

SENATE BILL NO. 446
INTRODUCED BY YELLOWTAIL, RUSSELL

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1989	PRINTING REPORT.
	ON MOTION, CONSIDERATION PASSED UNTIL THE 55TH LEGISLATIVE DAY.
MARCH 9, 1989	SECOND READING, DO PASS AS AMENDED.
MARCH 10, 1989	ENGROSSING REPORT.
MARCH 11, 1989	THIRD READING, PASSED. AYES, 28; NOES, 16.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
MARCH 14, 1989	ON MOTION, TAKEN FROM COMMITTEE ON FISH & GAME AND REREFERRED TO JUDICIARY.
APRIL 5, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
APRIL 8, 1989	SECOND READING, CONCURRED IN.
APRIL 10, 1989	THIRD READING, CONCURRED IN. AYES, 54; NOES, 41.

RETURNED TO SENATE.

IN THE SENATE

APRIL 11, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *446*
 2 INTRODUCED BY *Yellowtail Russell*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 5 DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ALLOW MEMBERS OF
 6 THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD
 7 RESERVATION TO HUNT WITHOUT STATE LICENSES, PERMITS, OR
 8 STAMPS; AUTHORIZING THE ISSUING OF HUNTING AND FISHING
 9 LICENSES, PERMITS, AND STAMPS JOINTLY WITH THE CONFEDERATED
 10 SALISH AND KOOTENAI TRIBES; AUTHORIZING REVENUES FROM THE
 11 SALE OF JOINT LICENSES, PERMITS, AND STAMPS TO BE REMITTED
 12 TO THE TRIBAL COUNCIL; TRANSFERRING TO THE TRIBAL COUNCIL
 13 FINES AND RESTITUTION COLLECTED FOR CERTAIN FISH AND
 14 WILDLIFE VIOLATIONS; GRANTING RESPONSIBILITY FOR REDRESS OF
 15 FISH AND GAME VIOLATIONS TO STATE OR TRIBAL COURTS; AND
 16 AMENDING SECTION 87-1-228, MCA."

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 87-1-228, MCA, is amended to read:

20 "87-1-228. Agreement with Indians concerning hunting
 21 and fishing -- Indian treaty of 1855. (1) Whereas, by treaty
 22 of July 16, 1855, between the United States of America,
 23 represented --- by --- Isaac --- Stephens, --- governor --- and
 24 superintendent --- of --- Indian --- affairs --- for --- the --- territory --- of
 25 Washington, and the chiefs, headmen, and delegates of the

1 confederated tribes of the Flathead, Kootenai, and Upper
 2 Pend Oreille Indians, the said --- Indians --- were --- given --- the
 3 exclusive-right tribes have certain rights to fish and hunt
 4 on --- the --- Flathead --- Indian --- reservation --- and --- the --- privilege --- of
 5 hunting --- in --- their --- usual --- hunting --- grounds --- on --- large --- areas --- of
 6 Montana; --- and --- whereas; --- nonmembers --- of --- such --- tribes --- have --- the
 7 right --- to --- hunt --- and --- fish --- on --- Indian --- lands --- by --- sufferance --- of --- such
 8 tribes --- only; and whereas, it appears to be to the common
 9 advantage of the state and such Indian tribes that hunting
 10 and fishing regulations and privileges on other lands of the
 11 state and on Indian lands shall be uniform and that hunting
 12 and fishing on such Indian lands shall be in common with the
 13 public; --- now; --- therefore to cooperate in matters involving
 14 hunting and fishing. Therefore, the department may negotiate
 15 and conclude an agreement with the council of the
 16 Confederated Salish and Kootenai tribes of the Flathead
 17 Indian reservation for the purpose of:

18 (a) --- obtaining and establishing --- for --- the --- citizens --- of
 19 Montana; --- regularly --- licensed --- to --- hunt --- and --- fish --- in --- the --- state;
 20 the privileges of hunting and fishing on Indian lands on the
 21 Flathead Indian reservation;

22 (b) --- the conservation and protection of fish --- and --- game
 23 and --- fur bearing --- animals --- on --- such --- Indian --- lands --- and --- on --- lands
 24 adjacent thereto;

25 (c) --- setting dates --- for --- the --- opening --- and --- closing --- of



-2- INTRODUCED BILL
 SB 446

1 seasons--for--hunting--and--fishing--on--such--lands--for--Indians
2 and--non-Indians--alike--opening--and--closing--of--streams--and
3 land--areas--for--hunting--and--fishing;

4 (a) authorizing individuals to serve on a state-tribal
5 cooperative board to develop hunting and fishing regulations
6 and reimbursing those individuals' expenses pursuant to
7 2-18-501 through 2-18-503;

8 {d}(b) doing what in its judgment is necessary by way
9 of granting to such tribal Indians state permits to hunt and
10 fish, to be issued without charge to such the Indians or
11 allowing Indians to hunt without licenses, permits, or
12 stamps;

13 (c) issuing jointly with the council hunting and
14 fishing licenses, permits, and stamps under terms
15 established by mutual agreement and recognized as valid for
16 hunting and fishing throughout the state;

17 (d) authorizing all revenues collected from sale of
18 joint licenses, permits, and stamps to be remitted to the
19 council for the purpose of a fish and wildlife program;

20 (e) transferring to the council an amount equal to all
21 finances and restitution collected in state court for fish and
22 wildlife violations within reservation boundaries for use in
23 a fish and wildlife program;

24 {e)--stocking--streams--and--land--areas--of--such--Indian
25 lands--for--the--common--benefit;

1 (f) policing such Indian and other lands for the
2 protection of fish and game and providing responsibility for
3 redress of fish and game violations to state or tribal
4 courts; and

5 (g) in general carrying out the purposes of this
6 section.

7 {2)--If--any--part--of--such--agreement--provides--for--the
8 payment-of-money-to-the-tribes--that-part--must--first--have
9 the-approval-of-the-state-legislature-

10 {3}(2) Any agreement entered into under subsection (1)
11 must also satisfy the requirements of Title 18, chapter 11."

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB446, on second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

SB446 would authorize the Department of Fish, Wildlife and Parks to allow members of the Confederated Salish and Kootenai Tribes of the Flathead Reservation to hunt without state licenses, permits or stamps, authorizing the issuing of hunting and fishing licenses, permits and stamps jointly with the Confederated Salish and Kootenai Tribes; authorizing revenues from the sale of joint licenses, permits and stamps to be remitted to the Tribal Council; transferring to the Tribal Council fines and restitution collected for certain fish and wildlife violations; and granting responsibility for redress of fish and game violations to state or tribal courts.

ASSUMPTIONS:

1. Assumptions and calculations are based upon the draft agreement negotiated as of this date, which would cover both years of the 1991 biennium.
2. The state-tribal cooperative board will be comprised of seven members, three of whom are the financial responsibility of the department. The board will meet four times each year with average per diem and travel of \$250 per member per meeting, for total department expenses of \$3,000 per annum.
3. The department will conduct four public meetings at a total cost of \$2,000 in one-time FY90 expenses.
4. All resident and nonresident fishing and bird license sales on the reservation will be remitted to the tribal council.
5. Lost fishing and bird license revenue from non-Indians to the department will total \$49,000 per year.
6. As a result of the expanded jurisdictional area east of the Continental Divide, lost bird and fishing license revenue from Indians to the department will be \$2,250 per year.
7. All fines and restitutions collected on the reservation will be transferred to the tribal council and, based upon FY88 fine revenue of \$6,400 plus a projected 20% increase, this transfer is assumed to be \$7,680 each year of the 1991 biennium.
8. Existing department wardens will provide enforcement on tribal lands.

FISCAL IMPACT:

<u>Expenditures:</u>	Current	FY90 Proposed		Current	FY91 Proposed	
FWP:	Law	Law	Difference	Law	Law	Difference
Operating Expenses	\$ -0-	\$5,000	\$5,000	\$ -0-	\$3,000	\$3,000
<u>Revenues:</u>						
License Sales	\$51,250	\$ -0-	(\$51,250)	\$51,250	\$ -0-	(\$51,250)
Fine Revenues	7,680	-0-	(7,680)	7,680	-0-	(7,680)
Total	\$58,930	\$ -0-	(\$58,930)	\$58,930	\$ -0-	(\$58,930)

Ray Shackleford
 RAY SHACKLEFORD, BUDGET DIRECTOR
 OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 3/6/89

Wm Yellowtail
 BILL YELLOWTAIL, PRIMARY SPONSOR

DATE 3/7/89

Fiscal Note for SB446, second reading

SB 446

APPROVED BY COMM.
ON FISH AND GAME

SENATE BILL NO. 446

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ALLOW MEMBERS OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION TO HUNT WITHOUT STATE LICENSES, PERMITS, OR STAMPS; AUTHORIZING THE ISSUING OF HUNTING AND FISHING LICENSES, PERMITS, AND STAMPS JOINTLY WITH THE CONFEDERATED SALISH AND KOOTENAI TRIBES; AUTHORIZING REVENUES FROM THE SALE OF JOINT LICENSES, PERMITS, AND STAMPS TO BE REMITTED TO THE TRIBAL COUNCIL; TRANSFERRING TO THE TRIBAL COUNCIL FINES AND RESTITUTION COLLECTED FOR CERTAIN FISH AND WILDLIFE VIOLATIONS; GRANTING RESPONSIBILITY FOR REDRESS OF FISH AND GAME VIOLATIONS TO STATE OR TRIBAL COURTS; PROVIDING FOR PUBLIC MEETINGS AND COMMENT PRIOR TO CONCLUSION OF A NEGOTIATED AGREEMENT; AND AMENDING SECTION 87-1-228, MCA."

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

Section 1. Section 87-1-228, MCA, is amended to read:

"87-1-228. Agreement with Indians concerning hunting and fishing -- Indian treaty of 1855. (1) Whereas, by treaty of July 16, 1855, between the United States of America, represented---by---Isaac---I---Stephens,---governor---and

superintendent--of--Indian--affairs--for--the--territory--of Washington, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper Pend Oreille Indians, the said--Indians--were--given--the exclusive-right tribes have certain rights to fish and hunt on--the--Flathead--Indian--reservation--and--the--privilege--of hunting--in--their--usual--hunting--grounds--on--large--areas--of Montana;--and--whereas,--nonmembers--of--such--tribes--have--the right--to--hunt--and--fish--on--Indian--lands--by--sufferance--of--such tribes--only; and whereas, it appears to be to the common advantage of the state and such Indian tribes that hunting and fishing regulations and privileges on other lands of the state and on Indian lands shall be uniform and that hunting and fishing on such Indian lands shall be in common with the public;--now,--therefore to cooperate in matters involving hunting and fishing. Therefore, the department may negotiate and conclude an agreement with the council of the Confederated Salish and Kootenai tribes of the Flathead Indian reservation for the purpose of:

{a}--obtaining--and--establishing--for--the--citizens--of Montana;--regularly--licensed--to--hunt--and--fish--in--the--state; the--privileges--of--hunting--and--fishing--on--Indian--lands--on--the Flathead--Indian--reservation;

{b}--the--conservation--and--protection--of--fish--and--game and--fur--bearing--animals--on--such--Indian--lands--and--on--lands

1 adjacent-thereto;
 2 ~~(c)---setting-dates---for---the---opening---and---closing---of~~
 3 ~~seasons---for---hunting---and---fishing---on---such---lands---for---Indians~~
 4 ~~and-non-Indians-alike; opening and closing of streams and~~
 5 ~~land-areas-for-hunting-and-fishing;~~
 6 (a) authorizing individuals to serve on a state-tribal
 7 cooperative board to develop hunting and fishing regulations
 8 and reimbursing those individuals' expenses pursuant to
 9 2-18-501 through 2-18-503;
 10 ~~(d)(b)~~ doing what in its judgment is necessary by way
 11 of granting to such tribal Indians state permits to hunt and
 12 fish, to be issued without charge to such the Indians or
 13 allowing Indians to hunt without licenses, permits, or
 14 stamps;
 15 (c) issuing jointly with the council hunting and
 16 fishing licenses, permits, and stamps under terms
 17 established by mutual agreement and recognized as valid for
 18 hunting and fishing throughout the state;
 19 (d) authorizing all revenues collected from sale of
 20 joint licenses, permits, and stamps to be remitted to the
 21 council for the purpose of a fish and wildlife program;
 22 (e) transferring to the council an amount equal to all
 23 finances and restitution collected in state court for fish and
 24 wildlife violations within reservation boundaries for use in
 25 a fish and wildlife program;

1 ~~te)---stocking---streams---and---land---areas-of-such-Indian~~
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 3 (f) policing such Indian and other lands for the
 4 protection of fish and game and providing responsibility for
 5 redress of fish and game violations to state or tribal
 6 courts; and
 7 (g) in general carrying out the purposes of this
 8 section.
 9 ~~(2)---if---any---part---of---such-agreement-provides-for-the~~
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 11 ~~the-approval-of-the-state-legislature--~~
 12 ~~(3)(2)~~ Any agreement entered into under subsection (1)
 13 must also satisfy the requirements of Title 18, chapter 11.
 14 (3) PRIOR TO CONCLUDING ANY AGREEMENT UNDER THIS
 15 SECTION, THE DEPARTMENT SHALL HOLD PUBLIC MEETINGS, AFTER
 16 PROPER PUBLIC NOTICE OF THE MEETINGS HAS BEEN GIVEN AND THE
 17 PROPOSED AGREEMENT HAS BEEN MADE AVAILABLE FOR PUBLIC
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