

SENATE BILL NO. 287

INTRODUCED BY L. JONES, R. COOK, R. FITZGERALD

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING \$14 MILLION FROM THE BLACKFEET TRIBE WATER RIGHTS COMPACT INFRASTRUCTURE ACCOUNT TO THE BLACKFEET TRIBE WATER RIGHTS COMPACT MITIGATION ACCOUNT; REQUIRING FUNDS TO BE SPENT PURSUANT TO THE BIRCH CREEK AGREEMENT; AMENDING SECTION 85-20-1504, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

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

Section 1. Section 85-20-1504, MCA, is amended to read:

"85-20-1504. Blackfeet Tribe water rights compact mitigation account -- use. (1) There is an account within the state special revenue fund called the Blackfeet Tribe water rights compact mitigation account. The department shall administer the account. Up to \$650,000 each fiscal year of interest and earnings on the account must be deposited in the account.

(2) The Blackfeet Tribe water rights compact mitigation account may be used only for:

(a) expenditures for grants to or matching funds for federal or other grants to water right holders under state law for water from Birch Creek, Badger Creek, Cut Bank Creek, the Two Medicine River, and the portion of the Milk River within the exterior boundaries of the Blackfeet Indian Reservation for projects approved by the department to enhance water availability or otherwise mitigate the economic and hydrologic impacts on water right holders under state law caused by the development of the Blackfeet Tribe's water rights under a water rights compact pursuant to 85-2-702 quantifying the water rights of the Blackfeet Tribe; and

(b) implementation of the water rights compact among the Blackfeet Tribe, the state, and the United States and any associated agreements as may be specified in the compact or agreements.

(3) The department may expend up to \$650,000 each fiscal year of the interest and income on the escrow account provided for in subsection ~~(4)(b)~~ (4)(c) for the purposes described in subsection (2)(b). This money is statutorily appropriated, as provided in 17-7-502.

(4) (a) At least \$4.5 million of this account must be dedicated to mitigate impacts on water right holders under state law for use of water out of Birch Creek.

(b) The amount of \$14 million in this account must be used to mitigate impacts of development of the Tribal Water Right on water users as provided for in a February 13, 2009, amendment to an agreement between the Blackfeet Tribe of the Blackfeet Indian Reservation and the state of Montana regarding Birch Creek Water Use entered into January 31, 2008.

(b)(c) The amount of \$10 million in this account must be held in escrow. The department shall negotiate the terms of an escrow agreement.

(5) Except as provided in subsection (3), funds from this account may not be disbursed unless a water rights compact among the Blackfeet Tribe, the state, and the United States has been finally ratified by the legislature, the Congress of the United States, and the Blackfeet Tribe."

NEW SECTION. **Section 2. Transfer of funds.** The state treasurer shall transfer \$14 million from the Blackfeet Tribe water rights compact infrastructure account established in 85-20-1505 to the Blackfeet Tribe water rights compact mitigation account established in 85-20-1504.

NEW SECTION. **Section 3. Contingent effective date.** [This act] is effective on the date the governor certifies to the code commissioner that the United States has ratified the Blackfeet Tribe-Montana-United States Compact, that the legislation references the Birch Creek Agreement as amended in February 2009, and that the United States contributes at least \$14 million for projects related to the Four Horns Project.

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