HOUSE BILL NO. 37

INTRODUCED BY SCHULTZ

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

IN THE HOUSE

→ 41*	-110 114400
January 3, 1983	Introduced and referred to Committee on State Administration.
January 24, 1983	Committee recommend bill do pass as amended. Report adopted.
January 25, 1983	Bill printed and placed on members' desks.
January 26, 1983	Second reading, pass consideration until the 24th Legislative Day.
January 29, 1983	On motion, pass consideration until the 26th Legislative Day.
February 1, 1983	Second reading, do pass as amended.
February 2, 1983	Correctly engrossed.
February 3, 1983	Third reading, passed. Transmitted to Senate.
IN	THE SENATE
February 4, 1983	Introduced and referred to Committee on State Administration.
March 7, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 9, 1983	Second reading, concurred

Third reading, concurred in.

March 11, 1983

IN THE HOUSE

March 11, 1983	Returned to House with amendments.
March 30, 1983	Second reading, amendments concurred in.
March 31, 1983	Third reading, amendments concurred in.
	Sent to enrolling.

Reported correctly enrolled.

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1	BILL NO. 37
2	INTRODUCED BY SCHULTZ
3	BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT NOTICES
6	OF PROPOSED RULEMAKING UNDER THE MONTANA ADMINISTRATIVE
7	PROCEDURE ACT BE MAILED TO CERTAIN SOCIETIES WHOSE MEMBERS
8	WOULD BE DIRECTLY AFFECTED BY THE PROPOSED RULE; AMENDING
9	SECTION 2-4-302, MCA."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 2-4-302, MCA, is amended to read:
13	#2-4-302. Notice, hearing, and submission of views.
14	(1) Prior to the adoption, amendment, or repeal of any rule,
15	the agency shall give written notice of its intended action.
16	The notice shall include a statement of either the terms or
17	substance of the intended action or a description of the
18	subjects and issues involved, the rationale for the intended
19	action, and the time when, place where, and manner in which
20	interested persons may present their views thereon.
21	(2) <u>(a)</u> The notice shall be filed with the secretary
22	of state for publication in the register as provided in
23	2-4-312 and mailed within 3 days of publication:
24	(i) to persons who have made timely requests to the
25	agency for notice of its rulemaking proceedings: and

l	(ii) to the offices of any reasonably identifiable
2	professional. trade. or industrial society whose members
	would be directly affected by the access?

- 4 (b) The notice shall be published and mailed at least 5 30 days in advance of the agency's intended action.
 - (3) If any statute provides for a different method of publication, the affected agency shall comply with the statute in addition to the requirements contained herein. However, in no case may the notice period be less than 30 days or more than 6 months.
- 11 (4) Prior to the adoption, amendment, or repeal of any 12 rule, the agency shall afford interested persons at least 20 13 days' notice of a hearing and 28 days from the day of notice 14 to submit data, views, or arguments, orally or in writing. In the case of substantive rules, the notice of proposed 15 16 rulemaking must state that opportunity for oral hearing 17 shall be granted if requested by either 10% or 25, whichever 18 is less, of the persons who will be directly affected by the 19 proposed rule, by a governmental subdivision or agency, by 20 the administrative code committee, or by an association 21 having not less than 25 members who will be directly 22 affected.
 - (5) An agency may continue a hearing date for cause. In the discretion of the agency, contested case procedures need not be followed in hearings held pursuant to this

section. If a hearing is otherwise required by statute, nothing herein alters that requirement.

- (6) If an agency fails to publish a notice of adoption within the time required by 2-4~305(7) and the agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a new proposal for purposes of compliance with this chapter.
- (7) At the commencement of any hearing on the intended action, the person designated by the agency to preside at the hearing shall read aloud the "Notice of Function of Administrative Code Committee" appearing in the register."

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STATE OF MONTANA

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FISCAL NOTE

Form BD-15

	quest received			ote
for House Bill 37	pursuant to Title 5, Chapter	4, Part 2 of the Monta	ana Code Annotated (MCA).	
Background information used in de	eveloping this Fi <mark>scal Note</mark> is available fr	om the Office of Budg	et and Program Planning, to mem	bers
of the Legislature upon request.				

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 37 requires notification to appropriate professional, trade and industrial organizations of proposed rulemaking under the Montana Administrative Procedures Act.

ASSUMPTIONS:

- 1) There are 275 proposed notices filed with the Secretary of State each year. (CY 1982=267 proposed notices filed).
- 2) An average of seven groups would be directly affected by each proposal.
- 3) Postage cost for each proposed notice would be 20¢. Reproduction costs for each proposed notice would be 10¢.

FISCAL IMPACT:

Agencies filing proposals would incur an additional \$385 in postage costs and \$193 in reproduction costs.

FISCAL NOTE3:B/1

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1 - 8 3

STATE OF MONTANA

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FISCAL NOTE

Form	BD-15	5
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In compliance with a written request received ___ House Bill 37, Amended pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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:

House Bill 37, amended, is an act to require that notices of proposed rulemaking under the Montana Administrative Procedure Act be mailed to certain societies whose members are directly affected by a proposed rule and to state headquarters of organizations that have demonstrated an interest.

ASSUMPTIONS:

- 1) There are 275 proposed notices filed with the Secretary of State each year. (CY 1982=267 proposed notices filed).
- 2) An average of seven groups would be directly affected by each proposal. An average additional three organizations who have demonstrated an interest would require notice of each proposal.
- Postage cost for each proposed notice would be 20¢. Reproduction costs for 3) each proposed notice would be 10¢.

FISCAL IMPACT:

Agencies filing proposals would incur an additional \$550 per year in postage costs and an additional \$275 in reproduction costs.

FISCAL NOTE3:C/1

BUDGET DIRECTOR

Office of Budget and Program Planning

STATE OF MONTANA

REQUEST NO. ____506-83

FISCAL NOTE

Form BD-15

n compliance with a written request receiv	med March 25,	. , 19 $\frac{83}{}$, there is hereby submitted	a Fiscal Note
or House Bill 37, Amended, pur	rsuant to Title 5, Chapter 4,	Part 2 of the Montana Code Annotated (I	MCA).
Background information used in developing th	is Fiscal Note is available from	n the Office of Budget and Program Planni	ng, to members
of the Legislature upon request.			

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 37, amended, requires notification to appropriate professional, trade and industrial organizations of proposed rulemaking under the Montana Administrative Procedures Act.

ASSUMPTIONS:

- 1) There are 275 proposed notices filed with the Secretary of State each year. (CY 1982=267 proposed notices filed).
- 2) An average of two groups would file a request with the Administrative Code Committee for notice of each proposal.
- 3) Postage cost for each proposed notice would be 20¢. Reproduction costs for each proposed notice would be 10¢.

FISCAL IMPACT:

Agencies filing proposals would incur an additional \$110 in postage costs and \$55 in reproduction costs.

FISCAL NOTE3:B/2

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-26-83

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Approved by Committee on State Administration

1	HOUSE BILL NO. 37
2	INTRODUCED BY SCHULTZ
3	BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT NOTICES
6	OF PROPOSED RULEMAKING UNDER THE MONTANA ADMINISTRATIVE
7	PROCEDURE ACT BE MAILED TO CERTAIN SOCIETIES WHOSE MEMBERS
В	WOULD BE DIRECTLY AFFECTED BY THE PROPOSED RULE AND 10
9	ORGANIZATIONS THAT HAVE DEMONSTRATED AN INTEREST IN AN
10	AGENCY'S ACTIVITIES; AMENDING SECTION 2-4-302, MCA.*
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 2-4-302, MCA, is amended to read:
14	"2-4-302. Notice, hearing, and submission of views.
15	(1) Prior to the adoption, amendment, or repeal of any rule,
16	the agency shall give written notice of its intended action.
17	The notice shall include a statement of either the terms or
18	substance of the intended action or a description of the
19	subjects and issues involved, the rationale for the intended
20	action, and the time when, place where, and manner in which
21	interested persons may present their views thereon.
22	(2) (a) The notice shall be filed with the secretary
23	of state for publication in the register as provided in
24	2-4-312 and mailed within 3 days of publication:
25	fil to persons who have made timely requests to the

3 orofessional. trade. or industrial society whose members would be directly affected by the proposal: AND 5 IIII TO THE STATE HEADQUARTERS DE ANY REASONABLY <u> IDENTIFIABLE ORGANIZATION IHAI HAS DEMONSTRATED IO AN AGENCY</u> 7 AN_INTEREST_IN_IIS_ACTIVITIES. (b) The notice shall be published and mailed at least 8 9 30 days in advance of the agency's intended action. 10 (3) If any statute provides for a different method of 11 publication, the affected agency shall comply with the 12 statute in addition to the requirements contained herein. 13 However, in no case may the notice period be less than 30 days or more than 6 months. 15 (4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested persons at least 20 17 days' notice of a hearing and 28 days from the day of notice 18 to submit data, views, or arguments, orally or in writing. 19 In the case of substantive rules, the notice of proposed rulemaking must state that opportunity for oral hearing 21 shall be granted if requested by either 10% or 25; whichever 22 is less, of the persons who will be directly affected by the proposed rule, by a governmental subdivision or agency, by 23 24 the administrative code committee, or by an association

agency for notice of its rulemaking proceedings; and

[ii] to the offices of any reasonably identifiable

having not less than 25 members who will be directly

affected.

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- 2 (5) An agency may continue a hearing date for cause.
 3 In the discretion of the agency, contested case procedures
 4 need not be followed in hearings held pursuant to this
 5 section. If a hearing is otherwise required by statute,
 6 nothing herein alters that requirement.
 - (6) If an agency fails to publish a notice of adoption within the time required by 2-4-305(7) and the agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a new proposal for purposes of compliance with this chapter.
- 12 (7) At the commencement of any hearing on the intended 13 action, the person designated by the agency to preside at 14 the hearing shall read aloud the "Notice of Function of 15 Administrative Code Committee" appearing in the register."

-End-

HB 0037/03

48th Legislature

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2 .	INTRODUCED BY SCHULTZ
3	BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT NOTICES
6	OF PROPOSED RULEMAKING UNDER THE MONTANA ADMINISTRATIVE
7	PROCEDURE ACT BE MAILED TO GERTAIN-SUGIETIES-WHOSE-MEMBERS
8	WOULD- 8E- 81RE6 7E4-AFFE87E 8877HEPRGP05 E8RULE <u>AM818</u>
9	ORGANIZATIONS==THAT==HAYE==RENONSTRATEO==AH==IHIEREST==IH=AH
10	#SENSY-S-ASTRYTTES EYERY PERSON SELECTED BY AN AGENCY FROM
11	A LIST PROVIDED BY THE ADMINISTRATIVE CODE COMMITTEE;
12	AMENDING SECTION 2-4-302+ MCA-*
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	Section 1. Section 2-4-302, MCA, is amended to read:
16	"2-4-302. Notice, hearing, and submission of views.
17	(1) Prior to the adoption, amendment, or repeal of any rule,
18	the agency shall give written notice of its intended action.
19	The notice shall include a statement of either the terms or
20	substance of the intended action or a description of the
21	subjects and issues involved, the rationale for the intended
22	action, and the time when, place where, and manner in which
23	interested persons may present their views thereon.

(2) (a) The notice shall be filed with the secretary

of state for publication in the register as provided in

HOUSE BILL NO. 37

1	2-4-312 and mailed within 3 days of publications
2	til to persons who have made timely requests to the
3	agency for notice of its rulemaking proceedings: and
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5	professionel==tredex==pr==industriol==society=ubose=uesber:
6	would:he:directly:effected-by:the:proposel::4MB
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8	ERENTE ELABLE : GROANTEATER - THAT - HAS - REMONSTRATER - FO - AN - AGENCY
9	AU-fUTEREST-10-255-AGTEXATTES.
10	(b) The notice shall be published and mailed at least
11	30 days in advance of the agency's intended action.
12	CL _CLL A PERSON HAY ALSO ELLE HIS MANE. ADDRESS AND
13	SHORT DESCRIPTION OF HIS ACTIVITIES AND INTERESTS CONCERNIN
14	RULENAKING WITH THE ADMINISTRATIVE CODE COMMITTEE. IN
15	COMMITTEE SHALL MAIL THE LIST TO ALL AGENCIES PUBLISHING
16	RULENAKING NOTICES IN THE MARA UPON RECEIPT OF THE LISTA A
17	AGENCY SHALL REVIEW THE SAME AND DETERBINE THOSE PERSON
18	WHO IN ITS GOOD FAITH JUDGHENT ARE INTERESTED IN OR MOUL
19	BE AFFECIED BY RULES OF THAT AGENLY
20	(II) UPON MAKING THE DETERMINATION REQUIRED 8
21	SUBSECTION(21(8)(1)OETHISSECTION:_ANAGENCY_SHAL
22	PUBLISH IN THE MAR A LIST OF PERSONS TO WHOM THE AGENCY MILE
23	WAIL BULEMAKING NOTICES MOTING THE TABE OF MOTICE TO BE

MAILED TO EACH PERSON. AND SHALL MAIL THOSE RULEMAKING

MOTICES WITHIN 3 DAYS OF PUBLICATION TO THE PERSONS LISTED.

L	IRE_TT2	I_MUSI_BE_AM	ENDED_BY_IH	E_WEENCX_NSI	N REQUEST	OF ANY
,	DEDCIN	PENHESTING	TO BE ADDE	n Tn ne Nei 1	TEN CONM T	HE LIST.

- (111) THE LIST OF PERSONS PUBLISHED PURSUANT TO SUBSECTION (2)(B)(111) IS NOT CONSIDERED A RULE FOR THE PURPOSES OF THIS CHAPTER FAILURE TO GIVE NOTICE TO A PERSON INCLUDED ON THE LIST DOES NOT AFFECT THE VALIDITY OF A RULE.
 - (3) If any statute provides for a different method of publication, the affected agency shall comply with the statute in addition to the requirements contained herein. However, in no case may the notice period be less than 30 days or more than 6 months.
 - (4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested persons at least 20 days, notice of a hearing and 28 days from the day of notice to submit data, views, or arguments, orally or in writing. In the case of substantive rules, the notice of proposed rulemaking must state that opportunity for oral hearing shall be granted if requested by either 10% or 25, whichever is less, of the persons who will be directly affected by the proposed rule, by a governmental subdivision or agency, by the administrative code committee, or by an association having not less than 25 members who will be directly affected.
 - (5) An agency may continue a hearing date for cause.

 In the discretion of the agency, contested case procedures

need not be followed in hearings held pursuant to this section. If a hearing is otherwise required by statute.

nothing herein alters that requirement.

- (6) If an agency fails to publish a notice of adoption within the time required by 2-4-305(7) and the agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a new proposal for purposes of compliance with this chapter.
- (7) At the commencement of any hearing on the intended action, the person designated by the agency to preside at the hearing shall read aloud the "Notice of Function of Administrative Code Committee" appearing in the register."

-End-

HB 37

SENATE STANDING COMMITTEE REPORT (State Administration)

That House Bill No. 37 be amended as follows:

1. Title, lines 10 and 11.

Strike: "EVERY" through "BY" on line 11
Insert: "ORGANIZATIONS AND MEMBERS THEREOF

WHICH FILE A REQUEST WITH"

2. Page 2, line 3.
Following: "and"

Insert: "and to the office of any professional, trade, or industrial society or organization or member thereof which has filed a request with the administrative code committee when such request has been forwarded to the agency as provided in subsection (b).

- (b) The administrative code committee shall forward a list of all organizations or persons who have submitted a request to be informed of agency actions to all agencies publishing rulemaking notices in the MAR. The list must be amended by the agency upon request of any person requesting to be added to or deleted from the list.
- 3. Page 2, line 10. Strike: "(b)"
 Insert: "(c)"
- 4. Page 2, line 12 through page 3, line 6. Strike: lines 12 through line 6 on page 3 in their entirety.

48th Legislature HB 0037/04 HB 0037/04

1	HOUSE BILL NO. 37				
2	INTRODUCED BY SCHULTZ				
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4					
5	A BILL FOR AM ACT ENTITLED: "AN ACT TO REQUIRE THAT NOTICES				
6	OF PROPOSED RULEMAKING UNDER THE MONTANA ADMINISTRATIVE				
7	PROCEDURE ACT BE MAILED TO CERTAIN-SOCIETIES-WHOSE-MEMBERS				
8	WOULD-BE-DIRECTLY-AFFECTED-BY-THEPROPOSED-RULE &MP:-IO				
9	ORGANIZATIONS THAT HAVE DEMONSTRATED AN INTEREST IN-AN				
10	AGENCY-S-ACTIVITIES CYCRY-PERSON-SCHECTED-BY-AN-AGENCYERON				
11	ALISTPROVIDED BY ORGANIZATIONS AND MEMBERS THEREOF WHICH				
12	FILE A REQUEST WITH THE ADMINISTRATIVE CODE COMMITTEE;				
13	AMENDING SECTION 2-4-302, MCA+				
14					
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:				
16	Section 1. Section 2-4-302, MCA, is amended to read:				
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20	The notice shall include a statement of either the terms or				
21	substance of the intended action or a description of the				
22	subjects and issues involved, the rationale for the intended				
23	action, and the time when; place where, and manner in which				
24	interested persons may present their views thereon.				
25	(2) (a) The notice shall be filed with the secretary				

1	of state for publication in the register as provided in
2	2-4-312 and mailed within 3 days of publication±
3	tit to persons who have made timely requests to the
4	agency for notice of its rulemaking proceedings: and AND IO
5	THE OFFICE OF ANY PROFESSIONAL TRADE - OR INDUSTRIAL SOCIETY
6	OR ORGANIZATION OR MEMBER THEREOF WHICH HAS FILED A REQUEST
7	WITH THE ADMINISTRATIVE CODE COMMITTEE WHEN SUCH REQUEST HAS
8	BEEN FORWARDED TO THE AGENCY AS PROVIDED IN SUBSECTION (B).
9	(B) THE ADMINISTRATIVE CODE COMMITTEE SHALL FORWARD A
10	LIST OF ALL ORGANIZATIONS OR PERSONS WHO HAVE SUBMITTED A
11	REDUEST TO BE INFORMED OF AGENCY ACTIONS TO ALL AGENCIES
12	PUBLISHING RULEMAKING NOTICES IN THE MONTANA ADMINISTRATIVE
13	REGISTER. THE LIST MUST BE AMENDED BY THE AGENCY UPON
14	REQUEST OF ANY PERSON REQUESTING TO BE ADDED TO OR DELETED
15	FROM THE LISTA
16	till-to-the offices-of-any-reasonably-identifiable
17	professionals-tradex-sec-industrial-society-whose-sembers
i 8	would-be-directly-affected-by-the-proposals-AND
19	<u> </u>
20	ldeniifiable-drgamization_Imat-mas-denonstrated-to-an-agenc y
21	AN-INTEREST-IN-LIS-ACTIVITIES.
22	<pre>tht(C) The notice shall be published and mailed at</pre>
23	least 30 days in advance of the agency's intended action.
24	<u>#6}##1-4-PERSON-MAY:ALSO-EIFE-H#5-NAMEx-ADDRESS-AND-A</u>
25	SHERT-DESCRIPTION-OF-HIS-ACTIVITIES-AND-INTERESTS-CONCERNING

HB 0037/04

RULEMAKING WITH THE ADMINISTRATIVE GROWN COMMITTEES THE COMMITTEES SHALL MAIL THE LIST TO ALL ASENGIES PUBLISHING RULEMAKING MOTIGES IN THE MARK UPON RECEIPT OF THE LIST AND ASENCY SHALL REVIEW THE SAME AND BETCHMINE THOSE PERSONS WHO. IN ITS GROW FAITH AUGMENT ARE INTERESTED IN DR. MOULD BE AFFECTED BY A RULES OF THAT AGENCY.

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 In the discretion of the agency, contested case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise required by statute, nothing herein alters that requirement.
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- 21 (7) At the commencement of any hearing on the intended 22 action, the person designated by the agency to preside at 23 the hearing shall read aloud the "Notice of Function of 24 Administrative Code Committee" appearing in the register."

-End-

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