

1 HOUSE BILL NO. 163

2 INTRODUCED BY HOLLANDSWORTH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISPOSITION OF ANY FUNDS
5 RECOVERED BY THE STATE OF MONTANA FROM PPL MONTANA, LLC, FOR THE USAGE OF NAVIGABLE
6 RIVERBED LANDS FOR POWER GENERATION FROM 2000 THROUGH 2007; PROVIDING THAT ANY
7 RECOVERED FUNDS MUST BENEFIT THE PUBLIC SCHOOLS; DIRECTING 95% OF ANY RECOVERY TO
8 THE GUARANTEE ACCOUNT AND THE REMAINING 5% TO THE PERMANENT PUBLIC SCHOOL FUND;
9 CLARIFYING THAT RECOVERED FUNDS ARE SUBJECT TO AN APPROPRIATION; AND PROVIDING AN
10 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
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12 WHEREAS, on March 30, 2010, the Montana Supreme Court in PPL Montana, LLC, v. Montana, 2010
13 MT 64, 355 Mont. 402, 229 P.3d 421 (2010), affirmed the Montana First Judicial District Court, Lewis and Clark
14 County's decision that the use of navigable riverbed lands for power generation subjected PPL Montana to the
15 payment of damages under Montana's hydroelectric resources laws and held that the navigable riverbeds are
16 part of the state's public land trust under Article X, section 11, of the Montana Constitution; and

17 WHEREAS, the Montana Supreme Court affirmed the judgment entered for the State of Montana in the
18 amount of \$40,956,180, plus postjudgment interest, as compensatory damages for PPL Montana's use of
19 state-owned riverbeds from 2000 through 2007; and

20 WHEREAS, the Montana Supreme Court determined the riverbeds are held "in trust for the people", but
21 it did not determine which specific beneficiaries are entitled to recovery from the award of compensatory damages
22 and postjudgment interest; and

23 WHEREAS, the Montana Supreme Court did not determine whether past, present, or future beneficiaries
24 are entitled to compensation; and

25 WHEREAS, in 1937 the Montana Legislature enacted legislation providing that when a navigable stream
26 changes course the abandoned bed belongs to the State of Montana to be held in trust for the benefit of public
27 schools by enacting Chapter 36, Laws of 1937, now codified as section 77-1-102, MCA; and

28 WHEREAS, PPL Montana petitioned the United States Supreme Court to review the Montana Supreme
29 Court's decision and overturn the award of damages; and

30 WHEREAS, compensatory damages and postjudgment interest has not been paid to the state based on

1 PPL Montana's pending appeal to the United States Supreme Court; and

2 WHEREAS, it is the Legislature's intent to balance the interest of past, present, and future beneficiaries
3 by clarifying that any money received by the State of Montana from PPL Montana as a result of the litigation cited
4 in this preamble must benefit the public schools, with 95% of any recovery going to the guarantee account and
5 the remaining 5% going to the permanent public school fund.

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

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9 NEW SECTION. **Section 1. Deposit of funds for the benefit of public schools.** (1) Any funds
10 recovered by the state on the claim that PPL Montana, LLC, owes compensation to the state for using
11 state-owned riverbeds from 2000 through 2007, as addressed by the Montana Supreme Court in PPL Montana,
12 LLC, v. Montana, 2010 MT 64, 355 Mont. 402, 229 P.3d 421 (2010), and any interest that accumulates on the
13 funds is to be deposited as follows:

14 (a) 95% of any recovery must be deposited in the guarantee account provided for in 20-9-622 for
15 distribution to public schools; and

16 (b) the remaining 5% of any recovery must be deposited in the permanent fund provided for in 20-9-621
17 for the purpose of generating future income for distribution to public schools.

18 (2) For the purposes of complying with Article VIII, section 14, of the Montana constitution and 17-8-101,
19 the funds provided for in subsection (1) derive from a state source and may be paid out of the treasury only on
20 an appropriation made by law.

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22 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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24 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the
25 meaning of 1-2-109, to all funds identified in [section 1].

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