

1 HOUSE BILL NO. 378

2 INTRODUCED BY J. WINDY BOY

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

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

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

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

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

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

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

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

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

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

19 (1) There is a tribal natural resources council.

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

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

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

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

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

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

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

29 (a) identifying needs for projects for tribal wildlife and fish management programs pursuant to [section
 30 1]; and

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

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

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

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

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

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

17 (3) [Sections 1 through 4] imply no waiver of tribal sovereignty. The funding and implementation of a
18 tribal fish and wildlife management program pursuant to [sections 1 through 4] does not authorize the
19 department to usurp or infringe in any way upon the authority of a tribe over the tribe's own lands and resources.

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

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