



# Revenue and Transportation Interim Committee

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## 58th Montana Legislature

**SENATE MEMBERS**  
GREGORY BARKUS  
JERRY BLACK  
VICKI COCCHIARELLA  
JON ELLINGSON  
ROBERT STORY  
KEN TOOLE

**HOUSE MEMBERS**  
JOE BALLYEAT  
EILEEN CARNEY  
RONALD R. DEVLIN  
CHRISTINE KAUFMANN  
KARL WAITSCHIES  
BILL WILSON

**COMMITTEE STAFF**  
JEFF MARTIN  
RESEARCH ANALYST  
LEE HEIMAN  
STAFF ATTORNEY

### Administrative Rule Review

June 20, 2003

The requirement that the Committee review administrative rules is found in 5-5-215, MCA.

The Montana Administrative Procedure Act (MAPA), Title 2, Chapter 4, MCA, governs how state agencies may adopt administrative rules. An administrative rule is a type of law that implements a law adopted by the Legislature or by initiative. If the law is repealed or changed, the administrative rule must be repealed or changed to conform.

- An agency must have specific authority in law to adopt rules (2-4-301, MCA).
- Notice of the proposed rule must be published in the Montana Administrative Register, which printed by the Secretary of State. The notice must comply with specific time lines and provision requirements. (2-4-302, MCA).
- An agency must consider all oral and written submissions respecting a proposed rule (2-4-305, MCA) .
- A rule must include a citation to the specific grant of rulemaking authority and must be "reasonably necessary to effectuate the purpose of the statute " (2-4-305, MCA) .

The provisions governing the Legislative review of rules is in Title 2, Ch. 4, part 4, MCA. . The committee may:

- Object to a proposed rule and require up to a 6-month delay in adoption (2-4-304, MCA).
- Request records for checking compliance with MAPA (2-4-402(2)(a), MCA).
- Submit written recommendations and participate in hearings on rule adoption (2-4-402(2)(b), MCA).
- Require that a hearing be held on rule adoption (2-4-402(2)(c), MCA).
- Institute or participate in legal proceedings relating to rules (2-4-402(2)(d), MCA).
- Commence a poll on an objection to a rule (2-4-403, MCA).
- Require an economic impact statement relating to the adoption of a rule (2-4-405).
- Object to a rule not adopted in conformance with MAPA (2-4-406, MCA).
- Recommend rule adoption or changes (2-4-411, MCA).

Failure of a committee to object to a rule proceeding is not admissible in court.

The Department must report judicial proceedings relating to the construction or interpretation of laws on committee review of rules and may report judicial proceedings relating to the agency's rules. (2-4-

410, MCA).