

SENATE BILL NO. 455

INTRODUCED BY JOHNSON

BY REQUEST OF THE OFFICE OF THE SECRETARY OF STATE

IN THE SENATE

February 12, 1981	Introduced and referred to Committee on State Administration. Fiscal note requested.
February 16, 1981	Fiscal note returned.
February 18, 1981	Committee recommend bill do pass as amended. Report adopted.
February 19, 1981	Bill printed and placed on members' desks.
February 20, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on State Administration.
March 18, 1981	Committee recommend bill be concurred in. Report adopted.
March 21, 1981	Second reading, concurred in.
March 24, 1981	Third reading, concurred in. Ayes, 95; Noes, 3.

IN THE SENATE

March 25, 1981

**Returned from House.
Concurred in. Sent to
enrolling.**

Reported correctly enrolled.

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Senate BILL NO. 455

INTRODUCED BY *Johansen*
at the request of the Office of the Sec. of State

A BILL FOR AN ACT ENTITLED: *AN ACT REQUIRING NOTIFICATION OF NONPROFIT CORPORATIONS OF EXPIRATION OF THEIR CORPORATE EXISTENCE; PROVIDING FOR THE REINSTATEMENT OF EXPIRED NONPROFIT CORPORATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.*

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

Section 1. Secretary of state to notify corporation of expiration of existence. The secretary of state shall notify every corporation, not less than 3 months or more than 6 months before the date of the expiration of its corporate existence, that its corporate existence is about to expire, which notice shall be given by registered or certified letter addressed to such corporation at its principal place of business, as it appears from the last annual report.

Section 2. Reinstatement of corporation whose term has expired. (1) The secretary of state may:

- (a) reinstate any corporation which has expired under the provisions of this chapter; and
- (b) restore to such corporation its right to carry on business in this state and to exercise all its corporate privileges and immunities.

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(2) A corporation applying for reinstatement shall submit to the secretary of state in duplicate an application, executed and verified by a person who was an officer or director at the time of dissolution, setting forth:

- (a) the name of the corporation;
- (b) a statement that the assets of the corporation have not been liquidated;
- (c) a statement that not less than a majority of its directors have authorized the application for reinstatement; and
- (d) if its corporate name has been legally acquired by another corporation prior to its application for reinstatement, the corporate name under which the corporation desires to be reinstated.

(3) The corporation shall submit with its application for reinstatement:

- (a) a certificate from the department of revenue stating that all taxes imposed pursuant to Title 15 have been paid; and
- (b) a filing fee in an amount equal to one-half of the filing and license fees which the corporation would be required to pay if the corporation were filing its articles of incorporation.

(4) When all requirements are met and the secretary of

1 state reinstates the corporation to its former rights, he
2 shall:

3 (a) conform and file in his office reports,
4 statements, and other instruments submitted for
5 reinstatement;

6 (b) immediately issue and deliver to the corporation
7 so reinstated a certificate of reinstatement authorizing it
8 to transact business; and

9 (c) upon demand, issue to the corporation one or more
10 certified copies of such certificate of reinstatement.

11 (5) The secretary of state may not order a
12 reinstatement if 5 years have elapsed since the expiration.

13 Section 3. Relation back of corporate rights restored.
14 Any restoration of corporate rights pursuant to [section 2]
15 relates back to the date the corporation expired, and the
16 corporation shall be considered to have been an existing
17 legal entity from the date of its original incorporation.

18 Section 4. Acquisition of new name by corporation upon
19 reinstatement. In all cases where a corporation's term has
20 expired and the corporate name of that corporation has been
21 legally acquired by another corporation prior to the
22 application for reinstatement, such expired corporation
23 shall in its application for reinstatement submit to the
24 secretary of state some other name under which it desires
25 its corporate existence to be reinstated. If that name is

1 sufficiently distinctive and different from those of all
2 existing corporations, the secretary of state shall issue to
3 such reinstated corporation a certificate of reinstatement
4 under the new name.

5 Section 5. Codification instruction. (1) Section 1 is
6 intended to be codified as an integral part of Title 35,
7 chapter 2, part 11, and the provisions of Title 35, chapter
8 2, apply to section 1.

9 (2) Sections 2 through 4 are intended to be codified
10 as an integral part of Title 35, chapter 2, and the
11 provisions of Title 35, chapter 2, apply to sections 2
12 through 4.

13 Section 6. Effective date. This act is effective on
14 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 369-81

FISCAL NOTE

Form BD-15

In compliance with a written request received 12 February, 19 81, there is hereby submitted a Fiscal Note for S.B. 455 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Proposed legislation requires notification of non-profit corporations of expiration and provides a procedure for reinstatement.

ASSUMPTIONS:

1. Approximately 500 non-profit corporations expire per year.
2. The office currently has a backlog of 2,000 expired non-profit corporations.
3. Approximately 5% of the notified corporations will file for reinstatement.
4. Additional duties will not require additional personnel.

FISCAL IMPACT:

	<u>FY'82</u>	<u>FY'83</u>
Expenditures under current law	-0-	-0-
Expenditures under proposal	<u>3,500</u>	<u>700</u>
Additional expenditures under proposal	3,500	700
Revenue under current laws	-0-	-0-
Revenue under proposal	<u>250</u>	<u>250</u>
Additional revenue under proposal	250	250
 NET EFFECT Added Revenue More (less) Than Expenses	 (3,250)	 (450)

The proposal will cost \$3,700 to the General Fund over the biennium.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-16-81

Approved by Committee
on State Administration

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17 which notice shall be given by registered or certified
18 letter addressed to such corporation at its principal place
19 of business, as it appears from the last annual report.

20 Section 2. Reinstatement of corporation whose term has
21 expired. (1) The secretary of state may:

22 (a) reinstate any corporation which has expired under
23 the provisions of this chapter; and

24 (b) restore to such corporation its right to carry on
25 business in this state and to exercise all its corporate

1 privileges and immunities.

2 (2) A corporation applying for reinstatement shall
3 submit to the secretary of state in duplicate an
4 application, executed and verified by a person who was an
5 officer or director at the time of ~~dissolution~~ EXPIRATION,
6 setting forth:

7 (a) the name of the corporation;

8 (b) a statement that the assets of the corporation
9 have not been liquidated;

10 (c) a statement that not less than a majority of its
11 directors have authorized the application for reinstatement;
12 and

13 (d) if its corporate name has been legally acquired by
14 another corporation prior to its application for
15 reinstatement, the corporate name under which the
16 corporation desires to be reinstated.

17 (3) The corporation shall submit with its application
18 for reinstatement:

19 (a) a certificate from the department of revenue
20 stating that all taxes imposed pursuant to Title 15 have
21 been paid; and

22 (b) a filing fee in an amount equal to one-half of the
23 filing and license fees which the corporation would be
24 required to pay if the corporation were filing its articles
25 of incorporation.

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12 (5) The secretary of state may not order a
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15 Any restoration of corporate rights pursuant to [section 2]
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