

HOUSE BILL NO. 558

INTRODUCED BY REAM, B. BROWN

IN THE HOUSE

FEBRUARY 1, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FEBRUARY 2, 1991 FIRST READING.

MARCH 7, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 8, 1991 PRINTING REPORT.

MARCH 9, 1991 ON MOTION, CONSIDERATION PASSED.

MARCH 11, 1991 SECOND READING, DO PASS.

MARCH 12, 1991 ENGROSSING REPORT.

MARCH 14, 1991 THIRD READING, PASSED.
AYES, 94; NOES, 5.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 15, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

APRIL 12, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 15, 1991 SECOND READING, CONCURRED IN.

APRIL 16, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 17, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 558
 2 INTRODUCED BY Ream Bob Brown

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE PROCEDURES OF
 5 ESTIMATING REVENUES BY THE REVENUE OVERSIGHT COMMITTEE; TO
 6 CLARIFY THAT THE REVENUE ESTIMATES OF THE LEGISLATURE ARE
 7 INTENDED TO BE USED BY ALL AGENCIES; AMENDING SECTION
 8 5-18-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 5-18-107, MCA, is amended to read:

12 "5-18-107. Powers and duties of the committee -- duty
 13 to review revenue rules -- legislative oversight of the
 14 department of revenue -- committee reports -- revenue
 15 estimating and use of estimates. (1) The committee shall
 16 review all proposed rules of the department of revenue filed
 17 with the secretary of state.

18 (2) The committee may:

19 (a) request and obtain the department's rulemaking
 20 records for the purpose of reviewing compliance with
 21 2-4-305;

22 (b) prepare written recommendations for the adoption,
 23 amendment, or rejection of a rule and submit the
 24 recommendations to the department;

25 (c) submit oral or written testimony at a rulemaking

1 hearing;

2 (d) require the department to appear before the
 3 committee and respond to the committee's recommendations for
 4 the adoption, amendment, or rejection of a rule;

5 (e) require that a rulemaking hearing be held in
 6 accordance with the provisions of 2-4-302 through 2-4-305;

7 (f) recommend to the legislature the repeal, amendment,
 8 or adoption of a rule as provided in 2-4-312;

9 (g) institute, intervene in, or otherwise participate
 10 in proceedings involving the legality of a rule under the
 11 Montana Administrative Procedure Act in the state and
 12 federal courts and administrative agencies;

13 (h) review the incidence and conduct of the
 14 department's administrative proceedings;

15 (i) require the department to publish the full or
 16 partial text of any pertinent material adopted by reference
 17 under 2-4-307;

18 (j) by an affirmative vote of at least six members of
 19 the committee, contract for the preparation of an economic
 20 impact statement or require the department to prepare an
 21 economic impact statement, following the provisions of
 22 2-4-405;

23 (k) petition the department to promulgate, amend, or
 24 repeal a rule. Within 60 days after submission of a
 25 petition, the department shall either deny the petition in

1 writing, stating its reasons for the denial, or shall
2 initiate rulemaking proceedings in accordance with 2-4-302
3 through 2-4-305.

4 (l) make written objection to a proposed rule of the
5 department for lack of substantial compliance with 2-4-302
6 through 2-4-305. The provisions of 2-4-406 govern the
7 objection procedure, the department's response, and the
8 procedure for and effect of publication of the objection in
9 the Montana Administrative Register and the Administrative
10 Rules of Montana.

11 (m) petition the department for a declaratory ruling as
12 to the applicability of any statutory provision or of any
13 rule or order of the department. A copy of a declaratory
14 ruling must be filed with the secretary of state for
15 publication in the register. A declaratory ruling or the
16 refusal to issue such a ruling is subject to judicial review
17 in the same manner as decisions or orders in contested cases
18 under the Montana Administrative Procedure Act.

19 (n) petition for judicial review of the sufficiency of
20 the reasons for the department's finding of imminent peril
21 to the public health, safety, or welfare, cited in support
22 of an emergency or temporary rule proposed by the department
23 under 2-4-303; and

24 (o) require the department to conduct the biennial
25 review of its rules as required in 2-4-314 and report its

1 findings to the committee.

2 (3) The committee shall exercise legislative oversight
3 of the department of revenue, including without limitation
4 the review of:

5 (a) proposed budgets;

6 (b) proposed legislation;

7 (c) pending litigation; and

8 (d) major contracts and personnel actions of the
9 department.

10 (4) The committee may investigate and issue reports on
11 any matter concerning taxation or the department of revenue.

12 (5) (a) The committee shall have prepared for
13 introduction during each session of the legislature in which
14 a revenue bill is under consideration an estimate of the
15 amount of revenue projected to be available for legislative
16 appropriation.

17 ~~{b}--The--committee--shall--introduce--a--house--joint~~
18 ~~resolution--setting--forth--the--committee's--current--revenue~~
19 ~~estimate--in--each--regular--session--and--each--special--session--in~~
20 ~~which--a--revenue--bill--is--under--consideration--The--committee~~
21 ~~shall--issue--periodic--reports--to--the--legislature--in--regular~~
22 ~~session--and--in--the--interim--between--regular--sessions,~~
23 ~~indicating--the--committee's--current--revenue--estimate.~~

24 {c}{b} The committee's estimate, as introduced in the
25 legislature, version of the joint resolution and subsequent

1 ~~periodic--reports--constitute~~ constitutes the legislature's
2 current revenue estimate until amended or until final
3 adoption of the ~~joint-resolution~~ estimate by both houses. It
4 is intended that the legislature's estimates and the
5 assumptions underlying the estimates will be used by all
6 agencies with responsibilities for estimating revenues or
7 costs, including the preparation of fiscal notes.

8 ~~(d)~~(c) The committee may request the assistance of the
9 staffs of the legislative council, the office of the
10 legislative fiscal analyst, the legislative auditor, the
11 department of revenue, and any other agency that has
12 information regarding any of the tax or revenue bases of the
13 state."

14 NEW SECTION. Section 2. Effective date. [This act] is
15 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 558
 2 INTRODUCED BY REAM, B. BROWN
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE PROCEDURES OF
 5 ESTIMATING REVENUES BY THE REVENUE OVERSIGHT COMMITTEE; TO
 6 CLARIFY THAT THE REVENUE ESTIMATES OF THE LEGISLATURE ARE
 7 INTENDED TO BE USED BY ALL AGENCIES; AMENDING SECTION
 8 5-18-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 5-18-107, MCA, is amended to read:

12 "5-18-107. Powers and duties of the committee -- duty
 13 to review revenue rules -- legislative oversight of the
 14 department of revenue -- committee reports -- revenue
 15 estimating and use of estimates. (1) The committee shall
 16 review all proposed rules of the department of revenue filed
 17 with the secretary of state.

18 (2) The committee may:

19 (a) request and obtain the department's rulemaking
 20 records for the purpose of reviewing compliance with
 21 2-4-305;

22 (b) prepare written recommendations for the adoption,
 23 amendment, or rejection of a rule and submit the
 24 recommendations to the department;

25 (c) submit oral or written testimony at a rulemaking

1 hearing;

2 (d) require the department to appear before the
 3 committee and respond to the committee's recommendations for
 4 the adoption, amendment, or rejection of a rule;

5 (e) require that a rulemaking hearing be held in
 6 accordance with the provisions of 2-4-302 through 2-4-305;

7 (f) recommend to the legislature the repeal, amendment,
 8 or adoption of a rule as provided in 2-4-412;

9 (g) institute, intervene in, or otherwise participate
 10 in proceedings involving the legality of a rule under the
 11 Montana Administrative Procedure Act in the state and
 12 federal courts and administrative agencies;

13 (h) review the incidence and conduct of the
 14 department's administrative proceedings;

15 (i) require the department to publish the full or
 16 partial text of any pertinent material adopted by reference
 17 under 2-4-307;

18 (j) by an affirmative vote of at least six members of
 19 the committee, contract for the preparation of an economic
 20 impact statement or require the department to prepare an
 21 economic impact statement, following the provisions of
 22 2-4-405;

23 (k) petition the department to promulgate, amend, or
 24 repeal a rule. Within 60 days after submission of a
 25 petition, the department shall either deny the petition in

1 writing, stating its reasons for the denial, or shall
 2 initiate rulemaking proceedings in accordance with 2-4-302
 3 through 2-4-305.

4 (l) make written objection to a proposed rule of the
 5 department for lack of substantial compliance with 2-4-302
 6 through 2-4-305. The provisions of 2-4-406 govern the
 7 objection procedure, the department's response, and the
 8 procedure for and effect of publication of the objection in
 9 the Montana Administrative Register and the Administrative
 10 Rules of Montana.

11 (m) petition the department for a declaratory ruling as
 12 to the applicability of any statutory provision or of any
 13 rule or order of the department. A copy of a declaratory
 14 ruling must be filed with the secretary of state for
 15 publication in the register. A declaratory ruling or the
 16 refusal to issue such a ruling is subject to judicial review
 17 in the same manner as decisions or orders in contested cases
 18 under the Montana Administrative Procedure Act.

19 (n) petition for judicial review of the sufficiency of
 20 the reasons for the department's finding of imminent peril
 21 to the public health, safety, or welfare, cited in support
 22 of an emergency or temporary rule proposed by the department
 23 under 2-4-303; and

24 (o) require the department to conduct the biennial
 25 review of its rules as required in 2-4-314 and report its

1 findings to the committee.

2 (3) The committee shall exercise legislative oversight
 3 of the department of revenue, including without limitation
 4 the review of:

5 (a) proposed budgets;

6 (b) proposed legislation;

7 (c) pending litigation; and

8 (d) major contracts and personnel actions of the
 9 department.

10 (4) The committee may investigate and issue reports on
 11 any matter concerning taxation or the department of revenue.

12 (5) (a) The committee shall have prepared BY DECEMBER 1
 13 for introduction during each REGULAR session of the
 14 legislature in which a revenue bill is under consideration
 15 an estimate of the amount of revenue projected to be
 16 available for legislative appropriation.

17 ~~(b) The committee shall introduce a house joint~~
 18 ~~resolution setting forth the committee's current revenue~~
 19 ~~estimate in each regular session and each special session in~~
 20 ~~which a revenue bill is under consideration. The committee~~
 21 ~~shall issue periodic reports to the legislature in regular~~
 22 ~~session and in the interim between regular sessions,~~
 23 ~~indicating the committee's current revenue estimate.~~

24 ~~(c) (b) The committee's estimate, as introduced in the~~
 25 ~~legislature, version of the joint resolution and subsequent~~

1 ~~periodic-reports-constitute~~ constitutes the legislature's
2 current revenue estimate until amended or until final
3 adoption of the ~~joint-resolution~~ estimate by both houses. It
4 is intended that the legislature's estimates and the
5 assumptions underlying the estimates will be used by all
6 agencies with responsibilities for estimating revenues or
7 costs, including the preparation of fiscal notes.

8 ~~td~~(c) The committee may request the assistance of the
9 staffs of the legislative council, the office of the
10 legislative fiscal analyst, the legislative auditor, the
11 department of revenue, and any other agency that has
12 information regarding any of the tax or revenue bases of the
13 state."

14 NEW SECTION. **Section 2.** **Effective date.** [This act] is
15 effective on passage and approval.

-End-

1 HOUSE BILL NO. 558

2 INTRODUCED BY REAM, B. BROWN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE PROCEDURES OF
5 ESTIMATING REVENUES BY THE REVENUE OVERSIGHT COMMITTEE; TO
6 CLARIFY THAT THE REVENUE ESTIMATES OF THE LEGISLATURE ARE
7 INTENDED TO BE USED BY ALL AGENCIES; AMENDING SECTION
8 5-18-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 5-18-107, MCA, is amended to read:

12 "5-18-107. Powers and duties of the committee -- duty
13 to review revenue rules -- legislative oversight of the
14 department of revenue -- committee reports -- revenue
15 estimating and use of estimates. (1) The committee shall
16 review all proposed rules of the department of revenue filed
17 with the secretary of state.

18 (2) The committee may:

19 (a) request and obtain the department's rulemaking
20 records for the purpose of reviewing compliance with
21 2-4-305;

22 (b) prepare written recommendations for the adoption,
23 amendment, or rejection of a rule and submit the
24 recommendations to the department;

25 (c) submit oral or written testimony at a rulemaking

1 hearing;

2 (d) require the department to appear before the
3 committee and respond to the committee's recommendations for
4 the adoption, amendment, or rejection of a rule;

5 (e) require that a rulemaking hearing be held in
6 accordance with the provisions of 2-4-302 through 2-4-305;

7 (f) recommend to the legislature the repeal, amendment,
8 or adoption of a rule as provided in 2-4-412;

9 (g) institute, intervene in, or otherwise participate
10 in proceedings involving the legality of a rule under the
11 Montana Administrative Procedure Act in the state and
12 federal courts and administrative agencies;

13 (h) review the incidence and conduct of the
14 department's administrative proceedings;

15 (i) require the department to publish the full or
16 partial text of any pertinent material adopted by reference
17 under 2-4-307;

18 (j) by an affirmative vote of at least six members of
19 the committee, contract for the preparation of an economic
20 impact statement or require the department to prepare an
21 economic impact statement, following the provisions of
22 2-4-405;

23 (k) petition the department to promulgate, amend, or
24 repeal a rule. Within 60 days after submission of a
25 petition, the department shall either deny the petition in

1 writing, stating its reasons for the denial, or shall
 2 initiate rulemaking proceedings in accordance with 2-4-302
 3 through 2-4-305.

4 (l) make written objection to a proposed rule of the
 5 department for lack of substantial compliance with 2-4-302
 6 through 2-4-305. The provisions of 2-4-406 govern the
 7 objection procedure, the department's response, and the
 8 procedure for and effect of publication of the objection in
 9 the Montana Administrative Register and the Administrative
 10 Rules of Montana.

11 (m) petition the department for a declaratory ruling as
 12 to the applicability of any statutory provision or of any
 13 rule or order of the department. A copy of a declaratory
 14 ruling must be filed with the secretary of state for
 15 publication in the register. A declaratory ruling or the
 16 refusal to issue such a ruling is subject to judicial review
 17 in the same manner as decisions or orders in contested cases
 18 under the Montana Administrative Procedure Act.

19 (n) petition for judicial review of the sufficiency of
 20 the reasons for the department's finding of imminent peril
 21 to the public health, safety, or welfare, cited in support
 22 of an emergency or temporary rule proposed by the department
 23 under 2-4-303; and

24 (o) require the department to conduct the biennial
 25 review of its rules as required in 2-4-314 and report its

1 findings to the committee.

2 (3) The committee shall exercise legislative oversight
 3 of the department of revenue, including without limitation
 4 the review of:

- 5 (a) proposed budgets;
- 6 (b) proposed legislation;
- 7 (c) pending litigation; and
- 8 (d) major contracts and personnel actions of the
 9 department.

10 (4) The committee may investigate and issue reports on
 11 any matter concerning taxation or the department of revenue.

12 (5) (a) The committee shall have prepared BY DECEMBER 1
 13 for introduction during each REGULAR session of the
 14 legislature in which a revenue bill is under consideration
 15 an estimate of the amount of revenue projected to be
 16 available for legislative appropriation.

17 ~~(b) The committee shall introduce a house joint~~
 18 ~~resolution setting forth the committee's current revenue~~
 19 ~~estimate in each regular session and each special session in~~
 20 ~~which a revenue bill is under consideration. The committee~~
 21 ~~shall issue periodic reports to the legislature in regular~~
 22 ~~session and in the interim between regular sessions,~~
 23 ~~indicating the committee's current revenue estimate.~~

24 ~~(c)(b) The committee's estimate, as introduced in the~~
 25 ~~legislature, version of the joint resolution and subsequent~~

1 ~~periodic-reports-constitute~~ constitutes the legislature's
2 current revenue estimate until amended or until final
3 adoption of the ~~joint-resolution~~ estimate by both houses. It
4 is intended that the legislature's estimates and the
5 assumptions underlying the estimates will be used by all
6 agencies with responsibilities for estimating revenues or
7 costs, including the preparation of fiscal notes.

8 (d)(c) The committee may request the assistance of the
9 staffs of the legislative council, the office of the
10 legislative fiscal analyst, the legislative auditor, the
11 department of revenue, and any other agency that has
12 information regarding any of the tax or revenue bases of the
13 state."

14 NEW SECTION. Section 2. Effective date. [This act] is
15 effective on passage and approval.

-End-

1 HOUSE BILL NO. 558

2 INTRODUCED BY REAM, B. BROWN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE PROCEDURES OF
5 ESTIMATING REVENUES BY THE REVENUE OVERSIGHT COMMITTEE; TO
6 CLARIFY THAT THE REVENUE ESTIMATES OF THE LEGISLATURE ARE
7 INTENDED TO BE USED BY ALL AGENCIES; AMENDING SECTION
8 5-18-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:11 **Section 1.** Section 5-18-107, MCA, is amended to read:

12 "5-18-107. Powers and duties of the committee -- duty
13 to review revenue rules -- legislative oversight of the
14 department of revenue -- committee reports -- revenue
15 estimating and use of estimates. (1) The committee shall
16 review all proposed rules of the department of revenue filed
17 with the secretary of state.

18 (2) The committee may:

19 (a) request and obtain the department's rulemaking
20 records for the purpose of reviewing compliance with
21 2-4-305;

22 (b) prepare written recommendations for the adoption,
23 amendment, or rejection of a rule and submit the
24 recommendations to the department;

25 (c) submit oral or written testimony at a rulemaking

1 hearing;

2 (d) require the department to appear before the
3 committee and respond to the committee's recommendations for
4 the adoption, amendment, or rejection of a rule;

5 (e) require that a rulemaking hearing be held in
6 accordance with the provisions of 2-4-302 through 2-4-305;

7 (f) recommend to the legislature the repeal, amendment,
8 or adoption of a rule as provided in 2-4-412;

9 (g) institute, intervene in, or otherwise participate
10 in proceedings involving the legality of a rule under the
11 Montana Administrative Procedure Act in the state and
12 federal courts and administrative agencies;

13 (h) review the incidence and conduct of the
14 department's administrative proceedings;

15 (i) require the department to publish the full or
16 partial text of any pertinent material adopted by reference
17 under 2-4-307;

18 (j) by an affirmative vote of at least six members of
19 the committee, contract for the preparation of an economic
20 impact statement or require the department to prepare an
21 economic impact statement, following the provisions of
22 2-4-405;

23 (k) petition the department to promulgate, amend, or
24 repeal a rule. Within 60 days after submission of a
25 petition, the department shall either deny the petition in

1 writing, stating its reasons for the denial, or shall
2 initiate rulemaking proceedings in accordance with 2-4-302
3 through 2-4-305.

4 (l) make written objection to a proposed rule of the
5 department for lack of substantial compliance with 2-4-302
6 through 2-4-305. The provisions of 2-4-406 govern the
7 objection procedure, the department's response, and the
8 procedure for and effect of publication of the objection in
9 the Montana Administrative Register and the Administrative
10 Rules of Montana.

11 (m) petition the department for a declaratory ruling as
12 to the applicability of any statutory provision or of any
13 rule or order of the department. A copy of a declaratory
14 ruling must be filed with the secretary of state for
15 publication in the register. A declaratory ruling or the
16 refusal to issue such a ruling is subject to judicial review
17 in the same manner as decisions or orders in contested cases
18 under the Montana Administrative Procedure Act.

19 (n) petition for judicial review of the sufficiency of
20 the reasons for the department's finding of imminent peril
21 to the public health, safety, or welfare, cited in support
22 of an emergency or temporary rule proposed by the department
23 under 2-4-303; and

24 (o) require the department to conduct the biennial
25 review of its rules as required in 2-4-314 and report its

1 findings to the committee.

2 (3) The committee shall exercise legislative oversight
3 of the department of revenue, including without limitation
4 the review of:

- 5 (a) proposed budgets;
- 6 (b) proposed legislation;
- 7 (c) pending litigation; and
- 8 (d) major contracts and personnel actions of the
9 department.

10 (4) The committee may investigate and issue reports on
11 any matter concerning taxation or the department of revenue.

12 (5) (a) The committee shall have prepared BY DECEMBER 1
13 for introduction during each REGULAR session of the
14 legislature in which a revenue bill is under consideration
15 an estimate of the amount of revenue projected to be
16 available for legislative appropriation.

17 ~~(b) The committee shall introduce a house joint~~
18 ~~resolution setting forth the committee's current revenue~~
19 ~~estimate in each regular session and each special session in~~
20 ~~which a revenue bill is under consideration. The committee~~
21 ~~shall issue periodic reports to the legislature in regular~~
22 ~~session and in the interim between regular sessions,~~
23 ~~indicating the committee's current revenue estimate.~~

24 (b) The committee's estimate, as introduced in the
25 legislature, version of the joint resolution and subsequent

1 ~~periodic-reports-constitute~~ constitutes the legislature's
2 current revenue estimate until amended or until final
3 adoption of the joint-resolution estimate by both houses. It
4 is intended that the legislature's estimates and the
5 assumptions underlying the estimates will be used by all
6 agencies with responsibilities for estimating revenues or
7 costs, including the preparation of fiscal notes.

8 (d)(c) The committee may request the assistance of the
9 staffs of the legislative council, the office of the
10 legislative fiscal analyst, the legislative auditor, the
11 department of revenue, and any other agency that has
12 information regarding any of the tax or revenue bases of the
13 state."

14 NEW SECTION. Section 2. Effective date. [This act] is
15 effective on passage and approval.

-End-