

1 INTRODUCTION BY H BILL NO. 499  
 2 Sen. J. Ramsey  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE FEES OF  
 5 THE CLERK OF THE DISTRICT COURT; AMENDING SECTIONS 25-232,  
 6 48-306, AND 93-1116, R.C.M. 1947; REPEALING SECTION 25-233,  
 7 R.C.M. 1947."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 25-232, R.C.M. 1947, is amended to  
 11 read as follows:

12 "25-232. Fees of clerk of district court: ~~(1) the~~  
 13 ~~clerk shall collect the following fees:~~

14 (a) ~~At~~ at the commencement of each action or  
 15 proceeding, ~~the clerk must collect~~ from the plaintiff ~~or~~  
 16 ~~petitioner, the sum of ten dollars (\$10), \$35;~~ and for  
 17 filing a complaint in intervention, ~~the clerk must collect~~  
 18 from the intervenor, ~~the sum of ten dollars (\$10), \$35;~~

19 (b) ~~And the~~ from each defendant ~~or respondent,~~ on his  
 20 appearance, ~~must pay the sum of five dollars (\$5) (which~~  
 21 ~~includes all the fees to be paid up to the entry of~~  
 22 ~~judgment), \$20;~~

23 (c) ~~On the entry of judgment in favor of plaintiff, he~~  
 24 ~~must pay the additional sum of five dollars (\$5);~~

25 ~~And if in favor of defendant, the defendant must pay~~

1 ~~the sum of ten dollars (\$10) (which includes all the clerk's~~  
 2 ~~costs for all services rendered in any action or proceeding,~~  
 3 ~~except issuing execution or order of sale and the fees for~~  
 4 ~~transcript on appeal, if the action is dismissed, no fee for~~  
 5 ~~the entry of judgment need be paid, unless the party desires~~  
 6 ~~the entry of such judgment), on the entry of judgment, from~~  
 7 ~~the prevailing party, \$10;~~

8 ~~For filing the papers and transcript on appeal from a~~  
 9 ~~justice or other inferior court or other tribunal, the party~~  
 10 ~~appealing must pay the sum of ten dollars (\$10) (which~~  
 11 ~~includes all costs up to the entry of judgment);~~

12 ~~For entry of judgment in favor of party appealing, he~~  
 13 ~~must pay the sum of five dollars (\$5);~~

14 ~~For entry of judgment in favor of the other party or~~  
 15 ~~respondent, he must pay the sum of ten dollars (\$10) (which~~  
 16 ~~includes all the clerk's costs for all services rendered on~~  
 17 ~~such appeal);~~

18 ~~For certifying transcripts on appeal where the same~~  
 19 ~~are not prepared by him, five dollars (\$5) and in addition~~  
 20 ~~thereof five cents (\$.05) per page for each page in excess~~  
 21 ~~of two hundred (200) pages;~~

22 ~~And where he prepares such transcript, in addition~~  
 23 ~~thereof per folio fifteen cents (\$.15);~~

24 (d) at the commencement of an action for the  
 25 dissolution or invalidation of a marriage, from the moving

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1 ~~party, \$50, which is the fee for the entire proceeding~~  
2 ~~through judgment;~~

3 ~~(e) on the filing of a petition for modification of a~~  
4 ~~decree, from the petitioner, \$10;~~

5 ~~(f) For for preparing copies of papers on file in his~~  
6 ~~office, per folio fifteen cents (\$15), when certified to~~  
7 ~~in addition thereto fifty cents (\$50) for certificate and~~  
8 ~~seal, 50 cents per page;~~

9 ~~(g) For for each certificate or oath and jurata with~~  
10 ~~seal, fifty cents (\$50) = \$1;~~

11 ~~For oath and jurata with seal, fifty cents (\$50) =~~

12 ~~For administering oath, twenty five cents (\$25) =~~

13 ~~For taking depositions, per folio twenty cents (\$20) =~~

14 ~~(h) For for filing and docketing a transcript of~~  
15 ~~judgment or abstract of judgment from all other courts, and~~  
16 ~~issuing execution thereon, two dollars and fifty cents~~  
17 ~~(\$2.50) = \$10;~~

18 ~~For issuing execution and all services connected~~  
19 ~~therewith one dollar (\$1) =~~

20 ~~(i) For for issuing an execution or order of sale on a~~  
21 ~~foreclosure of liens a lien, one dollar (\$1) = \$2;~~

22 ~~And in addition per folio twenty cents (\$20) =~~

23 ~~For searching records of files for each year, except~~  
24 ~~for suitors or their attorneys, twenty five cents (\$25) =~~

25 ~~(j) For for transmission of records or files or~~

1 ~~transfer of cases a case to other courts another court, two~~  
2 ~~dollars and fifty cents (\$2.50) = \$5;~~

3 ~~(k) For for filing and entering papers on received by~~  
4 ~~transfer from other courts, five dollars (\$5) = \$10;~~

5 ~~For making, acknowledging and procuring the signature~~  
6 ~~of judge to deed of lot in town site, four dollars (\$4) =~~

7 ~~(l) For for issuing a marriage license, five dollars~~  
8 ~~(\$5) = \$20 =;~~

9 ~~(m) for support accounts maintained by the clerk,~~  
10 ~~\$1.50 per month, payable semiannually on January 2 and July~~  
11 ~~2, which, if not paid by the debtor, shall be deducted from~~  
12 ~~the first payment made after the due date;~~

13 ~~(n) on the filing of an application for informal,~~  
14 ~~formal, or supervised probate or for the appointment of a~~  
15 ~~personal representative or the filing of a petition for the~~  
16 ~~appointment of a guardian or conservator, from the applicant~~  
17 ~~or petitioner, \$35;~~

18 ~~(o) on the filing of a pleading contesting a will,~~  
19 ~~from the contesting party, \$35;~~

20 ~~(p) on entry of judgment in a will contest, from the~~  
21 ~~prevailing party, \$10; and~~

22 ~~(q) on entry of a decree of distribution by the court,~~  
23 ~~from the prevailing party, \$20.~~

24 ~~(2) One quarter (1/4) of all fees collected by said~~  
25 ~~clerk of the district court must be paid to the secretary of~~

1 ~~the public-employees' retirement system board to be credited~~  
 2 ~~to the judges' retirement fund. One-fourth of all fees~~  
 3 ~~collected by the clerk of the district court shall be~~  
 4 ~~deposited in and credited to the general fund of the county.~~  
 5 ~~The remaining portion of the fees shall be remitted to the~~  
 6 ~~state to be deposited as provided in 93-1116."~~

7 Section 2. Section 48-306, R.C.M. 1947, is amended to  
 8 read as follows:

9 "48-306. License to marry. When a marriage application  
 10 has been completed and signed by both parties to a  
 11 prospective marriage and at least one (1) party has appeared  
 12 before the clerk of the district court and paid the marriage  
 13 license fee of ~~fifteen dollars (\$15)~~ \$20, the clerk of the  
 14 district court shall issue a license to marry and a marriage  
 15 certificate form upon being furnished:

16 (1) satisfactory proof that each party to the marriage  
 17 will have attained the age of eighteen (18) years at the  
 18 time the marriage license is effective, or will have  
 19 attained the age of sixteen (16) years and has obtained  
 20 judicial approval as provided in section 48-308; and

21 (2) satisfactory proof that the marriage is not  
 22 prohibited; and

23 (3) a certificate of the results of any medical  
 24 examination required by the laws of this state."

25 Section 3. Section 93-1116, R.C.M. 1947, is amended to

1 read as follows:

2 "93-1116. Contributions by the state of Montana. The  
 3 state of Montana shall monthly contribute to the fund a sum  
 4 equal to ~~six per cent (6%)~~ of the salary of each member of  
 5 the Montana judiciary retirement system. In addition to the  
 6 above, three-quarters (~~3/4~~) of the fees collected by each  
 7 ~~clerk of the district court under section 25-232, as~~  
 8 ~~amended, and section 25-233, as amended, shall be paid into~~  
 9 ~~the county treasurer on the first Monday of each month as~~  
 10 ~~provided in section 25-203, and the other one-quarter shall~~  
 11 ~~be transmitted by the clerk to the secretary of the PERS~~  
 12 ~~board on the first Monday of each month, and by him credited~~  
 13 ~~to the judicial retirement fund. state which shall first~~  
 14 ~~deposit in the judges' retirement fund an amount equal to~~  
 15 ~~20% of the salaries paid to district judges and supreme~~  
 16 ~~court justices who are covered by the judges' retirement~~  
 17 ~~system and then deposit the balance in the state general~~  
 18 ~~fund. The fees collected under section 82-503, as amended,~~  
 19 ~~shall be by the clerk of the supreme court paid by him,~~  
 20 ~~three-quarters (3/4) into the state treasury to be credited~~  
 21 ~~to the general fund, and one-quarter (1/4) of which shall be~~  
 22 ~~paid by him to the secretary of the PERS board, which shall~~  
 23 ~~be credited to the credit of the judicial retirement fund.~~  
 24 The full amount of such fund as created and accumulated is  
 25 hereby set aside to be used exclusively for the purpose of

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1 paying the accrued retirement and expenses provided for  
2 herein.\*

3 Section 4. Repealer. Section 25-233, R.C.M. 1947, is  
4 repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 231-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 19 77, there is hereby submitted a Fiscal Note for House Bill 499 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

Revises the fees of the Clerk of the District Court and amendments.

## ASSUMPTIONS:

1. The number of district judges would remain at 28 and the salary of each is \$25,000 per year.
2. The number of supreme court justices remains at 5 with the justices receiving \$27,000 per year and the chief justice \$28,000.
3. Fee collection by the district courts will increase from \$391,000 in FY 76 to \$1,173,000 in FY 78 and FY 79.
4. All district court judges and justices of the supreme court are members of the Judges' Retirement System.
5. The bill makes across the board three-fold increases in court fees.

## FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Receipts to Judges' Retirement System -- proposed law	\$167,200	\$167,200
Receipts to Judges' Retirement System -- current law	<u>97,750</u>	<u>97,750</u>
Increase in receipts due to proposed law	<u>\$ 69,450</u>	<u>\$ 69,450</u>
General Fund receipts from court fees -- proposed law	\$712,550	\$712,550
General Fund receipts from court fees -- current law	<u>0</u>	<u>0</u>
Increase in receipts due to proposed law	<u>\$712,550</u>	<u>\$712,550</u>

NOTE: If judicial salaries are increased, the contributions to the Judges' Retirement System would also increase with a corresponding decrease in the amount available to the General Fund.

## LOCAL IMPACT:

Due to increase in court fees, revenues of local government will not be affected by this legislation.

*Richard L. Sawyer*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-77

## STATE OF MONTANA

## FISCAL NOTE

REQUEST NO. 231-77  
(in committee)

Form BD-15

In compliance with a written request received April 4, 19 77, there is hereby submitted a Fiscal Note for House Bill 499 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

Revises the fees of the Clerk of the District Court and amendments.

## ASSUMPTIONS:

1. The number of district judges would remain at 28 and the salary of each is \$35,000 (as passed by the Senate in Senate Bill 71).
2. The number of Supreme Court Justices remains at 5 with the Justices receiving \$38,500 per year and the Chief Justice \$39,500.
3. Fee collections by the district courts will increase from \$391,000 in FY76 to \$782,000 in FY78 and FY79.
4. All district court judges and justices of the Supreme Court are members of the Judges Retirement System.
5. The bill makes across-the-board two-fold increases in court fees.

## FISCAL IMPACT

	<u>FY78</u>	<u>FY79</u>
Receipts to Judges' Retirement System - proposed law	\$234,200	\$234,200
Receipts to Judges' Retirement System - current law	<u>97,750</u>	<u>97,750</u>
Increase in receipts due to proposed law	<u>\$136,450</u>	<u>\$136,450</u>
General Fund receipts from court fees - proposed law	352,300	352,300
General Fund receipts from court fees - current law	<u>0</u>	<u>0</u>
Increase in receipts due to proposed law	<u>\$352,300</u>	<u>\$352,300</u>

## LOCAL IMPACT:

Proposed bill would mean a reduction in revenue to the counties of \$97,750 each year.

*Richard L. Franke*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4-4-77

Approved by Committee on Judiciary

1 INTRODUCED BY H Scully, Ramsey BILL NO. 499

2 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE FEES OF  
3 THE CLERK OF THE DISTRICT COURT; AMENDING SECTIONS 25-232,  
4 48-306, AND 93-1116, R.C.M. 1947; REPEALING SECTION 25-233,  
5 R.C.M. 1947."

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

7 Section 1. Section 25-232, R.C.M. 1947, is amended to  
8 read as follows:

9 "25-232. Fees of clerk of district court: ~~(1) the~~  
10 ~~clerk shall collect the following fees:~~

11 (a) ~~At~~ at the commencement of each action or  
12 proceeding, the clerk ~~must collect~~ from the plaintiff or  
13 petitioner, the sum of ten dollars ~~(\$10)~~ \$35; and for  
14 filing a complaint in intervention, the clerk ~~must collect~~  
15 from the intervenor, the sum of ten dollars ~~(\$10)~~ \$25;

16 (b) ~~And the~~ from each defendant or respondent, on his  
17 appearance, must pay the sum of five dollars ~~(\$5)~~ (which  
18 includes all the fees to be paid up to the entry of  
19 judgment) \$20;

20 (c) ~~On the entry of judgment in favor of plaintiff, he~~  
21 ~~must pay the additional sum of five dollars (\$5);~~

22 ~~And if in favor of defendant, the defendant must pay~~

1 the sum of ten dollars ~~(\$10)~~ (which includes all the clerk's  
2 costs for all services rendered in any action or proceeding,  
3 except issuing execution or order of sale, and the fees for  
4 transcript on appeal. If the action is dismissed, no fee for  
5 the entry of judgment need be paid, unless the party desires  
6 the entry of such judgment) on the entry of judgment, from  
7 the prevailing party, \$10;

8 For filing the papers and transcript on appeal from a  
9 justice or other inferior court or other tribunal, the party  
10 appealing must pay the sum of ten dollars ~~(\$10)~~ (which  
11 includes all costs up to the entry of judgment);

12 For entry of judgment in favor of party appealing, he  
13 must pay the sum of five dollars ~~(\$5)~~;

14 For entry of judgment in favor of the other party or  
15 respondent, he must pay the sum of ten dollars ~~(\$10)~~ (which  
16 includes all the clerk's costs for all services rendered on  
17 such appeal);

18 For certifying transcripts on appeal, where the same  
19 are not prepared by him, five dollars ~~(\$5)~~ and in addition  
20 thereto, five cents ~~(\$05)~~ per page for each page in excess  
21 of two hundred ~~(200)~~ pages;

22 And where he prepares such transcripts, in addition  
23 thereto, per folio, fifteen cents ~~(\$015)~~;

24 (d) at the commencement of an action for the  
25 dissolution or invalidation of a marriage, from the moving

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1 ~~party, \$50, which is the fee for the entire proceeding~~  
2 ~~through judgment;~~

3 ~~(e) on the filing of a petition for modification of a~~  
4 ~~decree, from the petitioner, \$10;~~

5 ~~(f) For for preparing copies of papers on file in his~~  
6 ~~office, per folio, fifteen cents (\$15), when certified to,~~  
7 ~~in addition thereto, fifty cents (\$50) for certificate and~~  
8 ~~seals, 50 cents per page;~~

9 ~~(g) For for each certificate or oath and jurata with~~  
10 ~~seal, fifty cents (\$50), \$1;~~

11 ~~For oath and jurata with seals, fifty cents (\$50);~~

12 ~~For administering oaths, twenty five cents (\$25);~~

13 ~~For taking depositions, per folio, twenty cents (\$20);~~

14 ~~(h) For for filing and docketing a transcript of~~  
15 ~~judgment or abstract of judgment from all other courts, and~~  
16 ~~issuing execution thereon, two dollars and fifty cents~~  
17 ~~(\$2.50), \$10;~~

18 ~~For issuing execution and all services connected~~  
19 ~~therewith, one dollar (\$1);~~

20 ~~(i) For for issuing an execution or order of sale on a~~  
21 ~~foreclosure of liens a lien, one dollar (\$1), \$2;~~

22 ~~And in addition per folio, twenty cents (\$20);~~

23 ~~For searching records of files for each year, except~~  
24 ~~for suitors or their attorneys, twenty five cents (\$25);~~

25 ~~(j) For for transmission of records or files or~~

1 transfer of cases a case to other courts another court, two  
2 dollars and fifty cents (\$2.50), \$5;

3 (k) For for filing and entering papers on received by  
4 transfer from other courts, five dollars (\$5), \$10;

5 For making, acknowledging, and procuring the signature  
6 of judge to deed of lot in townsite, four dollars (\$4);

7 (l) For for issuing a marriage license, five dollars  
8 (\$5), \$20;

9 (m) for support accounts maintained by the clerk,  
10 \$1.50 per month, payable semiannually on January 2 and July  
11 2, which, if not paid by the debtor, shall be deducted from  
12 the first payment made after the due date;

13 (n) on the filing of an application for informal,  
14 formal, or supervised probate or for the appointment of a  
15 personal representative or the filing of a petition for the  
16 appointment of a guardian or conservator, from the applicant  
17 or petitioner, \$35;

18 (o) on the filing of a pleading contesting a will,  
19 from the contesting party, \$35;

20 (p) on entry of judgment in a will contest, from the  
21 prevailing party, \$10; and

22 (q) on entry of a decree of distribution by the court,  
23 from the prevailing party, \$20;

24 (2) One-quarter (1/4) of all fees collected by said  
25 clerk of the district court must be paid to the secretary of

1 ~~the public employees' retirement system board to be credited~~  
 2 ~~to the judges' retirement fund. One-fourth of all fees~~  
 3 ~~collected by the clerk of the district court shall be~~  
 4 ~~deposited in and credited to the general fund of the county.~~  
 5 ~~The remaining portion of the fees shall be remitted to the~~  
 6 ~~state to be deposited as provided in 93-1116."~~

7 Section 2. Section 48-306, R.C.M. 1947, is amended to  
 8 read as follows:

9 "48-306. License to marry. When a marriage application  
 10 has been completed and signed by both parties to a  
 11 prospective marriage and at least one (1) party has appeared  
 12 before the clerk of the district court and paid the marriage  
 13 license fee of ~~fifteen dollars (\$15)~~ \$20, the clerk of the  
 14 district court shall issue a license to marry and a marriage  
 15 certificate form upon being furnished:

16 (1) satisfactory proof that each party to the marriage  
 17 will have attained the age of eighteen (18) years at the  
 18 time the marriage license is effective, or will have  
 19 attained the age of sixteen (16) years and has obtained  
 20 judicial approval as provided in section 48-308; and

21 (2) satisfactory proof that the marriage is not  
 22 prohibited; and

23 (3) a certificate of the results of any medical  
 24 examination required by the laws of this state."

25 Section 3. Section 93-1116, R.C.M. 1947, is amended to

1 read as follows:

2 "93-1116. Contributions by the state of Montana. The  
 3 state of Montana shall monthly contribute to the fund a sum  
 4 equal to six per cent (6%) of the salary of each member of  
 5 the Montana judiciary retirement system. In addition to the  
 6 above, three-quarters (3/4) of the fees collected by each  
 7 ~~clerk of the district court under section 25-232, as~~  
 8 ~~amended, and section 25-233, as amended, shall be paid into~~  
 9 ~~the county treasurer on the first Monday of each month as~~  
 10 ~~provided in section 25-203, and the other one-quarter shall~~  
 11 ~~be transmitted by the clerk to the secretary of the PERS~~  
 12 ~~board on the first Monday of each month, and by him credited~~  
 13 ~~to the judicial retirement fund state which shall first~~  
 14 ~~deposit in the judges' retirement fund an amount equal to~~  
 15 ~~20% of the salaries paid to district judges and supreme~~  
 16 ~~court justices who are covered by the judges' retirement~~  
 17 ~~system and then deposit the balance in the state general~~  
 18 ~~fund. The fees collected under section 82-503, as amended,~~  
 19 ~~shall be by the clerk of the supreme court paid by him,~~  
 20 ~~three-quarters (3/4) into the state treasury to be credited~~  
 21 ~~to the general fund, and one-quarter (1/4) of which shall be~~  
 22 ~~paid by him to the secretary of the PERS board, which shall~~  
 23 ~~be credited to the credit of the judicial retirement fund.~~  
 24 The full amount of such fund as created and accumulated is  
 25 hereby set aside to be used exclusively for the purpose of

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1 paying the accrued retirement and expenses provided for  
2 herein."\*  
3 Section 4. Repealer. Section 25-233, R.C.M. 1947, is  
4 repealed.

-End-

HOUSE BILL NO. 499

INTRODUCED BY SCULLY, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE FEES OF THE CLERK OF THE DISTRICT COURT; AMENDING SECTIONS 25-232, 42-306, AND 93-1116, R.C.M. 1947; REPEALING SECTION 25-233, R.C.M. 1947."

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

Section 1. Section 25-232, R.C.M. 1947, is amended to read as follows:

"25-232. Fees of clerk of district court. (1) the clerk shall collect the following fees:

(a) ~~At at~~ the commencement of each action or proceeding, the clerk must collect from the plaintiff ~~or petitioner, the sum of ten dollars (\$10), \$35;~~ and for filing a complaint in intervention, ~~the clerk must collect from the intervenor, the sum of ten dollars (\$10) \$25;~~

(b) ~~And the from each~~ defendant ~~or respondent,~~ on his appearance, ~~must pay the sum of five dollars (\$5) (which includes all the fees to be paid up to the entry of judgment) \$20;~~

(c) ~~On the entry of judgment in favor of plaintiff, he must pay the additional sum of five dollars (\$5)†~~

~~And if in favor of defendant, the defendant must pay~~

~~the sum of ten dollars (\$10) (which includes all the clerk's costs for all services rendered in any action or proceeding except issuing execution or order of sale and the fees for transcript on appeal. If the action is dismissed, no fee for the entry of judgment need be paid, unless the party desires the entry of such judgment); on the entry of judgment, from the prevailing party, \$10;~~

~~For filing the papers and transcript on appeal from a justice or other inferior court or other tribunal, the party appealing must pay the sum of ten dollars (\$10) (which includes all costs up to the entry of judgment);~~

~~For entry of judgment in favor of party appealing, he must pay the sum of five dollars (\$5);~~

~~For entry of judgment in favor of the other party or respondent, he must pay the sum of ten dollars (\$10) (which includes all the clerk's costs for all services rendered on such appeal);~~

~~For certifying transcripts on appeal where the same are not prepared by him, five dollars (\$5), and in addition thereto, five cents (\$.05) per page for each page in excess of two hundred (200) pages;~~

~~And where he prepares such transcript, in addition thereto, per folio, fifteen cents (\$.15);~~

~~(d) at the commencement of an action for the dissolution or invalidation of a marriage, from the moving~~

1 ~~party, \$50, which is the fee for the entire proceeding~~  
2 ~~through judgment \$35;~~

3 (e) on the filing of a petition for modification of a  
4 decree, from the petitioner, \$10;

5 (f) For ~~for~~ preparing copies of papers ~~on file~~ in his  
6 office, ~~per folio, fifteen cents (\$15), when certified to~~  
7 ~~in addition thereto, fifty cents (\$50) for certificate and~~  
8 ~~seal, 50 cents per page;~~

9 (g) For ~~for~~ each certificate or oath and jurat, with  
10 seal, ~~fifty cents (\$50), \$1;~~

11 ~~For oath and jurat, with seal, fifty cents (\$50);~~

12 ~~For administering oath, twenty-five cents (\$25);~~

13 ~~For taking depositions, per folio, twenty cents (\$20);~~

14 (h) For ~~for~~ filing and docketing a transcript of  
15 judgment or abstract of judgment from all other courts, and  
16 issuing execution thereon, ~~two dollars and fifty cents~~  
17 ~~(\$2.50), \$10;~~

18 ~~For issuing execution and all services connected~~  
19 ~~therewith, one dollar (\$1);~~

20 (i) For ~~for~~ issuing an execution or order of sale on a  
21 foreclosure of ~~riens a lien~~, one dollar ~~(\$1), \$2;~~

22 ~~And in addition per folio, twenty cents (\$20);~~

23 ~~For searching records of files for each year, except~~  
24 ~~for suitors or their attorneys, twenty-five cents (\$25);~~

25 (j) For ~~for~~ transmission of records or files or

1 transfer of cases a case to other courts another court, two  
2 dollars and fifty cents ~~(\$2.50), \$5;~~

3 (k) For ~~for~~ filing and entering papers on receive, by  
4 transfer from other courts, ~~five dollars (\$5), \$10;~~

5 ~~For making, acknowledging, and procuring the signature~~  
6 ~~of judge to deed of lot in townsite, four dollars (\$4);~~

7 (l) For ~~for~~ issuing a marriage license, ~~five dollars~~  
8 ~~(\$5), \$20;~~

9 (m) ~~for support accounts maintained by the clerk,~~  
10 ~~\$1.50 per month, payable semiannually on January 2 and July~~  
11 ~~2, which, if not paid by the debtor, shall be deducted from~~  
12 ~~the first payment made after the due date;~~

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15 ~~personal representative or the filing of a petition for the~~  
16 ~~appointment of a guardian or conservator, from the applicant~~  
17 ~~or petitioner, \$35;~~

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20 (p) ~~on entry of judgment in a will contest, from the~~  
21 ~~prevailing party, \$10; and~~

22 (q) ~~on entry of a decree of distribution by the court,~~  
23 ~~from the prevailing party, \$20;~~

24 (2) ~~One-quarter (1/4) of all fees collected by said~~  
25 ~~clerk of the district court must be paid to the secretary of~~

HB 580, do pass. Report adopted.

Objection raised by Vincent on 2/10/77 on adverse committee report on HB 435. Referred to Second Reading.

In motion by Day, and in accordance with the 24-hour rule, the adverse committee report on HB 252 was adopted by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Brand, Burnett, Colburn, Conroy, Cooney, Courtney, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Estenson, Eudaily, Fabrega, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, Halvorson, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lund, Lynch, McLane, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Sivertsen, Smith, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Uhde, Underdahl, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.  
Total 89

Noes: Cox, Curtiss, Ellison, Ernst, Fagg, J. Gunderson, Hand.  
Total 7

Excused: None.  
Total 0

Absent or not voting: Bradley, Kennerly, Manuel, Shelden.  
Total 4

#### MESSAGES FROM THE OTHER HOUSE

Bills passed by the Senate and transmitted to the House for concurrence: 2/9/77

Senate Bill No. 124, introduced by Graham

Senate Bill No. 157, introduced by Thomas, Lee

Bills concurred in by the Senate and returned to the House: 2/9/77

House Bill No. 38, introduced by Bardanouve

House Bill No. 44, introduced by Bardanouve

Bill concurred in as amended by the Senate and returned to the House for concurrence in Senate Amendments: 2/9/77

House Bill No. 136, introduced by Conroy, Ellerd, Davis, et al

#### MOIIONS

Ellison moved the rules be temporarily suspended for the purpose of introducing a bill regarding cemetery corporations. Motion carried.

Dussault moved that HB 475 be rereferred from Second Reading to the Committee on Judiciary. Motion carried.

Kvaalen moved that HB 305 be rereferred from Engrossing to the Committee on Appropriations. Motion failed.

Vincent moved that HB 497 be rereferred from the Committee on Business and Industry to the Committee on Judiciary. Motion carried.

#### FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following bills were accepted for introduction on the 18th Legislative Day, read first time and referred to committees:

HB 744, introduced by Barrett. Referred to Committee on Education.

HB 745, introduced by Gerke. Referred to Committee on Local Government.

HB 746, introduced by E. Gunderson, Dussault, Moore, Marks, Fabrega, Porter. Referred to Committee on Education.

HB 747, introduced by Fagg. Referred to Committee on Business and Industry.

HB 748, introduced by Fagg. Referred to Committee on Business and Industry.

HB 749, introduced by E. Gunderson, Waldron, Fagg, Fabrega. Referred to Committee on Judiciary.

HB 750, introduced by Vincent, Meloy. Referred to Committee on Business and Industry.

HB 751, introduced by Waldron. Referred to Committee on Judiciary.

HB 752, introduced by Huennekens, Frates, Harrington, Fagg. Referred to Committee on Fish and Game.

HB 753, introduced by Bradley, Meloy, Kimble. Referred to Committee on Natural Resources.

HB 754, introduced by Meloy. Referred to Committee on Natural Resources.

HB 755, introduced by Conroy, Day, Lien. Referred to Committee on Taxation.

HJR 61, introduced by Mular, Quilici, Lynch, Scully, Cooney, Dussault, Smith, Menahan, Courtney, Harrington. Referred to Committee on Highways and Transportation.

HJR 62, introduced by Holmes, Menahan, Dussault. Referred to Committee on Public Health, Welfare and Safety.

HJR 63, introduced by Holmes, Ramirez, Fagg, Keyser, Palmer, Vincent, Porter, Lory, Seifert, Dussault, South, Scully, Hirsch, Courtney, Huennekens, Metcalf, Ryan, Shelden, Driscoll, Kimble, Harper, Jensen, Nathe, Ellerd, Bertelsen, Hand, Colburn, Harrington, Lien, Waldron, Halvorson.

1 paying the accrued retirement and expenses provided for  
2 herein."

3 Section 4. Repealer. Section 25-233, R.C.M. 1947, is  
4 repealed.

-End-

April, 1977

SENATE  
COMMITTEE OF THE WHOLE

That House Bill No. 499, third reading, be amended as follows:

1. Amend page 5, section 3, line 25 through line 2 on page 7.

Following: "Section 3."

Strike: lines 25 through line 2 on page 7 in their entirety.

Insert: "Section 7, chapter 63, Laws of 1977, is amended to read as follows:

'Section 7. Section 93-1116, R.C.M. 1947, is amended to read as follows:

'93-1116. Contributions by the state. The state of montana shall contribute monthly to the fund a sum equal to 6% of the salary of each member. In addition, ~~on-the-first-Monday-of-each month~~ the clerk of each district court shall transmit ~~one-fourth~~ 60% of the fees collected under 25-232 ~~and-25-233~~ to the ~~public employees'-retirement-division-of-the-department-of-administration to-be-credited-to-the-fund~~ state, which shall first deposit in the fund an amount equal to 20% of the salaries paid to district judges and supreme court justices who are covered by the judges' retirement system and then deposit the balance in the state general fund. The clerk of the supreme court shall pay one-fourth of the fees collected under 82-503 to the public employees' retirement division of the department of administration to be credited to the fund. The full amount of the fund as created and accumulated is hereby set aside to be used exclusively for the purpose of paying the retirement benefits and expenses provided for herein.'"

April 5, 1977

SENATE  
STANDING COMMITTEE REPORT  
Judiciary Committee

That House Bill No. 499, third reading, be amended as follows:

1. Amend title, lines 5 and 6.

Following: "25-232"

Strike: ", 48-306,"

2. Amend page 1, section 1, line 16.

Following: "~~10~~7"

Strike: "\$35"

Insert: "\$20"

3. Amend page 1, section 1, line 18.

Following: "~~10~~"

Strike: "\$35"

Insert: "\$20"

4. Amend page 1, section 1, line 22.

Following: "7"

Strike: "\$20"

Insert: "\$10"

5. Amend page 2, section 1, line 24 through line 4 on page 3.

Following: line 23

Strike: line 24 through line 4 on page 3 in their entirety

Renumber: subsequent subsections

6. Amend page 3, section 1, line 8.

Following: "7"

Strike: "50"

Insert: "25"

7. Amend page 3, section 1, line 10.

Following: "7"

Strike: "\$1"

Insert: "50 cents"

8. Amend page 3, section 1, line 17.

Following: "7"

Strike: "\$10"

Insert: "\$5"

9. Amend page 4, section 1, line 8.

Following: "~~5~~"

Strike: "\$20"

Insert: "\$15"

10. Amend page 4, section 1, lines 9 through 12.

Following: line 8

Strike: lines 9 through 12 in their entirety

Renumber: all subsequent subsections

11. Amend page 4, section 1, line 17.  
Following: "\$35"  
Insert: ", which includes the fee for filing a will for probate"
12. Amend page 4, section 1, lines 18 through 23.  
Following: line 17  
Strike: lines 18 through 23 in their entirety
13. Amend page 5, section 1, line 2.  
Following: "~~fund-~~"  
Strike: "One-fourth"  
Insert: "Forty per cent"
14. Amend page 5, section 2, lines 7 through 24.  
Following: line 6  
Strike: section 2 in its entirety  
Renumber: all subsequent sections
15. Amend page 6, section 3, line 6.  
Following: ", "  
Strike: "three-quarters"  
Insert: "60%"

1 HOUSE BILL NO. 499

2 INTRODUCED BY SCULLY, RAMIREZ

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE FEES OF  
5 THE CLERK OF THE DISTRICT COURT; AMENDING SECTIONS 25-232,  
6 48-306, AND 93-1116, R.C.M. 1947; REPEALING SECTION 25-233,  
7 R.C.M. 1947."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 25-232, R.C.M. 1947, is amended to  
11 read as follows:

12 "25-232. Fees of clerk of district court. (1) The  
13 clerk shall collect the following fees:

14 (a) ~~At~~ at the commencement of each action or  
15 proceeding, the clerk must collect from the plaintiff ~~or~~  
16 ~~petitioner,~~ the sum of ten dollars (\$10), ~~\$25~~ \$20; and for  
17 filing a complaint in intervention, the clerk must collect  
18 from the intervenor, the sum of ten dollars (\$10), ~~\$35~~ \$20;

19 (b) ~~And the~~ from each defendant ~~or~~ respondent, on his  
20 appearance, must pay the sum of ~~five~~ five dollars (\$5) ~~(which~~  
21 ~~includes all the fees to be paid up to the entry of~~  
22 ~~judgment),~~ \$20 \$10;

23 (c) ~~On the entry of judgment in favor of plaintiff,~~ he  
24 ~~must pay the additional sum of five dollars (\$5).~~

25 ~~And if in favor of defendant, the defendant must pay~~

1 ~~the sum of ten dollars (\$10) (which includes all the clerk's~~  
2 ~~costs for all services rendered in any action or proceeding,~~  
3 ~~except issuing execution or order of sale, and the fees for~~  
4 ~~transcript on appeal, if the action is dismissed, no fee for~~  
5 ~~the entry of judgment need be paid, unless the party desires~~  
6 ~~the entry of such judgment),~~ on the entry of judgment, from  
7 the prevailing party, \$10;

8 ~~For filing the papers and transcript on appeal from a~~  
9 ~~justice or other inferior court or other tribunal, the party~~  
10 ~~appealing must pay the sum of ten dollars (\$10) (which~~  
11 ~~includes all costs up to the entry of judgment),~~

12 ~~for entry of judgment in favor of party appealing, he~~  
13 ~~must pay the sum of five dollars (\$5);~~

14 ~~For entry of judgment in favor of the other party, or~~  
15 ~~respondent, he must pay the sum of ten dollars (\$10) (which~~  
16 ~~includes all the clerk's costs for all services rendered on~~  
17 ~~such appeal);~~

18 ~~For certifying transcripts on appeal, where the same~~  
19 ~~are not prepared by him, five dollars (\$5) and in addition~~  
20 ~~thereto, five cents (\$.05) per page for each page in excess~~  
21 ~~of two hundred (200) pages;~~

22 ~~And where he prepares such transcript, in addition~~  
23 ~~thereto, per folio, fifteen cents (\$.15);~~

24 ~~(d) at the commencement of an action for the~~  
25 ~~dissolution or invalidation of a marriage, from the moving~~

1 ~~party \$20 which is the fee for the entire proceeding~~  
 2 ~~through judgment \$25~~

3 ~~for on the filing of a petition for modification of a~~  
 4 ~~decree from the petitioner \$10~~

5 ~~for (D) For for preparing copies of papers on file in~~  
 6 ~~his office, per folio fifteen cents (\$15) when certified~~  
 7 ~~to in addition thereto fifty cents (\$50) for certificate~~  
 8 ~~and seats 50 25 cents per page;~~

9 ~~for (E) For for each certificate or oath and jurat,~~  
 10 ~~with seal, fifty cents (\$50) \$ 50 CENTS;~~

11 For oath and jurat, with seal, fifty cents (\$.50).

12 For administering oath, twenty-five cents (\$.25).

13 For taking depositions, per folio, twenty cents (\$.20).

14 ~~for (F) For for filing and docketing a transcript of~~  
 15 ~~judgment or abstract of judgment from all other courts, and~~  
 16 ~~issuing execution thereon two dollars and fifty cents~~  
 17 ~~(\$2.50) \$20 \$5;~~

18 ~~For issuing execution and all services connected~~  
 19 ~~therewith one dollar (\$1)~~

20 ~~for (G) For for issuing an execution or order of sale~~  
 21 ~~on a foreclosure of liens a lien, one dollar (\$1) \$2;~~

22 ~~And in addition per folio twenty cents (\$20)~~

23 ~~For searching records of files for each year except~~  
 24 ~~for suitors or their attorneys twenty-five cents (\$25)~~

25 ~~for (H) For for transmission of records or files or~~

1 transfer of cases a case to other courts another court, two  
 2 dollars and fifty cents (\$2.50) \$2;

3 ~~for (I) For for filing and entering papers on received~~  
 4 ~~by transfer from other courts, five dollars (\$5) \$10;~~

5 ~~For making acknowledging and procuring the signature~~  
 6 ~~of judge to deed of lot in town site four dollars (\$4)~~

7 ~~for (J) For for issuing a marriage license, five~~  
 8 ~~dollars (\$5) \$20 \$15;~~

9 ~~for (K) for support accounts maintained by the clerk~~  
 10 ~~\$1.50 per month payable semiannually on January 2 and duty~~  
 11 ~~2 which if not paid by the debtor shall be deducted from~~  
 12 ~~the first payment made after the due date~~

13 ~~for (L) on the filing of an application for informal,~~  
 14 ~~formal, or supervised probate or for the appointment of a~~  
 15 ~~personal representative or the filing of a petition for the~~  
 16 ~~appointment of a guardian or conservator, from the applicant~~  
 17 ~~or petitioner, \$35, WHICH INCLUDES THE FEE FOR FILING A WILL~~  
 18 ~~FOR PROBATE \$1~~

19 ~~for on the filing of a pleading contesting a will~~  
 20 ~~from the contesting party \$25~~

21 ~~for on entry of judgment in a will contest from the~~  
 22 ~~prevailing party \$10 and~~

23 ~~for on entry of a decree of distribution by the court~~  
 24 ~~from the prevailing party \$20~~

25 ~~(2) One quarter (1/4) of all fees collected by said~~

1 clerk of the district court must be paid to the secretary of  
 2 the public employees' retirement system board to be credited  
 3 to the judges' retirement fund. One fourth FORTY PERCENT of  
 4 all fees collected by the clerk of the district court shall  
 5 be deposited in and credited to the general fund of the  
 6 county. The remaining portion of the fees shall be remitted  
 7 to the state to be deposited as provided in 93-1116."

8 Section 2. Section 48-306, R.C.M., 1947, is amended to  
 9 read as follows:

10 "48-306. License to marry. When a marriage  
 11 application has been completed and signed by both parties to  
 12 a prospective marriage and at least one (1) party has  
 13 appeared before the clerk of the district court and paid the  
 14 marriage license fee of fifteen dollars (\$15) ~~20~~, the clerk  
 15 of the district court shall issue a license to marry and a  
 16 marriage certificate form upon being furnished:

17 (1) satisfactory proof that each party to the marriage  
 18 will have attained the age of eighteen (18) years at the  
 19 time the marriage license is effective, or will have  
 20 attained the age of sixteen (16) years and has obtained  
 21 judicial approval as provided in section 40-308; and

22 (2) satisfactory proof that the marriage is not  
 23 prohibited; and

24 (3) a certificate of the results of any medical  
 25 examination required by the laws of this state."

1 Section 3. Section 93-1116, R.C.M., 1947, is amended to  
 2 read as follows:

3 "93-1116. Contributions by the state of Montana. The  
 4 state of Montana shall monthly contribute to the fund a sum  
 5 equal to six per cent (6%) of the salary of each member of  
 6 the Montana judiciary retirement system, in addition to the  
 7 above, three quarters (3/4) ~~68%~~ of the fees collected by  
 8 each clerk of the district court under section 25-232, as  
 9 amended, and section 25-233, as amended, shall be paid into  
 10 the county treasurer on the first Monday of each month as  
 11 provided in section 25-203, and the other one quarter shall  
 12 be transmitted by the clerk to the secretary of the PERS  
 13 board on the first Monday of each month, and by him credited  
 14 to the judicial retirement fund ~~state~~ which shall first  
 15 deposit in the judges' retirement fund an amount equal to  
 16 ~~20%~~ of the salaries paid to district judges and supreme  
 17 court justices who are covered by the judges' retirement  
 18 system and then deposit the balance in the state general  
 19 fund. The fees collected under section 82-503, as amended,  
 20 shall be by the clerk of the supreme court paid by him  
 21 three quarters (3/4) into the state treasury to be credited  
 22 to the general fund, and one quarter (1/4) of which shall be  
 23 paid by him to the secretary of the PERS board, which shall  
 24 be credited to the credit of the judicial retirement fund.  
 25 The full amount of such fund as created and accumulated is

1 hereby--set--aside--to--be--used--exclusively--for--the--purpose--of  
 2 paying--the--accrued--retirement--and--expenses--provided--for  
 3 herein"

4 SECTION 2, SECTION 7, CHAPTER 63, LAWS OF 1977, IS  
 5 AMENDED TO READ AS FOLLOWS:

6 "Section 7. Section 93-1116, R.C.M. 1947, is amended  
 7 to read as follows:

8 "93-1116. Contributions by the state. The state of  
 9 Montana shall contribute monthly to the fund a sum equal to  
 10 6% of the salary of each member. In addition, ~~on the first~~  
 11 ~~Monday of each month~~ the clerk of each district court shall  
 12 transmit ~~one-fourth~~ 60% of the fees collected under 25-232  
 13 ~~and 25-233~~ to the ~~public employees' retirement division of~~  
 14 ~~the department of administration to be credited to the fund~~  
 15 ~~state, which shall first deposit in the fund an amount equal~~  
 16 ~~to 20% of the salaries paid to district judges and supreme~~  
 17 ~~court justices who are covered by the judges' retirement~~  
 18 ~~system and then deposit the balance in the state general~~  
 19 ~~fund.~~ The clerk of the supreme court shall pay one-fourth of  
 20 the fees collected under 82-503 to the public employees'  
 21 retirement division of the department of administration to  
 22 be credited to the fund. The full amount of the fund as  
 23 created and accumulated is hereby set aside to be used  
 24 exclusively for the purpose of paying the retirement  
 25 benefits and expenses provided for herein."

1 Section 3. Repealer. Section 25-233, R.C.M. 1947, is  
 2 repealed.

-End-