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*House* BILL NO. *468*

INTRODUCED BY *Gella Wagner*

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE SECRETARY OF STATE TO DEVELOP AND IMPLEMENT A STATEWIDE ELECTRONIC FILING SYSTEM; REQUIRING THAT IF AN ELECTRONIC FILING SYSTEM IS DEVELOPED AND IMPLEMENTED BY THE SECRETARY OF STATE, THE SECRETARY OF STATE SHALL PROMULGATE RULES REGARDING ACCESS, SECURITY, AND INTEGRITY AND OTHER MATTERS RELEVANT TO THE SYSTEM; LIMITING THE STATE'S LIABILITY FOR ERRORS OR OMISSIONS OF DATA OR INFORMATION WITHIN THE STATEWIDE ELECTRONIC FILING SYSTEM; ALLOWING THE DEVELOPMENT AND IMPLEMENTATION OF A STATEWIDE ELECTRONIC FILING SYSTEM TO BE PHASED IN; AND AMENDING SECTION 2-15-401, MCA."

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

**NEW SECTION. Section 1. Electronic filing system -- requirements -- rules -- limitations on liability.**

(1) As authorized by 2-15-401, the secretary of state may develop and implement a statewide electronic filing system to accommodate the electronic filing of records and documents that are required to be filed in the office of the secretary of state.

(2) If the secretary of state develops and implements a statewide electronic filing system, the secretary of state shall establish a central data base for all records and documents filed electronically with the secretary of state.

(3) If the secretary of state develops and implements a statewide electronic filing system, the secretary of state shall adopt rules that:

(a) provide procedures for entering data;

(b) provide security and protection of information in the system and monitor the data base and other components of the system to ensure that unauthorized entry is precluded;

(c) require standardized information for entry into the system;

(d) prescribe an identification procedure for a person filing records or other documents or otherwise accessing the system;

(e) require each individual who is required to sign a document that is filed electronically to be

1 specifically identified as acknowledging the document and giving assent to the electronic filing through an  
2 identification procedure unique to that individual;

3 (f) prescribe a procedure for certification of electronic filings by the secretary of state; and

4 (g) prescribe a procedure for converting an electronic filing to a paper copy and for certifying the  
5 paper copy for a person requesting a paper copy.

6 (4) The secretary of state is not liable for any loss or damages arising from errors in or omissions  
7 from information entered into the electronic filing system.

8 (5) This section may not be construed to affect any requirement that a particular individual or  
9 officer of an organization acknowledge a document. Any person using an identification procedure in place  
10 of a signature or facsimile signature for any electronic filing is subject to the same civil and criminal  
11 penalties applicable to a person providing a signature or facsimile signature.

12 (6) An electronic filing system developed and implemented under this section may be constructed  
13 in phases as resources and technology allow.

14

15 **Section 2.** Section 2-15-401, MCA, is amended to read:

16 **"2-15-401. Duties of secretary of state -- authority.**

17 (1) In addition to the duties prescribed by the constitution, it is the duty of the secretary of state  
18 to:

19 ~~(1)~~(a) attend at every session of the legislature for the purpose of receiving bills and resolutions  
20 and to perform other duties as may be devolved upon the secretary of state by resolution of the two houses  
21 or either of them;

22 ~~(2)~~(b) keep a register of and attest the official acts of the governor, including all appointments  
23 made by the governor, with date of commission and names of appointees and predecessors;

24 ~~(3)~~(c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and  
25 other public instruments to which the official signature of the governor is required;

26 ~~(4)~~(d) record in proper books all articles of incorporation filed in the secretary of state's office;

27 ~~(5)~~(e) take and file receipts for all books distributed by the secretary of state and direct the county  
28 clerk of each county to do the same;

29 ~~(6)~~(f) certify to the governor the names of those persons who have received at any election the  
30 highest number of votes for any office, the incumbent of which is commissioned by the governor;

1           ~~(7)(g)~~ furnish, on demand, to any person paying the fees, a certified copy of all or any part of any  
2 law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;

3           ~~(8)(h)~~ keep a fee book in which must be entered all fees, commissions, and compensation earned,  
4 collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each  
5 case, which must be verified annually by the secretary of state's affidavit entered in the fee book;

6           ~~(9)(i)~~ file in the secretary of state's office descriptions of seals in use by the different state officers;

7           ~~(10)(j)~~ discharge the duties of member of the board of examiners and of the board of land  
8 commissioners and all other duties required by law;

9           ~~(11)(k)~~ register marks as provided in Title 30, chapter 13, part 3;

10          ~~(12)(l)~~ report annually to the legislative services division all watercourse name changes received  
11 pursuant to 85-2-134 for publication in the Laws of Montana;

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

14          (2) The secretary of state may develop and implement a statewide electronic filing system as  
15 described in [section 1]."

16

17          NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
18 integral part of Title 2, chapter 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to  
19 [section 1].

20

21          NEW SECTION. Section 4. Two-thirds vote required. Because [section 1] limits governmental  
22 liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of  
23 each house of the legislature for passage.

24

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0468, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

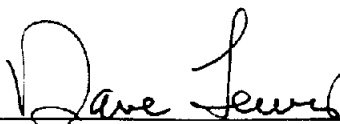
An act authorizing the Secretary of State to develop and implement a statewide electronic filing system; and requiring that if an electronic filing system is developed and implemented by the Secretary of State, the Secretary of State shall promulgate rules regarding access, security, and integrity relevant to the system.

ASSUMPTIONS:

1. The bill states that the Secretary of State's Office may construct an electronic filing system in phases as resources and technology allow. There is no directive to complete the project during the 1999 biennium.
2. The project study and development has not been completed. Therefore, it is not possible to estimate the long-term fiscal impact of the bill.
3. The Secretary of State's office is authorized under current law to charge fees for service commensurate with costs.
4. It is assumed that the bill will have no fiscal impact during the 1999 biennium.

FISCAL IMPACT:

There is no estimated fiscal impact to the Secretary of State's Office during the 1999 biennium.

 2-12-97  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

  
KIM GILLAN, PRIMARY SPONSOR      DATE

Fiscal Note for HB0468, as introduced

**HB 468**

## 1 HOUSE BILL NO. 468

2 INTRODUCED BY GILLAN, HAGENER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE SECRETARY OF STATE TO DEVELOP AND  
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6 SYSTEM IS DEVELOPED AND IMPLEMENTED BY THE SECRETARY OF STATE, THE SECRETARY OF STATE  
7 SHALL PROMULGATE RULES REGARDING ACCESS, SECURITY, AND INTEGRITY AND OTHER MATTERS  
8 RELEVANT TO THE SYSTEM; ~~LIMITING THE STATE'S LIABILITY FOR ERRORS OR OMISSIONS OF DATA  
9 OR INFORMATION WITHIN THE STATEWIDE ELECTRONIC FILING SYSTEM;~~ ALLOWING THE  
10 DEVELOPMENT AND IMPLEMENTATION OF A STATEWIDE ELECTRONIC FILING SYSTEM TO BE PHASED  
11 IN; AND AMENDING SECTION 2-15-401, MCA."

12

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

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15 NEW SECTION. **Section 1. Electronic filing system -- requirements -- rules -- limitations on liability.**

16 (1) As authorized by 2-15-401, the secretary of state may develop and implement a statewide electronic  
17 filing system to accommodate the electronic filing of records and documents that are required to be filed  
18 in the office of the secretary of state.

19 (2) If the secretary of state develops and implements a statewide electronic filing system, the  
20 secretary of state shall establish a central data base for all records and documents filed electronically with  
21 the secretary of state.

22 (3) If the secretary of state develops and implements a statewide electronic filing system, the  
23 secretary of state shall adopt rules that:

24 (a) provide procedures for entering data;

25 (b) provide security and protection of information in the system and monitor the data base and  
26 other components of the system to ensure that unauthorized entry is precluded;

27 (c) require standardized information for entry into the system;

28 (d) prescribe an identification procedure for a person filing records or other documents or otherwise  
29 accessing the system;

30 (e) require each individual who is required to sign a document that is filed electronically to be

1 specifically identified as acknowledging the document and giving assent to the electronic filing through an  
 2 identification procedure unique to that individual;

3 (f) prescribe a procedure for certification of electronic filings by the secretary of state; and

4 (g) prescribe a procedure for converting an electronic filing to a paper copy and for certifying the  
 5 paper copy for a person requesting a paper copy.

6 ~~(4) The secretary of state is not liable for any loss or damages arising from errors in or omissions~~  
 7 ~~from information entered into the electronic filing system~~ IN ACCORDANCE WITH 2-17-501, THE  
 8 SECRETARY OF STATE SHALL COOPERATE WITH THE DEPARTMENT OF ADMINISTRATION IN THE  
 9 DEVELOPMENT OF ANY ELECTRONIC FILING SYSTEM.

10 (5) This section may not be construed to affect any requirement that a particular individual or  
 11 officer of an organization acknowledge a document. Any person using an identification procedure in place  
 12 of a signature or facsimile signature for any electronic filing is subject to the same civil and criminal  
 13 penalties applicable to a person providing a signature or facsimile signature.

14 (6) An electronic filing system developed and implemented under this section may be constructed  
 15 in phases as resources and technology allow.

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17 **Section 2.** Section 2-15-401, MCA, is amended to read:

18 **"2-15-401. Duties of secretary of state -- authority.** (1) In addition to the duties prescribed by  
 19 the constitution, it is the duty of the secretary of state to:

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

23 ~~(2)(b)~~ (b) keep a register of and attest the official acts of the governor, including all appointments  
 24 made by the governor, with date of commission and names of appointees and predecessors;

25 ~~(3)(c)~~ (c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and  
 26 other public instruments to which the official signature of the governor is required;

27 ~~(4)(d)~~ (d) record in proper books all articles of incorporation filed in the secretary of state's office;

28 ~~(5)(e)~~ (e) take and file receipts for all books distributed by the secretary of state and direct the county  
 29 clerk of each county to do the same;

30 ~~(6)(f)~~ (f) certify to the governor the names of those persons who have received at any election the

1 highest number of votes for any office, the incumbent of which is commissioned by the governor;

2 ~~(7)(g)~~ furnish, on demand, to any person paying the fees, a certified copy of all or any part of any  
3 law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;

4 ~~(8)(h)~~ keep a fee book in which must be entered all fees, commissions, and compensation earned,  
5 collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each  
6 case, which must be verified annually by the secretary of state's affidavit entered in the fee book;

7 ~~(9)(i)~~ file in the secretary of state's office descriptions of seals in use by the different state officers;

8 ~~(10)(j)~~ discharge the duties of member of the board of examiners and of the board of land  
9 commissioners and all other duties required by law;

10 ~~(11)(k)~~ register marks as provided in Title 30, chapter 13, part 3;

11 ~~(12)(l)~~ report annually to the legislative services division all watercourse name changes received  
12 pursuant to 85-2-134 for publication in the Laws of Montana;

13 ~~(13)(m)~~ keep a register of all applications for pardon or for commutation of any sentence, with a  
14 list of the official signatures and recommendations in favor of each application.

15 (2) The secretary of state may develop and implement a statewide electronic filing system as  
16 described in [section 1]."

17

18 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
19 integral part of Title 2, chapter 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to  
20 [section 1].

21

22 ~~NEW SECTION. Section 4. Two thirds vote required.~~ Because [section 1] limits governmental  
23 liability, Article II, section 18, of the Montana constitution requires a vote of two thirds of the members of  
24 each house of the legislature for passage.

25

-END-

## 1 HOUSE BILL NO. 468

2 INTRODUCED BY GILLAN, HAGENER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE SECRETARY OF STATE TO DEVELOP AND  
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7 SHALL PROMULGATE RULES REGARDING ACCESS, SECURITY, AND INTEGRITY AND OTHER MATTERS  
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16 (1) As authorized by 2-15-401, the secretary of state may develop and implement a statewide electronic  
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18 in the office of the secretary of state.

19 (2) If the secretary of state develops and implements a statewide electronic filing system, the  
20 secretary of state shall establish a central data base for all records and documents filed electronically with  
21 the secretary of state.

22 (3) If the secretary of state develops and implements a statewide electronic filing system, the  
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26 other components of the system to ensure that unauthorized entry is precluded;

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1 specifically identified as acknowledging the document and giving assent to the electronic filing through an  
2 identification procedure unique to that individual;

3 (f) prescribe a procedure for certification of electronic filings by the secretary of state; and

4 (g) prescribe a procedure for converting an electronic filing to a paper copy and for certifying the  
5 paper copy for a person requesting a paper copy.

6 (4) ~~The secretary of state is not liable for any loss or damages arising from errors in or omissions~~  
7 ~~from information entered into the electronic filing system~~ IN ACCORDANCE WITH 2-17-501, THE  
8 SECRETARY OF STATE SHALL COOPERATE WITH THE DEPARTMENT OF ADMINISTRATION IN THE  
9 DEVELOPMENT OF ANY ELECTRONIC FILING SYSTEM.

10 (5) This section may not be construed to affect any requirement that a particular individual or  
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22 or either of them;

23 (2)(b) keep a register of and attest the official acts of the governor, including all appointments  
24 made by the governor, with date of commission and names of appointees and predecessors;

25 (3)(c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and  
26 other public instruments to which the official signature of the governor is required;

27 (4)(d) record in proper books all articles of incorporation filed in the secretary of state's office;

28 (5)(e) take and file receipts for all books distributed by the secretary of state and direct the county  
29 clerk of each county to do the same;

30 (6)(f) certify to the governor the names of those persons who have received at any election the

1 highest number of votes for any office, the incumbent of which is commissioned by the governor;  
2 ~~(7)(g)~~ furnish, on demand, to any person paying the fees, a certified copy of all or any part of any  
3 law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;  
4 ~~(8)(h)~~ keep a fee book in which must be entered all fees, commissions, and compensation earned,  
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7 ~~(9)(i)~~ file in the secretary of state's office descriptions of seals in use by the different state officers;  
8 ~~(10)(j)~~ discharge the duties of member of the board of examiners and of the board of land  
9 commissioners and all other duties required by law;  
10 ~~(11)(k)~~ register marks as provided in Title 30, chapter 13, part 3;  
11 ~~(12)(l)~~ report annually to the legislative services division all watercourse name changes received  
12 pursuant to 85-2-134 for publication in the Laws of Montana;  
13 ~~(13)(m)~~ keep a register of all applications for pardon or for commutation of any sentence, with a  
14 list of the official signatures and recommendations in favor of each application.  
15 (2) The secretary of state may develop and implement a statewide electronic filing system as  
16 described in [section 1]."  
17

18 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
19 integral part of Title 2, chapter 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to  
20 [section 1].  
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22 ~~**NEW SECTION. Section 4. Two thirds vote required.** Because [section 1] limits governmental~~  
23 ~~liability, Article II, section 18, of the Montana constitution requires a vote of two thirds of the members of~~  
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22 ~~**NEW SECTION. Section 4. Two-thirds vote required.** Because [section 1] limits governmental  
23 liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of  
24 each house of the legislature for passage.~~

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10 (5) This section may not be construed to affect any requirement that a particular individual or  
11 officer of an organization acknowledge a document. Any person using an identification procedure in place  
12 of a signature or facsimile signature for any electronic filing is subject to the same civil and criminal  
13 penalties applicable to a person providing a signature or facsimile signature.

14 (6) An electronic filing system developed and implemented under this section may be constructed  
15 in phases as resources and technology allow.

16  
17 **Section 2.** Section 2-15-401, MCA, is amended to read:

18 **"2-15-401. Duties of secretary of state -- authority.** (1) In addition to the duties prescribed by  
19 the constitution, it is the duty of the secretary of state to:

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

23 ~~(2)~~(b) keep a register of and attest the official acts of the governor, including all appointments  
24 made by the governor, with date of commission and names of appointees and predecessors;

25 ~~(3)~~(c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and  
26 other public instruments to which the official signature of the governor is required;

27 ~~(4)~~(d) record in proper books all articles of incorporation filed in the secretary of state's office;

28 ~~(5)~~(e) take and file receipts for all books distributed by the secretary of state and direct the county  
29 clerk of each county to do the same;

30 ~~(6)~~(f) certify to the governor the names of those persons who have received at any election the

- 1 highest number of votes for any office, the incumbent of which is commissioned by the governor;
- 2 ~~(7)(g)~~ furnish, on demand, to any person paying the fees, a certified copy of all or any part of any
- 3 law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;
- 4 ~~(8)(h)~~ keep a fee book in which must be entered all fees, commissions, and compensation earned,
- 5 collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each
- 6 case, which must be verified annually by the secretary of state's affidavit entered in the fee book;
- 7 ~~(9)(i)~~ file in the secretary of state's office descriptions of seals in use by the different state officers;
- 8 ~~(10)(j)~~ discharge the duties of member of the board of examiners and of the board of land
- 9 commissioners and all other duties required by law;
- 10 ~~(11)(k)~~ register marks as provided in Title 30, chapter 13, part 3;
- 11 ~~(12)(l)~~ report annually to the legislative services division all watercourse name changes received
- 12 pursuant to 85-2-134 for publication in the Laws of Montana;
- 13 ~~(13)(m)~~ keep a register of all applications for pardon or for commutation of any sentence, with a
- 14 list of the official signatures and recommendations in favor of each application.

15 (2) The secretary of state may develop and implement a statewide electronic filing system as

16 described in [section 1]."

17

18 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an

19 integral part of Title 2, chapter 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to

20 [section 1].

21

22 ~~**NEW SECTION. Section 4. Two-thirds vote required.** Because [section 1] limits governmental~~

23 ~~liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of~~

24 ~~each house of the legislature for passage.~~

25 -END-