HOUSE BILL NO. 555

INTRODUCED BY PAVLOVICH

IN THE HOUSE

FEBRUARY 10, 1993

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INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

- FEBRUARY 17, 1993 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- FEBRUARY 18, 1993 PRINTING REPORT.
- FEBRUARY 19, 1993 SECOND READING, DO PASS.
- FEBRUARY 20, 1993 ENGROSSING REPORT.
- FEBRUARY 22, 1993 THIRD READING, PASSED. AYES, 93; NOES, 5.
- FEBRUARY 23, 1993 TRANSMITTED TO SENATE.

IN THE SENATE

ON JUDICIARY.

FIRST READING.

MARCH 1, 1993

MARCH 12, 1993

ADOPTED. ON MOTION, REREFERRED TO COMMITTEE

CONCURRED IN AS AMENDED. REPORT

COMMITTEE RECOMMEND BILL BE

ON TAXATION.

INTRODUCED AND REFERRED TO COMMITTEE

APRIL 3, 1993 COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

APRIL 12, 1993 SECOND READING, CONCURRED IN.

APRIL 13, 1993 THIRD READING, CONCURRED IN. AYES, 34; NOES, 15.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1993

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SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 16, 1993 THIRD READING, AMENDMENTS CONCURRED IN.

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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

LC 1093/01

LC 1093/01

House BILL NO. 555 1 2 INTRODUCED BY 3 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE 4 FEES CHARGED BY THE CLERK OF THE DISTRICT COURT; INCREASING 5 6 THE FEES FOR FILING A PETITION FOR JUDICIAL DETERMINATION OF 7 BIRTHDATE AND THE ENTRY OF THE JUDGMENT; REQUIRING GOVERNMENTAL ENTITIES TO PAY FOR CERTIFICATIONS; CLARIFYING 8 DISTRIBUTION OF FEES FOR ENTRY OF JUDGMENT AND ISSUANCE OF 9 AN EXECUTION OR ORDER OF SALE ON A FORECLOSURE OF A LIEN: 10 11 INCREASING THE FEE FOR FILING AND DOCKETING A TRANSCRIPT OF 12 JUDGMENT OR TRANSCRIPT OF THE DOCKET: AMENDING SECTIONS 13 25-1-201, 25-10-405, AND 27-32-104, MCA; AND PROVIDING AN EFFECTIVE DATE." 14 15 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 Section 1. Section 25-1-201, MCA, is amended to read: "25-1-201. Pees of clerk of district court. (1) The 18 clerk of the district court shall collect the following 19 20 fees:

(a) at the commencement of each action or proceeding,
except a petition for dissolution of marriage, from the
plaintiff or petitioner, \$80; for filing a complaint in
intervention, from the intervenor, \$80; for filing a
petition for dissolution of marriage, a fee of \$120; and for



1 filing a petition for legal separation, a fee of \$120;

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

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

6 (d) for preparing copies of papers on file in his the
7 <u>clerk's</u> office, 50 cents per page for the first five pages
8 of each file, per request, and 25 cents per <u>additional</u> page
9 thereafter;

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

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

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

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

15 or abstract--of--judgment transcript of the docket from all

16 other courts, \$25 the fee for entry of judgment provided for

17 in subsection (1)(c);

18 (i) for issuing an execution or order of sale on a 19 foreclosure of a lien, \$5;

20 (j) for transmission of records or files or transfer of 21 a case to another court, \$5;

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

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

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

H& 555 INTRODUCED BILL

LC 1093/01

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, \$70, which includes the fee for filing a will
 for probate;

6 (n) on the filing of the items required in 72-4-303 by
7 a domiciliary foreign personal representative of the estate
8 of a nonresident decedent, \$55;

9 (0) for filing a declaration of marriage without
10 solemnization, \$30;

11 (p) for filing a motion for substitution of a judge, 12 \$100.

(2) Except as provided in subsections (3) through (8), 13 14 32% of all fees collected by the clerk of the district court must be deposited in and credited to the district court 15 16 fund. If no district court fund exists, that portion of the 17 fees must be deposited in the general fund for district 18 court operations. The remaining portion of the fees must be 19 remitted to the state to be deposited as provided in 20 19-5-404.

21 (3) In the case of a fee collected for issuing a 22 marriage license or filing a declaration of marriage without 23 solemnization, \$14 must be deposited in and credited to the 24 state general fund, \$6.40 must be deposited in and credited 25 to the county general fund, and \$9.60 must be remitted to LC 1093/01

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

2 (4) Of the fee for filing a petition for dissolution of 3 marriage or legal separation, \$40 must be deposited in the 4 state general fund, \$35 must be remitted to the state to be 5 deposited as provided in 19-5-404, \$5 must be deposited in the children's trust fund account established by 41-3-702, 6 7 and \$20 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must 8 be deposited in the general fund for district court 9 10 operations.

11 (5) (a) Before the percentages contained in subsection 12 (2) are applied and the fees deposited in the district court 13 fund or the county general fund or remitted to the state, 14 the clerk of the district court shall deduct from the 15 following fees the amounts indicated:

16 (i) at the commencement of each action or proceeding 17 and for filing a complaint in intervention as provided in 18 subsection (1)(a), \$35;

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

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

23 tiv)-on--the-entry-of-judgment-as-provided-in-subsection
24 tithy-920;

25 (V)--for-issuing--an--execution--or--order--of--sale--as

-3-

1 provided-in-subsection-(1)(i);-93;-and

2 (vi)(iv) from the applicant or petitioner, on the filing 3 of an application for probate or for the appointment of a 4 personal representative or on the filing of a petition for 5 appointment of a guardian or conservator, as provided in 6 subsection (1)(m), \$15.

7 (b) The clerk of the district court shall deposit the 8 money deducted in subsection (5)(a) in the county general 9 fund for district court operations unless the county has a 10 district court fund. If the county has a district court 11 fund, the money must be deposited in that fund.

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

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

19 (8) The clerk of the district court shall remit to the
20 credit of the state general fund \$20 of each fee collected
21 under the provisions of subsections (1)(a) through (1)(c),
22 (1)(m), and (1)(n) to fund a portion of judicial salaries."
23 Section 2. Section 25-10-405, MCA, is amended to read:
24 "25-10-405. Governmental entities not required to

25 prepay fees -- exceptions. The state, a county, a

municipality, or any subdivision thereof or any officer when 1 2 prosecuting or defending an action on behalf of the state, a county, a municipality, or a subdivision thereof is not 3 required to pay or deposit any fee or amount to or with any 4 officer during the prosecution or defense of an action. 5 6 except the fee under 25-1-201(1)(p) for filing a motion for 7 substitution of a judge and all fees for photocopies, postage and handling, certifications, authentications, and 8 9 record searches."

Section 3. Section 27-32-104, MCA, is amended to read: 10 *27-32-104. Fees. The petitioner, upon the filing of 11 12 the petition, must shall pay to the clerk of court a the fee of-\$1 for commencing an action, as provided for in 25-1-201, 13 and upon the entry of judgment, the applicant must shall pay 14 to the clerk of court an additional fee of-91 for entry of 15 judgment, as provided for in 25-1-201. No A charge shall may 16 17 not be made for posting of the notices required hereunder under this part. If the applicant shall-provide provides a 18 true copy of the judgment rendered, then the clerk of court 19 20 must shall certify the same copy without additional charge." 21 NEW SECTION. Section 4. Effective date. [This act] is 22 effective July 1, 1993.

-End-

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STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0555, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: Generally revises the fees charged by the Clerk of the District Court; increases the fees for filing a petition for judicial determination of birthdate and the entry of the judgment; requires governmental entities to pay for certifications.

ASSUMPTIONS:

Department of Family Services (DFS)

- 1. The bill would require government entities to pay the \$2 fee for each certification, with seal, which is currently an exempt fee.
- 2. The department is required to have certified copies, with a seal, for each case hearing.
- 3. The department must furnish a certified copy to each parent, quardian, state, tribe, and hospital or other facility for each child committed to the department's custody. Each court hearing concerning the department must have five (5) certified copies completed.
- 4. The estimated number of children committed to the department's custody is based on FY92 actual numbers of 4,860.
- 5. The department is allowed to list all children from one family on one certified copy. The national average of 2.3 children per household is used to estimate the number of copies needed (4,860/2.3 = 2,113 copies needed to address all)the families).
- 6. Each family can have 3 to 4 hearings a year. (2,113 families * 4 hearings a year * 5 copies for the required distribution = 84,520 certified copies needed * \$2 = \$169,040).
- 7. This bill would not generate any revenue for the department.
- 8. Federal funds cannot be used to pay the costs for these certified copies.

Department of Social and Rehabilitation Services

9. There is no significant fiscal impact to the Child Support Enforcement Division (CSED).

Revenue Impact

10. The impact on state and local revenue cannot be completely estimated due to incomplete data. The revenue impact of the additional fees estimated to be paid by the Department of Family Services is allocated 68% general fund and 32% county district court funds. The FY92 general fund revenue from 68% of various district court fees amounted to \$301,270 (per State Treasurer's Office county collection reports).

(continued)

DAVE LEWIS. BUDGET DIRECTOR Office of Budget and Program Planning

2.16 43 DATE

"BOB" PAVLOVICH, PRIMARY SPONSOR ROBERT

Fiscal Note for HB0555, as introduced

HB 555

Fiscal Note Request, <u>HB0555</u>, <u>as introduced</u> Form BD-15 page 2 (continued)

		FY94			FY95	
Expenditures:	<u>Current Law</u>	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	19.00	19.00	0.00	19.00	19.00	0.00
Personal Services	733,960	733,960	0	735,187	735,187	0
Operating Expenses	526,043	695,083	169,040	527,962	697,002	169,040
Grants	1,066,873	1,066,873	0	1,066,168	1,066,168	0
Benefits and Claims	25,024,435	25,024,435	Q	26,026,701	26,026,701	0
Total	27,351,311	27,520,351	169,040	28,356,018	28,525,058	169,040
<u>Funding:</u>						
General Fund	20,329,041	20,498,081	169,040	21,337,975	21,507,015	169,040
State Special	1,965,703	1,965,703	0	1,965,820	1,965,820	0
Federal Special	<u>5,056,567</u>	5,056,567	0	5,052,223	5,052,223	0
Total	27,351,311	27,520,351	169,040	28,356,018	28,525,058	169,040
<u>Revenue:</u>						
General Fund (68% dist.court fees)	301,270	416,217	114,947	301,270	416,217	114,947
Counties (32% district court fees)	<u>141,774</u>	195,867	54,093	141,774	<u>195,867</u>	<u>54,093</u>
Total	443,044	612,084	169,040	443,044	612,084	169,040
Net Impact to General Fund (DFS co	ertificate fee	s)	(54,093)			(54,093)

FISCAL IMPACT: Department of Family Services-Community & Protective Service Program:

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

County revenue for district court funds is estimated to increase by an amount which is not subject to accurate estimate base upon available data. The revenue increase reflected in the table above is attributable to only the estimated increase in certificate fees to be paid by the Department of Family Services.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Based on the increase in foster care children over the last four years, the Department of Family Services expects the number of court hearings, the accompanying number of certified documents, and total certificate fees to increase.

53rd Legislature

HB 0555/02

APPROVED BY COMMITTEE ON JUDICIARY

1	HOUSE BILL NO. 555
2	INTRODUCED BY PAVLOVICH
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
5	FEES CHARGED BY THE CLERK OF THE DISTRICT COURT; INCREASING
6	THE FEES FOR FILING A PETITION FOR JUDICIAL DETERMINATION OF
7	BIRTHDATE AND THE ENTRY OF THE JUDGMENT; RBQUIRING
8	GOVERNMENTALENTITIES-TO-PAY-FOR-CERTIFICATIONS; CLARIFYING
9	DISTRIBUTION OF FEES FOR ENTRY OF JUDGMENT AND ISSUANCE OF
10	AN EXECUTION OR ORDER OF SALE ON A FORECLOSURE OF A LIEN;
11	INCREASING THE FEE FOR FILING AND DOCKETING A TRANSCRIPT OF
12	JUDGMENT OR TRANSCRIPT OF THE DOCKET; AMENDING SECTIONS
13	25-1-2017-25-10-4057 AND 27-32-104, MCA; AND PROVIDING AN
14	EFFECTIVE DATE."

HOUSE BILL NO. 555

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

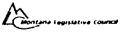
Section 1. Section 25-1-201, MCA, is amended to read: 17

=25-1-201. Pees of clerk of district court. (1) The 18 clerk of the district court shall collect the following 19 20 fees:

(a) at the commencement of each action or proceeding, 21 except a petition for dissolution of marriage, from the 22 plaintiff or petitioner, \$80; for filing a complaint in 23 intervention, from the intervenor, \$80; for filing a 24 petition for dissolution of marriage, a fee of \$120; and for 25

1	filing a petition for legal separation, a fee of \$120;
2	(b) from each defendant or respondent, on his
3	appearance, \$60;
4	(c) on the entry of judgment, from the prevailing
5	party, \$45;
6	(d) for preparing copies of papers on file in his <u>the</u>
7	clerk's office, 50 cents per page for the first five pages
8	of each file, per request, and 25 cents per additional page
9	thereafter;
10	(e) for each certificate, with seal, \$2;
1	(f) for oath and jurat, with seal, \$1;
12	(g) for search of court records, 50 cents for each year
13	searched, not to exceed a total of \$25;
14	(h) for filing and docketing a transcript of judgment
15	or abstractofjudgment transcript of the docket from all
16	other courts, \$25 the fee for entry of judgment provided for
17	in subsection (1)(c);
18	(i) for issuing an execution or order of sale on a
19	foreclosure of a lien, \$5;
20	(j) for transmission of records or files or transfer of
21	a case to another court, \$5;
22	(k) for filing and entering papers received by transfer
23	from other courts, \$10;
24	 for issuing a marriage license, \$30;

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



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SECOND READING

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, \$70, which includes the fee for filing a will for probate;

6 (n) on the filing of the items required in 72-4-303 by
7 a domiciliary foreign personal representative of the estate
8 of a nonresident decedent, \$55;

9 (o) for filing a declaration of marriage without 10 solemnization, \$30;

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

(2) Except as provided in subsections (3) through (8), 13 32% of all fees collected by the clerk of the district court 14 must be deposited in and credited to the district court 15 16 fund. If no district court fund exists, that portion of the fees must be deposited in the general fund for district 17 court operations. The remaining portion of the fees must be 18 remitted to the state to be deposited as provided in 19 20 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 1 the state to be deposited as provided in 19-5-404.

2 (4) Of the fee for filing a petition for dissolution of 3 marriage or legal separation, \$40 must be deposited in the state general fund, \$35 must be remitted to the state to be 4 5 deposited as provided in 19-5-404, \$5 must be deposited in the children's trust fund account established by 41-3-702. 6 7 and \$20 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must R 9 be deposited in the general fund for district court 10 operations.

11 (5) (a) Before the percentages contained in subsection 12 (2) are applied and the fees deposited in the district court 13 fund or the county general fund or remitted to the state, 14 the clerk of the district court shall deduct from the 15 following fees the amounts indicated:

16 (i) at the commencement of each action or proceeding 17 and for filing a complaint in intervention as provided in 18 subsection (1)(a), \$35;

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

21 (iii) on the entry of judgment as provided in subsection

22 (1)(c), \$15; and

23 (iv)-on--the-entry-of-judgment-as-provided-in-subsection

- 24 (1)(h)7-\$20;
- 25 (v)--for-issuing--an--execution--or--order--of--sale--as

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provided-in-subsection-fl)fi};-\$3;-and

2 (vi)(iv) from the applicant or petitioner, on the filing 3 of an application for probate or for the appointment of a 4 personal representative or on the filing of a petition for 5 appointment of a guardian or conservator, as provided in 6 subsection (1)(m), \$15.

7 (b) The clerk of the district court shall deposit the 8 money deducted in subsection (5)(a) in the county general 9 fund for district court operations unless the county has a 10 district court fund. If the county has a district court 11 fund, the money must be deposited in that fund.

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

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

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

Section-2:-Section-25-10-4057-MCA7-is-amended-to-read:- *25-10-405:-Governmental--entities--not---required---to
 prepay--fees-----exceptions:-The-state?-a-county?-a

1	municipality7-or-any-subdivision-thereof-or-any-officer-when
2 '	prosecuting-or-defending-an-action-on-behalf-of-the-statey-a
3	county;-a-municipality;-orasubdivisionthereofisnot
4	requiredto-pay-or-deposit-any-fee-or-amount-to-or-with-any
5	officer-during-the-prosecutionordefenseofanaction7
6 .	exceptthe-fee-under-25-1-201(1)(p)-for-filing-a-motion-for
7	substitution-ofajudgeandallfeesforphotocopies;
8	postageandhandling ₇ - <u>certifications7</u> -authentications7-and
9	record-searches."
10	Section 2. Section 27-32-104, MCA, is amended to read:
11	*27-32-104. Pees. The petitioner, upon the filing of
12	the petition, must shall pay to the clerk of court a the fee

12	the petition, must shall pay to the clerk of court a the fee
13	ef-\$1 for commencing an action, as provided for in 25-1-201,
14	and upon the entry of judgment, the applicant must shall pay
15	to the clerk of court an additional fee of-91 for entry of
16	judgment, as provided for in 25-1-201. No A charge shall may
17	not be made for posting of the notices required hereunder
18	under this part. If the applicant shall-provide provides a
19	true copy of the judgment rendered, then the clerk of court
20	must shall certify the same copy without additional charge."
21	NEW SECTION. Section 3. Effective date. [This act] is
22	effective July 1, 1993.

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HB 0555/02

HOUSE BILL NO. 555 1 filing a petition for legal separation, a fee of \$120; 1 INTRODUCED BY PAVLOVICH 2 (b) from each defendant or respondent, on his 2 3 appearance, \$60: ъ A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE 4 4 FEES CHARGED BY THE CLERK OF THE DISTRICT COURT: INCREASING 5 party, \$45: 5 THE FEES FOR FILING A PETITION FOR JUDICIAL DETERMINATION OF 6 6 BIRTHDATE AND THE ENTRY OF THE JUDGMENT: RBOUTRENS 7 7 SOVERNMENTAL--ENTITIES-TO-PAY-POR-CERTIFICATIONS; CLARIFYING 8 8 9 DISTRIBUTION OF PEES FOR ENTRY OF JUDGMENT AND ISSUANCE OF thereafter; 9 10 AN EXECUTION OR ORDER OF SALE ON A FORECLOSURE OF A LIEN; 10 INCREASING THE FEE FOR FILING AND DOCKETING A TRANSCRIPT OF 11 11 JUDGMENT OR TRANSCRIPT OF THE DOCKET; AMENDING SECTIONS 12 12 25-1-2017-25-10-4057 AND 27-32-104, MCA: AND PROVIDING AN 13 13 14 EFFECTIVE DATE." 14 15 15 16 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 in subsection (1)(c); Section 1. Section 25-1-201, MCA, is amended to read: 17 18 *25-1-201. Fees of clerk of district court. (1) The 18 19 clerk of the district court shall collect the following 19 20 20 fees: 21 (a) at the commencement of each action or proceeding, 21 22 22 except a petition for dissolution of marriage, from the 23 from other courts, \$10; plaintiff or petitioner, \$80; for filing a complaint in 23 24 (1) for issuing a marriage license, \$30; intervention, from the intervenor, \$80; for filing a 24 25 petition for dissolution of marriage, a fee of \$120; and for 25

(c) on the entry of judgment, from the prevailing (d) for preparing copies of papers on file in his the clerk's office, 50 cents per page for the first five pages of each file, per request, and 25 cents per additional page (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 transcript of the docket from all other courts, \$25 the fee for entry of judgment provided for (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5; (j) for transmission of records or files or transfer of a case to another court, \$5; (k) for filing and entering papers received by transfer

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THIRD READING

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formal, or supervised probate or for the appointment of a
 personal representative or the filing of a petition for the
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24 (i)(h)7-9207

25 (v)--for-issuing--an--execution--or--order--of--sale--as

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20 credit of the state general fund \$20 of each fee collected
21 under the provisions of subsections (1)(a) through (1)(c),
22 (1)(m), and (1)(n) to fund a portion of judicial salaries."

23 Section 2. - Section - 25 - 10 - 4057 - MCA7 - is - amended - to - read - - #25 - 10 - 405 - - - Bovernmental - - entities - not - - - required - - - to
 prepay - - fees - - - - - exceptions - - The - - state - - - county - - a

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municipality,-or-any-subdivision-thereof-or-any-officer-when 1 prosecuting-or-defending-an-action-on-behalf-of-the-state;-a 2' countyy-a-municipalityy-or--a--subdivision--thereof--is--not 3 required--to-pay-or-deposit-any-fee-or-amount-to-or-with-any 4 officer-during-the-prosecution-or--defense--of--an--actiony 5 except--the-fee-under-25-1-201(1)(p)-for-filing-a-motion-for 6 substitution-of--a--judge--and--all--fees--for--photocopies; 7 8 postage--and--handlingy-certificationsy-authenticationsy-and 9 record-searches." 10 Section 2. Section 27-32-104, MCA, is amended to read: "27-32-104. Fees. The petitioner, upon the filing of 11 the petition, must shall pay to the clerk of court a the fee 12

13 of-91 for commencing an action, as provided for in 25-1-201, 14 and upon the entry of judgment, the applicant must shall pay 15 to the clerk of court an additional fee of-91 for entry of judgment, as provided for in 25-1-201. No A charge shall may 16 not be made for posting of the notices required hereunder 17 18 under this part. If the applicant shall-provide provides a 19 true copy of the judgment rendered, then the clerk of court 20 must shall certify the same copy without additional charge." NEW SECTION. Section 3. Effective date. [This act] is 21

22 effective July 1, 1993.

-End-

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 10, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 555 (first reading copy -- blue), respectfully report that House Bill No. 555 be amended as follows and as so amended be concurred in.

Signed: <u>Marine Marine Senator William "Bill" Yellowtail</u>, Chair

That such amendments read:

2. Title, line 13. Following: "25-10-405," Insert: ", 25-10-405,"

3. Page 6. Following: line 9

Renumber: subsequent sections

-END-

SENATE

<u>M</u>_ Amd. Coord. ____ Sec. of Senate

Senator carrying Bill

HB 555 541201SC.Sma ſ

HB 0555/03

l	HOUSE BILL NO. 555	1	petition for dissolution of marriage, a fee of \$120; and for
2	INTRODUCED BY PAVLOVICH	2	filing a petition for legal separation, a fee of \$120;
3		3	(b) from each defendant or respondent, on his
4	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE	4	appearance, \$60;
5	FEES CHARGED BY THE CLERK OF THE DISTRICT COURT; INCREASING	5	(c) on the entry of judgment, from the prevailing
6	THE FEES FOR FILING A PETITION FOR JUDICIAL DETERMINATION OF	6	party, \$45;
7	BIRTHDATE AND THE ENTRY OF THE JUDGMENT; REQUIRING	7	(d) for preparing copies of papers on file in h is the
8	SOVERNMENTALENTITIESTO-PAY-FOR-CERTIFICATIONS; REQUIRING	8	clerk's office, 50 cents per page for the first five pages
9	GOVERNMENTAL ENTITIES TO PAY FOR CERTIFICATIONS; CLARIFYING	9	of each file, per request, and 25 cents per additional page
10	DISTRIBUTION OF FEES FOR ENTRY OF JUDGMENT AND ISSUANCE OF	10	thereafter;
11	AN EXECUTION OR ORDER OF SALE ON A FORECLOSURE OF A LIEN;	11	(e) for each certificate, with seal, \$2;
1 2	INCREASING THE FEE FOR FILING AND DOCKETING A TRANSCRIPT OF	12	(f) for oath and jurat, with seal, \$1;
13	JUDGMENT OR TRANSCRIPT OF THE DOCKET; AMENDING SECTIONS	13	(g) for search of court records, 50 cents for each year
14	25-1-201725-10-4057, 25-10-405, AND 27-32-104, MCA; AND	14	searched, not to exceed a total of \$25;
15	PROVIDING AN EFFECTIVE DATE."	15	(h) for filing and docketing a transcript of judgment
16		16	or abstract-of-judgment <u>transcript of the docket</u> from all
17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	17	other courts, \$25 the fee for entry of judgment provided for
18	Section 1. Section 25-1-201, MCA, is amended to read:	18	in subsection (1)(c);
19	"25-1-201. Fees of clerk of district court. (1) The	19	(i) for issuing an execution or order of sale on a
20	clerk of the district court shall collect the following	20	foreclosure of a lien, \$5;
21	fees:	21	(j) for transmission of records or files or transfer of
22	(a) at the commencement of each action or proceeding,	22	a case to another court, \$5;
23	except a petition for dissolution of marriage, from the	23	(k) for filing and entering papers received by transfer
24	plaintiff or petitioner, \$80; for filing a complaint in	24	from other courts, \$10;
25	intervention, from the intervenor, \$80; for filing a	25	 for issuing a marriage license, \$30;



-2- HB 555 REFERENCE BILL

AS AMENDED

1 (m) on the filing of an application for informal, 2 formal, or supervised probate or for the appointment of a 3 personal representative or the filing of a petition for the 4 appointment of a guardian or conservator, from the applicant 5 or petitioner, \$70, which includes the fee for filing a will 6 for probate;

7 (n) on the filing of the items required in 72-4-303 by
8 a domiciliary foreign personal representative of the estate
9 of a nonresident decedent, \$55;

10 (o) for filing a declaration of marriage without 11 solemnization, \$30;

12 (p) for filing a motion for substitution of a judge,13 \$100.

(2) Except as provided in subsections (3) through (8), 14 15 32% of all fees collected by the clerk of the district court 16 must be deposited in and credited to the district court fund. If no district court fund exists, that portion of the 17 fees must be deposited in the general fund for district 18 court operations. The remaining portion of the fees must be 19 remitted to the state to be deposited as provided in 20 19-5-404. 21

(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.

3 (4) Of the fee for filing a petition for dissolution of 4 marriage or legal separation, \$40 must be deposited in the 5 state general fund, \$35 must be remitted to the state to be 6 deposited as provided in 19-5-404, \$5 must be deposited in 7 the children's trust fund account established by 41-3-702, 8 and \$20 must be deposited in and credited to the district 9 court fund. If no district court fund exists, the \$20 must 10 be deposited in the general fund for district court 11 operations.

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

17 (i) at the commencement of each action or proceeding 18 and for filing a complaint in intervention as provided in 19 subsection (1)(a), \$35;

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

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

24 (iv)-on-the-entry-of-judgment-as-provided-in--subsection
25 (i)(h)7-\$207

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3 (vi)(iv) from the applicant or petitioner, on the filing 4 of an application for probate or for the appointment of a 5 personal representative or on the filing of a petition for 6 appointment of a guardian or conservator, as provided in 7 subsection (1)(m), \$15.

8 (b) The clerk of the district court shall deposit the 9 money deducted in subsection (5)(a) in the county general 10 fund for district court operations unless the county has a 11 district court fund. If the county has a district court 12 fund, the money must be deposited in that fund.

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

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

(8) The clerk of the district court shall remit to the
credit of the state general fund \$20 of each fee collected
under the provisions of subsections (1)(a) through (1)(c),
(1)(m), and (1)(n) to fund a portion of judicial salaries."
Section 2: --Section -25-10-405; MCA; -is-amended-to-read: -"25-10-405: --Governmental ---entities ---not --required -- to

-5-

HB 555

1	prepayfeesexceptionsThestateacountya
2	municipality-or-any-subdivision-thereof-or-any-officer-when
3	prosecuting-or-defending-an-action-on-behalf-of-the-state;-a
4	county;amunicipality;orasubdivision-thereof-is-not
5	required-to-pay-or-deposit-any-fee-or-amount-to-or-withany
6	officerduringtheprosecutionordefense-of-an-action;
7	except-the-fee-under-25-1-201(1)(p)-for-filing-a-motionfor
8	substitutionofajudgeandailfeesfor-photocopies;
9	postage-and-handling;- <u>certifications;</u> authentications;and
10	record-searches."

11 SECTION 2. SECTION 25-10-405, MCA, IS AMENDED TO READ:

12 *25-10-405. Governmental entities not required to 13 prepay fees -- exceptions. The state, a county, a 14 municipality, or any subdivision thereof or any officer when 15 prosecuting or defending an action on behalf of the state, a 16 county, a municipality, or a subdivision thereof is not 17 required to pay or deposit any fee or amount to or with any 18 officer during the prosecution or defense of an action, 19 except the fee under 25-1-201(1)(p) for filing a motion for 20 substitution of a judge and all fees for photocopies. 21 postage and handling, certifications, authentications, and 22 record searches."

23 Section 3. Section 27-32-104, MCA, is amended to read:
24 "27-32-104. Pees. The petitioner, upon the filing of
25 the petition, must shall pay to the clerk of court a the fee

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HB 0555/03

of-91 for commencing an action, as provided for in 25-1-201, 1 and upon the entry of judgment, the applicant must shall pay 2 3 to the clerk of court an additional fee of-\$1 for entry of judgment, as provided for in 25-1-201. No A charge shall may 4 5 not be made for posting of the notices required hereunder 6 under this part. If the applicant shall-provide provides a 7 true copy of the judgment rendered, then the clerk of court must shall certify the same copy without additional charge." 8 NEW SECTION. Section 4. Effective date. [This act] is 9 10 effective July 1, 1993.

-End-