

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

May 17, 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:

Under federal law, Congress has historically exercised criminal jurisdiction within the boundaries of tribal reservations. In 1953, Congress enacted PL-280, which granted Montana and other states the option to exercise criminal jurisdiction within tribal reservations.

In 1963, at the request of the Confederated Salish and Kootenai Tribes (CSKT), the Montana Legislature adopted House Bill 55 setting forth procedures by which the state could assume criminal jurisdiction within Montana's tribal reservations. In 1964, CSKT -- joined by Lake, Flathead, Missoula and Sanders Counties -- consented to the extension of state criminal jurisdiction within the Flathead Reservation in an effort to reduce crime and improve law enforcement. Pursuant to this request, on October 8, 1965, Governor Babcock issued a proclamation extending state criminal jurisdiction within the Flathead Reservation.

When the Montana Legislature adopted House Bill 55 in 1963 and when the 1965 proclamation was issued, it was clearly understood that the cost of exercising state criminal jurisdiction within a PL-280 reservation would be borne by the counties in the same manner as all counties bear responsibility for exercising state criminal jurisdiction. When Lake County consented to the implementation of PL-280 in 1965, it agreed to bear the corresponding costs for the benefit of its residents, both tribal and non-tribal. For more than 50 years, Lake County never received or expected contributions from the state toward the PL-280 costs, other than the standard cost-sharing and services provided by the state to all counties for their enforcement of state laws.

In 1965, Lake County willingly took on the responsibility, and received the benefits, of implementing PL-280. On several occasions over the past 50 years Lake County adamantly opposed retroceding any criminal jurisdiction back to CSKT – without registering any complaints about the costs of enforcing PL-280. In 1991, Lake County successfully opposed House Bill 797

retroceding all criminal jurisdiction to CSKT. In 1993, Lake County unsuccessfully opposed Senate Bill 368 retroceding misdemeanor criminal jurisdiction to CSKT. Since the enactment of Senate Bill 368 in 1993, CSKT has exercised jurisdiction over misdemeanors while Lake County exercises jurisdiction over felonies.

By all accounts, the implementation of PL-280 on the Flathead Reservation has been a model of success. For more than 50 years, Lake County has advocated for and supported the jurisdiction granted to it under PL-280 to prosecute crimes committed by tribal members and has willingly accepted the corresponding financial responsibilities. In the past few years, Lake County has inexplicably changed course, asserting that the State should be responsible for all costs associated with the implementation of PL-280 – while the county retains full control. Lake County wants all the benefits of exercising jurisdiction under PL-280 while shifting all financial responsibility to the state.

In passing House Bill 479, the Legislature has failed to address the underlying issue of financial responsibility for the implementation of PL-280, stating instead empty aspirational hopes without a guarantee of a future resolution. House Bill 479 grants \$5 million to Lake County without any conditions or requirements – not even a requirement to apply the funds to PL-280 costs or to provide an accounting for the expenditure of the funds. House Bill 479 simply kicks the can down the road, creating a slippery slope at the end of which we can expect another request for funding in 2025 from Lake County – and any other counties experiencing financial pressures in enforcing state criminal jurisdiction within their boundaries.

For these reasons, in accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 479: “AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF JUSTICE TO PROVIDE MONEY TO LAKE COUNTY TO OFFSET COSTS IN THE BIENNIUM FOR LAW ENFORCEMENT ACTIVITIES ON THE FLATHEAD RESERVATION; CREATING A PUBLIC LAW 280 TASK FORCE TO PROVIDE RECOMMENDATIONS; PROHIBITING LAKE COUNTY FROM WITHDRAWING CONSENT TO BE SUBJECT TO CRIMINAL JURISDICTION OF THE STATE; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.”

Sincerely,



Greg Gianforte
Governor

Enclosure

cc: Legislative Services Division
Christi Jacobsen, Secretary of State