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House BILL NO. 237

INTRODUCED BY

Rose Regula Hallyn

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A DISTRICT COURT FILING FEE FOR APPEALS FROM COURTS OF LIMITED JURISDICTION; AMENDING SECTION 25-1-201, 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, \$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~~ a page for the first five pages of each file, ~~per~~ for each request, and 25 cents ~~per~~ for each 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) except as provided in subsection (1)(g), for filing and entering papers received by transfer from other courts, \$10;

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

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

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

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

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

8 (q) for filing of appeals from courts of limited jurisdiction, \$60.

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 a district court fund exists~~ does not exist,
21 the \$20 must 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~~ a district court fund ~~exists~~ does not exist, fees must be deposited in the general fund for district
9 court operations.

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

13

14 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 1997.

15

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0237, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a District Court filing fee for appeals from courts of limited jurisdiction.

ASSUMPTIONS:


1. Approximately 450 Court of Limited Jurisdiction cases are appealed to the District Court each year.
2. The filing fee for an appeal from a Court of Limited Jurisdiction would be \$60.
3. Total revenues would be approximately \$27,000 per year.
4. Of all fees collected, 32 percent would be deposited in and credited to the appropriate District Court fund. If a District Court fund does not exist, the funds would be deposited in the general fund for District Court operations.
5. The remaining 68 percent of the fees would be remitted to the state to be deposited in accordance with 19-5-404, MCA.
6. The 68 percent of the fees or \$18,360 (\$27,000 x 68%) remitted to the state would be deposited in the Judges' Retirement System (JRS).

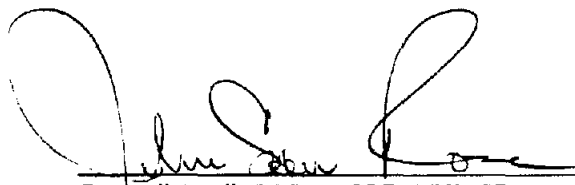
FISCAL IMPACT:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
<u>Contributions:</u>		
Judges Retirement (09)	18,360	18,360
<u>Revenues:</u>		
Court Filing Fees	18,360	18,360
<u>Net Impact on Fund Balance:</u>	0	0
(Revenue minus Contributions)		

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Revenues of approximately \$8,640 would be deposited in District Court funds or the general fund for District Court operations.

 1/16/97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


JOHN "SAM" ROSE, PRIMARY SPONSOR DATE
Fiscal Note for HB0237, as introduced

HB 237

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