

SENATE BILL NO. 25

INTRODUCED BY TOWE

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Local Government.
January 8, 1985	Fiscal Note requested.
January 12, 1985	Fiscal Note returned.
February 21, 1985	Committee recommend bill do pass as amended. Report adopted.
February 22, 1985	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass.
February 25, 1985	Considered correctly engrossed.
	Third reading, passed. Ayes, 43; Noes, 5.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Local Government.
March 22, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1985	Motion pass consideration until 65th Legislative Day.

March 26, 1985	On motion, consideration of bill postponed until such time as Senate Bill No. 142 is ready for second reading.
March 30, 1985	Second reading, pass consideration.
April 1, 1985	Second reading, concurred in. Third reading, concurred in. Returned to Senate with amendments.

IN THE SENATE

April 1, 1985	Received from House.
April 4, 1985	Second reading, amendments concurred in.
April 8, 1985	Third reading, amendments concurred in. Sent to enrolling.
April 12, 1985	Correctly enrolled. Signed by President.
April 15, 1985	Signed by Speaker. Delivered to Governor.
April 20, 1985	Returned from Governor with recommended amendments.
April 22, 1985	Second reading, pass consideration.
April 23, 1985	Second reading, Governor's amendments not concurred in. Governor's amendments transmitted to House.

IN THE HOUSE

April 24, 1985

Received from Senate.

Second reading, Governor's amendments concurred in.

Third reading, Governor's amendments concurred in.

Returned to Senate.

IN THE SENATE

April 25, 1985

Received from House.

On motion, Free Conference Committee requested and appointed.

Free Conference Committee reported.

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted.

Free Conference Committee report adopted by House.

Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 25
 2 INTRODUCED BY TOWE
 3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE TO
 6 ASSUME FUNDING FOR CERTAIN DISTRICT COURT EXPENSES AND
 7 REQUIRING THE LEGISLATURE TO PROVIDE FULL FUNDING FOR THE
 8 DISTRICT COURT GRANT PROGRAM; AMENDING SECTIONS 3-5-602,
 9 3-5-604, 7-6-2352, 7-6-2426, 46-8-114, 46-8-201, 46-8-202,
 10 46-11-319, 46-14-202, 46-15-104, AND 46-18-235, MCA; AND
 11 PROVIDING AN EFFECTIVE DATE."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 NEW SECTION. Section 1. State assumption of certain
 15 district court expenses. (1) Effective July 1, 1985, the
 16 state shall fund the following district court expenses in
 17 criminal cases only:
 18 (a) salaries of court reporters;
 19 (b) transcripts of proceedings;
 20 (c) witness fees and necessary expenses;
 21 (d) juror fees;
 22 (e) indigent defense; and
 23 (f) psychiatric examinations.
 24 (2) The supreme court administrator, under the
 25 direction of the supreme court and in consultation with the

1 district judges for each judicial district, shall include
 2 within the supreme court's biennial budget request to the
 3 legislature a request for funding the expenses listed in
 4 subsection (1).

5 (3) The legislature shall appropriate from the state
 6 general fund to the supreme court sufficient money to fund
 7 the expenses listed in subsection (1).

8 NEW SECTION. Section 2. Fiscal administration for
 9 payment of court expenses. The supreme court administrator
 10 shall:

11 (1) establish procedures for disbursement of funds for
 12 payment of district court expenses listed in [section 1];

13 (2) in consultation with the department of commerce,
 14 develop a uniform accounting system for use by the counties
 15 in reporting court expenses at a detailed level for
 16 budgeting and auditing purposes; and

17 (3) provide for annual auditing of district court
 18 expenses to assure normal operations and consistency in
 19 reporting of expenditures.

20 NEW SECTION. Section 3. Reimbursement for juror and
 21 witness fees. According to procedures established by the
 22 supreme court administrator under [section 2(1)], each clerk
 23 of district court shall submit to the supreme court
 24 administrator a detailed statement containing a list of
 25 witnesses and jurors for criminal cases only and the amount

1 of per diem and mileage paid to each by the county. Upon
 2 receipt and verification of the statement, the administrator
 3 shall promptly reimburse the general fund of the designated
 4 county for the cost of witness and juror fees.

5 Section 4. Section 3-5-602, MCA, is amended to read:
 6 "3-5-602. Salary and expenses -- apportionment. (1)
 7 Each reporter is entitled to receive a base annual salary of
 8 not less than \$16,000 or more than \$23,000 and no other
 9 compensation except as provided in 3-5-604. The salary shall
 10 be set by the judge for whom the reporter works. The salary
 11 is payable in monthly installments out of the general funds
 12 of the counties comprising the district for which the
 13 reporter is appointed and out of an appropriation made to
 14 the supreme court as provided in subsection (2).

15 (2) The supreme court administrator shall determine
 16 the total number of civil and criminal actions commenced in
 17 the preceding year in the district court or courts in the
 18 judicial district for which a reporter is appointed. The
 19 state shall pay its portion of the reporter's salary based
 20 on the proportion of the total number of criminal actions
 21 commenced in the district court or courts in the district.
 22 Each county shall pay its portion of the salary based on its
 23 proportion of the total number of civil and criminal actions
 24 commenced in the district courts in the district in--the
 25 preceding--year. The judge or judges of the district shall,

1 on January 1 of each year or as soon thereafter as possible,
 2 apportion the amount of the salary to be paid by each county
 3 in his or their district on the basis prescribed in this
 4 subsection. The portion of the salary payable by a county
 5 is a district court expense within the meaning of 7-6-2351,
 6 7-6-2352, and 7-6-2511.

7 ~~(2)~~(3) In judicial districts comprising more than one
 8 county, the reporter is allowed, in addition to the salary
 9 and fees provided for in subsection (1), his actual and
 10 necessary travel expenses, as defined and provided in
 11 2-18-501 through 2-18-503, when he goes on official business
 12 to a county of his judicial district other than the county
 13 in which he resides, from the time he leaves his place of
 14 residence until he returns thereto. The expenses shall be
 15 apportioned and payable in the same way as the salary."

16 Section 5. Section 3-5-604, MCA, is amended to read:
 17 "3-5-604. Transcript of proceedings. (1) Each reporter
 18 must furnish, upon request, with all reasonable diligence,
 19 to a party or his attorney in a case in which he has
 20 attended the trial or hearing a transcript from his
 21 stenographic notes of the testimony and proceedings of the
 22 trial or hearing or a part thereof, upon payment by the
 23 person requiring the same of \$2 per page for the original
 24 transcript, 50 cents per page for the first copy, 25 cents
 25 per page for each additional copy.

1 (2) If the county attorney, attorney general, or judge
 2 requires a transcript in a criminal case, the reporter is
 3 entitled to his fees therefor, but he must furnish it. Upon
 4 furnishing it, he shall receive a certificate of for the sum
 5 to which he is so entitled, ~~which is a county charge and~~
 6 ~~must be paid by the county treasurer upon the certificate~~
 7 ~~like other county charges.~~ The reporter shall submit the
 8 certificate to the supreme court administrator who is
 9 responsible for the prompt payment of the amount due the
 10 reporter.

11 (3) If the judge requires a copy in a civil case to
 12 assist him in rendering a decision, the reporter must
 13 furnish the same without charge therefor. In civil cases,
 14 all transcripts required by the county shall be furnished,
 15 and only the reporter's actual costs of preparation may be
 16 paid by the county.

17 (4) If it appears to the judge that a defendant in a
 18 criminal case is unable to pay for a transcript, it shall be
 19 furnished to him and paid for by the county state in the
 20 manner provided in subsection (2)."

21 Section 6. Section 7-6-2352, MCA, is amended to read:

22 "7-6-2352. State grants to district courts -- rules.

23 (1) The department of commerce shall make grants to the
 24 governing body of a county for the district courts for
 25 assistance, as provided in this section. The grants are to

1 be made from funds appropriated to the department for that
 2 purpose as provided in subsection (2). ~~If the department~~
 3 ~~approves grants in excess of the amount appropriated, each~~
 4 ~~grant shall be reduced an equal percentage so the~~
 5 ~~appropriation will not be exceeded.~~

6 (2) The legislature shall appropriate from the state
 7 general fund to the department of commerce sufficient money
 8 to fully fund eligible grant requests submitted by the
 9 governing bodies of the counties. If in the first fiscal
 10 year of the biennium for which an appropriation is made
 11 eligible grant requests exceed the first fiscal year
 12 appropriation, the department shall make expenditures from
 13 the second fiscal year appropriation to fund the grant
 14 requests. If in the second fiscal year of the biennium for
 15 which an appropriation is made, eligible grant requests
 16 exceed the second fiscal year appropriation, as it may be
 17 reduced by expenditures for eligible first fiscal year grant
 18 requests, the department shall request a supplemental
 19 appropriation at the next legislative session.

20 (3) The governing body of a county may apply to the
 21 department of commerce for a grant by filing a written
 22 request on forms provided by the department by July 20 for
 23 the previous fiscal year unless the department grants a time
 24 extension upon request of the county. In its request for a
 25 grant, a county must certify that:

1 (a) all expenditures from the district court fund have
2 been lawfully made;

3 (b) no transfers from the district court fund have
4 been or will be made to any other fund; and

5 (c) no expenditures have been made from the district
6 court fund that are not specifically authorized by 7-6-2511
7 and 7-6-2351.

8 ~~(3)~~(4) The department of commerce shall award a grant
9 if the county's district court expenditures for the previous
10 fiscal year exceeded the sum of:

11 (a) the product of the maximum mill levy authorized by
12 law for district court purposes, whether or not assessed,
13 multiplied by the previous year's taxable valuation of the
14 county; and

15 (b) all revenues, except district court grants,
16 required by law to be deposited in the district court fund
17 for the previous fiscal year.

18 ~~(4)~~(5) Eligible court expenditures for grant purposes
19 include all costs of the county associated with the
20 operation and maintenance of the district court, from
21 whatever fund paid, except costs for building and capital
22 items and library maintenance, replacement, and acquisition.

23 ~~(5)~~(6) The department of commerce shall notify each
24 eligible county as soon as possible of its intention to
25 award a grant to that county and the amount of the award.

1 ~~(6)~~(7) The grant received by the county shall be
2 placed in the district court fund.

3 ~~(7)~~(8) After all grants are awarded, the department of
4 commerce shall audit each approved grant request. The
5 department shall charge each county receiving a grant an
6 audit fee in the same amount as the costs incurred in
7 conducting the audit.

8 ~~(8)~~(9) If the audit of a grant recipient discloses
9 that the recipient received a grant in excess of the amount
10 for which it was eligible, the recipient shall repay the
11 excess to the department of commerce. The department shall
12 redistribute any repaid excess amounts to the other counties
13 that received grants from the appropriation from which the
14 overpayment was made, on the same basis as the original
15 awards. No county is eligible for a district court grant if
16 it owes the department a refund of a prior year's
17 overpayment.

18 ~~(9)~~(10) The department of commerce shall prescribe
19 rules and forms necessary to effectively administer this
20 section. The department may require a county to provide any
21 information considered necessary for the administration of
22 the program."

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

24 "7-6-2426. Enumeration of county charges. The
25 following are county charges:

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

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

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

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

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

13 ~~(6)~~(5) the accounts of the coroner of the county for
 14 such services as are provided by law;

15 ~~(7)~~(6) all charges and accounts for services rendered
 16 by any justice of the peace for services in the examination
 17 or trial of persons charged with crime as provided for by
 18 law;

19 ~~(8)~~(7) the necessary expenses incurred in the support
 20 of county hospitals and poor farms and in the support of the
 21 indigent sick and the otherwise dependent poor whose support
 22 is chargeable to the county;

23 ~~(9)~~(8) the contingent expenses necessarily incurred
 24 for the use and benefit of the county;

25 ~~(10)~~(9) every other sum directed by law to be raised

1 for any county purpose under the direction of the board of
 2 county commissioners or declared to be a county charge."

3 Section 8. Section 46-8-114, MCA, is amended to read:
 4 "46-8-114. Time and method of payment of costs. When a
 5 defendant is sentenced to pay the costs of court-appointed
 6 counsel, the court may order payment to be made within a
 7 specified period of time or in specified installments. Such
 8 payments shall be made to the clerk of the district court.
 9 The clerk of the district court shall disburse the payments
 10 to the county city or town or state agency responsible for
 11 the expenses of court-appointed counsel as provided for in
 12 46-8-201."

13 Section 9. Section 46-8-201, MCA, is amended to read:
 14 "46-8-201. Remuneration of appointed counsel. (1)
 15 Whenever in a criminal proceeding an attorney represents or
 16 defends any person by order of the court on the ground that
 17 the person is financially unable to employ counsel, the
 18 attorney shall be paid for his services such sum as a
 19 district court or justice of the state supreme court
 20 certifies to be a reasonable compensation therefor and shall
 21 be reimbursed for reasonable costs incurred in the criminal
 22 proceeding.

23 (2) The expense of implementing subsection (1) is
 24 chargeable to the county ~~in which the proceeding arose~~
 25 office of supreme court administrator, except that:

1 (a) in proceedings solely involving the violation of a
 2 city ordinance or state statute prosecuted in a municipal or
 3 city court, the expense is chargeable to the city or town in
 4 which the proceeding arose; and

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

9 Section 10. Section 46-8-202, MCA, is amended to read:

10 "46-8-202. Public defender's office. Any county
 11 through its board of county commissioners may provide for
 12 the creation of a public defender's office and the
 13 appointment of a salaried public defender and such assistant
 14 public defenders as may be necessary to satisfy the legal
 15 requirements in providing counsel for defendants unable to
 16 employ counsel. The costs of such office shall be at county
 17 state expense payable according to procedures established
 18 under [section 2(1)]."

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

21 "46-11-319. Expenses of grand jury. (1) All expenses
 22 of the grand jury, including special counsel and
 23 investigators, if any, shall be paid by the treasurer of the
 24 county out of the general fund of the county upon warrants
 25 drawn by the county auditor or the clerk of the district

1 court upon the written order of the judge of the district
 2 court of the county.

3 (2) The state shall reimburse the county general fund
 4 for juror and witness fees as provided in [section 3] and
 5 for witness expenses as provided in 46-15-104."

6 Section 12. Section 46-14-202, MCA, is amended to
 7 read:

8 "46-14-202. Psychiatric examination of defendant. (1)

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

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

24 (3) In the examination any method may be employed
 25 which is accepted by the medical profession for the

1 examination of those alleged to be suffering from mental
2 disease or defect.

3 (4) The cost of the examination must be paid by the
4 state according to procedures established under [section
5 2(1)]."

6 Section 13. Section 46-15-104, MCA, is amended to
7 read:

8 "46-15-104. Expenses of witness. (1) When a person
9 attends before a magistrate, grand jury, or court as a
10 witness in a criminal case upon a subpoena or in pursuance
11 of an undertaking, the judge, at his discretion, by a
12 written order may direct the clerk of the court to draw his
13 warrant upon the county treasurer in favor of such witness
14 for a reasonable sum, to be specified in the order, for the
15 necessary expenses of the witness.

16 (2) According to procedures established by the supreme
17 court administrator under [section 2(1)], the clerk of
18 district court shall submit to the supreme court
19 administrator a detailed statement containing a list of
20 witnesses and the amount of expenses paid to each by the
21 county. Upon receipt and verification of the statement, the
22 administrator shall promptly reimburse the general fund of
23 the designated county for the cost of witness expenses."

24 Section 14. Section 46-18-235, MCA, is amended to
25 read:

1 "46-18-235. Disposition of money collected as fines
2 and costs. The money collected by a court as a result of the
3 imposition of fines or assessment of costs under the
4 provisions of 46-18-231 and 46-18-232 shall be paid to the
5 county general fund of the county in which the court is
6 held, except that:

7 (1) if the costs assessed include any district court
8 expense listed in [section 1], the money collected from
9 assessment of these costs must be paid to the supreme court
10 administrator for deposit into the state general fund; and

11 (2) if the fine was imposed for a violation of Title
12 45, chapter 9, the court may order the money paid into the
13 drug forfeiture fund maintained under 44-12-206 for the law
14 enforcement agency which made the arrest from which the
15 conviction and fine arose."

16 NEW SECTION. Section 15. Codification instruction.
17 Sections 1 through 3 are intended to be codified as an
18 integral part of Title 3, chapter 5, and the provisions of
19 Title 3, chapter 5, apply to sections 1 through 3.

20 NEW SECTION. Section 16. Effective date. This act is
21 effective July 1, 1985.

-End-

STATE OF MONTANA

F I S C A L N O T E

REQUEST NO. FNN 019-85Form BD-15

In compliance with a written request received January 09, 19 85, there is hereby submitted a Fiscal Note for S.B. 25 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:

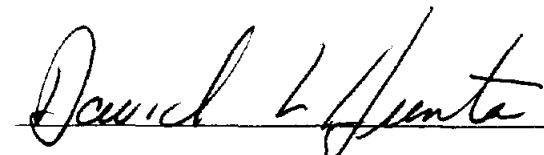
Senate Bill 25 is an act requiring the state to assume funding for certain District Court expenses and requiring the Legislature to provide full funding for the District Court grant program; amending Sections 3-5-602, 3-5-604, 7-6-2352, 7-6-2426, 46-8-114, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-15-104 and 46-18-235, MCA; and providing an effective date.

ASSUMPTIONS:

- (1) Each district court judge will continue to employ one court reporter at an annual salary of \$23,000 with benefits at 16%.
- (2) Approximately 65% of the court reporters' workload concern are criminal actions.
- (3) All costs associated with categories, b,c,d,e and f of Section 1 are incurred because of criminal actions.
- (4) All expenses will be paid directly by the Court Administrator's office.
- (5) District Court emergency grant costs will decrease by approximately 80%.

FISCAL IMPACT:

See separate table.


BUDGET DIRECTOR
Office of Budget and Program Planning
Date: Jan 12, 1985

Request No. FNN035-85
Form BD-15 page 2
(continued)

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

1. No provision for disposition of fees collected by the board.
2. No provision for termination date of Grandfather Clause.

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 019-85

Form BD-15

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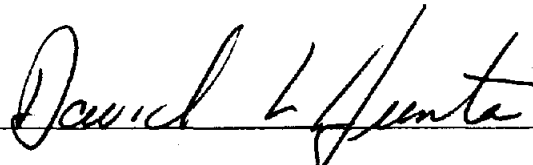
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BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 12, 1985

NOTES:

- (1) A 4% inflation factor was applied to FY 84 base.
- (2) FY 85 salary figures were used for District Judges only.

FISCAL IMPACT:

SB 25
 FISCAL NOTE

	<u>FY 1986</u>		<u>Increase (Decrease)</u>	<u>FY 1987</u>		<u>Increase (Decrease)</u>
	<u>Amount Under Current Law</u>	<u>Amount Under Proposed Law</u>		<u>Amount Under Current Law</u>	<u>Amount Under Proposed Law</u>	
State Impact:						
Expenditures:						
Personal Services	2,005,255	2,713,310	708,055	2,005,255	2,713,310	708,055
Operation Expenses	150,636	2,457,954	2,307,318	150,636	2,457,954	2,307,318
Capital Outlay	-0-	17,760	17,760	-0-	-0-	-0-
Grants to Counties	<u>1,701,213</u>	<u>340,242</u>	<u>(1,360,971)</u>	<u>1,701,213</u>	<u>340,242</u>	<u>(1,360,971)</u>
Net Effect (State General Fund)	3,857,104	5,529,266	1,672,162	3,857,104	5,511,506	1,654,402

Local Impact:

County expenses statewide will decrease by approximately \$1,672,162 in FY 86 and \$1,654,402 in FY 87.

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 SENATE BILL NO. 25
2 INTRODUCED BY TOWE
3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE TO
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7 REQUIRING THE LEGISLATURE TO PROVIDE FULL FUNDING FOR THE
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- 23 (f) psychiatric examinations.

24 (2) The supreme court administrator, under the
25 direction of the supreme court and in consultation with the

1 district judges for each judicial district, shall include
2 within the supreme court's biennial budget request to the
3 legislature a request for funding the expenses listed in
4 subsection (1).

5 (3) The legislature shall appropriate from the state
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 13 reporter is appointed and out of an appropriation made to
 14 the supreme court as provided in subsection (2).

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 17 the preceding year in the district court or courts in the
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 20 on the proportion of the total number of criminal actions
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 12 to a county of his judicial district other than the county
 13 in which he resides, from the time he leaves his place of
 14 residence until he returns thereto. The expenses shall be
 15 apportioned and payable in the same way as the salary."

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17 "3-5-604. Transcript of proceedings. (1) Each reporter
 18 must furnish, upon request, with all reasonable diligence,
 19 to a party or his attorney in a case in which he has
 20 attended the trial or hearing a transcript from his
 21 stenographic notes of the testimony and proceedings of the
 22 trial or hearing or a part thereof, upon payment by the
 23 person requiring the same of \$2 per page for the original
 24 transcript, 50 cents per page for the first copy, 25 cents
 25 per page for each additional copy.

1 (2) If the county attorney, attorney general, or judge
 2 requires a transcript in a criminal case, the reporter is
 3 entitled to his fees therefor, but he must furnish it. Upon
 4 furnishing it, he shall receive a certificate of for the sum
 5 to which he is so entitled, ~~which is a county charge and~~
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 14 all transcripts required by the county shall be furnished,
 15 and only the reporter's actual costs of preparation may be
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17 (4) If it appears to the judge that a defendant in a
 18 criminal case is unable to pay for a transcript, it shall be
 19 furnished to him and paid for by the county state in the
 20 manner provided in subsection (2)."

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 14 requests, if in the second fiscal year of the biennium for
 15 which an appropriation is made, eligible grant requests
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 17 reduced by expenditures for eligible first fiscal year grant
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 19 appropriation at the next legislative session.

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 21 department of commerce for a grant by filing a written
 22 request on forms provided by the department by July 20 for
 23 the previous fiscal year unless the department grants a time
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7 and 7-6-2351.

8 ~~(3)~~(4) The department of commerce shall award a grant
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13 multiplied by the previous year's taxable valuation of the
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20 operation and maintenance of the district court, from
21 whatever fund paid, except costs for building and capital
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1 (1) charges incurred against the county by virtue of
2 any provision of this title;

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

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

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

11 ~~{5}--the--sums--required--by--law--to--be--paid--to--grand--and--~~
12 ~~trial--jurors--and--witnesses--in--criminal--cases;~~

13 ~~{6}~~{5} the accounts of the coroner of the county for
14 such services as are provided by law;

15 ~~{7}~~{6} all charges and accounts for services rendered
16 by any justice of the peace for services in the examination
17 or trial of persons charged with crime as provided for by
18 law;

19 ~~{8}~~{7} the necessary expenses incurred in the support
20 of county hospitals and poorfarms and in the support of the
21 indigent sick and the otherwise dependent poor whose support
22 is chargeable to the county;

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2 county commissioners or declared to be a county charge."

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4 "7-6-2427. Special provisions for certain charges
5 related to criminal prosecutions. ~~{1}~~ Notwithstanding
6 7-6-2426, all costs of a criminal prosecution, including
7 attorneys' fees, of an offense committed in the state prison
8 are not charges against the county in which the state prison
9 is located. Such costs shall be paid by the department of
10 institutions.

11 ~~{2}--When--a--criminal--action--is--removed--before--trial,~~
12 ~~the--costs--accruing--upon--such--removal--and--trial--must--be--a~~
13 ~~charge--against--the--county--in--which--the--indictment--was--found~~
14 ~~or--information--filed."~~

15 Section 9. 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 The clerk of the district court shall disburse the payments
22 to the county city or town or state agency responsible for
23 the expenses of court-appointed counsel as provided for in
24 46-8-201."

25 Section 10. Section 46-8-201, MCA, is amended to read:

1 "46-8-201. Remuneration of appointed counsel. (†)
 2 Whenever in a criminal proceeding an attorney represents or
 3 defends any person by order of the court on the ground that
 4 the person is financially unable to employ counsel, the
 5 attorney shall be paid for his services such sum as a
 6 district court or justice of the state supreme court
 7 certifies to be a reasonable compensation therefor and shall
 8 be reimbursed for reasonable costs incurred in the criminal
 9 proceeding.

10 (2) The expense of implementing subsection (1) is
 11 chargeable to the ~~county--in--which--the--proceeding--arose~~
 12 office of supreme court administrator, except that:

13 (a) in proceedings solely involving the violation of a
 14 city ordinance or state statute prosecuted in a municipal or
 15 city court, the expense is chargeable to the city or town in
 16 which the proceeding arose; and

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

21 Section 11. Section 46-8-202, MCA, is amended to read:

22 "46-8-202. Public defender's office. Any county
 23 through its board of county commissioners may provide for
 24 the creation of a public defender's office and the
 25 appointment of a salaried public defender and such assistant

1 public defenders as may be necessary to satisfy the legal
 2 requirements in providing counsel for defendants unable to
 3 employ counsel. The costs of such office shall be at ~~county~~
 4 state expense payable according to procedures established
 5 under [section 2(1)]."

6 Section 12. Section 46-11-319, MCA, is amended to
 7 read:

8 "46-11-319. Expenses of grand jury. (1) All expenses
 9 of the grand jury, including special counsel and
 10 investigators, if any, shall be paid by the treasurer of the
 11 county out of the general fund of the county upon warrants
 12 drawn by the county auditor or the clerk of the district
 13 court upon the written order of the judge of the district
 14 court of the county.

15 (2) The state shall reimburse the county general fund
 16 for juror and witness fees as provided in [section 3] and
 17 for witness expenses as provided in 46-15-104."

18 Section 13. Section 46-14-202, MCA, is amended to
 19 read:

20 "46-14-202. Psychiatric examination of defendant. (1)
 21 If the defendant or his counsel files a written notice of
 22 his intent to rely on a mental disease or defect under
 23 46-14-201 or raises the issue of his fitness to proceed, the
 24 court shall appoint at least one qualified psychiatrist or
 25 shall request the superintendent of the Montana state

1 hospital to designate at least one qualified psychiatrist,
2 which designation may be or include himself, to examine and
3 report upon the mental condition of the defendant.

4 (2) The court may order the defendant to be committed
5 to a hospital or other suitable facility for the purpose of
6 the examination for a period of not exceeding 60 days or
7 such longer period as the court determines to be necessary
8 for the purpose and may direct that a qualified psychiatrist
9 retained by the defendant be permitted to witness and
10 participate in the examination.

11 (3) In the examination any method may be employed
12 which is accepted by the medical profession for the
13 examination of those alleged to be suffering from mental
14 disease or defect.

15 (4) The cost of the examination must be paid by the
16 state according to procedures established under [section
17 2(1)]."

18 SECTION 14. SECTION 46-14-221, MCA, IS AMENDED TO
19 READ:

20 "46-14-221. Determination of fitness to proceed --
21 effect of finding of unfitness -- expenses. (1) The issue of
22 the defendant's fitness to proceed may be raised by the
23 defendant or his counsel or by the county attorney. When the
24 issue is raised, it shall be determined by the court. If
25 neither the county attorney nor counsel for the defendant

1 contests the finding of the report filed under 46-14-203,
2 the court may make the determination on the basis of the
3 report. If the finding is contested, the court shall hold a
4 hearing on the issue. If the report is received in evidence
5 upon the hearing, the parties have the right to summon and
6 cross-examine the psychiatrists who joined in the report and
7 to offer evidence upon the issue.

8 (2) If the court determines that the defendant lacks
9 fitness to proceed, the proceeding against him shall be
10 suspended, except as provided in subsection (4) of this
11 section, and the court shall commit him to the custody of
12 the director of the department of institutions to be placed
13 in an appropriate institution of the department of
14 institutions for so long as the unfitness endures. The
15 committing court shall, within 90 days of commitment, review
16 the defendant's fitness to proceed. If the court finds that
17 he is still unfit to proceed and that it does not appear
18 that he will become fit to proceed within the reasonably
19 foreseeable future, the proceeding against him shall be
20 dismissed, except as provided in subsection (4) of this
21 section, and the county attorney shall petition the court in
22 the manner provided in chapter 20 or 21 of Title 53,
23 whichever is appropriate, to determine the disposition of
24 the defendant pursuant to those provisions.

25 (3) If the court determines that the defendant lacks

1 fitness to proceed because he is developmentally disabled as
 2 provided in 53-20-102(4), the proceeding against him shall
 3 be dismissed and the county attorney shall petition the
 4 court in the manner provided in chapter 20 of Title 53.

5 (4) The fact that the defendant is unfit to proceed
 6 does not preclude any legal objection to the prosecution
 7 which is susceptible to fair determination prior to trial
 8 and without the personal participation of the defendant.

9 (5) The expenses of sending the defendant to the
 10 custody of the director of the department of institutions to
 11 be placed in an appropriate institution of the state
 12 department of institutions, of keeping him there, and of
 13 bringing him back are chargeable to the state ~~but-the-state~~
 14 ~~may-recover-them--from--the--estate--of--the--defendant~~ and
 15 payable as provided in [section 2]."

16 Section 15. Section 46-15-104, MCA, is amended to
 17 read:

18 "46-15-104. Expenses of witness. (1) When a person
 19 attends before a magistrate, grand jury, or court as a
 20 witness in a criminal case upon a subpoena or in pursuance
 21 of an undertaking, the judge, at his discretion, by a
 22 written order may direct the clerk of the court to draw his
 23 warrant upon the county treasurer in favor of such witness
 24 for a reasonable sum, to be specified in the order, for the
 25 necessary expenses of the witness.

1 (2) According to procedures established by the supreme
 2 court administrator under [section 2(1)], the clerk of
 3 district court shall submit to the supreme court
 4 administrator a detailed statement containing a list of
 5 witnesses and the amount of expenses paid to each by the
 6 county. Upon receipt and verification of the statement, the
 7 administrator shall promptly reimburse the general fund of
 8 the designated county for the cost of witness expenses."

9 Section 16. Section 46-18-235, MCA, is amended to
 10 read:

11 "46-18-235. Disposition of money collected as fines
 12 and costs. The money collected by a court as a result of the
 13 imposition of fines or assessment of costs under the
 14 provisions of 46-18-231 and 46-18-232 shall be paid to the
 15 county general fund of the county in which the court is
 16 held, except that:

17 (1) if the costs assessed include any district court
 18 expense listed in [section 1], the money collected from
 19 assessment of these costs must be paid to the supreme court
 20 administrator for deposit into the state general fund; and

21 (2) if the fine was imposed for a violation of Title
 22 45, chapter 9, the court may order the money paid into the
 23 drug forfeiture fund maintained under 44-12-206 for the law
 24 enforcement agency which made the arrest from which the
 25 conviction and fine arose."

1 NEW SECTION. Section 17. Codification instruction.
2 Sections 1 through 3 are intended to be codified as an
3 integral part of Title 3, chapter 5, and the provisions of
4 Title 3, chapter 5, apply to sections 1 through 3.

5 NEW SECTION. SECTION 18. COORDINATION INSTRUCTION.
6 IF SENATE BILL NO. 142 IS NOT PASSED AND APPROVED, THIS ACT
7 IS VOID.

8 NEW SECTION. Section 19. Effective date. This act is
9 effective July 1, 1985.

-End-

1 SENATE BILL NO. 25

2 INTRODUCED BY TOWE

3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE TO
6 ASSUME FUNDING FOR CERTAIN DISTRICT COURT EXPENSES AND
7 REQUIRING THE LEGISLATURE TO PROVIDE FULL FUNDING FOR THE
8 DISTRICT COURT GRANT PROGRAM; AMENDING SECTIONS 3-5-602,
9 3-5-604, 7-6-2352, 7-6-2426, 7-6-2427, 46-8-114, 46-8-201,
10 46-8-202, 46-11-319, 46-14-202, 46-14-221, 46-15-104, AND
11 46-18-235, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. State assumption of certain
15 district court expenses. (1) Effective July 1, 1985, the
16 state shall fund the following district court expenses in
17 criminal cases only:

- 18 (a) salaries of court reporters;
19 (b) transcripts of proceedings;
20 (c) witness fees and necessary expenses;
21 (d) juror fees;
22 (e) indigent defense; and
23 (f) psychiatric examinations.

24 (2) The supreme court administrator, under the
25 direction of the supreme court and in consultation with the

1 district judges for each judicial district, shall include
2 within the supreme court's biennial budget request to the
3 legislature a request for funding the expenses listed in
4 subsection (1).

5 (3) The legislature shall appropriate from the state
6 general fund to the supreme court sufficient money to fund
7 the expenses listed in subsection (1).

8 NEW SECTION. Section 2. Fiscal administration for
9 payment of court expenses. The supreme court administrator
10 shall:

11 (1) establish procedures for disbursement of funds for
12 payment of district court expenses listed in [section 1];

13 (2) in consultation with the department of commerce,
14 develop a uniform accounting system for use by the counties
15 in reporting court expenses at a detailed level for
16 budgeting and auditing purposes; and

17 (3) provide for annual auditing of district court
18 expenses to assure normal operations and consistency in
19 reporting of expenditures.

20 NEW SECTION. Section 3. Reimbursement for juror and
21 witness fees. According to procedures established by the
22 supreme court administrator under [section 2(1)], each clerk
23 of district court shall submit to the supreme court
24 administrator a detailed statement containing a list of
25 witnesses and jurors for criminal cases only and the amount

THIRD READING

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1 of per diem and mileage paid to each by the county. Upon
 2 receipt and verification of the statement, the administrator
 3 shall promptly reimburse the general fund of the designated
 4 county for the cost of witness and juror fees.

5 Section 4. Section 3-5-602, MCA, is amended to read:

6 "3-5-602. Salary and expenses -- apportionment. (1)
 7 Each reporter is entitled to receive a base annual salary of
 8 not less than \$16,000 or more than \$23,000 and no other
 9 compensation except as provided in 3-5-604. The salary shall
 10 be set by the judge for whom the reporter works. The salary
 11 is payable in monthly installments out of the general funds
 12 of the counties comprising the district for which the
 13 reporter is appointed and out of an appropriation made to
 14 the supreme court as provided in subsection (2).

15 (2) The supreme court administrator shall determine
 16 the total number of civil and criminal actions commenced in
 17 the preceding year in the district court or courts in the
 18 judicial district for which a reporter is appointed. The
 19 state shall pay its portion of the reporter's salary based
 20 on the proportion of the total number of criminal actions
 21 commenced in the district court or courts in the district.
 22 Each county shall pay its portion of the salary based on its
 23 proportion of the total number of civil and criminal actions
 24 commenced in the district courts in the district in the
 25 preceding year. The judge or judges of the district shall,

1 on January 1 of each year or as soon thereafter as possible,
 2 apportion the amount of the salary to be paid by each county
 3 in his or their district on the basis prescribed in this
 4 subsection. The portion of the salary payable by a county
 5 is a district court expense within the meaning of 7-6-2351,
 6 7-6-2352, and 7-6-2511.

7 ~~(2)~~(3) In judicial districts comprising more than one
 8 county, the reporter is allowed, in addition to the salary
 9 and fees provided for in subsection (1), his actual and
 10 necessary travel expenses, as defined and provided in
 11 2-18-501 through 2-18-503, when he goes on official business
 12 to a county of his judicial district other than the county
 13 in which he resides, from the time he leaves his place of
 14 residence until he returns thereto. The expenses shall be
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 22 trial or hearing or a part thereof, upon payment by the
 23 person requiring the same of \$2 per page for the original
 24 transcript, 50 cents per page for the first copy, 25 cents
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 2 requires a transcript in a criminal case, the reporter is
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10 fiscal year exceeded the sum of:

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8 compensation allowed by law to constables for executing
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10 (4) the board of prisoners confined in jail;

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

13 ~~†6) (5) the accounts of the coroner of the county for
14 such services as are provided by law;~~

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16 by any justice of the peace for services in the examination
17 or trial of persons charged with crime as provided for by
18 law;~~

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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 The clerk of the district court shall disburse the payments
22 to the county city or town or state agency responsible for
23 the expenses of court-appointed counsel as provided for in
24 46-8-201."

25 Section 10. Section 46-8-201, MCA, is amended to read:

1 "46-8-201. Remuneration of appointed counsel. (1)
 2 Whenever in a criminal proceeding an attorney represents or
 3 defends any person by order of the court on the ground that
 4 the person is financially unable to employ counsel, the
 5 attorney shall be paid for his services such sum as a
 6 district court or justice of the state supreme court
 7 certifies to be a reasonable compensation therefor and shall
 8 be reimbursed for reasonable costs incurred in the criminal
 9 proceeding.

10 (2) The expense of implementing subsection (1) is
 11 chargeable to the ~~county--in--which--the--proceeding--arose~~
 12 office of supreme court administrator, except that:

13 (a) in proceedings solely involving the violation of a
 14 city ordinance or state statute prosecuted in a municipal or
 15 city court, the expense is chargeable to the city or town in
 16 which the proceeding arose; and

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

21 Section 11. Section 46-8-202, MCA, is amended to read:

22 "46-8-202. Public defender's office. Any county
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1 public defenders as may be necessary to satisfy the legal
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 5 under [section 2(1)]."

6 Section 12. Section 46-11-319, MCA, is amended to
 7 read:

8 "46-11-319. Expenses of grand jury. (1) All expenses
 9 of the grand jury, including special counsel and
 10 investigators, if any, shall be paid by the treasurer of the
 11 county out of the general fund of the county upon warrants
 12 drawn by the county auditor or the clerk of the district
 13 court upon the written order of the judge of the district
 14 court of the county.

15 (2) The state shall reimburse the county general fund
 16 for juror and witness fees as provided in [section 3] and
 17 for witness expenses as provided in 46-15-104."

18 Section 13. Section 46-14-202, MCA, is amended to
 19 read:

20 "46-14-202. Psychiatric examination of defendant. (1)
 21 If the defendant or his counsel files a written notice of
 22 his intent to rely on a mental disease or defect under
 23 46-14-201 or raises the issue of his fitness to proceed, the
 24 court shall appoint ~~at least one~~ qualified psychiatrist or
 25 shall request the superintendent of the Montana state

1 hospital to designate at least one qualified psychiatrist,
2 which designation may be or include himself, to examine and
3 report upon the mental condition of the defendant.

4 (2) The court may order the defendant to be committed
5 to a hospital or other suitable facility for the purpose of
6 the examination for a period of not exceeding 60 days or
7 such longer period as the court determines to be necessary
8 for the purpose and may direct that a qualified psychiatrist
9 retained by the defendant be permitted to witness and
10 participate in the examination.

11 (3) In the examination any method may be employed
12 which is accepted by the medical profession for the
13 examination of those alleged to be suffering from mental
14 disease or defect.

15 (4) The cost of the examination must be paid by the
16 state according to procedures established under [section
17 2(1)]."

18 SECTION 14. SECTION 46-14-221, MCA, IS AMENDED TO
19 READ:

20 "46-14-221. Determination of fitness to proceed --
21 effect of finding of unfitness -- expenses. (1) The issue of
22 the defendant's fitness to proceed may be raised by the
23 defendant or his counsel or by the county attorney. When the
24 issue is raised, it shall be determined by the court. If
25 neither the county attorney nor counsel for the defendant

1 contests the finding of the report filed under 46-14-203,
2 the court may make the determination on the basis of the
3 report. If the finding is contested, the court shall hold a
4 hearing on the issue. If the report is received in evidence
5 upon the hearing, the parties have the right to summon and
6 cross-examine the psychiatrists who joined in the report and
7 to offer evidence upon the issue.

8 (2) If the court determines that the defendant lacks
9 fitness to proceed, the proceeding against him shall be
10 suspended, except as provided in subsection (4) of this
11 section, and the court shall commit him to the custody of
12 the director of the department of institutions to be placed
13 in an appropriate institution of the department of
14 institutions for so long as the unfitness endures. The
15 committing court shall, within 90 days of commitment, review
16 the defendant's fitness to proceed. If the court finds that
17 he is still unfit to proceed and that it does not appear
18 that he will become fit to proceed within the reasonably
19 foreseeable future, the proceeding against him shall be
20 dismissed, except as provided in subsection (4) of this
21 section, and the county attorney shall petition the court in
22 the manner provided in chapter 20 or 21 of Title 53,
23 whichever is appropriate, to determine the disposition of
24 the defendant pursuant to those provisions.

25 (3) If the court determines that the defendant lacks

1 fitness to proceed because he is developmentally disabled as
 2 provided in 53-20-102(4), the proceeding against him shall
 3 be dismissed and the county attorney shall petition the
 4 court in the manner provided in chapter 20 of Title 53.

5 (4) The fact that the defendant is unfit to proceed
 6 does not preclude any legal objection to the prosecution
 7 which is susceptible to fair determination prior to trial
 8 and without the personal participation of the defendant.

9 (5) The expenses of sending the defendant to the
 10 custody of the director of the department of institutions to
 11 be placed in an appropriate institution of the state
 12 department of institutions, of keeping him there, and of
 13 bringing him back are chargeable to the state ~~but the state~~
 14 ~~may recover them from the estate of the defendant~~ and
 15 payable as provided in [section 2]."

16 Section 15. Section 46-15-104, MCA, is amended to
 17 read:

18 "46-15-104. Expenses of witness. (1) When a person
 19 attends before a magistrate, grand jury, or court as a
 20 witness in a criminal case upon a subpoena or in pursuance
 21 of an undertaking, the judge, at his discretion, by a
 22 written order may direct the clerk of the court to draw his
 23 warrant upon the county treasurer in favor of such witness
 24 for a reasonable sum, to be specified in the order, for the
 25 necessary expenses of the witness.

1 (2) According to procedures established by the supreme
 2 court administrator under [section 2(1)], the clerk of
 3 district court shall submit to the supreme court
 4 administrator a detailed statement containing a list of
 5 witnesses and the amount of expenses paid to each by the
 6 county. Upon receipt and verification of the statement, the
 7 administrator shall promptly reimburse the general fund of
 8 the designated county for the cost of witness expenses."

9 Section 16. Section 46-18-235, MCA, is amended to
 10 read:

11 "46-18-235. Disposition of money collected as fines
 12 and costs. The money collected by a court as a result of the
 13 imposition of fines or assessment of costs under the
 14 provisions of 46-18-231 and 46-18-232 shall be paid to the
 15 county general fund of the county in which the court is
 16 held, except that:

17 (1) if the costs assessed include any district court
 18 expense listed in [section 1], the money collected from
 19 assessment of these costs must be paid to the supreme court
 20 administrator for deposit into the state general fund; and

21 (2) if the fine was imposed for a violation of Title
 22 45, chapter 9, the court may order the money paid into the
 23 drug forfeiture fund maintained under 44-12-206 for the law
 24 enforcement agency which made the arrest from which the
 25 conviction and fine arose."

1 NEW SECTION. Section 17. Codification instruction.
2 Sections 1 through 3 are intended to be codified as an
3 integral part of Title 3, chapter 5, and the provisions of
4 Title 3, chapter 5, apply to sections 1 through 3.

5 NEW SECTION. SECTION 18. COORDINATION INSTRUCTION.
6 IF SENATE BILL NO. 142 IS NOT PASSED AND APPROVED, THIS ACT
7 IS VOID.

8 NEW SECTION. Section 19. Effective date. This act is
9 effective July 1, 1985.

-End-

STANDING COMMITTEE REPORT

Page 1 of 2

HOUSE

March 21, 1985

SB 25

Page 2 of 2

March 21, 1985

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 25

THIRD reading copy (BLUE color)

STATE FUNDING FOR CERTAIN DISTRICT COURT EXPENSES.

Respectfully report as follows: That SENATE Bill No. 25

BE AMENDED AS FOLLOWS:

1. Page 3, line 3. Strike: "general" through "the"

2. Page 3, line 4. Following: "." Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

3. Page 11, line 1. Following: "{1}" Insert: "(1)"

4. Page 12, line 15. Strike: "general fund"

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CONTINUED

7

Chairman.

5. Page 12, line 17. Following: "." Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

6. Page 15, line 15. Strike: "as provided in" Insert: "according to procedures established under" Following: "2" Insert: "(1)"

7. Page 16, line 7. Strike: "the" through "of"

8. Page 16, line 8. Following: "." Insert: "The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

AND, AS SO AMENDED, BE CONCURRED IN

Jul 3/85 PA

Paula Darko

PAULA DARKO

Chairman.

1 SENATE BILL NO. 25
 2 INTRODUCED BY TOWE
 3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE TO
 6 ASSUME FUNDING FOR CERTAIN DISTRICT COURT EXPENSES AND
 7 REQUIRING THE LEGISLATURE TO PROVIDE FULL FUNDING FOR THE
 8 DISTRICT COURT GRANT PROGRAM; AMENDING SECTIONS 3-5-602,
 9 3-5-604, 7-6-2352, 7-6-2426, 7-6-2427, 46-8-114, 46-8-201,
 10 46-8-202, 46-11-319, 46-14-202, 46-14-221, 46-15-104, AND
 11 46-18-235, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. State assumption of certain
 15 district court expenses. (1) Effective July 1, 1985, the
 16 state shall fund the following district court expenses in
 17 criminal cases only:

- 18 (a) salaries of court reporters;
 - 19 (b) transcripts of proceedings;
 - 20 (c) witness fees and necessary expenses;
 - 21 (d) juror fees;
 - 22 (e) indigent defense; and
 - 23 (f) psychiatric examinations.
- 24 (2) The supreme court administrator, under the
 25 direction of the supreme court and in consultation with the

1 district judges for each judicial district, shall include
 2 within the supreme court's biennial budget request to the
 3 legislature a request for funding the expenses listed in
 4 subsection (1).

5 (3) The legislature shall appropriate from the state
 6 general fund to the supreme court sufficient money to fund
 7 the expenses listed in subsection (1).

8 NEW SECTION. Section 2. Fiscal administration for
 9 payment of court expenses. The supreme court administrator
 10 shall:

- 11 (1) establish procedures for disbursement of funds for
 12 payment of district court expenses listed in [section 1];
- 13 (2) in consultation with the department of commerce,
 14 develop a uniform accounting system for use by the counties
 15 in reporting court expenses at a detailed level for
 16 budgeting and auditing purposes; and
- 17 (3) provide for annual auditing of district court
 18 expenses to assure normal operations and consistency in
 19 reporting of expenditures.

20 NEW SECTION. Section 3. Reimbursement for juror and
 21 witness fees. According to procedures established by the
 22 supreme court administrator under [section 2(1)], each clerk
 23 of district court shall submit to the supreme court
 24 administrator a detailed statement containing a list of
 25 witnesses and jurors for criminal cases only and the amount



1 of per diem and mileage paid to each by the county. Upon
 2 receipt and verification of the statement, the administrator
 3 shall promptly reimburse the ~~general fund of the~~ designated
 4 county for the cost of witness and juror fees. THE COUNTY
 5 SHALL DEPOSIT THE AMOUNT REIMBURSED IN ITS GENERAL FUND
 6 UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE COUNTY
 7 HAS A DISTRICT COURT FUND, THE AMOUNT REIMBURSED MUST BE
 8 DEPOSITED IN SUCH FUND.

9 Section 4. Section 3-5-602, MCA, is amended to read:

10 "3-5-602. Salary and expenses -- apportionment. (1)

11 Each reporter is entitled to receive a base annual salary of
 12 not less than \$16,000 or more than \$21,000 and no other
 13 compensation except as provided in 3-5-604. The salary shall
 14 be set by the judge for whom the reporter works. The salary
 15 is payable in monthly installments out of the general funds
 16 of the counties comprising the district for which the
 17 reporter is appointed and out of an appropriation made to
 18 the supreme court as provided in subsection (2).

19 (2) The supreme court administrator shall determine
 20 the total number of civil and criminal actions commenced in
 21 the preceding year in the district court or courts in the
 22 judicial district for which a reporter is appointed. The
 23 state shall pay its portion of the reporter's salary based
 24 on the proportion of the total number of criminal actions
 25 commenced in the district court or courts in the district.

1 Each county shall pay its portion of the salary based on its
 2 proportion of the total number of civil ~~and-criminal~~ actions
 3 commenced in the district courts in the district ~~in--the~~
 4 ~~preceding--year~~. The judge or judges of the district shall,
 5 on January 1 of each year or as soon thereafter as possible,
 6 apportion the amount of the salary to be paid by each county
 7 in his or their district on the basis prescribed in this
 8 subsection. The portion of the salary payable by a county
 9 is a district court expense within the meaning of 7-6-2351,
 10 7-6-2352, and 7-6-2511.

11 ~~{2}{3}~~ In judicial districts comprising more than one
 12 county, the reporter is allowed, in addition to the salary
 13 and fees provided for in subsection (1), his actual and
 14 necessary travel expenses, as defined and provided in
 15 2-18-501 through 2-18-503, when he goes on official business
 16 to a county of his judicial district other than the county
 17 in which he resides, from the time he leaves his place of
 18 residence until he returns thereto. The expenses shall be
 19 apportioned and payable in the same way as the salary."

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

21 "3-5-604. Transcript of proceedings. (1) Each reporter
 22 must furnish, upon request, with all reasonable diligence,
 23 to a party or his attorney in a case in which he has
 24 attended the trial or hearing a transcript from his
 25 stenographic notes of the testimony and proceedings of the

1 trial or hearing or a part thereof, upon payment by the
2 person requiring the same of \$2 per page for the original
3 transcript, 50 cents per page for the first copy, 25 cents
4 per page for each additional copy.

5 (2) If the county attorney, attorney general, or judge
6 requires a transcript in a criminal case, the reporter is
7 entitled to his fees therefor, but he must furnish it. Upon
8 furnishing it, he shall receive a certificate of for the sum
9 to which he is so entitled, ~~which is a county charge and~~
10 ~~must be paid by the county treasurer upon the certificate~~
11 ~~like other county charges. The reporter shall submit the~~
12 ~~certificate to the supreme court administrator who is~~
13 ~~responsible for the prompt payment of the amount due the~~
14 ~~reporter.~~

15 (3) If the judge requires a copy in a civil case to
16 assist him in rendering a decision, the reporter must
17 furnish the same without charge therefor. In civil cases,
18 all transcripts required by the county shall be furnished,
19 and only the reporter's actual costs of preparation may be
20 paid by the county.

21 (4) If it appears to the judge that a defendant in a
22 criminal case is unable to pay for a transcript, it shall be
23 furnished to him and paid for by the county state in the
24 manner provided in subsection (2)."

25 Section 6. Section 7-6-2352, MCA, is amended to read:

1 "7-6-2352. State grants to district courts -- rules.
2 (1) The department of commerce shall make grants to the
3 governing body of a county for the district courts for
4 assistance, as provided in this section. The grants are to
5 be made from funds appropriated to the department for that
6 purpose as provided in subsection (2). ~~If the department~~
7 ~~approves grants in excess of the amount appropriated, each~~
8 ~~grant shall be reduced an equal percentage so the~~
9 ~~appropriation will not be exceeded.~~

10 (2) The legislature shall appropriate from the state
11 general fund to the department of commerce sufficient money
12 to fully fund eligible grant requests submitted by the
13 governing bodies of the counties. If in the first fiscal
14 year of the biennium for which an appropriation is made
15 eligible grant requests exceed the first fiscal year
16 appropriation, the department shall make expenditures from
17 the second fiscal year appropriation to fund the grant
18 requests. If in the second fiscal year of the biennium for
19 which an appropriation is made, eligible grant requests
20 exceed the second fiscal year appropriation, as it may be
21 reduced by expenditures for eligible first fiscal year grant
22 requests, the department shall request a supplemental
23 appropriation at the next legislative session.

24 (2)(3) The governing body of a county may apply to the
25 department of commerce for a grant by filing a written

1 request on forms provided by the department by July 20 for
 2 the previous fiscal year unless the department grants a time
 3 extension upon request of the county. In its request for a
 4 grant, a county must certify that:

5 (a) all expenditures from the district court fund have
 6 been lawfully made;

7 (b) no transfers from the district court fund have
 8 been or will be made to any other fund; and

9 (c) no expenditures have been made from the district
 10 court fund that are not specifically authorized by 7-6-2511
 11 and 7-6-2351.

12 ~~(3)~~(4) The department of commerce shall award a grant
 13 if the county's district court expenditures for the previous
 14 fiscal year exceeded the sum of:

15 (a) the product of the maximum mill levy authorized by
 16 law for district court purposes, whether or not assessed,
 17 multiplied by the previous year's taxable valuation of the
 18 county; and

19 (b) all revenues, except district court grants,
 20 required by law to be deposited in the district court fund
 21 for the previous fiscal year.

22 ~~(4)~~(5) Eligible court expenditures for grant purposes
 23 include all costs of the county associated with the
 24 operation and maintenance of the district court, from
 25 whatever fund paid, except costs for building and capital

1 items and library maintenance, replacement, and acquisition.

2 ~~(5)~~(6) The department of commerce shall notify each
 3 eligible county as soon as possible of its intention to
 4 award a grant to that county and the amount of the award.

5 ~~(6)~~(7) The grant received by the county shall be
 6 placed in the district court fund.

7 ~~(7)~~(8) After all grants are awarded, the department of
 8 commerce shall audit each approved grant request. The
 9 department shall charge each county receiving a grant an
 10 audit fee in the same amount as the costs incurred in
 11 conducting the audit.

12 ~~(8)~~(9) If the audit of a grant recipient discloses
 13 that the recipient received a grant in excess of the amount
 14 for which it was eligible, the recipient shall repay the
 15 excess to the department of commerce. The department shall
 16 redistribute any repaid excess amounts to the other counties
 17 that received grants from the appropriation from which the
 18 overpayment was made, on the same basis as the original
 19 awards. No county is eligible for a district court grant if
 20 it owes the department a refund of a prior year's
 21 overpayment.

22 ~~(9)~~(10) The department of commerce shall prescribe
 23 rules and forms necessary to effectively administer this
 24 section. The department may require a county to provide any
 25 information considered necessary for the administration of

1 the program."

2 Section 7. Section 7-6-2426, MCA, is amended to read:
3 "7-6-2426. Enumeration of county charges. The
4 following are county charges:

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

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

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

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

15 ~~{5}--the--sums--required--by--law--to--be--paid--to--grand--and--~~
16 ~~trial--jurors--and--witnesses--in--criminal--cases;~~

17 ~~{6}{5}~~ the accounts of the coroner of the county for
18 such services as are provided by law;

19 ~~{7}{6}~~ all charges and accounts for services rendered
20 by any justice of the peace for services in the examination
21 or trial of persons charged with crime as provided for by
22 law;

23 ~~{8}{7}~~ the necessary expenses incurred in the support
24 of county hospitals and poorfarms and in the support of the
25 indigent sick and the otherwise dependent poor whose support

1 is chargeable to the county;

2 ~~{9}{8}~~ the contingent expenses necessarily incurred
3 for the use and benefit of the county;

4 ~~{10}{9}~~ every other sum directed by law to be raised
5 for any county purpose under the direction of the board of
6 county commissioners or declared to be a county charge."

7 SECTION 8. SECTION 7-6-2427, MCA, IS AMENDED TO READ:

8 "7-6-2427. Special provisions for certain charges
9 related to criminal prosecutions. ~~{1}~~ Notwithstanding
10 7-6-2426, all costs of a criminal prosecution, including
11 attorneys' fees, of an offense committed in the state prison
12 are not charges against the county in which the state prison
13 is located. Such costs shall be paid by the department of
14 institutions.

15 ~~{2}--When--a--criminal--action--is--removed--before--trial,~~
16 ~~the--costs--accruing--upon--such--removal--and--trial--must--be--a~~
17 ~~charge--against--the--county--in--which--the--indictment--was--found~~
18 ~~or--information--filed."~~

19 Section 9. Section 46-8-114, MCA, is amended to read:

20 "46-8-114. Time and method of payment of costs. When a
21 defendant is sentenced to pay the costs of court-appointed
22 counsel, the court may order payment to be made within a
23 specified period of time or in specified installments. Such
24 payments shall be made to the clerk of the district court.
25 The clerk of the district court shall disburse the payments

1 to the county city or town or state agency responsible for
 2 the expenses of court-appointed counsel as provided for in
 3 46-8-201."

4 Section 10. Section 46-8-201, MCA, is amended to read:

5 "46-8-201. Remuneration of appointed counsel. ~~{}~~ (1)
 6 Whenever in a criminal proceeding an attorney represents or
 7 defends any person by order of the court on the ground that
 8 the person is financially unable to employ counsel, the
 9 attorney shall be paid for his services such sum as a
 10 district court or justice of the state supreme court
 11 certifies to be a reasonable compensation therefor and shall
 12 be reimbursed for reasonable costs incurred in the criminal
 13 proceeding.

14 (2) The expense of implementing subsection (1) is
 15 chargeable to the ~~county--in--which--the--proceeding--arose~~
 16 office of supreme court administrator, except that:

17 (a) in proceedings solely involving the violation of a
 18 city ordinance or state statute prosecuted in a municipal or
 19 city court, the expense is chargeable to the city or town in
 20 which the proceeding arose; and

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

25 Section 11. Section 46-8-202, MCA, is amended to read:

1 "46-8-202. Public defender's office. Any county
 2 through its board of county commissioners may provide for
 3 the creation of a public defender's office and the
 4 appointment of a salaried public defender and such assistant
 5 public defenders as may be necessary to satisfy the legal
 6 requirements in providing counsel for defendants unable to
 7 employ counsel. The costs of such office shall be at county
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 9 under [section 2(1)]."

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12 "46-11-319. Expenses of grand jury. (1) All expenses
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 14 investigators, if any, shall be paid by the treasurer of the
 15 county out of the general fund of the county upon warrants
 16 drawn by the county auditor or the clerk of the district
 17 court upon the written order of the judge of the district
 18 court of the county.

19 (2) The state shall reimburse the county general--fund
 20 for juror and witness fees as provided in [section 3] and
 21 for witness expenses as provided in 46-15-104. THE COUNTY
 22 SHALL DEPOSIT THE AMOUNT REIMBURSED IN ITS GENERAL FUND
 23 UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE COUNTY
 24 HAS A DISTRICT COURT FUND, THE AMOUNT REIMBURSED MUST BE
 25 DEPOSITED IN SUCH FUND."

1 Section 13. Section 46-14-202, MCA, is amended to
2 read:

3 "46-14-202. Psychiatric examination of defendant. (1)
4 If the defendant or his counsel files a written notice of
5 his intent to rely on a mental disease or defect under
6 46-14-201 or raises the issue of his fitness to proceed, the
7 court shall appoint at least one qualified psychiatrist or
8 shall request the superintendent of the Montana state
9 hospital to designate at least one qualified psychiatrist,
10 which designation may be or include himself, to examine and
11 report upon the mental condition of the defendant.

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

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

23 (4) The cost of the examination must be paid by the
24 state according to procedures established under [section
25 2(1)]."

1 SECTION 14. SECTION 46-14-221, MCA, IS AMENDED TO
2 READ:

3 "46-14-221. Determination of fitness to proceed --
4 effect of finding of unfitness -- expenses. (1) The issue of
5 the defendant's fitness to proceed may be raised by the
6 defendant or his counsel or by the county attorney. When the
7 issue is raised, it shall be determined by the court. If
8 neither the county attorney nor counsel for the defendant
9 contests the finding of the report filed under 46-14-203,
10 the court may make the determination on the basis of the
11 report. If the finding is contested, the court shall hold a
12 hearing on the issue. If the report is received in evidence
13 upon the hearing, the parties have the right to summon and
14 cross-examine the psychiatrists who joined in the report and
15 to offer evidence upon the issue.

16 (2) If the court determines that the defendant lacks
17 fitness to proceed, the proceeding against him shall be
18 suspended, except as provided in subsection (4) of this
19 section, and the court shall commit him to the custody of
20 the director of the department of institutions to be placed
21 in an appropriate institution of the department of
22 institutions for so long as the unfitness endures. The
23 committing court shall, within 90 days of commitment, review
24 the defendant's fitness to proceed. If the court finds that
25 he is still unfit to proceed and that it does not appear

1 that he will become fit to proceed within the reasonably
 2 foreseeable future, the proceeding against him shall be
 3 dismissed, except as provided in subsection (4) of this
 4 section, and the county attorney shall petition the court in
 5 the manner provided in chapter 20 or 21 of Title 53,
 6 whichever is appropriate, to determine the disposition of
 7 the defendant pursuant to those provisions.

8 (3) If the court determines that the defendant lacks
 9 fitness to proceed because he is developmentally disabled as
 10 provided in 53-20-102(4), the proceeding against him shall
 11 be dismissed and the county attorney shall petition the
 12 court in the manner provided in chapter 20 of Title 53.

13 (4) The fact that the defendant is unfit to proceed
 14 does not preclude any legal objection to the prosecution
 15 which is susceptible to fair determination prior to trial
 16 and without the personal participation of the defendant.

17 (5) The expenses of sending the defendant to the
 18 custody of the director of the department of institutions to
 19 be placed in an appropriate institution of the state
 20 department of institutions, of keeping him there, and of
 21 bringing him back are chargeable to the state ~~but the state~~
 22 ~~may recover them from the estate of the defendant and~~
 23 ~~payable as provided in~~ ACCORDING TO PROCEDURES ESTABLISHED
 24 UNDER [section 2(1)]."

25 Section 15. Section 46-15-104, MCA, is amended to

1 read:

2 "46-15-104. Expenses of witness. (1) When a person
 3 attends before a magistrate, grand jury, or court as a
 4 witness in a criminal case upon a subpoena or in pursuance
 5 of an undertaking, the judge, at his discretion, by a
 6 written order may direct the clerk of the court to draw his
 7 warrant upon the county treasurer in favor of such witness
 8 for a reasonable sum, to be specified in the order, for the
 9 necessary expenses of the witness.

10 (2) According to procedures established by the supreme
 11 court administrator under [section 2(1)], the clerk of
 12 district court shall submit to the supreme court
 13 administrator a detailed statement containing a list of
 14 witnesses and the amount of expenses paid to each by the
 15 county. Upon receipt and verification of the statement, the
 16 administrator shall promptly reimburse the general fund of
 17 the designated county for the cost of witness expenses. THE
 18 COUNTY SHALL DEPOSIT THE AMOUNT REIMBURSED IN ITS GENERAL
 19 FUND UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE
 20 COUNTY HAS A DISTRICT COURT FUND, THE AMOUNT REIMBURSED MUST
 21 BE DEPOSITED IN SUCH FUND."

22 Section 16. Section 46-18-235, MCA, is amended to
 23 read:

24 "46-18-235. Disposition of money collected as fines
 25 and costs. The money collected by a court as a result of the

GOVERNOR'S PROPOSED AMENDMENTS TO
SENATE BILL NO. 25
REFERENCE COPY
April 19, 1985

1. Title, line 5.
Following: "ACT"
Strike: "REQUIRING"
Insert: "AUTHORIZING"

2. Title, Line 7.
Following: line 6
Strike: "REQUIRING"
Insert: "AUTHORIZING"
Following: "PROVIDE"
Strike: "FULL"

3. Page 1, line 17.
Following: "only"
Insert: "and to the extent that funds are appropriated
for that purpose"

4. Page 2, lines 5 through 7.
Following: "(3)" on line 5
Strike: remainder of line 5 through "(1)" on line 7
Insert: "If monies appropriated for the expenses listed in
subsection (1) are insufficient to fully fund those
expenses, the county is responsible for payment
of the balance. If no monies are appropriated,
the county is responsible for payment of all
expenses."

5. Page 2, line 12.
Following: "[section 1]"
Insert: ", including prorating of those funds should
they not be sufficient to cover all expenses
listed in [section 1]"

6. Page 3, line 4.
Following: "fees"
Insert: "on a full or prorated basis in accordance with
[section 2]"

7. Page 3, line 25.
Following: "courts in the district"
Insert: "and the amount appropriated for that purpose"

8. Page 4, lines 1 through 3.
Following: "pay" on line 1
Strike: "its portion"
Insert: "the remainder"
Following: "salary" on line 1
Strike: remainder of line 1 through "courts in the district"
on line 3

9. Page 5, line 12.
Following: " who "
Insert: ", in accordance with [section 2],"

10. Page 5, line 13.
Following: " of "
Insert: "all or a portion of"

11. Page 5, line 14.
Following: " reporter. "
Insert: "If the supreme court administrator, in accordance
with [section 2], pays none or only a portion of
the amount due, the county shall pay the balance
upon receipt of a statement from the reporter."

12. Page 5, line 24.
Following: " (2) "
Insert: "to the extent funds are available"
Following: ". "
Insert: "The county shall pay the remainder as
required in [section 1]."

13. Page 6, line 2.
Following: "grants"
Insert: ", to the extent funds are appropriated for
that purpose,"

14. Page 6, lines 4 through 13.
Following: "section." on line 4
Strike: remainder of line 4 through "counties." on line 13

15. Page 6, line 24.
Following: "~~(2)~~ "
Strike: "~~(3)~~ "
Insert: "(2) "
16. Page 7, line 12
Following: " (4) "
Strike: "The"
Insert: "To the extent funds are available, the"
17. Page 10, line 9.
Following: "~~(1)~~"
Insert: "(1)"
18. Page 10.
Following: line 18
Insert: "(2) When a criminal action is removed before trial, the costs accruing upon such removal and trial must be a charge against the county in which the indictment was found or information filed, subject to partial or total reimbursement as provided in [section 1]."
19. Page 11, line 1.
Following: "~~county~~ "
Insert: "county,"
Following: "city "
Insert: ", "
Strike: "or "
20. Page 11, line 15.
Following: "~~arose~~ "
Insert: "county in which the proceeding arose, or the"
21. Page 11, line 16.
Following: "administrator,"
Insert: "or both as provided in [section 1],"
22. Page 12, line 9.
Following: "[section 2(1)] "
Insert: "and, to the extent those costs are not paid by by the state, at county expense in accordance with [section 1(3)] and [section 2(1)]"
23. Page 12, line 19.
Following: " (2) "
Strike: "The "
Insert: "Subject to the procedures established pursuant to [section 2(1)], the"

24. Page 13, line 24.
Following: " state "
Insert: ", or both,"
25. Page 16, line 17.
Following: " for "
Insert: "all or a portion of"
26. Page 17, line 8.
Following: " fund "
Insert: "to the extent the expenses were paid by the
state"
27. Page 17, line 19.
Following: "APPROVED"
Insert: "OR IF SENATE BILL NO. 142, AS PASSED AND
APPROVED, CONTAINS NO FUNDING OR APPROPRIATION
FOR DISTRICT COURT EXPENSES AND GRANTS"

-END-

CONFERENCE COMMITTEE REPORT

Report No. 1

APR 25, 1985

FOCSB 25

APR 25, 19 85

MR. PRESIDENT

We, your _____ FREE _____ Conference Committee on _____
 _____ SENATE BILL NO. 25, reference bill, _____
 met and considered _____ SENATE BILL NO. 25 in its entirety. _____

We recommend as follows:

1. Title, line 5.
Strike: "REQUIRING"
Insert: "AUTHORIZING"
2. Title, line 7.
Strike: "REQUIRING"
Insert: "AUTHORIZING"
Strike: "FULL"
3. Page 1, line 16.
Following: "shall"
Insert: ", to the extent that money is appropriated,"

(CONTINUED)

And that this Conference Committee report be adopted.

FOR THE SENATE

Thomas E. Towe
TOWE CHM.
Michael Halligan
HALLIGAN
Ed Smith
SMITH

FOR THE HOUSE

ADDY
ADDY
BROWN
BROWN
GILBERT
GILBERT
WALLIN
WALLIN

ADOPT REJECT

4. Page 2, lines 5 through 7.
Following: "{3}" on line 5
Strike: remainder of line 5 through "(1)" on line 7
Insert: "If money appropriated for the expenses listed in subsection (1) is insufficient to fully fund those expenses, the county is responsible for payment of the balance. If no money is appropriated, the county is responsible for payment of all expenses."

5. Page 2, line 12.
Following: "[section 1]"
Insert: ", including prorating of those funds if they are insufficient to cover all expenses listed in [section 1]"

6. Page 3, line 4.
Following: "fees"
Insert: "on a full or prorated basis in accordance with [section 2]"

7. Page 3, line 25.
Following: "courts in the district"
Insert: "and the amount appropriated for that purpose"

8. Page 4, line 1.
Following: "portion"
Insert: "of the remainder"

9. Page 4, line 2.
Following: "~~criminal~~"
Insert: "and criminal"

10. Page 5, line 12.
Following: "who"
Insert: ", in accordance with [section 2],"

11. Page 5, line 13.
Following: "of"
Insert: "all or a portion of"

12. Page 5, line 14.
Following: "reporter."
Insert: "If the supreme court administrator, in accordance with [section 2], pays none or only a portion of the amount due, the county shall pay the balance upon receipt of a statement from the reporter."

13. Page 5, line 24.
Following: "(2)"
Insert: "to the extent funds are available"
Following: "."
Insert: "The county shall pay the remainder as required in [section 1]."

(CONTINUED)

TEJ

KB

APRIL 25, 19.85

14. Page 6, line 2.
Following: "grants"
Insert: ", to the extent funds are appropriated for that purpose,"
15. Page 6, lines 4 through 6.
Following: "section." on line 4
Strike: remainder of line 4 through "." on line 6
16. Page 6, line 10 through 13.
Strike: "(2)" on line 10 through "." on line 13
Renumber: subsequent subsections
17. Page 7, line 12.
Strike: "The"
Insert: "To the extent funds are available, the"
18. Page 10, line 9.
Following: "4++"
Insert: "(1)"
19. Page 10.
Following: line 18
Insert: "(2) If a criminal action is removed before trial, the costs accruing upon such removal and trial must be a charge against the county in which the indictment was found or information filed, subject to partial or total reimbursement as provided in [section 1]."
20. Page 11, line 1.
Following: "county"
Insert: "county,"
Following: "city"
Insert: ", "
Strike: "or"
Following: "town"
Insert: ", "
21. Page 11, line 15.
Following: "chargeable"
Insert: "as provided in [section 1]"
Following: "arose"
Insert: "county in which the proceeding arose, the"
22. Page 11, line 16.
Following: "administrator,"
Insert: "or both,"

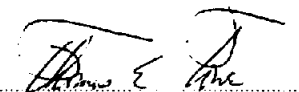
APRIL 25, 19.85

23. Page 12, line 9.
Following: "[section 2(1)]"
Insert: "and, to the extent those costs are not paid by the state, at county expense in accordance with [section 1(3)] and [section 2(1)]"
24. Page 12, line 19.
Strike: "The"
Insert: "Subject to the procedures established under [section 2(1)], the"
25. Page 13, line 23.
Following: "by the"
Insert: "county or the"
26. Page 13, line 24.
Following: "state"
Insert: ", or both,"
27. Page 16, line 17.
Following: "for"
Insert: "all or a portion of"
28. Page 17, line 8.
Following: "fund"
Insert: "to the extent the expenses were paid by the state"
29. Page 17, line 19.
Following: "APPROVED"
Insert: "or if Senate Bill No. 142, as passed and approved, contains no funding or appropriation for district court expenses and grants"

FCCSB25

(CONTINUED)

TEI



1 SENATE BILL NO. 25
 2 INTRODUCED BY TOWE
 3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ~~REQUIRING~~ AUTHORIZING
 6 THE STATE TO ASSUME FUNDING FOR CERTAIN DISTRICT COURT
 7 EXPENSES AND ~~REQUIRING~~ AUTHORIZING THE LEGISLATURE TO
 8 PROVIDE ~~PHB~~ FUNDING FOR THE DISTRICT COURT GRANT PROGRAM;
 9 AMENDING SECTIONS 3-5-602, 3-5-604, 7-6-2352, 7-6-2426,
 10 7-6-2427, 46-8-114, 46-8-201, 46-8-202, 46-11-319,
 11 46-14-202, 46-14-221, 46-15-104, AND 46-18-235, MCA; AND
 12 PROVIDING AN EFFECTIVE DATE."
 13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 NEW SECTION. Section 1. State assumption of certain
 16 district court expenses. (1) Effective July 1, 1985, the
 17 state shall, TO THE EXTENT THAT MONEY IS APPROPRIATED, fund
 18 the following district court expenses in criminal cases
 19 only:

- 20 (a) salaries of court reporters;
- 21 (b) transcripts of proceedings;
- 22 (c) witness fees and necessary expenses;
- 23 (d) juror fees;
- 24 (e) indigent defense; and
- 25 (f) psychiatric examinations.

1 (2) The supreme court administrator, under the
 2 direction of the supreme court and in consultation with the
 3 district judges for each judicial district, shall include
 4 within the supreme court's biennial budget request to the
 5 legislature a request for funding the expenses listed in
 6 subsection (1).

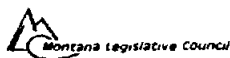
7 ~~(3) The legislature shall appropriate from the state~~
 8 ~~general fund to the supreme court sufficient money to fund~~
 9 ~~the expenses listed in subsection (1);~~ IF MONEY APPROPRIATED
 10 FOR THE EXPENSES LISTED IN SUBSECTION (1) IS INSUFFICIENT TO
 11 FULLY FUND THOSE EXPENSES, THE COUNTY IS RESPONSIBLE FOR
 12 PAYMENT OF THE BALANCE. IF NO MONEY IS APPROPRIATED, THE
 13 COUNTY IS RESPONSIBLE FOR PAYMENT OF ALL EXPENSES.

14 NEW SECTION. Section 2. Fiscal administration for
 15 payment of court expenses. The supreme court administrator
 16 shall:

17 (1) establish procedures for disbursement of funds for
 18 payment of district court expenses listed in [section 1],
 19 INCLUDING PRORATING OF THOSE FUNDS IF THEY ARE INSUFFICIENT
 20 TO COVER ALL EXPENSES LISTED IN [SECTION 1];

21 (2) in consultation with the department of commerce,
 22 develop a uniform accounting system for use by the counties
 23 in reporting court expenses at a detailed level for
 24 budgeting and auditing purposes; and

25 (3) provide for annual auditing of district court



1 expenses to assure normal operations and consistency in
 2 reporting of expenditures.

3 NEW SECTION. Section 3. Reimbursement for juror and
 4 witness fees. According to procedures established by the
 5 supreme court administrator under [section 2(1)], each clerk
 6 of district court shall submit to the supreme court
 7 administrator a detailed statement containing a list of
 8 witnesses and jurors for criminal cases only and the amount
 9 of per diem and mileage paid to each by the county. Upon
 10 receipt and verification of the statement, the administrator
 11 shall promptly reimburse the ~~general-fund-of-the~~ designated
 12 county for the cost of witness and juror fees ON A FULL OR
 13 PRORATED BASIS IN ACCORDANCE WITH [SECTION 2]. THE COUNTY
 14 SHALL DEPOSIT THE AMOUNT REIMBURSED IN ITS GENERAL FUND
 15 UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE COUNTY
 16 HAS A DISTRICT COURT FUND, THE AMOUNT REIMBURSED MUST BE
 17 DEPOSITED IN SUCH FUND.

18 Section 4. Section 3-5-602, MCA, is amended to read:
 19 "3-5-602. Salary and expenses -- apportionment. (1)
 20 Each reporter is entitled to receive a base annual salary of
 21 not less than \$16,000 or more than \$23,000 and no other
 22 compensation except as provided in 3-5-604. The salary shall
 23 be set by the judge for whom the reporter works. The salary
 24 is payable in monthly installments out of the general funds
 25 of the counties comprising the district for which the

1 reporter is appointed and out of an appropriation made to
 2 the supreme court as provided in subsection (2).

3 (2) The supreme court administrator shall determine
 4 the total number of civil and criminal actions commenced in
 5 the preceding year in the district court or courts in the
 6 judicial district for which a reporter is appointed. The
 7 state shall pay its portion of the reporter's salary based
 8 on the proportion of the total number of criminal actions
 9 commenced in the district court or courts in the district
 10 AND THE AMOUNT APPROPRIATED FOR THAT PURPOSE. Each county
 11 shall pay its portion OF THE REMAINDER of the salary based
 12 on its proportion of the total number of civil ~~and-criminal~~
 13 AND CRIMINAL actions commenced in the district courts in the
 14 district ~~in-the-preceding-year~~. The judge or judges of the
 15 district shall, on January 1 of each year or as soon
 16 thereafter as possible, apportion the amount of the salary
 17 to be paid by each county in his or their district on the
 18 basis prescribed in this subsection. The portion of the
 19 salary payable by a county is a district court expense
 20 within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

21 ~~{2}~~(3) In judicial districts comprising more than one
 22 county, the reporter is allowed, in addition to the salary
 23 and fees provided for in subsection (1), his actual and
 24 necessary travel expenses, as defined and provided in
 25 2-18-501 through 2-18-503, when he goes on official business

1 to a county of his judicial district other than the county
2 in which he resides, from the time he leaves his place of
3 residence until he returns thereto. The expenses shall be
4 apportioned and payable in the same way as the salary."

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

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

15 (2) If the county attorney, attorney general, or judge
16 requires a transcript in a criminal case, the reporter is
17 entitled to his fees therefor, but he must furnish it. Upon
18 furnishing it, he shall receive a certificate of for the sum
19 to which he is so entitled, which is a county charge and
20 must be paid by the county treasurer upon the certificate
21 like other county charges. The reporter shall submit the
22 certificate to the supreme court administrator who, IN
23 ACCORDANCE WITH [SECTION 2], is responsible for the prompt
24 payment of ALL OR A PORTION OF the amount due the reporter.
25 IF THE SUPREME COURT ADMINISTRATOR, IN ACCORDANCE WITH

1 [SECTION 2], PAYS NONE OR ONLY A PORTION OF THE AMOUNT DUE,
2 THE COUNTY SHALL PAY THE BALANCE UPON RECEIPT OF A STATEMENT
3 FROM THE REPORTER.

4 (3) If the judge requires a copy in a civil case to
5 assist him in rendering a decision, the reporter must
6 furnish the same without charge therefor. In civil cases,
7 all transcripts required by the county shall be furnished,
8 and only the reporter's actual costs of preparation may be
9 paid by the county.

10 (4) If it appears to the judge that a defendant in a
11 criminal case is unable to pay for a transcript, it shall be
12 furnished to him and paid for by the county state in the
13 manner provided in subsection (2) TO THE EXTENT FUNDS ARE
14 AVAILABLE. THE COUNTY SHALL PAY THE REMAINDER AS REQUIRED IN
15 [SECTION 1]."

16 Section 6. Section 7-6-2352, MCA, is amended to read:

17 "7-6-2352. State grants to district courts -- rules.

18 (1) The department of commerce shall make grants, TO THE
19 EXTENT FUNDS ARE APPROPRIATED FOR THAT PURPOSE, to the
20 governing body of a county for the district courts for
21 assistance, as provided in this section. The grants are to
22 be made from funds appropriated to the department for that
23 purpose as provided in subsection {2}. If the department
24 approves grants in excess of the amount appropriated, each
25 grant shall be reduced an equal percentage so the

1 ~~appropriation will not be exceeded:~~

2 ~~{2}--The--legislature--shall--appropriate--from--the--state~~
 3 ~~general--fund--to--the--department--of--commerce--sufficient--money~~
 4 ~~to--fully--fund--eligible--grant--requests--submitted--by--the~~
 5 ~~governing--bodies--of--the--counties;--if--in--the--first--fiscal~~
 6 ~~year--of--the--biennium--for--which--an--appropriation--is--made~~
 7 ~~eligible--grant--requests--exceed--the--first--fiscal--year~~
 8 ~~appropriation,--the--department--shall--make--expenditures--from~~
 9 ~~the--second--fiscal--year--appropriation--to--fund--the--grant~~
 10 ~~requests;--if--in--the--second--fiscal--year--of--the--biennium--for~~
 11 ~~which--an--appropriation--is--made,--eligible--grant--requests~~
 12 ~~exceed--the--second--fiscal--year--appropriation,--as--it--may--be~~
 13 ~~reduced--by--expenditures--for--eligible--first--fiscal--year--grant~~
 14 ~~requests,--the--department--shall--request--a--supplemental~~
 15 ~~appropriation--at--the--next--legislative--session.~~

16 {2}{3}(2) The governing body of a county may apply to
 17 the department of commerce for a grant by filing a written
 18 request on forms provided by the department by July 20 for
 19 the previous fiscal year unless the department grants a time
 20 extension upon request of the county. In its request for a
 21 grant, a county must certify that:

22 (a) all expenditures from the district court fund have
 23 been lawfully made;

24 (b) no transfers from the district court fund have
 25 been or will be made to any other fund; and

1 (c) no expenditures have been made from the district
 2 court fund that are not specifically authorized by 7-6-2511
 3 and 7-6-2351.

4 {3}{4}(3) THE TO THE EXTENT FUNDS ARE AVAILABLE, THE
 5 department of commerce shall award a grant if the county's
 6 district court expenditures for the previous fiscal year
 7 exceeded the sum of:

8 (a) the product of the maximum mill levy authorized by
 9 law for district court purposes, whether or not assessed,
 10 multiplied by the previous year's taxable valuation of the
 11 county; and

12 (b) all revenues, except district court grants,
 13 required by law to be deposited in the district court fund
 14 for the previous fiscal year.

15 {4}{5}(4) Eligible court expenditures for grant
 16 purposes include all costs of the county associated with the
 17 operation and maintenance of the district court, from
 18 whatever fund paid, except costs for building and capital
 19 items and library maintenance, replacement, and acquisition.

20 {5}{6}(5) The department of commerce shall notify each
 21 eligible county as soon as possible of its intention to
 22 award a grant to that county and the amount of the award.

23 {6}{7}(6) The grant received by the county shall be
 24 placed in the district court fund.

25 {7}{8}(7) After all grants are awarded, the department

1 of commerce shall audit each approved grant request. The
 2 department shall charge each county receiving a grant an
 3 audit fee in the same amount as the costs incurred in
 4 conducting the audit.

5 ~~(8)~~(9) If the audit of a grant recipient discloses
 6 that the recipient received a grant in excess of the amount
 7 for which it was eligible, the recipient shall repay the
 8 excess to the department of commerce. The department shall
 9 redistribute any repaid excess amounts to the other counties
 10 that received grants from the appropriation from which the
 11 overpayment was made, on the same basis as the original
 12 awards. No county is eligible for a district court grant if
 13 it owes the department a refund of a prior year's
 14 overpayment.

15 ~~(9)~~(10)(9) The department of commerce shall prescribe
 16 rules and forms necessary to effectively administer this
 17 section. The department may require a county to provide any
 18 information considered necessary for the administration of
 19 the program."

20 Section 7. Section 7-6-2426, MCA, is amended to read:
 21 "7-6-2426. Enumeration of county charges. The
 22 following are county charges:

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

25 (2) one-half of the salary of the county attorney and

1 all expenses necessarily incurred by him in criminal cases
 2 arising within the county;

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

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

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

10 ~~(6)~~(5) the accounts of the coroner of the county for
 11 such services as are provided by law;

12 ~~(7)~~(6) all charges and accounts for services rendered
 13 by any justice of the peace for services in the examination
 14 or trial of persons charged with crime as provided for by
 15 law;

16 ~~(8)~~(7) the necessary expenses incurred in the support
 17 of county hospitals and poorfarms and in the support of the
 18 indigent sick and the otherwise dependent poor whose support
 19 is chargeable to the county;

20 ~~(9)~~(8) the contingent expenses necessarily incurred
 21 for the use and benefit of the county;

22 ~~(10)~~(9) every other sum directed by law to be raised
 23 for any county purpose under the direction of the board of
 24 county commissioners or declared to be a county charge."

25 SECTION 8. SECTION 7-6-2427, MCA, IS AMENDED TO READ:

1 "7-6-2427. Special provisions for certain charges
 2 related to criminal prosecutions. ~~{1}~~(1) Notwithstanding
 3 7-6-2426, all costs of a criminal prosecution, including
 4 attorneys' fees, of an offense committed in the state prison
 5 are not charges against the county in which the state prison
 6 is located. Such costs shall be paid by the department of
 7 institutions.

8 ~~{2}--When--a--criminal--action--is--removed--before--trial--;~~
 9 ~~the--costs--accruing--upon--such--removal--and--trial--must--be--a~~
 10 ~~charge--against--the--county--in--which--the--indictment--was--found~~
 11 ~~or--information--filed;~~

12 (2) IF A CRIMINAL ACTION IS REMOVED BEFORE TRIAL, THE
 13 COSTS ACCRUING UPON SUCH REMOVAL AND TRIAL MUST BE A CHARGE
 14 AGAINST THE COUNTY IN WHICH THE INDICTMENT WAS FOUND OR
 15 INFORMATION FILED, SUBJECT TO PARTIAL OR TOTAL REIMBURSEMENT
 16 AS PROVIDED IN [SECTION 1]."

17 Section 9. Section 46-8-114, MCA, is amended to read:

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

1 provided for in 46-8-201."

2 Section 10. Section 46-8-201, MCA, is amended to read:
 3 "46-8-201. Remuneration of appointed counsel. ~~{1}~~ (1)
 4 Whenever in a criminal proceeding an attorney represents or
 5 defends any person by order of the court on the ground that
 6 the person is financially unable to employ counsel, the
 7 attorney shall be paid for his services such sum as a
 8 district court or justice of the state supreme court
 9 certifies to be a reasonable compensation therefor and shall
 10 be reimbursed for reasonable costs incurred in the criminal
 11 proceeding.

12 (2) The expense of implementing subsection (1) is
 13 chargeable AS PROVIDED IN [SECTION 1] to the county-in-which
 14 the--proceeding--arose COUNTY IN WHICH THE PROCEEDING AROSE,
 15 THE office of supreme court administrator, OR BOTH, except
 16 that:

17 (a) in proceedings solely involving the violation of a
 18 city ordinance or state statute prosecuted in a municipal or
 19 city court, the expense is chargeable to the city or town in
 20 which the proceeding arose; and

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

25 Section 11. Section 46-8-202, MCA, is amended to read:

1 "46-8-202. Public defender's office. Any county
 2 through its board of county commissioners may provide for
 3 the creation of a public defender's office and the
 4 appointment of a salaried public defender and such assistant
 5 public defenders as may be necessary to satisfy the legal
 6 requirements in providing counsel for defendants unable to
 7 employ counsel. The costs of such office shall be at county
 8 state expense payable according to procedures established
 9 under [section 2(1)] AND, TO THE EXTENT THOSE COSTS ARE NOT
 10 PAID BY THE STATE, AT COUNTY EXPENSE IN ACCORDANCE WITH
 11 [SECTION 1(3)] AND [SECTION 2(1)]."

12 Section 12. Section 46-11-319, MCA, is amended to
 13 read:

14 "46-11-319. Expenses of grand jury. (1) All expenses
 15 of the grand jury, including special counsel and
 16 investigators, if any, shall be paid by the treasurer of the
 17 county out of the general fund of the county upon warrants
 18 drawn by the county auditor or the clerk of the district
 19 court upon the written order of the judge of the district
 20 court of the county.

21 (2) The SUBJECT TO THE PROCEDURES ESTABLISHED UNDER
 22 [SECTION 2(1)], THE state shall reimburse the county general
 23 fund for juror and witness fees as provided in [section 3]
 24 and for witness expenses as provided in 46-15-104. THE
 25 COUNTY SHALL DEPOSIT THE AMOUNT REIMBURSED IN ITS GENERAL

1 FUND UNLESS THE COUNTY HAS A DISTRICT COURT FUND. IF THE
 2 COUNTY HAS A DISTRICT COURT FUND, THE AMOUNT REIMBURSED MUST
 3 BE DEPOSITED IN SUCH FUND."

4 Section 13. 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 COUNTY OR THE state, OR BOTH, according to procedures
 3 established under [section 2(1)]."

4 SECTION 14. SECTION 46-14-221, MCA, IS AMENDED TO

5 READ:

6 "46-14-221. Determination of fitness to proceed --
 7 effect of finding of unfitness -- expenses. (1) The issue of
 8 the defendant's fitness to proceed may be raised by the
 9 defendant or his counsel or by the county attorney. When the
 10 issue is raised, it shall be determined by the court. If
 11 neither the county attorney nor counsel for the defendant
 12 contests the finding of the report filed under 46-14-203,
 13 the court may make the determination on the basis of the
 14 report. If the finding is contested, the court shall hold a
 15 hearing on the issue. If the report is received in evidence
 16 upon the hearing, the parties have the right to summon and
 17 cross-examine the psychiatrists who joined in the report and
 18 to offer evidence upon the issue.

19 (2) If the court determines that the defendant lacks
 20 fitness to proceed, the proceeding against him shall be
 21 suspended, except as provided in subsection (4) of this
 22 section, and the court shall commit him to the custody of
 23 the director of the department of institutions to be placed
 24 in an appropriate institution of the department of
 25 institutions for so long as the unfitness endures. The

1 committing court shall, within 90 days of commitment, review
 2 the defendant's fitness to proceed. If the court finds that
 3 he is still unfit to proceed and that it does not appear
 4 that he will become fit to proceed within the reasonably
 5 foreseeable future, the proceeding against him shall be
 6 dismissed, except as provided in subsection (4) of this
 7 section, and the county attorney shall petition the court in
 8 the manner provided in chapter 20 or 21 of Title 53,
 9 whichever is appropriate, to determine the disposition of
 10 the defendant pursuant to those provisions.

11 (3) If the court determines that the defendant lacks
 12 fitness to proceed because he is developmentally disabled as
 13 provided in 53-20-102(4), the proceeding against him shall
 14 be dismissed and the county attorney shall petition the
 15 court in the manner provided in chapter 20 of Title 53.

16 (4) The fact that the defendant is unfit to proceed
 17 does not preclude any legal objection to the prosecution
 18 which is susceptible to fair determination prior to trial
 19 and without the personal participation of the defendant.

20 (5) The expenses of sending the defendant to the
 21 custody of the director of the department of institutions to
 22 be placed in an appropriate institution of the state
 23 department of institutions, of keeping him there, and of
 24 bringing him back are chargeable to the state ~~but the state~~
 25 ~~may recover them from the estate of the defendant and~~

1 payable as--provided-in ACCORDING TO PROCEDURES ESTABLISHED
2 UNDER [section 2(1)]."

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

5 "46-15-104. Expenses of witness. (1) When a person
6 attends before a magistrate, grand jury, or court as a
7 witness in a criminal case upon a subpoena or in pursuance
8 of an undertaking, the judge, at his discretion, by a
9 written order may direct the clerk of the court to draw his
10 warrant upon the county treasurer in favor of such witness
11 for a reasonable sum, to be specified in the order, for the
12 necessary expenses of the witness.

13 (2) According to procedures established by the supreme
14 court administrator under [section 2(1)], the clerk of
15 district court shall submit to the supreme court
16 administrator a detailed statement containing a list of
17 witnesses and the amount of expenses paid to each by the
18 county. Upon receipt and verification of the statement, the
19 administrator shall promptly reimburse the general fund of
20 the designated county for ALL OR A PORTION OF the cost of
21 witness expenses. THE COUNTY SHALL DEPOSIT THE AMOUNT
22 REIMBURSED IN ITS GENERAL FUND UNLESS THE COUNTY HAS A
23 DISTRICT COURT FUND. IF THE COUNTY HAS A DISTRICT COURT
24 FUND, THE AMOUNT REIMBURSED MUST BE DEPOSITED IN SUCH FUND."

25 Section 16. Section 46-18-235, MCA, is amended to

1 read:

2 "46-18-235. Disposition of money collected as fines
3 and costs. The money collected by a court as a result of the
4 imposition of fines or assessment of costs under the
5 provisions of 46-18-231 and 46-18-232 shall be paid to the
6 county general fund of the county in which the court is
7 held, except that:

8 (1) if the costs assessed include any district court
9 expense listed in [section 1], the money collected from
10 assessment of these costs must be paid to the supreme court
11 administrator for deposit into the state general fund TO THE
12 EXTENT THE EXPENSES WERE PAID BY THE STATE; and

13 (2) if the fine was imposed for a violation of Title
14 45, chapter 9, the court may order the money paid into the
15 drug forfeiture fund maintained under 44-12-206 for the law
16 enforcement agency which made the arrest from which the
17 conviction and fine arose."

18 NEW SECTION. Section 17. Codification instruction.
19 Sections 1 through 3 are intended to be codified as an
20 integral part of Title 3, chapter 5, and the provisions of
21 Title 3, chapter 5, apply to sections 1 through 3.

22 NEW SECTION. SECTION 18. COORDINATION INSTRUCTION.
23 IF SENATE BILL NO. 142 IS NOT PASSED AND APPROVED OR IF
24 SENATE BILL NO. 142, AS PASSED AND APPROVED, CONTAINS NO
25 FUNDING OR APPROPRIATION FOR DISTRICT COURT EXPENSES AND

1 GRANTS, THIS ACT IS VOID.

2 NEW SECTION. Section 19. Effective date. This act is
3 effective July 1, 1985.

-End-