

3 SENATE BILL NO. _____

4 INTRODUCED BY C. JUNEAU, _____

6 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE PERIOD FOR SUSPENSION OF
7 ADJUDICATION PROCEEDINGS DURING NEGOTIATIONS OF FEDERAL INDIAN AND NON-
8 INDIAN RESERVED WATER RIGHTS; EXTENDING THE TIME FOR A TRIBE OR FEDERAL
9 AGENCY TO FILE ALL OF ITS CLAIMS FOR RESERVED RIGHTSS AFTER TERMINATION
10 OF NEGOTIATIONS; AMENDING SECTIONS 85-2-217, 85-2-702, AND 85-2-704, MCA; AND
11 PROVIDING AN EFFECTIVE DATE."

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

15 **Section 1.** Section 85-2-217, MCA, is amended to read:

16 **"85-2-217. Suspension of adjudication.** While negotiations for the conclusion of a
17 compact under part 7 are being pursued, all proceedings to generally adjudicate reserved Indian
18 water rights and federal reserved water rights of those tribes and federal agencies that are
19 negotiating are suspended. The obligation to file water rights claims for those federal non-Indian
20 and Indian reserved rights is also suspended. This suspension is effective until July 1, 2009
21 2013, as long as negotiations are continuing or ratification of a completed compact is being
22 sought. If approval by the state legislature and tribes or federal agencies has not been
23 accomplished by July 1, ~~2009~~ 2013, the suspension must terminate on that date. Upon
24 termination of the suspension of this part, the tribes and the federal agencies are subject to the
25 special filing requirements of 85-2-702(3) and all other requirement of the state water
26 adjudication system provided for in Title 85, chapter 2. Those tribes and federal agencies that
27 choose not to negotiate their federal non-Indian and Indian reserved water rights are subject to
28 the full operation of the state adjudication system and may not benefit for the suspension
29 provisions of this section."

31 **Section 2.** Section 85-2-702, MCA, is amended to read:

1 **“85-2-702. Negotiations with Indian tribes.** (1) The reserved water rights compact
2 commission, created by 2-15-212, may negotiate with the Indian tribes or their authorized
3 representatives jointly or severally to conclude compacts authorized under 85-2-701. Compact
4 proceedings must be commenced by the commission. The commission shall serve by certified
5 mail directed to the governing body of each tribe a written request for the initiation of
6 negotiations under this part and a request for the designation of an authorized representative of
7 the tribe to conduct compact negotiations. Compact negotiations commence upon receipt of the
8 written designation from the governing body of a tribe.

9 (2) When the compact commission and the Indian tribes or their authorized
10 representatives have agreed to a compact, they shall sign a copy and file an original copy with
11 the department of state of the United states of America and copies with the secretary of state of
12 Montana and with the governing body for the tribe involved. The compact is effective and
13 binding upon all parties upon ratification by the legislature of Montana and any affected tribal
14 governing body, and approval by the appropriate federal authority.

15 (3) Upon its ratification by the Montana legislature and the tribe, the terms of a compact
16 must be included in the preliminary decree as provided by 85-2-231, and unless an objection to
17 the compact is sustained under 85-2-233, the terms of the compact must be included in the final
18 decree without alteration. However, if approval of the state legislature and tribe has not been
19 accomplished by July 1, 2009 2013, all Indian claims for reserved water rights that have not
20 been resolved by a compact must be filed with the department within 6 60 months. These new
21 filings must be used in the formulation of the preliminary decree and must be given treatment
22 similar to that given to all other filings.”

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24 **Section 3.** Section 85-2-704, MCA, is amended to read:

25 **“85-2-704. Termination of negotiations.** (1) The commission or any negotiating tribe or
26 federal agency may terminate negotiations by providing notice to all parties 30 days in advance
27 of the termination date. On the termination date, the suspension of the application of part 2
28 provided for in 85-2-217 shall also terminate terminates. The tribe or federal agency shall file all
29 of its claims for reserved rights within 6 60 months of the termination of negotiations.

30 (2) Once negotiations have been terminated pursuant to subsection (1), they may be
31 reopened only by mutual agreement of the parties.”

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NEW SECTION. **Section 4. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 5. Effective date.** [This act] is effective_____.

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