

HOUSE BILL NO. 155

INTRODUCED BY STRIZICH, GAGE

IN THE HOUSE

JANUARY 11, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON LOCAL GOVERNMENT.

JANUARY 12, 1991 FIRST READING.

FEBRUARY 21, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 22, 1991 PRINTING REPORT.

MARCH 7, 1991 ON MOTION, TAKEN FROM SECOND READING
AND REREFERRED TO COMMITTEE
ON APPROPRIATIONS.

APRIL 1, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

 PRINTING REPORT.

APRIL 2, 1991 SECOND READING, DO PASS.
MOTION FAILED.

 ON MOTION, SEGREGATED FROM COMMITTEE
OF WHOLE REPORT AND RETURNED TO
SECOND READING.

APRIL 3, 1991 SECOND READING, DO PASS AS AMENDED.

 ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

 THIRD READING, PASSED.
AYES, 67; NOES, 33.

APRIL 4, 1991 ENGROSSING REPORT.

 TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

 FIRST READING.

APRIL 11, 1991

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 15, 1991

SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 16, 1991

THIRD READING, CONCURRED IN.
AYES, 44; NOES, 5.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 18, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 19, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1
 2 INTRODUCED BY BOB ^{HOUSE} BILL NO. 155
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 5 SALARY OF COUNTY ATTORNEYS; REQUIRING THE DEPARTMENT OF
 6 JUSTICE TO ADMINISTER THE STATE PORTION OF THE COUNTY
 7 ATTORNEYS' PAYROLL; MAKING THE SALARY FOR A FULL-TIME COUNTY
 8 ATTORNEY THE SAME AS FOR A DISTRICT JUDGE; INCREASING THE
 9 SALARY FOR A PART-TIME COUNTY ATTORNEY; ELIMINATING THE
 10 ANNUAL COST-OF-LIVING INCREASE FOR A COUNTY ATTORNEY;
 11 AMENDING SECTIONS 7-4-2502, 7-4-2503, 7-4-2504, AND
 12 7-4-2505, MCA; AND PROVIDING AN EFFECTIVE DATE."
 13

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

15 **Section 1.** Section 7-4-2502, MCA, is amended to read:

16 "7-4-2502. Payment of salaries of county officials and
 17 assistants. (1) Except as provided in subsection (2), the
 18 salaries of the county officers and their assistants may be
 19 paid monthly, twice monthly, or every 2 weeks out of the
 20 general fund of the county and upon the order of the board
 21 of county commissioners.

22 (2) (a) The salaries of the county attorney and deputy
 23 county attorneys authorized by 7-4-2703 are payable monthly,
 24 with the salary of the county attorney payable one-half from
 25 the general fund of the county and the other one-half from

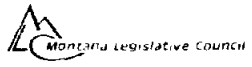
1 the state treasury upon the warrant of the state auditor.

2 (b) The county commissioners of each county shall,
 3 within 30 days after the election or appointment to fill a
 4 vacancy for any cause in the office of county attorney,
 5 certify the election or appointment to the ~~state auditor,~~
 6 ~~who shall thereafter draw warrants for such salary in the~~
 7 ~~same manner as for state officers~~ department of justice. The
 8 department shall notify the state auditor of the salary of
 9 the county attorney. The auditor shall draw warrants for the
 10 county attorney salaries in the same manner as for state
 11 officers. In case of a vacancy, the county commissioners
 12 shall immediately notify the ~~state auditor~~ department of
 13 justice, and the ~~auditor~~ department shall compute the salary
 14 due on the basis of the notification.

15 (3) The board has jurisdiction and power, under such
 16 limitations and restrictions as are prescribed by law, to
 17 fix the compensation of all county officers not otherwise
 18 fixed by law and to provide for the payment of the same and
 19 may, for all or the remainder of each fiscal year, in
 20 conjunction with setting salaries for other officers as
 21 provided in 7-4-2504(1), set their salaries at the prior
 22 fiscal year level."

23 **Section 2.** Section 7-4-2503, MCA, is amended to read:

24 "7-4-2503. Salary schedule for certain county officers.
 25 (1) The salary paid to the county treasurer, county clerk



1 and recorder, clerk of the district court, county assessor,
 2 county superintendent of schools, and county sheriff; the
 3 county surveyor in counties where county surveyors receive
 4 salaries as provided in 7-4-2812; and the county auditor in
 5 all counties where the office is authorized, for the fiscal
 6 year beginning July 1, 1981, is computed by adding the
 7 annual base salary of:

8 (a) \$14,000 for the counties of the first through fifth
 9 class to the population increment of \$10 for each 100
 10 persons or major fraction thereof included in the county's
 11 population as determined by the 1980 federal decennial
 12 census; or

13 (b) \$12,000 for counties of the sixth and seventh class
 14 to the population increment of \$20 per 100 persons or major
 15 fraction thereof in the county's population as determined by
 16 the 1980 federal decennial census.

17 (2) (a) An elected county superintendent of schools
 18 shall receive, in addition to the salary based upon
 19 subsection (1), the sum of \$400 per year, except that an
 20 elected county superintendent of schools who holds a master
 21 of arts degree or a master's degree in education, with an
 22 endorsement in school administration, from a unit of the
 23 Montana university system or an equivalent institution may,
 24 at the discretion of the county commissioners, receive, in
 25 addition to the salary based upon subsection (1), up to

1 \$2,000 per year.

2 (b) The county sheriff shall receive, in addition to
 3 the salary based upon subsection (1), the sum of \$2,000 per
 4 year.

5 (c) The county sheriff shall receive a longevity
 6 payment amounting to 1% of the base salary set forth in
 7 subsection (1) for each year of service with the sheriff's
 8 department, but years of service during any year in which
 9 the salary was set at the level of the salary of the prior
 10 fiscal year may not be included in any calculation of
 11 longevity increases. The additional salary amount provided
 12 for in this subsection may not be included in the base
 13 salary for purposes of computing the compensation for
 14 undersheriffs and deputy sheriffs as provided in 7-4-2508.

15 (3) (a) In each county with a population in excess of
 16 30,000, the county attorney shall be a full-time official
 17 under 7-4-2704, and his salary for the fiscal year beginning
 18 July 1, 1981 ~~1991~~, shall be ~~\$367,500~~ the same as that
 19 established for district court judges in 3-5-211. In
 20 counties with a population less than 30,000, the county
 21 attorney who is a part-time official for a county of the
 22 first, second, or third class is entitled to receive an
 23 annual salary equal to 60% ~~80%~~ of the annual salary of a
 24 full-time county attorney. A county attorney who is a
 25 part-time official for a county of the fourth or fifth

1 class is entitled to receive an annual salary equal to 70%
 2 of the annual salary of a full-time county attorney. A
 3 county attorney who is a part-time official for a county of
 4 the sixth, or seventh class is entitled to receive an annual
 5 salary equal to 50% 60% of the annual salary of a full-time
 6 county attorney.

7 (b) In those counties where the office of the county
 8 attorney has been established as a full-time position
 9 pursuant to 7-4-2706, the salary of the county attorney for
 10 the fiscal year beginning July 1, 1981 1991, shall be
 11 \$36,500 the same as that established for full-time county
 12 attorneys in subsection (3)(a).

13 ~~(c) Beginning on July 1, 1982, and on July 1 of each~~
 14 ~~succeeding year, each county attorney shall be entitled to~~
 15 ~~an increase in salary calculated by adding to his annual~~
 16 ~~salary on July 1, 1981, an increment of 70% of the last~~
 17 ~~previous calendar year's consumer price index for all urban~~
 18 ~~consumers, U.S. department of labor, bureau of labor~~
 19 ~~statistics, or other index that the bureau of business and~~
 20 ~~economic research of the university of Montana may in the~~
 21 ~~future recognize as the successor to that index. However,~~
 22 ~~the county commissioners may, for all or the remainder of~~
 23 ~~each fiscal year, in conjunction with setting salaries for~~
 24 ~~other officers as provided in 7-4-2504(1), set the salary at~~
 25 ~~the prior fiscal year level if that level is lower than the~~

1 ~~level required by this subsection (3)(c). The cost of living~~
 2 ~~increment for the fiscal year beginning July 1, 1983, and~~
 3 ~~for each subsequent fiscal year shall be added to all~~
 4 ~~cost of living increments granted for previous years unless~~
 5 ~~salaries were set for the fiscal year at the level of~~
 6 ~~salaries received in the prior fiscal year. Unless restored~~
 7 ~~pursuant to 7-4-2504(2), any cost of living increment that~~
 8 ~~would have been received for such fiscal year, computed on~~
 9 ~~the prior fiscal year, may not be added to previous~~
 10 ~~increments.~~

11 ~~(d)(c) (i) After completing 4 years of service as~~
 12 ~~deputy county attorney, each deputy county attorney is~~
 13 ~~entitled to an increase in salary of \$1,000 on the~~
 14 ~~anniversary date of his employment as deputy county~~
 15 ~~attorney. After completing 5 years of service as deputy~~
 16 ~~county attorney, each deputy county attorney is entitled to~~
 17 ~~an additional increase in salary of \$1,500 on the~~
 18 ~~anniversary date of his employment. After completing 6 years~~
 19 ~~of service as deputy county attorney and for each year of~~
 20 ~~service thereafter up to completion of the 11th year of~~
 21 ~~service, each deputy county attorney is entitled to an~~
 22 ~~additional annual increase in salary of \$500.~~

23 ~~(ii) The years of service as a deputy county attorney~~
 24 ~~accumulated prior to July 1, 1985, must be included in the~~
 25 ~~calculation of the longevity increase, but, unless longevity~~

1 increases are restored pursuant to 7-4-2504(2), the years of
 2 service during any year in which the salary was set at the
 3 level of the salary of the prior fiscal year may not be
 4 included in any calculation of longevity increases.

5 (4) For each 10th year after the fiscal year beginning
 6 July 1, 1981, the latest federal decennial census statistics
 7 shall be the basis for computation of population increments
 8 under this section. During the intervening 9 years, the
 9 computation of population increments applicable on July 1 of
 10 each year shall be based on the last calendar year's annual
 11 estimates of counties' populations compiled by the
 12 federal-state cooperative program for estimates of the
 13 university of Montana bureau of business and economic
 14 research and the U.S. bureau of the census or other estimate
 15 that the bureau of business and economic research may
 16 certify."

17 **Section 3.** Section 7-4-2504, MCA, is amended to read:

18 "7-4-2504. Salaries to be fixed by resolution --
 19 cost-of-living increments. (1) The county governing body
 20 shall by resolution, on or before July 1, 1982, and on or
 21 before July 1 of each year thereafter adjust and uniformly
 22 fix the salaries of the county treasurer, county clerk,
 23 county assessor, county school superintendent, county
 24 sheriff, and the clerk of the district court; the county
 25 auditor (if there is one); and the county surveyor (if he

1 receives a salary) for cost-of-living increase by adding to
 2 the annual salary computed under 7-4-2503 an increment
 3 calculated by applying to the annual salary established by
 4 7-4-2503(1) plus previous cost-of-living increments, 70% of
 5 the last previous calendar year's consumer price index for
 6 all urban consumers, U.S. department of labor, bureau of
 7 labor statistics, or other index that the bureau of business
 8 and economic research of the university of Montana may in
 9 the future recognize as the successor to that index. The
 10 county governing body may, however, for all or the remainder
 11 of each fiscal year, in conjunction with setting salaries
 12 for the same action on the salaries of justices of the peace
 13 (if applicable), the county governing body, ~~county-attorney,~~
 14 and coroner, set the salary at the prior fiscal year level
 15 if that level is lower than the level required by this
 16 subsection. The cost-of-living increment for the fiscal year
 17 beginning July 1, 1983, and for each subsequent fiscal year
 18 shall be added to all cost-of-living increments granted for
 19 previous years unless salaries were set for the fiscal year
 20 at the level of salaries received in the prior fiscal year.
 21 In such case the cost-of-living increment that would have
 22 been received for such fiscal year, computed on the prior
 23 fiscal year, may not be added to previous increments.

24 (2) The county governing body may, in any subsequent
 25 fiscal year, restore for 1 or more years the annual

1 cost-of-living increments withheld pursuant to subsection
 2 (1). If cost-of-living increments are restored, the
 3 longevity increases provided for sheriffs in 7-4-2503, for
 4 deputy county attorneys in 7-4-2503~~(3)(d)~~~~(3)(c)(i)~~, and
 5 for undersheriffs and deputy sheriffs in 7-4-2510 must also
 6 be restored for the years for which the cost-of-living
 7 increment was restored.

8 (3) If the application of 7-4-2503 does not qualify a
 9 county official for a salary increase of at least 7% on July
 10 1, 1981, his salary on that date shall be increased by an
 11 amount sufficient to provide him total salary equal to 7%
 12 more than during the previous year.

13 (4) The county governing body shall by resolution,
 14 prior to July 1 of each year, establish the salary of the
 15 coroner and may, for all or the remainder of each fiscal
 16 year, in conjunction with setting salaries for other
 17 officers as provided in subsection (1), set the salary at
 18 the prior fiscal year level. The salary must be in effect
 19 upon the first day of each ensuing fiscal year."

20 **Section 4.** Section 7-4-2505, MCA, is amended to read:

21 "7-4-2505. Amount of compensation for deputies and
 22 assistants. (1) Subject to subsection (2), the boards of
 23 county commissioners in the several counties in the state
 24 shall have the power to fix the compensation allowed any
 25 deputy or assistant of the following officers:

- 1 (a) clerk and recorder;
 2 (b) clerk of the district court;
 3 (c) treasurer;
 4 (d) assessor;
 5 (e) county attorney;
 6 (f) auditor.

7 (2) (a) The salary of a deputy or an assistant listed
 8 in subsection (1), other than a deputy county attorney, may
 9 not be more than 90% of the salary of the officer under whom
 10 such deputy or assistant is serving. The salary of a deputy
 11 county attorney, including longevity payments provided in
 12 7-4-2503~~(3)(d)~~~~(3)(c)~~, may not exceed the salary of the
 13 county attorney under whom he is serving.

14 (b) Where any deputy or assistant is employed for a
 15 period of less than 1 year, the compensation of such deputy
 16 or assistant shall be for the time so employed, provided the
 17 rate of such compensation shall not be in excess of the
 18 rates now provided by law for similar deputies and
 19 assistants except as provided herein.

20 (c) Deputy assessors' salaries shall be the same as
 21 paid the deputy clerk and recorder."

22 NEW SECTION. **Section 5.** Effective date. [This act] is
 23 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0155, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the salary of full-time county attorneys to make it the same as for district judges and also increasing the salary for part-time county attorneys based upon the classification of each county. The act also eliminates the annual cost-of-living salary increases for county attorneys.

ASSUMPTIONS:

1. 7-4-2502, MCA, requires that county attorney salaries are payable one-half from the state treasury and one-half from the county general fund. State expenditures are funded by the general fund.
2. 3-5-211, MCA, sets the salary for a district judge at \$55,178 per fiscal year beginning in fiscal 1991.
3. Salary increases for both county attorneys and district judges are estimated to be 4.5% per year for fiscal 1992 and 1993. This rate of increase is applied to both the current law and proposed law columns.
4. The benefit and retirement percentages applied to salaries total 14.073%.


FISCAL IMPACT:

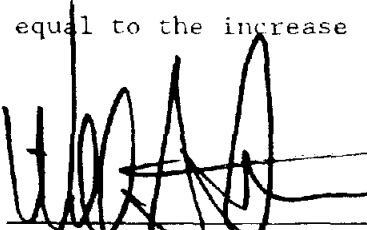
Department of Justice

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	1,098,000	1,485,000	387,000	1,147,000	1,552,000	405,000
<u>Funding:</u>						
General Fund	1,098,000	1,485,000	387,000	1,147,000	1,552,000	405,000
Net General Fund Impact			387,000			405,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Statewide county expenditures would increase by an amount at least equal to the increase in the state general fund shown above.

 1-16-91
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 1/18/91
 WILLIAM STRLEICH, PRIMARY SPONSOR DATE

Fiscal Note for HB0155, as introduced

HB 155

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0155, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the salary of full-time county attorneys to make it 95% of a district judge's salary. The act also eliminates the annual cost-of-living salary increases for county attorneys.

ASSUMPTIONS:

1. 7-4-2502, MCA, requires that county attorney salaries are payable one-half from the state treasury and one-half from the county general fund. State expenditures are funded by the general fund.
2. 3-5-211, MCA, sets the salary for a district judge at \$55,178 per fiscal year beginning in fiscal 1991.
3. Salary increases for both county attorneys and district judges are estimated to be 4.5% per year for fiscal 1992 and 1993. This rate of increase is applied to both the current law and proposed law columns.
4. The benefit and retirement percentages applied to salaries total 14.073%.


FISCAL IMPACT:

Department of Justice-County Attorney Payroll


	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	1,098,000	1,232,500	134,500	1,147,000	1,288,000	141,000
<u>Funding:</u>						
General Fund (01)	1,098,000	1,232,500	134,500	1,147,000	1,288,000	141,000
General Fund Impact			(134,500)			(141,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Statewide county expenditures would increase by an amount at least equal to the increase in the state general fund shown above because counties, by statute, pay 50% of county attorney salaries.



 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning



 WILLIAM STRIZICH, PRIMARY SPONSOR DATE
 2/26/91

Fiscal Note for HB0155, second reading **HB 155**

APPROVED BY COMM.
ON LOCAL GOVERNMENT

HOUSE BILL NO. 155

INTRODUCED BY STRIZICH, GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE SALARY OF COUNTY ATTORNEYS; REQUIRING THE DEPARTMENT OF JUSTICE TO ADMINISTER THE STATE PORTION OF THE COUNTY ATTORNEYS' PAYROLL; MAKING THE SALARY FOR A FULL-TIME COUNTY ATTORNEY ~~THE--SAME--AS--FOR~~ 95 PERCENT OF A DISTRICT JUDGE JUDGE'S SALARY; ~~INCREASING-THE-SALARY-FOR-A-PART-TIME-COUNTY~~ ~~ATTORNEY~~; ELIMINATING THE ANNUAL COST-OF-LIVING INCREASE FOR A COUNTY ATTORNEY; AMENDING SECTIONS 7-4-2502, 7-4-2503, 7-4-2504, AND 7-4-2505, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 7-4-2502, MCA, is amended to read:

***7-4-2502. Payment of salaries of county officials and assistants.** (1) Except as provided in subsection (2), the salaries of the county officers and their assistants may be paid monthly, twice monthly, or every 2 weeks out of the general fund of the county and upon the order of the board of county commissioners.

(2) (a) The salaries of the county attorney and deputy county attorneys authorized by 7-4-2703 are payable monthly, with the salary of the county attorney payable one-half from

the general fund of the county and the other one-half from the state treasury upon the warrant of the state auditor.

(b) The county commissioners of each county shall, within 30 days after the election or appointment to fill a vacancy for any cause in the office of county attorney, certify the election or appointment to the ~~state--auditor,~~ ~~who--shall--thereafter--draw-warrants-for-such-salary-in-the~~ ~~same-manner-as-for-state-officers~~ department of justice. The department shall notify the state auditor of the salary of the county attorney. The auditor shall draw warrants for the county attorney salaries in the same manner as for state officers. In case of a vacancy, the county commissioners shall immediately notify the ~~state-auditor~~ department of justice, and the ~~auditor~~ department shall compute the salary due on the basis of the notification.

(3) The board has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to fix the compensation of all county officers not otherwise fixed by law and to provide for the payment of the same and may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504(1), set their salaries at the prior fiscal year level."

Section 2. Section 7-4-2503, MCA, is amended to read:

***7-4-2503. Salary schedule for certain county officers.**



1 (1) The salary paid to the county treasurer, county clerk
 2 and recorder, clerk of the district court, county assessor,
 3 county superintendent of schools, and county sheriff; the
 4 county surveyor in counties where county surveyors receive
 5 salaries as provided in 7-4-2812; and the county auditor in
 6 all counties where the office is authorized, for the fiscal
 7 year beginning July 1, 1981, is computed by adding the
 8 annual base salary of:

9 (a) \$14,000 for the counties of the first through fifth
 10 class to the population increment of \$10 for each 100
 11 persons or major fraction thereof included in the county's
 12 population as determined by the 1980 federal decennial
 13 census; or

14 (b) \$12,000 for counties of the sixth and seventh class
 15 to the population increment of \$20 per 100 persons or major
 16 fraction thereof in the county's population as determined by
 17 the 1980 federal decennial census.

18 (2) (a) An elected county superintendent of schools
 19 shall receive, in addition to the salary based upon
 20 subsection (1), the sum of \$400 per year, except that an
 21 elected county superintendent of schools who holds a master
 22 of arts degree or a master's degree in education, with an
 23 endorsement in school administration, from a unit of the
 24 Montana university system or an equivalent institution may,
 25 at the discretion of the county commissioners, receive, in

1 addition to the salary based upon subsection (1), up to
 2 \$2,000 per year.

3 (b) The county sheriff shall receive, in addition to
 4 the salary based upon subsection (1), the sum of \$2,000 per
 5 year.

6 (c) The county sheriff shall receive a longevity
 7 payment amounting to 1% of the base salary set forth in
 8 subsection (1) for each year of service with the sheriff's
 9 department, but years of service during any year in which
 10 the salary was set at the level of the salary of the prior
 11 fiscal year may not be included in any calculation of
 12 longevity increases. The additional salary amount provided
 13 for in this subsection may not be included in the base
 14 salary for purposes of computing the compensation for
 15 undersheriffs and deputy sheriffs as provided in 7-4-2508.

16 (3) (a) In each county with a population in excess of
 17 30,000, the county attorney shall be a full-time official
 18 under 7-4-2704, and his salary for the fiscal year beginning
 19 July 1, ~~1981~~ 1991, shall be ~~\$367,500~~ the same as 95% OF that
 20 established for district court judges in 3-5-211. In
 21 counties with a population less than 30,000, the county
 22 attorney who is a part-time official for a county of the
 23 first, second, or third class is entitled to receive an
 24 annual salary equal to ~~60%~~ ~~80%~~ 60% of the annual salary of a
 25 full-time county attorney. A county attorney who is a

1 part-time official for a county of the fourth, ~~or,~~ fifth, ~~class is entitled to receive an annual salary equal to 70%~~
 2 ~~of the annual salary of a full-time county attorney. A~~
 3 ~~county attorney who is a part-time official for a county of~~
 4 ~~the sixth, or seventh class is entitled to receive an~~
 5 annual salary equal to 50% ~~60%~~ 50% of the annual salary of a
 6 full-time county attorney.
 7

8 (b) In those counties where the office of the county
 9 attorney has been established as a full-time position
 10 pursuant to 7-4-2706, the salary of the county attorney for
 11 the fiscal year beginning July 1, 1981, 1991, shall be
 12 \$36,500 ~~the same as that established for full-time county~~
 13 ~~attorneys in subsection (3)(a).~~

14 (c) ~~Beginning on July 1, 1982, and on July 1 of each~~
 15 ~~succeeding year, each county attorney shall be entitled to~~
 16 ~~an increase in salary calculated by adding to his annual~~
 17 ~~salary on July 1, 1981, an increment of 70% of the last~~
 18 ~~previous calendar year's consumer price index for all urban~~
 19 ~~consumers, U.S. department of labor, bureau of labor~~
 20 ~~statistics, or other index that the bureau of business and~~
 21 ~~economic research of the university of Montana may in the~~
 22 ~~future recognize as the successor to that index. However,~~
 23 ~~the county commissioners may, for all or the remainder of~~
 24 ~~each fiscal year, in conjunction with setting salaries for~~
 25 ~~other officers as provided in 7-4-2504(1), set the salary at~~

1 ~~the prior fiscal year level if that level is lower than the~~
 2 ~~level required by this subsection (3)(c). The cost of living~~
 3 ~~increment for the fiscal year beginning July 1, 1983, and~~
 4 ~~for each subsequent fiscal year shall be added to all~~
 5 ~~cost of living increments granted for previous years unless~~
 6 ~~salaries were set for the fiscal year at the level of~~
 7 ~~salaries received in the prior fiscal year. Unless restored~~
 8 ~~pursuant to 7-4-2504(2), any cost of living increment that~~
 9 ~~would have been received for such fiscal year, computed on~~
 10 ~~the prior fiscal year, may not be added to previous~~
 11 ~~increments.~~

12 (d)(c) (i) After completing 4 years of service as
 13 deputy county attorney, each deputy county attorney is
 14 entitled to an increase in salary of \$1,000 on the
 15 anniversary date of his employment as deputy county
 16 attorney. After completing 5 years of service as deputy
 17 county attorney, each deputy county attorney is entitled to
 18 an additional increase in salary of \$1,500 on the
 19 anniversary date of his employment. After completing 6 years
 20 of service as deputy county attorney and for each year of
 21 service thereafter up to completion of the 11th year of
 22 service, each deputy county attorney is entitled to an
 23 additional annual increase in salary of \$500.

24 (ii) The years of service as a deputy county attorney
 25 accumulated prior to July 1, 1985, must be included in the

1 calculation of the longevity increase, but, unless longevity
2 increases are restored pursuant to 7-4-2504(2), the years of
3 service during any year in which the salary was set at the
4 level of the salary of the prior fiscal year may not be
5 included in any calculation of longevity increases.

6 (4) For each 10th year after the fiscal year beginning
7 July 1, 1981, the latest federal decennial census statistics
8 shall be the basis for computation of population increments
9 under this section. During the intervening 9 years, the
10 computation of population increments applicable on July 1 of
11 each year shall be based on the last calendar year's annual
12 estimates of counties' populations compiled by the
13 federal-state cooperative program for estimates of the
14 university of Montana bureau of business and economic
15 research and the U.S. bureau of the census or other estimate
16 that the bureau of business and economic research may
17 certify."

18 **Section 3.** Section 7-4-2504, MCA, is amended to read:

19 "7-4-2504. Salaries to be fixed by resolution --
20 cost-of-living increments. (1) The county governing body
21 shall by resolution, on or before July 1, 1982, and on or
22 before July 1 of each year thereafter adjust and uniformly
23 fix the salaries of the county treasurer, county clerk,
24 county assessor, county school superintendent, county
25 sheriff, and the clerk of the district court; the county

1 auditor (if there is one); and the county surveyor (if he
2 receives a salary) for cost-of-living increase by adding to
3 the annual salary computed under 7-4-2503 an increment
4 calculated by applying to the annual salary established by
5 7-4-2503(1) plus previous cost-of-living increments, 70% of
6 the last previous calendar year's consumer price index for
7 all urban consumers, U.S. department of labor, bureau of
8 labor statistics, or other index that the bureau of business
9 and economic research of the university of Montana may in
10 the future recognize as the successor to that index. The
11 county governing body may, however, for all or the remainder
12 of each fiscal year, in conjunction with setting salaries
13 for the same action on the salaries of justices of the peace
14 (if applicable), the county governing body, ~~county attorney,~~
15 and coroner, set the salary at the prior fiscal year level
16 if that level is lower than the level required by this
17 subsection. The cost-of-living increment for the fiscal year
18 beginning July 1, 1983, and for each subsequent fiscal year
19 shall be added to all cost-of-living increments granted for
20 previous years unless salaries were set for the fiscal year
21 at the level of salaries received in the prior fiscal year.
22 In such case the cost-of-living increment that would have
23 been received for such fiscal year, computed on the prior
24 fiscal year, may not be added to previous increments.

25 (2) The county governing body may, in any subsequent

1 fiscal year, restore for 1 or more years the annual
 2 cost-of-living increments withheld pursuant to subsection
 3 (1). If cost-of-living increments are restored, the
 4 longevity increases provided for sheriffs in 7-4-2503, for
 5 deputy county attorneys in 7-4-2503~~(3)(d)(i)~~(3)(c)(i), and
 6 for undersheriffs and deputy sheriffs in 7-4-2510 must also
 7 be restored for the years for which the cost-of-living
 8 increment was restored.

9 (3) If the application of 7-4-2503 does not qualify a
 10 county official for a salary increase of at least 7% on July
 11 1, 1981, his salary on that date shall be increased by an
 12 amount sufficient to provide him total salary equal to 7%
 13 more than during the previous year.

14 (4) The county governing body shall by resolution,
 15 prior to July 1 of each year, establish the salary of the
 16 coroner and may, for all or the remainder of each fiscal
 17 year, in conjunction with setting salaries for other
 18 officers as provided in subsection (1), set the salary at
 19 the prior fiscal year level. The salary must be in effect
 20 upon the first day of each ensuing fiscal year."

21 **Section 4.** Section 7-4-2505, MCA, is amended to read:

22 "7-4-2505. Amount of compensation for deputies and
 23 assistants. (1) Subject to subsection (2), the boards of
 24 county commissioners in the several counties in the state
 25 shall have the power to fix the compensation allowed any

1 deputy or assistant of the following officers:

- 2 (a) clerk and recorder;
- 3 (b) clerk of the district court;
- 4 (c) treasurer;
- 5 (d) assessor;
- 6 (e) county attorney;
- 7 (f) auditor.

8 (2) (a) The salary of a deputy or an assistant listed
 9 in subsection (1), other than a deputy county attorney, may
 10 not be more than 90% of the salary of the officer under whom
 11 such deputy or assistant is serving. The salary of a deputy
 12 county attorney, including longevity payments provided in
 13 7-4-2503~~(3)(d)~~(3)(c), may not exceed the salary of the
 14 county attorney under whom he is serving.

15 (b) Where any deputy or assistant is employed for a
 16 period of less than 1 year, the compensation of such deputy
 17 or assistant shall be for the time so employed, provided the
 18 rate of such compensation shall not be in excess of the
 19 rates now provided by law for similar deputies and
 20 assistants except as provided herein.

21 (c) Deputy assessors' salaries shall be the same as
 22 paid the deputy clerk and recorder."

23 **NEW SECTION. Section 5. Effective date.** [This act] is
 24 effective July 1, 1991.

-End-

APPROVED BY COMMITTEE
ON APPROPRIATIONS
AS AMENDED

1 HOUSE BILL NO. 155

2 INTRODUCED BY STRIZICH, GAGE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
5 SALARY OF COUNTY ATTORNEYS; REQUIRING THE DEPARTMENT OF
6 JUSTICE TO ADMINISTER THE STATE PORTION OF THE COUNTY
7 ATTORNEYS' PAYROLL; MAKING THE SALARY FOR A FULL-TIME COUNTY
8 ATTORNEY ~~THE--SAME--AS--FOR~~ 95 90 PERCENT OF A DISTRICT JUDGE
9 JUDGE'S SALARY; INCREASING--THE--SALARY--FOR--A--PART--TIME--COUNTY
10 ATTORNEY; ELIMINATING THE ANNUAL COST-OF-LIVING INCREASE FOR
11 A COUNTY ATTORNEY; INCREASING THE MONETARY CHARGE FOR A
12 MISDEMEANOR CONVICTION; REALLOCATING JUSTICES' COURTS FEES;
13 AMENDING SECTIONS 3-10-601, 7-4-2502, 7-4-2503, 7-4-2504,
14 AND 7-4-2505, AND 46-18-236, MCA; AND PROVIDING AN EFFECTIVE
15 DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 7-4-2502, MCA, is amended to read:

19 "7-4-2502. Payment of salaries of county officials and
20 assistants. (1) Except as provided in subsection (2), the
21 salaries of the county officers and their assistants may be
22 paid monthly, twice monthly, or every 2 weeks out of the
23 general fund of the county and upon the order of the board
24 of county commissioners.

25 (2) (a) The salaries of the county attorney and deputy

1 county attorneys authorized by 7-4-2703 are payable monthly,
2 with the salary of the county attorney payable one-half from
3 the general fund of the county and the other one-half from
4 the state treasury upon the warrant of the state auditor.

5 (b) The county commissioners of each county shall,
6 within 30 days after the election or appointment to fill a
7 vacancy for any cause in the office of county attorney,
8 certify the election or appointment to the ~~state-auditor;~~
9 ~~who-shall-thereafter-draw-warrants-for-such--salary--in--the~~
10 ~~same-manner-as-for-state-officers~~ department of justice. The
11 department shall notify the state auditor of the salary of
12 the county attorney. The auditor shall draw warrants for the
13 county attorney salaries in the same manner as for state
14 officers. In case of a vacancy, the county commissioners
15 shall immediately notify the state--auditor department of
16 justice, and the auditor department shall compute the salary
17 due on the basis of the notification.

18 (3) The board has jurisdiction and power, under such
19 limitations and restrictions as are prescribed by law, to
20 fix the compensation of all county officers not otherwise
21 fixed by law and to provide for the payment of the same and
22 may, for all or the remainder of each fiscal year, in
23 conjunction with setting salaries for other officers as
24 provided in 7-4-2504(1), set their salaries at the prior
25 fiscal year level."

1 **Section 2.** Section 7-4-2503, MCA, is amended to read:

2 **"7-4-2503. Salary schedule for certain county officers.**

3 (1) The salary paid to the county treasurer, county clerk
4 and recorder, clerk of the district court, county assessor,
5 county superintendent of schools, and county sheriff; the
6 county surveyor in counties where county surveyors receive
7 salaries as provided in 7-4-2812; and the county auditor in
8 all counties where the office is authorized, for the fiscal
9 year beginning July 1, 1981, is computed by adding the
10 annual base salary of:

11 (a) \$14,000 for the counties of the first through fifth
12 class to the population increment of \$10 for each 100
13 persons or major fraction thereof included in the county's
14 population as determined by the 1980 federal decennial
15 census; or

16 (b) \$12,000 for counties of the sixth and seventh class
17 to the population increment of \$20 per 100 persons or major
18 fraction thereof in the county's population as determined by
19 the 1980 federal decennial census.

20 (2) (a) An elected county superintendent of schools
21 shall receive, in addition to the salary based upon
22 subsection (1), the sum of \$400 per year, except that an
23 elected county superintendent of schools who holds a master
24 of arts degree or a master's degree in education, with an
25 endorsement in school administration, from a unit of the

1 Montana university system or an equivalent institution may,
2 at the discretion of the county commissioners, receive, in
3 addition to the salary based upon subsection (1), up to
4 \$2,000 per year.

5 (b) The county sheriff shall receive, in addition to
6 the salary based upon subsection (1), the sum of \$2,000 per
7 year.

8 (c) The county sheriff shall receive a longevity
9 payment amounting to 1% of the base salary set forth in
10 subsection (1) for each year of service with the sheriff's
11 department, but years of service during any year in which
12 the salary was set at the level of the salary of the prior
13 fiscal year may not be included in any calculation of
14 longevity increases. The additional salary amount provided
15 for in this subsection may not be included in the base
16 salary for purposes of computing the compensation for
17 undersheriffs and deputy sheriffs as provided in 7-4-2508.

18 (3) (a) In each county with a population in excess of
19 30,000, the county attorney shall be a full-time official
20 under 7-4-2704, and his salary for the fiscal year beginning
21 July 1, ~~1981~~ 1991, shall be ~~\$367,500~~ the same as 95% 90% OF
22 that established for district court judges in 3-5-211. In
23 counties with a population less than 30,000, the county
24 attorney who is a part-time official for a county of the
25 first, second, or third class is entitled to receive an

1 annual salary equal to ~~60%~~ ~~80%~~ 60% of the annual salary of a
 2 full-time county attorney. A county attorney who is a
 3 part-time official for a county of the fourth, or, fifth,
 4 ~~class--is--entitled--to--receive--an--annual--salary--equal--to--70%~~
 5 ~~of--the--annual--salary--of--a--full--time--county--attorney--A~~
 6 ~~county--attorney--who--is--a--part--time--official--for--a--county--of~~
 7 the sixth, or seventh class is entitled to receive an
 8 annual salary equal to ~~50%~~ ~~60%~~ 50% of the annual salary of a
 9 full-time county attorney.

10 (b) In those counties where the office of the county
 11 attorney has been established as a full-time position
 12 pursuant to 7-4-2706, the salary of the county attorney for
 13 the fiscal year beginning July 1, ~~1981~~ 1991, shall be
 14 ~~\$36,500~~ the same as that established for full-time county
 15 attorneys in subsection (3)(a).

16 ~~(c)--Beginning--on--July--1,--1982,--and--on--July--1--of--each~~
 17 ~~succeeding--year,--each--county--attorney--shall--be--entitled--to~~
 18 ~~an--increase--in--salary--calculated--by--adding--to--his--annual~~
 19 ~~salary--on--July--1,--1981,--an--increment--of--70%--of--the--last~~
 20 ~~previous--calendar--year's--consumer--price--index--for--all--urban~~
 21 ~~consumers,--B-S--department--of--labor,--bureau--of--labor~~
 22 ~~statistics,--or--other--index--that--the--bureau--of--business--and~~
 23 ~~economic--research--of--the--university--of--Montana--may--in--the~~
 24 ~~future--recognize--as--the--successor--to--that--index. However,~~
 25 ~~the--county--commissioners--may,--for--all--or--the--remainder--of~~

1 ~~each--fiscal--year--in--conjunction--with--setting--salaries--for~~
 2 ~~other--officers--as--provided--in--7-4-2504(1),--set--the--salary--at~~
 3 ~~the--prior--fiscal--year--level--if--that--level--is--lower--than--the~~
 4 ~~level--required--by--this--subsection--(3)(c).--The--cost--of--living~~
 5 ~~increment--for--the--fiscal--year--beginning--July--1,--1983,--and~~
 6 ~~for--each--subsequent--fiscal--year--shall--be--added--to--all~~
 7 ~~cost--of--living--increments--granted--for--previous--years--unless~~
 8 ~~salaries--were--set--for--the--fiscal--year--at--the--level--of~~
 9 ~~salaries--received--in--the--prior--fiscal--year. Unless--restored~~
 10 ~~pursuant--to--7-4-2504(2),--any--cost--of--living--increment--that~~
 11 ~~would--have--been--received--for--such--fiscal--year,--computed--on~~
 12 ~~the--prior--fiscal--year,--may--not--be--added--to--previous~~
 13 ~~increments.~~

14 ~~(d)(c)~~ (i) After completing 4 years of service as
 15 deputy county attorney, each deputy county attorney is
 16 entitled to an increase in salary of \$1,000 on the
 17 anniversary date of his employment as deputy county
 18 attorney. After completing 5 years of service as deputy
 19 county attorney, each deputy county attorney is entitled to
 20 an additional increase in salary of \$1,500 on the
 21 anniversary date of his employment. After completing 6 years
 22 of service as deputy county attorney and for each year of
 23 service thereafter up to completion of the 11th year of
 24 service, each deputy county attorney is entitled to an
 25 additional annual increase in salary of \$500.

1 (ii) The years of service as a deputy county attorney
 2 accumulated prior to July 1, 1985, must be included in the
 3 calculation of the longevity increase, but, unless longevity
 4 increases are restored pursuant to 7-4-2504(2), the years of
 5 service during any year in which the salary was set at the
 6 level of the salary of the prior fiscal year may not be
 7 included in any calculation of longevity increases.

8 (4) For each 10th year after the fiscal year beginning
 9 July 1, 1981, the latest federal decennial census statistics
 10 shall be the basis for computation of population increments
 11 under this section. During the intervening 9 years, the
 12 computation of population increments applicable on July 1 of
 13 each year shall be based on the last calendar year's annual
 14 estimates of counties' populations compiled by the
 15 federal-state cooperative program for estimates of the
 16 university of Montana bureau of business and economic
 17 research and the U.S. bureau of the census or other estimate
 18 that the bureau of business and economic research may
 19 certify."

20 **Section 3.** Section 7-4-2504, MCA, is amended to read:

21 "7-4-2504. Salaries to be fixed by resolution --
 22 cost-of-living increments. (1) The county governing body
 23 shall by resolution, on or before July 1, 1982, and on or
 24 before July 1 of each year thereafter adjust and uniformly
 25 fix the salaries of the county treasurer, county clerk,

1 county assessor, county school superintendent, county
 2 sheriff, and the clerk of the district court; the county
 3 auditor (if there is one); and the county surveyor (if he
 4 receives a salary) for cost-of-living increase by adding to
 5 the annual salary computed under 7-4-2503 an increment
 6 calculated by applying to the annual salary established by
 7 7-4-2503(1) plus previous cost-of-living increments, 70% of
 8 the last previous calendar year's consumer price index for
 9 all urban consumers, U.S. department of labor, bureau of
 10 labor statistics, or other index that the bureau of business
 11 and economic research of the university of Montana may in
 12 the future recognize as the successor to that index. The
 13 county governing body may, however, for all or the remainder
 14 of each fiscal year, in conjunction with setting salaries
 15 for the same action on the salaries of justices of the peace
 16 (if applicable), the county governing body, county-attorney,
 17 and coroner, set the salary at the prior fiscal year level
 18 if that level is lower than the level required by this
 19 subsection. The cost-of-living increment for the fiscal year
 20 beginning July 1, 1983, and for each subsequent fiscal year
 21 shall be added to all cost-of-living increments granted for
 22 previous years unless salaries were set for the fiscal year
 23 at the level of salaries received in the prior fiscal year.
 24 In such case the cost-of-living increment that would have
 25 been received for such fiscal year, computed on the prior

1 fiscal year, may not be added to previous increments.

2 (2) The county governing body may, in any subsequent
3 fiscal year, restore for 1 or more years the annual
4 cost-of-living increments withheld pursuant to subsection
5 (1). If cost-of-living increments are restored, the
6 longevity increases provided for sheriffs in 7-4-2503, for
7 deputy county attorneys in 7-4-2503~~(3)(d)~~~~(i)~~(3)(c)(i), and
8 for undersheriffs and deputy sheriffs in 7-4-2510 must also
9 be restored for the years for which the cost-of-living
10 increment was restored.

11 (3) If the application of 7-4-2503 does not qualify a
12 county official for a salary increase of at least 7% on July
13 1, 1981, his salary on that date shall be increased by an
14 amount sufficient to provide him total salary equal to 7%
15 more than during the previous year.

16 (4) The county governing body shall by resolution,
17 prior to July 1 of each year, establish the salary of the
18 coroner and may, for all or the remainder of each fiscal
19 year, in conjunction with setting salaries for other
20 officers as provided in subsection (1), set the salary at
21 the prior fiscal year level. The salary must be in effect
22 upon the first day of each ensuing fiscal year."

23 **Section 4.** Section 7-4-2505, MCA, is amended to read:

24 "7-4-2505. Amount of compensation for deputies and
25 assistants. (1) Subject to subsection (2), the boards of

1 county commissioners in the several counties in the state
2 shall have the power to fix the compensation allowed any
3 deputy or assistant of the following officers:

- 4 (a) clerk and recorder;
- 5 (b) clerk of the district court;
- 6 (c) treasurer;
- 7 (d) assessor;
- 8 (e) county attorney;
- 9 (f) auditor.

10 (2) (a) The salary of a deputy or an assistant listed
11 in subsection (1), other than a deputy county attorney, may
12 not be more than 90% of the salary of the officer under whom
13 such deputy or assistant is serving. The salary of a deputy
14 county attorney, including longevity payments provided in
15 7-4-2503~~(3)(d)~~(3)(c), may not exceed the salary of the
16 county attorney under whom he is serving.

17 (b) Where any deputy or assistant is employed for a
18 period of less than 1 year, the compensation of such deputy
19 or assistant shall be for the time so employed, provided the
20 rate of such compensation shall not be in excess of the
21 rates now provided by law for similar deputies and
22 assistants except as provided herein.

23 (c) Deputy assessors' salaries shall be the same as
24 paid the deputy clerk and recorder."

25 **SECTION 5.** SECTION 3-10-601, MCA, IS AMENDED TO READ:

1 **"3-10-601. Collection and disposition of fines,**
 2 **penalties, forfeitures, and fees.** (1) Each justice of the
 3 peace shall collect the fees prescribed by law for justices'
 4 courts and shall pay them into the county treasury of the
 5 county wherein he holds office, on or before the 10th day of
 6 each month, to be credited to the general fund of the
 7 county.

8 (2) All fines, penalties, and forfeitures that this
 9 code requires to be imposed, collected, or paid in a
 10 justice's court must, for each calendar month, be paid by
 11 the justice's court on or before the 5th day of the
 12 following month to the treasurer of the county in which the
 13 justice's court is situated.

14 (3) The county treasurer shall, in the manner provided
 15 in 15-1-504, distribute money received under subsection (2)
 16 as follows:

- 17 (a) 50% to the state treasurer; and
- 18 (b) 50% to the county general fund.

19 (4) The state treasurer shall distribute money received
 20 under subsection (3) as follows:

- 21 (a) ~~23%~~ 27.88% to the state general fund;
- 22 (b) ~~10%~~ 9.09% to the fish and game account in the state
 23 special revenue fund;
- 24 (c) ~~12.5%~~ 11.76% to the state highway account in the
 25 state special revenue fund;

1 (d) ~~36%~~ 33.86% to the traffic education account in the
 2 state special revenue fund;

3 (e) ~~0.76%~~ 0.57% to the department of livestock account
 4 in the state special revenue fund;

5 (f) ~~16.9%~~ 15.9% to the crime victims compensation
 6 account in the state special revenue fund; and

7 (g) ~~1%~~ 0.94% to the department of family services
 8 special revenue account for the battered spouses and
 9 domestic violence grant program."

10 **SECTION 6. SECTION 46-18-236, MCA, IS AMENDED TO READ:**

11 **"46-18-236. Imposition of charge upon conviction or**
 12 **forfeiture -- administration.** (1) Except as provided in
 13 subsection (2), there must be imposed by all courts of
 14 original jurisdiction on a defendant upon his conviction for
 15 any conduct made criminal by state statute or upon
 16 forfeiture of bond or bail a charge that is in addition to
 17 other taxable court costs, fees, or fines, as follows:

- 18 (a) ~~\$10~~ \$15 for each misdemeanor charge; and
- 19 (b) the greater of \$20 or 10% of the fine levied for
 20 each felony charge.

21 (2) If a convicting court determines under 46-18-231
 22 and 46-18-232 that the defendant is not able to pay the fine
 23 and costs or that he is unable to pay within a reasonable
 24 time, the court must waive payment of the charge imposed by
 25 this section.

1 (3) The charge imposed by this section is not a fine
2 and must be imposed in addition to any fine and may not be
3 used in determining the jurisdiction of any court.

4 (4) When the payment of a fine is to be made in
5 installments over a period of time, the charge imposed by
6 this section must be collected from the first payment made
7 and each subsequent payment as necessary if the first
8 payment is not sufficient to cover the charge.

9 (5) The charges collected under subsection (1), except
10 those collected by a justice's court, must be deposited with
11 the appropriate local government finance officer or
12 treasurer. If a city municipal court or city or town court
13 is the court of original jurisdiction, the charges collected
14 under subsection (1) must be deposited with the city or town
15 finance officer or treasurer. If a district court is the
16 court of original jurisdiction, the charges collected under
17 subsection (1) must be deposited with the county finance
18 officer or treasurer. If the court of original jurisdiction
19 is a court within a consolidated city-county government
20 within the meaning of Title 7, chapter 3, the charges
21 collected under subsection (1) must be deposited with the
22 finance officer or treasurer of the consolidated government.

23 (6) (a) A city or town finance officer or treasurer may
24 retain the charges collected under subsection (1) by a city
25 municipal court or a city or town court and may use that

1 money for the payment of salaries of the city or town
2 attorney and his deputies.

3 (b) Each county finance officer or treasurer may retain
4 the charges collected under subsection (1) by district
5 courts for crimes committed or alleged to have been
6 committed within that county. The county finance officer or
7 treasurer shall use the money for the payment of salaries of
8 its deputy county attorneys and for the payment of other
9 salaries in the office of the county attorney, and any funds
10 not needed for such salaries may be used for the payment of
11 any other county salaries."

12 NEW SECTION. **Section 7.** Effective date. [This act] is
13 effective July 1, 1991.

-End-

HOUSE BILL NO. 155
INTRODUCED BY STRIZICH, GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE SALARY OF COUNTY ATTORNEYS; REQUIRING THE DEPARTMENT OF JUSTICE TO ADMINISTER THE STATE PORTION OF THE COUNTY ATTORNEYS' PAYROLL; MAKING THE BASE SALARY FOR A FULL-TIME COUNTY ATTORNEY THE SAME AS FOR 95 90 PERCENT OF A DISTRICT JUDGE JUDGE'S SALARY NOT LESS THAN \$44,800 AND NOT MORE THAN \$56,000; INCREASING THE SALARY FOR A PART-TIME COUNTY ATTORNEY; ELIMINATING THE ANNUAL COST OF LIVING INCREASE FOR A COUNTY ATTORNEY; INCREASING THE MONETARY CHARGE FOR A MISDEMEANOR CONVICTION; REALLOCATING JUSTICES' COURTS FEES; AMENDING SECTIONS 3-10-601, 7-4-2502, 7-4-2503, 7-4-2504, AND 7-4-2505, AND 46-18-236, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 7-4-2502, MCA, is amended to read:

"7-4-2502. Payment of salaries of county officials and assistants. (1) Except as provided in subsection (2), the salaries of the county officers and their assistants may be paid monthly, twice monthly, or every 2 weeks out of the general fund of the county and upon the order of the board of county commissioners.

(2) (a) The salaries of the county attorney and deputy county attorneys authorized by 7-4-2703 are payable monthly, with the salary of the county attorney payable one-half from the general fund of the county and the other one-half from the state treasury upon the warrant of the state auditor.

(b) The county commissioners of each county shall, within 30 days after the election or appointment to fill a vacancy for any cause in the office of county attorney, certify the election or appointment to the ~~state auditor~~, ~~who shall thereafter draw warrants for such salary in the same manner as for state officers~~ department of justice. The department shall notify the state auditor of the salary of the county attorney. The auditor shall draw warrants for the county attorney salaries in the same manner as for state officers. In case of a vacancy, the county commissioners shall immediately notify the ~~state auditor~~ department of justice, and the ~~auditor~~ department shall compute the salary due on the basis of the notification.

(3) The board has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to fix the compensation of all county officers not otherwise fixed by law and to provide for the payment of the same and may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504(1), set their salaries at the prior



1 fiscal year level."

2 **Section 2.** Section 7-4-2503, MCA, is amended to read:

3 **"7-4-2503. Salary schedule for certain county officers.**

4 (1) The salary paid to the county treasurer, county clerk
5 and recorder, clerk of the district court, county assessor,
6 county superintendent of schools, and county sheriff; the
7 county surveyor in counties where county surveyors receive
8 salaries as provided in 7-4-2812; and the county auditor in
9 all counties where the office is authorized, for the fiscal
10 year beginning July 1, 1981, is computed by adding the
11 annual base salary of:

12 (a) \$14,000 for the counties of the first through fifth
13 class to the population increment of \$10 for each 100
14 persons or major fraction thereof included in the county's
15 population as determined by the 1980 federal decennial
16 census; or

17 (b) \$12,000 for counties of the sixth and seventh class
18 to the population increment of \$20 per 100 persons or major
19 fraction thereof in the county's population as determined by
20 the 1980 federal decennial census.

21 (2) (a) An elected county superintendent of schools
22 shall receive, in addition to the salary based upon
23 subsection (1), the sum of \$400 per year, except that an
24 elected county superintendent of schools who holds a master
25 of arts degree or a master's degree in education, with an

1 endorsement in school administration, from a unit of the
2 Montana university system or an equivalent institution may,
3 at the discretion of the county commissioners, receive, in
4 addition to the salary based upon subsection (1), up to
5 \$2,000 per year.

6 (b) The county sheriff shall receive, in addition to
7 the salary based upon subsection (1), the sum of \$2,000 per
8 year.

9 (c) The county sheriff shall receive a longevity
10 payment amounting to 1% of the base salary set forth in
11 subsection (1) for each year of service with the sheriff's
12 department, but years of service during any year in which
13 the salary was set at the level of the salary of the prior
14 fiscal year may not be included in any calculation of
15 longevity increases. The additional salary amount provided
16 for in this subsection may not be included in the base
17 salary for purposes of computing the compensation for
18 undersheriffs and deputy sheriffs as provided in 7-4-2508.

19 (3) (a) In each county with a population in excess of
20 30,000, the county attorney shall be a full-time official
21 under 7-4-2704, and his salary for the fiscal year beginning
22 July 1, ~~1981~~ 1991, shall be ~~\$367,500 the same as 95% 90%-of~~
23 ~~that established for district court judges--in--3-5-211~~ AND
24 FOR EACH YEAR THEREAFTER MUST BE ESTABLISHED BY THE COUNTY
25 GOVERNING BODY AT NOT LESS THAN \$44,800 AND NOT MORE THAN

1 \$56,000. In counties with a population less than 30,000, the
 2 county attorney who is a part-time official for a county of
 3 the first, second, or third class is entitled to receive an
 4 annual salary equal to ~~60%~~ 60% of the annual salary of a
 5 full-time county attorney. A county attorney who is a
 6 part-time official for a county of the fourth, or, fifth,
 7 ~~class is entitled to receive an annual salary equal to 70%~~
 8 ~~of the annual salary of a full-time county attorney. A~~
 9 ~~county attorney who is a part-time official for a county of~~
 10 the sixth, or seventh class is entitled to receive an
 11 annual salary equal to 50% ~~60%~~ 50% of the annual salary of a
 12 full-time county attorney.

13 (b) In those counties where the office of the county
 14 attorney has been established as a full-time position
 15 pursuant to 7-4-2706, the salary of the county attorney for
 16 the fiscal year beginning July 1, ~~1981~~ 1991, shall be
 17 ~~\$36,500~~ the same as that established for full-time county
 18 attorneys in subsection (3)(a).

19 ~~(c) Beginning on July 1, 1982, and on July 1 of each~~
 20 ~~succeeding year, each county attorney shall be entitled to~~
 21 ~~an increase in salary calculated by adding to his annual~~
 22 ~~salary on July 1, 1981, an increment of 70% of the last~~
 23 ~~previous calendar year's consumer price index for all urban~~
 24 ~~consumers, U.S. department of labor, bureau of labor~~
 25 ~~statistics, or other index that the bureau of business and~~

1 ~~economic research of the university of Montana may in the~~
 2 ~~future recognize as the successor to that index. However,~~
 3 ~~the county commissioners may, for all or the remainder of~~
 4 ~~each fiscal year, in conjunction with setting salaries for~~
 5 ~~other officers as provided in 7-4-2504(1), set the salary at~~
 6 ~~the prior fiscal year level if that level is lower than the~~
 7 ~~level required by this subsection (3)(c). The cost of living~~
 8 ~~increment for the fiscal year beginning July 1, 1983, and~~
 9 ~~for each subsequent fiscal year shall be added to all~~
 10 ~~cost of living increments granted for previous years unless~~
 11 ~~salaries were set for the fiscal year at the level of~~
 12 ~~salaries received in the prior fiscal year. Unless restored~~
 13 ~~pursuant to 7-4-2504(2), any cost of living increment that~~
 14 ~~would have been received for such fiscal year, computed on~~
 15 ~~the prior fiscal year, may not be added to previous~~
 16 ~~increments.~~

17 (C) BEGINNING ON JULY 1, 1991, AND ON JULY 1 OF EACH
 18 SUCCEEDING YEAR, EACH COUNTY ATTORNEY SHALL BE ENTITLED TO
 19 AN INCREASE IN SALARY CALCULATED BY ADDING TO HIS ANNUAL
 20 SALARY ON JULY 1, 1991, AN INCREMENT OF 100% OF THE LAST
 21 PREVIOUS CALENDAR YEAR'S CONSUMER PRICE INDEX FOR ALL URBAN
 22 CONSUMERS, U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR
 23 STATISTICS, OR OTHER INDEX THAT THE BUREAU OF BUSINESS AND
 24 ECONOMIC RESEARCH OF THE UNIVERSITY OF MONTANA MAY IN THE
 25 FUTURE RECOGNIZE AS THE SUCCESSOR TO THAT INDEX. HOWEVER,

1 THE COUNTY COMMISSIONERS MAY, FOR ALL OR THE REMAINDER OF
 2 EACH FISCAL YEAR, IN CONJUNCTION WITH SETTING SALARIES FOR
 3 OTHER OFFICERS AS PROVIDED IN 7-4-2504(1), SET THE SALARY AT
 4 THE PRIOR FISCAL YEAR LEVEL IF THAT LEVEL IS LOWER THAN THE
 5 LEVEL REQUIRED BY THIS SUBSECTION (3)(C). THE COST-OF-LIVING
 6 INCREMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 1983, AND
 7 FOR EACH SUBSEQUENT FISCAL YEAR SHALL BE ADDED TO ALL
 8 COST-OF-LIVING INCREMENTS GRANTED FOR PREVIOUS YEARS UNLESS
 9 SALARIES WERE SET FOR THE FISCAL YEAR AT THE LEVEL OF
 10 SALARIES RECEIVED IN THE PRIOR FISCAL YEAR. UNLESS RESTORED
 11 PURSUANT TO 7-4-2504(2), ANY COST-OF-LIVING INCREMENT THAT
 12 WOULD HAVE BEEN RECEIVED FOR SUCH FISCAL YEAR, COMPUTED ON
 13 THE PRIOR FISCAL YEAR, MAY NOT BE ADDED TO PREVIOUS
 14 INCREMENTS.

15 ~~(d)(c)~~(D) (i) After completing 4 years of service as
 16 deputy county attorney, each deputy county attorney is
 17 entitled to an increase in salary of \$1,000 on the
 18 anniversary date of his employment as deputy county
 19 attorney. After completing 5 years of service as deputy
 20 county attorney, each deputy county attorney is entitled to
 21 an additional increase in salary of \$1,500 on the
 22 anniversary date of his employment. After completing 6 years
 23 of service as deputy county attorney and for each year of
 24 service thereafter up to completion of the 11th year of
 25 service, each deputy county attorney is entitled to an

1 additional annual increase in salary of \$500.

2 (ii) The years of service as a deputy county attorney
 3 accumulated prior to July 1, 1985, must be included in the
 4 calculation of the longevity increase, but, unless longevity
 5 increases are restored pursuant to 7-4-2504(2), the years of
 6 service during any year in which the salary was set at the
 7 level of the salary of the prior fiscal year may not be
 8 included in any calculation of longevity increases.

9 (4) For each 10th year after the fiscal year beginning
 10 July 1, 1981, the latest federal decennial census statistics
 11 shall be the basis for computation of population increments
 12 under this section. During the intervening 9 years, the
 13 computation of population increments applicable on July 1 of
 14 each year shall be based on the last calendar year's annual
 15 estimates of counties' populations compiled by the
 16 federal-state cooperative program for estimates of the
 17 university of Montana bureau of business and economic
 18 research and the U.S. bureau of the census or other estimate
 19 that the bureau of business and economic research may
 20 certify."

21 ~~Section 3. Section 7-4-2504, MCA, is amended to read:~~
 22 ~~"7-4-2504. Salaries to be fixed by resolution of~~
 23 ~~cost-of-living-increments. (1) The county governing body~~
 24 ~~shall by resolution, on or before July 1, 1982, and on or~~
 25 ~~before July 1 of each year thereafter adjust and uniformly~~

1 fix--the--salaries--of--the--county-treasurer, county-clerk,
 2 county--assessor, county--school--superintendent, county
 3 sheriff, and--the--clerk--of--the--district-court, the county
 4 auditor--(if--there--is--one), and--the--county--surveyor--(if--he
 5 receives--a--salary)--for--cost--of--living--increase--by--adding--to
 6 the--annual--salary--computed--under--7-4-2503--an--increment
 7 calculated--by--applying--to--the--annual--salary--established--by
 8 7-4-2503(1) plus previous cost of living increments, 70% of
 9 the--last--previous--calendar--year's--consumer--price--index--for
 10 all--urban--consumers, U.S. department--of--labor, bureau--of
 11 labor--statistics, or--other--index--that--the--bureau--of--business
 12 and--economic--research--of--the--university--of--Montana--may--in
 13 the--future--recognize--as--the--successor--to--that--index. The
 14 county-governing-body may, however, for all or the remainder
 15 of--each--fiscal--year, in--conjunction--with--setting--salaries
 16 for--the--same--action--on--the--salaries--of--justices--of--the--peace
 17 (if--applicable), the county-governing-body, county-attorney,
 18 and--coroner, set--the--salary--at--the--prior--fiscal--year--level
 19 if--that--level--is--lower--than--the--level--required--by--this
 20 subsection. The cost of living increment for the fiscal year
 21 beginning July 1, 1983, and for each subsequent fiscal year
 22 shall--be--added--to--all--cost--of--living--increments--granted--for
 23 previous--years--unless--salaries--were--set--for--the--fiscal--year
 24 at--the--level--of--salaries--received--in--the--prior--fiscal--year.
 25 In--such--case--the--cost--of--living--increment--that--would--have

1 been--received--for--such--fiscal--year, computed on the prior
 2 fiscal year, may not be added to previous increments.
 3 (2) The county governing body may, in any subsequent
 4 fiscal year, restore for one or more years the annual
 5 cost of living increments withheld pursuant to subsection
 6 (1). If cost of living increments are restored, the
 7 longevity increases provided for sheriffs in 7-4-2503, for
 8 deputy county attorneys in 7-4-2503(3)(d)(i)(3)(c)(i), and
 9 for undersheriffs and deputy sheriffs in 7-4-2510 must also
 10 be restored for the years for which the cost of living
 11 increment was restored.
 12 (3) If the application of 7-4-2503 does not qualify a
 13 county official for a salary increase of at least 7% on July
 14 1, 1981, his salary on that date shall be increased by an
 15 amount sufficient to provide him total salary equal to 7%
 16 more than during the previous year.
 17 (4) The county governing body shall by resolution,
 18 prior to July 1 of each year, establish the salary of the
 19 coroner and may, for all or the remainder of each fiscal
 20 year, in conjunction with setting salaries for other
 21 officers as provided in subsection (1), set the salary at
 22 the prior fiscal year level. The salary must be in effect
 23 upon the first day of each ensuing fiscal year.
 24 Section 4. Section 7-4-2505, MCA, is amended to read:
 25 "7-4-2505. Amount of compensation for deputies and

1 ~~assistants--(1)--Subject-to-subsection--(2),--the--boards--of~~
 2 ~~county--commissioners--in--the-several-counties-in-the-state~~
 3 ~~shall-have-the-power-to-fix--the--compensation--allowed--any~~
 4 ~~deputy-or-assistant-of-the-following-officers:~~
 5 ~~(a)--clerk-and-recorder;~~
 6 ~~(b)--clerk-of-the-district-court;~~
 7 ~~(c)--treasurer;~~
 8 ~~(d)--assessor;~~
 9 ~~(e)--county-attorney;~~
 10 ~~(f)--auditor;~~
 11 ~~(2)--(a)--The--salary--of-a-deputy-or-an-assistant-listed~~
 12 ~~in-subsection-(1);-other-than-a-deputy-county-attorney;-may~~
 13 ~~not-be-more-than-90%-of-the-salary-of-the-officer-under-whom~~
 14 ~~such--deputy-or-assistant-is-serving--The-salary-of-a-deputy~~
 15 ~~county-attorney;-including-longevity--payments--provided--in~~
 16 ~~7-4-2503(3)(d)(3)(e);--may--not--exceed--the--salary--of-the~~
 17 ~~county-attorney-under-whom-he-is-serving;~~
 18 ~~(b)--Where-any-deputy-or-assistant--is--employed--for--a~~
 19 ~~period--of-less-than-1-year;-the-compensation-of-such-deputy~~
 20 ~~or-assistant-shall-be-for-the-time-so-employed;-provided-the~~
 21 ~~rate-of-such-compensation-shall-not--be--in--excess--of--the~~
 22 ~~rates---now---provided--by--law--for--similar--deputies--and~~
 23 ~~assistants-except-as-provided-herein;~~
 24 ~~(c)--Deputy-assessors'-salaries-shall--be--the--same--as~~
 25 ~~paid-the-deputy-clerk-and-recorder."~~

1 **SECTION 3. SECTION 3-10-601, MCA, IS AMENDED TO READ:**
 2 ***3-10-601. Collection and disposition of fines,**
 3 **penalties, forfeitures, and fees. (1) Each justice of the**
 4 **peace shall collect the fees prescribed by law for justices'**
 5 **courts and shall pay them into the county treasury of the**
 6 **county wherein he holds office, on or before the 10th day of**
 7 **each month, to be credited to the general fund of the**
 8 **county.**
 9 **(2) All fines, penalties, and forfeitures that this**
 10 **code requires to be imposed, collected, or paid in a**
 11 **justice's court must, for each calendar month, be paid by**
 12 **the justice's court on or before the 5th day of the**
 13 **following month to the treasurer of the county in which the**
 14 **justice's court is situated.**
 15 **(3) The county treasurer shall, in the manner provided**
 16 **in 15-1-504, distribute money received under subsection (2)**
 17 **as follows:**
 18 **(a) 50% to the state treasurer; and**
 19 **(b) 50% to the county general fund.**
 20 **(4) The state treasurer shall distribute money received**
 21 **under subsection (3) as follows:**
 22 **(a) ~~23%~~ 27.88% to the state general fund;**
 23 **(b) ~~10%~~ 9.09% to the fish and game account in the state**
 24 **special revenue fund;**
 25 **(c) ~~12-5%~~ 11.76% to the state highway account in the**

1 state special revenue fund;
 2 (d) ~~36%~~ 33.86% to the traffic education account in the
 3 state special revenue fund;
 4 (e) ~~0-6%~~ 0.57% to the department of livestock account
 5 in the state special revenue fund;
 6 (f) ~~16-9%~~ 15.9% to the crime victims compensation
 7 account in the state special revenue fund; and
 8 (g) ~~1%~~ 0.94% to the department of family services
 9 special revenue account for the battered spouses and
 10 domestic violence grant program."

11 **SECTION 4. SECTION 46-18-236, MCA, IS AMENDED TO READ:**

12 **"46-18-236. Imposition of charge upon conviction or**
 13 **forfeiture -- administration.** (1) Except as provided in
 14 subsection (2), there must be imposed by all courts of
 15 original jurisdiction on a defendant upon his conviction for
 16 any conduct made criminal by state statute or upon
 17 forfeiture of bond or bail a charge that is in addition to
 18 other taxable court costs, fees, or fines, as follows:

- 19 (a) ~~\$10~~ \$15 for each misdemeanor charge; and
 20 (b) the greater of \$20 or 10% of the fine levied for
 21 each felony charge.
 22 (2) If a convicting court determines under 46-18-231
 23 and 46-18-232 that the defendant is not able to pay the fine
 24 and costs or that he is unable to pay within a reasonable
 25 time, the court must waive payment of the charge imposed by

1 this section.

2 (3) The charge imposed by this section is not a fine
 3 and must be imposed in addition to any fine and may not be
 4 used in determining the jurisdiction of any court.

5 (4) When the payment of a fine is to be made in
 6 installments over a period of time, the charge imposed by
 7 this section must be collected from the first payment made
 8 and each subsequent payment as necessary if the first
 9 payment is not sufficient to cover the charge.

10 (5) The charges collected under subsection (1), except
 11 those collected by a justice's court, must be deposited with
 12 the appropriate local government finance officer or
 13 treasurer. If a city municipal court or city or town court
 14 is the court of original jurisdiction, the charges collected
 15 under subsection (1) must be deposited with the city or town
 16 finance officer or treasurer. If a district court is the
 17 court of original jurisdiction, the charges collected under
 18 subsection (1) must be deposited with the county finance
 19 officer or treasurer. If the court of original jurisdiction
 20 is a court within a consolidated city-county government
 21 within the meaning of Title 7, chapter 3, the charges
 22 collected under subsection (1) must be deposited with the
 23 finance officer or treasurer of the consolidated government.

24 (6) (a) A city or town finance officer or treasurer may
 25 retain the charges collected under subsection (1) by a city

1 municipal court or a city or town court and may use that
2 money for the payment of salaries of the city or town
3 attorney and his deputies.

4 (b) Each county finance officer or treasurer may retain
5 the charges collected under subsection (1) by district
6 courts for crimes committed or alleged to have been
7 committed within that county. The county finance officer or
8 treasurer shall use the money for the payment of salaries of
9 its deputy county attorneys and for the payment of other
10 salaries in the office of the county attorney, and any funds
11 not needed for such salaries may be used for the payment of
12 any other county salaries."

13 NEW SECTION. Section 5. Effective date. [This act] is
14 effective July 1, 1991.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 11, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 155 (third reading copy as amended -- blue), respectfully report that House Bill No. 155 be amended and as so amended be concurred in:

1. Title, lines 9 and 10.

Following: "~~SALARY~~" on line 9

Strike: remainder of line 9 through "\$56,000" on line 10

Insert: "\$52,000 per year"

2. Page 4, line 23 through page 5, line 1.

Following: "~~3-5-211~~" on line 23

Strike: remainder of line 23 through "\$56,000" on page 5, line 1

Insert: "shall be \$52,000 per year"

Signed: *R. Pinsonneault*
Richard Pinsonneault, Chairman

Jan 4-11-91
And. Coord.

SB 4-11 @ 4:40
Sec. of Senate

SENATE
HB 155

SENATE COMMITTEE OF THE WHOLE AMENDMENT

April 15, 1991 9:12 am

Mr. Chairman: I move to amend House Bill No. 155 (third reading copy as amended -- blue) as follows:

Amend Judiciary Standing Committee Report dated April 11, 1991 as follows:

Amendment No. 1

1. Title, line 10.
Strike: "\$52,000"
Insert: "\$50,000"

Amendment No. 2

2. Page 5, line 1.
Strike: "\$52,000"
Insert: "\$50,000"

ADOPT

REJECT

Signed: *J. P. Pinsonneault*
Senator Pinsonneault

JP 4-15-91
Am. Coord.

SB 4-15
Sec. of Senate

SENATE
HB 155

HOUSE BILL NO. 155

INTRODUCED BY STRIZICH, GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE SALARY OF COUNTY ATTORNEYS; REQUIRING THE DEPARTMENT OF JUSTICE TO ADMINISTER THE STATE PORTION OF THE COUNTY ATTORNEYS' PAYROLL; MAKING THE BASE SALARY FOR A FULL-TIME COUNTY ATTORNEY THE SAME AS FOR 95 PERCENT OF A DISTRICT JUDGE ~~JUDGE'S SALARY NOT LESS THAN \$44,800 AND NOT MORE THAN \$56,800~~ \$52,800 \$50,000 PER YEAR; INCREASING THE SALARY FOR A PART-TIME COUNTY ATTORNEY; ELIMINATING THE ANNUAL COST-OF-LIVING INCREASE FOR A COUNTY ATTORNEY; INCREASING THE MONETARY CHARGE FOR A MISDEMEANOR CONVICTION; REALLOCATING JUSTICES' COURTS FEES; AMENDING SECTIONS 3-10-601, 7-4-2502, 7-4-2503, 7-4-2504, AND 7-4-2505, AND 46-18-236, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 7-4-2502, MCA, is amended to read:

"7-4-2502. Payment of salaries of county officials and assistants. (1) Except as provided in subsection (2), the salaries of the county officers and their assistants may be paid monthly, twice monthly, or every 2 weeks out of the general fund of the county and upon the order of the board of county commissioners.

(2) (a) The salaries of the county attorney and deputy county attorneys authorized by 7-4-2703 are payable monthly, with the salary of the county attorney payable one-half from the general fund of the county and the other one-half from the state treasury upon the warrant of the state auditor.

(b) The county commissioners of each county shall, within 30 days after the election or appointment to fill a vacancy for any cause in the office of county attorney, certify the election or appointment to the state auditor, who shall thereafter draw warrants for such salary in the same manner as for state officers department of justice. The department shall notify the state auditor of the salary of the county attorney. The auditor shall draw warrants for the county attorney salaries in the same manner as for state officers. In case of a vacancy, the county commissioners shall immediately notify the state auditor department of justice, and the auditor department shall compute the salary due on the basis of the notification.

(3) The board has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to fix the compensation of all county officers not otherwise fixed by law and to provide for the payment of the same and may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504(1), set their salaries at the prior

1 fiscal year level."

2 **Section 2.** Section 7-4-2503, MCA, is amended to read:

3 ***7-4-2503. Salary schedule for certain county officers.**

4 (1) The salary paid to the county treasurer, county clerk
5 and recorder, clerk of the district court, county assessor,
6 county superintendent of schools, and county sheriff; the
7 county surveyor in counties where county surveyors receive
8 salaries as provided in 7-4-2812; and the county auditor in
9 all counties where the office is authorized, for the fiscal
10 year beginning July 1, 1981, is computed by adding the
11 annual base salary of:

12 (a) \$14,000 for the counties of the first through fifth
13 class to the population increment of \$10 for each 100
14 persons or major fraction thereof included in the county's
15 population as determined by the 1980 federal decennial
16 census; or

17 (b) \$12,000 for counties of the sixth and seventh class
18 to the population increment of \$20 per 100 persons or major
19 fraction thereof in the county's population as determined by
20 the 1980 federal decennial census.

21 (2) (a) An elected county superintendent of schools
22 shall receive, in addition to the salary based upon
23 subsection (1), the sum of \$400 per year, except that an
24 elected county superintendent of schools who holds a master
25 of arts degree or a master's degree in education, with an

1 endorsement in school administration, from a unit of the
2 Montana university system or an equivalent institution may,
3 at the discretion of the county commissioners, receive, in
4 addition to the salary based upon subsection (1), up to
5 \$2,000 per year.

6 (b) The county sheriff shall receive, in addition to
7 the salary based upon subsection (1), the sum of \$2,000 per
8 year.

9 (c) The county sheriff shall receive a longevity
10 payment amounting to 1% of the base salary set forth in
11 subsection (1) for each year of service with the sheriff's
12 department, but years of service during any year in which
13 the salary was set at the level of the salary of the prior
14 fiscal year may not be included in any calculation of
15 longevity increases. The additional salary amount provided
16 for in this subsection may not be included in the base
17 salary for purposes of computing the compensation for
18 undersheriffs and deputy sheriffs as provided in 7-4-2508.

19 (3) (a) In each county with a population in excess of
20 30,000, the county attorney shall be a full-time official
21 under 7-4-2704, and his salary for the fiscal year beginning
22 July 1, 1981 1991, shall be \$36,500 ~~the same as 95% 98% of~~
23 ~~that established for district court judges in 3-5-211~~ AND
24 ~~FOR EACH YEAR THEREAFTER MUST BE ESTABLISHED BY THE COUNTY~~
25 ~~GOVERNING BODY AT NOT LESS THAN \$44,800 AND NOT MORE THAN~~

1 ~~956,000~~ SHALL BE ~~952,000~~ \$50,000 PER YEAR. In counties with
 2 a population less than 30,000, the county attorney who is a
 3 part-time official for a county of the first, second, or
 4 third class is entitled to receive an annual salary equal to
 5 ~~60%~~ ~~80%~~ ~~60%~~ of the annual salary of a full-time county
 6 attorney. A county attorney who is a part-time official for
 7 a county of the fourth, ~~or, fifth,~~ ~~class is entitled to~~
 8 ~~receive an annual salary equal to 70% of the annual salary~~
 9 ~~of a full-time county attorney. A county attorney who is a~~
 10 ~~part-time official for a county of the~~ sixth, or seventh
 11 class is entitled to receive an annual salary equal to 50%
 12 ~~60%~~ ~~50%~~ of the annual salary of a full-time county attorney.

13 (b) In those counties where the office of the county
 14 attorney has been established as a full-time position
 15 pursuant to 7-4-2706, the salary of the county attorney for
 16 the fiscal year beginning July 1, 1981, 1991, shall be
 17 ~~\$36,500~~ the same as that established for full-time county
 18 attorneys in subsection (3)(a).

19 ~~(c) Beginning on July 1, 1982, and on July 1 of each~~
 20 ~~succeeding year, each county attorney shall be entitled to~~
 21 ~~an increase in salary calculated by adding to his annual~~
 22 ~~salary on July 1, 1981, an increment of 70% of the last~~
 23 ~~previous calendar year's consumer price index for all urban~~
 24 ~~consumers, U.S. department of labor, bureau of labor~~
 25 ~~statistics, or other index that the bureau of business and~~

1 ~~economic research of the university of Montana may in the~~
 2 ~~future recognize as the successor to that index. However,~~
 3 ~~the county commissioners may, for all or the remainder of~~
 4 ~~each fiscal year in conjunction with setting salaries for~~
 5 ~~other officers as provided in 7-4-2504(1), set the salary at~~
 6 ~~the prior fiscal year level if that level is lower than the~~
 7 ~~level required by this subsection (3)(c). The cost of living~~
 8 ~~increment for the fiscal year beginning July 1, 1983, and~~
 9 ~~for each subsequent fiscal year shall be added to all~~
 10 ~~cost of living increments granted for previous years unless~~
 11 ~~salaries were set for the fiscal year at the level of~~
 12 ~~salaries received in the prior fiscal year. Unless restored~~
 13 ~~pursuant to 7-4-2504(2), any cost of living increment that~~
 14 ~~would have been received for such fiscal year, computed on~~
 15 ~~the prior fiscal year, may not be added to previous~~
 16 ~~increments.~~

17 (C) BEGINNING ON JULY 1, 1991, AND ON JULY 1 OF EACH
 18 SUCCEEDING YEAR, EACH COUNTY ATTORNEY SHALL BE ENTITLED TO
 19 AN INCREASE IN SALARY CALCULATED BY ADDING TO HIS ANNUAL
 20 SALARY ON JULY 1, 1991, AN INCREMENT OF 100% OF THE LAST
 21 PREVIOUS CALENDAR YEAR'S CONSUMER PRICE INDEX FOR ALL URBAN
 22 CONSUMERS, U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR
 23 STATISTICS, OR OTHER INDEX THAT THE BUREAU OF BUSINESS AND
 24 ECONOMIC RESEARCH OF THE UNIVERSITY OF MONTANA MAY IN THE
 25 FUTURE RECOGNIZE AS THE SUCCESSOR TO THAT INDEX. HOWEVER,

1 THE COUNTY COMMISSIONERS MAY, FOR ALL OR THE REMAINDER OF
 2 EACH FISCAL YEAR, IN CONJUNCTION WITH SETTING SALARIES FOR
 3 OTHER OFFICERS AS PROVIDED IN 7-4-2504(1), SET THE SALARY AT
 4 THE PRIOR FISCAL YEAR LEVEL IF THAT LEVEL IS LOWER THAN THE
 5 LEVEL REQUIRED BY THIS SUBSECTION (3)(C). THE COST-OF-LIVING
 6 INCREMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 1983, AND
 7 FOR EACH SUBSEQUENT FISCAL YEAR SHALL BE ADDED TO ALL
 8 COST-OF-LIVING INCREMENTS GRANTED FOR PREVIOUS YEARS UNLESS
 9 SALARIES WERE SET FOR THE FISCAL YEAR AT THE LEVEL OF
 10 SALARIES RECEIVED IN THE PRIOR FISCAL YEAR. UNLESS RESTORED
 11 PURSUANT TO 7-4-2504(2), ANY COST-OF-LIVING INCREMENT THAT
 12 WOULD HAVE BEEN RECEIVED FOR SUCH FISCAL YEAR, COMPUTED ON
 13 THE PRIOR FISCAL YEAR, MAY NOT BE ADDED TO PREVIOUS
 14 INCREMENTS.

15 ~~(d)~~(D) (i) After completing 4 years of service as
 16 deputy county attorney, each deputy county attorney is
 17 entitled to an increase in salary of \$1,000 on the
 18 anniversary date of his employment as deputy county
 19 attorney. After completing 5 years of service as deputy
 20 county attorney, each deputy county attorney is entitled to
 21 an additional increase in salary of \$1,500 on the
 22 anniversary date of his employment. After completing 6 years
 23 of service as deputy county attorney and for each year of
 24 service thereafter up to completion of the 11th year of
 25 service, each deputy county attorney is entitled to an

1 additional annual increase in salary of \$500.

2 (ii) The years of service as a deputy county attorney
 3 accumulated prior to July 1, 1985, must be included in the
 4 calculation of the longevity increase; but, unless longevity
 5 increases are restored pursuant to 7-4-2504(2), the years of
 6 service during any year in which the salary was set at the
 7 level of the salary of the prior fiscal year may not be
 8 included in any calculation of longevity increases.

9 (4) For each 10th year after the fiscal year beginning
 10 July 1, 1981, the latest federal decennial census statistics
 11 shall be the basis for computation of population increments
 12 under this section. During the intervening 9 years, the
 13 computation of population increments applicable on July 1 of
 14 each year shall be based on the last calendar year's annual
 15 estimates of counties' populations compiled by the
 16 federal-state cooperative program for estimates of the
 17 university of Montana bureau of business and economic
 18 research and the U.S. bureau of the census or other estimate
 19 that the bureau of business and economic research may
 20 certify."

21 ~~Section 3--Section 7-4-2504, MCA, is amended to read:~~
 22 ~~"7-4-2504. Salaries to be fixed by resolution----~~
 23 ~~cost-of-living--increments--(1)--The--county-governing-body~~
 24 ~~shall-by-resolution, on-or-before-July-1, 1982, and--on--or~~
 25 ~~before--July--1--of--each--year--thereafter--adjust--and--uniformly~~

1 fix the salaries of the county treasurer, county clerk,
 2 county assessor, county school superintendent, county
 3 sheriff, and the clerk of the district court, the county
 4 auditor (if there is one), and the county surveyor (if he
 5 receives a salary) for cost of living increase by adding to
 6 the annual salary computed under 7-4-2503 an increment
 7 calculated by applying to the annual salary established by
 8 7-4-2503(1) plus previous cost of living increments, 70% of
 9 the last previous calendar year's consumer price index for
 10 all urban consumers, U.S. department of labor, bureau of
 11 labor statistics, or other index that the bureau of business
 12 and economic research of the university of Montana may in
 13 the future recognize as the successor to that index. The
 14 county governing body may, however, for all or the remainder
 15 of each fiscal year, in conjunction with setting salaries
 16 for the same action on the salaries of justices of the peace
 17 (if applicable), the county governing body, county attorney,
 18 and coroner, set the salary at the prior fiscal year level
 19 if that level is lower than the level required by this
 20 subsection. The cost of living increment for the fiscal year
 21 beginning July 1, 1989, and for each subsequent fiscal year
 22 shall be added to all cost of living increments granted for
 23 previous years unless salaries were set for the fiscal year
 24 at the level of salaries received in the prior fiscal year.
 25 In such case the cost of living increment that would have

1 been received for such fiscal year, computed on the prior
 2 fiscal year, may not be added to previous increments.
 3 (2) The county governing body may, in any subsequent
 4 fiscal year, restore for one or more years the annual
 5 cost of living increments withheld pursuant to subsection
 6 (1). If cost of living increments are restored, the
 7 longevity increases provided for sheriffs in 7-4-2503, for
 8 deputy county attorneys in 7-4-2503(3)(d)(i)(3)(c)(i), and
 9 for undersheriffs and deputy sheriffs in 7-4-2510 must also
 10 be restored for the years for which the cost of living
 11 increment was restored.

12 (3) If the application of 7-4-2503 does not qualify a
 13 county official for a salary increase of at least 7% on July
 14 1, 1981, his salary on that date shall be increased by an
 15 amount sufficient to provide him total salary equal to 7%
 16 more than during the previous year.

17 (4) The county governing body shall by resolution,
 18 prior to July 1 of each year, establish the salary of the
 19 coroner and may, for all or the remainder of each fiscal
 20 year, in conjunction with setting salaries for other
 21 officers as provided in subsection (1), set the salary at
 22 the prior fiscal year level. The salary must be in effect
 23 upon the first day of each ensuing fiscal year."

24 Section 4, Section 7-4-2505, MCA, is amended to read:

25 "7-4-2505. Amount of compensation for deputies and

1 ~~assistants;--(1)--Subject--to--subsection--(2);--the--boards--of~~
 2 ~~county--commissioners--in--the--several--counties--in--the--state~~
 3 ~~shall--have--the--power--to--fix--the--compensation--allowed--any~~
 4 ~~deputy--or--assistant--of--the--following--officers:~~
 5 ~~(a)--clerk--and--recorder;~~
 6 ~~(b)--clerk--of--the--district--court;~~
 7 ~~(c)--treasurer;~~
 8 ~~(d)--assessor;~~
 9 ~~(e)--county--attorney;~~
 10 ~~(f)--auditor;~~
 11 ~~(2)--(a)--The--salary--of--a--deputy--or--an--assistant--listed~~
 12 ~~in--subsection--(1);--other--than--a--deputy--county--attorney;--may~~
 13 ~~not--be--more--than--90%--of--the--salary--of--the--officer--under--whom~~
 14 ~~such--deputy--or--assistant--is--serving;--The--salary--of--a--deputy~~
 15 ~~county--attorney;--including--longevity--payments--provided--in~~
 16 ~~7-4-2503(3)(d)(3)(c);--may--not--exceed--the--salary--of--the~~
 17 ~~county--attorney--under--whom--he--is--serving;~~
 18 ~~(b)--Where--any--deputy--or--assistant--is--employed--for--a~~
 19 ~~period--of--less--than--1--year;--the--compensation--of--such--deputy~~
 20 ~~or--assistant--shall--be--for--the--time--so--employed;--provided--the~~
 21 ~~rate--of--such--compensation--shall--not--be--in--excess--of--the~~
 22 ~~rates--now--provided--by--law--for--similar--deputies--and~~
 23 ~~assistants--except--as--provided--herein;~~
 24 ~~(c)--Deputy--assessors'--salaries--shall--be--the--same--as~~
 25 ~~paid--the--deputy--clerk--and--recorder;"~~

1 **SECTION 3. SECTION 3-10-601, MCA, IS AMENDED TO READ:**
 2 ***3-10-601. Collection and disposition of fines,**
 3 **penalties, forfeitures, and fees. (1) Each justice of the**
 4 **peace shall collect the fees prescribed by law for justices'**
 5 **courts and shall pay them into the county treasury of the**
 6 **county wherein he holds office, on or before the 10th day of**
 7 **each month, to be credited to the general fund of the**
 8 **county.**
 9 (2) All fines, penalties, and forfeitures that this
 10 code requires to be imposed, collected, or paid in a
 11 justice's court must, for each calendar month, be paid by
 12 the justice's court on or before the 5th day of the
 13 following month to the treasurer of the county in which the
 14 justice's court is situated.
 15 (3) The county treasurer shall, in the manner provided
 16 in 15-1-504, distribute money received under subsection (2)
 17 as follows:
 18 (a) 50% to the state treasurer; and
 19 (b) 50% to the county general fund.
 20 (4) The state treasurer shall distribute money received
 21 under subsection (3) as follows:
 22 (a) ~~29%~~ 27.88% to the state general fund;
 23 (b) ~~10%~~ 9.09% to the fish and game account in the state
 24 special revenue fund;
 25 (c) ~~12.5%~~ 11.76% to the state highway account in the

1 state special revenue fund;

2 (d) ~~36%~~ 33.86% to the traffic education account in the
3 state special revenue fund;

4 (e) ~~0.6%~~ 0.57% to the department of livestock account
5 in the state special revenue fund;

6 (f) ~~16.9%~~ 15.9% to the crime victims compensation
7 account in the state special revenue fund; and

8 (g) ~~1%~~ 0.94% to the department of family services
9 special revenue account for the battered spouses and
10 domestic violence grant program."

11 **SECTION 4. SECTION 46-18-236, MCA, IS AMENDED TO READ:**

12 **"46-18-236. Imposition of charge upon conviction or**
13 **forfeiture -- administration.** (1) Except as provided in
14 subsection (2), there must be imposed by all courts of
15 original jurisdiction on a defendant upon his conviction for
16 any conduct made criminal by state statute or upon
17 forfeiture of bond or bail a charge that is in addition to
18 other taxable court costs, fees, or fines, as follows:

19 (a) ~~\$10~~ \$15 for each misdemeanor charge; and

20 (b) the greater of \$20 or 10% of the fine levied for
21 each felony charge.

22 (2) If a convicting court determines under 46-18-231
23 and 46-18-232 that the defendant is not able to pay the fine
24 and costs or that he is unable to pay within a reasonable
25 time, the court must waive payment of the charge imposed by

1 this section.

2 (3) The charge imposed by this section is not a fine
3 and must be imposed in addition to any fine and may not be
4 used in determining the jurisdiction of any court.

5 (4) When the payment of a fine is to be made in
6 installments over a period of time, the charge imposed by
7 this section must be collected from the first payment made
8 and each subsequent payment as necessary if the first
9 payment is not sufficient to cover the charge.

10 (5) The charges collected under subsection (1), except
11 those collected by a justice's court, must be deposited with
12 the appropriate local government finance officer or
13 treasurer. If a city municipal court or city or town court
14 is the court of original jurisdiction, the charges collected
15 under subsection (1) must be deposited with the city or town
16 finance officer or treasurer. If a district court is the
17 court of original jurisdiction, the charges collected under
18 subsection (1) must be deposited with the county finance
19 officer or treasurer. If the court of original jurisdiction
20 is a court within a consolidated city-county government
21 within the meaning of Title 7, chapter 3, the charges
22 collected under subsection (1) must be deposited with the
23 finance officer or treasurer of the consolidated government.

24 (6) (a) A city or town finance officer or treasurer may
25 retain the charges collected under subsection (1) by a city

1 municipal court or a city or town court and may use that
2 money for the payment of salaries of the city or town
3 attorney and his deputies.

4 (b) Each county finance officer or treasurer may retain
5 the charges collected under subsection (1) by district
6 courts for crimes committed or alleged to have been
7 committed within that county. The county finance officer or
8 treasurer shall use the money for the payment of salaries of
9 its deputy county attorneys and for the payment of other
10 salaries in the office of the county attorney, and any funds
11 not needed for such salaries may be used for the payment of
12 any other county salaries."

13 NEW SECTION. **Section 5.** Effective date. [This act] is
14 effective July 1, 1991.

-End-