ı			House	BILL	NO.	<u> 797</u>
2	INTRODUCED	BY	MULAR	<u> </u>	·	

A BILL FOR AN ACT ENTITLED: "AN ACT TO ENSURE EFFECTIVE UTILIZATION OF POTENTIAL OF STATE LANDS IN TRUST TO OBTAIN FUNDS FOR EDUCATION BY RESERVING LIMITED AMOUNTS OF WATER NECESSARY FOR THEIR CONTINUED DEVELOPMENT AND APPROPRIATING FUNDS FOR THESE PURPOSES TO THE DEPARTMENT OF STATE LANDS."

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

Section 1. There is a new R.C.M. section numbered 89-890.1 that reads as follows:

89-890.l. Findings. (1) The legislature finds that lands granted by congress to the state of Montana to be held in trust for the support of education and other worthy purposes are capable of being cultivated for raising grass, grain, and vegetables and for grazing and feeding, forestry, mining, and industrial and residential subdivision development. Much of the state's trust land lies in relatively arid regions, requiring a perfected right to water in order to be put to the most beneficial and practical use.

(2) The legislature further finds that due to an enlightened understanding by state officials of the importance to this state of these land grants. Montana has

benefited greatly and its public institutions have been protected and funded well in excess of what might otherwise have been practicable. By leasing state trust lands for usage such as above, the state has obtained and will continue to obtain funds for education and other trust purposes.

(3) The legislature is concerned that the burden of establishing the reservations of water necessary to a continued development of trust lands is presently excessive and that to not facilitate the future reservation of waters for these purposes will effectively defeat the main object of the trust, be in contravention to Article IX, section 3, and Article X, section 2, of the Montana constitution, and work a wrong and be prejudicial to those persons leasing trust lands to the benefit of the trust.

Section 2. There is a new R.C.M. section numbered 89-890.2 that reads as follows:

89-890.2. Department of state lands to survey for water usage. The department of state lands shall investigate and survey all state trust lands subject to its jurisdiction to determine the quantity of water sufficient for each tract or combination of tracts to satisfy the future as well as the present needs of those tracts when put to the most beneficial and practical use or combination of uses. The use or combination of uses must be feasible without overall

LC 0595/01 LC 0595/01

costs exceeding benefits over the first 20 years of any
project.

- 3 Section 3. There is a new R.C.M. section numbered 4 89-890.3 that reads as follows:
- 5 89-890.3. Application for reservation of waters for 6 state trust lands. (1) The department of state lands may 7 apply to the board for a reservation of water for use on a 8 tract or combination of tracts of land that it has 9 determined meet the requirements of 89-890.2.
- 10 (2) The application shall contain:
- 11 (a) the objectives of the reservation;
- 12 (b) the need for the reservation;
- (c) the amount of water necessary for the purpose of the reservation;
- (d) a description of the tract of land upon which
  water will be used:
  - (e) the plan of implementation of use;
  - (f) an analysis of the feasibility of the plan;
- 19 (g) if the objectives of the reservation require
  20 construction of a storage, diversion, or other facility:
- 21 (i) the source of funds and projected date of receipt;
- 22 (ii) a construction schedule;

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- 23 (h) the next best alternative.
- 24 (3) For reservations in excess of 4 acre-feet per year
- 25 per acre within the tract, the department of state lands

shall apply pursuant to 89-890. The department of state

2 lands may not make separate applications to come within

4 (4) An application which contemplates construction

5 requiring future appropriations by the legislature shall be

6 submitted by the department of state lands to the

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8 Section 4. There is a new R.C.M. section numbered 9 89-890.4 that reads as follows:

10 89-890.4. Reservations of waters for trust lands. (1)

11 Upon receiving an application: the department shall proceed

in accordance with 89-881 through 89-883. The department's

13 costs of giving notice, holding the hearing, conducting

14 investigations, and making records, incurred in acting upon

the application to reserve water, except the cost of

16 salaries of the department's personnel, shall be paid by the

department of state lands.

18 (2) After the hearing provided in 89-883, the board

19 shall adopt an order reserving water not in excess of 4

20 acre-feet per year per acre within the tract unless the

21 department or an objector establishes to the satisfaction of

22 the board any of the following:

23 (a) There are no unappropriated waters in the proposed

24 source.

25 (b) The property, rights, or interests of a holder of

- an existing water right would be adversely affected by the proposed appropriation.
- 3 (c) The proposed means of appropriation are 4 inadequate.
  - (d) The project is not feasible.

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- 6 (3) Whenever the board concurs in an objection, the
  7 board shall assist whenever possible in modifying the
  8 reservation to Conform to the objection.
- (4) A reservation under this section shall date from
   the date the application is made.
- 11 (5) The right to use of the water under a reservation 12 shall pass with a conveyance of the land. Changes in the 13 plan filed with the application must be approved by the 14 board pursuant to 89-893.
- Section 5. There is a new R.C.M. section numbered 89-890.5 that reads as follows:
  - 89-890-5. Modification or termination. (1) A reservation under 89-290.4 that contemplates a project requiring the appropriation of funds by the legislature may be modified as necessary by the board or terminated if no funds are appropriated within 2 years of the date contemplated in the application.
- 23 (2) The board shall review reservations pursuant to 24 89-890. If construction is contemplated in the application, 25 as long as a steady ongoing effort is made in good faith to

- complete that construction in accordance with the plan filed
  with the application, the right of priority of the
  reservation and future appropriation based on the
  reservation may not be terminated unless pursuant to
  subsection (1).
  - (3) The department of state lands may apply for a modification of the plan. An increased reservation shall have priority as of the date the modification is approved.
- 9 Section 6. Appropriation. There is appropriated 10 \$120,000 to the department of state lands for the purposes 11 of this act for the biennium ending June 30, 1979, from the 12 following revenue sources:
- 13 (1) \$40,000 from revenues collected under authority of
  14 Title 81, chapter 24;
- 15 (2) \$40,000 from revenues collected under authority of 89-3608;
- 17 (3) \$40+000 from the general fund.

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Approved by Committee on Judiciary

House BILL NO. 797

2 INTRODUCED BY MULAR Sulphing

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Section 2. There is a new R.C.M. section numbered 89-890.2 that reads as follows:

89-890.2. Department of state lands to survey for water usage. The department of state lands shall investigate and survey all state trust lands subject to its jurisdiction to determine the quantity of water sufficient for each tract or combination of tracts to satisfy the future as well as the present needs of those tracts when put to the most beneficial and practical use or combination of uses. The use or combination of uses must be feasible without overall

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  project.
- 3 Section 3. There is a new R.C.M. section numbered 4 89-890.3 that reads as follows:
  - 89-890.3. Application for reservation of waters for state trust lands. (1) The department of state lands may apply to the board for a reservation of water for use on a tract or combination of tracts of land that it has determined meet the requirements of 89-890.2.
- 10 (2) The application shall contain:

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- (a) the objectives of the reservation;
- 12 (b) the need for the reservation;
- 13 (c) the amount of water necessary for the purpose of 14 the reservation:
- (d) a description of the tract of land upon which water will be used;
  - (e) the plan of implementation of use;
    - (f) an analysis of the feasibility of the plan;
  - (g) if the objectives of the reservation require construction of a storage, diversion, or other facility:
- 21 (i) the source of funds and projected date of receipt;
  - (ii) a construction schedule;
    - (h) the next best alternative.
- 24 (3) For reservations in excess of 4 acre-feet per year 25 per acre within the tract, the department of state lands

- shall apply pursuant to 89-890. The department of state
  lands may not make separate applications to come within
- 3 these limits.
- 4 (4) An application which contemplates construction
  5 requiring future appropriations by the legislature shall be
  6 submitted by the department of state lands to the
  7 legislature.
- 8 Section 4. There is a new R.C.M. section numbered 9 89-890.4 that reads as follows:
- 10 89-890.4. Reservations of waters for trust lands. (1) 11 Upon receiving an application, the department shall proceed 12 in accordance with 89-881 through 89-883. The department's 13 costs of giving notice, holding the hearing, conducting investigations, and making records, incurred in acting upon 14 the application to reserve water, except the cost of 15 salaries of the department's personnel, shall be paid by the 16 17 department of state lands.
- 18 (2) After the hearing provided in 89-883, the board
  19 shall adopt an order reserving water not in excess of 4
  20 acre-feet per year per acre within the tract unless the
  21 department or an objector establishes to the satisfaction of
  22 the board any of the following:
- 23 (a) There are no unappropriated waters in the proposed
  24 source.
- 25 (b) The property, rights, or interests of a holder of

- 1 an existing water right would be adversely affected by the 2 proposed appropriation.
- (c) The proposed means of appropriation are 3 4 inadequate.
- (d) The project is not feasible. 5

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- (3) Whenever the board concurs in an objection, the 6 board shall assist whenever possible in modifying the 7 8 reservation to conform to the objection.
- (4) A reservation under this section shall date from 9 the date the application is made. 10
  - (5) The right to use of the water under a reservation shall pass with a conveyance of the land. Changes in the plan filed with the application must be approved by the board pursuant to 89-893.
- Section 5. There is a new R.C.M. section numbered 15 89-890.5 that reads as follows: 16
- 17 89-890.5. Modification or termination. (1) A reservation under 89-390.4 that contemplates a project 18 requiring the appropriation of funds by the legislature may 19 be modified as necessary by the board or terminated if no 20 21 funds are appropriated within 2 years of the date contemplated in the application. 22
- (2) The board shall review reservations pursuant to 23 89-890. If construction is contemplated in the application, 25 as long as a steady ongoing effort is made in good faith to

- 1 complete that construction in accordance with the plan filed with the application, the right of priority of the reservation and future appropriation based on 3 reservation may not be terminated unless pursuant to subsection (1).
  - (3) The department of state lands may apply for a modification of the plan. An increased reservation shall have priority as of the date the modification is approved.
- 9 Section 6. Appropriation. There is appropriated 10 \$120,000 to the department of state lands for the purposes 11 of this act for the biennium ending June 30, 1979, from the 12 following revenue sources:
- 13 (1) \$40,000 from revenues collected under authority of 14 Title 81, chapter 24;
- 15 (2) \$40,000 from revenues collected under authority of 89-3608; 16
- 17 (3) \$40,000 from the general fund-

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Approved by Comm. on Appropiation

2	INTRODUCED BY MULAR, SCULLY
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6	FUNDS FOR EDUCATION BY RESERVING LIMITED AMOUNTS OF WATER
7	NECESSARY FOR THEIR CONTINUED DEVELOPMENT AND APPROPRIATING
ô	FUNDS FOR THESE PURPOSES TO THE DEPARTMENT OF STATE LANDS."
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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12	89-890.1 that reads as follows:
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17	grain, and vegetables and for grazing and feeding, forestry,
18	minings and industrial and residential subdivision
19	development. Much of the state's trust land lies in
20	relatively arid regions, requiring a perfected right to
21	water in order to be put to the most beneficial and
22	practical use.
23	(2) The legislature further finds that due to an
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25	importance to this state of these land grants, Montana has

HOUSE BILL NO. 797

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5	continue to obtain funds for education and other trust
6	purposes.
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8	establishing the reservations of water necessary to a
9	continued development of trust lands is presently excessive
10	and that to not facilitate the future reservation of waters
11	for these purposes will effectively defeat the main object
12	of the trust, be in contravention to Article IX, section 3,
13	and Article $X_{\theta}$ section $2_{\theta}$ of the Montana constitutions and
14	work a wrong and be prejudicial to those persons leasing
15	trust lands to the benefit of the trust.
16	Section 2. There is a new R.C.M. section numbered
17	89-890.2 that reads as follows:
18	89-890-2- Department of state lands to survey for
19	water usage. The department of state lands shall investigate
20	and survey all state trust lands subject to its jurisdiction
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22	or combination of tracts to satisfy the future as well as
23	the present needs of those tracts when put to the most

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HB 0797/02 HB 0797/02

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- 15 (d) a description of the tract of land upon which water will be used; 16
- 17 (e) the plan of implementation of use:
- (f) an analysis of the feasibility of the plan; 18
- (q) if the objectives of the reservation require 19 construction of a storage, diversion, or other facility: 20
- (i) the source of funds and projected date of receipt; 21
- 22 (ii) a construction schedule;
- 23 (h) the next best alternative.
- 24 (3) For reservations in excess of 4 acre-feet per year 25 per acre within the tract, the department of state lands

- snall apply pursuant to 89-890. The department of state lands may not make separate applications to come within these limits.
- (4) An application which contemplates construction requiring future appropriations by the legislature small be submitted by the department of state lands to the 7 legislature.
- Section 4. There is a new R.C.M. section numbered 8 89-890.4 that reads as follows:
- 89-890.4. Reservations of waters for trust lands. (1) Upon receiving an application, the department shall proceed in accordance with 89-801 through 89-883. The department's 12 costs of giving notice, holding the hearing, conducting investigations, and making records, incurred in acting upon the application to reserve water, except the cost of salaries of the department's personnel, shall be paid by the department of state lands.
- (2) After the hearing provided in 89-883, the board 18 shall adopt an order reserving water not in excess of 4 19 acre-feet per year per acre within the tract unless the 20 department or an objector establishes to the satisfaction of 21 22 the board any of the following:
- (a) There are no unappropriated waters in the proposed 23 24 source.
- (b) The property, rights, or interests of a holder of 25

HB 0797/02

HB 0797/02

- 1 an existing water right would be adversely affected by the 2 proposed appropriation.
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- 9 (4) A reservation under this section shall date from10 the date the application is made.
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  14 board pursuant to 89-893.
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  - 89-890.5. Modification or termination. (1) A reservation under 89-890.4 that contemplates a project requiring the appropriation of funds by the legislature may be modified as necessary by the board or terminated if no funds are appropriated within 2 years of the date contemplated in the application.
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- 9 Section 6. Appropriation. There is appropriated 10 \$120,000 to the department of state lands for the purposes 11 of this act for the biennium ending June 30, 1979, from the 12 following revenue sources:
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- 17 t3;--\$40;000-from-the-general-funds

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1 House BILL NO. 797
2 INTRODUCED BY MULAR Sully

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HOUSE BILL NO. 797

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HB 0797/02

HB 0797/02

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ι	costs exc	ceeding	benefits	over	the	first	20	years	of	any
2	project.									

- 3 Section 3. There is a new K.C.M. section numbered 89-690.3 that reads as follows:
- 5 89-890.3. Application for reservation of waters for state trust lands. (1) The department of state lands may 6 7 apply to the board for a reservation of water for use on a tract or combination of tracts of lang that it has 9 determined meet the requirements of 89-890.2.
- (2) The application shall contain: 10
- 11 (a) the objectives of the reservation:
- 12 (b) the need for the reservation;
- 13 (c) the amount of water necessary for the purpose of 14 the reservation:
- 15 (d) a description of the tract of land upon which water will be used: 16
- 17 (e) the plan of implementation of use;
- 18 (f) an analysis of the feasibility of the plan;
- 19 (q) if the objectives of the reservation require
- 20 construction of a storage, diversion, or other facility:
  - (i) the source of funds and projected date of receipt;
- 22 (ii) a construction schedule:

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- 23 (h) the next best alternative.
- 24 (3) For reservations in excess of 4 acre-feet per year
- acre within the tract, the department of state lands 25

ì snall apply pursuant to 39-890. The department of state lands may not make separate applications to come within these limits. 3

(4) An application which contemplates construction requiring future appropriations by the legislature small be submitted by the department of state lands to the legislature.

Section 4. There is a new R.C.M. section numbered 89-890.4 that reads as follows:

10 89-890.4. Reservations of waters for trust lands. (1) Upon receiving an application, the department shall proceed 11 in accordance with 89-881 through 89-883. The department's 12 13 costs of giving notice, holding the hearing, conducting 14 investigations, and making records, incurred in acting upon the application to reserve water, except the cost of 15 16 salaries of the department's personnel, shall be paid by the 17 department of state lands.

(2) After the hearing provided in 89-883, the board shall adopt an order reserving water not in excess of 4 acre-feet per year per acre within the tract unless the department or an objector establishes to the satisfaction of the board any of the following:

23 (a) Inere are no unappropriated waters in the proposed 24 source.

25 (b) The property, rights, or interests of a holder of

> -4-Hø 797

HB 0797/02

HB 0797/02

- an existing water right would be adversely affected by the
  proposed appropriation.
- 3 (c) The proposed means of appropriation are 4 inadequate.
- 5 (d) The project is not feasible.

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- 6 (3) Whenever the board concurs in an objection, the
  7 board shall assist whenever possible in modifying the
  d reservation to conform to the objection.
- (4) A reservation under this section shall date from
   the date the application is made.
- 11 (5) The right to use of the water under a reservation 12 shall pass with a conveyance of the land. Changes in the 13 plan filed with the application must be approved by the 14 board pursuant to 89-893.
- 15 Section 5. There is a new R.C.M. section numbered 16 89-890.5 that reads as follows:
- 17 89-890.5. Modification or termination. (1) A
  18 reservation under 89-890.4 that contemplates a project
  19 requiring the appropriation of funds by the legislature may
  20 be modified as necessary by the board or terminated if no
  21 funds are appropriated within 2 years of the date
  22 contemplated in the application.
  - (2) The board shall review reservations pursuant to 89-890. If construction is contemplated in the application. as long as a steady ongoing effort is made in good faith to

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- complete that construction in accordance with the plan filed
  with the application, the right of priority of the
  reservation and future appropriation based on the
  reservation may not be terminated unless pursuant to
  subsection (1).
- (3) The department of state lands may apply for a modification of the plan. An increased reservation shall have priority as of the date the modification is approved.
- 9 Section 6. Appropriation. There is appropriated 10 \$120,000 to the department of state lands for the purposes 11 of this act for the biennium ending June 30, 1979, from the 12 following revenue sources:
- 13 (1) \$40 v000 180 000 from revenues collected under
  14 authority of Title 81, chapter 24;
- 15 (2) \$40,000 from revenues collected under authority of 89-3608t.
- 17 t3;--5+0 y000-from-the-general-funds

-End-

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