

1 *Senate* BILL NO. *41*  
 2 INTRODUCED BY *Stacy Boylan*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBJECTING EVERY FEE  
 5 SET OR CHANGED BY A STATE AGENCY IN ITS DISCRETION TO 'REVIEW  
 6 AND APPROVAL BY THE LEGISLATURE."  
 7

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

9 Section 1. Short title. This act may be cited as the  
 10 "Legislative Control of Agency Fees Act".

11 Section 2. Definitions. As used in this act: "fee  
 12 fixed by agency discretion" means any licensing charge, fee,  
 13 or payment to defray the cost of administration of a state  
 14 agency program, paid by an individual or a private firm or  
 15 association to an agency of the executive branch of the  
 16 state government, the amount of which is set by an agency of  
 17 the executive branch in its discretion rather than being set  
 18 by statute or by a statutory formula which utilizes only  
 19 data not computed by the fee-collecting agency.

20 Section 3. Certain fees subject to legislative  
 21 approval. A fee fixed by agency discretion is invalid, and  
 22 the collecting agency cannot require the payment of that fee  
 23 as a prerequisite for any official action by the agency,  
 24 unless the fee has been ratified by the legislature as  
 25 provided in section 4 of this act. Notwithstanding the

1 preceding sentence, a fee established pursuant to a statute  
 2 enacted by a regular legislative session is valid until the  
 3 adjournment of the next regular legislative session.

4 Section 4. Legislative ratification. All fees  
 5 required to be ratified by the legislature must receive the  
 6 approval of the house of representatives, acting by one or  
 7 several simple resolutions. A resolution of the house of  
 8 representatives may increase or decrease the amount of a  
 9 fee. The senate may propose to increase or decrease the  
 10 amount of a fee by passing a joint resolution in which the  
 11 house of representatives must concur.

12 Section 5. Effective scope and date. This act  
 13 initially applies to all fees fixed by agency discretion in  
 14 effect on January 1, 1977. Following the adjournment of the  
 15 regular session of the 45th legislature in 1977, this act  
 16 applies to all new fees fixed by agency discretion or  
 17 established fees charged by agency discretion at any time  
 18 before the convening of a regular legislative session and  
 19 the adjournment of the preceding regular legislative  
 20 session.

-End-

*5/18/77*

Approved by Committee  
on State Administration

1 SENATE BILL NO. 41

2 INTRODUCED BY STORY, BOYLAN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBJECTING ~~EVERY--FEE~~  
5 CERTAIN FEES SET OR CHANGED BY A STATE AGENCY IN ITS  
6 DISCRETION TO REVIEW AND APPROVAL BY THE LEGISLATURE."

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

9 Section 1. Short title. This act may be cited as the  
10 "Legislative Control of Agency Fees Act".

11 Section 2. Definitions. As used in this act:

12 (1) "PERMIT OR LICENSE fee fixed by agency discretion"  
13 means any licensing charge, fee, or payment ~~to defray the~~  
14 ~~cost-of-administration-of--a--state--agency--program~~ FOR A  
15 PERMIT OR LICENSE, paid by an individual or a private firm  
16 or association to an agency of the executive branch of the  
17 state government, the amount of which is set by an agency of  
18 the executive branch in its discretion rather than being set  
19 by statute or by a statutory formula which utilizes only  
20 data not computed by the fee-collecting agency.

21 (2) "AGENCY" MEANS EACH AGENCY DEFINED UNDER SECTION  
22 82-4201 AS SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT.

23 Section 3. Certain fees subject to legislative  
24 approval. A PERMIT OR LICENSE fee fixed by agency  
25 discretion is invalid, and the collecting agency cannot

1 require the payment of that fee as a prerequisite for any  
2 official action by the agency, ON APPLICATION FOR A PERMIT  
3 OR LICENSE unless the fee has been ratified by the  
4 legislature as provided in section 4 of this act.  
5 Notwithstanding the preceding sentence, a fee established  
6 pursuant to a statute enacted by a regular legislative  
7 session is valid until the adjournment of the next regular  
8 legislative session.

9 Section 4. Legislative ratification. All fees  
10 required to be ratified by the legislature must receive the  
11 approval of the house of representatives, acting by one or  
12 several simple resolutions. A resolution of the house of  
13 representatives may increase or decrease the amount of a  
14 fee. The senate may propose to increase or decrease the  
15 amount of a fee by passing a joint resolution in which the  
16 house of representatives must concur.

17 Section 5. Effective scope and date. This act  
18 initially applies to all PERMIT OR LICENSE fees fixed by  
19 agency discretion in effect on January 1, 1977. Following  
20 the adjournment of the regular session of the 45th  
21 legislature in 1977, this act applies to all new PERMIT OR  
22 LICENSE fees fixed by agency discretion or established  
23 PERMIT OR LICENSE fees charged by agency discretion at any  
24 time before the convening of a regular legislative session  
25 and the adjournment of the preceding regular legislative

SB 0041/02

1 session.

-End-

## 1 SENATE BILL NO. 41

2 INTRODUCED BY STORY, BOYLAN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBJECTING ~~EVERY--FEE~~  
5 CERTAIN FEES SET OR CHANGED BY A STATE AGENCY IN ITS  
6 DISCRETION TO REVIEW AND APPROVAL BY THE LEGISLATURE."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9 Section 1. Short title. This act may be cited as the  
10 "Legislative Control of Agency Fees Act".

11 Section 2. Definitions. As used in this act:

12 (1) "PERMIT OR LICENSE fee fixed by agency discretion"  
13 means any licensing charge, fee, or payment ~~to-defray-the~~  
14 ~~cost-of-administration-of--a--state--agency--program~~ FOR A  
15 PERMIT OR LICENSE, paid by an individual or a private firm  
16 or association to an agency of the executive branch of the  
17 state government, the amount of which is set by an agency of  
18 the executive branch in its discretion rather than being set  
19 by statute or by a statutory formula which utilizes only  
20 data not computed by the fee-collecting agency.

21 (2) "AGENCY" MEANS EACH AGENCY DEFINED UNDER SECTION  
22 82-4201 AS SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT.

23 Section 3. Certain fees subject to legislative  
24 approval. A PERMIT OR LICENSE fee fixed by agency  
25 discretion is invalid, and the collecting agency cannot

1 require the payment of that fee as a prerequisite for any  
2 official action by the agency, ON APPLICATION FOR A PERMIT  
3 OR LICENSE unless the fee has been ratified by the  
4 legislature as provided in section 4 of this act.  
5 Notwithstanding the preceding sentence, a fee established  
6 pursuant to a statute enacted by a regular legislative  
7 session is valid until the adjournment of the next regular  
8 legislative session.

9 Section 4. Legislative ratification. All fees  
10 required to be ratified by the legislature must receive the  
11 approval of the house of representatives, acting by one or  
12 several simple resolutions. A resolution of the house of  
13 representatives may increase or decrease the amount of a  
14 fee. The senate may propose to increase or decrease the  
15 amount of a fee by passing a joint resolution in which the  
16 house of representatives must concur.

17 Section 5. Effective scope and date. This act  
18 initially applies to all PERMIT OR LICENSE fees fixed by  
19 agency discretion in effect on January 1, 1977. Following  
20 the adjournment of the regular session of the 45th  
21 legislature in 1977, this act applies to all new PERMIT OR  
22 LICENSE fees fixed by agency discretion or established  
23 PERMIT OR LICENSE fees charged by agency discretion at any  
24 time before the convening of a regular legislative session  
25 and the adjournment of the preceding regular legislative

SB 0041/02

1 session.

-End-

-3-

SB 41