

JANUARY 2011 REGULAR SESSION OF THE CROW TRIBAL LEGISLATURE

CLB No. 11-02

Co-introduced by Senator Oliver Half, Senator Kenneth Shane, and Senator Shawn Backbone
On behalf and for the Center Lodge District

A Bill for an Act Titled:

An Act to Amend Title 13 of the Crow Law and Order Code to Ensure 100% of all Crow Tribe-State of Montana Tobacco Tax Agreement Funds Received by the Crow Tribe Shall Be Utilized by Little Big Horn College for the Education of Crow Tribal Members

Legislative Findings:

WHEREAS, the Crow Tribal Legislature (“Legislature”) is vested with the power and duty to promulgate and adopt laws, resolutions, ordinances, codes, regulations, and guidelines in accordance with the 2001 Crow Constitution and federal laws pursuant to Article V, Section 2(a) of the 2001 Constitution; and

WHEREAS, the Crow Tribal Executive Branch (“Executive Branch”) has authority and responsibility pursuant to Article IV, Section 4(a) of the 2001 Constitution to implement all laws, resolutions, codes and policies duly adopted by the Legislature; and

WHEREAS, both the Crow Tribe and the State of Montana have the authority to tax the sale of tobacco products within the exterior boundaries of the Crow Indian Reservation; and

WHEREAS, both the Crow Tribal Government and the State of Montana have sought to avoid legal disputes over jurisdictional issues related to the levying of on-reservation tobacco taxes and to minimize the burdensome effects of dual taxation such that both the Crow Tribal Government and the State of Montana have agreed that a tobacco tax revenue sharing agreement is the most sensible way for both jurisdictions to realize maximum benefits from on-reservation tobacco sales; and

WHEREAS, on January 21st, 2005, the Legislature passed CLB 05-07, which was signed by Tribal Chairman Carl Venne on January 31st, 2005, and which established a tribal tobacco tax under Title 13 of the Crow Law and Order Code and authorized the Tribal Chairman to represent the Crow Tribe in negotiations with the State of Montana for a new tobacco tax agreement; and

WHEREAS, on April 14th, 2005, the Legislature passed Joint Action Resolution 05-01, which was signed by Tribal Chairman Carl Venne on April 19th, 2005, and which gave approval to the terms contained in the negotiated Crow Tribe-Montana Tobacco Tax Agreement; and

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WHEREAS, on May 13th, 2005, the Crow Tribe-Montana Tobacco Tax Agreement was finalized by the signatures of the Montana Governor, Montana Attorney General, and Director of Montana Department of Revenue and, whereas, on March 9th, 2007, the Tobacco Tax Agreement was amended with changes to the administration of the agreement; and

WHEREAS, from the time the Tobacco Tax Agreement was initially enacted to the present, an average of over \$1 million in tax revenue comes annually to the Crow Tribal General Fund for expenditures according to the Crow Tribe's annual budget; and

WHEREAS, at the time the Tobacco Tax Agreement was made, former Tribal Chairman Carl Venne promised Little Big Horn College President that the funds the Crow Tribe received from the Tobacco Tax Agreement would go to the College; and

WHEREAS, during Fiscal Year 2006 Little Big Horn College received \$1 million from the General Fund under budget line item code "64090 LBH College Tobacco Fund;" and

WHEREAS, during Fiscal Year 2007 Little Big Horn College received \$1 million from the General Fund under budget line item code "64090 LBH College Tobacco Fund;" and

WHEREAS, on September 20th, 2007 the Legislature passed Joint Action Resolution 07-09, which was signed by Tribal Chairman Carl Venne the same day, and which authorized a \$3 million tax-exempt loan to finance a new library, archives, and administration building for Little Big Horn College; and

WHEREAS, during Fiscal Year 2008 Little Big Horn College received \$398,333 from the General Fund under budget line item code "64090 LBH College Subsidy" and, in Fiscal Year 2008, \$238,788 was used to service the \$3 million college construction loan under budget line item code "64080 LBH College Construction Loan Payment;" and

WHEREAS, during Fiscal Year 2009 Little Big Horn College received \$383,409 from the General Fund under budget line item code "64090 LBH College Subsidy" and, in Fiscal Year 2009, \$218,889 was used to service the \$3 million college construction loan under budget line item code "64080 LBH College Construction Loan Payment;" and

WHEREAS, during Fiscal Year 2010 the Crow Tribal Comptroller has projected that Little Big Horn College will receive \$300,000 from the General Fund under budget line item code "64090 LBH College Subsidy" and, in Fiscal Year 2010, the Comptroller projects that \$238,776 will be used to service the \$3 million college construction loan under budget line item code "64080 LBH College Construction Loan Payment;" and

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WHEREAS, the Fiscal Year 2011 budget, as proposed by Chairman Cedric Black Eagle and adopted by the Legislature through passage of CLB 10-06, provides that General Fund budget line item code “64080 LBH College Construction Loan Payment” is authorized and projected to the amount of \$238,776 but that General Fund budget line item code “64090 LBH College Subsidy” does not have an authorization for any expenditures; and

WHEREAS, the Crow Tribal Comptroller projects, through preparation of the Fiscal Year 2011 budget, that the Crow Tribe will receive \$1,066,000.00 in revenues from the Tobacco Tax Agreement; and

WHEREAS, the result of the Fiscal Year 2011 budget for the operations of the Crow Tribal Government is that approximately \$827,244 will be absorbed by the General Fund for use in other aspects of Crow Government; and

WHEREAS, education is of vital importance to the economic, political, and social stability and development of the modern Apsaalooke Nation; and

WHEREAS, the Legislature has made it a top priority to establish tribal law and policy which enhances the ability of Crow students to realize their individual potential through post-secondary education; and

WHEREAS, Little Big Horn College is quickly gaining an outstanding reputation as a leader amongst tribal colleges and, in the Crow community, stands as a bright beacon of the promise of future success for the modern Apsaalooke Nation and especially those Crow students committed to positive self-betterment through post-secondary education; and

WHEREAS, the Legislature now seeks to establish by Crow tribal law that all funds received annually by the Crow Tribe from the Tobacco Tax Agreement, minus an amount needed to service the \$3 million college construction loan repayment, shall be used at the discretion of the Little Big Horn College administrators for the purpose of educating Crow tribal members.

NOW, THEREFORE, BE IT HEREBY ENACTED AS CROW TRIBAL LAW:

Section 1. **Immediate effective date.**

Upon enactment of this Act as Crow tribal law, Title 13 of the 2005 Crow Law and Order Code shall be amended in order to fully incorporate this Act. *Provided that*, until such time as a new edition of the Crow Law and Order Code shall be published by the Secretary of the Legislature, this Act shall be considered valid and enforceable tribal law to the same extent and purpose as if codification of this Act had already taken effect.

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Section 2. Tobacco tax agreement revenue allocation amendment to Title 13.

There shall be added to Title 13 of the Crow Law and Order Code a Section 108 of Chapter 1, which shall be codified as follows:

13.1.108 Revenue from Crow Tribe-Montana Tobacco Tax Agreement.

(1) Subject to the exception provided for in subsection (2) of this section, all revenues received by the Crow Tribe from the State of Montana pursuant to the Crow Tribe-Montana Tobacco Tax Agreement, as entered into between the parties on May 13th, 2005, and as may be amended from time to time, shall be immediately distributed from the General Fund of the Crow Tribe to Little Big Horn College at such time as the Crow Tribe receives the funding. All such funding received by the College shall be used exclusively for the purpose of supporting and enhancing the educational opportunities of Crow tribal members.

(2) The Crow Tribal Comptroller shall ensure that a sufficient amount of the Tobacco Tax Agreement funding received from the State of Montana shall be used for the purpose of servicing the \$3 million college construction loan through periodic payments to First Interstate Bank of Montana or its successors. *Provided that*, in no event shall the total amount of Tobacco Tax Agreement funding used to service the college loan in any fiscal year exceed the cumulative total of \$500,000.00 or one-half of the total amount received by the Crow Tribe from the State of Montana during any fiscal year, whichever is less.

(3) The chief financial officer, comptroller, treasurer, or other designated lead financial management official of Little Big Horn College shall be required, at all times, to maintain a separate banking or treasury account for the funds received from the Tobacco Tax Agreement and provide for a strict accounting of all expenditures of such funds, and shall document all expenditures through the verified submission of complete quarterly financial reports to the Crow Tribal Comptroller, Crow Tribal Executive Branch Officials, and the Education and Revenue Committees of the Legislature in accordance with standards established under Section 1(b) of Legislative Resolution 10-21 and any other applicable Crow tribal law.

(4) The following shall be considered lawful and appropriate expenditures of Tobacco Tax Agreement Funds:

- a. purchases of text books, academic literature, lab materials, computers, software, travel stipends, meal allowances, day care expenses, and other services and materials directly related to the College curriculum or student cost of living;

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- b. tuition waivers, academic, athletic, and veteran's-based scholarships, and academic-based grants;
- c. field trips and student travel related to presentations or educational conferences.
- d. all such expenditures under this subsection shall only be made for and on behalf of Crow tribal members, provided there are Crow students able to receive such expenditures. In the event there are excess funds available, it shall be considered lawful and appropriate for expenditures to be made to non-tribal member students with a preference given to non-members students who are married to members of the Crow Tribe.

(5) For the purposes of prohibiting certain expenditures under subsection (4) above, a member of the College Board of Trustees shall be considered within the scope of the prohibition contained in part (a) and (b) above. Any violation of subsection (4) above shall be considered a civil offense and punished in accordance to Crow tribal law. ***Provided that***, Tobacco Tax Agreements funds shall be considered "tribal funds" for purposes of Title 18, Section 1163 of the United States Code and any other applicable federal or Crow tribal law.

(6) The Tobacco Tax Agreement funds shall be included in the annual comprehensive Crow tribal budget, but only for the purposes of accounting and reporting. In no event shall the Tobacco Tax Agreement funds received by the Crow Tribe be used in any manner that is not in accordance with Title 13 of the Crow Law and Order Code.

(7) Any increases in the amount of Tobacco Tax Agreement funds received by the Crow Tribe during any fiscal year which are greater than the total of \$1,066,000 shall only authorized to be spent by the Crow Tribal Government for the benefit of Little Big Horn College, but any such expenditure must be as an amendment to the comprehensive tribal budget in accordance with the Crow Fiscal Management Act, as amended.

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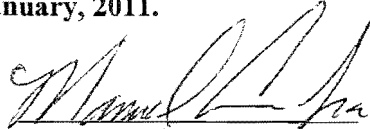
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CERTIFICATION

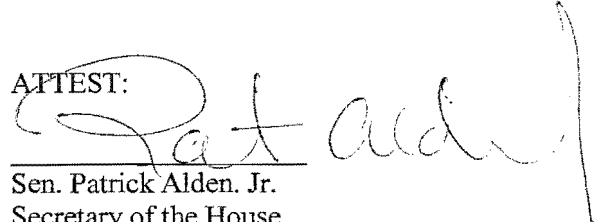
I hereby certify that this bill titled **An Act to Amend Title 13 of the Crow Law and Order Code to Ensure 100% of all Crow Tribe-State of Montana Tobacco Tax Agreement Funds Received by the Crow Tribe Shall Be Utilized by Little Big Horn College for the Education of Crow Tribal Members** was duly approved by the Crow Tribal Legislature with a vote of

16 in favor
0 opposed, and
0 abstained

and that a quorum was present on this 18TH day of **January, 2011**.


Sen. Manuel Covers Up, Sr.
Speaker of the House
Crow Tribal Legislature


ATTEST:


Sen. Patrick Alden, Jr.
Secretary of the House
Crow Tribal Legislature

EXECUTIVE ACTION

I hereby
 approve
 veto

this bill titled **An Act to Amend Title 13 of the Crow Law and Order Code to Ensure 100% of all Crow Tribe-State of Montana Tobacco Tax Agreement Funds Received by the Crow Tribe Shall Be Utilized by Little Big Horn College for the Education of Crow Tribal Members** pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 and Article IV, Sections 3(f) and 3(k) of the Constitution and Bylaws of the Crow Tribe of Indians on this 10th day of Feb. January, 2011.


Chairman Cedric Black Eagle
Crow Tribal Executive Branch

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 Little Big Horn College for the Education of Crow Tribal Members

Bill or Resolution: CLB11-02 Introduced by: Center Lodge District Sen. Date of Vote: 01/18/2011
 Number

<u>Representative:</u>	Yes	No	Abstained
H. Two Leggins	<u> X </u>	<u> </u>	<u> </u>
V. Pretty Paint	<u> X </u>	<u> </u>	<u> </u>
C. J. Stewart	<u> X </u>	<u> </u>	<u> </u>
K. Shane	<u> X </u>	<u> </u>	<u> </u>
S. Backbone	<u> X </u>	<u> </u>	<u> </u>
O. Half, Jr.	<u> X </u>	<u> </u>	<u> </u>
W. Plainfeather	<u> X </u>	<u> </u>	<u> </u>
R. Old Crow, Sr.	<u> X </u>	<u> </u>	<u> </u>
M. Not Afraid	<u> X </u>	<u> </u>	<u> </u>
V. Crooked Arm	<u> X </u>	<u> </u>	<u> </u>
L. DeCrane	<u> X </u>	<u> </u>	<u> </u>
C. Goes Ahead	<u> X </u>	<u> </u>	<u> </u>
B. Hugs	<u> X </u>	<u> </u>	<u> </u>
G. Real Bird, Jr.	<u> X </u>	<u> </u>	<u> </u>
M. Backbone	<u> </u>	<u> </u>	<u> </u>
D. Wilson	<u> </u>	<u> </u>	<u> </u>
P. Alden, Jr. <i>Secretary of the House</i>	<u> X </u>	<u> </u>	<u> </u>
M. Covers Up, Sr. <i>Speaker of the House</i>	<u> X </u>	<u> </u>	<u> </u>
Totals:	<u> 16 </u>	<u> 0 </u>	<u> 0 </u>

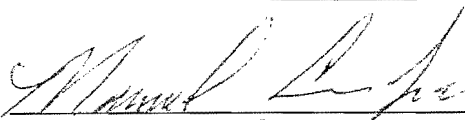
Result of Vote:

Passed

Not Passed

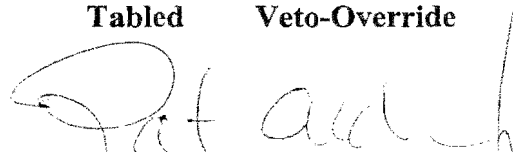
Tabled

Veto-Override



Manuel Covers Up, Sr.
Speaker of the House

Date



Pat Alden, Jr.
Secretary of the House

Date