

1 SENATE BILL NO. 91

2 INTRODUCED BY G. VANCE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FISCAL NOTE PROCEDURES TO ALLOW FOR A
 5 FISCAL NOTE WHEN AN INITIATIVE OR BILL HAS A FISCAL EFFECT ON PRIVATE ENTITIES; ALLOWING
 6 THE BUDGET DIRECTOR TO ~~WORK WITH PRIVATE PARTIES IN DETERMINING THE FISCAL IMPACT~~
 7 IDENTIFY AND SECURE A QUALIFIED FISCAL ESTIMATING PROVIDER WILLING TO PROVIDE A DRAFT
 8 ESTIMATE AT NO COST TO THE STATE; PROVIDING FOR CONTINGENT VOIDNESS; AMENDING
 9 SECTIONS 5-4-201, ~~5-4-203, AND~~ 5-4-205, ~~AND 13-27-312,~~ MCA; AND PROVIDING AN IMMEDIATE
 10 EFFECTIVE DATE."

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

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14 **Section 1.** Section 5-4-201, MCA, is amended to read:

15 **"5-4-201. Requirement of fiscal notes with committee reports.** (1) All bills reported out of a
 16 committee of the legislature having an effect on the revenues, expenditures, or fiscal liability of ~~the state, a~~
 17 ~~county or municipality, or private entities engaged in business in~~ the state or of a county or municipality, OR OF A
 18 COUNTY OR MUNICIPALITY, except appropriation measures carrying specific dollar amounts, ~~shall~~ must include a
 19 fiscal note incorporating an estimate of ~~such the~~ effect. ~~Fiscal notes shall~~ must be requested by the presiding
 20 ~~officer of either house, who shall determine the need for the note at the time of introduction.~~

21 (2) ALL BILLS REPORTED OUT OF A COMMITTEE OF THE LEGISLATURE HAVING AN EFFECT ON THE REVENUES,
 22 EXPENDITURES, OR FISCAL LIABILITY OF A PRIVATE ENTITY ENGAGED IN BUSINESS IN THE STATE, EXCEPT APPROPRIATION
 23 MEASURES CARRYING SPECIFIC DOLLAR AMOUNTS, MUST INCLUDE A FISCAL NOTE INCORPORATING AN ESTIMATE OF THE
 24 EFFECT, UNLESS BY SEPTEMBER 1, 2022, THE BUDGET DIRECTOR IS UNABLE TO IDENTIFY AND SECURE A QUALIFIED
 25 FISCAL ESTIMATING PROVIDER IN THE STATE, SUCH AS THE ECONOMICS DEPARTMENT OF A COLLEGE OR UNIVERSITY,
 26 WILLING TO PROVIDE A DRAFT ESTIMATE AT NO COST TO THE STATE."

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28 **Section 2.** ~~Section 5-4-203, MCA, is amended to read:~~

1 ~~"5-4-203. Budget director to prepare note.~~The budget director, in cooperation with the state or local
 2 agencies or officials or organizations representing local agencies or officials and interested private parties
 3 affected by the bill, is responsible for the preparation of the fiscal note and shall return same the fiscal note
 4 within 6 days. The director may request additional time to complete a note, which extension must be submitted
 5 to the presiding officer or committee requesting the note for approval."

6

7 **Section 2.** Section 5-4-205, MCA, is amended to read:

8 ~~"5-4-205. Contents of notes.~~ (1) Fiscal notes must, when possible, show in dollar amounts the
 9 estimated increase or decrease in revenue or expenditures, costs that may be absorbed without additional
 10 funds, and long-range financial implications. A comment or opinion relative to the merits of the bill may not be
 11 included in the fiscal note. However, technical or mechanical defects may be noted.

12 (2) It is the legislature's intent that a fiscal note be prepared as an objective analysis of the fiscal
 13 impact of legislation on both government entities and private entities engaged in business in the state AS
 14 PROVIDED IN 5-4-201. The fiscal note should represent only the estimate of the revenue and expenditures that
 15 would result from the implementation of the legislation, if enacted, and may not in any way reflect the views or
 16 opinions of the preparing agencies, the sponsor, or other interested parties. Changes in revenue must be
 17 estimated for each reported year based upon appropriate revenue estimating methodologies for the source of
 18 revenue described and should reflect a change from the official revenue estimate provided for in 5-5-227.
 19 Expenditures must be estimated as the amount required for implementing the legislation, if enacted, in excess
 20 of or as a reduction to the present law base level of expenditures in each reported year regardless of whether
 21 or not the preparing agency determines that it can absorb the costs in its proposed budget.

22 (3) The fiscal note must clearly differentiate between facts and assumptions made in the preparation
 23 of the fiscal note while maintaining a logical flow of both fact and assumption in presenting how the fiscal impact
 24 is determined."

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26 ~~**Section 4.** Section 13-27-312, MCA, is amended to read:~~

27 ~~"13-27-312. Review of proposed ballot issue and statements by attorney general -- preparation~~
 28 ~~of fiscal note.~~ (1) Upon receipt of a proposed ballot issue and statements from the office of the secretary of

1 state pursuant to 13-27-202, the attorney general shall examine the proposed ballot issue for legal sufficiency
 2 as provided in this section and shall determine whether the ballot statements comply with the requirements of
 3 this section.

4 ~~(2) The attorney general shall, in reviewing the ballot statements, endeavor to seek out parties on~~
 5 ~~both sides of the issue and obtain their advice. The attorney general shall review the ballot statements to~~
 6 ~~determine if they contain the following matters:~~

7 ~~(a) a statement of purpose and implication, not to exceed 135 words, explaining the purpose and~~
 8 ~~implication of the issue; and~~

9 ~~(b) yes and no statements in the form prescribed in subsection (6).~~

10 ~~(3) If the proposed ballot issue has an effect on the revenue, expenditures, or fiscal liability of the~~
 11 ~~state or private entities engaged in business in the state, the attorney general shall order a fiscal note~~
 12 ~~incorporating an estimate of the effect, the substance of which must substantially comply with the provisions~~
 13 ~~of 5-4-205. The budget director, in cooperation with the agency or agencies affected by the ballot issue, is~~
 14 ~~responsible for preparing the fiscal note and shall return it to the attorney general within 10 days. If the fiscal~~
 15 ~~note indicates a fiscal impact, the attorney general shall prepare a fiscal statement of no more than 50 words,~~
 16 ~~and the statement must be used on the petition and ballot if the issue is placed on the ballot.~~

17 ~~(4) The ballot statements must express the true and impartial explanation of the proposed ballot issue~~
 18 ~~in plain, easily understood language and may not be arguments or written so as to create prejudice for or~~
 19 ~~against the issue.~~

20 ~~(5) Unless altered by the court under 13-27-316, the statement of purpose and implication is the~~
 21 ~~petition title for the issue circulated by the petition and the ballot title if the issue is placed on the ballot.~~

22 ~~(6) The yes and no statements must be written so that a positive vote indicates support for the issue~~
 23 ~~and a negative vote indicates opposition to the issue and must be placed beside the diagram provided for~~
 24 ~~marking of the ballot in a manner similar to the following:~~

25 ~~YES (insert the type of ballot issue and its number)~~

26 ~~NO (insert the type of ballot issue and its number)~~

27 ~~(7) The attorney general shall review the proposed ballot issue for legal sufficiency. As used in this~~
 28 ~~part, "legal sufficiency" means that the petition complies with statutory and constitutional requirements~~

1 governing submission of the proposed issue to the electors. Review of the petition for legal sufficiency does not
 2 include consideration of the substantive legality of the issue if approved by the voters. The attorney general
 3 shall also determine if the proposed issue conflicts with one or more issues that may appear on the ballot at the
 4 same election.

5 ~~(8) (a) Within 30 days after receipt of the proposed issue from the secretary of state, the attorney~~
 6 ~~general shall forward to the secretary of state an opinion as to the issue's legal sufficiency.~~

7 ~~(b) If the attorney general determines that the proposed ballot issue is legally sufficient, the attorney~~
 8 ~~general shall also forward to the secretary of state the petitioner's ballot statements that comply with the~~
 9 ~~requirements of this section. If the attorney general determines in writing that a ballot statement clearly does not~~
 10 ~~comply with the requirements of this section, the attorney general shall prepare a statement that complies with~~
 11 ~~the requirements of this section, forward that statement to the secretary of state as the approved statement,~~
 12 ~~and provide a copy to the petitioner. The attorney general shall give the secretary of state notice of whether the~~
 13 ~~proposed issue conflicts with one or more issues that may appear on the ballot at the same election.~~

14 ~~(c) If the attorney general determines that the proposed ballot issue is not legally sufficient, the~~
 15 ~~secretary of state may not deliver a sample petition form unless the attorney general's opinion is overruled~~
 16 ~~pursuant to 13-27-316 and the attorney general has approved or prepared ballot statements under this section."~~

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 18 NEW SECTION. SECTION 3. CONTINGENT VOIDNESS. (1) IF THE BUDGET DIRECTOR IS UNABLE TO IDENTIFY
 19 AND SECURE A QUALIFIED FISCAL ESTIMATING PROVIDER IN MONTANA, SUCH AS THE ECONOMICS DEPARTMENT OF A
 20 COLLEGE OR UNIVERSITY, WILLING TO PROVIDE A DRAFT ESTIMATE AT NO COST TO THE STATE AS PROVIDED IN [SECTION
 21 1], THEN [THIS ACT] IS VOID.

22 (2) THE BUDGET DIRECTOR SHALL NOTIFY THE CODE COMMISSIONER IF THE CONTINGENCY IN SUBSECTION (1)
 23 OCCURS.

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 25 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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