

HOUSE BILL NO. 21

INTRODUCED BY MENAHAN
BY REQUEST OF THE LEGISLATIVE COUNCIL

IN THE HOUSE

DECEMBER 23, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON LEGISLATIVE ADMINISTRATION.
JANUARY 4, 1993	FIRST READING.
JANUARY 11, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 12, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 13, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 98; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 15, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LEGISLATIVE ADMINISTRATION.
	FIRST READING.
MARCH 24, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 25, 1993	SECOND READING, CONCURRED IN.
MARCH 26, 1993	THIRD READING, CONCURRED IN. AYES, 45; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 27, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 21

2 INTRODUCED BY MENARAN

3 BY REQUEST OF THE LEGISLATIVE COUNCIL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE STAFFING
6 RESPONSIBILITY OF THE LEGISLATIVE COUNCIL; AMENDING SECTIONS
7 2-4-401, 5-11-112, AND 5-18-107, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 2-4-401, MCA, is amended to read:

12 "2-4-401. Administrative code committee -- staff,
13 meetings, and compensation. (1) The legislative council
14 shall provide staff assistance to the administrative code
15 committee. The administrative--code committee may retain
16 whatever employees, consultants, or counsel as are necessary
17 to carry out the provisions of this chapter and to advise
18 the publisher in relation to the text and legal authority of
19 the material published in the register or ARM, within the
20 limitations of legislative appropriations.

21 (2) The committee shall meet as often as may be
22 necessary during and between legislative sessions.

23 (3) Committee members are entitled to receive
24 compensation and expenses as provided in 5-2-302."

25 Section 2. Section 5-11-112, MCA, is amended to read:

1 "5-11-112. Functional divisions. The legislative
2 council may establish functional divisions within the
3 council staff in order to carry out all of the
4 responsibilities delegated to the council by law or
5 legislative rule. The divisions shall include the following:

6 (1) legislative services division:

7 (a) engrossing and enrolling;

8 (b) mailroom;

9 (c) printing;

10 (d) data processing;

11 (2) research and reference services division:

12 (a) general and specialized legislative research;

13 (b) legislative reference and information--including
14 ~~preparation and publication of the legislative review to be~~
15 ~~sold at the cost of the publication plus postage;~~

16 (c) committee staffing ~~when the legislature is not in~~
17 ~~session, including staffing for the revenue oversight~~
18 ~~committee~~ interim committees organized under Title 5,
19 chapter 5, part 2;

20 (3) legal services division:

21 (a) bill drafting;

22 (b) legal counseling;

23 (c) committee staffing;

24 (4) management and business services division, which
25 shall:

- (a) maintain bookkeeping records;
- (b) sign claims and payrolls;
- (c) order all printing, supplies, and equipment; and
- (d) serve the house and senate during the session."

Section 3. Section 5-18-107, MCA, is amended to read:

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

(2) The committee may:

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

(b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit the recommendations to the department;

(c) 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) 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;

(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

1 objection procedure, the department's response, and the
2 procedure for and effect of publication of the objection in
3 the Montana Administrative Register and the Administrative
4 Rules of Montana.

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

13 (n) petition for judicial review of the sufficiency of
14 the reasons for the department's finding of imminent peril
15 to the public health, safety, or welfare, cited in support
16 of an emergency or temporary rule proposed by the department
17 under 2-4-303; and

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

21 (3) The committee shall exercise legislative oversight
22 of the department of revenue, including without limitation
23 the review of:

- 24 (a) proposed budgets;
- 25 (b) proposed legislation;

1 (c) pending litigation; and

2 (d) major contracts and personnel actions of the
3 department.

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

6 (5) (a) The committee shall have prepared by December 1
7 for introduction during each regular session of the
8 legislature in which a revenue bill is under consideration
9 an estimate of the amount of revenue projected to be
10 available for legislative appropriation.

11 (b) The committee's estimate, as introduced in the
12 legislature, constitutes the legislature's current revenue
13 estimate until amended or until final adoption of the
14 estimate by both houses. It is intended that the
15 legislature's estimates and the assumptions underlying the
16 estimates will be used by all agencies with responsibilities
17 for estimating revenues or costs, including the preparation
18 of fiscal notes.

19 (c) The legislative council shall provide staff
20 assistance to the committee. The committee may request the
21 assistance of the staffs of the ~~legislative council~~, the
22 office of the legislative fiscal analyst, the legislative
23 auditor, the department of revenue, and any other agency
24 that has information regarding any of the tax or revenue
25 bases of the state."

HB 0021/01

- 1 NEW SECTION. **Section 4.** Effective date. [This act] is
- 2 effective on passage and approval.

-End-

APPROVED BY COMM.
ON LEG. ADMIN.

HOUSE BILL NO. 21

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE STAFFING
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whatever employees, consultants, or counsel as are necessary
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the publisher in relation to the text and legal authority of
the material published in the register or ARM, within the
limitations of legislative appropriations.

(2) The committee shall meet as often as may be
necessary during and between legislative sessions.

(3) Committee members are entitled to receive
compensation and expenses as provided in 5-2-302."

Section 2. Section 5-11-112, MCA, is amended to read:

"5-11-112. Functional divisions. The legislative
council may establish functional divisions within the
council staff in order to carry out all of the
responsibilities delegated to the council by law or
legislative rule. The divisions shall include the following:

(1) legislative services division:

(a) engrossing and enrolling;

(b) mailroom;

(c) printing;

(d) data processing;

(2) research and reference services division:

(a) general and specialized legislative research;

(b) legislative reference and information--~~including
preparation and publication of the Legislative Review to be
sold at the cost of the publication plus postage;~~

(c) committee staffing ~~when the legislature is not in
session, including staffing for the revenue oversight
committee~~ interim committees organized under Title 5,
chapter 5, part 2;

(3) legal services division:

(a) bill drafting;

(b) legal counseling;

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(4) management and business services division, which
shall:

- 1 (a) maintain bookkeeping records;
- 2 (b) sign claims and payrolls;
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- 4 (d) serve the house and senate during the session."

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7 to review revenue rules -- legislative oversight of the
8 department of revenue -- committee reports -- revenue
9 estimating and use of estimates. (1) The committee shall
10 review all proposed rules of the department of revenue filed
11 with the secretary of state.

12 (2) The committee may:

13 (a) request and obtain the department's rulemaking
14 records for the purpose of reviewing compliance with
15 2-4-305;

16 (b) prepare written recommendations for the adoption,
17 amendment, or rejection of a rule and submit the
18 recommendations to the department;

19 (c) submit oral or written testimony at a rulemaking
20 hearing;

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

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

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2 or adoption of a rule as provided in 2-4-412;

3 (g) institute, intervene in, or otherwise participate
4 in proceedings involving the legality of a rule under the
5 Montana Administrative Procedure Act in the state and
6 federal courts and administrative agencies;

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

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

12 (j) by an affirmative vote of at least six members of
13 the committee, contract for the preparation of an economic
14 impact statement or require the department to prepare an
15 economic impact statement, following the provisions of
16 2-4-405;

17 (k) petition the department to promulgate, amend, or
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22 through 2-4-305.

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25 through 2-4-305. The provisions of 2-4-406 govern the

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HB 0021/02

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