

SENATE BILL NO. 264

INTRODUCED BY D. GRIMES

A BILL FOR AN ACT ENTITLED: "AN ACT REVERSING THE STATE ASSUMPTION OF DISTRICT COURT COSTS BY RETURNING THOSE COSTS TO THE COUNTIES; ELIMINATING THE DISTRICT COURT COUNCIL AND THE JUDICIAL BRANCH PERSONNEL AND PAY PLAN; ALLOWING THE DISTRICT COURT TO DIRECT THE COUNTY SHERIFF TO PROVIDE COURT FACILITIES AT COUNTY EXPENSE; PROVIDING THAT NONELECTED EMPLOYEES OF THE DISTRICT COURT BE COUNTY EMPLOYEES, INCLUDING CERTAIN COURT REPORTERS, PUBLIC DEFENDERS, AND JUVENILE PROBATION OFFICERS AND ASSESSMENT OFFICERS; PROVIDING FOR TRANSFER OF DISTRICT COURT EMPLOYEES FROM STATE EMPLOYMENT TO COUNTY EMPLOYMENT WITH FULL BENEFITS AND PROTECTIONS; ESTABLISHING STATUTORY SALARY AMOUNTS FOR COURT REPORTERS AND JUVENILE PROBATION OFFICERS; AMENDING SECTIONS 3-1-702, 3-2-501, 3-2-714, 3-5-511, 3-5-601, 3-5-602, 3-5-604, 3-5-901, 3-5-902, 3-15-204, 3-15-205, 3-20-103, 7-6-2511, 15-1-121, 15-1-122, 22-1-504, 25-1-201, 25-1-202, 25-1-1103, 25-9-506, 25-9-804, 27-9-103, 40-4-215, 40-4-226, 41-5-1701, 41-5-1707, 46-8-114, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-14-221, 46-15-116, 46-18-235, 46-18-603, AND 53-9-104, MCA; REPEALING SECTIONS 3-1-125, 3-1-126, 3-1-130, 3-1-1601, 3-1-1602, 3-1-1603, 3-1-1604, AND 3-1-1605, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 3-1-702, MCA, is amended to read:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, ~~including the costs of the state-funded district court program;~~

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) recommend to the supreme court improvements in the judiciary;

~~(4) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;~~

(5)(4) administer state funding for district courts, as provided in chapter 5, part 9; and
(6) ~~administer the judicial branch personnel plan; and~~
(7)(5) perform other duties that the supreme court may assign."

Section 2. Section 3-2-501, MCA, is amended to read:

"3-2-501. Appointment of marshal and other employees. (1) The supreme court shall appoint a marshal of the supreme court and may appoint other attendants, reporters, and clerks that are necessary, who hold office at the pleasure of the court.

(2) ~~The marshal and other persons appointed under subsection (1) are employees of the judicial branch of state government, are subject to classification and compensation as determined by the judicial branch personnel plan adopted by the supreme court under 3-1-130, and must receive state employee benefits and expenses as provided in Title 2, chapter 18."~~

Section 3. Section 3-2-714, MCA, is amended to read:

"3-2-714. Civil legal assistance for indigent victims of domestic violence account. (1) There is a civil legal assistance for indigent victims of domestic violence account in the state special revenue fund. There must be paid into this account the filing fees paid under 25-1-201(3)(a)(4)(a) and (6)(12). The money in the account must be used solely for the purpose of providing legal representation for indigent victims in civil matters in domestic violence cases and for alternative dispute resolution initiatives in family law cases. Money in the account may not be used for class action lawsuits.

(2) The supreme court administrator shall establish procedures for the distribution and accountability of money in the account. The supreme court administrator may designate nonprofit organizations that ordinarily render or finance legal services to indigent persons in civil matters in domestic violence cases to receive or administer the distribution of the funds."

Section 4. 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

1 the name of the witness, the number of days in attendance, the number of miles traveled, and the amount due.

2 (3) The amount specified in the warrant must be paid by the state as provided in 3-5-901 and 3-5-902
3 county out of the general fund unless the county has a district court fund. If the county has a district court fund,
4 the amount must be paid out of that fund."
5

6 **Section 5.** Section 3-5-601, MCA, is amended to read:

7 **"3-5-601. Court reporters -- appointment -- oath --~~employment status.~~** (1) The judge of a district
8 court may appoint a reporter for the court who is an officer of the court and holds office at the pleasure of the
9 appointing judge. The court reporter shall take the constitutional oath of office and file it with the clerk of court.
10 In districts where there are two or more judges, each judge may appoint a reporter. The judge shall direct the
11 performance of the court reporter's duties.

12 ~~(2) Court reporter services may be provided by a court reporter appointed:~~

13 ~~—— (a) as a state employee foregoing transcription fees;~~

14 ~~—— (b) as a state employee retaining transcription fees; or~~

15 ~~—— (c) as an independent contractor.~~

16 ~~—— (3) A court reporter appointed under subsection (2)(a) or (2)(b) is subject to classification and~~
17 ~~compensation as determined by the judicial branch personnel plan adopted under 3-1-130 and must receive~~
18 ~~state employee benefits and expenses as provided in Title 2, chapter 18.~~

19 ~~—— (4) (a) If a court reporter is appointed under subsection (2)(a), the state shall provide all equipment and~~
20 ~~supplies for the reporter's use. Any transcription fees paid for the reporter's transcription services must be~~
21 ~~forwarded to the department of revenue for deposit in the state general fund.~~

22 ~~—— (b) If a court reporter is appointed under subsection (2)(b), the state shall provide equipment and~~
23 ~~supplies for the reporter's use, except that the reporter shall provide and maintain all equipment and supplies~~
24 ~~for performance of transcription duties unless equipment is shared as provided in subsection (5). A reporter may~~
25 ~~not receive overtime for time spent on preparation of transcripts for which the reporter retains fees. The reporter~~
26 ~~shall retain all transcription fees paid for the reporter's transcription services.~~

27 ~~—— (c) A court reporter appointed under subsection (2)(c) shall contract with the judicial branch as an~~
28 ~~independent contractor. The reporter shall provide and maintain the reporter's necessary equipment and~~
29 ~~supplies, retain all transcription fees paid for the reporter's transcript preparation services, and maintain~~
30 ~~professional liability insurance and workers' compensation coverage.~~

1 ~~——— (5) A court reporter may use state-owned equipment under policies adopted by the district court council~~
2 ~~under 3-1-1602 to avoid duplication of equipment costs. Use of shared equipment under this subsection is not~~
3 ~~a violation of 2-2-121(2)(a)."~~

4
5 **Section 6.** Section 3-5-602, MCA, is amended to read:

6 **"3-5-602. Court reporter as independent contractor -- compensation and expenses.** (1) Each court
7 reporter ~~who is an independent contractor under 3-5-604~~ is entitled to compensation as provided in the contract
8 receive a base annual salary of not less than \$28,000 or more than \$35,000 and no other compensation except
9 as provided in 3-5-604, unless the judge decides to solicit bids for the work performed by the reporter, in which
10 case the salary must be for the amount specified in the bid accepted by the judge. The salary must be set by
11 the judge for whom the reporter works. The salary is payable in monthly installments out of the general funds
12 of the counties composing the district for which the reporter is appointed and out of an appropriation made to
13 the supreme court administrator as provided in subsection (2).

14 (2) The supreme court administrator shall ~~pay the compensation due under subsection (1) as provided~~
15 ~~in 3-5-901 and 3-5-902~~ determine the total number of civil and criminal actions commenced in the preceding
16 year in the district court or courts in the judicial district for which a reporter is appointed. The state shall pay its
17 portion of the reporter's salary based on the proportion of the total number of criminal actions commenced in the
18 district court or courts in the district and the amount appropriated for that purpose. Each county shall pay its
19 portion of the remainder of the salary based on its proportion of the total number of civil and criminal actions
20 commenced in the district courts in the district. The judge or judges of the district shall, on January 1 of each
21 year or as soon after that date as possible, apportion the amount of the salary to be paid by each county in the
22 district on the basis prescribed in this subsection. The portion of the salary payable by a county is a district court
23 expense within the meaning of [section 37] and 7-6-2511.

24 (3) In judicial districts comprising more than one county, the court reporter is allowed, in addition to the
25 compensation provided for in subsection (1) and fees, actual and necessary travel expenses, as defined and
26 provided in 2-18-501 through 2-18-503, when on official business to a county of the reporter's judicial district
27 other than the county in which the reporter resides. The expenses are payable as provided in subsection (2)."

28
29 **Section 7.** Section 3-5-604, MCA, is amended to read:

30 **"3-5-604. Court reporters -- transcript of proceedings -- costs.** (1) Each court reporter shall furnish,

1 upon request, with all reasonable diligence, to a party or a party's attorney in a case in which the court reporter
2 has attended the trial or hearing a transcript from stenographic notes of the testimony and proceedings of the
3 trial or hearing or a part of a trial or hearing upon payment by the person requiring the transcript of \$2 a page
4 for the original transcript, 50 cents a page for the first copy, and 25 cents a page for each additional copy.

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

8 ~~(3)(2)~~ If the county attorney, attorney general, or judge requires a transcript in a criminal case, the
9 reporter is entitled to the reporter's fees for the transcript, but the reporter shall furnish it. The transcription fee
10 must be paid by the state as provided in 3-5-901. Upon furnishing the transcript, the reporter must receive a
11 certificate for the sum to which the reporter is entitled. The reporter shall submit the certificate to the supreme
12 court administrator who, in accordance with 3-5-902, is responsible for the prompt payment of all or a portion
13 of the amount due the reporter. If the state, in accordance with 3-5-902, pays none or only a portion of the
14 amount due, the county shall pay the balance upon receipt of a statement from the reporter.

15 ~~(4)(3)~~ If the judge requires a copy in a civil case to assist in rendering a decision, the reporter shall
16 furnish the copy without charge. In civil cases, all transcripts required by the county must be furnished, and only
17 the reporter's actual costs of preparation may be paid by the county.

18 ~~(5)(4)~~ If it appears to the judge that a defendant in a criminal case or a parent or guardian in a
19 proceeding brought pursuant to Title 41, chapter 3, part 4 or 6, is unable to pay for a transcript, it must be
20 furnished to the party and paid for by the state in the manner provided in subsection (2) to the extent funds are
21 available. The county shall pay the remainder as provided in 3-5-901."

22
23 **Section 8.** Section 3-5-901, MCA, is amended to read:

24 **"3-5-901. State assumption of certain district court expenses -- reimbursement program.** (1)
25 ~~There is a state-funded district court program. Under this program~~ To the extent that money is appropriated, the
26 state shall fund all district court costs, except as provided in subsection (2). These costs include but are not
27 limited to:

28 ~~(a) salaries and benefits for:~~

29 ~~—— (i) district court judges;~~

30 ~~—— (ii) law clerks;~~

1 ~~_____ (iii) court reporters, as provided in 3-5-604;~~
2 ~~_____ (iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth court;~~
3 ~~and~~
4 ~~_____ (v) other employees of the district court;~~
5 ~~_____ (b) in criminal cases, fees for transcripts of proceedings, as provided in 3-5-604, witness fees and~~
6 ~~necessary expenses, juror fees, and expenses for psychiatric examinations;~~
7 (a) the following district court expenses in criminal cases only:
8 (i) salaries of court reporters;
9 (ii) fees for transcripts of proceedings;
10 (iii) witness fees and necessary expenses;
11 (iv) juror fees;
12 (v) expenses for indigent defense; and
13 (vi) expenses for psychiatric examinations;
14 ~~(e)(b)~~ the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held
15 pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and
16 appeals from those proceedings;
17 ~~(d)(c)~~ the following expenses incurred by the state in federal habeas corpus cases that challenge the
18 validity of a conviction or of a sentence:
19 (i) transcript fees;
20 (ii) witness fees; and
21 (iii) expenses for psychiatric examinations; and
22 ~~(e)(d)~~ the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter
23 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or
24 termination of the parent-child legal relationship and permanent custody:
25 (i) transcript fees;
26 (ii) witness fees;
27 (iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or
28 other person having physical or legal custody of the youth except for expenses for services that a person is
29 eligible to receive under a public program that provides medical or psychological evaluation;
30 (iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth; and

~~——— (v) expenses associated with court-ordered alternative dispute resolution;~~
~~——— (f) costs of juror and witness fees and witness expenses before a grand jury;~~
~~——— (g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and expenses of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a);~~
~~——— (h) all district court expenses associated with civil jury trials if those expenses were paid out of the district court budget in fiscal year 1998 or fiscal year 1999; and~~
~~——— (i) all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors, costs of the youth court and youth division offices, and costs of training for persons listed in subsections (1)(a)(i) through (1)(a)(v), but excluding the cost of providing district court office, courtroom, and other space as provided in 3-1-125.~~

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

~~——— (a) one-half of the salaries of county attorneys;~~
~~——— (b) salaries of deputy county attorneys;~~
~~——— (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 ~~—— (A) expenses for appointed counsel for the youth; and~~

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

4 ~~—— (b) If money appropriated for the expenses listed in subsection (4)(a) is insufficient to fully fund those~~
5 ~~expenses, the county is responsible for payment of the balance.~~

6 (2) If the amount appropriated by the legislature to fund the expenses listed in subsection (1) exceeds
7 the expenses, the excess appropriation may be used to fund the expenses of the appellate defender program,
8 the expenses described in subsections (1)(a) through (1)(d), the district court grant program as described in
9 subsection (4)(a), and the costs of administering this section.

10 (3) All funds disbursed under this section must be deposited in and credited to the district court fund.
11 If a district court fund does not exist, the funds must be deposited in the county general fund for district court
12 operations.

13 (4) If money appropriated for the expenses listed in subsection (1):

14 (a) exceeds the amount necessary to fully fund those expenses, the remaining excess amounts must
15 be used for district court grants as provided in [section 37]; or

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

18
19 **Section 9.** Section 3-5-902, MCA, is amended to read:

20 **"3-5-902. Fiscal administration for payment of court expenses.** The supreme court administrator
21 shall:

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

24 (2) require the use of a uniform accounting system in accordance with 2-7-504 by the counties in
25 reporting court expenses and record payments at a detailed level for budgeting and auditing purposes."

26
27 **Section 10.** Section 3-15-204, MCA, is amended to read:

28 **"3-15-204. (Temporary) Duties of clerk as to jurors.** (1) The clerk shall keep a record of the
29 attendance of jurors and compute the amount due for mileage. The distance from any point to the county seat
30 must be determined by the shortest traveled route.

(2) The clerk shall give to each juror, at the time that the juror is excused from further service, a warrant signed by the clerk, in which must be stated the name of the juror, the number of days' 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 out of the general fund unless the county has a district court fund. If the county has a district court fund, the amount must be paid out of that fund.

(4) The clerk shall make a detailed statement containing a list of the jurors and the amount of fees and mileage earned by each juror and file the statement with the clerk of the board of county commissioners on the first day of every regular meeting of the board. A quarterly salary may not be paid to the clerk until the statement is filed. The board shall examine the statement and see that it is correct.

3-15-204. (Effective on occurrence of contingency) Duties of clerk as to jurors. (1) The clerk shall keep a record of the attendance of jurors and compute the amount due for mileage. The distance from any point to the county seat must be determined by the shortest traveled route.

(2) The clerk shall give to each juror, at the time that the juror is excused from further service, a warrant signed by the clerk, in which must be stated the name of the juror, the number of days' 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 out of the general fund unless the county has a district court fund. If the county has a district court fund, the amount must be paid out of that fund.

(4) The clerk shall make a detailed statement containing a list of the jurors and the amount of fees and mileage earned by each juror and file the statement with the clerk of the board of county commissioners on the first day of every regular meeting of the board. A quarterly salary may not be paid to the clerk until the statement is filed. The board shall examine the statement and see that it is correct.

~~(4)~~(5) The clerk of court for the county in which an asbestos-related claim is tried shall perform the functions required in subsections (1) through ~~(3)~~(4). The payment of costs incurred under this section must be made from the asbestos claims administration fund provided for in 3-20-104."

Section 11. Section 3-15-205, MCA, is amended to read:

"3-15-205. (Temporary) Costs of impaneling jury. (1) In a civil action before a court of record in which the parties substantially agree to a settlement of the issues prior to impanelment of the jury and either settle the

1 action or stipulate to a continuance and then fail or refuse to inform the court or clerk of court of the settlement
2 or request a continuance and a jury is impaneled, the court may, upon hearing, assess the reasonable public
3 expenses of impaneling the jury, including jury fees and mileage expenses paid or owing under 3-15-201,
4 against any party.

5 (2) In civil actions, the court may assess against a party the reasonable public expenses of impaneling
6 a jury, including jury fees and mileage expenses paid or owing under 3-15-201, if the court on an issue of law
7 or the jury on an issue of fact determines that the party's case is frivolous or maintained for purposes of
8 harassment. The court shall instruct the jury regarding the provisions of this subsection.

9 (3) Costs collected under this section must be ~~forwarded to the department of revenue for deposit in~~
10 ~~the state general fund~~ deposited in the county general fund unless the county has a district court fund. If the
11 county has a district court fund, the costs must be deposited in the district court fund.

12 **3-15-205. (Effective on occurrence of contingency) Costs of impaneling jury.** (1) In a civil action
13 before a court of record in which the parties substantially agree to a settlement of the issues prior to
14 impanelment of the jury and either settle the action or stipulate to a continuance and then fail or refuse to inform
15 the court or clerk of court of the settlement or request a continuance and a jury is impaneled, the court may, upon
16 hearing, assess the reasonable public expenses of impaneling the jury, including jury fees and mileage
17 expenses paid or owing under 3-15-201, against any party.

18 (2) In civil actions, the court may assess against a party the reasonable public expenses of impaneling
19 a jury, including jury fees and mileage expenses paid or owing under 3-15-201, if the court on an issue of law
20 or the jury on an issue of fact determines that the party's case is frivolous or maintained for purposes of
21 harassment. The court shall instruct the jury regarding the provisions of this subsection.

22 (3) (a) Except as provided in subsection (3)(b), costs collected under this section must be ~~forwarded~~
23 ~~to the department of revenue for deposit in the state general fund~~ deposited in the county general fund unless
24 the county has a district court fund. If the county has a district court fund, the costs must be deposited in the
25 district court fund.

26 (b) Costs collected under this section by the asbestos claims court provided for in 3-20-103 must be
27 deposited in the asbestos claims administration fund provided for in 3-20-104."

28
29 **Section 12.** Section 3-20-103, MCA, is amended to read:

30 **"3-20-103. (Effective on occurrence of contingency) Asbestos claims court -- venue -- jury pool.**

(1) The asbestos claims judge may hear an asbestos-related claim in any venue stipulated by the parties as provided in 25-2-202 or in any venue otherwise determined by the asbestos claims judge in accordance with a stipulation of the parties. In stipulating venue, the parties shall take into consideration the availability of courtroom facilities. The asbestos claims court may prepare a list of available courtroom facilities for consideration of the parties.

(2) The pool of prospective jurors for an asbestos-related claim may be drawn from any county in accordance with a stipulation of the parties. The jurors must be drawn, as provided in 3-15-501 and 3-15-503, from the jury lists of the counties comprising the jury pool. The clerk of the district court for the district in which the trial is conducted shall notify the prospective jurors and make the statement provided for in 3-15-204(4)."

Section 13. Section 7-6-2511, MCA, is amended to read:

"7-6-2511. County levy for certain district 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~~ all county district court costs, ~~as provided in subsection (2)~~ except those listed in 3-5-211, 3-5-213, and 3-5-215.

(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.~~

~~—— (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, youth probation officers, 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 14. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment -- appropriation. (1) The amount calculated pursuant to this

subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle and boat taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

~~(d) district court fees pursuant to:~~

~~—— (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);~~

~~—— (ii) 25-1-202;~~

~~—— (iii) 25-1-1103;~~

~~—— (iv) 25-9-506;~~

~~—— (v) 25-9-804; and~~

~~—— (vi) 27-9-103;~~

~~(e)~~(d) certificate of ownership fees for manufactured homes pursuant to 15-1-116;

~~(f)~~(e) financial institution taxes pursuant to Title 15, chapter 31, part 7;

~~(g)~~(f) coal severance taxes allocated for county land planning pursuant to 15-35-108;

~~(h)~~(g) all beer, liquor, and wine taxes pursuant to:

1 (i) 16-1-404;
2 (ii) 16-1-406; and
3 (iii) 16-1-411;
4 ~~(h)~~(h) late filing fees pursuant to 61-3-201;
5 ~~(i)~~(i) title and registration fees pursuant to 61-3-203;
6 ~~(j)~~(j) disabled veterans' flat license plate fees and purple heart license plate fees pursuant to 61-3-332;
7 ~~(k)~~(k) county personalized license plate fees pursuant to 61-3-406;
8 ~~(l)~~(l) special mobile equipment fees pursuant to 61-3-431;
9 ~~(m)~~(m) single movement permit fees pursuant to 61-4-310;
10 ~~(n)~~(n) state aeronautics fees pursuant to 67-3-101; and
11 ~~(o)~~(o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,
12 chapter 1, part 5.

13 (2) (a) From the amounts estimated in subsection (1) for each county government, the department shall
14 deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court
15 expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by
16 the state in fiscal year 2002.

17 (b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year
18 component. The sum of all local governments' base year components is the base year entitlement share pool.
19 For the purpose of calculating the sum of all local governments' base year components, the base year
20 component for a local government may not be less than zero.

21 (3) (a) Beginning with fiscal year 2002 and in each succeeding fiscal year, the base year entitlement
22 share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount
23 determined through the application of annual growth rates is the entitlement share pool for each fiscal year. For
24 fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and
25 towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2004,
26 by October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement
27 share pool for each year of the next biennium in the following manner:

28 (i) Before applying the growth rate for fiscal year 2004 to determine the fiscal year 2004 entitlement
29 share pool, the department shall add to the fiscal year 2003 entitlement share pool the fiscal year 2003 amount
30 of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the

1 probation and parole fee in 46-23-1031(2)(b).

2 (ii) The department shall calculate the average annual growth rate of the Montana gross state product,
3 as published by the bureau of economic analysis of the United States department of commerce, for the following
4 periods:

5 (A) the last 4 calendar years for which the information has been published; and

6 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
7 subsection (3)(a)(ii)(A).

8 (iii) The department shall calculate the average annual growth rate of Montana personal income, as
9 published by the bureau of economic analysis of the United States department of commerce, for the following
10 periods:

11 (A) the last 4 calendar years for which the information has been published; and

12 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
13 subsection (3)(a)(iii)(A).

14 (b) (i) For fiscal year 2004 and subsequent fiscal years, the entitlement share pool growth rate for the
15 first year of the biennium must be the following percentage of the average of the growth rates calculated in
16 subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):

17 (A) for counties, 54%;

18 (B) for consolidated local governments, 62%; and

19 (C) for incorporated cities and towns, 70%.

20 (ii) The entitlement share pool growth rate for the second year of the biennium must be the following
21 percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):

22 (A) for counties, 54%;

23 (B) for consolidated local governments, 62%; and

24 (C) for incorporated cities and towns, 70%.

25 (4) As used in this section, "local government" means a county, a consolidated local government, an
26 incorporated city, and an incorporated town. A local government does not include a tax increment financing
27 district provided for in subsection (6). For purposes of calculating the base year component for a county or
28 consolidated local government, the department shall include the revenue listed in subsection (1) for all special
29 districts within the county or consolidated local government. The county or consolidated local government is
30 responsible for making an allocation from the county's or consolidated local government's share of the

entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis beginning September 15, 2001.

(b) (i) For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base year component. For fiscal year 2003 and each succeeding fiscal year, the growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as

supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be added to each county government's distribution from the entitlement share pool, and in succeeding years an equal amount must be subtracted from each county government's distribution from the entitlement share pool.

~~(vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must be subtracted from each county government's distribution from the entitlement share pool.~~

(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	\$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660

1	Gallatin	Bozeman - downtown	34,620
2	Lewis and Clark	Helena - # 2	731,614
3	Missoula	Missoula - 1-1B & 1-1C	1,100,507
4	Missoula	Missoula - 4-1C	33,343
5	Silver Bow	Butte - uptown	283,801
6	Yellowstone	Billings	436,815

7 (c) The entitlement share for industrial tax increment financing districts is as follows:

8 (i) for fiscal years 2002 and 2003:

9	Missoula	County Airport Industrial	\$4,812
10	Silver Bow	Ramsay Industrial	597,594;

11 (ii) for fiscal years 2004 and 2005:

12	Missoula	County Airport Industrial	\$2,406
13	Silver Bow	Ramsay Industrial	298,797; and

14 (iii) \$0 for all succeeding fiscal years.

15 (d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c)
 16 may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a
 17 guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the
 18 tax increment financing industrial district.

19 (e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other
 20 half must be made in December of each year.

21 (7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local
 22 governments do not include revenue received from countywide transportation block grants or from countywide
 23 retirement block grants.

24 (8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if
 25 the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.

26 (9) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is significantly
 27 reduced, except through legislative action, the department shall deduct the amount of revenue loss from the
 28 entitlement share pool beginning in the succeeding fiscal year and the department shall work with local
 29 governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of
 30 revenue.

(b) For the purposes of subsection (9)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

(10) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).

(11) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(12) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211."

Section 15. Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. ~~Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.~~

(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:

(a) \$75,000 in fiscal year 2003;

(b) \$2,960,715 in fiscal year 2004; and

(c) in each succeeding fiscal year, the amount in subsection (2)(b), increased by 1.5% in each succeeding fiscal year.

(3) For fiscal year 2002 and for each succeeding fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5:

(i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to 61-3-203; and

(ii) \$1 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to Title 61, chapter 3, part 3. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any

1 portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year
2 following its payment must be used as provided in 75-10-532;

3 (b) to the noxious weed state special revenue account provided for in 80-7-816:

4 (i) \$1 for each off-highway vehicle subject to payment of the fee in lieu of tax, as provided for in
5 23-2-803; and

6 (ii) \$1.50 for each light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicles weighing
7 more than 1 ton, motorcycle, quadricycle, and motor home subject to registration or reregistration pursuant to
8 61-3-321;

9 (c) to the department of fish, wildlife, and parks:

10 (i) \$2.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under
11 23-2-512, with 20% of the amount received to be used to acquire and maintain pumpout equipment and other
12 boat facilities;

13 (ii) \$5 for each snowmobile registered under 23-2-616, with \$2.50 to be used for enforcing the purposes
14 of 23-2-601 through 23-2-644 and \$2.50 designated for use in the development, maintenance, and operation
15 of snowmobile facilities;

16 (iii) \$1 for each duplicate snowmobile decal issued under 23-2-617;

17 (iv) \$5 for each off-highway vehicle decal issued under 23-2-804 and each off-highway vehicle duplicate
18 decal issued under 23-2-809, with 40% of the money used to enforce the provisions of 23-2-804 and 60% of the
19 money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle
20 recreational use;

21 (v) to the state special revenue fund established in 23-1-105, \$3.50 for each recreational vehicle,
22 camper, motor home, and travel trailer registered or reregistered and subject to the fee in 61-3-321 or 61-3-524;
23 and

24 (vi) an amount equal to 20% of the funds collected pursuant to 23-2-518 to be deposited in the
25 motorboat account to be used as provided in 23-2-533;

26 (d) to the state veterans' cemetery account, provided for in 10-2-603, \$10 for each veteran's license
27 plate issued pursuant to 61-3-332(10)(a)(ii), (10)(f), and (10)(h);

28 (e) to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709,
29 25 cents for each motor vehicle registered, other than trailers or semitrailers registered in other jurisdictions and
30 registered through a proportional registration agreement; and

(f) 25 cents a year for each vehicle subject to the fee in 61-3-321(6) for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.

(4) For fiscal year 2002, there is transferred from the state general fund to the state special revenue fund to be used for purposes of state funding of district court expenses, as provided in 3-5-901, \$5,742,983 in lieu of the amount deposited by the state treasurer under 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001.

(5) For each fiscal year, beginning with fiscal year 2002, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). Transfer amounts for fiscal year 2002 must be based on vehicle counts for calendar year 2000. Transfer amounts in each succeeding fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available.

(6) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

Section 16. Section 22-1-504, MCA, is amended to read:

"22-1-504. Duties of librarian --library staff state employees. (1) The librarian shall develop and maintain an adequate collection and services to fulfill the needs of library users and shall establish procedures for the maintenance and control of the collection.

~~(2) The members of the staff of the state law library, except the librarian, are employees of the judicial branch of state government, are subject to classification and compensation as determined by the judicial branch personnel plan adopted by the supreme court under 3-1-130, and must receive state employee benefits and expenses as provided in Title 2, chapter 18."~~

Section 17. Section 25-1-201, MCA, is amended to read:

"25-1-201. Fees of clerk of district court. (1) The clerk of district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a petition for dissolution of marriage, \$160; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

- (b) from each defendant or respondent, on appearance, \$60;
- (c) on the entry of judgment, from the prevailing party, \$45;
- (d) for preparing copies of papers on file in the clerk's office, 50 cents a page for the first five pages of each file, for each request, and 25 cents for each additional page;
- (e) for each certificate, with seal, \$2;
- (f) for oath and jurat, with seal, \$1;
- (g) for a search of court records, 50 cents for each year searched, not to exceed a total of \$25;
- (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);
- (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;
- (j) for transmission of records or files or transfer of a case to another court, \$5;
- (k) for filing and entering papers received by transfer from other courts, \$10;
- (l) for issuing a marriage license, \$30;
- (m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;
- (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;
- (o) for filing a declaration of marriage without solemnization, \$30;
- (p) for filing a motion for substitution of a judge, \$100;
- (q) for filing a petition for adoption, \$75.
- (2) Except as provided in subsections (3) and (5) through (7), 32% of all fees collected by the clerk of district court must:
- ~~—— (a) prior to July 1, 2003, be forwarded to the department of revenue for deposit in the state general fund;~~
- ~~and~~
- ~~—— (b) after June 30, 2003, be deposited in the general fund for district court operations. The remaining portion of the fees must be forwarded to the department of revenue for deposit in the state general fund as specified by the supreme court administrator.~~
- (3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage without solemnization, \$23.60 must be deposited in and credited to the state general fund and \$6.40 must be deposited

1 in and credited to the county general fund.

2 ~~(3)~~(4) (a) Of the fee for filing a petition for dissolution of marriage, \$75 must be deposited in the state
3 general fund, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$9 must be
4 deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714,
5 ~~and~~ \$30 must be deposited in the partner and family member assault intervention and treatment fund
6 established in 40-15-110, and \$21 must be deposited in and credited to the district court fund. If no district court
7 fund exists, the \$21 must be deposited in the general fund for district court operations.

8 (b) Of the fee for filing a petition for legal separation, \$75 must be deposited in the state general fund,
9 \$5 must be deposited in the children's trust fund account established in 52-7-102, and \$30 must be deposited
10 in the partner and family member assault intervention and treatment fund established in 40-15-110, and \$21
11 must be deposited in and credited to the district court fund. If no district court fund exists, the \$21 must be
12 deposited in the general fund for district court operations.

13 (5) (a) Before the percentages contained in subsection (2) are applied and the fees are deposited in
14 the district court fund or the county general fund or remitted to the state, the clerk of the district court shall deduct
15 from the following fees the amounts indicated:

16 (i) at the commencement of each action or proceeding and for filing a complaint in intervention, as
17 provided in subsection (1)(a), \$35;

18 (ii) from each defendant or respondent, on appearance, as provided in subsection (1)(b), \$25;

19 (iii) on the entry of judgment, as provided in subsection (1)(c), \$15; and

20 (iv) from the applicant or petitioner, on the filing of an application for probate or for the appointment of
21 a personal representative or on the filing of a petition for appointment of a guardian or conservator, as provided
22 in subsection (1)(m), \$15.

23 (b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the county
24 general fund for district court operations unless the county has a district court fund. If the county has a district
25 court fund, the money must be deposited in that fund.

26 (6) The fee for filing a motion for substitution of a judge, as provided in subsection (1)(p), must be
27 remitted to the state general fund.

28 (7) Fees collected under subsections (1)(d) through (1)(i) must be deposited in the district court fund.
29 If no district court fund exists, the fees must be deposited in the general fund for district court operations.

30 (8) The clerk of the district court shall remit to the credit of the state general fund \$20 of each fee

1 collected under the provisions of subsections (1)(a) through (1)(c), (1)(m), and (1)(n) to fund a portion of judicial
2 salaries.

3 (9) (a) The fee for filing a petition for a contested amendment of a parenting plan must be remitted by
4 the clerk of the district court to the credit of the district court to defray the costs of the court-sanctioned
5 educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and
6 to defray the expense of education when ordered for the investigation and preparation of a report concerning
7 parenting arrangements, as provided in 40-4-215(2)(a).

8 (4)(10) If the moving party files a statement signed by the nonmoving party agreeing not to contest an
9 amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may
10 not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under
11 subsection (1)(a).

12 (5)(11) Through June 30, 2003, the The clerk of district court shall remit to the credit of the special
13 revenue account established in 42-2-105 \$70 of the filing fee required in subsection (1)(q), and \$5 of the filing
14 fee must be deposited in the district court fund. If no district court fund exists, the fees must be deposited in the
15 general fund for district court operations.

16 (6)(12) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must
17 be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714,
18 and \$1 must be deposited in and credited to the district court fund for mitigation of administrative costs incurred
19 by the court in the collection of the fee. If a district court fund does not exist, the \$1 must be deposited in the
20 county general fund for district court operations.

21 (7) The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county district
22 court fund. If a district court fund does not exist, the fees must be deposited in the county general fund for district
23 court operations.

24 —— (8) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not
25 otherwise specifically allocated must be deposited in the state general fund."

26
27 **Section 18.** Section 25-1-202, MCA, is amended to read:

28 **"25-1-202. Additional filing fee Fee for court reporter.** In addition to other filing fees, a fee of \$20
29 must be paid to the clerk of district court at the time of filing a civil action in the district court. The fee must be
30 forwarded deposited by the clerk to the department of revenue for deposit in the state general fund of the county

1 ~~where the action is filed, to be applied to the payment of the salary of the court reporter.~~ The prevailing party may
2 have the amount paid by the prevailing party taxed in the bill of costs as proper disbursements."
3

4 **Section 19.** Section 25-1-1103, MCA, is amended to read:

5 **"25-1-1103. Fee -- duration of certificate.** (1) A certificate of registration as a process server must be
6 accompanied by a fee of \$100 at the time the certificate is filed. The fee must be ~~forwarded by the clerk of district~~
7 ~~court to the department of revenue for deposit in the state general~~ deposited in the county general fund for
8 district court operations, unless the county has a district court fund. If the county has a district court fund, the fee
9 must be deposited in that fund.

10 (2) A certificate of registration is effective for a period of 2 years from the date of filing. A new certificate
11 must be filed upon expiration of a certificate, and a new registration fee must accompany the new certificate."
12

13 **Section 20.** Section 25-9-506, MCA, is amended to read:

14 **"25-9-506. Fees.** (1) Except as provided for in subsection (2), a person filing a foreign judgment shall
15 pay to the clerk of court a fee of \$60.

16 (2) A person filing a judgment against a customer of a foreign capital depository, as defined in 32-8-103,
17 shall pay to the clerk of court a fee of \$2,500.

18 (3) Fees for docketing, transcription, or other enforcement proceedings must be as provided for
19 judgments of the district court.

20 ~~(4) Fees collected by the clerk of district court must be forwarded to the department of revenue for~~
21 ~~deposit in the state general fund."~~

23 **Section 21.** Section 25-9-804, MCA, is amended to read:

24 **"25-9-804. Filing fee.** A person seeking recognition of a foreign judgment rendered in a foreign state
25 against a customer of the foreign capital depository shall pay a filing fee of \$2,500 to the clerk of court in which
26 the judgment is filed. ~~Fees collected by the clerk of district court must be forwarded to the department of revenue~~
27 ~~for deposit in the state general fund."~~

29 **Section 22.** Section 27-9-103, MCA, is amended to read:

30 **"27-9-103. Filing and costs -- district court.** The statement must be filed with the clerk of court in

1 which the judgment is to be entered, who shall endorse upon it and enter in the judgment book a judgment of
2 the court for the amount confessed, with \$45 costs. The clerk of district court shall ~~forward the costs to the~~
3 ~~department of revenue for deposit in the state general fund~~ deposit the fee in the district court fund. If no district
4 court fund exists, the fee must be deposited in the general fund for district court operations."

5
6 **Section 23.** Section 40-4-215, MCA, is amended to read:

7 **"40-4-215. Investigations and reports.** (1) If a parent or a court-appointed third party requests, or if
8 the court finds that a parenting proceeding is contested, the court may order an investigation and report
9 concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other
10 professional considered appropriate by the court. The department of public health and human services may not
11 be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a
12 recipient of financial assistance, as defined in 53-4-201, or a participant in the food stamp program, as defined
13 in 53-2-902, and all reasonable options for payment of the investigation, if conducted by a person not employed
14 by the department, are exhausted. The department may consult with any investigator and share information
15 relevant to the child's best interests. The cost of the investigation and report must be paid according to the final
16 order. The cost of the educational evaluation under subsection (2)(a) must be paid ~~by the state as provided in~~
17 ~~3-5-904~~ from the fees for filing petitions for contested amendment of a parenting plan, as provided in
18 25-1-201(9).

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

- 21 (a) parenting education;
22 (b) mediation pursuant to 40-4-301;
23 (c) factfinding by the investigator; and
24 (d) psychological evaluation of the parties.

25 (3) In preparing a report concerning a child, the investigator may consult any person who has
26 information about the child and the child's potential parenting arrangements. Upon order of the court, the
27 investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years
28 of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other
29 expert persons who have served the child in the past without obtaining the consent of the persons or entities
30 authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child

1 is 16 years of age or older unless the court finds that the child lacks mental capacity to consent. If the
2 requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

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

11
12 **Section 24.** Section 40-4-226, MCA, is amended to read:

13 **"40-4-226. Court-sanctioned educational program on effects of dissolution of marriage on**
14 **children.** (1) In a proceeding for dissolution of marriage involving a minor child or in a parenting plan proceeding
15 involving a minor child, a court shall inform the parties, excluding the minor child, of available educational
16 programs concerning the effects of dissolution of marriage on children and, if the court finds that it would be in
17 the best interest of the minor child, shall order the parties to attend a court-sanctioned program. The program
18 may be divided into sessions. The program must be educational in nature and may not be designed for individual
19 therapy.

20 (2) The cost of implementing the court-sanctioned educational program for each district court, provided
21 for in subsection (1), must be paid ~~by the state as provided in 3-5-901~~ from the fees for filing petitions for
22 contested amendment of a parenting plan, as provided in 25-1-201(9). Costs may include parenting evaluation
23 and guardian ad litem services."

24
25 **Section 25.** Section 41-5-1701, MCA, is amended to read:

26 **"41-5-1701. Appointment of juvenile probation officers.** (1) The youth court judge of each judicial
27 district shall appoint probation officers, deputy probation officers, and part-time probation officers necessary to
28 administer this chapter. The qualifications for part-time probation officers must approximate those required for
29 probation officers insofar as possible. A chief probation officer must be appointed by the judge to supervise the
30 youth division offices in the judicial district. The judge shall also ensure that the youth division offices are staffed

1 with necessary office personnel and that the offices are properly equipped to effectively carry out the purpose
2 and intent of this chapter. A person while serving as a law enforcement officer may not be appointed or perform
3 the duties of a full-time or part-time probation officer.

4 ~~(2) All probation officers and youth division office staff hired or appointed under subsection (1) are~~
5 ~~employees of the judicial branch of state government. The employees are subject to classification and~~
6 ~~compensation as determined by the judicial branch personnel plan adopted by the supreme court under 3-1-130~~
7 ~~and must receive state employee benefits and expenses as provided in Title 2, chapter 18."~~

8
9 **Section 26.** Section 41-5-1707, MCA, is amended to read:

10 **"41-5-1707. Designation of assessment officers -- duties.** (1) The youth court judge of each judicial
11 district may appoint and supervise assessment officers necessary to administer this chapter. ~~Assessment~~
12 ~~officers appointed under this section are employees of the judicial branch of state government. The employees~~
13 ~~are subject to classification and compensation as determined by the judicial branch personnel plan adopted by~~
14 ~~the supreme court under 3-1-130 and must receive state employee benefits and expenses as provided in Title~~
15 ~~2, chapter 18. The qualifications for assessment officers must be established by the appointing judge.~~
16 Assessment officers are county employees, and assessment officers' salaries must be fixed by the judge. An
17 assessment officer may work out of the local police department or other local law enforcement office.

18 (2) An assessment officer shall perform the duties set out in 41-5-1201 and 41-5-1302.

19 (3) Proceedings under 41-5-1201 and 41-5-1302 that are held prior to adjudication satisfy the
20 requirements of 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974.
21 Montana school districts may release education records to assessment officers. The assessment officer is
22 responsible for ensuring that officials and authorities to whom that information is disclosed certify in writing to
23 the school district that is releasing the education records that the education records or information from the
24 education records will not be disclosed to any other party without the prior written consent of the parent of the
25 student."

26
27 **Section 27.** Section 46-8-114, MCA, is amended to read:

28 **"46-8-114. Time and method of payment.** When a defendant is sentenced to pay the costs of
29 court-appointed counsel, the court may order payment to be made within a specified period of time or in
30 specified installments. Payments must be made to the clerk of district court. The clerk of district court shall

1 forward the payments to the ~~department of revenue for deposit in the state general fund~~ government agency
2 responsible for the expense of court-appointed counsel as provided for in 46-8-201."

3
4 **Section 28.** Section 46-8-201, MCA, is amended to read:

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

10 (2) The expense of implementing subsection (1) ~~must be paid by~~ is chargeable as provided in 3-5-901
11 to the county in which the proceeding arose, the state as provided in 3-5-901, or both, except that:

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

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

17
18 **Section 29.** Section 46-8-202, MCA, is amended to read:

19 **"46-8-202. Public defender's office.** Any county through its board of county commissioners may
20 provide for the creation of a public defender's office and the appointment of a salaried public defender and any
21 assistant public defenders that may be necessary to satisfy the legal requirements in providing counsel for
22 defendants unable to employ counsel. The costs of the office must be paid by the state according to procedures
23 established under ~~3-5-901(4)~~ 3-5-902(1) and, to the extent that those costs are not paid by the state, must be
24 paid by the county in accordance with 3-5-901(4)."

25
26 **Section 30.** Section 46-11-319, MCA, is amended to read:

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

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

2 (2) ~~The Subject to the procedures established by law, the state shall pay reimburse the court for the~~
3 expenses of juror and witness fees and witness expenses ~~as provided in 3-5-901 and 3-5-902. The county shall~~
4 deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has
5 a district court fund, the amount reimbursed must be deposited in that fund."
6

7 **Section 31.** Section 46-14-202, MCA, is amended to read:

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

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

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

22 (4) If the defendant is indigent or the examination occurs at the request of the prosecution, the cost of
23 the examination must be paid by the county or the state, or both, as provided in 3-5-901 according to procedures
24 established under 3-5-902(1)."
25

26 **Section 32.** Section 46-14-221, MCA, is amended to read:

27 **"46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses.** (1)
28 The issue of the defendant's fitness to proceed may be raised by the court, by the defendant or the defendant's
29 counsel, or by the prosecutor. When the issue is raised, it must be determined by the court. If neither the
30 prosecutor nor the defendant's counsel contests the finding of the report filed under 46-14-206, the court may

1 make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on
2 the issue. If the report is received in evidence upon the hearing, the parties have the right to subpoena and
3 cross-examine the psychiatrists or licensed clinical psychologists who joined in the report and to offer evidence
4 upon the issue.

5 (2) (a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the
6 defendant must be suspended, except as provided in subsection (4), and the court shall commit the defendant
7 to the custody of the director of the department of public health and human services to be placed in an
8 appropriate institution of the department of public health and human services for so long as the unfitness
9 endures.

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

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

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

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

30 (5) The expenses of sending the defendant to the custody of the director of the department of public

1 health and human services to be placed in an appropriate institution of the department of corrections, of keeping
2 the defendant there, and of bringing the defendant back are ~~payable by~~ chargeable to the state as a district court
3 expense and payable according to procedures established under 3-5-902(1)."

4
5 **Section 33.** Section 46-15-116, MCA, is amended to read:

6 **"46-15-116. Fees, costs, and expenses.** (1) When a person attends before a judge, grand jury, or
7 court as a witness in a criminal case upon a subpoena, the witness must receive the witness fee prescribed by
8 Title 26, chapter 2, part 5. The court, on motion by either party, may allow additional fees for expert witnesses.

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

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

17 (4) The witness fees, costs, and expenses must be paid ~~by the state~~ according to procedures required
18 by the supreme court administrator under 3-5-902. The clerk of the district court shall submit to the administrator
19 a detailed statement containing a list of witnesses and the amount of expenses paid to each witness by the
20 county. Upon receipt and verification of the statement, the administrator shall promptly reimburse the designated
21 county for all or a portion of the witness expenses. The county shall deposit the amount reimbursed in its general
22 fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed
23 must be deposited in the district court fund."

24
25 **Section 34.** Section 46-18-235, MCA, is amended to read:

26 **"46-18-235. Disposition of money collected as fines and costs.** The money collected by a court as
27 a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and 46-18-232 must
28 be paid:

29 (1) by the clerk of district court to the county general fund of the county in which the court is held, except
30 that:

1 (a) if the costs assessed include any district court expense listed in 3-5-901, the money collected from
2 assessment of these costs must be paid to:

3 ~~———(a) the department of revenue for deposit into the state general fund~~ to the extent that the expenses
4 were paid by the state; or

5 (b) if the fine was imposed for a violation of Title 45, chapter 9 or 10, and at the court's discretion, the
6 drug forfeiture account maintained under 44-12-206 for the law enforcement agency that made the arrest from
7 which the conviction and fine arose; and

8 (2) by a justice's court pursuant to 3-10-601."

9
10 **Section 35.** Section 46-18-603, MCA, is amended to read:

11 **"46-18-603. Disposition of fines and forfeitures.** All fines and forfeitures collected in any court except
12 city courts must be applied to the payment of the costs of the case in which the fine is imposed or the forfeiture
13 incurred. After those costs are paid, the remainder, if not paid to a justice's court or otherwise provided by law,
14 ~~must be forwarded to the department of revenue for deposit in the state general fund~~ paid to the county treasurer
15 of the county in which the court is held and credited as provided by law. If the fine or forfeiture is paid to the
16 county treasurer, at the time of the payment there must be filed with the county treasurer a complete statement
17 showing the total of the fine or forfeiture received or incurred with an itemized statement of the costs incurred
18 by the county in the action. The statement must contain the title of the cause and must be subscribed by the
19 person or officer making the payment."

20
21 **Section 36.** Section 53-9-104, MCA, is amended to read:

22 **"53-9-104. Powers and duties of office.** (1) The office shall:

23 (a) adopt rules to implement this part;

24 (b) prescribe forms for applications for compensation;

25 (c) determine all matters relating to claims for compensation; and

26 (d) require any person contracting directly or indirectly with an individual formally charged with or
27 convicted of a qualifying crime for any rendition, interview, statement, book, photograph, movie, television
28 production, play, or article relating to the crime to deposit any proceeds paid or owed to the individual under the
29 terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime and any
30 dependents of a deceased victim, if the individual is convicted of the crime, to be held for a period of time that

1 the office may determine is reasonably necessary to perfect the claims of the victims or dependents. Deposited
2 proceeds may also be used to pay the costs and attorney fees of court-appointed counsel for the charged
3 person. Each victim and dependent of a deceased victim is entitled to actual and unreimbursed damages of all
4 kinds or \$5,000, whichever is greater. Proceeds remaining after payments to victims, dependents of deceased
5 victims, and the ~~state~~ county as reimbursement for any public defender or any attorney appointed for the charged
6 person must be deposited in the state general fund.

7 (2) The office may:

8 (a) request and obtain from prosecuting attorneys and law enforcement officers investigations and data
9 to enable the office to determine whether and the extent to which a claimant qualifies for compensation. A statute
10 providing confidentiality for a claimant's juvenile court records does not apply to proceedings under this part.

11 (b) request and obtain from a health care provider medical reports that are relevant to the physical
12 condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information
13 that is relevant to expenses claimed by a claimant if the office has made reasonable efforts to obtain from the
14 claimant a release of the records or information. No civil or criminal liability arises from the release of information
15 requested under this subsection (2)(b).

16 (c) subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct
17 hearings, and receive relevant, nonprivileged evidence;

18 (d) take notice of judicially cognizable facts and general, technical, and scientific facts within its
19 specialized knowledge;

20 (e) require that law enforcement agencies and officials take reasonable care that victims be informed
21 about the existence of this part and the procedure for applying for compensation under this part; and

22 (f) establish a victims assistance coordinating and planning program."
23

24 **NEW SECTION. Section 37. State grants to district courts -- rules.** (1) The state shall make grants,
25 to the extent funds are available after expenses provided for in 3-5-901 are funded, to the governing body of a
26 county for the district courts for assistance as provided in this section.

27 (2) The governing body of a county may apply to the supreme court administrator for a grant by filing
28 a written request on forms provided by the administrator by August 20 for the previous fiscal year unless the
29 administrator grants a time extension upon request of the county. In its request for a grant, a county shall certify
30 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 court fund that are not specifically authorized by

7-6-2511.

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

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

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

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

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

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

(7) If an audit conducted pursuant to 2-7-503 discloses that the recipient received a grant in excess of the amount for which it was eligible, the recipient shall repay the excess to the state. The supreme court administrator shall redistribute any repaid excess amounts to the other counties that received grants from the appropriation from which the overpayment was made, on the same basis as the original awards. A county is not eligible for a district court grant if it owes the state a refund of a prior year's overpayment.

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

NEW SECTION. Section 38. When sheriff to provide facilities. (1) If the board of county commissioners does not provide suitable rooms for hearing district court cases and chambers for the judge of the district court, along with adequate supplies and personnel for the conduct of business, the judge may direct the sheriff of the county to provide the rooms, supplies, or personnel.

(2) The expenses incurred in implementing subsection (1), certified by the judge, are a charge against

the county and must be paid from the general fund.

NEW SECTION. Section 39. Reimbursement for juror and witness fees. According to procedures required by the supreme court administrator under 3-5-902(1), the clerk of the district court shall submit to the administrator a detailed statement explaining a list of witnesses and jurors for criminal cases only and the amount of expenses and mileage paid to each juror by the county. Upon receipt and verification of the statement, the administrator shall promptly reimburse the designated county for the cost of witness and juror fees on a full or prorated basis in accordance with 3-5-902. 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.

NEW SECTION. Section 40. Special provisions for certain charges related to criminal prosecutions. (1) Notwithstanding the provisions of 7-6-2426, all costs of a criminal prosecution, including attorney fees, of an offense committed in the state prison are not charges against the county in which the state prison is located. The costs must be paid by the department of corrections.

(2) If a criminal action is removed before trial, the costs accruing upon removal and trial must be a charge against the county in which the indictment was found or information filed, subject to reimbursement as provided in 3-5-901.

NEW SECTION. Section 41. Procedure to collect charges when criminal case is removed. (1) The district court of the county to which a criminal action is removed shall certify the amount of costs allowed and certified by the court to the board of county commissioners of the county of the district court. The board of county commissioners shall audit the costs and draw warrants upon the treasury of the county from which the action was removed. The board drawing the warrants shall forward to the county treasurer and board of county commissioners of the county from which the action was transferred a certified copy of the total amount allowed by the court, listing each item as certified to them by the clerk of the district court and the district court.

(2) The board of county commissioners receiving the certified copy of costs allowed shall enter the costs in its books as a charge against the treasury of that county. The county treasurer of the county from which the action was removed shall pay the warrants out of the general fund of that county, or if there is insufficient money to pay the costs, warrants must be registered and draw interest at the same rate and in the same manner as

1 though the warrant had been issued by the county where the indictment was found or the information was filed.

2
3 **NEW SECTION. Section 42. Execution of process when sheriff is party.** When the sheriff is a party
4 to an action or proceeding, the process and orders in the action must be executed by the coroner of the county
5 or a registered process server.

6
7 **NEW SECTION. Section 43. Salary and expenses.** (1) A chief probation officer must receive a salary
8 specified by the court, depending on the formal training and experience of each respective officer; however, the
9 salary may not be lower than \$24,000 a year. In addition to the salary, the court shall, on or before July 1 of each
10 year, adjust and fix the salary of the chief probation officer for a cost-of-living increase by adding to the chief
11 probation officer's annual salary on July 1 of that year an increment, as determined by the county governing body
12 using the applicable formula provided for in 7-4-2503. The salary of a chief probation officer must be
13 apportioned among and paid by each of the counties in which the officer is appointed to act, in proportion to the
14 cost allocation established under 41-5-104, except when the officer is appointed for one county, then that county
15 shall pay the entire salary.

16 (2) In addition to the compensation provided in subsection (1), each chief probation officer with more
17 than 5 years of service is entitled to receive an annual 1% longevity allowance; however, years of service during
18 any year in which the salary was set at the same level as the salary of the prior fiscal year may not be included
19 in any calculation of longevity increase. Each longevity allowance must be based on the officer's current salary
20 and begins on the officer's annual employment anniversary date. The allowance must be paid in equal monthly
21 installments.

22 (3) For all authorized travel incident to a chief probation officer's official duties in connection with the
23 investigation, supervision, and transportation of youth, the chief probation officer must, in addition to the officer's
24 salary, be reimbursed as provided in 2-18-501 through 2-18-503.

25
26 **NEW SECTION. Section 44. Deputy probation officers -- salary.** (1) The judge having jurisdiction
27 of juvenile matters may appoint persons to serve as deputy probation officers that the judge considers
28 necessary, giving preference to persons having the qualifications suggested for appointment as the chief
29 probation officer. The salaries of deputy probation officers must be fixed by the judge. The salaries may not
30 exceed 90% or be less than 60% of the salary of the chief probation officer, excluding the cost-of-living increase

provided in subsection (2) of this section and longevity payments provided in [Section 43].

(2) In addition to the salary, the judge shall, on or before July 1 of each year, adjust and fix the salary of the deputy probation officer for a cost-of-living increase by adding to the deputy probation officer's annual salary on July 1 of that year an increment, as determined by the county governing body using the applicable formula provided in 7-4-2503. The salary of a deputy probation officer must be apportioned among and paid by each of the counties in which the officer is appointed to act, in proportion to the cost allocation established under 41-5-104, except when the officer is appointed for one county, then that county shall pay the entire salary.

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

(4) The salary of a deputy probation officer promoted to chief probation officer may not be decreased by the appointment. The deputy probation officer retains all longevity allowances earned during service as a deputy.

NEW SECTION. **Section 45. Repealer.** Sections 3-1-125, 3-1-126, 3-1-130, 3-1-1601, 3-1-1602, 3-1-1603, 3-1-1604, and 3-1-1605, MCA, are repealed.

NEW SECTION. **Section 46. Transition.** (1) District court employees who are employed by the state on June 30, 2003, and who are transferred to county employment by [this act] become county employees on July 1, 2003.

(2) The compensation of former state employees who become county employees under [this act] may not be impaired. This subsection does not preserve the right of any former state employee to any salary or compensation, including longevity benefits, that was payable while the employee was employed by the state and that was not accrued and payable as of June 30, 2003.

(3) An employee who is transferred from state employment to county employment under [this act] may elect to continue as a member of the state employee benefit plan on July 1, 2003, or become a member of the employee's county benefit plan through the remainder of the plan year in effect on June 30, 2003. For an employee who elects to remain on the state benefit plan, the monthly county contribution toward insurance benefits must be transferred to the state benefit plan. Any benefit costs in excess of the county contribution must

1 be paid by the employee.

2 (4) Accumulated sick and vacation leave and years of service with the state must be transferred fully
3 to the county as of July 1, 2003, and become an obligation of the county at that time. Any liability for accumulated
4 compensatory time of employees who are transferred from state employment to county employment under [this
5 act] is not transferred to the county and remains an obligation of the state, subject to federal law and the state's
6 personnel policies.

7 (5) The county becomes a successor employer with regard to any collective bargaining agreement
8 existing on July 1, 2003, that prior to July 1, 2003, covered any employee transferred from state employment
9 to county employment by [this act]. The responsibilities and obligations of the parties to an agreement to which
10 the county becomes a successor employer must, as applied to a transferred employee, continue until the
11 expiration date of the agreement.

12
13 **NEW SECTION. Section 47. Unfunded mandate law superseded.** As provided in 1-2-112(2), [this
14 act] expressly supersedes the provisions of 1-2-112 and 1-2-114 through 1-2-116.

15
16 **NEW SECTION. Section 48. Codification instruction.** (1) [Section 37] is intended to be codified as
17 an integral part of Title 7, chapter 6, part 22, and the provisions of Title 7, chapter 6, part 22, apply to [section
18 37].

19 (2) [Section 38] is intended to be codified as an integral part of Title 3, chapter 5, part 4, and the
20 provisions of Title 3, chapter 5, part 4, apply to [section 38].

21 (3) [Section 39] is intended to be codified as an integral part of Title 3, chapter 5, part 9, and the
22 provisions of Title 3, chapter 5, part 9, apply to [section 39].

23 (4) [Section 40] is intended to be codified as an integral part of Title 25, chapter 2, part 2, and the
24 provisions of Title 25, chapter 2, part 2, apply to [section 40].

25 (5) [Sections 41 and 42] are intended to be codified as an integral part of Title 7, chapter 6, part 24, and
26 the provisions of Title 7, chapter 6, part 24, apply to [sections 41 and 42].

27 (6) [Sections 43 and 44] are intended to be codified as an integral part of Title 41, chapter 5, part 17,
28 and the provisions of Title 41, chapter 5, part 17, apply to [sections 43 and 44].

29
30 **NEW SECTION. Section 49. Effective date.** [This act] is effective July 1, 2003.

31 - END -