

1 HOUSE BILL NO. 41

2 INTRODUCED BY COBB

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MECHANISMS TO INCREASE THE AWARENESS OF
5 THE CONTENTS, COSTS, AND EFFECTS OF, AND POSSIBLE PROBLEMS WITH, ADMINISTRATIVE RULES;
6 AMENDING SECTIONS 2-4-302, 2-4-314, 2-4-405, AND 5-18-107, MCA; AND PROVIDING AN EFFECTIVE
7 DATE."

8

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

10

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

12 **"2-4-302. Notice, hearing, and submission of views.** (1) Prior to the adoption, amendment, or
13 repeal of any rule, the agency shall give written notice of its intended action. The notice ~~shall~~ must include
14 a statement of either the terms or substance of the intended action or a description of the subjects and
15 issues involved, the rationale for the intended action, and the time when, place where, and manner in which
16 interested persons may present their views ~~thereon~~ on the proposal. If the agency proposes to adopt,
17 increase, or decrease a monetary amount that persons shall pay or will receive, such as fees, costs, or
18 benefits, the notice must include an estimate of:

19 (a) the cumulative amount for all persons of the proposed amount, increase, or decrease;20 (b) the number of persons affected; and21 (c) the amount of time and money that it will cost a person to comply with rule requirements for
22 payment or receipt of the fees, costs, or benefits.

23 (2) (a) The notice ~~shall~~ must be filed with the secretary of state for publication in the register, as
24 provided in 2-4-312, and mailed within 3 days of publication to persons who have made timely requests
25 to the agency for notice of its rulemaking proceedings and to the office of any professional, trade, or
26 industrial society or organization or member ~~thereof~~ of the society or organization that has filed a
27 request with the administrative code committee when ~~such~~ the request has been forwarded to the agency
28 as provided in subsection (2)(b).

29 (b) The administrative code committee shall forward a list of all organizations or persons who have
30 submitted a request to be informed of agency actions to all agencies publishing rulemaking notices in the

1 ~~Montana Administrative Register~~ register. The list must be amended by the agency upon request of any
 2 person requesting to be added to or deleted from the list.

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

5 (3) If any statute provides for a different method of publication, the affected agency shall comply
 6 with the statute in addition to the requirements contained ~~herein~~ in this section. However, ~~in no case may~~
 7 the notice period may not be less than 30 days or more than 6 months.

8 (4) Prior to the adoption, amendment, or repeal of ~~any~~ a rule, the agency shall afford interested
 9 persons at least 20 days' notice of a hearing and 28 days from the day of notice to submit data, views,
 10 or arguments, orally or in writing. In the case of substantive rules, the notice of proposed rulemaking must
 11 state that opportunity for oral hearing ~~shall~~ will be granted if requested by either 10% or 25, whichever is
 12 less, of the persons who will be directly affected by the proposed rule, by a governmental subdivision or
 13 agency, by the administrative code committee, or by an association having not less than 25 members who
 14 will be directly affected.

15 (5) An agency may continue a hearing date for cause. In the discretion of the agency, contested
 16 case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise
 17 required by statute, nothing ~~herein~~ in this section alters that requirement.

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

21 (7) At the commencement of any hearing on the intended action, the person designated by the
 22 agency to preside at the hearing shall read aloud the "Notice of Function of Administrative Code
 23 Committee" appearing in the register."
 24

25 **Section 2.** Section 2-4-314, MCA, is amended to read:

26 **"2-4-314. Biennial review by agencies -- recommendations by committee.** (1) Each agency shall
 27 ~~at least biennially~~ review its rules during each state fiscal biennium to determine if any new rule should be
 28 adopted or if any existing rule should be modified or repealed.

29 (2) Each agency shall, after the end of each state fiscal biennium and before the start of the next
 30 regular session of the legislature, report to the committee the rules repealed by the agency during the

1 biennium and, except for rule changes proposed or adopted during the biennium, the substance, in detail
 2 for each rule, of rule criticism received by the agency from any source during the biennium.

3 ~~(2)~~(3) The committee may recommend to the legislature those modifications, additions, or deletions
 4 of agency rulemaking authority ~~which~~ that the committee considers necessary."
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6 **Section 3.** Section 2-4-405, MCA, is amended to read:

7 **"2-4-405. Economic impact statement.** (1) Upon written request of the administrative code
 8 committee based upon the affirmative request of at least five members of the committee at an open
 9 meeting, an agency shall prepare a statement of the economic impact of the adoption, amendment, or
 10 repeal of a rule as proposed. The agency shall also prepare a statement upon written request to the agency
 11 and provision of a copy of the request to the committee by at least 15 legislators or upon written
 12 notification to the agency by the committee that 15 or more legislators have requested the committee in
 13 writing to request the agency for a statement. As an alternative, the administrative code committee may,
 14 by contract, prepare ~~such an~~ the estimate. Except to the extent that the request expressly waives any one
 15 or more of the following, the requested statement must include and the statement prepared by the
 16 committee may include:

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

19 (b) a description of the probable economic impact of the proposed rule upon affected classes of
 20 persons and quantifying, to the extent practicable, that impact;

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

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

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

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

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

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

3 (2) A request to an agency for a statement or a decision to contract for the preparation of a
4 statement must be made ~~by the committee~~ prior to the final agency action on the rule. The statement must
5 be filed with the administrative code committee within 3 months of the ~~committee's~~ request or decision.
6 ~~The committee may withdraw its~~ A request or decision for an economic impact statement may be
7 withdrawn at any time.

8 (3) Upon receipt of an impact statement, the committee shall determine the sufficiency of the
9 statement. If the committee determines that the statement is insufficient, the committee may return it to
10 the agency or other person who prepared the statement and request that corrections or amendments be
11 made. If the committee determines that the statement is sufficient, a notice including a summary of the
12 statement and indicating where a copy of the statement may be obtained must be filed with the secretary
13 of state for publication in the register by the agency preparing the statement or by the committee, if the
14 statement is prepared under contract by the committee, and must be mailed to persons who have registered
15 advance notice of the agency's rulemaking proceedings.

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

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

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

21
22 **NEW SECTION. Section 4. Rulemaking note for bill.** The presiding officer of the house in which
23 a bill that grants rulemaking authority or includes provisions that existing rulemaking authority will extend
24 to may, at the time of introduction of the bill, request a rulemaking note. A note may also be requested,
25 as the joint rules of the senate and the house of representatives may allow, by:

26 (1) a committee considering the bill;

27 (2) a majority of the members of the house in which the bill is to be considered, at the time of
28 second reading; or

29 (3) the sponsor, through the presiding officer.

30

1 **NEW SECTION. Section 5. Preparation of rulemaking note.** The budget director, in cooperation
2 with the state or local agencies or officials or organizations representing local agencies or officials affected
3 by the bill, is responsible for the preparation of the rulemaking note and shall provide the note to the
4 presiding officer within 6 days of the request for the note. The budget director may ask the presiding
5 officer to allow additional time to complete a note.

6
7 **NEW SECTION. Section 6. Submission of rulemaking note -- sponsor's note -- distribution to**
8 **legislators.** (1) A completed rulemaking note must be submitted by the budget director to the presiding
9 officer. Upon receipt of the completed note, the presiding officer shall notify the sponsor of the bill for
10 which the note was prepared that the note has been completed and is available for review. Within 24 hours
11 following notification, the sponsor shall:

12 (a) notify the presiding officer that the sponsor concurs with the completed note;

13 (b) request additional time, not to exceed 24 hours, to consult with the budget director on the
14 note; or

15 (c) elect to prepare a sponsor's note as provided in subsection (4).

16 (2) (a) If the sponsor concurs with the completed note prepared by the budget director or elects
17 to prepare a sponsor's note, the presiding officer shall refer the completed note prepared by the budget
18 director to the committee considering the bill. If the bill is printed, the note must be reproduced and placed
19 on the members' desks.

20 (b) If the sponsor requests additional time to consult with the budget director, the presiding officer
21 shall notify the sponsor and the budget director of the time, not to extend beyond the time limitation
22 specified in subsection (1)(b), by which:

23 (i) the budget director shall submit a revised completed note to the presiding officer;

24 (ii) the sponsor shall notify the presiding officer that the sponsor concurs with the original
25 completed note; or

26 (iii) the sponsor shall elect to prepare a sponsor's note as provided in subsection (4).

27 (3) At the time specified as provided in subsection (2)(b), the presiding officer shall refer the
28 original or, if revised, the revised note to the committee considering the bill. If the bill is printed, the note
29 must be reproduced and placed on the members' desks.

30 (4) (a) A sponsor who elects to prepare a sponsor's note shall prepare the note as provided in

1 [section 7] and return the completed note to the presiding officer within 4 days of the election to prepare
2 a sponsor's note.

3 (b) The presiding officer may grant additional time to the sponsor to prepare the sponsor's note.

4 (c) Upon receipt of the completed sponsor's note, the presiding officer shall refer it to the
5 committee hearing the bill. If the bill is printed, the note must be identified as a sponsor's note, reproduced,
6 and placed on the members' desks.

7
8 **NEW SECTION. Section 7. Contents of rulemaking note.** (1) A rulemaking note must, if possible,
9 include:

10 (a) a description of the subjects that the rules must address and the subjects that the rules may
11 have to address;

12 (b) a description of the various types of approaches that the rules could take in addressing those
13 subjects;

14 (c) an estimate of the number of persons or entities that will be affected by the rules and of the
15 short-term and long-term costs to the average person or entity of complying with the rules;

16 (d) an estimate of the short-term and long-term costs to the rulemaking agency of administering
17 the rules; and

18 (e) those subjects to be addressed by rules that could instead have been adequately addressed in
19 the bill and the reasons why those subjects were not addressed in the bill.

20 (2) No comment or opinion relative to merits of the bill, except for matters and issues relating to
21 rulemaking, may be included. Technical or mechanical defects may be noted.

22
23 **NEW SECTION. Section 8. Background information on rulemaking note to legislators on request.**

24 The budget director shall make available on request to any member of the legislature all background
25 information used in developing a rulemaking note.

26
27 **Section 9.** Section 5-18-107, MCA, is amended to read:

28 **"5-18-107. Powers and duties of committee -- duty to review revenue rules -- legislative oversight**
29 **of department of revenue -- committee reports -- revenue estimating and use of estimates -- coal tax**
30 **oversight.** (1) The committee shall review all proposed rules of the department of revenue filed with the

1 secretary of state.

2 (2) The committee may:

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

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

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

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

10 (e) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through
11 2-4-305;

12 (f) recommend to the legislature the repeal, amendment, or adoption of a rule as provided in
13 2-4-412;

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

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

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

20 (j) by an affirmative vote of at least six members of the committee, contract for the preparation
21 of an economic impact statement or require the department to prepare an economic impact statement,
22 following the provisions of 2-4-405; The department shall also prepare a statement upon written request
23 of 15 or more legislators communicated directly to the department by the legislators or communicated to
24 the committee and forwarded to the department in the manner provided in 2-4-405.

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

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

1 Register and the Administrative Rules of Montana.

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

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

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

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

14 (a) proposed budgets;

15 (b) proposed legislation;

16 (c) pending litigation; and

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

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

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

23 (b) The committee's estimate, as introduced in the legislature, constitutes the legislature's current
24 revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that
25 the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with
26 responsibilities for estimating ~~revenues~~ revenue or costs, including the preparation of fiscal notes.

27 (c) The legislative council shall provide staff assistance to the committee. The committee may
28 request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the
29 department ~~of revenue~~, and any other agency that has information regarding any of the tax or revenue
30 bases of the state.

- 1 (6) The committee may:
- 2 (a) review the programs financed by coal severance tax funds;
- 3 (b) consider any matters relating to coal taxation; and
- 4 (c) prepare for the legislature a report, as provided in 5-11-210, on potential uses of the coal tax
- 5 trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present
- 6 and future generations of Montanans while maintaining and improving a clean and healthful environment
- 7 as required by Article IX, section 1, of the Montana constitution."

8

9 NEW SECTION. **Section 10. Effective date.** [This act] is effective July 1, 1997.

10

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0041, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing mechanisms to increase the awareness of the contents, costs, and effects of, and possible problems with, administrative rules.

ASSUMPTIONS:

1. Of the twenty agencies responding to this fiscal note, fourteen noted they can absorb the additional workload required by the bill.
2. The remaining six agencies documented their need for an additional partial FTE. The departments are: Labor and Industry (.5 FTE); Transportation (.5 FTE); Agriculture (.15 FTE); Livestock (.15 FTE); Fish, Wildlife & Parks (.07 FTE); and Revenue (.15 FTE).
3. It is assumed that the volume of, and process of creating rulemaking notes would be similar to fiscal notes. Accordingly, the Office of Budget and Program Planning (OBPP) would need a 0.25 FTE each session year to coordinate, write, edit, and distribute rulemaking notes.

FISCAL IMPACT:

Expenditures:

For Seven Departments:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTEs	1.30	2.00
Personal services	33,100	61,700
<u>Funding:</u>		
General fund (01)	0	23,500
State Special revenue (02)	21,300	26,400
Federal (03)	<u>11,800</u>	<u>11,800</u>
Total	<u>33,100</u>	<u>61,700</u>

Dave Lewis 1-7-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOHN COBB, PRIMARY SPONSOR DATE

Fiscal Note for HB0041, as introduced

HB 41

APPROVED BY COM
ON JUDICIARY

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2 INTRODUCED BY COBB
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(WHITE) FOR COMPLETE TEXT.**

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

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(2) (a) The notice ~~shall~~ must be filed with the secretary of state for publication in the register, as provided in 2-4-312, and mailed within 3 days of publication to persons who have made timely requests to the agency for notice of its rulemaking proceedings and to the office of any professional, trade, or industrial society or organization or member ~~thereof~~ of the society or organization that has filed a request with the administrative code committee when ~~such~~ the request has been forwarded to the agency as provided in subsection (2)(b).

(b) The administrative code committee shall forward a list of all organizations or persons who have submitted a request to be informed of agency actions to all agencies publishing rulemaking notices in the

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 20 considered a new proposal for purposes of compliance with this chapter.

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1 ~~agency during the biennium and, except for rule changes proposed or adopted during the biennium, the~~
 2 ~~substance, in detail for each rule, A SUMMARY of rule criticism received by the agency from any source~~
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29 as the joint rules of the senate and the house of representatives may allow, by:

30 (1) a committee considering the bill;

1 (2) a majority of the members of the house in which the bill is to be considered, at the time of
 2 second reading; or

3 (3) the sponsor, through the presiding officer.
 4
 5

6 **NEW SECTION. Section 5. Preparation of rulemaking note.** The budget director, in cooperation
 7 with the state or local agencies or officials or organizations representing local agencies or officials affected
 8 by the bill, is responsible for the preparation of the rulemaking note and shall provide the note to the
 9 presiding officer within 6 days of the request for the note. The budget director may ask the presiding
 10 officer to allow additional time to complete a note.
 11

12 **NEW SECTION. Section 6. Submission of rulemaking note -- sponsor's note -- distribution to**
 13 **legislators.** (1) A completed rulemaking note must be submitted by the budget director to the presiding
 14 officer. Upon receipt of the completed note, the presiding officer shall notify the sponsor of the bill for
 15 which the note was prepared that the note has been completed and is available for review. Within 24 hours
 16 following notification, the sponsor shall:

17 (a) notify the presiding officer that the sponsor concurs with the completed note;

18 (b) request additional time, not to exceed 24 hours, to consult with the budget director on the
 19 note; or

20 (c) elect to prepare a sponsor's note as provided in subsection (4).
 21

22 (2) (a) If the sponsor concurs with the completed note prepared by the budget director or elects
 23 to prepare a sponsor's note, the presiding officer shall refer the completed note prepared by the budget
 24 director to the committee considering the bill. If the bill is printed, the note must be reproduced and placed
 on the members' desks.

25 (b) If the sponsor requests additional time to consult with the budget director, the presiding officer
 26 shall notify the sponsor and the budget director of the time, not to extend beyond the time limitation
 27 specified in subsection (1)(b), by which:

28 (i) the budget director shall submit a revised completed note to the presiding officer;

29 (ii) the sponsor shall notify the presiding officer that the sponsor concurs with the original
 30 completed note; or

1 (iii) the sponsor shall elect to prepare a sponsor's note as provided in subsection (4).

2 (3) At the time specified as provided in subsection (2)(b), the presiding officer shall refer the
3 original or, if revised, the revised note to the committee considering the bill. If the bill is printed, the note
4 must be reproduced and placed on the members' desks.

5 (4) (a) A sponsor who elects to prepare a sponsor's note shall prepare the note as provided in
6 [section 7] and return the completed note to the presiding officer within 4 days of the election to prepare
7 a sponsor's note.

8 (b) The presiding officer may grant additional time to the sponsor to prepare the sponsor's note.

9 (c) Upon receipt of the completed sponsor's note, the presiding officer shall refer it to the
10 committee hearing the bill. If the bill is printed, the note must be identified as a sponsor's note, reproduced,
11 and placed on the members' desks.

12

13 **NEW SECTION. Section 7. Contents of rulemaking note.** (1) A rulemaking note must, if possible,
14 include:

15 (a) a description of the subjects that the rules must address and the subjects that the rules may
16 have to address;

17 ~~(b) a description of the various types of approaches that the rules could take in addressing those~~
18 ~~subjects;~~

19 ~~(c)(B)~~ (B) an estimate of the number of persons or entities that will be affected by the rules and of the
20 short-term and long-term costs to the average person or entity of complying with the rules;

21 ~~(d)(C)~~ (C) an estimate of the short-term and long-term costs to the rulemaking agency of administering
22 the rules; and

23 ~~(e)(D)~~ (D) those subjects to be addressed by rules that could instead have been adequately addressed
24 in the bill and the reasons why those subjects were not addressed in the bill.

25 (2) No comment or opinion relative to merits of the bill, except for matters and issues relating to
26 rulemaking, may be included. Technical or mechanical defects may be noted.

27

28 **NEW SECTION. Section 8. Background information on rulemaking note to legislators on request.**

29 The budget director shall make available on request to any member of the legislature all background
30 information used in developing a rulemaking note.

1 **Section 9.** Section 5-18-107, MCA, is amended to read:

2 **"5-18-107. Powers and duties of committee -- duty to review revenue rules -- legislative oversight**
3 **of department of revenue -- committee reports -- revenue estimating and use of estimates -- coal tax**
4 **oversight.** (1) The committee shall review all proposed rules of the department of revenue filed with the
5 secretary of state.

6 (2) The committee may:

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

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

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

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

14 (e) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through
15 2-4-305;

16 (f) recommend to the legislature the repeal, amendment, or adoption of a rule as provided in
17 2-4-412;

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

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

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

24 (j) by an affirmative vote of at least six members of the committee, contract for the preparation
25 of an economic impact statement or require the department to prepare an economic impact statement,
26 following the provisions of 2-4-405. The department shall also prepare a statement upon written request
27 of 15 or more legislators communicated directly to the department by the legislators or communicated to
28 the committee and forwarded to the department in the manner AS provided in 2-4-405.

29 (k) petition the department to promulgate, amend, or repeal a rule. Within 60 days after submission
30 of a petition, the department shall either deny the petition in writing, stating its reasons for the denial, or

1 shall initiate rulemaking proceedings in accordance with 2-4-302 through 2-4-305.

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

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

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

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

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

18 (a) proposed budgets;

19 (b) proposed legislation;

20 (c) pending litigation; and

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

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

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

27 (b) The committee's estimate, as introduced in the legislature, constitutes the legislature's current
28 revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that
29 the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with
30 responsibilities for estimating ~~revenues~~ revenue or costs, including the preparation of fiscal notes.

1 (c) The legislative council shall provide staff assistance to the committee. The committee may
2 request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the
3 department ~~of revenue~~, and any other agency that has information regarding any of the tax or revenue
4 bases of the state.

5 (6) The committee may:

6 (a) review the programs financed by coal severance tax funds;

7 (b) consider any matters relating to coal taxation; and

8 (c) prepare for the legislature a report, as provided in 5-11-210, on potential uses of the coal tax
9 trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present
10 and future generations of Montanans while maintaining and improving a clean and healthful environment
11 as required by Article IX, section 1, of the Montana constitution."

12

13 NEW SECTION. **Section 10. Effective date.** [This act] is effective July 1, 1997.

14

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