

HOUSE BILL NO. 29  
INTRODUCED BY BARDANOUE

IN THE HOUSE

JANUARY 5, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
FEBRUARY 19, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.  STATEMENT OF INTENT ADOPTED.
FEBRUARY 20, 1987	PRINTING REPORT.
FEBRUARY 21, 1987	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 23, 1987	SECOND READING, DO PASS.  ON MOTION, TAKEN FROM ENGROSSING AND REREFERRED TO COMMITTEE ON APPROPRIATIONS.
FEBRUARY 24, 1987	ENGROSSING REPORT.
MARCH 4, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 5, 1987	PRINTING REPORT.
MARCH 6, 1987	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 7, 1987	ON MOTION, CONSIDERATION PASSED UNTIL THE 55TH LEGISLATIVE DAY.
MARCH 13, 1987	SECOND READING, DO PASS.
MARCH 14, 1987	ENGROSSING REPORT.  THIRD READING, PASSED. AYES, 97; NOES, 0.  TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 16, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON STATE ADMINISTRATION.

MARCH 25, 1987                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 28, 1987                   ON MOTION, CONSIDERATION PASSED  
FOR THE DAY.

APRIL 1, 1987                    SECOND READING, CONCURRED IN.

APRIL 2, 1987                    THIRD READING, CONCURRED IN.  
AYES, 50; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 3, 1987                    RECEIVED FROM SENATE.

SENT TO ENROLLING.



1 department ownership records held by the agency. Acquisition  
2 of state land after October 1, 1986, is final and valid only  
3 upon filing the ownership records of the newly acquired  
4 state land with the department.

5 NEW SECTION. Section 4. Department to maintain  
6 repository. The department shall provide a secure yet  
7 accessible repository for the ownership records of state  
8 land.

9 NEW SECTION. Section 5. Index and verification of  
10 ownership records. The department shall:

11 (1) establish and maintain a filing system and index  
12 of the following information on state land:

- 13 (a) legal description of the land;  
14 (b) when the land was acquired or disposed of;  
15 (c) name of the state agency administering or  
16 disposing of the land; and  
17 (d) name of the grantor or grantee;  
18 (2) verify the accuracy of information contained in  
19 the ownership records; and  
20 (3) perfect title to state land whenever necessary.

21 NEW SECTION. Section 6. Treatment of highway lands.  
22 The department of highways is not required to file with the  
23 department of state lands records of land used for highway  
24 or road construction but is required to file with the  
25 department of state lands ownership records of state land

1 held on a permanent basis.

2 Section 7. Section 2-6-111, MCA, is amended to read:

3 "2-6-111. Custody and reproduction of records by  
4 secretary of state. (1) The secretary of state is charged  
5 with the custody of:

- 6 (a) the enrolled copy of the constitution;  
7 (b) all the acts and resolutions passed by the  
8 legislature;  
9 (c) the journals of the legislature;  
10 (d) the great seal;  
11 (e) all books, records, deeds, parchments, maps, and  
12 papers kept or deposited in his office pursuant to law.

13 (2) All records included in subsection (1) may be kept  
14 and recorded by photostatic or microphotographic means,  
15 microfilm, or any other mechanical process that produces a  
16 clear, accurate, and permanent duplicate of the original  
17 record in accordance with standards not less than those  
18 approved for permanent records by the American national  
19 standards institute.

20 (3) The state records committee created by 2-15-1013  
21 may approve the disposal of original records once those  
22 records are reproduced as provided for in subsection (2),  
23 unless disposal takes the form of transfer of records; in  
24 that case, reproduction will not be necessary. The  
25 reproduction, or certified copy thereof, may be used in

1 place of the original for all purposes, including as  
2 evidence in any court or proceeding, and shall have the same  
3 force and effect as the original record.

4 (4) The secretary of state shall prepare enlarged  
5 typed or photographic copies of the records whenever their  
6 production is required by law.

7 (5) At least two copies shall be made of all records  
8 reproduced as provided for in subsection (2). The secretary  
9 of state shall place one copy in a fireproof storage place  
10 and shall retain the other copy in his office with suitable  
11 equipment for displaying such record by projection to not  
12 less than its original size and for preparing, for persons  
13 entitled thereto, copies of the record.

14 (6) All duplicates of all records shall be identified  
15 and indexed."

16 Section 8. Section 2-15-401, MCA, is amended to read:  
17 "2-15-401. Duties of secretary of state. In addition  
18 to the duties prescribed by the constitution, it is the duty  
19 of the secretary of state to:

20 (1) attend at every session of the legislature for the  
21 purpose of receiving bills and resolutions and to perform  
22 such other duties as may be devolved upon him by resolution  
23 of the two houses or either of them;

24 (2) keep a register of and attest the official acts of  
25 the governor, including all appointments made by him, with

1 date of commission and names of appointees and predecessors;

2 (3) affix the great seal, with his attestation, to  
3 commissions, pardons, and other public instruments to which  
4 the official signature of the governor is required;

5 (4) record in proper books ~~all conveyances made to the~~  
6 ~~state and~~ all articles of incorporation filed in his office;

7 (5) take and file in his office receipts for all books  
8 distributed by him and direct the county clerk of each  
9 county to do the same;

10 (6) certify to the governor the names of those persons  
11 who have received at any election the highest number of  
12 votes for any office, the incumbent of which is commissioned  
13 by the governor;

14 (7) furnish, on demand, to any person paying the fees  
15 therefor, a certified copy of all or any part of any law,  
16 record, or other instrument filed, deposited, or recorded in  
17 his office;

18 (8) keep a fee book in which must be entered all fees,  
19 commissions, and compensation of whatever nature or kind by  
20 him earned, collected, or charged, with the date, name of  
21 payer, paid or unpaid, and the nature of the service in each  
22 case, which book must be verified annually by his affidavit  
23 entered therein;

24 (9) file in his office descriptions of seals in use by  
25 the different state officers;

1 (10) discharge the duties of member of the board of  
2 examiners and of the board of land commissioners and all  
3 other duties required of him by law;

4 (11) register marks as provided in Title 30, chapter  
5 13, part 3;

6 (12) report annually to the legislative council all  
7 watercourse name changes received pursuant to 85-2-134 for  
8 publication in the Laws of Montana;

9 (13) keep a register of all applications for pardon or  
10 for commutation of any sentence, with a list of the official  
11 signatures and recommendations in favor of each  
12 application."

13 Section 9. Section 77-1-101, MCA, is amended to read:

14 "77-1-101. Definitions. Unless the context requires  
15 otherwise and except for the definition of state land in  
16 [section 1], in this title the following definitions apply:

17 (1) "Department" means the department of state lands  
18 provided for in Title 2, chapter 15, part 32.

19 (2) "Board" means the board of land commissioners  
20 provided for in Article X, section 4, of the constitution of  
21 this state.

22 (3) "Commissioner" means the commissioner of state  
23 lands provided for in 2-15-3202.

24 (4) "State land" or "lands" means lands granted to the  
25 state by the United States for any purpose, either directly

1 or through exchange for other lands; lands deeded or devised  
2 to the state from any person; and lands that are the  
3 property of the state through the operation of law. The  
4 term does not include lands the state conveys through the  
5 issuance of patent; lands used for building sites, campus  
6 grounds, or experimental purposes by any state institution  
7 that are the property of that institution; or lands acquired  
8 through foreclosure of any investments purchased under the  
9 provisions of 17-6-211."

10 NEW SECTION. Section 10. Repealer. Sections 2-17-121  
11 through 2-17-126, MCA, are repealed.

12 NEW SECTION. Section 11. Severability. If a part of  
13 this act is invalid, all valid parts that are severable from  
14 the invalid part remain in effect. If a part of this act is  
15 invalid in one or more of its applications, the part remains  
16 in effect in all valid applications that are severable from  
17 the invalid applications.

18 NEW SECTION. Section 12. Codification instruction.  
19 Sections 1 through 6 are intended to be codified as an  
20 integral part of Title 77, chapter 1, and the provisions of  
21 Title 77, chapter 1, apply to sections 1 through 6.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB029, as introduced.


DESCRIPTION OF PROPOSED LEGISLATION:

The proposed legislation transfers all non-trust state land ownership records from the Secretary of State's Office to the Department of State Lands (DSL), with the exception of land ownership records that pertain to the Department of Highway's Rights-of-Way. The legislation requires that DSL maintain a repository and index of ownership records of non-trust state lands in a specified format and that all acquisition and transfers of non-trust state lands have to be filed with DSL before the transactions are valid.

ASSUMPTIONS:

1. That before the titles to non-trust state lands can be filed or indexed, all land ownership records will have to be abstracted by a qualified abstractor to satisfy the requirements of Section 5(2).
2. Ownership data will reside on the Department of Administration's computer and that the Department of State Lands will be responsible for establishing and maintaining the system. Original data entry to develop the index and updates will also be the responsibility of DSL.
3. The programs that operate the existing ownership system for trust lands will be used to index non-trust state-owned lands.
4. A storage facility and shelving will have to be acquired by DSL to file deeds and abstracts for approximately 4228 parcels of non-trust state-owned land.
5. Section 5(3) of the bill states that DSL shall perfect title to state land whenever necessary. DSL will only perform this function to the degree available by utilizing existing personnel and funds.
6. Ownership and conveyance records currently held by the Secretary of State are not filed in the separate categories spelled out in Section 2 of the bill. Therefore, individual records will need to be examined and categorized, prior to transfer to DSL.
7. In accordance with Section 2(2) of the bill, records of land held or administered by the Department of Highways for highway or road construction to the highways, shall be transferred to the Department of Highways. There are approximately 40,000 documents to be transferred.
8. The Department of Highways will provide the necessary and adequate storage area and cabinets to store the transferred documents.
9. There is no reduction in expenditures in the Secretary of State's Office because the office only serves as a storage area. The duties associated with this service are minimal.

 DATE 1/14/87  
DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

 DATE Jan. 15<sup>a</sup>  
FRANCIS BARDANOUE, PRIMARY SPONSOR

Fiscal Note for HB029, as introduced.

FISCAL IMPACT:

Expenditures:

	<u>Proposed Law</u>	
	<u>FY88</u>	<u>FY89</u>
Department of Highways		
Personal Services (.66 FTE)	\$ 10,920	\$ 0
Equipment	15,675	0
TOTAL	\$ 26,595	\$ 0
Funding -		
State Special Revenue	\$ 26,595	\$ 0
Department of State Lands		
Personal Services (2 FTE)	\$ 47,056	\$ 47,056
Equipment	4,950	3,300
Operating Expenses	18,800	11,800
TOTAL	\$ 70,806	\$ 62,156
Funding -		
General Fund	\$ 70,806	\$ 62,156
Secretary of State		
Personal Services (.33 FTE)	\$ 5,667	\$ 0
Funding -		
General Fund	\$ 5,667	\$ 0
TOTAL GENERAL FUND	\$ 76,473	\$ 62,156
TOTAL STATE SPECIAL REVENUE	\$ 26,595	\$ 0

Revenues:

N/A

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A



APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

STATEMENT OF INTENT

HOUSE BILL 29

House State Administration Committee

A statement of intent is required for this bill because it grants rulemaking authority to the department of state lands to implement and administer the transfer and filing of ownership records of state lands.

Currently, certain records regarding state ownership of land are held by the secretary of state. This bill requires the secretary of state to transfer these records to the department of state lands by November 1, 1987. It further requires the department of state lands to transfer records of land held or administered by the department of highways for highway rights-of-way and maintenance to that department. Finally, the bill requires the department of state lands to transfer any remaining ownership records, other than those of state lands, to the state agency administering the interest or property described in such records.

The legislature intends that the department of state lands be the sole repository for records of all state lands owned by virtue of fee simple title, grant, or deed except for land specifically excluded under the bill. State land with buildings attached to it and used by the department of

highways for maintenance must be recorded on records maintained by the department of state lands.

It is intended that the department of state lands may adopt rules to specify which records will be kept by the department and which records will be transferred to other agencies, including records of lesser interests such as leases. In addition, it is intended that the rules clarify which records must be filed in the future with the department of state lands and specify the format that the records must follow to ensure a reliable and uniform body of records and index as required under section 5.

## HOUSE BILL NO. 29

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING STATE OWNERSHIP RECORDS OF STATE LANDS FROM THE SECRETARY OF STATE AND ~~OTHER STATE AGENCIES~~ TO THE DEPARTMENT OF STATE LANDS; TRANSFERRING REQUIRING THE DEPARTMENT OF STATE LANDS TO TRANSFER RECORDS OF OTHER STATE PROPERTY INTERESTS FROM THE SECRETARY OF STATE TO THE STATE AGENCY ADMINISTERING THE PROPERTY; REQUIRING THE DEPARTMENT OF STATE LANDS TO MAINTAIN A REPOSITORY AND INDEX OF OWNERSHIP RECORDS OF STATE LANDS; ~~PROVIDING THAT ACQUISITION OF STATE LAND IS VALID UPON FILING~~ REQUIRING STATE AGENCIES TO FILE OWNERSHIP RECORDS WITH THE DEPARTMENT OF STATE LANDS; GRANTING RULEMAKING AUTHORITY TO THE DEPARTMENT OF STATE LANDS; AMENDING SECTIONS 2-6-111, 2-15-401, AND 77-1-101, MCA; AND REPEALING SECTIONS 2-17-121 THROUGH 2-17-126, MCA."

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

NEW SECTION. Section 1. Definitions. When used in [sections 1 through 6], unless a different meaning clearly appears from the context, the following definitions apply:

~~{1} "Conveyance record" means the original deed, abstract, and any other instrument signifying a state interest in property other than state land;~~

~~{2}~~{1} "Ownership record" means the original deed, abstract, and any other instrument signifying STATE ownership of state land OR OTHER INTEREST IN REAL PROPERTY.

~~{3}~~{2} "State agency" means any board, bureau, department, commission, or officer of the state.

~~{4}~~{3} "State land" means land held, possessed, or administered by the state by virtue of FEE SIMPLE title, grant, or deed. This term does not include:

(a) land acquired through foreclosure of any investments purchased under the provisions of 17-6-211;

(b) land used by virtue of an interest temporary in nature, such as a lease, license, or permit; or

(c) land used for easements and rights-of-way.

NEW SECTION. Section 2. Transfer of records held by secretary of state. By November 1, 1987, the secretary of state shall transfer:

~~{1}~~ ALL ownership records ~~of state lands~~ ON FILE IN HIS OFFICE to the department of state lands;

~~{2}~~ THE DEPARTMENT OF STATE LANDS SHALL FURTHER TRANSFER THE records of land held or administered by the department of highways for highway ~~or road construction~~ RIGHTS-OF-WAY AND MAINTENANCE to the department of highways; and

~~{3}~~ any remaining conveyance OWNERSHIP records, OTHER THAN THOSE OF STATE LANDS, to the state agency administering

1 the interest or property described in the conveyance SUCH  
 2 RECORDS.

3 NEW SECTION. Section 3. ~~Acquisition of state land~~  
 4 ~~valid only upon filing with department~~ FILING OF OWNERSHIP  
 5 RECORDS. Except as provided in [section 6], state agencies  
 6 shall file with the department ownership records OF STATE  
 7 LANDS held by the agency. ~~Acquisition of state land after~~  
 8 ~~October 17, 1986, is final and valid only upon filing the~~  
 9 ~~ownership records of the newly acquired state land with the~~  
 10 ~~department.~~

11 NEW SECTION. Section 4. Department to maintain  
 12 repository. The department shall provide a secure yet  
 13 accessible repository for the ownership records of state  
 14 land.

15 NEW SECTION. Section 5. Index and verification of  
 16 ownership records. (1) The department shall:

17 {1} establish and maintain a filing system and index  
 18 of the following information on state land:

- 19 (a) legal description of the land;
- 20 (b) when the land was acquired or disposed of;
- 21 (c) name of the state agency administering or
- 22 disposing of the land; and
- 23 (d) name of the grantor or grantee.

24 (2) TO THE EXTENT FEASIBLE WITHIN AVAILABLE FUNDING  
 25 AND PERSONNEL, THE DEPARTMENT SHALL:

1 (A) verify the accuracy of information contained in  
 2 the ownership records; and

3 {3}(B) perfect title to state land whenever necessary.

4 NEW SECTION. Section 6. Treatment of highway lands.  
 5 The department of highways is not required to file with the  
 6 department of state lands records of land used for highway  
 7 or road construction RIGHTS-OF-WAY AND MAINTENANCE but is  
 8 required to file with the department of state lands  
 9 ownership records of state land held on a permanent basis  
 10 FOR ADMINISTRATIVE PURPOSES.

11 NEW SECTION. SECTION 7. RULES. THE DEPARTMENT OF  
 12 STATE LANDS MAY ADOPT RULES FOR IMPLEMENTING AND  
 13 ADMINISTERING [SECTIONS 1 THROUGH 6] CONCERNING TRANSFER AND  
 14 FILING OF OWNERSHIP RECORDS.

15 Section 8. Section 2-6-111, MCA, is amended to read:

16 "2-6-111. Custody and reproduction of records by  
 17 secretary of state. (1) The secretary of state is charged  
 18 with the custody of:

- 19 (a) the enrolled copy of the constitution;
- 20 (b) all the acts and resolutions passed by the
- 21 legislature;
- 22 (c) the journals of the legislature;
- 23 (d) the great seal;
- 24 (e) all books, records, deeds, parchments, maps, and
- 25 papers kept or deposited in his office pursuant to law.

1           (2) All records included in subsection (1) may be kept  
2 and recorded by photostatic or microphotographic means,  
3 microfilm, or any other mechanical process that produces a  
4 clear, accurate, and permanent duplicate of the original  
5 record in accordance with standards not less than those  
6 approved for permanent records by the American national  
7 standards institute.

8           (3) The state records committee created by 2-15-1013  
9 may approve the disposal of original records once those  
10 records are reproduced as provided for in subsection (2),  
11 unless disposal takes the form of transfer of records; in  
12 that case, reproduction will not be necessary. The  
13 reproduction, or certified copy thereof, may be used in  
14 place of the original for all purposes, including as  
15 evidence in any court or proceeding, and shall have the same  
16 force and effect as the original record.

17           (4) The secretary of state shall prepare enlarged  
18 typed or photographic copies of the records whenever their  
19 production is required by law.

20           (5) At least two copies shall be made of all records  
21 reproduced as provided for in subsection (2). The secretary  
22 of state shall place one copy in a fireproof storage place  
23 and shall retain the other copy in his office with suitable  
24 equipment for displaying such record by projection to not  
25 less than its original size and for preparing, for persons

1 entitled thereto, copies of the record.

2           (6) All duplicates of all records shall be identified  
3 and indexed."

4           Section 9. Section 2-15-401, MCA, is amended to read:  
5 "2-15-401. Duties of secretary of state. In addition  
6 to the duties prescribed by the constitution, it is the duty  
7 of the secretary of state to:

8           (1) attend at every session of the legislature for the  
9 purpose of receiving bills and resolutions and to perform  
10 such other duties as may be devolved upon him by resolution  
11 of the two houses or either of them;

12           (2) keep a register of and attest the official acts of  
13 the governor, including all appointments made by him, with  
14 date of commission and names of appointees and predecessors;

15           (3) affix the great seal, with his attestation, to  
16 commissions, pardons, and other public instruments to which  
17 the official signature of the governor is required;

18           (4) record in proper books ~~all conveyances made to the~~  
19 ~~state and~~ all articles of incorporation filed in his office;

20           (5) take and file in his office receipts for all books  
21 distributed by him and direct the county clerk of each  
22 county to do the same;

23           (6) certify to the governor the names of those persons  
24 who have received at any election the highest number of  
25 votes for any office, the incumbent of which is commissioned

1 by the governor;

2 (7) furnish, on demand, to any person paying the fees

3 therefor, a certified copy of all or any part of any law,

4 record, or other instrument filed, deposited, or recorded in

5 his office;

6 (8) keep a fee book in which must be entered all fees,

7 commissions, and compensation of whatever nature or kind by

8 him earned, collected, or charged, with the date, name of

9 payer, paid or unpaid, and the nature of the service in each

10 case, which book must be verified annually by his affidavit

11 entered therein;

12 (9) file in his office descriptions of seals in use by

13 the different state officers;

14 (10) discharge the duties of member of the board of

15 examiners and of the board of land commissioners and all

16 other duties required of him by law;

17 (11) register marks as provided in Title 30, chapter

18 13, part 3;

19 (12) report annually to the legislative council all

20 watercourse name changes received pursuant to 85-2-134 for

21 publication in the Laws of Montana;

22 (13) keep a register of all applications for pardon or

23 for commutation of any sentence, with a list of the official

24 signatures and recommendations in favor of each

25 application."

1 Section 10. Section 77-1-101, MCA, is amended to read:

2 "77-1-101. Definitions. Unless the context requires

3 otherwise and except for the definition of state land in

4 [section 1], in this title the following definitions apply:

5 (1) "Department" means the department of state lands

6 provided for in Title 2, chapter 15, part 32.

7 (2) "Board" means the board of land commissioners

8 provided for in Article X, section 4, of the constitution of

9 this state.

10 (3) "Commissioner" means the commissioner of state

11 lands provided for in 2-15-3202.

12 (4) "State land" or "lands" means lands granted to the

13 state by the United States for any purpose, either directly

14 or through exchange for other lands; lands deeded or devised

15 to the state from any person; and lands that are the

16 property of the state through the operation of law. The

17 term does not include lands the state conveys through the

18 issuance of patent; lands used for building sites, campus

19 grounds, or experimental purposes by any state institution

20 that are the property of that institution; or lands acquired

21 through foreclosure of any investments purchased under the

22 provisions of 17-6-211."

23 NEW SECTION. Section 11. Repealer. Sections 2-17-121

24 through 2-17-126, MCA, are repealed.

25 NEW SECTION. Section 12. Severability. If a part of

1 this act is invalid, all valid parts that are severable from  
2 the invalid part remain in effect. If a part of this act is  
3 invalid in one or more of its applications, the part remains  
4 in effect in all valid applications that are severable from  
5 the invalid applications.

6 NEW SECTION. Section 13. Codification instruction.  
7 Sections 1 through 6 7 are intended to be codified as an  
8 integral part of Title 77, chapter 1, and the provisions of  
9 Title 77, chapter 1, apply to sections 1 through 6 7.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 29

3 House State Administration Committee

4  
5 A statement of intent is required for this bill because  
6 it grants rulemaking authority to the department of state  
7 lands to implement and administer the transfer and filing of  
8 ownership records of state lands.

9 Currently, certain records regarding state ownership of  
10 land are held by the secretary of state. This bill requires  
11 the secretary of state to transfer these records to the  
12 department of state lands by November 1, 1987. It further  
13 requires the department of state lands to transfer records  
14 of land held or administered by the department of highways  
15 for highway rights-of-way and maintenance to that  
16 department. Finally, the bill requires the department of  
17 state lands to transfer any remaining ownership records,  
18 other than those of state lands, to the state agency  
19 administering the interest or property described in such  
20 records.

21 The legislature intends that the department of state  
22 lands be the sole repository for records of all state lands  
23 owned by virtue of fee simple title, grant, or deed except  
24 for land specifically excluded under the bill. State land  
25 with buildings attached to it and used by the department of

1 highways for maintenance must be recorded on records  
2 maintained by the department of state lands.

3 It is intended that the department of state lands may  
4 adopt rules to specify which records will be kept by the  
5 department and which records will be transferred to other  
6 agencies, including records of lesser interests such as  
7 leases. In addition, it is intended that the rules clarify  
8 which records must be filed in the future with the  
9 department of state lands and specify the format that the  
10 records must follow to ensure a reliable and uniform body of  
11 records and index as required under section 5.

THIRD READING  
HB-29

## HOUSE BILL NO. 29

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING STATE OWNERSHIP RECORDS OF STATE LANDS FROM THE SECRETARY OF STATE AND OTHER STATE AGENCIES TO THE DEPARTMENT OF STATE LANDS; TRANSFERRING REQUIRING THE DEPARTMENT OF STATE LANDS TO TRANSFER RECORDS OF OTHER STATE PROPERTY INTERESTS FROM THE SECRETARY OF STATE TO THE STATE AGENCY ADMINISTERING THE PROPERTY; REQUIRING THE DEPARTMENT OF STATE LANDS TO MAINTAIN A REPOSITORY AND INDEX OF OWNERSHIP RECORDS OF STATE LANDS; PROVIDING THAT ACQUISITION OF STATE LAND IS VALID UPON FILING REQUIRING STATE AGENCIES TO FILE OWNERSHIP RECORDS WITH THE DEPARTMENT OF STATE LANDS; GRANTING RULEMAKING AUTHORITY TO THE DEPARTMENT OF STATE LANDS; AMENDING SECTIONS 2-6-111, 2-15-401, AND 77-1-101, MCA; AND REPEALING SECTIONS 2-17-121 THROUGH 2-17-126, MCA."

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

NEW SECTION. Section 1. Definitions. When used in [sections 1 through 6], unless a different meaning clearly appears from the context, the following definitions apply:

{1}--"conveyance record"--means--the--original--deed, abstract, and any other instrument signifying a state interest in property other than state land.

{2}{1} "Ownership record" means the original deed, abstract, and any other instrument signifying STATE ownership of state land OR OTHER INTEREST IN REAL PROPERTY.

{3}{2} "State agency" means any board, bureau, department, commission, or officer of the state.

{4}{3} "State land" means land held, possessed, or administered by the state by virtue of FEE SIMPLE title, grant, or deed. This term does not include:

(a) land acquired through foreclosure of any investments purchased under the provisions of 17-6-211;

(b) land used by virtue of an interest temporary in nature, such as a lease, license, or permit; or

(c) land used for easements and rights-of-way.

NEW SECTION. Section 2. Transfer of records held by secretary of state. By November 1, 1987, the secretary of state shall transfer:

{1} ALL ownership records of state lands ON FILE IN HIS OFFICE to the department of state lands.

{2} THE DEPARTMENT OF STATE LANDS SHALL FURTHER TRANSFER THE records of land held or administered by the department of highways for highway or road construction RIGHTS-OF-WAY AND MAINTENANCE to the department of highways; and

{3} any remaining conveyance OWNERSHIP records, OTHER THAN THOSE OF STATE LANDS, to the state agency administering



1 the interest or property described in the conveyance SUCH  
 2 RECORDS.

3 NEW SECTION. Section 3. Acquisition of state land  
 4 valid only upon filing with department FILING OF OWNERSHIP  
 5 RECORDS. Except as provided in [section 6], state agencies  
 6 shall file with the department ownership records OF STATE  
 7 LANDS held by the agency. Acquisition of state land after  
 8 October 17, 1986, is final and valid only upon filing the  
 9 ownership records of the newly acquired state land with the  
 10 department.

11 NEW SECTION. Section 4. Department to maintain  
 12 repository. The department shall provide a secure yet  
 13 accessible repository for the ownership records of state  
 14 land.

15 NEW SECTION. Section 5. Index and verification of  
 16 ownership records. (1) The department shall:

17 (1) establish and maintain a filing system and index  
 18 of the following information on state land:

- 19 (a) legal description of the land;
- 20 (b) when the land was acquired or disposed of;
- 21 (c) name of the state agency administering or
- 22 disposing of the land; and
- 23 (d) name of the grantor or grantee;

24 (2) TO THE EXTENT FEASIBLE WITHIN AVAILABLE FUNDING  
 25 AND PERSONNEL, THE DEPARTMENT SHALL:

1 (A) verify the accuracy of information contained in  
 2 the ownership records; and

3 (B) perfect title to state land whenever necessary.

4 NEW SECTION. Section 6. Treatment of highway lands.  
 5 The department of highways is not required to file with the  
 6 department of state lands records of land used for highway  
 7 or road construction RIGHTS-OF-WAY AND MAINTENANCE but is  
 8 required to file with the department of state lands  
 9 ownership records of state land held on a permanent basis  
 10 FOR ADMINISTRATIVE PURPOSES.

11 NEW SECTION. SECTION 7. RULES. THE DEPARTMENT OF  
 12 STATE LANDS MAY ADOPT RULES FOR IMPLEMENTING AND  
 13 ADMINISTERING [SECTIONS 1 THROUGH 6] CONCERNING TRANSFER AND  
 14 FILING OF OWNERSHIP RECORDS.

15 Section 8. Section 2-6-111, MCA, is amended to read:

16 "2-6-111. Custody and reproduction of records by  
 17 secretary of state. (1) The secretary of state is charged  
 18 with the custody of:

- 19 (a) the enrolled copy of the constitution;
- 20 (b) all the acts and resolutions passed by the
- 21 legislature;
- 22 (c) the journals of the legislature;
- 23 (d) the great seal;
- 24 (e) all books, records, deeds, parchments, maps, and
- 25 papers kept or deposited in his office pursuant to law.

1 (2) All records included in subsection (1) may be kept  
 2 and recorded by photostatic or microphotographic means,  
 3 microfilm, or any other mechanical process that produces a  
 4 clear, accurate, and permanent duplicate of the original  
 5 record in accordance with standards not less than those  
 6 approved for permanent records by the American national  
 7 standards institute.

8 (3) The state records committee created by 2-15-1013  
 9 may approve the disposal of original records once those  
 10 records are reproduced as provided for in subsection (2),  
 11 unless disposal takes the form of transfer of records; in  
 12 that case, reproduction will not be necessary. The  
 13 reproduction, or certified copy thereof, may be used in  
 14 place of the original for all purposes, including as  
 15 evidence in any court or proceeding, and shall have the same  
 16 force and effect as the original record.

17 (4) The secretary of state shall prepare enlarged  
 18 typed or photographic copies of the records whenever their  
 19 production is required by law.

20 (5) At least two copies shall be made of all records  
 21 reproduced as provided for in subsection (2). The secretary  
 22 of state shall place one copy in a fireproof storage place  
 23 and shall retain the other copy in his office with suitable  
 24 equipment for displaying such record by projection to not  
 25 less than its original size and for preparing, for persons

1 entitled thereto, copies of the record.

2 (6) All duplicates of all records shall be identified  
 3 and indexed."

4 Section 9. Section 2-15-401, MCA, is amended to read:  
 5 "2-15-401. Duties of secretary of state. In addition  
 6 to the duties prescribed by the constitution, it is the duty  
 7 of the secretary of state to:

8 (1) attend at every session of the legislature for the  
 9 purpose of receiving bills and resolutions and to perform  
 10 such other duties as may be devolved upon him by resolution  
 11 of the two houses or either of them;

12 (2) keep a register of and attest the official acts of  
 13 the governor, including all appointments made by him, with  
 14 date of commission and names of appointees and predecessors;

15 (3) affix the great seal, with his attestation, to  
 16 commissions, pardons, and other public instruments to which  
 17 the official signature of the governor is required;

18 (4) record in proper books ~~all conveyances made to the~~  
 19 ~~state and~~ all articles of incorporation filed in his office;

20 (5) take and file in his office receipts for all books  
 21 distributed by him and direct the county clerk of each  
 22 county to do the same;

23 (6) certify to the governor the names of those persons  
 24 who have received at any election the highest number of  
 25 votes for any office, the incumbent of which is commissioned

1 by the governor;

2 (7) furnish, on demand, to any person paying the fees  
3 therefor, a certified copy of all or any part of any law,  
4 record, or other instrument filed, deposited, or recorded in  
5 his office;

6 (8) keep a fee book in which must be entered all fees,  
7 commissions, and compensation of whatever nature or kind by  
8 him earned, collected, or charged, with the date, name of  
9 payer, paid or unpaid, and the nature of the service in each  
10 case, which book must be verified annually by his affidavit  
11 entered therein;

12 (9) file in his office descriptions of seals in use by  
13 the different state officers;

14 (10) discharge the duties of member of the board of  
15 examiners and of the board of land commissioners and all  
16 other duties required of him by law;

17 (11) register marks as provided in Title 30, chapter  
18 13, part 3;

19 (12) report annually to the legislative council all  
20 watercourse name changes received pursuant to 85-2-134 for  
21 publication in the Laws of Montana;

22 (13) keep a register of all applications for pardon or  
23 for commutation of any sentence, with a list of the official  
24 signatures and recommendations in favor of each  
25 application."

1 Section 10. Section 77-1-101, MCA, is amended to read:  
2 "77-1-101. Definitions. Unless the context requires  
3 otherwise and except for the definition of state land in  
4 [section 1], in this title the following definitions apply:

5 (1) "Department" means the department of state lands  
6 provided for in Title 2, chapter 15, part 32.

7 (2) "Board" means the board of land commissioners  
8 provided for in Article X, section 4, of the constitution of  
9 this state.

10 (3) "Commissioner" means the commissioner of state  
11 lands provided for in 2-15-3202.

12 (4) "State land" or "lands" means lands granted to the  
13 state by the United States for any purpose, either directly  
14 or through exchange for other lands; lands deeded or devised  
15 to the state from any person; and lands that are the  
16 property of the state through the operation of law. The  
17 term does not include lands the state conveys through the  
18 issuance of patent; lands used for building sites, campus  
19 grounds, or experimental purposes by any state institution  
20 that are the property of that institution; or lands acquired  
21 through foreclosure of any investments purchased under the  
22 provisions of 17-6-211."

23 NEW SECTION. Section 11. Repealer. Sections 2-17-121  
24 through 2-17-126, MCA, are repealed.

25 NEW SECTION. Section 12. Severability. If a part of

1 this act is invalid, all valid parts that are severable from  
2 the invalid part remain in effect. If a part of this act is  
3 invalid in one or more of its applications, the part remains  
4 in effect in all valid applications that are severable from  
5 the invalid applications.

6 NEW SECTION. Section 13. Codification instruction.  
7 Sections 1 through 6 7 are intended to be codified as an  
8 integral part of Title 77, chapter 1, and the provisions of  
9 Title 77, chapter 1, apply to sections 1 through 6 7.

-End-

STATEMENT OF INTENT

HOUSE BILL 29

House State Administration Committee

A statement of intent is required for this bill because it grants rulemaking authority to the department of state lands to implement and administer the transfer and filing of ownership records of state lands.

Currently, certain records regarding state ownership of land are held by the secretary of state. This bill requires the secretary of state to transfer these records to the department of state lands by November 1, 1987. It further requires the department of state lands to transfer records of land held or administered by the department of highways for highway rights-of-way and maintenance to that department. Finally, the bill requires the department of state lands to transfer any remaining ownership records, other than those of state lands, to the state agency administering the interest or property described in such records.

The legislature intends that the department of state lands be the sole repository for records of all state lands owned by virtue of fee simple title, grant, or deed except for land specifically excluded under the bill. State land with buildings attached to it and used by the department of

highways for maintenance must be recorded on records maintained by the department of state lands.

It is intended that the department of state lands may adopt rules to specify which records will be kept by the department and which records will be transferred to other agencies, including records of lesser interests such as leases. In addition, it is intended that the rules clarify which records must be filed in the future with the department of state lands and specify the format that the records must follow to ensure a reliable and uniform body of records and index as required under section 5.

1 HOUSE BILL NO. 29  
2 INTRODUCED BY BARDANOUE  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING STATE  
5 OWNERSHIP RECORDS ~~OF STATE LANDS~~ FROM THE SECRETARY OF STATE  
6 ~~AND OTHER STATE AGENCIES~~ TO THE DEPARTMENT OF STATE LANDS;  
7 ~~TRANSFERRING REQUIRING THE DEPARTMENT OF STATE LANDS TO~~  
8 ~~TRANSFER~~ RECORDS OF OTHER STATE PROPERTY INTERESTS FROM THE  
9 ~~SECRETARY OF STATE~~ TO THE STATE AGENCY ADMINISTERING THE  
10 PROPERTY; REQUIRING THE DEPARTMENT OF STATE LANDS TO  
11 MAINTAIN A REPOSITORY AND INDEX OF OWNERSHIP RECORDS OF  
12 STATE LANDS; ~~PROVIDING THAT ACQUISITION OF STATE LAND IS~~  
13 ~~VALID UPON FILING~~ REQUIRING STATE AGENCIES TO FILE OWNERSHIP  
14 RECORDS WITH THE DEPARTMENT OF STATE LANDS; GRANTING  
15 RULEMAKING AUTHORITY TO THE DEPARTMENT OF STATE LANDS;  
16 AMENDING SECTIONS 2-6-111, 2-15-401, AND 77-1-101, MCA; AND  
17 REPEALING SECTIONS 2-17-121 THROUGH 2-17-126, MCA."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
20 NEW SECTION. Section 1. Definitions. When used in  
21 [sections 1 through 6], unless a different meaning clearly  
22 appears from the context, the following definitions apply:  
23 (1) ~~"Conveyance record" means the original deed,~~  
24 ~~abstract, and any other instrument signifying a state~~  
25 ~~interest in property other than state land.~~

1 (2) (1) "Ownership record" means the original deed,  
2 abstract, and any other instrument signifying STATE  
3 ownership of state land OR OTHER INTEREST IN REAL PROPERTY.

4 (3) (2) "State agency" means any board, bureau,  
5 department, commission, or officer of the state.

6 (4) (3) "State land" means land held, possessed, or  
7 administered by the state by virtue of FEE SIMPLE title,  
8 grant, or deed. This term does not include:

9 (a) land acquired through foreclosure of any  
10 investments purchased under the provisions of 17-6-211;

11 (b) land used by virtue of an interest temporary in  
12 nature, such as a lease, license, or permit; or

13 (c) land used for easements and rights-of-way.

14 NEW SECTION. Section 2. Transfer of records held by  
15 secretary of state. By November 1, 1987, the secretary of  
16 state shall transfer:

17 (1) ALL ownership records of state lands ON FILE IN  
18 HIS OFFICE to the department of state lands;

19 (2) THE DEPARTMENT OF STATE LANDS SHALL FURTHER  
20 TRANSFER THE records of land held or administered by the  
21 department of highways for highway or road construction  
22 RIGHTS-OF-WAY AND MAINTENANCE to the department of highways;  
23 and

24 (3) any remaining conveyance OWNERSHIP records, OTHER  
25 THAN THOSE OF STATE LANDS, to the state agency administering

1 the interest or property described in the conveyance SUCH  
 2 RECORDS.

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 4 ~~valid only upon filing with department~~ FILING OF OWNERSHIP  
 5 RECORDS. Except as provided in [section 6], state agencies  
 6 shall file with the department ownership records OF STATE  
 7 LANDS held by the agency. ~~Acquisition of state land after~~  
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 9 ~~ownership records of the newly acquired state land with the~~  
 10 ~~department.~~

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 5 record in accordance with standards not less than those  
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 21 distributed by him and direct the county clerk of each  
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 24 who have received at any election the highest number of  
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