

HOUSE BILL NO. 37

INTRODUCED BY SCHULTZ

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

IN THE HOUSE

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 in.
March 11, 1983	Third reading, concurred in.

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.

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  
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) ~~(a)~~ 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        ~~(1)~~ to persons who have made timely requests to the  
25        agency for notice of its rulemaking proceedings; and

1                    ~~(1) to the offices of any reasonably identifiable~~  
2                    ~~professional, trade, or industrial society whose members~~  
3                    ~~would be directly affected by the proposal.~~  
4                    (b) The notice shall be published and mailed at least  
5                    30 days in advance of the agency's intended action.  
6                    (3) If any statute provides for a different method of  
7                    publication, the affected agency shall comply with the  
8                    statute in addition to the requirements contained herein.  
9                    However, in no case may the notice period be less than 30  
10                    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.  
15                    In the case of substantive rules, the notice of proposed  
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.  
23                    (5) An agency may continue a hearing date for cause.  
24                    In the discretion of the agency, contested case procedures  
25                    need not be followed in hearings held pursuant to this

INTRODUCED BILL

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

3 (6) If an agency fails to publish a notice of adoption  
4 within the time required by 2-4-305(7) and the agency again  
5 proposes the same rule for adoption, amendment, or repeal,  
6 the proposal must be considered a new proposal for purposes  
7 of compliance with this chapter.

8 (7) At the commencement of any hearing on the intended  
9 action, the person designated by the agency to preside at  
10 the hearing shall read aloud the "Notice of Function of  
11 Administrative Code Committee" appearing in the register."

-End-

STATE OF MONTANA

REQUEST NO. 037-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, 19 83, there is hereby submitted a Fiscal Note for House Bill 37 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 requires notification to appropriate professional, trade and industrial organizations of proposed rulemaking under the Montana Administrative Procedures Act.

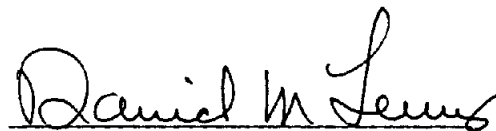
ASSUMPTIONS:

- 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: 1-11-83

## STATE OF MONTANA

REQUEST NO. 059-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 10, , 19 83 , there is hereby submitted a Fiscal Note for 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.
- 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 \$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

Date: 1-11-83

STATE OF MONTANA

REQUEST NO. 506-83

FISCAL NOTE

Form BD-15

In compliance with a written request received March 25, , 19 83 , there is hereby submitted a Fiscal Note for 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, 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

Approved by Committee  
on State Administration

HOUSE BILL NO. 37

INTRODUCED BY SCHULTZ

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT NOTICES OF PROPOSED RULEMAKING UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT BE MAILED TO CERTAIN SOCIETIES WHOSE MEMBERS WOULD BE DIRECTLY AFFECTED BY THE PROPOSED RULE AND TO ORGANIZATIONS THAT HAVE DEMONSTRATED AN INTEREST IN AN AGENCY'S ACTIVITIES; AMENDING SECTION 2-4-302, MCA."

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

Section 1. Section 2-4-302, MCA, is amended to read:

"2-4-302. Notice, hearing, and submission of views.

(1) Prior to the adoption, amendment, or repeal of any rule, the agency shall give written notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, the rationale for the intended action, and the time when, place where, and manner in which 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 2-4-312 and mailed within 3 days of publication;

(i) to persons who have made timely requests to the

agency for notice of its rulemaking proceedings; and

(iii) to the offices of any reasonably identifiable professional, trade, or industrial society whose members would be directly affected by the proposal; AND

(iiii) to the state headquarters of any reasonably identifiable organization that has demonstrated to an agency an interest in its activities.

(b) The notice shall be published and mailed at least 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.

(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



1 affected.

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.

7 (6) If an agency fails to publish a notice of adoption  
8 within the time required by 2-4-305(7) and the agency again  
9 proposes the same rule for adoption, amendment, or repeal,  
10 the proposal must be considered a new proposal for purposes  
11 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-

HOUSE BILL NO. 37

INTRODUCED BY SCHULTZ

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT NOTICES OF PROPOSED RULEMAKING UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT BE MAILED TO CERTAIN SOCIETIES WHOSE MEMBERS WOULD BE DIRECTLY AFFECTED BY THE PROPOSED RULE AND TO ORGANIZATIONS THAT HAVE DEMONSTRATED AN INTEREST IN AN AGENCY'S ACTIVITIES EVERY PERSON SELECTED BY AN AGENCY FROM A LIST PROVIDED BY THE ADMINISTRATIVE CODE COMMITTEE; AMENDING SECTION 2-4-302, MCA."

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

Section 1. Section 2-4-302, MCA, is amended to read:

"2-4-302. Notice, hearing, and submission of views.

(1) Prior to the adoption, amendment, or repeal of any rule, the agency shall give written notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, the rationale for the intended action, and the time when, place where, and manner in which 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

2-4-312 and mailed within 3 days of publication;

(i) to persons who have made timely requests to the agency for notice of its rulemaking proceedings; and

(ii) to the offices of any reasonably identifiable professionally, trade, or industrial society whose members would be directly affected by the proposals; and

(iii) to the state headquarters of any reasonably identifiable organization that has demonstrated to an agency an interest in its activities.

(b) The notice shall be published and mailed at least 30 days in advance of the agency's intended action.

(c) (i) A person may also file his name, address and a short description of his activities and interests concerning rulemaking with the administrative code committee. The committee shall mail the list to all agencies publishing rulemaking notices in the MAB. Upon receipt of the list, an agency shall review the same and determine those persons who, in its good faith judgment, are interested in or would be affected by rules of that agency.

(ii) Upon making the determination required by subsection (2)(b)(ii) of this section, an agency shall publish in the MAB a list of persons to whom the agency will mail rulemaking notices, noting the type of notice to be mailed to each person, and shall mail those rulemaking notices within 3 days of publication to the persons listed.

~~THE LIST MUST BE AMENDED BY THE AGENCY UPON REQUEST OF ANY PERSON REQUESTING TO BE ADDED TO OR DELETED FROM THE LIST.~~

~~(III) THE LIST OF PERSONS PUBLISHED PURSUANT TO SUBSECTION (2)(B)(III) 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-

March 7, 1983

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 administra-  
tive 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.

## HOUSE BILL NO. 37

INTRODUCED BY SCHULTZ

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT NOTICES OF PROPOSED RULEMAKING UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT BE MAILED TO CERTAIN SOCIETIES WHOSE MEMBERS WOULD BE DIRECTLY AFFECTED BY THE PROPOSED RULE AND TO ORGANIZATIONS THAT HAVE DEMONSTRATED AN INTEREST IN AN AGENCY'S ACTIVITIES EVERY PERSON SELECTED BY AN AGENCY FROM A LIST PROVIDED BY ORGANIZATIONS AND MEMBERS THEREOF WHICH FILE A REQUEST WITH THE ADMINISTRATIVE CODE COMMITTEE; AMENDING SECTION 2-4-302, MCA."

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

Section 1. Section 2-4-302, MCA, is amended to read:

"2-4-302. Notice, hearing, and submission of views.

(1) Prior to the adoption, amendment, or repeal of any rule, the agency shall give written notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, the rationale for the intended action, and the time when, place where, and manner in which 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 2-4-312 and mailed within 3 days of publication;

~~and~~ to persons who have made timely requests to the agency for notice of its rulemaking proceedings; ~~and 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 MONTANA ADMINISTRATIVE REGISTER. THE LIST MUST BE AMENDED BY THE AGENCY UPON REQUEST OF ANY PERSON REQUESTING TO BE ADDED TO OR DELETED FROM THE LIST.

~~to the offices of any reasonably identifiable professionally, trade, or industrial society whose members would be directly affected by the proposal; AND~~

~~to the state headquarters of any reasonably identifiable organization that has demonstrated to an agency an interest in its activities.~~

~~that~~ (C) The notice shall be published and mailed at least 30 days in advance of the agency's intended action.

~~(C) that a person may also file his name, address and a short description of his activities and interests concerning~~

~~RULEMAKING WITH THE ADMINISTRATIVE CODE COMMITTEE, THE  
COMMITTEE SHALL MAIL THE LIST TO ALL AGENCIES PUBLISHING  
RULEMAKING NOTICES IN THE MAR. UPON RECEIPT OF THE LIST, AN  
AGENCY SHALL REVIEW THE SAME AND DETERMINE THOSE PERSONS  
WHO, IN ITS GOOD FAITH JUDGMENT, ARE INTERESTED IN OR WOULD  
BE AFFECTED BY RULES OF THAT AGENCY.~~

~~(((UPON MAKING THE DETERMINATION REQUIRED BY  
SUBSECTION (2)(B)(iii) OF THIS SECTION, AN AGENCY SHALL  
PUBLISH IN THE MAR A LIST OF PERSONS TO WHOM THE AGENCY WILL  
MAIL RULEMAKING NOTICES, NOTING THE TYPE OF NOTICE TO BE  
MAILED TO EACH PERSON, AND SHALL MAIL THOSE RULEMAKING  
NOTICES WITHIN 3 DAYS OF PUBLICATION TO THE PERSONS LISTED.  
THE LIST MUST BE AMENDED BY THE AGENCY UPON REQUEST OF ANY  
PERSON REQUESTING TO BE ADDED TO OR DELETED FROM THE LIST.~~

~~(((THE LIST OF PERSONS PUBLISHED PURSUANT TO  
SUBSECTION (2)(B)(iii) 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-