

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 11, 1987

The fortieth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 11, 1987 by Vice Chairman Bruce Crippen in Room 402 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HB 123: Representative Dorothy Bradley introduced HB 123 by saying the original intent of the bill comes from a California statute called "Rent a Judge", but the House deleted the part of hiring a lawyer to be a temporary judge. She said now all that is left is district court judges. She stated that she has worked for a court and felt the state needs more district court judges, but just can't afford them. She explained that some cases are one to two years scheduled in advance, so the court and legal services are always looking to the future to get their case heard. She stated as the bill stands now only judges that were elected at sometime can become a temporary judge.

PROPOSERS: Pat Melby, Montana State Bar Association, said the bill will speed up the litigation process, which is in a real slump right now.

Karl Englund, Montana Trial Lawyers Association, said the bill is at the expense of the people and it will probably benefit them more so.

OPPOSERS: None.

DISCUSSION ON HB 123: Senator Bishop asked if the bill will include someone that is retired, but has not been in an election for a long time. Representative Bradley said yes.

Senator Beck wanted to know why the House took out lawyers. Representative Bradley replied that the House wanted to draw the line somewhere on who could be a "rent a judge" so they decided one had to be elected as one before to be one, because according to the law no one can set precedence in the law unless he is an elected official.

Senator Bishop asked how the judges feel about this bill. Representative Bradley responded that most supported the idea.

Senator Blaylock inquired what the House would do if the committee decided to amend back into the bill "lawyers". Representative Bradley said Representative Mercer will feel betrayed. She said the law says someone elected has to set precedence.

Representative Bradley closed.

CONSIDERATION ON HB 256: Representative Paul Pistoria of Great Falls introduced HB 256 (see Exhibit 1). Representative Pistoria gave the committee several handouts on this bill (Exhibit 2). He gave the committee editorials and facts about the funds in the bill (Exhibit 2). He explained that all the funds in the bill were created by users fees. He asked the committee not to lower the fees because in two years the Legislature will raise them anyway.

PROPOSERS: Pat Melby, Montana State Bar Association, felt the fees were too high and said there was a bill that was tabled by the House Judiciary that had lower fees in it and was just like this bill. He explained that the Montana judges are the 50th ranked judges for salaries in the nation. He said this bill will increase their salaries, but the fees still seem too high for the normal consumer to pay. He said HB 256 will split the increased fees 50/50 with the salaries for the judges and operating expenses. Mr. Melby said he would like to see the fees lowered to:

Page 1, line 19; delete \$75 and insert \$50
Page 1, line 20; delete \$75 and insert \$50
Page 1, line 24; delete \$45 and insert \$30
Page 2, line 1; delete \$30 and insert \$21
Page 3, line 6; delete \$75 and insert \$20

Shawn Eagan of Butte supported the bill.

Karl Englund, Montana Trial Lawyers Association, supported the bill. He said tripling the fees like the bill does will make anyone mad, but the fact is the Legislature probably will come back next session and raise the fees if we don't raise them now in this bill.

OPPOSERS: None.

DISCUSSION ON HB 256: Senator Beck wanted to see the money from the fees go back into the General Fund instead of all these different funds, because it will not raise the mill levy in the counties if that was done.

Senator Bishop asked if fees are waived for some people. Karl Englund said that people with big damage suits will come up with the \$75 to pay the fee to get into the court, but the people that have real small claims usually do have the fee waived until they can pay it at a later date.

Senator Crippen inquired what a change in venue fee was. Mr. Melby said

the fee deals with filing in the wrong county, so the person will have to refile again in the right county. He said the House deleted that.

Representative Pistoria closed.

EXECUTIVE ACTION:

ACTION ON HB 53: Senator Blaylock moved to strike the previous adopted amendments because in the bill Valencia found a statute that will keep the maintainance of the Old Supreme Court Chambers up. The motion CARRIED. Senator Blaylock moved the bill BE CONCURRED IN. The motion CARRIED.

CONSIDERATION OF HJR 21: Representative John Mercer of Polson presented HJR 21 (see Exhibit 3).

PROPOSERS: None

OPPOSERS: Pat Melby, Montana State Bar Association, said that HJR 21 will cause someone to pay a \$100 filing fee for a second judge to come to a county and do a trial. He said the first judge was disqualified, but the first judge picks the second judge.

Karl Englund, Montana Trial Lawyers Association, opposed the bill because a second judge will have to be "broken in" to a case by a lawyer that has been with the case for months and then part of the trial which the first judge was disqualified at.

John Hoyt, Great Falls lawyer, opposed the bill also.

DISCUSSION ON HJR 21: Senator Pinsoneault asked what the sister states do with this kind of situation. Mr. Hoyt said some of the states can have up to three judges for a trial, while other only allow one no matter what. Mr. Englund commented that he rarely uses a challenge to have another judge come into one of his trials.

Representative Mercer closed on HJR 21.

EXECUTIVE ACTION

ACTION ON HB 664: Senator Blaylock moved the bill BE CONCURRED IN. The motion CARRIED.

ACTION ON HB 396: Senator Pinsoneault moved the bill BE CONCURRED IN. The motion CARRIED with Senator Blaylock voting no.

ACTION ON HB 558: Senator Yellowtail commented that there are ways to conceal alcohol in drinks and drugs also. Senator Crippen said the question is if someone put something in your drink, if you are responsible

for your actions or is the guy that drugged up your drink responsible. Senator Crippen asked what happens to the guy that didn't want to drink, but somehow gets the alcohol in his body and gets into a car and kills someone. Senator Blaylock said that guy would have to prove he didn't know he had alcohol in his system by his own choice. Senator Galt commented that someone could force someone to drink or take a drug to when they don't want to take it.

Senator Blaylock moved the bill BE CONCURRED IN. The motion CARRIED with Senator Crippen voting no.

ACTION ON HB 236: Senator Mazurek explained that the committee had already adopted some amendments to this bill (see STANDING COMMITTEE REPORT 1, 2, and 4). Senator Mazurek presented a new amendment that would take out an amendment that the House put in (Exhibit 4). Senator Pinsoneault moved the amendment. The motion CARRIED. Senator Pinsoneault moved the bill BE CONCURRED AS AMENDED. The motion CARRIED.

ACTION ON HB 256: Senator Pinsoneault agreed with Karl Englund's statement about how people who know they have a big case ahead of them will pay this fee, but it is a pretty steep fee for most folks. Senator Pinsoneault moved the amendment that Pat Melby gave during the meeting, which would decrease the fees. The motion FAILED with Senators Galt, Bishop, Halligan, Beck, and Crippen voting no. Senators Pinsoneault, Blaylock, Brown, Yellowtail, and Mazurek voted yes.

Senator Bishop moved the bill BE CONCURRED IN. The motion CARRIED with Senators Blaylock, Pinsoneault, and Yellowtail voting no.

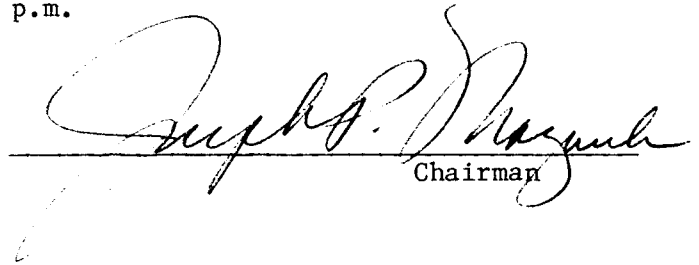
ACTION ON HB 123: Senator Blaylock moved to reinsert the "lawyers" back into the bill. Senator Pinsoneault agreed with Representative Bradley that lawyers can't become judges without an election, so they can not set precedence. Senator Blaylock stated that Supreme Court decisions take precedence, but not district courts. The motion CARRIED with Senators Galt, Crippen, Pinsoneault voting no.

Senator Blaylock moved the bill BE CONCURRED AS AMENDED. The motion CARRIED with Senators Crippen, Galt, and Pinsoneault voting no.

ACTION ON HB 435: Robert Scott of the Criminal Defense Department stated that the affect of removing lines 21 on page 3 of the bill would allow the state to seize the vehicle no matter what the amount of the drug is in the car. Senator Halligan asked if he had a friend in his car smoking a joint and the police pulled him over, would the state be able to take the car. Mr. Scott said that the state could get his car if this language is taken out of the bill. Senator Halligan thought that was unfair to the driver. Valencia proposed some amendments for this bill (see Exhibit 5). Mr. Scott said he would put into writing his purposals to the bill for the next meeting.

Judiciary Committee
Minutes of the meeting
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The committee adjourned at 12:20 p.m.


Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 11

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

DATE March 11

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: Pat Melby DATE: 3-11-87

ADDRESS: P.O. Box 1144 Helena

PHONE: 442-7450

REPRESENTING WHOM? State Bar of Montana

APPEARING ON WHICH PROPOSAL: PLB -123

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE: 3-11-87

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SUMMARY OF HB256 (PISTORIA)

(Prepared by Senate Judiciary Committee staff)

HB256 increases certain district court filing fees, creates new filing fees, and requires that the fee increases and new fees be used to fund district court operations. The fee increases and new fees are as follows:

- the fee for commencement of an action or proceeding is increased from \$25 to \$75 (+\$50);
- the fee for filing a complaint in intervention is increased from \$25 to \$75 (+\$50);
- the fee for an appearance by a defendant or respondent is increased from \$15 to \$45 (+\$30);
- the fee for the entry of judgment from the prevailing party is increased from \$10 to \$30 (+\$20);
- a new fee for filing one or more cross-claims or counterclaims in an action is created in the amount of \$75;
- [as originally drafted, the bill would have also created two other new fees - \$100 for filing a motion for substitution of a judge and \$100 for filing a motion for change of venue - both these fees were stricken from the bill by the House].

COMMENTS: The fee increases that remain in the bill do not seem too onerous and therefore do not raise a concern. Court fees should not be too onerous as to stand in the way of a citizen's exercise of his constitutional right of access to the courts. Also, fees should not be so high that only persons of substantial means can afford to go to court.

C:\LANE\WP\SUMHB256.

Adm. Div.

EXHIBIT NO. 3
DATE March 11, 198
BILL NO. HB 256

FILING FEE SCHEDULE
DISTRICT COURT AND MAGISTRATE DIVISION

Fee Category	DISTRICT COURT FILING FEES	Idaho Code Fund	Judges Retirement Fund	State	County District Court Fund	Total Fees
A. Civil Complaint for more than \$1000		\$5.00	\$11.00	\$12.00	\$17.00	\$45.00
1. No prior appearance				12.00	17.00	29.00
2. With prior appearance (Fee Category J. Pleadings)						
B. Civil Complaint for more than \$200 but not more than \$1000						
1. No prior appearance		5.00	11.00	5.00	4.00	25.00
2. With prior appearance (Fee Category J. Pleadings)				5.00	4.00	9.00
C. Civil Complaint for not more than \$200						
1. No prior appearance		5.00	11.00	4.00	3.00	23.00
2. With prior appearance (Fee Category J. Pleadings)				4.00	3.00	7.00
D. Unlawful detainer, forcible detainer, forcible entry (with or without rent regardless of the \$ amount)		5.00	11.00	5.00	4.00	25.00
E. Claim and Delivery		5.00	11.00	12.00	17.00	45.00
F. Divorce (\$100 for state vital statistics & \$20 for the displaced homemaker account)		5.00	11.00	32.00	18.00	66.00
G. All other actions or petitions (not demanding \$ amounts)		5.00	11.00	12.00	17.00	45.00
H. Small Claims		5.00	11.00		7.00	18.00
I. Civil Answers or Appearances						
1. Civil cases over \$1000		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance (Fee Category J. Pleadings)						
2. Civil cases \$1000 or less		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance (Fee Category J. Pleadings)				5.00	4.00	9.00
3. Civil cases not more than \$300, but more than \$100						
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance (Fee Category J. Pleadings)				5.00	4.00	9.00
4. Unlawful detainer, forcible detainer, forcible entry		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance (Fee Category J. Pleadings)				5.00	4.00	9.00
5. Claim and Delivery		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance (Fee Category J. Pleadings)				5.00	4.00	9.00
6. Divorce		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance (Fee Category J. Pleadings)				5.00	4.00	9.00
7. All other actions		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance (Fee Category J. Pleadings)				5.00	4.00	9.00
8. Small Claims		5.00	11.00		4.00	16.00
9. Any answer after an appearance						

Fee Category	DISTRICT COURT FILING FEES	Idaho Code Fund	Judges Retirement Fund	State	County District Court Fund	Total Fees
J. Special motions, petitions and pleadings						
1. Petition for change of venue		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance (Fee Category J. Pleadings)						
2. Order granting change of venue (pay to new county)					7.00	7.00
3. Petition to vacate judgement or reopen case						
a. No prior appearance		5.00	11.00	7.00	7.00	23.00
b. With prior appearance (Fee Category J. Pleadings)				7.00	7.00	7.00
4. Petition for Inter-jenion		5.00	11.00	5.00	5.00	21.00
a. No prior appearance					6.00	22.00
b. With prior appearance (Fee Category J. Pleadings)					6.00	6.00
6. Counterclaim (defendant v. defendant or plaintiff)		5.00	11.00		6.00	22.00
a. No prior appearance					6.00	6.00
b. With prior appearance (Fee Category J. Pleadings)						
7. Counterclaim (defendant v. plaintiff)		5.00	11.00		6.00	22.00
a. No prior appearance					6.00	6.00
b. With prior appearance (Fee Category J. Pleadings)						
K. Juvenile and family matters						
1. Petition for adoption		5.00	11.00	5.00	4.00	25.00
2. Petition for termination of parent-child relationship		5.00	11.00	5.00	4.00	25.00
3. Consolidated adoption and termination of parent-child relationship in which all minors both parents in common (Administrative Order #2)		5.00	11.00	5.00	4.00	25.00
4. Consolidated adoption and termination of parent-child relationship in which all minors do not have both parents in common (\$20 per cent of parents (Administration Order #2)		5.00	11.00	5.00	4.00	25.00
5. Petition for permission to marry		5.00	11.00	5.00	4.00	25.00
6. Petition under youth rehabilitation act						
7. Petition under child protection act						
8. Petition for commitment of mentally ill						
L. Probate Matters - The following fees to be charged whether it be a probate of a single or joint estate						
1. Application for informal probate		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance						
2. Petition for formal probate (testacy determination)		5.00	11.00	5.00	4.00	25.00
a. No prior appearance				5.00	4.00	9.00
b. With prior appearance						

Fee Category	DISTRICT COURT FILING FEES	Iaho Code Retirement Fund	Judges Retirement Fund	State	County District Court Fees
3 Any petition or application of any person for appointment as personal representative after petition or application for probate has been filed				9.00	22.00
4 Any petition for formal or informal probate asking for appointment of a personal representative					
5 Initial petition, motion or appearance of any person, other than an applicant for personal representative (except for items 7, 8 and 11 below)	5.00	11.00		12.00	45.00
a. No prior appearance					
b. With prior appearance	5.00	11.00		5.00	25.00
c. No prior appearance				5.00	9.00
6. Petition for appointment of estate under section 15-3-1205, Idaho Code					
a. No prior appearance				5.00	9.00
b. With prior appearance				5.00	9.00
In addition to the above fees under Category L, the following probate fees shall be collected from any person filing the following documents, whether or not the person has appeared previously:					
7. Demand for notice (not an appearance)				7.00	7.00
8. Demand for bond (not an appearance)					No Fee
a. Before appointment of personal representative					
b. After appointment of personal representative				7.00	7.00
9. Objection or petition to contest probate of will					
a. No prior appearance	5.00	11.00		12.00	45.00
b. With prior appearance				12.00	29.00
10. Any petition for the appointment of a new personal representative filed as a contest to the appointment of a personal representative					
a. No prior appearance	5.00	11.00		12.00	45.00
b. With prior appearance				12.00	29.00
11. Petition for approval of compromise					
a. No prior appearance	5.00	11.00		5.00	25.00
b. With prior appearance				5.00	9.00
12. Intermediate or final accounting of personal representative					
13. Petition or disbursement of estate					
14. Petition or appearance of any person filed more than 3 years after initial filing and more than 1 year after the last prior filing fee whether or not there has been a prior appearance (fee for reopening inactive file, but no further fee shall be charged such person under fee categories L-1 through 5).				8.00	14.00
				7.00	9.00
				6.00	14.00
				12.00	7.00
				12.00	45.00

Fee Category	DISTRICT COURT FILING FEES	Judges Retirement Fund	State	County District Court Fund	State Fees
15	Filing of a copy of appointment of foreign guardian representative a. No prior appearance b. With prior appearance	5.00	11.00	17.00	45.00
	If two or more of the above documents or pleadings are filed jointly under Category L as one instrument, the filing fee would be computed as though they had been filed separately.		12.00	17.00	29.00
	M. Guardianship Matters				
1.	Petition for appointment of Guardian a. No prior appearance b. With prior appearance	5.00	11.00	4.00	25.00
2.	Consent to testamentary appointment as guardian without petition a. No prior appearance b. With prior appearance	5.00	5.00	4.00	9.00
3.	Any objection by any person to the appointment of a guardian except that no fee shall be charged to the minor or alleged incapacitated person filing an objection a. No prior appearance b. With prior appearance	5.00	11.00	4.00	25.00
4.	Initial petition, motion or appearance of any person except the minor involved a. Intermediate or final accounting of guardian b. Conservatorship	5.00	5.00	4.00	9.00
5.	Intermediate or final accounting of guardian	5.00	11.00	4.00	25.00
6.	Conservatorship		7.00	7.00	7.00
1.	Petition for appointment of conservator a. No prior appearance b. With prior appearance	5.00	11.00	4.00	25.00
2.	Copy of appointment of foreign conservator a. No prior appearance b. With prior appearance	5.00	5.00	4.00	9.00
3.	Initial petition, motion or appearance of any person a. Intermediate or final account of conservator b. Conservatorship	5.00	11.00	4.00	25.00
4.	Intermediate or final account of conservator	5.00	5.00	4.00	9.00
5.	Petition for final distribution of estate	5.00	5.00	4.00	25.00
6.	Joint Guardianship and Conservatorship		8.00	6.00	14.00
1.	Joint petition, same party Guardian and conservator	5.00	5.00	4.00	25.00
2.	Joint petition, different parties	5.00	11.00	4.00	25.00
3.	Joint petition, Guardian and Conservator (considered two filings)	5.00	5.00	4.00	25.00
4.	Minor's Claim	10.00	22.00	8.00	50.00
1.	Petition for compromise of minor's claim				No Fee
2.	Petition for compromise of a minor's claim with the appointment of a conservator				No Fee

[illegible]

BOISE CITY OFFICIALS
(Area Code 208 - Zip 83701)
City Hall Telephone: 384-4000, unless otherwise indicated

[illegible]

~~Non-lawyers and corporations listed herein are prohibited from assuming to render legal services or from practicing law.~~

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Utah

PROBATE

Petition for Adoption (includes adoption form)	77.00
Petitions (all others)	75.00
Certified Copy of Letters (plus copy costs)	2.00

CIVIL

Complaint	75.00
Complaint for Divorce/Annulment (includes health form)	77.00
Petitions (all others)	75.00
Change of Venue (Receiving or outgoing)	10.00
Appeal to Appellate Court (\$125.00 to Appellate Court)	30.00
Appeal to Supreme Court (\$125.00 to Supreme Court)	30.00
Answer.....	-0-
Counterclaim	30.00
All Writs and Motions not specifically named above	5.00
Filing all other documents required by law	2.00
Confession of Judgment.....	6.00

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

H-BILL NO. 256

Chiff

FILING FEES IN THE DISTRICT COURT OF CLATSOP COUNTY
Effective January 1, 1988

CIVIL

Complaint	\$67.20
First Appearance	33.60
FED Complaint	30.80
Additional fees after Def. demands trial	36.40
Appearance Fee	33.60

DIVERSION PETITION DUII 322.00

HEARING FEES

3 hours or less	10.00
More than 3 hours	25.00

SMALL CLAIMS

Filing of Claim	30.80
Defendant's Answer (Demanding a hearing)	20.30
Defendant's Answer (Demanding a jury trial)	83.60
Formal Complaint	36.40

TRIAL FEE

Jury	60.00
No Jury	15.00

TRANSFER

Filing fees on transfer of Small Claims case
to District Court on counterclaim or on de-
fendant's demand for jury trial:

Plaintiff	36.40
Defendant	21.30

Filing fees on transfer from Small Claim case
to Circuit Court on counterclaim:

Plaintiff	60.20
Defendant	33.20

Filing fees on transfer from District Court
to Circuit Court generally

Plaintiff	23.80
Defendant	19.90

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

4. BILL NO. 256

MISCELLANEOUS FEES CIRCUIT AND DISTRICT COURTS

Assignment - filing & making entry of assignment of filed document	\$ 3.75
Certified Copies	3.75
Certificate to Department of Motor Vehicles	3.75
Clerk's Certificate of Satisfaction of Judgment	3.75
Copies (each page)	.25
Copies (exemplified) + .25 per page	7.50
Duplicate Audio Tapes	5.00
Issuing Writs of Garnishment/Execution (per writ)	3.00
Transcripts of Judgment:	
Filing & docketing from Justice/District to Circuit	5.00
Filing & docketing from other Counties	4.00
Issuing from District	4.00

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

BILL NO. H.B. 256

CIRCUIT COURT FILING FEES - January 1, 1986

CIRCUIT COURT SUITS AND ACTIONS	BASE	LAW LIBRARY	TOTAL
COMPLAINT 21.110	65.00	26.00	91.00
CROSS-COMPLAINT 21.110	32.50	13.00	45.50
THIRD PARTY COMPLAINT 21.110	32.50	13.00	45.50
DISSOLUTION PETITION 21.110	65.00	26.00	91.00
APPEAL (from lower court) - Civil case 21.110, 21.615	65.00	26.00	91.00
State Crime 21.615	0	0	0
PATERNITY (filiation) 21.110	65.00	26.00	91.00
PETITION FOR EMANCIPATION 109.560 (6)	50.00	20.00	70.00
PETITION FOR SUPPORT 108.130	5.00	0	5.00
PETITION FOR ADOPTION 21.320(1)(a)	25.00	10.00	35.00
CHANGE OF NAME 21.320(1)(b)	25.00	10.00	35.00
DUII - DIVERSION PETITION 813.240	322.00	0	322.00

FIRST APPEARANCE (Civil - Dissolution) 21.110	32.50	13.00	45.50
FIRST APPEARANCE (Paternity) 21.110	32.50	13.00	45.50
FIRST APPEARANCE (Probate) 21.210(5)	12.00	4.80	16.80
FIRST APPEARANCE (Adoption) 21.320(1)(a)	15.00	6.00	21.00

FILING TRANSCRIPT OF JUDGMENT 21.060(2)	4.00	0	4.00
TRANSCRIPT OF JUDGMENT FROM DISTRICT COURT 46.274, 52.630	5.00	0	5.00
FOREIGN JUDGMENT (or foreign custody decree) 24.115 21.060(3) 24.125 109.850	25.00	0	25.00
PREPARE TRANSCRIPT 21.060(1)(2) 46.221 (1)(f)(j)	4.00	0	4.00
PREPARE CERTIFICATE OF SATISFACTION 21.060(5)	4.00	0	4.00
WRIT OF GARNISHMENT 21.060(4)	3.00	0	3.00
WRIT OF EXECUTION 21.060(4)	3.00	0	3.00
ASSIGNMENT 21.060(6), CJO 85-44(2)	3.75	0	3.75

TRIAL FEES -- Circuit Court - jury - 21.270(3)(a) - per full or partial day	125.00
Circuit Court - no jury - 21.270(2) - per full or partial day	50.00
HEARING FEES -- 21.275(3) 3 hours or less	20.00
21.275(3) more than 3 hours	50.00
Guardianships; Adoptions; Probate & Conservatorship & Change of Name -- 21.320(3), 21.310(7) per full or partial day	25.00

PROBATE 21.310 & CONSERVATORSHIP	NOT MORE THAN	BASE	LAW LIBRARY	TOTAL
	10,000.00	15.00	6.00	21.00
10,000.00 --to--	25,000.00	50.00	20.00	70.00
25,000.00 --to--	50,000.00	100.00	40.00	140.00
50,000.00 --to--	100,000.00	150.00	60.00	210.00
More than	100,000.00	200.00	80.00	280.00
NON PROBATE 21.310		5.00	0	5.00
SMALL ESTATES 114.515(2)		15.00	6.00	21.00
GUARDIANSHIP 21.310(5)		15.00	6.00	21.00

COURT CERTIFICATION 21.060(6) CJO 85-44(3)	3.75
LETTERS (Estate; Guardianship and Conservatorship) 21.060(6), CJO 85-44(3) (w/ copy fee)	4.00
EXEMPLIFICATION 21.060(6) CJO 85-44(7)	7.50
PHOTO COPIES OF ANY INSTRUMENT ON FILE OR OF RECORD per page	25

EX
3-1
H.B.
2

OFFICIAL FEES DISTRICT COURT AND COUNTY CLERK CLARK COUNTY, NEVADA

EFFECTIVE JULY 1, 1985

ADOPTIONS	On commencing any adoption proceeding NRS 19.013, 19.020, 19.031	57.00
COMPLAINTS	On commencement of any action or proceeding NRS 19.013, 19.020, 19.030, 19.031	89.00
DOMESTIC	On commencement of any action for divorce or annulment NRS 19.013, 19.020, 19.030, 19.031, 440.605	99.00
PETITIONS TO SEAL RECORDS	On the filing of any Petitions to Seal Records NRS 19.013, 19.020, 19.030, 19.031	89.00
TRANSFER FROM DISTRICT COURT	On the transfer of any action or proceeding from a District Court of another county NRS 19.013, 19.020, 19.031	57.00
APPEALS JUSTICE/ MUNICIPAL COURT	On an appeal from a justice's court or municipal court NRS 19.013, 19.020, 19.031	47.00
TRANSFERS JUSTICE/ MUNICIPAL COURT	On a transfer from a justice's court or municipal court NRS 19.013, 19.020, 19.031	45.00
ANSWER OR APPEARANCE	On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action NRS 19.013, 19.031	44.00
PEREMPTORY CHALLENGE	Peremptory challenge of a judge (to be made payable to State Treasurer) SCR Rule 48.1	100.00
PROBATE AND GUARDIANSHIP	On the filing of a petition for letters testamentary or of administration or guardianship where the stated value of the estate is \$1,000 or less Where the stated value is \$1,000 or more NRS 19.013, 19.030, 19.031	No Fee 104.00
CONFESSION OF JUDGMENT	For filing a Confession of Judgment NRS 17.110	20.00
CONTEST/OBJECTIONS	On filing a petition to contest any will or codicil, objection or cross-petition to the appointment of an executor, administrator or guardian or an objection to the settlement of account in an estate or guardianship matter NRS 19.013, 19.031	44.00
NOTICE OF APPEAL	For filing a Notice of Appeal to the Supreme Court NRS 19.013	20.00
APPEALS/SUPREME COURT FEE	For filing a Notice of Appeal (to be made payable to the Clerk of the Supreme Court) NRS 2.250	100.00

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

H. BILL NO. 256

STATE OF COLORADO

Title 12, Article 22, Colorado Revised Statutes 1973, as Amended

SPECIAL NOTICE

C.R.S. 26-1-105, 1974, as amended. "All officers of this state who are required to collect fees for their services are hereby required to make fair tables of their respective fees and keep the same posted in their respective offices in some conspicuous place, for the inspection of all persons who shall have business in said office." penalty \$5.00 per day for each day not posted.

C.R.S. 26-1-10, 1979, as amended. (1) Every officer shall collect every fee, as prescribed, for services performed by him in advance; if the same can be ascertained, and when any officer shall negligently or wilfully fail to collect any such fee, the same shall be charged to him as a pecuniary loss of his salary. (2) In proceedings where a public administrator, special administrator, receiver, or other person is appointed by the court to take possession of assets of an estate in which there are no funds immediately available to pay fees, the fees need not be paid in advance, but shall be paid as soon as funds become available.

Sections referred to in this table are contained in the Colorado Revised Statutes, 1973, as Amended.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

OFFICE OF THE CLERK OF THE SUPERIOR COURT OF PINAL COUNTY *Arizona*

F. SCHEDULE IN SUPERIOR COURT

EFFECTIVE DATE: AUGUST 3, 1984

R.S.S	<u>ADOPTIONS</u>	
-127	Petition or application.....	\$20.00
-127	Contested adoption.....	10.00
	Severence petition.....	N/C

CIVILS

2-311	Complaint or petition.....	45.00
2-311	Answer or initial appearance.....	30.00
2-311	Separate answer.....	30.00
2-311	Petition for stay or Special Action (includes actions arising from lower court criminal cases).....	45.00
2-312A	Intervenor's fee.....	45.00
2-312B	Additional plaintiff's fee.....	45.00
2-312B	Additional defendant's fee.....	30.00
2-1705	Foreign judgment.....	60.00
-415	Foreign custody (filed under FCD case number).....	45.00
1-554B1	Affidavit seeking only release of exempt wages in garnishment.....	N/C
1-554B3	Garnishee's contesting garnishment.....	30.00
1-554B	Answer of garnishee-defendant.....	N/C
2-407B	Change of venue transmittal fee (payment within 5 days).....	20.00
2-407E	Change of venue for jurisdiction (\$12-404) plaintiff/petitioner pays fee	10.00
2-407C	Change of venue received for filing (failure to pay within 30 days deems case abandoned & returned to court of origin).....	45.00
2-407C	Change of venue for jurisdiction, plaintiff/petitioner pays filing fee within 30 days, or case is to be filed and dismissed with prejudice.....	45.00
1-554C	O.S.C. --to appear and defend; respondent may stipulate or consent to a non-affirmative order.....	N/C
1-554C	O.S.C. which does one or more of the following:	
	a. Request affirmative or counter relief;	
	b. Attacks process of proceedings;	
	c. Takes other affirmative action.....	30.00
12-2107	Notice of appeal filing fee.....	40.00
12-2107	Notice of cross-appeal filing fee.....	40.00
12-2023	Petition for Habeas Corpus.....	N/C
1-151F	Petition for tax appeal.....	45.00
11-251(3)	Petition for election recount.....	N/C

DOMESTIC RELATIONS

25-311	Petition for dissolution of marriage (filing fee 45.00, conciliation fee 30.00, surcharge 12.00).....	87.00
25-311	Response or initial appearance in dissolution (filing fee 30.00, conciliation fee 30.00, surcharge 12.00).....	72.00
25-311	Petition for legal separation (filing fee 45.00, conciliation fee 30.00, surcharge 12.00).....	87.00
25-311	Response or initial appearance in legal separation (filing fee 30.00, conciliation fee 30.00, surcharge 12.00).....	72.00
25-311	Petition for annulment (filing fee 45.00, conciliation fee 30.00, surcharge 12.00).....	87.00
25-311	Response to petition for annulment (filing fee 30.00, conciliation fee 30.00, surcharge 12.00).....	72.00
13-3602B6	Domestic violence originating in Superior Court.....	45.00
	(if case proceeds to dissolution, additional conciliation fee 30.00, 12.00, must be collected).....	42.00
	SAME RULES GOVERN CHARGES AS \$25-311.01 (Dissolutions)	
12-407B	Change of venue transmittal fee (payment within 5 days).....	20.00
12-407E	Change of venue for jurisdiction (\$12-404) plaintiff/petitioner pays fee	10.00
12-407C	Change of venue received for filing (failure to pay within 30 days deems case abandoned & returned to court of origin).....	87.00
12-407E	Change of venue for jurisdiction, plaintiff/petitioner pays filing fee within 30 days, or case is to be filed and dismissed with prejudice.....	87.00
11-554C	O.S.C. to appear and defend, may stipulate or consent to a non-affirmative order.....	N/C
11-554C	O.S.C. which does one or more of the following:	
	a. Request affirmative or counter relief;	
	b. Attacks process of proceedings;	
	c. Takes other affirmative action.....	72.00

MISCELLANEOUS

2-284	Federal passport application fee.....	7.00
11-554A2	Issuance of any writ.....	6.00
11-554A3	Marriage license.....	22.00
12-554A4	Certified copy of marriage license or application.....	5.00
11-554A5	Notary Public, oath & bond.....	8.00

SENATE JUDICIARY

EXHIBIT NO. 2

crimnal case with privately retained counsel); or documents from record, page.....	1.00
Additional carbon copies.....	.25
Photographic copies per page (also appeals).....	.50
Certification as to correctness of document.....	3.00
Comparison fee, per page, of documents furnished by party.....	.50
Exemplification/Authenticication (two seals).....	6.00
Certification of official capacity of notary public/justice of the peace.....	3.00
Certification of any matter not specifically provided.....	3.00
Alimony/child support handling charge 12.00 annual payment/or pro rata amount to first of the year, then 12.00 annually.....	12.00
Filing transcript of judgment from any other court (i-judgment).....	7.00
Abstract of judgment (sometimes called transcript) <i>abolished by 8/7/85</i>	7.00
Demand for notice; safekeeping of will; or performing any act for which a specific fee is not provided by statute.....	3.00
Issuance of each subpoena in civil cases.....	3.00
Annual certification of bail bondsmen.....	3.00
Certification of private process server (renewed--3 years).....	3.00
Researching records to copy documents, each year searched.....	3.00
Power of attorney.....	8.00

PROBATE, CONSERVATORSHIP, GUARDIANSHIP & FIDUCIARY FEES

2-313A1	Petition in a formal testacy or appointment.....	45.00
2-313A2	Application for informal probate or informal appointment.....	45.00
2-313A3	Petition for supervised administration.....	45.00
2-313A4	Petition to appoint guardian.....	45.00
2-313A5	Petition to appoint conservator or make protective order.....	45.00
2-313A5	Single estate application or petition (same Petitioner) under Chapter 3, Title 14 (\$14-3938), any new petition (when previously settled).....	30.00
2-313B	Opposing petition in testacy, guardianship/conservatorship.....	45.00
2-313B	Any person opposing contested petition, if no prior payment.....	30.00
2-3101B	If husband & wife both die, & administration of one estate is not completed prior to the commencement of the other, the estates may be combined in a single administration, with the same P.R. (no additional fee is required, if filed in the same case number).....	N/C
14-3791F	Petition for transfer of real property by affidavit (no other probate)...	45.00

TRANSFERS FROM JUSTICE COURTS

13-3601E	Domestic violence transferred from lower court.....	N/C
	(if the case proceeds to dissolution, same fees apply as for filing dissolution..see \$25-311)..Petitioner.....	87.00
	Response on domestic violence proceeding to dissolution.....	72.00
22-283	Appellant(s)' fee (when appealed from lower court).....	45.00
22-283	Appellees' fee (to be paid within 20 days of filing in Superior Court)...	30.00
22-201D	Ownership of real property becomes an issue (plaintiff).....	45.00
22-201D	Ownership of real property becomes an issue (defendant).....	30.00
22-201F	Jurisdiction exceeded (by party exceeding jurisdiction).....	30.00
28-107B	Civil traffic appeal (follows rules of Supreme Court Civil appeals).....	45.00

A.R.S. §12-301. Time of payment of fees; effect of failure to collect

1. All fees are payable at the time the service is rendered, unless otherwise provided by law. An officer may refuse to perform any service in any action or proceeding, criminal proceeding excepted until the fees are paid.

A.R.S. §38.433. Nonfeasance in public office; penalty

A Public officer or person holding a position of public trust or employment who wilfully omits to perform any duty the performance of which is required of him by law is guilty of a misdemeanor unless special provision has been made for punishment of such omission.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

TERAMA COUNTY
COUNTY CLERK & RECORDER

California

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

BILL NO. H.B. 256

SCHEDULE OF FEES

EFFECTIVE JANUARY 1, 1986

	MICRO- GRAPHICS	CLERK FEE	LAW LIB.	REPORTERS FEE	JUDGES RETIRE.	TOTAL FEE
<u>CIVIL FILING FEES</u>						
1. Filing first paper in a civil action or special proceeding, except adoption or a proceedings to establish birth, marriage or death (GC 26820.4)	1.00	75.00	9.00	13.00	3.00	101.00
2. Filing Petition for Dissolution of Marriage, Nullity or Separate Maintenance (GC 26820.4)	1.00	79.00	9.00	13.00	3.00	104.00
2a. Certified copy of Marriage Dissolution Record (\$7.00 for first page - \$1.50 for each additional page) (GC 26831)		7.00				7.00
4. Filing Petition to Establish Birth, Marriage or Death (H&S 10554)		6.00	9.00			15.00
5. Filing any Notice of Motion or any other paper requiring a hearing subsequent to the first paper, or any notice of intention to move for a new trial of any civil action (GC 26830)		14.00				14.00
6. Transferring papers on a change of venue of a Superior Court case to another county (plus fees charged by the Court to which transferred) (GC 26823)		14.00				14.00
7. Filing appeal from Municipal or Justice or Small Claims Court (GC 26824)		20.00	9.00			29.00
8. Filing action or special proceeding on change of venue from another court	1.00	75.00	9.00	13.00	3.00	101.00
9. Filing first paper, except disclaimer for defendant, intervenor, respondent, co-respondent, adverse party or third party:						
Each party	1.00	47.00	9.00	13.00	3.00	73.00
Two parties	1.00	94.00	9.00	13.00	6.00	123.00
Three parties	1.00	141.00	9.00	13.00	9.00	173.00
(Add \$50.00 for each additional party appearing jointly) (GC 26826)						

	GRAPHICS	FEE	LIB.	FEE	RETIRE.	FEE
10. Filing any document or paper by the plaintiff in an appeal or transfer from Small Claims Court	NO FEE					
					SENATE JUDICIARY	
					EXHIBIT NO. 2	
11. Filing of Complaint and Affidavit for Order of Examination for examination of third person outside of county where action filed (CCP 491.030)		12.00			DATE 3-11-87	12.00
					BILL NO. H.B. 256	
12. Filing Statement Confessing Judgment (CCP 1134)		15.00				15.00
13. Filing an Abstract of Judgment on supplemental proceedings against a non-resident judgment debtor (CCP 722)		12.00				12.00
14. Filing a Petition for Mediation (Marriage)		15.00				15.00
15. Filing first paper where plaintiff or petitioner is State of California, or any county, city, district, or other political subdivision, etc. (Except State Compensation Ins., who pays)	NO FEE					
16. Filing first paper by the State, any county, etc. as Defendant, etc. as in Item 15.	NO FEE					
17. Filing Statement Confessing Judgment (CCP 1134)		15.00				15.00
18. Notice of Appeal - Must be accompanied by a check in the amount of \$200.00, payable to the Clerk of the Court of Appeal (Pursuant to Rule 1, California Rules of Court)	(Also a fee of \$50.00 payable to County Clerk upon filing notice of appeal. Deposit to be credited against amount chargeable for the clerk's transcript.) (Gov. Code 63926.1)					50.00 200.00
<u>PROBATE FILING FEES</u>						
19. Filing first Petition for Letters of Administration, Special Letters of Administration, Letters Testamentary, Letters of Guardianship, Letters of Conservatorship, etc. (GC 26827)	1.00	75.00	9.00	13.00	3.00	101.00
20. Filing Second or Subsequent Petition for Letters of Administration, Special Letters of Administration, Letters Testamentary, Letters of Guardianship, etc., or a Petition to Contest any Will or Codicil in Pending Probate Action (Other than by same petitioner)	1.00	75.00	9.00	13.00	3.00	101.00

	MICRO- GRAPHICS	CLERK FEE	LAW LIB.	REPORTERS FEE	JUDGES RETIRE.	TOTAL FEE
21. Filing Petition to Terminate Joint Tenancy (by establishing fact of death)	1.00	75.00	9.00	13.00	3.00	101.00
22. Filing a Petition for Approval of Compromise of a Minor's Claim (Except in a pending civil action)	1.00	75.00	9.00	13.00	3.00	101.00
23. Filing of a subsequent paper in a probate action which requires a court hearing (GC 26827.4)	NO FEE					
24. Petition for Adoption (unless petition is accompanied by a statement from State Agency directing fees to be waived) <u>PER PERSON BEING ADOPTED</u>						15.00
<u>MISCELLANEOUS FEES</u>						
25. Issuing Marriage License						35.00
26. Confidential Marriage License						41.00
27. Filing a Petition for Naturalization						50.00
28. Copy of any Dissolution Decree (certification included)		7.00				7.00
29. Issuing a Writ of Attachment		3.50				3.50
30. Issuing a Writ of Execution, Restitution, Possession, Prohibition, or any Writ for Enforcement of any order or judgment		3.50				3.50
31. Issuing an Abstract of Judgment (GC 26834)		3.50				3.50
32. Issuing Writ of Execution Against a Dwelling House (when sought in court of a county other than one issuing judgment) (CCP 690.31)		12.00				12.00
33. Issuing an Order of Sale (plus cost of comparing and certifying, if any) GC 26829		7.00				7.00
34. Certificate for Filing Notice of Motion Prior to Filing Record on Appeal (GC 26838)		14.00				14.00
			SENATE JUDICIARY			
			EXHIBIT NO. <u>2</u>			
			DATE <u>3-11-87</u>			
			FILE NO. <u>4 B 256</u>			

	MICRO- GRAPHICS	CLERK FEE	LAW LIB.	REPORTERS FEES	JUDICIAL RETIRE.	STAMP FEE
35. Filing Power of Attorney for Admitted Surety, Financial Statement, Revocation, etc.		3.50 (IF MORE THAN ONE, \$2.25 FOR EACH NAME ON POWER OF ATTORNEY)				3.50
36. Filing bond of Notary Public (includes \$5.00 recording fee) GC 26849.1		12.00				12.00
37. Issuing of Duplicate of Marriage License (CC 4203)		5.00				5.00
38. Certificate to the Official Capacity of any Public Office (GC 26852)		2.25				2.25
39. Taking affidavit of acknowledgment (except criminal or adoption) GC 26853		2.25				2.25
40. Filing and indexing Certificate of Fictitious Name First Name Each name thereafter		10.00 2.00				10.00 2.00
41. Filing Statement of Withdrawal from Partnership Operating Under a Fictitious Name		5.00				5.00
42. Filing Statement of Abandonment of Fictitious Name		5.00				5.00
43. Filing and indexing all papers for which a charge is not elsewhere provided other than papers filed in actions or special proceedings (GC 26850)		2.25				2.25
44. Taking a passport application (Does not include fee to Passport Service)		7.00				7.00
45. Searching records or files- for each year (GC 26854)		1.75				1.75
46. Copying, when photographed, per page (EXCEPT FAMILY LAW)		.50				.50
47. Comparing with original on file, per page (GC 26837)		.50				.50
48. Certifying to a copy of any record on file (GC 26833)		1.75				1.75
49. Exemplification of a record or other paper on file (GC 26839)		7.00				7.00

SENATE JUDICIARY

EXHIBIT NO. 2

DATE

3-11-87

BILL NO.

4. B. 256

	MICRO- GRAPHICS	CLERK FEE	LAW LIB.	REPORTERS FEE	JUDGES RETIRE.	TOTAL FEE
50. Certificate for which fee not otherwise fixed (GC 26836)		1.75				1.75
51. Filing fee for process servers (must be accompanied by \$2,000 bond executed by a corporate surety - Term, 2 years)		100.00				100.00
52. Filing late campaign statement	10.00 per day, not to exceed \$50.00					
53. Jury deposit	\$10.00 per juror requested, plus \$50.00 mileage.					

RECORDER'S FEES

54. Recorded Documents (1st Page) (Each additional Page)	5.00 (Includes \$1.00 micrographic fee) 2.00
55. Dual Documents (1st Page) (Each additional page)	10.00 (Includes \$1.00 micrographic fee) 2.00
56. Release of Liens (State, County, etc.)	9.00
57. Lien Notification (per notice)	3.00
58. Filed Documents (Contracts, etc.)	4.00
59. Maps (First Page) (Additional Pages)	6.00 2.00 each
60. U.C.C's - Recorded (Same as Item No. 54)	See Item #54
61. Additional Indexing Charges	
a. Per group of 10 (or fraction of)	1.00
b. Different references (each)	1.00
c. Mining Claims (per name or group)	1.00
62. Copies	
a. Maps	1.50
b. Recorded or filed documents (First Page)	1.00
(Additional Page)	.50 each
c. Birth Certificates	9.00
d. Death Certificates	5.00
e. Marriage Certificates	9.00
63. Certifications	1.00
64. Vital Statistics Search (INDEX ONLY)	None
65. Vital Statistics Search (EACH RECORD)	9.00 Birth Record 9.00 Marriage Record 5.00 Death Record

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

BILL NO. H.B. 256

ANA

For H.B. 256
By Ristoria

McCarvel suggests state triple district court fees

By RICHARD ECKE
Tribune Staff Writer

Montana's financially struggling district courts should turn Americans' "sue-happy" mentality to their advantage, District Judge John McCarvel suggested Monday.

At a budget meeting with county commissioners, McCarvel suggested tripling or quadrupling court filing fees to help the district courts here out of a continuing budget bog.

Montana's \$25 fee for filing a civil suit is the lowest in 15 Western states, McCarvel said. Filing a civil complaint is far costlier elsewhere, such as \$97 in Las Vegas and \$90 in California, McCarvel reported.

Increasing the fees, which are set by the Legislature, might discourage frivolous lawsuits or lawsuits by those who simply could not afford the higher fee, McCarvel said.

People who use the courts should pay for them, he maintained.

McCarvel said such fee hikes might enable Cascade County to balance its state district court budget, which is building up red ink at a rate

of about \$165,000 a year.

Tripling the court filing fee would still not cover the entire annual debt, although it might cover a substantial chunk, according to Clerk of Court Floss Mc Giboney, whose office collects the fees.

Cascade County collected \$42,086 in fees from wills, civil suits and divorce cases in the year ending June 30, Mc Giboney said later.

Tripling the fee from \$25 to \$75 would have produced an additional \$84,172 last year. No fees are charged for adoptions or in criminal cases, she said.

Cascade County taxpayers finance much of the costs of running the state district courts here, but not all of the fees stay in the county.

Local officials would need to insist that any such fee hikes would go directly to the counties, rather than be taken by the state, District Judge Tom McKittrick said.

Officials at Monday's meeting supported the idea of hiking fees, but Mc Giboney later said she doubted the Legislature would go along

"I doubt if they'd have very much luck," Mc Giboney said. In the past, clerks of court have failed to persuade legislators to hike various fees, even though the hikes would have brought the fees in line with those charged by county clerks and recorders, she said.

Fees for divorces already stand at \$55, she reported. In addition to paying the \$25 fee, couples pay \$25 to a displaced homemaker program and \$5 to an abuse program.

After the meeting, County Commissioner Jack Whitaker said he was encouraged by McCarvel's suggestion for a fee hike.

And Cascade County, more than \$500,000 in the red from court debts over the last few years, could use any help. Voters in June overwhelmingly turned down a special 7.25-mill tax levy to help pay off the debts.

The district judges Monday presented a budget request for \$970,007. Court spending in the year ending June 30 is estimated at \$886,890, Whitaker said.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE March 11, 1987

BILL NO. HB 256

Rec'd - Thur - Dec. 18, 1986 - from

His menzies

Fee Information Concerning LC 25

Requestor: Representative Paul Pistoria

INCREASES TO EXISTING FEES:

	<u>Current</u>	<u>Proposed</u>	
At the commencement of an action or proceeding, from the plaintiff or petitioner (25-1-201(a), MCA)	\$25	\$75	50
For filing a complaint in intervention, from the intervenor (25-1-201(a), MCA)	25	75	50
From each defendant or respondent, on his appearance (25-1-201(b), MCA)	15	45	30
On the entry of judgement, from the prevailing party (25-1-201(c), MCA)	10	30	20

P. Pistoria

CREATION OF NEW FEES:

Filing a counter claim or a cross claim

Disqualification of judge

Change of venue

Proposed

\$75

100

Raise - 50 - to 100

Recd - Wash - July 1, 1986 - from Judge McLeod

Complaint Judge's Retire State County Ct Fund appearance

Idaho \$45. \$11.00 \$12.00 \$17 \$25
Divorce #66

Oregon \$67.20 \$33.60

Utah 75.00 0

Nevada \$9.00 sub of judge \$100.
Divorce #99 \$44.

Colorado \$75 \$20
Cont'd claim \$75.

Arizona \$45 \$30
Divorce #57 \$72

California \$101 \$3 \$43
Divorce #104

See Mont Present
Law - 25-1-201

3rd-Reading
92 to 7

Paul P. Pistone
See "Steve Brown", atty
in Helena for more
information. He will
furnish the name
of the law firm.

Fri. July 11, 1986
Filed for a Bill.
Raise filing fee from
25 to 75

SENATE JUDICIARY

EXHIBIT NO. 2

DATE

March 11, 1986

BILL NO. HB 256

Recd - Wch - July 9, 1986.

Paul G. Pistoria

501

GENERAL PROVISIONS

25-1-201

Cross-References

Execution of judgment, Title 25, ch. 13.
Time for filing notice of appeal, Rule 5,
M.R.App.Civ.P. (see Title 25, ch. 21).

Execution of judgment in Justice's Court,
Title 25, ch. 31, part 11.
Appeal to District Court from Justice's and
City Courts, Title 25, ch. 33.

25-1-104 through 25-1-110 reserved.

25-1-111. Repealed. Sec. 195, Ch. 575, L. 1981.

History: En. Sec. 1931, C. Civ. Proc. 1895; re-en. Sec. 7201, Rev. C. 1907; re-en. Sec. 9835,
R.C.M. 1921; Cal. C. Civ. Proc. Sec. 1064; re-en. Sec. 9835, R.C.M. 1935; R.C.M. 1947, 93-8802.

SENATE JUDICIARY

**Part 2
Fees**

EXHIBIT NO. 2

DATE 3-11-87

BILL NO. H.B. 256

25-1-201. (Temporary) 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, from the plaintiff or petitioner, \$25; for filing a complaint in intervention, from the intervenor, \$25; and for filing a petition for dissolution of marriage, an additional fee of \$30;

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

(c) on the entry of judgment, from the prevailing party, \$10;

(d) for preparing copies of papers on file in his office, 25 cents per page;

(e) for each certificate, with seal, 50 cents;

(f) for oath and jurat, with seal, 50 cents;

(g) for administering oath, 25 cents;

(h) for taking depositions, per folio, 20 cents;

(i) for filing and docketing a transcript of judgment or abstract of judgment from all other courts, \$5;

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

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

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

(m) for issuing a marriage license, \$30;

(n) 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, \$35, which includes the fee for filing a will for probate;

(o) 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;

(p) for filing a declaration of marriage without solemnization, \$30.

(2) Except as provided in subsections (3) and (4), 32% of all fees collected by the clerk of the district court must be deposited in and credited to the general fund of the county. 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 additional fee for filing a petition for dissolution of marriage, \$25 must be deposited in the state general fund and \$5 must be deposited in the children's trust fund account established by 41-3-702.

25-1-201. (Effective January 1, 1990) 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, from the plaintiff or petitioner, \$25; for filing a complaint in intervention, from the intervenor, \$25; and for filing a petition for dissolution of marriage, an additional fee of \$25;

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

(c) on the entry of judgment, from the prevailing party, \$10;

(d) for preparing copies of papers on file in his office, 25 cents per page;

(e) for each certificate, with seal, 50 cents;

(f) for oath and jurat, with seal, 50 cents;

(g) for administering oath, 25 cents;

(h) for taking depositions, per folio, 20 cents;

(i) for filing and docketing a transcript of judgment or abstract of judgment from all other courts, \$5;

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

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

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

(m) for issuing a marriage license, \$30;

(n) 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, \$35, which includes the fee for filing a will for probate;

(o) 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;

(p) for filing a declaration of marriage without solemnization, \$30.

(2) Except as provided in subsection (3), 32% of all fees collected by the clerk of the district court must be deposited in and credited to the general fund of the county. 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) The additional fee for filing a petition for dissolution of marriage must be deposited in the state general fund.

History: En. Sec. 4636, Pol. C. 1895; re-en. Sec. 3169, Rev. C. 1907; amd. Sec. 1, Ch. 88, L. 1917; re-en. Sec. 4918, R.C.M. 1921; re-en. Sec. 4918, R.C.M. 1935; amd. Sec. 1, Ch. 218, L. 1967; amd. Sec. 1, Ch. 33, L. 1977; amd. Sec. 1, Ch. 548, L. 1977; R.C.M. 1947, 25-232; amd. Sec. 1, Ch. 493, L. 1981; amd. Sec. 80, Ch. 575, L. 1981; amd. Sec. 1, Ch. 10, L. 1983; amd.

SENATE JUDICIARY

EXHIBIT NO. 2

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Sec. 1, Ch. 12, L. 1983; amd. Sec. 1, Ch. 524, L. 1983; amd. Sec. 11, Ch. 709, L. 1983; amd. Sec. 7, Ch. 610, L. 1985.

Compiler's Comments

1985 Amendment: In (1)(a) at end raised fee for petition for dissolution of marriage from \$25 to \$30; in (2) inserted reference to subsection (4); and in (4), at beginning substituted "Of the" for "The", near middle after "marriage", inserted "\$25", and after "general fund", inserted remainder of subsection. Amendment terminates January 1, 1990 (sec. 13, Ch. 610, L. 1985).

1983 Amendments: Chapter 10 inserted (1)(o).

Chapter 12, in (1)(p) and (3), inserted the language relating to declaration of marriage without solemnization.

Chapter 524, in (1)(a), increased fees for plaintiffs and intervenors from \$20 to \$25; in (1)(b) increased fee for defendants from \$10 to \$15; in (2) decreased percentage of fees going to county general fund from 40% to 32%.

Chapter 709, inserted at end of (1)(a), "and for filing a petition for dissolution of marriage, an additional fee of \$25"; in (2) substituted

"must" for "shall" in two places; and inserted (4).

1981 Amendments — Composite Section: Chapter 493 deleted "or oath and jurat" from (1)(e); increased marriage license fee from \$15 to \$30; inserted exception at the beginning of (2); and added subsection (3).

Chapter 575 amended this section in the same manner as Ch. 493 except that the fee was increased to \$25 and, in (3), \$9 was to be deposited to general fund. Because Ch. 575 was a Code Commissioner bill intended to make nonsubstantive clarifications and because the dollar figures of Ch. 575 are included in the higher figures of Ch. 493, the dollar figures of Ch. 493 were chosen by the Code Commissioner in preparing the composite section.

Cross-References

Duties of the clerk, Title 3, ch. 5, part 5.

Payment of naturalization fees, 3-5-515.

Manner of appearance by party, 25-3-401.

Payment of marriage license fee, 40-1-202.

25-1-202. Fee for court reporter. In every issue of fact in civil actions tried before the court or jury, before the trial commences, there must be paid into the hands of the clerk of the court by each party to the suit the sum of \$3, which sum must be paid by said clerk into the treasury of the county where the cause is tried to be applied upon the payment of the salary of the reporter. The prevailing party may have the amount so paid by him taxed in his bill of costs as proper disbursements.

History: En. Sec. 1979, 5th Div. Comp. Stat. 1887; re-en. Sec. 374, C. Civ. Proc. 1895; re-en. Sec. 6377, Rev. C. 1907; re-en. Sec. 8932, R.C.M. 1921; re-en. Sec. 8932, R.C.M. 1935; amd. Sec. 5, Ch. 22, L. 1961; R.C.M. 1947, 93-1905.

Cross-References

Court reporters, Title 3, ch. 5, part 6.

Payment of reporter's fees in military courts, 10-1-406.

Costs generally allowable, 25-10-201.

Costs allowable against the state, 25-10-405, 25-10-702, 25-10-711.

Claiming costs, Title 25, ch. 10, part 5.

Personal liability of public officers for costs, 25-10-701.

Costs allowed in Justice's Court, 25-30-107.

Bill of costs unnecessary in Justice's Court, 25-31-1002.

Part 3

Time

25-1-301. Extension of time. Subject to Rule 6(b), M.R.Civ.P., whenever this code requires or allows an act to be done at or within a specified time, which act relates to the pleadings in the action, the undertakings to be filed, the justification of sureties, the preparation of statements or of amendments thereto, or the service of notices other than of appeal, the time allowed by this code may be extended, upon good cause shown, by the court in which

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-11-87

BILL NO. H.B. 256

SUMMARY OF HJR21 (MERCER)

(Prepared by Senate Judiciary Committee staff)

HJR21 is a joint resolution urging the Montana Supreme Court to limit each party in a lawsuit to one peremptory challenge for substitution of judges. A peremptory challenge is a challenge without cause and is in addition to disqualification of a judge for cause. The Supreme Court has jurisdiction over the courts and establishes the Rules of Civil Procedure. The Legislature can disapprove the rules in either of the two sessions following promulgation (Article VII, section 2 of the Montana Constitution). In this instance, the time for the Legislature to disapprove the rules has passed.

Under current Court rules, each party in a criminal case is allowed one peremptory challenge of a judge but in civil cases, each party is allowed two peremptory challenges. This resolution urges the Court to amend the rules to allow only one peremptory challenge in civil cases.

COMMENTS: None.

C:\LANE\WP\SUMHJR21.

PROPOSED AMENDMENT TO HOUSE BILL 236

1. Page 1, lines 18 and 19.

Following: "court" on line 18

Strike: the remainder of line 18 through "RESIGNATION" on
line 19

Proposed amendments to HB435 (Brandewie):

1. Page 2, line 19 through page 3, line 4.

Following: "(g)" on line 19

Strike: the remainder of line 19 through line 4, page 3

Insert: "any real or personal property acquired, maintained, or produced by means of or as a result of a violation of Title 45, chapter 9;

(h) any real or personal property constituting or derived from proceeds obtained directly or indirectly by violation of Title 45, chapter 9; and

(i) any real or personal property that assisted, facilitated, or was used or intended for use in the commission of a violation of Title 45, chapter 9."

C:\LANE\WP\AMDHB435.

HOUSE BILL NO. 435

INTRODUCED BY BRANDEWIE, MERCER, RAMIREZ, CAMPBELL,

MILLER, HANNAH, J. BROWN, PECK, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THINGS SUBJECT TO FORFEITURE IN A CRIMINAL PROCEEDING; REMOVING THE AMOUNT OF MARIJUANA REQUIRED IN ORDER TO SUBJECT PROPERTY TO FORFEITURE; MAKING REAL PROPERTY SUBJECT TO FORFEITURE; AND AMENDING SECTIONS 44-12-102 AND 44-12-205, MCA."

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

Section 1. Section 44-12-102, MCA, is amended to read:

"44-12-102. Things subject to forfeiture. (1) The following are subject to forfeiture:

- (a) all controlled substances that have been manufactured, distributed, prepared, cultivated, compounded, processed, or possessed in violation of Title 45, chapter 9;
- (b) all money, raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting any controlled substance in violation of Title 45, chapter 9; except items used or intended for use in connection with quantities of marijuana in amounts less than 250 grams;
- (c) except as provided in subsection (2)(d), all

- property that is used or intended for use as a container for anything enumerated in subsection (1)(a) or (1)(b);
- (d) except as provided in subsection (2), all conveyances, including aircraft, vehicles, and vessels;
- (i) which are used or intended for use in unlawfully transporting or in any manner facilitating the transportation of anything enumerated in subsection (1)(a) or (1)(b) for the purpose of sale or receipt of such thing;
- (ii) in which a controlled substance is unlawfully kept, deposited, or concealed; or
- (iii) in which a controlled substance is unlawfully possessed by an occupant;
- (e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data, that are used or intended for use in violation of Title 45, chapter 9;
- (f) all drug paraphernalia as defined in 45-10-101; and
- (g) ~~everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of Title 45, chapter 9; all proceeds traceable to such an exchange; and all money, negotiable instruments, and securities used or intended to be used to facilitate any violation of Title 45, chapter 9; and~~

~~all real property which is owned by a person~~

SENATE JUDICIARY

EXHIBIT NO. 5

DATE 3-11-87

BILL NO. H.B. 435

any real or personal property acquired, maintained, or produced by means of or as a result of a violation of Title 45, chapter 9;

(h) any real or personal property constituting or derived from proceeds obtained directly or indirectly by violation of Title 45, chapter 9; and

(i) any real or personal property that assisted, facilitated, or was used or intended for use in the commission of a violation of Title 45, chapter 9."

02

~~consisted of a violation of Title 45, chapter 9, where~~
~~controlled substances have with intent to~~
~~manufactured, distributed, prepared, cultivated, compounded,~~
~~processed, or possessed~~

(2) (a) No conveyance used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of Title 45, chapter 9.

(b) No conveyance is subject to forfeiture under this section because of any act or omission established by the owner of the conveyance to have been committed or omitted without his knowledge or consent.

(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to any violation of Title 45, chapter 9.

~~{d}--No--conveyance--or--container--is--subject--to~~
~~forfeiture--under--this--section--if--it--was--used--or--intended--for~~
~~use--in--transporting--less--than--250--grams--of--marijuana--"~~

Section 2. Section 44-12-205, MCA, is amended to read:
"44-12-205. Disposition of property following hearing.

(1) If the court finds that the property was not used for the purpose charged or that the property listed in

1 44-12-102(1)(g) was used without the knowledge or consent of
2 the owner, it shall order the property released to the owner
3 of record as of the date of the seizure.

4 (2) If the court finds that the property was used for
5 the purpose charged and that the property listed in
6 44-12-102(1)(g) was used with the knowledge or consent of
7 the owner, the property shall be disposed of as follows:

8 (a) If proper proof of his claim is presented at the
9 hearing by the holder of a security interest, the court
10 shall order the property released to the holder of the
11 security interest if the amount due him is equal to or in
12 excess of the value of the property as of the date of
13 seizure, it being the purpose of this chapter to forfeit
14 only the right, title, or interest of the owner. If the
15 amount due the holder of the security interest is less than
16 the value of the property, the property must be sold at
17 public auction by the sheriff of the county in which the
18 seizure was made in the same manner provided by law for the
19 sale of property under execution or the state may return the
20 property to the holder of the security interest without
21 proceeding with an auction.

22 (b) If no claimant exists and the confiscating agency
23 wishes to retain the property for its official use, it may
24 do so. If such property is not to be retained, it must be
25 sold as provided in subsection (2)(a).

STANDING COMMITTEE REPORT

March 11

1967

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration..... **HOUSE BILL** No. **53**

Third reading copy (**blue**)
color

Generally revise MCA
Eudaily (Yellowtail)

Respectfully report as follows: That..... **HOUSE BILL** No. **53**

~~XXXXXX~~

DO PASS

BE CONCURRED IN

~~XXXXXX~~

DO NOT PASS

.....
Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

March 11, 1987 19.....

MR. PRESIDENT

We, your committee on.....JUDICIARY.....

having had under consideration.....HOUSE BILL..... No. 123

THIRD reading copy (BLUE)
color

Hiring retired judges or qualified lawyers as as temporary judges.
Bradley (Blaylock)

Respectfully report as follows: That.....HOUSE BILL..... No. 123

be amended as follows:

1. Title, line 6.

Following: "BAR"

Insert: "or qualified member of the state bar"

2. Page 2, line 2.

Following: "STATE"

Insert: "a member of the bar of the state,"

3. Page 2, line 3.

Following: "COURT"

Insert: ", approved by the court,"

4. Page 2, line 23.

Following: line 22

Insert: "(1) a member of the bar of the state who meets the
qualifications for judge of the district court as
provided in 3-5-202;"

Renumber: subsequent subsections

AND AS AMENDED,
BE CONCURRED IN

~~XXXXXX~~
DO NOT PASS

~~XXXXXXXXXX~~
DO NOT PASS

.....
JOE MAZUREK

.....
Chairman.

STANDING COMMITTEE REPORT

March 11

1967

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. SEN 236

Third reading copy (blue)
color

Require Jud. nomination comm. to meet before vacancy occurs in some cases.
Addy (Mazurek)

HOUSE BILL

SEN 236

Respectfully report as follows: That..... No.....

Be amended as follows:

1. Title, line 7.

Following: "CIRCUMSTANCES;"

Strike: "AND"

2. Title, line 3.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, lines 18 and 19.

Following: "court" on line 18

Strike: the remainder of line 18 through "RESIGNATION" on line 19

4. Page 3, line 3.

Following: line 2

Insert: "NEW SECTION. Section 5. Effective date. This act is effective on passage and approval."

XXXXXX
DO PASS

AND AS AMENDED

XXXXXX
DO NOT PASS

BE CONSIDERED

Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

March 11

1937

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration..... **House Bill** No. **256**

Third reading copy (**blue**)
color

Increase and create filing fees in civil cases to fund dist. court operations.

Pistoria (Galt)

Respectfully report as follows: That..... **HOUSE BILL** No. **256**

~~DO NOT PASS~~

BE CONCURRED IN

~~DO NOT PASS~~

.....
Senator Mazurek

.....
Chairman.

STANDING COMMITTEE REPORT

March 11 19 87

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on.....

having had under consideration..... HOUSE BILL 396 No.....

Third reading copy (blue)
color

Suspend driver's license for unlawful or fraudulent use of license.
Pavlovich (Pinsoneault)

Respectfully report as follows: That..... HOUSE BILL 396 No.....

~~EXCESSIVE~~

DO NOT PASS

BE CONCURRED IN

~~EXCESSIVE~~

DO NOT PASS

Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

March 11 1937

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on.....

having had under consideration..... HOUSE BILL 553 No.....

Third reading copy (blue)
color

Revise and clarify responsibility for crime committed while intoxicated.
Gould (Van Valkenburg)

Respectfully report as follows: That..... HOUSE BILL 553 No.....

~~DO NOT PASS~~ BE CONCURRED IN

~~DO NOT PASS~~

Senator Hazarek Chairman.

STANDING COMMITTEE REPORT

March 11 1937

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

having had under consideration..... HOUSE BILL No. ~~664~~ 664

Third reading copy (blue color)

Revise law on joint obligations.
~~SENATE~~ Ramirez (Brown)

Respectfully report as follows: That..... HOUSE BILL No. ~~664~~ 664

~~DO PASS~~

~~DO NOT PASS~~

BE CONCURRED IN

Senator Mazurek

Chairman.