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INTRODUCED BY Att. J. McAn ^{SB} BILL NO. 152

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF JUSTICE TO ESTABLISH A PILOT PROGRAM FOR THE ELECTRONIC FILING AND PERFECTION OF MOTOR VEHICLE LIENS; AMENDING SECTION 61-3-103, MCA; AND PROVIDING A TERMINATION DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 1] requires the department of justice to adopt rules implementing a pilot program for the electronic filing and perfection of motor vehicle liens. The rules must provide procedures that will constitute constructive notice of the electronically filed and perfected lien to subsequent purchasers or encumbrancers.

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

NEW SECTION. Section 1. Electronic lien filing. (1) The department shall implement a pilot program allowing electronic filing and perfection of liens on motor vehicles.

(2) The department shall adopt rules to implement the pilot program. The rules must include procedures designed to constitute constructive notice of electronically filed and perfected liens to subsequent purchasers or encumbrancers from the date of a lien's perfection.

Section 2. Section 61-3-103, MCA, is amended to read:

"61-3-103. Filing of security interests, -- perfection, -- rights, -- procedure, -- fees. (1) Except as provided in [section 1], the ~~The~~ department may not file any voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, and the amount of the lien, and is signed by the debtor. The department shall file voluntary security interests and liens by entering the name and address of the secured

1 party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the
2 vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or
3 lien to the secured party. The department shall mail the certificate of ownership to the owner at the address
4 given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for
5 by a creditor or secured party, the department shall return the certificate of ownership to the county
6 treasurer ~~where~~ in the county in which the vehicle is to be registered. The owner of a motor vehicle is the
7 person entitled to operate and possess the motor vehicle.

8 (2) A security interest in a motor vehicle held as inventory by a dealer licensed under the provisions
9 of 61-4-101₇ must be perfected in accordance with Title 30, chapter 9.

10 (3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two
11 security interests previously perfected under this section, the department shall endorse on the face of the
12 certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with
13 the Department of Justice." ~~No other~~ Other information regarding ~~such~~ the additional security interests need
14 not be endorsed on the certificate.

15 (4) Satisfactions or statements of release filed with the department under this chapter must be
16 retained by it for a period of 8 years after receipt, after which they may be destroyed.

17 (5) Except as provided in [section 1] and subsection (6) of this section, a voluntary security interest
18 or lien is perfected on the date that the lien notice and the certificate of ownership or manufacturer's
19 statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to
20 the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive
21 notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the
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23 (6) ~~Voluntary~~ Except as provided in [section 1], voluntary security interests or lien filings that do
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27 subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date that
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29 (7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle,
30 the mortgagee or vendor has the same remedies as in the case of other personal property. In case of

1 attachment of motor vehicles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable
2 except that deposits must be made with the department.

3 (8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of
4 a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment
5 is required to pay the department the sum of \$1 for each day that the person fails to file ~~such~~ the
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7 (9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor
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9 vendor, mortgagees, or assignees of ~~any thereof~~ the owner, conditional sale vendor, or mortgagees a notice
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12 attorneys for the plaintiff and attaching creditor.

13 (10) It is not necessary to refile with the department any instruments on file in the offices of the
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21 assignment of any security interest or other lien on file with the department. All fees provided for in this
22 section must be paid to the county treasurer for deposit in the state general fund in accordance with
23 15-1-504."

24

25 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
26 integral part of Title 61, chapter 3, part 1, and the provisions of Title 61, chapter 3, part 1, apply to
27 [section 1].

28

29 **NEW SECTION. Section 4. Termination.** [This act] terminates June 30, 2000.

30

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0152, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

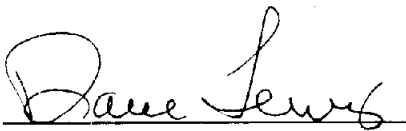
An act requiring the Department of Justice to establish a pilot program for the electronic filing and perfection of motor vehicle liens.

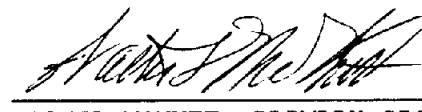
ASSUMPTIONS:

1. No change in revenues. The State of Montana would continue to receive the \$4.00 fee for the filing of each lien.
2. The Department of Justice will adopt rules to implement the pilot program during fiscal 1998.
3. The Department of Justice estimates that 1,000 hours at a cost of \$20 per hour in fiscal 1998 would be required to implement the pilot program. Other than programming, all other implementation costs (such as, training, computer access line, computer processing time, modem phone lines) would be paid by those participating in the program and filing the electronic liens.

FISCAL IMPACT:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	20,000	20,000
<u>Funding:</u>		
General Fund (01)	20,000	20,000
<u>Net Impact on Fund Balance:</u> (Revenue minus Expense)		
General Fund (01)	(20,000)	(20,000)

 1-15-97
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 1-15-97
 WALTER MCNUTT, PRIMARY SPONSOR DATE
 Fiscal Note for SB0152, as introduced

SB 152

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0152, as revised

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring the Department of Justice to establish a pilot program for the electronic filing and perfection of motor vehicle liens.

ASSUMPTIONS:

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	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	20,000	0
<u>Funding:</u>		
General Fund (01)	20,000	0
<u>Net Impact on Fund Balance: (Revenue minus Expense)</u>		
General Fund (01)	(20,000)	0

David Lewis 1-16-97

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Walter McNutt 1/16/97

WALTER MCNUTT, PRIMARY SPONSOR DATE

Fiscal Note for SB0152, as revised

Rev. SB 152 #2

APPROVED BY COM ON
STATE ADMINISTRATION

1 SB BILL NO. 152
2 INTRODUCED BY State J. M. [Signature]

3
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30 -END-

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INTRODUCED BY State ^{SB} ~~JN~~ BILL NO. 152

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19 ownership. A fee of \$4 must be paid to the department for issuing a certified copy of a certificate of
20 ownership subject to a security interest or other lien on file in the office of the department or for filing an
21 assignment of any security interest or other lien on file with the department. All fees provided for in this
22 section must be paid to the county treasurer for deposit in the state general fund in accordance with
23 15-1-504."

24

25 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
26 integral part of Title 61, chapter 3, part 1, and the provisions of Title 61, chapter 3, part 1, apply to
27 [section 1].

28

29 NEW SECTION. Section 4. Termination. [This act] terminates June 30, 2000.

30

-END-

1 SENATE BILL NO. 152

2 INTRODUCED BY MCNUTT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF JUSTICE TO ESTABLISH A
5 PILOT PROGRAM FOR THE ELECTRONIC FILING AND PERFECTION OF MOTOR VEHICLE LIENS;
6 AMENDING SECTION 61-3-103, MCA; AND PROVIDING A TERMINATION DATE."
7

8 STATEMENT OF INTENT

9 A statement of intent is required for this bill because [section 1] requires the department of justice
10 to adopt rules implementing a pilot program for the electronic filing and perfection of motor vehicle liens.
11 The rules must provide procedures that will constitute constructive notice of the electronically filed and
12 perfected lien to subsequent purchasers or encumbrancers.
13

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

16 **NEW SECTION.** **Section 1. Electronic lien filing.** (1) The department shall implement a pilot
17 program allowing electronic filing and perfection of liens on motor vehicles.

18 (2) The department shall adopt rules to implement the pilot program. The rules must include
19 procedures designed to constitute constructive notice of electronically filed and perfected liens to
20 subsequent purchasers or encumbrancers from the date of a lien's perfection.
21

22 **Section 2.** Section 61-3-103, MCA, is amended to read:

23 **"61-3-103. Filing of security interests, ~~perfection,~~ ~~rights,~~ ~~procedure,~~ ~~fees.~~** (1) Except as
24 provided in [section 1], ~~The~~ department may not file any voluntary security interest or lien unless it is
25 accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered.
26 If the approved notice form is transmitted to the department, the security agreement or other lien
27 instrument that creates the security interest must be retained by the secured party. A copy of the security
28 agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured
29 party, the complete vehicle description, and the amount of the lien, and is signed by the debtor. The
30 department shall file voluntary security interests and liens by entering the name and address of the secured

1 party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the
2 vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or
3 lien to the secured party. The department shall mail the certificate of ownership to the owner at the address
4 given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for
5 by a creditor or secured party, the department shall return the certificate of ownership to the county
6 treasurer ~~where~~ in the county in which the vehicle is to be registered. The owner of a motor vehicle is the
7 person entitled to operate and possess the motor vehicle.

8 (2) A security interest in a motor vehicle held as inventory by a dealer licensed under the provisions
9 of 61-4-101, must be perfected in accordance with Title 30, chapter 9.

10 (3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two
11 security interests previously perfected under this section, the department shall endorse on the face of the
12 certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with
13 the Department of Justice." ~~No other~~ Other information regarding ~~such~~ the additional security interests need
14 not be endorsed on the certificate.

15 (4) Satisfactions or statements of release filed with the department under this chapter must be
16 retained by it for a period of 8 years after receipt, after which they may be destroyed.

17 (5) Except as provided in [section 1] and subsection (6) of this section, a voluntary security interest
18 or lien is perfected on the date that the lien notice and the certificate of ownership or manufacturer's
19 statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to
20 the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive
21 notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the
22 county treasurer, of the existence of the security interest.

23 (6) ~~Voluntary~~ Except as provided in [section 1], voluntary security interests or lien filings that do
24 not require transfer of ownership are perfected on the date that the lien notice and the certificate of
25 ownership or manufacturer's statement of origin are received by the department. On that date, the
26 department shall issue to the secured party a receipt evidencing the perfection. Perfection under this
27 subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date that
28 the lien notice is delivered to the department, of the existence of the security interest.

29 (7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle,
30 the mortgagee or vendor has the same remedies as in the case of other personal property. In case of

1 attachment of motor vehicles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable
2 except that deposits must be made with the department.

3 (8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of
4 a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment
5 is required to pay the department the sum of \$1 for each day that the person fails to file ~~such~~ the
6 satisfaction.

7 (9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor
8 vehicle registered in this state, the department shall within 24 hours mail to the owner, conditional sale
9 vendor, mortgagees, or assignees of ~~any thereof~~ the owner, conditional sale vendor, or mortgagees a notice
10 showing the name and address of the lien claimant, the amount of the lien, the date of execution of the
11 lien, and, in the case of attachment, the full title of the court and the action and the ~~name~~ names of the
12 attorneys for the plaintiff and attaching creditor.

13 (10) It is not necessary to refile with the department any instruments on file in the offices of the
14 county clerk and recorders at the time that this law takes effect.

15 (11) A fee of \$4 must be paid to the department to file any security interest or other lien against
16 a motor vehicle. The \$4 fee ~~shall include and cover~~ includes the cost of filing a satisfaction or release of
17 the security interest and also the cost of entering ~~such~~ the satisfaction or release on the records of the
18 department and of deleting the endorsement of the security interest from the face of the certificate of
19 ownership. A fee of \$4 must be paid to the department for issuing a certified copy of a certificate of
20 ownership subject to a security interest or other lien on file in the office of the department or for filing an
21 assignment of any security interest or other lien on file with the department. All fees provided for in this
22 section must be paid to the county treasurer for deposit in the state general fund in accordance with
23 15-1-504."

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

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29 **NEW SECTION. Section 4. Termination.** [This act] terminates June 30, 2000.

30 -END-