

SENATE BILL NO. 440

Introduced: 02/16/83

Referred to Committee on Judiciary: 02/16/83

Hearing: 2/18/83

Died in Committee.

1 *Senate* BILL NO. *440*
2 INTRODUCED BY *Nordest*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A UNIFIED
5 COURT SYSTEM; PROVIDING FOR AN ADMINISTRATIVE STRUCTURE
6 HEADED BY THE CHIEF JUSTICE OF THE SUPREME COURT; DEFINING
7 DISTRICT COURTS, COURT REPORTERS, JUVENILE PROBATION, AND
8 INDIGENT DEFENSE AS PART OF THE JUDICIARY; PROVIDING FOR AN
9 INCREASE IN EACH PERSONAL INCOME TAX BRACKET OF 0.5 PERCENT
10 TO FUND THE COURT SYSTEM; PROVIDING FOR STATE FUNDING OF THE
11 COURT SYSTEM EFFECTIVE JULY 1, 1985; PROVIDING FOR
12 IMPLEMENTATION OF THE ADMINISTRATIVE STRUCTURE ON JULY 1,
13 1983, FUNDED FROM A SURCHARGE ON CERTAIN FILING FEES;
14 AMENDING SECTIONS 3-1-703, 3-5-511, 3-5-601, 3-5-604,
15 3-15-204, 3-15-205, 7-6-2313, 7-6-2324, 7-6-2426, 7-6-2427,
16 15-30-103, 25-1-201, 40-3-125, 41-5-701, 41-5-702, 41-5-705,
17 46-8-114, AND 46-8-201, MCA; REPEALING SECTIONS 3-1-701,
18 3-1-702, 3-5-404, 3-5-510, 3-5-512, 3-5-602, 7-6-2351,
19 7-6-2352, 7-6-2511, 25-1-202, 40-3-114, 41-5-704, AND
20 46-8-202, MCA; AND PROVIDING EFFECTIVE DATES AND A
21 TERMINATION DATE."
22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
24 NEW SECTION. Section 1. Purpose. It is the purpose of
25 [sections 1 through 6 and 9 through 14] to provide for a

1 unified court system in the state.
2 NEW SECTION. Section 2. Definitions. As used in
3 [sections 1 through 6 and 9 through 14], the following
4 definitions apply:
5 (1) "Employee" means a person holding an appointive
6 office in the judicial system.
7 (2) "Judicial system" or "judiciary" means the
8 judicial branch of state government established in Article
9 VII of the Montana constitution and includes the Montana
10 supreme court, district courts, water courts, and the office
11 of courts administration and the services and functions
12 provided by such office but does not include clerks of the
13 district court and their staff.
14 NEW SECTION. Section 3. Chief justice as head of
15 judicial administration. (1) The chief justice of the
16 Montana supreme court is the administrative head of the
17 judicial system. He shall appoint a court administrator and
18 other needed personnel to assist him in his administrative
19 tasks.
20 (2) A majority of the justices of the supreme court
21 may review, countermand, overrule, modify, or amend any
22 administrative decision of the chief justice.
23 NEW SECTION. Section 4. Office of courts
24 administration. (1) There is an office of courts
25 administration. The director of the office is the supreme

1 court administrator. The supreme court administrator is
2 appointed by the chief justice and serves at the pleasure of
3 the chief justice.

4 (2) The supreme court administrator shall appoint one
5 deputy courts administrator for each judicial district. A
6 deputy courts administrator works under the direction of the
7 supreme court administrator and holds his position at the
8 pleasure of the supreme court administrator.

9 (3) The chief justice may authorize positions of
10 employment in the office of courts administration. Such
11 positions must be covered by the personnel plan established
12 under [section 6].

13 **NEW SECTION.** Section 5. Duties of the office of
14 courts administration. The office of courts administration
15 shall:

16 (1) for the supreme court:

17 (a) establish a personnel plan for all employees of
18 the judicial branch as provided in [section 6];

19 (b) prepare the judicial system budget as provided in
20 [section 10];

21 (c) assign cases to justices on a random basis,
22 subject to rules approved by the supreme court;

23 (d) collect, analyze, and report statistical
24 information relating to the business of the judiciary;

25 (e) perform fiscal and purchasing duties as required

1 by law or the chief justice; and

2 (f) perform any other duty required by law or the
3 chief justice; and

4 (2) for district courts:

5 (a) prepare and administer fiscal and budgetary duties
6 as required by [section 10];

7 (b) administer ancillary judicial services as provided
8 in [section 12];

9 (c) assign cases to judges on a basis approved by the
10 supreme court;

11 (d) collect information on the business of the
12 district; and

13 (e) perform any other duty required by law, the chief
14 justice, or the supreme court administrator.

15 **NEW SECTION.** Section 6. Personnel -- duties --
16 qualifications -- conditions of employment. (1) The supreme
17 court administrator, with the concurrence of the chief
18 justice, shall by rule establish a personnel classification
19 plan for all employees. The plan shall include:

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

22 (b) the qualifications for each position or class of
23 positions, including education, experience, special skills,
24 and legal knowledge;

25 (c) the procedures and guidelines for the appointment.

1 demotion, and discharge of employees; and

2 (d) the procedures and regulations governing the

3 transfer of personnel.

4 (2) Employees of the judicial branch are entitled to

5 mileage and reimbursement for travel expenses at the same

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

7 employees.

8 (3) To the end that all state employees be treated

9 generally in a similar manner, the supreme court

10 administrator in promulgating rules as set forth in this

11 section shall take into consideration the compensation and

12 classification plans and other conditions of employment

13 applicable to employees of the executive branch.

14 Section 7. Section 25-1-201, MCA, is amended to read:

15 "25-1-201. Fees of clerk of district court. (1) The

16 clerk of the district court shall collect the following

17 fees:

18 (a) at the commencement of each action or proceeding,

19 from the plaintiff or petitioner, \$20; and for filing a

20 complaint in intervention, from the intervenor, \$20;

21 (b) from each defendant or respondent, on his

22 appearance, \$10;

23 (c) on the entry of judgment, from the prevailing

24 party, \$10;

25 (d) for preparing copies of papers on file in his

1 office, 25 cents per page;

2 (e) for each certificate, with seal, 50 cents;

3 (f) for oath and jurat, with seal, 50 cents;

4 (g) for administering oath, 25 cents;

5 (h) for taking depositions, per folio, 20 cents;

6 (i) for filing and docketing a transcript of judgment

7 or abstract of judgment from all other courts, \$5;

8 (j) for issuing an execution or order of sale on a

9 foreclosure of a lien, \$2;

10 (k) for transmission of records or files or transfer

11 of a case to another court, \$5;

12 (l) for filing and entering papers received by

13 transfer from other courts, \$10;

14 (m) for issuing a marriage license, \$30;

15 (n) on the filing of an application for informal,

16 formal, or supervised probate or for the appointment of a

17 personal representative or the filing of a petition for the

18 appointment of a guardian or conservator, from the applicant

19 or petitioner, \$35, which includes the fee for filing a will

20 for probate.

21 (2) Except as provided in subsection (3), 40% of all

22 fees collected by the clerk of the district court shall be

23 deposited in and credited to the general fund of the county.

24 The remaining portion of the fees shall be remitted to the

25 state to be deposited as provided in 19-5-404.

(3) In the case of a fee collected for issuing a marriage license, \$14 must be deposited in and credited to the state general fund, \$6.40 must be deposited in and credited to the county general fund, and \$9.60 must be remitted to the state to be deposited as provided in 19-5-404.

~~(4) In addition to and together with each fee required in subsections (1)(a) through (1)(c), the clerk shall collect a surcharge in an amount set by the supreme court for the funding of [sections 1 through 6]. The clerk of the district court shall transmit the surcharge for deposit in the state judiciary revolving fund. The surcharge is not subject to the provisions of 19-5-404.~~

NEW SECTION. Section 8. State judiciary proprietary enterprise fund -- creation -- appropriation. (1) There is a judiciary revolving fund in the state treasury established for the purpose of receiving fees collected under the provisions of 25-1-201, to be disbursed to the supreme court for operation of the office of courts administration established in [section 4].

(2) All money in the fund established in subsection (1) is appropriated to the supreme court for the operation of the office of courts administration.

NEW SECTION. Section 9. State assumption of costs of judiciary. After June 30, 1985, the operations, salaries,

and other expenses of the judiciary are the financial responsibility of the state.

NEW SECTION. Section 10. Judicial system budget. (1) The supreme court administrator shall prescribe procedures governing:

(a) preparation of budget requests by deputy courts administrators for district courts and ancillary judicial services;

(b) disbursement of funds appropriated to the judicial system;

(c) the purchase of forms, supplies, equipment, and other items authorized in the judicial system budget; and

(d) any other matter relating to fiscal administration.

(2) Subject to the approval of the supreme court, the supreme court administrator shall:

(a) prepare a biennial budget, to be called the judicial system operating budget, for the supreme court, all district courts, and any other budgetary entity of the judicial system; and

(b) prepare and submit a biennial budget request as provided in Title 17, chapter 7, part 1.

(3) The supreme court administrator shall consult with the department of administration in preparation of procedures pertaining to budgetary and fiscal practices,

1 forms, and the disbursement of funds.

2 **NEW SECTION.** Section 11. District court facilities.

3 (1) Each county governing body shall provide and maintain
4 adequate courtrooms, offices, and other court facilities,
5 including janitorial services, for district courts.

6 (2) The office of courts administration may enter into
7 interlocal agreements with local governments for
8 administrative and other services and for equipment use.

9 **NEW SECTION.** Section 12. Ancillary judicial services

10 -- court reporters, indigent defense, juvenile probation.

11 (1) The following ancillary judicial services are within the
12 office of courts administration:

13 (a) court reporting as provided in Title 3, chapter 5,
14 part 6;

15 (b) juvenile probation as provided in Title 41,
16 chapter 5, part 7; and

17 (c) defense of indigent defendants as provided in
18 [section 13].

19 (2) The office of courts administration shall operate
20 the services set forth in subsection (1) as provided by law.

21 **NEW SECTION.** Section 13. Defense of indigent

22 defendants. (1) The chief justice, with the concurrence of
23 the supreme court, shall by rule establish qualifications,
24 rates and methods of pay, modes of appointment, and any
25 other matter he considers necessary for the provision of

1 defense for indigent defendants appearing in district courts
2 within the state. The rules shall provide for the
3 administration of indigent defense by the office of courts
4 administration.

5 (2) The rules may provide differing administrative
6 procedures for different judicial districts and may provide
7 for different procedures within a judicial district. The
8 money for the operation of indigent defense must be
9 allocated by the supreme court administrator to each
10 judicial district based upon the judicial branch operating
11 budget appropriation.

12 **NEW SECTION.** Section 14. Transfer of supplies and
13 equipment -- protection for present personnel. (1) On July
14 1, 1985, all supplies and equipment assigned or belonging to
15 district courts must be transferred to the judicial branch
16 of state government.

17 (2) All full-time employees, as defined in [section
18 2], who are employed on July 1, 1985, are entitled to
19 continue in their positions of employment unless discharged
20 for cause. No such full-time employee may receive a decrease
21 in compensation because of state funding of the judicial
22 branch.

23 Section 15. Section 3-1-703, MCA, is amended to read:

24 *3-1-703. Cooperation of court officers. All court
25 officers, including clerks of district courts, shall comply

1 with requests made by the court--administrator office of
2 courts__administration for information and statistical and
3 financial data bearing on the business transacted by the
4 courts."

5 Section 16. Section 3-5-511, MCA, is amended to read:

6 "3-5-511. Procedure ~~in---reference---to---witnesses~~
7 ~~certificates for payment of witnesses.~~ (1) The witnesses in
8 criminal actions must report their presence to the clerk the
9 first day they attend under the subpoena.

10 (2) At the time any witness is excused from further
11 attendance, the clerk must give to--each ~~the~~ witness a
12 certificate ~~taken from a book containing a stub with like~~
13 ~~designations,~~ signed by the clerk ~~under seal,~~ in which must
14 be stated the name of the witness, the number of days in
15 attendance, the number of miles traveled, and the amount
16 due.

17 (3) On presentation of such certificate to the county
18 treasurer ~~deputy courts administrator,~~ the amount specified
19 in the certificate must be paid ~~out of the general fund to~~
20 ~~the witness."~~

21 Section 17. Section 3-5-601, MCA, is amended to read:

22 "3-5-601. Appointment -- oath. ~~The judge of a district~~
23 ~~court Subject to the provisions of [section 6], the office~~
24 ~~of courts__administration~~ may appoint a reporter for such
25 ~~each district court who is an officer of the court and holds~~

1 his office during the pleasure of the judge appointing--him.
2 He must subscribe the constitutional oath of office and file
3 the same with the clerk of the court. In districts where
4 there are two or more judges, ~~each--judge the office of~~
5 ~~courts__administration~~ may appoint a reporter ~~for each~~
6 ~~judge."~~

7 Section 18. Section 3-5-604, MCA, is amended to read:

8 "3-5-604. Copies of proceedings. (1) Each reporter
9 must furnish, upon request, with all reasonable diligence,
10 to the defendant in a criminal case or a party or his
11 attorney in a civil case in which he has attended the trial
12 or hearing a copy, written out at length or in narrative
13 form from his stenographic notes, of the testimony and
14 proceedings upon the trial or hearing or a part thereof,
15 upon payment by the person requiring the same of 10 cents
16 per folio.

17 (2) If the county attorney, attorney general, or judge
18 requires a copy in a criminal case, the reporter is entitled
19 to his fees therefor, but he must furnish it. Upon
20 furnishing it, he shall receive ~~a certificate of~~ the sum to
21 which he is so entitled, which ~~is a county charge and must~~
22 ~~be paid by the county treasurer upon the certificate like~~
23 ~~other county charges~~ office of courts__administration.

24 (3) If the judge requires a copy in a civil case to
25 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 costs~~

(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 state."

Section 19. 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 of the juror, the number of days' attendance, the
 number of miles traveled, and the amount due.

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

~~(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 20. Section 3-15-205, MCA, is amended to read:

"3-15-205. Costs of impaneling jury after settlement
 reached. In any civil action before a court of record in
 which the parties substantially agree to a settlement of the
 issues prior to impanelment of the jury and either settle
 the action or stipulate to a continuance, and fail or refuse
 to inform the court or clerk of court of such settlement or
 request a continuance and a jury is impaneled, the court
 may, upon hearing, assess the reasonable public expenses of
 impaneling the jury, including jury fees and mileage
 expenses paid or owing under 3-15-201 and such other costs
 as may have been incurred by the court, against any party.
 Costs collected under this section shall be deposited in the
 county state general fund."

Section 21. 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 22. 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 23. 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;~~

1 ~~7-6-2426~~ all charges and accounts for services rendered
2 by any justice of the peace for services in the examination
3 or trial of persons charged with crime as provided for by
4 law;

5 ~~7-6-2427~~ the necessary expenses incurred in the support
6 of county hospitals and poorfarms and in the support of the
7 indigent sick and the otherwise dependent poor whose support
8 is chargeable to the county;

9 ~~7-6-2428~~ the contingent expenses necessarily incurred
10 for the use and benefit of the county;

11 ~~7-6-2429~~ every other sum directed by law to be raised
12 for any county purpose under the direction of the board of
13 county commissioners or declared to be a county charge."

14 Section 24. Section 7-6-2427, MCA, is amended to read:

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

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

1 Section 25. Section 15-30-103, MCA, is amended to
2 read:

3 "15-30-103. Rate of tax. (1) There shall be levied,
4 collected, and paid for each taxable year commencing on or
5 after December 31, 1968, upon the taxable income of every
6 taxpayer subject to this tax, after making allowance for
7 exemptions and deductions as hereinafter provided, a tax on
8 the following brackets of taxable income as adjusted under
9 subsection (2) at the following rates:

10 (a) on the first \$1,000 of taxable income or any part
11 thereof, ~~2%~~ 2.5%;

12 (b) on the next \$1,000 of taxable income or any part
13 thereof, ~~3%~~ 3.5%;

14 (c) on the next \$2,000 of taxable income or any part
15 thereof, ~~4%~~ 4.5%;

16 (d) on the next \$2,000 of taxable income or any part
17 thereof, ~~5%~~ 5.5%;

18 (e) on the next \$2,000 of taxable income or any part
19 thereof, ~~6%~~ 6.5%;

20 (f) on the next \$2,000 of taxable income or any part
21 thereof, ~~7%~~ 7.5%;

22 (g) on the next \$4,000 of taxable income or any part
23 thereof, ~~8%~~ 8.5%;

24 (h) on the next \$6,000 of taxable income or any part
25 thereof, ~~9%~~ 9.5%;

1 (i) on the next \$15,000 of taxable income or any part
2 thereof, ~~±0% 10.5%~~;

3 (j) on any taxable income in excess of \$35,000 or any
4 part thereof, ~~±1% 11.5%~~.

5 (2) By November 1 of each year, the department shall
6 multiply the bracket amount contained in subsection (1) by
7 the inflation factor for that taxable year and round the
8 cumulative brackets to the nearest \$100. The resulting
9 adjusted brackets are effective for that taxable year and
10 shall be used as the basis for imposition of the tax in
11 subsection (1) of this section."

12 Section 26. Section 40-3-125, MCA, is amended to read:

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

22 (2) For the purpose of conducting hearings pursuant to
23 this chapter, the conciliation court may be convened at any
24 time and place within the district and the hearing may be
25 had in chambers or otherwise, except that the time and place

1 for hearing may not be different from the time and place
2 provided by law for the trial of civil actions if any party,
3 prior to the hearing, objects to any different time or
4 place.

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

18 Section 27. Section 41-5-701, MCA, is amended to read:

19 "41-5-701. Appointment of probation officers. The
20 ~~youth court judge of each judicial district~~ office of courts
21 administration shall appoint such necessary probation
22 officers as are required to carry out the purpose and intent
23 of this chapter. ~~He shall~~ The office of courts
24 administration may appoint such part-time probation officers
25 as shall be required. The qualifications for part-time

1 probation officers must approximate those required for
 2 probation officers insofar as possible. A chief probation
 3 officer must be appointed ~~by the judge~~ to supervise the
 4 youth division offices in the judicial district. The judge
 5 ~~office of courts administration~~ shall also insure that the
 6 youth division offices are staffed with necessary office
 7 personnel and that the offices are properly equipped to
 8 effectively carry out the purpose and intent of this
 9 chapter. No person while serving as a law enforcement
 10 officer may be appointed or perform the duties of a
 11 full-time or part-time probation officer."

12 Section 28. Section 41-5-702, MCA, is amended to read:
 13 "41-5-702. Qualifications of probation officers. (1)
 14 Any person appointed as a chief probation officer must have
 15 the following qualifications:

- 16 (a) a master's degree in the behavioral sciences;
 17 (b) a bachelor's degree from an accredited college or
 18 university in the behavioral sciences and at least 1 year's
 19 experience in work of a nature related to the duties of a
 20 probation officer as set forth in 41-5-703; or
 21 (c) a bachelor's degree in any field and at least 3
 22 years' experience in work related to the duties of a
 23 probation officer as set forth in 41-5-703.

24 (2) The judge ~~office of courts administration~~ may
 25 appoint any reputable person as a probation officer who has

1 had experience in work of a nature related to the duties of
 2 a chief probation officer, provided preference shall be
 3 given to persons with the qualifications set forth in
 4 subsection (1)."

5 Section 29. Section 41-5-705, MCA, is amended to read:

6 "41-5-705. Deputy probation officers -- salary. The
 7 ~~judge having jurisdiction of juvenile matters~~ ~~office of~~
 8 ~~courts administration~~ may also appoint such additional
 9 persons, giving preference to persons having the
 10 qualifications suggested for appointment as the chief
 11 probation officer, to serve as deputy probation officers ~~as~~
 12 ~~the judge deems necessary their salaries to be fixed by the~~
 13 ~~judge. Such salaries shall not exceed 90% or be less than~~
 14 ~~60% of the salary of the chief probation officers."~~

15 Section 30. Section 46-8-114, MCA, is amended to read:

16 "46-8-114. Time and method of payment of costs. When a
 17 defendant is sentenced to pay the costs of court-appointed
 18 counsel, the court may order payment to be made within a
 19 specified period of time or in specified installments. Such
 20 payments shall be made to the ~~clerk of the district court~~
 21 ~~deputy courts administrator to be deposited in the state~~
 22 ~~general fund. The clerk of the district court shall disburse~~
 23 ~~the payments to the county or state agency responsible for~~
 24 ~~the expenses of court-appointed counsel as provided for in~~
 25 ~~46-8-201."~~

Section 31. Section 46-8-201, MCA, is amended to read:

"46-8-201. Remuneration of appointed counsel. (1)

Whenever in a criminal proceeding an attorney represents or defends any person by order of the court on the ground that the person is financially unable to employ counsel, the attorney shall be paid for his services such sum as a ~~district--court--or--justice--of--the--state--supreme--court~~ certifies to be a reasonable compensation therefor and shall be reimbursed for reasonable costs incurred in the criminal proceeding established by rule under [section 13].

(2) The expense of implementing subsection (1) is chargeable to the county in which the proceeding arose state, except that:

(a) in proceedings solely involving the violation of a city local ordinance or resolution or state statute prosecuted in a municipal--or--city justice's court, the expense is chargeable to the city or town local government unit in which the proceeding arose; and

(b) when there has been an arrest by agents of the department of fish, wildlife, and parks or agents of the department of justice, the expense must be borne by the state agency causing the arrest."

NEW SECTION. Section 32. Phasing of state assumption of costs of judiciary. (1) On July 1, 1983, the provisions of [sections 1 through 8] shall be operational. The office

of courts administration shall notify every practicing attorney in the state and every clerk of the district court in the state of the filing fee surcharge required by 25-1-201.

(2) Not later than January 10, 1985, the chief justice shall report to the 49th legislature on the operation of [sections 1 through 8] and have prepared, if needed, any suggested legislation needed to further implement the purposes of [this act].

(3) On July 1, 1985, all provisions of [this act], except [sections 7 and 8], which expire on that date, shall be operational.

NEW SECTION. Section 33. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 34. Repealer. Sections 3-1-701, 3-1-702, 3-5-404, 3-5-510, 3-5-512, 3-5-602, 7-6-2351, 7-6-2352, 7-6-2511, 25-1-202, 40-3-114, 41-5-704, and 46-8-202, MCA, are repealed.

NEW SECTION. Section 35. Effective dates. (1) Sections 1 through 8, 32, 33, and this section are effective July 1, 1983.

LC 2406/01

1 (2) Sections 9 through 31, 34, and 36 are effective
2 July 1, 1985.

3 ~~NEW SECTION.~~ Section 36. Termination date. Sections 7
4 and 3 terminate July 1, 1985.

-End-

STATE OF MONTANA

REQUEST NO. 468-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 440 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. 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:

Senate Bill 440 establishes a unified court system; provides for an administrative structure headed by the Chief Justice of the Supreme Court; defines district courts, court reporters, juvenile probation, and indigent defense as part of the judiciary; provides for an increase in each personal income tax bracket of 0.5 percent to fund the court system; provides for state funding of the court system effective July 1, 1985; provides for implementation of the administrative structure on July 1, 1983, funded from a surcharge on certain filing fees; and provides effective dates and a termination date.

FISCAL IMPACT:

Adoption of the proposed law would have no fiscal effect during the 1984-1985 biennium, since it would not be effective until FY 86.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Based upon current figures, it is estimated that the costs to operate all functions of the district courts except for the clerk of courts office would be \$12,377,252 in FY 86, when this statute would be in effect. In addition to those costs would be the salaries for the 19 district court administrators. Assuming these salaries would range between grades 16-18 on the executive branch salary scale, those costs would be \$522,546 for FY 86. There would also be an increase in the staff of the state court administrator of 4 professionals at a salary range of from grades 15-17 (\$103,070) and 2 clericals at a salary range of grades 8-10 (\$30,121) Total costs for FY 86 would be approximately \$13,032,984.

The cost of setting up the system, based on estimates by the National Center for State Courts would be approximately \$500,000 for FY 84 and 85. District court fees now generate approximately \$800,000, 40% of which goes to the counties and the remainder to the state. The court fees would have to have a temporary surcharge attached to generate the estimated start up fees.

If the proposal were in effect, individual income tax collections in the indicated years would have been increased as follows:

FY 82
\$ 13.566M

FY 83
\$ 14.408M

FY 84
\$ 15.701M

FY 85
\$ 16.553M

David M. Lewis
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-22-83

Continued