

HOUSE BILL NO. 35

INTRODUCED BY DAILY

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

IN THE HOUSE

January 3, 1983	Introduced and referred to Committee on State Administration.
January 6, 1983	Committee recommend bill do pass. Report adopted.
January 7, 1983	Bill printed and placed on members' desks.
January 10, 1983	Second reading, do pass.
January 11, 1983	Considered correctly engrossed.
January 12, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 13, 1983	Introduced and referred to Committee on State Administration.
March 12, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 15, 1983	Second reading, concurred in.
March 17, 1983	Third reading, concurred in. Ayes, 47; Noes, 1.

IN THE HOUSE

March 17, 1983	Returned to House with amendments.
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March 30, 1983

Second reading, amendments
concurrent in.

March 31, 1983

Third reading, amendments
concurrent in.

Sent to enrolling.

Reported correctly enrolled.

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6 RULEMAKING AUTHORITY WITH EACH STATUTE ENACTED OR AMENDED IF
7 IT IS TO BE IMPLEMENTED BY AN ADMINISTRATIVE RULE; AMENDING
8 SECTIONS 2-4-305 AND 5-4-402, MCA; AND PROVIDING AN
9 APPLICABILITY CLAUSE."
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 2-4-305, MCA, is amended to read:
13 "2-4-305. Requisites for validity -- authority and
14 statement of reasons. (1) The agency shall consider fully
15 written and oral submissions respecting the proposed rule.
16 Upon adoption of a rule, an agency shall issue a concise
17 statement of the principal reasons for and against its
18 adoption, incorporating therein its reasons for overruling
19 the considerations urged against its adoption. If
20 substantial differences exist between the rule as proposed
21 and as adopted and the differences have not been described
22 or set forth in the adopted rule as that rule is printed in
23 the Montana administrative register, the differences must be
24 described in the statement of reasons for and against agency
25 action. When no written or oral submissions have been

1 received, an agency may omit the statement of reasons.
2 (2) Rules may not unnecessarily repeat statutory
3 language. Whenever it is necessary to refer to statutory
4 language in order to convey the meaning of a rule
5 interpreting the language, the reference shall clearly
6 indicate that portion of the language which is statutory and
7 the portion which is amplification of the language.
8 (3) Each proposed and adopted rule shall include a
9 citation to the specific grant of rulemaking authority
10 pursuant to which it or any part thereof is adopted. ~~A rule~~
11 ~~proposed and adopted to implement a statute referred to in~~
12 ~~5-4-402(3) must include a citation to the session laws of~~
13 ~~Montana containing the specific grant of rulemaking~~
14 ~~authority pursuant to which it or any part thereof is~~
15 ~~adopted.~~ In addition, each proposed and adopted rule shall
16 include a citation to the specific section or sections in
17 the Montana Code Annotated which the rule purports to
18 implement.
19 (4) Each rule proposed and adopted by an agency
20 implementing a policy of a governing board or commission
21 must include a citation to and description of the policy
22 implemented. Each agency rule implementing a policy, as used
23 in the definition set forth in 2-4-102(10), and the policy
24 itself must be based on legal authority and otherwise comply
25 with the requisites for validity of rules established by

1 this chapter.

2 (5) To be effective, each substantive rule adopted
3 must be within the scope of authority conferred and in
4 accordance with standards prescribed by other provisions of
5 law.

6 (6) Whenever by the express or implied terms of any
7 statute a state agency has authority to adopt rules to
8 implement, interpret, make specific, or otherwise carry out
9 the provisions of the statute, no rule adopted is valid or
10 effective unless consistent and not in conflict with the
11 statute and reasonably necessary to effectuate the purpose
12 of the statute.

13 (7) No rule is valid unless adopted in substantial
14 compliance with 2-4-302 or 2-4-303 and this section and
15 unless notice of adoption thereof is published within 6
16 months of the publishing of notice of the proposed rule. If
17 an amended or supplemental notice of either proposed or
18 final rulemaking, or both, is published concerning the same
19 rule, the 6-month limit must be determined with reference to
20 the latest notice in all cases."

21 Section 2. Section 5-4-402, MCA, is amended to read:

22 "5-4-402. Purpose. (1) The legislature finds that it
23 must accept the ultimate responsibility for the increase in
24 the discretionary authority of state executive branch
25 agencies, as evidenced by proliferating rules, forms,

1 orders, and licensing proceedings before state agencies.

2 (2) The purpose of this Legislative History Act is to
3 assure that statutes henceforth enacted to grant additional
4 discretionary authority to state agencies are accompanied by
5 a clear indication of the legislature's intent as to how
6 such discretion is to be exercised and the legislature's
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16 ~~codification instruction."~~

17 NEW SECTION. Section 3. Applicability. This act
18 applies to statutes enacted or amended after October 1,
19 1983.

-End-

Approved by Committee
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SENATE STANDING COMMITTEE REPORT
(State Administration)

That House Bill No. 35 be amended as follows:

1. Page 4, line 13.

Following: "amended."

Strike: remainder of lines 13 through 16
in their entirety.

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