

1 *House* BILL NO. *277*
 2 INTRODUCED BY: *Carlton Lynch* *Samuel Quilley*
 3 *Shen*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PAYMENT OF A \$60 FEE TO THE CLERK OF COURT
 5 FOR APPEARING AS A LITIGANT IN A CONTESTED ESTATE PROCEEDING OR FOR FILING A DEMAND
 6 FOR NOTICE; AND AMENDING SECTION 25-1-201, 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~~ a page for the first five
 20 pages of each file, ~~per~~ for each request, and 25 cents ~~per~~ for each 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 appearing as a litigant in a contested estate proceeding or for filing a demand for notice
8 under 72-3-106, \$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~~ 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~~ 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
6 be remitted to the state to be deposited as provided in 19-5-404.

7 (7) Fees collected under subsections (1)(d) through (1)(i) and (1)(g) must be deposited in the district
8 court fund. If ~~no~~ a district court fund ~~exists~~ does not exist, fees must be deposited in the general fund for
9 district 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

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0277, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

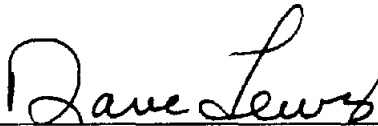
An act requiring payment of a \$60 fee to the clerk of court for appearing as a litigant in a contested estate proceeding or for filing a demand for notice.

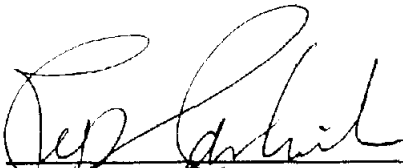
ASSUMPTIONS:

1. Collection of this fee would be included in the aggregate clerk of court fees line on the county collection report.
2. The additional fee would be deposited in the county district court fund and the state general fund, assuming full funding of judges retirement contributions under current law.
3. Anticipated revenues would be inconsequential (MACo).

FISCAL IMPACT:

Minor increase in county district court and state general fund revenues.

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


BOB PAVLOVICH, PRIMARY SPONSOR DATE
Fiscal Note for HB0277, as introduced

HB 277