

**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 SENATE**

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**

**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  
3                    BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

4  
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."

9  
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 under  
14        implied rulemaking authority shall contain a statement in  
15        the historical notations of the rule that the rule is  
16        adopted under implied authority and as such does not have  
17        the force and effect of law.

18        (2) Upon request of the administrative code committee,  
19        an agency shall publish the statement required by subsection  
20        (1) for any proposed or adopted rule from which it has been  
21        omitted. If the committee requests the statement to be  
22        published for an adopted rule not scheduled for reprinting  
23        in the ARM, the cost of publishing the statement in the ARM  
24        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-

INTRODUCED BILL

HB 47

STATE OF MONTANA

REQUEST NO. 053-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 47 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.

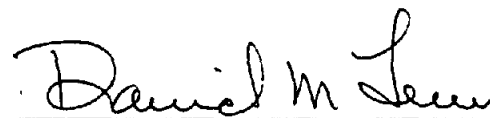
DESCRIPTION OF PROPOSED LEGISLATION:

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

Approved by Committee  
on Judiciary

*As Amended*

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15   the historical notations of the rule that the rule is  
16   ~~adopted under implied authority and as such does not have~~  
17   ~~the force and effect of law~~ ADVISORY ONLY BUT MAY BE A  
18   CORRECT INTERPRETATION OF THE LAW.  
19       (2) Upon request of the administrative code committee,  
20   an agency shall publish the statement required by subsection  
21   (1) for any proposed or adopted rule from which it has been  
22   omitted. If the committee requests the statement to be  
23   published for an adopted rule not scheduled for reprinting  
24   in the ARM, the cost of publishing the statement in the ARM  
25   shall be borne by the committee.

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

SECOND READING

HOUSE BILL NO. 47

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A BILL FOR AN ACT ENTITLED: "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 IS ADVISORY ONLY.~~"

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~~ PRIOR TO THE  
EFFECTIVE DATE OF THIS ACT 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~~ ADVISORY ONLY BUT MAY BE A CORRECT INTERPRETATION OF THE  
LAW. WHERE APPLICABLE, SUCH A STATEMENT SHALL BE ADDED TO  
THE HISTORICAL NOTATIONS OF ANY RULE ADOPTED PRIOR TO THE  
EFFECTIVE DATE OF THIS ACT WHEN THE RULE IN QUESTION IS NEXT  
SCHEDULED FOR REPRINTING.

(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.

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-

March 2, 1983

SENATE STANDING COMMITTEE REPORT  
(State Administration)

That House Bill No. 47 be amended as follows:

1. Page 1, line 13 and 14.  
Strike: "PRIOR TO THE EFFECTIVE DATE OF THIS ACT"  
Insert: "or to be adopted"
2. Page 1, line 19 through 21.  
Strike: "WHERE" through "ACT"  
Insert: "Such statement must be placed in the ARM"
3. Page 1, line 22.  
Following: "REPRINTING"  
Insert: "or upon request of the administrative code committee as provided in subsection (2)"
4. Page 1, lines 23 through page 2, line 1.  
Following: "(2)"  
Strike: "Upon" through "omitted." on line 1, page 2.  
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 adjective or interpretive and therefore advisory only."

March 4, 1983

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)"



.....April 18, 1983..... 19.....

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.

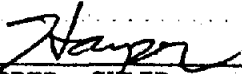

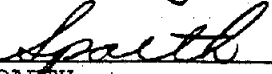
We recommend as follows:

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.

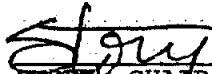

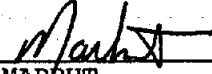
CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

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

  
HARPER, CHAIR  
  
SCHULTZ  
  
SPAETH

FOR THE SENATE

  
STORY, CHAIR  
  
MANNING  
  
MARBUT

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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~~ ~~prior to the effective date of this act~~ OR ~~IF~~ ~~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 ~~ADVISORY ONLY BUT MAY BE A CORRECT INTERPRETATION OF THE LAW WHERE APPLICABLE, SUCH A STATEMENT SHALL BE ADDED TO THE HISTORICAL NOTATIONS OF ANY RULE ADOPTED PRIOR TO THE EFFECTIVE DATE OF THIS ACT~~ SUCH STATEMENT MUST BE PLACED IN THE ARM WHEN THE RULE IN QUESTION IS NEXT SCHEDULED FOR REPRINTING OR UPON REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE AS PROVIDED IN SUBSECTION 121.

(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. 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 ADJECTIVE OR INTERPRETIVE AND THEREFORE ADVISORY ONLY. 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 to section 1.

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