

Staff Report

To: Board of Directors
From: Darlene Craven/Jordan Hess
Date: September 20, 2025

Agenda Item: 5.5 Records Request Policy Revisions

Attachments:

- 5.5.1 Resolution 23-05 with Records Request Policy (redline version)
- 5.5.2 Revised Updated Records Request Policy (clean copy)
- 5.5.3 HB 100 reflecting changes

Recommendation:

Repeal the existing policy approved in June 2023 and approve the revised, updated policy reflecting changes pursuant to HB 100.

Discussion:

At the June 2023 board of directors meeting, the staff presented a resolution for approving a records request policy that standardized the process for responding to requests for information from the public. HB 100 revising public records law was passed effective October 1, 2025, requiring the agency to revise the existing policy to align with the updated requirements for acknowledgement, fees charged and retention.

Financial Impact and Funding Source:

None.

DBE Certified: Not applicable.

RESOLUTION NO. 23-05

A RESOLUTION ESTABLISHING PROCEDURES AND A FEE SCHEDULE FOR COPIES AND RESEARCH OF PUBLIC RECORDS PURSUANT TO SECTIONS 2-6-1001 et. Seq. MONTANA CODE ANNOTATED

WHEREAS, every person has a right to examine and obtain a copy of any public information of this state pursuant to Article II, Section 9 of the Montana Constitution and Mont. Code Ann. § 2-6-1003; and

WHEREAS, Sections 2-6-1001 et. Seq. Montana Code Annotated (MCA) ensures that all people are allowed access to appropriate public records consistent with the provision of the Montana constitution while allowing for the public agency to impose reasonable fees for copies of accessible records; and

WHEREAS, one of the foundations of our system of democratic government is the people's right to know what their government is doing. Public records not only support the immediate needs of the public agency and ensure its continuity; they protect the rights and interests of the people. Maintained over time, these records preserve the history of a community. Access to public records includes the individual right to review or inspect public records and obtain copies of public records; and

WHEREAS, the purpose of implementing a "public records request" policy is to: facilitate public access, protect individual privacy, protect public records from damage or disorganization, prevent excessive interference with other essential functions of the Missoula Urban Transportation District (MUTD) and to develop a consistent and fair method of responding to requests for public records; and

WHEREAS, Section 2-6-1006 MCA provides that public agencies may charge a fee for fulfilling a public information request and that the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible.

WHEREAS, the costs in providing these services include, but may not be limited to, paper, copier supplies, maintenance expenses, and staff time; and

WHEREAS, to ensure the continued efficient and effective management of public record requests, it is deemed necessary and appropriate to set fees associated therewith consistent with the intent and in accordance with the public records laws,

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of MUTD in Missoula, Montana, that the following procedures and fees be applied in responding to requests for public records:

Procedures:

1. All requests for public records except requests for confidential documents, and documents concerning safety and security (§ 2-6-1003 and § 2-6-1002 MCA) shall be subject to this policy.
2. All public record requests shall be made through the Executive Assistant or Designee of the CEO & General Manager. The Executive Assistant will facilitate the process from initial request to submitting the requested information to the requester.
3. Request for Public Records Forms are to be completed for any public records requests. The form serves three functions: (1) to give MUTD a comprehensive understanding of the types of records being requested; (2) to be able to contact a requester if a request cannot be responded to in a timely manner; and, (3) to provide a receipt for monies collected.
4. The Executive Assistant shall be the Officer of Record for completed Records Request Forms. All request forms should be forwarded to the Executive Assistant upon ~~completion~~ and response to the request receipt of the request.
5. All Request for Public Records Forms must be signed by the Department Head (or his/her designee) for the respective department. This shall constitute authorization for departmental staff to fill the request.
6. It should be noted on the form what documents/files were reviewed or copied and the charges, if any, that were charged.
7. Staff shall make copies of public records during normal office hours. For security reasons and to avoid unreasonable disruption of operations, copying facilities will not be available for use by the public.
8. Records will be provided in the form they exist, allowing the requester to inspect the records and compile data in their own format. MUTD is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.
9. Computer or electronic records may be made available. (See details under Fees/Charges). STAFF shall notify requester of the ~~hourly rate~~ of \$25 per hour for searching for, gathering, reviewing, processing and providing information in the most cost-efficient and timely manner possible that will be charged under this section, BEFORE proceeding with processing the request, thereby allowing requester the right to cancel the request.
10. NO NEW DOCUMENT OR RECORD will be created to respond to a records request. Applicable records may be made available for requester to compile his/her own data.
11. If a significant number of copies are made for the requester, the requester must sign an acknowledgment, confirming receipt of the copies.
12. Once a request for records has been received, MUTD has up to ~~ten (10)~~ five (5) business days to respond to the ~~applicant-requester~~ to clarify the request, provide a cost estimate, and inform the requesting party of any additional time needed to fulfill the request. Within five (5) days of MUTD's acknowledgement of the request, the specified public record must be provided to the requester.
13. Any request which does not refer to an "identifiable" public record shall not be processed until the requester provides further information. It shall be the responsibility of the

- ~~department receiving the request~~Executive Assistant to notify the requester that further information is required before the request can be processed and to attempt to get that information, so the request can be processed in a timely manner.
14. To maintain the integrity and security of MUTD records, ~~staff the Executive Assistant~~ may need to supervise the requester's examination of public records.
 15. Prohibition on distribution or sale of mailing lists §2-6-1017 MCA. To protect the privacy of those who deal with local government, a public agency may not distribute or sell a distribution list without first securing the permission of those on the list and a list of persons prepared by a public agency may not be used as a distribution list without first securing the permission of those on the list except by that agency.
 16. For purposes of MUTD's Public Records Request policy, a "distribution list" means any list of personal contact information collected by a public agency and used to facilitate unsolicited contact with individuals on the distribution list.
 17. ~~If a department is unsure as to whether the information can be released to the public because of potential privacy or confidentiality concerns, they will contact MUTD's Attorney. If the requested information represents a potential privacy or confidentiality breach, the Executive Assistant will coordinate with the Chief Security~~Safety Officer, the CEO & General Manager and/or legal counsel to render a decision regarding the request.
 18. If ~~a department has received a ruling from the A~~attorney provides counsel regarding a certain type of record created and maintained by the department, ~~the department shall continue to use~~ that directive will stand as for the record until notified otherwise.
 19. Due to the nature of change in public agency operations, "drafts" often represent work in various stages of completion. Drafts should be stamped or labeled "DRAFT," and if copies are provided to the requester, the requester should be advised that the document is NOT final and is subject to change.
 20. Payment for charges must be received for copies released to the requester, whether in person, or by mail, or electronically.
 21. Should it be determined to deny a Request for Public Records and not release information or records, in whole or in part, a written explanation shall be provided to the requester for the denial.
 22. This resolution does not supersede any rules of evidence or rules governing the production of information or documentation in the court of litigation.

Fees/Charges:		
1.	Photocopy charge	\$0.15/page
2.	In addition to the photocopy charge set forth above, an hourly fee <u>of \$25</u> will be charged for each hour, or fraction of an hour, after 3060 minutes of copying/research to fulfill the request (including electronic/non-print records). Requester shall be provided an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered.	The fee may not exceed the <u>actual costs</u> directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include the time required to gather public information.
3.	Published material and/or documents prepared by commercial printing shops will be based on a “document charge” if the entire document is requested. The department will set the fee to recover costs.	Actual Cost
4.	Departments may set document fees for specific documents contained in their departments, such as maps, plats, police reports, etc. A fee schedule will be posted in each department for those departments that have a fee schedule. For records not specific to a department, the departmental fee schedules should not conflict with the specific charges listed in this section.	
5.	Copies of records on Digital Media (for example: CD, DVD, Flash Drive)	Actual Cost
	Label, case, and or sleeve for CD/DVD	Actual cost
	Postage or delivery charges	Actual cost
	If materials need to be copied by an outside source, the requestor pays the actual amount invoiced to MUTD by the vendor.	Actual cost
	<i>Copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request.</i>	
6.	Requests from other cities/towns	No Charge
7.	Requests from other governmental agencies	Reciprocal Basis

8.	To maintain the integrity and security of agency records, an hourly fee will be charged for each hour, or fraction of an hour after 30-60 minutes, for MUTD staff supervision of requester's inspection of public records.	The fee may not exceed the <u>actual costs</u> directly incident to fulfilling the request in the most cost-efficient and timely manner possible. -The fee must be documented. The fee may include the time required to gather public information.
9.	Certified Copies of Public Records	\$0.30/document
10.	Payment for charges must be received for copies released to the requester, whether in person, by mail or electronically.	

RESOLUTION NO. 25-07

A RESOLUTION ESTABLISHING PROCEDURES AND A FEE SCHEDULE FOR COPIES AND RESEARCH OF PUBLIC RECORDS PURSUANT TO SECTIONS 2-6-1001 et. Seq. MONTANA CODE ANNOTATED

WHEREAS, every person has a right to examine and obtain a copy of any public information of this state pursuant to Article II, Section 9 of the Montana Constitution and Mont. Code Ann. § 2-6-1003; and

WHEREAS, Sections 2-6-1001 et. Seq. Montana Code Annotated (MCA) ensures that all people are allowed access to appropriate public records consistent with the provision of the Montana constitution while allowing for the public agency to impose reasonable fees for copies of accessible records; and

WHEREAS, one of the foundations of our system of democratic government is the people's right to know what their government is doing. Public records not only support the immediate needs of the public agency and ensure its continuity; they protect the rights and interests of the people. Maintained over time, these records preserve the history of a community. Access to public records includes the individual right to review or inspect public records and obtain copies of public records; and

WHEREAS, the purpose of implementing a "public records request" policy is to: facilitate public access, protect individual privacy, protect public records from damage or disorganization, prevent excessive interference with other essential functions of the Missoula Urban Transportation District (MUTD) and to develop a consistent and fair method of responding to requests for public records; and

WHEREAS, Section 2-6-1006 MCA provides that public agencies may charge a fee for fulfilling a public information request and that the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible.

WHEREAS, the costs in providing these services include, but may not be limited to, paper, copier supplies, maintenance expenses, and staff time; and

WHEREAS, to ensure the continued efficient and effective management of public record requests, it is deemed necessary and appropriate to set fees associated therewith consistent with the intent and in accordance with the public records laws,

WHEREAS, the MUTD Board of Directors passed Resolution 23-05 at the June 22, 2023, board meeting,

WHEREAS, the 69th Montana Legislature passed HB 100 revising public records laws establishing requirements and deadlines for public agencies that are not local governments requiring MUTD to repeal Resolution 23-05 and update the records request policy,

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of MUTD in Missoula, Montana, that the following update and revised procedures and fees be applied in responding to requests for public records:

Procedures:

1. All requests for public records except requests for confidential documents, and documents concerning safety and security (§ 2-6-1003 and § 2-6-1002 MCA) shall be subject to this policy.
2. All public record requests shall be made through the Executive Assistant or designee of the CEO & General Manager. The Executive Assistant will facilitate the process from initial request to submitting the requested information to the requester.
3. Request for Public Records Forms are to be completed for any public records requests. The form serves three functions: (1) to give MUTD a comprehensive understanding of the types of records being requested; (2) to be able to contact a requester if a request cannot be responded to in a timely manner; and, (3) to provide a receipt for monies collected.
4. The Executive Assistant shall be the Officer of Record for completed Records Request Forms. All request forms should be forwarded to the Executive Assistant upon receipt of the request.
5. All Request for Public Records Forms must be signed by the Department Head (or his/her designee) for the respective department. This shall constitute authorization for departmental staff to fill the request.
6. It should be noted on the form what documents/files were reviewed or copied and the charges, if any, that were charged.
7. Staff shall make copies of public records during normal office hours. For security reasons and to avoid unreasonable disruption of operations, copying facilities will not be available for use by the public.
8. Records will be provided in the form they exist, allowing the requester to inspect the records and compile data in their own format. MUTD is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.
9. Computer or electronic records may be made available. (See details under Fees/Charges). STAFF shall notify requester of the rate of \$25 per hour for searching for, gathering, reviewing, processing and providing information in the most cost-efficient and timely manner possible, BEFORE proceeding with processing the request, thereby allowing requester the right to cancel the request.
10. NO NEW DOCUMENT OR RECORD will be created to respond to a records request. Applicable records may be made available for requester to compile his/her own data.
11. If a significant number of copies are made for the requester, the requester must sign an acknowledgment, confirming receipt of the copies.
12. Once a request for records has been received, MUTD has up to five (5) business days to respond to the requester to clarify the request, provide a cost estimate, and inform the requesting party of any additional time needed to fulfill the request. Within five (5) days of MUTD's acknowledgement of the request, the specified public record must be provided to the requester.
13. Any request which does not refer to an "identifiable" public record shall not be processed until the requester provides further information. It shall be the responsibility of the Executive Assistant to notify the requester that further information is required before the request can be processed and to attempt to get that information, so the request can be processed in a timely manner.

14. To maintain the integrity and security of MUTD records, the Executive Assistant may need to supervise the requester's examination of public records.
15. Prohibition on distribution or sale of mailing lists §2-6-1017 MCA. To protect the privacy of those who deal with local government, a public agency may not distribute or sell a distribution list without first securing the permission of those on the list and a list of persons prepared by a public agency may not be used as a distribution list without first securing the permission of those on the list except by that agency.
16. For purposes of MUTD's Public Records Request policy, a "distribution list" means any list of personal contact information collected by a public agency and used to facilitate unsolicited contact with individuals on the distribution list.
17. If the requested information represents a potential privacy or confidentiality breach, the Executive Assistant will coordinate with the Chief Safety Officer, the CEO & General Manager and/or legal counsel to render a decision regarding the request.
18. If the attorney provides counsel regarding a certain type of record created and maintained by the department, that directive will stand as the record until notified otherwise.
19. Due to the nature of change in public agency operations, "drafts" often represent work in various stages of completion. Drafts should be stamped or labeled "DRAFT," and if copies are provided to the requester, the requester should be advised that the document is NOT final and is subject to change.
20. Payment for charges must be received for copies released to the requester, whether in person, or by mail, or electronically.
21. Should it be determined to deny a Request for Public Records and not release information or records, in whole or in part, a written explanation shall be provided to the requester for the denial.
22. This resolution does not supersede any rules of evidence or rules governing the production of information or documentation in the court of litigation.

Fees/Charges:		
1.	Photocopy charge	\$0.15/page
2.	In addition to the photocopy charge set forth above, an hourly fee of \$25 will be charged for each hour, or fraction of an hour, after 60 minutes of copying/research to fulfill the request (including electronic/non-print records). Requester shall be provided an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered.	The fee may not exceed the <u>actual costs</u> directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include the time required to gather public information.
3.	Published material and/or documents prepared by commercial printing shops will be based on a "document charge" if the entire document is requested. The department will set the fee to recover costs.	Actual Cost
4.	Departments may set document fees for specific documents contained in their departments, such as maps, plats, police reports, etc. A fee schedule will be posted in each department for those departments that have a fee schedule. For records not specific to a department, the departmental fee schedules should not conflict with the specific charges listed in this section.	
5.	Copies of records on Digital Media (for example: CD, DVD, Flash Drive)	Actual Cost
	Label, case, and or sleeve for CD/DVD	Actual cost
	Postage or delivery charges	Actual cost
	If materials need to be copied by an outside source, the requestor pays the actual amount invoiced to MUTD by the vendor.	Actual cost
	<i>Copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request.</i>	
6.	Requests from other cities/towns	No Charge
7.	Requests from other governmental agencies	Reciprocal Basis

8.	To maintain the integrity and security of agency records, an hourly fee will be charged for each hour, or fraction of an hour after 60 minutes, for MUTD staff supervision of requester's inspection of public records.	The fee may not exceed the <u>actual costs</u> directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include the time required to gather public information.
9.	Certified Copies of Public Records	\$0.30/document
10.	Payment for charges must be received for copies released to the requester, whether in person, by mail or electronically.	



AN ACT GENERALLY REVISING PUBLIC RECORD LAWS; ESTABLISHING REQUIREMENTS AND DEADLINES FOR PUBLIC AGENCIES THAT ARE NOT LOCAL GOVERNMENTS; GENERALLY REVISING FEES FOR PUBLIC INFORMATION REQUESTS; ESTABLISHING A 2-YEAR RETENTION PERIOD OF INFORMATION REQUESTS AND RESPONSES FOR PUBLIC AGENCIES THAT ARE NOT LOCAL GOVERNMENTS; ESTABLISHING THE FEES THAT A PUBLIC AGENCY MAY CHARGE WHEN RESPONDING TO PUBLIC INFORMATION REQUESTS; PROVIDING THAT THE FIRST HOUR OF SERVICE NOT BE CHARGED; ESTABLISHING AN HOURLY FEE LIMIT; ALLOWING A PERSON TO FILE AN ACTION IN DISTRICT COURT IF A PUBLIC AGENCY THAT IS NOT A LOCAL GOVERNMENT FAILS TO MEET THE RESPONSE DEADLINE; AMENDING SECTIONS 2-6-1006 AND 2-6-1009, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.”

WHEREAS, the right to know is a fundamental right; and

WHEREAS, consistent application of the right to know in the branches of state government is in the public interest; and

WHEREAS, access to public information is essential to participation in the activities of state government; and

WHEREAS, in the absence of standards of general application, the agencies and branches of state government have each developed their own procedures and fees for obtaining access to public information; and

WHEREAS, inconsistency and unpredictability lead to uncertainty on the part of individuals seeking access to public information; and

WHEREAS, such uncertainty may discourage people from exercising the right to know; and

WHEREAS, providing consistent standards for handling public information requests across the agencies and branches of state government and setting reasonable limits on the fees charged to individuals

requesting public information ensure people will know what to expect.

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

Section 1. Section 2-6-1006, MCA, is amended to read:

"2-6-1006. Public information requests -- fees. (1) (a) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(b) (i) All public agencies are governed by this subsection (1).

(ii) A public agency that is not an executive branch agency must meet the requirements of subsection (2) when responding to a public information request.

(iii) ~~(A) Except as provided in subsections (1)(b)(iii)(B) and subsection (1)(b)(iv), all executive branch agencies must meet the requirements of subsection (3) when responding to a public information request.~~

~~(B) — The provisions of subsection (3) apply to the secretary of state, the justice department, the superintendent of public instruction, and the state auditor beginning on October 1, 2025.~~

(iv) The secretary of state must meet the requirements of subsection (4) regarding fees.

(c) A public agency other than the office of the secretary of state may charge, pursuant to this subsection (1)(c), a fee for fulfilling a public information request. Except where a fee is otherwise provided for by law, the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible a fee pursuant to subsections (1)(e) and (5) and this subsection (1)(c). The fee must be documented. ~~The fee may include the time required to gather public information.~~ The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

(d) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(e) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency.

(2) Upon receiving a request for public information, a public agency that is not an executive branch agency shall respond in a timely manner to the requesting person by:

(a) making the public information maintained by the public agency available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered ~~and as well as~~ any fees that may be charged pursuant to subsection (1)(c).

(3) (a) (i) An executive branch agency shall respond to a public information request by acknowledging receipt of the request within 5 business days of the agency's designated contact person receiving the request. Except for confidential, privileged, or otherwise protected information that is not subject to public disclosure under applicable law and information withheld from public scrutiny as provided in 2-6-1003, the executive branch agency shall respond by:

(i)(A) making the public information maintained by the executive branch agency available in a timely manner for inspection and copying by the requesting person;

(ii)(B) providing a specified public record to the requesting person within 5 working days of the executive branch agency's acknowledgment of receipt of the request if the request is for a single, specific, clearly identifiable, and readily available public record. ~~This subsection (3)(a)(ii) does not apply to requests pertaining only to a specified person or property, including requests for applications, vital records, licenses, permits, or registrations; or~~

(iii)(C) responding as provided in subsection (3)(b).

(ii) Subsection (3)(a)(i)(B) does not apply to requests pertaining only to a specified person or property, including requests for applications, vital records, licenses, permits, or registrations.

(b) (i) If a request seeks public information that cannot be readily identified and gathered, the agency shall provide the requesting person an estimate of the time it will take to fulfill the request and any fees that may be charged ~~pursuant to subsection (1)(c)~~ and shall provide the public information to the requesting person in a timely manner, which may be, except as provided in subsection (3)(b)(ii), within either:

(A) 90 days of the public agency's acknowledgment of the request; or

(B) 6 months of the public agency's acknowledgment of the request if the agency determines 90

days is not feasible for a response and the agency provides the requesting person written notice explaining why the agency is unable to provide a response within 90 days.

(ii) If an executive branch agency requires a requesting person to pay an estimated fee pursuant to ~~subsection (1)(c)~~, the agency's obligation to respond to the request is suspended upon sending the estimate to the requesting person and remains suspended until the requesting person makes payment.

(c) An executive branch agency may request additional information or clarification from a requesting person for the purpose of expediting the agency's response to the request. If the agency has requested additional information or clarification, the agency's obligation to respond to the request is suspended until the requesting person provides the requested information or clarification or until the requesting person denies the agency's request for additional information or clarification. If a person requesting public information fails to respond within 30 days to an agency's request for additional information or clarification, the agency may close the request after notifying the requesting person.

(d) Each executive branch agency must have a designated contact for public information requests posted on its website.

(e) By ~~November 1, 2024~~, or 1 month after this section becomes applicable to an executive branch agency, ~~whichever occurs second~~, an executive branch agency that is subject to this subsection (3) shall:

(i) establish a public information request process describing the steps for submitting a request and the process the agency will follow when responding to a request for public information, which must be published on a state website;

(ii) provide statistics about public information requests received by the designated contact of the agency, including the number of requests and the agency's response time to fulfill or otherwise resolve the requests; and

(iii) retain and publish on a state website the public information requests the agency has received and the agency's response. Requests and responses must be available for 2 years from the date of the request. The agency is not required to publish requests or responses if the request:

(A) was not submitted according to the agency's posted process;

(B) pertains only to a specific person or property, including requests for applications, vital records, licenses, permits, registrations, and related supporting documents; or

(C) was for information accessible on a state website or other publication available at the time the request was made.

(4) (a) The secretary of state is authorized to charge fees under this section. The fees must be set and deposited in accordance with 2-15-405. The fees must be collected in advance.

(b) The secretary of state may not charge a fee to a member of the legislature or a public officer for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.

(5) A public agency may charge the following fees:

(a) fees for making public information maintained by the public agency available for inspection and copying by the requesting person at the public agency. A public agency that incurs a cost may only charge for it once pursuant to subsections (5)(a)(i) through (5)(a)(v). These fees may include but are not limited to:

(i) fees not exceeding \$25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;

(ii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(a)(i);

(iii) the cost of providing the public information to the requester, including but not limited to copying and media costs;

(iv) a convenience fee as provided in 2-17-1102, if applicable; and

(v) other reasonable costs directly incurred by the public agency.

(b) fees for fulfilling a request for a single, specific, clearly identifiable, and readily available public record. A public agency that incurs a cost may only charge for it once pursuant to subsections (5)(b)(i) through (5)(b)(v). These fees may include but are not limited to:

(i) fees not exceeding \$25 an hour for gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;

(ii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(b)(i);

(iii) the cost of providing the public information to the requester, including but not limited to scanning, copying, media, postage, and shipping costs;

(iv) a convenience fee as provided in 2-17-1102, if applicable; and

(v) other reasonable costs directly incurred by the public agency.

(c) fees for fulfilling a request for public information that is not a request for a single, specific, clearly identifiable, and readily available public record. A public agency that incurs a cost may only charge for it once pursuant to subsection (5)(c)(i) through (5)(c)(vi). ~~After the first hour of service, which is free after the filing fee in subsection (5)(c)(i) is paid, these fees may include but are not limited to:~~

- (i) a filing fee not to exceed ~~\$5;~~
 - (ii) fees not exceeding \$25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;
 - (iii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(c)(ii);
 - (iv) the cost of providing the public information to the requester, including but not limited to scanning, copying, media, postage, and shipping costs;
 - (v) a convenience fee as provided in 2-17-1102, if applicable; and
 - (vi) other reasonable costs directly incurred by the public agency.
- "

Section 2. Section 2-6-1006, MCA, is amended to read:

"2-6-1006. Public information requests -- fees. (1) (a) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

- (b) (i) All public agencies are governed by this subsection (1).
- (ii) A public agency that is not an executive branch agency local government must meet the requirements of subsection (2) when responding to a public information request. A local government is not subject to subsection (3).
- (iii) (A) Except as provided in subsections (1)(b)(iii)(B) and (1)(b)(iv), all executive branch agencies subsection (1)(b)(iv), a public agency that is not a local government must meet the requirements of subsection (3) when responding to a public information request.
- (B) ~~The provisions of subsection (3) apply to the secretary of state, the justice department, the superintendent of public instruction, and the state auditor beginning on October 1, 2025.~~
- (iv) The secretary of state must meet the requirements of subsection (4) regarding fees.

(c) A public agency other than the office of the secretary of state may charge, pursuant to this subsection (1)(c), a fee for fulfilling a public information request. Except where a fee is otherwise provided for by law, the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible a fee pursuant to subsections (1)(e) and (5) and this subsection (1)(c). The fee must be documented. ~~The fee may include the time required to gather public information.~~ The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

(d) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(e) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency.

(2) Upon receiving a request for public information, ~~a public agency that is not an executive branch agency~~ local government shall respond in a timely manner to the requesting person by:

(a) making the public information maintained by the ~~public agency~~ local government available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered ~~and as well as~~ any fees that may be charged pursuant to ~~subsection (1)(c).~~

(3) ~~(a) (i) An executive branch agency~~ A public agency that is not a local government shall respond to a public information request by acknowledging receipt of the request within 5 business days of the agency's designated contact person receiving the request. Except for confidential, privileged, or otherwise protected information that is not subject to public disclosure under applicable law and information withheld from public scrutiny as provided in 2-6-1003, ~~the executive branch agency~~ a public agency that is not a local government shall respond by:

~~(i)(A)~~ making the public information maintained by the ~~executive branch agency~~ available in a timely manner for inspection and copying by the requesting person;

~~(ii)(B)~~ providing a specified public record to the requesting person within 5 working days of the ~~executive branch agency's~~ acknowledgment of receipt of the request if the request is for a single, specific,

clearly identifiable, and readily available public record. ~~This subsection (3)(a)(ii) does not apply to requests pertaining only to a specified person or property, including requests for applications, vital records, licenses, permits, or registrations; or~~

~~(iii)(C)~~ responding as provided in subsection (3)(b).

~~(ii) Subsection (3)(a)(i)(B) does not apply to requests pertaining only to a specified person or property, including requests for applications, vital records, licenses, permits, or registrations.~~

(b) (i) If a request seeks public information that cannot be readily identified and gathered, the agency a public agency that is not a local government shall provide the requesting person an estimate of the time it will take to fulfill the request and any fees that may be charged ~~pursuant to subsection (1)(c)~~ and shall provide the public information to the requesting person in a timely manner, which may be, except as provided in subsection (3)(b)(ii), within either:

(A) 90 days of the ~~public~~ agency's acknowledgment of the request; or

(B) 6 months of the ~~public~~ agency's acknowledgment of the request if the agency determines 90 days is not feasible for a response and the agency provides the requesting person written notice explaining why the agency is unable to provide a response within 90 days.

(ii) If an ~~executive branch~~ agency requires a requesting person to pay an estimated fee ~~pursuant to subsection (1)(c)~~, the agency's obligation to respond to the request is suspended upon sending the estimate to the requesting person and remains suspended until the requesting person makes payment.

(c) ~~An executive branch agency~~ A public agency that is not a local government may request additional information or clarification from a requesting person for the purpose of expediting the agency's response to the request. If the agency has requested additional information or clarification, the agency's obligation to respond to the request is suspended until the requesting person provides the requested information or clarification or until the requesting person denies the agency's request for additional information or clarification. If a person requesting public information fails to respond within 30 days to an agency's request for additional information or clarification, the agency may close the request after notifying the requesting person.

(d) Each ~~executive branch agency~~ public agency that is not a local government must have a designated contact for public information requests posted on its website.

(e) By November 1, 2024, or 1 month after this section becomes applicable to an executive branch agency, ~~whichever occurs second, an executive branch agency that is subject to this subsection~~ (3) November 1, 2026, a public agency that is not a local government shall:

(i) establish a public information request process describing the steps for submitting a request and the process the agency will follow when responding to a request for public information, which must be published on a state website;

(ii) provide statistics about public information requests received by the designated contact of the agency, including the number of requests and the agency's response time to fulfill or otherwise resolve the requests; and

(iii) retain and publish on a state website the public information requests the agency has received and the agency's response. Requests and responses must be available for 2 years from the date of the request. The agency is not required to publish requests or responses if the request:

(A) was not submitted according to the agency's posted process;

(B) pertains only to a specific person or property, including requests for applications, vital records, licenses, permits, registrations, and related supporting documents; or

(C) was for information accessible on a state website or other publication available at the time the request was made.

(4) (a) The secretary of state is authorized to charge fees under this section. The fees must be set and deposited in accordance with 2-15-405. The fees must be collected in advance.

(b) The secretary of state may not charge a fee to a member of the legislature or a public officer for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.

(5) A public agency may charge the following fees:

(a) fees for making public information maintained by the public agency available for inspection and copying by the requesting person at the public agency. A public agency that incurs a cost may only charge for it once pursuant to subsection (5)(a)(i) through (5)(a)(v). These fees may include but are not limited to:

(i) fees not exceeding \$25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;

- (ii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(a)(i);
- (iii) the cost of providing the public information to the requester, including but not limited to copying and media costs;
- (iv) a convenience fee as provided in 2-17-1102, if applicable; and
- (v) other reasonable costs directly incurred by the public agency.
- (b) fees for fulfilling a request for a single, specific, clearly identifiable, and readily available public record. A public agency that incurs a cost may only charge for it once pursuant to subsections (5)(b)(i) through (5)(b)(v). These fees may include but are not limited to:
 - (i) fees not exceeding \$25 an hour for gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;
 - (ii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(b)(i);
 - (iii) the cost of providing the public information to the requester, including but not limited to scanning, copying, media, postage, and shipping costs;
 - (iv) a convenience fee as provided in 2-17-1102, if applicable; and
 - (v) other reasonable costs directly incurred by the public agency.
 - (c) fees for fulfilling a request for public information that is not a request for a single, specific, clearly identifiable, and readily available public record. A public agency that incurs a cost may only charge for it once pursuant to subsections (5)(c)(i) through (5)(c)(vi). After the first hour of service, which is free after the filing fee in subsection (5)(c)(i) is paid, these fees may include but are not limited to:
 - (i) a filing fee not to exceed ~~–~~ \$5;
 - (ii) fees not exceeding \$25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;
 - (iii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(c)(ii);
 - (iv) the cost of providing the public information to the requester, including but not limited to scanning, copying, media, postage, and shipping costs;
 - (v) a convenience fee as provided in 2-17-1102, if applicable; and
 - (vi) other reasonable costs directly incurred by the public agency.

—"

Section 3. Section 2-6-1009, MCA, is amended to read:

"2-6-1009. Written notice of denial -- failure to meet response deadline -- civil action -- costs to prevailing party in certain actions to enforce constitutional or statutory rights. (1) A public agency that denies an information request to release information or records shall provide a written explanation for the denial.

(2) If a person who makes an information request receives a denial from a public agency and believes that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana Rules of Civil Procedure in district court.

(3) If a person who makes an information request to ~~an executive branch agency~~ a public agency that is not a local government does not receive a response from the agency as required in 2-6-1006(3), the person may file a complaint in district court.

(4) A person alleging a deprivation of rights who prevails in an action brought in district court to enforce the person's rights under Article II, section 9, of the Montana constitution or under the provisions of Title 2, chapter 6, parts 10 through 12, may be awarded costs and reasonable attorney fees."

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective October 1, 2025.

(2) [Sections 2 and 3] are effective July 1, 2026.

Section 6. Termination. [Section 1] terminates June 30, 2026.

- END -

I hereby certify that the within bill,
HB 100, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 100

INTRODUCED BY B. MERCER

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

AN ACT GENERALLY REVISING PUBLIC RECORD LAWS; ESTABLISHING REQUIREMENTS AND DEADLINES FOR PUBLIC AGENCIES THAT ARE NOT LOCAL GOVERNMENTS; GENERALLY REVISING FEES FOR PUBLIC INFORMATION REQUESTS; ESTABLISHING A 2-YEAR RETENTION PERIOD OF INFORMATION REQUESTS AND RESPONSES FOR PUBLIC AGENCIES THAT ARE NOT LOCAL GOVERNMENTS; ESTABLISHING THE FEES THAT A PUBLIC AGENCY MAY CHARGE WHEN RESPONDING TO PUBLIC INFORMATION REQUESTS; PROVIDING THAT THE FIRST HOUR OF SERVICE NOT BE CHARGED; ESTABLISHING AN HOURLY FEE LIMIT; ALLOWING A PERSON TO FILE AN ACTION IN DISTRICT COURT IF A PUBLIC AGENCY THAT IS NOT A LOCAL GOVERNMENT FAILS TO MEET THE RESPONSE DEADLINE; AMENDING SECTIONS 2-6-1006 AND 2-6-1009, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.”