

## 1 HOUSE BILL NO. 605

2 INTRODUCED BY S. AUGARE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE EQUITABLE DISTRIBUTION OF REVENUE  
5 FROM THE FEDERAL AID IN SPORT FISH RESTORATION PROGRAM AND THE FEDERAL AID IN WILDLIFE  
6 RESTORATION PROGRAM BETWEEN THE STATE AND MONTANA TRIBES FOR FISH AND WILDLIFE  
7 MANAGEMENT PURPOSES; AUTHORIZING THE EXPENDITURE OF UP TO 7 PERCENT OF THE REVENUE  
8 FROM THE FEDERAL PROGRAMS; REQUIRING THE MONTANA-WYOMING TRIBAL FISH AND WILDLIFE  
9 COMMISSION TO MAKE RECOMMENDATIONS ON THE DISTRIBUTION OF FUNDS FOR STATE-FUNDED  
10 PROJECTS FOR TRIBAL FISH AND WILDLIFE MANAGEMENT PROGRAMS; REQUIRING REPORTS ON  
11 PROGRAM IMPLEMENTATION, PROGRESS, AND SUCCESS; AND PROVIDING AN EFFECTIVE DATE."  
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13 WHEREAS, tribal and nontribal recreationists of Montana, whether on or off of reservations, pay federal  
14 excise taxes on licenses and sporting goods; and

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

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

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

24 WHEREAS, the existing Montana-Wyoming Tribal Fish and Wildlife Commission, composed of  
25 representatives from area tribes who are the directors in charge of fish and wildlife management for their  
26 respective reservations, is the entity best qualified to prioritize and recommend funding for tribal fish and wildlife  
27 projects funded from the federal excise taxes; 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 fish and wildlife 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 revenue from federal aid in sport fish**  
4 **restoration program and federal aid in wildlife restoration program -- reporting requirements.** (1) As part  
5 of its administrative duties, the department shall expend from the account provided for in 87-1-601(1)(b) up to  
6 7% of the funds from the federal aid in sport fish restoration program and the federal aid in wildlife restoration  
7 program apportioned annually to this state for Montana tribal fish and wildlife management projects, as  
8 recommended by the Montana-Wyoming tribal fish and wildlife commission pursuant to [section 3].

9 (2) The department may expend not more than 5% of the funds for the administration of any individual  
10 tribal management project. In addition, the department may not require a tribe to sign any overall memorandum  
11 of agreement with the state or require additional matching funds above existing federal requirements for  
12 administrative or other costs as part of the requirements to obtain this funding.

13 (3) Money spent by the department pursuant to the recommendations of the Montana-Wyoming tribal fish  
14 and wildlife commission for Montana tribal fish and wildlife management programs must be expended for public  
15 benefits, which may include tribal public benefits, in conformity with all applicable federal requirements and in the  
16 manner provided in [sections 1 through 4].

17 (4) The department shall report to the governor and to each regular session of the legislature regarding  
18 the implementation, progress, and success of tribal fish and wildlife management programs funded pursuant to  
19 this section. The report must include the tribal perspective on program progress and success, including any  
20 comments or concerns of the Montana-Wyoming tribal fish and wildlife commission.

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22 **NEW SECTION. Section 2. Montana-Wyoming tribal fish and wildlife commission -- purpose.** (1)  
23 There is a Montana-Wyoming tribal fish and wildlife commission. Committee members are the directors in charge  
24 of fish and wildlife management for their respective reservations.

25 (2) The Montana-Wyoming tribal fish and wildlife commission is charged with protecting and preserving  
26 fish and wildlife resources on tribal land. Commission members are responsible for and concerned with  
27 conservation and management of fish and wildlife species and their habitat on tribal land in Montana.

28 (3) Montana-Wyoming tribal fish and wildlife commission members serve voluntarily and without  
29 compensation.

30 (4) The express purpose of the Montana-Wyoming tribal fish and wildlife commission in the context of

1 [sections 1 through 4] is to identify needs for projects for Montana tribal fish and wildlife management programs  
2 to be funded pursuant to [section 1] and to determine the priority of projects for Montana tribal fish and wildlife  
3 management programs pursuant to [section 3].

4 (5) If the Montana-Wyoming tribal fish and wildlife commission ceases to exist or if the commission is  
5 unable to perform the advisory functions set out in [sections 1 through 4], the functions designated to the  
6 Montana-Wyoming tribal fish and wildlife commission in [sections 1 through 4] must be assumed by the  
7 department.

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9 **NEW SECTION. Section 3. Montana-Wyoming tribal fish and wildlife commission -- powers and**  
10 **duties -- proportion of distribution.** (1) The Montana-Wyoming tribal fish and wildlife commission shall, on  
11 behalf of the tribes of Montana, recommend projects for funding pursuant to [section 1] and shall establish  
12 priorities for distribution of funds to each tribe. The distribution must be based on:

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

15 (b) a list of management priorities developed by the Montana-Wyoming tribal fish and wildlife commission  
16 after examining the fish and wildlife management programs of each Montana tribe; and

17 (c) immediate needs associated with the fish and wildlife management programs of each Montana tribe,  
18 as indicated by the Montana-Wyoming tribal fish and wildlife commission member from each tribe.

19 (2) The Montana-Wyoming tribal fish and wildlife commission may use technical assistance from a  
20 biologist acting as an advisor and compliance inspector on all tribal wildlife and fish management programs that  
21 are funded pursuant to [sections 1 through 4]. The commission shall consider recommendations from a  
22 representative of the department.

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

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28 **NEW SECTION. Section 4. Compliance and eligibility process.** All activities and costs of projects  
29 recommended by the Montana-Wyoming tribal fish and wildlife commission and the department must be  
30 submitted to the regional director of the United States fish and wildlife service for approval. Project documents

1 must demonstrate compliance with all applicable federal laws and regulations. The Montana-Wyoming tribal fish  
2 and wildlife commission or an individual tribe shall function as a subgrantee of the department. All fish and wildlife  
3 management activities conducted pursuant to [sections 1 through 4] must meet the same documentation  
4 requirements and other conditions as any other project submitted for funding under the federal aid programs in  
5 [section 1]. Projects proposed for funding must conform to the eligibility process, project criteria, and compliance  
6 requirements for federal aid grants.

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8 **NEW SECTION. Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
9 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
10 remains in effect in all valid applications that are severable from the invalid applications.

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12 **NEW SECTION. Section 6. Notification to tribal governments.** The secretary of state shall send a  
13 copy of [this act] to each tribal government located on the seven Montana reservations.

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15 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 4] are intended to be codified  
16 as an integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part 6, apply to [sections  
17 1 through 4].

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19 **NEW SECTION. Section 8. Contingent voidness.** If a federal court determines that the implementation  
20 of [sections 1 through 4] would cause Montana to be ineligible to participate in the federal aid in sport fish  
21 restoration program or the federal aid in wildlife restoration program, then [this act] is void.

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23 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2009.

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