

HOUSE BILL 654

IN THE HOUSE

February 8, 1979	Introduced and referred to Committee on State Administration.
February 14, 1979	Committee recommend bill, do pass.
February 15, 1979	Second reading, do pass.
February 16, 1979	Second reading, as amended, do not pass.

1 *House* BILL NO. *654*
 2 INTRODUCED BY *Schultz Fort Ernest Kropp*
 3 *Manuel Ernst Lien* *Reynolds*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A STATE
 5 AGENCY TO PREPARE A FISCAL NOTE ESTIMATING COSTS TO THE
 6 PUBLIC AND PRIVATE SECTOR PRIOR TO ADOPTION, AMENDMENT, OR
 7 REPEAL OF ANY RULE; REQUIRING THAT THE ADMINISTRATIVE CODE
 8 COMMITTEE ASCERTAIN WHETHER THE FISCAL NOTE IS SUFFICIENT;
 9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

12 Section 1. Fiscal note required prior to rulemaking.

13 (1) Every agency, prior to the adoption, amendment, or
 14 repeal of any rule, shall prepare information on its
 15 proposed action by preparing a fiscal note using
 16 professionally accepted methodology with quantification of
 17 data to the extent practicable, giving consideration to both
 18 short-term and long-term consequences. The fiscal note shall
 19 include the following information:

- 20 (a) a description of the action proposed, the purpose
- 21 for taking the action, the legal authority for the action,
- 22 and the plan for implementing the action;
- 23 (b) a determination of the least-cost method for
- 24 achieving the state purpose;
- 25 (c) a determination of whether the action represents

1 the most efficient allocation of public and private
 2 resources;

3 (d) a determination of the effect of the action on
 4 competition;

5 (e) a conclusion as to the fiscal impact of the
 6 proposed action on preserving an open market for employment;

7 (f) a conclusion as to the economic impact upon all
 8 persons directly affected by the action, including an
 9 analysis containing a description as to which persons will
 10 bear the costs of the action and which persons will benefit
 11 directly and indirectly from the action; and

12 (g) a determination of the cost of the action to the
 13 state and all other units of government in the state.

14 (2) If a fiscal note is required before an agency
 15 takes action on an application or petition by any person,
 16 the note must be prepared within a reasonable time after the
 17 application is made or the petition is filed.

18 Section 2. Fiscal note to be filed with administrative
 19 code committee. (1) The adopting agency shall file with the
 20 administrative code committee at least 30 days prior to the
 21 proposed adoption date:

- 22 (a) a detailed written statement of the facts and
- 23 circumstances justifying the proposed rule;
- 24 (b) a copy of the fiscal note required by [this act];
- 25 and

HE 654
 -2- INTRODUCED BILL

1 (c) a statement of the extent to which the proposed
2 rule is no more restrictive than federal standards or that a
3 federal rule on the same subject does not exist.

4 (2) After any hearing on the proposed rule and after
5 the time for submission of data and comments has expired,
6 the adopting agency shall file any changes in the proposed
7 rule and the reasons therefore with the committee or advise
8 the committee that there are no changes.

9 Section 3. Committee review. (1) As a legislative
10 check on legislatively created authority, the committee
11 shall examine each proposed rule and its accompanying
12 material for the purpose of determining whether:

13 (a) the fiscal note is sufficient to give adequate
14 analysis of the proposed action; and

15 (b) a determination has been made of the cost of the
16 action upon the state and all other units of government in
17 the state.

18 (2) If the statement is determined to be insufficient,
19 the committee shall, within 5 days of the determination,
20 notify the agency in writing of the insufficiencies. Upon
21 such notification, the agency shall postpone adoption of the
22 proposed rules until the insufficiencies have been corrected
23 and the agency has complied with the provisions of [this
24 act].

25 Section 4. Codification. Sections 1 through 3 are

1 intended to be codified in Title 2, chapter 4. The
2 provisions of Title 2, chapter 4, apply to sections 1
3 through 3, and sections 1 through 3 apply to Title 2,
4 chapter 4. All references in the MCA to Title 2, chapter 4,
5 include sections 1 through 3.

6 Section 5. Effective date. This act is effective on
7 passage and approval.

-End-

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 1979, there is hereby submitted a Fiscal Note for House Bill 654 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:

An act to require a state agency to prepare a fiscal note estimating costs to the public and private sector prior to adoption, amendment, or repeal of any rule; requiring that the administrative code committee ascertain whether the fiscal note is sufficient; and providing an immediate effective date.

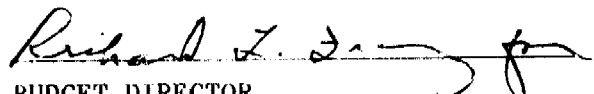
FISCAL IMPACT:

A precise estimate of the fiscal impact of the proposed legislation cannot be provided in the time provided to complete this fiscal note. However, it appears from discussions with officials of the Department of Revenue, Department of Administration, Department of Health, and Department of Revenue that the impact on state agencies and the State General Fund will be significant. For example, the additional cost to the Department of Administration alone is estimated as follows:

ASSUMPTIONS:

1. The Department adopts or amends approximately 200 rules per year. These rules significantly affect members of the public and private sectors (uniform building, plumbing, electrical, tramway codes; PERS; TRS; low income housing, etc.).
2. The degree of economic analysis required by the bill necessitates two additional FTE employees -- an economist position and a research position.
3. One-half of the rules and amendments will require data processing analysis.
4. A minimum of five rules per year will require private consulting or research contracts for data collection, surveys, etc.

Using the above assumptions, the Department of Administration estimates that enactment of the proposed legislation will create additional costs for the Department of over \$112,000 per year, the funding for which must be provided by the State General Fund.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____