

HOUSE BILL NO. 232
INTRODUCED BY D. BROWN, YELLOWTAIL

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 11, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1989	PRINTING REPORT.
FEBRUARY 14, 1989	SECOND READING, DO PASS.
FEBRUARY 15, 1989	ENGROSSING REPORT.
FEBRUARY 16, 1989	THIRD READING, PASSED. AYES, 94; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 8, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1989	SECOND READING, CONCURRED IN.
MARCH 11, 1989	THIRD READING, CONCURRED IN. AYES, 44; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 11, 1989	RECEIVED FROM SENATE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *232*
2 INTRODUCED BY *Dave Brown* *Yellowtail*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 FEES OF THE CLERK OF THE DISTRICT COURT; IMPOSING A FILING
6 FEE FOR A PETITION FOR LEGAL SEPARATION AND FOR A PERMIT TO
7 CARRY A CONCEALED WEAPON; AMENDING SECTIONS 25-1-201,
8 27-9-103, AND 45-8-319, MCA; AND PROVIDING AN EFFECTIVE
9 DATE."

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

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

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

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

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

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

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

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

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

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

8 (h) for filing and docketing a transcript of judgment
9 or abstract of judgment from all other courts, \$5 ~~\$25~~;

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

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

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

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

17 (m) on the filing of an application for informal,
18 formal, or supervised probate or for the appointment of a
19 personal representative or the filing of a petition for the
20 appointment of a guardian or conservator, from the applicant
21 or petitioner, \$50, which includes the fee for filing a will
22 for probate;

23 (n) on the filing of the items required in 72-4-303 by
24 a domiciliary foreign personal representative of the estate
25 of a nonresident decedent, \$35;

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

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

(2) Except as provided in subsections (3) through (6) (7), 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~~ district court fund. If no district court fund exists, that portion of the fees must be deposited in the general fund for district court operations. The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

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

(4) Of the fee for filing a petition for dissolution of marriage or legal separation, \$75 must be deposited in the state general fund, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20 must be deposited in and credited to the ~~general-fund-of-the-county~~ district court fund. If no district court fund exists, the \$20 must be deposited in the general fund for

district court operations.

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

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

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

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

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

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

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

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

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

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

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

10 **Section 2.** Section 27-9-103, MCA, is amended to read:

11 "27-9-103. Filing and costs -- district court. The
12 statement must be filed with the clerk of the court in which
13 the judgment is to be entered, who shall endorse upon it and
14 enter in the judgment book a judgment of such court for the
15 amount confessed, with \$10 \$25 costs. The clerk of the
16 district court shall deposit the fee in the district court
17 fund. If no district court fund exists, the fee must be
18 deposited in the general fund for district court
19 operations."

20 **Section 3.** Section 45-8-319, MCA, is amended to read:

21 "45-8-319. Permits to carry concealed weapons -- fee
22 -- records -- revocation. (1) Any judge of a district court
23 of this state may grant permission to carry or bear,
24 concealed or otherwise, a pistol or revolver for a term not
25 exceeding 1 year.

1 (2) All applications for such permission must be made
2 by petition filed with the clerk of the district court. ~~No~~
3 ~~charge may be made for the filing of the petition.~~ The clerk
4 of the district court shall collect a \$25 fee when the
5 petition is filed. The clerk shall deposit the fee in the
6 district court fund. If no district court fund exists, the
7 fee must be deposited in the general fund for district court
8 operations.

9 (3) The applicant shall, if personally unknown to the
10 judge, furnish proof by a credible witness of his good moral
11 character and peaceable disposition.

12 (4) No such permission shall be granted any person
13 who is not a citizen of the United States and who has not
14 been an actual bona fide resident of the state of Montana
15 for 6 months immediately next preceding the date of such
16 application.

17 (5) A record of permission granted shall be kept by
18 the clerk of the court. The record shall state the date of
19 the application, the date of the permission, the name of the
20 person to whom permission is granted, the name of the judge
21 granting the permission, and the name of the person, if any,
22 by whom good moral character and peaceable disposition are
23 proved. The record must be signed by the person who is
24 granted such permission.

25 (6) The clerk shall thereupon issue under his hand and

the seal of the court a certificate, in a convenient card form so that the same may be carried in the pocket, stating:

"Permission to authorizing him to carry or bear, concealed or otherwise, a pistol or revolver for the period of from the date hereof has been granted by, a judge of the district court of the judicial district of the state of Montana, in and for the county of

Witness the hand of the clerk and the seal of said court this day of, 19...

.....
Clerk"

(7) The date of the certificate shall be the date of the granting of such permission. The certificate shall bear upon its face the signature of the person receiving the same.

(8) Upon good cause shown the judge granting such permission may, in his discretion without notice to the person receiving such permission, revoke the same. The date of the revocation shall be noted by the clerk upon the record kept by him.

(9) All permissions to carry or bear concealed weapons granted before March 3, 1919, are hereby revoked."

Section 4. Coordination instruction. If ____ Bill No. ____ [LC 72] is passed and approved and if it includes a section that amends 45-8-319, then [section 3 of this act],

amending 45-8-319, is void.

Section 5. Effective date. [This act] is effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB232, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the fees of the clerk of the district court; imposing a filing fee for a petition for legal separation and for a permit to carry a concealed weapon; amending Sections 25-1-201, 27-9-103, and 45-8-319, MCA; and providing an effective date.

ASSUMPTIONS:

1. There are approximately 650 permits issued annually to carry concealed weapons. A \$25 fee shall be collected when the petition is filed and deposited in the county district court fund or county general fund if no district court exists.
2. Ten of the 56 Montana counties do to have district court funds.
3. The 1980 Montana Census shows that for persons 15 years old and above, 2,051 males and 3,091 females indicated legally separated on the marital status. For purpose of this fiscal note, it is assumed there will be 3,000 legal separations filed in each year of the biennium.
4. There were 3,687 divorces in an eleven month period of 1988. Using an eleven month average, it is assumed there will be 4,022 divorces in each year of the biennium.
5. Fees for filing and docketing a transcript of judgement or abstract of judgement from all other courts from \$5 to \$25. 25-1-201, MCA.
6. Fees for issuing an execution or order of sale on a foreclosure of a lien from \$2 to \$5. 25-1-201, MCA.
7. Fees under Section 27-9-103, MCA, have increased from \$10 to \$25, for statements filed with the clerk of court.

FISCAL IMPACT:

	<u>FY90</u>			<u>FY91</u>		
	Current	Proposed		Current	Proposed	
<u>Legal Separation</u>						
<u>Revenue:</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
General Fund	\$ -0-	\$225,000	\$ 225,000	\$ -0-	\$225,000	\$ 225,000
Children's Trust						
Fund Account	-0-	15,000	15,000	-0-	15,000	15,000
County District Court						
Fund/County General						
Fund for District						
Court Operations	-0-	60,000	60,000	-0-	60,000	60,000
TOTAL	\$ -0-	\$300,000	\$ 300,000	\$ -0-	\$300,000	\$ 300,000

Ray Shackelford 1/23/89
 RAY SHACKLEFORD, BUDGET DIRECTOR DATE
 OFFICE OF BUDGET AND PROGRAM PLANNING

Dave Brown 1/24/89
 DAVE BROWN, PRIMARY SPONSOR DATE

Fiscal Note for HB232, as introduced

HB 232

Fiscal Note Request, HB232 as introduced

Form BD-15

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EFFECT ON COUNTY OR OTHER REVENUE OR EXPENDITURES:

	<u>FY90</u>			<u>FY91</u>		
	Current	Proposed		Current	Proposed	
<u>Revenue:</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
Dissolution of Marriage						
State General Fund	\$301,650	\$301,650	\$ -0-	\$301,650	\$301,650	\$ -0-
Children's Trust Fund						
Account	20,110	20,110	-0-	20,110	20,110	-0-
County General Fund	80,440	-0-	(80,440)	80,440	-0-	(80,440)
County District Court						
Fund/County General Fund						
for District Court						
Operations	-0-	80,440	80,440	-0-	80,440	80,440
TOTAL	\$402,200	\$402,200	\$ -0-	\$402,200	\$402,200	\$ -0-

Concealed Weapons Permits

Revenue:

County District Court						
Fund/County General						
Fund for District Court						
Operations	\$ -0-	\$ 16,250	\$ 16,250	\$ -0-	\$ 16,250	\$ 16,250

Based on a December 1988 survey of clerks of district court, there is approximately \$1.8 million in fees collected under Section 25-1-201, MCA. Approximately \$1.2 million of this is generated in categories other than marriage license and dissolution of marriage fees. There are no breakdowns of specific fees that are being raised in HB232.

It is impossible to make an estimate of additional revenue. It should be noted that language in this bill designates specific fees to support district court operations. Revenues will be deposited in the county district court fund or the county general fund for district court operations instead of the county general fund.

HB 232

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 232

INTRODUCED BY D. BROWN, YELLOWTAIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE FEES OF THE CLERK OF THE DISTRICT COURT; IMPOSING A FILING FEE FOR A PETITION FOR LEGAL SEPARATION AND FOR A PERMIT TO CARRY A CONCEALED WEAPON; AMENDING SECTIONS 25-1-201, 27-9-103, AND 45-8-319, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$60; for filing a complaint in intervention, from the intervenor, \$60; and for filing a petition for dissolution of marriage, a fee of \$100; and for filing a petition for legal separation, a fee of \$100;

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

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

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

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

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

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

(h) for filing and docketing a transcript of judgment or abstract of judgment from all other courts, \$5 ~~\$25~~;

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

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

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

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

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

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

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

3 (p) for filing a motion for substitution of a judge,
4 \$100.

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

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

19 (4) Of the fee for filing a petition for dissolution
20 of marriage or legal separation, \$75 must be deposited in
21 the state general fund, \$5 must be deposited in the
22 children's trust fund account established by 41-3-702, and
23 \$20 must be deposited in and credited to the ~~general-fund-of~~
24 ~~the-county district court fund~~. If no district court fund
25 exists, the \$20 must be deposited in the general fund for

1 district court operations.

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

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

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

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

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

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

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

23 (b) The clerk of the district court shall deposit the
24 money deducted in subsection (5)(a) in the county general
25 fund for district court operations unless the county has a

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

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

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

10 **Section 2.** Section 27-9-103, MCA, is amended to read:

11 "27-9-103. Filing and costs -- district court. The
12 statement must be filed with the clerk of the court in which
13 the judgment is to be entered, who shall endorse upon it and
14 enter in the judgment book a judgment of such court for the
15 amount confessed, with \$10 \$25 costs. The clerk of the
16 district court shall deposit the fee in the district court
17 fund. If no district court fund exists, the fee must be
18 deposited in the general fund for district court
19 operations."

20 **Section 3.** Section 45-8-319, MCA, is amended to read:

21 "45-8-319. Permits to carry concealed weapons -- fee
22 -- records -- revocation. (1) Any judge of a district court
23 of this state may grant permission to carry or bear,
24 concealed or otherwise, a pistol or revolver for a term not
25 exceeding 1 year.

1 (2) All applications for such permission must be made
2 by petition filed with the clerk of the district court. ~~No~~
3 ~~charge may be made for the filing of the petition.~~ The clerk
4 of the district court shall collect a \$25 fee when the
5 petition is filed. The clerk shall deposit the fee in the
6 district court fund. If no district court fund exists, the
7 fee must be deposited in the general fund for district court
8 operations.

9 (3) The applicant shall, if personally unknown to the
10 judge, furnish proof by a credible witness of his good moral
11 character and peaceable disposition.

12 (4) No such permission shall be granted any person
13 who is not a citizen of the United States and who has not
14 been an actual bona fide resident of the state of Montana
15 for 6 months immediately next preceding the date of such
16 application.

17 (5) A record of permission granted shall be kept by
18 the clerk of the court. The record shall state the date of
19 the application, the date of the permission, the name of the
20 person to whom permission is granted, the name of the judge
21 granting the permission, and the name of the person, if any,
22 by whom good moral character and peaceable disposition are
23 proved. The record must be signed by the person who is
24 granted such permission.

25 (6) The clerk shall thereupon issue under his hand and

1 the seal of the court a certificate, in a convenient card
 2 form so that the same may be carried in the pocket, stating:
 3 "Permission to authorizing him to carry or bear,
 4 concealed or otherwise, a pistol or revolver for the period
 5 of from the date hereof has been granted by, a
 6 judge of the district court of the judicial district of
 7 the state of Montana, in and for the county of

8 Witness the hand of the clerk and the seal of said
 9 court this day of, 19...

10
 11 Clerk"

12 (7) The date of the certificate shall be the date of
 13 the granting of such permission. The certificate shall bear
 14 upon its face the signature of the person receiving the
 15 same.

16 (8) Upon good cause shown the judge granting such
 17 permission may, in his discretion without notice to the
 18 person receiving such permission, revoke the same. The date
 19 of the revocation shall be noted by the clerk upon the
 20 record kept by him.

21 (9) All permissions to carry or bear concealed weapons
 22 granted before March 3, 1919, are hereby revoked."

23 NEW SECTION. Section 4. Coordination instruction. If
 24 HOUSE Bill No. 70 [LC 72] is passed and approved and if it
 25 includes a section that amends 45-8-319 BY ENACTING A FEE

1 FOR THE ORIGINAL ISSUANCE OF A PERMIT, then [section 3 of
 2 this act], amending 45-8-319, is void, THE FEE FOR THE
 3 ORIGINAL ISSUANCE OF A PERMIT INSERTED IN 45-8-319 BY HOUSE
 4 BILL NO. 70 [LC 72] IS INCREASED BY \$25, AND THE CODE
 5 COMMISSIONER IS DIRECTED TO INSERT IN THAT PART OF 45-8-319
 6 THAT RELATES TO THE DISTRIBUTION OF THE PERMIT FEE MONEY A
 7 PROVISION STATING THAT: "\$25 MUST BE DEPOSITED IN THE
 8 DISTRICT COURT FUND AND, IF NO SUCH FUND EXISTS, THEN IN THE
 9 COUNTY GENERAL FUND TO BE USED FOR DISTRICT COURT
 10 OPERATIONS".

11 NEW SECTION. Section 5. Effective date. [This act] is
 12 effective July 1, 1989.

-End-

1 HOUSE BILL NO. 232

2 INTRODUCED BY D. BROWN, YELLOWTAIL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 FEES OF THE CLERK OF THE DISTRICT COURT; IMPOSING A FILING
6 FEE FOR A PETITION FOR LEGAL SEPARATION AND FOR A PERMIT TO
7 CARRY A CONCEALED WEAPON; AMENDING SECTIONS 25-1-201,
8 27-9-103, AND 45-8-319, MCA; AND PROVIDING AN EFFECTIVE
9 DATE."

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

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

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

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

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

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

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

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

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

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

8 (h) for filing and docketing a transcript of judgment
9 or abstract of judgment from all other courts, \$5 \$25;

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

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

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

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

17 (m) on the filing of an application for informal,
18 formal, or supervised probate or for the appointment of a
19 personal representative or the filing of a petition for the
20 appointment of a guardian or conservator, from the applicant
21 or petitioner, \$50, which includes the fee for filing a will
22 for probate;

23 (n) on the filing of the items required in 72-4-303 by
24 a domiciliary foreign personal representative of the estate
25 of a nonresident decedent, \$35;

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

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

(2) Except as provided in subsections (3) through (6) (7), 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~~ district court fund. If no district court fund exists, that portion of the fees must be deposited in the general fund for district court operations. The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

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

(4) Of the fee for filing a petition for dissolution of marriage or legal separation, \$75 must be deposited in the state general fund, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20 must be deposited in and credited to the ~~general--fund-of-the-county~~ district court fund. If no district court fund exists, the \$20 must be deposited in the general fund for

district court operations.

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

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

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

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

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

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

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

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

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

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

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

10 **Section 2.** Section 27-9-103, MCA, is amended to read:

11 "27-9-103. Filing and costs -- district court. The
12 statement must be filed with the clerk of the court in which
13 the judgment is to be entered, who shall endorse upon it and
14 enter in the judgment book a judgment of such court for the
15 amount confessed, with ~~\$10~~ \$25 costs. The clerk of the
16 district court shall deposit the fee in the district court
17 fund. If no district court fund exists, the fee must be
18 deposited in the general fund for district court
19 operations."

20 **Section 3.** Section 45-8-319, MCA, is amended to read:

21 "45-8-319. Permits to carry concealed weapons -- fee
22 -- records -- revocation. (1) Any judge of a district court
23 of this state may grant permission to carry or bear,
24 concealed or otherwise, a pistol or revolver for a term not
25 exceeding 1 year.

1 (2) All applications for such permission must be made
2 by petition filed with the clerk of the district court. ~~No~~
3 ~~charge may be made for the filing of the petition.~~ The clerk
4 of the district court shall collect a \$25 fee when the
5 petition is filed. The clerk shall deposit the fee in the
6 district court fund. If no district court fund exists, the
7 fee must be deposited in the general fund for district court
8 operations.

9 (3) The applicant shall, if personally unknown to the
10 judge, furnish proof by a credible witness of his good moral
11 character and peaceable disposition.

12 (4) No such permission shall be granted any person
13 who is not a citizen of the United States and who has not
14 been an actual bona fide resident of the state of Montana
15 for 6 months immediately next preceding the date of such
16 application.

17 (5) A record of permission granted shall be kept by
18 the clerk of the court. The record shall state the date of
19 the application, the date of the permission, the name of the
20 person to whom permission is granted, the name of the judge
21 granting the permission, and the name of the person, if any,
22 by whom good moral character and peaceable disposition are
23 proved. The record must be signed by the person who is
24 granted such permission.

25 (6) The clerk shall thereupon issue under his hand and

1 the seal of the court a certificate, in a convenient card
2 form so that the same may be carried in the pocket, stating:

3 "Permission to authorizing him to carry or bear,
4 concealed or otherwise, a pistol or revolver for the period
5 of from the date hereof has been granted by, a
6 judge of the district court of the judicial district of
7 the state of Montana, in and for the county of

8 Witness the hand of the clerk and the seal of said
9 court this day of, 19...

10

11 Clerk"

12 (7) The date of the certificate shall be the date of
13 the granting of such permission. The certificate shall bear
14 upon its face the signature of the person receiving the
15 same.

16 (8) Upon good cause shown the judge granting such
17 permission may, in his discretion without notice to the
18 person receiving such permission, revoke the same. The date
19 of the revocation shall be noted by the clerk upon the
20 record kept by him.

21 (9) All permissions to carry or bear concealed weapons
22 granted before March 3, 1919, are hereby revoked."

23 NEW SECTION. Section 4. Coordination instruction. If
24 HOUSE Bill No. 70 [LC 72] is passed and approved and if it
25 includes a section that amends 45-8-319 BY ENACTING A FEE

1 FOR THE ORIGINAL ISSUANCE OF A PERMIT, then [section 3 of
2 this act], amending 45-8-319, is void, THE FEE FOR THE
3 ORIGINAL ISSUANCE OF A PERMIT INSERTED IN 45-8-319 BY HOUSE
4 BILL NO. 70 [LC 72] IS INCREASED BY \$25, AND THE CODE
5 COMMISSIONER IS DIRECTED TO INSERT IN THAT PART OF 45-8-319
6 THAT RELATES TO THE DISTRIBUTION OF THE PERMIT FEE MONEY A
7 PROVISION STATING THAT: "\$25 MUST BE DEPOSITED IN THE
8 DISTRICT COURT FUND AND, IF NO SUCH FUND EXISTS, THEN IN THE
9 COUNTY GENERAL FUND TO BE USED FOR DISTRICT COURT
10 OPERATIONS".

11 NEW SECTION. Section 5. Effective date. [This act] is
12 effective July 1, 1989.

-End-

HOUSE BILL NO. 232

INTRODUCED BY D. BROWN, YELLOWTAIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE FEES OF THE CLERK OF THE DISTRICT COURT; IMPOSING A FILING FEE FOR A PETITION FOR LEGAL SEPARATION AND FOR A PERMIT TO CARRY A CONCEALED WEAPON; AMENDING SECTIONS 25-1-201, 27-9-103, AND 45-8-319, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$60; for filing a complaint in intervention, from the intervenor, \$60; and for filing a petition for dissolution of marriage, a fee of \$100; and for filing a petition for legal separation, a fee of \$100;

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

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

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

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

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

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

(h) for filing and docketing a transcript of judgment or abstract of judgment from all other courts, \$5 \$25;

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

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

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

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

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

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

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

3 (p) for filing a motion for substitution of a judge,
4 \$100.

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

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

19 (4) Of the fee for filing a petition for dissolution
20 of marriage or legal separation, \$75 must be deposited in
21 the state general fund, \$5 must be deposited in the
22 children's trust fund account established by 41-3-702, and
23 \$20 must be deposited in and credited to the ~~general-fund-of~~
24 ~~the-county district court fund~~. If no district court fund
25 exists, the \$20 must be deposited in the general fund for

1 district court operations.

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

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

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

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

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

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

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

23 (b) The clerk of the district court shall deposit the
24 money deducted in subsection (5)(a) in the county general
25 fund for district court operations unless the county has a

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

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

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

10 **Section 2.** Section 27-9-103, MCA, is amended to read:

11 "27-9-103. Filing and costs -- district court. The
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 2 form so that the same may be carried in the pocket, stating:
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 4 concealed or otherwise, a pistol or revolver for the period
 5 of from the date hereof has been granted by, a
 6 judge of the district court of the judicial district of
 7 the state of Montana, in and for the county of

8 Witness the hand of the clerk and the seal of said
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 11 Clerk"

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 13 the granting of such permission. The certificate shall bear
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