

HOUSE BILL NO. 767

2/11 Introduced
2/11 Referred to Judiciary
2/13 Fiscal Note Requested
2/20 Hearing
2/25 Fiscal Note Received
Died in Committee

1 HOUSE BILL NO. 767
 2 INTRODUCED BY Walton
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE FUNDING
 5 FOR DISTRICT COURT EXPENSES; REQUIRING THE SUPREME COURT TO
 6 ESTABLISH A PERSONNEL PLAN FOR CERTAIN DISTRICT COURT
 7 EMPLOYEES; PLACING BUDGETING CONTROL FOR THE DISTRICT COURTS
 8 IN THE SUPREME COURT; CONTINUING THE COUNTIES'
 9 RESPONSIBILITY FOR PROVIDING COURTROOMS AND OFFICES FOR THE
 10 DISTRICT COURTS; REQUIRING THE COUNTIES TO LEVY A DISTRICT
 11 COURT TAX; INCREASING THE FEE IN LIEU OF TAX ON LIGHT
 12 VEHICLES; AMENDING SECTIONS 3-5-511, 3-5-604, 3-15-204,
 13 3-15-205, 7-6-2313, 7-6-2324, 7-6-2426, 7-6-2427, 7-6-2511,
 14 25-1-202, 40-3-125, 41-5-704, 41-5-705, 46-8-114, 46-8-201,
 15 46-8-202, 46-11-319, 46-14-202, 46-15-104, 46-18-235,
 16 61-3-509, AND 61-3-533, MCA; REPEALING SECTIONS 3-5-404,
 17 3-5-510, 3-5-512, 3-5-602, 7-6-2351, 7-6-2352, AND 40-3-114,
 18 MCA; AND PROVIDING AN EFFECTIVE DATE."
 19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 21 NEW SECTION. Section 1. Definitions. Unless the
 22 context clearly indicates otherwise, as used in [sections 1
 23 through 6], the following definitions apply:
 24 (1) "District court" means a district court of the
 25 state and its employees.

1 (2) "Employees" means appointed staff of the district
 2 court, court reporters and their staff, if any, and juvenile
 3 probation officers and deputy juvenile probation officers
 4 and their staff, if any. The term does not include clerks of
 5 district court or their staff.
 6 NEW SECTION. Section 2. Funding of district courts.
 7 The operations, salaries, and other expenses of all district
 8 courts within the state are the financial responsibility of
 9 the state.
 10 NEW SECTION. Section 3. District court personnel.
 11 (1) Pursuant to Article VII, section 2, of the Montana
 12 constitution, the supreme court shall by rule establish a
 13 personnel plan for employees. The plan must include:
 14 (a) a basic compensation plan of pay ranges to which
 15 classes of positions are assigned and may be reassigned;
 16 (b) the qualifications for each position or class of
 17 positions, including education, experience, special skills,
 18 and legal knowledge;
 19 (c) the procedures and guidelines for appointment,
 20 promotion, demotion, transfer, and discharge of employees,
 21 except that:
 22 (i) the court reporter, juvenile probation officer,
 23 and district court staff must be appointed, promoted,
 24 demoted, transferred, discharged, and otherwise supervised
 25 by the appropriate district court judge or judges; and

1 (ii) the employees of the juvenile probation office
2 must be appointed, promoted, demoted, transferred,
3 discharged, and otherwise supervised by the juvenile
4 probation officer.

5 (2) Employees are entitled to mileage and
6 reimbursement for travel expenses at the same rates and
7 computed in the same manner as for all other state
8 employees.

9 (3) To the end that all state employees are treated
10 generally in a similar manner, the supreme court in
11 promulgating rules under this section shall consider the
12 compensation and classification plans and other conditions
13 of employment applicable to employees of the executive
14 branch.

15 (4) After July 1, 1985, no new employment positions
16 within the district courts may be established without
17 approval of the supreme court. If the supreme court approves
18 establishment of a new employment position, it must be
19 classified in accordance with the provisions of subsection
20 (1).

21 NEW SECTION. Section 4. Judicial branch budget. (1)
22 Subject to the approval of the chief justice, the supreme
23 court administrator shall prescribe procedures governing:

- 24 (a) preparation of budget requests by district courts;
25 (b) disbursement of funds appropriated to the judicial

1 branch;

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

4 (d) any other matter relating to fiscal
5 administration.

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

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

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

14 (3) The supreme court administrator shall consult with
15 the department of administration in preparation of
16 procedures pertaining to budgetary and fiscal practice,
17 forms, and the disbursement of funds.

18 NEW SECTION. Section 5. District court facilities.
19 (1) Each county governing body shall provide and maintain
20 adequate courtrooms, offices, and other court facilities,
21 including janitorial services, for district courts.

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

25 NEW SECTION. Section 6. Transfer of supplies and

1 equipment -- protection for present personnel. (1) On July
2 1, 1985, all supplies and equipment assigned or belonging to
3 district courts must be transferred to the judicial branch
4 of state government.

5 (2) All full-time employees who are employed on July
6 1, 1985, are entitled to continue in their positions of
7 employment unless discharged for cause. No such full-time
8 employee may receive a decrease in compensation because of
9 state funding of the district courts.

10 Section 7. Section 7-6-2511, MCA, is amended to read:

11 "7-6-2511. County levy for district court expenses.

12 (1) (a) Effective July 1, 1985, The the governing body of
13 each county may shall each year levy and collect a tax on
14 the taxable property of the county in the amount provided
15 for in subsection (1)(b) or (1)(c) for all the support of
16 the district court costs, except those listed in 3-5-211,
17 3-5-213, and 3-5-215. The tax may not exceed 6 mills in the
18 first and second class counties, 5 mills in third and
19 fourth class counties, and 4 mills in fifth, sixth, and
20 seventh class counties. These expenses include but are not
21 limited to salary and benefits for court clerks, court
22 reporters, youth probation officers, and other employees of
23 the district court courts.

24 (b) If a county levied a separate tax for its district
25 court for fiscal year 1984, the county shall levy the same

1 number of mills for fiscal year 1986 and for each fiscal
2 year thereafter.

3 (c) If a county did not levy a separate tax for its
4 district court for fiscal year 1984, the county shall
5 convert its fiscal year 1984 expenditure for its district
6 court into a millage amount based on its fiscal year 1984
7 taxable valuation and levy this millage amount for fiscal
8 year 1986 and each fiscal year thereafter.

9 (2) Proceeds from the tax provided for in subsection
10 (1) must be deposited into the state general fund."

11 Section 8. Section 61-3-509, MCA, is amended to read:

12 "61-3-509. Disposition of taxes and fees in lieu of
13 tax. (1) Except as provided in subsection (2), The the
14 county treasurer shall credit all taxes on motor vehicles,
15 light vehicle license fees provided for in 61-3-532, and
16 fees in lieu of tax on motor homes and travel trailers
17 collected to a motor vehicle suspense fund, and at some time
18 between March 1 and March 10 of each year and every 60 days
19 thereafter, the county treasurer shall distribute the money
20 in the motor vehicle suspense fund in the relative
21 proportions required by the levies for state, county, school
22 district, and municipal purposes in the same manner as
23 personal property taxes are distributed.

24 (2) The county treasurer shall credit \$10 from each
25 light vehicle license fee to a separate suspense account and

1 shall forward the amount in the account to the state
 2 treasurer at the time the county treasurer distributes the
 3 motor vehicle suspense fund. The state treasurer shall
 4 credit amounts received under this subsection to the general
 5 fund."

6 Section 9. Section 61-3-533, MCA, is amended to read:

7 "61-3-533. Schedule of fees for automobiles and light
 8 trucks. (1) Except as provided in subsection (3), the
 9 following schedule, based on vehicle age and weight, is used
 10 to determine the fee imposed by 61-3-532:

11 <u>Vehicle Age</u>	12 <u>Weight</u>	
	13 <u>2,850 pounds</u> <u>or less</u>	14 <u>More than</u> <u>2,850 pounds</u>
15 Less than or equal to 4 years	16 \$70 <u>\$80</u>	17 \$90 <u>\$100</u>
18 More than 4 years and less than 8 years	19 40 <u>50</u>	20 50 <u>60</u>
21 8 years old and over	22 10 <u>20</u>	23 15 <u>25</u>

24 (2) (a) The fee for a light vehicle is determined by:

25 (i) multiplying the appropriate dollar amount from the
 table in subsection (1) by the ratio of the PCE for the
 second quarter of the year prior to the year of licensing to
 the PCE for the second quarter of 1981; and

(ii) rounding the product thus obtained to the nearest
 whole dollar amount.

1 (b) "PCE" means the implicit price deflator for
 2 personal consumption expenditures as published quarterly in
 3 the Survey of Current Business by the bureau of economic
 4 analysis of the United States department of commerce.

5 (3) The light vehicle license fee for disabled
 6 veterans qualifying under the provisions of 10-2-301 through
 7 10-2-304 is \$5 \$15."

8 Section 10. Section 3-5-511, MCA, is amended to read:

9 "3-5-511. Procedure ~~in---reference---to---witnesses+~~
 10 ~~warrants for payment of witnesses.~~ (1) The witnesses in
 11 criminal actions must report their presence to the clerk the
 12 first day they attend under the subpoena.

13 (2) At the time any witness is excused from further
 14 attendance, the clerk must give to the witness a ~~warrant~~
 15 ~~taken-from-a-book-containing-a--carbon--copy--of--the--same,~~
 16 certificate signed by the clerk, in which must be stated the
 17 name and address of the witness, the number of days in
 18 attendance, the number of miles traveled, and the amount
 19 due. The clerk shall also give to the witness a preaddressed
 20 and stamped envelope supplied by the supreme court
 21 administrator. The witness shall mail the certificate to the
 22 supreme court administrator, who shall promptly pay to the
 23 witness the amount due.

24 ~~(3)--On--presentation--of--such--warrant--to--the--county~~
 25 ~~treasurer,--the--amount--specified--in--the--warrant--must--be--paid~~

1 ~~out-of-the-general-fund."~~

2 Section 11. Section 3-5-604, MCA, is amended to read:

3 "3-5-604. Transcript of proceedings. (1) Each reporter
4 must furnish, upon request, with all reasonable diligence,
5 to a party or his attorney in a case in which he has
6 attended the trial or hearing a transcript from his
7 stenographic notes of the testimony and proceedings of the
8 trial or hearing or a part thereof, upon payment by the
9 person requiring the same of \$2 per page for the original
10 transcript, 50 cents per page for the first copy, 25 cents
11 per page for each additional copy.

12 (2) If the county attorney, attorney general, or judge
13 requires a transcript in a criminal case, the reporter is
14 entitled to his fees therefor, but he must furnish it. Upon
15 furnishing it, he shall receive a certificate of for the sum
16 to which he is ~~so~~ entitled, ~~which is a county charge and~~
17 ~~must be paid by the county treasurer upon the certificate~~
18 ~~like other county charges. The recorder shall submit the~~
19 ~~certificate to the supreme court administrator, who shall~~
20 ~~promptly pay to the reporter the amount due.~~

21 (3) If the judge requires a copy in a civil case to
22 assist him in rendering a decision, the reporter must
23 furnish the same without charge therefor. In civil cases,
24 all transcripts required by the county shall be furnished,
25 and only the reporter's actual costs of preparation may be

1 paid by the county supreme court administrator upon receipt
2 of a certificate submitted by the reporter.

3 (4) If it appears to the judge that a defendant in a
4 criminal case is unable to pay for a transcript, it shall be
5 furnished to him and paid for ~~by the county~~ as provided in
6 subsection (2)."

7 Section 12. Section 3-15-204, MCA, is amended to read:

8 "3-15-204. Duties of clerk as to jurors. (1) The clerk
9 must keep a record of the attendance of jurors and compute
10 the amount due for mileage. The distance from any point to
11 the county seat must be determined by the shortest traveled
12 route.

13 (2) The clerk must give to each juror, at the time he
14 is excused from further service, a warrant certificate
15 signed by himself the clerk, in which must be stated the
16 name and address of the juror, the number of days'
17 attendance, the number of miles traveled, and the amount
18 due. The clerk shall also give to the juror a preaddressed
19 and stamped envelope supplied by the supreme court
20 administrator. The juror shall mail the certificate to the
21 supreme court administrator, who shall promptly pay to the
22 juror the amount due.

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

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

8 Section 13. Section 3-15-205, MCA, is amended to read:

9 "3-15-205. Costs of impaneling jury after settlement
 10 reached. In any civil action before a court of record in
 11 which the parties substantially agree to a settlement of the
 12 issues prior to impanelment of the jury and either settle
 13 the action or stipulate to a continuance, and fail or refuse
 14 to inform the court or clerk of court of such settlement or
 15 request a continuance and a jury is impaneled, the court
 16 may, upon hearing, assess the reasonable public expenses of
 17 impaneling the jury, including jury fees and mileage
 18 expenses paid or owing under 3-15-201 and such other costs
 19 as may have been incurred by the court, against any party.
 20 Costs collected under this section shall be deposited in the
 21 county state general fund."

22 Section 14. Section 7-6-2313, MCA, is amended to read:

23 "7-6-2313. Preparation of expenditure program and
 24 information on sources of revenue. (1) From those estimates
 25 the county clerk and recorder shall prepare a tabulation

1 showing the complete expenditure program of the county for
 2 the current fiscal year and the sources of revenue by which
 3 it is to be financed.

4 (2) The tabulation shall set forth:

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

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

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

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

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

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

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

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

24 Section 15. Section 7-6-2324, MCA, is amended to read:

25 "7-6-2324. Limitations on appropriations after budget

1 adopted. (1) The estimates of expenditures, itemized and
 2 classified as required in 7-6-2313 and 7-6-2314 and as
 3 finally fixed and adopted and as may be amended as provided
 4 in 7-6-2320 by said board of county commissioners, shall
 5 constitute the appropriations for the county for the fiscal
 6 year intended to be covered thereby.

7 (2) Except as provided in ~~3-5-404~~, 7-6-2325, and
 8 7-31-2101, the county commissioners and every other county
 9 official, ~~--including--judges-of-the-district-court~~, shall be
 10 limited in the making of expenditures or incurring of
 11 liabilities to the amount of such detailed appropriations
 12 and classifications, respectively."

13 Section 16. Section 7-6-2426, MCA, is amended to read:

14 "7-6-2426. Enumeration of county charges. The
 15 following are county charges:

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

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

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

25 (4) the board of prisoners confined in jail;

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

3 ~~(6)~~(5) the accounts of the coroner of the county for
 4 such services as are provided by law;

5 ~~(7)~~(6) all charges and accounts for services rendered
 6 by any justice of the peace for services in the examination
 7 or trial of persons charged with crime as provided for by
 8 law;

9 ~~(8)~~(7) the necessary expenses incurred in the support
 10 of county hospitals and poorfarms and in the support of the
 11 indigent sick and the otherwise dependent poor whose support
 12 is chargeable to the county;

13 ~~(9)~~(8) the contingent expenses necessarily incurred
 14 for the use and benefit of the county;

15 ~~(10)~~(9) every other sum directed by law to be raised
 16 for any county purpose under the direction of the board of
 17 county commissioners or declared to be a county charge."

18 Section 17. Section 7-6-2427, MCA, is amended to read:

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

1 ~~{2}--When-a-criminal-action-is--removed--before--trial,~~
2 ~~the--costs--accruing--upon--such-removal-and-trial-must-be-a~~
3 ~~charge-against-the-county-in-which-the-indictment-was--found~~
4 ~~or-information-filed."~~

5 Section 18. Section 25-1-202, MCA, is amended to read:

6 "25-1-202. Fee for court reporter. In every issue of
7 fact in civil actions tried before the court or jury, before
8 the trial commences, there must be paid into the hands of
9 the clerk of the court by each party to the suit the sum of
10 \$3, which sum must be paid by said clerk into the treasury
11 ~~of-the-county-where-the-cause-is-tried~~ state general fund to
12 be applied upon the payment of the salary of the reporter.
13 The prevailing party may have the amount so paid by him
14 taxed in his bill of costs as proper disbursements."

15 Section 19. Section 40-3-125, MCA, is amended to read:

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

25 (2) For the purpose of conducting hearings pursuant to

1 this chapter, the conciliation court may be convened at any
2 time and place within the district and the hearing may be
3 had in chambers or otherwise, except that the time and place
4 for hearing may not be different from the time and place
5 provided by law for the trial of civil actions if any party,
6 prior to the hearing, objects to any different time or
7 place.

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

21 Section 20. Section 41-5-704, MCA, is amended to read:

22 "41-5-704. Salary and expenses. ~~{1}~~ A chief probation
23 officer shall receive for his services a salary specified by
24 the personnel plan established pursuant to [section 3].
25 ~~court, depending on the formal training and experience of~~

1 each-respective-officer, but-such-salary--may--be--no--lower
 2 than--\$17,000--a--year-and-no-higher-than-\$22,000-a-year.--In
 3 addition-to-such-salary, the-court-shall, on-or-before--July
 4 1--of--each--year,--adjust--and--fix-the-salary-of-the-chief
 5 probation-officer-for-a-cost-of-living-increase-by-adding-to
 6 his-annual-salary-on-July-1-of-that-year-an-increment-of-70%
 7 of-the-last-previous-calendar-year's--consumer--price--index
 8 for-all-urban-consumers, U.S. department-of-labor, bureau-of
 9 labor-statistics, or-other-index-that-the-bureau-of-business
 10 and--economic--research--of-the-university-of-Montana-may-in
 11 the-future-recognize-as-the-successor--to--that--index.--The
 12 cost-of-living--increment-for-the-fiscal-year-beginning-July
 13 1-of-each-subsequent-fiscal--year--shall--be--added--to--all
 14 cost-of-living--increments--granted--for-previous-years.--The
 15 salary-of-such-officer-shall-be-apportioned-among--and--paid
 16 by--each--of-the-counties-in-which-such-officer-is-appointed
 17 to-act, in-proportion-to--the--assessed--valuation--of--such
 18 counties--for--the--same--year, except-where-such-officer-is
 19 appointed-for-one-county, such-county-shall-pay--the--entire
 20 salary.

21 (2)--In--addition--to--the--compensation--provided--in
 22 subsection-(1), each-chief-probation-officer-with-more--than
 23 5--years--of--service--is--entitled--to-receive-an-annual-1%
 24 longevity-allowance.--Each-longevity-allowance-must-be-based
 25 on-the-officer's-current-salary-and-begins-on-the--officer's

1 annual--employment--anniversary-date.--The-allowance-must-be
 2 paid-in-equal-monthly-installments.

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

8 Section 21. Section 41-5-705, MCA, is amended to read:
 9 "41-5-705. Deputy probation officers -- salary. (1)
 10 The judge-having--jurisdiction--of--juvenile--matters chief
 11 probation officer may also appoint such additional persons,
 12 giving--preference--to--persons--having--the--qualifications
 13 suggested-for-appointment-as-the-chief-probation-officer, as
 14 may be authorized in the personnel plan established pursuant
 15 to [section 3] to serve as deputy probation officers, as the
 16 judge deems necessary, their--salaries-to-be-fixed-by-the
 17 judge.--Such-salaries-shall-not-exceed-90%--or--be--less--than
 18 60%--of--the-salary-of-the-chief-probation-officer-excluding
 19 longevity-payments-provided-in-41-5-704.

20 (2)--In-addition-to-such-salary, each-deputy--probation
 21 officer--with--more--than--5-years-of-service-is-entitled-to
 22 receive-an-annual-1%--longevity--allowance.--Each--longevity
 23 allowance--must-be-based-on-the-officer's-current-salary-and
 24 begins-on-the-officer's-annual-employment-anniversary--date.
 25 The-allowance-must-be-paid-in-equal-monthly-installments.

~~(3)--If a deputy probation officer is promoted to chief probation officer, his salary may not be decreased by the appointment. He shall retain all longevity allowances earned during his service as a deputy."~~

Section 22. Section 46-8-114, MCA, is amended to read:

"46-8-114. Time and method of payment of costs. When a defendant is sentenced to pay the costs of court-appointed counsel, the court may order payment to be made within a specified period of time or in specified installments. Such payments shall be made to the clerk of the district court. The clerk of the district court shall disburse the payments to the county city or town or state agency responsible for the expenses of court-appointed counsel as provided for in 46-8-201."

Section 23. 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.

(2) The expense of implementing subsection (1) is

chargeable to the county--in--which--the--proceeding--arose office of supreme court administrator, except that:

(a) in proceedings solely involving the violation of a city ordinance or state statute prosecuted in a municipal or city court, the expense is chargeable to the city or town 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."

Section 24. Section 46-8-202, MCA, is amended to read:

"46-8-202. Public defender's office. Any county through its board of county commissioners may provide for the creation of a public defender's office and the appointment of a salaried public defender and such assistant public defenders as may be necessary to satisfy the legal requirements in providing counsel for defendants unable to employ counsel. The costs of such office shall be at county state expense, payable by the supreme court administrator."

Section 25. Section 46-11-319, MCA, is amended to read:

"46-11-319. Expenses of grand jury. All expenses of the grand jury, including special counsel and investigators, if any, shall be paid by the ~~treasurer of the county out of the general fund of the county upon warrants drawn by the~~

1 ~~county-auditor-or-the-clerk-of-the--district--court~~ supreme
 2 court administrator upon the written order of the judge of
 3 the district court of the county."

4 Section 26. Section 46-14-202, MCA, is amended to
 5 read:

6 "46-14-202. Psychiatric examination of defendant. (1)
 7 If the defendant or his counsel files a written notice of
 8 his intent to rely on a mental disease or defect under
 9 46-14-201 or raises the issue of his fitness to proceed, the
 10 court shall appoint at least one qualified psychiatrist or
 11 shall request the superintendent of the Montana state
 12 hospital to designate at least one qualified psychiatrist,
 13 which designation may be or include himself, to examine and
 14 report upon the mental condition of the defendant.

15 (2) The court may order the defendant to be committed
 16 to a hospital or other suitable facility for the purpose of
 17 the examination for a period of not exceeding 60 days or
 18 such longer period as the court determines to be necessary
 19 for the purpose and may direct that a qualified psychiatrist
 20 retained by the defendant be permitted to witness and
 21 participate in the examination.

22 (3) In the examination any method may be employed
 23 which is accepted by the medical profession for the
 24 examination of those alleged to be suffering from mental
 25 disease or defect.

1 (4) The cost of the examination must be paid by the
 2 supreme court administrator."

3 Section 27. Section 46-15-104, MCA, is amended to
 4 read:

5 "46-15-104. Expenses of witness. When a person attends
 6 before a magistrate, grand jury, or court as a witness in a
 7 criminal case upon a subpoena or in pursuance of an
 8 undertaking, the judge, at his discretion, by a written
 9 order may direct the ~~clerk-of-the-court-to-draw-his-warrant~~
 10 ~~upon-the-county-treasurer-in-favor--of--such~~ supreme court
 11 administrator to pay the witness for a reasonable sum, to be
 12 specified in the order, for the necessary expenses of the
 13 witness."

14 Section 28. Section 46-18-235, MCA, is amended to
 15 read:

16 "46-18-235. Disposition of money collected as fines
 17 and costs. The money collected by a court as a result of the
 18 imposition of fines or assessment of costs under the
 19 provisions of 46-18-231 and 46-18-232 shall be paid to the
 20 county supreme court administrator for deposit into the
 21 state general fund of-the-county-in-which-the-court-is-held,
 22 except that if the fine was imposed for a violation of Title
 23 45, chapter 9, the court may order the money paid into the
 24 drug forfeiture fund maintained under 44-12-206 for the law
 25 enforcement agency which made the arrest from which the

1 conviction and fine arose."

2 NEW SECTION. Section 29. Saving clause. This act does
3 not affect rights and duties that matured, penalties that
4 were incurred, or proceedings that were begun before the
5 effective date of this act.

6 NEW SECTION. Section 30. Repealer. Sections 3-5-404,
7 3-5-510, 3-5-512, 3-5-602, 7-6-2351, 7-6-2352, and 40-3-114,
8 MCA, are repealed.

9 NEW SECTION. Section 31. Effective date. This act is
10 effective July 1, 1985.

-End-

STATE OF MONTANA

REQUEST NO. FNN425-85

FISCAL NOTE

Form BD-15

In compliance with a written request received February 13 19 85, there is hereby submitted a Fiscal Note for H.B. 767 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:

An act requiring state funding for district court expenses; requiring the supreme court to establish a personnel plan for certain district court employees; placing budgeting control for the district courts in the supreme court; continuing the counties' responsibility for providing courtrooms and offices for the district courts; requiring the counties to levy a district court tax; increasing the fee in lieu of tax on light vehicles; and providing an effective date.

ASSUMPTIONS:

1. The taxable value of the state will be \$2,397,311,111 and \$2,444,888,889 in FY86 and FY87, respectively (OBPP).
2. In tax year 1984 property taxes levied for district courts totaled \$7,325,000. The average statewide levy was 3.1 mills.
3. Ten counties did not levy for district court expenditures in FY84. Their expenditures were \$868,658 which will be converted to mill levies under the proposed legislation.
4. The \$10 increase in the fee schedule results in an average increase of \$12 for light vehicles registered in FY86 and FY87. This increase results from the indexation of the fee schedules.
5. There will be approximately 650,000 taxable vehicles registered in each fiscal year.
6. 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 percent increase in the cost of the system the year of implementation (FY86).*
7. All operational costs including personnel for district courts will increase an average of 4 percent per year from the base FY84 budgets.
8. Seven FTE will be added to the Court Administration Office for administration of the unified court system.
9. Data collected by the Legislative Council survey is accurate.

* Data as compiled by the National Center for State Courts.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 22, 1985

FISCAL IMPACT:

	<u>Under</u> <u>Current Law</u>	<u>FY1986</u> <u>Under</u> <u>Proposed Law</u>	<u>Estimated</u> <u>Increase</u>	<u>Under</u> <u>Current Law</u>	<u>FY1987</u> <u>Under</u> <u>Proposed Law</u>	<u>Estimated</u> <u>Increase</u>
Revenue:						
District Court Levy	\$ 0	\$ 8,300,322	\$ 8,300,322	\$ 0	\$ 8,447,814	\$ 8,447,814
Additional Light Vehicle Fees	0	7,800,000	7,800,000	0	7,800,000	7,800,000
TOTAL REVENUE	\$ 0	\$16,100,322	\$16,100,322	\$ 0	\$16,247,814	\$16,247,814

Fund Information:

General Fund						
Revenue Increase	\$ 0	\$16,100,322	\$16,100,322	\$ 0	\$16,247,814	\$16,247,814

State Impact:

	<u>Amount</u> <u>Current Law</u>	<u>FY1986</u> <u>Amount</u> <u>Proposed Law</u>	<u>Increase</u> <u>(Decrease)</u>	<u>Amount</u> <u>Current Law</u>	<u>FY1987</u> <u>Amount</u> <u>Proposed Law</u>	<u>Increase</u> <u>(Decrease)</u>
Expenditures:						
Personal Services	\$ 2,002,400	\$ 9,235,800	\$ 7,233,400	\$ 2,002,400	\$ 9,525,200	\$ 7,522,800
Operating Expenses	158,900	4,040,100	3,881,200	158,900	4,200,200	4,041,300
Capital Outlay	0	163,000	163,000	0	120,000	120,000
Grants to Counties	1,560,000	0	(1,560,000)	1,560,000	0	(1,560,000)
Total General Fund Cost	\$ 3,721,300	\$13,438,900	\$9,717,600	\$ 3,721,300	\$13,845,400	\$10,124,100

Net General Fund

	<u>FY1986</u>	<u>FY1987</u>
Impact		
New Revenue	\$16,100,322	\$16,247,814
New Total Cost	13,438,900	13,845,400
Increased General Fund Revenue	\$ 2,661,422	\$ 2,402,414

While the Bill produces \$5 million in net additional revenue to the General Fund, the impact is greater because the current costs of \$7.4 million are also covered by the new revenue. The state picks up \$32.3 in additional General Fund revenue and assumes an additional \$19.8 million in General Fund cost.