

SENATE BILL NO. 69

1/07 Introduced  
1/07 Referred to Judiciary  
1/08 Fiscal Note Requested  
1/14 Fiscal Note Received  
1/14 Hearing  
2/13 Hearing  
2/18 Tabled in Committee

1                            SENATE    BILL NO.    69  
 2    INTRODUCED BY    GALT  
 3                            BY REQUEST OF THE MONTANA  
 4                            RESERVED WATER RIGHTS COMPACT COMMISSION

5  
 6    A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE MONTANA  
 7    RESERVED WATER RIGHTS COMPACT COMMISSION TO SUBMIT PROGRESS  
 8    REPORTS TO THE CHIEF WATER JUDGE; EXTENDING THE DEADLINE TO  
 9    NEGOTIATE COMPACTS WITH INDIAN TRIBES AND FEDERAL AGENCIES;  
 10    CONTINUING THE SUSPENSION OF WATER COURTS ADJUDICATION OF  
 11    CLAIMS FOR WATER BY INDIAN TRIBES AND FEDERAL AGENCIES  
 12    NEGOTIATING WITH THE MONTANA RESERVED WATER RIGHTS COMPACT  
 13    COMMISSION; AMENDING SECTIONS 85-2-217, 85-2-702, AND  
 14    85-2-704, MCA; AND PROVIDING AN EFFECTIVE DATE."

15  
 16    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17            NEW SECTION. Section 1. Status reports to chief water  
 18    judge. (1) The Montana reserved water rights compact  
 19    commission must submit to the chief water judge, appointed  
 20    pursuant to 3-7-221, a report on the status of its  
 21    negotiations on July 1, 1985, and every 6 months thereafter.

22            (2) Each report must state which Indian tribes and  
 23    federal agencies are engaged in negotiations, whether any  
 24    negotiations with Indian tribes or federal agencies have  
 25    been terminated, and the progress of negotiations on a

1    tribe-by-tribe and agency-by-agency basis. The report must  
 2    be made available to the public.

3            Section 2. Section 85-2-217, MCA, is amended to read:  
 4            "85-2-217. Suspension of adjudication. While  
 5    negotiations for the conclusion of a compact under part 7  
 6    are being pursued, all proceedings to generally adjudicate  
 7    reserved Indian water rights and federal reserved water  
 8    rights of those tribes and federal agencies which are  
 9    negotiating are suspended. The obligation to file water  
 10    rights claims for those reserved rights is also suspended.  
 11    This suspension shall be effective until July 1, ~~1985~~ 1987,  
 12    as long as negotiations are continuing or ratification of a  
 13    completed compact is being sought. If approval by the state  
 14    legislature and tribes or federal agencies has not been  
 15    accomplished by July 1, ~~1985~~ 1987, the suspension shall  
 16    terminate on that date. Upon termination of the suspension  
 17    of this part, the tribes and the federal agencies shall be  
 18    subject to the special filing requirements of 85-2-702(3)  
 19    and all other requirements of the state water adjudication  
 20    system provided for in Title 85, chapter 2. Those tribes and  
 21    federal agencies that choose not to negotiate their reserved  
 22    water rights shall be subject to the full operation of the  
 23    state adjudication system and may not benefit from the  
 24    suspension provisions of this section."

25            Section 3. Section 85-2-702, MCA, is amended to read:



1 "85-2-702. Negotiation with Indian tribes. (1) The  
 2 reserved water rights compact commission, created by  
 3 2-15-212, may negotiate with the Indian tribes or their  
 4 authorized representatives jointly or severally to conclude  
 5 compacts authorized under 85-2-701. Compact proceedings  
 6 shall be commenced by the commission. The commission shall  
 7 serve by certified mail directed to the governing body of  
 8 each tribe a written request for the initiation of  
 9 negotiations under this part and a request for the  
 10 designation of an authorized representative of the tribe to  
 11 conduct compact negotiations. Upon receipt of such written  
 12 designation from the governing body of a tribe, compact  
 13 negotiations shall be considered to have commenced, except  
 14 that no compact proceedings may commence after July 1, 1985.

15 (2) When the compact commission and the Indian tribes  
 16 or their authorized representatives have agreed to a  
 17 compact, they shall sign a copy and file an original copy  
 18 with the department of state of the United States of America  
 19 and copies with the secretary of state of Montana and with  
 20 the governing body for the tribe involved. The compact is  
 21 effective and binding upon all parties upon ratification by  
 22 the legislature of Montana, any affected tribal governing  
 23 body, and the congress of the United States.

24 (3) Upon its approval by the Montana legislature and  
 25 the tribe or federal agency, the terms of a compact must be

1 included in the preliminary decree as provided by 85-2-231.  
 2 However, if approval of the state legislature and tribe or  
 3 federal agency has not been accomplished by July 1, 1985  
 4 1987, all federal and Indian claims for reserved water  
 5 rights that have not been resolved by a compact must be  
 6 filed with the department within 60 days. These new filings  
 7 shall be used in the formulation of the preliminary decree  
 8 and shall be given treatment similar to that given to all  
 9 other filings."

10 Section 4. Section 85-2-704, MCA, is amended to read:

11 "85-2-704. Termination of negotiations. (1) The  
 12 commission or any ~~other party to the negotiations~~  
 13 negotiating tribe or federal agency may terminate  
 14 negotiations by providing notice to all parties 30 days in  
 15 advance of the termination date. On the termination date,  
 16 the suspension of the application of part 2 provided for in  
 17 85-2-217 shall also terminate. The tribe or federal agency  
 18 shall file all of its claims for reserved rights within 60  
 19 days of the termination of negotiations.

20 (2) (a) However, if a notice of termination is  
 21 submitted by either party and the submitting party elects to  
 22 retract the notice before the termination date, the notice  
 23 of termination must be disregarded and negotiations are not  
 24 terminated. The retraction of a notice of termination must  
 25 be made by certified mail addressed to:

- 1        (i) the chairman of the governing body of the affected  
2 tribe;  
3        (ii) the officially designated representative of the  
4 affected federal agency; or  
5        (iii) the chairman of the reserved water rights compact  
6 commission.  
7        (b) The retraction of a notice of termination must be  
8 received before the termination date."  
9        NEW SECTION. Section 5. Effective date. This act is  
10 effective July 1, 1985.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 032-85

Form BD-15

In compliance with a written request received January 10, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 69 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

BRIEF DESCRIPTION

Senate Bill 69 proposes to extend the period for negotiating compacts with Indian tribes and federal agencies. It continues the suspension of filing reserved water rights claims in the state's water court.

ASSUMPTIONS

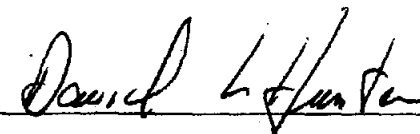
1. Nine commission members meet and travel on the average of twice monthly
2. Technical and legal staff required at existing levels
3. Special counsel required under terms of current contract
4. Substantial expense required in providing transcripts of all proceedings
5. Operating expenses are increased 10% over existing (FY 84) level, as a result of increased interest on the part of the federal government and tribes

FISCAL IMPACT

Current law provides for expiration of the negotiation process and the states negotiating body -- the Reserved Water Rights Compact Commission on June 30, 1985. SB 69 will continue the commission at its current level.

EXPENDITURES:

	<u>FY 86</u>	<u>FY 87</u>
Current Law	\$ -0-	\$ -0-
Proposed Law	\$ 224,406	\$ 224,485 - General Fund
Increase	\$ 224,406	\$ 224,485



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: JAN 12, 1985