

1 *Senate* BILL NO. *302*
 2 INTRODUCED BY *Roskie Torrey*
 3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE
 4 *Deane*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA
 6 ENVIRONMENTAL POLICY ACT TO SPECIFY THAT THE ACT DOES NOT
 7 EXPAND THE SUBSTANTIVE DECISION-MAKING AUTHORITY OF STATE
 8 AGENCIES; DELETING THE REQUIREMENT THAT AN ENVIRONMENTAL
 9 IMPACT STATEMENT BE PREPARED ON RULES AND LEGISLATION;
 10 AUTHORIZING THE ENVIRONMENTAL QUALITY COUNCIL TO REVIEW
 11 LEGISLATION AND ADVISE THE LEGISLATURE OF POTENTIAL
 12 ENVIRONMENTAL IMPACTS; REQUIRING STATE AGENCIES TO HOLD A
 13 PUBLIC HEARING ON A PROPOSED RULE UNDER THE MONTANA
 14 ADMINISTRATIVE PROCEDURE ACT WHEN IT HAS BEEN DETERMINED
 15 THAT THE PROPOSED RULE WOULD CONSTITUTE A MAJOR STATE
 16 ACTION HAVING A SIGNIFICANT IMPACT ON THE HUMAN ENVIRONMENT;
 17 AND AMENDING SECTION 69-6504, R.C.M. 1947."

18
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 69-6504, R.C.M. 1947, is amended to
 21 read as follows:

22 "69-6504. General directions to state agencies. The
 23 legislative assembly authorizes and directs that, to the
 24 fullest extent possible.

25 (a) The policies, regulations, and laws of the state

1 shall be interpreted and administered in accordance with the
 2 policies set forth in this act, and

3 (b) all agencies of the state shall
 4 (1) utilize a systematic, interdisciplinary approach
 5 which will insure the integrated use of the natural and
 6 social sciences and the environmental design arts in
 7 planning and in decision making which may have an impact on
 8 man's environment;

9 (2) identify and develop methods and procedures, which
 10 will insure that presently unquantified environmental
 11 amenities and values may be given appropriate consideration
 12 in decision making along with economic and technical
 13 considerations;

14 (3) include in every recommendation or report on
 15 proposals for projects, programs, ~~legislation~~ and other
 16 major actions of state government significantly affecting
 17 the quality of the human environment, excluding legislation
 18 and rules adopted under the Montana Administrative Procedure
 19 Act, a detailed statement on--

20 (i) the environmental impact of the proposed action,
 21 as it relates to the authority of an agency to make a final
 22 decision under the express provisions of the statute
 23 administered by the agency;

24 (ii) any adverse environmental effects which cannot be
 25 avoided should the proposal be implemented;

1 (iii) alternatives to the proposed action, that the
 2 agency has been given the express authority to consider
 3 under the law administered by the agency;

4 (iv) the relationship between local short-term uses of
 5 man's environment and the maintenance and enhancement of
 6 long-term productivity; and

7 (v) any irreversible and irretrievable commitments of
 8 resources which would be involved in the proposed action
 9 should it be implemented;

10 (vi) the economic costs and benefits;

11 (vii) the effects on local and state services;

12 (viii) the effects on agriculture; and

13 (ix) the effects on public health and safety.

14 Prior to making any detailed statement, the responsible
 15 state official shall consult with and obtain the comments of
 16 any state agency which has jurisdiction by law or special
 17 expertise with respect to any environmental impact involved.
 18 Copies of such statement and the comments and views of the
 19 appropriate state, federal, and local agencies, which are
 20 authorized to develop and enforce environmental standards,
 21 shall be made available to the governor, the environmental
 22 quality council and to the public, and shall accompany the
 23 proposal through the existing agency review processes.

24 (4) adopt procedural rules concerning the circulation,
 25 content, review, and receipt of comments on environmental

1 impact statements prepared under this act;

2 (5) make a final decision on an action for which an
 3 environmental impact statement has been prepared, based only
 4 on the express decision-making authority granted to the
 5 agency under the specific statute administered by the
 6 agency;

7 ~~(4)~~ (6) study, develop, and describe appropriate
 8 alternatives to recommend courses of action in any proposal
 9 which involves unresolved conflicts concerning alternative
 10 uses of available resources;

11 ~~(5)~~ (7) recognize the national and long-range character
 12 of environmental problems and, where consistent with the
 13 policies of the state, lend appropriate support to
 14 initiatives, resolutions, and programs designed to maximize
 15 national co-operation in anticipating and preventing a
 16 decline in the quality of mankind's world environment;

17 ~~(6)~~ (8) make available to counties, municipalities,
 18 institutions, and individuals, advice and information useful
 19 in restoring, maintaining, and enhancing the quality of the
 20 environment;

21 ~~(7)~~ (9) initiate and utilize ecological information in
 22 the planning and development of resource-oriented projects;
 23 and

24 ~~(8)~~ (10) assist the environmental quality council
 25 established by section 8 [69-6508] of this act.

1 (c) Nothing in this act requires an agency to prepare
2 an environmental impact statement on rules proposed for
3 adoption under the Montana Administrative Procedure Act.
4 However, where a proposed rule does, in the opinion of the
5 agency, constitute a major state action having a significant
6 impact on the human environment, the agency shall schedule a
7 public hearing on the proposed rule under the provisions of
8 the Montana Administrative Procedure Act. In scheduling a
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10 justification for the proposed rule and make this
11 information available to the governor, the environmental
12 quality council, persons who have requested an opportunity
13 to comment on environmental impact statements, other
14 affected state and federal agencies as described in this
15 act, the administrative code committee, and any other
16 interested person.

17 (d) Nothing in this act requires a state agency to
18 prepare an environmental impact statement on legislation
19 proposed by an agency. The environmental quality council
20 shall review all legislation introduced and make
21 recommendations consistent with the policies established in
22 this act to the committees of the legislature."

-End-

Approved by Committee on Natural Resources

1 *Senate* BILL NO. *302*
2 INTRODUCED BY *Rockie Tunnage*
3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE
4 *Dennis*

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15 proposals for projects, programs, ~~legislation~~ and other
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4 However, where a proposed rule does, in the opinion of the
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20 shall review all legislation introduced and make
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-End-

HOUSE OF REPRESENTATIVES

April 6, 1977

HOUSE COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL 302

1. Amend page 1, title, line 6.

Following: "ENVIRONMENTAL POLICY ACT"

Strike: "TO SPECIFY THAT THE ACT DOES NOT EXPAND THE SUBSTANTIVE
DECISION-MAKING AUTHORITY OF STATE AGENCIES;"

2. Amend page 2, section 1, subsection (3) (i), line 20.

Following: "action"

Strike: "7 as it relates to the authority of an agency to make a
final decision under the express provisions of the statute
administered by the agency"

3. Amend page 3, section 1, subsection (3) (iii), line 1.

Following: "action"

Strike: "7 that the agency has been given the express authority to
consider under the law administered by the agency"

4. Amend page 3, section 1, subsection (3) (ix), line 23.

Following: line 23

Insert: "A consultive agency or agency with special expertise
participating in an environmental impact statement may
not make findings or recommendations beyond the express
provisions of the statutes administered by the agency."

5. Amend page 4, section 1, subsection (5).

Strike: subsection (5) in its entirety

Re-number: subsequent sections.

6. Amend page 4, section 1, line 25.

Following: line 25

Insert: "(c) On any action for which an environmental impact statement
has been prepared, the lead agency shall make a final decision
based only on the specific statutes administered by the
agency, the findings and recommendations of the consulted
agencies, and the policies and goals of the Montana
Environmental Policy Act. If the lead agency's final
decision on the proposal is in conflict with the recommendations
of the consulted agencies, the burden shall be on the lead
agency to justify its decision based on some other essential
consideration of state policy."

Re-number: subsequent sections

7. Amend page 5, section 1, subsection (c), line 4.

Following: "does"

Strike: ", in the opinion of the agency,"

8. Amend page 5, section 1, subsection (c), line 8.

Following: "Act."

Strike: "In"

Insert: "Prior to"

page-2
Committee on Natural Resources
Amendments to Senate Bill 302

April 6, 1977

9. Amend page 5, section 1, subsection (d), line 20.
Following: "all"
Insert: "environmentally significant"

AS AMENDED
BE CONCURRED IN

HOUSE OF REPRESENTATIVES

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2. Amend page 2, section 1, subsection (3)(i), line 20.

Following: "action"

Strike: ", as it relates to the authority of an agency to make a final decision under the express provisions of the statute administered by the agency"

3. Amend page 3, section 1, subsection (3)(iii), line 1.

Following: "action"

Strike: "7, that the agency has been given the express authority to consider under the law administered by the agency"

4. Amend page 3, section 1, subsection (3)(vi), line 10.

Following: "costs"

Insert: ", "

Following: "benefits"

Insert: ", and effect on employment"

5. Amend page 3, section 1, subsection (3)(ix), line 23.

Following: line 23

Insert: "A consultive agency or agency with special expertise participating in an environmental impact statement may not make findings or recommendations beyond the express provisions of the statutes administered by the agency."

6. Amend page 4, section 1, subsection (5), lines 2 through 6.

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

7. Amend page 4, section 1, line 25.

Following: line 25

Insert: (c) On any action for which an environmental impact statement has been prepared, the lead agency shall make a final decision based only on the specific statutes administered by the agency, the findings and recommendations of the consulted agencies, and the policies and goals of the Montana Environmental Policy Act. If the lead agency's final decision on the proposal is in conflict with the recommendations of the consulted agencies, the burden shall be on the lead agency to justify its decision based on some other essential consideration of state policy."

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2 INTRODUCED BY ROSKIE, TURNAGE, MANLEY, DEVINE

3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

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 24 proposal through the existing agency review processes. A
 25 ~~CONSULTIVE AGENCY OR AGENCY WITH SPECIAL EXPERTISE~~

1 ~~PARTICIPATING IN AN ENVIRONMENTAL IMPACT STATEMENT MAY NOT~~
 2 ~~MAKE FINDINGS OR RECOMMENDATIONS BEYOND THE EXPRESS~~
 3 ~~PROVISIONS OF THE STATUTES ADMINISTERED BY THE AGENCY.~~

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 5 ~~content, review, and receipt of comments on environmental~~
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 11 ~~agency;~~

12 ~~(4)(6)(5) study, develop, and describe appropriate~~
 13 ~~alternatives to recommend courses of action in any proposal~~
 14 ~~which involves unresolved conflicts concerning alternative~~
 15 ~~uses of available resources;~~

16 ~~(5)(7)(6) recognize the national and long-range~~
 17 ~~character of environmental problems and, where consistent~~
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 19 ~~initiatives, resolutions, and programs designed to maximize~~
 20 ~~national co-operation in anticipating and preventing a~~
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1 ~~f7)f9)(8)~~ initiate and utilize ecological information
 2 in the planning and development of resource-oriented
 3 projects; and

4 ~~f8)f10)(9)~~ assist the environmental quality council
 5 established by section 8 [69-6508] of this act.

6 (C) ON ANY ACTION FOR WHICH AN ENVIRONMENTAL IMPACT
 7 STATEMENT HAS BEEN PREPARED, THE LEAD AGENCY SHALL MAKE A
 8 FINAL DECISION BASED ONLY ON THE SPECIFIC STATUTES
 9 ADMINISTERED BY THE AGENCY, THE FINDINGS AND RECOMMENDATIONS
 10 OF THE CONSULTED AGENCIES, AND THE POLICIES AND GOALS OF THE
 11 MONTANA ENVIRONMENTAL POLICY ACT. IF THE LEAD AGENCY'S FINAL
 12 DECISION ON THE PROPOSAL IS IN CONFLICT WITH THE
 13 RECOMMENDATIONS OF THE CONSULTED AGENCIES, THE BURDEN SHALL
 14 BE ON THE LEAD AGENCY TO JUSTIFY ITS DECISION BASED ON SOME
 15 OTHER ESSENTIAL CONSIDERATION OF STATE POLICY.

16 f7)(D) Nothing in this act requires an agency to
 17 prepare an environmental impact statement on rules proposed
 18 for adoption under the Montana Administrative Procedure Act.
 19 However, where a proposed rule does, in the opinion of the
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 24 scheduling a hearing, the agency shall prepare a written
 25 description and justification for the proposed rule and make

1 this information available to the governor, the
 2 environmental quality council, persons who have requested an
 3 opportunity to comment on environmental impact statements,
 4 other affected state and federal agencies as described in
 5 this act, the administrative code committee, and any other
 6 interested person.

7 f7)(E) Nothing in this act requires a state agency to
 8 prepare an environmental impact statement on legislation
 9 proposed by an agency. The environmental quality council
 10 shall review all ENVIRONMENTALLY SIGNIFICANT legislation
 11 introduced and make recommendations consistent with the
 12 policies established in this act to the committees of the
 13 legislature."

-End-

1 SENATE BILL NO. 302

2 INTRODUCED BY ROSKIE, TURNAGE, MANLEY, DEVINE
3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA
6 ENVIRONMENTAL POLICY ACT ~~TO SPECIFY THAT THE ACT DOES NOT~~
7 ~~EXPAND THE SUBSTANTIVE DECISION-MAKING AUTHORITY OF STATE~~
8 ~~AGENCIES~~; DELETING THE REQUIREMENT THAT AN ENVIRONMENTAL
9 IMPACT STATEMENT BE PREPARED ON RULES AND LEGISLATION;
10 AUTHORIZING THE ENVIRONMENTAL QUALITY COUNCIL TO REVIEW
11 LEGISLATION AND ADVISE THE LEGISLATURE OF POTENTIAL
12 ENVIRONMENTAL IMPACTS; REQUIRING STATE AGENCIES TO HOLD A
13 PUBLIC HEARING ON A PROPOSED RULE UNDER THE MONTANA
14 ADMINISTRATIVE PROCEDURE ACT WHEN IT HAS BEEN DETERMINED
15 THAT THE PROPOSED RULE WOULD CONSTITUTE A MAJOR STATE
16 ACTION HAVING A SIGNIFICANT IMPACT ON THE HUMAN ENVIRONMENT;
17 AND AMENDING SECTION 69-5504, R.C.M. 1947."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 69-6504, R.C.M. 1947, is amended to
21 read as follows:

22 "69-6504. General directions to state agencies. The
23 legislative assembly authorizes and directs that, to the
24 fullest extent possible.

25 (a) The policies, regulations, and laws of the state

1 shall be interpreted and administered in accordance with the
2 policies set forth in this act, and

3 (b) all agencies of the state shall

4 (1) utilize a systematic, interdisciplinary approach
5 which will insure the integrated use of the natural and
6 social sciences and the environmental design arts in
7 planning and in decision making which may have an impact on
8 man's environment;

9 (2) identify and develop methods and procedures, which
10 will insure that presently unquantified environmental
11 amenities and values may be given appropriate consideration
12 in decision making along with economic and technical
13 considerations;

14 (3) include in every recommendation or report on
15 proposals for projects, programs, ~~legislation~~ and other
16 major actions of state government significantly affecting
17 the quality of the human environment, ~~excluding legislation~~
18 ~~and rules adopted under the Montana Administrative Procedure~~
19 ~~Act,~~ a detailed statement on--

20 (i) the environmental impact of the proposed action
21 ~~as it relates to the authority of an agency to make a final~~
22 ~~decision under the express provisions of the statute~~
23 ~~administered by the agency;~~

24 (ii) any adverse environmental effects which cannot be
25 avoided should the proposal be implemented.

1 (iii) alternatives to the proposed action ~~that the~~
 2 ~~agency has been given the express authority to consider~~
 3 ~~under the law administered by the agency;~~

4 (iv) the relationship between local short-term uses of
 5 man's environment and the maintenance and enhancement of
 6 long-term productivity; and

7 (v) any irreversible and irretrievable commitments of
 8 resources which would be involved in the proposed action
 9 should it be implemented;

10 (vi) the economic costs, and benefits, AND EFFECT ON
 11 EMPLOYMENT;

12 (vii) THE EFFECTS ON LOCAL AND STATE SERVICES;

13 (viii) THE EFFECTS ON AGRICULTURE; AND

14 (ix) THE EFFECTS ON PUBLIC HEALTH AND SAFETY.

15 Prior to making any detailed statement, the responsible
 16 state official shall consult with and obtain the comments of
 17 any state agency which has jurisdiction by law or special
 18 expertise with respect to any environmental impact involved.
 19 Copies of such statement and the comments and views of the
 20 appropriate state, federal, and local agencies, which are
 21 authorized to develop and enforce environmental standards,
 22 shall be made available to the governor, the environmental
 23 quality council and to the public, and shall accompany the
 24 proposal through the existing agency review processes. A
 25 CONSULTIVE AGENCY OR AGENCY WITH SPECIAL EXPERTISE

1 PARTICIPATING IN AN ENVIRONMENTAL IMPACT STATEMENT MAY NOT
 2 MAKE FINDINGS OR RECOMMENDATIONS BEYOND THE EXPRESS
 3 PROVISIONS OF THE STATUTES ADMINISTERED BY THE AGENCY.

4 ~~(4) adopt procedural rules concerning the circulation,~~
 5 ~~content, review, and receipt of comments on environmental~~
 6 ~~impact statements prepared under this act;~~

7 ~~(5) make a final decision on an action for which an~~
 8 ~~environmental impact statement has been prepared, based only~~
 9 ~~on the express decision-making authority granted to the~~
 10 ~~agency under the specific statute administered by the~~
 11 ~~agency.~~

12 ~~(4)(6)(5)~~ study, develop, and describe appropriate
 13 alternatives to recommend courses of action in any proposal
 14 which involves unresolved conflicts concerning alternative
 15 uses of available resources;

16 ~~(5)(7)(6)~~ recognize the national and long-range
 17 character of environmental problems and, where consistent
 18 with the policies of the state, lend appropriate support to
 19 initiatives, resolutions, and programs designed to maximize
 20 national co-operation in anticipating and preventing a
 21 decline in the quality of mankind's world environment;

22 ~~(6)(8)(7)~~ make available to counties, municipalities,
 23 institutions, and individuals, advice and information useful
 24 in restoring, maintaining, and enhancing the quality of the
 25 environment;

1 ~~(7)(9)(B)~~ initiate and utilize ecological information
2 in the planning and development of resource-oriented
3 projects; and

4 ~~(8)(10)(9)~~ assist the environmental quality council
5 established by section 8 [69-6508] of this act.

6 ~~(C) ON ANY ACTION FOR WHICH AN ENVIRONMENTAL IMPACT
7 STATEMENT HAS BEEN PREPARED, THE LEAD AGENCY SHALL MAKE A
8 FINAL DECISION BASED ONLY ON THE SPECIFIC STATUTES
9 ADMINISTERED BY THE AGENCY, THE FINDINGS AND RECOMMENDATIONS
10 OF THE CONSULTED AGENCIES, AND THE POLICIES AND GOALS OF THE
11 MONTANA ENVIRONMENTAL POLICY ACT. IF THE LEAD AGENCY'S FINAL
12 DECISION ON THE PROPOSAL IS IN CONFLICT WITH THE
13 RECOMMENDATIONS OF THE CONSULTED AGENCIES, THE BURDEN SHALL
14 BE ON THE LEAD AGENCY TO JUSTIFY ITS DECISION BASED ON SOME
15 OTHER ESSENTIAL CONSIDERATION OF STATE POLICY.~~

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17 STATEMENT HAS BEEN PREPARED, THE LEAD AGENCY SHALL MAKE A
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20 OF THE CONSULTED AGENCIES AND THE POLICIES AND GOALS OF THE
21 MONTANA ENVIRONMENTAL POLICY ACT SHALL BE CONSIDERED, BUT
22 SHALL NOT EXPAND THE SPECIFIC STATUTORY AUTHORITY WHICH
23 AUTHORIZES THE AGENCY TO MAKE THE FINAL DECISION. IF THE
24 LEAD AGENCY'S FINAL DECISION ON THE PROPOSAL IS IN CONFLICT
25 WITH THE RECOMMENDATIONS OF THE CONSULTED AGENCIES, THE~~

1 ~~BURDEN SHALL BE ON THE LEAD AGENCY TO JUSTIFY ITS DECISION
2 BASED ON SOME OTHER ESSENTIAL CONSIDERATION OF STATE POLICY.~~

3 ~~(D) Nothing in this act requires an agency to
4 prepare an environmental impact statement on rules proposed
5 for adoption under the Montana Administrative Procedure Act.
6 However, where a proposed rule does, in the opinion of the
7 agency, constitute a major state action having a significant
8 impact on the human environment, the agency shall schedule a
9 public hearing on the proposed rule under the provisions of
10 the Montana Administrative Procedure Act. In PRIOR TO
11 scheduling a hearing, the agency shall prepare a written
12 description and justification for the proposed rule and make
13 this information available to the governor, the
14 environmental quality council, persons who have requested an
15 opportunity to comment on environmental impact statements,
16 other affected state and federal agencies as described in
17 this act, the administrative code committee, and any other
18 interested person.~~

19 ~~(E) Nothing in this act requires a state agency to
20 prepare an environmental impact statement on legislation
21 proposed by an agency. The environmental quality council
22 shall review all ENVIRONMENTALLY SIGNIFICANT legislation
23 introduced and make recommendations consistent with the
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