

SENATE BILL NO. 334
INTRODUCED BY G. PEASE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE EQUITABLE DISTRIBUTION OF REVENUE FROM THE FEDERAL AID IN SPORT FISH RESTORATION PROGRAM AND THE FEDERAL AID IN WILDLIFE RESTORATION PROGRAM BETWEEN THE STATE AND MONTANA TRIBAL GOVERNMENTS FOR WILDLIFE AND FISH MANAGEMENT PURPOSES; AUTHORIZING THE EXPENDITURE OF UP TO 7 PERCENT OF THE REVENUE FROM THE PROGRAMS THAT IS AVAILABLE TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS ON TRIBAL WILDLIFE AND FISH MANAGEMENT PROGRAMS; REQUIRING REPORTS ON PROGRAM IMPLEMENTATION, PROGRESS, AND SUCCESS; CREATING THE TRIBAL NATURAL RESOURCES COUNCIL AND PRESCRIBING COUNCIL MEMBERSHIP AND DUTIES; REQUIRING THAT THE COUNCIL RECOMMEND DISTRIBUTION OF FUNDS FOR STATE-FUNDED PROJECTS FOR TRIBAL WILDLIFE AND FISH MANAGEMENT PROGRAMS; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, tribal and nontribal recreationists of Montana, whether on or off of reservations, pay federal excise taxes on licenses and sporting goods; and

WHEREAS, a portion of these federal excise taxes is apportioned to the state to be administered by the Department of Fish, Wildlife, and Parks and is earmarked for purposes of wildlife and fish management in Montana; and

WHEREAS, the distribution of funds from the total apportionment is based on a formulated percentage, factoring in licensed resource users, demographic population, land base, and water area, including tribal populations, lands, and waters, yet none of these funds are currently apportioned to tribal governments; and

WHEREAS, the various tribal governments of Montana also maintain programs of wildlife and fish management that benefit the state wildlife and fish resources and wildlife and fish management on reservations could be enhanced if Montana tribes were to receive part of the tax revenue for tribal management programs; and

WHEREAS, as a matter of equity, Montana tribes are entitled to a portion of the federal excise tax revenue on sporting goods for tribal wildlife and fish management programs.

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

NEW SECTION. Section 1. Equitable distribution of revenue from federal aid in sport fish restoration program and federal aid in wildlife restoration program -- reporting requirements. (1) As part of its administrative duties, the department shall expend from the account provided for in 87-1-601(1)(b) up to 7% of the funds from the federal aid in sport fish restoration program and the federal aid in wildlife restoration program apportioned annually to Montana for eligible tribal wildlife and fish management programs, as recommended by the tribal natural resources council created in [section 2]. The department may expend not more than 5% of the funds for the administration of any individual tribal management project. Money spent by the department pursuant to the recommendations of the tribal natural resources council for tribal wildlife and fish management programs must be expended for public benefits, which may include tribal public benefits, in conformity with all applicable federal requirements and in the manner provided in [sections 1 through 4].

(2) The department shall report to the governor and to each regular session of the legislature regarding the implementation, progress, and success of tribal wildlife and fish management programs funded pursuant to this section. The report must include the tribal perspective on program progress and success, including any comments or concerns of the tribal natural resources council.

NEW SECTION. Section 2. Tribal natural resources council created -- membership -- purpose.

(1) There is a tribal natural resources council.

(2) The tribal natural resources council comprises nine members, as follows:

(a) one appointed by the tribal council of each of the seven tribes in Montana;

(b) one indigenous, nonenrolled resident of a reservation, who shall reside continuously on a reservation during the term of office on the tribal natural resources council, to be chosen by the tribal members of the council; and

(c) one member who is a representative of the department.

(3) A tribal member may be a member of a tribe's natural resources committee.

(4) Tribal natural resources council members shall serve voluntarily and without compensation.

(5) The tribal natural resources council is created for the express purpose of:

(a) identifying needs for projects for tribal wildlife and fish management programs pursuant to [section 1]; and

(b) determining the priority of projects for tribal wildlife and fish management programs pursuant to [section 3].

NEW SECTION. Section 3. Tribal natural resources council -- powers and duties -- proportion of distribution. (1) The tribal natural resources council shall, on behalf of the tribes of Montana, recommend projects for funding pursuant to [section 1] and shall establish priorities for distribution of funds to each tribe. The distribution must be based on:

(a) available funds and conformity with any applicable federal requirements regarding expenditure of the money;

(b) a list of management priorities developed by the tribal natural resources council after examining the wildlife and fish management programs of each tribe; and

(c) immediate needs associated with the wildlife and fish management programs of each tribe, as indicated by the tribal natural resources council member from each tribe.

(2) The tribal natural resources council may use technical assistance from a biologist acting as an advisor and compliance inspector on all tribal wildlife and fish management programs that are funded pursuant to [sections 1 through 4].

(3) [Sections 1 through 4] do not imply a waiver of tribal sovereignty. The funding and implementation of a tribal wildlife and fish management program pursuant to [sections 1 through 4] does not authorize the department to usurp or infringe in any way upon the authority of a tribe over the tribe's own lands and resources.

NEW SECTION. Section 4. Compliance and eligibility process. All activities and costs of projects proposed by the tribal natural resources council and the department must be submitted to the regional director of the United States fish and wildlife service for approval. Project documents must demonstrate compliance with all applicable federal laws and regulations. The tribal natural resources council or an individual tribe shall function as a subgrantee of the department. All wildlife and fish management activities conducted by the tribal natural resources council or an individual tribe must meet the same documentation requirements and other conditions as any other project submitted for funding under the federal aid programs in [section 1]. Projects proposed for funding must conform to the eligibility process, project criteria, and compliance requirements for federal aid grants.

NEW SECTION. Section 5. Contingent voidness. If a federal court determines that the implementation of [sections 1 through 4] would cause Montana to be ineligible to participate in the federal aid in sport fish restoration program or the federal aid in wildlife restoration program, then [this act] is void.

NEW SECTION. **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 7. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part 6, apply to [sections 1 through 4].

NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2007.

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