

HOUSE BILL 479

Introduced by Larson, et al.

2/05	Introduced
2/05	Referred to State Administration
2/05	First Reading
2/05	Fiscal Note Requested
2/10	Hearing
2/11	Fiscal Note Received
2/12	Fiscal Note Printed
2/17	Committee Report--Bill Passed as Amended
2/19	2nd Reading Passed
2/22	3rd Reading Passed
	Transmitted to Senate
3/01	First Reading
3/01	Referred to Local Government
3/18	Hearing
3/26	Tabled in Committee

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House BILL NO. 479
INTRODUCED BY *Donna D. D.*
Rep. Basini *Rep. Hayes* *Rep. Kados* *Rep. Ryan* *Rep. Gifford* *Rep. Menendez* *Rep. Harbo* *Rep. Reame*
A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE
AGENCIES TO PREPARE ECONOMIC IMPACT STATEMENTS AND IDENTIFY
FUNDING SOURCES FOR LOCAL GOVERNING BODIES FOR THE
IMPLEMENTATION OF STATE REGULATIONS; AMENDING SECTIONS
2-4-102, 2-4-305, 2-4-405, AND 5-18-107, MCA; AND PROVIDING
AN EFFECTIVE DATE."

WHEREAS, state agencies and citizens of Montana should
be fully apprised of the economic impact of state
regulations on local governments and the state; and

WHEREAS, the Executive Branch should acknowledge and
take responsibility for the fiscal and economic impacts of
regulatory actions and activities; and

WHEREAS, state agencies should exercise discretionary
authority to implement mandatory statutory requirements in a
manner that, while consistent with fulfillment of each
agency's statutory obligations, minimizes the impact the
state regulations have on:

(1) the ability of local governing bodies to use local
resources to meet local needs and to establish local
priorities; and

(2) the allocation of economic resources, productivity,

economic growth, full employment, and national and
international competitiveness.

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

Section 1. Section 2-4-102, MCA, is amended to read:

"2-4-102. Definitions. For purposes of this chapter,
the following definitions apply:

(1) "Administrative code committee" or "committee"
means the committee provided for in Title 5, chapter 14.

(2) (a) "Agency" means an agency, as defined in
2-3-102, of the state government, except that the provisions
of this chapter do not apply to the following:

(i) the state board of pardons, except that the board
is subject to the requirements of 2-4-103, 2-4-201, 2-4-202,
and 2-4-306 and its rules must be published in the
Administrative Rules of Montana and the Montana
Administrative Register;

(ii) the supervision and administration of a penal
institution with regard to the institutional supervision,
custody, control, care, or treatment of youths or prisoners;

(iii) the board of regents and the Montana university
system;

(iv) the financing, construction, and maintenance of
public works.

(b) Agency does not include a school district, unit of

1 local government, or any other political subdivision of the
2 state.

3 (3) "ARM" means the Administrative Rules of Montana.

4 (4) "Contested case" means a proceeding before an
5 agency in which a determination of legal rights, duties, or
6 privileges of a party is required by law to be made after an
7 opportunity for hearing. The term includes but is not
8 restricted to ratemaking, price fixing, and licensing.

9 (5) "License" includes the whole or part of any agency
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11 other form of permission required by law but does not
12 include a license required solely for revenue purposes.

13 (6) "Licensing" includes any agency process respecting
14 the grant, denial, renewal, revocation, suspension,
15 annulment, withdrawal, limitation, transfer, or amendment of
16 a license.

17 (7) "Local governing body" means one of the alternative
18 forms of local government provided for under Title 7,
19 chapter 3.

20 ~~(7)(8)~~ "Party" means a person named or admitted as a
21 party or properly seeking and entitled as of right to be
22 admitted as a party, but ~~nothing-herein this subsection may~~
23 ~~not~~ be construed to prevent an agency from admitting any
24 person as a party for limited purposes.

25 ~~(8)(9)~~ "Person" means an individual, partnership,

1 corporation, association, governmental subdivision, agency,
2 or public organization of any character.

3 ~~(9)(10)~~ "Register" means the Montana Administrative
4 Register.

5 ~~(10)(11)~~ "Rule" means each agency regulation, standard,
6 or statement of general applicability that implements,
7 interprets, or prescribes law or policy or describes the
8 organization, procedures, or practice requirements of an
9 agency. The term includes the amendment or repeal of a prior
10 rule but does not include:

11 (a) statements concerning only the internal management
12 of an agency and not affecting private rights or procedures
13 available to the public;

14 (b) formal opinions of the attorney general and
15 declaratory rulings issued pursuant to 2-4-501;

16 (c) rules relating to the use of public works,
17 facilities, streets, and highways when the substance of the
18 rules is indicated to the public by means of signs or
19 signals;

20 (d) seasonal rules adopted annually or biennially
21 relating to hunting, fishing, and trapping when there is a
22 statutory requirement for the publication of the rules and
23 rules adopted annually or biennially relating to the
24 seasonal recreational use of lands and waters owned or
25 controlled by the state when the substance of the rules is

indicated to the public by means of signs or signals;

(e) rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide budgeting and accounting system;

(f) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the Administrative Rules of Montana.

{11}{12} "Substantive rules" are either:

(a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid; or

(b) adjective or interpretive rules, which may be adopted in accordance with this chapter and under express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law."

Section 2. Section 2-4-305, MCA, is amended to read:

"2-4-305. **Requisites for validity** -- authority and statement of reasons. (1) The agency shall consider fully written and oral submissions respecting the proposed rule. Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. If

substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted rule as that rule is printed in the Montana Administrative Register, the differences must be described in the statement of reasons for and against agency action. When no written or oral submissions have not been received, an agency may omit the statement of reasons.

(2) Rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference ~~shall~~ must clearly indicate that portion of the language which is statutory and the portion which is amplification of the language.

(3) Each proposed and adopted rule ~~shall~~ must include a citation to the specific grant of rulemaking authority pursuant to which it or any part thereof of it is adopted. In addition, each proposed and adopted rule ~~shall~~ must include a citation to the specific section or sections in the Montana Code Annotated which the rule purports to implement.

(4) Each rule proposed and adopted by an agency implementing a policy of a governing board or commission must include a citation to and description of the policy implemented. Each agency rule implementing a policy, as used in the definition set forth in 2-4-102{10}, and the policy

itself must be based on legal authority and otherwise comply with the requisites for validity of rules established by this chapter.

(5) To be effective, each substantive rule adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

(6) Whenever by the express or implied terms of any statute a state agency has authority to adopt rules to implement, interpret, make specific, or otherwise carry out the provisions of the statute, no an adopted rule adopted is not valid or effective unless:

(a) consistent and not in conflict with the statute; and

(b) reasonably necessary to effectuate the purpose of the statute. Such The reasonable necessity must be demonstrated in the agency's notice of proposed rulemaking and in the written and oral data, views, comments, or testimony submitted by the public or the agency and considered by the agency.

(7) No A rule is not valid unless adopted in substantial compliance with 2-4-302 or 2-4-303 and this section and unless notice of adoption thereof is published within 6 months of the publishing of notice of the proposed rule. If an amended or supplemental notice of either proposed or final rulemaking, or both, is published

concerning the same rule, the 6-month limit must be determined with reference to the latest notice in all cases."

Section 3. Section 2-4-405, MCA, is amended to read:

"2-4-405. Economic impact statement. (1) Upon-written request-of-the-administrative-code-committee-based-upon--the affirmative---request--of--at--least--five--members--of--the committee--at--an--open--meeting, Except as provided in subsection (2), when an agency proposes to adopt, modify, or repeal a rule that establishes, implements, or modifies a regulatory program or that establishes a fee, the an agency shall prepare a statement of the economic impact of the adoption,--amendment,--or--repeat--of--a proposed rule as proposed. As--an--alternative--the---administrative---code committee--may, by contract, prepare such an estimator. Except to--the--extent--that--the--request--expressly--waives--any--one--or more--of--the--following, the requested statement must--include and the statement prepared by the committee may The economic impact statement must include:

(a) a description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

(b) a description of the probable economic impact of the proposed rule upon-affected-classes-of-persons on local

1 governing bodies and quantifying, to the extent practicable,
2 that impact;

3 (c) the probable costs to the agency and to any other
4 agency of the implementation and enforcement of the proposed
5 rule and any anticipated effect on state revenues;

6 (d) an analysis comparing the costs and benefits of the
7 proposed rule to the costs and benefits of inaction;

8 (e) an analysis that determines whether there are less
9 costly or less intrusive methods for achieving the purpose
10 of the proposed rule;

11 (f) an analysis of any alternative methods for
12 achieving the purpose of the proposed rule that were
13 seriously considered by the agency and the reasons why they
14 were rejected in favor of the proposed rule;

15 (g) a determination as to whether the proposed rule
16 represents an efficient allocation of public and private
17 resources; and

18 (h) a quantification or description of the data upon
19 which subsections (1)(a) through (1)(g) are based and an
20 explanation of how the data was gathered.

21 (2) A request to an agency for a statement or a
22 decision to contract for the preparation of a statement must
23 be made by the committee prior to the final agency action on
24 the rule. The statement must be filed with the
25 administrative code committee within 3 months of the

1 committee's request or decision. The committee may withdraw
2 its request or decision for an economic impact statement at
3 any time. An agency rule that is likely to impose on a local
4 governing body an annual economic impact of less than
5 \$50,000, based upon an initial assessment of the criteria in
6 subsection (1), is exempt from the requirements of this
7 section.

8 (3) Upon receipt of an impact statement, the committee
9 shall determine the sufficiency of the statement. If the
10 committee determines that the statement is insufficient, the
11 committee may return it to the agency or other person who
12 prepared the statement and request that corrections or
13 amendments be made. If the committee determines that the
14 statement is sufficient, a notice indicating where a copy of
15 the statement may be obtained must be filed with the
16 secretary of state for publication in the register by the
17 agency preparing the statement or by the committee, if the
18 statement is prepared under contract by the committee, and
19 must be mailed to persons who have registered advance notice
20 of the agency's rulemaking proceedings. An agency required
21 to prepare an economic impact statement shall publish the
22 statement in the Montana Administrative Register prior to
23 the final adoption of the rule. The statement may be
24 published in conjunction with other notices required
25 pursuant to Title 2, chapter 4, part 3.

(4) An agency that identifies an economic impact to local governing bodies in an economic impact statement shall prepare a description of how the fiscal burden imposed by the rule may be funded by local governing bodies.

~~(4)~~(5) This section does not apply to rulemaking pursuant to 2-4-303.

~~(5)~~(6) The final adoption, amendment, or repeal of a rule is not subject to challenge in any court as a result of the inaccuracy or inadequacy of a statement required under this section.

~~(6)~~(7) An environmental impact statement prepared pursuant to 75-1-201 that includes an analysis of the factors listed in this section satisfies the provisions of this section."

Section 4. 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}{j} 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.

{k}{k} 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}{l} 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}{m} petition for judicial review of the sufficiency of the reasons for the department's finding of imminent peril to the public health, safety, or welfare, cited in

support of an emergency or temporary rule proposed by the department under 2-4-303; and

{n}{n} require the department to conduct the biennial review of its rules as required in 2-4-314 and report its findings to the committee.

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

(a) proposed budgets;

(b) proposed legislation;

(c) pending litigation; and

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

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

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

(b) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the

1 estimates will be used by all agencies with responsibilities
2 for estimating revenues or costs, including the preparation
3 of fiscal notes.

4 (c) The committee may request the assistance of the
5 staffs of the legislative council, the office of the
6 legislative fiscal analyst, the legislative auditor, the
7 department of revenue, and any other agency that has
8 information regarding any of the tax or revenue bases of the
9 state."

10 NEW SECTION. **Section 5.** Effective date. [This act] is
11 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0479, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: The bill would require state agencies to prepare economic impact statements and if the review revealed an economic impact on local governments, identify funding sources for the implementation of state regulations.

ASSUMPTIONS:

Department of Health and Environmental Sciences (DHES)

1. DHES averages 25 sets of new rules per year. The Environmental Sciences Division (ESD) is responsible for about 90 percent of the new rules.
2. DHES does not have an economist and support staff to prepare economic impact statements (EIS). The preparation of an economic statement would require an economist, researcher and clerical support. Funds would also have to be included for printing and distribution. The average economic statement would probably take about six (6) weeks to prepare. (6 X 40 = 240 hr. each)
3. Due to the uncertain nature of new rules it would probably be best to use private contractors to prepare the economic statements. An average current rate for hiring the appropriate personnel is: An economist, \$50/hr.; a researcher, \$40/hr., and clerical support, \$35/hr. (These rates are not static and will likely increase in the next two years.)
($\$50 + \$40 + \$35 = \$125/\text{hr.}$) (25 new rules X 240 Hours X $\$125/\text{hr} = \$750,000$)
4. Travel will average around \$2,000 per statement. ($\$2,000 \times 25 = \$50,000$)
5. Printing and distribution will range from \$3,000 to \$5,000. ($\$4,000 \times 25 = \$100,000$)
6. DHES has no existing funding source for this proposal.
7. DHES would request a general fund appropriation of \$900,000 per year to fund economic statements.

Department of State Lands (DSL)

8. Since counties, cities and towns are required to comply with the Opencut Mining Act (Title 82-4-401 et. seq.), administrative rules promulgated by the DSL will impact a local governing body.
9. DSL would assess the economic impact of these rules by hiring an economic consulting firm under contracted services to complete a "worst case" economic impact analysis. This analysis would determine the most severe impact on the most highly impacted local government entity; then extrapolated to determine the impacts for the lesser impacted local governing bodies.
10. General fund operating expenses would increase by \$8,500 per year based on expected costs of \$5,000 to hire an economic consultant under contracted services and \$3,500 for publishing the document in the Montana Administrative Register.

Office of Public Instruction (OPI)/Board of Public Education

11. School districts are not local governing bodies under the definitions in the bill.
12. OPI has not adopted any rules that create a \$50,000 impact to any local governing bodies.

(continued on next page)

David Lewis 2-11-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

2-12-93
DON LARSON, PRIMARY SPONSOR DATE
Fiscal Note for HB0479, as introduced

HB 479

Fiscal Note Request, HB0479 as introduced
Form BD-15 page 2
(continued)

Department of Transportation

13. About two impact statements per year would divert about \$3,600 from other current level activities.

Secretary of State

14. There would be an additional cost for filing impact statements in the Business and Government Services Program, but the amount is not subject to reasonable estimate.

FISCAL IMPACT:

As noted in the assumptions for each impacted agency.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Current law (2-4-102(8), MCA) defines "person" to include governmental subdivisions. Therefore, the new provision in Section 3(2) exempting agency rules with impacts of less than \$50,000 would result in less impact than current law.

HB 479

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

HOUSE BILL NO. 479

INTRODUCED BY LARSON, DAILY, TUSS, PECK, BACHINI, HARPER,
KADAS, RYAN, MCCAFFREE, PAVLOVICH, MENAHAN, HARRINGTON,
TOOLE, SQUIRES, REAM, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE
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17 committee--may, by contract, prepare such an estimate. Except
18 to--the--extent--that--the--request--expressly--waives--any--one--or
19 more--of--the--following, the requested statement must--include
20 and the statement prepared by the committee may The economic
21 impact statement must include:

22 (a) a description of the classes of persons who will be
23 affected by the proposed rule, including classes that will
24 bear the costs of the proposed rule and classes that will
25 benefit from the proposed rule;

(b) a description of the probable economic impact of the proposed rule ~~upon affected classes of persons~~ on local governing bodies and quantifying, to the extent practicable, that impact;

(c) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

(d) an analysis comparing the costs and benefits of the proposed rule to the costs and benefits of inaction;

(e) an analysis that determines whether there are less costly or less intrusive methods for achieving the purpose of the proposed rule;

(f) an analysis of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

(g) a determination as to whether the proposed rule represents an efficient allocation of public and private resources; and

(h) a quantification or description of the data upon which subsections (1)(a) through (1)(g) are based and an explanation of how the data was gathered.

(2) ~~A request to an agency for a statement or a decision to contract for the preparation of a statement must be made by the committee prior to the final agency action on~~

~~the rule. The statement must be filed with the administrative code committee within 3 months of the committee's request or decision. The committee may withdraw its request or decision for an economic impact statement at any time. An agency rule that is likely to impose on a local governing body an annual economic impact of less than \$50,000 \$10,000 FOR A FIRST-CLASS CITY AND \$2,500 FOR ANY OTHER LOCAL GOVERNING BODY, based upon an initial assessment of the criteria in subsection (1), is exempt from the requirements of this section.~~

(3) ~~Upon receipt of an impact statement, the committee shall determine the sufficiency of the statement. If the committee determines that the statement is insufficient, the committee may return it to the agency or other person who prepared the statement and request that corrections or amendments be made. If the committee determines that the statement is sufficient, a notice indicating where a copy of the statement may be obtained must be filed with the secretary of state for publication in the register by the agency preparing the statement or by the committee, if the statement is prepared under contract by the committee, and must be mailed to persons who have registered advance notice of the agency's rulemaking proceedings. An agency required to prepare an economic impact statement shall publish the statement in the Montana Administrative Register prior to~~

the final adoption of the rule. The statement may be published in conjunction with other notices required pursuant to Title 2, chapter 4, part 3.

(4) An agency that identifies an economic impact to local governing bodies in an economic impact statement shall prepare a description of how the fiscal burden imposed by the rule may be funded by local governing bodies.

~~†4†~~(5) This section does not apply to rulemaking pursuant to 2-4-303.

~~†5†~~(6) The final adoption, amendment, or repeal of a rule is not subject to challenge in any court as a result of the inaccuracy or inadequacy of a statement required under this section.

~~†6†~~(7) An environmental impact statement prepared pursuant to 75-1-201 that includes an analysis of the factors listed in this section satisfies the provisions of this section."

Section 4. 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~~

1 ~~the--committee--contract-for-the-preparation-of-an-economic~~
 2 ~~impact-statement-or-require-the--department--to--prepare--an~~
 3 ~~economic--impact--statement--following--the--provisions--of~~
 4 ~~2-4-405;~~

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

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

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

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

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

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

12 (a) proposed budgets;

13 (b) proposed legislation;

14 (c) pending litigation; and

15 (d) major contracts and personnel actions of the
 16 department.

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

19 (5) (a) The committee shall have prepared by December 1
 20 for introduction during each regular session of the
 21 legislature in which a revenue bill is under consideration
 22 an estimate of the amount of revenue projected to be
 23 available for legislative appropriation.

24 (b) The committee's estimate, as introduced in the
 25 legislature, constitutes the legislature's current revenue

1 estimate until amended or until final adoption of the
2 estimate by both houses. It is intended that the
3 legislature's estimates and the assumptions underlying the
4 estimates will be used by all agencies with responsibilities
5 for estimating revenues or costs, including the preparation
6 of fiscal notes.

7 (c) The committee may request the assistance of the
8 staffs of the legislative council, the office of the
9 legislative fiscal analyst, the legislative auditor, the
10 department of revenue, and any other agency that has
11 information regarding any of the tax or revenue bases of the
12 state."

13 NEW SECTION. **Section 5. Effective date.** [This act] is
14 effective July 1, 1993.

-End-

1 HOUSE BILL NO. 479

2 INTRODUCED BY LARSON, DAILY, TUSS, PECK, BACHINI, HARPER,
3 KADAS, RYAN, MCCAFFREE, PAVLOVICH, MENAHAN, HARRINGTON,
4 TOOLE, SQUIRES, REAM, D. BROWN

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE
7 AGENCIES TO PREPARE ECONOMIC IMPACT STATEMENTS AND IDENTIFY
8 FUNDING SOURCES FOR LOCAL GOVERNING BODIES FOR THE
9 IMPLEMENTATION OF STATE REGULATIONS; AMENDING SECTIONS
10 2-4-102, 2-4-305, 2-4-405, AND 5-18-107, MCA; AND PROVIDING
11 AN EFFECTIVE DATE."

12
13 WHEREAS, state agencies and citizens of Montana should
14 be fully apprised of the economic impact of state
15 regulations on local governments and the state; and

16 WHEREAS, the Executive Branch should acknowledge and
17 take responsibility for the fiscal and economic impacts of
18 regulatory actions and activities; and

19 WHEREAS, state agencies should exercise discretionary
20 authority to implement mandatory statutory requirements in a
21 manner that, while consistent with fulfillment of each
22 agency's statutory obligations, minimizes the impact the
23 state regulations have on:

24 (1) the ability of local governing bodies to use local
25 resources to meet local needs and to establish local

1 priorities; and

2 (2) the allocation of economic resources, productivity,
3 economic growth, full employment, and national and
4 international competitiveness.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 Section 1. Section 2-4-102, MCA, is amended to read:

8 "2-4-102. Definitions. For purposes of this chapter,
9 the following definitions apply:

10 (1) "Administrative code committee" or "committee"
11 means the committee provided for in Title 5, chapter 14.

12 (2) (a) "Agency" means an agency, as defined in
13 2-3-102, of the state government, except that the provisions
14 of this chapter do not apply to the following:

15 (i) the state board of pardons, except that the board
16 is subject to the requirements of 2-4-103, 2-4-201, 2-4-202,
17 and 2-4-306 and its rules must be published in the
18 Administrative Rules of Montana and the Montana

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.