

HOUSE BILL NO. 366

INTRODUCED BY T. SHARP, L. SCHUBERT, S. KELLY, G. OVERSTREET, E. BYRNE, A. REGIER, P.
FIELDER, G. KMETZ, L. REKSTEN, S. MANESS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN APPROPRIATION TO REIMBURSE LAKE
COUNTY FOR CONSENTING TO ASSUME FELONY CRIMINAL JURISDICTION; PROVIDING FOR
PERMISSIBLE USES OF THE FUNDS, LEGISLATIVE INTENT, AND STATE RECOGNITION AND
OBLIGATIONS; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Funding to Lake County -- permissible uses. (1) The department of
justice shall provide funding to the Lake County commission to meet financial requirements and funding
shortfalls resulting from the county consenting to assist the state in the state's criminal jurisdiction and
enforcement obligations under Public Law 280, 83rd congress, 1st session, and as specified in 2-1-301.

(2) The Lake County commission shall use a portion of the appropriation provided in [section 3] to
increase the ability of the Confederated Salish and Kootenai tribes to assume policing and judicial
responsibilities for all Indians who are members of a federally recognized tribe within the boundaries of the
Flathead Indian reservation.

(3) (a) The Lake County commission and the Confederated Salish and Kootenai tribes shall
establish a memorandum of understanding regarding the distribution of the appropriation provided in [section
3].

(b) The memorandum of understanding must:

- (i) include a provision that Lake County shall provide the tribes with one-half of the appropriation;
- (ii) outline how a greater proportion of the funding will be allocated to the tribes as the tribes'
capabilities to assume a larger role grow; and
- (iii) restrict the funds to be used only for the development of tribal law enforcement and judicial
capabilities, including but not limited to mental health and drug treatment facilities.

(c) The legislature intends the appropriation to enable the state and the tribes to continue coordinating efforts until the Confederated Salish and Kootenai tribes have the capability to assume sole judiciary responsibility for its members and members of other federally recognized Indian tribes operating within the exterior boundaries of the Flathead Indian reservation.

(4) All of the funds appropriated under [section 3] are subject to legislative audit.

NEW SECTION. Section 2. State recognition and obligations. (1) The state recognizes that, in accordance with Chapter 556, Laws of 2021, Lake County has withdrawn consent to enforcement of criminal jurisdiction on the Flathead Indian reservation as of May 20, 2024, and has no current or future obligation to enforce criminal jurisdiction on behalf of the state.

(2) Recognizing the state's need to provide for the public safety of Indian and non-Indian residents, noting the state's continuing obligation under Public Law 280, and recognizing that the state has limited capability to fulfill its obligations following Lake County's withdrawal of consent, the legislature provides the appropriation in [section 3] to Lake County to assist the county to provide for the safety of the public until the state chooses to retrocede from Public Law 280 and retrocession is granted.

(3) The legislature acknowledges that Lake County agrees that, despite withdrawal of consent to provide law enforcement, the county will still assist with law enforcement, detention, and felony adjudication in proportion to the funds distributed to the county by the department of justice for the safety of the public until the state chooses to retrocede from Public Law 280 and retrocession is granted.

(4) With and to the extent that proportional funds are distributed to Lake County by the department of justice, the county shall assist the state and Confederated Salish and Kootenai tribes to develop the tribes' ability to assume policing and law enforcement duties until the time the state or the tribes retrocede from Public Law 280.

(5) The legislature acknowledges that if retrocession by the state or the tribes is not complete by June 30, 2027, Lake County's withdrawal from Public Law 280 remains effective, the county incurs no obligation to reenter the agreement, and the county may at its own discretion continue to assist the state and the tribes as requested.

- 2025

Drafter: Rachel Weiss,

1 NEW SECTION. **Section 3. Appropriation.** (1) The following money is appropriated from the general
2 fund to the department of justice to reimburse Lake County for consenting to assume felony criminal jurisdiction
3 over any member of a federally recognized tribe and over Indian territory of the Flathead Indian reservation:

5 Fiscal year beginning July 1, 2026 ~~\$2.5~~ \$5 million

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