

HOUSE BILL NO. 141
INTRODUCED BY BARDANOUE

IN THE HOUSE

JANUARY 12, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

JANUARY 27, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 28, 1987 PRINTING REPORT.

JANUARY 29, 1987 SECOND READING, DO PASS.

JANUARY 30, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 88; NOES, 9.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

MARCH 18, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 21, 1987 SECOND READING, CONCURRED IN.

MARCH 24, 1987 THIRD READING, CONCURRED IN.
AYES, 44; NOES, 5.

 RETURNED TO HOUSE.

IN THE HOUSE

MARCH 24, 1987 RECEIVED FROM SENATE.

 SENT TO ENROLLING.

1 HB BILL NO. 141
2 INTRODUCED BY Balanev

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A FEE FOR
5 FILING A MOTION FOR SUBSTITUTION OF A DISTRICT JUDGE IN A
6 CIVIL CASE; REQUIRING MONEY FROM THE FEE TO BE DEPOSITED IN
7 THE STATE GENERAL FUND; AND AMENDING SECTIONS 19-5-404 AND
8 25-1-201, MCA."

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

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

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

15 (a) at the commencement of each action or proceeding,
16 from the plaintiff or petitioner, \$25; for filing a
17 complaint in intervention, from the intervenor, \$25; and for
18 filing a petition for dissolution of marriage, an additional
19 fee of \$30;

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

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

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

- 1 (e) for each certificate, with seal, 50 cents;
- 2 (f) for oath and jurat, with seal, 50 cents;
- 3 (g) for administering oath, 25 cents;
- 4 (h) for taking depositions, per folio, 20 cents;
- 5 (i) for filing and docketing a transcript of judgment
6 or abstract of judgment from all other courts, \$5;
- 7 (j) for issuing an execution or order of sale on a
8 foreclosure of a lien, \$2;
- 9 (k) for transmission of records or files or transfer
10 of a case to another court, \$5;
- 11 (l) for filing and entering papers received by
12 transfer from other courts, \$10;
- 13 (m) for issuing a marriage license, \$30;
- 14 (n) on the filing of an application for informal,
15 formal, or supervised probate or for the appointment of a
16 personal representative or the filing of a petition for the
17 appointment of a guardian or conservator, from the applicant
18 or petitioner, \$35, which includes the fee for filing a will
19 for probate;
- 20 (o) on the filing of the items required in 72-4-303 by
21 a domiciliary foreign personal representative of the estate
22 of a nonresident decedent, \$35;
- 23 (p) for filing a declaration of marriage without
24 solemnization, \$30;
- 25 (q) for filing a motion for substitution of a judge,

1 \$100.

2 (2) Except as provided in subsections (3) ~~and (4)~~
3 through (5), 32% of all fees collected by the clerk of the
4 district court must be deposited in and credited to the
5 general fund of the county. The remaining portion of the
6 fees must be remitted to the state to be deposited as
7 provided in 19-5-404.

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

14 (4) Of the additional fee for filing a petition for
15 dissolution of marriage, \$25 must be deposited in the state
16 general fund and \$5 must be deposited in the children's
17 trust fund account established by 41-3-702.

18 (5) The fee for filing a motion for substitution of a
19 judge as provided in subsection (1)(g) must be deposited in
20 the state general fund.

21 25-1-201. (Effective January 1, 1990) Fees of clerk of
22 district court. (1) The clerk of the district court shall
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4 Section 2. Section 19-5-404, MCA, is amended to read:
5 "19-5-404. Contributions by the state. The state of
6 Montana shall contribute monthly to the fund a sum equal to
7 6% of the salary of each member. In addition, the clerk of
8 each district court shall transmit 68% of the certain filing
9 fees collected as required under 25-1-201 to the state,
10 which shall first deposit in the fund an amount equal to 31%
11 of the salaries paid to district judges and supreme court
12 justices who are covered by the judges' retirement system
13 and then deposit the balance in the state general fund. The
14 clerk of the supreme court shall pay one-fourth of the fees
15 collected under 3-2-403 to the public employees' retirement
16 division of the department of administration to be credited
17 to the fund."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB141, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a fee for filing a motion for substitution of a district judge in a civil case; requiring money from the fee to be deposited in the state general fund; and amending Sections 19-5-404 and 25-1-201, MCA.

ASSUMPTIONS:

1. The 171 district court judge substitutions in FY86 would be consistent with FY88 and FY89.
2. FY86 travel costs of \$19,784 associated with 171 substitutions would be the same in FY88 and FY89.
3. The effect of \$100 fee on requests for district court judge substitutions is unknown.

FISCAL IMPACT:Revenue:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
State General Fund	-0-	\$11,628	\$11,628	-0-	\$11,628	\$11,628
Local Gov't General Fund	-0-	5,472	5,472	-0-	5,472	5,472
Total	-0-	\$17,100	\$17,100	-0-	\$17,100	\$17,100

Costs:

State General Fund	\$19,784	\$19,784	-0-	\$19,784	\$19,784	-0-
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EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

\$5,472 annual revenue to county.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter DATE 1/19/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Francis Bardanouve DATE Jan 19
 FRANCIS BARDANOUVE, PRIMARY SPONSOR

Fiscal Note for HB141, as introduced.

#B-141

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 141

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(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;

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18 SECTION 3. SECTION 25-10-405, MCA, IS AMENDED TO READ:

19 "25-10-405. Governmental entities not required to
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 21 subdivision thereof or any officer when prosecuting or
 22 defending an action on behalf of the state, a county, a
 23 municipality, or a subdivision thereof is not required to
 24 pay or deposit any fee or amount to or with any officer
 25 during the prosecution or defense of an action, except the

HB 0141/02

1 fee under 25-1-201(1)(g) for filing a motion for
2 substitution of a judge."

-End-

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HB 0141/02

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20 the state general fund.

21 25-1-201. (Effective January 1, 1990) Fees of clerk of
22 district court. (1) The clerk of the district court shall
23 collect the following fees:

24 (a) at the commencement of each action or proceeding,
25 from the plaintiff or petitioner, \$25; for filing a

1 complaint in intervention, from the intervenor, \$25; and for
2 filing a petition for dissolution of marriage, an additional
3 fee of \$25;

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

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

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

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

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

12 (g) for administering oath, 25 cents;

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

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

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

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

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

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

23 (n) on the filing of an application for informal,
24 formal, or supervised probate or for the appointment of a
25 personal representative or the filing of a petition for the

1 appointment of a guardian or conservator, from the applicant
 2 or petitioner, \$35, which includes the fee for filing a will
 3 for probate;

4 (o) on the filing of the items required in 72-4-303 by
 5 a domiciliary foreign personal representative of the estate
 6 of a nonresident decedent, \$35;

7 (p) for filing a declaration of marriage without
 8 solemnization, \$30;

9 (q) for filing a motion for substitution of a judge,
 10 \$100.

11 (2) Except as provided in subsection subsections (3)
 12 through (5), 32% of all fees collected by the clerk of the
 13 district court must be deposited in and credited to the
 14 general fund of the county. The remaining portion of the
 15 fees must be remitted to the state to be deposited as
 16 provided in 19-5-404.

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

23 (4) The additional fee for filing a petition for
 24 dissolution of marriage must be deposited in the state
 25 general fund.

1 (5) The fee for filing a motion for substitution of a
 2 judge as provided in subsection (1)(q) must be deposited in
 3 the state general fund."

4 Section 2. Section 19-5-404, MCA, is amended to read:

5 "19-5-404. Contributions by the state. The state of
 6 Montana shall contribute monthly to the fund a sum equal to
 7 6% of the salary of each member. In addition, the clerk of
 8 each district court shall transmit 68% of the certain filing
 9 fees collected as required under 25-1-201 to the state,
 10 which shall first deposit in the fund an amount equal to 31%
 11 of the salaries paid to district judges and supreme court
 12 justices who are covered by the judges' retirement system
 13 and then deposit the balance in the state general fund. The
 14 clerk of the supreme court shall pay one-fourth of the fees
 15 collected under 3-2-403 to the public employees' retirement
 16 division of the department of administration to be credited
 17 to the fund."

18 SECTION 3. SECTION 25-10-405, MCA, IS AMENDED TO READ:

19 "25-10-405. Governmental entities not required to
 20 prepay fees. The state, a county, a municipality, or any
 21 subdivision thereof or any officer when prosecuting or
 22 defending an action on behalf of the state, a county, a
 23 municipality, or a subdivision thereof is not required to
 24 pay or deposit any fee or amount to or with any officer
 25 during the prosecution or defense of an action, except the

HB 0141/02

1 fee under 25-1-201(l)(g) for filing a motion for
2 substitution of a judge."

-End-