

IN THE SENATE

MARCH 18, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *228*
 2 INTRODUCED BY *Yellowtail* *for* *Ray* *Carroll* *John* *Cyri*
 3 *Van* *Volkmann* *James* *Eric* *HARPT* *Bank* *Michael* *H*
 4 *Coordinators* *Hoffman* A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALARIES
 5 *David* *Don* *Bran* AND SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES;

6 PROVIDING ADDITIONAL REVENUE TO FUND A PORTION OF THE
 7 INCREASE; AMENDING SECTIONS 2-16-404, 3-5-211, AND 25-1-201,
 8 MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

9
 10 WHEREAS, the salaries of Montana Supreme Court Justices
 11 and District Court Judges have failed to rise over the last
 12 decade to a point that threatens the long-term ability of
 13 the judiciary to retain and attract the best qualified
 14 candidates for judicial offices; and

15 WHEREAS, the salaries of both Supreme Court Justices and
 16 District Court Judges in Montana are ranked 50th in the
 17 nation; and

18 WHEREAS, the salaries of Supreme Court Justices and
 19 District Court Judges in Montana and neighboring states are:

	CHIEF	DISTRICT	
STATE	JUSTICE	JUSTICE	JUDGE
Montana	\$57,722	\$56,452	\$55,178
North Dakota	70,243	68,342	62,969
Wyoming	72,000	72,000	68,750
*Idaho	76,201	74,701	70,014

1 South Dakota	66,700	64,700	60,423
2 Washington	89,300	89,300	80,500
3 *Effective July 1, 1991			
4 AVERAGE:	\$72,028	\$70,916	\$66,306; and

5 WHEREAS, the ranking between Montana and other states
 6 has seriously declined in the past decade from a ranking of
 7 38th in the United States in 1977 to 50th for the last 5
 8 years; and

9 WHEREAS, the Legislature is committed to an equitable
 10 system for setting salaries, based on comparable worth and
 11 related levels of responsibility.

12 THEREFORE, it is the purpose of this legislation to
 13 allow Montana Supreme Court Justices and District Court
 14 Judges to receive salaries comparable to the average salary
 15 of justices and judges in other western states.

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 2-16-404, MCA, is amended to read:

19 ***2-16-404.** Salaries of supreme court justices. (1) The
 20 salary of the chief justice of the supreme court is \$54,722
 21 ~~for the fiscal year beginning July 1, 1989, and \$57,722--for~~
 22 ~~each fiscal year thereafter~~ as follows:

- 23 (a) \$60,722 beginning July 1, 1991;
- 24 (b) \$63,722 beginning January 1, 1992;
- 25 (c) \$66,722 beginning July 1, 1992;



1 (d) \$69,722 beginning January 1, 1993, and each fiscal
2 year thereafter.

3 (2) The salary of a justice of the supreme court is
4 ~~\$53,452--for--the--fiscal--year--beginning--July--1,--1989,--and~~
5 ~~\$56,452--for--each--fiscal--year--thereafter~~ as follows:

6 (a) \$59,452 beginning July 1, 1991;

7 (b) \$62,452 beginning January 1, 1992;

8 (c) \$65,452 beginning July 1, 1992;

9 (d) \$68,452 beginning January 1, 1993, and each fiscal
10 year thereafter."

11 **Section 2.** Section 3-5-211, MCA, is amended to read:

12 "3-5-211. Salaries and expenses of district judges. (1)
13 The annual salary of each district judge is ~~\$52,178--for--the~~
14 ~~fiscal--year--beginning--July--1,--1989,--and--\$55,178--for--each~~
15 ~~fiscal--year--thereafter~~ as follows:

16 (a) \$58,178 beginning July 1, 1991;

17 (b) \$61,178 beginning January 1, 1992;

18 (c) \$64,178 beginning July 1, 1992;

19 (d) \$67,178 beginning January 1, 1993, and each fiscal
20 year thereafter.

21 (2) Actual and necessary expenses for each district
22 judge shall be the travel expenses, as defined and provided
23 in 2-18-501 through 2-18-503, incurred in the performance of
24 his official duties."

25 **Section 3.** Section 25-1-201, MCA, is amended to read:

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

4 (a) at the commencement of each action or proceeding,
5 except a petition for dissolution of marriage, from the
6 plaintiff or petitioner, ~~\$60~~ \$70; for filing a complaint in
7 intervention, from the intervenor, ~~\$60~~ \$70; for filing a
8 petition for dissolution of marriage, a fee of ~~\$100~~ \$110;
9 and for filing a petition for legal separation, a fee of
10 ~~\$100~~ \$110;

11 (b) from each defendant or respondent, on his
12 appearance, ~~\$40~~ \$50;

13 (c) on the entry of judgment, from the prevailing
14 party, ~~\$25~~ \$35;

15 (d) for preparing copies of papers on file in his
16 office, 50 cents per page for the first five pages of each
17 file, per request, and 25 cents per page thereafter;

18 (e) for each certificate, with seal, \$2;

19 (f) for oath and jurat, with seal, \$1;

20 (g) for search of court records, 50 cents for each year
21 searched, not to exceed a total of \$25;

22 (h) for filing and docketing a transcript of judgment
23 or abstract of judgment from all other courts, \$25;

24 (i) for issuing an execution or order of sale on a
25 foreclosure of a lien, \$5;

1 (j) for transmission of records or files or transfer of
2 a case to another court, \$5;

3 (k) for filing and entering papers received by transfer
4 from other courts, \$10;

5 (l) for issuing a marriage license, ~~\$30~~ \$40;

6 (m) on the filing of an application for informal,
7 formal, or supervised probate or for the appointment of a
8 personal representative or the filing of a petition for the
9 appointment of a guardian or conservator, from the applicant
10 or petitioner, ~~\$50~~ \$60, which includes the fee for filing a
11 will for probate;

12 (n) on the filing of the items required in 72-4-303 by
13 a domiciliary foreign personal representative of the estate
14 of a nonresident decedent, ~~\$35~~ \$45;

15 (o) for filing a declaration of marriage without
16 solemnization, ~~\$30~~ \$40;

17 (p) for filing a motion for substitution of a judge,
18 \$100.

19 (2) Except as provided in subsections (3) through (7)
20 (8), 32% of all fees collected by the clerk of the district
21 court must be deposited in and credited to the district
22 court fund. If no district court fund exists, that portion
23 of the fees must be deposited in the general fund for
24 district court operations. The remaining portion of the fees
25 must be remitted to the state to be deposited as provided in

1 19-5-404.

2 (3) In the case of a fee collected for issuing a
3 marriage license or filing a declaration of marriage without
4 solemnization, \$14 must be deposited in and credited to the
5 state general fund, \$6.40 must be deposited in and credited
6 to the county general fund, and \$9.60 must be remitted to
7 the state to be deposited as provided in 19-5-404, and \$10
8 must be remitted to the general fund as provided in
9 subsection (8).

10 (4) Of the fee for filing a petition for dissolution of
11 marriage or legal separation, \$40 must be deposited in the
12 state general fund, \$35 must be remitted to the state to be
13 deposited as provided in 19-5-404, \$5 must be deposited in
14 the children's trust fund account established by 41-3-702,
15 and \$20 must be deposited in and credited to the district
16 court fund, and \$10 must be remitted to the general fund as
17 provided in subsection (8). If no district court fund
18 exists, the \$20 must be deposited in the general fund for
19 district court operations.

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

25 (i) at the commencement of each action or proceeding

1 and for filing a complaint in intervention as provided in
2 subsection (1)(a), \$35;

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

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

7 (iv) on the entry of judgment as provided in subsection
8 (1)(h), \$20;

9 (v) for issuing an execution or order of sale as
10 provided in subsection (1)(i), \$3; and

11 (vi) from the applicant or petitioner, on the filing of
12 an application for probate or for the appointment of a
13 personal representative or on the filing of a petition for
14 appointment of a guardian or conservator, as provided in
15 subsection (1)(m), \$15.

16 (b) The clerk of the district court shall deposit the
17 money deducted in subsection (5)(a) in the county general
18 fund for district court operations unless the county has a
19 district court fund. If the county has a district court
20 fund, the money must be deposited in that fund.

21 (6) The fee for filing a motion for substitution of a
22 judge as provided in subsection (1)(p) must be remitted to
23 the state to be deposited as provided in 19-5-404.

24 (7) Fees collected under subsections (1)(d) through
25 (1)(i) must be deposited in the district court fund. If no

1 district court fund exists, fees must be deposited in the
2 general fund for district court operations.

3 (8) The clerk of the district court shall remit to the
4 credit of the state general fund \$10 of each fee collected
5 under the provisions of subsections (1)(a) through (1)(c)
6 and (1)(l) through (1)(o) to fund a portion of judicial
7 salaries."

8 **Section 4.** Section 25-1-201, MCA, is amended to read:

9 "25-1-201. Fees of clerk of district court. (1) The
10 clerk of the district court shall collect the following
11 fees:

12 (a) at the commencement of each action or proceeding,
13 except a petition for dissolution of marriage, from the
14 plaintiff or petitioner, \$60 ~~\$80~~; for filing a complaint in
15 intervention, from the intervenor, \$60 ~~\$80~~; for filing a
16 petition for dissolution of marriage, a fee of ~~\$100~~ \$120;
17 and for filing a petition for legal separation, a fee of
18 ~~\$100~~ \$120;

19 (b) from each defendant or respondent, on his
20 appearance, \$40 ~~\$60~~;

21 (c) on the entry of judgment, from the prevailing
22 party, \$25 ~~\$45~~;

23 (d) for preparing copies of papers on file in his
24 office, 50 cents per page for the first five pages of each
25 file, per request, and 25 cents per page thereafter;

- 1 (e) for each certificate, with seal, \$2;
- 2 (f) for oath and jurat, with seal, \$1;
- 3 (g) for search of court records, 50 cents for each year
4 searched, not to exceed a total of \$25;
- 5 (h) for filing and docketing a transcript of judgment
6 or abstract of judgment from all other courts, \$25;
- 7 (i) for issuing an execution or order of sale on a
8 foreclosure of a lien, \$5;
- 9 (j) for transmission of records or files or transfer of
10 a case to another court, \$5;
- 11 (k) for filing and entering papers received by transfer
12 from other courts, \$10;
- 13 (l) for issuing a marriage license, ~~\$30~~ \$50;
- 14 (m) on the filing of an application for informal,
15 formal, or supervised probate or for the appointment of a
16 personal representative or the filing of a petition for the
17 appointment of a guardian or conservator, from the applicant
18 or petitioner, ~~\$50~~ \$70, which includes the fee for filing a
19 will for probate;
- 20 (n) on the filing of the items required in 72-4-303 by
21 a domiciliary foreign personal representative of the estate
22 of a nonresident decedent, ~~\$35~~ \$55;
- 23 (o) for filing a declaration of marriage without
24 solemnization, ~~\$30~~ \$50;
- 25 (p) for filing a motion for substitution of a judge,

1 \$100.

2 (2) Except as provided in subsections (3) through ~~(7)~~
3 (8), 32% of all fees collected by the clerk of the district
4 court must be deposited in and credited to the district
5 court fund. If no district court fund exists, that portion
6 of the fees must be deposited in the general fund for
7 district court operations. The remaining portion of the fees
8 must be remitted to the state to be deposited as provided in
9 19-5-404.

10 (3) In the case of a fee collected for issuing a
11 marriage license or filing a declaration of marriage without
12 solemnization, \$14 must be deposited in and credited to the
13 state general fund, \$6.40 must be deposited in and credited
14 to the county general fund, and \$9.60 must be remitted to
15 the state to be deposited as provided in 19-5-404, and \$20
16 must be remitted to the general fund as provided in
17 subsection (8).

18 (4) Of the fee for filing a petition for dissolution of
19 marriage or legal separation, \$40 must be deposited in the
20 state general fund, \$35 must be remitted to the state to be
21 deposited as provided in 19-5-404, \$5 must be deposited in
22 the children's trust fund account established by 41-3-702,
23 and \$20 must be deposited in and credited to the district
24 court fund, and \$20 must be remitted to the general fund as
25 provided in subsection (8). If no district court fund

1 exists, the \$20 must be deposited in the general fund for
2 district court operations.

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

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

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

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

15 (iv) on the entry of judgment as provided in subsection
16 (1)(h), \$20;

17 (v) for issuing an execution or order of sale as
18 provided in subsection (1)(i), \$3; and

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

24 (b) The clerk of the district court shall deposit the
25 money deducted in subsection (5)(a) in the county general

1 fund for district court operations unless the county has a
2 district court fund. If the county has a district court
3 fund, the money must be deposited in that fund.

4 (6) The fee for filing a motion for substitution of a
5 judge as provided in subsection (1)(p) must be remitted to
6 the state to be deposited as provided in 19-5-404.

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

11 (8) The clerk of the district court shall remit to the
12 credit of the state general fund \$20 of each fee collected
13 under the provisions of subsections (1)(a) through (1)(c)
14 and (1)(l) through (1)(o) to fund a portion of judicial
15 salaries."

16 NEW SECTION. Section 5. Termination. [Section 3]
17 terminates June 30, 1992.

18 NEW SECTION. Section 6. Effective dates. (1) [Sections
19 1 through 3, 5, and this section] are effective July 1,
20 1991.

21 (2) [Section 4] is effective July 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0228, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill would increase the salaries paid to supreme court justices and district court judges, and provide additional revenue to fund a portion of the increase.


ASSUMPTIONS:

1. The five year average of civil cases filed in Montana district courts is approximately 27,000 per year.
2. No fees are collected on an estimated 13% of these cases. The increase in district court fees attributable to the state general fund is calculated on the basis of 27,000 cases X 87% X \$10 for FY92 and 27,000 cases X 87% X \$20 for FY93.
3. There is one Chief Justice of the Supreme Court who receives a current annual salary of \$57,722, six supreme court justices who each currently receive an annual salary of \$56,452, thirty-six district court judges who each receive a current salary of \$55,178. Benefits are calculated at 18% of the salaries proposed in this bill.
4. Current law is represented by the executive budget recommendation for these positions for the 1993 biennium.
5. The proposed pay raises will be scheduled in four phases beginning July 1, 1991, consisting of \$3,000 increments every six months of the 1993 biennium.

FISCAL IMPACT:

Judiciary-Supreme Court Elected Officials and District Court Judges

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	43.00	43.00	0.00	43.00	43.00	0.00
Personal Services	2,844,837	3,040,083	195,246	2,835,683	3,344,523	508,840
<u>Funding:</u>						
General Fund (01)	2,844,837	3,040,083	195,246	2,835,683	3,344,523	508,840
<u>Revenues:</u>						
General Fund-Increased						
District Court Fees (01)	0	234,900	234,900	0	469,800	469,800
Net General Fund Impact			39,654			(39,040)



 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning



 BILL YELLOWTAIL, PRIMARY SPONSOR DATE

Fiscal Note for SB0228, as introduced

SB 228

APPROVED BY COMMITTEE
ON JUDICIARY

1 SENATE BILL NO. 228
2 INTRODUCED BY YELLOWTAIL, PINSONEAULT, GOULD, CRIPPEN,
3 WALLIN, STRIZICH, VAN VALKENBURG, SQUIRES, TOWE, HARP,
4 T. BECK, MAZUREK, DOHERTY, COCCHIARELLA, TOOLE,
5 HOFFMAN, J. RICE, D. BROWN
6
7 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALARIES
8 PAID SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES;
9 PROVIDING ADDITIONAL REVENUE TO FUND A PORTION OF THE
10 INCREASE; AMENDING SECTIONS 2-16-404, 3-5-211, AND 25-1-201,
11 MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."
12
13 WHEREAS, the salaries of Montana Supreme Court Justices
14 and District Court Judges have failed to rise over the last
15 decade to a point that threatens the long-term ability of
16 the judiciary to retain and attract the best qualified
17 candidates for judicial offices; and
18 WHEREAS, the salaries of both Supreme Court Justices and
19 District Court Judges in Montana are ranked 50th in the
20 nation; and
21 WHEREAS, the salaries of Supreme Court Justices and
22 District Court Judges in Montana and neighboring states are:
23 CHIEF DISTRICT
24 STATE JUSTICE JUSTICE JUDGE
25 Montana \$57,722 \$56,452 \$55,178

1	North Dakota	70,243	68,342	62,969
2	Wyoming	72,000	72,000	68,750
3	*Idaho	76,201	74,701	70,014
4	South Dakota	66,700	64,700	60,423
5	Washington	89,300	89,300	80,500
6	*Effective July 1, 1991			
7	AVERAGE:	\$72,028	\$70,916	\$66,306; and
8	WHEREAS, the ranking between Montana and other states			
9	has seriously declined in the past decade from a ranking of			
10	38th in the United States in 1977 to 50th for the last 5			
11	years; and			
12	WHEREAS, the Legislature is committed to an equitable			
13	system for setting salaries, based on comparable worth and			
14	related levels of responsibility.			
15	THEREFORE, it is the purpose of this legislation to			
16	allow Montana Supreme Court Justices and District Court			
17	Judges to receive salaries comparable to the average salary			
18	of justices and judges in other western states.			
19				
20	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:			
21	Section 1. Section 2-16-404, MCA, is amended to read:			
22	"2-16-404. Salaries of supreme court justices. (1) The			
23	salary of the chief justice of the supreme court is \$547,722			
24	for the fiscal year beginning July 17, 1989, and \$57,722 for			
25	each fiscal year thereafter as follows:			

- 1 (a) \$60,722 beginning July 1, 1991;
 2 (b) \$63,722 beginning January 1, 1992;
 3 (c) \$66,722 beginning July 1, 1992;
 4 (d) \$69,722 beginning January 1, 1993, and each fiscal
 5 year thereafter.

6 (2) The salary of a justice of the supreme court is
 7 ~~\$53,452--for--the--fiscal--year--beginning--July--1--1989--and~~
 8 ~~\$56,452--for--each--fiscal--year--thereafter as follows:~~

- 9 (a) \$59,452 beginning July 1, 1991;
 10 (b) \$62,452 beginning January 1, 1992;
 11 (c) \$65,452 beginning July 1, 1992;
 12 (d) \$68,452 beginning January 1, 1993, and each fiscal
 13 year thereafter."

14 **Section 2.** Section 3-5-211, MCA, is amended to read:

15 **"3-5-211. Salaries and expenses of district judges. (1)**
 16 **The annual salary of each district judge is** ~~\$52,178--for--the~~
 17 ~~fiscal--year--beginning--July--1--1989--and--\$55,178--for--each~~
 18 ~~fiscal--year--thereafter as follows:~~

- 19 (a) \$58,178 beginning July 1, 1991;
 20 (b) \$61,178 beginning January 1, 1992;
 21 (c) \$64,178 beginning July 1, 1992;
 22 (d) \$67,178 beginning January 1, 1993, and each fiscal
 23 year thereafter.

24 (2) Actual and necessary expenses for each district
 25 judge shall be the travel expenses, as defined and provided

1 in 2-18-501 through 2-18-503, incurred in the performance of
 2 his official duties."

3 **Section 3.** Section 25-1-201, MCA, is amended to read:

4 **"25-1-201. Fees of clerk of district court. (1)** The
 5 clerk of the district court shall collect the following
 6 fees:

7 (a) at the commencement of each action or proceeding,
 8 except a petition for dissolution of marriage, from the
 9 plaintiff or petitioner, ~~\$60~~ \$70; for filing a complaint in
 10 intervention, from the intervenor, ~~\$60~~ \$70; for filing a
 11 petition for dissolution of marriage, a fee of ~~\$100~~ \$110;
 12 and for filing a petition for legal separation, a fee of
 13 ~~\$100~~ \$110;

14 (b) from each defendant or respondent, on his
 15 appearance, ~~\$40~~ \$50;

16 (c) on the entry of judgment, from the prevailing
 17 party, ~~\$25~~ \$35;

18 (d) for preparing copies of papers on file in his
 19 office, 50 cents per page for the first five pages of each
 20 file, per request, and 25 cents per page thereafter;

21 (e) for each certificate, with seal, \$2;

22 (f) for oath and jurat, with seal, \$1;

23 (g) for search of court records, 50 cents for each year
 24 searched, not to exceed a total of \$25;

25 (h) for filing and docketing a transcript of judgment

1 or abstract of judgment from all other courts, \$25;

2 (i) for issuing an execution or order of sale on a
3 foreclosure of a lien, \$5;

4 (j) for transmission of records or files or transfer of
5 a case to another court, \$5;

6 (k) for filing and entering papers received by transfer
7 from other courts, \$10;

8 (l) for issuing a marriage license, ~~\$30~~ \$40 ~~\$30~~;

9 (m) on the filing of an application for informal,
10 formal, or supervised probate or for the appointment of a
11 personal representative or the filing of a petition for the
12 appointment of a guardian or conservator, from the applicant
13 or petitioner, ~~\$50~~ \$60, which includes the fee for filing a
14 will for probate;

15 (n) on the filing of the items required in 72-4-303 by
16 a domiciliary foreign personal representative of the estate
17 of a nonresident decedent, ~~\$35~~ \$45;

18 (o) for filing a declaration of marriage without
19 solemnization, ~~\$30~~ \$40 ~~\$30~~;

20 (p) for filing a motion for substitution of a judge,
21 \$100.

22 (2) Except as provided in subsections (3) through ~~(7)~~
23 (8), 32% of all fees collected by the clerk of the district
24 court must be deposited in and credited to the district
25 court fund. If no district court fund exists, that portion

1 of the fees must be deposited in the general fund for
2 district court operations. The remaining portion of the fees
3 must be remitted to the state to be deposited as provided in
4 19-5-404.

5 (3) In the case of a fee collected for issuing a
6 marriage license or filing a declaration of marriage without
7 solemnization, \$14 must be deposited in and credited to the
8 state general fund, \$6.40 must be deposited in and credited
9 to the county general fund, and \$9.60 must be remitted to
10 the state to be deposited as provided in 19-5-404, ~~and \$10~~
11 must--be--remitted--to--the--general--fund--as--provided--in
12 subsection--(8).

13 (4) Of the fee for filing a petition for dissolution of
14 marriage or legal separation, \$40 must be deposited in the
15 state general fund, \$35 must be remitted to the state to be
16 deposited as provided in 19-5-404, \$5 must be deposited in
17 the children's trust fund account established by 41-3-702,
18 and \$20 must be deposited in and credited to the district
19 court fund, ~~and \$10 must be remitted to the general fund as~~
20 provided in subsection--(8). If no district court fund
21 exists, the \$20 must be deposited in the general fund for
22 district court operations.

23 (5) (a) Before the percentages contained in subsection
24 (2) are applied and the fees deposited in the district court
25 fund or the county general fund or remitted to the state,

1 the clerk of the district court shall deduct from the
2 following fees the amounts indicated:

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

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

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

10 (iv) on the entry of judgment as provided in subsection
11 (1)(h), \$20;

12 (v) for issuing an execution or order of sale as
13 provided in subsection (1)(i), \$3; and

14 (vi) from the applicant or petitioner, on the filing of
15 an application for probate or for the appointment of a
16 personal representative or on the filing of a petition for
17 appointment of a guardian or conservator, as provided in
18 subsection (1)(m), \$15.

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

24 (6) The fee for filing a motion for substitution of a
25 judge as provided in subsection (1)(p) must be remitted to

1 the state to be deposited as provided in 19-5-404.

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

6 (8) The clerk of the district court shall remit to the
7 credit of the state general fund \$10 of each fee collected
8 under the provisions of subsections (1)(a) through (1)(c)
9 and ~~(1)(d) through (1)(o)~~ (1)(M) AND (1)(N) to fund a
10 portion of judicial salaries."

11 **Section 4.** Section 25-1-201, MCA, is amended to read:

12 "25-1-201. Fees of clerk of district court. (1) The
13 clerk of the district court shall collect the following
14 fees:

15 (a) at the commencement of each action or proceeding,
16 except a petition for dissolution of marriage, from the
17 plaintiff or petitioner, \$60 \$80; for filing a complaint in
18 intervention, from the intervenor, \$60 \$80; for filing a
19 petition for dissolution of marriage, a fee of ~~\$100~~ \$120;
20 and for filing a petition for legal separation, a fee of
21 ~~\$100~~ \$120;

22 (b) from each defendant or respondent, on his
23 appearance, ~~\$40~~ \$60;

24 (c) on the entry of judgment, from the prevailing
25 party, ~~\$25~~ \$45;

1 (d) for preparing copies of papers on file in his
 2 office, 50 cents per page for the first five pages of each
 3 file, per request, and 25 cents per page thereafter;
 4 (e) for each certificate, with seal, \$2;
 5 (f) for oath and jurat, with seal, \$1;
 6 (g) for search of court records, 50 cents for each year
 7 searched, not to exceed a total of \$25;
 8 (h) for filing and docketing a transcript of judgment
 9 or abstract of judgment from all other courts, \$25;
 10 (i) for issuing an execution or order of sale on a
 11 foreclosure of a lien, \$5;
 12 (j) for transmission of records or files or transfer of
 13 a case to another court, \$5;
 14 (k) for filing and entering papers received by transfer
 15 from other courts, \$10;
 16 (l) for issuing a marriage license, ~~\$30~~ \$50 \$30;
 17 (m) on the filing of an application for informal,
 18 formal, or supervised probate or for the appointment of a
 19 personal representative or the filing of a petition for the
 20 appointment of a guardian or conservator, from the applicant
 21 or petitioner, ~~\$50~~ \$70, which includes the fee for filing a
 22 will for probate;
 23 (n) on the filing of the items required in 72-4-303 by
 24 a domiciliary foreign personal representative of the estate
 25 of a nonresident decedent, ~~\$35~~ \$55;

1 (o) for filing a declaration of marriage without
 2 solemnization, ~~\$30~~ \$50 \$30;
 3 (p) for filing a motion for substitution of a judge,
 4 \$100.
 5 (2) Except as provided in subsections (3) through ~~(7)~~
 6 (8), 32% of all fees collected by the clerk of the district
 7 court must be deposited in and credited to the district
 8 court fund. If no district court fund exists, that portion
 9 of the fees must be deposited in the general fund for
 10 district court operations. The remaining portion of the fees
 11 must be remitted to the state to be deposited as provided in
 12 19-5-404.
 13 (3) In the case of a fee collected for issuing a
 14 marriage license or filing a declaration of marriage without
 15 solemnization, \$14 must be deposited in and credited to the
 16 state general fund, \$6.40 must be deposited in and credited
 17 to the county general fund, and \$9.60 must be remitted to
 18 the state to be deposited as provided in 19-5-404, ~~and \$20~~
 19 must be remitted to the general fund as provided in
 20 subsection (8).
 21 (4) Of the fee for filing a petition for dissolution of
 22 marriage or legal separation, \$40 must be deposited in the
 23 state general fund, \$35 must be remitted to the state to be
 24 deposited as provided in 19-5-404, \$5 must be deposited in
 25 the children's trust fund account established by 41-3-702,

1 and \$20 must be deposited in and credited to the district
2 court fund, ~~and \$20 must be remitted to the general fund as~~
3 ~~provided in subsection (8)~~. If no district court fund
4 exists, the \$20 must be deposited in the general fund for
5 district court operations.

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

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

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

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

18 (iv) on the entry of judgment as provided in subsection
19 (1)(h), \$20;

20 (v) for issuing an execution or order of sale as
21 provided in subsection (1)(i), \$3; and

22 (vi) from the applicant or petitioner, on the filing of
23 an application for probate or for the appointment of a
24 personal representative or on the filing of a petition for
25 appointment of a guardian or conservator, as provided in

1 subsection (1)(m), \$15.

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

7 (6) The fee for filing a motion for substitution of a
8 judge as provided in subsection (1)(p) must be remitted to
9 the state to be deposited as provided in 19-5-404.

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

14 (8) The clerk of the district court shall remit to the
15 credit of the state general fund \$20 of each fee collected
16 under the provisions of subsections (1)(a) through (1)(c)
17 and ~~(1)(i) through (1)(o)~~ (1)(M) AND (1)(N) to fund a
18 portion of judicial salaries."

19 NEW SECTION. Section 5. Termination. [Section 3]
20 terminates June 30, 1992.

21 NEW SECTION. Section 6. Effective dates. (1) [Sections
22 1 through 3, 5, and this section] are effective July 1,
23 1991.

24 (2) [Section 4] is effective July 1, 1992.

-End-

SENATE BILL NO. 228

INTRODUCED BY YELLOWTAIL, PINSONEAULT, GOULD, CRIPPEN,
WALLIN, STRIZICH, VAN VALKENBURG, SQUIRES, TOWE, HARP,
T. BECK, MAZUREK, DOHERTY, COCCHIARELLA, TOOLE,
HOFFMAN, J. RICE, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALARIES
PAID SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES;
PROVIDING ADDITIONAL REVENUE TO FUND A PORTION OF THE
INCREASE; AMENDING SECTIONS 2-16-404, 3-5-211, AND 25-1-201,
MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

WHEREAS, the salaries of Montana Supreme Court Justices
and District Court Judges have failed to rise over the last
decade to a point that threatens the long-term ability of
the judiciary to retain and attract the best qualified
candidates for judicial offices; and

WHEREAS, the salaries of both Supreme Court Justices and
District Court Judges in Montana are ranked 50th in the
nation; and

WHEREAS, the salaries of Supreme Court Justices and
District Court Judges in Montana and neighboring states are:

	CHIEF		DISTRICT
STATE	JUSTICE	JUSTICE	JUDGE
Montana	\$57,722	\$56,452	\$55,178

North Dakota	70,243	68,342	62,969
Wyoming	72,000	72,000	68,750
*Idaho	76,201	74,701	70,014
South Dakota	66,700	64,700	60,423
Washington	89,300	89,300	80,500

*Effective July 1, 1991

AVERAGE: \$72,028 \$70,916 \$66,306; and

WHEREAS, the ranking between Montana and other states
has seriously declined in the past decade from a ranking of
38th in the United States in 1977 to 50th for the last 5
years; and

WHEREAS, the Legislature is committed to an equitable
system for setting salaries, based on comparable worth and
related levels of responsibility.

THEREFORE, it is the purpose of this legislation to
allow Montana Supreme Court Justices and District Court
Judges to receive salaries comparable to the average salary
of justices and judges in other western states.

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

Section 1. Section 2-16-404, MCA, is amended to read:

"2-16-404. Salaries of supreme court justices. (1) The
salary of the chief justice of the supreme court is ~~\$54,722~~
~~for the fiscal year beginning July 1, 1989, and \$57,722--for~~
~~each fiscal year thereafter~~ as follows:

1 (a) \$607,722 \$59,722 beginning July 1, 1991;
 2 (b) \$637,722 \$61,722 beginning January 1, 1992;
 3 (c) \$667,722 \$63,722 beginning July 1, 1992;
 4 (d) \$697,722 \$65,722 beginning January 1, 1993, and each
 5 fiscal year thereafter.

6 (2) The salary of a justice of the supreme court is
 7 ~~\$537,452 for the fiscal year beginning July 1, 1989, and~~
 8 ~~\$567,452 for each fiscal year thereafter~~ as follows:

9 (a) \$59,452 \$58,452 beginning July 1, 1991;
 10 (b) \$627,452 \$60,452 beginning January 1, 1992;
 11 (c) \$657,452 \$62,452 beginning July 1, 1992;
 12 (d) \$687,452 \$64,452 beginning January 1, 1993, and each
 13 fiscal year thereafter."

14 **Section 2.** Section 3-5-211, MCA, is amended to read:

15 "3-5-211. Salaries and expenses of district judges. (1)
 16 The annual salary of each district judge is ~~\$527,178 for the~~
 17 ~~fiscal year beginning July 1, 1989, and \$557,178 for each~~
 18 ~~fiscal year thereafter~~ as follows:

19 (a) \$507,178 \$57,178 beginning July 1, 1991;
 20 (b) \$617,178 \$59,178 beginning January 1, 1992;
 21 (c) \$647,178 \$61,178 beginning July 1, 1992;
 22 (d) \$677,178 \$63,178 beginning January 1, 1993, and each
 23 fiscal year thereafter.

24 (2) Actual and necessary expenses for each district
 25 judge shall be the travel expenses, as defined and provided

1 in 2-18-501 through 2-18-503, incurred in the performance of
 2 his official duties."

3 **Section 3.** Section 25-1-201, MCA, is amended to read:

4 "25-1-201. Fees of clerk of district court. (1) The
 5 clerk of the district court shall collect the following
 6 fees:

7 (a) at the commencement of each action or proceeding,
 8 except a petition for dissolution of marriage, from the
 9 plaintiff or petitioner, ~~\$60~~ \$70; for filing a complaint in
 10 intervention, from the intervenor, ~~\$60~~ \$70; for filing a
 11 petition for dissolution of marriage, a fee of ~~\$100~~ \$110;
 12 and for filing a petition for legal separation, a fee of
 13 ~~\$100~~ \$110;

14 (b) from each defendant or respondent, on his
 15 appearance, ~~\$40~~ \$50;

16 (c) on the entry of judgment, from the prevailing
 17 party, ~~\$25~~ \$35;

18 (d) for preparing copies of papers on file in his
 19 office, 50 cents per page for the first five pages of each
 20 file, per request, and 25 cents per page thereafter;

21 (e) for each certificate, with seal, \$2;

22 (f) for oath and jurat, with seal, \$1;

23 (g) for search of court records, 50 cents for each year
 24 searched, not to exceed a total of \$25;

25 (h) for filing and docketing a transcript of judgment

1 or abstract of judgment from all other courts, \$25;

2 (i) for issuing an execution or order of sale on a
3 foreclosure of a lien, \$5;

4 (j) for transmission of records or files or transfer of
5 a case to another court, \$5;

6 (k) for filing and entering papers received by transfer
7 from other courts, \$10;

8 (l) for issuing a marriage license, ~~\$30~~ \$40 ~~\$30~~;

9 (m) on the filing of an application for informal,
10 formal, or supervised probate or for the appointment of a
11 personal representative or the filing of a petition for the
12 appointment of a guardian or conservator, from the applicant
13 or petitioner, ~~\$50~~ \$60, which includes the fee for filing a
14 will for probate;

15 (n) on the filing of the items required in 72-4-303 by
16 a domiciliary foreign personal representative of the estate
17 of a nonresident decedent, ~~\$35~~ \$45;

18 (o) for filing a declaration of marriage without
19 solemnization, ~~\$30~~ \$40 ~~\$30~~;

20 (p) for filing a motion for substitution of a judge,
21 \$100.

22 (2) Except as provided in subsections (3) through ~~f7~~
23 (8), 32% of all fees collected by the clerk of the district
24 court must be deposited in and credited to the district
25 court fund. If no district court fund exists, that portion

1 of the fees must be deposited in the general fund for
2 district court operations. The remaining portion of the fees
3 must be remitted to the state to be deposited as provided in
4 19-5-404.

5 (3) In the case of a fee collected for issuing a
6 marriage license or filing a declaration of marriage without
7 solemnization, \$14 must be deposited in and credited to the
8 state general fund, \$6.40 must be deposited in and credited
9 to the county general fund, and \$9.60 must be remitted to
10 the state to be deposited as provided in 19-5-404~~7~~7~~--and--~~9~~~~10~~~~
11 must--be--remitted--to--the--general--fund--as--provided--in
12 subsection-~~f8~~.

13 (4) Of the fee for filing a petition for dissolution of
14 marriage or legal separation, \$40 must be deposited in the
15 state general fund, \$35 must be remitted to the state to be
16 deposited as provided in 19-5-404, \$5 must be deposited in
17 the children's trust fund account established by 41-3-702,
18 and \$20 must be deposited in and credited to the district
19 court fund~~7~~7~~--and--~~10~~ must be remitted to the general fund--as~~
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21 exists, the \$20 must be deposited in the general fund for
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24 (2) are applied and the fees deposited in the district court
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7 appearance, as provided in subsection (1)(b), \$25;

8 (iii) on the entry of judgment as provided in subsection
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12 (v) for issuing an execution or order of sale as
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14 (vi) from the applicant or petitioner, on the filing of
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17 appointment of a guardian or conservator, as provided in
18 subsection (1)(m), \$15.

19 (b) The clerk of the district court shall deposit the
20 money deducted in subsection (5)(a) in the county general
21 fund for district court operations unless the county has a
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25 judge as provided in subsection (1)(p) must be remitted to

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 15 appearance, as provided in subsection (1)(b), \$25;

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 12 district court fund exists, fees must be deposited in the
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 18 portion of judicial salaries."

19 NEW SECTION. Section 5. Termination. [Section 3]
 20 terminates June 30, 1992.

21 NEW SECTION. Section 6. Effective dates. (1) [Sections
 22 1 through 3, 5, and this section] are effective July 1,
 23 1991.

24 (2) [Section 4] is effective July 1, 1992.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 19, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 228 (third reading copy -- blue), respectfully report that House Bill No. 228 be amended and as so amended be concurred in:

1. Title, line 8.

Following: "~~RESPONDING~~"

Insert: "DIRECTLY"

2. Page 1, line 20.

Strike: "an"

3. Page 1, line 21.

Strike: "OCCASION"

Insert: "a release"

Following: "involving"

Insert: "a"

Following: "hazardous"

Insert: "or deleterious"

4. Page 1, lines 21 and 22.

Following: "substance" on line 21

Strike: remainder of line 21 through "75-10-602," on line 22

5. Page 1, line 25.

Strike: "(1)"

6. Page 2, line 3.

Following: "~~to~~"

Insert: "directly"

7. Page 2, lines 5 through 8.

Strike: subsection (2) in its entirety

8. Page 2, line 11.

Strike: "6"

Insert: "7"

9. Page 2, line 12.

Strike: "6"

Insert: "7"

Signed: 

Richard Pinsonneault, Chairman

B20 3/19/91 Amd. Coord.
SB 3-19-91 Sec. of Senate

2:50

SENATE
H0228

SENATE BILL NO. 228

INTRODUCED BY YELLOWTAIL, PINSONEAULT, GOULD, CRIPPEN, WALLIN, STRIZICH, VAN VALKENBURG, SQUIRES, TOWE, HARP, T. BECK, MAZUREK, DOHERTY, COCCHIARELLA, TOOLE, HOFFMAN, J. RICE, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALARIES PAID SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES; PROVIDING ADDITIONAL REVENUE TO FUND A PORTION OF THE INCREASE; AMENDING SECTIONS 2-16-404, 3-5-211, AND 25-1-201, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

WHEREAS, the salaries of Montana Supreme Court Justices and District Court Judges have failed to rise over the last decade to a point that threatens the long-term ability of the judiciary to retain and attract the best qualified candidates for judicial offices; and

WHEREAS, the salaries of both Supreme Court Justices and District Court Judges in Montana are ranked 50th in the nation; and

WHEREAS, the salaries of Supreme Court Justices and District Court Judges in Montana and neighboring states are:

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*Effective July 1, 1991			
AVERAGE:	\$72,028	\$70,916	\$66,306; and

WHEREAS, the ranking between Montana and other states has seriously declined in the past decade from a ranking of 38th in the United States in 1977 to 50th for the last 5 years; and

WHEREAS, the Legislature is committed to an equitable system for setting salaries, based on comparable worth and related levels of responsibility.

THEREFORE, it is the purpose of this legislation to allow Montana Supreme Court Justices and District Court Judges to receive salaries comparable to the average salary of justices and judges in other western states.

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

Section 1. Section 2-16-404, MCA, is amended to read:

"2-16-404. Salaries of supreme court justices. (1) The salary of the chief justice of the supreme court is \$54,722 for the fiscal year beginning July 17, 1989, and \$57,722 for each fiscal year thereafter as follows:



1 (a) ~~\$607,722~~ \$59,722 beginning July 1, 1991;

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3 (c) ~~\$667,722~~ \$63,722 beginning July 1, 1992;

4 (d) ~~\$697,722~~ \$65,722 beginning January 1, 1993, and each
5 fiscal year thereafter.

6 (2) The salary of a justice of the supreme court is
7 ~~\$537,452 for the fiscal year beginning July 1, 1989, and~~
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13 fiscal year thereafter."

14 **Section 2.** Section 3-5-211, MCA, is amended to read:

15 "**3-5-211. Salaries and expenses of district judges.** (1)

16 The annual salary of each district judge is ~~\$527,178 for the~~
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23 fiscal year thereafter.

24 (2) Actual and necessary expenses for each district
25 judge shall be the travel expenses, as defined and provided

1 in 2-18-501 through 2-18-503, incurred in the performance of
2 his official duties."

3 **Section 3.** Section 25-1-201, MCA, is amended to read:

4 "**25-1-201. Fees of clerk of district court.** (1) The
5 clerk of the district court shall collect the following
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9 plaintiff or petitioner, ~~\$60~~ \$70; for filing a complaint in
10 intervention, from the intervenor, ~~\$60~~ \$70; for filing a
11 petition for dissolution of marriage, a fee of ~~\$100~~ \$110;
12 and for filing a petition for legal separation, a fee of
13 ~~\$100~~ \$110;

14 (b) from each defendant or respondent, on his
15 appearance, ~~\$40~~ \$50;

16 (c) on the entry of judgment, from the prevailing
17 party, ~~\$25~~ \$35;

18 (d) for preparing copies of papers on file in his
19 office, 50 cents per page for the first five pages of each
20 file, per request, and 25 cents per page thereafter;

21 (e) for each certificate, with seal, \$2;

22 (f) for oath and jurat, with seal, \$1;

23 (g) for search of court records, 50 cents for each year
24 searched, not to exceed a total of \$25;

25 (h) for filing and docketing a transcript of judgment

1 or abstract of judgment from all other courts, \$25;

2 (i) for issuing an execution or order of sale on a

3 foreclosure of a lien, \$5;

4 (j) for transmission of records or files or transfer of

5 a case to another court, \$5;

6 (k) for filing and entering papers received by transfer

7 from other courts, \$10;

8 (l) for issuing a marriage license, ~~\$30~~ \$40 \$30;

9 (m) on the filing of an application for informal,

10 formal, or supervised probate or for the appointment of a

11 personal representative or the filing of a petition for the

12 appointment of a guardian or conservator, from the applicant

13 or petitioner, ~~\$50~~ \$60, which includes the fee for filing a

14 will for probate;

15 (n) on the filing of the items required in 72-4-303 by

16 a domiciliary foreign personal representative of the estate

17 of a nonresident decedent, ~~\$35~~ \$45;

18 (o) for filing a declaration of marriage without

19 solemnization, ~~\$30~~ \$40 \$30;

20 (p) for filing a motion for substitution of a judge,

21 \$100.

22 (2) Except as provided in subsections (3) through (7)

23 (8), 32% of all fees collected by the clerk of the district

24 court must be deposited in and credited to the district

25 court fund. If no district court fund exists, that portion

1 of the fees must be deposited in the general fund for

2 district court operations. The remaining portion of the fees

3 must be remitted to the state to be deposited as provided in

4 19-5-404.

5 (3) In the case of a fee collected for issuing a

6 marriage license or filing a declaration of marriage without

7 solemnization, \$14 must be deposited in and credited to the

8 state general fund, \$6.40 must be deposited in and credited

9 to the county general fund, ~~and \$9.60 must be remitted to~~

10 ~~the state to be deposited as provided in 19-5-404~~ and \$10

11 must be remitted to the general fund as provided in

12 subsection (8).

13 (4) Of the fee for filing a petition for dissolution of

14 marriage or legal separation, \$40 must be deposited in the

15 state general fund, \$35 must be remitted to the state to be

16 deposited as provided in 19-5-404, \$5 must be deposited in

17 the children's trust fund account established by 41-3-702,

18 ~~and \$20 must be deposited in and credited to the district~~

19 ~~court fund~~ and \$10 must be remitted to the general fund as

20 provided in subsection (8). If no district court fund

21 exists, the \$20 must be deposited in the general fund for

22 district court operations.

23 (5) (a) Before the percentages contained in subsection

24 (2) are applied and the fees deposited in the district court

25 fund or the county general fund or remitted to the state,

1 the clerk of the district court shall deduct from the
2 following fees the amounts indicated:

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

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

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

10 (iv) on the entry of judgment as provided in subsection
11 (1)(h), \$20;

12 (v) for issuing an execution or order of sale as
13 provided in subsection (1)(i), \$3; and

14 (vi) from the applicant or petitioner, on the filing of
15 an application for probate or for the appointment of a
16 personal representative or on the filing of a petition for
17 appointment of a guardian or conservator, as provided in
18 subsection (1)(m), \$15.

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

24 (6) The fee for filing a motion for substitution of a
25 judge as provided in subsection (1)(p) must be remitted to

1 the state to be deposited as provided in 19-5-404.

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

6 (8) The clerk of the district court shall remit to the
7 credit of the state general fund \$10 of each fee collected
8 under the provisions of subsections (1)(a) through (1)(c)
9 and ~~(1)(d) through (1)(e)~~ (1)(M) AND (1)(N) to fund a
10 portion of judicial salaries."

11 **Section 4.** Section 25-1-201, MCA, is amended to read:

12 "25-1-201. Fees of clerk of district court. (1) The
13 clerk of the district court shall collect the following
14 fees:

15 (a) at the commencement of each action or proceeding,
16 except a petition for dissolution of marriage, from the
17 plaintiff or petitioner, \$60 ~~\$80~~; for filing a complaint in
18 intervention, from the intervenor, \$60 ~~\$80~~; for filing a
19 petition for dissolution of marriage, a fee of \$100 ~~\$120~~;
20 and for filing a petition for legal separation, a fee of
21 \$100 ~~\$120~~;

22 (b) from each defendant or respondent, on his
23 appearance, \$40 ~~\$60~~;

24 (c) on the entry of judgment, from the prevailing
25 party, \$25 ~~\$45~~;

- 1 (d) for preparing copies of papers on file in his
- 2 office, 50 cents per page for the first five pages of each
- 3 file, per request, and 25 cents per page thereafter;
- 4 (e) for each certificate, with seal, \$2;
- 5 (f) for oath and jurat, with seal, \$1;
- 6 (g) for search of court records, 50 cents for each year
- 7 searched, not to exceed a total of \$25;
- 8 (h) for filing and docketing a transcript of judgment
- 9 or abstract of judgment from all other courts, \$25;
- 10 (i) for issuing an execution or order of sale on a
- 11 foreclosure of a lien, \$5;
- 12 (j) for transmission of records or files or transfer of
- 13 a case to another court, \$5;
- 14 (k) for filing and entering papers received by transfer
- 15 from other courts, \$10;
- 16 (l) for issuing a marriage license, ~~\$30~~ \$50 \$30;
- 17 (m) on the filing of an application for informal,
- 18 formal, or supervised probate or for the appointment of a
- 19 personal representative or the filing of a petition for the
- 20 appointment of a guardian or conservator, from the applicant
- 21 or petitioner, ~~\$50~~ \$70, which includes the fee for filing a
- 22 will for probate;
- 23 (n) on the filing of the items required in 72-4-303 by
- 24 a domiciliary foreign personal representative of the estate
- 25 of a nonresident decedent, ~~\$35~~ \$55;

- 1 (o) for filing a declaration of marriage without
- 2 solemnization, ~~\$30~~ \$50 \$30;
- 3 (p) for filing a motion for substitution of a judge,
- 4 \$100.
- 5 (2) Except as provided in subsections (3) through ~~(7)~~
- 6 ~~(8)~~, 32% of all fees collected by the clerk of the district
- 7 court must be deposited in and credited to the district
- 8 court fund. If no district court fund exists, that portion
- 9 of the fees must be deposited in the general fund for
- 10 district court operations. The remaining portion of the fees
- 11 must be remitted to the state to be deposited as provided in
- 12 19-5-404.
- 13 (3) In the case of a fee collected for issuing a
- 14 marriage license or filing a declaration of marriage without
- 15 solemnization, \$14 must be deposited in and credited to the
- 16 state general fund, \$6.40 must be deposited in and credited
- 17 to the county general fund, and \$9.60 must be remitted to
- 18 the state to be deposited as provided in 19-5-404~~7~~7~~and-\$20~~
- 19 ~~must--be--remitted--to--the--general--fund--as--provided--in~~
- 20 ~~subsection-(8)~~.
- 21 (4) Of the fee for filing a petition for dissolution of
- 22 marriage or legal separation, \$40 must be deposited in the
- 23 state general fund, \$35 must be remitted to the state to be
- 24 deposited as provided in 19-5-404, \$5 must be deposited in
- 25 the children's trust fund account established by 41-3-702,

1 and \$20 must be deposited in and credited to the district
 2 court fund, ~~and \$20 must be remitted to the general fund as~~
 3 ~~provided in subsection (8)~~. If no district court fund
 4 exists, the \$20 must be deposited in the general fund for
 5 district court operations.

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

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

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

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

18 (iv) on the entry of judgment as provided in subsection
 19 (1)(h), \$20;

20 (v) for issuing an execution or order of sale as
 21 provided in subsection (1)(i), \$3; and

22 (vi) from the applicant or petitioner, on the filing of
 23 an application for probate or for the appointment of a
 24 personal representative or on the filing of a petition for
 25 appointment of a guardian or conservator, as provided in

1 subsection (1)(m), \$15.

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

7 (6) The fee for filing a motion for substitution of a
 8 judge as provided in subsection (1)(p) must be remitted to
 9 the state to be deposited as provided in 19-5-404.

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

14 (8) The clerk of the district court shall remit to the
 15 credit of the state general fund \$20 of each fee collected
 16 under the provisions of subsections (1)(a) through (1)(c)
 17 and ~~(i)(i) through (i)(e)~~ (1)(M) AND (1)(N) to fund a
 18 portion of judicial salaries."

19 NEW SECTION. Section 5. Termination. [Section 3]
 20 terminates June 30, 1992.

21 NEW SECTION. Section 6. Effective dates. (1) [Sections
 22 1 through 3, 5, and this section] are effective July 1,
 23 1991.

24 (2) [Section 4] is effective July 1, 1992.

-End-

GOVERNOR'S AMENDMENTS TO
SENATE BILL 228
(REFERENCE COPY, AS AMENDED)
MARCH 27, 1991

1. Page 3, line 1.
Strike: "~~\$59,722~~"
Insert: "\$59,021"
2. Page 3, line 2.
Strike: "~~\$61,722~~"
Insert: "\$60,319"
3. Page 3, line 3.
Strike: "~~\$63,722~~"
Insert: "\$61,677"
4. Page 3, line 4.
Strike: "~~\$65,722~~"
Insert: "\$63,034"
5. Page 3, line 9.
Strike: "~~\$58,452~~"
Insert: "\$57,722"
6. Page 3, line 10.
Strike: "~~\$60,452~~"
Insert: "\$58,992"
7. Page 3, line 11.
Strike: "~~\$62,452~~"
Insert: "\$60,320"
8. Page 3, line 12.
Strike: "~~\$64,452~~"
Insert: "\$61,647"
9. Page 3, line 19.
Strike: "~~\$57,178~~"
Insert: "\$56,420"
10. Page 3, line 20.
Strike: "~~\$59,178~~"
Insert: "\$57,661"
11. Page 3, line 21.
Strike: "~~\$61,178~~"
Insert: "\$58,958"
12. Page 3, line 22.
Strike: "~~\$63,178~~"
Insert: "\$60,256"

13. Page 4, line 11.
Strike: "~~\$110~~"
Insert: "\$105"
14. Page 4, line 13.
Strike: "~~\$110~~"
Insert: "\$105"
15. Page 5, line 13.
Strike: "~~\$60~~"
Insert: "\$55"



AN ACT INCREASING THE SALARIES PAID SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES; PROVIDING ADDITIONAL REVENUE TO FUND A PORTION OF THE INCREASE; AMENDING SECTIONS 2-16-404, 3-5-211, AND 25-1-201, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

WHEREAS, the salaries of Montana Supreme Court Justices and District Court Judges have failed to rise over the last decade to a point that threatens the long-term ability of the judiciary to retain and attract the best qualified candidates for judicial offices; and

WHEREAS, the salaries of both Supreme Court Justices and District Court Judges in Montana are ranked 50th in the nation; and

WHEREAS, the salaries of Supreme Court Justices and District Court Judges in Montana and neighboring states are:

STATE	CHIEF		DISTRICT
	JUSTICE	JUSTICE	JUDGE
Montana	\$57,722	\$56,452	\$55,178
North Dakota	70,243	68,342	62,969
Wyoming	72,000	72,000	68,750
*Idaho	76,201	74,701	70,014
South Dakota	66,700	64,700	60,423
Washington	89,300	89,300	80,500

*Effective July 1, 1991

AVERAGE: \$72,028 \$70,916 \$66,306; and

WHEREAS, the ranking between Montana and other states has seriously declined in the past decade from a ranking of 38th in the United States in 1977 to 50th for the last 5 years; and

WHEREAS, the Legislature is committed to an equitable system for setting salaries, based on comparable worth and related levels of responsibility.

THEREFORE, it is the purpose of this legislation to allow Montana Supreme Court Justices and District Court Judges to receive salaries comparable to the average salary of justices and judges in other western states.

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

Section 1. Section 2-16-404, MCA, is amended to read:

"2-16-404. Salaries of supreme court justices. (1) The salary of the chief justice of the supreme court is ~~\$54,722 for the fiscal year beginning July 1, 1989, and \$57,722 for each fiscal year thereafter~~ as follows:

- (a) \$59,722 beginning July 1, 1991;
- (b) \$61,722 beginning January 1, 1992;
- (c) \$63,722 beginning July 1, 1992;
- (d) \$65,722 beginning January 1, 1993, and each fiscal year thereafter.

(2) The salary of a justice of the supreme court is ~~\$53,452 for the fiscal year beginning July 1, 1989, and \$56,452 for each~~

fiscal-year-thereafter as follows:

- (a) \$58,452 beginning July 1, 1991;
- (b) \$60,452 beginning January 1, 1992;
- (c) \$62,452 beginning July 1, 1992;
- (d) \$64,452 beginning January 1, 1993, and each fiscal year thereafter."

Section 2. Section 3-5-211, MCA, is amended to read:

"3-5-211. Salaries and expenses of district judges. (1) The annual salary of each district judge is ~~\$52,178--for--the--fiscal year--beginning--July--1--1989--and--\$55,178--for--each--fiscal--year thereafter as follows:~~

- (a) \$57,178 beginning July 1, 1991;
- (b) \$59,178 beginning January 1, 1992;
- (c) \$61,178 beginning July 1, 1992;
- (d) \$63,178 beginning January 1, 1993, and each fiscal year thereafter.

(2) Actual and necessary expenses for each district judge shall be the travel expenses, as defined and provided in 2-18-501 through 2-18-503, incurred in the performance of his official duties."

Section 3. Section 25-1-201, MCA, is amended to read:

"25-1-201. Fees of clerk of district court. (1) The clerk of the 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, \$60 ~~\$70~~; for filing a complaint in intervention, from the intervenor, ~~\$60~~ \$70; for filing a petition for dissolution of marriage, a fee of ~~\$100~~ \$110; and for filing a petition for legal separation, a fee of ~~\$100~~ \$110;

(b) from each defendant or respondent, on his appearance, ~~\$40~~ \$50;

(c) on the entry of judgment, from the prevailing party, ~~\$25~~ \$35;

(d) for preparing copies of papers on file in his office, 50 cents per page for the first five pages of each file, per request, and 25 cents per page thereafter;

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for 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 abstract of judgment from all other courts, \$25;

(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, \$50 \$60, 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, \$35 \$45;

(o) for filing a declaration of marriage without solemnization, \$30;

(p) for filing a motion for substitution of a judge, \$100.

(2) Except as provided in subsections (3) through (7) (8), 32% of all fees collected by the clerk of the district court must be deposited in and credited to the district court fund. If no district court fund exists, that portion of the fees must be deposited in the general fund for district court operations. The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

(3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage without solemnization, \$14 must be deposited in and credited to the state general fund, \$6.40 must be deposited in and credited to the county general fund, and \$9.60 must be remitted to the state to be deposited as provided in 19-5-404.

(4) Of the fee for filing a petition for dissolution of marriage or legal separation, \$40 must be deposited in the state

general fund, \$35 must be remitted to the state to be deposited as provided in 19-5-404, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must be deposited in the general fund for district court operations.

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

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

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

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

(iv) on the entry of judgment as provided in subsection (1)(h), \$20;

(v) for issuing an execution or order of sale as provided in subsection (1)(i), \$3; and

(vi) from the applicant or petitioner, on the filing of an application for probate or for the appointment of a personal representative or on the filing of a petition for appointment of a

guardian or conservator, as provided in subsection (1)(m), \$15.

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

(6) The fee for filing a motion for substitution of a judge as provided in subsection (1)(p) must be remitted to the state to be deposited as provided in 19-5-404.

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

(8) The clerk of the district court shall remit to the credit of the state general fund \$10 of each fee collected under the provisions of subsections (1)(a) through (1)(c) and (1)(m) and (1)(n) to fund a portion of judicial salaries."

Section 4. Section 25-1-201, MCA, is amended to read:

"25-1-201. Fees of clerk of district court. (1) The clerk of the 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, ~~\$60~~ \$80; for filing a complaint in intervention, from the intervenor, ~~\$60~~ \$80; for filing a petition for dissolution of marriage, a fee of ~~\$100~~ \$120; and for filing a petition for legal

separation, a fee of ~~\$100~~ \$120;

(b) from each defendant or respondent, on his appearance, ~~\$40~~ \$60;

(c) on the entry of judgment, from the prevailing party, ~~\$25~~ \$45;

(d) for preparing copies of papers on file in his office, 50 cents per page for the first five pages of each file, per request, and 25 cents per page thereafter;

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for 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 abstract of judgment from all other courts, \$25;

(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, ~~\$50~~

\$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, \$35 \$55;

(o) for filing a declaration of marriage without solemnization, \$30;

(p) for filing a motion for substitution of a judge, \$100.

(2) Except as provided in subsections (3) through ~~(7)~~ (8), 32% of all fees collected by the clerk of the district court must be deposited in and credited to the district court fund. If no district court fund exists, that portion of the fees must be deposited in the general fund for district court operations. The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

(3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage without solemnization, \$14 must be deposited in and credited to the state general fund, \$6.40 must be deposited in and credited to the county general fund, and \$9.60 must be remitted to the state to be deposited as provided in 19-5-404.

(4) Of the fee for filing a petition for dissolution of marriage or legal separation, \$40 must be deposited in the state general fund, \$35 must be remitted to the state to be deposited as provided in 19-5-404, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20 must be deposited in

and credited to the district court fund. If no district court fund exists, the \$20 must be deposited in the general fund for district court operations.

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

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

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

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

(iv) on the entry of judgment as provided in subsection (1)(h), \$20;

(v) for issuing an execution or order of sale as provided in subsection (1)(i), \$3; and

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

(b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the county general fund for

district court operations unless the county has a district court fund. If the county has a district court fund, the money must be deposited in that fund.

(6) The fee for filing a motion for substitution of a judge as provided in subsection (1)(p) must be remitted to the state to be deposited as provided in 19-5-404.

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

(8) The clerk of the district court shall remit to the credit of the state general fund \$20 of each fee collected under the provisions of subsections (1)(a) through (1)(c) and (1)(m) and (1)(n) to fund a portion of judicial salaries."

Section 5. **Termination.** [Section 3] terminates June 30, 1992.

Section 6. **Effective dates.** (1) [Sections 1 through 3, 5, and this section] are effective July 1, 1991.

(2) [Section 4] is effective July 1, 1992.