

SENATE BILL NO. 129

INTRODUCED BY BOYLAN, THAYER, HOLLIDAY, B. WILLIAMS,
KOLSTAD, SCHULTZ, STIMATZ

IN THE SENATE

January 18, 1985	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 21, 1985	Fiscal Note requested.
January 23, 1985	Fiscal Note canceled.
February 16, 1985	New Fiscal Note requested.
February 21, 1985	New Fiscal Note returned.
	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 22, 1985	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass.
February 25, 1985	Considered correctly engrossed.
	Third reading, passed. Ayes, 46; Noes, 1.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 7, 1985	Rereferred to Committee on Business and Labor.

March 29, 1985

Committee recommend bill be
concurrred in. Report adopted.

Statement of Intent amended.

April 1, 1985

Second reading, not concurrred
in.

Returned to Senate.

IN THE SENATE

April 1, 1985

Received from House.

April 2, 1985

On motion, House requests the
return of SB 129 for further
consideration.

April 4, 1985

On motion, Senate accede to the
request of the House to return
SB 129. Motion adopted.

Returned to House.

IN THE HOUSE

April 9, 1985

Second reading, concurrred in as
amended.

Second reading, Statement of
Intent amended.

April 11, 1985

Third reading, concurrred in.

Returned to Senate with
amendments and amended Statement
of Intent.

IN THE SENATE

April 13, 1985	On motion, rules suspended to accept. Motion adopted.
April 15, 1985	Received from House.
April 17, 1985	Second reading, amendments and amended Statement of Intent concurred in.
April 18, 1985	Third reading, amendments and amended Statement of Intent concurred in. Ayes, 45; Noes, 4. Sent to enrolling. Reported correctly enrolled.

1 Senate BILL NO. 129
 2 INTRODUCED BY [Signature] [Signature] [Signature] [Signature]
 3 [Signature] [Signature]

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A
 5 CENTRALIZED FILING SYSTEM FOR SECURITY INTERESTS COVERING
 6 AGRICULTURAL PRODUCTS; PROVIDING FOR COMPUTER DATA TO BE
 7 SEARCHABLE BY PRIVATE COMPUTERS; PROVIDING AN INCREASED
 8 PENALTY FOR DEFRAUDING AN AGRICULTURAL CREDITOR;
 9 APPROPRIATING FUNDS TO ESTABLISH THE SYSTEM; AMENDING
 10 SECTIONS 7-4-2621, 7-4-2631, 30-9-401, 30-9-403, 30-9-407,
 11 AND 45-6-315, MCA; AND PROVIDING EFFECTIVE DATES AND AN
 12 IMPLEMENTATION SCHEDULE."

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

15 Section 1. Section 7-4-2621, MCA, is amended to read:
 16 "7-4-2621. Search of records. (1) Upon the application
 17 of any person and upon the payment or tender of the fees
 18 therefor, the county clerk may:

19 (a) make searches for conveyances, mortgages, and
 20 all other instruments, papers, or notices recorded or filed
 21 in his office; and

22 (b) furnish a certificate thereof, stating the
 23 names of the parties to such instruments, papers, and
 24 notices; the dates thereof; the year, month, day, hour, and
 25 minute they were recorded or filed; the extent to which they

1 purport to affect the property to which they relate; and the
 2 book and pages where they are recorded.

3 (2) The county clerk and recorder shall during regular
 4 office hours allow access to the computer terminal provided
 5 pursuant to [section 7], capable of accessing the secretary
 6 of state's computerized files. The terminal may be used to
 7 check those security interests filed with the secretary of
 8 state as described in 30-9-403(8). Each county clerk and
 9 recorder must have the capability of producing a printout
 10 constituting a certificate from the secretary of state
 11 pursuant to 30-9-407."

12 Section 2. Section 7-4-2631, MCA, is amended to read:

13 "7-4-2631. Fees of county clerk. (1) The county clerks
 14 must charge, for the use of their respective counties:

15 (a) for recording and indexing each certificate of
 16 location of a quartz or placer mining claim or millsite
 17 claim, including a certificate that the instrument has been
 18 recorded with seal affixed, \$6;

19 (b) for recording and indexing each affidavit of
 20 annual labor on a mining claim, including certificate that
 21 the instrument has been recorded with seal affixed:

22 (i) for the first mining claim in the affidavit, \$3;

23 and

24 (ii) for each additional mining claim included in it,
 25 50 cents;



-2- INTRODUCED BILL
 SB 129

1 (c) for filing and indexing each writ of attachment,
2 execution, certificate of sale, lien, or other instrument
3 required by law to be filed and indexed, \$2;

4 (d) for filing and indexing each certificate of
5 fictitious name, \$3;

6 (e) for filing of subdivision and townsite plats, \$5
7 plus:

8 (i) for each lot up to and including 100, 50 cents;

9 (ii) for each additional lot in excess of 100, 25
10 cents;

11 (f) for filing certificates of surveys and amendments
12 thereto, \$5 plus 50 cents per tract or lot;

13 (g) for a copy of a record or paper:

14 (i) for the first page of any document, 50 cents, and
15 25 cents for each subsequent page; and

16 (ii) for each certification with seal affixed, \$1;

17 (h) for searching an index record of files of the
18 office for each year when required in abstracting or
19 otherwise, 50 cents;

20 (i) for administering an oath with certificate and
21 seal, no charge;

22 (j) for taking and certifying an acknowledgment, with
23 seal affixed, for signature to it, no charge;

24 (k) for documents requiring multiple indexing
25 (including but not limited to mortgages; releases; deeds;

1 certificates of location; affidavits of annual labor on
2 mining claims; assignments of leases; assignments of
3 mortgages; oil, gas, and mineral leases; releases of oil,
4 gas, and mineral leases; assignments of overriding
5 royalties; executions; lis pendens; attachments; and all
6 liens), 50 cents per entry in excess of the first entry
7 contained in a single document;

8 (l) for filing, indexing, or other services provided
9 for by 30-9-401 through 30-9-407, the fees prescribed in
10 those sections;

11 (m) for recording each stock subscription and
12 contract, stock certificate, and articles of incorporation
13 for water users' associations, \$3;

14 (n) for filing, recording, or indexing any other
15 instrument not expressly provided for in this section or
16 7-4-2632, the same fee provided in this section or 7-4-2632
17 for a similar service;

18 (o) for each certified copy of a birth certificate or
19 a death certificate, \$2.75;

20 (p) for accessing the secretary of state's financing
21 statement information referred to in 30-9-403(8) by means of
22 computer and obtaining a printout, \$10.

23 (2) State agencies submitting documents to be put of
24 record shall pay the fees provided for in this section.
25 These fees must be paid by a state agency on a monthly

1 basis."

2 Section 3. Section 30-9-401, MCA, is amended to read:

3 "30-9-401. Place of filing -- erroneous filing --
4 removal of collateral. (1) Except for financing statements
5 filed pursuant to 30-9-409, the proper place to file in
6 order to perfect a security interest is as follows:

7 (a) when the collateral is ~~equipment-used-in-farming~~
8 ~~operations,--or--farm--products,--or--accounts,--or--general~~
9 ~~intangibles--arising--from--or--relating-to-the-sale-of-farm~~
10 ~~products-by-a-farmer,--or~~ consumer goods, then in the office
11 of the county clerk and recorder in the county of the
12 debtor's residence or if the debtor is not a resident of
13 this state then in the office of the county clerk and
14 recorder in the county where the goods are kept, ~~--and--in~~
15 ~~addition--when--the--collateral--is--crops--growing--or--to--be~~
16 ~~grown,--in--the--office--of--the--county--clerk--and--recorder--in--the~~
17 ~~county--where--the--land--is--located;~~

18 (b) when the collateral is timber to be cut or is
19 minerals or the like (including oil and gas) or accounts
20 subject to 30-9-103(5), or when the financing statement is
21 filed as a fixture filing (30-9-313) and the collateral is
22 goods which are or are to become fixtures, then in the
23 office where a mortgage on the real estate would be filed or
24 recorded;

25 (c) in all other cases, in the office of the secretary

1 of state.

2 (2) A filing which is made in good faith in an
3 improper place or not in all of the places required by this
4 section is nevertheless effective with regard to any
5 collateral as to which the filing complied with the
6 requirements of this chapter and is also effective with
7 regard to collateral covered by the financing statement
8 against any person who has knowledge of the contents of such
9 financing statement.

10 (3) A filing which is made in the proper place in this
11 state continues effective even though the debtor's residence
12 or place of business or the location of the collateral or
13 its use, whichever controlled the original filing, is
14 thereafter changed.

15 (4) The rules stated in 30-9-103 determine whether
16 filing is necessary in this state.

17 (5) For the purposes of this section, the residence of
18 an organization is its place of business, if it has one, or
19 its chief executive office if it has more than one place of
20 business."

21 Section 4. Section 30-9-403, MCA, is amended to read:

22 "30-9-403. What constitutes filing -- duration of
23 filing -- effect of lapsed filing -- duties of filing
24 officer -- computerized farm statement system. (1)
25 Presentation for filing of a financing statement and tender

1 of the filing fee or acceptance of the statement by the
2 filing officer constitutes filing under this chapter.

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

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

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

24 (4) Except as provided in subsection (7), a filing
25 officer shall mark each statement with a file number and

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

7 (5) The Except as provided in subsection (8), the
 8 uniform fees for filing, indexing, and stamping a copy
 9 furnished by the filing party to show the date and place of
 10 filing shall be the following amounts for:

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

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

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

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

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

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

23 (g) each name more than one required to be indexed --
 24 \$2;

25 (h) a uniform indexing fee of \$2 for showing a trade

1 name for any person; and

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

5 (6) If the debtor is a transmitting utility and a
 6 filed financing statement so states, it is effective until a
 7 termination statement is filed. A real estate mortgage that
 8 is effective as a fixture filing under 30-9-402(6) remains
 9 effective as a fixture filing until the mortgage is released
 10 or satisfied of record or its effectiveness otherwise
 11 terminates as to the real estate.

12 (7) When a financing statement covers timber to be cut
 13 or covers minerals or the like (including oil and gas) or
 14 accounts subject to 30-9-103(5) or is filed as a fixture
 15 filing, the filing officer shall index it under the names of
 16 the debtor and any owner of record shown on the financing
 17 statement in the same fashion as if they were the mortgagors
 18 in a mortgage of the real estate described and, to the
 19 extent that the law of this state provides for indexing of
 20 mortgages under the name of the mortgagee, under the name of
 21 the secured party as if he were the mortgagee thereunder, or
 22 if indexing is by description, in the same fashion as if the
 23 financing statement were a mortgage of the real estate
 24 described.

25 (8) When a financing or continuation statement covers

1 farm products or accounts, livestock, general intangibles
 2 arising from or relating to the sale of farm products by a
 3 farmer, crops growing or to be grown, or equipment used in
 4 farming operations, the fee for filing must be established
 5 by the secretary of state in an amount commensurate with the
 6 costs of establishing and operating the computerized access
 7 system described in subsection (9).

8 (9) Within one working day of receipt of a financing
 9 or continuation statement described in subsection (8), the
 10 secretary of state shall record the information contained in
 11 the statement on a centralized computer system that he shall
 12 establish. The computer system must allow access to
 13 financing statement information by any type of
 14 communications which conform to standards used by the state
 15 central computer. The system must have safeguards to allow
 16 only access to UCC data and to prevent alteration, addition,
 17 or deletion of the UCC data. The computer must be accessible
 18 whenever the state computer system is available. A perfected
 19 security interest in the collateral described in subsection
 20 (8) is not created until the financing statement information
 21 is recorded on the system. A printout of information from
 22 the system is prima facie evidence of the existence or
 23 nonexistence of the filing of a financing statement."

24 Section 5. Section 30-9-407, MCA, is amended to read:

25 "30-9-407. Information from filing officer. (1) If the

1 person filing any financing statement, termination
 2 statement, statement of assignment, or statement of release
 3 furnishes the filing officer a copy thereof, the filing
 4 officer shall upon request note upon the copy the file
 5 number and date and hour of the filing of the original and
 6 deliver or send the copy to such person.

7 (2) Upon request of any person, the filing officer
 8 shall issue his certificate showing whether there is on file
 9 on the date and hour stated therein, any presently effective
 10 financing statement naming a particular debtor and any
 11 statement of assignment thereof and, if there is, giving the
 12 date and hour of filing of each such statement and the name
 13 and address of each secured party therein. The uniform fee
 14 for such a certificate shall be set pursuant to 30-9-403.
 15 Upon request the filing officer shall furnish a copy of any
 16 filed financing statement or statement of assignment for a
 17 uniform fee of 50 cents per page.

18 (3) A computer printout from the system described in
 19 30-9-403(9) constitutes the certificate of the secretary of
 20 state as to whether there is on file, on the date and hour
 21 stated thereon, such a financing statement covering the
 22 collateral described in 30-9-403(8). The fee for requesting
 23 a printout from the secretary of state must cover the cost
 24 of the printout. If a printout is made on a requestor's own
 25 computer using telephone dial-up access, no fees may be

1 charged."

2 Section 6. Section 45-6-315, MCA, is amended to read:

3 "45-6-315. Defrauding creditors. (1) A person commits
4 the offense of defrauding secured creditors if he destroys,
5 conceals, encumbers, transfers, removes from the state, or
6 otherwise deals with property subject to a security interest
7 with the purpose to hinder enforcement of that interest.

8 (2) "Security interest" means an interest in personal
9 property or fixtures as defined in the Uniform Commercial
10 Code (30-1-201(37)).

11 (3) A Except as provided in subsection (5), a person
12 convicted of the offense of defrauding secured creditors
13 shall be fined not to exceed \$500 or be imprisoned in the
14 county jail for a term not to exceed 6 months, or both.

15 (4) A person who destroys, conceals, encumbers,
16 transfers, removes from the state, or otherwise deals with
17 property subject to a security interest with the purpose of
18 depriving the owner of the property or of the proceeds and
19 value therefrom may be prosecuted under 45-6-301.

20 (5) A person convicted of the offense of defrauding a
21 secured creditor, when the property subject to the security
22 interest is property described in 30-9-403(8), shall be
23 imprisoned in the state prison for a term of 1 year for each
24 \$5,000 or part thereof involved and shall be liable for
25 restitution."

1 NEW SECTION. Section 7. Rules for agricultural lien
2 filing -- duties -- perfection and priority rights. (1) The
3 secretary of state shall adopt rules establishing fees for
4 filing a financing statement pursuant to 30-9-403(8) and for
5 the cost of a printout pursuant to 30-9-407. The secretary
6 of state may adopt rules concerning the operation of the
7 central agricultural security interest computer filing
8 system, prescribing such matters as format for data and the
9 type of information to be recorded from the financing
10 statement.

11 (2) The secretary of state shall place a terminal,
12 capable of accessing the central computer's UCC files, in
13 the office of each county clerk and recorder. The terminal
14 must be capable of producing a printout constituting a
15 certificate from the secretary of state pursuant to
16 30-9-407. The secretary of state shall maintain adequate
17 errors and omissions liability coverage to protect against
18 input errors causing loss to a secured party.

19 (3) A financing statement covering the collateral
20 described in 30-9-403(8) which was filed with a county clerk
21 and recorder on July 1, 1986, and which was sufficient on
22 that date to perfect a security interest in the collateral
23 described therein retains its perfection and priority rights
24 upon being centrally filed.

25 NEW SECTION. Section 8. Implementation schedule. By

1 January 1, 1986, each county clerk and recorder shall
 2 transmit to the secretary of state a certificated copy of
 3 each financing statement in effect on July 1, 1985, covering
 4 collateral described in 30-9-403(8). After July 1, 1985, the
 5 county clerk and recorder shall transmit to the secretary of
 6 state a certificated copy of each applicable financing or
 7 continuation statement at the time it is filed. Upon input
 8 into the system described in 30-9-403(9), a financing or
 9 continuation statement transmitted to the secretary of state
 10 by a county clerk and recorder is considered to be centrally
 11 filed but remains in effect in the county of filing. Any
 12 filing relating to collateral described in 30-9-403(8) made
 13 after June 1, 1986, must be made in the office of the
 14 secretary of state.

15 NEW SECTION. Section 9. Appropriation. There is
 16 appropriated to the office of the Secretary of State,
 17 \$250,000 from the general fund, for the biennium ending June
 18 30, 1987, for the purpose of establishing and implementing
 19 the centralized lien filing system required by this act.

20 NEW SECTION. Section 10. Codification instruction.
 21 Section 7 is intended to be codified as an integral part of
 22 Title 30, chapter 9, and the provisions of Title 30, chapter
 23 9, apply to section 7.

24 NEW SECTION. Section 11. Effective dates. (1)
 25 Sections 1 through 6 are effective July 1, 1986.

1 (2) Sections 7 through 11 are effective on passage and
 2 approval.

-End-

STATE OF MONTANA

REQUEST NO. FNN 141-85

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 129 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:

Senate Bill 129 would establish a centralized filing system for security interests covering agricultural products; providing for computer data to be searchable by private computers; providing an increased penalty for defrauding an agricultural creditor; and appropriating funds to establish the system.

ASSUMPTIONS:

1. Survey of county clerk and recorders indicates an estimated 50,000 re filings under Section 7.
2. Survey of county clerk and recorders indicates an estimated 22,000 annual filings.
3. Modifications to existing UCC system on the Department of Administration computer will be sufficient to meet requirements for computerized access system.
4. Agricultural liens are held by financial institutions, savings and loans, credit unions, implement dealers, the state, and others.

FISCAL IMPACT:

	<u>FY 1986</u>		<u>FY 1987</u>	
	<u>Special Revenue</u>	<u>General</u>	<u>Special Revenue</u>	<u>General</u>
	<u>Fund</u>	<u>Fund</u>	<u>Fund</u>	<u>Fund</u>
Revenue-filing fees	<u>\$485,000</u>	\$ -0-	<u>\$110,000</u>	\$ -0-
Personnel	53,400		29,700	
Operating	126,200		79,400	
Equipment	305,000			
Total Cost	<u>\$484,600</u>	\$ -0-	<u>\$109,100</u>	\$ -0-

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 21, 1985

AFFECT ON COUNTIES:

1. Centralized agricultural lien filings will reduce expenditures from counties' general fund by approximately \$110,000 statewide. This estimate is based on data supplied by Montana Association of Clerks and Recorders that processing 1,000 new filings per year requires .50 FTE.
2. Centralized ag lien filings will reduce revenues to counties' general funds by approximately \$86,000 statewide. This estimate is based on 22,000 original filings and continuations, 4,000 certificates and 15,000 miscellaneous filings at the fees currently set by statute (30-9-403, MCA). Increased fees for certificates will partially offset this revenue loss.
3. Adoption will give clerk and recorders equipment that could be used to access other data on the state's central computer, thereby reducing costs to counties of future access.

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
AND IRRIGATION

1 STATEMENT OF INTENT

2 SENATE BILL 129

3 Senate Agriculture, Livestock

4 and Irrigation Committee

5

6 A statement of intent is required for this bill because
7 it grants rulemaking authority to the secretary of state to
8 set fees and prescribe the format for the centralized filing
9 system. The legislature intends that the fee for filing a
10 financing statement under 30-9-403(8) be set at an amount
11 necessary to cover all the costs of the system, including
12 the operation of the computer, maintenance of equipment
13 installed in the counties and errors and omissions coverage
14 made necessary by implementation of the system. The fee for
15 a computer printout set pursuant to 30-9-407 should recover
16 the cost of the computer time, supplies, and postage. The
17 fee for filing documents set pursuant to section 7 should
18 recover all costs of establishing the system, including the
19 cost of installing the computer equipment in the counties
20 required by section 6. The rules governing the format for
21 the system should provide for easy access through telephone
22 interconnect. The data on the system should be essentially
23 that contained on the financing statement, along with such
24 other matters as the secretary of state considers necessary.

SENATE BILL NO. 129

INTRODUCED BY BOYLAN, THAYER, HOLLIDAY,

B. WILLIAMS, KOLSTAD, SCHULTZ, STIMATZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A CENTRALIZED FILING SYSTEM FOR SECURITY INTERESTS COVERING AGRICULTURAL PRODUCTS; PROVIDING FOR COMPUTER DATA TO BE SEARCHABLE BY PRIVATE COMPUTERS; PROVIDING AN INCREASED PENALTY FOR DEPRIVING AN AGRICULTURAL CREDITOR; APPROPRIATING FUNDS TO ESTABLISH THE SYSTEM; AMENDING SECTIONS 7-4-2621, 7-4-2631, 30-9-401, 30-9-403, AND 30-9-407, AND 45-6-3157 MCA; AND PROVIDING EFFECTIVE DATES AND AN IMPLEMENTATION SCHEDULE."

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

Section 1. Section 7-4-2621, MCA, is amended to read:

"7-4-2621. Search of records. (1) Upon the application of any person and upon the payment or tender of the fees therefor, the county clerk may:

(a) make searches for conveyances, mortgages, and all other instruments, papers, or notices recorded or filed in his office; and

(b) furnish a certificate thereof, stating the names of the parties to such instruments, papers, and notices; the dates thereof; the year, month, day, hour, and

minute they were recorded or filed; the extent to which they purport to affect the property to which they relate; and the book and pages where they are recorded.

(2) The county clerk and recorder shall during regular office hours allow access to the computer terminal provided pursuant to [section 7 6], capable of accessing the secretary of state's computerized files. The terminal may be used to check those security interests filed with the secretary of state as described in 30-9-403(8). Each county clerk and recorder must have the capability of producing a printout constituting a certificate from the secretary of state pursuant to 30-9-407."

Section 2. Section 7-4-2631, MCA, is amended to read:

"7-4-2631. Fees of county clerk. (1) The county clerks must charge, for the use of their respective counties:

(a) for recording and indexing each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with seal affixed, \$6;

(b) for recording and indexing each affidavit of annual labor on a mining claim, including certificate that the instrument has been recorded with seal affixed:

(i) for the first mining claim in the affidavit, \$3;

and

(ii) for each additional mining claim included in it,

1 50 cents;

2 (c) for filing and indexing each writ of attachment,
3 execution, certificate of sale, lien, or other instrument
4 required by law to be filed and indexed, \$2;

5 (d) for filing and indexing each certificate of
6 fictitious name, \$3;

7 (e) for filing of subdivision and townsite plats, \$5
8 plus:

9 (i) for each lot up to and including 100, 50 cents;

10 (ii) for each additional lot in excess of 100, 25
11 cents;

12 (f) for filing certificates of surveys and amendments
13 thereto, \$5 plus 50 cents per tract or lot;

14 (g) for a copy of a record or paper:

15 (i) for the first page of any document, 50 cents, and
16 25 cents for each subsequent page; and

17 (ii) for each certification with seal affixed, \$1;

18 (h) for searching an index record of files of the
19 office for each year when required in abstracting or
20 otherwise, 50 cents;

21 (i) for administering an oath with certificate and
22 seal, no charge;

23 (j) for taking and certifying an acknowledgment, with
24 seal affixed, for signature to it, no charge;

25 (k) for documents requiring multiple indexing

1 (including but not limited to mortgages; releases; deeds;
2 certificates of location; affidavits of annual labor on
3 mining claims; assignments of leases; assignments of
4 mortgages; oil, gas, and mineral leases; releases of oil,
5 gas, and mineral leases; assignments of overriding
6 royalties; executions; lis pendens; attachments; and all
7 liens), 50 cents per entry in excess of the first entry
8 contained in a single document;

9 (l) for filing, indexing, or other services provided
10 for by 30-9-401 through 30-9-407, the fees prescribed in
11 those sections;

12 (m) for recording each stock subscription and
13 contract, stock certificate, and articles of incorporation
14 for water users' associations, \$3;

15 (n) for filing, recording, or indexing any other
16 instrument not expressly provided for in this section or
17 7-4-2632, the same fee provided in this section or 7-4-2632
18 for a similar service;

19 (o) for each certified copy of a birth certificate or
20 a death certificate, \$2.75;

21 (p) for accessing the secretary of state's financing
22 statement information referred to in 30-9-403(8) by means of
23 computer and obtaining a printout CERTIFICATE, \$10.

24 (2) State agencies submitting documents to be put of
25 record shall pay the fees provided for in this section.

1 These fees must be paid by a state agency on a monthly
2 basis."

3 Section 3. Section 30-9-401, MCA, is amended to read:

4 "30-9-401. Place of filing -- erroneous filing --
5 removal of collateral. (1) Except for financing statements
6 filed pursuant to 30-9-409, the proper place to file in
7 order to perfect a security interest is as follows:

8 (a) when the collateral is ~~equipment-used-in-farming~~
9 ~~operations,--or--farm--products,--or--accounts,--or--general~~
10 ~~intangibles--arising--from--or--relating--to--the--sale--of--farm~~
11 ~~products--by--a--farmer,--or~~ consumer goods, then in the office
12 of the county clerk and recorder in the county of the
13 debtor's residence or if the debtor is not a resident of
14 this state then in the office of the county clerk and
15 recorder in the county where the goods are kept, ~~and--in~~
16 ~~addition--when--the--collateral--is--crops--growing--or--to--be~~
17 ~~grown,--in--the--office--of--the--county--clerk--and--recorder--in--the~~
18 ~~county--where--the--land--is--located;~~

19 (b) when the collateral is timber to be cut or is
20 minerals or the like (including oil and gas) or accounts
21 subject to 30-9-103(5), or when the financing statement is
22 filed as a fixture filing (30-9-313) and the collateral is
23 goods which are or are to become fixtures, then in the
24 office where a mortgage on the real estate would be filed or
25 recorded;

1 (c) in all other cases, in the office of the secretary
2 of state.

3 (2) A filing which is made in good faith in an
4 improper place or not in all of the places required by this
5 section is nevertheless effective with regard to any
6 collateral as to which the filing complied with the
7 requirements of this chapter and is also effective with
8 regard to collateral covered by the financing statement
9 against any person who has knowledge of the contents of such
10 financing statement.

11 (3) A filing which is made in the proper place in this
12 state continues effective even though the debtor's residence
13 or place of business or the location of the collateral or
14 its use, whichever controlled the original filing, is
15 thereafter changed.

16 (4) The rules stated in 30-9-103 determine whether
17 filing is necessary in this state.

18 (5) For the purposes of this section, the residence of
19 an organization is its place of business, if it has one, or
20 its chief executive office if it has more than one place of
21 business."

22 Section 4. Section 30-9-403, MCA, is amended to read:

23 "30-9-403. What constitutes filing -- duration of
24 filing -- effect of lapsed filing -- duties of filing
25 officer -- computerized farm statement system. (1)

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

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

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

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

25 (4) Except as provided in subsection (7), a filing

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

8 (5) The Except as provided in subsection (8), the
 9 uniform fees for filing, indexing, and stamping a copy
 10 furnished by the filing party to show the date and place of
 11 filing shall be the following amounts for:

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

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

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

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

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

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

24 (g) each name more than one required to be indexed --
 25 \$2;

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

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

6 (6) If the debtor is a transmitting utility and a
 7 filed financing statement so states, it is effective until a
 8 termination statement is filed. A real estate mortgage that
 9 is effective as a fixture filing under 30-9-402(6) remains
 10 effective as a fixture filing until the mortgage is released
 11 or satisfied of record or its effectiveness otherwise
 12 terminates as to the real estate.

13 (7) When a financing statement covers timber to be cut
 14 or covers minerals or the like (including oil and gas) or
 15 accounts subject to 30-9-103(5) or is filed as a fixture
 16 filing, the filing officer shall index it under the names of
 17 the debtor and any owner of record shown on the financing
 18 statement in the same fashion as if they were the mortgagors
 19 in a mortgage of the real estate described and, to the
 20 extent that the law of this state provides for indexing of
 21 mortgages under the name of the mortgagee, under the name of
 22 the secured party as if he were the mortgagee thereunder, or
 23 if indexing is by description, in the same fashion as if the
 24 financing statement were a mortgage of the real estate
 25 described.

1 (8) When a financing or continuation statement covers
 2 farm products or accounts, livestock, general intangibles
 3 arising from or relating to the sale of farm products by a
 4 farmer, crops growing or to be grown, or equipment used in
 5 farming operations, the fee for filing must be established
 6 by the secretary of state in an amount commensurate with the
 7 costs of establishing and operating the computerized access
 8 system described in subsection (9). THE SECRETARY OF STATE
 9 SHALL DEPOSIT ALL FEES HE COLLECTS IN THE STATE TREASURY AND
 10 THE FEE MONEY IS ALLOCATED TO THE SECRETARY OF STATE TO PAY
 11 THE EXPENSES OF ESTABLISHING AND OPERATING THE COMPUTERIZED
 12 ACCESS SYSTEM. THE EXPENSES TO BE PAID BY THE SECRETARY OF
 13 STATE SHALL INCLUDE THE COSTS OF MAINTAINING THE TERMINALS
 14 AND PRINTOUT CAPABILITY PROVIDED FOR IN [SECTION 6(2)] AND
 15 THE COSTS DIRECTLY ATTRIBUTABLE TO ANY TECHNOLOGY USED TO
 16 LINK THOSE TERMINALS WITH THE COMPUTERIZED ACCESS SYSTEM
 17 DESCRIBED IN SUBSECTION (9).

18 (9) Within one working day of receipt of a financing
 19 or continuation statement described in subsection (8), the
 20 secretary of state shall record the information contained in
 21 the statement on a centralized computer system that he shall
 22 establish. The computer system must allow access to
 23 financing statement information by any type of
 24 communications which conform to standards used by the state
 25 central computer. The system must have safeguards to allow

1 only access to UCC data and to prevent alteration, addition,
 2 or deletion of the UCC data. The computer must be accessible
 3 whenever the state computer system is available. A perfected
 4 security interest in the collateral described in subsection
 5 (8) is not created until the financing statement information
 6 is recorded on the system. A printout of information from
 7 the system is prima facie evidence of the existence or
 8 nonexistence of the filing of a financing statement. THE
 9 SECRETARY OF STATE SHALL MAINTAIN ADEQUATE ERROR AND
 10 OMISSIONS LIABILITY COVERAGE TO PROTECT AGAINST INPUT ERRORS
 11 CAUSING LOSS TO A SECURED PARTY.

12 (10) WHEN A FINANCING OR CONTINUATION STATEMENT COVERS
 13 PROPERTY DESCRIBED IN SUBSECTION (8), ITS EFFECTIVENESS
 14 LAPSES ON JULY 1, 1986, UNLESS PRIOR TO THAT DATE THERE IS
 15 FILED IN THE OFFICE OF THE SECRETARY OF STATE A CERTIFIED
 16 COPY OF THE STATEMENT ON FILE WITH THE COUNTY CLERK AND ALL
 17 RELATED DOCUMENTS AS PROVIDED IN [SECTION 7]."

18 Section 5. Section 30-9-407, MCA, is amended to read:
 19 "30-9-407. Information from filing officer. (1) If the
 20 person filing any financing statement, termination
 21 statement, statement of assignment, or statement of release
 22 furnishes the filing officer a copy thereof, the filing
 23 officer shall upon request note upon the copy the file
 24 number and date and hour of the filing of the original and
 25 deliver or send the copy to such person.

1 (2) Upon request of any person, the filing officer
 2 shall issue his certificate showing whether there is on file
 3 on the date and hour stated therein, any presently effective
 4 financing statement naming a particular debtor and any
 5 statement of assignment thereof and, if there is, giving the
 6 date and hour of filing of each such statement and the name
 7 and address of each secured party therein. The uniform fee
 8 for such a certificate shall be set pursuant to 30-9-403.
 9 Upon request the filing officer shall furnish a copy of any
 10 filed financing statement or statement of assignment for a
 11 uniform fee of 50 cents per page.

12 (3) A computer printout from the system described in
 13 30-9-403(9) constitutes the certificate of the secretary of
 14 state as to whether there is on file, on the date and hour
 15 stated thereon, such a financing statement covering the
 16 collateral described in 30-9-403(8). The fee for requesting
 17 a printout from the secretary of state must cover the cost
 18 of the printout. If a printout CERTIFICATE is made on a
 19 requestor's own computer using telephone dial-up access, no
 20 fees may be charged. IF A CERTIFICATE IS MADE ON A TERMINAL
 21 PROVIDED FOR IN {SECTION 6(2)}, ONLY THE FEE PROVIDED FOR IN
 22 7-4-2631(1)(P) SHALL BE CHARGED."

23 ~~Section 6--Section--45-6-315--MCA--is-amended-to-read:~~
 24 ~~"45-6-315--Defrauding-creditors--(1)-A-person-commits~~
 25 ~~the-offense-of-defrauding-secured-creditors-if-he--destroys,~~

1 ~~conceals,--encumbers,--transfers,--removes-from-the-state,--or~~
 2 ~~otherwise-deals-with-property-subject-to-a-security-interest~~
 3 ~~with-the-purpose-to-hinder-enforcement-of-that-interest;~~

4 ~~(2)--"Security-interest"--means-an-interest-in--personal~~
 5 ~~property--or--fixtures--as-defined-in-the-Uniform-Commercial~~
 6 ~~Code--(30-1-201(37));~~

7 ~~(3)--A Except-as-provided-in-subsection-(5),--a person~~
 8 ~~convicted--of--the--offense--of-defrauding-secured-creditors~~
 9 ~~shall-be-fined-not-to-exceed-\$500-or-be--imprisoned--in--the~~
 10 ~~county-jail-for-a-term-not-to-exceed-6-months,--or-both;~~

11 ~~(4)--A--person--who--destroys,--conceals,--encumbers,~~
 12 ~~transfers,--removes-from-the-state,--or--otherwise--deals--with~~
 13 ~~property--subject-to-a-security-interest-with-the-purpose-of~~
 14 ~~depriving-the-owner-of-the-property-or-of-the--proceeds--and~~
 15 ~~value-therefrom-may-be-prosecuted-under-45-6-301;~~

16 ~~(5)--A--person-convicted-of-the-offense-of-defrauding-a~~
 17 ~~secured-creditor,--when-the-property-subject-to-the--security~~
 18 ~~interest--is--property--described--in--30-9-403(8),--shall-be~~
 19 ~~imprisoned-in-the-state-prison-for-a-term-of-1-year-for-each~~
 20 ~~\$5,000-or-part-thereof-involved--and--shall-be--liable--for~~
 21 ~~restitution."~~

22 NEW SECTION. Section 6. Rules for agricultural lien
 23 filing -- duties -- perfection and priority rights. (1) The
 24 secretary of state shall adopt rules establishing fees for
 25 filing a financing statement pursuant to 30-9-403(8) and for

1 the cost of a printout pursuant to 30-9-407. The secretary
2 of state may adopt rules concerning the operation of the
3 central agricultural security interest computer filing
4 system, prescribing such matters as format for data and the
5 type of information to be recorded from the financing
6 statement.

7 (2) The secretary of state shall place a terminal,
8 capable of accessing the central computer's UCC files, in
9 the office of each county clerk and recorder. The terminal
10 must be capable of producing a printout constituting a
11 certificate from the secretary of state pursuant to
12 30-9-407. ~~The secretary of state shall maintain adequate~~
13 ~~errors and omissions liability coverage to protect against~~
14 ~~input errors causing loss to a secured party: THE SECRETARY~~
15 OF STATE SHALL PROVIDE FOR THE INSTALLATION OF THE
16 TECHNOLOGY AND ANY EQUIPMENT REQUIRED TO LINK THE TERMINALS
17 IN THE OFFICES OF EACH COUNTY CLERK AND RECORDER WITH THE
18 COMPUTERIZED ACCESS SYSTEM PROVIDED FOR IN 30-9-403(9).

19 (3) A financing statement covering the collateral
20 described in 30-9-403(8) which was filed with a county clerk
21 and recorder ~~on July 1, 1986~~ PRIOR TO JULY 1, 1985, and
22 which was sufficient on that date to perfect a security
23 interest in the collateral described therein retains its
24 perfection and priority rights upon being centrally filed AS
25 PROVIDED IN [SECTION 7].

1 ~~NEW SECTION: Section 8: Implementation schedule: By~~
2 ~~January 1, 1986, each county clerk and recorder shall~~
3 ~~transmit to the secretary of state a certificated copy of~~
4 ~~each financing statement in effect on July 1, 1985, covering~~
5 ~~collateral described in 30-9-403(8). After July 1, 1985, the~~
6 ~~county clerk and recorder shall transmit to the secretary of~~
7 ~~state a certificated copy of each applicable financing or~~
8 ~~continuation statement at the time it is filed. Upon input~~
9 ~~into the system described in 30-9-403(9), a financing or~~
10 ~~continuation statement transmitted to the secretary of state~~
11 ~~by a county clerk and recorder is considered to be centrally~~
12 ~~filed but remains in effect in the county of filing. Any~~
13 ~~filing relating to collateral described in 30-9-403(8) made~~
14 ~~after June 1, 1986, must be made in the office of the~~
15 ~~secretary of state.~~

16 ~~NEW SECTION: Section 9: Appropriation: There is~~
17 ~~appropriated to the office of the Secretary of State,~~
18 ~~\$250,000 from the general fund, for the biennium ending June~~
19 ~~30, 1987, for the purpose of establishing and implementing~~
20 ~~the centralized lien filing system required by this act.~~

21 NEW SECTION. SECTION 7. IMPLEMENTATION SCHEDULE --
22 REFILING OF EXISTING FINANCING STATEMENTS. (1) A FINANCING
23 OR CONTINUATION STATEMENT COVERING PROPERTY DESCRIBED IN
24 30-9-403(8) FILED AFTER JUNE 30, 1985, MUST BE FILED IN THE
25 OFFICE OF THE SECRETARY OF STATE.

1 (2) A FINANCING OR CONTINUATION STATEMENT THAT COVERS
 2 PROPERTY DESCRIBED IN 30-9-403(8) AND IS FILED AND OF RECORD
 3 WITH A COUNTY CLERK AND RECORDER LAPSES AS PROVIDED IN
 4 30-9-403(10).

5 (3) THE REFILEING OF A FINANCING OR CONTINUATION
 6 STATEMENT IN THE OFFICE OF THE SECRETARY OF STATE THAT
 7 COVERS PROPERTY DESCRIBED IN 30-9-403(8) IS ACCOMPLISHED BY:

8 (A) PRESENTING A CERTIFIED COPY OF THE STATEMENT AS
 9 FILED AND OF RECORD WITH THE COUNTY CLERK AND RECORDER
 10 TOGETHER WITH CERTIFIED COPIES OF ALL RELATED DOCUMENTS,
 11 INCLUDING ALL CONTINUANCES, RELEASES, ASSIGNMENTS, OR
 12 AMENDMENTS;

13 (B) FILING WITH THE COUNTY CLERK AND RECORDER A NOTICE
 14 THAT THE STATEMENT AND RELATED DOCUMENTS HAVE BEEN FILED IN
 15 THE OFFICE OF THE SECRETARY OF STATE; AND

16 (C) TENDERING THE FILING FEE.

17 (4) THE SECRETARY OF STATE SHALL BY ADMINISTRATIVE
 18 RULE ESTABLISH FEES FOR FILING AND INDEXING DOCUMENTS AS
 19 REQUIRED BY THIS SECTION. THE FEES MUST BE COMMENSURATE WITH
 20 THE COSTS OF PROCESSING THE DOCUMENTS AND ESTABLISHING THE
 21 COMPUTERIZED ACCESS SYSTEM DESCRIBED IN 39-9-403(9). THE
 22 SECRETARY OF STATE SHALL DEPOSIT ALL FEES HE COLLECTS IN THE
 23 STATE TREASURY AND THE FEE MONEY IS ALLOCATED TO THE
 24 SECRETARY OF STATE TO PAY THE EXPENSES OF ESTABLISHING AND
 25 OPERATING THE COMPUTERIZED ACCESS SYSTEM. THE COSTS OF

1 ESTABLISHING THE COMPUTERIZED ACCESS SYSTEM SHALL INCLUDE
 2 THE COSTS OF ACQUISITION AND INSTALLATION OF THE TERMINALS,
 3 PRINTOUT CAPABILITY, AND RELATED TECHNOLOGY DESCRIBED IN
 4 [SECTION 6(2)].

5 NEW SECTION. Section 8. Codification instruction.
 6 Section 7 6 is intended to be codified as an integral part
 7 of Title 30, chapter 9, and the provisions of Title 30,
 8 chapter 9, apply to section 7 6.

9 NEW SECTION. Section 9. Effective dates. (1) Sections
 10 1 through 6 are effective ~~July~~ OCTOBER 1, 1986.

11 (2) Sections 7 through ~~11~~ 9 are effective on passage
 12 and approval.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 129

3 Senate Agriculture, Livestock
4 and Irrigation Committee
5

6 A statement of intent is required for this bill because
7 it grants rulemaking authority to the secretary of state to
8 set fees and prescribe the format for the centralized filing
9 system. The legislature intends that the fee for filing a
10 financing statement under 30-9-403(8) be set at an amount
11 necessary to cover all the costs of the system, including
12 the operation of the computer, maintenance of equipment
13 installed in the counties and errors and omissions coverage
14 made necessary by implementation of the system. The fee for
15 a computer printout set pursuant to 30-9-407 should recover
16 the cost of the computer time, supplies, and postage. The
17 fee for filing documents set pursuant to section 7 should
18 recover all costs of establishing the system, including the
19 cost of installing the computer equipment in the counties
20 required by section 6. The rules governing the format for
21 the system should provide for easy access through telephone
22 interconnect. The data on the system should be essentially
23 that contained on the financing statement, along with such
24 other matters as the secretary of state considers necessary.

THIRD READING

SB 129

1 SENATE BILL NO. 129

2 INTRODUCED BY BOYLAN, THAYER, HOLLIDAY,

3 B. WILLIAMS, KOLSTAD, SCHULTZ, STIMATZ

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A
6 CENTRALIZED FILING SYSTEM FOR SECURITY INTERESTS COVERING
7 AGRICULTURAL PRODUCTS; PROVIDING FOR COMPUTER DATA TO BE
8 SEARCHABLE BY PRIVATE COMPUTERS; PROVIDING--AN-INCREASED
9 PENALTY---FOR---DEPRAUDING---AN---AGRICULTURAL---CREDITOR;
10 APPROPRIATING---FUNDS---TO---ESTABLISH---THE---SYSTEM; AMENDING
11 SECTIONS 7-4-2621, 7-4-2631, 30-9-401, 30-9-403, AND
12 30-9-407, AND--45-6-315, MCA; AND PROVIDING EFFECTIVE DATES
13 AND AN IMPLEMENTATION SCHEDULE."

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

16 Section 1. Section 7-4-2621, MCA, is amended to read:

17 "7-4-2621. Search of records. (1) Upon the application
18 of any person and upon the payment or tender of the fees
19 therefor, the county clerk may:20 (a) make searches for conveyances, mortgages, and
21 all other instruments, papers, or notices recorded or filed
22 in his office; and23 (b) furnish a certificate thereof, stating the
24 names of the parties to such instruments, papers, and
25 notices; the dates thereof; the year, month, day, hour, and1 minute they were recorded or filed; the extent to which they
2 purport to affect the property to which they relate; and the
3 book and pages where they are recorded.4 (2) The county clerk and recorder shall during regular
5 office hours allow access to the computer terminal provided
6 pursuant to [section 7 6], capable of accessing the
7 secretary of state's computerized files. The terminal may
8 be used to check those security interests filed with the
9 secretary of state as described in 30-9-403(8). Each county
10 clerk and recorder must have the capability of producing a
11 printout constituting a certificate from the secretary of
12 state pursuant to 30-9-407."

13 Section 2. Section 7-4-2631, MCA, is amended to read:

14 "7-4-2631. Fees of county clerk. (1) The county clerks
15 must charge, for the use of their respective counties:16 (a) for recording and indexing each certificate of
17 location of a quartz or placer mining claim or millsite
18 claim, including a certificate that the instrument has been
19 recorded with seal affixed, \$6;20 (b) for recording and indexing each affidavit of
21 annual labor on a mining claim, including certificate that
22 the instrument has been recorded with seal affixed:23 (i) for the first mining claim in the affidavit, \$3;
24 and

25 (ii) for each additional mining claim included in it,

1 50 cents;

2 (c) for filing and indexing each writ of attachment,
3 execution, certificate of sale, lien, or other instrument
4 required by law to be filed and indexed, \$2;

5 (d) for filing and indexing each certificate of
6 fictitious name, \$3;

7 (e) for filing of subdivision and townsite plats, \$5
8 plus:

9 (i) for each lot up to and including 100, 50 cents;

10 (ii) for each additional lot in excess of 100, 25
11 cents;

12 (f) for filing certificates of surveys and amendments
13 thereto, \$5 plus 50 cents per tract or lot;

14 (g) for a copy of a record or paper:

15 (i) for the first page of any document, 50 cents, and
16 25 cents for each subsequent page; and

17 (ii) for each certification with seal affixed, \$1;

18 (h) for searching an index record of files of the
19 office for each year when required in abstracting or
20 otherwise, 50 cents;

21 (i) for administering an oath with certificate and
22 seal, no charge;

23 (j) for taking and certifying an acknowledgment, with
24 seal affixed, ~~for signature to it, no charge;~~

25 (k) for documents requiring multiple indexing

1 (including but not limited to mortgages; releases; deeds;
2 certificates of location; affidavits of annual labor on
3 mining claims; assignments of leases; assignments of
4 mortgages; oil, gas, and mineral leases; releases of oil,
5 gas, and mineral leases; assignments of overriding
6 royalties; executions; lis pendens; attachments; and all
7 liens), 50 cents per entry in excess of the first entry
8 contained in a single document;

9 (l) for filing, indexing, or other services provided
10 for by 30-9-401 through 30-9-407, the fees prescribed in
11 those sections;

12 (m) for recording each stock subscription and
13 contract, stock certificate, and articles of incorporation
14 for water users' associations, \$3;

15 (n) for filing, recording, or indexing any other
16 instrument not expressly provided for in this section or
17 7-4-2632, the same fee provided in this section or 7-4-2632
18 for a similar service;

19 (o) for each certified copy of a birth certificate or
20 a death certificate, \$2-;

21 (p) for accessing the secretary of state's financing
22 statement information referred to in 30-9-403(8) by means of
23 computer and obtaining a printout CERTIFICATE, \$10.

24 (2) State agencies submitting documents to be put of
25 record shall pay the fees provided for in this section.

1 These fees must be paid by a state agency on a monthly
2 basis."

3 Section 3. Section 30-9-401, MCA, is amended to read:
4 "30-9-401. Place of filing -- erroneous filing --
5 removal of collateral. (1) Except for financing statements
6 filed pursuant to 30-9-409, the proper place to file in
7 order to perfect a security interest is as follows:

8 (a) when the collateral is ~~equipment-used-in-farming~~
9 ~~operations,--or--farm--products,--or--accounts,--or--general~~
10 ~~intangibles--arising--from--or--relating--to--the--sale--of--farm~~
11 ~~products--by--a--farmer,--or~~ consumer goods, then in the office
12 of the county clerk and recorder in the county of the
13 debtor's residence or if the debtor is not a resident of
14 this state then in the office of the county clerk and
15 recorder in the county where the goods are kept,--and--in
16 ~~addition--when--the--collateral--is--crops--growing--or--to--be~~
17 ~~grown,--in--the--office--of--the--county--clerk--and--recorder--in--the~~
18 ~~county--where--the--land--is--located;~~

19 (b) when the collateral is timber to be cut or is
20 minerals or the like (including oil and gas) or accounts
21 subject to 30-9-103(5), or when the financing statement is
22 filed as a fixture filing (30-9-313) and the collateral is
23 goods which are or are to become fixtures, then in the
24 office where a mortgage on the real estate would be filed or
25 recorded;

1 (c) in all other cases, in the office of the secretary
2 of state.

3 (2) A filing which is made in good faith in an
4 improper place or not in all of the places required by this
5 section is nevertheless effective with regard to any
6 collateral as to which the filing complied with the
7 requirements of this chapter and is also effective with
8 regard to collateral covered by the financing statement
9 against any person who has knowledge of the contents of such
10 financing statement.

11 (3) A filing which is made in the proper place in this
12 state continues effective even though the debtor's residence
13 or place of business or the location of the collateral or
14 its use, whichever controlled the original filing, is
15 thereafter changed.

16 (4) The rules stated in 30-9-103 determine whether
17 filing is necessary in this state.

18 (5) For the purposes of this section, the residence of
19 an organization is its place of business, if it has one, or
20 its chief executive office if it has more than one place of
21 business."

22 Section 4. Section 30-9-403, MCA, is amended to read:
23 "30-9-403. What constitutes filing -- duration of
24 filing -- effect of lapsed filing -- duties of filing
25 officer -- computerized farm statement system. (1)

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

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

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

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

25 (4) Except as provided in subsection (7), a filing

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

8 (5) The Except as provided in subsection (8), the
 9 uniform fees for filing, indexing, and stamping a copy
 10 furnished by the filing party to show the date and place of
 11 filing shall be the following amounts for:

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

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

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

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

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

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

24 (g) each name more than one required to be indexed --
 25 \$2;

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

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

6 (6) If the debtor is a transmitting utility and a
 7 filed financing statement so states, it is effective until a
 8 termination statement is filed. A real estate mortgage that
 9 is effective as a fixture filing under 30-9-402(6) remains
 10 effective as a fixture filing until the mortgage is released
 11 or satisfied of record or its effectiveness otherwise
 12 terminates as to the real estate.

13 (7) When a financing statement covers timber to be cut
 14 or covers minerals or the like (including oil and gas) or
 15 accounts subject to 30-9-103(5) or is filed as a fixture
 16 filing, the filing officer shall index it under the names of
 17 the debtor and any owner of record shown on the financing
 18 statement in the same fashion as if they were the mortgagors
 19 in a mortgage of the real estate described and, to the
 20 extent that the law of this state provides for indexing of
 21 mortgages under the name of the mortgagee, under the name of
 22 the secured party as if he were the mortgagee thereunder, or
 23 if indexing is by description, in the same fashion as if the
 24 financing statement were a mortgage of the real estate
 25 described.

1 (8) When a financing or continuation statement covers
 2 farm products or accounts, livestock, general intangibles
 3 arising from or relating to the sale of farm products by a
 4 farmer, crops growing or to be grown, or equipment used in
 5 farming operations, the fee for filing must be established
 6 by the secretary of state in an amount commensurate with the
 7 costs of establishing and operating the computerized access
 8 system described in subsection (9). THE SECRETARY OF STATE
 9 SHALL DEPOSIT ALL FEES HE COLLECTS IN THE STATE TREASURY AND
 10 THE FEE MONEY IS ALLOCATED TO THE SECRETARY OF STATE TO PAY
 11 THE EXPENSES OF ESTABLISHING AND OPERATING THE COMPUTERIZED
 12 ACCESS SYSTEM. THE EXPENSES TO BE PAID BY THE SECRETARY OF
 13 STATE SHALL INCLUDE THE COSTS OF MAINTAINING THE TERMINALS
 14 AND PRINTOUT CAPABILITY PROVIDED FOR IN [SECTION 6(2)] AND
 15 THE COSTS DIRECTLY ATTRIBUTABLE TO ANY TECHNOLOGY USED TO
 16 LINK THOSE TERMINALS WITH THE COMPUTERIZED ACCESS SYSTEM
 17 DESCRIBED IN SUBSECTION (9).

18 (9) Within one working day of receipt of a financing
 19 or continuation statement described in subsection (8), the
 20 secretary of state shall record the information contained in
 21 the statement on a centralized computer system that he shall
 22 establish. The computer system must allow access to
 23 financing statement information by any type of
 24 communications which conform to standards used by the state
 25 central computer. The system must have safeguards to allow

1 only access to UCC data and to prevent alteration, addition,
 2 or deletion of the UCC data. The computer must be accessible
 3 whenever the state computer system is available. A perfected
 4 security interest in the collateral described in subsection
 5 (8) is not created until the financing statement information
 6 is recorded on the system. A printout of information from
 7 the system is prima facie evidence of the existence or
 8 nonexistence of the filing of a financing statement. THE
 9 SECRETARY OF STATE SHALL MAINTAIN ADEQUATE ERRORS AND
 10 OMISSIONS LIABILITY COVERAGE TO PROTECT AGAINST INPUT ERRORS
 11 CAUSING LOSS TO A SECURED PARTY.

12 (10) WHEN A FINANCING OR CONTINUATION STATEMENT COVERS
 13 PROPERTY DESCRIBED IN SUBSECTION (8), ITS EFFECTIVENESS
 14 LAPSES ON JULY 1, 1986, UNLESS PRIOR TO THAT DATE THERE IS
 15 FILED IN THE OFFICE OF THE SECRETARY OF STATE A CERTIFIED
 16 COPY OF THE STATEMENT ON FILE WITH THE COUNTY CLERK AND ALL
 17 RELATED DOCUMENTS AS PROVIDED IN [SECTION 7]."

18 Section 5. Section 30-9-407, MCA, is amended to read:
 19 "30-9-407. Information from filing officer. (1) If the
 20 person filing any financing statement, termination
 21 statement, statement of assignment, or statement of release
 22 furnishes the filing officer a copy thereof, the filing
 23 officer shall upon request note upon the copy the file
 24 number and date and hour of the filing of the original and
 25 deliver or send the copy to such person.

1 (2) Upon request of any person, the filing officer
 2 shall issue his certificate showing whether there is on file
 3 on the date and hour stated therein, any presently effective
 4 financing statement naming a particular debtor and any
 5 statement of assignment thereof and, if there is, giving the
 6 date and hour of filing of each such statement and the name
 7 and address of each secured party therein. The uniform fee
 8 for such a certificate shall be set pursuant to 30-9-403.
 9 Upon request the filing officer shall furnish a copy of any
 10 filed financing statement or statement of assignment for a
 11 uniform fee of 50 cents per page.

12 (3) A computer printout from the system described in
 13 30-9-403(9) constitutes the certificate of the secretary of
 14 state as to whether there is on file, on the date and hour
 15 stated thereon, such a financing statement covering the
 16 collateral described in 30-9-403(8). The fee for requesting
 17 a printout from the secretary of state must cover the cost
 18 of the printout. If a printout CERTIFICATE is made on a
 19 requestor's own computer using telephone dial-up access, no
 20 fees may be charged. IF A CERTIFICATE IS MADE ON A TERMINAL
 21 PROVIDED FOR IN [SECTION 6(2)], ONLY THE FEE PROVIDED FOR IN
 22 7-4-2631(1)(P) SHALL BE CHARGED."

23 ~~Section 6. Section 45-6-315, MCA, is amended to read:~~
 24 ~~"45-6-315. Defrauding creditors. (1) A person commits~~
 25 ~~the offense of defrauding secured creditors if he destroys,~~

1 ~~conceals, encumbers, transfers, removes from the state, or~~
 2 ~~otherwise deals with property subject to a security interest~~
 3 ~~with the purpose to hinder enforcement of that interest.~~

4 ~~(2) "Security interest" means an interest in personal~~
 5 ~~property or fixtures as defined in the Uniform Commercial~~
 6 ~~Code (30-1-201(37)).~~

7 ~~(3) A Except as provided in subsection (5), a person~~
 8 ~~convicted of the offense of defrauding secured creditors~~
 9 ~~shall be fined not to exceed \$500 or be imprisoned in the~~
 10 ~~county jail for a term not to exceed 6 months, or both.~~

11 ~~(4) A person who destroys, conceals, encumbers,~~
 12 ~~transfers, removes from the state, or otherwise deals with~~
 13 ~~property subject to a security interest with the purpose of~~
 14 ~~depriving the owner of the property or of the proceeds and~~
 15 ~~value therefrom may be prosecuted under 45-6-301.~~

16 ~~(5) A person convicted of the offense of defrauding a~~
 17 ~~secured creditor, when the property subject to the security~~
 18 ~~interest is property described in 30-9-403(8), shall be~~
 19 ~~imprisoned in the state prison for a term of 1 year for each~~
 20 ~~\$5,000 or part thereof involved and shall be liable for~~
 21 ~~restitution."~~

22 NEW SECTION. Section 6. Rules for agricultural lien
 23 filing -- duties -- perfection and priority rights. (1) The
 24 secretary of state shall adopt rules establishing fees for
 25 filing a financing statement pursuant to 30-9-403(8) and for

1 the cost of a printout pursuant to 30-9-407. The secretary
2 of state may adopt rules concerning the operation of the
3 central agricultural security interest computer filing
4 system, prescribing such matters as format for data and the
5 type of information to be recorded from the financing
6 statement.

7 (2) The secretary of state shall place a terminal,
8 capable of accessing the central computer's UCC files, in
9 the office of each county clerk and recorder. The terminal
10 must be capable of producing a printout constituting a
11 certificate from the secretary of state pursuant to
12 30-9-407. ~~The secretary of state shall maintain adequate~~
13 ~~errors and omissions liability coverage to protect against~~
14 ~~input errors causing loss to a secured party.~~ THE SECRETARY
15 OF STATE SHALL PROVIDE FOR THE INSTALLATION OF THE
16 TECHNOLOGY AND ANY EQUIPMENT REQUIRED TO LINK THE TERMINALS
17 IN THE OFFICES OF EACH COUNTY CLERK AND RECORDER WITH THE
18 COMPUTERIZED ACCESS SYSTEM PROVIDED FOR IN 30-9-403(9).

19 (3) A financing statement covering the collateral
20 described in 30-9-403(8) which was filed with a county clerk
21 and recorder on ~~July 1, 1986~~ PRIOR TO JULY 1, 1985, and
22 which was sufficient on that date to perfect a security
23 interest in the collateral described therein retains its
24 perfection and priority rights upon being centrally filed AS
25 PROVIDED IN [SECTION 7].

1 ~~NEW SECTION. Section 8. Implementation schedule. By~~
2 ~~January 1, 1986, each county clerk and recorder shall~~
3 ~~transmit to the secretary of state a certificated copy of~~
4 ~~each financing statement in effect on July 1, 1985, covering~~
5 ~~collateral described in 30-9-403(8). After July 1, 1985, the~~
6 ~~county clerk and recorder shall transmit to the secretary of~~
7 ~~state a certificated copy of each applicable financing or~~
8 ~~continuation statement at the time it is filed. Upon input~~
9 ~~into the system described in 30-9-403(9), a financing or~~
10 ~~continuation statement transmitted to the secretary of state~~
11 ~~by a county clerk and recorder is considered to be centrally~~
12 ~~filed but remains in effect in the county of filing. Any~~
13 ~~filing relating to collateral described in 30-9-403(8) made~~
14 ~~after June 1, 1986, must be made in the office of the~~
15 ~~secretary of state.~~

16 ~~NEW SECTION. Section 9. Appropriation. There is~~
17 ~~appropriated to the office of the Secretary of State~~
18 ~~\$250,000 from the general fund for the biennium ending June~~
19 ~~30, 1987, for the purpose of establishing and implementing~~
20 ~~the centralized lien filing system required by this act.~~

21 NEW SECTION. SECTION 7. IMPLEMENTATION SCHEDULE --
22 REFILING OF EXISTING FINANCING STATEMENTS. (1) A FINANCING
23 OR CONTINUATION STATEMENT COVERING PROPERTY DESCRIBED IN
24 30-9-403(8) FILED AFTER JUNE 30, 1985, MUST BE FILED IN THE
25 OFFICE OF THE SECRETARY OF STATE.

1 (2) A FINANCING OR CONTINUATION STATEMENT THAT COVERS
 2 PROPERTY DESCRIBED IN 30-9-403(8) AND IS FILED AND OF RECORD
 3 WITH A COUNTY CLERK AND RECORDER LAPSES AS PROVIDED IN
 4 30-9-403(10).

5 (3) THE REFILEING OF A FINANCING OR CONTINUATION
 6 STATEMENT IN THE OFFICE OF THE SECRETARY OF STATE THAT
 7 COVERS PROPERTY DESCRIBED IN 30-9-403(8) IS ACCOMPLISHED BY:

8 (A) PRESENTING A CERTIFIED COPY OF THE STATEMENT AS
 9 FILED AND OF RECORD WITH THE COUNTY CLERK AND RECORDER
 10 TOGETHER WITH CERTIFIED COPIES OF ALL RELATED DOCUMENTS,
 11 INCLUDING ALL CONTINUANCES, RELEASES, ASSIGNMENTS, OR
 12 AMENDMENTS;

13 (B) FILING WITH THE COUNTY CLERK AND RECORDER A NOTICE
 14 THAT THE STATEMENT AND RELATED DOCUMENTS HAVE BEEN FILED IN
 15 THE OFFICE OF THE SECRETARY OF STATE; AND

16 (C) TENDERING THE FILING FEE.

17 (4) THE SECRETARY OF STATE SHALL BY ADMINISTRATIVE
 18 RULE ESTABLISH FEES FOR FILING AND INDEXING DOCUMENTS AS
 19 REQUIRED BY THIS SECTION. THE FEES MUST BE COMMENSURATE WITH
 20 THE COSTS OF PROCESSING THE DOCUMENTS AND ESTABLISHING THE
 21 COMPUTERIZED ACCESS SYSTEM DESCRIBED IN 39-9-403(9). THE
 22 SECRETARY OF STATE SHALL DEPOSIT ALL FEES HE COLLECTS IN THE
 23 STATE TREASURY AND THE FEE MONEY IS ALLOCATED TO THE
 24 SECRETARY OF STATE TO PAY THE EXPENSES OF ESTABLISHING AND
 25 OPERATING THE COMPUTERIZED ACCESS SYSTEM. THE COSTS OF

1 ESTABLISHING THE COMPUTERIZED ACCESS SYSTEM SHALL INCLUDE
 2 THE COSTS OF ACQUISITION AND INSTALLATION OF THE TERMINALS,
 3 PRINTOUT CAPABILITY, AND RELATED TECHNOLOGY DESCRIBED IN
 4 [SECTION 6(2)].

5 NEW SECTION. Section 8. Codification instruction.
 6 Section 7 6 is intended to be codified as an integral part
 7 of Title 30, chapter 9, and the provisions of Title 30,
 8 chapter 9, apply to section 7 6.

9 NEW SECTION. Section 9. Effective dates. (1) Sections
 10 1 through 6 are effective July OCTOBER 1, 1986.

11 (2) Sections 7 through 9 are effective on passage
 12 and approval.

-End-

STANDING COMMITTEE REPORT

HOUSE

March 28 19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration SENATE Bill No. 129

third reading copy (blue color)

CENTRALIZED FILING SYSTEM FOR SECURITY INTERESTS COVERING AGRICULTURAL GOODS

Respectfully report as follows: That SENATE Bill No. 129

BE AMENDED AS FOLLOWS: - STATEMENT OF INTENT

- 1. Line 23
Following: "statement"
Strike: remainder of line 23 and line 24 through "necessary"

MK

*54
3/29*

~~DO NOT~~
BE CONCURRED IN
STATEMENT OF INTENT, AMENDED

Rep Bob Pavlovich
Chairman

HOUSE COMMITTEE OF THE WHOLE AMENDMENT

4090930L.CW

AMENDMENTS TO SB 129
PAGE 2 OF 2:

4-9-85
DATE

April 9 1985

PAGE 1 OF 2.

9:30
TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL No. 129 #1

third reading copy (blue) as follows:
Color

1. Title, line 11.
Following: "SECTIONS"
Insert: "2-6-109,"

2. Page 12, line 18.
Following: line 17
Insert: "(11) Financing statement information in the computer system constitutes public writings within the meaning of 2-6-101, but the information may not be used to compile mailing lists."

3. Page 18, following line 4.
Insert: "Section 8. Section 2-6-109, MCA, is amended to read:
"2-6-109. Prohibition on distribution or sale of mailing lists -- penalty. (1) Except as provided in subsections (3), (4), (5), and (6), in order to protect the privacy of those who deal with state and local government:
(a) no agency may distribute or sell for use as a mailing list any list of persons without first securing the permission of those on the list; and
(b) no list of persons prepared by the agency may be used as a mailing list except by the agency or another agency without first securing the permission of those on the list.
(2) As used in this section, "agency" means any board, bureau, commission, department, division, authority, or officer of the state or a local government.
(3) This Except as provided in 30-9-403, this section does not prevent an individual from compiling a mailing list by examination of original documents or applications which are otherwise open to public inspection.

(4) This section does not apply to the lists of registered electors and the new voter lists provided for in 13-2-115 and 19-38-103, or to lists of the names of employees governed by Title 39, chapter 31.

(5) This section shall not prevent an agency from providing a list to persons providing prelicensing or continuing educational courses subject to Title 20, chapter 30, or specifically exempted therefrom as provided in 20-30-102.

(6) This section does not apply to the right of access either by Montana law enforcement agencies or, by purchase or otherwise, of public records dealing with motor vehicle registration.

(7) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."

Renumber: subsequent sections.

4. Page 18, line 11.
Following: "7"
Insert: ", "
Strike: "through"
Following: "9"
Insert: ", and 10"

ASB

ASB

ADOPT
REJECT

ADOPT
REJECT

CONTINUED

Rep. Schye

Ted Schye
Rep. Schye

Continued

HOUSE COMMITTEE OF THE WHOLE AMENDMENT 3291700L.CW

3-29-85
DATE

5:00
TIME

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill No. 129

third reading copy (blue) as follows:
Color

1. Page 18, following line 4.
Insert: "NEW SECTION. Section 8. Construction. Nothing contained in 30-9-403 may be construed to limit the authority of the department of livestock to accept and file notices of security agreements covering branded livestock. All liens on any livestock bearing a recorded brand must be filed with the department of livestock as provided for in 81-8-301. "

Renumber: subsequent sections

2. Page 18, line 6.
Strike: "Section"
Insert: "Sections"
Following: "6"
Strike: "is"
Insert: "and 8 are"

3. Page 18, line 8.
Following: "to"
Strike: "section"
Insert: "sections"
Following: "6"
Insert: "and 8"

4. Page 18, line 10.
Following: "6"
Insert: "and 8"

HOUSE COMMITTEE OF THE WHOLE AMENDMENT

DATE

TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL No. 129

THIRD reading copy (blue) as follows:
Color

1. Page 18, line 10.
Following: "July"
Strike: "OCTOBER"
Insert: "July"

KMK

ADOPT
REJECT

Rep Ellerd
Rep. Ellerd

AB

ADOPT
REJECT

Long Smith

HOUSE COMMITTEE OF THE WHOLE AMENDMENT

4050845L.CW

AMENDMENTS TO SB 129
PAGE 2 OF 3.

PAGE 1 OF 3.

4-5-85
DATE
8:45
TIME

April 5 1985

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL No. 129

third reading copy (blue) as follows:
Color

1. Statement of Intent, line 12.
Strike: "maintenance of equipment installed in the counties"
2. Statement of Intent, line 15.
Strike: "should"
Insert: "shall"
3. Statement of Intent, line 17.
Strike: "7"
Insert: "5"
Strike: "should"
Insert: "shall"
4. Statement of Intent, line 18.
Following: "system"
Strike: remainder of line 18 through "6" on line 20.
5. Statement of Intent, line 21.
Strike: "should"
Insert: "shall"
6. Statement of Intent, line 22.
Strike: "should"
Insert: "shall"
7. Statement of Intent, line 24.
Following: "necessary"
Insert: ", including the names and addresses of the debtor, the secured party, any assignee and a description of the types of collateral covered and information relating to the priority of the secured interest. The data on the system shall not include any information relating to the financial status of any debtor or secured party. The legislature intends that the data on the system is subject to all the provisions of 2-6-109 relating to the distribution or sale of mailing lists"

8. Title, line 11.
Strike: "7-4-2621, 7-4-2631,"
9. Page 1, line 16 through page 5, line 2.
Strike: sections 1 and 2 in their entirety
Renumber: subsequent sections
10. Page 11, line 12.
Following: "SYSTEM."
Strike: remainder of line 12 through line 17
11. Page 11, line 22.
Following: "establish"
Insert: "and he shall mail a certified copy of the financing or continuation statement, with the filing fee provided in subsection (5), to the clerk and recorder of the debtor's county"
12. Page 12, line 17.
Strike: "7"
Insert: "5"
13. Page 13, line 20.
Following: "charged."
Strike: remainder of line 20 through line 22.
14. Page 15, line 7.
Following: line 6
Strike: subsection (2) in its entirety
renumber: subsequent subsection
15. Page 15, line 25.
Strike: "7"
Insert: "5"

ABORT
REJECT

CONTINUED

Rep. Spaeth

CONTINUED
Rep. Spaeth

AMENDMENTS TO SB 129
PAGE 3 OF 3.

April 5 1985

16. Page 17, line 25.
Following: "SYSTEM."
Strike: remainder of line 25 through line 4, page 18.

17. Page 18, line 6.
Strike: "6"
Insert: "4"

18. Page 18, line 8.
Strike: "6"
Insert: "4"

19. Page 18, following line 8.
Insert: "NEW SECTION. Section 7. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."
Renumber: subsequent section

20. Page 18, line 10.
Strike: "6"
Insert: "4"

21. Page 18, line 11.
Strike: "7"
Insert: "5"
Strike: "9"
Insert: "8"

HOUSE COMMITTEE OF THE WHOLE AMENDMENT

4090931L.CW

4-9-85
DATE

9:31
TIME

MR. CHAIRMAN: I MOVE TO AMEND

SENATE BILL

No. 129 #2

third reading copy (blue) as follows:
Color

1. Page 13, lines 19 and 20.
Following: "access," on line 19
Strike: "no" through "may" on line 20
Insert: "a fee commensurate with costs must"

ADOPT
REJECT

Rep. Spaeth

ADOPT
REJECT

Rep. Schye

HOUSE COMMITTEE OF THE WHOLE AMENDMENT

4-9-85
DATE

9:15
TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL No. 129

third reading copy (blue) as follows:
Color

- 1. Page 11, line 1.
Following: "statement"
Insert: "filed by a financial institution"

AS

ADOPT
REJECT

Gene Brown
Rep. ~~Gene Brown~~ *Gene Brown*

1 STATEMENT OF INTENT

2 SENATE BILL 129

3 Senate Agriculture, Livestock
4 and Irrigation Committee
5

6 A statement of intent is required for this bill because
7 it grants rulemaking authority to the secretary of state to
8 set fees and prescribe the format for the centralized filing
9 system. The legislature intends that the fee for filing a
10 financing statement under 30-9-403(8) be set at an amount
11 necessary to cover all the costs of the system, including
12 the operation of the computer, ~~maintenance--of--equipment~~
13 ~~installed--in-the-counties~~ and errors and omissions coverage
14 made necessary by implementation of the system. The fee for
15 a computer printout set pursuant to 30-9-407 ~~should~~ SHALL
16 recover the cost of the computer time, supplies, and
17 postage. The fee for filing documents set pursuant to
18 ~~section 7--should~~ 5 SHALL recover all costs of establishing
19 ~~the system--including--the-cost-of-installing-the-computer~~
20 ~~equipment-in-the-counties-required-by-section-6~~. The rules
21 governing the format for the system ~~should~~ SHALL provide for
22 easy access through telephone interconnect. The data on the
23 system ~~should~~ SHALL be essentially that contained on the
24 financing statement, ~~along--with--such--other--matters--as--the~~
25 ~~secretary-of-state-considers-necessary~~, INCLUDING THE NAMES

1 AND ADDRESSES OF THE DEBTOR, THE SECURED PARTY, ANY ASSIGNEE
2 AND A DESCRIPTION OF THE TYPES OF COLLATERAL COVERED AND
3 INFORMATION RELATING TO THE PRIORITY OF THE SECURED
4 INTEREST. THE DATA ON THE SYSTEM SHALL NOT INCLUDE ANY
5 INFORMATION RELATING TO THE FINANCIAL STATUS OF ANY DEBTOR
6 OR SECURED PARTY. THE LEGISLATURE INTENDS THAT THE DATA ON
7 THE SYSTEM IS SUBJECT TO ALL THE PROVISIONS OF 2-6-109
8 RELATING TO THE DISTRIBUTION OR SALE OF MAILING LISTS.

SENATE BILL NO. 129

INTRODUCED BY BOYLAN, THAYER, HOLLIDAY,

B. WILLIAMS, KOLSTAD, SCHULTZ, STIMATZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A CENTRALIZED FILING SYSTEM FOR SECURITY INTERESTS COVERING AGRICULTURAL PRODUCTS; PROVIDING FOR COMPUTER DATA TO BE SEARCHABLE BY PRIVATE COMPUTERS; PROVIDING AN INCREASED PENALTY FOR DEPRIVING AN AGRICULTURAL CREDITOR; APPROPRIATING FUNDS TO ESTABLISH THE SYSTEM; AMENDING SECTIONS 2-6-109, 7-4-262, 7-4-263, 30-9-401, 30-9-403, AND 30-9-407, AND 45-6-315, MCA; AND PROVIDING EFFECTIVE DATES AND AN IMPLEMENTATION SCHEDULE."

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

Section 1: Section 7-4-262, MCA, is amended to read:

"7-4-262. Search of records. (1) Upon the application of any person and upon the payment or tender of the fees therefor, the county clerk may:

(1)(a) make searches for conveyances, mortgages, and all other instruments, papers, or notices recorded or filed in his office; and

(2)(b) furnish a certificate thereof, stating the names of the parties to such instruments, papers, and notices; the dates thereof; the year, month, day, hour, and

minute they were recorded or filed; the extent to which they purport to affect the property to which they relate; and the book and pages where they are recorded;

(2) The county clerk and recorder shall during regular office hours allow access to the computer terminal provided pursuant to section 7-6, capable of accessing the secretary of state's computerized files. The terminal may be used to check those security interests filed with the secretary of state as described in 30-9-403(8). Each county clerk and recorder must have the capability of producing a printout constituting a certificate from the secretary of state pursuant to 30-9-407."

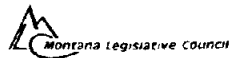
Section 2: Section 7-4-263, MCA, is amended to read:

"7-4-263. Fees of county clerk. (1) The county clerks must charge, for the use of their respective counties:

(a) for recording and indexing each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with seal affixed, \$6;

(b) for recording and indexing each affidavit of annual labor on a mining claim, including certificate that the instrument has been recorded with seal affixed;

(i) for the first mining claim in the affidavit, \$3; and



1 (ii) for each additional mining claim included in it,
 2 50 cents;
 3 (c) for filing and indexing each writ of attachment,
 4 execution, certificate of sale, lien, or other instrument
 5 required by law to be filed and indexed, §2;
 6 (d) for filing and indexing each certificate of
 7 fictitious name, §3;
 8 (e) for filing of subdivision and townsite plats, §5
 9 plus;
 10 (i) for each lot up to and including 100, 50 cents;
 11 (ii) for each additional lot in excess of 100, 25
 12 cents;
 13 (f) for filing certificates of surveys and amendments
 14 thereto, §5 plus 50 cents per tract or lot;
 15 (g) for a copy of a record or paper;
 16 (i) for the first page of any document, 50 cents, and
 17 25 cents for each subsequent page, and
 18 (ii) for each certification with seal affixed, §1;
 19 (h) for searching an index record of files of the
 20 office for each year when required in abstracting or
 21 otherwise, 50 cents;
 22 (i) for administering an oath with certificate and
 23 seal, no charge;
 24 (j) for taking and certifying an acknowledgment, with
 25 seal affixed, for signature to it, no charge;

1 (k) for documents requiring multiple indexing
 2 (including but not limited to mortgages, releases, deeds,
 3 certificates of location, affidavits of annual labor on
 4 mining claims, assignments of leases, assignments of
 5 mortgages, oil, gas, and mineral leases, releases of oil,
 6 gas, and mineral leases, assignments of overriding
 7 royalties, executions, lis pendens, attachments, and all
 8 liens), 50 cents per entry in excess of the first entry
 9 contained in a single document;
 10 (l) for filing, indexing, or other services provided
 11 for by 30-9-401 through 30-9-407, the fees prescribed in
 12 those sections;
 13 (m) for recording each stock subscription and
 14 contract, stock certificate, and articles of incorporation
 15 for water users' associations, §3;
 16 (n) for filing, recording, or indexing any other
 17 instrument not expressly provided for in this section or
 18 7-4-2632, the same fee provided in this section or 7-4-2632
 19 for a similar service;
 20 (o) for each certified copy of a birth certificate or
 21 a death certificate, §2;
 22 (p) for accessing the secretary of state's financing
 23 statement information referred to in 30-9-403(8) by means of
 24 computer and obtaining a printout CERTIFICATE §10;
 25 (2) State agencies submitting documents to be put of

1 ~~record shall pay the fees provided for in this section.~~
 2 ~~These fees must be paid by a state agency on a monthly~~
 3 ~~basis."~~

4 Section 1. Section 30-9-401, MCA, is amended to read:
 5 "30-9-401. Place of filing -- erroneous filing --
 6 removal of collateral. (1) Except for financing statements
 7 filed pursuant to 30-9-409, the proper place to file in
 8 order to perfect a security interest is as follows:

9 (a) when the collateral is ~~equipment used in farming~~
 10 ~~operations, or farm products, or accounts, or general~~
 11 ~~intangibles arising from or relating to the sale of farm~~
 12 ~~products by a farmer, or consumer goods, then in the office~~
 13 ~~of the county clerk and recorder in the county of the~~
 14 ~~debtor's residence or if the debtor is not a resident of~~
 15 ~~this state then in the office of the county clerk and~~
 16 ~~recorder in the county where the goods are kept, and in~~
 17 ~~addition when the collateral is crops growing or to be~~
 18 ~~grown, in the office of the county clerk and recorder in the~~
 19 ~~county where the land is located;~~

20 (b) when the collateral is timber to be cut or is
 21 minerals or the like (including oil and gas) or accounts
 22 subject to 30-9-103(5), or when the financing statement is
 23 filed as a fixture filing (30-9-313) and the collateral is
 24 goods which are or are to become fixtures, then in the
 25 office where a mortgage on the real estate would be filed or

1 recorded;

2 (c) in all other cases, in the office of the secretary
 3 of state.

4 (2) A filing which is made in good faith in an
 5 improper place or not in all of the places required by this
 6 section is nevertheless effective with regard to any
 7 collateral as to which the filing complied with the
 8 requirements of this chapter and is also effective with
 9 regard to collateral covered by the financing statement
 10 against any person who has knowledge of the contents of such
 11 financing statement.

12 (3) A filing which is made in the proper place in this
 13 state continues effective even though the debtor's residence
 14 or place of business or the location of the collateral or
 15 its use, whichever controlled the original filing, is
 16 thereafter changed.

17 (4) The rules stated in 30-9-103 determine whether
 18 filing is necessary in this state.

19 (5) For the purposes of this section, the residence of
 20 an organization is its place of business, if it has one, or
 21 its chief executive office if it has more than one place of
 22 business."

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

24 "30-9-403. What constitutes filing -- duration of
 25 filing -- effect of lapsed filing -- duties of filing

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

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

1 (4) Except as provided in subsection (7), 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 Except as provided in subsection (8), the
 10 uniform fees for filing, indexing, and stamping a copy
 11 furnished by the filing party to show the date and place of
 12 filing shall be the following amounts 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) If the debtor is a transmitting utility and a
 8 filed financing statement so states, it is effective until a
 9 termination statement is filed. A real estate mortgage that
 10 is effective as a fixture filing under 30-9-402(6) remains
 11 effective as a fixture filing until the mortgage is released
 12 or satisfied of record or its effectiveness otherwise
 13 terminates as to the real estate.

14 (7) When a financing statement covers timber to be cut
 15 or covers minerals or the like (including oil and gas) or
 16 accounts subject to 30-9-103(5) or is filed as a fixture
 17 filing, the filing officer shall index it under the names of
 18 the debtor and any owner of record shown on the financing
 19 statement in the same fashion as if they were the mortgagors
 20 in a mortgage of the real estate described and, to the
 21 extent that the law of this state provides for indexing of
 22 mortgages under the name of the mortgagee, under the name of
 23 the secured party as if he were the mortgagee thereunder, or
 24 if indexing is by description, in the same fashion as if the
 25 financing statement were a mortgage of the real estate

1 described.

2 (8) When a financing or continuation statement FILED
 3 BY A FINANCIAL INSTITUTION covers farm products or accounts,
 4 livestock, general intangibles arising from or relating to
 5 the sale of farm products by a farmer, crops growing or to
 6 be grown, or equipment used in farming operations, the fee
 7 for filing must be established by the secretary of state in
 8 an amount commensurate with the costs of establishing and
 9 operating the computerized access system described in
 10 subsection (9). THE SECRETARY OF STATE SHALL DEPOSIT ALL
 11 FEES HE COLLECTS IN THE STATE TREASURY AND THE FEE MONEY IS
 12 ALLOCATED TO THE SECRETARY OF STATE TO PAY THE EXPENSES OF
 13 ESTABLISHING AND OPERATING THE COMPUTERIZED ACCESS SYSTEM.
 14 ~~THE--EXPENSES--TO--BE--PAID--BY--THE--SECRETARY--OF--STATE--SHALL~~
 15 ~~INCLUDE--THE--COSTS--OF--MAINTAINING--THE--TERMINALS--AND--PRINTOUT~~
 16 ~~CAPABILITY--PROVIDED--FOR--IN--(SECTION--6(2))--AND--THE--COSTS~~
 17 ~~DIRECTLY--ATTRIBUTABLE--TO--ANY--TECHNOLOGY--USED--TO--LINK--THOSE~~
 18 ~~TERMINALS--WITH--THE--COMPUTERIZED--ACCESS--SYSTEM--DESCRIBED--IN~~
 19 ~~SUBSECTION--(9).~~

20 (9) Within one working day of receipt of a financing
 21 or continuation statement described in subsection (8), the
 22 secretary of state shall record the information contained in
 23 the statement on a centralized computer system that he shall
 24 establish AND HE SHALL MAIL A CERTIFIED COPY OF THE
 25 FINANCING OR CONTINUATION STATEMENT, WITH THE FILING FEE

1 PROVIDED IN SUBSECTION (5), TO THE CLERK AND RECORDER OF THE
 2 DEBTOR'S COUNTY. The computer system must allow access to
 3 financing statement information by any type of
 4 communications which conform to standards used by the state
 5 central computer. The system must have safeguards to allow
 6 only access to UCC data and to prevent alteration, addition,
 7 or deletion of the UCC data. The computer must be accessible
 8 whenever the state computer system is available. A perfected
 9 security interest in the collateral described in subsection
 10 (8) is not created until the financing statement information
 11 is recorded on the system. A printout of information from
 12 the system is prima facie evidence of the existence or
 13 nonexistence of the filing of a financing statement. THE
 14 SECRETARY OF STATE SHALL MAINTAIN ADEQUATE ERRORS AND
 15 OMISSIONS LIABILITY COVERAGE TO PROTECT AGAINST INPUT ERRORS
 16 CAUSING LOSS TO A SECURED PARTY.

17 (10) WHEN A FINANCING OR CONTINUATION STATEMENT COVERS
 18 PROPERTY DESCRIBED IN SUBSECTION (8), ITS EFFECTIVENESS
 19 LAPSES ON JULY 1, 1986, UNLESS PRIOR TO THAT DATE THERE IS
 20 FILED IN THE OFFICE OF THE SECRETARY OF STATE A CERTIFIED
 21 COPY OF THE STATEMENT ON FILE WITH THE COUNTY CLERK AND ALL
 22 RELATED DOCUMENTS AS PROVIDED IN [SECTION 7 5].

23 (11) FINANCING STATEMENT INFORMATION IN THE COMPUTER
 24 SYSTEM CONSTITUTES PUBLIC WRITINGS WITHIN THE MEANING OF
 25 2-6-101, BUT THE INFORMATION MAY NOT BE USED TO COMPILE

1 MAILING LISTS."

2 Section 3. Section 30-9-407, MCA, is amended to read:
 3 "30-9-407. Information from filing officer. (1) If the
 4 person filing any financing statement, termination
 5 statement, statement of assignment, or statement of release
 6 furnishes the filing officer a copy thereof, the filing
 7 officer shall upon request note upon the copy the file
 8 number and date and hour of the filing of the original and
 9 deliver or send the copy to such person.

10 (2) Upon request of any person, the filing officer
 11 shall issue his certificate showing whether there is on file
 12 on the date and hour stated therein, any presently effective
 13 financing statement naming a particular debtor and any
 14 statement of assignment thereof and, if there is, giving the
 15 date and hour of filing of each such statement and the name
 16 and address of each secured party therein. The uniform fee
 17 for such a certificate shall be set pursuant to 30-9-403.
 18 Upon request the filing officer shall furnish a copy of any
 19 filed financing statement or statement of assignment for a
 20 uniform fee of 50 cents per page.

21 (3) A computer printout from the system described in
 22 30-9-403(9) constitutes the certificate of the secretary of
 23 state as to whether there is on file, on the date and hour
 24 stated thereon, such a financing statement covering the
 25 collateral described in 30-9-403(8). The fee for requesting

1 a printout from the secretary of state must cover the cost
 2 of the printout. If a printout CERTIFICATE is made on a
 3 requestor's own computer using telephone dial-up access, no
 4 fees may A FEE COMMENSURATE WITH COSTS MUST be charged. IF A
 5 CERTIFICATE IS MADE ON A TERMINAL PROVIDED FOR IN SECTION
 6 6(2)}, ONLY THE FEE PROVIDED FOR IN 7-4-2631(1)(2) SHALL BE
 7 CHARGED."

8 Section 6. Section 45-6-315, MCA, is amended to read:
 9 "45-6-315. Defrauding creditors. (1) A person commits
 10 the offense of defrauding secured creditors if he destroys,
 11 conceals, encumbers, transfers, removes from the state, or
 12 otherwise deals with property subject to a security interest
 13 with the purpose to hinder enforcement of that interest.
 14 (2) "Security interest" means an interest in personal
 15 property or fixtures as defined in the Uniform Commercial
 16 Code (30-1-201(37)).

17 (3) A Except as provided in subsection (5), a person
 18 convicted of the offense of defrauding secured creditors
 19 shall be fined not to exceed \$500 or be imprisoned in the
 20 county jail for a term not to exceed 6 months, or both.

21 (4) A person who destroys, conceals, encumbers,
 22 transfers, removes from the state, or otherwise deals with
 23 property subject to a security interest with the purpose of
 24 depriving the owner of the property or of the proceeds and
 25 value therefrom may be prosecuted under 45-6-301.

~~{5}--A person convicted of the offense of defrauding a secured creditor, when the property subject to the security interest is property described in 30-9-403(8), shall be imprisoned in the state prison for a term of 1 year for each \$5,000 or part thereof involved and shall be liable for restitution."~~

NEW SECTION. Section 4. Rules for agricultural lien filing -- duties -- perfection and priority rights. (1) The secretary of state shall adopt rules establishing fees for filing a financing statement pursuant to 30-9-403(8) and for the cost of a printout pursuant to 30-9-407. The secretary of state may adopt rules concerning the operation of the central agricultural security interest computer filing system, prescribing such matters as format for data and the type of information to be recorded from the financing statement.

~~{2}--The secretary of state shall place a terminal capable of accessing the central computer's BCC files, in the office of each county clerk and recorder. The terminal must be capable of producing a printout constituting a certificate from the secretary of state pursuant to 30-9-407. The secretary of state shall maintain adequate errors and omissions liability coverage to protect against input errors causing loss to a secured party. THE SECRETARY OF STATE SHALL PROVIDE FOR THE INSTALLATION OF THE~~

~~TECHNOLOGY AND ANY EQUIPMENT REQUIRED TO LINK THE TERMINALS IN THE OFFICES OF EACH COUNTY CLERK AND RECORDER WITH THE COMPUTERIZED ACCESS SYSTEM PROVIDED FOR IN 30-9-403(9);~~

~~{3}(2) A financing statement covering the collateral described in 30-9-403(8) which was filed with a county clerk and recorder on July 17, 1986 PRIOR TO JULY 1, 1985, and which was sufficient on that date to perfect a security interest in the collateral described therein retains its perfection and priority rights upon being centrally filed AS PROVIDED IN [SECTION 7 5].~~

~~NEW SECTION--Section 8--Implementation--schedule--By January 17, 1986, each county clerk and recorder shall transmit to the secretary of state a certificated copy of each financing statement in effect on July 17, 1985, covering collateral described in 30-9-403(8). After July 17, 1985, the county clerk and recorder shall transmit to the secretary of state a certificated copy of each applicable financing or continuation statement at the time it is filed. Upon input into the system described in 30-9-403(9), a financing or continuation statement transmitted to the secretary of state by county clerk and recorder is considered to be centrally filed but remains in effect in the county of filing. Any filing relating to collateral described in 30-9-403(8) made after June 17, 1986, must be made in the office of the secretary of state.~~

1 ~~NEW SECTION. Section 9. Appropriation. There is~~
 2 ~~appropriated to the office of the Secretary of State,~~
 3 ~~\$250,000 from the general fund, for the biennium ending June~~
 4 ~~30, 1987, for the purpose of establishing and implementing~~
 5 ~~the centralized lien filing system required by this act.~~

6 NEW SECTION. SECTION 5. IMPLEMENTATION SCHEDULE --
 7 REFILING OF EXISTING FINANCING STATEMENTS. (1) A FINANCING
 8 OR CONTINUATION STATEMENT COVERING PROPERTY DESCRIBED IN
 9 30-9-403(8) FILED AFTER JUNE 30, 1985, MUST BE FILED IN THE
 10 OFFICE OF THE SECRETARY OF STATE.

11 (2) A FINANCING OR CONTINUATION STATEMENT THAT COVERS
 12 PROPERTY DESCRIBED IN 30-9-403(8) AND IS FILED AND OF RECORD
 13 WITH A COUNTY CLERK AND RECORDER LAPSES AS PROVIDED IN
 14 30-9-403(10).

15 (3) THE REFILING OF A FINANCING OR CONTINUATION
 16 STATEMENT IN THE OFFICE OF THE SECRETARY OF STATE THAT
 17 COVERS PROPERTY DESCRIBED IN 30-9-403(8) IS ACCOMPLISHED BY:

18 (A) PRESENTING A CERTIFIED COPY OF THE STATEMENT AS
 19 FILED AND OF RECORD WITH THE COUNTY CLERK AND RECORDER
 20 TOGETHER WITH CERTIFIED COPIES OF ALL RELATED DOCUMENTS,
 21 INCLUDING ALL CONTINUANCES, RELEASES, ASSIGNMENTS, OR
 22 AMENDMENTS;

23 (B) FILING WITH THE COUNTY CLERK AND RECORDER A NOTICE
 24 THAT THE STATEMENT AND RELATED DOCUMENTS HAVE BEEN FILED IN
 25 THE OFFICE OF THE SECRETARY OF STATE; AND

1 (C) TENDERING THE FILING FEE.

2 (4) THE SECRETARY OF STATE SHALL BY ADMINISTRATIVE
 3 RULE ESTABLISH FEES FOR FILING AND INDEXING DOCUMENTS AS
 4 REQUIRED BY THIS SECTION. THE FEES MUST BE COMMENSURATE WITH
 5 THE COSTS OF PROCESSING THE DOCUMENTS AND ESTABLISHING THE
 6 COMPUTERIZED ACCESS SYSTEM DESCRIBED IN 39-9-403(9). THE
 7 SECRETARY OF STATE SHALL DEPOSIT ALL FEES HE COLLECTS IN THE
 8 STATE TREASURY AND THE FEE MONEY IS ALLOCATED TO THE
 9 SECRETARY OF STATE TO PAY THE EXPENSES OF ESTABLISHING AND
 10 OPERATING THE COMPUTERIZED ACCESS SYSTEM. THE COSTS OF
 11 ESTABLISHING THE COMPUTERIZED ACCESS SYSTEM SHALL INCLUDE
 12 THE COSTS OF ACQUISITION AND INSTALLATION OF THE TERMINALS,
 13 PRINTOUT CAPABILITY, AND RELATED TECHNOLOGY DESCRIBED IN
 14 SECTION 6(2).

15 SECTION 6. SECTION 2-6-109, MCA, IS AMENDED TO READ:

16 "2-6-109. Prohibition on distribution or sale of
 17 mailing lists -- penalty. (1) Except as provided in
 18 subsections (3), (4), (5), and (6), in order to protect the
 19 privacy of those who deal with state and local government:

20 (a) no agency may distribute or sell for use as a
 21 mailing list any list of persons without first securing the
 22 permission of those on the list; and

23 (b) no list of persons prepared by the agency may be
 24 used as a mailing list except by the agency or another
 25 agency without first securing the permission of those on the

1 list.

2 (2) As used in this section, "agency" means any board,
3 bureau, commission, department, division, authority, or
4 officer of the state or a local government.

5 (3) This Except as provided in 30-9-403, this section
6 does not prevent an individual from compiling a mailing list
7 by examination of original documents or applications which
8 are otherwise open to public inspection.

9 (4) This section does not apply to the lists of
10 registered electors and the new voter lists provided for in
11 13-2-115 and 13-38-103, or to lists of the names of
12 employees governed by Title 39, chapter 31.

13 (5) This section shall not prevent an agency from
14 providing a list to persons providing prelicensing or
15 continuing educational courses subject to Title 20, chapter
16 30, or specifically exempted therefrom as provided in
17 20-30-102.

18 (6) This section does not apply to the right of access
19 either by Montana law enforcement agencies or, by purchase
20 or otherwise, of public records dealing with motor vehicle
21 registration.

22 (7) A person violating the provisions of subsection
23 (1)(b) is guilty of a misdemeanor."

24 NEW SECTION. SECTION 7. CONSTRUCTION. NOTHING
25 CONTAINED IN 30-9-403 MAY BE CONSTRUED TO LIMIT THE

1 AUTHORITY OF THE DEPARTMENT OF LIVESTOCK TO ACCEPT AND FILE
2 NOTICES OF SECURITY AGREEMENTS COVERING BRANDED LIVESTOCK.
3 ALL LIENS ON ANY LIVESTOCK BEARING A RECORDED BRAND MUST BE
4 FILED WITH THE DEPARTMENT OF LIVESTOCK AS PROVIDED FOR IN
5 81-8-301.

6 NEW SECTION. Section 8. Codification instruction.
7 Section 7 6 is SECTIONS 4 AND 7 ARE intended to be codified
8 as an integral part of Title 30, chapter 9, and the
9 provisions of Title 30, chapter 9, apply to section 7 6
10 SECTIONS 4 AND 7.

11 NEW SECTION. SECTION 9. SEVERABILITY. IF A PART OF
12 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM
13 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS
14 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS
15 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM
16 THE INVALID APPLICATIONS.

17 NEW SECTION. Section 10. Effective dates. (1)
18 Sections 1 through 4, 6, AND 7 are effective July OCTOBER
19 JULY 1, 1986.

20 (2) Sections 7 5 AND 8 through 11 9 10 are effective
21 on passage and approval.

-End-