantial consultation fees, as fee schedules vary across different tribal jurisdictions. DNRC is unable to estimate the potential fiscal impact of these fees.

Historical Society

6. The Montana Historical Society (MTHS) holds significant collections of Native American objects and regularly exhibits those items. The Tribal Liaison will ensure compliance with the Native American Graves Protection and Repatriation Act regulations by coordinating all tribal consultation regarding the regulations.
7. MTHS assumes SB 379 requires consultation on federal regulations. Effective January 12, 2024, the U.S. Department of Interior issued revised regulations and procedures for the Native American Graves Protection and Repatriation Act. These regulations clarify the systematic processes for museums for the disposition or repatriation of Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony. They also require museums to provide free, prior, and informed consent before any exhibition of, access to, or research on human remains or cultural items. The regulations provide instructions and specific timelines for museums to facilitate disposition or repatriation and outline civil penalties for non-compliance.
8. Funding includes a 0.50 FTE Tribal Liaison (Program Officer 2) position that will cost \$51,532 in FY 2026,. An inflationary rate of 1.5% inflationary increase is applied in FY 2028 and FY 2029. Included is operating costs of \$2,800 for the new employee office package, \$10,000 for supplies and \$20,000 for travel to make consultations and meetings with Tribal representatives.

Fiscal Analysis Table

| Department of Natural Resources and Conservation | | | | |
|--|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| | <u>FY 2026</u> <u>Difference</u> | <u>FY 2027</u> <u>Difference</u> | <u>FY 2028</u> <u>Difference</u> | <u>FY 2029</u> <u>Difference</u> |
| <u>Fiscal Impact</u> | | | | |
| FTE | 3.00 | 3.00 | 3.00 | 3.00 |
| TOTAL Fiscal Impact | 3.00 | 3.00 | 3.00 | 3.00 |
| <u>Expenditures</u> | | | | |
| Personal Services | \$338,298 | \$338,298 | \$343,972 | \$341,636 |
| Operating Expenses | \$45,657 | \$26,457 | \$26,854 | \$27,257 |
| TOTAL Expenditures | \$383,955 | \$364,755 | \$370,826 | \$368,893 |
| <u>Funding of Expenditures</u> | | | | |
| General Fund (01) | \$201,289 | \$190,189 | \$193,366 | \$192,374 |
| State Special Revenue (02) | \$182,666 | \$174,566 | \$177,460 | \$176,519 |
| TOTAL Funding of Expenditures | \$383,955 | \$364,755 | \$370,826 | \$368,893 |
| <u>Revenues</u> | | | | |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u> | | | | |
| General Fund (01) | (\$201,289) | (\$190,189) | (\$193,366) | (\$192,374) |
| State Special Revenue (02) | (\$182,666) | (\$174,566) | (\$177,460) | (\$176,519) |

Historical Society

| | <u>FY 2026</u> <u>Difference</u> | <u>FY 2027</u> <u>Difference</u> | <u>FY 2028</u> <u>Difference</u> | <u>FY 2029</u> <u>Difference</u> |
|--|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <u>Fiscal Impact</u> | | | | |
| FTE | 0.50 | 0.50 | 0.50 | 0.50 |
| TOTAL Fiscal Impact | 0.50 | 0.50 | 0.50 | 0.50 |
| <u>Expenditures</u> | | | | |
| Personal Services | \$51,532 | \$51,532 | \$52,305 | \$53,090 |
| Operating Expenses | \$32,800 | \$30,000 | \$30,000 | \$30,000 |
| TOTAL Expenditures | \$84,332 | \$81,532 | \$82,305 | \$83,090 |
| <u>Funding of Expenditures</u> | | | | |
| State Special Revenue (02) | \$84,332 | \$81,532 | \$82,305 | \$83,090 |
| TOTAL Funding of Expenditures | \$84,332 | \$81,532 | \$82,305 | \$83,090 |
| <u>Revenues</u> | | | | |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u> | | | | |
| State Special Revenue (02) | (\$84,332) | (\$81,532) | (\$82,305) | (\$83,090) |

STATEWIDE SUMMARY


| | <u>FY 2026</u> <u>Difference</u> | <u>FY 2027</u> <u>Difference</u> | <u>FY 2028</u> <u>Difference</u> | <u>FY 2029</u> <u>Difference</u> |
|-----------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <u>Fiscal Impact</u> | | | | |
| FTE | 3.50 | 3.50 | 3.50 | 3.50 |

Fiscal Note Request - As Introduced*(continued)*

| | | | | |
|--|------------------|------------------|------------------|------------------|
| TOTAL Fiscal Impact | 3.50 | 3.50 | 3.50 | 3.50 |
| <u>Expenditures</u> | | | | |
| Personal Services | \$389,830 | \$389,830 | \$396,277 | \$394,726 |
| Operating Expenses | \$78,457 | \$56,457 | \$56,854 | \$57,257 |
| TOTAL Expenditures | \$468,287 | \$446,287 | \$453,131 | \$451,983 |
| <u>Funding of Expenditures</u> | | | | |
| General Fund (01) | \$201,289 | \$190,189 | \$193,366 | \$192,374 |
| State Special Revenue (02) | \$266,998 | \$256,098 | \$259,765 | \$259,609 |
| TOTAL Funding of Expenditures | \$468,287 | \$446,287 | \$453,131 | \$451,983 |
| <u>Revenues</u> | | | | |
| TOTAL Revenues | \$0 | \$0 | \$0 | \$0 |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u> | | | | |
| General Fund (01) | (\$201,289) | (\$190,189) | (\$193,366) | (\$192,374) |
| State Special Revenue (02) | (\$266,998) | (\$256,098) | (\$259,765) | (\$259,609) |

Technical Concerns**Department of Natural Resources and Conservation**

1. SB 379 mandates a consultation process to seek, discuss, and consider the views of tribal governments; however, the ambiguity of "when feasible" could lead to inconsistent implementation and potential conflicts over state actions affecting tribal interests.
2. SB 379 will delay response times to project proponents over current procedures which fully comply with the Montana State Antiquities Act. These delays could be prohibitive for entities wishing to conduct business on State School Trust Lands. This would hinder DNRC's fiduciary responsibilities to the school trust beneficiaries.
3. Developing a consultation policy with all eight tribal governments may not be accomplished by January 1, 2026 as required in SB 379.

Sponsor's Initials_____
Date
Budget Director's Initials_____
3/5/2025_____
Date