



AN ACT TO IMPROVE TAX ADMINISTRATION AND RECORDS MANAGEMENT BY AUTHORIZING THE DEPARTMENT OF REVENUE TO REPRODUCE ANY ORIGINAL TAX DOCUMENT AND TO MAINTAIN THE REPRODUCTION AS THE DEPARTMENT'S OFFICIAL RECORD; AUTHORIZING THE DEPARTMENT OF REVENUE TO DISPOSE OF ITS ORIGINAL TAX RECORDS THAT ARE REPRODUCED IN ACCORDANCE WITH RULES ADOPTED BY THE SECRETARY OF STATE IN CONSULTATION WITH THE STATE RECORDS COMMITTEE; AMENDING SECTIONS 2-6-110 AND 15-1-103, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE.

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

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

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

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

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

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

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

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

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

retrieval or production of electronic mail; and

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

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

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

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

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

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

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

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

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

**Section 2.** Section 15-1-103, MCA, is amended to read:

**"15-1-103. ~~Destruction Disposal~~ of tax records authorized -- procedure.** (1) Notwithstanding the any other provisions of any other chapter of this code law, the department of revenue is authorized to destroy may

dispose of tax records more than 3 years old as shall be determined to be of no further value or as provided in subsection (3).

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

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

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

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

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

- END -

I hereby certify that the within bill,  
HB 0103, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 103  
INTRODUCED BY S. FITZPATRICK  
BY REQUEST OF THE DEPARTMENT OF REVENUE

AN ACT TO IMPROVE TAX ADMINISTRATION AND RECORDS MANAGEMENT BY AUTHORIZING THE DEPARTMENT OF REVENUE TO REPRODUCE ANY ORIGINAL TAX DOCUMENT AND TO MAINTAIN THE REPRODUCTION AS THE DEPARTMENT'S OFFICIAL RECORD; AUTHORIZING THE DEPARTMENT OF REVENUE TO DISPOSE OF ITS ORIGINAL TAX RECORDS THAT ARE REPRODUCED IN ACCORDANCE WITH RULES ADOPTED BY THE SECRETARY OF STATE IN CONSULTATION WITH THE STATE RECORDS COMMITTEE; AMENDING SECTIONS 2-6-110 AND 15-1-103, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE.