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INTRODUCED BY

House BILL NO. 368
Brainard

Koch

A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING THE ADMINISTRATIVE CODE COMMITTEE WITH NINE ADMINISTRATIVE RULES OVERSIGHT COMMITTEES, EACH WITH JURISDICTION OVER THE RULES OF CERTAIN AGENCIES AND OFFICES; PROVIDING FOR THE ORGANIZATION, AUTHORITY, AND MEETINGS OF THE COMMITTEES; AND AMENDING SECTIONS 2-4-102, 2-4-110, 2-4-302, 2-4-306, 2-4-307, 2-4-308, 2-4-311, 2-4-312, 2-4-313, 2-4-314, 2-4-401, 2-4-402, 2-4-403, 2-4-404, 2-4-405, 2-4-406, 2-4-410, 2-4-411, 2-4-412, 5-2-504, 5-14-101, 5-14-102, 5-14-103, AND 5-14-104, MCA."

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~~ rules oversight committee" or "committee" means ~~the~~ a 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 and parole, 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~~ ARM and the ~~Montana Administrative Register~~ 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, a unit of local government, or any other political subdivision of the state.

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

(4) "Contested case" means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term

1 includes but is not restricted to ratemaking, price fixing, and licensing.

2 (5) "License" includes the whole or part of any agency permit, certificate, approval, registration,
3 charter, or other form of permission required by law but does not include a license required solely for
4 revenue purposes.

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

7 (7) "Party" means a person named or admitted as a party or properly seeking and entitled as of
8 right to be admitted as a party, but nothing in this chapter may be construed to prevent an agency from
9 admitting any person as a party for limited purposes.

10 (8) "Person" means an individual, partnership, corporation, association, governmental subdivision,
11 agency, or public organization of any character.

12 (9) "Register" means the Montana Administrative Register.

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

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

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

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

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

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

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

29 (11) "Substantive rules" are either:

30 (a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated

1 authority to promulgate rules to implement a statute have the force of law and when not so adopted are
2 invalid; or

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

6

7 **Section 2.** Section 2-4-110, MCA, is amended to read:

8 "2-4-110. **Departmental review of rule notices.** (1) The head of each department of the executive
9 branch shall appoint an existing attorney, paralegal, or other qualified person from that department to
10 review each departmental rule proposal notice, adoption notice, or other notice relating to administrative
11 rulemaking. Notice of the name of the person appointed under this subsection and of any successor must
12 be given to the secretary of state and the administrative ~~code~~ rules oversight committee that has jurisdiction
13 over the department's rules under 5-14-101 within 10 days of the appointment.

14 (2) The person appointed under subsection (1) shall review each notice by any division, bureau,
15 or other unit of the department, including units attached to the department for administrative purposes only
16 under 2-15-121, for compliance with this chapter before the notice is filed with the secretary of state. The
17 reviewer shall pay particular attention to 2-4-302 and 2-4-305. The review must include but is not limited
18 to consideration of:

19 (a) the adequacy of the rationale for the intended action and whether the intended action is
20 reasonably necessary to effectuate the purpose of the code section or sections implemented;

21 (b) whether the proper statutory authority for the rule is cited;

22 (c) whether the citation of the code section or sections implemented is correct; and

23 (d) whether the intended action is contrary to the code section or sections implemented or to other
24 law.

25 (3) The person appointed under subsection (1) shall sign each notice for which this section requires
26 a review. The act of signing is an affirmation that the review required by this section has been performed
27 to the best of the reviewer's ability. The secretary of state may not accept for filing a notice that does not
28 have the signature required by this section."

29

30 **Section 3.** Section 2-4-302, MCA, is amended to read:

1 **"2-4-302. Notice, hearing, and submission of views.** (1) Prior to the adoption, amendment, or
 2 repeal of any rule, the agency shall give written notice of its intended action. The notice ~~shall~~ must include
 3 a statement of either the terms or substance of the intended action or a description of the subjects and
 4 issues involved, the rationale for the intended action, and the time when, place where, and manner in which
 5 interested persons may present their views ~~thereon~~ on the intended action.

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

12 (b) ~~The~~ Each administrative ~~code~~ rules oversight committee shall forward a list of all organizations
 13 or persons who have submitted a request to be informed of agency actions to all agencies whose rules the
 14 committee has jurisdiction over under 5-14-101 publishing and that publish rulemaking notices in the
 15 ~~Montana Administrative Register~~ register. The list must be amended by the agency upon request of any
 16 person requesting to be added to or deleted from the list.

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

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

22 (4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested
 23 persons at least 20 days' notice of a hearing and 28 days from the day of notice to submit data, views,
 24 or arguments, orally or in writing. In the case of substantive rules, the notice of proposed rulemaking must
 25 state that opportunity for oral hearing ~~shall~~ must be granted if requested by either 10% or 25, whichever
 26 is less, of the persons who will be directly affected by the proposed rule, by a governmental subdivision
 27 or agency, by the administrative ~~code~~ rules oversight committee that has jurisdiction over the agency's
 28 rules under 5-14-101, or by an association having not less than 25 members who will be directly affected.

29 (5) An agency may continue a hearing date for cause. In the discretion of the agency, contested
 30 case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise

1 required by statute, nothing ~~herein~~ in this section alters that requirement.

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

5 (7) At the commencement of ~~any~~ a hearing on the intended action, the person designated by the
6 agency to preside at the hearing shall read aloud the "Notice of Function of Administrative ~~Code~~ Committee
7 Rules Oversight Committees" appearing in the register."
8

9 **Section 4.** Section 2-4-306, MCA, is amended to read:

10 **"2-4-306. Filing, format, and effective date -- dissemination of emergency rules.** (1) Each agency
11 shall file with the secretary of state a copy of each rule adopted by it.

12 (2) The secretary of state may prescribe a format, style, and arrangement for notices and rules
13 ~~which~~ that are filed pursuant to this chapter and may refuse to accept the filing of any notice or rule that
14 is not in compliance ~~therewith~~. ~~He~~ The secretary of state shall keep and maintain a permanent register of
15 all notices and rules filed, including superseded and repealed rules, ~~which shall~~ that must be open to public
16 inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise
17 provided by statute, the secretary of state may require the payment of the cost of providing ~~such~~ copies.

18 (3) ~~In the event that the~~ If an administrative ~~code~~ rules oversight committee has conducted a poll
19 of the legislature in accordance with 2-4-403 or the revenue oversight committee has conducted a poll in
20 accordance with 5-18-109, the results of the poll ~~shall~~ must be published with the rule.

21 (4) Each rule ~~shall become~~ becomes effective after publication in the register as provided in
22 2-4-312, except that:

23 (a) if a later date is required by statute or specified in the rule, the later date ~~shall be~~ is the effective
24 date;

25 (b) subject to applicable constitutional or statutory provisions:

26 (i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated
27 date following publication in the register; and

28 (ii) an emergency rule ~~shall become~~ becomes effective immediately upon filing with the secretary
29 of state or at a stated date following publication in the register if the agency finds that this effective date
30 is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and

1 a brief statement of reasons ~~therefor shall~~ for the finding must be filed with the rule. The agency shall take
 2 appropriate measures to make emergency rules known to every person who may be affected by ~~them~~ the
 3 rules."

4

5 **Section 5.** Section 2-4-307, MCA, is amended to read:

6 **"2-4-307. Omissions from ARM or register.** (1) An agency may adopt by reference any model
 7 code, federal agency rule, rule of any agency of this state, or other similar publication if the publication of
 8 the model code, rule, or other publication would be unduly cumbersome, expensive, or otherwise
 9 inexpedient.

10 (2) The model code, rule, or other publication must be adopted by reference in a rule adopted under
 11 the rulemaking procedure required by this chapter. The rule must contain a citation to the material adopted
 12 by reference and a statement of the general subject matter of the omitted rule and must state where a copy
 13 of the omitted material may be obtained. Upon request of the secretary of state, a copy of the omitted
 14 material must be filed with the secretary of state.

15 (3) ~~No A rule originally~~ adopting by reference any model code or a rule provided for in subsection
 16 (1) ~~of this section~~ may not adopt any later amendments or editions of the material adopted. Except as
 17 provided in subsection (5), each later amendment or edition may be adopted by reference only by following
 18 the rulemaking procedure required by this chapter.

19 (4) If requested by a three-fourths vote of the administrative ~~code~~ rules oversight committee that
 20 has jurisdiction over the agency's rules under 5-14-101, an agency ~~must~~ shall immediately publish the full
 21 or partial text of any pertinent material adopted by reference under this section. The committee may not
 22 require the publication of copyrighted material. Publication of the text of a rule previously adopted does not
 23 affect the date of adoption of the rule, but publication of the text of a rule before publication of the notice
 24 of final adoption must be in the form of and is considered to be a new notice of proposed rulemaking.

25 (5) Whenever later amendments of federal regulations must be adopted to comply with federal law
 26 or to qualify for federal funding, only a notice of incorporation by reference of ~~such~~ the later amendments
 27 ~~shall~~ must be filed in the ~~Montana Administrative Register~~ register. This notice ~~shall~~ must contain the
 28 information required by subsection (2) ~~of this section~~ and ~~shall~~ must state the effective date of ~~such~~ the
 29 incorporation. The effective date may be no sooner than 30 days after the date upon which the notice is
 30 published unless the 30 days ~~causes~~ cause a delay that jeopardizes compliance with federal law or

1 qualification for federal funding, in which event the effective date may be no sooner than the date of
 2 publication. A hearing is not required unless requested under 2-4-315 by either 10% or 25, whichever is
 3 less, of the persons who will be directly affected by the incorporation, by a governmental subdivision or
 4 agency, or by an association having not less than 25 members who will be directly affected. ~~No further~~
 5 Further notice of adoption or preparation of a replacement page for the ~~Administrative Rules of Montana~~
 6 ARM is not required.

7 (6) If a hearing is requested under subsection (5), the petition for hearing ~~shall~~ must contain a
 8 request for an amendment and may contain suggested language, reasons for an amendment, and any other
 9 information pertinent to the subject of the rule."
 10

11 **Section 6.** Section 2-4-308, MCA, is amended to read:

12 **"2-4-308. Adjective or interpretive rule -- statement of implied authority and legal effect.** (1) Each
 13 adjective or interpretive rule or portion of ~~such a~~ the rule to be adopted ~~after October 1, 1983,~~ under
 14 implied rulemaking authority ~~shall~~ must contain a statement in the historical notations of the rule that the
 15 rule is advisory only but may be a correct interpretation of the law. ~~Such~~ The statement must be placed
 16 in the ARM when the rule in question is next scheduled for reprinting.

17 (2) The administrative ~~code~~ rules oversight committee that has jurisdiction over the rule under
 18 5-14-101 may file with the secretary of state, for publication with any rule or portion ~~thereof~~ of a rule that
 19 it considers to be adjective or interpretive, a statement indicating that it is the opinion of the ~~administrative~~
 20 ~~code~~ committee that the rule or portion ~~thereof~~ of the rule is adjective or interpretive and therefore advisory
 21 only. If the committee requests the statement to be published for an adopted rule not scheduled for
 22 reprinting in the ARM, the cost of publishing the statement in the ARM ~~shall~~ must be borne by the
 23 committee."
 24

25 **Section 7.** Section 2-4-311, MCA, is amended to read:

26 **"2-4-311. Publication and arrangement of ARM.** (1) The secretary of state shall compile, index,
 27 arrange, rearrange, correct errors or inconsistencies without changing the meaning, intent, or effect of any
 28 rule, and publish all rules filed pursuant to this chapter in the ARM. The secretary of state shall supplement,
 29 revise, and publish the ARM or any part ~~thereof~~ of the ARM as often as ~~he~~ the secretary of state considers
 30 necessary. ~~He~~ and may include ~~such~~ editorial notes, cross-references, and other matter ~~as he and the~~

1 ~~administrative code committee consider~~ that the secretary of state considers desirable or advantageous.
 2 ~~He~~ The secretary of state shall publish supplements to the ARM at ~~such~~ times and in ~~such~~ the form ~~as he~~
 3 that the secretary of state considers appropriate.

4 (2) ~~The~~ ARM shall must be arranged, indexed, and printed or duplicated in ~~such~~ a manner ~~as to~~
 5 ~~permit~~ that permits separate publication of portions ~~thereof~~ of the ARM relating to individual agencies. An
 6 agency may make arrangements with the secretary of state for the printing of as many copies of ~~such~~ the
 7 separate publications as it may require. The cost of any ~~such~~ separate publications, determined in
 8 accordance with 2-4-313(4), ~~shall~~ must be paid by the agency."

9

10 **Section 8.** Section 2-4-312, MCA, is amended to read:

11 "**2-4-312. Publication and arrangement of register.** (1) The secretary of state shall publish in the
 12 register all notices, rules, and interpretations filed with ~~him~~ the secretary of state at least once a month ~~or~~
 13 ~~as directed by the administrative code committee~~ but not more often than twice a month.

14 (2) ~~He~~ The secretary of state shall send the register without charge to each person listed in
 15 2-4-313(1) and to each member of the legislature requesting the ~~same~~ register. ~~He~~ The secretary of state
 16 shall send the register to any other person who pays a subscription fee ~~which he shall fix~~ determined in
 17 accordance with 2-4-313(4).

18 (3) The register must contain three sections, a rules section, a notice section, and an interpretation
 19 section:

20 (a) The rules section of the register must contain all rules filed since the compilation and publication
 21 of the preceding issue of the register, together with the concise statement of reasons required under
 22 2-4-305(1).

23 (b) The notice section of the register must contain all rulemaking notices filed with the secretary
 24 of state pursuant to 2-4-302 since the compilation and publication of the preceding register.

25 (c) The interpretation section of the register must contain all opinions of the attorney general and
 26 all declaratory rulings of agencies issued since the publication of the preceding register.

27 (4) Each issue of the register must contain the issue number and date of the register and a table
 28 of contents. Each page of the register must contain the issue number and date of the register of which it
 29 is a part. The secretary of state may include with the register information to help the user in relating the
 30 register to the ARM."

1 **Section 9.** Section 2-4-313, MCA, is amended to read:

2 **"2-4-313. Distribution, costs, and maintenance.** (1) The secretary of state shall distribute copies
3 of the ARM and supplements or revisions to the ARM to the following:

4 (a) attorney general, one copy;

5 (b) clerk of United States district court for the district of Montana, one copy;

6 (c) clerk of United States court of appeals for the ninth circuit, one copy;

7 (d) county commissioners or governing body of each county of this state, for use of county officials
8 and the public, at least one but not more than two copies, which may be maintained in a public library in
9 the county seat or in the county offices as the county commissioners or governing body of the county may
10 determine;

11 (e) state law library, one copy;

12 (f) state historical society, one copy;

13 (g) each unit of the Montana university system, one copy;

14 (h) law library of the university of Montana-Missoula, one copy;

15 (i) legislative ~~council~~ services division, two copies;

16 (j) library of congress, one copy;

17 (k) state library, one copy.

18 (2) The secretary of state, each county in the state, and the librarians for the state law library and
19 the university of Montana-Missoula law library shall maintain a complete, current set of the ARM, including
20 supplements or revisions to the ARM. The designated persons shall also maintain the register issues
21 published during the preceding 2 years. The secretary of state shall maintain a permanent set of the
22 registers.

23 (3) The secretary of state shall make copies of and subscriptions to the ARM and supplements or
24 revisions to the ARM and the register available to any person at prices fixed in accordance with subsection
25 (4).

26 (4) The secretary of state, ~~in consultation with the administrative code committee~~, shall determine
27 the cost of supplying copies of the ARM and supplements or revisions to the ARM and the register to
28 persons not listed in subsection (1). The cost must be the approximate cost of publication of the copies,
29 including indexing, printing or duplicating, and mailing. However, a uniform price ~~per~~ per for each page or group
30 of pages may be established without regard to differences in cost of printing different parts of the ARM and

1 supplements or revisions to the ARM and the register. Fees are not refundable.

2 (5) The secretary of state shall deposit all fees in a proprietary fund.

3 (6) The secretary of state may charge agencies a filing fee for all material to be published in the
 4 ARM or the register. The secretary of state shall fix, ~~in consultation with the administrative code committee,~~
 5 the fee to cover the costs of supplying copies of the ARM and supplements or revisions to the ARM and
 6 the register to the persons listed in subsection (1). The cost must be the approximate cost of publication
 7 of the copies, including indexing, printing or duplicating, and mailing. However, a uniform price ~~per~~ for each
 8 page or group of pages may be established without regard to differences in cost of printing different parts
 9 of the ARM and supplements or revisions to the ARM and the register."

10

11 **Section 10.** Section 2-4-314, MCA, is amended to read:

12 "**2-4-314. Biennial review by agencies -- recommendations by committee.** (1) Each agency shall
 13 at least biennially review its rules to determine if any new rule should be adopted or any existing rule should
 14 be modified or repealed.

15 (2) ~~The~~ An administrative rules oversight committee may recommend to the legislature those
 16 modifications, additions, or deletions of agency rulemaking authority ~~which~~ that the committee considers
 17 necessary."

18

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

20 "**2-4-401. Administrative ~~code committee~~ rules oversight committees -- staff, meetings, and**
 21 **compensation.** (1) The legislative services division shall provide staff assistance to the administrative ~~code~~
 22 ~~committee~~ rules oversight committees. The ~~committee~~ committees may advise the publisher in relation to
 23 the text and legal authority of the material published in the register or the ARM, within the limitations of
 24 legislative appropriations.

25 (2) ~~The~~ Each committee shall meet approximately every 4 months during the interim between
 26 regular legislative sessions and as often as may be necessary during ~~and between~~ legislative sessions.

27 (3) Committee members are entitled to receive compensation and expenses as provided in
 28 5-2-302."

29

30 **Section 12.** Section 2-4-402, MCA, is amended to read:

1 **"2-4-402. Powers of the ~~committee~~ committees -- duty to review rules -- exception for revenue**
 2 **rules.** (1) ~~Except for rules proposed by the department of revenue, the~~ Each administrative ~~code~~ rules
 3 oversight committee shall review all proposed rules filed with the secretary of state and over which the
 4 committee has jurisdiction under 5-14-101.

5 (2) The revenue oversight committee shall review all rules proposed by the department of revenue.

6 (3) ~~The~~ An administrative ~~code~~ rules oversight committee may, with respect to agencies and rules
 7 that the committee has jurisdiction over under 5-14-101:

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

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

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

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

17 (e) review the incidence and conduct of administrative proceedings under this chapter."
 18

19 **Section 13.** Section 2-4-403, MCA, is amended to read:

20 **"2-4-403. Legislative intent -- poll.** (1) If the legislature is not in session, ~~the~~ an administrative
 21 rules oversight committee may poll all members of the legislature by mail to determine whether a proposed
 22 rule over which the committee has jurisdiction under 5-14-101 is consistent with the intent of the
 23 legislature.

24 (2) ~~Should~~ If 20 or more legislators object to any rule, the committee shall poll the members of the
 25 legislature.

26 (3) The poll ~~shall~~ must include an opportunity for the agency to present a written justification for
 27 the rule to the members of the legislature."
 28

29 **Section 14.** Section 2-4-404, MCA, is amended to read:

30 **"2-4-404. Evidentiary value of legislative poll.** ~~In the event that the~~ If an administrative ~~code~~ rules

1 oversight committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the
 2 poll ~~shall be~~ are admissible in any court proceeding involving the validity of the rule. ~~In the event that~~ If the
 3 poll determines that a majority of the members of both houses find that the proposed rule is contrary to
 4 the intent of the legislature, the rule ~~shall be~~ is conclusively presumed to be contrary to the legislative intent
 5 in any court proceeding involving its validity."

6
 7 **Section 15.** Section 2-4-405, MCA, is amended to read:

8 **"2-4-405. Economic impact statement.** (1) Upon written request of the administrative ~~code~~ rules
 9 oversight committee that has jurisdiction over the rule under 5-14-101, based upon the affirmative request
 10 of at least five members of the committee at an open meeting, an agency shall prepare a statement of the
 11 economic impact of the adoption, amendment, or repeal of a rule as proposed. As an alternative, the
 12 ~~administrative code~~ committee may, by contract, prepare ~~such an~~ the estimate. Except to the extent that
 13 the request expressly waives any one or more of the following, the requested statement must include and
 14 the statement prepared by the committee may include:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **Section 16.** Section 2-4-406, MCA, is amended to read:

21 **"2-4-406. Committee objection to violation of authority for rule -- effect.** (1) If ~~the~~ an
22 administrative code rules oversight committee objects to all or some portion of a proposed or adopted rule
23 because the committee considers it not to have been proposed or adopted in substantial compliance with
24 2-4-302, 2-4-303, and 2-4-305, the committee shall send a written objection to the agency ~~which~~ that
25 promulgated the rule. The objection must contain a concise statement of the committee's reasons for its
26 action.

27 (2) Within 14 days after the mailing of a committee objection to a rule, the agency promulgating
28 the rule shall respond in writing to the committee. After receipt of the response, the committee may
29 withdraw or modify its objection.

30 (3) If the committee fails to withdraw or substantially modify its objection to a rule, it may vote

1 to send the objection to the secretary of state, who shall, upon receipt ~~thereof~~ of the objection, publish the
 2 objection in the ~~Montana Administrative Register~~ register adjacent to any notice of adoption of the rule and
 3 in the ARM adjacent to the rule, ~~provided.~~ However, an agency response must also be published if
 4 requested by the agency. Costs of publication of the objection and the agency response ~~shall~~ must be borne
 5 by the committee.

6 (4) If an objection to all or a portion of a rule has been published pursuant to subsection (3), the
 7 agency bears the burden, in any action challenging the legality of the rule or portion of a rule objected to
 8 by the committee, of proving that the rule or portion of the rule objected to was adopted in substantial
 9 compliance with 2-4-302, 2-4-303, and 2-4-305. If a rule is invalidated by court judgment because the
 10 agency failed to meet its burden of proof imposed by this subsection and the court finds that the rule was
 11 adopted in arbitrary and capricious disregard for the purposes of the authorizing statute, the court may
 12 award costs and reasonable attorney fees against the agency."
 13

14 **Section 17.** Section 2-4-410, MCA, is amended to read:

15 "**2-4-410. Report of litigation.** Each agency shall report to the administrative ~~code~~ rules oversight
 16 committee that has jurisdiction over the agency's rules any judicial proceedings in which the construction
 17 or interpretation of any provision of this chapter is in issue and may report to the committee any proceeding
 18 in which the construction or interpretation of any rule of the agency is in issue. Upon request of the
 19 committee, copies of documents filed in any proceeding in which the construction or interpretation of either
 20 this chapter or an agency rule is in issue must be made available to the committee by the agency involved."
 21

22 **Section 18.** Section 2-4-411, MCA, is amended to read:

23 "**2-4-411. Report.** ~~The~~ With respect to rules that the committee has jurisdiction over under
 24 5-14-101, an administrative rules oversight committee may recommend amendments to the Montana
 25 Administrative Procedure Act or the repeal, amendment, or adoption of a rule, as provided in 2-4-412, and
 26 make other recommendations and reports ~~as~~ that it considers advisable."
 27

28 **Section 19.** Section 2-4-412, MCA, is amended to read:

29 "**2-4-412. Legislative review of rules -- effect of failure to object.** (1) The legislature may, by bill,
 30 repeal any rule in the ARM. If a rule is repealed, the legislature shall in the bill state its objections to the

1 repealed rule. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new
 2 rule in accordance with the objections stated by the legislature in the bill. If the legislature does not repeal
 3 a rule filed with it before the adjournment of that regular session, the rule remains valid.

4 (2) The legislature may also by joint resolution request or advise or by bill direct the adoption,
 5 amendment, or repeal of any rule. If a change in any rule or the adoption of an additional rule is advised,
 6 requested, or directed to be made, the legislature shall in the joint resolution or bill state the nature of the
 7 change or the additional rule to be made and its reasons ~~therefor~~ for the change or the additional rule. The
 8 agency shall, in the manner provided in the Montana Administrative Procedure Act, adopt a new rule in
 9 accordance with the legislative direction in a bill.

10 (3) Rules and changes in rules made by agencies under subsection (2) ~~of this section shall~~ must
 11 conform and must be pursuant to statutory authority.

12 (4) Failure of the legislature or the appropriate administrative code rules oversight committee to
 13 object in any manner to the adoption, amendment, or repeal of a rule is inadmissible in the courts of this
 14 state to prove the validity of any rule."

15

16 **Section 20.** Section 5-2-504, MCA, is amended to read:

17 **"5-2-504. Legislative branch consolidated.** The following legislative branch entities are
 18 consolidated with the legislative council, as provided in 5-2-503 and this section:

19 (1) the senate and the house of representatives provided for in Article V, section 1, of the Montana
 20 constitution;

21 (2) the legislative council established by 5-11-101;

22 (3) the legislative services division established by 5-11-111;

23 (4) the legislative finance committee established by 5-12-201;

24 (5) the legislative fiscal division established by 5-12-301;

25 (6) the legislative audit committee established by 5-13-201;

26 (7) the legislative audit division established by 5-13-301;

27 (8) the administrative ~~code committee~~ rules oversight committees established by Title 5, chapter
 28 14, part 1;

29 (9) the environmental quality council established by 5-16-101;

30 (10) the revenue oversight committee established by 5-18-102; and

1 (11) the committee on Indian affairs established by 5-19-102."

2
3 **Section 21.** Section 5-14-101, MCA, is amended to read:

4 **"5-14-101. Appointment and composition of administrative rules oversight committees.** ~~The~~
5 ~~administrative code committee consists of four members of the senate and four members of the house of~~
6 ~~representatives~~ (1) There are administrative rules oversight committees that have the primary responsibility
7 for considering bills relating to the subjects listed in subsections (1)(a) through (1)(i). Each committee is
8 composed of nine members, six members from the appropriate house standing committee or committees
9 and three members from the appropriate senate standing committee or committees. The committee for
10 each of the subjects has oversight over the rules of the departments and offices, including entities attached
11 to the departments and offices for administrative or other purposes, listed after that subject as follows:

12 (a) agriculture and livestock: department of agriculture and department of livestock;

13 (b) business, labor, and industry: secretary of state, state auditor, department of labor and industry,
14 department of commerce, office of securities commissioner, insurance department, commissioner of
15 insurance, and department of public service regulation;

16 (c) education and cultural resources: superintendent of public instruction, board of public education,
17 and entities contained in Title 2, chapter 15, part 15;

18 (d) fish and game: department of fish, wildlife, and parks;

19 (e) highways and transportation: department of transportation;

20 (f) human services and public health, safety, and welfare: department of public health and human
21 services;

22 (g) judiciary and criminal and civil justice: department of justice, and department of corrections;

23 (h) natural resources: department of natural resources and conservation and department of
24 environmental quality; and

25 (i) state administration: governor, lieutenant governor, department of administration, and
26 department of military affairs.

27 (2) There must be two senators from the majority party, one senator from the minority party, and
28 three representatives from the majority and minority parties on each of the committees created in
29 subsection (1). The members must be appointed before the 60th legislative day of the regular session in
30 the same manner as standing committees of the respective houses are appointed. ~~No more than two of the~~

1 ~~appointees of each house may be members of the same political party.~~

2 (3) In addition to its powers under Title 2, chapter 4, each committee has general oversight over
3 existing rules and the application of existing rules."

4

5 **Section 22.** Section 5-14-102, MCA, is amended to read:

6 **"5-14-102. Term of office.** A member of ~~the~~ an administrative rules oversight committee shall
7 serve until ~~his~~ the member's term of office as a legislator ends or until the end of the 60th legislative day
8 of the session of the biennium following ~~his~~ the member's appointment or until ~~his~~ the member's successor
9 is appointed, whichever occurs first."

10

11 **Section 23.** Section 5-14-103, MCA, is amended to read:

12 **"5-14-103. Vacancies.** A vacancy on ~~the~~ an administrative rules oversight committee occurring
13 when the legislature is not in session ~~shall~~ must be filled by the selection of a member of the legislature by
14 the remaining members of the committee. If there is a vacancy on the committee at the beginning of a
15 legislative session because a member's term of office as a legislator has ended, a member of the same
16 political party must be appointed in the same manner as the original appointment, no later than the 10th
17 legislative day, to serve until a successor is appointed under 5-14-101."

18

19 **Section 24.** Section 5-14-104, MCA, is amended to read:

20 **"5-14-104. Officers.** ~~The~~ Each administrative rules oversight committee shall elect one of its
21 members as ~~chairman~~ presiding officer and ~~such~~ may elect other officers as it considers necessary."

22

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0368, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act replacing the Administrative Code Committee with nine Administrative Rules Oversight Committees, each with jurisdiction over the rules of certain agencies and offices; providing for the organization, authority and meetings of the committees; and amending certain sections.

ASSUMPTIONS:

1. The bill is effective October 1, 1997.
2. Each of the nine oversight committees would meet once every four months (excluding the 1999 Legislative Session) for a total of five meetings each during the 20-month 1999 biennium.
3. Nine members from each committee would receive compensation and expense reimbursement as provided in 5-2-302, MCA.
4. No legislative polls would be taken during the biennium.
5. Secretarial services for the 45 meetings would be contracted.
6. The Administrative Code Committee (ACC) budget request for the 1999 biennium includes \$3,548 in personal services and \$9,092 in operating costs. Budget for the nine committees which would replace the ACC would be \$19,962 in personal services and \$67,972 in operating costs.
7. Appropriations for the oversight committees would be biennial, continuing appropriations. Calculations are shown in both fiscal years for budget presentation purposes only.
8. There is no fiscal impact to the Secretary of State.


FISCAL IMPACT:

Expenditures: (Increase over the Legislative Branch ACC budget)

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Personal Services	8,207	8,207
Operating Costs	<u>29,440</u>	<u>29,440</u>
Total	37,647	37,647

Funding:

General Fund (01)	37,647	37,647
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DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

MATT BRAINARD, PRIMARY SPONSOR DATE
Fiscal Note for HB0368, as introduced

1 HOUSE BILL NO. 368

2 INTRODUCED BY BRAINARD, KOTTEL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING THE ADMINISTRATIVE CODE COMMITTEE WITH
5 NINE ADMINISTRATIVE RULES OVERSIGHT COMMITTEES, EACH WITH JURISDICTION OVER THE RULES
6 OF CERTAIN AGENCIES AND OFFICES; PROVIDING FOR THE ORGANIZATION, AUTHORITY, AND
7 MEETINGS OF THE COMMITTEES; AND AMENDING SECTIONS 2-4-102, 2-4-110, 2-4-302, 2-4-306,
8 2-4-307, 2-4-308, 2-4-311, 2-4-312, 2-4-313, 2-4-314, 2-4-401, 2-4-402, 2-4-403, 2-4-404, 2-4-405,
9 2-4-406, 2-4-410, 2-4-411, 2-4-412, 5-2-504, 5-14-101, 5-14-102, 5-14-103, AND 5-14-104, MCA."

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

12
13 **Section 1.** Section 2-4-102, MCA, is amended to read:

14 **"2-4-102. Definitions.** For purposes of this chapter, the following definitions apply:

15 (1) "Administrative ~~code~~ rules oversight committee" or "committee" means ~~the~~ a committee
16 provided for in Title 5, chapter 14.

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

19 (i) the state board of pardons and parole, except that the board is subject to the requirements of
20 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules must be published in the ~~Administrative Rules of~~
21 ~~Montana~~ ARM and the ~~Montana Administrative Register~~ register;

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

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

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

26 (b) Agency does not include a school district, a unit of local government, or any other political
27 subdivision of the state.

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

29 (4) "Contested case" means a proceeding before an agency in which a determination of legal rights,
30 duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term

1 includes but is not restricted to ratemaking, price fixing, and licensing.

2 (5) "License" includes the whole or part of any agency permit, certificate, approval, registration,
3 charter, or other form of permission required by law but does not include a license required solely for
4 revenue purposes.

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

7 (7) "Party" means a person named or admitted as a party or properly seeking and entitled as of
8 right to be admitted as a party, but nothing in this chapter may be construed to prevent an agency from
9 admitting any person as a party for limited purposes.

10 (8) "Person" means an individual, partnership, corporation, association, governmental subdivision,
11 agency, or public organization of any character.

12 (9) "Register" means the Montana Administrative Register.

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

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

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

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

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

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

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

29 (11) "Substantive rules" are either:

30 (a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated

1 authority to promulgate rules to implement a statute have the force of law and when not so adopted are
2 invalid; or

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

6

7 **Section 2.** Section 2-4-110, MCA, is amended to read:

8 **"2-4-110. Departmental review of rule notices.** (1) The head of each department of the executive
9 branch shall appoint an existing attorney, paralegal, or other qualified person from that department to
10 review each departmental rule proposal notice, adoption notice, or other notice relating to administrative
11 rulemaking. Notice of the name of the person appointed under this subsection and of any successor must
12 be given to the secretary of state and the administrative ~~code~~ rules oversight committee that has jurisdiction
13 over the department's rules under 5-14-101 within 10 days of the appointment.

14 (2) The person appointed under subsection (1) shall review each notice by any division, bureau,
15 or other unit of the department, including units attached to the department for administrative purposes only
16 under 2-15-121, for compliance with this chapter before the notice is filed with the secretary of state. The
17 reviewer shall pay particular attention to 2-4-302 and 2-4-305. The review must include but is not limited
18 to consideration of:

19 (a) the adequacy of the rationale for the intended action and whether the intended action is
20 reasonably necessary to effectuate the purpose of the code section or sections implemented;

21 (b) whether the proper statutory authority for the rule is cited;

22 (c) whether the citation of the code section or sections implemented is correct; and

23 (d) whether the intended action is contrary to the code section or sections implemented or to other
24 law.

25 (3) The person appointed under subsection (1) shall sign each notice for which this section requires
26 a review. The act of signing is an affirmation that the review required by this section has been performed
27 to the best of the reviewer's ability. The secretary of state may not accept for filing a notice that does not
28 have the signature required by this section."

29

30 **Section 3.** Section 2-4-302, MCA, is amended to read:

1 **"2-4-302. Notice, hearing, and submission of views.** (1) Prior to the adoption, amendment, or
 2 repeal of any rule, the agency shall give written notice of its intended action. The notice ~~shall~~ must include
 3 a statement of either the terms or substance of the intended action or a description of the subjects and
 4 issues involved, the rationale for the intended action, and the time when, place where, and manner in which
 5 interested persons may present their views ~~thereon~~ on the intended action.

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

12 (b) ~~The~~ Each administrative ~~code~~ rules oversight committee shall forward a list of all organizations
 13 or persons who have submitted a request to be informed of agency actions to all agencies whose rules the
 14 committee has jurisdiction over under 5-14-101 publishing and that publish rulemaking notices in the
 15 ~~Montana Administrative Register~~ register. The list must be amended by the agency upon request of any
 16 person requesting to be added to or deleted from the list.

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

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

22 (4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested
 23 persons at least 20 days' notice of a hearing and 28 days from the day of notice to submit data, views,
 24 or arguments, orally or in writing. In the case of substantive rules, the notice of proposed rulemaking must
 25 state that opportunity for oral hearing ~~shall~~ must be granted if requested by either 10% or 25, whichever
 26 is less, of the persons who will be directly affected by the proposed rule, by a governmental subdivision
 27 or agency, by the administrative ~~code~~ rules oversight committee that has jurisdiction over the agency's
 28 rules under 5-14-101, or by an association having not less than 25 members who will be directly affected.

29 (5) An agency may continue a hearing date for cause. In the discretion of the agency, contested
 30 case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise

1 required by statute, nothing ~~herein~~ in this section alters that requirement.

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

5 (7) At the commencement of ~~any a~~ hearing on the intended action, the person designated by the
6 agency to preside at the hearing shall read aloud the "Notice of Function of Administrative ~~Code Committee~~
7 Rules Oversight Committees" appearing in the register."

8

9 **Section 4.** Section 2-4-306, MCA, is amended to read:

10 "**2-4-306. Filing, format, and effective date -- dissemination of emergency rules.** (1) Each agency
11 shall file with the secretary of state a copy of each rule adopted by it.

12 (2) The secretary of state may prescribe a format, style, and arrangement for notices and rules
13 ~~which that~~ are filed pursuant to this chapter and may refuse to accept the filing of any notice or rule that
14 is not in compliance ~~therewith~~. ~~He~~ The secretary of state shall keep and maintain a permanent register of
15 all notices and rules filed, including superseded and repealed rules, ~~which shall that must~~ be open to public
16 inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise
17 provided by statute, the secretary of state may require the payment of the cost of providing ~~such~~ copies.

18 (3) ~~In the event that the~~ If an administrative ~~code~~ rules oversight committee has conducted a poll
19 of the legislature in accordance with 2-4-403 or the revenue oversight committee has conducted a poll in
20 accordance with 5-18-109, the results of the poll ~~shall must~~ be published with the rule.

21 (4) Each rule ~~shall become~~ becomes effective after publication in the register as provided in
22 2-4-312, except that:

23 (a) if a later date is required by statute or specified in the rule, the later date ~~shall be~~ is the effective
24 date;

25 (b) subject to applicable constitutional or statutory provisions:

26 (i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated
27 date following publication in the register; and

28 (ii) an emergency rule ~~shall become~~ becomes effective immediately upon filing with the secretary
29 of state or at a stated date following publication in the register if the agency finds that this effective date
30 is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and

1 a brief statement of reasons ~~therefor shall~~ for the finding must be filed with the rule. The agency shall take
 2 appropriate measures to make emergency rules known to every person who may be affected by ~~them the~~
 3 rules."

4
 5 **Section 5.** Section 2-4-307, MCA, is amended to read:

6 **"2-4-307. Omissions from ARM or register.** (1) An agency may adopt by reference any model
 7 code, federal agency rule, rule of any agency of this state, or other similar publication if the publication of
 8 the model code, rule, or other publication would be unduly cumbersome, expensive, or otherwise
 9 inexpedient.

10 (2) The model code, rule, or other publication must be adopted by reference in a rule adopted under
 11 the rulemaking procedure required by this chapter. The rule must contain a citation to the material adopted
 12 by reference and a statement of the general subject matter of the omitted rule and must state where a copy
 13 of the omitted material may be obtained. Upon request of the secretary of state, a copy of the omitted
 14 material must be filed with the secretary of state.

15 (3) ~~No A rule originally~~ adopting by reference any model code or a rule provided for in subsection
 16 (1) ~~of this section~~ may not adopt any later amendments or editions of the material adopted. Except as
 17 provided in subsection (5), each later amendment or edition may be adopted by reference only by following
 18 the rulemaking procedure required by this chapter.

19 (4) If requested by a three-fourths vote of the administrative ~~code~~ rules oversight committee ~~that~~
 20 has jurisdiction over the agency's rules under 5-14-101, an agency ~~must~~ shall immediately publish the full
 21 or partial text of any pertinent material adopted by reference under this section. The committee may not
 22 require the publication of copyrighted material. Publication of the text of a rule previously adopted does not
 23 affect the date of adoption of the rule, but publication of the text of a rule before publication of the notice
 24 of final adoption must be in the form of and is considered to be a new notice of proposed rulemaking.

25 (5) Whenever later amendments of federal regulations must be adopted to comply with federal law
 26 or to qualify for federal funding, only a notice of incorporation by reference of ~~such the~~ later amendments
 27 shall must be filed in the ~~Montana Administrative Register~~ register. This notice ~~shall must~~ contain the
 28 information required by subsection (2) ~~of this section~~ and shall must state the effective date of ~~such the~~
 29 incorporation. The effective date may be no sooner than 30 days after the date upon which the notice is
 30 published unless the 30 days ~~causes~~ cause a delay that jeopardizes compliance with federal law or

1 qualification for federal funding, in which event the effective date may be no sooner than the date of
 2 publication. A hearing is not required unless requested under 2-4-315 by either 10% or 25, whichever is
 3 less, of the persons who will be directly affected by the incorporation, by a governmental subdivision or
 4 agency, or by an association having not less than 25 members who will be directly affected. ~~No further~~
 5 Further notice of adoption or preparation of a replacement page for the ~~Administrative Rules of Montana~~
 6 ARM is not required.

7 (6) If a hearing is requested under subsection (5), the petition for hearing ~~shall~~ must contain a
 8 request for an amendment and may contain suggested language, reasons for an amendment, and any other
 9 information pertinent to the subject of the rule."

10

11 **Section 6.** Section 2-4-308, MCA, is amended to read:

12 "**2-4-308. Adjective or interpretive rule -- statement of implied authority and legal effect.** (1) Each
 13 adjective or interpretive rule or portion of ~~such a~~ the rule to be adopted ~~after October 1, 1983,~~ under
 14 implied rulemaking authority ~~shall~~ must contain a statement in the historical notations of the rule that the
 15 rule is advisory only but may be a correct interpretation of the law. ~~Such~~ The statement must be placed
 16 in the ARM when the rule in question is next scheduled for reprinting.

17 (2) The administrative ~~code~~ rules oversight committee that has jurisdiction over the rule under
 18 5-14-101 may file with the secretary of state, for publication with any rule or portion ~~thereof~~ of a rule that
 19 it considers to be adjective or interpretive, a statement indicating that it is the opinion of the administrative
 20 ~~code~~ committee that the rule or portion ~~thereof~~ of the rule is adjective or interpretive and therefore advisory
 21 only. If the committee requests the statement to be published for an adopted rule not scheduled for
 22 reprinting in the ARM, the cost of publishing the statement in the ARM ~~shall~~ must be borne by the
 23 committee."

24

25 **Section 7.** Section 2-4-311, MCA, is amended to read:

26 "**2-4-311. Publication and arrangement of ARM.** (1) The secretary of state shall compile, index,
 27 arrange, rearrange, correct errors or inconsistencies without changing the meaning, intent, or effect of any
 28 rule, and publish all rules filed pursuant to this chapter in the ARM. The secretary of state shall supplement,
 29 revise, and publish the ARM or any part ~~thereof~~ of the ARM as often as ~~he~~ the secretary of state considers
 30 necessary. ~~He~~ and may include ~~such~~ editorial notes, cross-references, and other matter ~~as he and the~~

1 ~~administrative code committee consider~~ that the secretary of state considers desirable or advantageous.
 2 ~~He~~ The secretary of state shall publish supplements to the ARM at ~~such~~ times and in ~~such~~ the form ~~as he~~
 3 that the secretary of state considers appropriate.

4 (2) The ARM shall must be arranged, indexed, and printed or duplicated in ~~such a manner as to~~
 5 ~~permit that permits~~ separate publication of portions ~~thereof~~ of the ARM relating to individual agencies. An
 6 agency may make arrangements with the secretary of state for the printing of as many copies of ~~such the~~
 7 separate publications as it may require. The cost of any ~~such~~ separate publications, determined in
 8 accordance with 2-4-313(4), ~~shall must~~ be paid by the agency."

9
 10 **Section 8.** Section 2-4-312, MCA, is amended to read:

11 **"2-4-312. Publication and arrangement of register.** (1) The secretary of state shall publish in the
 12 register all notices, rules, and interpretations filed with ~~him~~ the secretary of state at least once a month ~~or~~
 13 ~~as directed by the administrative code committee~~ but not more often than twice a month.

14 (2) ~~He~~ The secretary of state shall send the register without charge to each person listed in
 15 2-4-313(1) and to each member of the legislature requesting the ~~same~~ register. ~~He~~ The secretary of state
 16 shall send the register to any other person who pays a subscription fee ~~which he shall fix~~ determined in
 17 accordance with 2-4-313(4).

18 (3) The register must contain three sections, a rules section, a notice section, and an interpretation
 19 section:

20 (a) The rules section of the register must contain all rules filed since the compilation and publication
 21 of the preceding issue of the register, together with the concise statement of reasons required under
 22 2-4-305(1).

23 (b) The notice section of the register must contain all rulemaking notices filed with the secretary
 24 of state pursuant to 2-4-302 since the compilation and publication of the preceding register.

25 (c) The interpretation section of the register must contain all opinions of the attorney general and
 26 all declaratory rulings of agencies issued since the publication of the preceding register.

27 (4) Each issue of the register must contain the issue number and date of the register and a table
 28 of contents. Each page of the register must contain the issue number and date of the register of which it
 29 is a part. The secretary of state may include with the register information to help the user in relating the
 30 register to the ARM."

1 **Section 9.** Section 2-4-313, MCA, is amended to read:

2 **"2-4-313. Distribution, costs, and maintenance.** (1) The secretary of state shall distribute copies
3 of the ARM and supplements or revisions to the ARM to the following:

4 (a) attorney general, one copy;

5 (b) clerk of United States district court for the district of Montana, one copy;

6 (c) clerk of United States court of appeals for the ninth circuit, one copy;

7 (d) county commissioners or governing body of each county of this state, for use of county officials
8 and the public, at least one but not more than two copies, which may be maintained in a public library in
9 the county seat or in the county offices as the county commissioners or governing body of the county may
10 determine;

11 (e) state law library, one copy;

12 (f) state historical society, one copy;

13 (g) each unit of the Montana university system, one copy;

14 (h) law library of the university of Montana-Missoula, one copy;

15 (i) legislative ~~council~~ services division, two copies;

16 (j) library of congress, one copy;

17 (k) state library, one copy.

18 (2) The secretary of state, each county in the state, and the librarians for the state law library and
19 the university of Montana-Missoula law library shall maintain a complete, current set of the ARM, including
20 supplements or revisions to the ARM. The designated persons shall also maintain the register issues
21 published during the preceding 2 years. The secretary of state shall maintain a permanent set of the
22 registers.

23 (3) The secretary of state shall make copies of and subscriptions to the ARM and supplements or
24 revisions to the ARM and the register available to any person at prices fixed in accordance with subsection
25 (4).

26 (4) The secretary of state, ~~in consultation with the administrative code committee,~~ shall determine
27 the cost of supplying copies of the ARM and supplements or revisions to the ARM and the register to
28 persons not listed in subsection (1). The cost must be the approximate cost of publication of the copies,
29 including indexing, printing or duplicating, and mailing. However, a uniform price ~~per~~ for each page or group
30 of pages may be established without regard to differences in cost of printing different parts of the ARM and

1 supplements or revisions to the ARM and the register. Fees are not refundable.

2 (5) The secretary of state shall deposit all fees in a proprietary fund.

3 (6) The secretary of state may charge agencies a filing fee for all material to be published in the
4 ARM or the register. The secretary of state shall fix, ~~in consultation with the administrative code committee,~~
5 the fee to cover the costs of supplying copies of the ARM and supplements or revisions to the ARM and
6 the register to the persons listed in subsection (1). The cost must be the approximate cost of publication
7 of the copies, including indexing, printing or duplicating, and mailing. However, a uniform price ~~per~~ for each
8 page or group of pages may be established without regard to differences in cost of printing different parts
9 of the ARM and supplements or revisions to the ARM and the register."

10

11 **Section 10.** Section 2-4-314, MCA, is amended to read:

12 **"2-4-314. Biennial review by agencies -- recommendations by committee.** (1) Each agency shall
13 at least biennially review its rules to determine if any new rule should be adopted or any existing rule should
14 be modified or repealed.

15 (2) ~~The~~ An administrative rules oversight committee may recommend to the legislature those
16 modifications, additions, or deletions of agency rulemaking authority ~~which~~ that the committee considers
17 necessary."

18

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

20 **"2-4-401. Administrative ~~code committee~~ rules oversight committees -- staff, meetings, and**
21 **compensation.** (1) The legislative services division shall provide staff assistance to the administrative ~~code~~
22 ~~committee~~ rules oversight committees. The ~~committee~~ committees may advise the publisher in relation to
23 the text and legal authority of the material published in the register or the ARM, within the limitations of
24 legislative appropriations.

25 (2) ~~The~~ Each committee shall meet approximately every 4 months during the interim between
26 regular legislative sessions and as often as may be necessary during and between legislative sessions.

27 (3) Committee members are entitled to receive compensation and expenses as provided in
28 5-2-302."

29

30 **Section 12.** Section 2-4-402, MCA, is amended to read:

1 **"2-4-402. Powers of ~~the committee committees~~ -- duty to review rules -- exception for revenue**
 2 **rules.** (1) ~~Except for rules proposed by the department of revenue, the~~ Each administrative ~~code~~ rules
 3 oversight committee shall review all proposed rules filed with the secretary of state and over which the
 4 committee has jurisdiction under 5-14-101.

5 (2) The revenue oversight committee shall review all rules proposed by the department of revenue.

6 (3) ~~The~~ An administrative ~~code~~ rules oversight committee may, with respect to agencies and rules
 7 that the committee has jurisdiction over under 5-14-101:

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

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

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

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

17 (e) review the incidence and conduct of administrative proceedings under this chapter."
 18

19 **Section 13.** Section 2-4-403, MCA, is amended to read:

20 **"2-4-403. Legislative intent -- poll.** (1) If the legislature is not in session, ~~the~~ an administrative
 21 rules oversight committee may poll all members of the legislature by mail to determine whether a proposed
 22 rule over which the committee has jurisdiction under 5-14-101 is consistent with the intent of the
 23 legislature.

24 (2) ~~Should~~ If 20 or more legislators object to any rule, the committee shall poll the members of the
 25 legislature.

26 (3) The poll ~~shall~~ must include an opportunity for the agency to present a written justification for
 27 the rule to the members of the legislature."
 28

29 **Section 14.** Section 2-4-404, MCA, is amended to read:

30 **"2-4-404. Evidentiary value of legislative poll.** ~~In the event that the~~ If an administrative ~~code~~ rules

1 oversight committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the
 2 poll ~~shall be~~ are admissible in any court proceeding involving the validity of the rule. ~~In the event that~~ If the
 3 poll determines that a majority of the members of both houses find that the proposed rule is contrary to
 4 the intent of the legislature, the rule ~~shall be~~ is conclusively presumed to be contrary to the legislative intent
 5 in any court proceeding involving its validity."

6
 7 **Section 15.** Section 2-4-405, MCA, is amended to read:

8 **"2-4-405. Economic impact statement.** (1) Upon written request of the administrative ~~code~~ rules
 9 oversight committee that has jurisdiction over the rule under 5-14-101, based upon the affirmative request
 10 of at least five members of the committee at an open meeting, an agency shall prepare a statement of the
 11 economic impact of the adoption, amendment, or repeal of a rule as proposed. As an alternative, the
 12 ~~administrative code~~ committee may, by contract, prepare ~~such an~~ the estimate. Except to the extent that
 13 the request expressly waives any one or more of the following, the requested statement must include and
 14 the statement prepared by the committee may include:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **Section 16.** Section 2-4-406, MCA, is amended to read:

21 **"2-4-406. Committee objection to violation of authority for rule -- effect.** (1) If the an
 22 ~~administrative code~~ rules oversight committee objects to all or some portion of a proposed or adopted rule
 23 because the committee considers it not to have been proposed or adopted in substantial compliance with
 24 2-4-302, 2-4-303, and 2-4-305, the committee shall send a written objection to the agency ~~which~~ that
 25 promulgated the rule. The objection must contain a concise statement of the committee's reasons for its
 26 action.

27 (2) Within 14 days after the mailing of a committee objection to a rule, the agency promulgating
 28 the rule shall respond in writing to the committee. After receipt of the response, the committee may
 29 withdraw or modify its objection.

30 (3) If the committee fails to withdraw or substantially modify its objection to a rule, it may vote

1 to send the objection to the secretary of state, who shall, upon receipt ~~thereof~~ of the objection, publish the
 2 objection in the ~~Montana Administrative Register~~ register adjacent to any notice of adoption of the rule and
 3 in the ARM adjacent to the rule, ~~provided.~~ However, an agency response must also be published if
 4 requested by the agency. Costs of publication of the objection and the agency response ~~shall~~ must be borne
 5 by the committee.

6 (4) If an objection to all or a portion of a rule has been published pursuant to subsection (3), the
 7 agency bears the burden, in any action challenging the legality of the rule or portion of a rule objected to
 8 by the committee, of proving that the rule or portion of the rule objected to was adopted in substantial
 9 compliance with 2-4-302, 2-4-303, and 2-4-305. If a rule is invalidated by court judgment because the
 10 agency failed to meet its burden of proof imposed by this subsection and the court finds that the rule was
 11 adopted in arbitrary and capricious disregard for the purposes of the authorizing statute, the court may
 12 award costs and reasonable attorney fees against the agency."

13
 14 **Section 17.** Section 2-4-410, MCA, is amended to read:

15 **"2-4-410. Report of litigation.** Each agency shall report to the administrative ~~code~~ rules oversight
 16 committee that has jurisdiction over the agency's rules any judicial proceedings in which the construction
 17 or interpretation of any provision of this chapter is in issue and may report to the committee any proceeding
 18 in which the construction or interpretation of any rule of the agency is in issue. Upon request of the
 19 committee, copies of documents filed in any proceeding in which the construction or interpretation of either
 20 this chapter or an agency rule is in issue must be made available to the committee by the agency involved."

21
 22 **Section 18.** Section 2-4-411, MCA, is amended to read:

23 **"2-4-411. Report.** ~~The~~ With respect to rules that the committee has jurisdiction over under
 24 5-14-101, an administrative rules oversight committee may recommend amendments to the Montana
 25 Administrative Procedure Act or the repeal, amendment, or adoption of a rule, as provided in 2-4-412, and
 26 make other recommendations and reports ~~as~~ that it considers advisable."

27
 28 **Section 19.** Section 2-4-412, MCA, is amended to read:

29 **"2-4-412. Legislative review of rules -- effect of failure to object.** (1) The legislature may, by bill,
 30 repeal any rule in the ARM. If a rule is repealed, the legislature shall in the bill state its objections to the

1 repealed rule. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new
 2 rule in accordance with the objections stated by the legislature in the bill. If the legislature does not repeal
 3 a rule filed with it before the adjournment of that regular session, the rule remains valid.

4 (2) The legislature may also by joint resolution request or advise or by bill direct the adoption,
 5 amendment, or repeal of any rule. If a change in any rule or the adoption of an additional rule is advised,
 6 requested, or directed to be made, the legislature shall in the joint resolution or bill state the nature of the
 7 change or the additional rule to be made and its reasons ~~therefor~~ for the change or the additional rule. The
 8 agency shall, in the manner provided in the Montana Administrative Procedure Act, adopt a new rule in
 9 accordance with the legislative direction in a bill.

10 (3) Rules and changes in rules made by agencies under subsection (2) ~~of this section shall~~ must
 11 conform and must be pursuant to statutory authority.

12 (4) Failure of the legislature or the appropriate administrative ~~code~~ rules oversight committee to
 13 object in any manner to the adoption, amendment, or repeal of a rule is inadmissible in the courts of this
 14 state to prove the validity of any rule."
 15

16 **Section 20.** Section 5-2-504, MCA, is amended to read:

17 **"5-2-504. Legislative branch consolidated.** The following legislative branch entities are
 18 consolidated with the legislative council, as provided in 5-2-503 and this section:

19 (1) the senate and the house of representatives provided for in Article V, section 1, of the Montana
 20 constitution;

21 (2) the legislative council established by 5-11-101;

22 (3) the legislative services division established by 5-11-111;

23 (4) the legislative finance committee established by 5-12-201;

24 (5) the legislative fiscal division established by 5-12-301;

25 (6) the legislative audit committee established by 5-13-201;

26 (7) the legislative audit division established by 5-13-301;

27 (8) the administrative ~~code committee~~ rules oversight committees established by Title 5, chapter
 28 14, part 1;

29 (9) the environmental quality council established by 5-16-101;

30 (10) the revenue oversight committee established by 5-18-102; and

1 (11) the committee on Indian affairs established by 5-19-102."

2
3 **Section 21.** Section 5-14-101, MCA, is amended to read:

4 **"5-14-101. Appointment and composition of administrative rules oversight committees.** ~~The~~
5 ~~administrative code committee consists of four members of the senate and four members of the house of~~
6 ~~representatives~~ (1) There are administrative rules oversight committees that have the primary responsibility
7 for considering bills relating to the subjects listed in subsections (1)(a) through (1)(i). Each committee is
8 composed of ~~nine~~ EIGHT members, ~~six~~ FOUR members from the appropriate house standing committee or
9 committees, NO MORE THAN TWO MAY BE FROM ONE POLITICAL PARTY, and ~~three~~ FOUR members from
10 the appropriate senate standing committee or committees, NO MORE THAN TWO MAY BE FROM ONE
11 POLITICAL PARTY. The committee for each of the subjects has oversight over the rules of the departments
12 and offices, including entities attached to the departments and offices for administrative or other purposes,
13 listed after that subject as follows:

14 (a) agriculture and livestock: department of agriculture and department of livestock;

15 (b) business, labor, and industry: secretary of state, state auditor, department of labor and industry,
16 department of commerce, office of securities commissioner, insurance department, commissioner of
17 insurance, and department of public service regulation;

18 (c) education and cultural resources: superintendent of public instruction, board of public education,
19 and entities contained in Title 2, chapter 15, part 15;

20 (d) fish and game: department of fish, wildlife, and parks;

21 (e) highways and transportation: department of transportation;

22 (f) human services and public health, safety, and welfare: department of public health and human
23 services;

24 (g) judiciary and criminal and civil justice: department of justice, and department of corrections;

25 (h) natural resources: department of natural resources and conservation and department of
26 environmental quality; and

27 (i) state administration: governor, lieutenant governor, department of administration, and
28 department of military affairs.

29 ~~(2) There must be two senators from the majority party, one senator from the minority party, and~~
30 ~~three representatives from the majority and minority parties on each of the committees created in~~

1 ~~subsection (1):~~ IF TWO OR MORE COMMITTEES HAVE AN OVERLAPPING AREA OF RESPONSIBILITY OR
 2 CONCERN, THE LEGISLATIVE COUNCIL SHALL DESIGNATE WHICH COMMITTEE HAS PRIMARY
 3 OVERSIGHT RESPONSIBILITY.

4 (3) The members must be appointed before the 60th legislative day of the regular session in the
 5 same manner as standing committees of the respective houses are appointed. ~~No more than two of the~~
 6 ~~appointees of each house may be members of the same political party.~~

7 ~~(3)(4)~~ In addition to its powers under Title 2, chapter 4, each committee has general oversight over
 8 existing rules and the application of existing rules."

9
 10 **Section 22.** Section 5-14-102, MCA, is amended to read:

11 **"5-14-102. Term of office.** A member of ~~the~~ an administrative rules oversight committee shall
 12 serve until ~~his~~ the member's term of office as a legislator ends or until the end of the 60th legislative day
 13 of the session of the biennium following ~~his~~ the member's appointment or until ~~his~~ the member's successor
 14 is appointed, whichever occurs first."

15
 16 **Section 23.** Section 5-14-103, MCA, is amended to read:

17 **"5-14-103. Vacancies.** A vacancy on ~~the~~ an administrative rules oversight committee occurring
 18 when the legislature is not in session ~~shall~~ must be filled by the selection of a member of the legislature by
 19 the remaining members of the committee. If there is a vacancy on the committee at the beginning of a
 20 legislative session because a member's term of office as a legislator has ended, a member of the same
 21 political party must be appointed in the same manner as the original appointment, no later than the 10th
 22 legislative day, to serve until a successor is appointed under 5-14-101."

23
 24 **Section 24.** Section 5-14-104, MCA, is amended to read:

25 **"5-14-104. Officers.** ~~The~~ Each administrative rules oversight committee shall elect one of its
 26 members as ~~chairman~~ presiding officer and ~~such~~ may elect other officers as it considers necessary."

27 -END-

1 HOUSE BILL NO. 368

2 INTRODUCED BY BRAINARD, KOTTEL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING THE ADMINISTRATIVE CODE COMMITTEE WITH
5 NINE ADMINISTRATIVE RULES OVERSIGHT COMMITTEES, EACH WITH JURISDICTION OVER THE RULES
6 OF CERTAIN AGENCIES AND OFFICES; PROVIDING FOR THE ORGANIZATION, AUTHORITY, AND
7 MEETINGS OF THE COMMITTEES; AND AMENDING SECTIONS 2-4-102, 2-4-110, 2-4-302, 2-4-306,
8 2-4-307, 2-4-308, 2-4-311, 2-4-312, 2-4-313, 2-4-314, 2-4-401, 2-4-402, 2-4-403, 2-4-404, 2-4-405,
9 2-4-406, 2-4-410, 2-4-411, 2-4-412, 5-2-504, 5-14-101, 5-14-102, 5-14-103, AND 5-14-104, MCA."

10

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**