

House BILL NO. 486

INTRODUCED BY Jone

A BILL FOR AN ACT ENTITLED: "AN ACT TERMINATING THE STATE-TRIBAL HUNTING AND FISHING COOPERATIVE AGREEMENT BETWEEN THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION AND THE STATE OF MONTANA; PROVIDING ADDITIONAL STATUTORY CRITERIA TO BE APPLIED UPON A RENEGOTIATION OF THE AGREEMENT; AMENDING SECTION 87-1-228, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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 and the confederated tribes of the Flathead, Kootenai, and Upper Pend Oreille Indians, the tribes have certain rights to fish and hunt; and whereas, it appears to be to the common advantage of the state and Indian tribes 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) authorizing individuals to serve on a state-tribal cooperative board to develop hunting and fishing regulations and reimbursing those individuals' expenses pursuant to 2-18-501 through 2-18-503;

(b) doing what in its judgment is necessary by way of granting to tribal Indians state permits to hunt and fish off reservation on open and unclaimed lands, to be issued without charge to the Indians, or allowing Indians to hunt without licenses, permits, or stamps;

(c) issuing jointly with the council hunting and fishing licenses, permits, and stamps under terms established by mutual agreement and recognized as valid for hunting and fishing throughout the state. These joint licensing and permit requirements supersede the general licensing and permit requirements set forth in this title, except licenses issued under the provisions of subsection (1)(f).

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

1 (e) providing that joint licenses, permits, and stamps apply to nontribal persons who wish to hunt
 2 and fish on tribal lands;

3 (f) providing that persons who wish to hunt on nontribal lands within the boundaries of the
 4 reservation may do so by purchasing the applicable Montana state licenses and authorizing all revenue
 5 received through the sale of those licenses to be remitted to the state;

6 (g) transferring to the council an amount equal to all fines and restitution collected in state court
 7 for fish and wildlife violations ~~within reservation boundaries~~ on tribal lands for use in a fish and wildlife
 8 program;

9 ~~(h)~~ (h) policing Indian and other lands for the protection of fish and game and providing
 10 responsibility for redress of fish and game violations to state or tribal courts; and

11 ~~(g)~~ (i) in general carrying out the purposes of this section.

12 (2) Any agreement entered into under subsection (1) must also satisfy the requirements of Title
 13 18, chapter 11.

14 (3) Prior to concluding any agreement under this section, the department shall hold public
 15 meetings, after proper public notice of the meetings has been given and the proposed agreement has been
 16 made available for public review, to afford an opportunity to comment on the contents of the agreement."
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18 s NEW SECTION. Section 2. Notice of termination of agreement. (1) Pursuant to part XII of the
 19 state-tribal cooperative agreement between the Confederated Salish and Kootenai tribes of the Flathead
 20 reservation and the state of Montana by and through the department of fish, wildlife, and parks of the state
 21 of Montana, signed November 9, 1994, the state of Montana hereby notifies the confederated tribes of the
 22 state's intent to terminate the agreement effective 120 days after receipt by the tribes of a copy of [this
 23 act].

24 (2) It is intended that after that date, the state of Montana, by and through the department of fish,
 25 wildlife, and parks, negotiate and conclude an agreement with the council of the Confederated Salish and
 26 Kootenai tribes of the Flathead Indian reservation for the purposes of 87-1-228.

27 (3) The secretary of state shall send a copy of [this act] by certified mail to the chairperson of the
 28 Confederated Salish and Kootenai tribes of the Flathead reservation.

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 30 NEW SECTION. Section 3. Effective date -- applicability. [This act] is effective on passage and

1 approval and applies 120 days after receipt of a copy of [this act] by the Confederated Salish and Kootenai
2 tribes of the Flathead reservation.

3 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0486, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act terminating the state-tribal hunting and fishing cooperative agreement between the Confederated Salish and Kootenai tribes of the Flathead Reservation and the State of Montana and providing additional statutory criteria to be applied upon a renegotiation of the agreement.

ASSUMPTIONS:

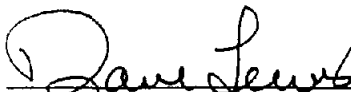
1. Amendments to 87-1-228, MCA, provide that joint licenses, permits, and stamps apply to nontribal persons who wish to hunt and fish on tribal lands; and that persons who wish to hunt on nontribal lands within the boundaries of the reservation may do so by purchasing the applicable Montana state licenses and authorizing all revenue received through the sale of those licenses to be remitted to the state.
2. The state of Montana through the Department of Fish, Wildlife and Parks notified the Confederated Salish and Kootenai tribes of the Flathead Reservation of the state's intent to terminate the cooperative agreement. In accordance with part XII of the state-tribal cooperative agreement, a written notification dated November 9, 1994, was sent. Termination of the agreement is effective 120 days after receipt by the tribes of a copy of the termination.
3. It is the intent of the state of Montana through the Department of Fish, Wildlife and Parks, following the 120 days, to negotiate and conclude an agreement with the council of the Confederated Salish and Kootenai tribes of the Flathead Indian Reservation.
4. Negotiations by the Department of Fish, Wildlife and Parks will require 2.00 FTE 25% of FY96 to complete. FWP will re-direct department priorities and cover costs within the department's present law budget for FY96. The Executive Budget request for FWP includes \$36,100 each year of the biennium for Attorney General legal assistance and \$40,000 each year for contacted services in the area of Native American negotiations.
5. If an agreement is not reached by the two parties, litigation may be necessary. FWP is unable to determine litigation costs, but they would likely be high.

FISCAL IMPACT:

The costs of the cooperative agreement negotiations will be absorbed within the department's present law budget.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The Confederated Salish and Kootenai tribes will lose revenue because hunters on nontribal lands within the reservation will not be required to purchase a joint license, permit, or stamp.

 2-15-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

RICH JORE, PRIMARY SPONSOR DATE

Fiscal Note for HB0486, as introduced

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