

House Bill 378
February 10, 2005
Presented by Chris Smith
House Fish, Wildlife and Parks Committee

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HB 378

Mr. Chairman and committee members, for the record I am Chris Smith, Chief of Staff for Montana Department of Fish, Wildlife & Parks (FWP).

I am here today to provide the committee with information regarding HB 378. Before addressing the bill directly, I want to provide some background on the Pittman-Robertson (P-R) and Wallop-Breaux (W-B) federal aid programs.

The federal government collects excise taxes on the manufacture of certain hunting, fishing and boating equipment at the wholesale level. These funds are apportioned to the states under the P-R and W-B programs for conservation and restoration of wildlife and fish, respectively. Apportionments are based on a complex formula that includes the total area and population of the state and the number of hunting and fishing licenses sold in the state each year, compared to national totals for area, population and license sales. Montana's apportionments in recent years have been about \$ 5.5 million for P-R and \$ 6.2 million for W-B.

To use the funds, the states submit a multi-year "application for federal aid" (AFA) that outlines, in general terms, programs or projects the state will undertake using the funds. The type of programs and projects that are eligible for these grants are limited and the state must agree to restrict use of all hunting and fishing license dollars for the administration of it's fish and wildlife agency to be eligible for grants. If an AFA is approved, the state then submits annual grant agreements that spell out the project costs and actions in detail. Once the grant agreement is approved, the state initiates the project. As costs are incurred, the state requests reimbursement from the federal government for up to 75% of the costs of the project. The balance of the costs must be paid from non-federal "matching" sources.

Project expenditures are subject to audit by the federal government and if the project involves the purchase of land or construction of facilities, the federal government will periodically audit use of the land or facilities to ensure the rigid terms of the grant programs continue to be met. If an audit reveals any inappropriate use of funds, land or facilities, the state is liable to return grant funds and could lose future access to this significant source of funding.

From time to time, there has been discussion at the federal level about providing an apportionment of these funds for Tribes. To date, however, only states can apply for and receive P-R and W-B funds.

The first effort to provide Tribes' eligibility to use funds in Montana was House Bill 107 introduced by Rep. Eggers during the 1999 sessions. Rep. Eggers' proposed transferring federal aid funds to the Tribes for their use. This approach was not viable or legal. During the 2001 session, Rep. Eggers reintroduced HB 107, and FWP worked with Rep. Eggers to revise his bill to authorize a sub-grant program for tribes, using up to 7% of the state's apportionment. This approach is legal and viable, provided the tribes agree to all the federal requirements, including providing a non-federal match, use of the funds, auditing of project expenditures and future use of lands or facilities.

The amended version of HB 107 passed the House in 2001. The Senate Fish and Game committee in 2001 determined that statutory language was not necessary for FWP to establish sub-grants with tribes and decided not to pass HB 107. However, the Senate committee directed FWP to work with tribes to implement a program in the spirit of Rep. Eggers' bill.

In response to this direction, FWP contacted all tribes in the state and contracted with a former FWP employee familiar with Montana's tribes, to identify potential projects and facilitate agreements and sub-grants. In spite of considerable effort, no P-R and W-B sub-grants have been implemented.

Among the roadblocks to P-R and W-B sub-grants are limitations on use of P-R and W-B funds, the requirement for non-federal matching funds and some tribes' reluctance to agree to the federal audit requirements.

FWP has had some success issuing sub-grants to tribes under a different federal aid program, the State Wildlife Grants (SWG) program. Similar in many ways to P-R and W-B, SWG provides funding to states for conservation of all species of concern, not just game or sport fish. Over \$100,000 has been allocated to tribal projects related to swift fox and grizzly bears with the Blackfeet; loons with the Salish-Kootenai and a proposed grant to develop a reservation wildlife management plan with the Ft. Belknap tribe. One reason SWG grants are easier to implement is that, unlike P-R and W-B grants, SWG grants do not require equal access to benefits for tribal and non-tribal members. In addition, in several cases private entities or the university system have provided the required non-federal matching funds on behalf of the tribes.

Beginning last year, Congress established a Tribal Wildlife Grant program that provides funding directly to tribes and does not have the same matching requirements the states face with SWG, P-R or W-B. Several Montana tribes received allocations of Tribal Wildlife Grant funds.

House Bill 378 is virtually the same as HB 107, as it passed the House in 2001. The only change we are aware of is language related to the amount of administrative funding FWP can withhold from a grant. While we have some questions about what this language means, we do not see that as a major problem with the bill.

The most significant difference between the efforts FWP has undertaken in the last 4 years and what would occur under HB 378 is the formation of the intertribal council. If this council increased communication between FWP and the tribes, it is possible additional projects could be identified, but acquiring the non-federal matching funds may remain a challenge for tribes. Also, to the extent federal funds are redirected to tribal projects, it would be necessary to "backfill" budgets in the fisheries and wildlife divisions with general license accounts to sustain existing programs.

As we said in 2001, once the technical problems with HB 107 were resolved and all the federal requirements can be met, we believe allocation of the state's federal aid funds is an appropriate issue for the legislature to decide. We are available to answer any questions you have about the tradeoffs and will follow whatever direction this body sets.

Thank you.