

SENATE BILL NO. 336

INTRODUCED BY B. KEENAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING RULEMAKING PROCEDURES;  
5 REQUIRING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES INCLUDE CERTAIN  
6 INFORMATION IN RULEMAKING NOTICES PERTAINING TO THE DELIVERY OF MEDICAID SERVICES;  
7 REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PREPARE AND  
8 ELECTRONICALLY SEND A STATEMENT OF FINDINGS TO INTERESTED PERSONS CONCERNING THE  
9 RULE'S INTENDED OUTCOMES WITHIN A YEAR AFTER THE RULE'S EFFECTIVE DATE IF THE RULE  
10 PERTAINS TO THE DELIVERY OF MEDICAID SERVICES; PROVIDING EXCEPTIONS; ALLOWING AN  
11 IMPACTED BUSINESS, IMPACTED CONTRACTOR, OR ELECTED OFFICIAL TO REQUEST AND RECEIVE  
12 AN ECONOMIC IMPACT STATEMENT; AMENDING SECTION 2-4-405, MCA; AND PROVIDING AN  
13 EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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17 NEW SECTION. **Section 1. Performance-based rulemaking -- privacy exemption.** (1) The notice  
18 of a proposed substantive rule concerning the delivery of medicaid services by the department of public health  
19 and human services must include, in addition to the other requirements under this chapter:

20 (a) the method the department of public health and human services will use to measure whether or not  
21 the principal reasons and the rationale for the intended action of the rule, as provided by 2-4-305(6)(b), are  
22 successfully achieved, including any data collection methods or metrics if applicable; and

23 (b) the period over which the intended outcomes will be measured, including any measurement intervals,  
24 if applicable.

25 (2) (a) No later than 1 year after the effective date of the rule subject to subsection (1), the department  
26 of public health and human services shall prepare a concise statement of findings evaluating whether, using the  
27 data collection or metric identified in the rule proposal, the data collected after the rule's effective date indicated  
28 that the rule successfully achieved its intended outcomes. The department of public health and human services  
29 shall promulgate the statement of findings to the department's list of interested persons via electronic notification.

30 (b) The department of public health and human services is not under an obligation to report on any other



1 variables that may have impacted the results of the data collection methods or metrics.

2 (3) The department of public health and human services is exempted from the reporting requirements  
3 of subsection (2)(a) to the extent that the requirements would require the publication of confidential information.

4 (4) The department of public health and human services may only use existing resources to fulfill the  
5 mandates of this section.

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

8 **"2-4-405. Economic impact statement.** (1) Upon written request of an impacted business, impacted  
9 contractor, elected official, or the appropriate administrative rule review committee based upon the affirmative  
10 request of a majority of the members of the committee at an open meeting, an agency shall prepare a statement  
11 of the economic impact of the adoption, amendment, or repeal of a rule as proposed. The agency shall also  
12 prepare a statement upon receipt by the agency or the committee of a written request for a statement made by  
13 at least 15 legislators. If the request is received by the committee, the committee shall give the agency a copy  
14 of the request, and if ~~the~~ a request is received by the agency, the agency shall give the committee a copy of the  
15 request. As an alternative, if the committee originated the request, the committee may, by contract, prepare the  
16 estimate.

17 (2) Except to the extent that the request expressly waives any one or more of the following, the  
18 requested statement must include and the statement prepared by the committee may include:

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

21 (b) a description of the probable economic impact of the proposed rule upon affected classes of persons,  
22 including but not limited to providers of services under contracts with the state and affected small businesses,  
23 and quantifying, to the extent practicable, that impact;

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

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

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

30 (f) an analysis of any alternative methods for achieving the purpose of the proposed rule that were

1 seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

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

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

6 (3) A request to an agency for a statement or a decision to contract for the preparation of a statement  
7 must be made prior to the final agency action on the rule. The completed statement must be filed with the  
8 appropriate administrative rule review committee and the impacted business, impacted contractor, or elected  
9 official, if applicable, within 3 months of the request or decision. A request or decision for an economic impact  
10 statement may be withdrawn at any time.

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

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

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

22 (7) An environmental impact statement prepared pursuant to 75-1-201 that includes an analysis of the  
23 factors listed in this section satisfies the provisions of this section."  
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25 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
26 integral part of Title 2, chapter 4, and the provisions of Title 2, chapter 4, apply to [section 1].  
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28 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2015.  
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30 NEW SECTION. Section 5. Applicability. [Section 1] applies to rule notices published by the

1 department of public health and human services on or after [the effective date of this act].

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