

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 44.5.114 and 44.5.115 ) PROPOSED AMENDMENT  
pertaining to fees charged by the )  
Business Services Division for the )  
filing of annual reports )

TO: All Concerned Persons

1. On December 3, 2015, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on November 25, 2015, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 431-7718; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail [jquintana@mt.gov](mailto:jquintana@mt.gov).

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

44.5.114 CORPORATIONS - PROFIT AND NONPROFIT FEES (1) through (3)(d) remain the same.

(e) annual report filed prior to April 15th	<del>45.00</del> <u>20.00</u>
(f) annual report filed after April 15th	<del>30.00</del> <u>35.00</u>
(g) through (5) remain the same.	

AUTH: 2-15-405, 35-1-1307, 35-2-1107, 35-7-103, MCA  
IMP: 2-15-405, 35-1-217, 35-1-1206, 35-1-1307, 35-2-119, 35-2-1003, 35-6-201, MCA

44.5.115 LIMITED LIABILITY COMPANY FEES (1) through (3)(c) remain the same.

(d) annual report filed prior to April 15th	<del>45.00</del> <u>20.00</u>
(e) annual report filed after April 15th	<del>30.00</del> <u>35.00</u>
(f) through (5) remain the same.	

AUTH: 2-15-405, MCA  
IMP: 2-15-405, 35-8-208, 35-8-211, 35-8-212, MCA

REASON: Over 126,000 annual reports were filed in the Secretary of State's Office in 2015. The sheer volume of annual reports requires a considerable amount of staff time to process. The filing of annual reports runs from January 1 to April 15 of each year. At the height of annual report filings from March to April, four staff persons are dedicated full time to filing annual reports as well as assisting filers. In March, nearly 100,000 reminders are mailed to corporations and limited liability companies that have yet to file their annual reports and risk involuntary dissolution. The Secretary of State reviewed the annual report filing fees for six states within the neighboring region of the northwest United States for comparison and found that annual report fees charged by other states range from no fee charged by Idaho to a fee of \$275 for foreign profit corporations and limited liability companies charged by Oregon. The Secretary of State deposits the fees it receives into an enterprise fund and operates solely on the fees it charges. The Secretary of State is required by law to charge fees that are commensurate with the overall costs of the office and that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. The Secretary of State believes the modest proposed \$5.00 fee increase for the filing of annual reports is warranted based on the fees charged by other states and the overall costs of the office. This fee has not been increased since 2002. The effective date of the fee increase is January 1, 2016.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing [jquintana@mt.gov](mailto:jquintana@mt.gov), and must be received no later than 5:00 p.m., December 11, 2015.

5. Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed

text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

10. The cumulative amount for all persons of the proposed fee changes is approximately \$630,000 annually based on FY 2015 annual report filings. The number of persons affected is approximately 126,000 based on the number of corporations and limited liability companies that filed annual reports in FY 2015.

/s/ JORGE QUINTANA  
Jorge Quintana  
Rule Reviewer

/s/ LINDA MCCULLOCH  
Linda McCulloch  
Secretary of State

Dated this 2nd day of November, 2015.