

HOUSE BILL 45

Introduced by Peck

12/29	Introduced
12/29	Referred to State Administration
1/07	First Reading
1/11	Hearing
1/14	Fiscal Note Requested
1/16	Tabled in Committee
1/21	Fiscal Note Received
1/22	Fiscal Note Printed

1 HOUSE BILL NO. 45

2 INTRODUCED BY PECK

3 BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CRITERIA
6 FOR THE ACCEPTANCE AND EXPENDITURE BY STATE AGENCIES OF
7 CERTAIN MONEY FROM PRIVATE SOURCES; ALLOWING DEPOSIT AND
8 EXPENDITURE OF THIS MONEY INTO AND FROM THE STATE SPECIAL
9 REVENUE FUND AND THE CURRENT RESTRICTED SUBFUND; EXEMPTING
10 THE MONEY FROM THE BUDGET AMENDMENT PROCESS; AMENDING
11 SECTIONS 17-2-102, 17-7-402, AND 17-8-101, MCA; AND
12 PROVIDING AN EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. **Section 1.** Criteria for acceptance and

16 expenditure of certain nonstate and nonfederal money. (1)
17 Before an agency may accept or expend money from a nonstate
18 or nonfederal source that would be deposited in the state
19 special revenue fund or in the current restricted subfund
20 and that is restricted by law or by the terms of an
21 agreement, such as a contract, trust agreement, or donation,
22 the approving authority for the agency shall submit to the
23 legislative finance committee a copy of the agreement and a
24 certification containing:

25 (a) the specific service that will be provided;

1 (b) the proposed duration of the agreement; and

2 (c) a statement that the agreement will not result in
3 an ascertainable present or future commitment for general
4 fund support.

5 (2) The legislative fiscal analyst shall review each
6 agreement and certification to ensure that:

7 (a) the proposed use of the money has not been
8 specifically disapproved by the legislature;

9 (b) the terms of the agreement are not contrary to
10 state law; and

11 (c) the agreement will not result in an ascertainable
12 present or future commitment for general fund support.

13 (3) The legislative fiscal analyst shall present a
14 written report of the review to the legislative finance
15 committee. Within 10 days after the meeting of the
16 legislative finance committee that considered the proposed
17 agreement and certification, the legislative fiscal analyst
18 shall submit the committee's written report to the approving
19 authority.

20 (4) Upon receipt of the legislative finance committee's
21 report, the approving authority may approve or deny the
22 proposed agreement, taking into consideration the
23 legislative finance committee's report.

24 (5) If an emergency occurs that poses a serious threat
25 to the life, health, or safety of the public, the



1 legislative fiscal analyst may waive the written review and
 2 the legislative finance committee's written report required
 3 by this section. Upon receipt of the waiver, the approving
 4 authority may approve or deny the proposed agreement upon
 5 completion of the certification. The waiver, however,
 6 affects only the legislative fiscal analyst's written review
 7 and the legislative finance committee's written report. All
 8 other requirements and standards remain in effect. After the
 9 waiver, the legislative fiscal analyst may complete the
 10 written review.

11 (6) Nothing in this section confers any authority on
 12 the legislative finance committee to approve or deny the
 13 proposed agreement.

14 (7) As used in this section, "agency", "approving
 15 authority", and "emergency" have the respective meanings
 16 defined in 17-7-401.

17 **Section 2.** Section 17-2-102, MCA, is amended to read:

18 "17-2-102. Fund structure. (1) There are in the state
 19 treasury only the following fund categories and types:

20 (a) governmental fund category, which includes:

21 (i) the general fund, which accounts for all financial
 22 resources except those required to be accounted for in
 23 another fund;

24 (ii) the special revenue fund type, which accounts for
 25 the proceeds of specific revenue sources (other than

1 expendable trusts or major capital projects) that are
 2 legally restricted to expenditure for specified purposes.
 3 The financial activities of the special revenue fund type
 4 shall be subdivided for operational purposes into the
 5 following funds to serve the purpose indicated:

6 (A) The state special revenue fund consists of money
 7 from state and other nonfederal sources deposited in the
 8 state treasury that is earmarked for the purposes of
 9 defraying particular costs of an agency, program, or
 10 function of state government and from other nonstate or
 11 nonfederal sources that is restricted by law or by the terms
 12 of an agreement, such as a contract, trust agreement, or
 13 donation. ~~Other nonstate and nonfederal revenue deposited in~~
 14 ~~the state special revenue account is not subject to the~~
 15 ~~emergency budget amendment provisions of 17-7-403.~~

16 (B) The federal special revenue fund consists of money
 17 deposited in the treasury from federal sources, including
 18 trust income, that is used for the operation of state
 19 government.

20 (iii) the capital projects fund type, which accounts for
 21 financial resources to be used for the acquisition or
 22 construction of major capital facilities, other than those
 23 financed by proprietary funds or trust funds; and

24 (iv) the debt service fund type, which accounts for the
 25 accumulation of resources for and the payment of general

1 long-term debt principal and interest;

2 (b) proprietary fund category, which includes:

3 (i) the enterprise fund type, which accounts for

4 operations:

5 (A) that are financed and operated in a manner similar

6 to private business enterprises whenever the intent of the

7 legislature is that costs (i.e., expenses, including

8 depreciation) of providing goods or services to the general

9 public on a continuing basis are to be financed or recovered

10 primarily through user charges; or

11 (B) whenever the legislature has decided that periodic

12 determination of revenue earned, expenses incurred, or net

13 income is appropriate for capital maintenance, public

14 policy, management control, accountability, or other

15 purposes; and

16 (ii) the internal service fund type, which accounts for

17 the financing of goods or services provided by one

18 department or agency to other departments or agencies of

19 state government or to other governmental entities on a

20 cost-reimbursed basis;

21 (c) the fiduciary fund category, which includes trust

22 and agency fund types used to account for assets held by

23 state government in a trustee capacity or as an agent for

24 individuals, private organizations, other governmental

25 entities, or other funds. These include the:

1 (i) expendable trust fund type;

2 (ii) nonexpendable trust fund type;

3 (iii) pension trust fund type; and

4 (iv) agency fund type.

5 (d) the higher education funds, which include:

6 (i) the current fund, which accounts for moneys

7 deposited in the state treasury which are used to pay

8 current operating costs relating to instruction, research,

9 public service, and allied support operations and programs

10 conducted within the Montana university system and

11 vocational-technical centers. The financial activities of

12 the current fund shall be subdivided, for operation

13 purposes, into the four following subfunds to serve the

14 purpose indicated:

15 (A) The unrestricted subfund segregates that portion of

16 the current fund's financial resources that can be expended

17 for general operations and is free of externally imposed

18 restrictions, except those imposed by the legislature.

19 (B) The restricted subfund segregates that portion of

20 the current fund's financial resources that can be expended

21 for general operations but only for purposes imposed by

22 sources external to the board of regents and the

23 legislature.

24 (C) The designated subfund segregates that portion of

25 the current fund's financial resources that is associated

1 with general operations but is separately classified in
 2 order to accumulate costs that are to be recharged as
 3 allocated to other funds or subfunds; identifies financial
 4 activities related to special organized activities of
 5 educational departments wherein the activity is fully
 6 supported by supplemental assessments; and identifies
 7 special supply and facility fees that are approved for
 8 collections beyond normal course fees and their disposition.

9 (D) The auxiliary subfund segregates that portion of
 10 the current fund's financial resources that is devoted to
 11 providing essential on-campus services primarily to
 12 students, faculty, or staff wherein a fee, which is directly
 13 related to but does not necessarily equal the cost of the
 14 service provided, is charged to the consumer.

15 (ii) the student loan fund, which accounts for moneys
 16 deposited in the state treasury which may be loaned to
 17 students, faculty, or staff for purposes related to
 18 education, organized research, or public services by the
 19 Montana university system and vocational-technical centers;

20 (iii) the endowment fund, which accounts for moneys
 21 deposited in the state treasury by the Montana university
 22 system and vocational-technical centers wherein the
 23 principal portion of the amount received is nonexpendable
 24 but is available for investment, thus producing consumable
 25 income. Expendable earnings on endowment funds are to be

1 transferred to appropriate operating funds pursuant to
 2 prevailing administrative requirements.

3 (iv) the annuity and life income fund, which accounts
 4 for moneys deposited in the state treasury by the Montana
 5 university system and vocational-technical centers under an
 6 agreement whereby the moneys are made available on condition
 7 that the receiving unit of the Montana university system or
 8 vocational-technical center binds itself to pay stipulated
 9 amounts periodically to the donor or others designated by
 10 the donor over a specified period of time;

11 (v) the plant fund, which accounts for those financial
 12 resources allocated to or received by the Montana university
 13 system and vocational-technical centers for capital outlay
 14 purposes or to retire long-term debts associated with
 15 construction or acquisition of fixed assets and the net
 16 accumulative results of these activities; and

17 (vi) the agency fund, which accounts for moneys
 18 deposited in the state treasury wherein the Montana
 19 university system or a vocational-technical center acts in
 20 the capacity of a custodian or fiscal agent for individual
 21 students, faculty, staff, and qualified organizations.

22 (2) In addition to the funds provided for in subsection
 23 (1) of this section, there are in the state treasury the
 24 following account groups:

25 (a) the fixed assets account group, which is a

1 self-balancing group of accounts set up to establish
 2 accounting control and accountability for the state's
 3 general fixed assets, except those accounted for in
 4 proprietary funds, trust funds, and the higher education
 5 funds designated in subsections (1)(d)(i)(D), (1)(d)(iii),
 6 and (1)(d)(v) of this section; and

7 (b) the long-term debt account group, which is a
 8 self-balancing group of accounts set up to establish
 9 accounting control and accountability for the state's
 10 unmatured general long-term liabilities, except those
 11 accounted for in proprietary funds, trust funds, and the
 12 higher education funds designated in subsections
 13 (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v) of this section."

14 **Section 3.** Section 17-7-402, MCA, is amended to read:

15 "17-7-402. Budget amendment requirements -- exception.

16 (1) No budget amendment may be approved:

17 (a) by the approving authority, except a budget
 18 amendment to spend funds which were not available for
 19 legislative consideration;

20 (b) by the approving authority, which contains any
 21 significant ascertainable commitment for any present or
 22 future increased general fund support;

23 (c) by the approving authority, for the expenditure of
 24 money in the state special revenue fund unless an emergency
 25 justifies such expenditure;

1 (d) by the approving authority, unless it will provide
 2 additional services;

3 (e) by the approving authority, for any matter of which
 4 the requesting agency had knowledge at a time when the
 5 proposal could have been presented to an appropriation
 6 subcommittee, the house appropriations committee, or the
 7 senate finance and claims committee of the most recent
 8 legislative session open to that matter; or

9 (f) to extend beyond June 30 of the last year of any
 10 biennium.

11 (2) All budget amendments shall itemize planned
 12 expenditures by fiscal year.

13 (3) Each budget amendment must be submitted by the
 14 approving authority to the budget director and the office of
 15 the legislative fiscal analyst.

16 (4) Money from nonstate or nonfederal sources that
 17 would be deposited in the state special revenue fund and
 18 that is restricted by law or by the terms of an agreement,
 19 such as a contract, trust agreement, or donation, is subject
 20 to the review process provided in [section 1] and is exempt
 21 from the requirements of this part."

22 **Section 4.** Section 17-8-101, MCA, is amended to read:

23 "17-8-101. Appropriation and disbursement of moneys
 24 money from the treasury. (1) Moneys Money deposited in the
 25 general fund, the special revenue fund type (except money

1 deposited in the treasury from nonstate and nonfederal
 2 sources restricted by law or by the terms of an agreement,
 3 such as a contract, trust agreement, or donation), the
 4 enterprise fund type, the internal service fund type, and
 5 the capital projects fund type, with the exception of
 6 refunds authorized in subsection (3), ~~shall~~ must be paid out
 7 of the treasury only on appropriation made by law.

8 (2) ~~Moneys~~ Money deposited in the debt service fund
 9 type, expendable trust fund type, nonexpendable trust fund
 10 type, pension trust fund type, the state special revenue
 11 fund from nonstate and nonfederal sources restricted by law
 12 or by the terms of an agreement, such as a contract, trust
 13 agreement, or donation, and agency fund type may be paid out
 14 of the treasury under general laws, or contracts entered
 15 into in pursuance of law, permitting such disbursement.

16 (3) Money paid into the state treasury through error or
 17 under circumstances, such that the state is not legally
 18 entitled to retain it and a refund procedure is not
 19 otherwise provided by law, may be refunded upon the
 20 submission of a verified claim approved by the department of
 21 administration."

22 NEW SECTION. Section 5. Codification instruction.
 23 [Section 1] is intended to be codified as an integral part
 24 of Title 17, chapter 7, and the provisions of Title 17,
 25 chapter 7, apply to [section 1].

1 NEW SECTION. Section 6. Effective date. [This act] is
 2 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0045, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill to establish criteria for the acceptance and expenditure by state agencies of certain money from private sources; allowing deposit and expenditure of this money into and from the state special revenue fund and the current restricted subfund; and exempting the money from the budget amendment process.

ASSUMPTIONS:

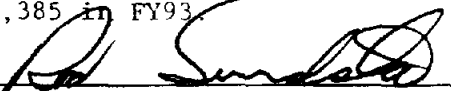
1. The expenditure of nonstate and nonfederal monies deposited in the state special revenue fund must be accounted for in unique accounting entities. Financial management staff of nearly all state agencies will be required to plan for the addition of new accounting entities and responsibility centers to the Statewide Budgeting and Accounting System (SBAS). In the first quarter of FY92, additional staff time will be required in the agencies to prepare, review and approve the documents to add the new accounting entities and responsibility centers and to transfer fund balances from one accounting entity to another. The amount of time can not be estimated, but it is assumed existing staff will absorb this additional workload.
2. Current level staff and budgets of most state agencies will be adequate to absorb the additional workload and cost of preparing review B212 Forms and copies of agreements and certifications for submission to their approving authority, for subsequent submission by the Office of Budget and Program Planning to the Office of the Legislative Fiscal Analyst for the Legislative Finance Committee. It is estimated there will be 216 review documents per year, over and above the specific agency impacts listed individually below.
3. The Office of the Legislative Fiscal Analyst will include the review required in this legislation as part of the interim work plan and there would be no additional costs to the office.

Department of Administration:

4. Approximately 40 hours of programming time will be required in FY91 at a cost of \$35 per hour or \$1,400 to change the edits in the SBAS to allow nonbudgeted activity in certain state special revenue accounting entities effective July 1, 1991. The Department of Administration will absorb this additional expense.

Montana Historical Society:

5. The historical society receives an average of 1,282 donations per year. About 182 of these donations would be for six major projects which could be grouped together to require approving authority and Legislative Finance Committee review of six documents. The remaining 1,100 donations would each be for a donor-designated specific "service" such as purchase of a book or a print and, therefore, would require individual review.
6. Presentation of approximately 1,106 donations by the society for review would require approximately 500 hours of additional work for society staff which would be absorbed by current staff.
7. About 15% of individual donors would discontinue contributions because of reluctance to involve their gifts in a governmental review process and the society state special revenue would decrease by approximately \$38,100 in FY92 and by \$32,385 in FY93.


ROD SUNDSTED, BUDGET DIRECTOR

DATE

Office of Budget and Program Planning

1-19-91

RAY PECK, PRIMARY SPONSOR

DATE

Fiscal Note for HB0045, as introduced

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Department of Fish, Wildlife and Parks:

8. The department will have 60 separate projects funded with private funds which require review each year.
9. Preparation and monitoring of the documentation and budgetary forms will require an average of 4 hours per project or 240 hours. The department would require 0.12 FTE at an approximate cost of \$3,651 per year for a grade 14 to handle the workload.
10. The additional administrative workload of attending Legislative Finance Committee meetings would be absorbed by current staff.

Montana University System:

11. Montana University System would have approximately 1,010 reviews per year comprised of: MSU - 593; UofM - 258; EMC - 66; NMC - 31; WMC - 31; and Tech - 31. This assumes that scholarships would be treated as one "service" project at each unit.
12. Preparation of the information would require about 1 hour per source or project for a total of 0.49 FTE, grade 10, at a general fund cost of \$8,131 per year in the Office of the Commissioner of Higher Education.

Office of Budget and Program Planning:

13. OBPP will receive approximately 2,392 review requests each year which will require an average of 4 hours of total staff time each (to log in, analyze, review, certify to the LFC, keypunch, verify, file and distribute to the respective agencies) for a total of 9,568 additional staff hours per year. OBPP will endeavor to absorb the increased workload.
14. OBPP will prepare a management memo in cooperation with DoA Accounting Division, the LFA and the agencies most affected by this bill. This activity, revisions to the B212 Form, and participation in the LFC meetings are assumed as part of ongoing OBPP responsibilities and will be absorbed by current staff.
15. Operating expenses will increase by \$24,425 per year (\$23,920 for data processing at an average of \$10 per document plus about \$505 for printing and paper.

FISCAL IMPACT:

see next page

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Montana Historical Society:</u>						
<u>Revenues:</u>						
State Special Revenue	254,000	215,900	(38,100)	215,900	183,515	(32,385)
<u>Expenditures</u>						
FTE	0	.12	.12	0	.12	.12
Personal Services	0	3,651	3,651	0	3,651	3,651
<u>Funding:</u>						
State Special License Acct.	0	3,651	3,651	0	3,651	3,651
<u>Montana University System, CHE:</u>						
FTE	0	.49	.49	0	.49	.49
Personal Services	0	8,131	8,131	0	8,131	8,131
<u>Funding:</u>						
General Fund	0	8,131	8,131	0	8,131	8,131
<u>Office of Budget and Program Planning:</u>						
Operating Expenses	0	24,425	24,425	0	24,425	24,425
<u>Funding:</u>						
General Fund	0	24,425	24,425	0	24,425	24,425
General Fund Total Impact	0	32,556	32,556	0	32,556	32,556

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