

HOUSE BILL NO. 120

Introduced: 01/06/83

Referred to Committee on Local Government: 01/06/83

Hearing: 2/8/83

Report: 02/21/83, Do Pass, As Amended

Rereferred to Committee on Appropriations: 02/23/83

Hearing: 3/24/83

Report: 3/28/83, Do Not Pass

Bill Killed: 3/29/83

1 House BILL NO. 120
 2 INTRODUCED BY Walton
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR STATE
 5 FUNDING OF THE OPERATIONAL EXPENSES FOR DISTRICT COURTS,
 6 INCLUDING DISTRICT COURT STAFF, COURT REPORTERS AND THEIR
 7 STAFF, AND JUVENILE PROBATION OFFICERS AND THEIR STAFF; TO
 8 ESTABLISH CONDITIONS OF EMPLOYMENT FOR SUCH PERSONS; TO
 9 PROVIDE BUDGETING CONTROL IN THE SUPREME COURT; TO CONTINUE
 10 COUNTIES' RESPONSIBILITY FOR PROVIDING COURTROOMS AND
 11 OFFICES; ESTABLISHING A STATEWIDE 6-MILL PROPERTY TAX LEVY
 12 FOR THE SUPPORT OF DISTRICT COURTS; AMENDING SECTIONS
 13 3-5-511, 3-5-604, 3-15-204, 7-6-2313, 7-6-2324, 7-6-2426,
 14 7-6-2427, 25-1-202, 40-3-125, 41-5-704, AND 41-5-705, MCA;
 15 REPEALING SECTIONS 3-5-404, 3-5-510, 3-5-512, 3-5-602,
 16 7-6-2351, 7-6-2352, 7-6-2511, AND 40-3-114, MCA; AND
 17 PROVIDING AN EFFECTIVE DATE."

18
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 20 NEW SECTION. Section 1. Definitions. Unless the
 21 context clearly indicates otherwise, as used in [sections 1
 22 through 5], the following definitions apply:

23 (1) "District court" means a district court of the
 24 state and its employees.

25 (2) "Employees" means appointed staff of the district

1 court, court reporters and their staff, if any, and juvenile
 2 probation officers and deputy juvenile probation officers
 3 and their staff, if any.

4 NEW SECTION. Section 2. Funding of district courts.
 5 The operations, salaries, and other expenses of all district
 6 courts within the state are the financial responsibility of
 7 the state.

8 NEW SECTION. Section 3. Personnel — duties —
 9 qualifications — conditions of employment. (1) Pursuant to
 10 subsections (2) and (3), section 2, Article VII, of the
 11 Montana constitution, the supreme court shall by rule
 12 establish a personnel plan for district court employees.

13 (2) The supreme court shall prescribe by rule a
 14 personnel classification plan for all appointed employees of
 15 the judicial branch. The plan shall include:

16 (a) a basic compensation plan of pay ranges to which
 17 classes of positions are assigned and may be reassigned;

18 (b) the qualifications for each position or class of
 19 positions, including education, experience, special skills,
 20 and legal knowledge;

21 (c) the procedures for and regulations governing the
 22 appointment and removal of personnel, except that:

23 (i) the court reporter and juvenile probation officer
 24 and district court staff shall be appointed, supervised,
 25 promoted or demoted, and discharged by the appropriate

INTRODUCED BILL

1 district court judge or judges; and

2 (ii) the employees of the juvenile probation office

3 shall be appointed, supervised, promoted or demoted, and

4 discharged by the juvenile probation officer;

5 (d) the procedures and guidelines for the appointment,

6 demotion, and discharge of employees; and

7 (e) the procedures for and regulations governing the

8 transfer of personnel.

9 (3) Employees of the judicial branch are entitled to

10 mileage and reimbursement for travel expenses at the same

11 rates and computed in the same manner as for all other state

12 employees.

13 (4) To the end that all state employees are treated

14 generally in a similar manner, the supreme court in

15 promulgating rules as set forth in this section shall take

16 into consideration the compensation and classification plans

17 and other conditions of employment applicable to employees

18 of the executive branch.

19 (5) After July 1, 1983, no new employment positions

20 within the judicial branch may be established without

21 approval of the supreme court. If the supreme court

22 approves establishment of a new employment position, it

23 shall be classified in accordance with the provisions of

24 subsection (2).

25 NEW SECTION. Section 4. Judicial branch budget. (1)

1 Subject to the approval of the chief justice, the supreme

2 court administrator shall prescribe procedures governing:

3 (a) preparation of budget requests by district courts;

4 (b) disbursement of funds appropriated to the judicial

5 branch;

6 (c) the purchase of forms, supplies, equipment, and

7 other items authorized in the judicial branch budget; and

8 (d) any other matter relating to fiscal

9 administration.

10 (2) Subject to the approval of the supreme court, the

11 supreme court administrator shall:

12 (a) prepare a biennial budget, to be called the

13 judicial branch operating budget, for the supreme court, all

14 district courts, and any other budgetary entity of the

15 judicial branch; and

16 (b) prepare and submit a biennial budget request as

17 provided in Title 17, chapter 7, part 1.

18 (3) The supreme court administrator shall consult with

19 the department of administration in preparation of

20 procedures pertaining to budgetary and fiscal practice,

21 forms, and the disbursement of funds.

22 NEW SECTION. Section 5. District court facilities.

23 (1) Each county governing body shall provide and maintain

24 adequate courtrooms, offices, and other court facilities,

25 including janitorial services, for district courts.

1 (2) The supreme court may enter into interlocal
2 agreements with local governments for administrative and
3 other services and for equipment use.

4 NEW SECTION. Section 6. Tax levy for district courts.
5 There is levied upon the taxable value of all real and
6 personal property in the state of Montana subject to
7 taxation 6 mills for the support and maintenance of the
8 district courts of Montana as defined in [section 1]. The
9 funds raised by the levy shall be deposited in the general
10 fund of the state.

11 NEW SECTION. Section 7. Transfer of supplies and
12 equipment -- protection for present personnel. (1) On July
13 1, 1983, all supplies and equipment assigned or belonging to
14 district courts as defined in [section 1] shall be
15 transferred to the judicial branch of state government.

16 (2) All full-time employees, as defined in [section
17 1], who are employed on July 1, 1983, are entitled to
18 continue in their positions of employment unless discharged
19 for cause. No such full-time employee may receive any
20 decrease in compensation because of state funding of the
21 judicial branch.

22 Section 8. Section 3-5-511, MCA, is amended to read:

23 "3-5-511. Procedure ~~in reference to witnesses~~
24 certificates for payment of witnesses. (1) The witnesses in
25 criminal actions must report their presence to the clerk the

1 first day they attend under the subpoena.

2 (2) At the time any witness is excused from further
3 attendance, the clerk must give to ~~each~~ the witness a
4 certificate ~~taken from a book containing a stub with like~~
5 ~~designations,~~ signed by the clerk under seal, in which must
6 be stated the name and address of the witness, the number of
7 days in attendance, the number of miles traveled, and the
8 amount due. The clerk shall also give the witness a
9 preaddressed and stamped envelope, supplied by the supreme
10 court administrator. The witness shall mail the certificate
11 to the supreme court administrator, who shall be responsible
12 for the prompt payment of the amount due the witness.

13 ~~(3) On presentation of such certificate to the county~~
14 ~~treasurer, the amount specified in the certificate must be~~
15 ~~paid out of the general fund."~~

16 Section 9. Section 3-5-604, MCA, is amended to read:

17 "3-5-604. Copies of proceedings. (1) Each reporter
18 must furnish, upon request, with all reasonable diligence,
19 to the defendant in a criminal case or a party or his
20 attorney in a civil case in which he has attended the trial
21 or hearing a copy, written out at length or in narrative
22 form from his stenographic notes, of the testimony and
23 proceedings upon the trial or hearing or a part thereof,
24 upon payment by the person requiring the same of 10 cents
25 per folio.

(2) If the county attorney, attorney general, or judge requires a copy in a criminal case, the reporter is entitled to his fees therefor, but he must furnish it. Upon furnishing it, he shall receive a certificate of the sum to which he is so entitled, which is a county district court charge and must be paid by the county treasurer upon the certificate like as other county district court charges.

(3) If the judge requires a copy in a civil case to assist him in rendering a decision, the reporter must furnish the same without charge therefor. In civil cases, all transcripts required by the county shall be furnished without cost.

(4) If it appears to the judge that a defendant in a criminal case is unable to pay for a copy, it shall be furnished to him and paid for by the county."

Section 10. Section 3-15-204, MCA, is amended to read:

"3-15-204. Duties of clerk as to jurors. (1) The clerk must keep a record of the attendance of jurors and compute the amount due for mileage. The distance from any point to the county seat must be determined by the shortest traveled route.

(2) The clerk must give to each juror, at the time he is excused from further service, a certificate taken from a book containing a stub with a like designation, signed by himself under seal the clerk, in which must be stated the

name and address of the juror, the number of days' attendance, the number of miles traveled, and the amount due. The clerk shall also give the juror a preaddressed and stamped envelope, supplied by the supreme court administrator. The juror shall mail the certificate to the supreme court administrator, who shall be responsible for the prompt payment of the amount due the juror.

~~(3) On presentation of such certificate to the county treasurer, the amount specified in the certificate must be paid out of the general fund.~~

~~(4) The clerk must make a detailed statement containing a list of the jurors and the amount of fees and mileage earned by each and file the same with the clerk of the board of county commissioners on the first day of every regular meeting of the board. No quarterly salary must be paid the clerk until such statement is filed. The board must examine such statement and see that it is correct."~~

Section 11. Section 7-6-2313, MCA, is amended to read:

"7-6-2313. Preparation of expenditure program and information on sources of revenue. (1) From those estimates the county clerk and recorder shall prepare a tabulation showing the complete expenditure program of the county for the current fiscal year and the sources of revenue by which it is to be financed.

(2) The tabulation shall set forth:

(a) the estimated receipts from all sources other than taxation for each office, department, service, or institution, ~~or district court program~~ funded by the county for the current fiscal year;

(b) the actual receipts for the last completed fiscal year;

(c) the surplus or unencumbered treasury balances at the close of that last fiscal year;

(d) the amount necessary to be raised by taxation;

(e) the estimated expenditure for each office, department, service, or institution, ~~or district court~~ program funded by the county for the current fiscal year;

(f) the actual expenditures for the last completed fiscal year;

(g) all contracts or other obligations which will affect the current year revenues;

(h) the total amount of emergency warrants issued during the preceding fiscal year, with the amount issued for each emergency and the amount issued against each fund."

Section 12. Section 7-6-2324, MCA, is amended to read:

"7-6-2324. Limitations on appropriations after budget adopted. (1) The estimates of expenditures, itemized and classified as required in 7-6-2313 and 7-6-2314 and as finally fixed and adopted by said board of county commissioners shall constitute the appropriations for the

county for the fiscal year intended to be covered thereby.

(2) Except as provided in 3-5-404, 7-6-2325, and 7-31-2101, the county commissioners and every other county official, ~~including judges of the district court,~~ shall be limited in the making of expenditures or incurring of liabilities to the amount of such detailed appropriations and classifications, respectively."

Section 13. Section 7-6-2426, MCA, is amended to read:

"7-6-2426. Enumeration of county charges. The following are county charges:

(1) charges incurred against the county by virtue of any provision of this title;

(2) one-half of the salary of the county attorney and all expenses necessarily incurred by him in criminal cases arising within the county;

(3) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons charged with criminal offenses;

(4) the board of prisoners confined in jail;

~~(5) the sums required by law to be paid to grand and trial jurors and witnesses in criminal cases;~~

~~(6);~~ (5) the accounts of the coroner of the county for such services as are provided by law;

~~(7);~~ (6) all charges and accounts for services rendered

1 by any justice of the peace for services in the examination
2 or trial of persons charged with crime as provided for by
3 law;

4 ~~(8)(1)~~ the necessary expenses incurred in the support
5 of county hospitals and poorfarms and in the support of the
6 indigent sick and the otherwise dependent poor whose support
7 is chargeable to the county;

8 ~~(9)(1)~~ the contingent expenses necessarily incurred
9 for the use and benefit of the county;

10 ~~(10)(2)~~ every other sum directed by law to be raised
11 for any county purpose under the direction of the board of
12 county commissioners or declared to be a county charge."

13 Section 14. Section 7-6-2427, MCA, is amended to read:

14 "7-6-2427. Special provisions for certain charges
15 related to criminal prosecutions. (1) Notwithstanding
16 7-6-2426, all costs of a criminal prosecution, including
17 attorneys' fees, of an offense committed in the state prison
18 are not charges against the county in which the state prison
19 is located. Such costs shall be paid by the department of
20 institutions.

21 (2) When a criminal action is removed before trial,
22 the costs ~~that are borne by a county~~ accruing upon such
23 removal and trial must be a charge against the county in
24 which the indictment was found or information filed."

25 Section 15. Section 25-1-202, MCA, is amended to read:

1 "25-1-202. Fee for court reporter. In every issue of
2 fact in civil actions tried before the court or jury, before
3 the trial commences, there must be paid into the hands of
4 the clerk of the court by each party to the suit the sum of
5 \$3, which sum must be paid by said clerk into the treasury
6 ~~of the county where the cause is tried~~ state general fund to
7 be applied upon the payment of the salary of the reporter.
8 The prevailing party may have the amount so paid by him
9 taxed in his bill of costs as proper disbursements."

10 Section 16. Section 40-3-125, MCA, is amended to read:

11 "40-3-125. Hearings. (1) The court shall fix a
12 reasonable time and place for hearing on the petition and
13 shall cause such notice of the filing of the petition and
14 the time and place of the hearing as it considers necessary
15 to be given to the respondents. The court may, when it
16 considers it necessary, issue a citation to any respondent
17 requiring him to appear at the time and place stated in the
18 citation and may require the attendance of witnesses as in
19 other civil cases.

20 (2) For the purpose of conducting hearings pursuant to
21 this chapter, the conciliation court may be convened at any
22 time and place within the district and the hearing may be
23 had in chambers or otherwise, except that the time and place
24 for hearing may not be different from the time and place
25 provided by law for the trial of civil actions if any party,

1 prior to the hearing, objects to any different time or
2 place.

3 (3) The hearing shall be conducted informally as a
4 conference or series of conferences to effect a
5 reconciliation of the spouses or an amicable adjustment or
6 settlement of the issues of the controversy. To facilitate
7 and promote the purposes of this chapter, the court may,
8 with the consent of both of the parties to the proceedings,
9 recommend or invoke the aid of physicians, psychiatrists,
10 other specialists or scientific experts, or the pastor or
11 director of any religious denomination to which the parties
12 may belong. ~~Such aid, however, shall not be at the expense~~
13 ~~of the court or of the county unless the county~~
14 ~~commissioners of the county specifically provide and~~
15 ~~authorize such aid."~~

16 Section 17. Section 41-5-704, MCA, is amended to read:

17 "41-5-704. Salary and expenses. (1) A chief probation
18 officer shall receive for his services a salary specified by
19 the judicial branch personnel plan established pursuant to
20 [section 3]. ~~court depending on the formal training and~~
21 ~~experience of each respective officer, but such salary may~~
22 ~~be no lower than \$17,000 a year and no higher than \$22,000 a~~
23 ~~year. The court shall, on or before July 1, 1982, and on or~~
24 ~~before July 1 of each year thereafter, adjust and fix the~~
25 ~~salary of the chief probation officer for a cost of living~~

1 ~~increase by adding to his annual salary on July 1, 1981, an~~
2 ~~increment of 70% of the last previous calendar year's~~
3 ~~consumer price index for all urban consumers, U.S.~~
4 ~~department of labor bureau of labor statistics, or other~~
5 ~~index that the bureau of business and economic research of~~
6 ~~the university of Montana may in the future recognize as the~~
7 ~~successor to that index. The cost of living increment for~~
8 ~~the fiscal year beginning July 1, 1982, and for each~~
9 ~~subsequent fiscal year shall be added to all cost of living~~
10 ~~increments granted for previous years. The salary of such~~
11 ~~officer shall be apportioned among and paid by each of the~~
12 ~~counties in which such officer is appointed to act in~~
13 ~~proportion to the assessed valuation of such counties for~~
14 ~~the same year, except where such officer is appointed for~~
15 ~~one county whereby such county shall pay the entire salary.~~

16 (2) For all authorized travel incident to his official
17 duties in connection with the investigation, supervision,
18 and transportation of youth, the probation officer shall, in
19 addition to his office salary, be reimbursed as provided in
20 2-18-501 through 2-18-503."

21 Section 18. Section 41-5-705, MCA, is amended to read:

22 "41-5-705. Deputy probation officers ~~salary~~. The
23 ~~judge having jurisdiction of juvenile matters chief~~
24 ~~probation officer~~ may also appoint such additional persons,
25 giving preference to persons having the qualifications

~~suggested for appointment as the chief probation officer, as
may be authorized in the judicial branch personnel plan
established pursuant to [section 3] to serve as deputy
probation officers as the judge deems necessary, their
salaries to be fixed by the judge. Such salaries shall not
exceed 90% or be less than 60% of the salary of the chief
probation officer."~~

NEW SECTION. Section 19. Saving clause. This act does
not affect rights and duties that matured, penalties that
were incurred, or proceedings that were initiated before the
effective date of this act.

NEW SECTION. Section 20. Repealer. Sections 3-5-404,
3-5-510, 3-5-512, 3-5-602, 7-6-2351, 7-6-2352, 7-6-2511, and
40-3-114, MCA, are repealed.

NEW SECTION. Section 21. Effective date. This act is
effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 070-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 8, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 120 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

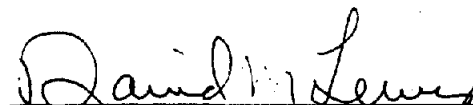
House Bill 120 is an act to provide for:

- a) state funding of District Court expenses including District Court staff, Court Reporters and their staff and Juvenile Probation Officers and their staff;
- b) a Judicial Branch personnel system and conditions of employment for District Court Staff;
- c) budgeting control and the administration of District Courts under the Supreme Court Administrator's office;
- d) the continuation of courtroom and space responsibility at the county level;
- e) the establishment of a statewide property tax levy for the support of District Court costs; and
- f) an effective date of July 1, 1983.

ASSUMPTIONS:

- 1) As with all other states that have gone to unified state funded court systems, the development of a unified court personnel plan will experience a minimum 10% increase in the system the year of implementation (FY 84).
- 2) District Court Clerks, as elected officials, are included as part of District Court staff.
- 3) All operational costs including personnel for District Courts will increase an average of 7% per year from the FY 83 base year budgets.
- 4) The 6-mill statewide levy will be imposed for both years of the 84-85 biennium.
- 5) Six FTE will be added to the Court Administration office for administration of the unified court system.
- 6) Counties' district court levies in FY 82-83 will raise \$7,155,889. (Calculated from actual levies and taxable values).
- 7) In FY 83, counties will spend an additional \$4.0 million in district court costs. (Information collected by the Northern Association of Counties).
- 8) There will be a 5% increase in taxable value between FY 84 and FY 85.

Continued



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-20-83

FISCAL IMPACT:

STATE GENERAL FUND

	<u>FY 84</u>		<u>FY 85</u>	
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Current Law</u>	<u>Proposed Law</u>
Revenue From 6-Mill Levy	\$ 0	\$13,226,953	\$ 0	\$13,888,301
Expenditures For District Courts				
Personal Services	\$ 1,802,479	\$ 9,779,643	\$ 1,928,653	\$10,462,588
Operating Expenses	115,372	4,924,195	123,448	5,213,759
Capital Outlay	0	203,756	0	183,779
Grants to Counties	1,750,000	0	1,750,000	0
Total Expense	<u>\$ 3,667,851</u>	<u>\$14,907,594</u>	<u>\$ 3,802,101</u>	<u>\$15,860,126</u>
General Fund Expenditure In Excess of Revenue from Levy	<u>\$ 3,667,851</u>	<u>\$ 1,680,641</u>	<u>\$ 3,802,101</u>	<u>\$ 1,976,825</u>

COUNTY FUNDS

	<u>(Millions)</u>	
	<u>FY 84</u>	<u>FY 85</u>
Collections From District Court Levy		
Current Law	\$ 7.156	\$ 7.514
Proposed Law	13.227	13.888
Increased Property Tax	<u>\$ 6.071</u>	<u>\$ 6.374</u>
Expenditures For District Court Costs From Other County Revenues		
Current Law	\$ 4.0	\$ 4.0
Proposed Law	0	0
Decreased Expenditures	<u>\$(4.0)</u>	<u>\$(4.0)</u>

Two counties' district court levies would decrease under the proposed bill.

<u>County</u>	<u>1982-83 Levy</u>	<u>Tax Reduction Under 6-Mill Levy</u>
Broadwater	8.0	\$ 14,211
Silver Bow	10.24	188,346

Property taxes from the district court levies would increase in the twelve counties that do not currently have a separate district district court levy and in the 35 counties that levy fewer than 6 mills.:

Examples:

<u>County</u>	<u>1982-83 Levy</u>	<u>Tax Increase Under Proposal</u>
Rosebud	0	\$ 980,413
Richland	0	866,174
Big Horn	0	723,380