SENATE BILL NO. 146

INTRODUCED BY HAGER

BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

IN THE SENATE

JANUARY 16, 1989 INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.

FIRST READING.

- JANUARY 31, 1989 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- FEBRUARY 1, 1989 PRINTING REPORT.
- FEBRUARY 2, 1989 SECOND READING, DO PASS.
- FEBRUARY 3, 1989 ENGROSSING REPORT.
- FEBRUARY 4, 1989 THIRD READING, PASSED. AYES, 47; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1989

FEBRUARY 20, 1989

MARCH 7, 1989

MARCH 8, 1989

MARCH 9, 1989

INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.

FIRST READING.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

, 1989 THIRD READING, CONCURRED IN. AYES, 90; NOES, 4.

RETURNED TO SENATE.

IN THE SENATE

MARCH 10, 1989

RECEIVED FROM HOUSE.

MARCH 13, 1989 REPORTED CORRECTLY ENROLLED. MARCH 14, 1989 SIGNED BY PRESIDENT. IN THE HOUSE SIGNED BY SPEAKER. MARCH 14, 1989 IN THE SENATE MARCH 15, 1989 DELIVERED TO GOVERNOR. MARCH 20, 1989 RETURNED FROM GOVERNOR WITH RECOMMENDED AMENDMENTS. MARCH 30, 1989 SECOND READING, GOVERNOR'S RECOM-MENDED AMENDMENTS CONCURRED IN. APRIL 1, 1989 THIRD READING, GOVERNOR'S RECOM-MENDED AMENDMENTS CONCURRED IN. TRANSMITTED TO HOUSE. IN THE HOUSE SECOND READING, GOVERNOR'S RECOM-APRIL 4, 1989 MENDED AMENDMENTS CONCURRED IN. THIRD READING, GOVERNOR'S RECOM-APRIL 5, 1989 MENDED AMENDMENTS CONCURRED IN. IN THE SENATE APRIL 6, 1989 RECEIVED FROM HOUSE. SENT TO ENROLLING.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

51st Legislature

25

LC 0144/01

Blaste BILL NO. 146 1 INTRODUCED BY 2 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ADOPTION 5 STATUTES TO AUTHORIZE THE DEPARTMENT OF FAMILY SERVICES TO 6 CONTRACT WITH LICENSED SOCIAL WORKERS TO CONDUCT 7 INVESTIGATIONS CONCERNING PARENTAL ADOPTIVE PLACEMENTS AND 8 9 TO CHARGE A FEE FOR SUCH INVESTIGATIONS: TO PROVIDE A STATUTORY APPROPRIATION FOR FEES RECEIVED; AMENDING SECTIONS 10 17-7-502 AND 40-8-109, MCA; AND PROVIDING AN EFFECTIVE 11 DATE." 12 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 Section 1. Section 40-8-109, MCA, is amended to read: 15 "40-8-109, Placement for adoption by parents ---16 appropriation of fees. (1) No parent may make a placement of 17 18 a child for adoption with an individual who is not a stepparent or a member of the child's extended family unless 19 the parent files with the district court for the county in 20 which the prospective adoptive parent or the parent making 21 the placement resides: 22 23 (a) a notice of parental placement; and (b) a relinquishment of parental rights to the 24 prospective adoptive parents executed voluntarily and in

1 accordance with 40-6-135(2) through (4).

2 (2) The notice of parental placement and the 3 relinguishment shall be filed prior to a parent's placement of the child with an individual who intends to adopt the 4 5 child. The notice of parental placement shall contain the 6 following information;

7 (a) the name and address of each birth parent, if 8 known, and if unknown, the steps taken to ascertain the 9 whereabouts of the parent or parents;

10 (b) the name and address of each prospective adoptive 11 parent;

12 (c) the name and address or expected date and place of birth of the child; and 13

14 (d) the name and address of counsel, quardian ad 15 litem, or other representative, if any, for each of the 16 parties in (a) through (c) of subsection (2).

17 (3) Upon receipt of a notice of parental placement and a relinguishment, the court shall require that the 18 department examine the child and conduct interviews with the 19 20 birth parents and prospective adoptive parents and report to 21 the court within 30 days but not earlier than 5 days after the birth of the child. The report must state whether the 22 23 following requirements for placement have been met:

(a) that the decision to place was voluntarily made by 24 the birth parents; 25

> INTRODUCED BILL -2-58146

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(b) that the department has no temporary authority to
 investigate or provide protective services to the family
 under 41-3-402;

(c) that the birth parents, the prospective adoptive 4 parents, and their representatives have agreed in writing to 5 provide the court with sworn affidavits containing itemized б statements of all fees charged or to be charged, expenses 7 incurred or to be incurred, and payments received or to be 8 received in connection with the proposed adoptive placement; 9 10 (d) that the prospective adoptive parents have been provided a medical and social history of the child and birth 11 12 parents: and

13 (e) that the proposed placement is in the child's best 14 interest.

15 (4) The department may contract with licensed social
 workers to conduct the investigations and prepare the report
 17 to the court ordered pursuant to subsection (3).

18 (5) The department may charge the prospective adoptive
 19 parents a fee, commensurate with costs, for the
 20 investigation and report.

(4)(6) Within 45 days of filing of the notice of
 parental placement and the relinquishment, the court shall
 schedule a hearing to consider the proposed placement.

24 (5)(7) (a) At least 5 days' notice of the time and 25 place of the hearing must be given to the birth parents, the prospective adoptive parents, any named guardian ad litem,
 and the department.

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and advances in a class constrained area as a balance as a balance a balance a place of a constrained and balances and area and a second balances and a

3 (b) The hearing shall be closed to all persons except
4 those persons entitled to notice and their representatives
5 or counsel.

6 (6)(8) If the court finds that all requirements for
7 placement have been met, the court may issue an order or
8 schedule a hearing for the purpose of terminating parental
9 rights and granting temporary custody to the prospective
10 adoptive parents. The prospective adoptive parents must file
11 their petition to adopt within 30 days of the order.

12 (7)(9) If the court finds that all requirements for
13 the adoptive placement have not been met, the court may
14 issue any order appropriate to protect the child.

(10) All fees collected pursuant to subsection (5) are
statutorily appropriated, as provided in 17-7-502, to the
department for parental adoptive placement investigations."

18 Section 2. Section 17-7-502, MCA, is amended to read: 19 "17-7-502. Statutory appropriations -- definition --20 requisites for validity. (1) A statutory appropriation is an 21 appropriation made by permanent law that authorizes spending 22 by a state agency without the need for a biennial 23 legislative appropriation or budget amendment.

24 (2) Except as provided in subsection (4), to be25 effective, a statutory appropriation must comply with both

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July 1, 1989.

1 of the following provisions:

2 (a) The law containing the statutory authority must be
3 listed in subsection (3).

4 (b) The law or portion of the law making a statutory
5 appropriation must specifically state that a statutory
6 appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing appropriations: 2-9-202; 2-17-105; 2-18-812; 8 statutory 9 10-3-203: 10-3-312: 10-3-314: 10-4-301; 13-37-304: 10 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 11 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17+5-424; 12 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 13 14 19-12-301: 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 15 53-6-150; 53-24-206; 67-3-205: 16 39-71-2504; 40-8-109; 17 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 18 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 19 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987. 20

(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying,
and securing all bonds, notes, or other obligations, as due,
that have been authorized and issued pursuant to the laws of
Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state 2 treasurer, for deposit in accordance with 17-2-101 through 3 17-2-107, as determined by the state treasurer, an amount 4 sufficient to pay the principal and interest as due on the 5 bonds or notes have statutory appropriation authority for 6 such payments. (In subsection (3): pursuant to sec. 15, Ch. 7 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 8 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion 9 of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 10 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 11 1987, terminates July 1, 1988.)" 12 Section 3. Effective date. [This act] is effective

-End-

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STATE OF MONTANA - FISCAL NOTE Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB146, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

SB146 authorizes the Department of Family Services to contract with licensed social workers to conduct investigation concerning parental adoptive placements and to charge a fee for such investigations and to provide a statutory appropriation.

ASSUMPTIONS:

- 1. All investigations billed will be collected.
- 2. Fees collected will equal reimbursement to private licensed social workers for investigations.
- 3. Adoption investigations are a minor part of Department's role in adoptions, therefore, there will be no reduction in staffing.

FISCAL IMPACT:	<u>FY90</u>	<u>FY91</u>
Revenues:	* 45 000	¢ (5 000
Fees for Investigations Expenditures:	\$ 45,000	\$ 45,000
Payment for Investigations	\$ <u>(45,000)</u>	(45,000)
Total	\$ -0-	\$ -0-

No General Fund Impact

RAY SHACKLEFORD, BUDGET DIRECTOR / DATE OFFICE OF BUDGET AND PROGRAM PLANNING

TOM HAGER, PRIMARY DATE

Fiscal Note for SB146, as introduced

5B 146

51st Legislature

SB 0146/02

APPROVED BY COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

1	SENATE BILL NO. 146
2	INTRODUCED BY HAGER
3	BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ADOPTION
6	STATUTES TO AUTHORIZE THE DEPARTMENT OF FAMILY SERVICES TO
. 7	CONTRACT WITH LICENSED SOCIAL WORKERS AND LICENSED
8	CHILD-PLACING AGENCIES TO CONDUCT INVESTIGATIONS CONCERNING
9	PARENTAL ADOPTIVE PLACEMENTS AND TO CHARGE A FEE FOR SUCH
10	INVESTIGATIONS; TOPROVIBEASTATUTORY-APPROPRIATION-FOR
11	PEES-RECEIVED; AND AMENDING SECTIONS17-7-502AND SECTION
12	40-8-109, MCA;-AND-PROVIDING-AN-EFFECTIVE-DATE."
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	Section 1. Section 40-8-109, MCA, is amended to read:
16	40-8-109. Placement for adoption by parents <u></u>
17	appropriation-of-fees. (1) No parent may make a placement of
18	a child for adoption with an individual who is not a
19	stepparent or a member of the child's extended family unless
20	the parent files with the district court for the county in
21	which the prospective adoptive parent or the parent making
22	the placement resides:
23	(a) a notice of parental placement; and

(b) a relinquishment of parental rights to theprospective adoptive parents executed voluntarily and in

Montana Legislative Council

1 accordance with 40-6-135(2) through (4).

2 (2) The notice of parental placement and the 3 relinquishment shall be filed prior to a parent's placement 4 of the child with an individual who intends to adopt the 5 child. The notice of parental placement shall contain the 6 following information:

7 (a) the name and address of each birth parent, if
8 known, and if unknown, the steps taken to ascertain the
9 whereabouts of the parent or parents;

10 (b) the name and address of each prospective adoptive 11 parent;

12 (c) the name and address or expected date and place of13 birth of the child; and

14 (d) the name and address of counsel, guardian ad
15 litem, or other representative, if any, for each of the
16 parties in (a) through (c) of subsection (2).

17 (3) Upon receipt of a notice of parental placement and 18 a relinquishment, the court shall require that the 19 department examine the child and conduct interviews with the 20 birth parents and prospective adoptive parents and report to 21 the court within 30 days but not earlier than 5 days after 22 the birth of the child. The report must state whether the 23 following requirements for placement have been met:

24 (a) that the decision to place was voluntarily made by25 the birth parents;

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SECOND READING

and the second short he was been and the second free and the second state of the

(b) that the department has no temporary authority to
 investigate or provide protective services to the family
 under 41-3-402;

(c) that the birth parents, the prospective adoptive 4 parents, and their representatives have agreed in writing to 5 provide the court with sworn affidavits containing itemized 6 statements of all fees charged or to be charged, expenses 7 incurred or to be incurred, and payments received or to be 8 received in connection with the proposed adoptive placement; 9 (d) that the prospective adoptive parents have been 10 provided a medical and social history of the child and birth 11 parents; and 12

(e) that the proposed placement is in the child's bestinterest.

15 (4) The department may contract with licensed social workers AND LICENSED CHILD-PLACING AGENCIES to conduct the investigations and prepare the report to the court ordered pursuant to subsection (3).

19 (5) The department may charge the prospective adoptive
20 parents a fee, commensurate with costs, for the
21 investigation and report.

22 (+)(6) Within 45 days of filing of the notice of
23 parental placement and the relinquishment, the court shall
24 schedule a hearing to consider the proposed placement.

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place of the hearing must be given to the birth parents, the
 prospective adoptive parents, any named guardian ad litem,
 and the department.

4 (b) The hearing shall be closed to all persons except
5 those persons entitled to notice and their representatives
6 or counsel.

7 (6)(8) If the court finds that all requirements for 8 placement have been met, the court may issue an order or 9 schedule a hearing for the purpose of terminating parental 10 rights and granting temporary custody to the prospective 11 adoptive parents. The prospective adoptive parents must file 12 their petition to adopt within 30 days of the order.

13 (77) If the court finds that all requirements for 14 the adoptive placement have not been met, the court may 15 issue any order appropriate to protect the child.

 16
 <u>t10)-All--fees-collected-pursuant-to-subsection-t5)-are</u>

 17
 <u>statutorily-appropriated7-as-provided-in--17-7-5027--to--the</u>

 18
 <u>department--for-parental-adoptive-placement-investigations7</u>"

 19
 <u>Section-2</u>--Section-17-7-5027-MCA7-is-amended-to--read7

 20
 <u>ul7-7-5027--Statutory--appropriations-----definition----</u>

 21
 requisites-for-validity7-(1)-A-statutory-appropriation-is-an

22 appropriation made-by-permanent-law-that-authorizes-spending

23 by--a-state ngency--without--the--need--for---a---biennial

24 legislative-appropriation-or-budget-amendment-

25 t2)--Except--as--provided--in--subsection--(4);--t0--be

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1	effective7-a-statutory-appropriation-must-complywithboth
2	of-the-following-provisions:
3	<pre>fa}The-law-containing-the-statutory-authority-must-be</pre>
4	listed-in-subsection-(3);
5	(b)Thelawor-portion-of-the-law-making-a-statutory
6	appropriationmustspecificallystatethatastatutory
7	appropriation-is-made-as-provided-in-this-section-
8	t3)Thefollowinglawsare-the-only-laws-containing
9	statutoryappropriations:2-9-202;2-17-105;2-18-812;
10	10-3-203710-3-312;10-3-314;10-4-301;13-37-304;
11	£5-25-123;15-3£-702;15-36-112;15-65-12±;15-70-101;
1 2	16-1-404;16-1-410;-16-1-411;-17-3-212;-17-5-404;-17-5-424;
13	±7-5-804;±9-8-504;±9-9-702;±9-9-±007;±9-±0-205;
14	19-10-305;19-10-506;19-11-512;19-11-513;19-11-606;
15	19-12-301;19-13-604;20-4-109;20-6-406;20-8-111;
16	23-5-610;23-5-1027;33-31-212;33-31-401;37-51-501;
17	39-7± -2504 ; <u>40-8-109;</u> 53-6-150;53-24-206;67- 3-205;
18	75-1-1101;75-7-305;76-12-123;80-2-103;80-2-228;
19	82-11-136;-90-3-301;-90-3-302;-90-3-412;-90-4-215;-90-9-306;
20	90-15-103;-section-13;-House-Bill-No861;-Laws-of-1985;-and
21	section-17-Chapter-4547-Laws-of-1987-

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22 (4)--There-is-a--statutory-appropriation--to--pay--the 23 principal;-interest;-premiums;-and-costs-of-issuing;-paying; 24 and-securing-all-bonds;-notes;-or-other-obligations;-as-due; 25 that-have-been-authorized-and-issued-pursuant-to-the-laws-of

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1	MontanaAgenciesthathaveenteredintoagreements
2	authorizedbythelawsofMontanatopaythestate
3	treasurer;fordeposit-in-accordance-with-17-2-101-through
4	17-2-1077-as-determined-by-the-statetreasurer7anamount
5	sufficienttopay-the-principal-and-interest-as-due-on-the
6	bonds-or-notes-have-statutoryappropriationauthorityfor
7	such-payments{In-subsection-{3}:-pursuant-to-sec157-Ch-
8	6077-519877-the-inclusion-of-15-65-121-terminates-June-307
9	1989;pursuantto-sec:-10;-Ch:-664;-5:-1987;-the-inclusion
10	of-39-71-2504-terminates-June-307-1991;-and-pursuant-to-see-
11	67-8h4547-519877-the-inclusion-of-sec178h45475-
12	19877-terminates-July-17-1988-)"
13	NEW-SECTIONSection 3Effective date:-(This act)-is

14 effective-July-17-1989-

-End-

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1	SENATE BILL NO. 146	1	accordance with 40-6-135(2) through (4).
2	INTRODUCED BY HAGER	2	(2) The notice of parental placement and the
3	BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES	3	relinguishment shall be filed prior to a parent's placement
4		4	of the child with an individual who intends to adopt the
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ADOPTION	5	child. The notice of parental placement shall contain the
6	STATUTES TO AUTHORIZE THE DEPARTMENT OF FAMILY SERVICES TO	6	following information:
7	CONTRACT WITH LICENSED SOCIAL WORKERS AND LICENSED	7	(a) the name and address of each birth parent, if
8	CHILD-PLACING AGENCIES TO CONDUCT INVESTIGATIONS CONCERNING	8	known, and if unknown, the steps taken to ascertain the
9	PARENTAL ADOPTIVE PLACEMENTS AND TO CHARGE A FEE FOR SUCH	9	whereabouts of the parent or parents;
10	INVESTIGATIONS; TOPROVIDEASTATUTORY-APPROPRIATION-POR	10	(b) the name and address of each prospective adoptive
11	PBBS-RECEIVED; AND AMENDING SECTIONS17-7-502AND SECTION	11	parent;
12	40-8-109, MCA+-AND-PROVIDING-AN-EFFECTIVE-DATE."	12	(C) the name and address or expected date and place of
13		13	birth of the child; and
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	14	(d) the name and address of counsel, guardian ad
15	Section 1. Section 40-8-109, MCA, is amended to read:	15	litem, or other representative, if any, for each of the
16	"40-8-109. Placement for adoption by parents	16	parties in (a) through (c) of subsection (2).
17	appropriation-of-fees. (1) No parent may make a placement of	17	(3) Upon receipt of a notice of parental placement and
18	a child for adoption with an individual who is not a	18	a relinguishment, the court shall require that the
19	stepparent or a member of the child's extended family unless	19	department examine the child and conduct interviews with the
20	the parent files with the district court for the county in	20	birth parents and prospective adoptive parents and report to
21	which the prospective adoptive parent or the parent making	21	the court within 30 days but not earlier than 5 days after
22	the placement resides:	22	the birth of the child. The report must state whether the
23	(a) a notice of parental placement; and	23	following requirements for placement have been met:
24	(b) a relinquishment of parental rights to the	24	(a) that the decision to place was voluntarily made by
25	prospective adoptive parents executed voluntarily and in	25	the birth parents;

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THIRD READING

(b) that the department has no temporary authority to
 investigate or provide protective services to the family
 under 41-3-402;

(c) that the birth parents, the prospective adoptive 4 5 parents, and their representatives have agreed in writing to provide the court with sworn affidavits containing itemized 6 7 statements of all fees charged or to be charged, expenses incurred or to be incurred, and payments received or to be R 9 received in connection with the proposed adoptive placement; (d) that the prospective adoptive parents have been 10 11 provided a medical and social history of the child and birth 12 parents; and

13 (e) that the proposed placement is in the child's best 14 interest.

15 (4) The department may contract with licensed social workers AND LICENSED CHILD-PLACING AGENCIES to conduct the investigations and prepare the report to the court ordered pursuant to subsection (3).

19 (5) The department may charge the prospective adoptive
 20 parents a fee, commensurate with costs, for the
 21 investigation and report.

22 (++)(6) Within 45 days of filing of the notice of
23 parental placement and the relinquishment, the court shall
24 schedule a hearing to consider the proposed placement.

25 (5)(7) (a) At least 5 days' notice of the time and

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place of the hearing must be given to the birth parents, the
 prospective adoptive parents, any named guardian ad litem,
 and the department.

4 (b) The hearing shall be closed to all persons except
5 those persons entitled to notice and their representatives
6 or counsel.

7 t6t(8) If the court finds that all requirements for 8 placement have been met, the court may issue an order or 9 schedule a hearing for the purpose of terminating parental 10 rights and granting temporary custody to the prospective 11 adoptive parents. The prospective adoptive parents must file 12 their petition to adopt within 30 days of the order.

13 (7)(9) If the court finds that all requirements for
14 the adoptive placement have not been met, the court may
15 issue any order appropriate to protect the child.

16 (10)-All--fees-collected-pursuant-to-subsection-(5)-are 17 statutorily-appropriated;-as-provided-in--17-7-502;--to--the 18 department--for-parental-adoptive-placement-investigations-" 19 Section-2 -- section -17-7-502 - MCA, -is -amended -to -- read: #17-7-502;--Statutory--appropriations----definition---20 21 requisites-for-validity--fl}-A-statutory-appropriation-is-an appropriation-made-by-permanent-law-that-authorizes-spending 22 23 by--a--state--agency--without--the--need--for---a---biennial 24 legislative-appropriation-or-budget-amendment;

25 f2}--Except--as--provided--in--subsection--f4}7--to--be

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effective-r-a-statutory-appropriation-must-comply--with--both
 of-the-following-provisions:
 tat--The-law-containing-the-statutory-authority-must-be

4 listed-in-subsection-(3).

5 (b)--The--law-or-portion-of-the-law-making-a-statutory 6 appropriation--must--specifically--state--that--a--statutory 7 appropriation-is-made-as-provided-in-this-section-

8 (3)--The--following--laws--are-the-only-laws-containing 9 statutory--appropriations:--2-9-202;---2-17-105;---2-18-812; 10 10-3-203;----10-3-312;----10-3-314;---10-4-301;---13-37-304; 11 15-25-123;--15-31-702;--15-36-112;---15-65-121;---15-70-101; 12 16-1-404;--16-1-410;-16-1-411;-17-3-212;-17-5-404;-17-5-424; 17-5-804----19-8-504----19-9-702----19-9-1007----19-10-205-13 14 19-10-305;---19-10-506;---19-11-512;--19-11-513;--19-11-606; 19-12-301;----19-13-604;---20-4-109;---20-6-406;----20-8-111; 15 23-5-610;---23-5-1027;---33-31-212;--33-31-401;--37-51-501; 16 39-71-2504;---40-0-109;---53-6-150;---53-24-206;---67-3-205; 17 75-1-1101----75-7-305----76-12-123----80-2-103----80-2-228+ 18 19 82-11-136;-98-3-301;-90-3-302;-90-3-412;-90-4-215;-98-9-306; 20 90-15-103;-section-13;-House-Bill-No:-061;-Laws-of-1985;-and 21 section-17-Chapter-4547-baws-of-1987-

22 (4)--There-is-a--statutory-appropriation--to--pay--the 23 principal;-interest;-premiums;-and-costs-of-issuing;-paying; 24 and-securing-all-bonds;-notes;-or-other-obligations;-as-due; 25 that-have-been authorized-and-issued-pursuant-to-the-laws-of

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1	MontanaAgenciesthathaveenteredintoagreements
2	authorizedbythelawsofMontanatopaythestate
3	treasurer;fordeposit-in-accordance-with-17-2-101-through
4	17-2-1077-as-determined-by-the-statetreasurer7anamount
5	sufficienttopay-the-principal-and-interest-as-due-on-the
6	bonds-or-notes-have-statutoryappropriationauthorityfor
7	such-payments (In-subsection-(3):-pursuant-to-sec157-Ch-
8	6077-b19077-the-inclusion-of-15-65-121-terminates-June-307
9	19897pursuantto-sec:-10;-Ch:-664;-b:-1987;-the-inclusion
10	of-39-71-2504-terminates-June-30,-1991;-and-pursuant-to-sec;
11	67-Ch4547-b19077-the-inclusion-of-sec17Ch4547b-
12	1987;-terminates-July-1;-1988-;*
13	NEW-SBETION: Scotion-3 Effective date (This -act) - is

14 effective-July-17-1989:

-End-

SB 0146/02

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SB 146

51st Legislature

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SB 0146/02

REFERENCE BILL

1	SENATE BILL NO. 146	1	accordance with 40-6-135(2) through (4).
2	INTRODUCED BY HAGER	2	(2) The notice of parental placement and the
3	BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES	3	relinguishment shall be filed prior to a parent's placement
4		. 4	of the child with an individual who intends to adopt the
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ADOPTION	5	child. The notice of parental placement shall contain the
6	STATUTES TO AUTHORIZE THE DEPARTMENT OF FAMILY SERVICES TO	6	following information:
7	CONTRACT WITH LICENSED SOCIAL WORKERS AND LICENSED	7	(a) the name and address of each birth parent, if
8	CHILD-PLACING AGENCIES TO CONDUCT INVESTIGATIONS CONCERNING	8	known, and if unknown, the steps taken to ascertain the
9	PARENTAL ADOPTIVE PLACEMENTS AND TO CHARGE A FEE FOR SUCH	9	whereabouts of the parent or parents;
10	INVESTIGATIONS; TOPROVIDEASTATUTORY-APPROPRIATION-POR	10	(b) the name and address of each prospective adoptive
11	PBBS-RECEIVED7 AND AMENDING SECTIONS17-7-502AND SECTION	11	parent;
12	40-8-109, MCA;-AND-PROVIDING-AN-EPPECTIVE-DATE."	12	(c) the name and address or expected date and place of
13		13	birth of the child; and
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	14	(d) the name and address of counsel, guardian ad
15	Section 1. Section 40-8-109, MCA, is amended to read:	15	litem, or other representative, if any, for each of the
16	40-8-109. Placement for adoption by parents <u></u>	16	parties in (a) through (c) of subsection (2).
17	appropriation-of-fees. (1) No parent may make a placement of	17	(3) Upon receipt of a notice of parental placement and
18	a child for adoption with an individual who is not a	18	a relinguishment, the court shall require that the
19	stepparent or a member of the child's extended family unless	19	department examine the child and conduct interviews with the
20	the parent files with the district court for the county in	20	birth parents and prospective adoptive parents and report to
21	which the prospective adoptive parent or the parent making	21	the court within 30 days but not earlier than 5 days after
22	the placement resides:	22	the birth of the child. The report must state whether the
23	(a) a notice of parental placement; and	23	following requirements for placement have been met:
24	(b) a relinguishment of parental rights to the	24	(a) that the decision to place was voluntarily made by
25	prospective adoptive parents executed voluntarily and in	25	the birth parents;
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a Legislative Council

(b) that the department has no temporary authority to
 investigate or provide protective services to the family
 under 41-3-402;

4 (c) that the birth parents, the prospective adoptive 5 parents, and their representatives have agreed in writing to provide the court with sworn affidavits containing itemized 6 statements of all fees charged or to be charged, expenses 7 incurred or to be incurred, and payments received or to be 8 received in connection with the proposed adoptive placement; 9 10 (d) that the prospective adoptive parents have been 11 provided a medical and social history of the child and birth 12 parents; and

13 (e) that the proposed placement is in the child's best14 interest.

15 (4) The department may contract with licensed social
 workers AND LICENSED CHILD-PLACING AGENCIES to conduct the
 investigations and prepare the report to the court ordered
 pursuant to subsection (3).

19 (5) The department may charge the prospective adoptive
20 parents a fee, commensurate with costs, for the
21 investigation and report.

22 (4)(6) Within 45 days of filing of the notice of
23 parental placement and the relinquishment, the court shall
24 schedule a hearing to consider the proposed placement.

25 +5+(7) (a) At least 5 days' notice of the time and

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place of the hearing must be given to the birth parents, the
 prospective adoptive parents, any named guardian ad litem,
 and the department.

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4 (b) The hearing shall be closed to all persons except
5 those persons entitled to notice and their representatives
6 or counsel.

7 (6)(8) If the court finds that all requirements for 8 placement have been met, the court may issue an order or 9 schedule a hearing for the purpose of terminating parental 10 rights and granting temporary custody to the prospective 11 adoptive parents. The prospective adoptive parents must file 12 their petition to adopt within 30 days of the order.

13 (7)(9) If the court finds that all requirements for
14 the adoptive placement have not been met, the court may
15 issue any order appropriate to protect the child.

16 <u>(10)-All--fees-collected-pursuant-to-subsection-(5)-are</u> 17 statutorily-appropriated₇-as-provided-in--17-7-502₇--to--the

- 18 department--for-parental-adoptive-placement-investigations."
- 19 Section-2:--Section-17-7-502; MCA; -is -amended to --read: 20 #17-7-502:--Statutory-appropriations-----definition---21 requisites-for-validity:-(1)-A-statutory-appropriation-is-an
- 22 appropriation-made-by-permanent-law-that-authorizes-spending
- 23 by--a--state--agency--without--the--need--for---a---biennial
- 24 legislative-appropriation-or-budget-amendment.
- 25 (2)--Bxcept--as--provided--in--subsection--(4);--to--be

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effective;-a-statutory-appropriation-must-comply--with--both 1 2 of-the-following-provisions: (a)--The-law-containing-the-statutory-authority-must-be 3 4 listed-in-subsection-(3): 5 +b+--The--law--or-portion-of-the-law-making-a-statutory 6 appropriation--must--specifically--state--that--a--statutory 7 appropriation-is-made-as-provided-in-this-section-(3)--The--following--laws--are-the-only-laws-containing 8 9 statutory--appropriations:--2-9-202:---2-17-105:---2-18-012; 10-3-203;----10-3-312;----10-3-314;---10-4-301;---13-37-304; 10 11 15-25-123;--15-31-702;--15-36-112;---15-65-121;---15-70-101; 12 16-1-484;--16-1-418;-16-1-411;-17-3-212;-17-5-484;-17-5-424; 13 17-5-804;---19-8-504;---19-9-702;---19-9-1007;---19-10-205; 19-10-3057---19-10-5067---19-11-5127--19-11-5137--19-11-6067 14 19-12-301;---19-13-604;---20-4-109;---20-6-406;----20-8-111; 15 23-5-610;---23-5-1027;---33-31-212;---33-31-401;--37-51-501; 16 17 39-71-2504;---40-8-109;---53-6-150;---53-24-206;---67-3-205; 75-1-1101----75-7-305----76-12-123----80-2-103----80-2-220+ 18 19 82-11-136--90-3-301;-90-3-302;-90-3-412;-90-4-215;-90-9-306; 20 90-15-103;-section-13;-House-Bill-No:-861;-bavs-of-1985;-and 21 section-17-Chapter-4547-havs-of-1987-

22 (4)--There-is-a--statutory-appropriation--to--pay--the
23 principal;-interest;-premiums;-and-costs-of-issuing;-paying;
24 and-securing-all-bonds;-notes;-or-other-obligations;-as-due;
25 that-have-been-authorized-and-issued-pursuant-to-the-laws-of

-5-

1 Montana:---Agencies---that---have--entered--into--agreements 2 authorized--by--the--laws--of--Montana--to--pay--the---state 3 treasurery--for--deposit-in-accordance-with-17-2-101-through 4 17-2-1077-as-determined-by-the-state--treasurer;--an--amount 5 sufficient--to--pay-the-principal-and-interest-as-due-on-the 6 bonds-or-notes-have-statutory--appropriation--authority--for 7 607,-b:-1987,-the-inclusion-of-15-65-121-terminates-June-30, 8 9 19897--pursuant--to-sect-107-Cht-6647-5-19877-the-inclusion 10 of-39-71-2504-terminates-June-307-19917-and-pursuant-to-sec. 11 67-Ch--4547-5--49877-the-inclusion-of-sec--17--Ch---4547--5-12 1987y-terminates-July-17-1988-;* NEW-SECTION---Section-3.--Effective-date--{This-act}-is 13

14 effective-July-17-1989-

~End~

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GOVERNOR'S AMENDMENTS TO SENATE BILL 146 (Reference Copy) March 20, 1989

 Page 4, line 16. Insert: "NEW SECTION. Section 2. Adoption services account. There is an adoption services account in the special revenue fund. The fees collected by the department of family services under [this act] shall be deposited into this account and may be used by the department of family services for adoption service."

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-2-SB 146 REFERENCE BILL: INCLUDES GOVERNOR'S AMENDMENTS DATED 3 20 89

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(b) that the department has no temporary authority to
 investigate or provide protective services to the family
 under 41-3~402;

4 (c) that the birth parents, the prospective adoptive 5 parents, and their representatives have agreed in writing to 6 provide the court with sworn affidavits containing itemized 7 statements of all fees charged or to be charged, expenses 8 incurred or to be incurred, and payments received or to be 9 received in connection with the proposed adoptive placement; 10 (d) that the prospective adoptive parents have been 11 provided a medical and social history of the child and birth 12 parents; and

(e) that the proposed placement is in the child's bestinterest.

15 (4) The department may contract with licensed social workers AND LICENSED CHILD-PLACING AGENCIES to conduct the investigations and prepare the report to the court ordered pursuant to subsection (3).

19 (5) The department may charge the prospective adoptive
20 parents a fee, commensurate with costs, for the
21 investigation and report.

t4<u>+(6)</u> Within 45 days of filing of the notice of
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25 f5f(7) (a) At least 5 days' notice of the time and

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4 (b) The hearing shall be closed to all persons except
5 those persons entitled to notice and their representatives
6 or counsel.

7 (6)(8) If the court finds that all requirements for 8 placement have been met, the court may issue an order or 9 schedule a hearing for the purpose of terminating parental 10 rights and granting temporary custody to the prospective 11 adoptive parents. The prospective adoptive parents must file 12 their petition to adopt within 30 days of the order.

13 (7)(9) If the court finds that all requirements for
14 the adoptive placement have not been met, the court may
15 issue any order appropriate to protect the child.

16 <u>fi0;-All--fees-collected-pursuant-to-subsection-(5;-are</u>

17 statutorily-appropriated7-as-provided-in--17-7-5027--to--the

18 department--for-parental-adoptive-placement-investigations."

19 Section-2:--Section-17-7-502; -MCA; -is-amended-to--read:

#17-7-502---Statutory--appropriations----definition---

21 requisites-for-validity--fl}-A-statutory-appropriation-is-an

22 appropriation-made-by-permanent-law-that-authorizes-spending

23 by--a--state--agency--without--the--need--for---a---biennial

24 legislative-appropriation-or-budget-amendment;

20

25 t2)--Except--as--provided--in--subsection--(4);--to--be

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1	effective;-a-statutory-appropriation-must-complywithboth
2	of-the-following-provisions:
3	(a)The-law-containing-the-statutory-authority-must-be
4	listed-in-subsection-(3)-
5	tb}Thelawor-portion-of-the-law-making-a-statutory
6	appropriationmustspecificallystatethatastatutory
7	appropriation-is-made-as-provided-in-this-section-
8	(3)Thefollowinglawsare-the-only-laws-containing
9	statutoryappropriations:2-9-202;2-17-105;2-18-812;
10	10-3-203;10-3-312;10-3-314;10-4-301;13-37-304;
11	±5-25-±23;±5-3±-702;±5-36-±±2;±5-65-±2±;±5-70-±0±;
12	16-1-404;16-1-410;-16-1-411;-17-3-212;-17-5-404;-17-5-424;
13	±7-5-804;±9-8-504;±9-9-702;±9-9-±007;±9-±0-205;
14	19-10-305;19-10-506;19-11-512;19-11-513;19-11-606;
15	19-12-301;19-13-604;20-4-109;20-6-406;20-8-111;
16	23-5-610;23-5-1027;33-31-212;33-31-401;37-51-501;
17	39-7±-2504; <u>40-8-109;</u> 53-6-150;53-24-206;67-3-205;
18	75-1-1101;75-7-305;76-12-123;80-2-103;80-2-228;
19	82-11-136;-90-3-301;-90-3-302;-90-3-412;-90-4-215;-90-9-306;
20	90-15-103;-section-13;-House-Bill-No861;-Laws-of-1985;-and
21	section-17-Chapter-4547-baws-of-1987.
22	(4)There-is-astatutoryappropriationtopaythe
23	principal;-interest;-premiums;-and-costs-of-issuing;-paying;
24	and-securing-all-bonds;-notes;-or-other-obligations;-as-due;
25	that-have-been-authorized-and-issued-pursuant-to-the-laws-of

-5-

1	MontanaAgenciesthathaveenteredintoagreements
2	authorizedbythelawsofMontanatopaythestate
3	treasurer;fordeposit-in-accordance-with-17-2-101-through
4	17-2-1077-as-determined-by-the-statetreasurer7anamount
5	sufficienttopay-the-principal-and-interest-as-due-on-the
6	bonds-or-notes-have-statutoryappropriationauthorityfor
7	<pre>such-paymentsfin-subsection-f3;-pursuant-to-sec15;-Ch-</pre>
8	6077-519877-the-inclusion-of-15-65-121-terminates-June-307
9	1989;pursuantto-sec:-10;-Ch:-664;-b:-1987;-the-inclusion
10	of-39-71-2504-terminates-June-307-19917-and-pursuant-to-sec-
11	67-Ch4547-b-19877-the-inclusion-of-secv-l7Chv4547b-
12	1987;-terminates-July-1;-1988;)"
13	<u>NEW-SECTIONSection-3Effective-date{This-act}-is</u>
14	effective-July-17-1989.
15	NEW SECTION. SECTION 2. ADOPTION SERVICES ACCOUNT.
16	THERE IS AN ADOPTION SERVICES ACCOUNT IN THE SPECIAL REVENUE
17	FUND. THE FEES COLLECTED BY THE DEPARTMENT OF FAMILY
18	SERVICES UNDER [THIS ACT] MUST BE DEPOSITED INTO THIS
19	ACCOUNT AND MAY BE USED BY THE DEPARTMENT FOR ADOPTION
20	SERVICE.

-End-

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