

HOUSE BILL NO. 278

INTRODUCED BY BARDANOUE, NATHE, COBB, DOHERTY, YELLOWTAIL,
R. JOHNSON, J. RICE, STRIZICH, HARPER, HARP, D. BROWN

IN THE HOUSE

JANUARY 20, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON APPROPRIATIONS.

FIRST READING.

MARCH 3, 1993

COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

MARCH 4, 1993

PRINTING REPORT.

MARCH 5, 1993

SECOND READING, DO PASS.

MARCH 6, 1993

ENGROSSING REPORT.

MARCH 8, 1993

THIRD READING, PASSED.
AYES, 81; NOES, 15.

MARCH 9, 1993

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 10, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

MARCH 27, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 31, 1993

SECOND READING, CONCURRED IN.

APRIL 1, 1993

THIRD READING, CONCURRED IN.
AYES, 47; NOES, 1.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 2, 1993

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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House BILL NO. 278

INTRODUCED BY *Barbara NATHAN Cobb*
Yellowtail *L. Johnson* *HAPP* *John* *Stacy*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM; PROVIDING A STATUTORY APPROPRIATION; REVISING THE TIME FOR APPLYING FOR GRANTS; ELIMINATING THE REIMBURSEMENT OF CERTAIN AMOUNTS TO COUNTIES; AMENDING SECTIONS 3-5-901, 7-6-2352, 17-7-502, 46-15-116, AND 61-3-509, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

Section 1. Section 3-5-901, MCA, is amended to read:

"3-5-901. (Temporary) State assumption of certain district court expenses. (1) The state shall, to the extent that money is appropriated, fund the following district court expenses in criminal cases only:

- (a) salaries of court reporters;
- (b) transcripts of proceedings;
- (c) witness fees and necessary expenses;
- (d) juror fees;
- (e) indigent defense;
- (f) expenses of the appellate defender commission and the office of appellate defender; and
- (g) psychiatric examinations.

- (2) The supreme court administrator, in consultation with the district judges for each judicial district and the appellate defender commission, shall include within the supreme court's biennial budget request to the legislature a request for funding the expenses listed in subsection (1).
- (3) (a) If money appropriated for the expenses listed in subsection (1):
 - (i) exceeds the amount necessary to fully fund those expenses, the excess amount must be used for district court grants as provided in 7-6-2352; or
 - (ii) is insufficient to fully fund those expenses, the appellate defender commission and the office of appellate defender must be funded first and the county is responsible for payment of the balance.
- (b) If no money is appropriated, the county is responsible for payment of all expenses.
- (4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509, that is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the supreme court for district court and courts of limited jurisdiction automation purposes during the 1995 biennium. (Terminates July 1, 1993--sec. 13, Ch. 781, L. 1991.)
- 3-5-901. (Effective July 1, 1993) State assumption of certain district court expenses. (1) The state shall, to the

1 extent that ~~money-is-appropriated~~ revenue is available under
 2 61-3-509, fund the following district court expenses in
 3 criminal cases only:

- 4 (a) salaries of court reporters;
- 5 (b) transcripts of proceedings;
- 6 (c) witness fees and necessary expenses;
- 7 (d) juror fees;
- 8 (e) indigent defense; and
- 9 (f) psychiatric examinations.

10 (2) The revenue received under 61-3-509 is statutorily
 11 appropriated, as provided in 17-7-502, to the supreme court
 12 administrator, in consultation with the district judges, for
 13 each judicial district, shall include within the supreme
 14 court's biennial budget request to the legislature a request
 15 for funding the expenses listed in subsection (1) and the
 16 costs of administering this section.

17 (3) ~~{a}~~ If money appropriated for the expenses listed
 18 in subsection (1):

19 ~~{i}~~ (a) exceeds the amount necessary to fully fund those
 20 expenses, the excess amount must be used for district court
 21 grants as provided in 7-6-2352; or

22 ~~{ii}~~ (b) is insufficient to fully fund those expenses,
 23 the county is responsible for payment of the balance.

24 ~~{b}--if--no--money--is--appropriated,--the--county--is~~
 25 ~~responsible for payment of all expenses.~~

1 (4) Money deposited in the state general fund in fiscal
 2 year 1992, as provided in 61-3-509, that is in excess of the
 3 legislative appropriation is statutorily appropriated, as
 4 provided in 17-7-502, to the supreme court for district
 5 court and courts of limited jurisdiction automation purposes
 6 during the 1995 biennium."

7 **Section 2.** Section 7-6-2352, MCA, is amended to read:

8 "7-6-2352. State grants to district courts -- rules.

9 (1) The state shall make grants, to the extent funds are
 10 available after expenses provided for in 3-5-901 are funded,
 11 to the governing body of a county for the district courts
 12 for assistance, as provided in this section.

13 (2) The governing body of a county may apply to the
 14 supreme court administrator for a grant by filing a written
 15 request on forms provided by the administrator by July
 16 August 20 for the previous fiscal year unless the
 17 administrator grants a time extension upon request of the
 18 county. In its request for a grant, a county must certify
 19 that:

20 (a) all expenditures from the district court fund have
 21 been lawfully made;

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

24 (c) no expenditures have been made from the district
 25 court fund that are not specifically authorized by 7-6-2511

1 and 7-6-2351.

2 (3) To the extent funds are available, the state shall
3 award a grant if the county's district court expenditures
4 for the previous fiscal year exceeded the sum of:

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

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

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

17 (5) The supreme court administrator shall notify each
18 eligible county as soon as possible of the state's intention
19 to award a grant to that county and the amount of the award.

20 (6) The grant received by the county shall must be
21 placed in the district court fund.

22 (7) If an audit conducted pursuant to 2-7-503 discloses
23 that the recipient received a grant in excess of the amount
24 for which it was eligible, the recipient shall repay the
25 excess to the state. The supreme court administrator shall

1 redistribute any repaid excess amounts to the other counties
2 that received grants from the appropriation from which the
3 overpayment was made, on the same basis as the original
4 awards. No A county is not eligible for a district court
5 grant if it owes the state a refund of a prior year's
6 overpayment.

7 (8) The supreme court administrator, in consultation
8 with the supreme court, shall prescribe rules and forms
9 necessary to effectively administer this section. The
10 administrator may require a county to provide any
11 information considered necessary for the administration of
12 the program."

13 **Section 3.** Section 17-7-502, MCA, is amended to read:

14 "17-7-502. Statutory appropriations -- definition --
15 requisites for validity. (1) A statutory appropriation is an
16 appropriation made by permanent law that authorizes spending
17 by a state agency without the need for a biennial
18 legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be
20 effective, a statutory appropriation must comply with both
21 of the following provisions:

22 (a) The law containing the statutory authority must be
23 listed in subsection (3).

24 (b) The law or portion of the law making a statutory
25 appropriation must specifically state that a statutory

appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through

17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

Section 4. Section 46-15-116, MCA, is amended to read:

"46-15-116. Fees, costs, and expenses. (1) When a person attends before a judge, grand jury, or court as a witness in a criminal case upon a subpoena, the witness shall receive the witness fee prescribed by Title 26, chapter 2, part 5. The court, on motion by either party, may allow additional fees for expert witnesses.

(2) The court may determine the reasonable and necessary expenses of subpoenaed witnesses and order the clerk of the court to pay the expenses from the county treasury.

(3) When a person is subpoenaed in this state to testify in another state or is subpoenaed from another state to testify in this state, the person must be paid for lodging, mileage or travel, and per diem, the sum equal to that allowed by Title 2, chapter 18, part 5, for each day that the person is required to travel and attend as a

1 witness. If the state where the witness is found has by
2 statutory enactment required that the subpoenaed witness be
3 paid an amount in excess of the amount specified in this
4 section, the witness may be paid the amount required by that
5 state.

6 (4) According to procedures required by the supreme
7 court administrator, under 3-5-902, the clerk of the
8 district court shall submit to the administrator a detailed
9 statement containing a list of witnesses and the amount of
10 expenses paid to each witness by the county. Upon receipt
11 and verification of the statement, the administrator shall
12 promptly reimburse the designated county for all or a
13 portion of the witness expenses. The county shall deposit
14 the amount reimbursed in its general fund unless the county
15 has a district court fund. If the county has a district
16 court fund, the amount reimbursed must be deposited in the
17 district court fund."

18 **Section 5.** Section 61-3-509, MCA, is amended to read:

19 "61-3-509. **Disposition of taxes.** (1) Except as provided
20 in subsection (2), the county treasurer shall, after
21 deducting the district court fee, credit all taxes on motor
22 vehicles and fees in lieu of tax on motor homes, travel
23 trailers, and campers collected under 61-3-504, 61-3-521,
24 and 61-3-537 to a motor vehicle suspense fund, and at some
25 time between March 1 and March 10 of each year and every 60

1 days thereafter, the county treasurer shall distribute the
2 money in the motor vehicle suspense fund in the relative
3 proportions required by the levies for state, county, school
4 district, and municipal purposes in the same manner as
5 personal property taxes are distributed.

6 (2) The county treasurer shall deduct as a district
7 court fee 7% of the amount of the 2% tax collected on an
8 automobile or truck having a rated capacity of 1 ton or
9 less. The county treasurer shall credit the fee for district
10 courts to a separate suspense account and shall forward the
11 amount in the account to the state treasurer at the time the
12 county treasurer distributes the motor vehicle suspense
13 fund. The state treasurer shall credit amounts received
14 under this subsection to the general fund to be used for
15 purposes of state funding of the district court expenses as
16 provided in 3-5-901. ~~Any amount forwarded to the state~~
17 ~~treasurer under this subsection that is not used for~~
18 ~~district court expenses must be refunded to the counties in~~
19 ~~the proportion that the amount collected from each county~~
20 ~~bears to the total amount collected."~~

21 **NEW SECTION. Section 6.** Effective date. [This act] is
22 effective on passage and approval.

23 **NEW SECTION. Section 7.** Termination. The amendment to
24 3-5-901, enacting subsection (4) for purposes of the 1995
25 biennium, terminates July 1, 1995.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0278, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the district court criminal reimbursement program; providing a statutory appropriation for funding court automation projects; and eliminating refunds to counties of revenue collected to fund the district court reimbursement program.

ASSUMPTIONS:

1. Actual vehicle tax revenue collected in FY92 under 61-3-509(2), MCA, and deposited into the general fund was \$3,244,360.
2. The FY92 appropriation for the District Court Reimbursement program in the Judiciary was \$2,680,561.
3. It is assumed that, under current law, the refunds to counties for the FY92 excess vehicle tax revenue over the amount appropriated for district court reimbursement will be made by the end of FY93.
4. It is assumed that, under proposed law, the excess revenue will be statutorily appropriated to the Supreme Court Operations program, one-half in FY94 and one-half in FY95, to augment statewide district court and limited jurisdiction automation projects. It is assumed that approximately \$50,000 each year will be applied to operating expenses, including travel and training, and the balance to equipment and software.

FISCAL IMPACT:

Supreme Court Operations-Court Automation unit:

	FY94			FY95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
FTE	2.00	2.00	0.00	2.00	2.00	0.00
Personal Services	72,486	72,486	0	72,487	72,487	0
Operating Expenses	15,431	65,431	50,000	15,746	65,746	50,000
Equipment	<u>21,616</u>	<u>253,516</u>	<u>231,900</u>	<u>21,616</u>	<u>253,516</u>	<u>231,900</u>
Total	109,533	391,433	281,900	109,849	391,749	281,900
Funding:						
General Fund	109,533	391,433	281,900	109,849	391,749	281,900

Net Impact:

Under the proposed bill, refunds to counties would decrease by \$563,800 during FY93. The net impact to the general fund would be -0- over the three year period.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Statewide county general fund revenue would decrease by \$563,800 in FY93; however, a like amount would be expended in the 1995 biennium for automation of district and local jurisdiction courts.

Dave Lewis 1-26-93

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

FRANCIS BARDANOUVE, PRIMARY SPONSOR DATE

Fiscal Note for HB0278, as introduced

HB 278

APPROVED BY COMMITTEE
ON APPROPRIATIONS

1 *House* BILL NO. *278*
2 INTRODUCED BY *Boudano* *NATHAN Lobb*
3 *Yellowtail* *HAPP* *John* *Thayer*
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
5 DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM; PROVIDING A
6 STATUTORY APPROPRIATION; REVISING THE TIME FOR APPLYING FOR
7 GRANTS; ELIMINATING THE REIMBURSEMENT OF CERTAIN AMOUNTS TO
8 COUNTIES; AMENDING SECTIONS 3-5-901, 7-6-2352, 17-7-502,
9 46-15-116, AND 61-3-509, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE AND A TERMINATION DATE."
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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15 district court expenses. (1) The state shall, to the extent
16 that money is appropriated, fund the following district
17 court expenses in 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;
- 23 (f) expenses of the appellate defender commission and
- 24 the office of appellate defender; and
- 25 (g) psychiatric examinations.

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

6 (3) (a) If money appropriated for the expenses listed
7 in subsection (1):

8 (i) exceeds the amount necessary to fully fund those
9 expenses, the excess amount must be used for district court
10 grants as provided in 7-6-2352; or

11 (ii) is insufficient to fully fund those expenses, the
12 appellate defender commission and the office of appellate
13 defender must be funded first and the county is responsible
14 for payment of the balance.

15 (b) If no money is appropriated, the county is
16 responsible for payment of all expenses.

17 (4) Money deposited in the state general fund in fiscal
18 year 1992, as provided in 61-3-509, that is in excess of the
19 legislative appropriation is statutorily appropriated, as
20 provided in 17-7-502, to the supreme court for district
21 court and courts of limited jurisdiction automation purposes
22 during the 1995 biennium. (Terminates July 1, 1993--sec. 13,
23 Ch. 781, L. 1991.)

24 3-5-901. (Effective July 1, 1993) State assumption of
25 certain district court expenses. (1) The state shall, to the

1 extent that ~~money-is-appropriated~~ revenue is available under
 2 61-3-509, fund the following district court expenses in
 3 criminal cases only:

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10 (2) The revenue received under 61-3-509 is statutorily
 11 appropriated, as provided in 17-7-502, to the supreme court
 12 administrator, in consultation with the district judges, for
 13 each judicial district, shall include within the supreme
 14 court's biennial budget request to the legislature a request
 15 for funding the expenses listed in subsection (1) and the
 16 costs of administering this section.

17 (3) ~~(a)~~ If money appropriated for the expenses listed
 18 in subsection (1):

19 ~~(i)~~ (a) exceeds the amount necessary to fully fund those
 20 expenses, the excess amount must be used for district court
 21 grants as provided in 7-6-2352; or

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 23 the county is responsible for payment of the balance.

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 5 court and courts of limited jurisdiction automation purposes
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7 **Section 2.** Section 7-6-2352, MCA, is amended to read:

8 "7-6-2352. State grants to district courts -- rules.

9 (1) The state shall make grants, to the extent funds are
 10 available after expenses provided for in 3-5-901 are funded,
 11 to the governing body of a county for the district courts
 12 for assistance, as provided in this section.

13 (2) The governing body of a county may apply to the
 14 supreme court administrator for a grant by filing a written
 15 request on forms provided by the administrator by July
 16 August 20 for the previous fiscal year unless the
 17 administrator grants a time extension upon request of the
 18 county. In its request for a grant, a county must certify
 19 that:

20 (a) all expenditures from the district court fund have
 21 been lawfully made;

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

24 (c) no expenditures have been made from the district
 25 court fund that are not specifically authorized by 7-6-2511

1 and 7-6-2351.

2 (3) To the extent funds are available, the state shall
3 award a grant if the county's district court expenditures
4 for the previous fiscal year exceeded the sum of:

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

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

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

17 (5) The supreme court administrator shall notify each
18 eligible county as soon as possible of the state's intention
19 to award a grant to that county and the amount of the award.

20 (6) The grant received by the county shall must be
21 placed in the district court fund.

22 (7) If an audit conducted pursuant to 2-7-503 discloses
23 that the recipient received a grant in excess of the amount
24 for which it was eligible, the recipient shall repay the
25 excess to the state. The supreme court administrator shall

1 redistribute any repaid excess amounts to the other counties
2 that received grants from the appropriation from which the
3 overpayment was made, on the same basis as the original
4 awards. No A county is not eligible for a district court
5 grant if it owes the state a refund of a prior year's
6 overpayment.

7 (8) The supreme court administrator, in consultation
8 with the supreme court, shall prescribe rules and forms
9 necessary to effectively administer this section. The
10 administrator may require a county to provide any
11 information considered necessary for the administration of
12 the program."

13 **Section 3.** Section 17-7-502, MCA, is amended to read:

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15 requisites for validity. (1) A statutory appropriation is an
16 appropriation made by permanent law that authorizes spending
17 by a state agency without the need for a biennial
18 legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be
20 effective, a statutory appropriation must comply with both
21 of the following provisions:

22 (a) The law containing the statutory authority must be
23 listed in subsection (3).

24 (b) The law or portion of the law making a statutory
25 appropriation must specifically state that a statutory

1 appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing
3 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
4 3-5-901; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
5 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112;
6 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
7 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804;
8 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702;
9 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;
10 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101;
11 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503;
12 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612;
13 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204;
14 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150;
15 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507;
16 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103;
17 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301;
18 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

19 (4) There is a statutory appropriation to pay the
20 principal, interest, premiums, and costs of issuing, paying,
21 and securing all bonds, notes, or other obligations, as due,
22 that have been authorized and issued pursuant to the laws of
23 Montana. Agencies that have entered into agreements
24 authorized by the laws of Montana to pay the state
25 treasurer, for deposit in accordance with 17-2-101 through

1 17-2-107, as determined by the state treasurer, an amount
2 sufficient to pay the principal and interest as due on the
3 bonds or notes have statutory appropriation authority for
4 the payments. (In subsection (3): pursuant to sec. 7, Ch.
5 567, L. 1991, the inclusion of 19-6-709 terminates upon
6 death of last recipient eligible for supplemental benefit;
7 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of
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13 shall receive the witness fee prescribed by Title 26,
14 chapter 2, part 5. The court, on motion by either party, may
15 allow additional fees for expert witnesses.

16 (2) The court may determine the reasonable and
17 necessary expenses of subpoenaed witnesses and order the
18 clerk of the court to pay the expenses from the county
19 treasury.

20 (3) When a person is subpoenaed in this state to
21 testify in another state or is subpoenaed from another state
22 to testify in this state, the person must be paid for
23 lodging, mileage or travel, and per diem, the sum equal to
24 that allowed by Title 2, chapter 18, part 5, for each day
25 that the person is required to travel and attend as a

1 witness. If the state where the witness is found has by
2 statutory enactment required that the subpoenaed witness be
3 paid an amount in excess of the amount specified in this
4 section, the witness may be paid the amount required by that
5 state.

6 (4) According to procedures required by the supreme
7 court administrator, under 3-5-902, the clerk of the
8 district court shall submit to the administrator a detailed
9 statement containing a list of witnesses and the amount of
10 expenses paid to each witness by the county. Upon receipt
11 and verification of the statement, the administrator shall
12 promptly reimburse the designated county for all or a
13 portion of the witness expenses. The county shall deposit
14 the amount reimbursed in its general fund unless the county
15 has a district court fund. If the county has a district
16 court fund, the amount reimbursed must be deposited in the
17 district court fund."

18 **Section 5.** Section 61-3-509, MCA, is amended to read:

19 "61-3-509. Disposition of taxes. (1) Except as provided
20 in subsection (2), the county treasurer shall, after
21 deducting the district court fee, credit all taxes on motor
22 vehicles and fees in lieu of tax on motor homes, travel
23 trailers, and campers collected under 61-3-504, 61-3-521,
24 and 61-3-537 to a motor vehicle suspense fund, and at some
25 time between March 1 and March 10 of each year and every 60

1 days thereafter, the county treasurer shall distribute the
2 money in the motor vehicle suspense fund in the relative
3 proportions required by the levies for state, county, school
4 district, and municipal purposes in the same manner as
5 personal property taxes are distributed.

6 (2) The county treasurer shall deduct as a district
7 court fee 7% of the amount of the 2% tax collected on an
8 automobile or truck having a rated capacity of 1 ton or
9 less. The county treasurer shall credit the fee for district
10 courts to a separate suspense account and shall forward the
11 amount in the account to the state treasurer at the time the
12 county treasurer distributes the motor vehicle suspense
13 fund. The state treasurer shall credit amounts received
14 under this subsection to the general fund to be used for
15 purposes of state funding of the district court expenses as
16 provided in 3-5-901. ~~Any--amount--forwarded--to--the--state~~
17 ~~treasurer--under--this--subsection--that--is--not--used--for~~
18 ~~district--court--expenses--must--be--refunded--to--the--counties--in~~
19 ~~the--proportion--that--the--amount--collected--from--each--county~~
20 ~~bears--to--the--total--amount--collected."~~

21 **NEW SECTION. Section 6.** Effective date. [This act] is
22 effective on passage and approval.

23 **NEW SECTION. Section 7.** Termination. The amendment to
24 3-5-901, enacting subsection (4) for purposes of the 1995
25 biennium, terminates July 1, 1995.

1 *House* BILL NO. *278*
 2 INTRODUCED BY *Boudana NATHAN Cobb*
 3 *Yellowtail* *HAPP*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 5 DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM; PROVIDING A
 6 STATUTORY APPROPRIATION; REVISING THE TIME FOR APPLYING FOR
 7 GRANTS; ELIMINATING THE REIMBURSEMENT OF CERTAIN AMOUNTS TO
 8 COUNTIES; AMENDING SECTIONS 3-5-901, 7-6-2352, 17-7-502,
 9 46-15-116, AND 61-3-509, MCA; AND PROVIDING AN IMMEDIATE
 10 EFFECTIVE DATE AND A TERMINATION DATE."
 11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 **Section 1.** Section 3-5-901, MCA, is amended to read:
 14 "3-5-901. (Temporary) State assumption of certain
 15 district court expenses. (1) The state shall, to the extent
 16 that money is appropriated, fund the following district
 17 court expenses in 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;
 23 (f) expenses of the appellate defender commission and
 24 the office of appellate defender; and
 25 (g) psychiatric examinations.

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

6 (3) (a) If money appropriated for the expenses listed
 7 in subsection (1):

8 (i) exceeds the amount necessary to fully fund those
 9 expenses, the excess amount must be used for district court
 10 grants as provided in 7-6-2352; or

11 (ii) is insufficient to fully fund those expenses, the
 12 appellate defender commission and the office of appellate
 13 defender must be funded first and the county is responsible
 14 for payment of the balance.

15 (b) If no money is appropriated, the county is

THERE ARE NO CHANGES IN THIS BILL
 AND WILL NOT BE REPRINTED. PLEASE
 REFER TO YELLOW COPY FOR COMPLETE TEXT.

HOUSE BILL NO. 278

INTRODUCED BY BARDANOUVE, NATHE, COBB, DOHERTY, YELLOWTAIL,
R. JOHNSON, J. RICE, STRIZICH, HARPER, HARP, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM; PROVIDING A
STATUTORY APPROPRIATION; REVISING THE TIME FOR APPLYING FOR
GRANTS; ELIMINATING THE REIMBURSEMENT OF CERTAIN AMOUNTS TO
COUNTIES; AMENDING SECTIONS 3-5-901, 7-6-2352, 17-7-502,
46-15-116, AND 61-3-509, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE AND A TERMINATION DATE."

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

Section 1. Section 3-5-901, MCA, is amended to read:

"3-5-901. (Temporary) State assumption of certain
district court expenses. (1) The state shall, to the extent
that money is appropriated, fund the following district
court expenses in criminal cases only:

- (a) salaries of court reporters;
- (b) transcripts of proceedings;
- (c) witness fees and necessary expenses;
- (d) juror fees;
- (e) indigent defense;
- (f) expenses of the appellate defender commission and
the office of appellate defender; and

(g) psychiatric examinations.

(2) The supreme court administrator, in consultation
with the district judges for each judicial district and the
appellate defender commission, shall include within the
supreme court's biennial budget request to the legislature a
request for funding the expenses listed in subsection (1).

(3) (a) If money appropriated for the expenses listed
in subsection (1):

(i) exceeds the amount necessary to fully fund those
expenses, the excess amount must be used for district court
grants as provided in 7-6-2352; or

(ii) is insufficient to fully fund those expenses, the
appellate defender commission and the office of appellate
defender must be funded first and the county is responsible
for payment of the balance.

(b) If no money is appropriated, the county is
responsible for payment of all expenses.

(4) Money deposited in the state general fund in fiscal
year 1992, as provided in 61-3-509, that is in excess of the
legislative appropriation is statutorily appropriated, as
provided in 17-7-502, to the supreme court for district
court and courts of limited jurisdiction automation purposes
during the 1995 biennium. (Terminates July 1, 1993--sec. 13,
Ch. 781, L. 1991.)

3-5-901. (Effective July 1, 1993) State assumption of

certain district court expenses. (1) The state shall, to the extent that ~~money-is-appropriated~~ revenue is available under 61-3-509, fund the following district court expenses in criminal cases only:

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

(2) The revenue received under 61-3-509 is statutorily appropriated, as provided in 17-7-502, to the supreme court administrator, in consultation with the district judges, for each judicial district, shall include within the supreme court's biennial budget request to the legislature a request for funding the expenses listed in subsection (1) and the costs of administering this section.

(3) ~~{a}~~ If money appropriated for the expenses listed in subsection (1):

~~{i}~~(a) exceeds the amount necessary to fully fund those expenses, the excess amount must be used for district court grants as provided in 7-6-2352; or

~~{i}~~(b) is insufficient to fully fund those expenses, the county is responsible for payment of the balance.

~~{b}--if--no--money--is--appropriated,--the---county---is~~

~~responsible-for-payment-of-all-expenses.~~

(4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509, that is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the supreme court for district court and courts of limited jurisdiction automation purposes during the 1995 biennium."

Section 2. Section 7-6-2352, MCA, is amended to read:

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

(1) The state shall make grants, to the extent funds are available after expenses provided for in 3-5-901 are funded, to the governing body of a county for the district courts for assistance, as provided in this section.

(2) The governing body of a county may apply to the supreme court administrator for a grant by filing a written request on forms provided by the administrator by ~~July~~ August 20 for the previous fiscal year unless the administrator grants a time extension upon request of the county. In its request for a grant, a county must certify that:

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

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

(c) no expenditures have been made from the district

1 court fund that are not specifically authorized by 7-6-2511
2 and 7-6-2351.

3 (3) To the extent funds are available, the state shall
4 award a grant if the county's district court expenditures
5 for the previous fiscal year exceeded the sum of:

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

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

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

18 (5) The supreme court administrator shall notify each
19 eligible county as soon as possible of the state's intention
20 to award a grant to that county and the amount of the award.

21 (6) The grant received by the county ~~shall~~ must be
22 placed in the district court fund.

23 (7) If an audit conducted pursuant to 2-7-503 discloses
24 that the recipient received a grant in excess of the amount
25 for which it was eligible, the recipient shall repay the

1 excess to the state. The supreme court administrator shall
2 redistribute any repaid excess amounts to the other counties
3 that received grants from the appropriation from which the
4 overpayment was made, on the same basis as the original
5 awards. No A county is not eligible for a district court
6 grant if it owes the state a refund of a prior year's
7 overpayment.

8 (8) The supreme court administrator, in consultation
9 with the supreme court, shall prescribe rules and forms
10 necessary to effectively administer this section. The
11 administrator may require a county to provide any
12 information considered necessary for the administration of
13 the program."

14 **Section 3.** Section 17-7-502, MCA, is amended to read:

15 "17-7-502. Statutory appropriations -- definition --
16 requisites for validity. (1) A statutory appropriation is an
17 appropriation made by permanent law that authorizes spending
18 by a state agency without the need for a biennial
19 legislative appropriation or budget amendment.

20 (2) Except as provided in subsection (4), to be
21 effective, a statutory appropriation must comply with both
22 of the following provisions:

23 (a) The law containing the statutory authority must be
24 listed in subsection (3).

25 (b) The law or portion of the law making a statutory

1 appropriation must specifically state that a statutory
2 appropriation is made as provided in this section.

3 (3) The following laws are the only laws containing
4 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
5 3-5-901; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
6 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112;
7 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
8 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804;
9 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702;
10 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;
11 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101;
12 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503;
13 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612;
14 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204;
15 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150;
16 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507;
17 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103;
18 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301;
19 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

20 (4) There is a statutory appropriation to pay the
21 principal, interest, premiums, and costs of issuing, paying,
22 and securing all bonds, notes, or other obligations, as due,
23 that have been authorized and issued pursuant to the laws of
24 Montana. Agencies that have entered into agreements
25 authorized by the laws of Montana to pay the state

1 treasurer, for deposit in accordance with 17-2-101 through
2 17-2-107, as determined by the state treasurer, an amount
3 sufficient to pay the principal and interest as due on the
4 bonds or notes have statutory appropriation authority for
5 the payments. (In subsection (3): pursuant to sec. 7, Ch.
6 567, L. 1991, the inclusion of 19-6-709 terminates upon
7 death of last recipient eligible for supplemental benefit;
8 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of
9 22-3-811 terminates June 30, 1993.)"

10 **Section 4.** Section 46-15-116, MCA, is amended to read:

11 "46-15-116. Fees, costs, and expenses. (1) When a
12 person attends before a judge, grand jury, or court as a
13 witness in a criminal case upon a subpoena, the witness
14 shall receive the witness fee prescribed by Title 26,
15 chapter 2, part 5. The court, on motion by either party, may
16 allow additional fees for expert witnesses.

17 (2) The court may determine the reasonable and
18 necessary expenses of subpoenaed witnesses and order the
19 clerk of the court to pay the expenses from the county
20 treasury.

21 (3) When a person is subpoenaed in this state to
22 testify in another state or is subpoenaed from another state
23 to testify in this state, the person must be paid for
24 lodging, mileage or travel, and per diem, the sum equal to
25 that allowed by Title 2, chapter 18, part 5, for each day

that the person is required to travel and attend as a witness. If the state where the witness is found has by statutory enactment required that the subpoenaed witness be paid an amount in excess of the amount specified in this section, the witness may be paid the amount required by that state.

(4) According to procedures required by the supreme court administrator, under 3-5-902, the clerk of the district court shall submit to the administrator a detailed statement containing a list of witnesses and the amount of expenses paid to each witness by the county. Upon receipt and verification of the statement, the administrator shall promptly reimburse the designated county for all or a portion of the witness expenses. 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 the district court fund."

Section 5. Section 61-3-509, MCA, is amended to read:

"61-3-509. Disposition of taxes. (1) Except as provided in subsection (2), the county treasurer shall, after deducting the district court fee, credit all taxes on motor vehicles and fees in lieu of tax on motor homes, travel trailers, and campers collected under 61-3-504, 61-3-521, and 61-3-537 to a motor vehicle suspense fund, and at some

time between March 1 and March 10 of each year and every 60 days thereafter, the county treasurer shall distribute the money in the motor vehicle suspense fund in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed.

(2) The county treasurer shall deduct as a district court fee 7% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of 1 ton or less. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the state treasurer at the time the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the general fund to be used for purposes of state funding of the district court expenses as provided in 3-5-901. ~~Any--amount--forwarded--to--the--state treasurer--under--this--subsection--that--is--not--used--for district--court--expenses--must--be--refunded--to--the--counties--in the--proportion--that--the--amount--collected--from--each--county bears--to--the--total--amount--collected--.~~"

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 7. Termination. The amendment to 3-5-901, enacting subsection (4) for purposes of the 1995

HB 0278/02

1 biennium, terminates July 1, 1995.

-End-