

1 HOUSE BILL NO. 590

2 INTRODUCED BY M. CUFFE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A MEANS TO COMPENSATE FOR THE STORAGE
5 OF WATER BEHIND LIBBY DAM, WHICH WAS CREATED THROUGH THE COLUMBIA RIVER TREATY;
6 CREATING THE COLUMBIA RIVER TREATY ACCOUNT; AUTHORIZING THE DEPARTMENT OF NATURAL
7 RESOURCES AND CONSERVATION TO ADMINISTER THE ACCOUNT; PROVIDING A STATUTORY
8 APPROPRIATION; PROVIDING FOR A TRANSFER TO THE GENERAL FUND; AMENDING SECTION
9 17-7-502, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

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11 WHEREAS, Libby Dam, located in Lincoln County, Montana, is the fourth dam constructed under the
12 Columbia River Treaty, which the Canadian government and the United States government entered into in 1964,
13 and is located on the Kootenai River, which is the third largest tributary to the Columbia River and contributes
14 almost 20% of the total water in the lower Columbia River; and

15 WHEREAS, Libby Dam was dedicated on August 24, 1975, and spans the Kootenai River 17 miles
16 upstream from the town of Libby, Montana; and

17 WHEREAS, Lake Kooconusa, the reservoir behind Libby Dam, extends 90 miles north of the dam, with
18 48 miles of Lake Kooconusa located in Lincoln County and the remainder in British Columbia, Canada; and

19 WHEREAS, Libby Dam, in Montana's northwest corner, and three dams in Canada were constructed to
20 protect downstream areas from flooding, and Libby Dam holds back an average of 5,800,000 acre-feet of water;
21 and

22 WHEREAS, economic benefits have been derived from the storage of these floodwaters and the
23 coordinated, timely release of those waters through generation of electricity, irrigation, navigation, and recreation;
24 and

25 WHEREAS, the construction of Libby Dam placed many thousands of acres of land in Lincoln County
26 underwater, leading to decreased real property tax revenues for the county and a loss of timber sales and wildlife
27 and fish habitat, among other losses; and

28 WHEREAS, the Canadian government was compensated for construction of the dams and storage of
29 floodwaters through a sharing of dollars on electricity from additional power generated at downstream dams and
30 hydroprower generating facilities, leading to the formation of the Columbia Basin Trust; and

1 WHEREAS, citizens of Lincoln County did not participate in the negotiations for the terms of the Columbia
2 River Treaty and no compensation has been received by Lincoln County; and

3 WHEREAS, the renegotiation of the treaty is currently being considered, and there is a possibility that
4 compensation could be provided to Lincoln County as a result of federal legislation, litigation, determination of
5 regulations, and the renegotiation of the treaty; and

6 WHEREAS, the purpose of this legislation is to address how, if the compensation is paid directly to the
7 state instead of to Lincoln County, the compensation should be distributed.

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

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11 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], the following definitions
12 apply:

13 (1) "Columbia River treaty" or "treaty" means the Columbia River treaty between Canada and the United
14 States relating to cooperative development of the water resources of the Columbia River basin.

15 (2) "Department" means the department of natural resources and conservation provided for in Title 2,
16 chapter 15, part 33.

17

18 NEW SECTION. **Section 2. Columbia River treaty account -- use.** (1) There is an account within the
19 state special revenue fund provided for in 17-2-102 called the Columbia River treaty account. The department
20 of natural resources and conservation shall administer the account.

21 (2) The Columbia River treaty account must be used to:

22 (a) disburse funds to Lincoln County to compensate the county for storage of floodwaters and general
23 river flow, which provides protection of life and property downstream as well as considerable economic benefit
24 over a broad region; and

25 (b) transfer funds to the state general fund pursuant to subsection (4)(b).

26 (3) Any money received by the state related to the Columbia River treaty must be deposited in the
27 account.

28 (4) (a) No later than July 15 following the close of the preceding fiscal year, the department must
29 distribute to Lincoln County 80% of all funds deposited into the account during the preceding fiscal year.

30 (b) The department must transfer the remaining funds deposited into the account during the preceding

1 fiscal year to the state general fund.

2 (5) Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department for the
3 purposes provided in subsection (2).

4 (6) Lincoln County must the funds received from the account for schools, roads, general operations, and
5 to establish a trust fund with the interest made available for projects and programs that promote social, economic,
6 and environmental well-being in Lincoln County.

7

8 **Section 3.** Section 17-7-502, MCA, is amended to read:

9 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
10 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
11 need for a biennial legislative appropriation or budget amendment.

12 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
13 of the following provisions:

14 (a) The law containing the statutory authority must be listed in subsection (3).

15 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
16 appropriation is made as provided in this section.

17 (3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105;
18 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310;
19 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
20 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
21 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
22 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105;
23 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503;
24 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108;
25 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416;
26 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; [section 2];
27 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

28 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
29 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
30 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana

1 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
2 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
3 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
4 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
5 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
6 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
7 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
8 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the
9 inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331
10 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30,
11 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec.
12 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2),
13 Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5,
14 Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant
15 to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30,
16 2015.)"

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18 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified
19 as an integral part of Title 85, and the provisions of Title 85 apply to [sections 1 through 3].

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21 **NEW SECTION. Section 5. Effective date -- contingency.** [This act] is effective when the state
22 receives money from Bonneville Power Administration, the United States federal government, BC Hydro, the
23 British Columbia provincial government, or the federal government of Canada or from another entity that benefits
24 from the waters stored in Lincoln County through irrigation, navigation, recreation, hydropower generation, or
25 other uses.

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