

HB 890 INTRODUCED BY HANNAH, ET AL.
CHANGE DISTRIBUTION OF DISTRICT COURT FUNDING FROM
MOTOR VEHICLE FEES

3/20	INTRODUCED		
3/20	REFERRED TO APPROPRIATIONS		
3/20	FISCAL NOTE REQUESTED		
3/25	HEARING		
3/28	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/28	FISCAL NOTE RECEIVED		
3/31	2ND READING PASSED AS AMENDED	64	35
4/01	3RD READING PASSED	66	29
	TRANSMITTED TO SENATE		
4/02	REFERRED TO JUDICIARY		
4/07	HEARING		
4/10	ADVERSE COMMITTEE REPORT ADOPTED	42	8
4/11	RETURNED TO HOUSE NOT CONCURRED		

1 *House* BILL NO. 890
 2 INTRODUCED BY *Harold Dan Bran* *Willy J. Brown*
 3 *Victoria Kitzelmann* *James* *Patrick* *Roberta*
 4 *Wolcott* *Richard* *H. Johnson* *Walter* *James* *Simon*
 5 *Ward* *Hamington* *Wm. W. Hatt* *Morgan* *Stark*
 6 *Kamrey*

7 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE FUNDING
 8 FOR DISTRICT COURTS BY PROVIDING DIRECT PAYMENT OF 85
 9 PERCENT OF MOTOR VEHICLE FEES FOR DISTRICT COURTS TO
 10 DISTRICT COURT FUNDS OF THE COUNTIES AND PROVIDING FOR THE
 11 USE OF THE BALANCE TO FUND EXTRAORDINARY CRIMINAL EXPENSES
 12 IN SMALLER COUNTIES; EXTENDING THE INCREASE IN LICENSING
 13 FEES FOR AUTOMOBILES AND LIGHT TRUCKS BY ELIMINATING
 14 TERMINATION DATES; PROVIDING AN APPROPRIATION; AMENDING
 15 SECTIONS 3-5-602, 3-5-604, 3-5-901 THROUGH 3-5-903,
 16 46-8-202, 46-11-319, 46-14-221, 46-15-104, AND 61-3-509,
 17 MCA, CHAPTERS 685 AND 702, LAWS OF 1985, AND CHAPTER 1,
 18 SPECIAL LAWS OF 1985; AND PROVIDING EFFECTIVE DATES."

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 18 Section 1. 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 department of commerce as provided in subsection (2).

3 (2) The department of commerce shall determine the
 4 total number of civil and criminal actions commenced in the
 5 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 of the
 12 reporter based on its proportion of the total number of
 13 civil and criminal actions commenced in the district courts
 14 in the district. The judge or judges of the district shall,
 15 on January 1 of each year or as soon thereafter as possible,
 16 apportion the amount of the salary to be paid by each county
 17 in his or their district on the basis prescribed in this
 18 subsection. The portion of the salary payable by a county
 19 is a district court expense within the meaning of 7-6-2351,
 20 7-6-2352, and 7-6-2511.

21 (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



-2- INTRODUCED BILL
 HB 890

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 2. 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, and 25
14 cents 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 the transcript, he shall receive a certificate
19 for the sum to which he is entitled. The sum is a county
20 charge and must be paid by the county treasurer upon
21 presentation of the certificate, like other county charges.
22 ~~The reporter shall submit the certificate to the department~~
23 ~~of commerce which, in accordance with 3-5-982, is~~
24 ~~responsible for the prompt payment of all or a portion of~~
25 ~~the amount due the reporter, if the department, in~~

1 ~~accordance with 3-5-982, pays none or only a portion of the~~
2 ~~amount due; the county shall pay the balance upon receipt of~~
3 ~~a statement 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 state in the manner
13 provided in subsection (2) to the extent funds are
14 available. ~~The county shall pay the remainder as required in~~
15 ~~3-5-901."~~

16 Section 3. Section 3-5-901, MCA, is amended to read:

17 "3-5-901. State assumption of certain district court
18 expenses. (1) Effective July 1, 1985, the state shall, to
19 the extent ~~that money is appropriated~~ provided in subsection
20 (2), fund the following district court expenses for counties
21 with a population of 30,000 or less in criminal cases only:

- 22 ~~(a) salaries of court reporters;~~
23 ~~(b)(a) transcripts of proceedings;~~
24 ~~(c)(b) witness fees and necessary expenses;~~
25 ~~(d)(c) juror fees;~~

1 ~~(e)~~(d) indigent defense; and

2 ~~(f)~~(e) psychiatric examinations.

3 (2) Subject to the availability of funding, the state
4 shall:

5 (a) reimburse counties with a population of 30,000 or
6 less all or a pro rata share of the expenses set forth in
7 subsection (1) after a county has exceeded its 5-year
8 average of expenses for the district court, as set forth in
9 [section 5];

10 (b) pay to each county with a population of over
11 30,000 the balance, if any, of funds unexpended for the
12 purposes of subsection (2)(a) at the end of the fiscal year,
13 to be distributed to such counties pro rata, based upon the
14 number of vehicles registered in the county.

15 ~~(2)~~(3) The department of commerce, in consultation
16 with the district judges for each judicial district, shall
17 include within the department's biennial budget request to
18 the legislature a request for funding the expenses listed in
19 subsection (1).

20 ~~(3)~~(4) If money appropriated for the expenses listed
21 in subsection (1) is insufficient to fully fund those
22 expenses, the county is responsible for payment of the
23 balance. If no money is appropriated, the county is
24 responsible for payment of all expenses."

25 Section 4. Section 3-5-902, MCA, is amended to read:

1 "3-5-902. Fiscal administration for payment of court
2 expenses. The department of commerce shall:

3 (1) establish procedures for disbursement of funds for
4 payment of district court expenses listed in 3-5-901,
5 including prorating of those funds if they are insufficient
6 to cover all expenses listed in 3-5-901;

7 (2) develop guidelines for counties to use to
8 determine average district court expenses for the purposes
9 of determining county eligibility;

10 ~~(2)~~(3) develop a uniform accounting system for use by
11 the counties in reporting court expenses at a detailed level
12 for budgeting and auditing purposes; and

13 ~~(3)~~(4) provide for ~~annual~~ auditing of district court
14 expenses to assure normal operations and consistency in
15 reporting of expenditures."

16 NEW SECTION. Section 5. Determination of county
17 eligibility for state reimbursement for criminal trial
18 costs. A county is eligible for reimbursement of expenses
19 incurred for items listed in 3-5-901 after it has expended
20 an amount equal to the adjusted 5-year average amount of
21 district court operations. The adjusted amount must be
22 computed by the department as follows:

23 (1) A county shall certify, using data classifications
24 established by the department, the actual district court
25 expenditures incurred by the county in the previous 5 years.

1 (2) Each county shall certify how much of the amounts
2 in subsection (1) was paid from money received from the
3 district court grant in aid program set forth in 7-6-2352
4 and from district court motor vehicle fees apportioned by
5 this part.

6 (3) The department shall calculate the base 5-year
7 district court average expenditures by determining the
8 average from the amounts certified in subsection (1) less
9 the receipts from subsection (2).

10 (4) For the fiscal year beginning July 1, 1987, the
11 department shall include in the adjusted 5-year average the
12 amount determined in subsection (3) plus the expected direct
13 85% motor vehicle fee payment provided in 61-3-509.

14 Section 6. Section 3-5-903, MCA, is amended to read:

15 "3-5-903. Reimbursement for juror and witness fees.
16 ~~According-to-procedures-established-by-the-department-of~~
17 ~~commerce-under-3-5-902(1),--each~~ If a county is receiving
18 state reimbursement for criminal costs under 3-5-901, the
19 clerk of district court shall submit to the department a
20 detailed statement containing a list of witnesses and jurors
21 for criminal cases only and the amount of per diem and
22 mileage paid to each by the county. Upon receipt and
23 verification of the statement, the department shall promptly
24 reimburse the designated county for the cost of witness and
25 juror fees on a full or prorated basis in accordance with

1 3-5-902. The county shall deposit the amount reimbursed in
2 its general fund unless the county has a district court
3 fund. If the county has a district court fund, the amount
4 reimbursed must be deposited in such fund."

5 Section 7. Section 46-8-202, MCA, is amended to read:

6 "46-8-202. Public defender's office. Any county
7 through its board of county commissioners may provide for
8 the creation of a public defender's office and the
9 appointment of a salaried public defender and such assistant
10 public defenders as may be necessary to satisfy the legal
11 requirements in providing counsel for defendants unable to
12 employ counsel. The costs of such office ~~shall~~ are a county
13 expense, but if the county is receiving state reimbursement
14 for criminal costs under 3-5-901, they may be at state
15 expense payable according to ~~procedures--established--under~~
16 ~~3-5-902(1) 3-5-901 and,--to-the-extent-those-costs-are-not~~
17 ~~paid-by-the-state,--at--county--expense--in--accordance--with~~
18 ~~3-5-901(3)-and-3-5-902(1).~~"

19 Section 8. Section 46-11-319, MCA, is amended to read:

20 "46-11-319. Expenses of grand jury. (1) All expenses
21 of the grand jury, including special counsel and
22 investigators, if any, shall be paid by the treasurer of the
23 county out of the general fund of the county, except as
24 provided in subsection (2), upon warrants drawn by the
25 county auditor or the clerk of the district court upon the

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

3 (2) If a county has a district court fund, all
4 expenses of a grand jury must be paid out of such fund.

5 (3) ~~Subject--to--the--procedures---established---under~~
6 3-5-902(1) If the county is receiving state reimbursement
7 for criminal costs under 3-5-901, the state ~~shall~~ may
8 reimburse the county for juror and witness fees as provided
9 in 3-5-903 and for witness expenses as provided in
10 46-15-104. The county shall deposit the amount reimbursed
11 in its general fund unless the county has a district court
12 fund. If the county has a district court fund, the amount
13 reimbursed must be deposited in such fund."

14 Section 9. Section 46-14-221, MCA, is amended to read:

15 "46-14-221. Determination of fitness to proceed --
16 effect of finding of unfitness -- expenses. (1) The issue of
17 the defendant's fitness to proceed may be raised by the
18 defendant or his counsel or by the county attorney. When the
19 issue is raised, it shall be determined by the court. If
20 neither the county attorney nor counsel for the defendant
21 contests the finding of the report filed under 46-14-203,
22 the court may make the determination on the basis of the
23 report. If the finding is contested, the court shall hold a
24 hearing on the issue. If the report is received in evidence
25 upon the hearing, the parties have the right to summon and

1 cross-examine the psychiatrists who joined in the report and
2 to offer evidence upon the issue.

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

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

25 (4) The fact that the defendant is unfit to proceed

1 does not preclude any legal objection to the prosecution
2 which is susceptible to fair determination prior to trial
3 and without the personal participation of the defendant.

4 (5) The expenses of sending the defendant to the
5 custody of the director of the department of institutions to
6 be placed in an appropriate institution of the state
7 department of institutions, of keeping him there, and of
8 bringing him back are chargeable to the county, but if the
9 county is receiving state reimbursement for criminal costs,
10 the expenses may be paid by the state and payable according
11 to procedures-established-under-3-5-902{1} 3-5-901."

12 Section 10. Section 46-15-104, MCA, is amended to
13 read:

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

22 (2) ~~According--to--procedures---established---by---the~~
23 ~~department--of--commerce--under--3-5-902{1}~~ If the county is
24 receiving state reimbursement for criminal costs under
25 3-5-901, the clerk of district court shall submit to the

1 department a detailed statement containing a list of
2 witnesses and the amount of expenses paid to each by the
3 county. Upon receipt and verification of the statement, the
4 department shall promptly reimburse the designated county
5 for all or a portion of the cost of witness expenses. The
6 county shall deposit the amount reimbursed in its general
7 fund unless the county has a district court fund. If the
8 county has a district court fund, the amount reimbursed must
9 be deposited in such fund."

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

11 "61-3-509. Disposition of taxes and fees in lieu of
12 tax. (1) Except as provided in subsections (2) and (3), the
13 county treasurer shall credit all taxes on motor vehicles,
14 light vehicle license fees provided for in 61-3-532, and
15 fees in lieu of tax on motorcycles, quadricycles, motor
16 homes, and travel trailers collected to a motor vehicle
17 suspense fund, and at some time between March 1 and March 10
18 of each year and every 60 days thereafter, the county
19 treasurer shall distribute the money in the motor vehicle
20 suspense fund in the relative proportions required by the
21 levies for state, county, school district, and municipal
22 purposes in the same manner as personal property taxes are
23 distributed.

24 (2) The county treasurer shall credit 15% of the fee
25 for district courts from each light vehicle license fee to a

1 separate suspense account and shall forward the amount in
 2 the account to the state treasurer at the time the county
 3 treasurer distributes the motor vehicle suspense fund. The
 4 state treasurer shall credit amounts received under this
 5 subsection to the general fund to be used for purposes of
 6 state funding of the district court expenses of counties
 7 having a population of 30,000 or less, to provide state
 8 reimbursement for criminal cases as provided enumerated in
 9 3-5-901. The county treasurer shall credit the remaining 85%
 10 of the fee to the county district court fund or, if there is
 11 no district court fund, to the county general fund.

12 (3) The county treasurer shall credit each block grant
 13 fee to a separate suspense fund. At the time he distributes
 14 the motor vehicle suspense fund, the treasurer shall
 15 distribute the suspense fund provided for in this subsection
 16 to the state treasurer for deposit in the local government
 17 block grant account provided for in 7-6-302. The funds
 18 distributed pursuant to this subsection must be used for the
 19 local government block grant program as provided in
 20 7-6-304."

21 Section 12. Section 4, Chapter 685, Laws of 1985, is
 22 amended to read:

23 "Section 4. Effective date -- applicability date --
 24 ~~termination date.~~ {1} This act is effective July 1, 1985,
 25 and applies to light vehicles registered on or after July 1,

1 1985.

2 ~~{2}--This act terminates July 17, 1987--"~~

3 Section 13. Section 4, Chapter 702, Laws of 1985, is
 4 amended to read:

5 "Section 4. Effective date -- applicability --
 6 ~~termination.~~ {1} This act is effective July 1, 1985, and
 7 applies to light vehicles registered on or after July 1,
 8 1985.

9 ~~{2}--This act terminates July 17, 1987--"~~

10 Section 14. Section 12, Chapter 1, Special Laws of
 11 1985, is amended to read:

12 "Section 12. Effective date -- contingent retroactive
 13 effect ---~~termination.~~ {1} This act is effective on passage
 14 and approval, and sections 1 and 2 apply to light vehicles
 15 registered on or after July 1, 1985. If this act is approved
 16 after June 30, 1985, sections 1 and 2 apply retroactively
 17 within the meaning of 1-2-109 to light vehicles registered
 18 on or after July 1, 1985.

19 ~~{2}--Sections--1--and--2--terminate--July-17-1987--This~~
 20 ~~termination--does--not--affect--the--reinsertion--of--61-3-533{2}~~
 21 ~~as--it--read--on--January-17-1985--"~~

22 NEW SECTION. Section 15. Appropriation. There is
 23 appropriated from the general fund to the department of
 24 commerce for the biennium ending June 30, 1989, an amount
 25 equal to that credited to the general fund pursuant to

1 61-3-509(2) for the purposes set forth in 3-5-901. This
2 appropriation is a biennial appropriation to allow for
3 distribution pursuant to 3-5-901(2)(b).

4 NEW SECTION. Section 16. Codification instruction.
5 Section 5 is intended to be codified as an integral part of
6 Title 3, chapter 5, part 9, and the provisions of Title 3,
7 chapter 5, part 9, apply to section 5.

8 NEW SECTION. Section 17. Extension of authority. Any
9 existing authority of the department of commerce to make
10 rules on the subject of the provisions of this act is
11 extended to the provisions of this act.

12 NEW SECTION. Section 18. Effective dates. (1)
13 Sections 12 through 14, 16, and this section are effective
14 on passage and approval.

15 (2) Sections 1 through 11, 15, and 17 are effective
16 July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB890, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising state funding for district courts by providing direct payment of 85% of motor vehicle fees for district courts to district court funds of the counties and providing for the use of the balance to fund extraordinary criminal expenses in smaller counties; extending the increase in licensing fees for automobiles and light trucks by eliminating termination dates; providing an appropriation, amending section 3-5-602, 3-5-604, 3-5-901 through 3-5-903, 46-8-202, 46-11-319, 46-14-211, 46-15-104, and 61-3-509, MCA, Chapters 685 and 702, Laws of 1985, and Chapter 1, Special laws of 1985, and providing effective dates.

ASSUMPTIONS:

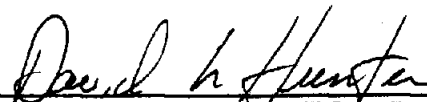
1. Revenue estimates for district court and local government block grant fees are based on the REAC.
2. Vehicle counts - (REAC)

	- 2,850 Pounds or Less -			- More than 2,850 Pounds -		
	<u>Age (yrs)</u>	<u>Age (yrs)</u>	<u>Age (yrs)</u>	<u>Age (yrs)</u>	<u>Age (yrs)</u>	<u>Age (yrs)</u>
	< = 4	>4 <8	> = 8	< = 4	>4 <8	> = 8
FY88	83,011	53,185	69,263	98,774	91,491	281,662
FY89	84,454	54,110	70,468	100,491	93,082	286,560

3. Fees

	- 2,850 Pounds or Less -			- More than 2,850 Pounds -		
	<u>Age (yrs)</u>	<u>Age (yrs)</u>	<u>Age (yrs)</u>	<u>Age (yrs)</u>	<u>Age (yrs)</u>	<u>Age (yrs)</u>
	< = 4	>4 <8	> = 8	< = 4	>4 <8	> = 8
Block Grant Fees	6.00	3.00	1.50	7.50	4.00	2.00
District Court Fee	7.00	5.00	2.50	7.00	5.00	2.50

4. Department of Institutions will be reimbursed in full for criminal defendants ordered to Montana State Hospital (MSH) for evaluation and criminal defendants unfit to go to trial.
5. Department of Commerce will administer the 15% district court motor vehicle funds.

 DATE 3/28/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE _____
 TOM HANNAH, PRIMARY SPONSOR

Fiscal Note for HB890, as introduced.

HB 890

Fiscal Note Request, HB890, as introduced.

Form BD-15

Page 2

FISCAL IMPACT:

<u>Revenues:</u>	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
District Court Fee	\$ 0	\$ 2,873,000	\$2,873,000	\$ 0	\$ 2,923,000	\$2,923,000
Block Grant Fee	0	2,432,000	2,432,000	0	2,474,000	2,474,000
MSH Evaluation Fee	0	362,025	362,025	0	362,025	362,025
TOTAL	\$ 0	\$ 5,667,025	\$5,667,025	\$ 0	\$ 5,759,025	\$5,759,025

Expenditures: (General Fund)

Department of Commerce (District Court Fee Admin)	\$ 0	\$ 430,950	\$ 430,950	\$ 0	\$ 438,450	\$ 438,450
Department of Institutions (MSH Evaluation)	0	362,025	362,025	0	362,025	362,025

Funding:

<u>District Court Fees</u>						
Counties	\$ 0	2,442,050	2,442,050	0	2,484,550	2,484,550
General Fund	0	430,950	430,950	0	438,450	438,450
<u>Block Grant - Fees</u>						
Foundation Program	0	423,000	423,000	0	413,000	413,000
University Millage	0	48,000	48,000	0	47,000	47,000
Other Taxing Jurisdictions	0	1,961,000	1,961,000	0	2,014,000	2,014,000
<u>Evaluation Fees</u>						
General Fund	0	362,025	362,025	0	362,025	362,025

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

On a county by county basis there would be either an increase or decrease in revenue. Counties with high criminal costs will experience greater expenditures and receive less revenue from the state.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The counties with high criminal costs could experience greater expenditures which may not be reimbursed due to reduced state revenue.

HB 890

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 890

INTRODUCED BY HANNAH, D. BROWN, MILLER, J. BROWN, ROTH,
PISTORIA, DONALDSON, REHBERG, KITSELMAN, SANDS, PATTERSON,
POULSEN, PAVLOVICH, QUILICI, GLASER, NISBET, IVERSON,
SIMON, DRISCOLL, HARRINGTON, WINSLOW, HARP,
MERCER, STRIZICH, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE FUNDING
FOR DISTRICT COURTS BY PROVIDING DIRECT PAYMENT OF 85
PERCENT OF MOTOR VEHICLE FEES FOR DISTRICT COURTS TO
DISTRICT COURT FUNDS OF THE COUNTIES AND PROVIDING FOR THE
USE OF THE BALANCE TO FUND EXTRAORDINARY CERTAIN CRIMINAL
EXPENSES IN SMALLER COUNTIES; EXTENDING THE INCREASE IN
LICENSING FEES FOR AUTOMOBILES AND LIGHT TRUCKS BY
ELIMINATING TERMINATION DATES; PROVIDING AN APPROPRIATION;
AMENDING SECTIONS 3-5-602, 3-5-604, 3-5-901 THROUGH 3-5-903,
7-6-2511, 46-8-202, 46-11-319, 46-14-221, 46-15-104, AND
61-3-509, MCA, CHAPTERS 685 AND 702, LAWS OF 1985, AND
CHAPTER 1, SPECIAL LAWS OF 1985; AND PROVIDING EFFECTIVE
DATES."

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

Section 1. Section 3-5-602, MCA, is amended to read:

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

Each reporter is entitled to receive a base annual salary of

not less than \$16,000 or more than \$23,000 and no other
compensation except as provided in 3-5-604. The salary shall
be set by the judge for whom the reporter works. The salary
is payable in monthly installments out of the general funds
of the counties comprising the district for which the
reporter is appointed and-out-of-an-appropriation-made-to
the-department-of-commerce-as-provided-in-subsection-(2).

(2) The-department-of--commerce--shall--determine--the
total--number-of-civil-and-criminal-actions-commenced-in-the
preceding-year-in--the--district--court--or--courts--in--the
judicial--district--for--which--a-reporter-is-appointed--The
state-shall-pay-its-portion-of-the-reporter's--salary--based
on--the--proportion--of-the-total-number-of-criminal-actions
commenced-in-the-district-court-or-courts--in--the--district
and--the--amount--appropriated-for-that-purpose. Each county
shall pay its portion of-the-remainder of the salary of the
reporter based on its proportion of the total number of
civil and criminal actions commenced in the district courts
in the district. The judge or judges of the district shall,
on January 1 of each year or as soon thereafter as possible,
apportion the amount of the salary to be paid by each county
in his or their district on the basis prescribed in this
subsection. The portion of the salary payable by a county
is a district court expense within the meaning of 7-6-2351,
7-6-2352, and 7-6-2511.



1 (3) In judicial districts comprising more than one
 2 county, the reporter is allowed, in addition to the salary
 3 and fees provided for in subsection (1), his actual and
 4 necessary travel expenses, as defined and provided in
 5 2-18-501 through 2-18-503, when he goes on official business
 6 to a county of his judicial district other than the county
 7 in which he resides, from the time he leaves his place of
 8 residence until he returns thereto. The expenses shall be
 9 apportioned and payable in the same way as the salary."

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

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

20 (2) If the county attorney, attorney general, or judge
 21 requires a transcript in a criminal case, the reporter is
 22 entitled to his fees therefor, but he must furnish it. Upon
 23 furnishing it the transcript, he shall receive a certificate
 24 for the sum to which he is entitled. The UNLESS A COUNTY IS
 25 RECEIVING STATE REIMBURSEMENT UNDER 3-5-901, THE sum is a

1 county charge and must be paid by the county treasurer upon
 2 presentation of the certificate, like other county charges.
 3 IF STATE REIMBURSEMENT IS TO BE RECEIVED, THE REPORTER SHALL
 4 SUBMIT THE CERTIFICATE TO THE DEPARTMENT OF COMMERCE WHICH,
 5 IN ACCORDANCE WITH 3-5-902, IS RESPONSIBLE FOR THE PROMPT
 6 PAYMENT OF ALL OR A PORTION OF THE AMOUNT DUE THE REPORTER.
 7 IF THE DEPARTMENT, IN ACCORDANCE WITH 3-5-902, PAYS NONE OR
 8 ONLY A PORTION OF THE AMOUNT DUE, THE COUNTY SHALL PAY THE
 9 BALANCE UPON RECEIPT OF A STATEMENT FROM THE REPORTER. The
 10 reporter shall submit the certificate to the department of
 11 commerce which, in accordance with 3-5-902, is responsible
 12 for the prompt payment of all or a portion of the amount due
 13 the reporter. If the department, in accordance with
 14 3-5-902, pays none or only a portion of the amount due, the
 15 county shall pay the balance upon receipt of a statement
 16 from the reporter.

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

23 (4) If it appears to the judge that a defendant in a
 24 criminal case is unable to pay for a transcript, it shall be
 25 furnished to him and paid for by the state in the manner

1 ~~provided in subsection (2) to the extent funds are~~
 2 ~~available. The county. HOWEVER, IF THE COUNTY IS RECEIVING~~
 3 ~~STATE REIMBURSEMENT FOR CRIMINAL COSTS UNDER 3-5-901, THE~~
 4 ~~TRANSCRIPT MAY BE FURNISHED AT STATE EXPENSE PAYABLE UNDER~~
 5 ~~3-5-901 shall pay the remainder as required in 3-5-901."~~

6 Section 3. Section 3-5-901, MCA, is amended to read:
 7 "3-5-901. State assumption of certain district court
 8 expenses. (1) Effective July 1, 1985, the state shall, to
 9 the extent ~~that money is appropriated~~ provided in subsection
 10 (2), fund the following district court expenses for counties
 11 with a population of 30,000 or less in criminal cases only:

- 12 ~~(a) salaries of court reporters;~~
- 13 ~~(b) transcripts of proceedings;~~
- 14 ~~(c) witness fees and necessary expenses;~~
- 15 ~~(d) juror fees; AND~~
- 16 ~~(e) indigent defense; and,~~
- 17 ~~(f) psychiatric examinations.~~

18 (2) Subject to the availability of funding, the state
 19 shall:

- 20 (a) reimburse counties with a population of 30,000 or
 21 less all or a pro rata share of the expenses set forth in
 22 subsection (1) after a county has exceeded its 5-year
 23 average of expenses for the district court, as set forth in
 24 section 5;
- 25 (b) pay to each county with a population of over

1 30,000 the balance, if any, of funds unexpended for the
 2 purposes of subsection (2)(a) at the end of the fiscal year,
 3 to be distributed to such counties pro rata, based upon the
 4 number of vehicles registered in the county.

5 ~~(2)(3)~~ The department of commerce, in consultation
 6 with the district judges for each judicial district, shall
 7 include within the department's biennial budget request to
 8 the legislature a request for funding the expenses listed in
 9 subsection (1).

10 ~~(3)(4)~~ If money appropriated for the expenses listed
 11 in subsection (1) is insufficient to fully fund those
 12 expenses, the county is responsible for payment of the
 13 balance. If no money is appropriated, the county is
 14 responsible for payment of all expenses."

15 Section 4. Section 3-5-902, MCA, is amended to read:
 16 "3-5-902. Fiscal administration for payment of court
 17 expenses. The department of commerce shall:

18 (1) establish procedures for disbursement of funds for
 19 payment of district court expenses listed in 3-5-901,
 20 including prorating of those funds if they are insufficient
 21 to cover all expenses listed in 3-5-901;

22 ~~(2) develop guidelines for counties to use to~~
 23 ~~determine average district court expenses for the purposes~~
 24 ~~of determining county eligibility;~~

25 ~~(2)(3)(2)~~ develop a uniform accounting system for use

1 by the counties in reporting court expenses at a detailed
 2 level for budgeting and auditing purposes; and

3 ~~{3}{4}~~{3} provide for annual auditing of district
 4 court expenses to assure normal operations and consistency
 5 in reporting of expenditures."

6 NEW SECTION. Section 5. Determination of county
 7 eligibility for state reimbursement for criminal trial
 8 costs. A county is eligible for reimbursement of expenses
 9 incurred for items listed in 3-5-901 after it has expended
 10 an amount equal to the adjusted 5-year average amount of
 11 district court operations. The adjusted amount must be
 12 computed by the department as follows:

13 {1} A county shall certify, using data classifications
 14 established by the department, the actual district court
 15 expenditures incurred by the county in the previous 5 years:

16 {2} Each county shall certify how much of the amounts
 17 in subsection {1} was paid from money received from the
 18 district court grant-in-aid program set forth in 7-6-2352
 19 and from district court motor vehicle fees apportioned by
 20 this part.

21 {3} The department shall calculate the base 5-year
 22 district court average expenditures by determining the
 23 average from the amounts certified in subsection {1} less
 24 the receipts from subsection {2}.

25 {4} For the fiscal year beginning July 1, 1987, the

1 ~~department shall include in the adjusted 5-year average the~~
 2 ~~amount determined in subsection {3} plus the expected direct~~
 3 ~~85% motor vehicle fee payment provided in 61-3-509.~~

4 NEW SECTION. SECTION 5. USE OF MOTOR VEHICLE FUNDS --
 5 RESERVE FUNDS. (1) MOTOR VEHICLE FEES RECEIVED BY A COUNTY
 6 PURSUANT TO 3-5-901 OR 61-3-509 MAY BE SPENT ONLY FOR
 7 DISTRICT COURT COSTS. UNLESS THE MONEY WAS RECEIVED BY A
 8 COUNTY AS A SPECIFIC PAYMENT FOR A CRIMINAL COST UNDER
 9 3-5-901, ALL MOTOR VEHICLE FEES RECEIVED DIRECTLY BY A
 10 COUNTY PURSUANT TO 61-3-509 OR INDIRECTLY THROUGH 3-5-901
 11 MAY BE SPENT IN THE YEAR OF RECEIPT, IN SUBSEQUENT YEARS, OR
 12 PROSPECTIVELY BY BEING PLEDGED AS SECURITY FOR DEBT. FOR
 13 USE IN SUBSEQUENT FISCAL YEARS, FUNDS MAY BE PLACED IN A
 14 RESERVE FUND TO BE USED LATER AS MAY BE NECESSARY FOR THE
 15 OPERATION OF THE DISTRICT COURT.

16 {2} THE MONEY IN THE RESERVE FUND AUTHORIZED BY THIS
 17 SECTION IS NOT A CASH BALANCE SUBJECT TO THE PROVISIONS OF
 18 7-6-2319 OR 7-6-2326, AND THE RESERVE FUND DOES NOT
 19 CONSTITUTE A LAPSED APPROPRIATION SUBJECT TO 7-6-2330.

20 Section 6. Section 3-5-903, MCA, is amended to read:
 21 "3-5-903. Reimbursement for juror and witness fees.
 22 According to procedures established by the department of
 23 commerce under 3-5-902~~{1}~~, each if a county is receiving
 24 state reimbursement for criminal costs under 3-5-901, the
 25 clerk of district court shall submit to the department a

1 detailed statement containing a list of witnesses and jurors
 2 for criminal cases only and the amount of per diem and
 3 mileage paid to each by the county. Upon receipt and
 4 verification of the statement, the department shall promptly
 5 reimburse the designated county for the cost of witness and
 6 juror fees on a full or prorated basis in accordance with
 7 3-5-902. The county shall deposit the amount reimbursed in
 8 its general fund unless the county has a district court
 9 fund. If the county has a district court fund, the amount
 10 reimbursed must be deposited in such fund."

11 Section 7. Section 46-8-202, MCA, is amended to read:

12 "46-8-202. Public defender's office. Any county
 13 through its board of county commissioners may provide for
 14 the creation of a public defender's office and the
 15 appointment of a salaried public defender and such assistant
 16 public defenders as may be necessary to satisfy the legal
 17 requirements in providing counsel for defendants unable to
 18 employ counsel. The costs of such office ~~shall~~ are a county
 19 expense, but if the county is receiving state reimbursement
 20 for criminal costs under 3-5-901, they may be at state
 21 expense payable according to procedures established under
 22 3-5-902{1} 3-5-901 and, to the extent those costs are not
 23 paid by the state, at county expense in accordance with
 24 3-5-901{3} and 3-5-902{1}."

25 SECTION 8. SECTION 7-6-2511, MCA, IS AMENDED TO READ:

1 "7-6-2511. County levy for district court expenses.
 2 The governing body of each county may each year levy and
 3 collect a tax on the taxable property of the county for all
 4 district court costs, ~~except those listed in 3-5-211,~~
 5 ~~3-5-213, and 3-5-215.~~ The tax may not exceed 6 mills in the
 6 first- and second-class counties, 5 mills in third- and
 7 fourth-class counties, and 4 mills in fifth-, sixth-, and
 8 seventh-class counties. These expenses include but are not
 9 limited to salary and benefits for court clerks, court
 10 reporters, youth probation officers, and other employees of
 11 the district court."

12 Section 9. Section 46-11-319, MCA, is amended to read:

13 "46-11-319. Expenses of grand jury. (1) All expenses
 14 of the grand jury, including special counsel and
 15 investigators, if any, shall be paid by the treasurer of the
 16 county out of the general fund of the county, except as
 17 provided in subsection (2), upon warrants drawn by the
 18 county auditor or the clerk of the district court upon the
 19 written order of the judge of the district court of the
 20 county.

21 (2) If a county has a district court fund, all
 22 expenses of a grand jury must be paid out of such fund.

23 (3) ~~Subject to the procedures established under~~
 24 3-5-902{1} If the county is receiving state reimbursement
 25 for criminal costs under 3-5-901, the state shall may

1 reimburse the county for juror and witness fees as provided
 2 in 3-5-903 and for witness expenses as provided in
 3 46-15-104. The county shall deposit the amount reimbursed
 4 in its general fund unless the county has a district court
 5 fund. If the county has a district court fund, the amount
 6 reimbursed must be deposited in such fund."

7 Section 10. Section 46-14-221, MCA, is amended to
 8 read:

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

22 (2) If the court determines that the defendant lacks
 23 fitness to proceed, the proceeding against him shall be
 24 suspended, except as provided in subsection (4) of this
 25 section, and the court shall commit him to the custody of

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

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

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

23 (5) The expenses of sending the defendant to the
 24 custody of the director of the department of institutions to
 25 be placed in an appropriate institution of the state

1 department of institutions, ~~of keeping him there,~~ and of
 2 bringing him back are chargeable to the county, but if the
 3 county is receiving state reimbursement for criminal costs,
 4 the expenses may be paid by the state and payable according
 5 to ~~procedures established under 3-5-902(1)~~ 3-5-901."

6 Section 11. 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~~
 17 ~~department of commerce under 3-5-902(1)~~ If the county is
 18 receiving state reimbursement for criminal costs under
 19 3-5-901, the clerk of district court shall submit to the
 20 department a detailed statement containing a list of
 21 witnesses and the amount of expenses paid to each by the
 22 county. Upon receipt and verification of the statement, the
 23 department shall promptly reimburse the designated county
 24 for all or a portion of the cost of witness expenses. 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 12. Section 61-3-509, MCA, is amended to read:

5 "61-3-509. Disposition of taxes and fees in lieu of
 6 tax. (1) Except as provided in subsections (2) and (3), the
 7 county treasurer shall credit all taxes on motor vehicles,
 8 light vehicle license fees provided for in 61-3-532, and
 9 fees in lieu of tax on motorcycles, quadricycles, motor
 10 homes, and travel trailers collected to a motor vehicle
 11 suspense fund, and at some time between March 1 and March 10
 12 of each year and every 60 days thereafter, the county
 13 treasurer shall distribute the money in the motor vehicle
 14 suspense fund in the relative proportions required by the
 15 levies for state, county, school district, and municipal
 16 purposes in the same manner as personal property taxes are
 17 distributed.

18 (2) The county treasurer shall credit 15% of the fee
 19 for district courts from each light vehicle license fee to a
 20 separate suspense account and shall forward the amount in
 21 the account to the state treasurer at the time the county
 22 treasurer distributes the motor vehicle suspense fund. The
 23 state treasurer shall credit amounts received under this
 24 subsection to the general fund to be used for purposes of
 25 state funding of the district court expenses of counties

1 having a population of 30,000 or less, to provide state
 2 reimbursement for criminal cases as provided enumerated in
 3 3-5-901. The county treasurer shall credit the remaining 85%
 4 of the fee to the county district court fund or, if there is
 5 no district court fund, to the county general fund.

6 (3) The county treasurer shall credit each block grant
 7 fee to a separate suspense fund. At the time he distributes
 8 the motor vehicle suspense fund, the treasurer shall
 9 distribute the suspense fund provided for in this subsection
 10 to the state treasurer for deposit in the local government
 11 block grant account provided for in 7-6-302. The funds
 12 distributed pursuant to this subsection must be used for the
 13 local government block grant program as provided in
 14 7-6-304."

15 Section 13. Section 4, Chapter 685, Laws of 1985, is
 16 amended to read:

17 "Section 4. Effective date -- applicability date --
 18 ~~termination--date.~~ (1) This act is effective July 1, 1985,
 19 and applies to light vehicles registered on or after July 1,
 20 1985.

21 ~~(2)--This-act-terminates-July-17-1987--"~~

22 Section 14. Section 4, Chapter 702, Laws of 1985, is
 23 amended to read:

24 "Section 4. Effective date -- applicability --
 25 ~~termination.~~ (1) This act is effective July 1, 1985, and

1 applies to light vehicles registered on or after July 1,
 2 1985.

3 ~~(2)--This-act-terminates-July-17-1987--"~~

4 Section 15. Section 12, Chapter 1, Special Laws of
 5 1985, is amended to read:

6 "Section 12. Effective date -- contingent retroactive
 7 effect ---~~termination.~~ (1) This act is effective on passage
 8 and approval, and sections 1 and 2 apply to light vehicles
 9 registered on or after July 1, 1985. If this act is approved
 10 after June 30, 1985, sections 1 and 2 apply retroactively
 11 within the meaning of 1-2-109 to light vehicles registered
 12 on or after July 1, 1985.

13 ~~(2)--Sections-1-and-2--terminate--July--17--1987--This~~
 14 ~~termination--does--not-affect-the-reinsertion-of-61-3-533(2)~~
 15 ~~as-it-read-on-January-17-1985--"~~

16 NEW SECTION. Section 16. Appropriation. There is
 17 appropriated from the general fund to the department of
 18 commerce for the biennium ending June 30, 1989, an amount
 19 equal to that credited to the general fund pursuant to
 20 61-3-509(2) for the purposes set forth in 3-5-901. This
 21 appropriation is a biennial appropriation to allow for
 22 distribution pursuant to 3-5-901(2)(b).

23 NEW SECTION. Section 17. Codification instruction.
 24 Section 5 is intended to be codified as an integral part of
 25 Title 3, chapter 5, part 9, and the provisions of Title 3,

1 chapter 5, part 9, apply to section 5.

2 NEW SECTION. Section 18. Extension of authority. Any
3 existing authority of the department of commerce to make
4 rules on the subject of the provisions of this act is
5 extended to the provisions of this act.

6 NEW SECTION. Section 19. Effective dates. (1)
7 Sections ~~12~~ 13 through ~~14, 16~~ 15, 17, and this section are
8 effective on passage and approval.

9 (2) Sections 1 through ~~11, 15, and 17~~ 12, 16, AND 18
10 are effective July 1, 1987.

-End-

HOUSE BILL NO. 890

INTRODUCED BY HANNAH, D. BROWN, MILLER, J. BROWN, ROTH,
 PISTORIA, DONALDSON, REHBERG, KITSELMAN, SANDS, PATTERSON,
 POULSEN, PAVLOVICH, QUILICI, GLASER, NISBET, IVERSON,
 SIMON, DRISCOLL, HARRINGTON, WINSLOW, HARP,
 MERCER, STRIZICH, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE FUNDING
 FOR DISTRICT COURTS BY PROVIDING DIRECT PAYMENT OF 85
 PERCENT OF MOTOR VEHICLE FEES FOR DISTRICT COURTS TO
 DISTRICT COURT FUNDS OF THE COUNTIES AND PROVIDING FOR THE
 USE OF THE BALANCE TO FUND EXTRAORDINARY CERTAIN CRIMINAL
 EXPENSES IN SMALLER COUNTIES; EXTENDING THE INCREASE IN
 LICENSING FEES FOR AUTOMOBILES AND LIGHT TRUCKS BY
 ELIMINATING TERMINATION DATES; PROVIDING AN APPROPRIATION;
 AMENDING SECTIONS 3-5-602, 3-5-604, 3-5-901 THROUGH 3-5-903,
7-6-2511, 46-8-202, 46-11-319, 46-14-221, 46-15-104, AND
 61-3-509, MCA, CHAPTERS 685 AND 702, LAWS OF 1985, AND
 CHAPTER 1, SPECIAL LAWS OF 1985; AND PROVIDING EFFECTIVE
 DATES."

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

Section 1. Section 3-5-602, MCA, is amended to read:

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

Each reporter is entitled to receive a base annual salary of

not less than \$16,000 or more than \$23,000 and no other
 compensation except as provided in 3-5-604. The salary shall
 be set by the judge for whom the reporter works. The salary
 is payable in monthly installments out of the general funds
 of the counties comprising the district for which the
 reporter is appointed ~~and-out-of-an-appropriation-made-to~~
~~the-department-of-commerce-as-provided-in-subsection-(2).~~

(2) ~~The-department-of-commerce-shall-determine-the~~
~~total-number-of-civil-and-criminal-actions-commenced-in-the~~
~~preceding-year-in-the-district-court-or-courts-in-the~~
~~judicial-district-for-which-a-reporter-is-appointed-The~~
~~state-shall-pay-its-portion-of-the-reporter's-salary-based~~
~~on-the-proportion-of-the-total-number-of-criminal-actions~~
~~commenced-in-the-district-court-or-courts-in-the-district~~
~~and-the-amount-appropriated-for-that-purpose. Each county~~
~~shall pay its portion of-the-remainder of the salary of the~~
~~reporter based on its proportion of the total number of~~
 civil and criminal actions commenced in the district courts
 in the district. The judge or judges of the district shall,
 on January 1 of each year or as soon thereafter as possible,
 apportion the amount of the salary to be paid by each county
 in his or their district on the basis prescribed in this
 subsection. The portion of the salary payable by a county
 is a district court expense within the meaning of 7-6-2351,
 7-6-2352, and 7-6-2511.

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

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

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

(2) If the county attorney, attorney general, or judge requires a transcript in a criminal case, the reporter is entitled to his fees therefor, but he must furnish it. Upon furnishing ~~it~~ the transcript, he shall receive a certificate for the sum to which he is entitled. The UNLESS A COUNTY IS RECEIVING STATE REIMBURSEMENT UNDER 3-5-901, THE sum is a

county charge and must be paid by the county treasurer upon presentation of the certificate, like other county charges. IF STATE REIMBURSEMENT IS TO BE RECEIVED, THE REPORTER SHALL SUBMIT THE CERTIFICATE TO THE DEPARTMENT OF COMMERCE WHICH, IN ACCORDANCE WITH 3-5-902, IS RESPONSIBLE FOR THE PROMPT PAYMENT OF ALL OR A PORTION OF THE AMOUNT DUE THE REPORTER. IF THE DEPARTMENT, IN ACCORDANCE WITH 3-5-902, PAYS NONE OR ONLY A PORTION OF THE AMOUNT DUE, THE COUNTY SHALL PAY THE BALANCE UPON RECEIPT OF A STATEMENT FROM THE REPORTER. The reporter shall submit the certificate to the department of commerce which, in accordance with 3-5-902, is responsible for the prompt payment of all or a portion of the amount due the reporter. If the department, in accordance with 3-5-902, pays none or only a portion of the amount due, the county shall pay the balance upon receipt of a statement from the reporter.

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

(4) If it appears to the judge that a defendant in a criminal case is unable to pay for a transcript, it shall be furnished to him and paid for by the state in the manner

1 ~~provided in subsection (2) to the extent funds are~~
 2 ~~available. The county, HOWEVER, IF THE COUNTY IS RECEIVING~~
 3 ~~STATE REIMBURSEMENT FOR CRIMINAL COSTS UNDER 3-5-901, THE~~
 4 ~~TRANSCRIPT MAY BE FURNISHED AT STATE EXPENSE PAYABLE UNDER~~
 5 ~~3-5-901 shall pay the remainder as required in 3-5-901.~~"

6 Section 3. Section 3-5-901, MCA, is amended to read:
 7 "3-5-901. State assumption of certain district court
 8 expenses. (1) Effective July 1, 1985, the state shall, to
 9 the extent that money is appropriated provided in subsection
 10 (2), fund the following district court expenses for counties
 11 with a population of 30,000 or less in criminal cases only:

- 12 ~~(a) salaries of court reporters;~~
- 13 ~~(b)(a) transcripts of proceedings;~~
- 14 ~~(c)(b) witness fees and necessary expenses;~~
- 15 ~~(d)(c) juror fees; AND~~
- 16 ~~(e)(d) indigent defense; and.~~
- 17 ~~(f)(e) psychiatric examinations.~~

18 (2) Subject to the availability of funding, the state
 19 shall:

- 20 (a) reimburse counties with a population of 30,000 or
 21 less all or a pro rata share of the expenses set forth in
 22 subsection (1) after a county has exceeded its 5-year
 23 average of expenses for the district court, as set forth in
 24 section 5. AFTER A COUNTY HAS CERTIFIED TO THE DEPARTMENT
 25 OF COMMERCE THAT IT HAS EXPENDED AN AMOUNT EQUAL TO

1 ANTICIPATED DIRECT MOTOR VEHICLE FEE REVENUES UNDER
 2 61-3-509(2) FOR THE CURRENT FISCAL YEAR;

3 (b) pay to each county with a population of over
 4 30,000 the balance, if any, of funds unexpended for the
 5 purposes of subsection (2)(a) at the end of the fiscal year,
 6 to be distributed to such counties pro rata, based upon the
 7 number of vehicles registered in the county.

8 ~~(2)(3)~~ (3) The department of commerce, in consultation
 9 with the district judges for each judicial district, shall
 10 include within the department's biennial budget request to
 11 the legislature a request for funding the expenses listed in
 12 subsection (1).

13 ~~(3)(4)~~ (4) If money appropriated for the expenses listed
 14 in subsection (1) is insufficient to fully fund those
 15 expenses, the county is responsible for payment of the
 16 balance. If no money is appropriated, the county is
 17 responsible for payment of all expenses."

18 Section 4. Section 3-5-902, MCA, is amended to read:
 19 "3-5-902. Fiscal administration for payment of court
 20 expenses. The department of commerce shall:

- 21 (1) establish procedures for disbursement of funds for
 22 payment of district court expenses listed in 3-5-901,
 23 including prorating of those funds if they are insufficient
 24 to cover all expenses listed in 3-5-901;

25 ~~(2) develop guidelines for counties to use to~~

~~determine average district court expenses for the purposes of determining county eligibility;~~

~~(2)(3)(2) develop a uniform accounting system for use by the counties in reporting court expenses at a detailed level for budgeting and auditing purposes; and~~

~~(3)(4)(3) provide for annual auditing of district court expenses to assure normal operations and consistency in reporting of expenditures."~~

~~NEW SECTION. Section 5. Determination of county eligibility for state reimbursement for criminal trial costs. A county is eligible for reimbursement of expenses incurred for items listed in 3-5-901 after it has expended an amount equal to the adjusted 5-year average amount of district court operations. The adjusted amount must be computed by the department as follows:~~

~~(1) A county shall certify, using data classifications established by the department, the actual district court expenditures incurred by the county in the previous 5 years;~~

~~(2) Each county shall certify how much of the amounts in subsection (1) was paid from money received from the district court grant-in-aid program set forth in 7-6-2352 and from district court motor vehicle fees apportioned by this part;~~

~~(3) The department shall calculate the base 5-year district court average expenditures by determining the~~

~~average from the amounts certified in subsection (1) less the receipts from subsection (2);~~

~~(4) For the fiscal year beginning July 1, 1987, the department shall include in the adjusted 5-year average the amount determined in subsection (3) plus the expected direct 85% motor vehicle fee payment provided in 61-3-589;~~

NEW SECTION. SECTION 5. USE OF MOTOR VEHICLE FUNDS -- RESERVE FUNDS. (1) MOTOR VEHICLE FEES RECEIVED BY A COUNTY PURSUANT TO 3-5-901 OR 61-3-509 MAY BE SPENT ONLY FOR DISTRICT COURT COSTS. UNLESS THE MONEY WAS RECEIVED BY A COUNTY AS A SPECIFIC PAYMENT FOR A CRIMINAL COST UNDER 3-5-901, ALL MOTOR VEHICLE FEES RECEIVED DIRECTLY BY A COUNTY PURSUANT TO 61-3-509 OR INDIRECTLY THROUGH 3-5-901 MAY BE SPENT IN THE YEAR OF RECEIPT, IN SUBSEQUENT YEARS, OR PROSPECTIVELY BY BEING PLEDGED AS SECURITY FOR DEBT. FOR USE IN SUBSEQUENT FISCAL YEARS, FUNDS MAY BE PLACED IN A RESERVE FUND TO BE USED LATER AS MAY BE NECESSARY FOR THE OPERATION OF THE DISTRICT COURT.

(2) THE MONEY IN THE RESERVE FUND AUTHORIZED BY THIS SECTION IS NOT A CASH BALANCE SUBJECT TO THE PROVISIONS OF 7-6-2319 OR 7-6-2326, AND THE RESERVE FUND DOES NOT CONSTITUTE A LAPSED APPROPRIATION SUBJECT TO 7-6-2330.

Section 6: Section 3-5-903, MCA, is amended to read:
 "3-5-903. Reimbursement for juror and witness fees.
 According to procedures established by the department of

1 ~~commerce--under--3-5-902(1);~~ each If a county is receiving
 2 state reimbursement for criminal costs under 3-5-901, the
 3 clerk of district court shall submit to the department a
 4 detailed statement containing a list of witnesses and jurors
 5 for criminal cases only and the amount of per diem and
 6 mileage paid to each by the county. Upon receipt and
 7 verification of the statement, the department shall promptly
 8 reimburse the designated county for the cost of witness and
 9 juror fees on a full or prorated basis in accordance with
 10 3-5-902. The county shall deposit the amount reimbursed in
 11 its general fund unless the county has a district court
 12 fund. If the county has a district court fund, the amount
 13 reimbursed must be deposited in such fund."

14 Section 7. Section 46-8-202, MCA, is amended to read:

15 "46-8-202. Public defender's office. Any county
 16 through its board of county commissioners may provide for
 17 the creation of a public defender's office and the
 18 appointment of a salaried public defender and such assistant
 19 public defenders as may be necessary to satisfy the legal
 20 requirements in providing counsel for defendants unable to
 21 employ counsel. The costs of such office ~~shall~~ are a county
 22 expense, but if the county is receiving state reimbursement
 23 for criminal costs under 3-5-901, they may be at state
 24 expense payable according to procedures--established--under
 25 3-5-902(1) 3-5-901 and,--to-the-extent-those-costs-are-not

1 ~~paid-by-the-state, at--county--expense--in--accordance--with~~
 2 ~~3-5-901(3)-and-3-5-902(1)."~~

3 SECTION 8. SECTION 7-6-2511, MCA, IS AMENDED TO READ:

4 "7-6-2511. County levy for district court expenses.
 5 The governing body of each county may each year levy and
 6 collect a tax on the taxable property of the county for all
 7 district court costs, ~~--except--those--listed--in--3-5-211,~~
 8 ~~3-5-213, and 3-5-215.~~ The tax may not exceed 6 mills in the
 9 first- and second-class counties, 5 mills in third- and
 10 fourth-class counties, and 4 mills in fifth-, sixth-, and
 11 seventh-class counties. These expenses include but are not
 12 limited to salary and benefits for court clerks, court
 13 reporters, youth probation officers, and other employees of
 14 the district court."

15 Section 9. Section 46-11-319, MCA, is amended to read:

16 "46-11-319. Expenses of grand jury. (1) All expenses
 17 of the grand jury, including special counsel and
 18 investigators, if any, shall be paid by the treasurer of the
 19 county out of the general fund of the county, except as
 20 provided in subsection (2), upon warrants drawn by the
 21 county auditor or the clerk of the district court upon the
 22 written order of the judge of the district court of the
 23 county.

24 (2) If a county has a district court fund, all
 25 expenses of a grand jury must be paid out of such fund.

1 (3) ~~Subject---to---the---procedures---established---under~~
 2 ~~3-5-902(1)~~ If the county is receiving state reimbursement
 3 for criminal costs under 3-5-901, the state ~~shall~~ may
 4 reimburse the county for juror and witness fees as provided
 5 in 3-5-903 and for witness expenses as provided in
 6 46-15-104. The county shall deposit the amount reimbursed
 7 in its general fund unless the county has a district court
 8 fund. If the county has a district court fund, the amount
 9 reimbursed must be deposited in such fund."

10 Section 10. Section 46-14-221, MCA, is amended to
 11 read:

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

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

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

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

22 (4) The fact that the defendant is unfit to proceed
 23 does not preclude any legal objection to the prosecution
 24 which is susceptible to fair determination prior to trial
 25 and without the personal participation of the defendant.

1 (5) The expenses of sending the defendant to the
 2 custody of the director of the department of institutions to
 3 be placed in an appropriate institution of the state
 4 department of institutions, ~~of-keeping--him--there,~~ and of
 5 bringing him back are chargeable to the county, but if the
 6 county is receiving state reimbursement for criminal costs,
 7 the expenses may be paid by the state and payable according
 8 to procedures-established-under-3-5-902{+} 3-5-901."

9 Section 11. Section 46-15-104, MCA, is amended to
 10 read:

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

19 (2) ~~According--to--procedures---established---by---the~~
 20 ~~department--of--commerce--under--3-5-902{+}~~ If the county is
 21 receiving state reimbursement for criminal costs under
 22 3-5-901, the clerk of district court shall submit to the
 23 department a detailed statement containing a list of
 24 witnesses and the amount of expenses paid to each by the
 25 county. Upon receipt and verification of the statement, the

1 department shall promptly reimburse the designated county
 2 for all or a portion of the cost of witness expenses. The
 3 county shall deposit the amount reimbursed in its general
 4 fund unless the county has a district court fund. If the
 5 county has a district court fund, the amount reimbursed must
 6 be deposited in such fund."

7 Section 12. Section 61-3-509, MCA, is amended to read:

8 "61-3-509. Disposition of taxes and fees in lieu of
 9 tax. (1) Except as provided in subsections (2) and (3), the
 10 county treasurer shall credit all taxes on motor vehicles,
 11 light vehicle license fees provided for in 61-3-532, and
 12 fees in lieu of tax on motorcycles, quadricycles, motor
 13 homes, and travel trailers collected to a motor vehicle
 14 suspense fund, and at some time between March 1 and March 10
 15 of each year and every 60 days thereafter, the county
 16 treasurer shall distribute the money in the motor vehicle
 17 suspense fund in the relative proportions required by the
 18 levies for state, county, school district, and municipal
 19 purposes in the same manner as personal property taxes are
 20 distributed.

21 (2) The county treasurer shall credit 15% of the fee
 22 for district courts from each light vehicle license fee to a
 23 separate suspense account and shall forward the amount in
 24 the account to the state treasurer at the time the county
 25 treasurer distributes the motor vehicle suspense fund. The

1 state treasurer shall credit amounts received under this
 2 subsection to the general fund to be used for purposes of
 3 state funding of the district court expenses of counties
 4 having a population of 30,000 or less, to provide state
 5 reimbursement for criminal cases as provided enumerated in
 6 3-5-901. The county treasurer shall credit the remaining 85%
 7 of the fee to the county district court fund or, if there is
 8 no district court fund, to the county general fund.

9 (3) The county treasurer shall credit each block grant
 10 fee to a separate suspense fund. At the time he distributes
 11 the motor vehicle suspense fund, the treasurer shall
 12 distribute the suspense fund provided for in this subsection
 13 to the state treasurer for deposit in the local government
 14 block grant account provided for in 7-6-302. The funds
 15 distributed pursuant to this subsection must be used for the
 16 local government block grant program as provided in
 17 7-6-304."

18 Section 13. Section 4, Chapter 685, Laws of 1985, is
 19 amended to read:

20 "Section 4. Effective date -- applicability date --
 21 ~~termination date.~~ (1) This act is effective July 1, 1985,
 22 and applies to light vehicles registered on or after July 1,
 23 1985.

24 ~~(2) -- This act terminates July 1, 1987.~~

25 Section 14. Section 4, Chapter 702, Laws of 1985, is

1 amended to read:

2 "Section 4. Effective date -- applicability --
 3 ~~termination.~~ (1) This act is effective July 1, 1985, and
 4 applies to light vehicles registered on or after July 1,
 5 1985.

6 ~~(2) -- This act terminates July 1, 1987.~~

7 Section 15. Section 12, Chapter 1, Special Laws of
 8 1985, is amended to read:

9 "Section 12. Effective date -- contingent retroactive
 10 effect --- ~~termination.~~ (1) This act is effective on passage
 11 and approval, and sections 1 and 2 apply to light vehicles
 12 registered on or after July 1, 1985. If this act is approved
 13 after June 30, 1985, sections 1 and 2 apply retroactively
 14 within the meaning of 1-2-109 to light vehicles registered
 15 on or after July 1, 1985.

16 ~~(2) -- Sections 1 and 2 terminate July 1, 1987. This~~
 17 ~~termination does not affect the reinsertion of 61-3-533(2)~~
 18 ~~as it read on January 1, 1985.~~

19 NEW SECTION. Section 16. Appropriation. There is
 20 appropriated from the general fund to the department of
 21 commerce for the biennium ending June 30, 1989, an amount
 22 equal to that credited to the general fund pursuant to
 23 61-3-509(2) for the purposes set forth in 3-5-901. This
 24 appropriation is a biennial appropriation to allow for
 25 distribution pursuant to 3-5-901(2)(b).

1 NEW SECTION. Section 17. Codification instruction.
2 Section 5 is intended to be codified as an integral part of
3 Title 3, chapter 5, part 9, and the provisions of Title 3,
4 chapter 5, part 9, apply to section 5.

5 NEW SECTION. Section 18. Extension of authority. Any
6 existing authority of the department of commerce to make
7 rules on the subject of the provisions of this act is
8 extended to the provisions of this act.

9 NEW SECTION. Section 19. Effective dates. (1)
10 Sections ~~12~~ 13 through ~~14~~~~15~~ 15, 17, and this section are
11 effective on passage and approval.

12 (2) Sections 1 through ~~14~~~~15~~~~and~~~~17~~ 12, 16, AND 18
13 are effective July 1, 1987.

-End-