HOUSE BILL NO. 25

INTRODUCED BY CONROY

BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on State Administration.
January 8, 1981	Committee recommend bill do pass. Report adopted.
January 10, 1981	Sill printed and placed on members' desks.
	Second reading, do pass.
January 12, 1981	Third reading, passed. Transmitted to Senate.
IN THE SENZ	NTE
January 13, 1981	Introduced and referred to Committee on State Administration.
March 25, 1981	Committee recommend bill be concurred in. Report adopted.
March 26, 1931	Second realing, pass consideration.
March 27, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.
March 31, 1981	On motion rules suspended. Bill allowed to be transmitted on 71st legislative day. Motion adopted.
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Third reading, concurred in. Ayes, 47; Noes, 3.

IN THE HOUSE

April 1, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

1	HOUSE BILL ND. 25	1	wit
2	INTRODUCED BY CONROY	2	inf
3	BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS	3	100
4		4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE PUBLIC	5	BE :
6	AGENCIES TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN	6	
7	TRIBES LOCATED IN MONTANA; AMENDING SECTIONS 53-30-204 AND	7	pe
6	87-1-228, MCA; AND REPEALING SECTION 20-3-333, MCA.*	8	Agr
9		9	
10	WHEREAS, it is in the best interest of the state of	10	act
11	Montana to establish a legal framework that will enable this	11	fol
12	state, its political subdivisions, and Indian tribes to	12	
13	achieve maximum harmony and facilitate cooperative efforts	13	inc
14	in the orderly administration of their respective	14	any
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22	use of their powers by enabling them to cooperate with	22	agr
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with geographic, economic, population, and other factors influencing the needs and development of public agencies and local communities.

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

6 <u>NEW_SECTION</u> Section 1. Short title. [This act] shall 7 be known and may be cited as the "State-Tribal Cooperative 8 Agreements Act".

<u>NEW_SECTION</u> Section 2. Definitions. As used in [this
 act], unless the context clearly indicates otherwise, the
 following definitions apply:

12 (1) "Public agency" means any political subdivision,
 13 including municipalities, countles, school districts, and
 14 any agency or department of the state of Montana.

15 (2) "Tribal government" means the officially recognized 16 government of any Indian tribe, nation, or other organized 17 group or community located in Montana exercising 18 self-government powers and recognized as eligible for 19 services provided by the United States to Indians because of 20 their status as Indians.

21 <u>NEW SECTION</u> Section 3. Authorization to enter 22 agreement --- general contents. (1) Any one or more public 23 agencies may enter into an agreement with any one or more 24 tribal governments to perform any administrative service, 25 activity, or undertaking that any of the public agencies or

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1 tribal governments entering into the contract is authorized by law to perform. The agreement shall be authorized and 2 3 approved by the governing body of each party to the 4 acreement.

5 (2) The agreement shall set forth fully the powers. 6 rights, obligations, and responsibilities of the parties to 7 the agreement.

8 NEW_SECTION. Section 4. Detailed contents of 9 agreement. The agreement authorized by [section 3] shall 10 specify the following:

11 (1) its duration;

12 (2) the precise organization, composition, and nature 13 of any separate legal entity created thereby;

14 (3) the purpose of the agreement;

15 (4) the manner of financing the agreement and 16 establishing and maintaining a budget therefor;

17 (5) the method to be employed in accomplishing the 18 partial or complete termination of the agreement and for 19 disposing of property upon such partial or complete 20 termination:

21 (6) provision for administering the agreement, which 22 may include creation of a joint board responsible for such 23 administration;

(7) the manner of acquiring, holding, and disposing of 24 25 real and personal property used in the agreement:

1 (8) when an agreement involves law enforcement: 2 (a) the minimum training standards and qualifications 3 of law enforcement personnel; (b) the respective liability of each public agency and 4 5 tribal government for the actions of law enforcement 6 officers when acting under the provisions of an agreement; 7 (c) the minimum insurance required of both the public 8 agency and the tribal government; and 9 (d) the exact chain of command to be followed by law 10 enforcement officers acting under the provisions of an 11 agreement; and 12 (9) any other necessary and proper matters. 13 NEW SECTION. Section 5. Submission of agreement to 14 attorney general. (1) As a condition precedent to an 15 agreement made under [this act] becoming effective, it must have the approval of the attorney general of Montana. 16 17 (2) The attorney general shall approve an agreement 18 submitted to him under [this act] unless he finds it is not in proper form or does not meet the requirements set forth in [this act] or otherwise does not conform to the laws of 20 21 Montana. If he disapproves an agreement, he shall provide a 22 detailed, written statement to the governing bodies of the 23 public agency and tribal government concerned, specifying

24 the reasons for his disapproval.

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agreement within 30 days after its submission to him, it
 shall be considered approved by him.

3 NEW SECTION. Section 6. Agreements by state agencies -- requirements. As a condition precedent to an agreement 4 5 made under [this act] by a state agency becoming effective. it must have, in addition to the approval of the attorney 6 7 general under [section 5], the approval of the governor. а The criteria and time for the governor's approval shall be 9 the same as that for the attorney general's approval as 10 provided in [section 5].

11 <u>NEW_SECTION</u>. Section 7. Filing of agreement. Within 10 12 days after approval by the attorney general and prior to 13 commencement of its performance, an agreement made pursuant 14 to [this act] must be filed with:

15 (1) the secretary of the United States department of16 the interior;

17 (2) each county clerk and recorder of each county where
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19 is located;

20 (3) the secretary of state; and

21 (4) the affected tribal government.

22 <u>JEX_SECTION</u> Section 8. Revocation of agreement. An 23 agreement made pursuant to [this act] is subject to 24 revocation by any party upon 6 months' notice to the other 25 unless a different notice period of time is provided for within the agreement. No agreement may provide for a notice
 period for revocation in excess of 5 years.

3 NEW_SECTION. Section 9. Authorization to appropriate funds for purpose of agreement. Any public agency entering 4 5 into an agreement pursuant to [this act] may appropriate funds for and may sell, lease, or otherwise give or supply 6 7 material to any entity created for the purpose of 8 performance of the agreement and may provide such personnel 9 or services therefor as is within its legal power to 10 furnish.

11 <u>NEW_SECTION</u> Section 10. Specific limitations on 12 agreements. Nothing in [this act] may be construed to 13 authorize an agreement that:

14 (1) enlarges or diminishes the jurisdiction over civil 15 or criminal matters that may be exercised by either the 16 state of Montana or tribal governments located in Montana; 17 (2) authorizes a public agency or tribal government, 18 either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the 19 government of the United States to make criminal laws for or 20 21 enforce criminal laws in Indian country;

(3) authorizes a public agency or tribal government to
enter into an agreement except as authorized by their own
organizational documents or enabling laws; or

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or taxation of any real or personal property, including
 water rights, belonging to any Indian or any Indian tribe,
 band, or community that is held in trust by the United
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 imposed by the United States.

6 <u>NEW_SECTION</u> Section 11. Validity of existing 7 agreements. (1) Except as provided in subsection (2). 8 [sections 1 through 10] do not effect the validity of any 9 agreement entered into between a tribe and a public agency 10 prior to July 1. 1981.

11 (2) However, any such agreement must satisfy the 12 requirements of [sections 1 through 10] no later than July 13 1, 1983.

14Section 12. Section 53-30-204, MCA, is amended to read:15"53-30-204. Contracts Cooperative agreements for16services with governing body of Indian reservation triba.17(1) The department of institutions may contract enter into18agreements with the governing body of an Indian reservation19tribe within the state for residential and educational20services:

21 (1)(a) at Mountain View school, Pine Hills school, 22 aftercare division, or other juvenile facility maintained by 23 the department for children who have been adjudicated 24 delinquent by the tribal court, subject to the provisions of 25 this part and parts 1 and 2 of chapter 1; or (2)(b) at the Montana children's center for children
 who have been found by the tribal court to be dependent and
 neglected, subject to the provisions of [Title 80, chapter
 21].

5 (2)__Any__agreement__entered__into__under_subsection_(1)
6 must_also_satisfy_the_requirements_of_[sections_1_through
7 11]**

A Section 13. Section 87-1-228, MCA, is amended to read: 9 *87-1-228. Agreement with Indians concerning hunting 10 and fishing -- Indian treaty of 1855. (1) Whereas, by treaty of July 16, 1855, between the United States of America, 11 represented by Isaac I. Stephens, 12 covernor and superintendent of Indian affairs for the territory of 13 14 Washington, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper 15 16 Pend Dreille Indians, the said Indians were given the 17 exclusive right to fish and hunt on the Flathead Indian 18 reservation and the privilege of hunting in their usual 19 hunting grounds on large areas of Montana; and whereas, 20 nonmembers of such tribes have the right to hunt and fish on 21 Indian lands by sufferance of such tribes only; and whereas, 22 it appears to be to the common advantage of the state and 23 such Indian tribes that hunting and fishing regulations and 24 privileges on other lands of the state and on Indian lands 25 shall be uniform and that hunting and fishing on such Indian

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lands shall be in common with the public, now, 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:

5 (a) obtaining and establishing for the citizens of
6 Montana, regularly licensed to hunt and fish in the state,
7 the privileges of hunting and fishing on Indian lands on the
8 Flathead Indian reservation;

9 (b) the conservation and protection of fish and game 10 and fur-bearing animals on such Indian lands and on lands 11 adjacent thereto;

(c) setting dates for the opening and closing of
seasons for hunting and fishing on such lands for Indians
and non-Indians alike, opening and closing of streams and
land areas for hunting and fishing;

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granting to such tribal Indians state permits to hunt and
fish, to be issued without charge to such Indians;

19 (e) stocking streams and land areas of such Indian
20 lands for the common benefit;

21 (f) policing such Indian lands for the protection of 22 fish and yame; and

23 (g) in general carrying out the purposes of this 24 section.

25 (2) If any part of such agreement provides for the

- 1 payment of money to the tribes, that part must first have
- 2 the approval of the state legislature.
- 3 (3) Any agreement entered into under subsection (1)
- 4 must also satisfy the requirements of [sections 1 through
- 5 11]."
- 6 Section 14. Repealer. Section 20-3-332, MCA, is
- 7 repealed.

-End-

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H.B. 25

47th Legislature

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Approved by Committee on State Administration

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12	state, its political subdivisions, and Indian tribes to
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14	in the orderly administration of their respective
15	governments; and
16	WHEREAS, it is in the best interest of the state of
17	Montana to establish a legal framework for viable agreements
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5 (21. Any agreement entered into under subsection (1) 6 must also satisfy the requirements of [sections_1_through 7 li]a*

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47th Legislature

LC 0005/01

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 water rights, belonging to any Indian er any. Indian tribes.
 band, or community that is held in trust by the United
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6 <u>NEW_SECTION</u> Section 11. Validity of existing 7 agreements. (1) Except as provided in subsection (2). 8 [sections 1 through 10] do not effect the validity of any 9 agreement entered into between a tribe and a public agency 10 prior to July 1, 1981.

11 (2) However, any such agreement must satisfy the
12 requirements of [sections 1 through 10] no later than July
13 1, 1983.

14Section 12. Section 53-30-204, MCA, is amended to read:15"53-30-204. Contracts Cooperative agreements for16services with governing body of Indian reservation tribe.17(1) The department of institutions may contract enter into18agreements with the governing body of an Indian reservation19tribe within the state for residential and educational20services:

21 (1)(a) at Mountain View school, Pine Hills school, 22 aftercare division, or other juvenile facility maintained by 23 the department for children who have been adjudicated 24 delinquent by the tribal court, subject to the provisions of 25 this part and parts 1 and 2 of chapter 1; or (2)(b) at the Montana children's center for children
 who have been found by the tribal court to be dependent and
 neglected, subject to the provisions of [Title 80, chapter
 21]-

5 (2) Any agreement entered into under subsection (1) 6 must also satisfy the requirements of [sections_1_through 7 111a*

A Section 13. Section 87-1-228, NCA, is amended to read: 9 *87-1-228. Agreement with Indians concerning hunting 10 and fishing -- Indian treaty of 1855. (1) Whereas, by treaty 11 of July 16, 1855, between the United States of America, 12 represented by Isaac I. Stephens, governor and 13 superintendent of Indian affairs for the territory of 14 Washington, and the chiefs, headmen, and delegates of the 15 confederated tribes of the Flathead, Kootenai, and Upper 16 Pend Greille Indians, the said Indians were given the 17 exclusive right to fish and hunt on the Flathead Indian 18 reservation and the privilege of hunting in their usual 19 hunting grounds on large areas of Montana; and whereas, 20 nonmembers of such tribes have the right to hunt and fish on 21 Indian lands by sufferance of such tribes only; and whereas, 22 it appears to be to the common advantage of the state and 23 such Indian tribes that hunting and fishing regulations and 24 privileges on other lands of the state and on Indian lands 25 shall be uniform and that hunting and fishing on such Indian

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lands shall be in common with the public, now, 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:

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5 (a) obtaining and establishing for the citizens of 6 Montana, regularly licensed to hunt and fish in the state, 7 the privileges of hunting and fishing on Indian lands on the 8 Flathead Indian reservation;

9 (b) the conservation and protection of fish and game 10 and fur-bearing animals on such Indian lands and on lands 11 adjacent thereto;

12 (c) setting dates for the opening and closing of 13 seasons for hunting and fishing on such lands for Indians 14 and non-Indians alike, opening and closing of streams and 15 land areas for hunting and fishing;

16 (d) doing what in its judgment is necessary by way of
17 granting to such tribal Indians state permits to hunt and
18 fish, to be issued without charge to such Indians;

19 (e) stocking streams and land areas of such Indian
20 lands for the common benefit;

21 (f) policing such Indian lands for the protection of 22 fish and game; and

23 (g) in general carrying out the purposes of this 24 section.

25 (2) If any part of such agreement provides for the

1 payment of money to the tribes, that part must first have

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2 the approval of the state legislature.

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- 3 (3) Any agreement entered into under subsection (1)
- 4 must_also_satisfy_the_requirements_of_fsections_1_through
- 5 <u>11]e</u>#
- 6 Section 14. Repeater. Section 20-3-333, MCA, is
- 7 repealed.

-End-

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47th Legislature

LC 0005/01

HOUSE BILL NO. 25 1 INTRODUCED BY ____CONROY 2 BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE PUBLIC 5 AGENCIES TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN 6 7 TRIBES LOCATED IN MONTANA; AMENDING SECTIONS 53-30-204 AND 6 87-1-228, MCA; AND REPEALING SECTION 20-3-333, MCA.* 9 WHEREAS, it is in the best interest of the state of 10 11 Montana to establish a legal framework that will enable this 12 state, its political subdivisions, and Indian tribes to achieve maximum harmony and facilitate cooperative efforts 13 in the orderly administration of their respective 14 15 governments; and WHEREAS, it is in the best interest of the state of 16 17 Montana to establish a legal framework for viable agreements 18 between itself and tribal governments located in Montana that are based on mutual consent and mutual benefit. 19 20 WHEREAS, it is in the best interest of the state of 21 Montana to permit public agencies to make the most efficient

use of their powers by enabling them to cooperate with tribal governments on a basis of mutual benefit and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors
 influencing the needs and development of public agencies and
 local communities.

4

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

NEW_SECTION. Section 1. Short title. [This act] shall
be known and may be cited as the "State-Tribal Cooperative
Agreements Act".

9 <u>NEW_SECTION</u> Section 2. Definitions. As used in [this
10 act], unless the context clearly indicates otherwise, the
11 following definitions apply:

12 (1) "Public agency" means any political subdivision;
13 including municipalities, countles, school districts, and
14 any agency or department of the state of Montana.

15 {2} "Tribal government" means the officially recognized 16 government of any Indian tribe, nation, or other organized 17 group or community located in Montana exercising 18 self-government powers and recognized as eligible for 19 services provided by the United States to Indians because of 20 their status as Indians.

21 <u>NEW_SECTION.</u> Section 3. Authorization to enter 22 agreement -- general contents. (1) Any one or more public 23 agencies may enter into an agreement with any one or more 24 tribal governments to perform any administrative service, 25 activity, or undertaking that any of the public agencies or

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tribal governments entering into the contract is authorized
 by law to perform. The agreement shall be authorized and
 approved by the governing body of each party to the
 agreement.

5 (2) The agreement shall set forth fully the powers,
6 rights, obligations, and responsibilities of the parties to
7 the agreement.

8 <u>NEW_SECTION</u> Section 4. Detailed contents of 9 agreement. The agreement authorized by [section 3] shall 10 specify the following:

11 (1) its duration;

12 (2) the precise organization, composition, and nature
13 of any separate legal entity created thereby;

14 (3) the purpose of the agreement;

15 (4) the manner of financing the agreement and
16 establishing and maintaining a budget therefor;

17 (5) the method to be employed in accomplishing the 18 partial or complete termination of the agreement and for 19 disposing of property upon such partial or complete 20 termination:

(6) provision for administering the agreement, which
may include creation of a joint board responsible for such
administration;

24 (7) the manner of acquiring, holding, and disposing of25 real and personal property used in the agreement;

1 (8) when an agreement involves law enforcement:

2 (a) the minimum training standards and qualifications3 of law enforcement personnel;

4 (b) the respective liability of each public agency and 5 tribal government for the actions of law enforcement 6 officers when acting under the provisions of an agreement; 7 (c) the minimum insurance required of both the public 8 agency and the tribal government; and

9 (d) the exact chain of command to be followed by law
10 enforcement officers acting under the provisions of an
11 agreement; and

12 (9) any other necessary and proper matters.

13 <u>NEW_SECTIONs</u> Section 5. Submission of agreement to 14 attorney general. (1) As a condition precedent to an 15 agreement made under [this act] becoming effective, it must 16 have the approval of the attorney general of Montana.

17 (2) The attorney general shall approve an agreement 18 submitted to him under [this act] unless he finds it is not 19 in proper form or does not meet the requirements set forth 20 in [this act] or otherwise does not conform to the laws of 21 Montana. If he disapproves an agreement, he shall provide a 22 detailed, written statement to the governing bodies of the public agency and tribal government concerned, specifying 23 24 the reasons for his disapproval.

25 (3) If the attorney general does not disapprove the

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agreement within 30 days after its submission to him, it 1 2 shall be considered approved by him.

3 NEW_SECTION. Section 6. Agreements by state agencies 4 -- requirements. As a condition precedent to an agreement made under [this act] by a state agency becoming effective, 5 6 it must have, in addition to the approval of the attorney 7 general under [section 5], the approval of the governor. 8 The criteria and time for the governor's approval shall be 9 the same as that for the attorney general's approval as 10 provided in [section 5].

11 NEW SECTION. Section 7. Filing of agreement. Within 10 12 days after approval by the attorney general and prior to 13 commencement of its performance, an agreement made pursuant 14 to [this act] must be filed with:

15 (1) the secretary of the United States department of the interior; 16

17 (2) each county clerk and recorder of each county where 18 the principal office of one of the parties to the agreement 19 is located;

20 (3) the secretary of state; and

21 (4) the affected tribal government.

22 NEW SECTION. Section 8. Revocation of agreement. An 23 agreement made pursuant to [this act] is subject to 24 revocation by any party upon 6 months notice to the other unless a different notice period of time is provided for 25

1 within the agreement. No agreement may provide for a notice period for revocation in excess of 5 years.

NEW SECTION. Section 9. Authorization to appropriate 3 4 funds for purpose of agreement. Any public agency entering into an agreement pursuant to [this act] may appropriate 5 funds for and may sell, lease, or otherwise give or supply 7 material to any entity created for the purpose of performance of the agreement and may provide such personnel 8 9 or services therefor as is within its legal power to 10 furnish.

11 NEW_SECTION. Section 10. Specific limitations ön 12 agreements. Nothing in [this act] may be construed to 13 authorize an agreement that:

14 (1) enlarges or diminishes the jurisdiction over civil 15 or criminal matters that may be exercised by either the 16 state of Montana or tribal governments located in Montana; 17 (2) authorizes a public agency or tribal government, 18 either separately or pursuant to agreement, to expand or 19 diminish the jurisdiction presently exercised by the 20 government of the United States to make criminal laws for or 21 enforce criminal laws in Indian country;

22 (3) authorizes a public agency or tribal government to 23 enter into an agreement except as authorized by their own 24 organizational documents or enabling laws; or

25 (4) provides for the alienation, financial encumbrance,

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or taxation of any real or personal property, including
 water rights, belonging to any Indian or any Indian tribe,
 band, or community that is held in trust by the United
 States or is subject to a restriction against alignation
 imposed by the United States.

6 <u>NEW_SECTION</u> Section II. Validity of existing 7 agreements. (1) Except as provided in subsection (2), 8 [sections 1 through 10] do not effect the validity of any 9 agreement entered into between a tribe and a public agency 10 prior to July 1, 1981.

(2) However, any such agreement must satisfy the
 requirements of [sections 1 through 10] no later than July
 1, 1983.

 14
 Section 12. Section 53-30-204, MCA, is amended to read:

 15
 #53-30-204. Contracts Cooperative agreements for

 16
 services with governing body of Indian reservation tribe.

 17
 [1] The department of institutions may contract enter into

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 agreements with the governing body of an Indian reservation

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 tribe within the state for residential and educational

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 services:

21 (1)(a) at Mountain View school, Pine Hills school, 22 aftercare division, or other juvenile facility maintained by 23 the department for children who have been adjudicated 24 delinquent by the tribal court, subject to the provisions of 25 this part and parts 1 and 2 of chapter 1; or 1 (27(b) at the Montana children's center for children 2 who have been found by the tribal court to be dependent and 3 neglected, subject to the provisions of [Title 80, chapter 4 21].

5 (2) Any agreement entered into under subsection (1) 6 must also satisfy the requirements of [sections_1_through 7 111a*

8 Section 13. Section 87-1-228, NCA, is amended to read: 9 #87-1-228. Agreement with Indians concerning hunting and fishing -- Indian treaty of 1855. (1) Whereas, by treaty 10 of July 16, 1855, between the United States of America, 11 12 represented by Isaac I. Stephens, governor and superintendent of Indian affairs for the territory of 13 14 Washington, and the chiefs, headmen, and delegates of the 15 confederated tribes of the Flathead, Kootenai, and Upper 16 Pend Oreille Indians, the said Indians were given the 17 exclusive right to fish and hunt on the Flathead Indian 18 reservation and the privilege of hunting in their usual hunting grounds on large areas of Montana; and whereas, 19 nonmembers of such tribes have the right to hunt and fish on 20 21 Indian lands by sufferance of such tribes only; and whereas, 22 it appears to be to the common advantage of the state and 23 such Indian tribes that hunting and fishing regulations and 24 privileges on other lands of the state and on Indian lands 25 shall be uniform and that hunting and fishing on such Indian

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 of the Flathead Indian reservation for the purpose of:

5 (a) obtaining and establishing for the citizens of 6 Montana, regularly licensed to hunt and fish in the state, 7 the privileges of hunting and fishing on Indian lands on the 8 Flathead Indian reservation;

9 (b) the conservation and protection of fish and game
10 and fur-bearing animals on such Indian lands and on lands
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4 must also satisfy the requirements of [sections 1 through

5 11]s"

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6 Section 14. Repealer. Section 20-3-333, MCA, is

repealed.

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HOUSE BILL NO. 25 2 INTRODUCED BY CONROY 3 BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE PUBLIC 5 AGENCIES TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN 6 7 TRIBES LOCATED IN MONTANA; AMENDING SECTIONS 53-30-204 AND 87-1-228, MCA; AND REPEALING SECTION 20-3-333, MCA." 8 9 10 WHEREAS, it is in the best interest of the state of Montana to establish a legal framework that will enable this 11 state, its political subdivisions, and Indian tribes to 12 13 achieve maximum harmony and facilitate cooperative efforts 14 in the orderly administration of their respective 15 oovernments: and WHEREAS, it is in the best interest of the state of 16 17 Montana to establish a legal framework for viable agreements 18 between itself and tribal governments located in Montana

20 WHEREAS, it is in the best interest of the state of 21 Montana to permit public agencies to make the most efficient 22 use of their powers by enabling them to cooperate with 23 tribal governments on a basis of mutual benefit and thereby 24 provide services and facilities in a manner and pursuant to 25 forms of governmental organization that will accord best

that are based on mutual consent and mutual benefit; and

Ł with geographic, economic, population, and other factors influencing the needs and development of public agencies and 2 з local communities.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 5

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9 NEW_SECTION. Section 2. Definitions. As used in [this 10 act), unless the context clearly indicates otherwise, the following definitions apply: 11

12 (1) "Public agency" means any political subdivision. 13 including municipalities, counties, school districts, and 14 any agency or department of the state of Montana.

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21 NEW SECTION. Section 3. Authorization to enter agreement -- general contents. [1] Any one or more public 22 23 agencies may enter into an agreement with any one or more 24 tribal governments to perform any administrative service, 25 activity, or undertaking that any of the public agencies or

> HB 25 -2-

> > REFERENCE BILL

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 by law to perform. The agreement shall be authorized and
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may include creation of a joint board responsible for such
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25 real and personal property used in the agreement;

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1 (8) when an agreement involves law enforcement: 2 (a) the minimum training standards and gualifications 3 of law enforcement personnel; 4 (b) the respective liability of each public agency and 5 tribal government for the actions of law enforcement officers when acting under the provisions of an agreement; 6 7 (c) the minimum insurance required of both the public 8 agency and the tribal government; and 9 (d) the exact chain of command to be followed by law 10 enforcement officers acting under the provisions of an 11 agreement; and 12 (9) any other necessary and proper matters. 13 NEW_SECTION. Section 5. Submission of agreement to 14 attorney general. (1) As a condition precedent to an 15 agreement made under [this act] becoming effective, it must 16 have the approval of the attorney general of Montana. 17 (2) The attorney general shall approve an agreement 18 submitted to him under [this act] unless he finds it is not 19 in proper form or does not meet the requirements set forth 20 in [this act] or otherwise does not conform to the laws of 21 Montana. If he disapproves an agreement, he shall provide a 22 detailed, written statement to the governing bodies of the public agency and tribal government concerned, specifying 23 24 the reasons for his disapproval. 25 (3) If the attorney general does not disapprove the

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t agreement within 30 days after its submission to him, it 2 shall be considered approved by him.

3 NEW SECTION. Section 6. Agreements by state agencies 4 -- requirements. As a condition precedent to an agreement 5 made under [this act] by a state agency becoming effective. 6 it must have, in addition to the approval of the attorney 7 general under [section 5], the approval of the governor. The criteria and time for the governor's approval shall be 8 9 the same as that for the attorney general's approval as 10 provided in [section 5].

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(2) each county clerk and recorder of each county 17 18 where the principal office of one of the parties to the 19 agreement is located;

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21 (4) the affected tribal government.

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1 within the agreement. No agreement may provide for a notice 2 period for revocation in excess of 5 years.

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encumbrance, or taxation of any real or personal property,
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6 <u>NEW SECTION</u>. Section 11. Validity of existing 7 agreements. (1) Except as provided in subsection (2); 8 [sections 1 through 10] do not effect the validity of any 9 agreement entered into between a tribe and a public agency 10 prior to July 1, 1981.

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22 <u>fil(a)</u> at Mountain View school, Pine Hills school, 23 aftercare division, or other juvenile facility maintained by 24 the department for children who have been adjudicated 25 delinquent by the tribal court, subject to the provisions of

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3 who have been found by the tribal court to be dependent and
4 neglected, subject to the provisions of {Title 80, chapter
5 21].

6 (2) Any agreement entered into under subsection (1)
7 must also satisfy the requirements of [sections 1 through
8 11]."

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7 Montana, regularly licensed to hunt and fish in the state,
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13 (c) setting dates for the opening and closing of
14 seasons for hunting and fishing on such lands for Indians
15 and non-Indians alike, opening and closing of streams and
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17 (d) doing what in its judgment is necessary by way of
18 granting to such tribal Indians state permits to hunt and
19 fish, to be issued without charge to such Indians;

20 (e) stocking streams and land areas of such Indian
21 lands for the common benefit;

22 (f) policing such Indian lands for the protection of23 fish and game; and

24 (g) in general carrying out the purposes of this25 section.

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(2) If any part of such agreement provides for the payment of money to the tribes, that part must first have

3 the approval of the state legislature.

4 (3) Any agreement entered into under subsection (1)

5 must_also_satisfy_the_requirements_of_[sections_1_through

6 <u>11]</u>."

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7 Section 14. Repeater. Section 20-3-333, MCA, is

8 repealed.

-End-

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