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INTRODUCED BY

Jash

House BILL NO. 195

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE AGENCIES TO PAY A \$45 FEE TO FILE A WARRANT OF DISTRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF ORDER; AND AMENDING SECTIONS 25-1-201 AND 25-10-405, MCA."

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

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

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

(d) for preparing copies of papers on file in 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 transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(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 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

1 of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from
2 the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

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

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

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

7 (q) for filing, by a state agency, a warrant of distraint, certificate of lien, or abstract of order, \$45.

8 (2) Except as provided in subsections (3) through (8), 32% of all fees collected by the clerk of the
9 district court must be deposited in and credited to the district court fund. If ~~no a~~ district court fund ~~exists~~
10 does not exist, that portion of the fees must be deposited in the general fund for district court operations.

11 The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

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

16 (4) Of the fee for filing a petition for dissolution of marriage or legal separation, \$40 must be
17 deposited in the state general fund, \$35 must be remitted to the state to be deposited as provided in
18 19-5-404, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20
19 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must
20 be deposited in the general fund for district court operations.

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

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

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

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

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

1 (b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the
2 county general fund for district court operations unless the county has a district court fund. If the county
3 has a district court fund, the money must be deposited in that fund.

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

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

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

11
12 **Section 2.** Section 25-10-405, MCA, is amended to read:

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

21 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0195, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring state agencies to pay a \$45 fee to file a warrant of distraint, certificate of lien, or abstract of order.

ASSUMPTIONS:

1. Assume that the bill will be effective October 1, 1997, and that FY98 estimates will be 75% of the normal year.
2. The four state agencies impacted are listed below along with their fiscal impact and funding sources.
3. Of the fees collected by the district court, 32% stay with the court. The remaining 68% is transferred to the judges' retirement system to cover the 34.71% required of judges salaries. If that is covered by other sources And, , then the amount is transferred to the state general fund. The 34.71% amount is funded under current law, so the 68%, or \$292,800 in FY98 and \$390,000 in FY99 will be revenue to the general fund.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Revenue (01)	\$202,500	\$270,000
Transportation (02)	800	1,000
DPHHS (01,03)	167,800	223,700
Labor (02,03,06)	<u>59,500</u>	<u>79,300</u>
Total	\$430,600	\$574,000

Funding:

General fund (01)	\$259,500	\$346,000
State special (02)	15,700	20,800
Federal special (03)	135,500	180,800
Proprietary (06)	<u>19,900</u>	<u>26,400</u>
Total	\$430,600	\$574,000

Revenues:

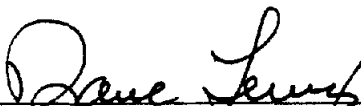
General fund-transfers in (01)	\$292,800	\$390,000
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Net Impact on Fund Balance: (revenue minus expense)

General fund (01)	\$ 33,300	\$ 44,000
State special (02)	(15,700)	(20,800)
Federal special (03)	(135,500)	(180,000)
Proprietary (06)	<u>(19,900)</u>	<u>(26,400)</u>
Total	(\$137,800)	(\$184,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

District courts would retain 32% of the total fees, or \$137,800 in FY98, and \$183,700 in FY99.

 1-18-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 BILL TASH, PRIMARY SPONSOR DATE

Fiscal Note for HB0195, as introduced

HB 195

1 HOUSE BILL NO. 195

2 INTRODUCED BY TASH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE AGENCIES TO PAY A \$45 FEE TO FILE A
5 WARRANT OF DISTRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF ADMINISTRATIVE ORDER OR OF
6 FINAL ADMINISTRATIVE ORDER; AND AMENDING SECTIONS 25-1-201 AND 25-10-405, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 25-1-201, MCA, is amended to read:

11 **"25-1-201. Fees of clerk of district court.** (1) The clerk of the district court shall collect the
12 following fees:

13 (a) at the commencement of each action or proceeding, except a petition for dissolution of
14 marriage, from the plaintiff or petitioner, \$80; for filing a complaint in intervention, from the intervenor,
15 \$80; for filing a petition for dissolution of marriage, a fee of \$120; and for filing a petition for legal
16 separation, a fee of \$120;

17 (b) from each defendant or respondent, on appearance, \$60;

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

19 (d) for preparing copies of papers on file in the clerk's office, 50 cents per page for the first five
20 pages of each file, per request, and 25 cents per additional page;

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

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

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

24 (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts,
25 the fee for entry of judgment provided for in subsection (1)(c);

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

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

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

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

30 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment

1 of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from
 2 the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

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

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

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

7 (q) for filing, by a state agency, a warrant of distraint, certificate of lien, or abstract of
 8 ADMINISTRATIVE order OR OF FINAL ADMINISTRATIVE ORDER, \$45.

9 (2) Except as provided in subsections (3) through (8), 32% of all fees collected by the clerk of the
 10 district court must be deposited in and credited to the district court fund. If ~~no a~~ district court fund ~~exists~~
 11 does not exist, that portion of the fees must be deposited in the general fund for district court operations.
 12 The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

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

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

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

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

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

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

29 (iv) from the applicant or petitioner, on the filing of an application for probate or for the appointment
 30 of a personal representative or on the filing of a petition for appointment of a guardian or conservator, as

1 provided in subsection (1)(m), \$15.

2 (b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the
3 county general fund for district court operations unless the county has a district court fund. If the county
4 has a district court fund, the money must be deposited in that fund.

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

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

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

12 (9) A STATE AGENCY THAT PAYS A FEE UNDER SUBSECTION (1)(Q) MAY, USING ANY METHOD
13 PROVIDED BY LAW FOR COLLECTION OF JUDGMENTS OR OTHER ADJUDICATED DEBTS BY THE
14 AGENCY, IMMEDIATELY COLLECT THE AMOUNT PAID FROM THE PERSON AGAINST WHOM THE
15 AGENCY FILED THE WARRANT OF DISTRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF
16 ADMINISTRATIVE ORDER OR OF FINAL ADMINISTRATIVE ORDER. A HEARING IS NOT REQUIRED."

17

18 **Section 2.** Section 25-10-405, MCA, is amended to read:

19 **"25-10-405. Governmental entities not required to prepay fees -- exceptions.** The state, a county,
20 a municipality, or any subdivision ~~thereof~~ of the state, a county, or a municipality or any officer when
21 prosecuting or defending an action on behalf of the state, a county, a municipality, or a subdivision ~~thereof~~
22 of the state, a county, or a municipality is not required to pay or deposit any fee or amount to or with any
23 officer during the prosecution or defense of ~~an~~ the action, except the fee under 25-1-201(1)(p) for filing
24 a motion for substitution of a judge, the fee under 25-1-201(1)(g) for filing a warrant for distraint, certificate
25 of lien, or abstract of ADMINISTRATIVE order OR OF FINAL ADMINISTRATIVE ORDER, and all fees for
26 photocopies, postage and handling, certifications, authentications, and record searches."

27

-END-

**REREFERRED AND APPROVED BY COM
ON TAXATION**

HOUSE BILL NO. 195

INTRODUCED BY TASH

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE AGENCIES TO PAY A \$45 FEE TO FILE A WARRANT ~~OF~~ FOR DISTRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF ADMINISTRATIVE ORDER OR OF FINAL ADMINISTRATIVE ORDER; CLARIFYING THE AMOUNT OF THE DISTRICT COURT FEE FOR APPEALS FROM COURTS OF LIMITED JURISDICTION AND FOR APPEARING AS A LITIGANT IN A CONTESTED ESTATE PROCEEDING; AND AMENDING SECTIONS 25-1-201 AND 25-10-405, MCA."

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

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

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

(d) for preparing copies of papers on file in 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 transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(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 from other courts OR ON APPEAL FROM

1 COURTS OF LIMITED JURISDICTION, \$10;

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

3 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment
4 of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from
5 the applicant or petitioner, OR AN APPEARANCE FROM A LITIGANT IN A CONTESTED ESTATE
6 PROCEEDING, \$70, which includes the fee for filing a will for probate;

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

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

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

11 (q) for filing, by a state agency, a warrant ~~of~~ FOR distraint, certificate of lien, or abstract of
12 ADMINISTRATIVE order OR OF FINAL ADMINISTRATIVE ORDER, \$45.

13 (2) Except as provided in subsections (3) through (8), 32% of all fees collected by the clerk of the
14 district court must be deposited in and credited to the district court fund. If ~~no a~~ a district court fund ~~exists~~
15 does not exist, that portion of the fees must be deposited in the general fund for district court operations.
16 The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

17 (3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage
18 without solemnization, \$14 must be deposited in and credited to the state general fund, \$6.40 must be
19 deposited in and credited to the county ~~general~~ DISTRICT COURT fund OR IF A DISTRICT COURT FUND
20 DOES NOT EXIST, THE \$6.40 MUST BE DEPOSITED IN THE COUNTY GENERAL FUND FOR DISTRICT
21 COURT OPERATIONS, and \$9.60 must be remitted to the state to be deposited as provided in 19-5-404.

22 (4) Of the fee for filing a petition for dissolution of marriage or legal separation, \$40 must be
23 deposited in the state general fund, \$35 must be remitted to the state to be deposited as provided in
24 19-5-404, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20
25 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must
26 be deposited in the general fund for district court operations.

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

30 (i) at the commencement of each action or proceeding and for filing a complaint in intervention as

1 provided in subsection (1)(a), \$35;

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

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

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

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

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

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

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

17 (9) A STATE AGENCY THAT PAYS A FEE UNDER SUBSECTION (1)(Q) MAY, USING ANY METHOD
18 PROVIDED BY LAW FOR COLLECTION OF JUDGMENTS OR OTHER ADJUDICATED DEBTS BY THE
19 AGENCY, IMMEDIATELY COLLECT THE AMOUNT PAID FROM THE PERSON AGAINST WHOM THE
20 AGENCY FILED THE WARRANT OF FOR DISTRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF
21 ADMINISTRATIVE ORDER OR OF FINAL ADMINISTRATIVE ORDER. A HEARING IS NOT REQUIRED."

22

23 **Section 2.** Section 25-10-405, MCA, is amended to read:

24 **"25-10-405. Governmental entities not required to prepay fees -- exceptions.** The state, a county,
25 a municipality, or any subdivision ~~thereof~~ of the state, a county, or a municipality or any officer when
26 prosecuting or defending an action on behalf of the state, a county, a municipality, or a subdivision ~~thereof~~
27 of the state, a county, or a municipality is not required to pay or deposit any fee or amount to or with any
28 officer ~~during~~ FOR the prosecution or defense of ~~an~~ the action, except the fee under 25-1-201(1)(p) for
29 filing a motion for substitution of a judge, the fee under 25-1-201(1)(q) for filing a warrant for distraint,
30 certificate of lien, or abstract of ADMINISTRATIVE order OR OF FINAL ADMINISTRATIVE ORDER, and all

1 fees for photocopies, postage and handling, certifications, authentications, and record searches."

2 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0195, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring state agencies to pay a \$45 fee to file a warrant for distraint, certificate of lien, or abstract of administrative order or of final administrative order.

ASSUMPTIONS:

1. Amended section 1(9) provides that an agency can recover the court fees using any method provided by law. This amendment affects only one agency, the Department of Revenue (DOR). DOR assumes it can collect 25% of the fees. This amount will be shown net of expense.
1. The bill will be effective October 1, 1997, so FY98 estimates will be 75% of the normal year.
2. The four state agencies impacted are listed below along with their fiscal impact and funding sources.
3. Of the fees collected by the district court, 32% stay with the court to support operations. The remaining 68% is transferred to the state treasury for eventual transfer to the judges' retirement system. Sixty-eight percent of district court fees, and 25% of supreme court fees are supposed to cover the 34.71% required of judges salaries.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Revenue (01)	\$151,900	\$202,500
Transportation (02)	800	1,000
DPHHS (01,03)	167,800	223,700
Labor (02,03,06)	<u>59,500</u>	<u>79,300</u>
Total	\$380,000	\$506,500

Funding:

General fund (01)	\$208,900	\$278,500
State special (02)	15,700	20,800
Federal special (03)	135,500	180,800
Proprietary (06)	<u>19,900</u>	<u>26,400</u>
Total	\$380,000	\$506,500

Revenues:

District court fees (09)	\$258,400	\$344,400
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Net Impact on Fund Balance: (revenue minus expense)

General fund (01)	(\$208,900)	(\$278,500)
State special (02)	(15,700)	(20,800)
Federal special (03)	(135,500)	(180,800)
Proprietary (06)	(19,900)	(26,400)
Pension trust (09)	<u>258,400</u>	<u>344,400</u>
Total	(\$121,600)	(\$162,100)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

District courts would retain 32% of the total fees, or \$121,600 in FY98, and \$162,100 in FY99.

Dave Lewis 2-21-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 BILL TASH, PRIMARY SPONSOR DATE

Fiscal Note for HB0195, second reading

HB 195-#3

1 HOUSE BILL NO. 195

2 INTRODUCED BY TASH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE AGENCIES TO PAY A \$45 FEE TO FILE A
5 WARRANT ~~OF~~ FOR DISTRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF ADMINISTRATIVE ORDER OR
6 OF FINAL ADMINISTRATIVE ORDER; CLARIFYING THE AMOUNT OF THE DISTRICT COURT FEE FOR
7 APPEALS FROM COURTS OF LIMITED JURISDICTION AND FOR APPEARING AS A LITIGANT IN A
8 CONTESTED ESTATE PROCEEDING; AND AMENDING SECTIONS 25-1-201 AND 25-10-405, MCA."

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

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

15 (a) at the commencement of each action or proceeding, except a petition for dissolution of
16 marriage, from the plaintiff or petitioner, \$80; for filing a complaint in intervention, from the intervenor,
17 \$80; for filing a petition for dissolution of marriage, a fee of \$120; and for filing a petition for legal
18 separation, a fee of \$120;

19 (b) from each defendant or respondent, on appearance, \$60;

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

21 (d) for preparing copies of papers on file in the clerk's office, 50 cents per page for the first five
22 pages of each file, per request, and 25 cents per additional page;

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

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

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

26 (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts,
27 the fee for entry of judgment provided for in subsection (1)(c);

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

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

30 (k) for filing and entering papers received by transfer from other courts OR ON APPEAL FROM

1 COURTS OF LIMITED JURISDICTION, \$10;

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

3 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment
4 of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from
5 the applicant or petitioner, OR AN APPEARANCE FROM A LITIGANT IN A CONTESTED ESTATE
6 PROCEEDING, \$70, which includes the fee for filing a will for probate;

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

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

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

11 (q) for filing, by a state agency, a warrant of FOR distraint, certificate of lien, or abstract of
12 ADMINISTRATIVE order OR OF FINAL ADMINISTRATIVE ORDER, \$45.

13 (2) Except as provided in subsections (3) through (8), 32% of all fees collected by the clerk of the
14 district court must be deposited in and credited to the district court fund. If ~~no~~ a district court fund exists
15 does not exist, that portion of the fees must be deposited in the general fund for district court operations.
16 The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

17 (3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage
18 without solemnization, \$14 must be deposited in and credited to the state general fund, \$6.40 must be
19 deposited in and credited to the county ~~general~~ DISTRICT COURT fund OR IF A DISTRICT COURT FUND
20 DOES NOT EXIST, THE \$6.40 MUST BE DEPOSITED IN THE COUNTY GENERAL FUND FOR DISTRICT
21 COURT OPERATIONS, and \$9.60 must be remitted to the state to be deposited as provided in 19-5-404.

22 (4) Of the fee for filing a petition for dissolution of marriage or legal separation, \$40 must be
23 deposited in the state general fund, \$35 must be remitted to the state to be deposited as provided in
24 19-5-404, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20
25 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must
26 be deposited in the general fund for district court operations.

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

30 (i) at the commencement of each action or proceeding and for filing a complaint in intervention as

1 provided in subsection (1)(a), \$35;

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

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

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

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

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

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

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

17 (9) A STATE AGENCY THAT PAYS A FEE UNDER SUBSECTION (1)(Q) MAY, USING ANY METHOD
18 PROVIDED BY LAW FOR COLLECTION OF JUDGMENTS OR OTHER ADJUDICATED DEBTS BY THE
19 AGENCY, IMMEDIATELY COLLECT THE AMOUNT PAID FROM THE PERSON AGAINST WHOM THE
20 AGENCY FILED THE WARRANT OF FOR DISTRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF
21 ADMINISTRATIVE ORDER OR OF FINAL ADMINISTRATIVE ORDER. A HEARING IS NOT REQUIRED."

22

23 **Section 2.** Section 25-10-405, MCA, is amended to read:

24 **"25-10-405. Governmental entities not required to prepay fees -- exceptions.** The state, a county,
25 a municipality, or any subdivision ~~thereof~~ of the state, a county, or a municipality or any officer when
26 prosecuting or defending an action on behalf of the state, a county, a municipality, or a subdivision ~~thereof~~
27 of the state, a county, or a municipality is not required to pay or deposit any fee or amount to or with any
28 officer ~~during~~ FOR the prosecution or defense of ~~an~~ the action, except the fee under 25-1-201(1)(p) for
29 filing a motion for substitution of a judge, the fee under 25-1-201(1)(q) for filing a warrant for distraint,
30 certificate of lien, or abstract of ADMINISTRATIVE order OR OF FINAL ADMINISTRATIVE ORDER, and all

1 fees for photocopies, postage and handling, certifications, authentications, and record searches."

2 -END-

1 HOUSE BILL NO. 195

2 INTRODUCED BY TASH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE AGENCIES TO PAY A \$45 FEE TO FILE A
5 WARRANT ~~OF~~ FOR DISTRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF ADMINISTRATIVE ORDER OR
6 OF FINAL ADMINISTRATIVE ORDER; CLARIFYING THE AMOUNT OF THE DISTRICT COURT FEE FOR
7 APPEALS FROM COURTS OF LIMITED JURISDICTION AND FOR APPEARING AS A LITIGANT IN A
8 CONTESTED ESTATE PROCEEDING; AND AMENDING SECTIONS 25-1-201 AND 25-10-405, MCA."

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

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

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

15 (a) at the commencement of each action or proceeding, except a petition for dissolution of
16 marriage, from the plaintiff or petitioner, \$80; for filing a complaint in intervention, from the intervenor,
17 \$80; for filing a petition for dissolution of marriage, a fee of \$120; and for filing a petition for legal
18 separation, a fee of \$120;

19 (b) from each defendant or respondent, on appearance, \$60;

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

21 (d) for preparing copies of papers on file in the clerk's office, 50 cents per page for the first five
22 pages of each file, per request, and 25 cents per additional page;

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

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

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

26 (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts,
27 the fee for entry of judgment provided for in subsection (1)(c);

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

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

30 (k) for filing and entering papers received by transfer from other courts OR ON APPEAL FROM

1 COURTS OF LIMITED JURISDICTION, \$10;

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

3 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment
4 of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from
5 the applicant or petitioner, OR AN APPEARANCE FROM A LITIGANT IN A CONTESTED ESTATE
6 PROCEEDING, \$70, which includes the fee for filing a will for probate;

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

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

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

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12 ADMINISTRATIVE order OR OF FINAL ADMINISTRATIVE ORDER, \$45.

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14 district court must be deposited in and credited to the district court fund. If ~~no~~ a district court fund ~~exists~~
15 does not exist, that portion of the fees must be deposited in the general fund for district court operations.
16 The remaining portion of the fees must be remitted to the state to be deposited as provided in 19-5-404.

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18 without solemnization, \$14 must be deposited in and credited to the state general fund, \$6.40 must be
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20 DOES NOT EXIST, THE \$6.40 MUST BE DEPOSITED IN THE COUNTY GENERAL FUND FOR DISTRICT
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23 deposited in the state general fund, \$35 must be remitted to the state to be deposited as provided in
24 19-5-404, \$5 must be deposited in the children's trust fund account established by 41-3-702, and \$20
25 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must
26 be deposited in the general fund for district court operations.

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

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

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

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

12 (7) Fees collected under subsections (1)(d) through (1)(i) must be deposited in the district court
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27 of the state, a county, or a municipality is not required to pay or deposit any fee or amount to or with any
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2 -END-

1 HOUSE BILL NO. 195

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3 (m) on the filing of an application for informal, formal, or supervised probate or for the appointment
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27 of the state, a county, or a municipality is not required to pay or deposit any fee or amount to or with any
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30 certificate of lien, or abstract of ADMINISTRATIVE order OR OF FINAL ADMINISTRATIVE ORDER, and all

1 fees for photocopies, postage and handling, certifications, authentications, and record searches.”

2

-END-

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

March 26, 1997

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

Dear Speaker Mercer and President Aklestad:

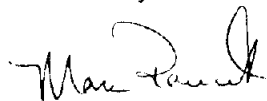
In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return House Bill 195, **"A BILL FOR AN ACT REQUIRING STATE AGENCIES TO PAY A \$45 FEE TO FILE A WARRANT FOR DISTRRAINT, CERTIFICATE OF LIEN, OR ABSTRACT OF ADMINISTRATIVE ORDER OR OF FINAL ADMINISTRATIVE ORDER; CLARIFYING THE AMOUNT OF THE DISTRICT COURT FEE FOR APPEALS FROM COURTS OF LIMITED JURISDICTION AND FOR APPEARING AS A LITIGANT IN A CONTESTED ESTATE PROCEEDING: AND AMENDING SECTIONS 25-1-201 AND 25-10-405, MCA."**

House Bill 195 requires, among other things, that state agencies pay \$45 each time they file with the a clerk of court a warrant for distraint, a certificate of lien, or an abstract of an administrative order.

I do not disagree with the substance of the bill. However, its operation will result in projected additional costs to agency budgets of over \$280,000 for the biennium. This is a sum that current agency budgets cannot absorb, and, since there is no funding provided in the bill, I am offering an amendment to the bill to prevent the law from becoming effective unless there is an appropriation for adequate funding.

It is my understanding that Representative Tash, the bill's sponsor, understands the need for this amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Racicot". The signature is fluid and cursive, with a large initial "M" and "R".

MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS TO
House Bill No. 195
(Reference Copy)
March 26, 1997

1. Title, line 8.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING A CONTINGENT VOIDNESS PROVISION"

2. Page 4, line 2.

Insert: "NEW SECTION. **Section 3. Contingent voidness.** [This act] increases spending without providing corresponding funding. If a corresponding increase in funding for [this act] is not contained in House Bill No. 2, then [this act] is void."