

HOUSE BILL NO. 47

INTRODUCED BY GILBERT
BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

DECEMBER 23, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
JANUARY 4, 1993	FIRST READING.
JANUARY 14, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 15, 1993	PRINTING REPORT.
JANUARY 16, 1993	SECOND READING, DO PASS.
JANUARY 18, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 98; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 1, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 2, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 3, 1993	THIRD READING, CONCURRED IN. AYES, 47; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 47

2 INTRODUCED BY GILBERT

3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING COAL TAX
6 OVERSIGHT DUTIES TO THE REVENUE OVERSIGHT COMMITTEE;
7 AMENDING SECTIONS 5-11-210 AND 5-18-107, MCA; REPEALING
8 SECTIONS 5-18-201, 5-18-202, AND 5-18-203, MCA; AND
9 PROVIDING AN EFFECTIVE DATE."

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

12 Section 1. Section 5-11-210, MCA, is amended to read:

13 "5-11-210. Clearinghouse for reports to legislature.

14 (1) For the purposes of this section, "report" means:

15 (a) a document required to be prepared for the
16 legislature as required in any of the sections listed in
17 subsection (10); and

18 (b) unless otherwise provided by law, any other report
19 required by law to be given to or filed with the
20 legislature.

21 (2) On or before September 1 of each year preceding the
22 convening of a regular session of the legislature, an entity
23 required to report to the legislature shall provide, in
24 writing, to the executive director of the legislative
25 council:

1 (a) the final title of the report;

2 (b) an abstract or description of the contents of the
3 report, not to exceed one page;

4 (c) a recommendation on how many copies of the report
5 should be provided to the legislature;

6 (d) the reasons why the number of copies recommended
7 is, in the opinion of the reporting entity, the appropriate
8 number of copies;

9 (e) an estimated cost for each copy of the report; and

10 (f) the date on which the entity will deliver the
11 final, published copies of the report to the legislature.

12 (3) After considering all of the information available
13 about the report, including the number of legislators
14 requesting copies of the report pursuant to subsection (7),
15 the legislative council or the executive director shall, in
16 writing, direct the reporting entity to provide a specific
17 number of copies. The number of copies required is at the
18 sole discretion of the legislative council. The legislative
19 council or the executive director may require the reporting
20 entity to mail the copies of the report.

21 (4) The legislative council may require that the report
22 be submitted in an electronic format useable on the
23 legislature's current computer hardware, in a microform,
24 such as microfilm or microfiche, or in a CD-ROM format,
25 meaning compact disc read-only memory.

(5) Costs of preparing and distributing a report to the legislature, including writing, printing, postage, distribution, and all other costs, accrue to the reporting agency. Costs incurred in meeting the requirements of this section may not accrue to the legislative council.

(6) The executive director of the legislative council shall cause to be prepared a list of all reports required to be presented to the legislature from the list of titles received under subsection (2).

(7) The executive director shall, as soon as possible following a general election, mail to each holdover senator, senator-elect, and representative-elect a list of the titles of the reports, along with the abstracts prepared pursuant to subsection (2)(b), available from the legislative council. The list must include a form on which each member or member-elect receiving the list may indicate the report or reports that the member or member-elect would like to receive.

(8) The executive director or the legislative council shall make copies of reports requested pursuant to subsection (7) available to those members or members-elect by either requiring that copies be mailed pursuant to subsection (3) or by delivering copies of the reports during the first week of the legislative session.

(9) The executive director of the legislative council

may keep as many copies of a report as he ~~considers~~ considered necessary, and copies of the report may be discarded at his the executive director's discretion.

(10) (a) A report to the legislature includes a report required to be made by a board, bureau, commission, committee, council, department, division, fund, authority, or officer of the state or a local government in 1-11-204, 2-4-411, 2-7-104, 2-8-112, 2-8-203, 2-8-207, 2-8-208, 2-15-2021, 2-18-209, 2-18-811, 2-18-1103, 3-1-702, 3-1-1126, 5-5-216, 5-13-304, 5-17-103, 5-~~18-203~~, 5-19-108, 10-4-102, 15-1-205, 17-4-107, 17-5-1650, 18-7-303, 19-4-201, 20-9-346, 20-25-236, 20-25-301, 22-3-107, 23-7-203, 33-22-1513, 37-1-106, 39-6-101, 39-51-407, 44-2-304, 44-13-103, 46-23-316, 53-2-1107, 53-6-110, 53-20-104, 53-21-104, 53-24-204, 53-24-210, 53-30-133, 69-1-404, 72-16-202, 75-1-203, 75-1-1101, 75-7-304, 75-10-533, 75-10-704, 76-11-203, 76-12-109, 80-7-713, 80-12-402, 82-11-161, 85-1-621, 85-2-105, 87-2-724, 87-5-123, 90-3-203, or 90-4-111.

(b) The procedure outlined in this section may also be used for a report required to be made to the legislature under the Multistate Tax Compact contained in 15-1-601, the Vehicle Equipment Safety Compact contained in 61-2-201, the Multistate Highway Transportation Agreement contained in 61-10-1101, or the Western Interstate Nuclear Compact

1 contained in 90-5-201."

2 **Section 2.** Section 5-18-107, MCA, is amended to read:

3 "5-18-107. Powers and duties of the committee -- duty
4 to review revenue rules -- legislative oversight of the
5 department of revenue -- committee reports -- revenue
6 estimating and use of estimates -- coal tax oversight. (1)
7 The committee shall review all proposed rules of the
8 department of revenue filed with the secretary of state.

9 (2) The committee may:

10 (a) request and obtain the department's rulemaking
11 records for the purpose of reviewing compliance with
12 2-4-305;

13 (b) prepare written recommendations for the adoption,
14 amendment, or rejection of a rule and submit the
15 recommendations to the department;

16 (c) submit oral or written testimony at a rulemaking
17 hearing;

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

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

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

25 (g) institute, intervene in, or otherwise participate

1 in proceedings involving the legality of a rule under the
2 Montana Administrative Procedure Act in the state and
3 federal courts and administrative agencies;

4 (h) review the incidence and conduct of the
5 department's administrative proceedings;

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

9 (j) by an affirmative vote of at least six members of
10 the committee, contract for the preparation of an economic
11 impact statement or require the department to prepare an
12 economic impact statement, following the provisions of
13 2-4-405;

14 (k) petition the department to promulgate, amend, or
15 repeal a rule. Within 60 days after submission of a
16 petition, the department shall either deny the petition in
17 writing, stating its reasons for the denial, or shall
18 initiate rulemaking proceedings in accordance with 2-4-302
19 through 2-4-305.

20 (l) make written objection to a proposed rule of the
21 department for lack of substantial compliance with 2-4-302
22 through 2-4-305. The provisions of 2-4-406 govern the
23 objection procedure, the department's response, and the
24 procedure for and effect of publication of the objection in
25 the Montana Administrative Register and the Administrative

1 Rules of Montana.

2 (m) petition the department for a declaratory ruling as
3 to the applicability of any statutory provision or of any
4 rule or order of the department. A copy of a declaratory
5 ruling must be filed with the secretary of state for
6 publication in the register. A declaratory ruling or the
7 refusal to issue such a ruling is subject to judicial review
8 in the same manner as decisions or orders in contested cases
9 under the Montana Administrative Procedure Act.

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

15 (o) require the department to conduct the biennial
16 review of its rules as required in 2-4-314 and report its
17 findings to the committee.

18 (3) The committee shall exercise legislative oversight
19 of the department of revenue, including without limitation
20 the review of:

21 (a) proposed budgets;

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23 (c) pending litigation; and

24 (d) major contracts and personnel actions of the
25 department.

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

3 (5) (a) The committee shall have prepared by December 1
4 for introduction during each regular session of the
5 legislature in which a revenue bill is under consideration
6 an estimate of the amount of revenue projected to be
7 available for legislative appropriation.

8 (b) The committee's estimate, as introduced in the
9 legislature, constitutes the legislature's current revenue
10 estimate until amended or until final adoption of the
11 estimate by both houses. It is intended that the
12 legislature's estimates and the assumptions underlying the
13 estimates will be used by all agencies with responsibilities
14 for estimating revenues or costs, including the preparation
15 of fiscal notes.

16 (c) The committee may request the assistance of the
17 staffs of the legislative council, the office of the
18 legislative fiscal analyst, the legislative auditor, the
19 department of revenue, and any other agency that has
20 information regarding any of the tax or revenue bases of the
21 state.

22 (6) The committee may:

23 (a) review the programs financed by coal severance tax
24 funds;

25 (b) consider any matters relating to coal taxation; and

1 (c) prepare for the legislature a report, as provided
2 in 5-11-210, on potential uses of the coal tax trust fund to
3 develop a stable, strong, and diversified Montana economy
4 that meets the needs of present and future generations of
5 Montanans while maintaining and improving a clean and
6 healthful environment as required by Article IX, section 1,
7 of the Montana constitution."

8 NEW SECTION. Section 3. Repealer. Sections 5-18-201,
9 5-18-202, and 5-18-203, MCA, are repealed.

10 NEW SECTION. Section 4. Effective date. [This act] is
11 effective July 1, 1993.

-End-

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 47

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A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING COAL TAX
OVERSIGHT DUTIES TO THE REVENUE OVERSIGHT COMMITTEE;
AMENDING SECTIONS 5-11-210 AND 5-18-107, MCA; REPEALING
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(b) unless otherwise provided by law, any other report required by law to be given to or filed with the legislature.

(2) On or before September 1 of each year preceding the convening of a regular session of the legislature, an entity required to report to the legislature shall provide, in writing, to the executive director of the legislative council:

(a) the final title of the report;

(b) an abstract or description of the contents of the report, not to exceed one page;

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24 procedure for and effect of publication of the objection in
25 the Montana Administrative Register and the Administrative

Rules of Montana.

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

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

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

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

(a) proposed budgets;

(b) proposed legislation;

(c) pending litigation; and

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

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

(5) (a) The committee shall have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenues or costs, including the preparation of fiscal notes.

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

(6) The committee may:

(a) review the programs financed by coal severance tax funds;

(b) consider any matters relating to coal taxation; and

1 (c) prepare for the legislature a report, as provided
2 in 5-11-210, on potential uses of the coal tax trust fund to
3 develop a stable, strong, and diversified Montana economy
4 that meets the needs of present and future generations of
5 Montanans while maintaining and improving a clean and
6 healthful environment as required by Article IX, section 1,
7 of the Montana constitution."

8 NEW SECTION. **Section 3. Repealer.** Sections 5-18-201,
9 5-18-202, and 5-18-203, MCA, are repealed.

10 NEW SECTION. **Section 4. Effective date.** [This act] is
11 effective July 1, 1993.

-End-

HOUSE BILL NO. 47

INTRODUCED BY GILBERT

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING COAL TAX
OVERSIGHT DUTIES TO THE REVENUE OVERSIGHT COMMITTEE;
AMENDING SECTIONS 5-11-210 AND 5-18-107, MCA; REPEALING
SECTIONS 5-18-201, 5-18-202, AND 5-18-203, MCA; AND
PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 5-11-210, MCA, is amended to read:**"5-11-210. Clearinghouse for reports to legislature.**

(1) For the purposes of this section, "report" means:

(a) a document required to be prepared for the
legislature as required in any of the sections listed in
subsection (10); and

(b) unless otherwise provided by law, any other report
required by law to be given to or filed with the
legislature.

(2) On or before September 1 of each year preceding the
convening of a regular session of the legislature, an entity
required to report to the legislature shall provide, in
writing, to the executive director of the legislative
council:

- (a) the final title of the report;
 - (b) an abstract or description of the contents of the
report, not to exceed one page;
 - (c) a recommendation on how many copies of the report
should be provided to the legislature;
 - (d) the reasons why the number of copies recommended
is, in the opinion of the reporting entity, the appropriate
number of copies;
 - (e) an estimated cost for each copy of the report; and
 - (f) the date on which the entity will deliver the
final, published copies of the report to the legislature.
- (3) After considering all of the information available
about the report, including the number of legislators
requesting copies of the report pursuant to subsection (7),
the legislative council or the executive director shall, in
writing, direct the reporting entity to provide a specific
number of copies. The number of copies required is at the
sole discretion of the legislative council. The legislative
council or the executive director may require the reporting
entity to mail the copies of the report.
- (4) The legislative council may require that the report
be submitted in an electronic format useable on the
legislature's current computer hardware, in a microform,
such as microfilm or microfiche, or in a CD-ROM format,
meaning compact disc read-only memory.

1 (5) Costs of preparing and distributing a report to the
2 legislature, including writing, printing, postage,
3 distribution, and all other costs, accrue to the reporting
4 agency. Costs incurred in meeting the requirements of this
5 section may not accrue to the legislative council.

6 (6) The executive director of the legislative council
7 shall cause to be prepared a list of all reports required to
8 be presented to the legislature from the list of titles
9 received under subsection (2).

10 (7) The executive director shall, as soon as possible
11 following a general election, mail to each holdover senator,
12 senator-elect, and representative-elect a list of the titles
13 of the reports, along with the abstracts prepared pursuant
14 to subsection (2)(b), available from the legislative
15 council. The list must include a form on which each member
16 or member-elect receiving the list may indicate the report
17 or reports that the member or member-elect would like to
18 receive.

19 (8) The executive director or the legislative council
20 shall make copies of reports requested pursuant to
21 subsection (7) available to those members or members-elect
22 by either requiring that copies be mailed pursuant to
23 subsection (3) or by delivering copies of the reports during
24 the first week of the legislative session.

25 (9) The executive director of the legislative council

1 may keep as many copies of a report as he-consider
2 considered necessary, and copies of the report may be
3 discarded at his the executive director's discretion.

4 (10) (a) A report to the legislature includes a report
5 required to be made by a board, bureau, commission,
6 committee, council, department, division, fund, authority,
7 or officer of the state or a local government in 1-11-204,
8 2-4-411, 2-7-104, 2-8-112, 2-8-203, 2-8-207, 2-8-208,
9 2-15-2021, 2-18-209, 2-18-811, 2-18-1103, 3-1-702, 3-1-1126,
10 5-5-216, 5-13-304, 5-17-103, 5-18-203, 5-19-108, 10-4-102,
11 15-1-205, 17-4-107, 17-5-1650, 18-7-303, 19-4-201, 20-9-346,
12 20-25-236, 20-25-301, 22-3-107, 23-7-203, 33-22-1513,
13 37-1-106, 39-6-101, 39-51-407, 44-2-304, 44-13-103,
14 46-23-316, 53-2-1107, 53-6-110, 53-20-104, 53-21-104,
15 53-24-204, 53-24-210, 53-30-133, 69-1-404, 72-16-202,
16 75-1-203, 75-1-1101, 75-7-304, 75-10-533, 75-10-704,
17 76-11-203, 76-12-109, 80-7-713, 80-12-402, 82-11-161,
18 85-1-621, 85-2-105, 87-2-724, 87-5-123, 90-3-203, or
19 90-4-111.

20 (b) The procedure outlined in this section may also be
21 used for a report required to be made to the legislature
22 under the Multistate Tax Compact contained in 15-1-601, the
23 Vehicle Equipment Safety Compact contained in 61-2-201, the
24 Multistate Highway Transportation Agreement contained in
25 61-10-1101, or the Western Interstate Nuclear Compact

1 contained in 90-5-201."

2 **Section 2.** Section 5-18-107, MCA, is amended to read:

3 "5-18-107. Powers and duties of the committee -- duty
4 to review revenue rules -- legislative oversight of the
5 department of revenue -- committee reports -- revenue
6 estimating and use of estimates -- coal tax oversight. (1)
7 The committee shall review all proposed rules of the
8 department of revenue filed with the secretary of state.

9 (2) The committee may:

10 (a) request and obtain the department's rulemaking
11 records for the purpose of reviewing compliance with
12 2-4-305;

13 (b) prepare written recommendations for the adoption,
14 amendment, or rejection of a rule and submit the
15 recommendations to the department;

16 (c) submit oral or written testimony at a rulemaking
17 hearing;

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

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

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

25 (g) institute, intervene in, or otherwise participate

1 in proceedings involving the legality of a rule under the
2 Montana Administrative Procedure Act in the state and
3 federal courts and administrative agencies;

4 (h) review the incidence and conduct of the
5 department's administrative proceedings;

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

9 (j) by an affirmative vote of at least six members of
10 the committee, contract for the preparation of an economic
11 impact statement or require the department to prepare an
12 economic impact statement, following the provisions of
13 2-4-405;

14 (k) petition the department to promulgate, amend, or
15 repeal a rule. Within 60 days after submission of a
16 petition, the department shall either deny the petition in
17 writing, stating its reasons for the denial, or shall
18 initiate rulemaking proceedings in accordance with 2-4-302
19 through 2-4-305.

20 (l) make written objection to a proposed rule of the
21 department for lack of substantial compliance with 2-4-302
22 through 2-4-305. The provisions of 2-4-406 govern the
23 objection procedure, the department's response, and the
24 procedure for and effect of publication of the objection in
25 the Montana Administrative Register and the Administrative

1 Rules of Montana.

2 (m) petition the department for a declaratory ruling as
3 to the applicability of any statutory provision or of any
4 rule or order of the department. A copy of a declaratory
5 ruling must be filed with the secretary of state for
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7 refusal to issue such a ruling is subject to judicial review
8 in the same manner as decisions or orders in contested cases
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10 (n) petition for judicial review of the sufficiency of
11 the reasons for the department's finding of imminent peril
12 to the public health, safety, or welfare, cited in support
13 of an emergency or temporary rule proposed by the department
14 under 2-4-303; and

15 (o) require the department to conduct the biennial
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17 findings to the committee.

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1 (4) The committee may investigate and issue reports on
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6 an estimate of the amount of revenue projected to be
7 available for legislative appropriation.

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13 estimates will be used by all agencies with responsibilities
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16 (c) The committee may request the assistance of the
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20 information regarding any of the tax or revenue bases of the
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