

HOUSE BILL NO. 1
INTRODUCED BY RAMIREZ
BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

DECEMBER 30, 1988	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
JANUARY 2, 1989	FIRST READING.
JANUARY 11, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	POSTED ON CONSENT CALENDAR.
JANUARY 12, 1989	ENGROSSING REPORT.
JANUARY 14, 1989	CONSENT CALENDAR, QUESTIONS AND ANSWERS.
	THIRD READING, PASSED. AYES, 96; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LEGISLATIVE ADMINISTRATION.
	FIRST READING.
MARCH 7, 1989	ON MOTION, REREFERRED TO COMMITTEE ON STATE ADMINISTRATION.
MARCH 13, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 46; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 17, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

MARCH 20, 1989

REPORTED CORRECTLY ENROLLED.

MARCH 21, 1989

SIGNED BY SPEAKER.

IN THE SENATE

MARCH 21, 1989

SIGNED BY PRESIDENT.

IN THE HOUSE

MARCH 22, 1989

DELIVERED TO GOVERNOR.

MARCH 27, 1989

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

MARCH 30, 1989

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

MARCH 31, 1989

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 3, 1989

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 4, 1989

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 6, 1989

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 7, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 1
 2 INTRODUCED BY HARRINGTON
 3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE REVENUE
 6 OVERSIGHT COMMITTEE'S REVIEW FUNCTIONS AND POWERS OVER
 7 DEPARTMENT OF REVENUE RULES TO CORRESPOND WITH THOSE REVIEW
 8 FUNCTIONS AND POWERS GRANTED THE ADMINISTRATIVE CODE
 9 COMMITTEE OVER OTHER AGENCY RULES; AND AMENDING SECTIONS
 10 2-4-402 AND 5-18-107, MCA."

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

13 **Section 1.** Section 2-4-402, MCA, is amended to read:

14 "2-4-402. Powers of the committee -- duty to review
 15 rules -- exception for revenue rules. (1) The Except for
 16 rules proposed by the department of revenue, the
 17 administrative code committee shall review all proposed
 18 rules filed with the secretary of state.

19 (2) Rules The revenue oversight committee shall review
 20 all rules proposed by the department of revenue may--be
 21 reviewed--only--in--regard-to-the-procedural-requirements-of
 22 the-Montana-Administrative-Procedure-Act.

23 (3) The administrative code committee may:

24 (a) request and obtain an agency's rulemaking records
 25 for the purpose of reviewing compliance with 2-4-305;

1 (b) prepare written recommendations for the adoption,
 2 amendment, or rejection of a rule and submit those
 3 recommendations to the department proposing the rule and
 4 submit oral or written testimony at a rulemaking hearing;

5 (c) require that a rulemaking hearing be held in
 6 accordance with the provisions of 2-4-302 through 2-4-305;

7 (d) institute, intervene in, or otherwise participate
 8 in proceedings involving this chapter in the state and
 9 federal courts and administrative agencies;

10 (e) review the incidence and conduct of administrative
 11 proceedings under this chapter."

12 **Section 2.** Section 5-18-107, MCA, is amended to read:

13 "5-18-107. Powers and duties of the committee -- duty
 14 to review revenue rules -- legislative oversight of the
 15 department of revenue -- committee reports. (1) The
 16 committee shall review all proposed rules of the department
 17 of revenue filed with the secretary of state.

18 (2) The committee may:

19 (a) request and obtain the department's rulemaking
 20 records for the purpose of reviewing compliance with
 21 2-4-305;

22 ~~(a)(b)~~ prepare written recommendations for the
 23 adoption, amendment, or rejection of a rule and submit the
 24 recommendations to the department ~~of--revenue--whenever-a~~
 25 ~~rulemaking-hearing-will-not-be-held-in-accordance--with--the~~

provisions of 2-4-302 through 2-4-305;

(b)(c) prepare recommendations for the adoption, amendment, or rejection of a rule and submit oral or written testimony at a rulemaking hearing;

(d) require the department to appear before the committee and respond to the committee's recommendations for the adoption, amendment, or rejection of a rule;

(e) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

(f) recommend to the legislature the repeal, amendment, or adoption of a rule as provided in 2-4-412;

(g) (i) institute, intervene in, or otherwise participate in proceedings that are held in state or federal courts or are conducted by administrative agencies and that involve rulemaking or rule enforcement activities of the department; and

(ii) require the department to provide the committee with copies of documents filed in such proceedings;

(h) review the incidence and conduct of the department's administrative proceedings;

(i) require the department to publish the full or partial text of any pertinent material adopted by reference under 2-4-307;

(j) by an affirmative vote of at least six members of the committee, contract for the preparation of an economic

impact statement or require the department to prepare an economic impact statement, following the provisions of 2-4-405;

(k) petition the department to promulgate, amend, or repeal a rule. Within 60 days after submission of a petition, the department shall either deny the petition in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings in accordance with 2-4-302 through 2-4-305.

(l) make written objection to a proposed rule of the department for lack of substantial compliance with 2-4-302 through 2-4-305. The provisions of 2-4-406 govern the objection procedure, the department's response, and the procedure for and effect of publication of the objection in the Montana Administrative Register and the Administrative Rules of Montana.

(m) petition the department for a declaratory ruling as to the applicability of any statutory provision or of any rule or order of the department. A copy of a declaratory ruling must be filed with the secretary of state for publication in the register. A declaratory ruling or the refusal to issue such a ruling is subject to judicial review in the same manner as decisions or orders in contested cases under the Montana Administrative Procedure Act.

(n) petition for judicial review of the sufficiency of

1 the reasons for the department's finding of imminent peril
2 to the public health, safety, or welfare, cited in support
3 of an emergency or temporary rule proposed by the department
4 under 2-4-303; and

5 (o) require the department to conduct the biennial
6 review of its rules as required in 2-4-314 and report its
7 findings to the committee.

8 (3) The committee shall exercise legislative oversight
9 of the department of revenue, including without limitation
10 the review of:

11 (a) proposed budgets;
12 (b) proposed legislation;
13 (c) pending litigation; and
14 (d) major contracts and personnel actions of the
15 department.

16 (4) The committee may investigate and issue reports on
17 any matter concerning taxation or the department of
18 revenue."

-End-

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 3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE REVENUE
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 7 DEPARTMENT OF REVENUE RULES TO CORRESPOND WITH THOSE REVIEW
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 15 rules -- exception for revenue rules. (1) The Except for
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 17 administrative code committee shall review all proposed
 18 rules filed with the secretary of state.

19 (2) Rules The revenue oversight committee shall review
 20 all rules proposed by the department of revenue may--be
 21 reviewed--only--in--regard-to-the-procedural-requirements-of
 22 the-Montana-Administrative-Procedure-Act.

23 (3) The administrative code committee may:

24 (a) request and obtain an agency's rulemaking records
 25 for the purpose of reviewing compliance with 2-4-305;

1 (b) prepare written recommendations for the adoption,
 2 amendment, or rejection of a rule and submit those
 3 recommendations to the department proposing the rule and
 4 submit oral or written testimony at a rulemaking hearing;

5 (c) require that a rulemaking hearing be held in
 6 accordance with the provisions of 2-4-302 through 2-4-305;

7 (d) institute, intervene in, or otherwise participate
 8 in proceedings involving this chapter in the state and
 9 federal courts and administrative agencies;

10 (e) review the incidence and conduct of administrative
 11 proceedings under this chapter."

12 **Section 2.** Section 5-18-107, MCA, is amended to read:

13 "5-18-107. Powers and duties of the committee -- duty
 14 to review revenue rules -- legislative oversight of the
 15 department of revenue -- committee reports. (1) The
 16 committee shall review all proposed rules of the department
 17 of revenue filed with the secretary of state.

18 (2) The committee may:

19 (a) request and obtain the department's rulemaking
 20 records for the purpose of reviewing compliance with
 21 2-4-305;

22 ~~(a)(b)~~ prepare written recommendations for the
 23 adoption, amendment, or rejection of a rule and submit the
 24 recommendations to the department ~~of--revenue--whenver--a~~
 25 ~~rulemaking-hearing--will--not--be--held--in--accordance--with--the~~

1 ~~provisions of 2-4-302 through 2-4-305;~~

2 ~~(b)(c) prepare recommendations for the adoption,~~
3 ~~amendment, or rejection of a rule and~~ submit oral or written
4 testimony at a rulemaking hearing;

5 (d) require the department to appear before the
6 committee and respond to the committee's recommendations for
7 the adoption, amendment, or rejection of a rule;

8 ~~(c)(e)~~ require that a rulemaking hearing be held in
9 accordance with the provisions of 2-4-302 through 2-4-305;

10 ~~(d)(f)~~ recommend to the legislature the repeal,
11 amendment, or adoption of a rule as provided in 2-4-412-;

12 (g) (i) institute, intervene in, or otherwise
13 participate in proceedings that are held in state or federal
14 courts or are conducted by administrative agencies and that
15 involve rulemaking or rule enforcement activities of the
16 department; and

17 (ii) require the department to provide the committee
18 with copies of documents filed in such proceedings;

19 (h) review the incidence and conduct of the
20 department's administrative proceedings;

21 (i) require the department to publish the full or
22 partial text of any pertinent material adopted by reference
23 under 2-4-307;

24 (j) by an affirmative vote of at least six members of
25 the committee, contract for the preparation of an economic

1 impact statement or require the department to prepare an
2 economic impact statement, following the provisions of
3 2-4-405;

4 (k) petition the department to promulgate, amend, or
5 repeal a rule. Within 60 days after submission of a
6 petition, the department shall either deny the petition in
7 writing, stating its reasons for the denial, or shall
8 initiate rulemaking proceedings in accordance with 2-4-302
9 through 2-4-305.

10 (l) make written objection to a proposed rule of the
11 department for lack of substantial compliance with 2-4-302
12 through 2-4-305. The provisions of 2-4-406 govern the
13 objection procedure, the department's response, and the
14 procedure for and effect of publication of the objection in
15 the Montana Administrative Register and the Administrative
16 Rules of Montana.

17 (m) petition the department for a declaratory ruling
18 as to the applicability of any statutory provision or of any
19 rule or order of the department. A copy of a declaratory
20 ruling must be filed with the secretary of state for
21 publication in the register. A declaratory ruling or the
22 refusal to issue such a ruling is subject to judicial review
23 in the same manner as decisions or orders in contested cases
24 under the Montana Administrative Procedure Act.

25 (n) petition for judicial review of the sufficiency of

1 the reasons for the department's finding of imminent peril
2 to the public health, safety, or welfare, cited in support
3 of an emergency or temporary rule proposed by the department
4 under 2-4-303; and

5 (o) require the department to conduct the biennial
6 review of its rules as required in 2-4-314 and report its
7 findings to the committee.

8 (3) The committee shall exercise legislative oversight
9 of the department of revenue, including without limitation
10 the review of:

11 (a) proposed budgets;
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13 (c) pending litigation; and
14 (d) major contracts and personnel actions of the
15 department.

16 (4) The committee may investigate and issue reports on
17 any matter concerning taxation or the department of
18 revenue."

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20 all rules proposed by the department of revenue may--be
21 reviewed--only--in--regard-to-the-procedural-requirements-of
22 the-Montana-Administrative-Procedure-Act.

23 (3) The administrative code committee may:

24 (a) request and obtain an agency's rulemaking records
25 for the purpose of reviewing compliance with 2-4-305;

House bill 1 has been printed on blue
(third reading) previously. The text
of the bill is correct. The change reflected
on page 1 is a sponsor correction. Please
refer to previous printings for text of bill.

THIRD READING

HB 1

SECOND PRINTING

Sponsor correction



11.6

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 1
(Reference Copy)
March 27, 1989

1. Page 3, lines 12 through 18.
Strike: subsection (g) in its entirety.
Insert: "(g) institute, intervene in, or otherwise
participate in proceedings involving the legality of a
rule under the Montana Administrative Procedures Act in
the state and federal courts and administrative agencies;"

HOUSE BILL NO. 1

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BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE REVENUE OVERSIGHT COMMITTEE'S REVIEW FUNCTIONS AND POWERS OVER DEPARTMENT OF REVENUE RULES TO CORRESPOND WITH THOSE REVIEW FUNCTIONS AND POWERS GRANTED THE ADMINISTRATIVE CODE COMMITTEE OVER OTHER AGENCY RULES; AND AMENDING SECTIONS 2-4-402 AND 5-18-107, MCA."

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(b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit those recommendations to the department proposing the rule and submit oral or written testimony at a rulemaking hearing;

(c) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

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provisions of 2-4-302 through 2-4-305;

(b)(c) prepare recommendations for the adoption, amendment, or rejection of a rule and submit oral or written testimony at a rulemaking hearing;

(d) require the department to appear before the committee and respond to the committee's recommendations for the adoption, amendment, or rejection of a rule;

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(g)--(i) institute, intervene in, or otherwise participate in proceedings that are held in state or federal courts or are conducted by administrative agencies and that involve rulemaking or rule enforcement activities of the department; and

(ii) require the department to provide the committee with copies of documents filed in such proceedings;

(G) INSTITUTE, INTERVENE IN, OR OTHERWISE PARTICIPATE IN PROCEEDINGS INVOLVING THE LEGALITY OF A RULE UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT IN THE STATE AND FEDERAL COURTS AND ADMINISTRATIVE AGENCIES;

(h) review the incidence and conduct of the department's administrative proceedings;

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partial text of any pertinent material adopted by reference under 2-4-307;

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-End-