

HOUSE BILL NO. 150

INTRODUCED BY BERGENE, SALES, JACK MOORE, SPAETH,
MILLER, MANUEL, KEYSER, THOFT, KEENAN, VINCENT, ADDY

BY REQUEST OF THE SECRETARY OF STATE

IN THE HOUSE

January 11, 1985	Introduced and referred to Committee on State Administration.
January 15, 1985	Fiscal Note requested.
January 17, 1985	Fiscal Note returned.
January 18, 1985	Committee recommend bill do pass. Report adopted. Statement of Intent attached.
January 19, 1985	Bill printed and placed on members' desks.
January 23, 1985	Second reading, do pass.
January 24, 1985	Considered correctly engrossed.
January 25, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 26, 1985	Introduced and referred to Committee on State Administration.
March 7, 1985	Committee recommend bill be concurrent in. Report adopted.
March 9, 1985	Second reading, concurred in.

March 12, 1985

Third reading, concurred in.
Ayes, 50; Noes, 0.

Returned to House.

IN THE HOUSE

March 13, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 150
 2 INTRODUCED BY Bergner, Selver, Brown, Lyttle
 3 Miller, BY REQUEST OF THE SECRETARY OF STATE Ward
 4 Heysler, Fitch, Keenan, Vincent, [unclear]

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
 6 FEES COLLECTED FOR FILING OF DOCUMENTS RELATING TO ASSUMED
 7 BUSINESS NAMES, TRADEMARKS, NONPROFIT CORPORATIONS, AND
 8 CHAPTER 9 OF THE UNIFORM COMMERCIAL CODE BE ESTABLISHED BY
 9 THE SECRETARY OF STATE COMMENSURATE WITH COSTS; AMENDING
 10 SECTIONS 30-9-403, 30-13-217, 30-13-311, 30-13-313,
 11 30-13-315, AND 35-2-1001, MCA."

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

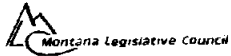
14 NEW SECTION. Section 1. Secretary of state to
 15 establish and collect fees commensurate with costs. The
 16 secretary of state shall by administrative rule establish
 17 and provide for collection of fees and miscellaneous charges
 18 for filing documents and issuing certificates as required by
 19 this part. The fees must be commensurate with the costs of
 20 processing the documents and certificates. The secretary of
 21 state shall maintain records sufficient to support the fees
 22 and miscellaneous charges established under this part.

23 Section 2. Section 30-9-403, MCA, is amended to read:
 24 "30-9-403. What constitutes filing -- duration of
 25 filing -- fees -- effect of lapsed filing -- duties of

1 filing officer. (1) Presentation for filing of a financing
 2 statement and tender of the filing fee or acceptance of the
 3 statement by the filing officer constitutes filing under
 4 this chapter.

5 (2) Except as provided in subsection (6) (7), a filed
 6 financing statement is effective for a period of 5 years
 7 from the date of filing. The effectiveness of a filed
 8 financing statement lapses on the expiration of the 5-year
 9 period unless a continuation statement is filed prior to the
 10 lapse. If a security interest perfected by filing exists at
 11 the time insolvency proceedings are commenced by or against
 12 the debtor, the security interest remains perfected until
 13 termination of the insolvency proceedings and thereafter for
 14 a period of 60 days or until expiration of the 5-year
 15 period, whichever occurs later. Upon lapse the security
 16 interest becomes unperfected, unless it is perfected without
 17 filing. If the security interest becomes unperfected upon
 18 lapse, it is considered to have been unperfected as against
 19 a person who became a purchaser or lien creditor before
 20 lapse.

21 (3) A continuation statement may be filed by the
 22 secured party within 6 months prior to the expiration of the
 23 5-year period specified in subsection (2). Any such
 24 continuation statement must be signed by the secured party,
 25 identify the original statement by file number, and state



1 that the original statement is still effective. A
 2 continuation statement signed by a person other than the
 3 secured party of record must be accompanied by a separate
 4 written statement of assignment signed by the secured party
 5 of record and complying with 30-9-405(2), including payment
 6 of the required fee. Upon timely filing of the continuation
 7 statement, the effectiveness of the original statement is
 8 continued for 5 years after the last date to which the
 9 filing was effective, whereupon it lapses in the same manner
 10 as provided in subsection (2) unless another continuation
 11 statement is filed prior to such lapse. Succeeding
 12 continuation statements may be filed in the same manner to
 13 continue the effectiveness of the original statement. Unless
 14 a statute on disposition of public records provides
 15 otherwise, the filing officer may remove a lapsed statement
 16 from the files and destroy it immediately if he has retained
 17 a microfilm or other photographic record, or in other cases
 18 after 1 year after the lapse. The filing officer shall so
 19 arrange matters by physical annexation of financing
 20 statements to continuation statements or other related
 21 filings, or by other means, that if he physically destroys
 22 the financing statements of a period more than 5 years past,
 23 those which have been continued by a continuation statement
 24 or which are still effective under subsection (6) (7) shall
 25 be retained.

1 (4) Except as provided in subsection (7) (8), a filing
 2 officer shall mark each statement with a file number and
 3 with the date and hour of filing and shall hold the
 4 statement or a microfilm or other photographic copy thereof
 5 for public inspection. In addition, the filing officer shall
 6 index the statements according to the name of the debtor and
 7 shall note in the index the file number and the address of
 8 the debtor given in the statement.

9 (5) The uniform fees for filing, indexing, and
 10 stamping a copy furnished by the filing party to show the
 11 date and place of filing shall be ~~the following amounts set~~
 12 pursuant to subsection (6) and must include fees for:

13 (a) an original financing or continuation statement in
 14 standard form ---\$2;

15 (b) a termination statement in standard form ---\$2;

16 (c) a financing statement indicating an assignment in
 17 standard form ---\$2;

18 (d) a statement of release of collateral in standard
 19 form ---\$2;

20 (e) a certificate from the filing officer showing that
 21 an effective financing statement is on file, requested in
 22 the standard form ---\$3;

23 (f) any of the documents in (a) through (e) other than
 24 in standard form ---an-additional-\$2;

25 (g) each name more than one required to be indexed --

1 §2;

2 (h) a uniform indexing fee ~~of~~ \$2 for showing a trade
3 name for any person; and

4 (i) any of the filing and indexing in subsections (a),
5 (b), or (d) where the collateral is equipment or rolling
6 stock of railroads or street railways ---\$15.

7 (6) The secretary of state, with advice from the
8 county clerk and recorders, shall by administrative rule
9 establish fees for filing and indexing documents as required
10 by this part. The fees must be commensurate with the costs
11 of processing the documents. The secretary of state shall
12 maintain records sufficient to support the amounts of the
13 fees established under this subsection. The secretary of
14 state shall disseminate the uniform fees to the county clerk
15 and recorders for their use.

16 ~~(6)(7)~~ If the debtor is a transmitting utility and a
17 filed financing statement so states, it is effective until a
18 termination statement is filed. A real estate mortgage that
19 is effective as a fixture filing under 30-9-402(6) remains
20 effective as a fixture filing until the mortgage is released
21 or satisfied of record or its effectiveness otherwise
22 terminates as to the real estate.

23 ~~(7)(8)~~ When a financing statement covers timber to be
24 cut or covers minerals or the like (including oil and gas)
25 or accounts subject to 30-9-103(5) or is filed as a fixture

1 filing, the filing officer shall index it under the names of
2 the debtor and any owner of record shown on the financing
3 statement in the same fashion as if they were the mortgagors
4 in a mortgage of the real estate described and, to the
5 extent that the law of this state provides for indexing of
6 mortgages under the name of the mortgagee, under the name of
7 the secured party as if he were the mortgagee thereunder, or
8 if indexing is by description, in the same fashion as if the
9 financing statement were a mortgage of the real estate
10 described."

11 Section 3. Section 30-13-217, MCA, is amended to read:
12 "30-13-217. Fees ~~for--filing--documents--and--issuing~~
13 ~~certificates and charges to be established and collected by~~
14 ~~secretary of state. The secretary of state shall collect~~
15 ~~for:~~

16 ~~(1)--filing-application--for--registration--of--assumed~~
17 ~~business-name-and-issuing-certificate-thereon--\$15;~~

18 ~~(2)--filing--application-for-renewal-of-registration-of~~
19 ~~assumed-business-name-and-issuing-certificate-thereon--\$10;~~

20 ~~(3)--filing--amendment---to--registration--of--assumed~~
21 ~~business-name-and-issuing-certificate-thereon--\$10;~~

22 ~~(4)--filing--application--for--reservation--of--assumed~~
23 ~~business-name-and-issuing-certificate-thereon--\$15--and~~

24 ~~(5)--filing--any--other--instrument--not--provided--for--in~~
25 ~~this-section--\$5. (1) The secretary of state shall by~~

1 administrative rule establish, charge, and collect in
 2 accordance with the provisions of this part and commensurate
 3 with costs:

4 (a) fees for filing documents and issuing
 5 certificates; and

6 (b) miscellaneous charges.

7 (2) The secretary of state shall maintain records
 8 sufficient to support the fees and miscellaneous charges
 9 established under this section."

10 Section 4. Section 30-13-311, MCA, is amended to read:

11 "30-13-311. Application for registration. (1) Subject
 12 to the limitations set forth in this part, a person who
 13 adopts and uses a mark in this state may file in the office
 14 of secretary of state, on a form to be furnished by the
 15 secretary of state, an application for registration of that
 16 mark setting forth information including but not limited to
 17 the following:

18 (a) the name and business address of the person
 19 applying for such registration and, if a corporation, the
 20 state of incorporation;

21 (b) the essential feature of the mark to be
 22 registered;

23 (c) the goods or services in connection with which the
 24 mark is used and the mode or manner in which the mark is
 25 used in connection with such goods or services and the class

1 in which such goods or services fall;

2 (d) the date when the mark was first used anywhere and
 3 the date when it was first used in this state by the
 4 applicant or his predecessor in business;

5 (e) a statement that the mark is presently in use in
 6 this state by the applicant; and

7 (f) a statement that the applicant is the owner of the
 8 mark and that no other person has the right to use the mark
 9 in this state either in the identical form thereof or in a
 10 form that so nearly resembles it that it might be calculated
 11 to deceive or might be mistaken for it.

12 (2) The application must be signed by the applicant or
 13 a member of the firm or an officer of the corporation or
 14 association applying.

15 (3) The application must be accompanied by a specimen
 16 or facsimile of such mark in duplicate.

17 (4) The application for registration must be
 18 accompanied by a filing fee ~~of \$20, payable to the secretary~~
 19 ~~of state as provided for in [section 1]."~~

20 Section 5. Section 30-13-313, MCA, is amended to read:

21 "30-13-313. Duration and renewal. (1) Registration of
 22 a mark under this part is effective for a term of 10 years
 23 from the date of registration, and upon application filed
 24 within 6 months prior to the expiration of such term, the
 25 registration may be renewed for another 10 years.

1 (2) An application for renewal of mark registration
2 must be delivered to the secretary of state and shall set
3 forth information including but not limited to the
4 following:

- 5 (a) the name and business address of the applicant;
- 6 (b) a description of the mark; and
- 7 (c) a statement that the mark is still in use by the
8 applicant in this state.

9 (3) The application for renewal of mark registration
10 must be signed by the applicant.

11 (4) The application for renewal of mark registration
12 must be accompanied by a filing fee ~~of \$20, payable to the~~
13 ~~secretary of state as provided for in [section 1].~~"

14 Section 6. Section 30-13-315, MCA, is amended to read:

15 "30-13-315. Assignment. (1) Any mark and its
16 registration under this part may be assigned in conjunction
17 with the good will of the business in which the mark is used
18 or with that part of the good will of the business connected
19 with the use of and symbolized by the mark for the remainder
20 of the term of the current registration. An assignment of
21 any registration under this part is void as against any
22 subsequent purchaser for valuable consideration without
23 notice unless it is recorded with the secretary of state
24 within 3 months after the date of the assignment or prior to
25 such subsequent purchase.

1 (2) One original and one copy of an assignment of a
2 mark must be delivered to the secretary of state and shall
3 set forth information including but not limited to the
4 following:

- 5 (a) the name and address of the assignor;
- 6 (b) the name and address of the assignee;
- 7 (c) the registration number of the mark; and
- 8 (d) the date of registration.

9 (3) The assignment of a mark must be signed and
10 verified by the assignor.

11 (4) The assignment of a mark must be accompanied by a
12 filing fee ~~of \$20, payable to the secretary of state as~~
13 ~~provided for in [section 1].~~"

14 Section 7. Section 35-2-1001, MCA, is amended to read:

15 "35-2-1001. Fees ~~for filing documents and issuing~~
16 ~~certificates and charges to be established and collected by~~
17 ~~secretary of state. The secretary of state shall charge and~~
18 ~~collect for:~~

19 (1) ~~filing articles of incorporation and issuing a~~
20 ~~certificate of incorporation, \$20;~~

21 (2) ~~filing articles of amendment and issuing a~~
22 ~~certificate of amendment, \$20;~~

23 (3) ~~filing restated articles of incorporation and~~
24 ~~issuing restated certificate of incorporation, \$20;~~

25 (4) ~~filing articles of merger or consolidation and~~

1 issuing-a-certificate-of-merger-or-consolidation,-\$20;
 2 {5}-filing-an-application-to-reserve-a-corporate-name,
 3 \$2;
 4 {6}-filing-a-notice-of-transfer-of-a-reserved
 5 corporate-name,-\$2;
 6 {7}-filing-a-statement-of-change-of-address-of
 7 registered-office-or-change-of-registered-agent,-or-both,
 8 \$2;
 9 {8}-filing-articles-of-dissolution-and-issuing-a
 10 certificate-of-dissolution,-\$5;
 11 {9}-filing-an-application-of-a-foreign-corporation-for
 12 a-certificate-of-authority-to-conduct-affairs-in-this-state
 13 and-issuing-a-certificate-of-authority,-\$20;
 14 {10}-filing-an-application-of-a-foreign-corporation-for
 15 an-amended-certificate-of-authority-to-conduct-affairs-in
 16 this-state-and-issuing-an-amended-certificate-of-authority,
 17 \$20;
 18 {11}-filing-a-copy-of-an-amendment-to-the-articles-of
 19 incorporation-of-a-foreign-corporation-holding-a-certificate
 20 of-authority-to-conduct-affairs-in-this-state,-\$10;
 21 {12}-filing-a-copy-of-articles-of-merger-of-a-foreign
 22 corporation-holding-a-certificate-of-authority-to-conduct
 23 affairs-in-this-state,-\$20;
 24 {13}-filing-an-application-for-withdrawal-of-a-foreign
 25 corporation-and-issuing-a-certificate-of-withdrawal,-\$5;

1 {14}-filing-an-annual-report,-\$5;
 2 {15}-filing-any-other-statement-or-report,-except-an
 3 annual-report-of-a-domestic-or-foreign-corporation,-\$2;
 4 (1) The secretary of state shall by administrative rule
 5 establish, charge, and collect in accordance with the
 6 provisions of this chapter and commensurate with costs:
 7 (a) fees for filing documents and issuing
 8 certificates; and
 9 (b) miscellaneous charges.
 10 (2) The secretary of state shall maintain records
 11 sufficient to support the fees established under this
 12 section."
 13 NEW SECTION. Section 8. Codification instruction.
 14 Section 1 is intended to be codified as an integral part of
 15 Title 30, chapter 13, part 3, and the provisions of Title
 16 30, chapter 13, part 3, apply to section 1.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN096-85

Form BD-15

In compliance with a written request received January 15 19 85, there is hereby submitted a Fiscal Note for H.B. 150 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:

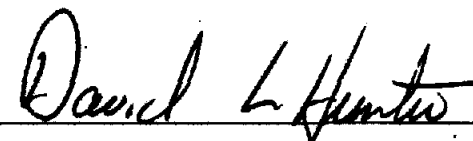
House Bill 150 provides that the fees collected for filing of documents relating to assumed business names, trademarks, nonprofit corporations, and Chapter 9 of the Uniform Commercial Code be established by the secretary of state commensurate with costs.

ASSUMPTIONS:

1. There will be no increase in net costs of filing documents.
2. Fees will be established to cover the net costs of filing documents, by rule, rather than by statute.

FISCAL IMPACT:

No fiscal impact.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 17, 1985

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 STATEMENT OF INTENT

2 HOUSE BILL 150

3 House State Administration Committee

4

5 A statement of intent is required for this bill because
6 sections 1 through 3 and 7 grant the secretary of state
7 authority to establish fees for filing documents and issuing
8 certificates required by Title 30, chapter 9; Title 30,
9 chapter 13, parts 2 and 3; and Title 35, chapter 2. The
10 documents and certificates for which filing fees may be
11 charged under those rules include those specifically
12 mentioned in sections 30-9-403, 30-13-217, 30-13-311,
13 30-13-313, 30-13-315, and 35-2-1001, MCA, prior to amendment
14 by this bill, and any others required under Title 30,
15 chapter 9; Title 30, chapter 13, parts 2 and 3; and Title
16 35, chapter 2. These rules must allow the filing and billing
17 for filing fees to be accomplished by mail.

18 Sections 1 through 3 and 7 require fees to be
19 commensurate with costs. This means reasonably related to
20 the costs of processing the documents.

1 HOUSE BILL NO. 150

2 INTRODUCED BY BERGENE, SALES, MOORE, SPAETH,
 3 MILLER, MANUEL, KEYSER, THOFT, KEENAN, VINCENT, ADDY
 4 BY REQUEST OF THE SECRETARY OF STATE
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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
 7 FEES COLLECTED FOR FILING OF DOCUMENTS RELATING TO ASSUMED
 8 BUSINESS NAMES, TRADEMARKS, NONPROFIT CORPORATIONS, AND
 9 CHAPTER 9 OF THE UNIFORM COMMERCIAL CODE BE ESTABLISHED BY
 10 THE SECRETARY OF STATE COMMENSURATE WITH COSTS; AMENDING
 11 SECTIONS 30-9-403, 30-13-217, 30-13-311, 30-13-313,
 12 30-13-315, AND 35-2-1001, MCA."
 13

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

15 NEW SECTION. Section 1. Secretary of state to
 16 establish and collect fees commensurate with costs. The
 17 secretary of state shall by administrative rule establish
 18 and provide for collection of fees and miscellaneous charges
 19 for filing documents and issuing certificates as required by
 20 this part. The fees must be commensurate with the costs of
 21 processing the documents and certificates. The secretary of
 22 state shall maintain records sufficient to support the fees
 23 and miscellaneous charges established under this part.

24 Section 2. Section 30-9-403, MCA, is amended to read:

25 "30-9-403. What constitutes filing -- duration of

1 filing -- fees -- effect of lapsed filing -- duties of
 2 filing officer. (1) Presentation for filing of a financing
 3 statement and tender of the filing fee or acceptance of the
 4 statement by the filing officer constitutes filing under
 5 this chapter.

6 (2) Except as provided in subsection ~~(6)~~ (7), a filed
 7 financing statement is effective for a period of 5 years
 8 from the date of filing. The effectiveness of a filed
 9 financing statement lapses on the expiration of the 5-year
 10 period unless a continuation statement is filed prior to the
 11 lapse. If a security interest perfected by filing exists at
 12 the time insolvency proceedings are commenced by or against
 13 the debtor, the security interest remains perfected until
 14 termination of the insolvency proceedings and thereafter for
 15 a period of 60 days or until expiration of the 5-year
 16 period, whichever occurs later. Upon lapse the security
 17 interest becomes unperfected, unless it is perfected without
 18 filing. If the security interest becomes unperfected upon
 19 lapse, it is considered to have been unperfected as against
 20 a person who became a purchaser or lien creditor before
 21 lapse.

22 (3) A continuation statement may be filed by the
 23 secured party within 6 months prior to the expiration of the
 24 5-year period specified in subsection (2). Any such
 25 continuation statement must be signed by the secured party,

1 identify the original statement by file number, and state
 2 that the original statement is still effective. A
 3 continuation statement signed by a person other than the
 4 secured party of record must be accompanied by a separate
 5 written statement of assignment signed by the secured party
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 8 statement, the effectiveness of the original statement is
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 10 filing was effective, whereupon it lapses in the same manner
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 23 the financing statements of a period more than 5 years past,
 24 those which have been continued by a continuation statement
 25 or which are still effective under subsection (6) (7) shall

1 be retained.

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 3 officer shall mark each statement with a file number and
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 9 the debtor given in the statement.

10 (5) The uniform fees for filing, indexing, and
 11 stamping a copy furnished by the filing party to show the
 12 date and place of filing shall be ~~the following amounts set~~
 13 pursuant to subsection (6) and must include fees for:

- 14 (a) an original financing or continuation statement in
 15 standard form ---\$2;
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 20 form ---\$2;
 21 (e) a certificate from the filing officer showing that
 22 an effective financing statement is on file, requested in
 23 the standard form ---\$3;
 24 (f) any of the documents in (a) through (e) other than
 25 in standard form ---an-additional-\$2;

1 (g) each name more than one required to be indexed --
2 \$2;

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4 name for any person; and

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6 (b), or (d) where the collateral is equipment or rolling
7 stock of railroads or street railways ---\$15.

8 (6) The secretary of state, with advice from the
9 county clerk and recorders, shall by administrative rule
10 establish fees for filing and indexing documents as required
11 by this part. The fees must be commensurate with the costs
12 of processing the documents. The secretary of state shall
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8 the secured party as if he were the mortgagee thereunder, or
9 if indexing is by description, in the same fashion as if the
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20 ~~assumed-business-name-and-issuing-certificate--thereon;--\$10;~~

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22 ~~business-name-and-issuing-certificate--thereon;--\$10;~~

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24 ~~business-name-and-issuing-certificate--thereon;--\$15;--and~~

25 ~~(5)--filing--any--other--instrument--not--provided--for--in~~

1 ~~this section, \$5-~~ (1) The secretary of state shall by
 2 administrative rule establish, charge, and collect in
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 25 mark is used and the mode or manner in which the mark is

1 used in connection with such goods or services and the class
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 14 a member of the firm or an officer of the corporation or
 15 association applying.

16 (3) The application must be accompanied by a specimen
 17 or facsimile of such mark in duplicate.

18 (4) The application for registration must be
 19 accompanied by a filing fee of ~~\$20, payable to the secretary~~
 20 ~~of state as provided for in [section 1]."~~

21 Section 5. Section 30-13-313, MCA, is amended to read:

22 "30-13-313. Duration and renewal. (1) Registration of
 23 a mark under this part is effective for a term of 10 years
 24 from the date of registration, and upon application filed
 25 within 6 months prior to the expiration of such term, the

1 registration may be renewed for another 10 years.

2 (2) An application for renewal of mark registration
3 must be delivered to the secretary of state and shall set
4 forth information including but not limited to the
5 following:

- 6 (a) the name and business address of the applicant;
- 7 (b) a description of the mark; and
- 8 (c) a statement that the mark is still in use by the
9 applicant in this state.

10 (3) The application for renewal of mark registration
11 must be signed by the applicant.

12 (4) The application for renewal of mark registration
13 must be accompanied by a filing fee ~~of \$20, payable to the~~
14 ~~secretary of state as provided for in [section 1].~~"

15 Section 6. Section 30-13-315, MCA, is amended to read:

16 "30-13-315. Assignment. (1) Any mark and its
17 registration under this part may be assigned in conjunction
18 with the good will of the business in which the mark is used
19 or with that part of the good will of the business connected
20 with the use of and symbolized by the mark for the remainder
21 of the term of the current registration. An assignment of
22 any registration under this part is void as against any
23 subsequent purchaser for valuable consideration without
24 notice unless it is recorded with the secretary of state
25 within 3 months after the date of the assignment or prior to

1 such subsequent purchase.

2 (2) One original and one copy of an assignment of a
3 mark must be delivered to the secretary of state and shall
4 set forth information including but not limited to the
5 following:

- 6 (a) the name and address of the assignor;
- 7 (b) the name and address of the assignee;
- 8 (c) the registration number of the mark; and
- 9 (d) the date of registration.

10 (3) The assignment of a mark must be signed and
11 verified by the assignor.

12 (4) The assignment of a mark must be accompanied by a
13 filing fee ~~of \$20, payable to the secretary of state as~~
14 ~~provided for in [section 1].~~"

15 Section 7. Section 35-2-1001, MCA, is amended to read:

16 "35-2-1001. Fees for ~~filing documents and issuing~~
17 ~~certificates and charges to be established and collected by~~
18 ~~secretary of state. The secretary of state shall charge and~~
19 ~~collect for:~~

- 20 (1) ~~filing articles of incorporation and issuing a~~
21 ~~certificate of incorporation, \$20;~~
- 22 (2) ~~filing articles of amendment and issuing a~~
23 ~~certificate of amendment, \$20;~~
- 24 (3) ~~filing restated articles of incorporation and~~
25 ~~issuing restated certificate of incorporation, \$20;~~

1 {4}--filing-articles-of-merger-or-consolidation-and
2 issuing-a-certificate-of-merger-or-consolidation,-\$20;
3 {5}--filing-an-application-to-reserve-a-corporate-name,
4 \$2;
5 {6}--filing---a---notice--of--transfer--of--a---reserved
6 corporate-name,-\$2;
7 {7}--filing--a--statement--of--change--of--address---of
8 registered--office--or--change-of-registered-agent,-or-both,
9 \$2;
10 {8}--filing--articles--of--dissolution--and--issuing--a
11 certificate-of-dissolution,-\$5;
12 {9}--filing-an-application-of-a-foreign-corporation-for
13 a--certificate-of-authority-to-conduct-affairs-in-this-state
14 and-issuing-a-certificate-of-authority,-\$20;
15 {10}--filing-an-application-of-a-foreign-corporation-for
16 an-amended-certificate-of-authority-to--conduct--affairs--in
17 this--state-and-issuing-an-amended-certificate-of-authority,
18 \$20;
19 {11}--filing-a-copy-of-an-amendment-to-the--articles--of
20 incorporation-of-a-foreign-corporation-holding-a-certificate
21 of-authority-to-conduct-affairs-in-this-state,-\$10;
22 {12}--filing--a--copy-of-articles-of-merger-of-a-foreign
23 corporation-holding-a-certificate-of--authority--to--conduct
24 affairs-in-this-state,-\$20;
25 {13}--filing--an-application-for-withdrawal-of-a-foreign

1 corporation-and-issuing-a-certificate-of-withdrawal,-\$5;
2 {14}--filing-an-annual-report,-\$5;
3 {15}--filing-any-other-statement-or--report,-except--an
4 annual--report,-of--a--domestic-or-foreign-corporation,-\$2;
5 (1) The secretary of state shall by administrative rule
6 establish, charge, and collect in accordance with the
7 provisions of this chapter and commensurate with costs:
8 (a) fees for filing documents and issuing
9 certificates; and
10 (b) miscellaneous charges.
11 (2) The secretary of state shall maintain records
12 sufficient to support the fees established under this
13 section."
14 NEW SECTION. Section 8. Codification instruction.
15 Section 1 is intended to be codified as an integral part of
16 Title 30, chapter 13, part 3, and the provisions of Title
17 30, chapter 13, part 3, apply to section 1.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 150

3 House State Administration Committee
4

5 A statement of intent is required for this bill because
6 sections 1 through 3 and 7 grant the secretary of state
7 authority to establish fees for filing documents and issuing
8 certificates required by Title 30, chapter 9; Title 30,
9 chapter 13, parts 2 and 3; and Title 35, chapter 2. The
10 documents and certificates for which filing fees may be
11 charged under those rules include those specifically
12 mentioned in sections 30-9-403, 30-13-217, 30-13-311,
13 30-13-313, 30-13-315, and 35-2-1001, MCA, prior to amendment
14 by this bill, and any others required under Title 30,
15 chapter 9; Title 30, chapter 13, parts 2 and 3; and Title
16 35, chapter 2. These rules must allow the filing and billing
17 for filing fees to be accomplished by mail.

18 Sections 1 through 3 and 7 require fees to be
19 commensurate with costs. This means reasonably related to
20 the costs of processing the documents.

THIRD READING

HB 150

1 HOUSE BILL NO. 150

2 INTRODUCED BY BERGENE, SALES, MOORE, SPAETH,
3 MILLER, MANUEL, KEYSER, THOPT, KEENAN, VINCENT, ADDY
4 BY REQUEST OF THE SECRETARY OF STATE
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
7 FEES COLLECTED FOR FILING OF DOCUMENTS RELATING TO ASSUMED
8 BUSINESS NAMES, TRADEMARKS, NONPROFIT CORPORATIONS, AND
9 CHAPTER 9 OF THE UNIFORM COMMERCIAL CODE BE ESTABLISHED BY
10 THE SECRETARY OF STATE COMMENSURATE WITH COSTS; AMENDING
11 SECTIONS 30-9-403, 30-13-217, 30-13-311, 30-13-313,
12 30-13-315, AND 35-2-1001, MCA."
13

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

15 NEW SECTION. Section 1. Secretary of state to
16 establish and collect fees commensurate with costs. The
17 secretary of state shall by administrative rule establish
18 and provide for collection of fees and miscellaneous charges
19 for filing documents and issuing certificates as required by
20 this part. The fees must be commensurate with the costs of
21 processing the documents and certificates. The secretary of
22 state shall maintain records sufficient to support the fees
23 and miscellaneous charges established under this part.

24 Section 2. Section 30-9-403, MCA, is amended to read:

25 "30-9-403. What constitutes filing -- duration of

1 filing -- fees -- effect of lapsed filing -- duties of
2 filing officer. (1) Presentation for filing of a financing
3 statement and tender of the filing fee or acceptance of the
4 statement by the filing officer constitutes filing under
5 this chapter.

6 (2) Except as provided in subsection ~~(6)~~ (7), a filed
7 financing statement is effective for a period of 5 years
8 from the date of filing. The effectiveness of a filed
9 financing statement lapses on the expiration of the 5-year
10 period unless a continuation statement is filed prior to the
11 lapse. If a security interest perfected by filing exists at
12 the time insolvency proceedings are commenced by or against
13 the debtor, the security interest remains perfected until
14 termination of the insolvency proceedings and thereafter for
15 a period of 60 days or until expiration of the 5-year
16 period, whichever occurs later. Upon lapse the security
17 interest becomes unperfected, unless it is perfected without
18 filing. If the security interest becomes unperfected upon
19 lapse, it is considered to have been unperfected as against
20 a person who became a purchaser or lien creditor before
21 lapse.

22 (3) A continuation statement may be filed by the
23 secured party within 6 months prior to the expiration of the
24 5-year period specified in subsection (2). Any such
25 continuation statement must be signed by the secured party,

1 identify the original statement by file number, and state
 2 that the original statement is still effective. A
 3 continuation statement signed by a person other than the
 4 secured party of record must be accompanied by a separate
 5 written statement of assignment signed by the secured party
 6 of record and complying with 30-9-405(2), including payment
 7 of the required fee. Upon timely filing of the continuation
 8 statement, the effectiveness of the original statement is
 9 continued for 5 years after the last date to which the
 10 filing was effective, whereupon it lapses in the same manner
 11 as provided in subsection (2) unless another continuation
 12 statement is filed prior to such lapse. Succeeding
 13 continuation statements may be filed in the same manner to
 14 continue the effectiveness of the original statement. Unless
 15 a statute on disposition of public records provides
 16 otherwise, the filing officer may remove a lapsed statement
 17 from the files and destroy it immediately if he has retained
 18 a microfilm or other photographic record, or in other cases
 19 after 1 year after the lapse. The filing officer shall so
 20 arrange matters by physical annexation of financing
 21 statements to continuation statements or other related
 22 filings, or by other means, that if he physically destroys
 23 the financing statements of a period more than 5 years past,
 24 those which have been continued by a continuation statement
 25 or which are still effective under subsection (6) (7) shall

1 be retained.

2 (4) Except as provided in subsection (7) (8), a filing
 3 officer shall mark each statement with a file number and
 4 with the date and hour of filing and shall hold the
 5 statement or a microfilm or other photographic copy thereof
 6 for public inspection. In addition, the filing officer shall
 7 index the statements according to the name of the debtor and
 8 shall note in the index the file number and the address of
 9 the debtor given in the statement.

10 (5) The uniform fees for filing, indexing, and
 11 stamping a copy furnished by the filing party to show the
 12 date and place of filing shall be the following amounts set
 13 pursuant to subsection (6) and must include fees for:

- 14 (a) an original financing or continuation statement in
 15 standard form ---\$2;
 16 (b) a termination statement in standard form ---\$2;
 17 (c) a financing statement indicating an assignment in
 18 standard form ---\$2;
 19 (d) a statement of release of collateral in standard
 20 form ---\$2;
 21 (e) a certificate from the filing officer showing that
 22 an effective financing statement is on file, requested in
 23 the standard form ---\$3;
 24 (f) any of the documents in (a) through (e) other than
 25 in standard form ---an-additional-92;

1 (g) each name more than one required to be indexed --
 2 92;

3 (h) a uniform indexing fee of 92 for showing a trade
 4 name for any person; and

5 (i) any of the filing and indexing in subsections (a),
 6 (b), or (d) where the collateral is equipment or rolling
 7 stock of railroads or street railways --915.

8 (6) The secretary of state, with advice from the
 9 county clerk and recorders, shall by administrative rule
 10 establish fees for filing and indexing documents as required
 11 by this part. The fees must be commensurate with the costs
 12 of processing the documents. The secretary of state shall
 13 maintain records sufficient to support the amounts of the
 14 fees established under this subsection. The secretary of
 15 state shall disseminate the uniform fees to the county clerk
 16 and recorders for their use.

17 {6}(7) If the debtor is a transmitting utility and a
 18 filed financing statement so states, it is effective until a
 19 termination statement is filed. A real estate mortgage that
 20 is effective as a fixture filing under 30-9-402(6) remains
 21 effective as a fixture filing until the mortgage is released
 22 or satisfied of record or its effectiveness otherwise
 23 terminates as to the real estate.

24 {7}(8) When a financing statement covers timber to be
 25 cut or covers minerals or the like (including oil and gas)

1 or accounts subject to 30-9-103(5) or is filed as a fixture
 2 filing, the filing officer shall index it under the names of
 3 the debtor and any owner of record shown on the financing
 4 statement in the same fashion as if they were the mortgagors
 5 in a mortgage of the real estate described and, to the
 6 extent that the law of this state provides for indexing of
 7 mortgages under the name of the mortgagee, under the name of
 8 the secured party as if he were the mortgagee thereunder, or
 9 if indexing is by description, in the same fashion as if the
 10 financing statement were a mortgage of the real estate
 11 described."

12 Section 3. Section 30-13-217, MCA, is amended to read:
 13 "30-13-217. Fees for--filing--documents--and--issuing
 14 certificates and charges to be established and collected by
 15 secretary of state. ~~The secretary of state shall collect~~
 16 ~~for:~~

17 {1}--filing--application--for--registration--of--assumed
 18 business-name-and-issuing-certificate--thereon--\$15;

19 {2}--filing--application--for--renewal--of--registration--of
 20 assumed-business-name-and-issuing-certificate--thereon--\$10;

21 {3}--filing--amendment--to--registration--of--assumed
 22 business-name-and-issuing-certificate--thereon--\$10;

23 {4}--filing--application--for--reservation--of--assumed
 24 business-name-and-issuing-certificate--thereon--\$15; and

25 {5}--filing--any--other--instrument--not--provided--for--in

1 ~~this section, §5:~~ (1) The secretary of state shall by
 2 administrative rule establish, charge, and collect in
 3 accordance with the provisions of this part and commensurate
 4 with costs:

5 (a) fees for filing documents and issuing
 6 certificates; and

7 (b) miscellaneous charges.

8 (2) The secretary of state shall maintain records
 9 sufficient to support the fees and miscellaneous charges
 10 established under this section."

11 Section 4. Section 30-13-311, MCA, is amended to read:

12 "30-13-311. Application for registration. (1) Subject
 13 to the limitations set forth in this part, a person who
 14 adopts and uses a mark in this state may file in the office
 15 of secretary of state, on a form to be furnished by the
 16 secretary of state, an application for registration of that
 17 mark setting forth information including but not limited to
 18 the following:

19 (a) the name and business address of the person
 20 applying for such registration and, if a corporation, the
 21 state of incorporation;

22 (b) the essential feature of the mark to be
 23 registered;

24 (c) the goods or services in connection with which the
 25 mark is used and the mode or manner in which the mark is

1 used in connection with such goods or services and the class
 2 in which such goods or services fall;

3 (d) the date when the mark was first used anywhere and
 4 the date when it was first used in this state by the
 5 applicant or his predecessor in business;

6 (e) a statement that the mark is presently in use in
 7 this state by the applicant; and

8 (f) a statement that the applicant is the owner of the
 9 mark and that no other person has the right to use the mark
 10 in this state either in the identical form thereof or in a
 11 form that so nearly resembles it that it might be calculated
 12 to deceive or might be mistaken for it.

13 (2) The application must be signed by the applicant or
 14 a member of the firm or an officer of the corporation or
 15 association applying.

16 (3) The application must be accompanied by a specimen
 17 or facsimile of such mark in duplicate.

18 (4) The application for registration must be
 19 accompanied by a filing fee of ~~§20~~, payable to the secretary
 20 of state as provided for in [section 1]."

21 Section 5. Section 30-13-313, MCA, is amended to read:

22 "30-13-313. Duration and renewal. (1) Registration of
 23 a mark under this part is effective for a term of 10 years
 24 from the date of registration, and upon application filed
 25 within 6 months prior to the expiration of such term, the

1 registration may be renewed for another 10 years.

2 (2) An application for renewal of mark registration
3 must be delivered to the secretary of state and shall set
4 forth information including but not limited to the
5 following:

- 6 (a) the name and business address of the applicant;
- 7 (b) a description of the mark; and
- 8 (c) a statement that the mark is still in use by the
9 applicant in this state.

10 (3) The application for renewal of mark registration
11 must be signed by the applicant.

12 (4) The application for renewal of mark registration
13 must be accompanied by a filing fee of ~~-\$20,-payable--to--the~~
14 ~~secretary-of-state~~ as provided for in [section 1]."

15 Section 6. Section 30-13-315, MCA, is amended to read:
16 "30-13-315. Assignment. (1) Any mark and its
17 registration under this part may be assigned in conjunction
18 with the good will of the business in which the mark is used
19 or with that part of the good will of the business connected
20 with the use of and symbolized by the mark for the remainder
21 of the term of the current registration. An assignment of
22 any registration under this part is void as against any
23 subsequent purchaser for valuable consideration without
24 notice unless it is recorded with the secretary of state
25 within 3 months after the date of the assignment or prior to

1 such subsequent purchase.

2 (2) One original and one copy of an assignment of a
3 mark must be delivered to the secretary of state and shall
4 set forth information including but not limited to the
5 following:

- 6 (a) the name and address of the assignor;
- 7 (b) the name and address of the assignee;
- 8 (c) the registration number of the mark; and
- 9 (d) the date of registration.

10 (3) The assignment of a mark must be signed and
11 verified by the assignor.

12 (4) The assignment of a mark must be accompanied by a
13 filing fee of ~~-\$20,-payable-to--the--secretary--of--state~~ as
14 provided for in [section 1]."

15 Section 7. Section 35-2-1001, MCA, is amended to read:
16 "35-2-1001. Fees ~~for--filing--documents--and--issuing~~
17 ~~certificates and charges to be established and collected by~~
18 ~~secretary of state. The-secretary-of-state-shall-charge-and~~
19 ~~collect-for:~~

20 (1) ~~filing--articles--of--incorporation--and--issuing-a~~
21 ~~certificate-of-incorporation,-\$20;~~

22 (2) ~~filing--articles--of--amendment--and--issuing--a~~
23 ~~certificate-of-amendment,-\$20;~~

24 (3) ~~filing--restated--articles--of--incorporation--and~~
25 ~~issuing-restated-certificate-of-incorporation,-\$20;~~

1 ~~(4) filing articles of merger or consolidation and~~
 2 ~~issuing a certificate of merger or consolidation, §20;~~
 3 ~~(5) filing an application to reserve a corporate name,~~
 4 ~~§2;~~
 5 ~~(6) filing a notice of transfer of a reserved~~
 6 ~~corporate name, §2;~~
 7 ~~(7) filing a statement of change of address of~~
 8 ~~registered office or change of registered agent, or both,~~
 9 ~~§2;~~
 10 ~~(8) filing articles of dissolution and issuing a~~
 11 ~~certificate of dissolution, §5;~~
 12 ~~(9) filing an application of a foreign corporation for~~
 13 ~~a certificate of authority to conduct affairs in this state~~
 14 ~~and issuing a certificate of authority, §20;~~
 15 ~~(10) filing an application of a foreign corporation for~~
 16 ~~an amended certificate of authority to conduct affairs in~~
 17 ~~this state and issuing an amended certificate of authority,~~
 18 ~~§20;~~
 19 ~~(11) filing a copy of an amendment to the articles of~~
 20 ~~incorporation of a foreign corporation holding a certificate~~
 21 ~~of authority to conduct affairs in this state, §10;~~
 22 ~~(12) filing a copy of articles of merger of a foreign~~
 23 ~~corporation holding a certificate of authority to conduct~~
 24 ~~affairs in this state, §20;~~
 25 ~~(13) filing an application for withdrawal of a foreign~~

1 ~~corporation and issuing a certificate of withdrawal, §5;~~
 2 ~~(14) filing an annual report, §5;~~
 3 ~~(15) filing any other statement or report, except an~~
 4 ~~annual report, of a domestic or foreign corporation, §2.~~
 5 ~~(1) The secretary of state shall by administrative rule~~
 6 ~~establish, charge, and collect in accordance with the~~
 7 ~~provisions of this chapter and commensurate with costs:~~
 8 ~~(a) fees for filing documents and issuing~~
 9 ~~certificates; and~~
 10 ~~(b) miscellaneous charges.~~
 11 ~~(2) The secretary of state shall maintain records~~
 12 ~~sufficient to support the fees established under this~~
 13 ~~section."~~
 14 ~~NEW SECTION. Section 8. Codification instruction.~~
 15 ~~Section 1 is intended to be codified as an integral part of~~
 16 ~~Title 30, chapter 13, part 3, and the provisions of Title~~
 17 ~~30, chapter 13, part 3, apply to section 1.~~

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 150

3 House State Administration Committee
4

5 A statement of intent is required for this bill because
6 sections 1 through 3 and 7 grant the secretary of state
7 authority to establish fees for filing documents and issuing
8 certificates required by Title 30, chapter 9; Title 30,
9 chapter 13, parts 2 and 3; and Title 35, chapter 2. The
10 documents and certificates for which filing fees may be
11 charged under those rules include those specifically
12 mentioned in sections 30-9-403, 30-13-217, 30-13-311,
13 30-13-313, 30-13-315, and 35-2-1001, MCA, prior to amendment
14 by this bill, and any others required under Title 30,
15 chapter 9; Title 30, chapter 13, parts 2 and 3; and Title
16 35, chapter 2. These rules must allow the filing and billing
17 for filing fees to be accomplished by mail.

18 Sections 1 through 3 and 7 require fees to be
19 commensurate with costs. This means reasonably related to
20 the costs of processing the documents.

REFERENCE BILL

HB 150

1 HOUSE BILL NO. 150

2 INTRODUCED BY BERGENE, SALES, MOORE, SPAETH,

3 MILLER, MANUEL, KEYSER, THOFT, KEENAN, VINCENT, ADDY

4 BY REQUEST OF THE SECRETARY OF STATE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
7 FEES COLLECTED FOR FILING OF DOCUMENTS RELATING TO ASSUMED
8 BUSINESS NAMES, TRADEMARKS, NONPROFIT CORPORATIONS, AND
9 CHAPTER 9 OF THE UNIFORM COMMERCIAL CODE BE ESTABLISHED BY
10 THE SECRETARY OF STATE COMMENSURATE WITH COSTS; AMENDING
11 SECTIONS 30-9-403, 30-13-217, 30-13-311, 30-13-313,
12 30-13-315, AND 35-2-1001, MCA."

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

15 NEW SECTION. Section 1. Secretary of state to
16 establish and collect fees commensurate with costs. The
17 secretary of state shall by administrative rule establish
18 and provide for collection of fees and miscellaneous charges
19 for filing documents and issuing certificates as required by
20 this part. The fees must be commensurate with the costs of
21 processing the documents and certificates. The secretary of
22 state shall maintain records sufficient to support the fees
23 and miscellaneous charges established under this part.

24 Section 2. Section 30-9-403, MCA, is amended to read:

25 "30-9-403. What constitutes filing -- duration of

1 filing -- fees -- effect of lapsed filing -- duties of
2 filing officer. (1) Presentation for filing of a financing
3 statement and tender of the filing fee or acceptance of the
4 statement by the filing officer constitutes filing under
5 this chapter.

6 (2) Except as provided in subsection (6) (7), a filed
7 financing statement is effective for a period of 5 years
8 from the date of filing. The effectiveness of a filed
9 financing statement lapses on the expiration of the 5-year
10 period unless a continuation statement is filed prior to the
11 lapse. If a security interest perfected by filing exists at
12 the time insolvency proceedings are commenced by or against
13 the debtor, the security interest remains perfected until
14 termination of the insolvency proceedings and thereafter for
15 a period of 60 days or until expiration of the 5-year
16 period, whichever occurs later. Upon lapse the security
17 interest becomes unperfected, unless it is perfected without
18 filing. If the security interest becomes unperfected upon
19 lapse, it is considered to have been unperfected as against
20 a person who became a purchaser or lien creditor before
21 lapse.

22 (3) A continuation statement may be filed by the
23 secured party within 6 months prior to the expiration of the
24 5-year period specified in subsection (2). Any such
25 continuation statement must be signed by the secured party,

1 identify the original statement by file number, and state
 2 that the original statement is still effective. A
 3 continuation statement signed by a person other than the
 4 secured party of record must be accompanied by a separate
 5 written statement of assignment signed by the secured party
 6 of record and complying with 30-9-405(2), including payment
 7 of the required fee. Upon timely filing of the continuation
 8 statement, the effectiveness of the original statement is
 9 continued for 5 years after the last date to which the
 10 filing was effective, whereupon it lapses in the same manner
 11 as provided in subsection (2) unless another continuation
 12 statement is filed prior to such lapse. Succeeding
 13 continuation statements may be filed in the same manner to
 14 continue the effectiveness of the original statement. Unless
 15 a statute on disposition of public records provides
 16 otherwise, the filing officer may remove a lapsed statement
 17 from the files and destroy it immediately if he has retained
 18 a microfilm or other photographic record, or in other cases
 19 after 1 year after the lapse. The filing officer shall so
 20 arrange matters by physical annexation of financing
 21 statements to continuation statements or other related
 22 filings, or by other means, that if he physically destroys
 23 the financing statements of a period more than 5 years past,
 24 those which have been continued by a continuation statement
 25 or which are still effective under subsection (6) (7) shall

1 be retained.

2 (4) Except as provided in subsection (7) (8), a filing
 3 officer shall mark each statement with a file number and
 4 with the date and hour of filing and shall hold the
 5 statement or a microfilm or other photographic copy thereof
 6 for public inspection. In addition, the filing officer shall
 7 index the statements according to the name of the debtor and
 8 shall note in the index the file number and the address of
 9 the debtor given in the statement.

10 (5) The uniform fees for filing, indexing, and
 11 stamping a copy furnished by the filing party to show the
 12 date and place of filing shall be the following amounts set
 13 pursuant to subsection (6) and must include fees for:

- 14 (a) an original financing or continuation statement in
 15 standard form ---\$2;
 16 (b) a termination statement in standard form ---\$2;
 17 (c) a financing statement indicating an assignment in
 18 standard form ---\$2;
 19 (d) a statement of release of collateral in standard
 20 form ---\$2;
 21 (e) a certificate from the filing officer showing that
 22 an effective financing statement is on file, requested in
 23 the standard form ---\$3;
 24 (f) any of the documents in (a) through (e) other than
 25 in standard form ---an-additional-\$2;

1 (g) each name more than one required to be indexed --
2 \$2;

3 (h) a uniform indexing fee ~~of \$2~~ for showing a trade
4 name for any person; and

5 (i) any of the filing and indexing in subsections (a),
6 (b), or (d) where the collateral is equipment or rolling
7 stock of railroads or street railways ---\$15.

8 (6) The secretary of state, with advice from the
9 county clerk and recorders, shall by administrative rule
10 establish fees for filing and indexing documents as required
11 by this part. The fees must be commensurate with the costs
12 of processing the documents. The secretary of state shall
13 maintain records sufficient to support the amounts of the
14 fees established under this subsection. The secretary of
15 state shall disseminate the uniform fees to the county clerk
16 and recorders for their use.

17 ~~(6)(7)~~ If the debtor is a transmitting utility and a
18 filed financing statement so states, it is effective until a
19 termination statement is filed. A real estate mortgage that
20 is effective as a fixture filing under 30-9-402(6) remains
21 effective as a fixture filing until the mortgage is released
22 or satisfied of record or its effectiveness otherwise
23 terminates as to the real estate.

24 ~~(7)(8)~~ When a financing statement covers timber to be
25 cut or covers minerals or the like (including oil and gas)

1 or accounts subject to 30-9-103(5) or is filed as a fixture
2 filing, the filing officer shall index it under the names of
3 the debtor and any owner of record shown on the financing
4 statement in the same fashion as if they were the mortgagors
5 in a mortgage of the real estate described and, to the
6 extent that the law of this state provides for indexing of
7 mortgages under the name of the mortgagee, under the name of
8 the secured party as if he were the mortgagee thereunder, or
9 if indexing is by description, in the same fashion as if the
10 financing statement were a mortgage of the real estate
11 described."

12 Section 3. Section 30-13-217, MCA, is amended to read:
13 "30-13-217. Fees for ~~filing documents and issuing~~
14 ~~certificates and charges to be established and collected by~~
15 ~~secretary of state. The secretary of state shall collect~~
16 ~~for:~~

17 ~~(1) filing application for registration of assumed~~
18 ~~business name and issuing certificate thereon, \$15;~~

19 ~~(2) filing application for renewal of registration of~~
20 ~~assumed business name and issuing certificate thereon, \$10;~~

21 ~~(3) filing amendment to registration of assumed~~
22 ~~business name and issuing certificate thereon, \$10;~~

23 ~~(4) filing application for reservation of assumed~~
24 ~~business name and issuing certificate thereon, \$15; and~~

25 ~~(5) filing any other instrument not provided for in~~

1 ~~this section, §5:~~ (1) The secretary of state shall by
 2 administrative rule establish, charge, and collect in
 3 accordance with the provisions of this part and commensurate
 4 with costs:

5 (a) fees for filing documents and issuing
 6 certificates; and

7 (b) miscellaneous charges.

8 (2) The secretary of state shall maintain records
 9 sufficient to support the fees and miscellaneous charges
 10 established under this section."

11 Section 4. Section 30-13-311, MCA, is amended to read:

12 "30-13-311. Application for registration. (1) Subject
 13 to the limitations set forth in this part, a person who
 14 adopts and uses a mark in this state may file in the office
 15 of secretary of state, on a form to be furnished by the
 16 secretary of state, an application for registration of that
 17 mark setting forth information including but not limited to
 18 the following:

19 (a) the name and business address of the person
 20 applying for such registration and, if a corporation, the
 21 state of incorporation;

22 (b) the essential feature of the mark to be
 23 registered;

24 (c) the goods or services in connection with which the
 25 mark is used and the mode or manner in which the mark is

1 used in connection with such goods or services and the class
 2 in which such goods or services fall;

3 (d) the date when the mark was first used anywhere and
 4 the date when it was first used in this state by the
 5 applicant or his predecessor in business;

6 (e) a statement that the mark is presently in use in
 7 this state by the applicant; and

8 (f) a statement that the applicant is the owner of the
 9 mark and that no other person has the right to use the mark
 10 in this state either in the identical form thereof or in a
 11 form that so nearly resembles it that it might be calculated
 12 to deceive or might be mistaken for it.

13 (2) The application must be signed by the applicant or
 14 a member of the firm or an officer of the corporation or
 15 association applying.

16 (3) The application must be accompanied by a specimen
 17 or facsimile of such mark in duplicate.

18 (4) The application for registration must be
 19 accompanied by a filing fee ~~of \$207, payable to the secretary~~
 20 ~~of state as provided for in [section 1]."~~

21 Section 5. Section 30-13-313, MCA, is amended to read:

22 "30-13-313. Duration and renewal. (1) Registration of
 23 a mark under this part is effective for a term of 10 years
 24 from the date of registration, and upon application filed
 25 within 6 months prior to the expiration of such term, the

1 registration may be renewed for another 10 years.

2 (2) An application for renewal of mark registration
3 must be delivered to the secretary of state and shall set
4 forth information including but not limited to the
5 following:

- 6 (a) the name and business address of the applicant;
- 7 (b) a description of the mark; and
- 8 (c) a statement that the mark is still in use by the
9 applicant in this state.

10 (3) The application for renewal of mark registration
11 must be signed by the applicant.

12 (4) The application for renewal of mark registration
13 must be accompanied by a filing fee ~~of \$207 payable to the~~
14 ~~secretary of state as provided for in [section 1].~~"

15 Section 6. Section 30-13-315, MCA, is amended to read:

16 "30-13-315. Assignment. (1) Any mark and its
17 registration under this part may be assigned in conjunction
18 with the good will of the business in which the mark is used
19 or with that part of the good will of the business connected
20 with the use of and symbolized by the mark for the remainder
21 of the term of the current registration. An assignment of
22 any registration under this part is void as against any
23 subsequent purchaser for valuable consideration without
24 notice unless it is recorded with the secretary of state
25 within 3 months after the date of the assignment or prior to

1 such subsequent purchase.

2 (2) One original and one copy of an assignment of a
3 mark must be delivered to the secretary of state and shall
4 set forth information including but not limited to the
5 following:

- 6 (a) the name and address of the assignor;
- 7 (b) the name and address of the assignee;
- 8 (c) the registration number of the mark; and
- 9 (d) the date of registration.

10 (3) The assignment of a mark must be signed and
11 verified by the assignor.

12 (4) The assignment of a mark must be accompanied by a
13 filing fee ~~of \$207 payable to the secretary of state as~~
14 ~~provided for in [section 1].~~"

15 Section 7. Section 35-2-1001, MCA, is amended to read:

16 "35-2-1001. Fees ~~for filing documents and issuing~~
17 ~~certificates and charges to be established and collected by~~
18 ~~secretary of state. The secretary of state shall charge and~~
19 ~~collect for:~~

20 {1} ~~filing articles of incorporation and issuing a~~
21 ~~certificate of incorporation~~ 7-§207;

22 {2} ~~filing articles of amendment and issuing a~~
23 ~~certificate of amendment~~ 7-§207;

24 {3} ~~filing restated articles of incorporation and~~
25 ~~issuing restated certificate of incorporation~~ 7-§207;

1 ~~{4}--filing--articles--of--merger--or--consolidation--and~~
2 ~~issuing--a--certificate--of--merger--or--consolidation,--\$20;~~
3 ~~{5}--filing--an--application--to--reserve--a--corporate--name,~~
4 ~~\$2;~~
5 ~~{6}--filing--a--notice--of--transfer--of--a--reserved~~
6 ~~corporate--name,--\$2;~~
7 ~~{7}--filing--a--statement--of--change--of--address--of~~
8 ~~registered--office--or--change--of--registered--agent,--or--both,~~
9 ~~\$2;~~
10 ~~{8}--filing--articles--of--dissolution--and--issuing--a~~
11 ~~certificate--of--dissolution,--\$5;~~
12 ~~{9}--filing--an--application--of--a--foreign--corporation--for~~
13 ~~a--certificate--of--authority--to--conduct--affairs--in--this--state~~
14 ~~and--issuing--a--certificate--of--authority,--\$20;~~
15 ~~{10}--filing--an--application--of--a--foreign--corporation--for~~
16 ~~an--amended--certificate--of--authority--to--conduct--affairs--in~~
17 ~~this--state--and--issuing--an--amended--certificate--of--authority,~~
18 ~~\$20;~~
19 ~~{11}--filing--a--copy--of--an--amendment--to--the--articles--of~~
20 ~~incorporation--of--a--foreign--corporation--holding--a--certificate~~
21 ~~of--authority--to--conduct--affairs--in--this--state,--\$10;~~
22 ~~{12}--filing--a--copy--of--articles--of--merger--of--a--foreign~~
23 ~~corporation--holding--a--certificate--of--authority--to--conduct~~
24 ~~affairs--in--this--state,--\$20;~~
25 ~~{13}--filing--an--application--for--withdrawal--of--a--foreign~~

1 ~~corporation--and--issuing--a--certificate--of--withdrawal,--\$5;~~
2 ~~{14}--filing--an--annual--report,--\$5;~~
3 ~~{15}--filing--any--other--statement--or--report,--except--an~~
4 ~~annual--report,--of--a--domestic--or--foreign--corporation,--\$2.~~
5 ~~(1) The secretary of state shall by administrative rule~~
6 ~~establish, charge, and collect in accordance with the~~
7 ~~provisions of this chapter and commensurate with costs:~~
8 ~~(a) fees for filing documents and issuing~~
9 ~~certificates; and~~
10 ~~(b) miscellaneous charges.~~
11 ~~(2) The secretary of state shall maintain records~~
12 ~~sufficient to support the fees established under this~~
13 ~~section."~~
14 ~~NEW SECTION. Section 8. Codification instruction.~~
15 ~~Section 1 is intended to be codified as an integral part of~~
16 ~~Title 30, chapter 13, part 3, and the provisions of Title~~
17 ~~30, chapter 13, part 3, apply to section 1.~~

-End-

1 HOUSE BILL NO. 150
 2 INTRODUCED BY BERGENE, SALES, MOORE, SPAETH,
 3 MILLER, MANUEL, KEYSER, THOPT, KEENAN, VINCENT, ADDY
 4 BY REQUEST OF THE SECRETARY OF STATE
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
 7 FEES COLLECTED FOR FILING OF DOCUMENTS RELATING TO ASSUMED
 8 BUSINESS NAMES, TRADEMARKS, NONPROFIT CORPORATIONS, AND
 9 CHAPTER 9 OF THE UNIFORM COMMERCIAL CODE BE ESTABLISHED BY
 10 THE SECRETARY OF STATE COMMENSURATE WITH COSTS; AMENDING
 11 SECTIONS 30-9-403, 30-13-217, 30-13-311, 30-13-313,
 12 30-13-315, AND 35-2-1001, MCA."
 13

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

15 NEW SECTION. Section 1. Secretary of state to
 16 establish and collect fees commensurate with costs. The
 17 secretary of state shall by administrative rule establish
 18 and provide for collection of fees and miscellaneous charges
 19 for filing documents and issuing certificates as required by
 20 this part. The fees must be commensurate with the costs of
 21 processing the documents and certificates. The secretary of
 22 state shall maintain records sufficient to support the fees
 23 and miscellaneous charges established under this part.

24 Section 2. Section 30-9-403, MCA, is amended to read:
 25 "30-9-403. What constitutes filing -- duration of

1 filing -- fees -- effect of lapsed filing -- duties of
 2 filing officer. (1) Presentation for filing of a financing
 3 statement and tender of the filing fee or acceptance of the
 4 statement by the filing officer constitutes filing under
 5 this chapter.

6 (2) Except as provided in subsection (6) (7), a filed
 7 financing statement is effective for a period of 5 years
 8 from the date of filing. The effectiveness of a filed
 9 financing statement lapses on the expiration of the 5-year
 10 period unless a continuation statement is filed prior to the
 11 lapse. If a security interest perfected by filing exists at
 12 the time insolvency proceedings are commenced by or against
 13 the debtor, the security interest remains perfected until
 14 termination of the insolvency proceedings and thereafter for
 15 a period of 60 days or until expiration of the 5-year
 16 period, whichever occurs later. Upon lapse the security
 17 interest becomes unperfected, unless it is perfected without
 18 filing. If the security interest becomes unperfected upon
 19 lapse, it is considered to have been unperfected as against
 20 a person who became a purchaser or lien creditor before
 21 lapse.

22 (3) A continuation statement may be filed by the
 23 secured party within 6 months prior to the expiration of the
 24 5-year period specified in subsection (2). Any such
 25 continuation statement must be signed by the secured party,

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 incorrectly



1 identify the original statement by file number, and state
 2 that the original statement is still effective. A
 3 continuation statement signed by a person other than the
 4 secured party of record must be accompanied by a separate
 5 written statement of assignment signed by the secured party
 6 of record and complying with 30-9-405(2), including payment
 7 of the required fee. Upon timely filing of the continuation
 8 statement, the effectiveness of the original statement is
 9 continued for 5 years after the last date to which the
 10 filing was effective, whereupon it lapses in the same manner
 11 as provided in subsection (2) unless another continuation
 12 statement is filed prior to such lapse. Succeeding
 13 continuation statements may be filed in the same manner to
 14 continue the effectiveness of the original statement. Unless
 15 a statute on disposition of public records provides
 16 otherwise, the filing officer may remove a lapsed statement
 17 from the files and destroy it immediately if he has retained
 18 a microfilm or other photographic record, or in other cases
 19 after 1 year after the lapse. The filing officer shall so
 20 arrange matters by physical annexation of financing
 21 statements to continuation statements or other related
 22 filings, or by other means, that if he physically destroys
 23 the financing statements of a period more than 5 years past,
 24 those which have been continued by a continuation statement
 25 or which are still effective under subsection (6) (7) shall

1 be retained.

2 (4) Except as provided in subsection (7) (8), a filing
 3 officer shall mark each statement with a file number and
 4 with the date and hour of filing and shall hold the
 5 statement or a microfilm or other photographic copy thereof
 6 for public inspection. In addition, the filing officer shall
 7 index the statements according to the name of the debtor and
 8 shall note in the index the file number and the address of
 9 the debtor given in the statement.

10 (5) The uniform fees for filing, indexing, and
 11 stamping a copy furnished by the filing party to show the
 12 date and place of filing shall be the following amounts set
 13 pursuant to subsection (6) and must include fees for:

14 (a) an original financing or continuation statement in
 15 standard form ---\$2;

16 (b) a termination statement in standard form ---\$2;

17 (c) a financing statement indicating an assignment in
 18 standard form ---\$2;

19 (d) a statement of release of collateral in standard
 20 form ---\$2;

21 (e) a certificate from the filing officer showing that
 22 an effective financing statement is on file, requested in
 23 the standard form ---\$3;

24 (f) any of the documents in (a) through (e) other than
 25 in standard form ---an-additional-\$2;

1 (g) each name more than one required to be indexed --
 2 \$2;

3 (h) a uniform indexing fee of-\$2 for showing a trade
 4 name for any person; and

5 (i) any of the filing and indexing in subsections (a),
 6 (b), or (d) where the collateral is equipment or rolling
 7 stock of railroads or street railways ---\$15.

8 {6} The secretary of state, with advice from the
 9 county clerk and recorders, shall by administrative rule
 10 establish fees for filing and indexing documents as required
 11 by this part. The fees must be commensurate with the costs
 12 of processing the documents. The secretary of state shall
 13 maintain records sufficient to support the amounts of the
 14 fees established under this subsection. The secretary of
 15 state shall disseminate the uniform fees to the county clerk
 16 and recorders for their use.

17 ~~{6}~~{7} If the debtor is a transmitting utility and a
 18 filed financing statement so states, it is effective until a
 19 termination statement is filed. A real estate mortgage that
 20 is effective as a fixture filing under 30-9-402(6) remains
 21 effective as a fixture filing until the mortgage is released
 22 or satisfied of record or its effectiveness otherwise
 23 terminates as to the real estate.

24 ~~{7}~~{8} When a financing statement covers timber to be
 25 cut or covers minerals or the like (including oil and gas)

1 or accounts subject to 30-9-103(5) or is filed as a fixture
 2 filing, the filing officer shall index it under the names of
 3 the debtor and any owner of record shown on the financing
 4 statement in the same fashion as if they were the mortgagors
 5 in a mortgage of the real estate described and, to the
 6 extent that the law of this state provides for indexing of
 7 mortgages under the name of the mortgagee, under the name of
 8 the secured party as if he were the mortgagee thereunder, or
 9 if indexing is by description, in the same fashion as if the
 10 financing statement were a mortgage of the real estate
 11 described."

12 Section 3. Section 30-13-217, MCA, is amended to read:
 13 "30-13-217. Fees for--filing--documents--and--issuing
 14 certificates and charges to be established and collected by
 15 secretary of state. ~~The secretary of state shall collect~~
 16 for:

- 17 {1}--filing-application--for--registration--of--assumed
 18 business-name-and-issuing-certificate-thereon,-\$15;
- 19 {2}--filing--application-for-renewal-of-registration-of
 20 assumed-business-name-and-issuing-certificate-thereon,-\$10;
- 21 {3}--filing---amendment---to--registration--of--assumed
 22 business-name-and-issuing-certificate-thereon,-\$10;
- 23 {4}--filing--application--for--reservation--of--assumed
 24 business-name-and-issuing-certificate-thereon,-\$15;-and
- 25 {5}--filing--any--other--instrument-not-provided-for-in

~~this section, §5:~~ (1) The secretary of state shall by administrative rule establish, charge, and collect in accordance with the provisions of this part and commensurate with costs:

(a) fees for filing documents and issuing certificates; and

(b) miscellaneous charges.

(2) The secretary of state shall maintain records sufficient to support the fees and miscellaneous charges established under this section."

Section 4. Section 30-13-311, MCA, is amended to read:

"30-13-311. Application for registration. (1) Subject to the limitations set forth in this part, a person who adopts and uses a mark in this state may file in the office of secretary of state, on a form to be furnished by the secretary of state, an application for registration of that mark setting forth information including but not limited to the following:

(a) the name and business address of the person applying for such registration and, if a corporation, the state of incorporation;

(b) the essential feature of the mark to be registered;

(c) the goods or services in connection with which the mark is used and the mode or manner in which the mark is

used in connection with such goods or services and the class in which such goods or services fall;

(d) the date when the mark was first used anywhere and the date when it was first used in this state by the applicant or his predecessor in business;

(e) a statement that the mark is presently in use in this state by the applicant; and

(f) a statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this state either in the identical form thereof or in a form that so nearly resembles it that it might be calculated to deceive or might be mistaken for it.

(2) The application must be signed by the applicant or a member of the firm or an officer of the corporation or association applying.

(3) The application must be accompanied by two copies of a specimen or facsimile of such mark.

(4) The application for registration must be accompanied by a filing fee of ~~§20~~, payable to the secretary of state as provided for in [section 1]."

Section 5. Section 30-13-313, MCA, is amended to read:

"30-13-313. Duration and renewal. (1) Registration of a mark under this part is effective for a term of 10 years from the date of registration, and upon application filed within 6 months prior to the expiration of such term, the

1 registration may be renewed for another 10 years.

2 (2) An application for renewal of mark registration
3 must be delivered to the secretary of state and shall set
4 forth information including but not limited to the
5 following:

- 6 (a) the name and business address of the applicant;
- 7 (b) a description of the mark; and
- 8 (c) a statement that the mark is still in use by the
9 applicant in this state.

10 (3) The application for renewal of mark registration
11 must be signed by the applicant.

12 (4) The application for renewal of mark registration
13 must be accompanied by a filing fee ~~of \$207, payable to the~~
14 ~~secretary of state~~ as provided for in [section 1]."

15 Section 6. Section 30-13-315, MCA, is amended to read:

16 "30-13-315. Assignment. (1) Any mark and its
17 registration under this part may be assigned in conjunction
18 with the good will of the business in which the mark is used
19 or with that part of the good will of the business connected
20 with the use of and symbolized by the mark for the remainder
21 of the term of the current registration. An assignment of
22 any registration under this part is void as against any
23 subsequent purchaser for valuable consideration without
24 notice unless it is recorded with the secretary of state
25 within 3 months after the date of the assignment or prior to

1 such subsequent purchase.

2 (2) One original and one copy of an assignment of a
3 mark must be delivered to the secretary of state and shall
4 set forth information including but not limited to the
5 following:

- 6 (a) the name and address of the assignor;
- 7 (b) the name and address of the assignee;
- 8 (c) the registration number of the mark; and
- 9 (d) the date of registration.

10 (3) The assignment of a mark must be signed and
11 verified by the assignor.

12 (4) The assignment of a mark must be accompanied by a
13 filing fee ~~of \$207, payable to the secretary of state~~ as
14 provided for in [section 1]."

15 Section 7. Section 35-2-1001, MCA, is amended to read:

16 "35-2-1001. Fees ~~for filing documents and issuing~~
17 ~~certificates and charges~~ to be established and collected by
18 ~~secretary of state. The secretary of state shall charge and~~
19 ~~collect for:~~

20 (1) ~~filing articles of incorporation and issuing a~~
21 ~~certificate of incorporation,~~ \$207;

22 (2) ~~filing articles of amendment and issuing a~~
23 ~~certificate of amendment,~~ \$207;

24 (3) ~~filing restated articles of incorporation and~~
25 ~~issuing restated certificate of incorporation,~~ \$207;

1 (4)--filing-articles-of-merger-or-consolidation-and
2 issuing-a-certificate-of-merger-or-consolidation,-\$20;
3 (5)--filing-an-application-to-reserve-a-corporate-name,
4 \$2;
5 (6)--filing-a-notice-of-transfer-of-a-reserved
6 corporate-name,-\$2;
7 (7)--filing-a-statement-of-change-of-address-of
8 registered-office-or-change-of-registered-agent,-or-both,
9 \$2;
10 (8)--filing-articles-of-dissolution-and-issuing-a
11 certificate-of-dissolution,-\$5;
12 (9)--filing-an-application-of-a-foreign-corporation-for
13 a-certificate-of-authority-to-conduct-affairs-in-this-state
14 and-issuing-a-certificate-of-authority,-\$20;
15 (10)--filing-an-application-of-a-foreign-corporation-for
16 an-amended-certificate-of-authority-to-conduct-affairs-in
17 this-state-and-issuing-an-amended-certificate-of-authority,
18 \$20;
19 (11)--filing-a-copy-of-an-amendment-to-the-articles-of
20 incorporation-of-a-foreign-corporation-holding-a-certificate
21 of-authority-to-conduct-affairs-in-this-state,-\$10;
22 (12)--filing-a-copy-of-articles-of-merger-of-a-foreign
23 corporation-holding-a-certificate-of-authority-to-conduct
24 affairs-in-this-state,-\$20;
25 (13)--filing-an-application-for-withdrawal-of-a-foreign

1 corporation-and-issuing-a-certificate-of-withdrawal,-\$5;
2 (14)--filing-an-annual-report,-\$5;
3 (15)--filing-any-other-statement-or-report,-except-an
4 annual-report,-of-a-domestic-or-foreign-corporation,-\$2.
5 (1) The secretary of state shall by administrative rule
6 establish, charge, and collect in accordance with the
7 provisions of this chapter and commensurate with costs:
8 (a) fees for filing documents and issuing
9 certificates; and
10 (b) miscellaneous charges.
11 (2) The secretary of state shall maintain records
12 sufficient to support the fees established under this
13 section."
14 NEW SECTION. Section 8. Codification instruction.
15 Section 1 is intended to be codified as an integral part of
16 Title 30, chapter 13, part 3, and the provisions of Title
17 30, chapter 13, part 3, apply to section 1.

-End-