

1 HOUSE BILL NO. 427

2 INTRODUCED BY B. BROWN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DEFENSE OF WATER RIGHTS
 5 THROUGHOUT THE STATE OF MONTANA FROM COMPETING CLAIMS TO BE FILED IF THE
 6 LEGISLATURE DOES NOT PASS THE CONFEDERATED SALISH AND KOOTENAI TRIBES WATER RIGHTS
 7 COMPACT; PROVIDING AN APPROPRIATION FOR PROCESSING WATER RIGHTS CLAIMS FILED ON OR
 8 OFF THE FLATHEAD INDIAN RESERVATION; EXPANDING THE DUTIES OF THE ~~OFFICE OF PUBLIC~~
 9 ~~DEFENDER~~ DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO INCLUDE PROVIDING
 10 LEGAL COUNSEL OR CONTRACTING TO PROVIDE LEGAL COUNSEL TO CERTAIN WATER RIGHTS
 11 CLAIMANTS ON OR OFF THE FLATHEAD INDIAN RESERVATION; CREATING A WATER RIGHTS CLAIMS
 12 DEFENSE UNIT WITHIN THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; PROVIDING
 13 RULEMAKING AUTHORITY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION;
 14 CREATING ACCOUNTS AND PROVIDING FUNDS TO THE DEPARTMENT OF NATURAL RESOURCES AND
 15 CONSERVATION; AND THE WATER COURT, ~~AND THE OFFICE OF PUBLIC DEFENDER~~; AMENDING
 16 ~~SECTIONS~~ SECTION 17-7-502, ~~47-1-103, 47-1-104, AND 47-1-201~~, MCA; AND PROVIDING AN IMMEDIATE
 17 EFFECTIVE DATE."

18

19 WHEREAS, the Montana Constitution states that members of the Legislature and all executive,
 20 ministerial, and judicial officers have taken an oath to support, protect, and defend the constitutions of the United
 21 States and of Montana, and the proposed Confederated Salish and Kootenai Tribes Water Compact may violate
 22 these constitutions.

23 WHEREAS, the Montana Constitution states: "All surface, underground, flood, and atmospheric waters
 24 within the boundaries of the state are the property of the state for the use of its people and are subject to
 25 appropriation for beneficial uses as provided by law", and the proposed Confederated Salish and Kootenai Tribes
 26 Water Compact may violate this section of the constitution.

27 WHEREAS, because the Montana Constitution states: "All existing rights to the use of any waters for any
 28 useful or beneficial purpose are hereby recognized and confirmed", and some water rights are those from
 29 territorial days with records kept locally, the proposed Confederated Salish and Kootenai Tribes Water Compact
 30 may violate this section of the constitution.

1 WHEREAS, the Montana Constitution states: "The legislature shall provide for the administration, control,
2 and regulation of water rights and shall establish a system of centralized records," for which the State of Montana
3 created the Department of Natural Resources and Conservation. This state function of water administration may
4 not be delegated to a sovereign, foreign nation that has its own constitution and different laws without violating
5 Article IX of the Montana Constitution and the equal treatment of Montana citizens guaranteed under Article II,
6 section 4, of the Montana Constitution and under Amendment XIV to the United States Constitution.

7 WHEREAS, because the Montana Constitution states: "No person shall be deprived of life, liberty, or
8 property without due process of law", and the United States Constitution prohibits the taking of property without
9 compensation, the proposed Confederated Salish and Kootenai Tribes Water Compact may violate both
10 constitutions by taking Flathead Indian Reservation irrigators' water rights without compensation, transferring
11 these rights to the tribe, and reducing the amount of water available to the Flathead Indian Irrigation District, thus
12 violating due process and taking provisions.

13 WHEREAS, the Flathead joint board of control was not included during the reopening of negotiations
14 between the United States, the Confederated Salish and Kootenai Tribes, and the State of Montana, which may
15 violate open meetings laws.

16 WHEREAS, while the constitutions of the United States and Montana require equal treatment under law,
17 the unitary management ordinance and unitary management board proposed in the proposed Confederated
18 Salish and Kootenai Tribes Water Compact includes administration of all water rights on the Flathead Indian
19 Reservation, which may violate both constitutions. Additionally, Montana citizens may not be treated differently
20 based on where they live, the State of Montana cannot delegate its constitutional duties to a foreign, sovereign
21 government, and there may be no precedence in law or in judicial decisions to support the unitary management
22 ordinance or unitary management board.

23 WHEREAS, control of water in streams, rivers, and irrigation wells off the Flathead Indian Reservation
24 via water rights has never been given to a tribe in a Montana compact or judicial decision, which may degrade
25 property values, may violate the Hellgate Treaty, and may violate the laws and constitutions of Montana and the
26 United States.

27 WHEREAS, the purpose of the Flathead Indian Reservation and the quantity of water necessary to fulfill
28 this purpose are not stated in the proposed Confederated Salish and Kootenai Tribes Water Compact, which may
29 violate state water law and the minimum requirement of a compact for federal reserved water rights.

30 WHEREAS, because an environmental assessment has not been done to determine environmental and

1 economic impacts, legislators may not in good conscience vote to approve the proposed Confederated Salish
2 and Kootenai Tribes Water Compact.

3 WHEREAS, the impact of the proposed water compact will result in control of water on the Flathead
4 Indian Reservation going to the Confederated Salish and Kootenai tribal council and to the federal government,
5 which holds water rights in trust for the tribe. This action ultimately impacts 330,000 people in 11 counties and
6 23,000 nontribal members on the Flathead Indian Reservation.

7 WHEREAS, the impact of the proposed water compact will create a water market that restricts present
8 use of water off and on the reservation by taking the remaining available surface water in Hungry Horse
9 Reservoir, the Flathead River, and Flathead Lake and transferring it to the tribal government. The impact of the
10 proposed water compact may result in tribal control of water in western Montana and may result in the destruction
11 of the Flathead Indian irrigation project.

12 WHEREAS, although the Montana general stream adjudication is not a typical litigation, the process has
13 been underway since 1979, has processed more than 200,000 water rights claims for thousands of Montanans,
14 and is legally and administratively capable of confirming water rights of tribal, state, and federal water users.

15 WHEREAS, if the proposed Confederated Salish and Kootenai Tribes Water Compact does not pass the
16 64th Legislature, water users on and off the Flathead Indian Reservation need assurances their rights will be
17 protected and defended by the state.

18

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

20

21 NEW SECTION. Section 1. Appropriation. There is appropriated from the general fund:

22 (1) \$6 million to the state law-based water rights claims adjudication account provided for in [section 2]
23 for the department of natural resources and conservation for the purpose established in [section 2];

24 (2) \$2 million to the Montana water court caseload account provided for in [section 3] for the water court
25 for the purpose established in [section 3]; and

26 (3) \$5 million to the state law-based water rights claims defense account provided for in [section 4] for
27 the office of public defender DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION for the purpose established
28 in [section 4].

29

30 NEW SECTION. Section 2. State law-based water rights claims adjudication account -- use. There

1 is a state law-based water rights claims adjudication account in the state special revenue fund. The account is
 2 administered by the department of natural resources and conservation and is statutorily appropriated, as provided
 3 in 17-7-502, for the purpose of examining water rights claims filed on the Flathead Indian reservation or by the
 4 Confederated Salish and Kootenai tribes. Any money in the account that is unspent or unencumbered at the end
 5 of a fiscal year must remain in the account. Any money remaining in the account after all claims are processed
 6 must be transferred to the general fund.

7
 8 **NEW SECTION. Section 3. Montana water court caseload account -- use.** There is a Montana water
 9 court caseload account in the state special revenue fund. The account is administered by the water court and is
 10 statutorily appropriated, as provided in 17-7-502, for the purpose of any water court proceedings related to
 11 adjudication of water rights claims filed on the Flathead Indian reservation or by the Confederated Salish and
 12 Kootenai tribes. Any money in the account that is unspent or unencumbered at the end of a fiscal year must
 13 remain in the account. Any money remaining in the account after all claims are processed must be transferred
 14 to the general fund.

15
 16 **NEW SECTION. Section 4. State law-based water rights claims defense account -- use.** (1) There
 17 is a state law-based water rights claims defense account in the state special revenue fund. The account is
 18 administered by the ~~office of public defender~~ DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION and is
 19 statutorily appropriated, as provided in 17-7-502, for the purpose of providing ~~effective assistance of~~ LEGAL
 20 counsel to any person subject to a water court proceeding related to a water right filed by the Confederated Salish
 21 and Kootenai tribes AS PROVIDED IN [SECTION 5], except as provided in subsection (2) of this section. Any money
 22 in the account that is unspent or unencumbered at the end of a fiscal year must remain in the account. Any money
 23 remaining in the account after all claims are processed must be transferred to the general fund.

24 (2) Funds in this account may not be disbursed to any other subdivision or agency of the state, to the
 25 federal government or any agency of the federal government, or to a tribal government or any agency of a tribal
 26 government.

27
 28 **NEW SECTION. SECTION 5. WATER RIGHTS CLAIMS DEFENSE UNIT. (1) THERE IS A WATER RIGHTS CLAIMS**
 29 **DEFENSE UNIT WITHIN THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION. THE UNIT IS UNDER THE**
 30 **SUPERVISION AND CONTROL OF THE DIRECTOR OF THE DEPARTMENT AND CONSISTS OF THE EMPLOYEES OF THE**

1 DEPARTMENT WHO THE DIRECTOR CONSIDERS NECESSARY AND APPROPRIATE BY EDUCATION, TRAINING, AND EXPERIENCE
 2 TO DEFEND ANY PERSON SUBJECT TO A WATER COURT PROCEEDING RELATED TO A WATER RIGHTS CLAIM FILED BY THE
 3 CONFEDERATED SALISH AND KOOTENAI TRIBES.

4 (2) THE DEPARTMENT MAY HIRE, CONTRACT FOR, AND SUPERVISE ATTORNEYS AND OTHER PERSONNEL
 5 NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION. CONTRACTING FOR PERSONNEL MUST BE DONE THROUGH
 6 A COMPETITIVE PROCESS THAT MUST, AT A MINIMUM, INVOLVE CONSIDERATION OF AN ATTORNEY'S QUALIFICATIONS TO
 7 PROVIDE EFFECTIVE REPRESENTATION IN WATER RIGHTS-RELATED PROCEEDINGS.

8 (3) THE DEPARTMENT SHALL ADOPT RULES NECESSARY TO ESTABLISH PROCEDURES AND POLICIES FOR
 9 CONTRACTING, REPORTING, AND OVERSIGHT OF THE WATER RIGHTS CLAIMS DEFENSE UNIT, INCLUDING RULES
 10 ESTABLISHING REASONABLE COMPENSATION FOR ATTORNEYS AND OTHER CONTRACTED PERSONNEL AND FOR IDENTIFYING
 11 AND AVOIDING CONFLICTS OF INTEREST WITHIN THE DEPARTMENT RELATED TO THE REPRESENTATION OF PERSONS UNDER
 12 THIS SECTION.

13 (4) THE DEPARTMENT SHALL REPORT QUARTERLY TO THE ENVIRONMENTAL QUALITY COUNCIL AND THE WATER
 14 POLICY INTERIM COMMITTEE REGARDING THE STATUS OF ANY PROCEEDINGS INVOLVING THE DEFENSE OF WATER RIGHTS
 15 CLAIMS UNDER THIS SECTION.

16

17 **Section 6.** Section 17-7-502, MCA, is amended to read:

18 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 19 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 20 need for a biennial legislative appropriation or budget amendment.

21 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 22 of the following provisions:

23 (a) The law containing the statutory authority must be listed in subsection (3).

24 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 25 appropriation is made as provided in this section.

26 (3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105;
 27 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310;
 28 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
 29 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
 30 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;

1 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105;
 2 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503;
 3 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; [section 4]; 53-1-109; 53-1-215; 53-2-208; 53-9-113;
 4 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150;
 5 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161;
 6 [sections 2 and 3]; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and
 7 90-9-306.

8 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 9 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 10 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 11 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 12 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 13 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
 14 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
 15 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
 16 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
 17 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
 18 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the
 19 inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331
 20 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30,
 21 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec.
 22 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2),
 23 Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5,
 24 Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant
 25 to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30,
 26 2015.)"

27

28 ~~Section 6. Section 47-1-103, MCA, is amended to read:~~

29 ~~"47-1-103. Definitions. As used in this chapter, the following definitions apply:~~

30 ~~(1) "Commission" means the public defender commission established in 2-15-1028.~~

1 ~~———— (2) "Court" means the supreme court, the water court, a district court, a youth court, a justice's court, a~~
 2 ~~municipal court, or a city court.~~

3 ~~———— (3) "Indigent" means that a person has been determined under the provisions of 47-1-111 to be indigent~~
 4 ~~and financially unable to retain private counsel.~~

5 ~~———— (4) "Office" means the office of state public defender established in 47-1-201.~~

6 ~~———— (5) "Public defender" means an attorney employed by or under contract with the office and assigned to~~
 7 ~~provide legal counsel to a person under the provisions of this chapter, including attorneys employed by or under~~
 8 ~~contract with the office of appellate defender.~~

9 ~~———— (6) "Statewide public defender system", "state system", or "system" means the system of public defender~~
 10 ~~services established pursuant to this chapter.~~

11 ~~———— (7) "Water rights defender" means an attorney employed by or under contract with the office and assigned~~
 12 ~~to provide legal counsel to a person who is subject to a court proceeding related to a water rights claim filed by~~
 13 ~~the Confederated Salish and Kootenai tribes."~~

14

15 ~~———— **Section 7.** Section 47-1-104, MCA, is amended to read:~~

16 ~~———— "**47-1-104. Statewide system -- structure and scope of services -- assignment of counsel at public**~~
 17 ~~**expense.** (1) There is a statewide public defender system, which is required to deliver public defender services~~
 18 ~~in all courts in this state. The system is supervised by the commission and administered by the office.~~

19 ~~———— (2) The commission shall approve a strategic plan for service delivery and divide the state into not more~~
 20 ~~than 11 public defender regions. The commission may establish a regional office to provide public defender~~
 21 ~~services in each region, as provided in 47-1-215, establish a contracted services program to provide services in~~
 22 ~~the region, or utilize other service delivery methods as appropriate and consistent with the purposes described~~
 23 ~~in 47-1-102.~~

24 ~~———— (3) When a court orders the office or the office of appellate defender to assign counsel, the appropriate~~
 25 ~~office shall immediately assign a public defender qualified to provide the required services. The commission shall~~
 26 ~~establish protocols to ensure that the offices make appropriate assignments in a timely manner.~~

27 ~~———— (4) A court may order an office to assign counsel under this chapter in the following cases:~~

28 ~~———— (a) in cases in which a person is entitled to assistance of counsel at public expense because of financial~~
 29 ~~inability to retain private counsel, subject to a determination of indigence pursuant to 47-1-111, as follows:~~

30 ~~———— (i) for a person charged with a felony or charged with a misdemeanor for which there is a possibility of~~

- 1 incarceration, as provided in 46-8-101;
- 2 ~~——— (ii) for a party in a proceeding to determine parentage under the Uniform Parentage Act, as provided in~~
- 3 ~~40-6-119;~~
- 4 ~~——— (iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any~~
- 5 ~~removal, placement, or termination proceeding pursuant 41-3-422 and as required under the federal Indian Child~~
- 6 ~~Welfare Act, as provided in 41-3-425;~~
- 7 ~~——— (iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;~~
- 8 ~~——— (v) for a petitioner in a proceeding for postconviction relief, as provided in 46-21-201;~~
- 9 ~~——— (vi) for a petitioner in a habeas corpus proceeding pursuant to Title 46, chapter 22;~~
- 10 ~~——— (vii) for a parent or guardian in a proceeding for the involuntary commitment of a developmentally~~
- 11 ~~disabled person to a residential facility, as provided in 53-20-112;~~
- 12 ~~——— (viii) for a respondent in a proceeding for involuntary commitment for a mental disorder, as provided in~~
- 13 ~~53-21-116;~~
- 14 ~~——— (ix) for a respondent in a proceeding for the involuntary commitment of a person for alcoholism, as~~
- 15 ~~provided in 53-24-302; and~~
- 16 ~~——— (x) for a witness in a criminal grand jury proceeding, as provided in 46-4-304.~~
- 17 ~~——— (b) in cases in which a person is entitled by law to the assistance of counsel at public expense regardless~~
- 18 ~~of the person's financial ability to retain private counsel, as follows:~~
- 19 ~~——— (i) as provided for in 41-3-425;~~
- 20 ~~——— (ii) for a youth in a proceeding under the Montana Youth Court Act alleging a youth is delinquent or in~~
- 21 ~~need of intervention, as provided in 41-5-1413, and in a prosecution under the Extended Jurisdiction Prosecution~~
- 22 ~~Act, as provided in 41-5-1607;~~
- 23 ~~——— (iii) for a juvenile entitled to assigned counsel in a proceeding under the Interstate Compact on Juveniles,~~
- 24 ~~as provided in 41-6-101;~~
- 25 ~~——— (iv) for a minor who petitions for a waiver of parental consent requirements under the Parental Consent~~
- 26 ~~for Abortion Act of 2013, as provided in 50-20-509;~~
- 27 ~~——— (v) for a respondent in a proceeding for the involuntary commitment of a developmentally disabled~~
- 28 ~~person to a residential facility, as provided in 53-20-112;~~
- 29 ~~——— (vi) for a minor voluntarily committed to a mental health facility, as provided in 53-21-112;~~
- 30 ~~——— (vii) for a person who is the subject of a petition for the appointment of a guardian or conservator in a~~

1 proceeding under the provisions of the Uniform Probate Code in Title 72, chapter 5;
 2 ~~_____ (viii) for a ward when the ward's guardian has filed a petition to require medical treatment for a mental~~
 3 ~~disorder of the ward, as provided in 72-5-322; and~~
 4 ~~_____ (ix) for a person who is subject to a court proceeding related to water rights filed by the Confederated~~
 5 ~~Salish and Kootenai tribes; and~~
 6 ~~_____ (c) for an eligible appellant in an appeal of a proceeding listed in this subsection (4).~~
 7 ~~_____ (5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a~~
 8 ~~court-appointed special advocate or guardian ad litem in a proceeding under the Montana Youth Court Act, Title~~
 9 ~~41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.~~
 10 ~~_____ (b) A private attorney who is contracted with under the provisions of 47-1-216 to provide public defender~~
 11 ~~services under this chapter may be appointed as a court-appointed special advocate or guardian ad litem in a~~
 12 ~~proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service for the~~
 13 ~~statewide public defender system and does not result in a conflict of interest."~~

14
 15 ~~_____ **Section 8.** Section 47-1-201, MCA, is amended to read:~~
 16 ~~_____ "**47-1-201. Office of state public defender -- personnel -- compensation -- expenses -- reports.** (1)~~
 17 ~~There is an office of state public defender. The office must be located in Butte, Montana. The head of the office~~
 18 ~~is the chief public defender, who is supervised by the commission.~~
 19 ~~_____ (2) The chief public defender must be an attorney licensed to practice law in the state. The chief public~~
 20 ~~defender is appointed by and serves at the pleasure of the commission. The position of chief public defender is~~
 21 ~~exempt from the state classification and pay plan as provided in 2-18-103. The commission shall establish~~
 22 ~~compensation for the position commensurate with the position's duties and responsibilities, taking into account~~
 23 ~~the compensation paid to prosecutors with similar responsibilities.~~
 24 ~~_____ (3) The chief public defender shall hire or contract for and supervise other personnel necessary to~~
 25 ~~perform the function of the office of state public defender and to implement the provisions of this chapter,~~
 26 ~~including but not limited to:~~
 27 ~~_____ (a) the following personnel who are exempt from the state classification and pay plan as provided in~~
 28 ~~2-18-103:~~
 29 ~~_____ (i) an administrative director, who must be experienced in business management and contract~~
 30 ~~management;~~

- 1 ~~—— (ii) a chief contract manager to oversee and enforce the contracting program;~~
2 ~~—— (iii) a training coordinator, appointed as provided in 47-1-210;~~
3 ~~—— (iv) deputy public defenders, as provided in 47-1-215;~~
4 ~~—— (v) water rights defenders, as defined in 47-1-103;~~
5 ~~—— (b) assistant public defenders; and~~
6 ~~—— (c) other necessary administrative and professional support staff for the office.~~
7 ~~—— (4) Positions established pursuant to subsections (3)(b) and (3)(c) are classified positions, and persons~~
8 ~~in those positions are entitled to salaries, wages, benefits, and expenses as provided in Title 2, chapter 18.~~
9 ~~—— (5) The following expenses are payable by the office if the expense is incurred at the request of a public~~
10 ~~defender:~~
11 ~~—— (a) witness and interpreter fees and expenses provided in Title 26, chapter 2, part 5, and 46-15-116; and~~
12 ~~—— (b) transcript fees, as provided in 3-5-604.~~
13 ~~—— (6) If the costs to be paid pursuant to this section are not paid directly, reimbursement must be made~~
14 ~~within 30 days of the receipt of a claim.~~
15 ~~—— (7) The office may accept gifts, grants, or donations, which must be deposited in the account provided~~
16 ~~for in 47-1-110.~~
17 ~~—— (8) The office shall provide assistance with the budgeting, reporting, and related administrative functions~~
18 ~~of the office of appellate defender as provided in 47-1-205.~~
19 ~~—— (9) The chief public defender shall establish procedures to provide for the approval, payment, recording,~~
20 ~~reporting, and management of defense expenses paid pursuant to this section, including defense expenses paid~~
21 ~~for work performed by or for the office of appellate defender.~~
22 ~~—— (10) (a) The office of public defender is required to report data for each fiscal year by September 30 of~~
23 ~~the subsequent fiscal year representing the caseload for the entire public defender system to the legislative fiscal~~
24 ~~analyst. The report must be provided in an electronic format and include unduplicated count data for all cases~~
25 ~~for which representation is paid for by the office of public defender, the number of new cases opened, the number~~
26 ~~of cases closed, the number of cases that remain open and active, the number of cases that remain open but are~~
27 ~~inactive, and the average number of days between case opening and closure for each case type.~~
28 ~~—— (b) The office of public defender is required to report to the legislative fiscal analyst for each fiscal year~~
29 ~~by September 30 of the subsequent fiscal year on the amount of funds collected as reimbursement for services~~
30 ~~rendered, including the number of cases for which a collection is made, the number of cases for which an amount~~

1 is owed, the amount collected, and the amount remaining unpaid. The report must be provided in an electronic
2 format."

3
4 NEW SECTION. Section 7. Notification to tribal governments. The secretary of state shall send a
5 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
6 Chippewa tribe.

7
8 NEW SECTION. Section 8. Codification instruction. ~~(1) [Sections 2 and 3]~~ [SECTIONS 2 THROUGH 5]
9 are intended to be codified as an integral part of Title 85, chapter 2, part 2, and the provisions of Title 85, chapter
10 2, part 2, apply to ~~[sections 2 and 3]~~ [SECTIONS 2 THROUGH 5].

11 ~~(2) [Section 4] is intended to be codified as an integral part of Title 47, chapter 1, part 1, and the~~
12 ~~provisions of Title 47, chapter 1, part 1, apply to [section 4].~~

13

14 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

15

- END -