

HOUSE BILL NO. 16

INTRODUCED BY QUILICI

BY REQUEST OF STUDY COMMITTEE ON ENERGY FORECASTING

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on Natural Resources.
January 7, 1981	Fiscal note requested.
January 9, 1981	Fiscal note returned.
January 24, 1981	Committee recommend bill do pass as amended. Report adopted.
January 26, 1981	Bill printed and placed on members' desks.
January 27, 1981	Second reading, do pass.
January 28, 1981	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 29, 1981	Introduced and referred to Committee on Natural Resources.
March 5, 1981	Committee recommend bill be concurred in. Report adopted.
March 11, 1981	Second reading, concurred in. Bill segregated.
March 12, 1981	Second reading, concurred in.
March 14, 1981	Third reading, concurred in. Ayes, 36; Noes, 11.

IN THE HOUSE

March 17, 1981

Returned from Senate. Concurred
in.

March 20, 1981

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 16
 2 INTRODUCED BY QUILICI
 3 BY REQUEST OF STUDY COMMITTEE ON ENERGY FORECASTING

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE GOVERNOR'S
 6 ENERGY SUPPLY EMERGENCY POWERS TO PROVIDE FOR REGULAR
 7 MONITORING OF ENERGY SUPPLIES AND DEMAND; TO REQUIRE
 8 SUBMISSION OF REPORTS ON PETROLEUM SUPPLIES AND CONSUMPTION;
 9 TO PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION
 10 SUBMITTED; AND AMENDING SECTIONS 90-4-301, 90-4-302, AND
 11 90-4-305, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 90-4-301, MCA, is amended to read:
 15 "90-4-301. Legislative findings and intent. (1) The
 16 legislature finds that energy in various forms is
 17 increasingly subject to possible shortages and supply
 18 disruptions, to the point that there may be foreseen an
 19 emergency situation, and that without the ability to gather
 20 information, regularly monitor energy supplies and demand,
 21 formulate plans, and institute appropriate emergency
 22 measures to reduce or allocate the usage of energy through a
 23 program of mandatory usage curtailment or allocation, a
 24 severe impact on the health, safety, and general welfare of
 25 our state's citizens may occur. The prevention or mitigation

1 of the effects of such energy shortages or disruptions is
 2 necessary for preservation of the public health and welfare
 3 of the citizens of this state.

4 (2) It is the intent of this part to:
 5 (a) establish necessary planning, information
 6 gathering, and energy emergency powers for the governor and
 7 define the conditions under which such powers are to be
 8 exercised;

9 (b) provide penalties for violations of this part."
 10 Section 2. Section 90-4-302, MCA, is amended to read:
 11 "90-4-302. Definitions. As used in this part, the
 12 following definitions apply:

13 (1) "Energy facility" means a facility which produces,
 14 extracts, converts, transports, or stores energy.

15 (2) "Energy" means petroleum or other liquid fuels,
 16 natural or synthetic fuel gas, or electricity.

17 (3) "Person" means an individual, partnership, joint
 18 venture, private or public corporation, cooperative,
 19 association, firm, public utility, political subdivision,
 20 municipal corporation, government agency, joint operating
 21 agency, or any other entity, public or private, however
 22 organized.

23 (4) "Committee" means the energy policy committee
 24 established in 90-4-303.

25 (5) "Distributor" means any person, private

1 corporation, partnership, producer, individual
2 proprietorship, public utility, joint operating agency or
3 cooperative which engages in or is authorized to engage in
4 the activity of generating, producing, transmitting, or
5 distributing energy in this state.

6 (6) "Energy emergency" means an existing or imminent
7 domestic, regional, or national shortage of energy which
8 will result in curtailment of essential services or
9 production of essential goods or the disruption of
10 significant sectors of the economy unless action is taken to
11 conserve or limit the use of the energy form involved and
12 the allocation of available energy supplies among users.

13 (7) "Energy supply alert" means a condition of energy
14 supply on a national, regional, state, or local basis which
15 foreseeably will affect significantly the availability of
16 essential energy supplies within the ensuing 90-day period
17 unless action is taken under 90-4-309 to reduce energy usage
18 by state agencies and political subdivisions.

19 (8) "Petroleum products" means propane, butane,
20 propane/butane mix, motor gasoline, kerosene and other
21 middle distillates, aviation gasoline, jet fuel, number 4
22 fuel oil, residual fuel oil, and alcohol fuels, whether in
23 natural or synthetic form.

24 (9) "Refinery" means an industrial plant, regardless of
25 capacity, that processes fossil or renewable feedstock or

1 manufactures refined petroleum products, except when the
2 plant exclusively produces petrochemicals.

3 (10) "Refiner" means a person that owns, operates, or
4 controls the operations of one or more refineries located in
5 Montana.

6 (11) "Prime petroleum supplier" means the person who
7 makes the first sale of a petroleum product into the state
8 distribution system. Any person who is considered to be a
9 Montana prime supplier by the U.S. department of energy is
10 included in this definition.

11 (12) "Petroleum pipeline company" means a person who
12 owns or operates in Montana any pipeline used for the
13 transportation of petroleum products or their derivatives.
14 This definition does not include pipelines used to transport
15 crude petroleum from producing wells to refineries.

16 (13) "bulk terminal" means a facility that is primarily
17 used for storage for marketing of petroleum products and
18 that has total bulk storage capacity of 50,000 gallons or
19 more."

20 Section 3. Section 90-4-305, MCA, is amended to read:
21 "90-4-305. Information obtainable by governor. (1) The
22 governor may obtain information on a regular basis from
23 energy resource producers, suppliers, public agencies, and
24 consumers and from political subdivisions in this state
25 necessary for him, with advice of the committee, to

1 determine the need for energy supply alert and emergency
2 declarations. Such information may include but is not
3 limited to:

- 4 (a) sales volumes by customer classifications;
5 (b) forecasts of energy resource requirements for the
6 particular type of energy involved for a period not to
7 exceed 2 years; and
8 (c) inventory of energy resources and reserves
9 available for use in meeting a shortage in a particular
10 energy source.

11 (2) In order to help anticipate and mitigate the
12 effects of shortages of petroleum products, the governor may
13 monitor the supply of and demand for these products by
14 obtaining the following monthly reports submitted no later
15 than 20 days after the last day of the month, on forms
16 prescribed by the governor, from the following persons:

- 17 (a) Each refiner shall submit Montana refinery
18 processing data by fuel type in custody including:
19 (i) inventory stocks at the beginning and end of the
20 month;
21 (ii) receipts during the month;
22 (iii) inputs during the month;
23 (iv) production during the month;
24 (v) shipments, losses, and refinery fuel use during the
25 month.

1 (b) Each prime supplier shall submit:

2 (i) 3-month projections of his U.S. supply and stock of
3 petroleum products that he anticipates supplying to
4 customers; and

5 (ii) the actual volume of petroleum products delivered
6 in the state the previous month.

7 (c) Each petroleum pipeline company shall submit
8 reports by fuel type of pipeline terminal delivery,
9 throughput, and export.

10 (d) Each bulk terminal operator shall submit
11 end-of-month reports of inventory stock levels of finished
12 petroleum products in custody by type of product and storage
13 location.

14 (e) Each prime petroleum supplier shall submit
15 quarterly reports of his monthly marketing sales by zip code
16 and fuel type of petroleum products designated by the
17 governor.

18 ~~(2)(3)~~ In obtaining information under ~~subsection--(1)~~
19 ~~subsections (1) and (2)~~ of this section during a state of
20 energy emergency, the governor may subpoena witnesses,
21 material, and relevant books, papers, accounts, records, and
22 memoranda; administer oaths; and cause the depositions of
23 persons residing within or without Montana to be taken in
24 the manner prescribed for depositions in civil actions in
25 district courts, to obtain information relevant to energy

1 resources that are the subject of the proclaimed emergency
2 or associated disaster.

3 ~~†††~~(4) In obtaining information under this section, the
4 governor shall:

5 (a) seek to avoid eliciting information already
6 furnished by a person or political subdivision in this state
7 to a federal, state, or local regulatory authority that is
8 available for his study; and

9 (b) cause reporting procedures, including forms, to
10 conform to existing requirements of federal, state, and
11 local regulatory authorities.

12 ~~†††~~(5) Nothing except as provided in subsection (2),
13 nothing in this part requires the disclosure by a
14 distributor of confidential information, trade secrets, or
15 other facts of a proprietary nature.

16 (6) The information required under subsection (2) of
17 this section is subject to the following restrictions:

18 (a) Except in accordance with a proper judicial order,
19 no public officer or employee charged by the governor with
20 the custody of this information may divulge or make known in
21 any manner any information that is specific to a particular
22 distributor.

23 (b) The public officers and employees charged by the
24 governor with the custody of the information provided for in
25 subsection (2) may not be required to produce any of it or

1 evidence of anything contained in it on behalf of any party
2 to any action or proceeding under this part, except when the
3 information concerned is directly involved in the action or
4 proceeding, in which case only that information directly
5 pertinent to the action or proceeding may be admitted.

6 ~~†††~~(7) The governor shall forward to the committee such
7 information collected under this section as the committee
8 may request and shall advise the committee of the progress
9 of the information gathering process."

10 Section 4. Severability. If a part of this act is
11 invalid, all valid parts that are severable from the invalid
12 part remain in effect. If a part of this act is invalid in
13 one or more of its applications, the part remains in effect
14 in all valid applications that are severable from the
15 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 28-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 8, 19 81, there is hereby submitted a Fiscal Note for House Bill 16 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 16 amends the Governor's energy supply emergency powers to provide for regular monitoring of energy supplies and demand; to require submission of reports on petroleum supplies and consumption; to provide for confidentiality of certain information submitted.

ASSUMPTIONS:

1. The Department of Natural Resources will need 5 addition FTE employees to compile and analyze the information obtained as a result of this bill. 3 FTE's will be for petroleum monitoring and 2 FTE's will be for electricity.
2. The positions will be: Statistician/Programmer - grade 15, Research Specialist - grade 14, and Secretary/Clerk - grade 8 for petroleum; Econometrician - grade 15 and Research Specialist - grade 13 for electricity.
3. Computer operating costs and terminal rental are estimated to be \$18,000 each fiscal year for petroleum and \$12,000 each fiscal year for electricity.
4. Salaries are calculated from the FY 81 Salary Matrix, inflated by 10% each fiscal year.
5. Fringe benefits are calculated at 18% of salaries.

FISCAL IMPACT:

	<u>FY 82</u>	<u>FY 83</u>
Petroleum		
Personal services	\$ 59,647	\$ 65,610
Operating expenses	21,000	21,000
Equipment	1,000	500
	<u>81,647</u>	<u>87,710</u>
Electricity		
Personal services	44,315	48,746
Operating expenses	14,000	14,500
Equipment	750	350
	<u>59,065</u>	<u>63,596</u>

FUND INFORMATION

General Fund Impact	\$140,712	\$150,706
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Lyle Manley, for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/8/81

STATE OF MONTANA

REQUEST NO. 28-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 28, 19 81, there is hereby submitted a Fiscal Note for House Bill 16 (amended) pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

(This is a revised fiscal note)

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 16 amends the Governor's energy supply emergency powers to provide for regular monitoring of energy supplies and demand; to require submission of reports on petroleum supplies and consumption; to provide for confidentiality of certain information submitted.

ASSUMPTIONS:

1. The Department of Natural Resources will need 2 additional FTE employees to compile and analyze the information obtained as a result of this bill. One FTE will be for petroleum monitoring and 1 FTE will be for electricity.
2. The positions will be: Research Specialist - grade 14 for petroleum; Econometrician - grade 15 for electricity.
3. Computer operating costs and terminal rental are estimated to be \$18,000 each fiscal year for petroleum and \$12,000 each fiscal year for electricity.
4. Salaries are calculated from the FY 81 Salary Matrix, inflated by 10% each fiscal year.
5. Fringe benefits are calculated at 18% of salaries.

FISCAL IMPACT:

	<u>FY 82</u>	<u>FY 83</u>
Petroleum		
Personal Services	\$22,710	\$24,387
Operating Expenses	21,000	21,000
Equipment	500	250
	<u>\$44,210</u>	<u>\$45,637</u>
Electricity		
Personal Services	24,148	26,562
Operating Expenses	14,000	14,500
Equipment	400	200
	<u>\$38,548</u>	<u>\$41,262</u>

FUND INFORMATION

General Fund Impact	\$82,758	\$86,899
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Daniel M. Lewis
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-29-81

Approved by Committee
on Natural Resources

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 7 MONITORING OF ENERGY SUPPLIES AND DEMAND; TO REQUIRE
 8 SUBMISSION OF REPORTS ON PETROLEUM SUPPLIES AND CONSUMPTION;
 9 TO PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION
 10 SUBMITTED; AND AMENDING SECTIONS 90-4-301, 90-4-302, AND
 11 90-4-305, MCA."
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 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 90-4-301, MCA, is amended to read:
 15 "90-4-301. Legislative findings and intent. (1) The
 16 legislature finds that energy in various forms is
 17 increasingly subject to possible shortages and supply
 18 disruptions, to the point that there may be foreseen an
 19 emergency situation, and that without the ability to gather
 20 information, regularly monitor energy supplies and demand,
 21 formulate plans, and institute appropriate emergency
 22 measures to reduce or allocate the usage of energy through a
 23 program of mandatory usage curtailment or allocation, a
 24 severe impact on the health, safety, and general welfare of
 25 our state's citizens may occur. The prevention or mitigation

1 of the effects of such energy shortages or disruptions is
 2 necessary for preservation of the public health and welfare
 3 of the citizens of this state.
 4 (2) It is the intent of this part to:
 5 (a) establish necessary planning, information
 6 gathering, and energy emergency powers for the governor and
 7 define the conditions under which such powers are to be
 8 exercised;
 9 (B) PROVIDE FOR THE REGULAR MONITORING OF ENERGY
 10 SUPPLIES AND DEMAND; HOWEVER, NOTHING IN THIS PART MAY BE
 11 CONSTRUED TO AUTHORIZE THE ESTABLISHMENT OF AN INDEPENDENT
 12 STATE ENERGY FORECASTING PROGRAM; AND
 13 (b)(c) provide penalties for violations of this part."
 14 Section 2. Section 90-4-302, MCA, is amended to read:
 15 "90-4-302. Definitions. As used in this part, the
 16 following definitions apply:
 17 (1) "Energy facility" means a facility which produces,
 18 extracts, converts, transports, or stores energy.
 19 (2) "Energy" means petroleum or other liquid fuels,
 20 natural or synthetic fuel gas, or electricity.
 21 (3) "Person" means an individual, partnership, joint
 22 venture, private or public corporation, cooperative,
 23 association, firm, public utility, political subdivision,
 24 municipal corporation, government agency, joint operating
 25 agency, or any other entity, public or private, however

1 organized.

2 (4) "Committee" means the energy policy committee
3 established in 90-4-303.

4 (5) "Distributor" means any person, private
5 corporation, partnership, producer, individual
6 proprietorship, public utility, joint operating agency or
7 cooperative which engages in or is authorized to engage in
8 the activity of generating, producing, transmitting, or
9 distributing energy in this state.

10 (6) "Energy emergency" means an existing or imminent
11 domestic, regional, or national shortage of energy which
12 will result in curtailment of essential services or
13 production of essential goods or the disruption of
14 significant sectors of the economy unless action is taken to
15 conserve or limit the use of the energy form involved and
16 the allocation of available energy supplies among users.

17 (7) "Energy supply alert" means a condition of energy
18 supply on a national, regional, state, or local basis which
19 foreseeably will affect significantly the availability of
20 essential energy supplies within the ensuing 90-day period
21 unless action is taken under 90-4-309 to reduce energy usage
22 by state agencies and political subdivisions.

23 (8) "Petroleum products" means propane, butane,
24 propane/butane mix, motor gasoline, kerosene and other
25 middle distillates, aviation gasoline, jet fuel, number 4

1 fuel oil, residual fuel oil, and alcohol fuels, whether in
2 natural or synthetic form.

3 (9) "Refinery" means an industrial plant, regardless
4 of capacity, that processes fossil or renewable feedstock or
5 manufactures refined petroleum products, except when the
6 plant exclusively produces petrochemicals.

7 (10) "Refiner" means a person that owns, operates, or
8 controls the operations of one or more refineries located in
9 Montana.

10 (11) "Prime petroleum supplier" means the person who
11 makes the first sale of a petroleum product into the state
12 distribution system. Any person who is considered to be a
13 Montana prime supplier by the U.S. department of energy is
14 included in this definition.

15 (12) "Petroleum pipeline company" means a person who
16 owns or operates in Montana any pipeline used for the
17 transportation of petroleum products or their derivatives.
18 This definition does not include pipelines used to transport
19 crude petroleum from producing wells to refineries.

20 (13) "Bulk PIPELINE terminal" means a facility that is
21 primarily used for storage for marketing of petroleum
22 products and that has total bulk storage capacity of 50,000
23 gallons or more."

24 Section 3. Section 90-4-305, MCA, is amended to read:
25 "90-4-305. Information obtainable by governor. (1) The

1 governor may obtain information on a regular basis from
 2 energy resource producers, suppliers, public agencies, and
 3 consumers and from political subdivisions in this state
 4 necessary for him, with advice of the committee, to
 5 determine the need for energy supply alert and emergency
 6 declarations. Such information may include but is not
 7 limited to:

8 (a) sales volumes by customer classifications OTHER
 9 THAN FOR PETROLEUM PRODUCTS;

10 (b) forecasts of energy resource requirements for the
 11 particular type of energy involved for a period not to
 12 exceed 2 years; and

13 (c) inventory of energy resources and reserves
 14 available for use in meeting a shortage in a particular
 15 energy source.

16 (2) In order to help anticipate and mitigate the
 17 effects of shortages of petroleum products, the governor may
 18 monitor the supply of and demand for these products by
 19 obtaining the following monthly reports submitted no later
 20 than 20 days after the last day of the month, on forms
 21 prescribed by the governor, from the following persons:

22 (a) Each refiner shall submit Montana refinery
 23 processing data by fuel type in custody including:

24 (1) inventory stocks at the beginning and end of the
 25 month;

1 (ii) receipts during the month;
 2 (iii) inputs during the month;
 3 (iv) production during the month;
 4 (v) shipments, losses, and refinery fuel use during
 5 the month.

6 (b) Each prime PETROLEUM supplier shall submit:
 7 (i) 3-month projections of his ~~His~~ MONTANA supply and
 8 stock of petroleum products that he anticipates supplying to
 9 MONTANA customers; and

10 (ii) the actual volume of petroleum products delivered
 11 in the state the previous month.

12 (c) Each petroleum pipeline company shall submit
 13 reports by fuel type of MONTANA pipeline terminal delivery,
 14 throughput, and exports.

15 (d) Each bulk PIPELINE terminal operator shall submit
 16 end-of-month reports of inventory stock levels of finished
 17 petroleum products in custody IN MONTANA by type of product
 18 and storage location.

19 (e) Each prime petroleum supplier shall submit
 20 quarterly reports of his monthly marketing sales IN MONTANA
 21 by zip--code STANDARD POINT LOCATER INDEX, OR OTHER METHOD
 22 PRESCRIBED BY THE GOVERNOR, and fuel type of petroleum
 23 products designated by the governor.

24 (2)(3) In obtaining information under subsection-(1)
 25 subsections (1) and (2) of this section during a state of

1 energy emergency, the governor may subpoena witnesses,
 2 material, and relevant books, papers, accounts, records, and
 3 memoranda; administer oaths; and cause the depositions of
 4 persons residing within or without Montana to be taken in
 5 the manner prescribed for depositions in civil actions in
 6 district courts, to obtain information relevant to energy
 7 resources that are the subject of the proclaimed emergency
 8 or associated disaster.

9 ~~(3)(4)~~ In obtaining information under this section,
 10 the governor shall:

11 (a) ~~seek--to~~ avoid eliciting information already
 12 furnished by a person or political subdivision in this state
 13 to a federal, state, or local regulatory authority that is
 14 available for his study; and

15 (b) cause reporting procedures, including forms, to
 16 conform to existing requirements of federal, state, and
 17 local regulatory authorities.

18 ~~(4)(5) Nothing Except as provided in subsection (2),~~
 19 ~~nothing~~ in this part requires the disclosure by a
 20 distributor of confidential information, trade secrets, or
 21 other facts of a proprietary nature.

22 ~~(6) The information required under subsection (2) of~~
 23 ~~this section is subject to the following restrictions:~~

24 ~~(a) Except in accordance with a proper judicial order,~~
 25 ~~no public officer or employee charged by the governor with~~

1 ~~the custody of this information may divulge or make known in~~
 2 ~~any manner any information that is specific to a particular~~
 3 ~~distributor.~~

4 ~~(b) The public officers and employees charged by the~~
 5 ~~governor with the custody of the information provided for in~~
 6 ~~subsection (2) may not be required to produce any of it or~~
 7 ~~evidence of anything contained in it on behalf of any party~~
 8 ~~to any action or proceeding under this part, except when the~~
 9 ~~information concerned is directly involved in the action or~~
 10 ~~proceeding, in which case only that information directly~~
 11 ~~pertinent to the action or proceeding may be admitted.~~

12 ~~(C) NOTHING IN THIS SECTION SHALL PRECLUDE ACCESS TO~~
 13 ~~SUCH INFORMATION BY THE LEGISLATIVE AUDITOR IN CARRYING OUT~~
 14 ~~HIS FUNCTIONS UNDER TITLE 5, CHAPTER 3, MCA.~~

15 ~~(5)(7) The governor shall forward to the committee~~
 16 ~~such information collected under this section as the~~
 17 ~~committee may request and shall advise the committee of the~~
 18 ~~progress of the information gathering process."~~

19 Section 4. Severability. If a part of this act is
 20 invalid, all valid parts that are severable from the invalid
 21 part remain in effect. If a part of this act is invalid in
 22 one or more of its applications, the part remains in effect
 23 in all valid applications that are severable from the
 24 invalid applications.

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6 ENERGY SUPPLY EMERGENCY POWERS TO PROVIDE FOR REGULAR
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16 legislature finds that energy in various forms is
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19 emergency situation, and that without the ability to gather
20 information, regularly monitor energy supplies and demand,
21 formulate plans, and institute appropriate emergency
22 measures to reduce or allocate the usage of energy through a
23 program of mandatory usage curtailment or allocation, a
24 severe impact on the health, safety, and general welfare of
25 our state's citizens may occur. The prevention or mitigation

1 of the effects of such energy shortages or disruptions is
2 necessary for preservation of the public health and welfare
3 of the citizens of this state.

4 (2) It is the intent of this part to:

5 (a) establish necessary planning, information
6 gathering, and energy emergency powers for the governor and
7 define the conditions under which such powers are to be
8 exercised;

9 ~~(b) PROVIDE FOR THE REGULAR MONITORING OF ENERGY~~
10 ~~SUPPLIES AND DEMAND; HOWEVER, NOTHING IN THIS PART MAY BE~~
11 ~~CONSTRUED TO AUTHORIZE THE ESTABLISHMENT OF AN INDEPENDENT~~
12 ~~STATE ENERGY FORECASTING PROGRAM; AND~~

13 ~~(b)(c) provide penalties for violations of this part."~~

14 Section 2. Section 90-4-302, MCA, is amended to read:

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16 following definitions apply:

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22 venture, private or public corporation, cooperative,
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25 agency, or any other entity, public or private, however

1 organized.

2 (4) "Committee" means the energy policy committee
3 established in 90-4-303.

4 (5) "Distributor" means any person, private
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18 supply on a national, regional, state, or local basis which
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23 gallons or more."

24 Section 3. Section 90-4-305, MCA, is amended to read:
25 "90-4-305. Information obtainable by governor. (1) The

1 governor may obtain information on a regular basis from
 2 energy resource producers, suppliers, public agencies, and
 3 consumers and from political subdivisions in this state
 4 necessary for him, with advice of the committee, to
 5 determine the need for energy supply alert and emergency
 6 declarations. Such information may include but is not
 7 limited to:

8 (a) sales volumes by customer classifications OTHER
 9 THAN FOR PETROLEUM PRODUCTS;

10 (b) forecasts of energy resource requirements for the
 11 particular type of energy involved for a period not to
 12 exceed 2 years; and

13 (c) inventory of energy resources and reserves
 14 available for use in meeting a shortage in a particular
 15 energy source.

16 (2) In order to help anticipate and mitigate the
 17 effects of shortages of petroleum products, the governor may
 18 monitor the supply of and demand for these products by
 19 obtaining the following monthly reports submitted no later
 20 than 20 days after the last day of the month, on forms
 21 prescribed by the governor, from the following persons:

22 (a) Each refiner shall submit Montana refinery
 23 processing data by fuel type in custody including:

24 (i) inventory stocks at the beginning and end of the
 25 month;

1 (ii) receipts during the month;

2 (iii) inputs during the month;

3 (iv) production during the month;

4 (v) shipments, losses, and refinery fuel use during
 5 the month.

6 (b) Each prime PETROLEUM supplier shall submit:

7 (i) 3-month projections of his ~~use~~ MONTANA supply and
 8 stock of petroleum products that he anticipates supplying to
 9 MONTANA customers; and

10 (ii) the actual volume of petroleum products delivered
 11 in the state the previous month.

12 (c) Each petroleum pipeline company shall submit
 13 reports by fuel type of MONTANA pipeline terminal delivery,
 14 throughput, and export.

15 (d) Each bulk PIPELINE terminal operator shall submit
 16 end-of-month reports of inventory stock levels of finished
 17 petroleum products in custody IN MONTANA by type of product
 18 and storage location.

19 (e) Each prime petroleum supplier shall submit
 20 quarterly reports of his monthly marketing sales IN MONTANA
 21 by zip--code STANDARD POINT LOCATER INDEX, OR OTHER METHOD
 22 PRESCRIBED BY THE GOVERNOR, and fuel type of petroleum
 23 products designated by the governor.

24 (2)(3) In obtaining information under subsection-(1)
 25 subsections (1) and (2) of this section during a state of

1 energy emergency, the governor may subpoena witnesses,
 2 material, and relevant books, papers, accounts, records, and
 3 memoranda; administer oaths; and cause the depositions of
 4 persons residing within or without Montana to be taken in
 5 the manner prescribed for depositions in civil actions in
 6 district courts, to obtain information relevant to energy
 7 resources that are the subject of the proclaimed emergency
 8 or associated disaster.

9 ~~(3)(4)~~ In obtaining information under this section,
 10 the governor shall:

11 (a) ~~seek--to~~ avoid eliciting information already
 12 furnished by a person or political subdivision in this state
 13 to a federal, state, or local regulatory authority that is
 14 available for his study; and

15 (b) cause reporting procedures, including forms, to
 16 conform to existing requirements of federal, state, and
 17 local regulatory authorities.

18 ~~(4)(5) Nothing Except as provided in subsection (2),~~
 19 ~~nothing~~ in this part requires the disclosure by a
 20 distributor of confidential information, trade secrets, or
 21 other facts of a proprietary nature.

22 ~~(6) The information required under subsection (2) of~~
 23 ~~this section is subject to the following restrictions:~~

24 ~~(a) Except in accordance with a proper judicial order,~~
 25 ~~no public officer or employee charged by the governor with~~

1 ~~the custody of this information may divulge or make known in~~
 2 ~~any manner any information that is specific to a particular~~
 3 ~~distributor.~~

4 ~~(b) The public officers and employees charged by the~~
 5 ~~governor with the custody of the information provided for in~~
 6 ~~subsection (2) may not be required to produce any of it or~~
 7 ~~evidence of anything contained in it on behalf of any party~~
 8 ~~to any action or proceeding under this part, except when the~~
 9 ~~information concerned is directly involved in the action or~~
 10 ~~proceeding, in which case only that information directly~~
 11 ~~pertinent to the action or proceeding may be admitted.~~

12 ~~(C) NOTHING IN THIS SECTION SHALL PRECLUDE ACCESS TO~~
 13 ~~SUCH INFORMATION BY THE LEGISLATIVE AUDITOR IN CARRYING OUT~~
 14 ~~HIS FUNCTIONS UNDER TITLE 5, CHAPTER 3, MCA.~~

15 ~~(5)(7) The governor shall forward to the committee~~
 16 ~~such information collected under this section as the~~
 17 ~~committee may request and shall advise the committee of the~~
 18 ~~progress of the information gathering process."~~

19 Section 4. Severability. If a part of this act is
 20 invalid, all valid parts that are severable from the invalid
 21 part remain in effect. If a part of this act is invalid in
 22 one or more of its applications, the part remains in effect
 23 in all valid applications that are severable from the
 24 invalid applications.

-End-

1 HOUSE BILL NO. 16

2 INTRODUCED BY QUILICI

3 BY REQUEST OF STUDY COMMITTEE ON ENERGY FORECASTING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE GOVERNOR'S
6 ENERGY SUPPLY EMERGENCY POWERS TO PROVIDE FOR REGULAR
7 MONITORING OF ENERGY SUPPLIES AND DEMAND; TO REQUIRE
8 SUBMISSION OF REPORTS ON PETROLEUM SUPPLIES AND CONSUMPTION;
9 TO PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION
10 SUBMITTED; AND AMENDING SECTIONS 90-4-301, 90-4-302, AND
11 90-4-305, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 90-4-301, MCA, is amended to read:

15 "90-4-301. Legislative findings and intent. (1) The
16 legislature finds that energy in various forms is
17 increasingly subject to possible shortages and supply
18 disruptions, to the point that there may be foreseen an
19 emergency situation, and that without the ability to gather
20 information, regularly monitor energy supplies and demand,
21 formulate plans, and institute appropriate emergency
22 measures to reduce or allocate the usage of energy through a
23 program of mandatory usage curtailment or allocation, a
24 severe impact on the health, safety, and general welfare of
25 our state's citizens may occur. The prevention or mitigation

1 of the effects of such energy shortages or disruptions is
2 necessary for preservation of the public health and welfare
3 of the citizens of this state.

4 (2) It is the intent of this part to:

5 (a) establish necessary planning, information
6 gathering, and energy emergency powers for the governor and
7 define the conditions under which such powers are to be
8 exercised;

9 (B) PROVIDE FOR THE REGULAR MONITORING OF ENERGY
10 SUPPLIES AND DEMAND; HOWEVER, NOTHING IN THIS PART MAY BE
11 CONSTRUED TO AUTHORIZE THE ESTABLISHMENT OF AN INDEPENDENT
12 STATE ENERGY FORECASTING PROGRAM; AND

13 (b) (C) provide penalties for violations of this part."

14 Section 2. Section 90-4-302, MCA, is amended to read:

15 "90-4-302. Definitions. As used in this part, the
16 following definitions apply:

17 (1) "Energy facility" means a facility which produces,
18 extracts, converts, transports, or stores energy.

19 (2) "Energy" means petroleum or other liquid fuels,
20 natural or synthetic fuel gas, or electricity.

21 (3) "Person" means an individual, partnership, joint
22 venture, private or public corporation, cooperative,
23 association, firm, public utility, political subdivision,
24 municipal corporation, government agency, joint operating
25 agency, or any other entity, public or private, however

1 organized.

2 (4) "Committee" means the energy policy committee
3 established in 90-4-303.

4 (5) "Distributor" means any person, private
5 corporation, partnership, producer, individual
6 proprietorship, public utility, joint operating agency or
7 cooperative which engages in or is authorized to engage in
8 the activity of generating, producing, transmitting, or
9 distributing energy in this state.

10 (6) "Energy emergency" means an existing or imminent
11 domestic, regional, or national shortage of energy which
12 will result in curtailment of essential services or
13 production of essential goods or the disruption of
14 significant sectors of the economy unless action is taken to
15 conserve or limit the use of the energy form involved and
16 the allocation of available energy supplies among users.

17 (7) "Energy supply alert" means a condition of energy
18 supply on a national, regional, state, or local basis which
19 foreseeably will affect significantly the availability of
20 essential energy supplies within the ensuing 90-day period
21 unless action is taken under 90-4-309 to reduce energy usage
22 by state agencies and political subdivisions.

23 (8) "Petroleum products" means propane, butane,
24 propane/butane mix, motor gasoline, kerosene and other
25 middle distillates, aviation gasoline, jet fuel, number 4

1 fuel oil, residual fuel oil, and alcohol fuels, whether in
2 natural or synthetic form.

3 (9) "Refinery" means an industrial plant, regardless
4 of capacity, that processes fossil or renewable feedstock or
5 manufactures refined petroleum products, except when the
6 plant exclusively produces petrochemicals.

7 (10) "Refiner" means a person that owns, operates, or
8 controls the operations of one or more refineries located in
9 Montana.

10 (11) "Prime petroleum supplier" means the person who
11 makes the first sale of a petroleum product into the state
12 distribution system. Any person who is considered to be a
13 Montana prime supplier by the U.S. department of energy is
14 included in this definition.

15 (12) "Petroleum pipeline company" means a person who
16 owns or operates in Montana any pipeline used for the
17 transportation of petroleum products or their derivatives.
18 This definition does not include pipelines used to transport
19 crude petroleum from producing wells to refineries.

20 (13) "Bulk PIPELINE terminal" means a facility that is
21 primarily used for storage for marketing of petroleum
22 products and that has total bulk storage capacity of 50,000
23 gallons or more."

24 Section 3. Section 90-4-305, MCA, is amended to read:
25 "90-4-305. Information obtainable by governor. (1) The

1 governor may obtain information on a regular basis from
 2 energy resource producers, suppliers, public agencies, and
 3 consumers and from political subdivisions in this state
 4 necessary for him, with advice of the committee, to
 5 determine the need for energy supply alert and emergency
 6 declarations. Such information may include but is not
 7 limited to:

8 (a) sales volumes by customer classifications OTHER
 9 THAN FOR PETROLEUM PRODUCTS;

10 (b) forecasts of energy resource requirements for the
 11 particular type of energy involved for a period not to
 12 exceed 2 years; and

13 (c) inventory of energy resources and reserves
 14 available for use in meeting a shortage in a particular
 15 energy source.

16 (2) In order to help anticipate and mitigate the
 17 effects of shortages of petroleum products, the governor may
 18 monitor the supply of and demand for these products by
 19 obtaining the following monthly reports submitted no later
 20 than 20 days after the last day of the month, on forms
 21 prescribed by the governor, from the following persons:

22 (a) Each refiner shall submit Montana refinery
 23 processing data by fuel type in custody including:

24 (i) inventory stocks at the beginning and end of the
 25 month;

1 (ii) receipts during the month;
 2 (iii) inputs during the month;
 3 (iv) production during the month;
 4 (v) shipments, losses, and refinery fuel use during
 5 the month.

6 (b) Each prime PETROLEUM supplier shall submit:

7 (i) 3-month projections of his 45% MONTANA supply and
 8 stock of petroleum products that he anticipates supplying to
 9 MONTANA customers; and

10 (ii) the actual volume of petroleum products delivered
 11 in the state the previous month.

12 (c) Each petroleum pipeline company shall submit
 13 reports by fuel type of MONTANA pipeline terminal delivery,
 14 throughput, and export.

15 (d) Each bulk PIPELINE terminal operator shall submit
 16 end-of-month reports of inventory stock levels of finished
 17 petroleum products in custody IN MONTANA by type of product
 18 and storage location.

19 (e) Each prime petroleum supplier shall submit
 20 quarterly reports of his monthly marketing sales IN MONTANA
 21 by zip-code STANDARD POINT LOCATER INDEX, OR OTHER METHOD
 22 PRESCRIBED BY THE GOVERNOR, and fuel type of petroleum
 23 products designated by the governor.

24 ~~(2)(3)~~ In obtaining information under subsection ~~(1)~~
 25 ~~subsections (1) and (2)~~ of this section during a state of

1 energy emergency, the governor may subpoena witnesses,
2 material, and relevant books, papers, accounts, records, and
3 memoranda; administer oaths; and cause the depositions of
4 persons residing within or without Montana to be taken in
5 the manner prescribed for depositions in civil actions in
6 district courts, to obtain information relevant to energy
7 resources that are the subject of the proclaimed emergency
8 or associated disaster.

9 ~~(3)~~(4) In obtaining information under this section,
10 the governor shall:

11 (a) ~~seek--to~~ avoid eliciting information already
12 furnished by a person or political subdivision in this state
13 to a federal, state, or local regulatory authority that is
14 available for his study; and

15 (b) cause reporting procedures, including forms, to
16 conform to existing requirements of federal, state, and
17 local regulatory authorities.

18 ~~(4)~~(5) Nothing Except as provided in subsection (2),
19 nothing in this part requires the disclosure by a
20 distributor of confidential information, trade secrets, or
21 other facts of a proprietary nature.

22 (6) The information required under subsection (2) of
23 this section is subject to the following restrictions:

24 (a) Except in accordance with a proper judicial order,
25 no public officer or employee charged by the governor with

1 the custody of this information may divulge or make known in
2 any manner any information that is specific to a particular
3 distributor.

4 (b) The public officers and employees charged by the
5 governor with the custody of the information provided for in
6 subsection (2) may not be required to produce any of it or
7 evidence of anything contained in it on behalf of any party
8 to any action or proceeding under this part, except when the
9 information concerned is directly involved in the action or
10 proceeding, in which case only that information directly
11 pertinent to the action or proceeding may be admitted.

12 (c) NOTHING IN THIS SECTION SHALL PRECLUDE ACCESS TO
13 SUCH INFORMATION BY THE LEGISLATIVE AUDITOR IN CARRYING OUT
14 HIS FUNCTIONS UNDER TITLE 5, CHAPTER 3, MCA.

15 ~~(5)~~(7) The governor shall forward to the committee
16 such information collected under this section as the
17 committee may request and shall advise the committee of the
18 progress of the information gathering process."

19 Section 4. Severability. If a part of this act is
20 invalid, all valid parts that are severable from the invalid
21 part remain in effect. If a part of this act is invalid in
22 one or more of its applications, the part remains in effect
23 in all valid applications that are severable from the
24 invalid applications.

-End-