

HOUSE BILL NO. 549

INTRODUCED BY PETERSON, FRITZ
BY REQUEST OF THE JOINT SUBCOMMITTEE
ON GENERAL GOVERNMENT AND TRANSPORTATION

IN THE HOUSE

FEBRUARY 10, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS.
	FIRST READING.
MARCH 18, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 19, 1993	PRINTING REPORT.
MARCH 23, 1993	SECOND READING, DO PASS.
MARCH 24, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 95; NOES, 4.
MARCH 25, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 26, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.
MARCH 30, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 35; NOES, 13.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 2, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *549*
2 INTRODUCED BY *Peterson*
3 BY REQUEST OF THE JOINT SUBCOMMITTEE
4 ON GENERAL GOVERNMENT AND TRANSPORTATION
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE USE OF
7 CERTAIN FEES BY THE SECRETARY OF STATE; REVISING THE DEPOSIT
8 OF THE FEES; CLARIFYING THAT FEES ARE NOT REFUNDABLE;
9 AMENDING SECTIONS 2-4-313, 2-6-103, AND 30-9-403, MCA; AND
10 PROVIDING AN EFFECTIVE DATE."
11

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

13 **Section 1.** Section 2-4-313, MCA, is amended to read:

14 "2-4-313. (Temporary) Distribution, costs, and
15 maintenance. (1) The secretary of state shall distribute
16 copies of ARM and supplements or revisions thereto to the
17 following:

- 18 (a) attorney general, one copy;
19 (b) clerk of United States district court for the
20 district of Montana, one copy;
21 (c) clerk of United States court of appeals for the
22 ninth circuit, one copy;
23 (d) county commissioners or governing body of each
24 county of this state, for use of county officials and the
25 public, at least one but not more than two copies, which may

1 be maintained in a public library in the county seat or in
2 the county offices as the county commissioners or governing
3 body of the county may determine;

- 4 (e) state law library, one copy;
5 (f) state historical society, one copy;
6 (g) each unit of the Montana university system, one
7 copy;
8 (h) law library of the university of Montana, one copy;
9 (i) legislative council, two copies;
10 (j) library of congress, one copy;
11 (k) state library, one copy.

12 (2) The secretary of state, each county in the state,
13 and the librarians for the state law library and the
14 university of Montana law library shall maintain a complete,
15 current set of ARM, including supplements or revisions
16 thereto. Such persons shall also maintain the register
17 issues published during the preceding 2 years. The secretary
18 of state shall also maintain a permanent set of the
19 registers.

20 (3) The secretary of state shall make copies of and
21 subscriptions to ARM and supplements or revisions thereto
22 and the register available to any person at prices fixed in
23 accordance with subsection (4).

24 (4) The secretary of state, in consultation with the
25 administrative code committee, shall determine the cost of

supplying copies of ARM and supplements or revisions thereto and the register to persons not listed in subsection (1). The cost shall be the approximate cost of publication of such copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of ARM and supplements or revisions thereto and the register.

(5) The secretary of state shall deposit fees he collects in the amount of \$20,000 for fiscal year 1993 in the general fund on or before June 30, 1993, and shall deposit all other fees in an account within the state special revenue fund created for paying the expenses of publication of ARM and the register.

(6) The secretary of state may charge agencies a filing fee for all material to be published in ARM or the register. He shall fix, in consultation with the administrative code committee, the fee to cover the costs of supplying copies of ARM and supplements or revisions thereto and the register to the persons listed in subsection (1). The cost shall be the approximate cost of publication of such copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of ARM and supplements or revisions thereto and the

register. (Terminates July 1, 1993--sec. 3, Ch. 6, Sp. L. January 1992.)

2-4-313. (Effective July 1, 1993) Distribution, costs, and maintenance. (1) The secretary of state shall distribute copies of ARM and supplements or revisions thereto to ARM to the following:

(a) attorney general, one copy;

(b) clerk of United States district court for the district of Montana, one copy;

(c) clerk of United States court of appeals for the ninth circuit, one copy;

(d) county commissioners or governing body of each county of this state, for use of county officials and the public, at least one but not more than two copies, which may be maintained in a public library in the county seat or in the county offices as the county commissioners or governing body of the county may determine;

(e) state law library, one copy;

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(h) law library of the university of Montana, one copy;

(i) legislative council, two copies;

(j) library of congress, one copy;

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(2) The secretary of state, each county in the state, and the librarians for the state law library and the university of Montana law library shall maintain a complete, current set of ARM, including supplements or revisions thereto to ARM. Such The designated persons shall also maintain the register issues published during the preceding 2 years. The secretary of state shall also maintain a permanent set of the registers.

(3) The secretary of state shall make copies of and subscriptions to ARM and supplements or revisions thereto to ARM and the register available to any person at prices fixed in accordance with subsection (4).

(4) The secretary of state, in consultation with the administrative code committee, shall determine the cost of supplying copies of ARM and supplements or revisions thereto to ARM and the register to persons not listed in subsection (1). The cost shall must be the approximate cost of publication of such the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of ARM and supplements or revisions thereto to ARM and the register. Fees are not refundable.

(5) The secretary of state shall deposit all fees he collects in an internal service fund account within the

state ~~special~~--revenue proprietary fund created for paying the expenses of publication of ARM and the register.

(6) The secretary of state may charge agencies a filing fee for all material to be published in ARM or the register. He The secretary of state shall fix, in consultation with the administrative code committee, the fee to cover the costs of supplying copies of ARM and supplements or revisions thereto to ARM and the register to the persons listed in subsection (1). The cost shall must be the approximate cost of publication of such the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of ARM and supplements or revisions thereto to ARM and the register."

Section 2. Section 2-6-103, MCA, is amended to read:

"2-6-103. Filing and copying fees. (1) The secretary of state, for services performed in his the office, shall charge and collect the following fees:

(a) for each copy of any law, resolution, record, or other document or paper on file in his office, except corporate papers, 40 cents per folio or, if the copy is made by any process of reproduction by photographic, photostatic, or similar process, the fee shall be 50 cents per page or fraction thereof of a page;

1 (b) for affixing certificate and seal, \$2;
 2 (c) for receiving and recording each official bond,
 3 \$10;
 4 (d) for each commission or other document signed by the
 5 governor and attested by the secretary of state (pardon,
 6 military commissions, and extraditions excepted), \$5;
 7 (e) for issuing each certificate of record, \$5;
 8 (f) for filing and recording miscellaneous papers,
 9 records, or other documents, \$5;
 10 (g) for filing and recording any other paper not
 11 otherwise herein provided for, \$5;
 12 (h) for filing and recording any paper, record, or
 13 other document or other than a standard form when
 14 recommended by the secretary of state, \$5;
 15 (i) when a copy of any law, resolution, record, or
 16 other document or paper on file in the office of the
 17 secretary of state is presented for comparison and
 18 certification, 10 cents per folio must be charged and
 19 collected for proofreading the same.
 20 (2) No A member of the legislature or state or county
 21 officer may not be charged for any search relative to
 22 matters appertaining to the duties of his the member's
 23 office or for a certified copy of any law or resolution
 24 passed by the legislature relative to his the member's
 25 official duties.

1 (3) The secretary of state may not charge a fee, other
 2 than the fees authorized in 2-6-110, for providing
 3 electronic information.
 4 (4) Fees ~~shall~~ must be collected in advance and when
 5 collected by the secretary of state are not refundable and
 6 ~~shall~~ must be deposited pursuant to 17-6-105."

7 **Section 3.** Section 30-9-403, MCA, is amended to read:
 8 "30-9-403. What constitutes filing -- duration of
 9 filing -- fees -- effect of lapsed filing -- duties of
 10 filing officer -- computerized farm statement system.
 11 (1) (a) Presentation for filing of a financing statement and
 12 tender of the filing fee or acceptance of the statement by
 13 the filing officer constitutes filing under this chapter.
 14 (b) The secretary of state may treat a facsimile copy
 15 of a document and the signatures on the facsimile copy in
 16 the same manner as an original for purposes of 30-9-402 and
 17 subsection (1)(a), provided that he-receives the original
 18 document is received within 5 working days of the receipt of
 19 the facsimile copy. If all other requirements are met, the
 20 date of filing relates back to the date of receipt of the
 21 facsimile copy. A facsimile copy may be filed under
 22 subsection (1)(a) if it:
 23 (i) is produced by a method of transmission of images
 24 in which the image is scanned at the transmitter,
 25 reconstructed at the receiving station, and duplicated on

1 paper at the receiving station; and
 2 (ii) is legible and the same size as the original.
 3 (c) During the 5-day period referred to in subsection
 4 (1)(b), the recorded facsimile copy constitutes constructive
 5 notice for all purposes of the original document.
 6 (d) If the original document is not received within 5
 7 working days of receipt of the facsimile copy as provided in
 8 subsection (1)(b), the filing of the facsimile copy is void.
 9 (e) A person who files a false document by facsimile
 10 copy is liable to the party aggrieved for three times the
 11 amount of damages resulting from the filing of the false
 12 document.
 13 (2) Except as provided in subsections subsection (6)
 14 ~~and (11)~~, a filed financing statement is effective for a
 15 period of 5 years from the date of filing. The effectiveness
 16 of a filed financing statement lapses on the expiration of
 17 the 5-year period unless a continuation statement is filed
 18 prior to the lapse. If a security interest perfected by
 19 filing exists at the time insolvency proceedings are
 20 commenced by or against the debtor, the security interest
 21 remains perfected until 60 days after termination of the
 22 insolvency proceedings or until expiration of the 5-year
 23 period, whichever occurs later. Upon lapse the security
 24 interest becomes unperfected unless it is perfected without
 25 filing. If the security interest becomes unperfected upon

1 lapse, it is considered to have been unperfected as against
 2 a person who became a purchaser or lien creditor before
 3 lapse.
 4 (3) A continuation statement may be filed by the
 5 secured party within 6 months prior to the expiration of the
 6 5-year period specified in subsection (2). Any continuation
 7 statement must be signed by the secured party, identify the
 8 original statement by file number, and state that the
 9 original statement is still effective. A continuation
 10 statement signed by a person other than the secured party of
 11 record must be accompanied by a separate written statement
 12 of assignment signed by the secured party of record and
 13 complying with 30-9-405(2), including payment of the
 14 required fee. Upon timely filing of the continuation
 15 statement, the effectiveness of the original statement is
 16 continued for 5 years after the last date to which the
 17 filing was effective, whereupon after which it lapses in the
 18 same manner as provided in subsection (2) unless another
 19 continuation statement is filed prior to such the lapse.
 20 Succeeding continuation statements may be filed in the same
 21 manner to continue the effectiveness of the original
 22 statement. Unless a statute on disposition of public records
 23 provides otherwise, the filing officer may remove a lapsed
 24 statement from the files and destroy it immediately if he
 25 the filing officer has retained a microfilm or other

1 photographic record or a record produced according to rules
 2 adopted by the secretary of state, or in other cases after 1
 3 year after the lapse. The filing officer shall so arrange
 4 matters by physical annexation of financing statements to
 5 continuation statements or other related filings, or by
 6 other means, that if he the filing officer physically
 7 destroys the financing statements of a period more than 5
 8 years past, those which have been continued by a
 9 continuation statement or which are still effective under
 10 subsection (6) shall be retained.

11 (4) Except as provided in subsection (7), a filing
 12 officer shall mark each statement with a file number and
 13 with the date and hour of filing. The filing officer shall
 14 hold the statement or a microfilm or other photographic copy
 15 or a copy produced according to rules adopted by the
 16 secretary of state for public inspection. In addition, the
 17 filing officer shall index the statements according to the
 18 name of the debtor and shall note in the index the file
 19 number and the address of the debtor given in the statement.

20 (5) The uniform fees for filing, indexing, and stamping
 21 a copy furnished by the filing party to show the date and
 22 place of filing shall be set pursuant to subsection
 23 ~~(13)~~ (12).

24 (6) If the debtor is a transmitting utility and a filed
 25 financing statement so states, it is effective until a

1 termination statement is filed. A real estate mortgage that
 2 is effective as a fixture filing under 30-9-402(6) remains
 3 effective as a fixture filing until the mortgage is released
 4 or satisfied of record or its effectiveness otherwise
 5 terminates as to the real estate.

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

20 (8) When a financing or continuation statement filed by
 21 a financial institution covers farm products or accounts,
 22 livestock, general intangibles arising from or relating to
 23 the sale of farm products by a farmer, crops growing or to
 24 be grown, or equipment used in farming operations, the fee
 25 for filing must be established by the secretary of state in

1 an amount commensurate with the costs of establishing and
2 operating the computerized access system described in
3 subsection (9).

4 (9) Within 1 working day of receipt of a financing or
5 continuation statement, the secretary of state shall record
6 the information contained in the statement on a centralized
7 computer system that he the secretary of state shall
8 establish. The computer system must allow access to
9 financing statement information by any type of
10 communications which conform to standards used by the state
11 central computer. The system must have safeguards to allow
12 only access to UCC data and to prevent alteration, addition,
13 or deletion of the UCC data. The computer must be accessible
14 whenever the state computer system is available. A perfected
15 security interest is not created until the financing
16 statement information is recorded on the system. A printout
17 of information from the system is prima facie evidence of
18 the existence or nonexistence of the filing of a financing
19 statement. The secretary of state shall maintain adequate
20 errors and omissions liability coverage to protect against
21 input errors causing loss to a secured party.

22 (10) The secretary of state shall, upon request of a
23 clerk and recorder, mail a certified copy of a financing
24 statement, continuation statement, assignment, amendment, or
25 termination covering collateral described in subsection (8)

1 to the clerk and recorder in the county of the principal
2 debtor's residence. The secretary of state shall mail the
3 requested copies at least once each week. This subsection
4 does not require the secretary of state to mail a copy of
5 any document which does not specifically indicate the county
6 of the principal debtor's residence on its face.

7 ~~(11) When a financing or continuation statement covers~~
8 ~~property described in subsection (8), its effectiveness~~
9 ~~lapses on July 1, 1986, unless prior to that date there is~~
10 ~~filed in the office of the secretary of state a certified~~
11 ~~copy of the statement on file with the county clerk and all~~
12 ~~related documents.~~

13 ~~(12)~~ Financing statement information in the computer
14 system constitutes public writings within the meaning of
15 2-6-101, but the information may not be used to compile
16 mailing lists.

17 ~~(13)~~ (12) The secretary of state, with advice from the
18 county clerk and recorders, shall by administrative rule
19 establish fees as required by this part. The fees must be
20 commensurate with the costs of processing the documents. The
21 secretary of state shall maintain records sufficient to
22 support the amounts of the fees established under this
23 subsection. The secretary of state shall deposit in the
24 ~~general~~ an enterprise fund in the state treasury all fees he
25 ~~collects~~ collected. The secretary of state shall disseminate

LC 1539/01

1 the uniform fee schedule to the county clerk and recorders
2 for their use."

3 NEW SECTION. **Section 4.** Effective date. [This act] is
4 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0549, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act clarifying the use of certain fees by the Secretary of State and establishing proprietary fund accounts for certain business and government services and the administrative code program.

ASSUMPTIONS:

1. The Secretary of State will transfer the estimated amounts considered excess proprietary fund balances to the general fund at the end of each fiscal year.
2. General fixed assets will be transferred to the new proprietary fund accounts.
3. The approximate costs include estimates for the impact of Statewide Cost Allocation Plan (SWCAP) type costs.
4. Current law consists of Governor Racicot's Executive Budget for this agency.
5. All funding for the current Business & Government Services program will be transferred from general fund to proprietary fund except for a portion of the Elections Bureau.

FISCAL IMPACT: Secretary of State's Office:

	FY '94			FY '95		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	33.55	33.55	0.00	33.55	33.55	0.00
Personal Services	882,097	882,097	0	884,183	884,183	0
Operating Expenses	599,373	599,373	0	637,674	637,674	0
Equipment	37,622	37,622	0	32,412	32,412	0
Total	1,519,092	1,519,092	0	1,554,269	1,554,269	0
<u>Funding:</u>						
General Fund	932,612	56,540	(876,072)	980,554	75,051	(905,503)
State Special Revenue	216,347	0	(216,347)	202,863	0	(202,863)
Proprietary	370,133	1,462,552	1,092,419	370,852	1,479,218	1,108,366
Total	1,519,092	1,519,092	0	1,554,269	1,554,269	0
<u>Revenues:</u>						
General Fund	1,227,000	0	(1,227,000)	1,227,000	0	(1,227,000)
State Special Revenue	210,000	0	(210,000)	210,000	0	(210,000)
Proprietary Fund	360,000	1,797,000	1,437,000	360,000	1,797,000	1,437,000
Total	1,797,000	1,797,000	0	1,797,000	1,797,000	0
<u>Fund Transfers:</u>						
Proprietary transfer to General Fund			229,211			362,460
Net Impact on General Fund			(121,717)			40,963

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

It is anticipated that operation of most of the agency under self-sustaining proprietary accounts will result in long-term revenue enhancements and consistent transfers of excess fund balances to the general fund.

David Lewis 2-16-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Mary Lou Peterson 2/17/93
MARY LOU PETERSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0549, as introduced

HB549

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Revised Fiscal Note for HB0549, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act clarifying the use of certain fees by the Secretary of State and establishing proprietary fund accounts for certain business and government services and the administrative code program.

ASSUMPTIONS:

1. The Secretary of State's Office will transfer the estimated amounts considered excess proprietary fund balances to the general fund at the end of each fiscal year.
2. General fixed assets will be transferred to the new proprietary fund accounts.
3. The costs include estimates for the impact of Statewide Cost Allocation Plan (SWCAP) type costs.
4. Current law is the HB2 appropriations for the agency as of House Appropriations Committee action on March 9, 1993.
5. All funding for the current Business & Government Services program will be transferred from general fund to proprietary fund except for a portion of the Elections Bureau.
6. Estimated proprietary fund residual equity transfers to the general fund are increased above the original fiscal note estimates. This is due, in part, to improved cash flow in FY93 and early payoff of general fund loans and obligations.

FISCAL IMPACT: Secretary of State's Office:

	FY '94			FY '95		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	34.30	34.30	0.00	34.30	34.30	0.00
Personal Services	837,539	837,539	0	839,519	839,519	0
Operating Expenses	578,766	578,766	0	582,831	582,831	0
Equipment	92,279	92,279	0	32,412	32,412	0
Total	1,508,584	1,508,584	0	1,454,762	1,454,762	0
<u>Funding:</u>						
General Fund	945,947	55,551	(890,396)	904,723	72,109	(832,614)
State Special Revenue	208,769	0	(208,769)	195,254	0	(195,254)
Proprietary	353,868	1,453,033	1,099,165	354,785	1,382,653	1,027,868
Total	1,508,584	1,508,584	0	1,454,762	1,454,762	0
<u>Revenues:</u>						
General Fund	1,227,000	0	(1,227,000)	1,227,000	0	(1,227,000)
State Special Revenue	210,000	0	(210,000)	210,000	0	(210,000)
Proprietary Fund	360,000	1,797,000	1,437,000	360,000	1,797,000	1,437,000
Total	1,797,000	1,797,000	0	1,797,000	1,797,000	0
<u>Fund Transfers:</u>						
Proprietary fund transfers to General Fund			343,967			389,347
Net Impact on General Fund			7,363			(5,039)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: It is anticipated that operation of the agency under self-sustaining proprietary accounts will result in long-term revenue increases and ongoing fund balance transfers to the general fund.

David Lewis 3-16-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Mary Lou Peterson 3-16-93
 MARY LOU PETERSON, PRIMARY SPONSOR DATE

Revised Fiscal Note for HB0549, as introduced

HB 549 #2

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 549

INTRODUCED BY PETERSON, FRITZ

BY REQUEST OF THE JOINT SUBCOMMITTEE

ON GENERAL GOVERNMENT AND TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE USE OF CERTAIN FEES BY THE SECRETARY OF STATE; REVISING THE DEPOSIT OF THE FEES; CLARIFYING THAT FEES ARE NOT REFUNDABLE; AMENDING SECTIONS 2-4-313, 2-6-103, AND 30-9-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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(d) county commissioners or governing body of each county of this state, for use of county officials and the public, at least one but not more than two copies, which may

be maintained in a public library in the county seat or in the county offices as the county commissioners or governing body of the county may determine;

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(f) state historical society, one copy;

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(2) The secretary of state, each county in the state, and the librarians for the state law library and the university of Montana law library shall maintain a complete, current set of ARM, including supplements or revisions thereto. Such persons shall also maintain the register issues published during the preceding 2 years. The secretary of state shall also maintain a permanent set of the registers.

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supplying copies of ARM and supplements or revisions thereto and the register to persons not listed in subsection (1). The cost shall be the approximate cost of publication of such copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of ARM and supplements or revisions thereto and the register.

(5) The secretary of state shall deposit fees he collects in the amount of \$20,000 for fiscal year 1993 in the general fund on or before June 30, 1993, and shall deposit all other fees in an account within the state special revenue fund created for paying the expenses of publication of ARM and the register.

(6) The secretary of state may charge agencies a filing fee for all material to be published in ARM or the register. He shall fix, in consultation with the administrative code committee, the fee to cover the costs of supplying copies of ARM and supplements or revisions thereto and the register to the persons listed in subsection (1). The cost shall be the approximate cost of publication of such copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of ARM and supplements or revisions thereto and the

register. (Terminates July 1, 1993--sec. 3, Ch. 6, Sp. L. January 1992.)

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(c) clerk of United States court of appeals for the ninth circuit, one copy;

(d) county commissioners or governing body of each county of this state, for use of county officials and the public, at least one but not more than two copies, which may be maintained in a public library in the county seat or in the county offices as the county commissioners or governing body of the county may determine;

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(i) legislative council, two copies;

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(k) state library, one copy.

(2) The secretary of state, each county in the state, and the librarians for the state law library and the university of Montana law library shall maintain a complete, current set of ARM, including supplements or revisions thereto to ARM. Such The designated persons shall also maintain the register issues published during the preceding 2 years. The secretary of state shall ~~also~~ maintain a permanent set of the registers.

(3) The secretary of state shall make copies of and subscriptions to ARM and supplements or revisions thereto to ARM and the register available to any person at prices fixed in accordance with subsection (4).

(4) The secretary of state, in consultation with the administrative code committee, shall determine the cost of supplying copies of ARM and supplements or revisions thereto to ARM and the register to persons not listed in subsection (1). The cost ~~shall~~ must be the approximate cost of publication of such the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of ARM and supplements or revisions thereto to ARM and the register. Fees are not refundable.

(5) The secretary of state shall deposit all fees he collects in an internal--service--fund account--within--the

state A special-revenue proprietary fund created-for-paying the-expenses-of-publication-of-ARM-and-the-register.

(6) The secretary of state may charge agencies a filing fee for all material to be published in ARM or the register. He The secretary of state shall fix, in consultation with the administrative code committee, the fee to cover the costs of supplying copies of ARM and supplements or revisions thereto to ARM and the register to the persons listed in subsection (1). The cost ~~shall~~ must be the approximate cost of publication of such the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of ARM and supplements or revisions thereto to ARM and the register."

Section 2. Section 2-6-103, MCA, is amended to read:

"2-6-103. Filing and copying fees. (1) The secretary of state, for services performed in his the office, shall charge and collect the following fees:

(a) for each copy of any law, resolution, record, or other document or paper on file in his office, except corporate papers, 40 cents per folio or, if the copy is made by any process of reproduction by photographic, photostatic, or similar process, the fee shall be 50 cents per page or fraction thereof of a page;

(b) for affixing certificate and seal, \$2;

(c) for receiving and recording each official bond, \$10;

(d) for each commission or other document signed by the governor and attested by the secretary of state (pardon, military commissions, and extraditions excepted), \$5;

(e) for issuing each certificate of record, \$5;

(f) for filing and recording miscellaneous papers, records, or other documents, \$5;

(g) for filing and recording any other paper not otherwise herein provided for, \$5;

(h) for filing and recording any paper, record, or other document or other than a standard form when recommended by the secretary of state, \$5;

(i) when a copy of any law, resolution, record, or other document or paper on file in the office of the secretary of state is presented for comparison and certification, 10 cents per folio must be charged and collected for proofreading the same.

(2) No A member of the legislature or state or county officer may not be charged for any search relative to matters appertaining to the duties of his the member's office or for a certified copy of any law or resolution passed by the legislature relative to his the member's official duties.

(3) The secretary of state may not charge a fee, other than the fees authorized in 2-6-110, for providing electronic information.

(4) Fees ~~shall~~ must be collected in advance and when collected by the secretary of state are not refundable and shall must be deposited pursuant to 17-6-105.

(5) WITHIN 120 DAYS FOLLOWING THE END OF EACH FISCAL YEAR, THE SECRETARY OF STATE SHALL DEPOSIT INTO THE GENERAL FUND FROM THE PROPRIETARY FUND ANY REVENUE COLLECTED IN THE PROPRIETARY FUND DURING THE PRIOR FISCAL YEAR THAT IS IN EXCESS OF THE AMOUNT APPROPRIATED FROM THE PROPRIETARY FUND FOR THE CURRENT YEAR."

Section 3. Section 30-9-403, MCA, is amended to read:

"30-9-403. What constitutes filing -- duration of filing -- fees -- effect of lapsed filing -- duties of filing officer -- computerized farm statement system.

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

(b) The secretary of state may treat a facsimile copy of a document and the signatures on the facsimile copy in the same manner as an original for purposes of 30-9-402 and subsection (1)(a), provided that ~~he--receives~~ the original document is received within 5 working days of the receipt of the facsimile copy. If all other requirements are met, the

1 date of filing relates back to the date of receipt of the
2 facsimile copy. A facsimile copy may be filed under
3 subsection (1)(a) if it:

4 (i) is produced by a method of transmission of images
5 in which the image is scanned at the transmitter,
6 reconstructed at the receiving station, and duplicated on
7 paper at the receiving station; and

8 (ii) is legible and the same size as the original.

9 (c) During the 5-day period referred to in subsection
10 (1)(b), the recorded facsimile copy constitutes constructive
11 notice for all purposes of the original document.

12 (d) If the original document is not received within 5
13 working days of receipt of the facsimile copy as provided in
14 subsection (1)(b), the filing of the facsimile copy is void.

15 (e) A person who files a false document by facsimile
16 copy is liable to the party aggrieved for three times the
17 amount of damages resulting from the filing of the false
18 document.

19 (2) Except as provided in subsections subsection (6)
20 ~~and--(11)~~, a filed financing statement is effective for a
21 period of 5 years from the date of filing. The effectiveness
22 of a filed financing statement lapses on the expiration of
23 the 5-year period unless a continuation statement is filed
24 prior to the lapse. If a security interest perfected by
25 filing exists at the time insolvency proceedings are

1 commenced by or against the debtor, the security interest
2 remains perfected until 60 days after termination of the
3 insolvency proceedings or until expiration of the 5-year
4 period, whichever occurs later. Upon lapse the security
5 interest becomes unperfected unless it is perfected without
6 filing. If the security interest becomes unperfected upon
7 lapse, it is considered to have been unperfected as against
8 a person who became a purchaser or lien creditor before
9 lapse.

10 (3) A continuation statement may be filed by the
11 secured party within 6 months prior to the expiration of the
12 5-year period specified in subsection (2). Any continuation
13 statement must be signed by the secured party, identify the
14 original statement by file number, and state that the
15 original statement is still effective. A continuation
16 statement signed by a person other than the secured party of
17 record must be accompanied by a separate written statement
18 of assignment signed by the secured party of record and
19 complying with 30-9-405(2), including payment of the
20 required fee. Upon timely filing of the continuation
21 statement, the effectiveness of the original statement is
22 continued for 5 years after the last date to which the
23 filing was effective, whereupon after which it lapses in the
24 same manner as provided in subsection (2) unless another
25 continuation statement is filed prior to such the lapse.

1 Succeeding continuation statements may be filed in the same
 2 manner to continue the effectiveness of the original
 3 statement. Unless a statute on disposition of public records
 4 provides otherwise, the filing officer may remove a lapsed
 5 statement from the files and destroy it immediately if he
 6 the filing officer has retained a microfilm or other
 7 photographic record or a record produced according to rules
 8 adopted by the secretary of state, or in other cases after 1
 9 year after the lapse. The filing officer shall so arrange
 10 matters by physical annexation of financing statements to
 11 continuation statements or other related filings, or by
 12 other means, that if he the filing officer physically
 13 destroys the financing statements of a period more than 5
 14 years past, those which have been continued by a
 15 continuation statement or which are still effective under
 16 subsection (6) shall be retained.

17 (4) Except as provided in subsection (7), a filing
 18 officer shall mark each statement with a file number and
 19 with the date and hour of filing. The filing officer shall
 20 hold the statement or a microfilm or other photographic copy
 21 or a copy produced according to rules adopted by the
 22 secretary of state for public inspection. In addition, the
 23 filing officer shall index the statements according to the
 24 name of the debtor and shall note in the index the file
 25 number and the address of the debtor given in the statement.

1 (5) The uniform fees for filing, indexing, and stamping
 2 a copy furnished by the filing party to show the date and
 3 place of filing shall be set pursuant to subsection
 4 ~~(13)~~ (12).

5 (6) If the debtor is a transmitting utility and a filed
 6 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 the secured party were the
 22 mortgagee thereunder under the financing statement, or, if
 23 indexing is by description, in the same fashion as if the
 24 financing statement were a mortgage of the real estate
 25 described.

(8) When a financing or continuation statement filed by a financial institution covers farm products or accounts, livestock, general intangibles arising from or relating to the sale of farm products by a farmer, crops growing or to be grown, or equipment used in farming operations, the fee for filing must be established by the secretary of state in an amount commensurate with the costs of establishing and operating the computerized access system described in subsection (9).

(9) Within 1 working day of receipt of a financing or continuation statement, the secretary of state shall record the information contained in the statement on a centralized computer system that he the secretary of state shall establish. The computer system must allow access to financing statement information by any type of communications which conform to standards used by the state central computer. The system must have safeguards to allow only access to UCC data and to prevent alteration, addition, or deletion of the UCC data. The computer must be accessible whenever the state computer system is available. A perfected security interest is not created until the financing statement information is recorded on the system. A printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement. The secretary of state shall maintain adequate

errors and omissions liability coverage to protect against input errors causing loss to a secured party.

(10) The secretary of state shall, upon request of a clerk and recorder, mail a certified copy of a financing statement, continuation statement, assignment, amendment, or termination covering collateral described in subsection (8) to the clerk and recorder in the county of the principal debtor's residence. The secretary of state shall mail the requested copies at least once each week. This subsection does not require the secretary of state to mail a copy of any document which does not specifically indicate the county of the principal debtor's residence on its face.

~~(11) When--a--financing-or-continuation-statement-covers property-described--in--subsection--(8)--its--effectiveness lapses--on--July-17-1986--unless-prior-to-that-date-there-is filed-in-the-office-of-the-secretary-of--state--a--certified copy--of-the-statement-on-file-with-the-county-clerk-and-all related-documents--~~

~~{12}~~ 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.

~~{13}~~ (12) The secretary of state, with advice from the county clerk and recorders, shall by administrative rule establish fees as required by this part. The fees must be

1 commensurate with the costs of processing the documents. The
2 secretary of state shall maintain records sufficient to
3 support the amounts of the fees established under this
4 subsection. The secretary of state shall deposit in the
5 ~~general~~ an enterprise fund in the state treasury all fees he
6 ~~collects~~ collected. The secretary of state shall disseminate
7 the uniform fee schedule to the county clerk and recorders
8 for their use."

9 NEW SECTION. **Section 4.** Effective date. [This act] is
10 effective July 1, 1993.

-End-

1 HOUSE BILL NO. 549

2 INTRODUCED BY PETERSON, FRITZ

3 BY REQUEST OF THE JOINT SUBCOMMITTEE

4 ON GENERAL GOVERNMENT AND TRANSPORTATION

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE USE OF
7 CERTAIN FEES BY THE SECRETARY OF STATE; REVISING THE DEPOSIT
8 OF THE FEES; CLARIFYING THAT FEES ARE NOT REFUNDABLE;
9 AMENDING SECTIONS 2-4-313, 2-6-103, AND 30-9-403, MCA; AND
10 PROVIDING AN EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 2-4-313, MCA, is amended to read:

14 "2-4-313. (Temporary) Distribution, costs, and
15 maintenance. (1) The secretary of state shall distribute
16 copies of ARM and supplements or revisions thereto to the
17 following:

18 (a) attorney general, one copy;

19 (b) clerk of United States district court for the
20 district of Montana, one copy;

21 (c) clerk of United States court of appeals for the
22 ninth circuit, one copy;

23 (d) county commissioners or governing body of each
24 county of this state, for use of county officials and the
25 public, at least one but not more than two copies, which may

1 be maintained in a public library in the county seat or in
2 the county offices as the county commissioners or governing
3 body of the county may determine;

4 (e) state law library, one copy;

5 (f) state historical society, one copy;

6 (g) each unit of the Montana university system, one
7 copy;

8 (h) law library of the university of Montana, one copy;

9 (i) legislative council, two copies;

10 (j) library of congress, one copy;

11 (k) state library, one copy.

12 (2) The secretary of state, each county in the state,
13 and the librarians for the state law library and the
14 university of Montana law library shall maintain a complete,
15 current set of ARM, including supplements or revisions
16 thereto. Such persons shall also maintain the register
17 issues published during the preceding 2 years. The secretary
18 of state shall also maintain a permanent set of the
19 registers.

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

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22 ninth circuit, one copy;

23 (d) county commissioners or governing body of each
24 county of this state, for use of county officials and the
25 public, at least one but not more than two copies, which may

1 be maintained in a public library in the county seat or in
2 the county offices as the county commissioners or governing
3 body of the county may determine;

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7 copy;

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12 (2) The secretary of state, each county in the state,
13 and the librarians for the state law library and the
14 university of Montana law library shall maintain a complete,
15 current set of ARM, including supplements or revisions
16 thereto. Such persons shall also maintain the register
17 issues published during the preceding 2 years. The secretary
18 of state shall also maintain a permanent set of the
19 registers.

20 (3) The secretary of state shall make copies of and
21 subscriptions to ARM and supplements or revisions thereto
22 and the register available to any person at prices fixed in
23 accordance with subsection (4).

24 (4) The secretary of state, in consultation with the
25 administrative code committee, shall determine the cost of

1 supplying copies of ARM and supplements or revisions thereto
 2 and the register to persons not listed in subsection (1).
 3 The cost shall be the approximate cost of publication of
 4 such copies, including indexing, printing or duplicating,
 5 and mailing. However, a uniform price per page or group of
 6 pages may be established without regard to differences in
 7 cost of printing different parts of ARM and supplements or
 8 revisions thereto and the register.

9 (5) The secretary of state shall deposit fees he
 10 collects in the amount of \$20,000 for fiscal year 1993 in
 11 the general fund on or before June 30, 1993, and shall
 12 deposit all other fees in an account within the state
 13 special revenue fund created for paying the expenses of
 14 publication of ARM and the register.

15 (6) The secretary of state may charge agencies a filing
 16 fee for all material to be published in ARM or the register.
 17 He shall fix, in consultation with the administrative code
 18 committee, the fee to cover the costs of supplying copies of
 19 ARM and supplements or revisions thereto and the register to
 20 the persons listed in subsection (1). The cost shall be the
 21 approximate cost of publication of such copies, including
 22 indexing, printing or duplicating, and mailing. However, a
 23 uniform price per page or group of pages may be established
 24 without regard to differences in cost of printing different
 25 parts of ARM and supplements or revisions thereto and the

1 register. (Terminates July 1, 1993--sec. 3, Ch. 6, Sp. L.
 2 January 1992.)

3 2-4-313. (Effective July 1, 1993) Distribution, costs,
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 6 the following:

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 9 district of Montana, one copy;
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 13 county of this state, for use of county officials and the
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(g) for filing and recording any other paper not otherwise herein provided for, \$5;

(h) for filing and recording any paper, record, or other document or other than a standard form when recommended by the secretary of state, \$5;

(i) when a copy of any law, resolution, record, or other document or paper on file in the office of the secretary of state is presented for comparison and certification, 10 cents per folio must be charged and collected for proofreading the same.

(2) No A member of the legislature or state or county officer may not be charged for any search relative to matters appertaining to the duties of his the member's office or for a certified copy of any law or resolution passed by the legislature relative to his the member's official duties.

(3) The secretary of state may not charge a fee, other than the fees authorized in 2-6-110, for providing electronic information.

(4) Fees shall must be collected in advance and when collected by the secretary of state are not refundable and shall must be deposited pursuant to 17-6-105.

(5) WITHIN 120 DAYS FOLLOWING THE END OF EACH FISCAL YEAR, THE SECRETARY OF STATE SHALL DEPOSIT INTO THE GENERAL FUND FROM THE PROPRIETARY FUND ANY REVENUE COLLECTED IN THE PROPRIETARY FUND DURING THE PRIOR FISCAL YEAR THAT IS IN EXCESS OF THE AMOUNT APPROPRIATED FROM THE PROPRIETARY FUND FOR THE CURRENT YEAR."

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1 date of filing relates back to the date of receipt of the
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10 (1)(b), the recorded facsimile copy constitutes constructive
11 notice for all purposes of the original document.

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13 working days of receipt of the facsimile copy as provided in
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17 amount of damages resulting from the filing of the false
18 document.

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20 and--(11), a filed financing statement is effective for a
21 period of 5 years from the date of filing. The effectiveness
22 of a filed financing statement lapses on the expiration of
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24 prior to the lapse. If a security interest perfected by
25 filing exists at the time insolvency proceedings are

1 commenced by or against the debtor, the security interest
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(4) Except as provided in subsection (7), a filing officer shall mark each statement with a file number and with the date and hour of filing. The filing officer shall hold the statement or a microfilm or other photographic copy or a copy produced according to rules adopted by the secretary of state for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fees for filing, indexing, and stamping a copy furnished by the filing party to show the date and place of filing shall be set pursuant to subsection ~~(13)~~ (12).

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

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

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 6 termination covering collateral described in subsection (8)
 7 to the clerk and recorder in the county of the principal
 8 debtor's residence. The secretary of state shall mail the
 9 requested copies at least once each week. This subsection
 10 does not require the secretary of state to mail a copy of
 11 any document which does not specifically indicate the county
 12 of the principal debtor's residence on its face.

13 ~~(11) When--a--financing-or-continuation-statement-covers~~
 14 ~~property-described--in--subsection--(8)--its--effectiveness~~
 15 ~~lapses--on--July-17-1986--unless-prior-to-that-date-there-is~~
 16 ~~filed-in-the-office-of-the-secretary-of--state--a--certified~~
 17 ~~copy--of-the-statement-on-file-with-the-county-clerk-and-all~~
 18 ~~related-documents.~~

19 ~~(12)~~ Financing statement information in the computer
 20 system constitutes public writings within the meaning of
 21 2-6-101, but the information may not be used to compile
 22 mailing lists.

23 ~~(13)~~ (12) The secretary of state, with advice from the
 24 county clerk and recorders, shall by administrative rule
 25 establish fees as required by this part. The fees must be

1 commensurate with the costs of processing the documents. The
2 secretary of state shall maintain records sufficient to
3 support the amounts of the fees established under this
4 subsection. The secretary of state shall deposit in the
5 general an enterprise fund in the state treasury all fees he
6 collects collected. The secretary of state shall disseminate
7 the uniform fee schedule to the county clerk and recorders
8 for their use."

9 NEW SECTION. **Section 4.** Effective date. [This act] is
10 effective July 1, 1993.

-End-