HOUSE BILL NO. 47

INTRODUCED BY SCHULTZ

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

IN THE HOUSE

January 3, 1983	Introduced and referred to Committee on Judiciary.
January 13, 1983	Committee recommend bill do pass as amended. Report adopted.
January 14, 1983	Bill printed and placed on members' desks.
January 15, 1983	Second reading, pass consideration.
January 17, 1983	Second reading, do pass as amended.
January 18, 1983	Correctly engrossed.
January 19, 1983	Third reading, passed. Transmitted to Senate.
IN THE SE	NATE
January 20, 1983	Introduced and referred to Committee on State Administration.
March 2, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 4, 1983	Second reading, concurred in as amended.

March 7, 1983

Third reading, concurred in. Ayes, 48; Noes, 0.

IN THE HOUSE

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March 7, 1983	Returned to House with amendments.
March 9, 1983	Second reading, amendments not concurred in.
	On motion Conference Committee requested.
March 10, 1983	Conference Committee appointed.
April 18, 1983	Conference Committee dissolved.
	On motion Free Conference Committee requested and appointed.
	Free Conference Committee reported.
April 19, 1983	Second reading, Free Conference Committee report adopted.
	Third reading, Free Conference Committee report adopted.
April 20, 1983	Free Conference Committee report adopted by Senate.
	Sent to enrolling.
	Reported correctly enrolled.

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2	INTRODUCED BY SCHULTZ
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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE
6 PUBLICATION OF A STATEMENT, WITH EVERY RULE PROPOSED AND
7 ADOPTED UNDER IMPLIED RULEMAKING AUTHORITY, THAT THE RULE
8 LACKS THE FORCE AND EFFECT OF LAW."

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

Section 1. Statement of implied authority and legal effect of rule. (1) Each adjective or interpretive rule or portion of such a rule adopted or to be adopted under implied rulemaking authority shall contain a statement in the historical notations of the rule that the rule is adopted under implied authority and as such does not have the force and effect of law.

- (2) Upon request of the administrative code committee, an agency shall publish the statement required by subsection (1) for any proposed or adopted rule from which it has been omitted. If the committee requests the statement to be published for an adopted rule not scheduled for reprinting in the ARM, the cost of publishing the statement in the ARM shall be borne by the committee.
- 25 Section 2. Codification instruction. Section 1 is

- 1 intended to be codified as an integral part of Title 2,
- 2 chapter 4, and the provisions of Title 2, chapter 4, apply
- 3 to section 1.

-End-

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STATE OF MONTANA

REQUEST NO. 053-83

FISCAL NOTE .

Form BD-15

n compliance with a written request received <u>January 6</u> , 19 83, there is hereby submitted a Fiscal Note for <u>House Bill 47</u> 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:				

An act to require the publication of a statement with every rule proposed and adopted under implied rulemaking authority that the rule lacks the force and effect of law.

FISCAL IMPACT:

Minimal.

FISCAL 1:0/1

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-7-83

48th Legislature

HB 0047/02

Approved by Committee on Judiciary

As Amended

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Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 2. chapter 4. and the provisions of Title 2. chapter 4. apply to section 1.

-End-

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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Statement of implied authority and legal
12	effect of rule. (1) Each adjective or interpretive rule or
13	portion of such a rule adopted or-to-be-adopted PRIOR ID THE
14	EFFECTIVE DATE OF THIS ACT under implied rulemaking
15	authority shall contain a statement in the historical
16	notations of the rule that the rule is adopted-under-implied
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18	Tow ADVISORY ONLY BUT MAY BE A CORRECT INTERPRETATION OF THE
19	LAM- WHERE APPLICABLE, SUCH A STATEMENT SHALL BE ADDED TO
20	THE HISTORICAL NOTATIONS OF ANY RULE ADDPTED PRIOR TO THE
21	EFFECTIVE DATE OF THIS ACT WHEN THE RULE IN QUESTION IS NEXT
22	SCHEDULED FOR REPRINTING.
23	(2) Upon request of the administrative code committee,
24	an agency shall publish the statement required by subsection
25	(1) for any proposed or adopted rule from which it has been

HOUSE BILL NO. 47

omitted. If the committee requests the statement to be published for an adopted rule not scheduled for reprinting in the ARM, the cost of publishing the statement in the ARM shall be borne by the committee.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 2, chapter 4, and the provisions of Title 2, chapter 4, apply

-End-

SENATE STANDING COMMITTEE REPORT (State Administration)

That House Bill No. 47 be amended as follows:

Page 1, line 13 and 14. 1.

Strike: "PRIOR TO THE EFFECTIVE DATE OF THIS ACT"

Insert: "or to be adopted"

Page 1, line 19 through 21.

Strike: "WHERE" through "ACT"

"Such statement must be placed in the ARM" Insert:

Page 1, line 22.

Following: "REPRINTING"

Insert: "or upon request of the administrative code committee

as provided in subsection (2)"

Page 1, lines 23 through page 2, line 1.

"(2)" Following:

"Upon" through "omitted." on line 1, page 2. Strike: Insert: "The administrative code committee may file with the secretary of state, for publication with any rule or portion thereof it considers to be adjective or interpretive, a statement indicating that it is the opinion of the administrative code committee that the rule or

portion thereof is adjuective or interpretive

and therefore advisory only."

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 47 be amended as follows:

1. Page 1, line 22.
Following: "REPRINTING"
Strike: "or upon request of the administrative code committee
 as provided in subsection (2)"

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FREE CONFERENCE COMMITTEE REPORT ON HOUSE BILL 47 (Report No. 1)

Mr. Speaker:

We, your Free Conference Committee on House Bill 47, met and considered:

Senate State Administration Committee amendments of March 2, 1983; and Senate Committee of the Whole amendment of March 4, 1983.

We recommend as follows:

That the House accede to all Senate amendments;
That House Bill 47 be further amended as specified in
Clerical Instruction number 1; and
That this Free Conference Committee Report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1) Page 1, lines 13 and 14

Strike: "adopted OR"

Following: "ADOPTED" on line 14

Insert: "after the effective date of this act"

FOR THE HOUSE

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Chairman

48th Legislature HB 0047/04 HB 0047/04

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-End-

-2- HB 47

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