SENATE BILL NO. 137

INTRODUCED BY HIMSL, BLAYLOCK, HAZELBAKER

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 13, 1983	Introduced and referred to Committee on State Administration.
February 2, 1983	Committee recommend bill do pass as amanded. Report adopted.
February 3, 1983	Bill printed and placed on members' desks.
Pebruary 5, 1983	Second reading, do pass.
February 7, 1983	Correctly engrossed.
February 8, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.
	IN THE HOUSE
February 9, 1983	Introduced and referred to Committee on State Administration.
March 19, 1983	Committee recommend bill be concurred in. Report adopted.
March 22, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in.
	IN THE SENATE
March 24, 1983	Returned to Senate. Sent to enrolling.
	Reported correctly enrolled.

1 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SUNSET 6 PROVISIONS CONCERNING STATE AGENCIES; ELIMINATING THE 6-YEAR 7 LIMITATION ON REESTABLISHING AGENCIES OR PROGRAMS: ESTABLISHING A PROCEDURE FOR SPECIFYING AGENCIES AND 8 9 PROGRAMS TO BE REVIEWED: AMENDING SECTIONS 2-8-101, 2-8-102. 10 2-8-111 THROUGH 2-8-113, 2-8-121, AND 2-8-122, MCA; 11 REPEALING SECTIONS 2-8-103 AND 2-8-104, HCA: AND PROVIDING 12 EFFECTIVE DATES.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 HEW_SECTION: Section 1. Determination of agencies and 16 programs to be reviewed. (1) Before September 1 of each 17 even-numbered year, the governor may furnish the legislative audit committee with a list of his recommendations for 18 agencies and programs to be terminated and subject to a 19 20 performance audit during the next biennium pursuant to the provisions of this chapter. The list must be prioritized and 21 22 must set forth the governor's reasons for recommending each 23 agency or program for review.

(2) The legislative audit committee shall review the
list submitted by the governor and any other relevant

information and compile recommendations of agencies and programs to be terminated and subject to a performance audit. The committee shall submit its recommendations to the next legislature in the form of a bill terminating those designated agencies and programs at the times specified in the bill.

7 Section 2. Section 2-8-101, MCA, is amended to read: 8 #2-8-101. Purpose. [1] The legislature finds state 9 government actions have produced a substantial increase in 10 numbers of agencies, growth of programs, and proliferation of rules. The legislature questions whether conditions 11 12 causing the establishment of these agencies, programs, and 13 rules have not changed to such an extent as to remove the need for some or all of the agencies, programs, and rules. 14 15 (2) It is the intent of the legislature, by 16 establishing a system of periodic evaluation of the need for 17 and the performance of agencies or preparatory to 18 termination, modification, or reestablishment, to be in a better position to ensure as follows: 19

20 (a) The executive department is responsive to the 21 needs of all of the people of the state.

(b) No agency, program, or rule exists which is not
responsive to those needs.

24 (c) No profession, occupation, business, industry, or
25 other endeavor is subject to the state's regulatory power

-2- INTRODUCED BILL

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1 unless the exercise of such power is necessary to protect 2 the public health, safety, or welfare from significant and discernible harm or damage. The exercise of the state's 3 4 police power shall be done only to the extent necessary for 5 that purpose.

6 (d) The state may not regulate a profession, 7 occupation, industry, business, or other endeavor in a 8 manner which will unreasonably adversely affect the 9 competitive market.

10 (e) There exists a systematic legislative review of 11 the need for and public benefits derived from a program or 12 function which licenses or otherwise regulates a profession. occupationy-businessy--industry--or--other--endeaver by a 13 14 periodic review and termination, modification, or reestablishment of such programs and functions." 15

16 Section 3. Section 2-8-102, MCA, is amended to read: #2-8-102. Definitions. As used in this part, the 17 18 following definitions apply:

19 (1) "Agency" means an office, position, commission, 20 committee, board, department, council, division, bureau, section, or any other entity or instrumentality of the 21 22 executive department of state government.

23 (2) "Performance audit" means an exemination of the 24 effectiveness of administration and its efficiency and 25 adequacy in terms of the program of a state agency

authorized by law to be performed and the conformance of Z expenditures with legislative intent. Audits conducted shall 3 include an analysis of the operation of the agency with 4 special regard to the duplication of efforts between the 5 audited agency or program and other agencies or programs and 6 the quality of service being rendered. 7 131 Prograd mans any legislatively or 8 administratively created functions pro lects or adminy of an agency." 9 10 Section 4. Section 2-8-111, MCA, is amended to read: 11 "2~8-111. Prereview agency responsibilities. An agency 12 designated for terringtion or whose orderan or programs are 13 designated by-2-8-189-or-2-8-104 for termination shall by 22 14 months preceding the date set for termination: 15 (1) delineate the goals of the programs for-whick-it which goals reflect the state*s 16 is---responsible, statutes, and authoritative judicial. 17 constitution. 18 legislative, and executive decisions or pronouncements; (2) delineate the objectives of the programs and 19 layout clearly enough to be tested, the logic in the 20 assumptions linking expenditures to outcome anticipated, 21 2**Z** outcome anticipated to objectives, and objectives to impact 23 on problems addressed in goals: 131 fuchish to the legislative auditor unon regent of 24

the auditor the information mecessary to conduct a 25

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1	gerformancesandit.as_required by thisschoothr."
2	Section 5. Section 2-8-112, HCA, is amended to read:
3	#2-8-112. Legislative audit committee review and
4	report review criteria. (1) The legislative audit
5	committee is responsible for having conducted <u>conducting</u> a
6	review of each agency or program scheduled for termination
T	by-2-8-103. The review shall be completed at least 6 months
8	prior to the date set for termination. <u>If:for any reason a</u>
9	review of an agency for program wanter be compreted as
10	required by this chapters the tedislative audit consister
11	shall submit a proposed bill for the 'ensuing' legislative
12	<u>session to reestablish the agency or programe</u>
13	(2) The review conducted shall include a performance
14	audit of the agency <u>program with contacts contacts</u>
15	on the public bealthy safety, and welfards and s-therough
16	examination-of-the-following?
17	ta}Would-the-absance-of-regulation-significanaly- harm
18	or-endanger-tho-public-healthy-sefetyy-or-welfare?
19	tb]Is-there-areasonablerelationshipbetweenthe
20	exercise-wofthe-state*s-police-power-and-the-protection-of
21	the-public-healthy-safetyy-or-welfare?
22	{c } Is thereanother}essrestrictivewethodof
23	reguistionavailablewhichcouldadequatelyprotect-the
24	public?
25	{d}Boes-the-regulation-have-the-affect-of-directly-or

indirectiy-increasing-the-costs-ofonygoodsorservices
involved-andy-if-soy-to-what-degrae?
tej
thentheharswhichcouldresultfromtheabsonce-of
regulation?
tfjtre-all-factto-of-the-regulatory-processdesigned

7 solely-for-the-purpose-of-and-have-as-their-primary-affect the-protection-of-the-public? 8

9 (3) The legislative audit committee shall assist in 10 the implementation of the provisions of this part and shall 11 establish administrative procedures which facilitate the 12 review and evaluation as required in this part.

13 (4) Upon completion of its review, the legislative audit committee shall make a report of its recommendations 14 for continuation, modification, or termination and submit a 15 16 proposed bill for the ensuing legislative session. If 17 termination is recommended, the bill should repeal or 18 otherwise deal with all statutes and parts of statutes for 19 which <u>relating to</u> the agency--reviewed--is--responsible 20 agency s or program's activities."

Section 6. Section 2-8-113, MCA, is amended to read: 21 22 "2-8-113. Hearings by standing committee -- criteria for termination. (1) Prior to abolishment termination of an 23 24 agency or program terminated -- by -- 2-8-103-or - 2-8-104, the 25 appropriate standing committee in each house of the

1 legislature or a joint committee of both houses composed of 2 members of the standing committee assigned to conduct the 3 hearing shall hold a public hearing, receiving testimony 4 from the public and the head of the department to which the 5 agency or program involved is attached, the head of the 6 agency involved, and persons who conducted the review.

7 (2) In the event termination of an accord program 8 is recommended by the legislative audit committees the agency isysted in the treation has the burden of 9 demonstrating a public need for its the apency's or 10 11 programs continued existence and the extent to which a 12 change in the composition, structure, and operation of the 13 agency or protection would increase -- the protection -- of -- the isorothe public health, safety, or welfare from horn-or 14 15 ' demode~**-decTesse*the-adverse-~effect--on--the--conset+t+ve 16 serket.

17 (3) In determining whether to reestablish an agency or 18 program i the legislature shall consider the performance 19 audit and review conducted by the legislative audit 20 committee, the public testimony responsive to the questions 21 set forth in subsection (2) of 2-8-112, and other matters 22 considered relevant by the committee."

1 shall continue in existence until July 1 of the next z succeeding year for the purpose of winding up its affairs. 3 During the windup period, termination does not reduce or 4 otherwise limit the powers or authority of each respective 5 agency drinfooragiexcept that no action gay be taken which would continue in effect beyond the 1-year windup period. 6 7 Upon the expiration of the 1 year after termination, each 8 agency or program not modified or reestablished shall be 9 abolished and all unexpanded balances of appropriations, 10 allocations, or other funds shall revert to the fund from which they were appropriated or, if that fund is abolished, 11 12 to the general fund."

13 Section 8. Section 2-8-122, MCA, is amended to read: 14 #2-8-122. Reestablishment. (1) Any agency or Drootam 15 scheduled for termination under this part or any subsequent 16 act may be reestablished by the legislature for-any-period 17 of--time-specified-by-law-not-to-exect-b-yearsy-at-the-end 18 of-which-time-the-legislature-shall-again-review-the--agency 19 opresent--to--2-8-112--and-por-actin-restablishy-modifyy-or sttow--the--tersinstion--of--the--agency--pursuant--to--this 20 21 section.

(2) No more than one agency or or program may be
 continued or reestablished in any bill for an act, and the
 agency or "program shall be mentioned in the bill's title."
 NEW SECTION: Section 9. Repeater. (1) Section

-7-

-8-

1	2-8-103, MCA, is repealed.
2	(2) Section 2-8-104, MCA, is repealed.
3	NEW_SECTION. Section 10. Codification instruction.
4	Section 1 is intended to be codified as an integral part of
5	Title 2, chapter 8, and the provisions of Title 2, chapter
6	8, apoly to section 1.
7	<u>MEM_SECTION.</u> Section 11. Effective dates. (1)
8	Sections 1 through 9, except subsection (1) of section 9,
9	are effective upon passage and approval.
10	(2) Subsection (1) of section 9 is effective July 1.

11 1983.

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Approved by Committee on State Administration

1	SENATE BILL NO. 137
2	INTRODUCED BY HIMSL, BLAYLOCK, HAZELBAKER
3	BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
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5	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SUNSET
6	PROVISIONS CONCERNING STATE AGENCIES; ELIMINATING THE 6-YEAR
7	LIMITATION ON REESTABLISHING AGENCIES OR PROGRAMS;
8	ESTABLISHING A PROCEDURE FOR SPECIFYING AGENCIES AND
9	PROGRAMS TO BE REVIEWED; AMENDING SECTIONS 2-8-101, 2-8-102,
10	2-8-111 THROUGH 2-8-113, 2-8-121, AND 2-8-122, MCA;
11	REPEALING SECTIONS 2-8-103 AND 2-8-104, MCA; AND PROVIDING
12	EFFECTIVE DATES."
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	<u>NEW_SECTION.</u> Section 1. Determination of agencies and
16	programs to be reviewed. (1) Before September 1 of each
17	even-numbered year, the governor may furnish the legislative
18	audit committee with a list of his recommendations for

19 agencies and programs to be terminated and subject to a 20 performance audit during the next biennium pursuant to the 21 provisions of this chapter. The list must be prioritized and 22 must set forth the governor's reasons for recommending each 23 agency or program for review.

(2) The legislative audit committee shall review the
list submitted by the governor<u>s_SUGGESTIONS_EROM_LEGISLATORS</u>

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ź	other relevant information and compile recommendations of
3	agencies and programs to be terminated and subject to a
4	performance audit. The committee shall submit its
5	recommendations to the next legislature in the form of a
6	bill terminating those designated agencies and programs at
7	the times specified in the bill AND REQUIRING A PERFORMANCE
8	AUDIT_DE_EACH_AGENCY_ANDPROGRAM_UNDERTHEPROVISONSDE
9	IIIIE_2,_CHAPIER_8. WITHIN_THE_IIME_SPECIELED_AND_PRIOR_IO
10	IEBMINATION.
11	Section Z. Section 2-8-101, MCA, is amended to read:
12	#2-8-101。 Purpose。 (1) The legislature finds state
13	government actions have produced a substantial increase in
14	numbers of agencies, growth of programs, and proliferation
15	of rules. The legislature questions whether conditions
16	causing the establishment of these agencies, programs, and
17	rules have not changed to such an extent as to remove the
18	need for some or all of the agencies, programs, and rules.
19	(2) It is the intent of the legislature, by
20	establishing a system of periodic evaluation of the need for
21	and the performance of agencies <u>or programs</u> preparatory to
22	termination, modification, or reestablishment, to be in a
23	better position to ensure as follows:

24 (a) The executive department is responsive to the25 needs of all of the people of the state.

-2- SECOND READING

58 137

(b) No agency, program, or rule exists which is not
 responsive to those needs.

3 (c) No profession, occupation, business, industry, or 4 other endeavor is subject to the state's regulatory power 5 unless the exercise of such power is necessary to protect 6 the public health, safety, or welfare from significant and 7 discerpible harm or damage. The exercise of the state's 8 police power shall be done only to the extent necessary for 9 that ourpose.

10 (d) The state may not regulate a profession, 11 occupation, industry, business, or other endeavor in a 12 manner which will unreasonably adversely affect the 13 competitive market.

14 (e) There exists a systematic legislative review of 15 the need for and public benefits derived from a program or 16 function which-licenses-or-otherwise-regulates-a-professiony 17 occupationy-businessy--industryy--or--other--endeavor by a 18 periodic review and termination, modification, or 19 reestablishment of such programs and functions."

Section 3. Section 2-8-102, MCA, is amended to read:
 ⁿ2-8-102. Definitions. As used in this part, the
 following definitions apply:

(1) "Agency" means an office, position, commission,
committee, board, department, council, division, bureau,
section, or any other entity or instrumentality of the

-3-

1 executive department of state government.

Z	(2) "Performance audit" means an examination of the
3	effectiveness of administration and its efficiency and
4	adequacy in terms of the program of a state agency
5	authorized by law to be performed and the conformance of
6	expenditures with legislative intent. Audits conducted shall
7	include an analysis of the operation of the agency with
8	special regard to the duplication of efforts between the
9	audited agency <u>or program</u> and other agencies <u>or programs</u> and
10	the quality of service being rendered.
11	<pre>(3) "Program" means any legislatively or</pre>
12	administratively_created_functions_projects_or_duty_of_an
13	agencx*"
14	Section 4. Section 2-8-111, MCA, is amended to read:
15	*2-8-111. Prereview agency responsibilities. An agency
16	<u>designated for termination or whose program or programs are</u>
17	designated hy-2-8-183-or-2-8-184 for termination shall by 22
18	months preceding the date set for termination:
19	(1) delineate <u>the</u> goals of <u>the</u> programs for-which-it
20	isresponsible, which goals reflect the state's
21	constitution, statutes, and authoritative judicial,
22	legislative, and executive decisions or pronouncements;
23	(2) delineate <u>the</u> objectives of <u>the</u> programs and
24	layout clearly enough to be tested, the logic in the
25	assumptions linking expenditures to outcome anticipated,

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"2-8-113. Hearings by standing committee -- criteria 1 for termination. (1) Prior to abolishment termination of an 2 agency or program terminoted--by--2-0-103-or-2-0-104, the R 4 appropriate standing committee in each house of the legislature or a joint committee of both houses composed of 5 members of the standing committee assigned to conduct the 6 7 hearing shall hold a public hearing, receiving testimony from the public and the head of the department to which the 8 9 agency or program involved is attached, the head of the 10 agency involved, and persons who conducted the review.

11 (2) In the event termination <u>pf_an_agency_or_program</u> is recommended by the legislative audit committee, the 12 agency involved in the termination has the burden of 13 14 demonstrating a public need for its the agency's or program's continued existence and the extent to which a 15 change in the composition, structure, and operation of the 16 agency or orogram would increase--the--protection--of--the 17 18 improve public health, safety, or welfare from-harm-or damage-or-decrease-the-adverse--effect--on--the--competitive 19 20 morket.

(3) In determining whether to reestablish an agency or
program, the legislature shall consider the performance
audit and review conducted by the legislative audit
committee, the public testimony responsive to the questions
set forth in subsection (2) of 2-3-112, and other matters

-7-

S8 137

considered relevant by the committee."

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2 Section 7. Section 2-8-121, MCA, is amended to read: 3 *2-8-121. Effect of termination. Unless otherwise 4 provided, upon termination, each agency, programs or unit 5 shall continue in existence until July 1 of the next succeeding year for the purpose of winding up its affairs. 6 7 During the windup period, termination does not reduce or otherwise limit the powers or authority of each respective 8 9 agency or program except that no action may be taken which 10 would continue in effect beyond the 1-year windup period. 11 Upon the expiration of the 1 year after termination, each 12 agency or program not modified or reestablished shall be 13 abolished and all unexpended balances of appropriations, allocations, or other funds shall revert to the fund from 14 15 which they were appropriated or, if that fund is abolished, 16 to the general fund.* 17 Section 8. Section 2-8-122, MCA, is amended to read: 18 #2-8-122. Reestablishment. (1) Any agency or orogram 19 scheduled for termination under this part or any subsequent 20 act may be reestablished by the legislature for--any--period 21 of--time-specified-by-lawy-not-to-exceed-6-yearsy-at-the-end of-which-time-the-legislature-shall-again-review-the--agency 22 23 pursuant--to--2-8-112--and-may-again-reestablishy-modifyy-or 24 allow--the--termination--of--the--agency--pursuant--to--this 25 section.

-8-

S8 0137/02

1	outcome anticipated to objectives, and objectives to impact	
2	on problems addressed in goals;	
3	(<u>))_furnish_to_the_legis]ative_duditor_upon_request_of</u>	
4	theauditortheinformationnecessarytoconducta	
5	performance_audit_as_required_by_this_chapter."	
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9	report review criteria. (1) The legislative audit	
9	committee is responsible for having-conducted conducting a	
10	review of each agency <u>or program</u> scheduled for termination	
11	by-2-9-103. The review shall be completed at least 6 months	
12	prior to the date set for termination. <u>If for any reason a</u>	
13	revies of an agency or program cannot be completed as	
14	required_by_this_chapter.the_legislative_audit_committee	
15	sball_submit_a_proposed_billfortheensuinglegislative	
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18	audit of the agency <u>or program with emphasis on _itseffect</u>	
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20	exomination-of-the-following+	
21	ta}Wowld-the-obsence-of-regulation-significantly-harm	
22	or-endanger-the-public-healthy-safetyy-or-welfare?	
23	{b}Is-there-areasonablerelationshipbetweenthe	
24	exerciseofthe-state*s-police-power-and-the-protection-of	
25	the-public-healthy-safetyy-or-welfare?	

1	{c} I gthereanothertessrestrictivemethodaf
2	regulationavailablewhichcouldadequatelyprotect-the
3	foilded
4	{d}Boes-the-regulation-have-the-effect-of-directly-or
5	indirectly-increasing-the-costs-ofanygoodsorservices
6	involved-ondy-if-soy-to-what-degree?
7	te}Is-the-increase-in-cost-more-hermful-to-the-public
8	thentheharmwhichcouldresultfromtheabsence-of
9	regulation?
10	{f}Are-all-facets-of-the-regulatory-processdesigned
11	solelyforthe-purpose-of-and-have-ss-their-primary-effect
12	the-protection-of-the-public?
13	(3) The legislative audit committee shall assist in
14	the implementation of the provisions of this part and shall
15	establish administrative procedures which facilitate the
16	review and evaluation as required in this part.
17	(4) Upon completion of its review, the legislative
18	audit committee shall make a report of its recommendations
19	for continuation, modification, or termination and submit a
20	proposed bill for the ensuing legislative session. If
21	termination is recommended, the bill should repeal or
22	otherwise deal with all statutes and parts of statutes for
23	which <u>relating_to</u> the agency-reviewedis-responsible
24	acency's_or_program's_activities."

Section 6. Section 2-8-113, MCA, is amended to read:

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-6-

SB 137

SB 0137/02

SB 0137/02

1 (2) No more than one agency or program may be 2 continued or reestablished in any bill for an act, and the 3 agency or program shall be mentioned in the bill's title.* 4 <u>YEW_SECIION</u> Section 9. Repealer. (1) Section 5 Z-8-103, MCA, is repealed. 6 (2) Section 2-8-104, MCA, is repealed. 7 NEW_SECTION. Section 10. Codification instruction. 8 Section 1 is intended to be codified as an integral part of 9 Title 2, chapter 8, and the provisions of Title 2, chapter 10 8, apoly to section 1. NEW_SECTION: Section 11. Effective 11 dates. (1) 12 Sections 1 through 9, except subsection (1) of section 9, are effective upon passage and approval. 13 (2) Subsection (1) of section 9 is effective July 1, 14

15 1983.

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l	SENATE BILL NO. 137
2	INTRODUCED BY HIMSL, BLAYLOCK, HAZELBAKER
3	BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
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5	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SUNSET
6	PROVISIONS CONCERNING STATE AGENCIES; ELIMINATING THE 6-YEAR
7	LIMITATION ON REESTABLISHING AGENCIES OR PROGRAMS;
8	ESTABLISHING A PROCEDURE FOR SPECIFYING AGENCIES AND
9	PROGRAMS TO BE REVIEWED; AMENDING SECTIONS 2-8-101, 2-8-102,
10	2-8-111 THROUGH 2-8-113, 2-8-121, AND 2-8-122, HCA;
11	REPEALING SECTIONS 2-8-103 AND 2-8-104, MCA; AND PROVIDING
12	EFFECTIVE DATES."
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14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	<u>MEM_SECTION</u> . Section 1. Determination of agencies and
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17	even-numbered year, the governor may furnish the legislative
18	audit committee with a list of his recommendations for
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20	performance audit during the next biennium pursuant to the
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10	IERBINATION -
11	Section Z. Section 2-8-101, MCA, is amended to read:
12	"2-8-101. Purpose. (1) The legislature finds state
13	government actions have produced a substantial increase in
14	numbers of agencies, growth of programs, and proliferation
15	of rules. The legislature questions whether conditions
16	causing the establishment of these agencies, programs, and
17	rules have not changed to such an extent as to remove the
18	need for some or all of the agencies, programs, and rules.
19	(2) It is the intent of the legislature, by
20	establishing a system of periodic evaluation of the need for
21	and the performance of agencies <u>or programs</u> preparatory to
22	termination, modification, or reestablishment, to be in a
23	better position to ensure as follows:

24 (a) The executive department is responsive to the25 needs of all of the people of the state.

-2-SB 137 THIRD READING

SB 137

(b) No agency, program, or rule exists which is not
 responsive to those needs.

3 (c) No profession, occupation, business, industry, or 4 other endeavor is subject to the state's regulatory power 5 unless the exercise of such power is necessary to protect 6 the public health, safety, or welfare from significant and 7 discernible harm or damage. The exercise of the state's 8 police power shall be done only to the extent necessary for 9 that purpose.

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-3-

I executive department of state government.

2 (2) "Performance audit" means an examination of the 3 effectiveness of administration and its efficiency and adequacy in terms of the program of a state agency 4 5 authorized by law to be performed and the conformance of expenditures with legislative intent. Audits conducted shall 6 7 include an analysis of the operation of the agency with 8 special regard to the duplication of efforts between the 9 audited agency or program and other agencies or programs and 10 the quality of service being rendered. 11 13) "Program" means any legislatively or 12 administratively_created_functions_projects_pr__duty_of_am 13 AGEOCY1." 14 Section 4. Section 2-8-111, MCA, is amended to read: 15 *2+8-111. Prereview agency responsibilities. An agency 16 designated for termination or whose program of programs are 17 designated hy-2-8-183-or-2-8-184 for termination shall by 22 18 months preceding the date set for termination: (1) delineate the goals of the programs for-which-it 19 20 ts---responsible. which goals reflect the state*s 21 constitution. statutes, and authoritative judicial, legislative, and executive decisions or pronouncements; 22 23 (2) delineate the objectives of the programs and 24 layout clearly enough to be tested, the logic in the 25 assumptions linking expenditures to outcome anticipated,

-4+

1	outcome anticipated to objectives, and objectives to impact
2	on problems addressed in goals <u>;</u>
3	131_furnish_to_the_legislative_duditor_upon_reguest_of
4	theauditortheinformationnecessarytoconducta
5	performance_audit_as_required_by_this_chapter."
6	Section 5. Section 2-8-112, MCA, is amended to read:
7	"2-8-112. Legislative audit committee review and
8	report review criteria. (1) The legislative audit
9	committee is responsible for having-conducted <u>conducting</u> a
10	review of each agency <u>or program</u> scheduled for termination
11	by-2-9-103. The review shall be completed at least 6 months
12	prior to the date set for termination, <u>If for any reason a</u>
13	<u> Cevies_of_an_agencyor_program_cannot_be_completed_as</u>
14	<pre>Lequiredbythischapterthe_legislative_audit_committee</pre>
15	shall_submit_a_proposed_billfortheensuinglegislative
16	<u>session_to_reestablish_the_agency_or_programe</u>
17	(2) The review conducted shall include a performance
18	audit of the agency <u>or program with emphasis on _its_effect</u>
19	<u>on_the_public_bealthe_safetys_and_welfaree</u> and-a-thorough
20	examination-of-the-following+
21	ta}Would-the-absence-of-regulation-significantly-harm
2?	or-endanger-the-public-healthy-safetyy-or-welfare?
23	{b}Is-there-areasonab}erelationshipbetweenthe
24	exerciseofthe-state*s-police-power-and-the-protection-of
25	the-public-healthy-safetyy-or-welfare?

1	{c}Isthercanothertessrestrictivemethodof
z	reguintionavailablewhichcouldadequatelyprotect-the
3	public?
4	td;Boes-the-regulation-have-the-effect-of-directly-or
5	indirectly-increasing-the-costs-ofanygoodsorservices
6	involved-andy-if-soy-to-what-degree?
7	te)Is-the-increase-in-cost-more-harmful-to-the-public
8	thantheharmwhichcouldresultfromtheabsence-of
9	regulation?
10	tr)Are-all-facets-of-the-regulatory-processdesigned
11	solelyforthe-purpose-of-and-have-as-their-primary-effect
12	the-protection-of-the-public?
13	(3) The legislative audit commuttee shall assist in
14	the implementation of the provisions of this part and shall
15	establish administrative procedures which facilitate the
16	review and evaluation as required in this part.
17	(4) Upon completion of its review, the legislative
18	audit committee shall make a report of its recommendations
19	for continuation, modification, or termination and submit a
20	proposed bill for the ensuing legislative session. If
21	termination is recommended, the bill should repeal or
22	otherwise deal with all statutes and parts of statutes for
23	which <u>relatingto</u> the agencyreviewedisresponsible
24	agency's_or_program's_activities."
25	Section 6. Section 2-8-113, MCA, is amended to read:

-6-

-5-

SB 137

"2-8-113. Hearings by standing committee -- criteria 1 for termination. (1) Prior to abolishment termination of an 2 agency of program terminated--by--2-8-103-or-2-6-104, the 3 appropriate standing committee in each house of the 4 legislature or a joint committee of both houses composed of 5 members of the standing committee assigned to conduct the 6 hearing shall hold a public hearing, receiving testimony 7 from the public and the head of the department to which the 8 agency or program involved is attached, the head of the 9 agency involved, and persons who conducted the review. 10

(2) In the event termination of an agency or program 11 is recommended by the legislative audit committee, the 12 agency involved in the termination has the burden of 13 demonstrating a public need for its the agency's or 14 program's continued existence and the extent to which a 15 change in the composition, structure, and operation of the 16 agency pr.program would increase--the--protection--of--the 17 improve public health, safety, or welfare from-herm-or 18 domode-or-decrease-the-adverse--effect--an--the--compatitive 19 20 morket.

(3) In determining whether to reestablish an agency <u>or</u>
 <u>program</u>, the legislature shall consider the performance
 audit and review conducted by the legislative audit
 committee, the public testimony responsive to the questions
 set forth in subsection (2): of 2-3-112, and other matters

-7-

1 considered relevant by the committee."

2 Section 7. Section. 2-8-121, MCA, is amended to read: 3 #2-8-121. Effect of termination. Unless otherwise 4 provided, upon termination, each agency, program, or unit 5 shall continue in existence until July 1 of the next succeeding year for the purpose of winding up its affairs. 6 7 During the windup period, termination does not reduce or 8 otherwise limit the powers or authority of each respective agency or program except that no action may be taken which 9 10 would continue in effect beyond the 1-year windup period. Upon the expiration of the 1 year after termination, each 11 agency or program not modified or reestablished shall be 12 abolished and all unexpended balances of appropriations. 13 allocations. or other funds shall revert to the fund from 14 15 which they were appropriated or, if that fund is abolished, 16 to the general fund." 17 Section 8. Section 2-8-122. MCA. is amended to read: 18 #2-8-122. Reestablishment. (1) Any agency or organize scheduled for termination under this part or any subsequent 19 act may be reestablished by the legislature for--any--period 20 of--time-specified-by-lawy-not-to-execcd-6-yearsy-at-the-end 21 of-which-time-the-leaislature-shall-addin-review-the--adency 22 pursuant--to--2-8-112--and-may-again-reestablishy-modify-or 23 24 allow--the--termination--of--the--agency--pursuant--to--this 25 section.

-8-

 1
 (2) No more than one agency or program may be

 2
 continued or reestablished in any bill for an act, and the

 3
 agency or program shall be mentioned in the bill's title."

 4
 <u>VEW_SECTION_</u> Section 9. Repealer. (1) Section

 5
 2-8-103, MCA, is repealed.

6 (2) Section 2-8-104, MCA, is repealed.

NEW_SECTION: Section 10. Codification instruction.
Section 1 is intended to be codified as an integral part of
Title 2, chapter 8, and the provisions of Title 2, chapter
8, apoly to section 1.

11NEW_SECTION.Section 11. Effectivedates.(1)12Sections 1 through 9, except subsection (1) of section 9,13are effective upon passage and approval.

14 (2) Subsection (1) of section 9 is effective July 1,
15 1983.

-End-

-9-

58 137

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1	SENATE BILL NO. 137
2	INTRODUCED BY HIMSL, BLAYLOCK, HAZELBAKER
3	BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SUNSET
6	PROVISIONS CONCERNING STATE AGENCIES; ELIMINATING THE 6-YEAR
7	LINITATION ON REESTABLISHING AGENCIES OR PROGRAMS;
8	ESTABLISHING A PROCEDURE FOR SPECIFYING AGENCIES AND
9	PROGRAMS TO BE REVIEWED; AMENDING SECTIONS 2-8-101, 2-8-102,
10	2-8-111 THROUGH 2-8-113, 2-8-121, AND 2-8-122, MCA;
11	REPEALING SECTIONS 2-8-103 AND 2-8-104. MCA; AND PROVIDING
12	EFFECTIVE DATES.
13	

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 <u>NEW_SECIION</u>. Section 1. Determination of agencies and 15 programs to be reviewed. (1) Before September 1 of each 16 even-numbered year, the governor may furnish the legislative 17 18 audit committee with a list of his recommendations for 19 agencies and programs to be terminated and subject to a performance audit during the next blennium pursuant to the 20 provisions of this chapter. The list must be prioritized and 21 22 must set forth the governor's reasons for recommending each 23 agency or program for review.

24 (2) The legislative audit committee shall review the 25 list submitted by the governor, <u>SUGGESIIONS_FROM_LEGISLAIORS</u>

1 AND__LEGISLATIVE__COMMITTEES._STAFE_RECOMMENDATIONS. and any 2 other relevant information and compile recommendations of 3 agencies and programs to be terminated and subject to a performance audit. The committee shall submit its 4 5 recommendations to the next legislature in the form of a bill terminating those designated agencies and programs at 6 7 the times specified in the bill AND REQUIRING A PERFORMANCE 8 AUDIT DE EACH AGENCY AND PROGRAM UNDER THE PROVISONS OF 9 IIILE_2. CHAPTER B. WITHIN THE TIME SPECIFIED AND PRIOR TO 10 **TERMINATION**. Section 2. Section 2-8-101, MCA, is amended to read: 11 12 #2-8-101. Purpose. (1) The legislature finds state 13 government actions have produced a substantial increase in 14 numbers of agencies, growth of programs, and proliferation of rules. The legislature questions whether conditions 15 16 causing the establishment of these agencies, programs, and rules have not changed to such an extent as to remove the 17 18 need for some or all of the agencies, programs, and rules.

19 (2) It is the intent of the legislature, by establishing a system of periodic evaluation of the need for 20 and the performance of agencies or programs preparatory to 21 22 termination. modification. or reestablishment. to be in a 23 better position to ensure as follows:

(a) The executive department is responsive to the 24 25 needs of all of the people of the state.

> -2-SB 137 REFERENCE BILL

SE 0137/02

SB 137

(b) No agency, program, or rule exists which is not
 responsive to those needs.

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3 (c) No profession, occupation, business, industry, or 4 other endeavor is subject to the state's regulatory power 5 unless the exercise of such power is necessary to protect 6 the public health, safety, or welfare from significant and 7 discernible harm or damage. The exercise of the state's 8 police power shall be done only to the extent necessary for 9 that purpose.

10 (d) The state may not regulate a profession, 11 occupation, industry, business, or other endeavor in a 12 manner which will unreasonably adversely affect the 13 competitive market.

14 (e) There exists a systematic legislative review of 15 the need for and public benefits derived from a program or 16 function which-lieenses-or-otherwise-regulates-e-professiony 17 occupationy-businessy--industryy--or-other--endeavor by a 18 periodic review and termination, modification, or 19 reestablishment of such programs and functions."

Section 3. Section 2-8-102, HCA, is amended to read:
 "2-8-102. Definitions. As used in this part, the
 following definitions apply:

23 (1) "Agency" means an office, position, commission,
24 committee, board, department, council, division, bureau,
25 section, or any other entity or instrumentality of the

-3-

1 executive department of state government.

2	(2) "Performance audit" means an examination of the
3	effectiveness of administration and its efficiency and
4	adequacy in terms of the program of a state agency
5	authorized by law to be performed and the conformance of
6	expenditures with legislative intent. Audits conducted shall
7	include an analysis of the operation of the agency with
8	special regard to the duplication of efforts between the
9	audited agency <u>or program</u> and other agencies <u>or programs</u> and
10	the quality of service being rendered.
11	(3)=Program=meansanylegislativelyor
12	administratively_created_functions_projects_or_duty_of_an
13	9060CX*_
14	Section 4. Section 2-8-111, MCA, is amended to read:
15	42-8-111. Prereview agency responsibilities. An agency
16	designated for termination or whose program or programs are
17	designated by-2-8-103-or-2-8-104 for termination shall by 22
18	months preceding the date set for termination:
19	{]} delineate <u>the</u> goals of <u>the</u> programs for-which-it
20	isresponsible, which goals reflect the state's
21	constitution, statutes, and authoritative judicial,
22	legislative, and executive decisions or promouncements;
23	(2) delineate <u>the</u> objectives of <u>the</u> programs and
24	layout clearly enough to be tested, the logic in the
25	assumptions linking expenditures to outcome anticipated,

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SØ 137

1	outcome anticipated to objectives, and objectives to impact
z	on problems addressed in goals <u>:</u>
3	<u>[3] furnish to the legislative auditor upon request of</u>
4	the auditor the information necessary to conducta
5	performance audit as required by this chapter."
6	Section 5. Section 2-8-112, MCA, is amended to read:
7	■2-8-112. Legislative audit committee review and
8	report review criteria. (1) The legislative audit
9	committee is responsible for having-conducted conducting a
10	review of each agency <u>or program</u> scheduled for termination
11	by-2-8-103. The review shall be completed at least 6 months
12	prior to the date set for termination. <u>If for any reason a</u>
13	<u>review of an agency or program cannot be completed as</u>
14	required_by_this_cbapter.the_legislative_audit_committee
15	<u>shall_submit_a_proposed_billfortheensuinglegislative</u>
16	<u>session_to_reestablish_the_agency_or_program</u>
17	(2) The review conducted shall include a performance
18	audit of the agency <u>or program with emphasis on _its_effect</u>
19	<u>on_the_public_healths_safetys_and_welfaces</u> and-s-thorough
20	exemination-of-the-following+
21	tajVould-the-absence-of-regulation-significantly-horm
22	or-endanger-the-public-healthy-safatyy-or-welfare?
23	tb]]s-there-areasonablerelationshipbetweenthe
24	exerciseofthe-state*s-police-power-and-the-protection-of
25	the-public-healthy-safety;-or-welfsref

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1 tc}--is--there--another--tess--restrictive--method---of z requiretion--available--which--could--adequately--protect-the public? 3 4 td;--Boes-the-regulation-have-the-effect-of-directly-or 5 +nd+rectly-increasing-the-costs-of--any--goods--or--services involved-andy-if-soy-te-what-degree? 6 te)--Is-the-increase-in-cost-more-hormful-to-the-public 7 8 9 requiration? 10 tf}--Are-all-facets-of-the-regulatory-process--designed 11 solely--for--the-purpose-of-and-have-as-their-primary-effect the-protection-of-the-public? 12 13 (3) The legislative audit committee shall assist in 14 the implementation of the provisions of this part and shall 15 establish administrative procedures which facilitate the 16 review and evaluation as required in this part. 17 (4) Upon completion of its review, the legislative 18 audit committee shall make a report of its recommendations for continuation, modification, or termination and submit a 19 20 proposed bill for the ensuing legislative session. If termination is recommended, the bill should repeal or 21 22 otherwise deal with all statutes and parts of statutes for which <u>relating to</u> the agency-reviewed--is--responsible 23 24 agency's or program's activities." Section 6. Section 2-0-113, MCA, is amended to read: 25

-6-

SB 137

SB 0137/02

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1 "2-8-113. Hearings by standing committee -- criteria 2 for termination. (1) Prior to ebolishment termination of an З agency or program termineted--by--2-8-103-or-2-8-104, the 4 appropriate standing committee in each house of the 5 legislature or a joint committee of both houses composed of 6 members of the standing committee assigned to conduct the 7 hearing shall hold a public hearing, receiving testimony 8 from the public and the head of the department to which the 9 agency or program involved is attached, the head of the 10 agency involved, and persons who conducted the review.

11 (2) In the event termination of an agency or program 12 is recommended by the legislative audit committee, the 13 agency involved in the termination has the burden of demonstrating a public need for its the agency's or 14 15 <u>program's</u> continued existence and the extent to which a change in the composition, structure, and operation of the 16 17 agency <u>of program</u> would increase--the--protection--of--the 18 improve public health, safety, or welfare from-horm-or 19 damage-of-decrease-the-adverse--effect--on--the--competitive 20 market.

(3) In determining whether to reestablish an agency or
program, the legislature shall consider the performance
audit and review conducted by the legislative audit
committee, the public testimony responsive to the questions
set forth in subsection (2) of 2-8-112, and other matters

-7-

1 considered relevant by the committee."

2 Section 7. Section 2-8-121, MCA, is amended to read: 3 #2-8-121. Effect of termination. Unless otherwise 4 provided, upon termination, each agency__programs or unit 5 shall continue in existence until July 1 of the next 6 succeeding year for the purpose of winding up its affairs. 7 During the windup period, termination does not reduce or 8 otherwise limit the powers or authority of each respective 9 agency or program except that no action may be taken which 10 would continue in effect beyond the l-year windup period. 11 Upon the expiration of the 1 year after termination, each 12 agency or program not modified or reestablished shall be 13 abolished and all unexpended balances of appropriations, allocations, or other funds shall revert to the fund from 14 15 which they were appropriated or, if that fund is abolished, to the general fund." 16 17 Section 8. Section 2-8-122, MCA, is amended to read: 18 #2-8-122. Reestablishment. (1) Any agency or organam scheduled for termination under this part or any subsequent 19 20 act may be reestablished by the legislature for--any--period 21 of--time-specified-by-lawy-not-to-exceed-6-yearsy-at-the-end 22 of-which-time-the-leaislature-shall-again-review-the-agency 23 parsuant--to--2-8-112--and-may-aqain-reestablishy-modify-or 24 allow--the--termination--of--the--agency--pursuant--to--this 25 section.

-8-

1(2) No more than one agency or program may be2continued or reestablished in any bill for an act, and the3agency or program shall be mentioned in the bill's title."4VEW_SECTIONA Section 9. Repealer. (1) Section

5 2-8-103; MCA; is repealed.

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6 (2) Section 2-8-104, MCA, is repealed.

NEW_SECTION. Section 10. Codification instruction.
Section 1 is intended to be codified as an integral part of
Title 2. chapter 8. and the provisions of Title 2. chapter
8. apoly to section 1.

11NEW_SECTION. Section 11. Effectivedates. (1)12Sections 1 through 9. except subsection (1) of section 9.13are effective upon passage and approval.

14 [2] Subsection [1] of section 9 is effective July 1,
15 1983.

-End-