

1 HOUSE BILL NO. 103

2 INTRODUCED BY S. FITZPATRICK

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPROVE TAX ADMINISTRATION AND RECORDS
6 MANAGEMENT BY AUTHORIZING THE DEPARTMENT OF REVENUE TO REPRODUCE ANY ORIGINAL TAX
7 DOCUMENT AND TO MAINTAIN THE REPRODUCTION AS THE OFFICIAL RECORD; AUTHORIZING THE
8 DEPARTMENT OF REVENUE TO DISPOSE OF ORIGINAL TAX RECORDS THAT ARE REPRODUCED IN
9 ACCORDANCE WITH RULES ADOPTED BY THE SECRETARY OF STATE IN CONSULTATION WITH THE
10 STATE RECORDS COMMITTEE; AMENDING SECTIONS 2-6-110 AND ~~2-6-212~~ 15-1-103, MCA; AND
11 PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE."

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

14

15 **Section 1.** Section 2-6-110, MCA, is amended to read:

16 **"2-6-110. Electronic information and nonprint records -- public access -- fees.** (1) (a) Except as
17 provided by law, each person is entitled to a copy of public information compiled, created, or otherwise in the
18 custody of public agencies that is in electronic format or other nonprint media, including but not limited to
19 videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the
20 information in printed form. All restrictions relating to confidentiality, privacy, business secrets, and copyright are
21 applicable to the electronic or nonprint information.

22 (b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society
23 established pursuant to 22-3-101.

24 (2) Except as provided by law and subject to subsection (3), an agency may charge a fee, not to exceed:

25 (a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person
26 requesting the information does not provide the media;

27 (b) expenses incurred by the agency as a result of mainframe and midtier processing charges;

28 (c) expenses incurred by the agency for providing online computer access to the person requesting
29 access;

30 (d) other out-of-pocket expenses directly associated with the request for information, including the

1 retrieval or production of electronic mail; and

2 (e) the hourly market rate for an administrative assistant in pay band 3 of the broadband pay plan, as
3 provided for in 2-18-301, in the current fiscal year for each hour, or fraction of an hour, after one-half hour of
4 copying service has been provided.

5 (3) (a) In addition to the allowable fees in subsection (2), the department of revenue may charge an
6 additional fee as reimbursement for the cost of developing and maintaining the property valuation and
7 assessment system database from which the information is requested. The fee must be charged to persons,
8 federal agencies, state agencies, and other entities requesting the database or any part of the database from any
9 department property valuation and assessment system. The fee may not be charged to the governor's office of
10 budget and program planning, the state tax appeal board, or any legislative agency or committee.

11 (b) The department of revenue may not charge a fee for information provided from any department
12 property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other
13 governmental functions or to an individual taxpayer concerning the taxpayer's property.

14 (c) All fees received by the department of revenue under subsection (2) and this subsection (3) must be
15 deposited in a state special revenue fund as provided in 15-1-521.

16 (d) Fees charged by the secretary of state pursuant to this section must be set and deposited in
17 accordance with 2-15-405.

18 (4) For the purposes of this section, the term "agency" has the meaning provided in 2-3-102 but includes
19 legislative, judicial, and state military agencies.

20 (5) An agency may not charge more than the amount provided under subsection (2) for providing a copy
21 of an existing nonprint record.

22 (6) ~~An~~ Subject to 2-6-212 15-1-103, an agency shall ensure that a copy of information provided to a
23 requester is of a quality that reflects the condition of the original if requested by the requester.

24 (7) This section does not authorize the release of electronic security codes giving access to private
25 information."

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27 ~~Section 2.~~ Section 2-6-212, MCA, is amended to read:

28 ~~"2-6-212. Disposal of public records. (1) Except as provided in subsection (2) or (3), no public record~~
29 ~~may be disposed of or destroyed without the unanimous approval of the state records committee. When approval~~
30 ~~is required, a request for the disposal or destruction must be submitted to the state records committee by the~~

1 agency concerned.

2 ~~—— (2) The state records committee may by unanimous approval establish categories of records for which~~
3 ~~no disposal request is required, providing those records are retained for the designated retention period.~~

4 ~~—— (3) The department of revenue may dispose of any original tax records after those records have been~~
5 ~~reproduced in accordance with rules adopted by the secretary of state in consultation with the state records~~
6 ~~committee provided for in 2-15-1013. The department of revenue shall maintain the reproduction as the public~~
7 ~~record. The reproduction or certified copy of the reproduction may be used in place of the original in any court~~
8 ~~or proceedings and has the same force and effect as the original record."~~

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10 **SECTION 2.** SECTION 15-1-103, MCA, IS AMENDED TO READ:

11 **"15-1-103. Destruction Disposal of tax records authorized -- procedure.** (1) Notwithstanding the any
12 other provisions of any other chapter of this code law, the department of revenue is authorized to destroy may
13 dispose of tax records more than 3 years old as shall be determined to be of no if the records do not have any
14 further value or as provided in subsection (3).

15 (2) Authorization for destruction disposal of tax records shall must be made by the director of revenue
16 the department or authorized employees of the department. A copy of the authorization and authenticated list
17 shall of the records must be maintained by the department.

18 (3) The department may dispose of original tax records after those records have been reproduced in
19 accordance with rules adopted by the secretary of state in consultation with the state records committee provided
20 for in 2-15-1013. The department shall maintain the reproduction as the public record. The reproduction or
21 certified copy of the reproduction may be used in place of the original in any court or proceeding and has the
22 same force and effect as the original record."

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24 **NEW SECTION. Section 3. Effective dates.** (1) Except as provided in subsection (2), [this act] is
25 effective January 1, 2012.

26 (2) [Section 4] and this section are effective on passage and approval.

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28 **NEW SECTION. Section 4. Retroactive applicability.** [This act] applies retroactively, within the
29 meaning of 1-2-109, to all tax records that exist on [the effective date of this section].

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