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INTRODUCED BY

fore House BILL NO. 367

M. Taylor

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 INDIAN 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 ~~revenue~~ revenue collected from the sale of joint licenses, permits, and stamps

1 to be remitted to the council for the purpose of a fish and wildlife program;

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

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

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

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

12 ~~(i)~~ in general, carrying out the purposes of this section.

13 (2) Any agreement entered into under subsection (1) must also satisfy the requirements of Title
14 18, chapter 11.

15 (3) Prior to concluding any agreement under this section, the department shall hold public
16 meetings, after proper public notice of the meetings has been given and the proposed agreement has been
17 made available for public review, to afford an opportunity to comment on the contents of the agreement."
18

19 **NEW SECTION. Section 2. Notice of termination of agreement.** (1) Pursuant to part XII of the
20 state-tribal cooperative agreement between the Confederated Salish and Kootenai tribes of the Flathead
21 Indian reservation and the state of Montana by and through the department of fish, wildlife, and parks of
22 the state of Montana, signed November 9, 1994, the state of Montana hereby notifies the confederated
23 tribes of the state's intent to terminate the agreement effective 120 days after receipt by the tribes of a
24 copy of [this act].

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

28 (3) The secretary of state shall send a copy of [this act] by certified mail to the chairperson of the
29 Confederated Salish and Kootenai tribes of the Flathead Indian reservation.
30

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0307, 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. Hunters who recreate wholly on private lands within the reservation will have the option of purchasing either a joint tribal license or a state license.
2. Efforts to re-negotiate the state-tribal hunting and fishing cooperative agreement will take two state members three months to complete. This will require a re-direction of Department of Fish, Wildlife and Parks (FWP) priorities. There will also be additional staff costs in conducting multiple public meetings and meetings with tribal representatives.
3. If the two parties are not able to arrive at an agreement, it will go to litigation, and the state will incur substantial costs. The state and the tribes were litigating hunting and fishing jurisdictional issues prior to the present agreement which resolved the litigation. The state paid over \$190,000 in preliminary litigation costs. FWP is unable to determine what those costs might be this time. Because of the nature and complexity of the litigation, the costs will be exceptionally high and \$250,000 is a conservative guess.
4. Until a defendant is named, FWP is unable to determine who would be required to fund the litigation.
5. License revenue should increase. FWP is unable to estimate how many residents of the reservation will now purchase state licenses instead of the tribal joint license.
6. There is no fiscal impact on the Governor's Office, Office of Indian Affairs.

FISCAL IMPACT:

Department of Fish, Wildlife and Parks:

FWP is unable to determine fiscal impact; however, it could potentially be very substantial.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The Confederated Salish and Kootenai Tribes will lose revenue due to hunters who hunt wholly on private lands within the reservation will not be required to purchase a joint license.

David Lewis by SB 1/25/97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Rich Jore 1/27/97
RICH JORE, PRIMARY SPONSOR DATE

Fiscal Note for HB0307, as introduced

HB 307