

HOUSE BILL NO. 562

INTRODUCED BY COHEN, RANEY, O'KEEFE, SOUTHWORTH, DAVIS,
BROOKE, REAM, FAGG

IN THE HOUSE

FEBRUARY 1, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

FEBRUARY 2, 1991 FIRST READING.

FEBRUARY 14, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 15, 1991 PRINTING REPORT.

FEBRUARY 16, 1991 SECOND READING, DO PASS.

FEBRUARY 18, 1991 ENGROSSING REPORT.

FEBRUARY 19, 1991 THIRD READING, PASSED.
AYES, 95; NOES, 3.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

FIRST READING.

MARCH 7, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 11, 1991 SECOND READING, CONCURRED IN.

MARCH 12, 1991 THIRD READING, CONCURRED IN.
AYES, 44; NOES, 5.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 16, 1991 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 18, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *562*
 2 INTRODUCED BY *[Signature]*
 3 *[Signature]*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE COPYING
 5 OF ELECTRONIC INFORMATION IN THE CUSTODY OF PUBLIC AGENCIES;
 6 PROVIDING THAT THE PUBLIC AGENCY MAY CHARGE FOR THE COST OF
 7 ELECTRONIC MEDIA USED TO COPY THE INFORMATION AND MAY CHARGE
 8 AN HOURLY RATE FOR TIME SPENT BY AGENCY EMPLOYEES AFTER
 9 ONE-HALF HOUR OF COPY SERVICE HAS BEEN PROVIDED; AND
 10 AMENDING SECTION 2-6-103, MCA."

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

12 NEW SECTION. **Section 1.** Electronic information --
 13 public access. (1) Every person is entitled to a copy of
 14 information compiled, created, or otherwise in the custody
 15 of public agencies that is in electronic format subject the
 16 same restrictions applicable to the information in printed
 17 form. All restrictions relating to confidentiality, privacy,
 18 business secrets, and copyright is applicable to the
 19 electronic information.

20 (2) Except as provided in 1-11-301, an agency may
 21 charge a fee, not to exceed the agency's actual cost of
 22 purchasing the electronic media used for transferring data,
 23 if the person requesting the information does not provide
 24 the media. An agency may also charge an hourly fee for each
 25

1 hour, or fraction of an hour, after one-half hour of copying
 2 service has been provided. The hourly fee may not exceed the
 3 hourly rate for the current fiscal year for a state employee
 4 classified as grade 10, step 2, under 2-18-312.

5 **Section 2.** Section 2-6-103, MCA, is amended to read:

6 "2-6-103. Filing and copying fees. (1) The secretary of
 7 state, for services performed in his office, shall charge
 8 and collect the following fees:

9 (a) for each copy of any law, resolution, record, or
 10 other document or paper on file in his office, except
 11 corporate papers, 40 cents per folio or, if the copy is made
 12 by any process of reproduction by photographic, photostatic,
 13 or similar process, the fee shall be 50 cents per page or
 14 fraction thereof;

15 (b) for affixing certificate and seal, \$2;

16 (c) for receiving and recording each official bond,
 17 \$10;

18 (d) for each commission or other document signed by the
 19 governor and attested by the secretary of state (pardon,
 20 military commissions, and extraditions excepted), \$5;

21 (e) for issuing each certificate of record, \$5;

22 (f) for filing and recording miscellaneous papers,
 23 records, or other documents, \$5;

24 (g) for filing and recording any other paper not
 25 otherwise herein provided for, \$5;



LC 0641/01

1 (h) for filing and recording any paper, record, or
2 other document or other than a standard form when
3 recommended by the secretary of state, \$5;

4 (i) when a copy of any law, resolution, record, or
5 other document or paper on file in the office of the
6 secretary of state is presented for comparison and
7 certification, 10 cents per folio must be charged and
8 collected for proofreading the same.

9 (2) No member of the legislature or state or county
10 officer may be charged for any search relative to matters
11 appertaining to the duties of his office or for a certified
12 copy of any law or resolution passed by the legislature
13 relative to his official duties.

14 (3) The secretary of state may not charge a fee, other
15 than the fees authorized in [section 1], for providing
16 electronic information.

17 ~~(3)~~(4) Fees shall be collected in advance and when
18 collected by the secretary of state shall be deposited
19 pursuant to 17-6-105."

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0562, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the copying of electronic information in the custody of public agencies.

ASSUMPTIONS:

Secretary of State


1. Customers will choose the least costly means of receiving data.
2. 75% of Farm Bill customers will convert to no-cost media.
3. Sales of Farm Bill lists will continue to grow at past rates (1989 and 1990)
4. Election canvass sales will take place in odd numbered fiscal years only.
5. Individual transactions for Farm Bill and election result duplication take less than 1/2 hour each.
6. Buyers will provide their own media for reproduction.
7. Cost savings on Farm Bill sales will be effectuated due to elimination of paper and film reproduction.

Department of Commerce

1. Currently the copying of data tapes is conducted through the Management Services Division which bills for the service at \$25 per hour.
2. Under the proposed legislation, cost recovery for copying computer tapes would be at the rate of \$8.05 per hour after the first half hour. Based upon a per hour cost, the department may have unreimbursable costs at the rate of \$17 per request.
3. An increase in requests for computer tape data from the 1990 census is expected but the volume is not subject to reasonable estimate.
4. If requests for data remain at current level, there would be no measurable fiscal impact on other programs within the department.


FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

2-8-91
DATE



BEN COHEN, PRIMARY SPONSOR
DATE

2/9/91

Fiscal Note for HB0562, as introduced

HB 562

Fiscal Note Request, HB0562, as introduced

Form BD-15

Page 2

FISCAL IMPACT:

OFFICE OF THE SECRETARY OF STATE

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	2,353	2,353	0	2,412	2,412	0
Operating Expenses	<u>20,917</u>	<u>12,969</u>	<u>7,948</u>	<u>27,192</u>	<u>16,859</u>	<u>10,333</u>
Total	23,270	15,322	(7,948)	29,604	19,271	(10,333)
<u>Funding:</u>						
General Fund (01)	23,270	15,322	(7,948)	29,604	19,271	(10,333)
<u>Revenues:</u>						
Farm Bill Lists (01)	26,457	6,614	(19,843)	34,694	8,599	(26,095)
Impact to General Fund			(11,895)			(15,762)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

There is a potential impact on county governments in all 56 counties. Counties that compile data on electronic media will be impacted if the fees for these services are voided by HB0562. Impacted areas would be voter lists, property records, security filings, etc. Revenue reduction may be significant.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Costs for computerization of information may decline if agencies decide not to keep electronic records for cost-benefit reasons.

HB 562

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0562, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the copying of electronic information in the custody of public agencies and authorizing public agencies to charge fees for certain expenses.

ASSUMPTIONS:

1. The bill, as amended, allows state agencies to charge fees for most expenses of providing information to the public in an electronic form. Agencies may not charge an hourly fee for copying service unless the service time exceeds one-half hour. It is assumed that fees will be charged and collected such that this bill will have no material fiscal impact to state agencies in the aggregate.

FISCAL IMPACT:

No material impact to state agencies.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

No material fiscal impact is anticipated.

TECHNICAL NOTES:

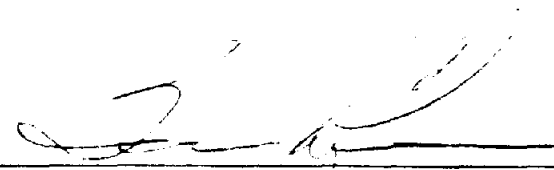
Although the bill provides that agencies may charge a fee for the expenses associated with the request for information, there is no provision that would allow the agency to reestablish the appropriation authority expended in complying with the request. As a result, the agency may have to reduce their normal operating expenditures by the same amount as the expenses incurred in providing the requested information.



ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

2/22/91

DATE



BEN COHEN, PRIMARY SPONSOR

2/23/91

DATE

Fiscal Note for HB0562, second reading

HB 562

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 HOUSE BILL NO. 562
2 INTRODUCED BY COHEN, RANEY, O'KEEFE, SOUTHWORTH, DAVIS,
3 BROOKE, REAM, FAGG
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE COPYING
6 OF ELECTRONIC INFORMATION IN THE CUSTODY OF PUBLIC AGENCIES;
7 PROVIDING THAT THE PUBLIC AGENCY MAY CHARGE FOR THE COST OF
8 ELECTRONIC MEDIA USED TO COPY THE INFORMATION AND MAY CHARGE
9 AN HOURLY RATE FOR TIME SPENT BY AGENCY EMPLOYEES AFTER
10 ONE-HALF HOUR OF COPY SERVICE HAS BEEN PROVIDED; AND
11 AMENDING SECTION 2-6-103, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Electronic information --
15 public access. (1) Every EXCEPT AS PROVIDED BY LAW, EACH
16 person is entitled to a copy of information compiled,
17 created, or otherwise in the custody of public agencies that
18 is in electronic format, subject TO the same restrictions
19 applicable to the information in printed form. All
20 restrictions relating to confidentiality, privacy, business
21 secrets, and copyright is ARE applicable to the electronic
22 information.

23 (2) Except as provided ~~in 2-6-103~~ BY LAW, an agency
24 may charge a fee, not to exceed:

25 (A) the agency's actual cost of purchasing the

1 electronic media used for transferring data, if the person
2 requesting the information does not provide the media; OR
3 (B) EXPENSES INCURRED BY THE AGENCY AS A RESULT OF
4 MAINFRAME PROCESSING CHARGES OR OTHER OUT-OF-POCKET EXPENSES
5 DIRECTLY ASSOCIATED WITH THE REQUEST FOR INFORMATION.

6 (3) An agency may also charge an hourly fee for each
7 hour, or fraction of an hour, after one-half hour of copying
8 service has been provided. The hourly fee may not exceed the
9 hourly rate for the current fiscal year for a state employee
10 classified as grade 10, step 2, under 2-18-312.

11 (4) FOR THE PURPOSES OF THIS SECTION, THE TERM "AGENCY"
12 HAS THE MEANING PROVIDED IN 2-3-102 BUT INCLUDES
13 LEGISLATIVE, JUDICIAL, AND STATE MILITARY AGENCIES.

14 **Section 2.** Section 2-6-103, MCA, is amended to read:
15 "2-6-103. Filing and copying fees. (1) The secretary of
16 state, for services performed in his office, shall charge
17 and collect the following fees:

18 (a) for each copy of any law, resolution, record, or
19 other document or paper on file in his office, except
20 corporate papers, 40 cents per folio or, if the copy is made
21 by any process of reproduction by photographic, photostatic,
22 or similar process, the fee shall be 50 cents per page or
23 fraction thereof;

24 (b) for affixing certificate and seal, \$2;

25 (c) for receiving and recording each official bond,

SECOND READING
HB 562



1 \$10;

2 (d) for each commission or other document signed by the

3 governor and attested by the secretary of state (pardon,

4 military commissions, and extraditions excepted), \$5;

5 (e) for issuing each certificate of record, \$5;

6 (f) for filing and recording miscellaneous papers,

7 records, or other documents, \$5;

8 (g) for filing and recording any other paper not

9 otherwise herein provided for, \$5;

10 (h) for filing and recording any paper, record, or

11 other document or other than a standard form when

12 recommended by the secretary of state, \$5;

13 (i) when a copy of any law, resolution, record, or

14 other document or paper on file in the office of the

15 secretary of state is presented for comparison and

16 certification, 10 cents per folio must be charged and

17 collected for proofreading the same.

18 (2) No member of the legislature or state or county

19 officer may be charged for any search relative to matters

20 appertaining to the duties of his office or for a certified

21 copy of any law or resolution passed by the legislature

22 relative to his official duties.

23 (3) The secretary of state may not charge a fee, other

24 than the fees authorized in [section 1], for providing

25 electronic information.

1 ~~(3)~~(4) Fees shall be collected in advance and when

2 collected by the secretary of state shall be deposited

3 pursuant to 17-6-105."

-End-

1 HOUSE BILL NO. 562

2 INTRODUCED BY COHEN, RANEY, O'KEEFE, SOUTHWORTH, DAVIS,
3 BROOKE, REAM, FAGG

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE COPYING
6 OF ELECTRONIC INFORMATION IN THE CUSTODY OF PUBLIC AGENCIES;
7 PROVIDING THAT THE PUBLIC AGENCY MAY CHARGE FOR THE COST OF
8 ELECTRONIC MEDIA USED TO COPY THE INFORMATION AND MAY CHARGE
9 AN HOURLY RATE FOR TIME SPENT BY AGENCY EMPLOYEES AFTER
10 ONE-HALF HOUR OF COPY SERVICE HAS BEEN PROVIDED; AND
11 AMENDING SECTION 2-6-103, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Electronic information --
15 public access. (1) Every EXCEPT AS PROVIDED BY LAW, EACH
16 person is entitled to a copy of information compiled,
17 created, or otherwise in the custody of public agencies that
18 is in electronic format, subject TO the same restrictions
19 applicable to the information in printed form. All
20 restrictions relating to confidentiality, privacy, business
21 secrets, and copyright is ARE applicable to the electronic
22 information.

23 (2) Except as provided ~~in 2-6-103~~ BY LAW, an agency
24 may charge a fee, not to exceed:

25 (A) the agency's actual cost of purchasing the

1 electronic media used for transferring data, if the person
2 requesting the information does not provide the media; OR
3 (B) EXPENSES INCURRED BY THE AGENCY AS A RESULT OF
4 MAINFRAME PROCESSING CHARGES OR OTHER OUT-OF-POCKET EXPENSES
5 DIRECTLY ASSOCIATED WITH THE REQUEST FOR INFORMATION.

6 (3) An agency may also charge an hourly fee for each
7 hour, or fraction of an hour, after one-half hour of copying
8 service has been provided. The hourly fee may not exceed the
9 hourly rate for the current fiscal year for a state employee
10 classified as grade 10, step 2, under 2-18-312.

11 (4) FOR THE PURPOSES OF THIS SECTION, THE TERM "AGENCY"
12 HAS THE MEANING PROVIDED IN 2-3-102 BUT INCLUDES
13 LEGISLATIVE, JUDICIAL, AND STATE MILITARY AGENCIES.

14 Section 2. Section 2-6-103, MCA, is amended to read:

15 "2-6-103. Filing and copying fees. (1) The secretary of
16 state, for services performed in his office, shall charge
17 and collect the following fees:

18 (a) for each copy of any law, resolution, record, or
19 other document or paper on file in his office, except
20 corporate papers, 40 cents per folio or, if the copy is made
21 by any process of reproduction by photographic, photostatic,
22 or similar process, the fee shall be 50 cents per page or
23 fraction thereof;

24 (b) for affixing certificate and seal, \$2;

25 (c) for receiving and recording each official bond,

THIRD READING

HB 562

1 \$10;

2 (d) for each commission or other document signed by the

3 governor and attested by the secretary of state (pardon,

4 military commissions, and extraditions excepted), \$5;

5 (e) for issuing each certificate of record, \$5;

6 (F) for filing and recording miscellaneous papers,

7 records, or other documents, \$5;

8 (g) for filing and recording any other paper not

9 otherwise herein provided for, \$5;

10 (h) for filing and recording any paper, record, or

11 other document or other than a standard form when

12 recommended by the secretary of state, \$5;

13 (i) when a copy of any law, resolution, record, or

14 other document or paper on file in the office of the

15 secretary of state is presented for comparison and

16 certification, 10 cents per folio must be charged and

17 collected for proofreading the same.

18 (2) No member of the legislature or state or county

19 officer may be charged for any search relative to matters

20 appertaining to the duties of his office or for a certified

21 copy of any law or resolution passed by the legislature

22 relative to his official duties.

23 (3) The secretary of state may not charge a fee, other

24 than the fees authorized in [section 1], for providing

25 electronic information.

1 ~~(3)~~(4) Fees shall be collected in advance and when

2 collected by the secretary of state shall be deposited

3 pursuant to 17-6-105."

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 562 (third reading copy -- blue), respectfully report that House Bill No. 562 be amended and as so amended be concurred in:

1. Page 2.

Following: line 13

Insert: "(5) This section does not authorize the release of electronic security codes giving access to private information."

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

JM 3-7-91
Ad. Coord.

SB 3-7 2:55
Sec. of Senate

HB 562

SENATE

1 HOUSE BILL NO. 562

2 INTRODUCED BY COHEN, RANEY, O'KEEFE, SOUTHWORTH, DAVIS,
3 BROOKE, REAM, FAGG

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE COPYING
6 OF ELECTRONIC INFORMATION IN THE CUSTODY OF PUBLIC AGENCIES;
7 PROVIDING THAT THE PUBLIC AGENCY MAY CHARGE FOR THE COST OF
8 ELECTRONIC MEDIA USED TO COPY THE INFORMATION AND MAY CHARGE
9 AN HOURLY RATE FOR TIME SPENT BY AGENCY EMPLOYEES AFTER
10 ONE-HALF HOUR OF COPY SERVICE HAS BEEN PROVIDED; AND
11 AMENDING SECTION 2-6-103, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. **Section 1.** Electronic information --
15 public access. (1) Every EXCEPT AS PROVIDED BY LAW, EACH
16 person is entitled to a copy of information compiled,
17 created, or otherwise in the custody of public agencies that
18 is in electronic format, subject TO the same restrictions
19 applicable to the information in printed form. All
20 restrictions relating to confidentiality, privacy, business
21 secrets, and copyright is ARE applicable to the electronic
22 information.

23 (2) Except as provided ~~in 2-11-90~~ BY LAW, an agency
24 may charge a fee, not to exceed:

25 (A) the agency's actual cost of purchasing the

1 electronic media used for transferring data, if the person
2 requesting the information does not provide the media; OR
3 (B) EXPENSES INCURRED BY THE AGENCY AS A RESULT OF
4 MAINFRAME PROCESSING CHARGES OR OTHER OUT-OF-POCKET EXPENSES
5 DIRECTLY ASSOCIATED WITH THE REQUEST FOR INFORMATION.

6 (3) An agency may also charge an hourly fee for each
7 hour, or fraction of an hour, after one-half hour of copying
8 service has been provided. The hourly fee may not exceed the
9 hourly rate for the current fiscal year for a state employee
10 classified as grade 10, step 2, under 2-18-312.

11 (4) FOR THE PURPOSES OF THIS SECTION, THE TERM "AGENCY"
12 HAS THE MEANING PROVIDED IN 2-3-102 BUT INCLUDES
13 LEGISLATIVE, JUDICIAL, AND STATE MILITARY AGENCIES.

14 (5) THIS SECTION DOES NOT AUTHORIZE THE RELEASE OF
15 ELECTRONIC SECURITY CODES GIVING ACCESS TO PRIVATE
16 INFORMATION.

17 **Section 2.** Section 2-6-103, MCA, is amended to read:

18 "2-6-103. **Filing and copying fees.** (1) The secretary of
19 state, for services performed in his office, shall charge
20 and collect the following fees:

21 (a) for each copy of any law, resolution, record, or
22 other document or paper on file in his office, except
23 corporate papers, 40 cents per folio or, if the copy is made
24 by any process of reproduction by photographic, photostatic,
25 or similar process, the fee shall be 50 cents per page or

1 fraction thereof;

2 (b) for affixing certificate and seal, \$2;

3 (c) for receiving and recording each official bond,
4 \$10;

5 (d) for each commission or other document signed by the
6 governor and attested by the secretary of state (pardon,
7 military commissions, and extraditions excepted), \$5;

8 (e) for issuing each certificate of record, \$5;

9 (f) for filing and recording miscellaneous papers,
10 records, or other documents, \$5;

11 (g) for filing and recording any other paper not
12 otherwise herein provided for, \$5;

13 (h) for filing and recording any paper, record, or
14 other document or other than a standard form when
15 recommended by the secretary of state, \$5;

16 (i) when a copy of any law, resolution, record, or
17 other document or paper on file in the office of the
18 secretary of state is presented for comparison and
19 certification, 10 cents per folio must be charged and
20 collected for proofreading the same.

21 (2) No member of the legislature or state or county
22 officer may be charged for any search relative to matters
23 appertaining to the duties of his office or for a certified
24 copy of any law or resolution passed by the legislature
25 relative to his official duties.

1 (3) The secretary of state may not charge a fee, other
2 than the fees authorized in [section 1], for providing
3 electronic information.

4 ~~(3)~~(4) Fees shall be collected in advance and when
5 collected by the secretary of state shall be deposited
6 pursuant to 17-6-105."

-End-