

1 SENATE BILL NO. 229

2 INTRODUCED BY B. USHER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY GENERAL TO REIMBURSE  
5 COUNTIES FOR ACTUAL WITNESS COSTS IN CERTAIN CRIMINAL PROCEEDINGS; PROVIDING  
6 RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTION 26-2-506, MCA;  
7 AND PROVIDING AN EFFECTIVE DATE."

8

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

10

11 **Section 1.** Section 26-2-506, MCA, is amended to read:

12 **"26-2-506. Fees paid by party subpoenaing -- exceptions.** (1) Except as provided in subsection  
13 (2), fees and compensation of a witness in all criminal and civil actions must be paid by the party who caused  
14 the witness to be subpoenaed.

15 (2) (a) When a witness is subpoenaed by a public defender, as defined in 47-1-103, the fees and  
16 expenses must be paid by the office of state public defender as provided in 47-1-119.

17 (b) In a criminal proceeding, when a witness is subpoenaed on behalf of the attorney general or a  
18 county attorney, the witness fees and expenses must be paid by the county except as provided in subsection  
19 (2)(c).

20 (c) The attorney general ~~may~~ shall reimburse a county for fees and compensation of a AN EXPERT  
21 witness up to the amount appropriated for EXPERT witness expenses, EXCEPT FOR CASES IN WHICH THE DEATH  
22 PENALTY IS BEING SOUGHT BY THE PROSECUTION. ~~If money appropriated for the expenses listed in subsection~~  
23 ~~(2)(b) is insufficient to fully fund those expenses, the county is responsible for payment of the balance.~~ THE  
24 ATTORNEY GENERAL SHALL ADOPT RULES TO PROVIDE FOR REIMBURSEMENT PROCEDURES, INCLUDING SETTING  
25 PRIORITIES FOR EXPENSES AND BALANCING BETWEEN THE NEEDS OF RURAL AND URBAN COUNTIES.

26 (d) In any proceeding in which a defendant or respondent is entitled to a public defender, as  
27 defined in 47-1-103, but is acting pro se, the witness fees and expenses must be paid by the office of court  
28 administrator, as provided in 3-5-901."

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2 NEW SECTION. SECTION 2. APPROPRIATION. (1) THERE IS APPROPRIATED ~~\$250,000~~ \$150,000 FROM THE  
3 GENERAL FUND TO THE DEPARTMENT OF JUSTICE FOR EACH YEAR OF THE BIENNIUM BEGINNING JULY 1, 2023, WHICH  
4 MAY BE USED ONLY FOR THE PURPOSES OF REIMBURSING COUNTIES FOR FEES AND COMPENSATION OF EXPERT  
5 WITNESSES AS PROVIDED IN 26-2-506(2)(C), EXCEPT FOR CASES IN WHICH A DEFENDANT MAY BE SENTENCED TO  
6 DEATH.

7 (2) FOR CASES IN WHICH THE DEATH PENALTY IS BEING SOUGHT BY THE PROSECUTION, COUNTY  
8 REIMBURSEMENT FOR FEES AND COMPENSATION OF EXPERT WITNESSES MAY BE PAID THROUGH A SUPPLEMENTAL  
9 APPROPRIATION AS AUTHORIZED BY THE LEGISLATURE.

10 (2)(3) THE LEGISLATURE INTENDS THAT THE APPROPRIATION IN THIS SECTION BE CONSIDERED PART OF THE  
11 ONGOING BASE FOR THE NEXT LEGISLATIVE SESSION.

12  
13 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2023.

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