

1 *Senate* BILL NO. *101*
 2 INTRODUCED BY *Jarvison Brown Turnage Murphy*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE LEGISLATIVE
 5 APPROVAL OF ADMINISTRATIVE RULES BEFORE SUCH RULES TAKE
 6 PERMANENT EFFECT."
 7

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

9 Section 1. Transmittal of rules to legislature.
 10 Within the first 5 days of a regular session of the
 11 legislature, the secretary of the state shall transmit to
 12 the senate and the house of representatives one copy of each
 13 agency order filed since the preceding regular session
 14 adjourned which has adopted or amended a rule in the Montana
 15 Administrative Code. Each order shall be referred to an
 16 appropriate standing committee.

17 Section 2. Legislative approval of rules. If a rule
 18 which is the subject of an order filed with the legislature
 19 under [section 1] is not approved by an act of that
 20 legislative session, the secretary of state shall delete the
 21 rule or amendatory portions of the rule from the
 22 administrative code. The rule or amendatory portion is then
 23 repealed, and the agency may not adopt or amend a rule which
 24 accomplishes the same effect as the repealed rule.

25 Section 3. Codification. Sections 1 and 2 of this act

1 shall be codified as sections of the Montana Administrative
 2 Procedure Act.

3 Section 4. Purposes. The legislature intends by this
 4 act to require agencies to justify to each session of the
 5 legislature all rules adopted or amended since the preceding
 6 session adjourned and to require affirmation by the
 7 legislature before such rules take permanent effect. These
 8 rules, however, are effective in the interim if validly
 9 adopted, and any repeal of a rule by lack of legislative
 10 affirmation is prospective only. The affirmation may be
 11 accomplished by one bill or by several, which may cite the
 12 approved rules by their administrative code section numbers.
 13 The legislature expects its standing committees to actively
 14 examine and audit the policies made by rule under statutory
 15 delegations of authority and to reconsider the necessity for
 16 those delegations.

-End-

STATE OF MONTANA

REQUEST NO. 250-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 101 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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:

Requires legislative approval of administrative rules before such rules take permanent effect.

ASSUMPTIONS:

1. Agencies would adopt or amend about the same number of rules as in FY 75 and FY 76.
2. Copies of each order adopting or amending a rule, with all necessary pages of the code attached, would be made as they are submitted and held for transmittal to the legislature.
3. All costs except for copies and filing materials could be absorbed without additional funds.
4. Dollar estimates of cost of changing the code if rules are not approved by the legislature cannot be figured at this time.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
Additional cost of proposed legislation	<u>\$275</u>	<u>\$275</u>	<u>\$550</u>

TECHNICAL NOTE:

Under 82-4203.5 the Administrative Code Committee reviews all proposed rules referred to it under 82-4204 and makes recommendations to the legislature as provided in 82-4203.1.

Richard L. Drury for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-1-77

Approved by Committee
on State Administration

SENATE BILL NO. 101

INTRODUCED BY JERGESON, BROWN, TURNAGE, MURPHY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE LEGISLATIVE APPROVAL OF ADMINISTRATIVE RULES BEFORE SUCH RULES TO WHICH AN OBJECTION HAS BEEN FILED BY A LEGISLATOR TAKE PERMANENT EFFECT."

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

~~Section 1. Transmittal of Rules to Legislature. Within the first 5 days of a regular session of the legislature, the secretary of the state shall transmit to the senate and the house of representatives one copy of each agency order filed since the preceding regular session adjourned which has adopted or amended a rule in the Montana Administrative Code. Each order shall be referred to an appropriate standing committee.~~

SECTION 1. LEGISLATOR'S OBJECTIONS -- REPEAL. A RULE ADOPTED OR AMENDED BY AGENCIES SINCE THE CONVENING OF THE PREVIOUS REGULAR SESSION IS ONLY TEMPORARILY EFFECTIVE UNTIL THE END OF THE REGULAR SESSION OF THE LEGISLATURE CONVENED FOLLOWING ITS ADOPTION, IF ANY FIVE LEGISLATORS DURING THE FIRST SEVEN LEGISLATIVE DAYS OF THE SESSION, OBJECT TO A RULE BY FILING A STATEMENT SETTING FORTH REASONS FOR THEIR OBJECTION WITH THE LEGISLATURE AND THE DEPARTMENT HEAD OF

THE AGENCIES ADOPTING THE RULE, THE RULE IS REPEALED EFFECTIVE THE LAST DAY OF THAT SESSION UNLESS THE LEGISLATURE BY JOINT RESOLUTION REAFFIRMS THE RULE, OR REPLACES WITH A NEW RULE IN ACCORDANCE WITH THE OBJECTIONS STATED.

Section 2. Legislative approval of rules. If a rule which is the subject of an order OBJECTION filed with the legislature under [section 1] is not approved by an act A JOINT RESOLUTION of that legislative session, the secretary of state shall delete the rule or amendatory portions of the rule from the administrative code. The rule or amendatory portion is then repealed, and the agency may not adopt or amend a rule which accomplishes the same effect as the repealed rule BUT MAY ADOPT A RULE IN ACCORDANCE WITH THE OBJECTIONS.

~~Section 3. Codification. Sections 1 and 2 of this act shall be codified as sections of the Montana Administrative Procedure Act.~~

Section 3. Purposes. The legislature intends by this act to require agencies to justify to each session of the legislature all rules adopted or amended since the preceding session adjourned TO WHICH OBJECTIONS HAVE BEEN FILED and to require affirmation by the legislature before such rules take permanent effect. These rules, however, are effective in the interim if validly adopted, and any repeal of a rule

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-End-

HOUSE OF REPRESENTATIVES

March 11, 1977

HOUSE COMMITTEE ON JUDICIARY AMENDMENTS TO SENATE BILL 101.

1. Amend title, line 6.

Following: "BY"

Strike: "A LEGISLATOR"

Insert: "LEGISLATORS"

2. Amend page 1, section 1, line 22.

Following: "ANY"

Strike: "FIVE"

Insert: "FIFTEEN"

3. Amend page 2, section 1, line 1.

Following: "1 THE"

Strike: "AGENCIES"

Insert: "AGENCY"

4. Amend page 2, section 1, line 3.

Following: "REAFFIRMS"

Insert: ", AMENDS OR REPLACES"

5. Amend page 2, section 1, lines 3 through 5.

Following: "RULE"

Strike: lines 3 through 5 in their entirety

Insert: "."

AS AMENDED CONCURRED IN

House of Representatives

March 19, 1977

Committee of the Whole Amendments Senate Bill No. 101, third reading copy as follows:

1. Amend title, line 6.

Following: "BY"

Strike: "LEGISLATORS"

Insert: "THE ADMINISTRATIVE CODE COMMITTEE"

2. Amend page 1, section 1, line 18.

Following: "SECTION 1."

Strike: "LEGISLATOR'S"

3. Amend page 1, section 1, line 19.

Following: "BY"

Strike: "AGENCIES"

Insert: "an agency"

4. Amend page 1, section 1, line 22.

Following: "IF"

Strike: "ANY FIFTEEN LEGISLATORS"

Insert: "the administrative code committee of the legislature"

5. Amend page 1, section 1, line 23.

Following: "SESSION"

Strike: "OBJECT"

Insert: "objects"

6. Amend page 1, section 1, line 24.

Following: "FORTH"

Insert: "specific"

Following: "FOR"

Strike: "THEIR"

Insert: "its"

7. Amend page 1, section 1, line 25.

Following: "LEGISLATURE"

Insert: ", the secretary of state,"

8. Amend page 2.

Following: line 18

Insert: "Section 3. Grounds for objections. Objections by the administrative code committee shall be limited to failure of the rule to comply with legislative intent or failure of the agency to comply with the provisions of the Montana Administrative Procedure Act in adopting the rule."

Renumber: subsequent sections

9. Amend page 2, section 3, line 22.

Following: "FILED"

Insert: "by the administrative rules committee"

10. Amend page 3, section 3, line 6.

Following: "authority"

Strike: "and"

Insert: ", "

11. Amend page 3, section 4, line 7.

Following: "delegations"

Insert: ", and to convey any objections to the administrative code committee"

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BE CONCURRED IN

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 25 SESSION: ~~OBJECT~~ OBJECTS TO A RULE BY FILING A STATEMENT

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14 by rule under statutory delegations of authority ~~and~~ to
15 reconsider the necessity for those delegations, ~~AND TO~~
16 ~~CONVEY ANY OBJECTIONS TO THE ADMINISTRATIVE CODE COMMITTEE.~~

-End-