

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 44.5.303 pertaining to the) PROPOSED AMENDMENT
Business Services annual report filing)
fee waiver in 2025)

TO: All Concerned Persons

1. On June 28, 2024, at 10:00 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed amendment of the above-stated rule.

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., June 21, 2024, to advise us of the nature of the accommodation needed. Please contact Andy Ritter, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-7911; fax (406) 444-3976; TDD/Montana Relay Service 711; or email Andrew.Ritter@mt.gov.

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

44.5.303 2024 AND 2025 ANNUAL REPORT FEE WAIVER (1) For all 2024 annual reports filed between January 1, 2024, and April 15, 2024, and all 2025 annual reports filed between January 1, 2025, and April 15, 2025, the Secretary of State's Office will waive the fee required by ARM 44.5.114(3)(e) and 44.5.115(3)(d).

AUTH: 2-15-405, MCA
IMP: 2-15-405, MCA

REASONABLE NECESSITY: Montana has experienced record growth in new business filings over the last several years. In addition, the recently implemented online business filing system provides efficiencies that reduce the review and processing time of the Secretary of State's Office staff. Montana law (2-15-405, MCA) allows the Secretary of State to establish fees commensurate with the overall costs of the office. This administration made it a priority to proactively review the office's revenue and operational expenses. Through these efforts, it was determined to be essential to remove specific fees and reduce filing fees in 2022. In 2023, ARM 44.5.303 was adopted, which provided a one-time fee waiver for 2024 annual reports.

With these changes implemented, Montana continued to see record growth in new business filings (11% in 2023). In 2024, upon review of the financial impact of the

fee cuts and waivers in conjunction with the new business growth, SOS is now proposing an amendment to ARM 44.5.303 to provide an additional one-time fee waiver for all businesses filing an annual report (on time) in 2025.

4. With regard to the requirements of 2-4-302(1)(c), MCA, it has been determined that these changes will have a fiscal impact. It is estimated that there are currently approximately 273,000 active businesses. If those businesses file their 2025 annual report by the deadline, the elimination of the annual report filing fee will result in an estimated \$5,460,000 savings for those businesses. The estimated impact for each fee is below:

- 44.5.114(3)(e) – Corporations
 - Approximately 84,000 businesses will save \$1,680,000 through this fee waiver.
- 44.5.115(3)(d) – Limited Liability Companies
 - Approximately 189,000 businesses will save \$3,780,000 through this fee waiver.

5. 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: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing angela.nunn@mt.gov, and must be received no later than 5:00 p.m., July 5, 2024.

6. Austin James, Secretary of State's Office, has been designated to preside over and conduct the hearing.

7. 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 may submit their request online at <https://sosmt.gov/arm/secretary-of-state-administrative-rules/> or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

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 rule will directly impact small businesses. Based on the Department of Labor and Industry's Quarterly Census of Employment and Wages, 99.9% of all Montana businesses are small businesses. Therefore, it is estimated that approximately 272,727 businesses registered with the Secretary of State's Office will be positively impacted by the proposed annual report fee waiver in 2025.

/s/ AUSTIN MARKUS JAMES
Austin Markus James
Rule Reviewer

/s/ CHRISTI JACOBSEN
Christi Jacobsen
Secretary of State

Dated this 28th day of May, 2024.