

## SENATE BILL NO. 134

INTRODUCED BY W. MCNUTT

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING STATE ASSUMPTION OF DISTRICT COURT COSTS; PROVIDING THAT COUNTIES ARE RESPONSIBLE FOR WITNESS FEES AND EXPENSES IN CRIMINAL CASES; PROVIDING THAT A COURT REPORTER'S ACTUAL COSTS OF PREPARATION OF A CRIMINAL CASE TRANSCRIPT THAT IS REQUESTED BY THE COUNTY ATTORNEY OR THE ATTORNEY GENERAL MUST BE PAID BY THE COUNTY OR THE ATTORNEY GENERAL; PROVIDING THAT THE COUNTY IS RESPONSIBLE FOR THE COST OF A TRANSCRIPT FOR AN INDIGENT DEFENDANT IN A CRIMINAL CASE AND FOR AN INDIGENT PARENT IN A CHILD ABUSE OR NEGLECT PROCEEDING OR PROCEEDING TO TERMINATE PARENTAL RIGHTS; ELIMINATING STATE RESPONSIBILITY FOR TRANSCRIPT FEES, WITNESS FEES, AND THE EXPENSES OF PSYCHIATRIC EXAMINATIONS IN FEDERAL HABEAS CORPUS CASES THAT CHALLENGE THE VALIDITY OF A CONVICTION OR A SENTENCE; ELIMINATING STATE RESPONSIBILITY FOR TRANSCRIPT FEES, WITNESS FEES, AND THE EXPENSES OF MEDICAL AND PSYCHOLOGICAL EVALUATIONS OF A YOUTH OR THE YOUTH'S PARENT, GUARDIAN, OR CUSTODIAN IN A CHILD ABUSE OR NEGLECT PROCEEDING OR PROCEEDING TO TERMINATE PARENTAL RIGHTS; ELIMINATING STATE RESPONSIBILITY FOR JUROR AND WITNESS FEES AND WITNESS EXPENSES BEFORE A GRAND JURY; ELIMINATING STATE RESPONSIBILITY FOR THE COSTS OF THE COURT-SANCTIONED EDUCATIONAL PROGRAM CONCERNING THE EFFECTS OF DISSOLUTION OF MARRIAGE ON CHILDREN AND THE EXPENSES OF EDUCATION ORDERED FOR A REPORT CONCERNING PARENTING ARRANGEMENTS; PROVIDING THAT THE COUNTY DISTRICT COURT LEVY APPLIES TO ALL DISTRICT COURT COSTS NOT ASSUMED OR REIMBURSABLE BY THE STATE; PROVIDING THAT A COUNTY IS RESPONSIBLE FOR THE TRANSPORTATION AND COSTS OF PLACING AND KEEPING A DEFENDANT WHO IS OR IS ALLEGED TO BE UNFIT TO PROCEED IN A CRIMINAL PROCEEDING; PROVIDING FOR JOINT STATE-COUNTY RESPONSIBILITY FOR ACCUMULATED SICK AND VACATION LEAVE AND YEARS OF SERVICE WITH A COUNTY FOR COUNTY EMPLOYEES WHO BECAME STATE EMPLOYEES ON JULY 1, 2002; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTIONS 3-1-130, 3-5-511, 3-5-604, 3-5-901, 7-6-2511, 40-4-215, 40-4-226, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-14-221, AND 46-15-116,

MCA, AND SECTIONS 57 AND 65, CHAPTER 585, LAWS OF 2001; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 3-1-130, MCA, is amended to read:

**"3-1-130. Supreme court -- adoption of judicial branch personnel plan.** (1) The supreme court shall adopt a plan of personnel administration for employees of the judicial branch, other than justices, judges, the supreme court administrator, the librarian of the state law library, and the clerk of the supreme court, ~~county attorneys, deputy county attorneys, salaried public defenders, assistant public defenders, employees of the offices of public defenders, clerks of district court, and employees of the offices of the clerks of district court.~~ The plan must include but not be limited to classification and pay, recruitment and selection, performance appraisal, training, and promotion.

(2) The court administrator appointed under 3-1-701 shall, under the direction of the supreme court, administer the judicial branch personnel plan adopted under this section."

**Section 2.** Section 3-5-511, MCA, is amended to read:

**"3-5-511. Procedure in reference to witnesses' warrants.** (1) The witnesses in criminal actions shall report their presence to the clerk the first day they attend under the subpoena.

(2) At the time any witness is excused from further attendance, the clerk shall give to the witness a warrant taken from a book containing a carbon copy of the warrant, signed by the clerk, in which must be stated the name of the witness, the number of days in attendance, the number of miles traveled, and the amount due.

(3) The amount specified in the warrant must be paid by the ~~state as provided in 3-5-901 and 3-5-902~~ county."

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

**"3-5-604. Court reporters -- transcript of proceedings -- costs.** (1) Each court reporter shall furnish, upon request, with all reasonable diligence, to a party or a party's attorney in a case in which the court reporter has attended the trial or hearing a transcript from stenographic notes of the testimony and proceedings of the trial or hearing or a part of a trial or hearing upon payment by the person requiring the transcript of \$2 a page

1 for the original transcript, 50 cents a page for the first copy, and 25 cents a page for each additional copy.

2 (2) If the court reporter is not entitled to retain transcription fees under 3-5-601, the transcription fees  
3 required by subsection (1) must be paid to the clerk of district court who shall forward the amount to the  
4 department of revenue for deposit in the state general fund.

5 (3) (a) If the county attorney, attorney general, or judge requires a transcript in a criminal case, the  
6 reporter shall furnish it. The transcription fee must be paid by the state as provided in 3-5-901.

7 (b) If the county attorney or the attorney general requires a transcript in a criminal case, the reporter  
8 shall furnish the transcript and only the reporter's actual costs of preparation may be paid by the county or the  
9 office of the attorney general.

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

13 (5) If it appears to the judge that a defendant in a criminal case or a parent or guardian in a proceeding  
14 brought pursuant to Title 41, chapter 3, part 4 or 6, is unable to pay for a transcript, it must be furnished to the  
15 party and paid for by the ~~state as provided in 3-5-901~~ county."

16  
17 **Section 4.** Section 3-5-901, MCA, is amended to read:

18 **"3-5-901. State assumption of district court expenses.** (1) There is a state-funded district court  
19 program. Under this program, the state shall fund all district court costs, except as provided in subsection (2).  
20 These costs include ~~but are not limited to:~~

21 (a) salaries and benefits for:

22 (i) district court judges;

23 (ii) law clerks;

24 (iii) court reporters, as provided in 3-5-601;

25 (iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth court;

26 and

27 (v) other employees of the district court;

28 (b) in criminal cases, fees for transcripts of proceedings, as provided in 3-5-604, ~~witness fees and~~  
29 ~~necessary expenses, juror fees, and expenses for psychiatric examinations;~~

30 (c) the district court expenses in all postconviction proceedings held pursuant to Title 46, chapter 21,

1 and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings;  
2 ~~(d) the following expenses incurred by the state in federal habeas corpus cases that challenge the~~  
3 ~~validity of a conviction or of a sentence:~~

- 4 ~~—— (i) transcript fees;~~  
5 ~~—— (ii) witness fees; and~~  
6 ~~—— (iii) expenses for psychiatric examinations;~~

7 ~~(e)(d)~~ the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter  
8 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or  
9 termination of the parent-child legal relationship and permanent custody:

- 10 ~~(i) transcript fees;~~  
11 ~~—— (ii) witness fees;~~  
12 ~~—— (iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or~~  
13 ~~other person having physical or legal custody of the youth except for expenses for services that a person is~~  
14 ~~eligible to receive under a public program that provides medical or psychological evaluation;~~

- 15 ~~(iv)(i)~~ expenses associated with appointment of a guardian ad litem or child advocate for the youth; and  
16 ~~(v)(ii)~~ expenses associated with court-ordered alternative dispute resolution;  
17 ~~(f) costs of juror and witness fees and witness expenses before a grand jury;~~  
18 ~~—— (g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage~~  
19 ~~on children, as required in 40-4-226, and expenses of education when ordered for the investigation and~~  
20 ~~preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a);~~

21 ~~(h)(e)~~ all district court expenses associated with civil jury trials if those expenses were paid out of the  
22 district court budget in fiscal year 1998 or fiscal year 1999; and

- 23 ~~(i)(f) all other costs associated with the operation and maintenance of the district court, including~~  
24 ~~contract costs for court reporters who are independent contractors, costs of the youth court and youth division~~  
25 ~~offices, and costs of training for persons listed in subsections (1)(a)(i) through (1)(a)(v), but excluding the cost~~  
26 ~~of providing district court office, courtroom, and other space as provided in 3-1-125.~~

27 (2) For the purposes of subsection (1), district court costs do not include:

- 28 (a) one-half of the salaries of county attorneys;  
29 (b) salaries of deputy county attorneys;  
30 (c) salaries of employees and expenses of the office of county attorney;

(d) costs for clerks of district court and employees and expenses of the office of the clerks of district court; or

(e) costs of providing district court office space.

(3) In addition to the costs assumed under the state-funded district court program, as provided in subsection (1), the state shall fund:

(a) the expenses of the appellate defender program. These costs must be allocated to and paid by the appellate defender program.

(b) district court expenses related to involuntary commitment proceedings and youth court proceedings in an annual amount not to exceed the district court expense for those proceedings in fiscal year 2001 plus a 3% growth factor each year. Any amount that exceeds the district court expense for those proceedings is the responsibility of the county.

(4) (a) In addition to the costs assumed under the state-funded district court program, as provided in subsection (1), the state shall reimburse counties:

(i) in district court criminal cases only, expenses for indigent defense; and

(ii) in proceedings under subsection ~~(1)(e)~~ (1)(d):

(A) expenses for appointed counsel for the youth; and

(B) expenses for appointed counsel for the parent, guardian, or other person having physical or legal custody of the youth.

(b) If money appropriated for the expenses listed in subsection (4)(a) is insufficient to fully fund those expenses, the county is responsible for payment of the balance. ~~(Subsections (3)(b) and (4)(b) terminate June 30, 2003--sec. 65, Ch. 585, L. 2001.)"~~

**Section 5.** Section 7-6-2511, MCA, is amended to read:

**"7-6-2511. County levy for certain court expenses.** (1) Subject to 15-10-420, the governing body of each county may each year levy and collect a tax on the taxable property of the county for certain county district court costs, as provided in subsection (2).

(2) District court costs for which a tax may be levied under subsection (1) are the:

(a) costs of the office of the clerk of district court;

(b) costs of providing office, courtroom, and other space for district court operations under 3-1-125; and

(c) contracted costs of supplementing a district court budget, as provided in 3-1-126, if incurred in the

discretion of the county commissioners; and

(d) any other costs related to the district court that are not assumed by the state or reimbursable under 3-5-901.

(3) Costs of the office of the clerk of district court include but are not limited to salary and benefits for clerks of district court, deputy clerks of district court, and other employees of the office of the clerk of district court and expenses of the office.

(4) If remaining funds are available after paying the costs provided for in subsection (2), the county commissioners, in their discretion, may use the remaining funds to pay the expenses of the office of county attorney.

(5) This section may not be construed as a limitation on the authority or ability of a county or district court to apply for, receive, or administer grants from state, federal, or private funds."

**Section 6.** Section 40-4-215, MCA, is amended to read:

**"40-4-215. Investigations and reports.** (1) If a parent or a court-appointed third party requests; or if the court finds that a parenting proceeding is contested, the court may order an investigation and report concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other professional considered appropriate by the court. The department of public health and human services may not be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a recipient of financial assistance, as defined in 53-4-201, or a participant in the food stamp program, as defined in 53-2-902, and all reasonable options for payment of the investigation, if conducted by a person not employed by the department, are exhausted. The department may consult with any investigator and share information relevant to the child's best interests. The cost of the investigation and report must be paid according to the final order. ~~The cost of the educational evaluation under subsection (2)(a) must be paid by the state as provided in 3-5-901.~~ However, the state may not be required to pay the cost except under the circumstances relating to the department of public health and human services as set forth in this subsection.

(2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation and preparation of the report, which may include one or more of the following:

(a) parenting education;

(b) mediation pursuant to 40-4-301;

(c) factfinding by the investigator; and

1 (d) psychological evaluation of the parties.

2 (3) In preparing a report concerning a child, the investigator may consult any person who has  
3 information about the child and the child's potential parenting arrangements. Upon order of the court, the  
4 investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years  
5 of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other  
6 expert persons who have served the child in the past without obtaining the consent of the persons or entities  
7 authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child  
8 is 16 years of age or older unless the court finds that the child lacks mental capacity to consent. If the  
9 requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

10 (4) The court shall mail the investigator's report to counsel and to any party not represented by counsel  
11 at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall make  
12 available to counsel and to any party not represented by counsel the investigator's file of underlying data and  
13 reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection  
14 (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the  
15 proceeding may call the investigator and any person the investigator has consulted for cross-examination. A  
16 party may not waive the right of cross-examination prior to the hearing. The results of the investigation must be  
17 included in the court record and may, without objection, be sealed."

18  
19 **Section 7.** Section 40-4-226, MCA, is amended to read:

20 **"40-4-226. Court-sanctioned educational program on effects of dissolution of marriage on**  
21 **children.** ~~(1)~~ In a proceeding for dissolution of marriage involving a minor child or in a parenting plan proceeding  
22 involving a minor child, a court shall inform the parties, excluding the minor child, of available educational  
23 programs concerning the effects of dissolution of marriage on children and, if the court finds that it would be in  
24 the best interest of the minor child, shall order the parties to attend a court-sanctioned program. The program  
25 may be divided into sessions. The program must be educational in nature and may not be designed for individual  
26 therapy.

27 ~~(2) The cost of implementing the court-sanctioned educational program for each district court, provided~~  
28 ~~for in subsection (1), must be paid by the state as provided in 3-5-901. Costs may include parenting evaluation~~  
29 ~~and guardian ad litem services."~~

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

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

7           (2) The expense of implementing subsection (1) must be paid ~~by the state~~ as provided in 3-5-901,  
8 except that:

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

11           (b) when there has been an arrest by agents of the department of fish, wildlife, and parks or agents of  
12 the department of justice and the charge is prosecuted by personnel of the state agency that made the charge,  
13 the expense must be borne by the prosecuting state agency."  
14

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

16           **"46-8-202. Public defender's office.** Any county through its board of county commissioners may  
17 provide for the creation of a public defender's office and the appointment of a salaried public defender and any  
18 assistant public defenders that may be necessary to satisfy the legal requirements in providing counsel for  
19 defendants unable to employ counsel. The costs of the office must be paid ~~by the state according to procedures~~  
20 ~~established under as provided in 3-5-901(4) and, to the extent that those costs are not paid by the state, must~~  
21 ~~be paid by the county in accordance with 3-5-901(4)."~~  
22

23           **Section 10.** Section 46-11-319, MCA, is amended to read:

24           **"46-11-319. Expenses of grand jury.** ~~(1) Except as provided in subsection (2), all~~ All expenses of the  
25 grand jury, including expenses for special prosecutors, experts, investigators, and interpreters, if any, and juror  
26 and witness fees and expenses must be paid by the county. The treasurer of the county shall pay the expenses  
27 out of the general fund of the county or out of the district court fund, if any, upon warrants drawn by the county  
28 auditor or by the clerk of district court upon a written order of the judge of the district court of the county.

29           ~~(2) The state shall pay the expenses of juror and witness fees and witness expenses as provided in~~  
30 ~~3-5-901 and 3-5-902."~~



1  
2       **Section 11.** Section 46-14-202, MCA, is amended to read:

3       **"46-14-202. Examination of defendant.** (1) If the defendant or the defendant's counsel files a written  
4 motion requesting an examination or if the issue of the defendant's fitness to proceed is raised by the district  
5 court, prosecution, or defense counsel, the district court shall appoint at least one qualified psychiatrist, licensed  
6 clinical psychologist, or advanced practice registered nurse or shall request the superintendent of the Montana  
7 state hospital to designate at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice  
8 registered nurse, who may be or include the superintendent, to examine and report upon the defendant's mental  
9 condition.

10       (2) The court may order the defendant to be committed to a hospital or other suitable facility for the  
11 purpose of the examination for a period not exceeding 60 days or a longer period that the court determines to  
12 be necessary for the purpose and may direct that a qualified psychiatrist, licensed clinical psychologist, or  
13 advanced practice registered nurse retained by the defendant be permitted to witness and participate in the  
14 examination.

15       (3) In the examination, any method may be employed that is accepted by the medical or psychological  
16 profession for the examination of those alleged to be suffering from mental disease or defect.

17       (4) If the defendant is indigent ~~or the examination occurs at the request of the prosecution~~, the cost of  
18 the examination must be ~~paid~~ reimbursed by the state as an expense for indigent defense as provided in  
19 3-5-901(4)."  
20

21       **Section 12.** Section 46-14-221, MCA, is amended to read:

22       **"46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses.** (1)  
23 The issue of the defendant's fitness to proceed may be raised by the court, by the defendant or the defendant's  
24 counsel, or by the prosecutor. When the issue is raised, it must be determined by the court. If neither the  
25 prosecutor nor the defendant's counsel contests the finding of the report filed under 46-14-206, the court may  
26 make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on  
27 the issue. If the report is received in evidence upon the hearing, the parties have the right to subpoena and  
28 cross-examine the psychiatrists or licensed clinical psychologists who joined in the report and to offer evidence  
29 upon the issue.

30       (2) (a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the

1 defendant must be suspended, except as provided in subsection (4), and the court shall commit the defendant  
2 to the custody of the director of the department of public health and human services to be placed in an  
3 appropriate institution of the department of public health and human services for so long as the unfitness  
4 endures.

5 (b) The institution shall develop an individualized treatment plan to assist the defendant to gain fitness  
6 to proceed. The treatment plan may include a physician's prescription of reasonable and appropriate medication  
7 that is consistent with accepted medical standards. If the defendant refuses to comply with the treatment plan,  
8 the institution may petition the court for an order requiring compliance. The defendant has a right to a hearing  
9 on the petition. The court shall enter into the record a detailed statement of the facts upon which an order is  
10 made, and if compliance with the individualized treatment plan is ordered, the court shall also enter into the  
11 record specific findings that the state has proved an overriding justification for the order and that the treatment  
12 being ordered is medically appropriate.

13 (c) The committing court shall, within 90 days of commitment, review the defendant's fitness to proceed.  
14 If the court finds that the defendant is still unfit to proceed and that it does not appear that the defendant will  
15 become fit to proceed within the reasonably foreseeable future, the proceeding against the defendant must be  
16 dismissed, except as provided in subsection (4), and the prosecutor shall petition the court in the manner  
17 provided in Title 53, chapter 20 or 21, whichever is appropriate, to determine the disposition of the defendant  
18 pursuant to those provisions.

19 (3) If the court determines that the defendant lacks fitness to proceed because the defendant has a  
20 developmental disability as provided in 53-20-102(5), the proceeding against the defendant must be dismissed  
21 and the prosecutor shall petition the court in the manner provided in Title 53, chapter 20.

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

25 (5) The expenses of sending the defendant to the custody of the director of the department of public  
26 health and human services to be placed in an appropriate institution of the department of corrections, of keeping  
27 the defendant there, and of bringing the defendant back are payable by the ~~state as a district court expense~~  
28 county."

29  
30 **Section 13.** Section 46-15-116, MCA, is amended to read:

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

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

6           (3) When a person is subpoenaed in this state to testify in another state or is subpoenaed from another  
7 state to testify in this state, the person must be paid for lodging, mileage or travel, and per diem, the sum equal  
8 to that allowed by Title 2, chapter 18, part 5, for each day that the person is required to travel and attend as a  
9 witness. If the state where the witness is found has by statutory enactment required that the subpoenaed witness  
10 be paid an amount in excess of the amount specified in this section, the witness may be paid the amount  
11 required by that state.

12           (4) The witness fees, costs, and expenses incurred as costs of indigent defense must be ~~paid~~  
13 reimbursed by the state ~~according to procedures required by the supreme court administrator under 3-5-902 as~~  
14 provided in 3-5-901(4)."

15  
16           **Section 14.** Section 57, Chapter 585, Laws of 2001, is amended to read:

17           **"Section 57. Transition -- transfer of county employees to state employment -- preservation of**  
18 **rights.** (1) District court employees who are employed by the county on June 30, 2002, and who are transferred  
19 to state employment by [this act] become state employees on July 1, 2002, except for purposes of application  
20 of the judiciary branch personnel plan, as provided in [section 63].

21           (2) The compensation of former county employees who become state employees under [this act] may  
22 not be impaired. This subsection does not preserve the right of any former county employee to any salary or  
23 compensation, including longevity benefits, that was payable while the employee was employed by the county  
24 and that was not accrued and payable as of June 30, 2002.

25           (3) An employee who is transferred from county employment to state employment under [this act] may  
26 elect to become a member of the state employee benefit plan on July 1, 2002, or remain on the employee's  
27 county benefit plan through the remainder of the plan year in effect on June 30, 2002. For an employee who  
28 elects to remain on a county benefit plan, the monthly state contribution toward insurance benefits must be  
29 transferred to the county benefit plan. Any benefit costs in excess of the state contribution must be paid by the  
30 employee.

(4) Accumulated sick and vacation leave and years of service with a county must be transferred fully to the state as of July 1, 2002, and become ~~an~~ a joint obligation of the state and counties at that time. Any liability for accumulated compensatory time of employees who are transferred from county employment to state employment under [this act] is not transferred to the state and remains an obligation of the county that employed the employee prior to the transfer, subject to federal law and the county's personnel policies. Upon the termination from state employment of a district court employee who was transferred to state employee status as of July 1, 2002, the county or counties of prior employment shall pay the accumulated sick and annual leave accrued as of June 30, 2002, at the rate of pay as of June 30, 2002. The state shall pay the accumulated sick and annual leave accrued from July 1, 2002, until the date of termination. The sick and annual leave accrual as of June 30, 2002, is reduced by the sick and annual leave taken that is in excess of the leave earned by the employee since July 1, 2002. Upon termination from employment, sick leave must be paid out at one-fourth of its value as provided in 2-18-618(6).

(5) The state becomes a successor employer with regard to any collective bargaining agreement existing on July 1, 2002, that prior to July 1, 2002, covered any employee transferred from county employment to state employment by [this act]. The responsibilities and obligations of the parties to an agreement to which the state becomes a successor employer must, as applied to a transferred employee, continue until the expiration date of the agreement.

(6) In the development of a plan of personnel administration for employees of the judicial branch, the supreme court may recognize an appropriate bargaining unit."

**Section 15.** Section 65, Chapter 585, Laws of 2001, is amended to read:

**"Section 65. Termination.** [Section 62] ~~and the bracketed language in 3-5-901(3) and (4) terminate~~ terminates June 30, 2003."

**NEW SECTION. Section 16. Prohibition on imposing duty on local government law specifically superseded.** Pursuant to 1-2-112(2), [this act] expressly supersedes 1-2-112, 1-2-114, 1-2-115, and 1-2-116.

**NEW SECTION. Section 17. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2003.

(2) [Section 15] and this section are effective on passage and approval.

1  
2        NEW SECTION. **Section 18. Retroactive applicability.** [Section 14] applies retroactively, within the  
3 meaning of 1-2-109, to July 1, 2002.

4 - END -