

House Bill 565

In The House

January 29, 1981	Introduced and referred to Committee on State Administration.
February 6, 1981	Committee recommend bill do not pass. Objection. Rereferred to Committee on State Administration.
February 20, 1981	Committee recommend bill do pass as amended.
February 23, 1981	Bill printed and placed on members' desks. Second reading pass consideration.
February 24, 1981	Second reading do pass as amended.
February 25, 1981	On motion rules suspended and bill placed on third reading this day. Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on State Administration.
March 26, 1981	Committee recommend bill concurred as amended.
March 28, 1981	Second reading indefinitely postponed.

In The House

March 28, 1981	Returned from Senate indefinitely postponed.
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1 HOUSE BILL NO. 565
2 INTRODUCED BY ROTH Mark Thorne

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES
5 FOR REQUESTING A BUDGET AMENDMENT; TO PROVIDE FOR
6 ENFORCEMENT AUTHORITY OF THE ATTORNEY GENERAL AND FOR
7 PENALTIES; AMENDING SECTION 5-12-401, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 5-12-401, MCA, is amended to read:
11 "5-12-401. Submission of budget amendments to
12 committee. All budget amendments for state agencies must be
13 submitted ~~through to~~ the budget director ~~to for his approval~~
14 ~~and be reviewed by~~ the committee. No state agency shall
15 expend in excess of the appropriation except under authority
16 of a budget amendment. ~~Additional funds are appropriated~~
17 ~~through budget amendments contingent upon total compliance~~
18 ~~with all budget amendment procedures specified in [section~~
19 ~~2]."~~

20 NEW SECTION. Section 2. Amendment procedures. In
21 seeking approval of a budget amendment by the budget
22 director, each state agency shall in writing:

- 23 (1) specify the particular additional services that
24 will be provided as a result of a higher expenditure level;
25 (2) certify that no other alternative is available to

- 1 provide the additional services;
2 (3) certify that the additional proposed services have
3 not been considered and rejected by the legislature;
4 (4) certify that no commitment, implied or otherwise,
5 is made for increased future general fund support;
6 (5) specify criteria for evaluating the effectiveness
7 of the additional services provided.

8 NEW SECTION. Section 3. Noncompliance and penalties.

9 (1) In reviewing budget amendment requests, the legislative
10 finance committee shall investigate whether the state agency
11 has complied with [section 2] and 5-12-401. If the committee
12 determines that a state agency has not complied with the
13 amendment procedures, or has violated 5-12-401, the
14 committee shall refer the violation to the attorney general.

15 (2) The attorney general has authority to investigate
16 and prosecute any allegation of noncompliance referred to
17 him by the legislative finance committee. If an allegation
18 is made in reference to any subdivision or unit of the
19 department of justice, the attorney general shall appoint a
20 special prosecutor not associated with the department of
21 justice to investigate and prosecute such an allegation.

22 (3) If any state agency fails to comply with the
23 amendment procedures in [section 2] or violates 5-12-401,
24 the authority of the requesting state agency or of the
25 department or commission of which the agency is a part to

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1 request a budget amendment shall be rescinded for the entire
2 fiscal year during which the noncomplying budget amendment
3 request was made.

4 Section 4. Codification instruction. Sections 2 and 3
5 are intended to be codified as an integral part of Title 5,
6 chapter 12, part 4, and the provisions of Title 5, chapter
7 12, apply to sections 2 and 3.

-End-

Approved by Committee
on State Administration

HOUSE BILL NO. 565

INTRODUCED BY ROTH, MARKS, MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES FOR REQUESTING A BUDGET AMENDMENT; TO PROVIDE FOR ENFORCEMENT AUTHORITY OF THE ATTORNEY GENERAL AND FOR PENALTIES; AMENDING SECTIONS 5-12-102 AND 5-12-401, MCA."

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

SECTION 1. SECTION 5-12-102, MCA, IS AMENDED TO READ:

"5-12-102. Definitions. In this chapter, the following definitions apply:

(1) "Budget amendment" means a request submitted through the budget-director appropriate authority to the committee for executive branch agencies to expend funds in excess of those appropriated by the legislature.

(2) "Budget director" means the budget director appointed pursuant to 17-7-103.

(3) "Committee" means the legislative finance committee created by this chapter.

(4) "State agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public moneys by

virtue of an appropriation from the legislature, that handles money on behalf of the state, or that holds any trust or agency moneys from any source.

(5) "Appropriate approval authority" means:

(a) for the Montana university system, the board of regents;

(b) for the executive and legislative branches, the budget director;

(c) for the judicial branch, the supreme court."

Section 2. Section 5-12-401, MCA, is amended to read:

"5-12-401. Submission of budget amendments to committee. All budget amendments for state agencies must be submitted through to the budget--director APPROPRIATE APPROVAL AUTHORITY to for his approval and be reviewed by the committee. No state agency shall expend in excess of the appropriation except under authority of a budget amendment. Additional funds are appropriated through budget amendments contingent upon total compliance with all budget amendment procedures specified in [section 2 3]."

NEW SECTION. Section 3. Amendment procedures. In seeking approval of a budget amendment by the budget director APPROPRIATE APPROVAL AUTHORITY, each state agency shall in writing:

(1) specify the particular additional GOODS, EQUIPMENT, OR services that will be provided as a result of

1 a higher expenditure level;

2 (2) certify that no other MORE EFFICIENT OR LESS
 3 COSTLY alternative is available to provide the ~~additional~~
 4 GOODS, EQUIPMENT, OR services;

5 (3) certify that WHETHER the ~~additional~~ proposed
 6 GOODS, EQUIPMENT, OR services have not been considered and
 7 rejected by the legislature AND IF SO, THE DISPOSITION BY
 8 THE LEGISLATURE;

9 (4) certify that no commitment, implied or otherwise,
 10 is made for increased future general fund support;

11 ~~(5) specify criteria for evaluating the effectiveness~~
 12 ~~of the additional services provided.~~

13 NEW SECTION. Section 4. Noncompliance and penalties.

14 (1) In reviewing budget amendment requests, the legislative
 15 finance committee shall investigate whether the state agency
 16 has ~~complied with~~ ADEQUATELY FULFILLED THE REQUIREMENTS OF
 17 [section 2] and OR HAS VIOLATED 5-12-401. If the committee
 18 determines that a state agency has not ~~complied with~~
 19 ADEQUATELY FOLLOWED the amendment procedures, or has
 20 violated 5-12-401, the ~~committee shall refer the violation~~
 21 ~~to the attorney general~~ AUTHORITY OF THE STATE AGENCY
 22 REQUESTING A BUDGET AMENDMENT SHALL AUTOMATICALLY BE
 23 RESCINDED FOR THE ENTIRE FISCAL YEAR DURING WHICH THE
 24 NONCOMPLYING BUDGET AMENDMENT REQUEST WAS SUBMITTED, UNLESS
 25 THE REQUESTING AGENCY CAN SHOW GOOD CAUSE FOR THE APPROVAL

1 OF ADDITIONAL BUDGET AMENDMENTS TO THE APPROPRIATE APPROVAL
 2 AUTHORITY AND THE COMMITTEE.

3 (2) The attorney general has authority to investigate
 4 and prosecute ~~any allegation of noncompliance referred to~~
 5 ~~him by the legislative finance committee~~ A WRIT OF
 6 PROHIBITION ACTION OR OTHER INJUNCTIVE SUIT OR PROCEEDING AS
 7 IS NECESSARY AGAINST ANY STATE AGENCY VIOLATING 5-12-401.
 8 ~~If an allegation~~ ANY INVESTIGATION is made ~~in reference to~~
 9 OR PROCEEDING BROUGHT CONCERNING any subdivision or unit of
 10 the department of justice, the attorney general shall
 11 appoint a special prosecutor not associated with the
 12 department of justice to investigate and prosecute such an
 13 allegation INVESTIGATION OR PROCEEDING.

14 ~~(3) if any state agency fails to comply with the~~
 15 ~~amendment procedures in [section 2] or violates 5-12-401,~~
 16 ~~the authority of the requesting state agency or of the~~
 17 ~~department or commission of which the agency is a part to~~
 18 ~~request a budget amendment shall be rescinded for the entire~~
 19 ~~fiscal year during which the noncomplying budget amendment~~
 20 ~~request was made.~~

21 NEW SECTION. SECTION 5. APPLICABILITY. NOTHING IN
 22 [THIS ACT] SHALL BE CONSTRUED TO ALTER OR AFFECT IN ANY WAY
 23 THE DUTIES, LIABILITIES OR PENALTIES IMPOSED IN SECTIONS
 24 17-8-103 AND 17-8-104, MCA.

25 Section 6. Codification instruction. Sections 2 and 3

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1 are intended to be codified as an integral part of Title 5,
2 chapter 12, part 4, and the provisions of Title 5, chapter
3 12, apply to sections 2 and 3.

-End-

1 HOUSE BILL NO. 565

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES
5 FOR REQUESTING A BUDGET AMENDMENT; TO PROVIDE FOR
6 ENFORCEMENT AUTHORITY OF THE ATTORNEY GENERAL AND FOR
7 PENALTIES; AMENDING ~~SECTION~~ SECTIONS 5-12-102 AND 5-12-401,
8 MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:11 SECTION 1. SECTION 5-12-102, MCA, IS AMENDED TO READ:12 "5-12-102. Definitions. In this chapter, the following
13 definitions apply:14 (1) "Budget amendment" means a request submitted
15 through the ~~budget-director~~ appropriate authority to the
16 committee for executive branch agencies to expend funds in
17 excess of those appropriated by the legislature.18 (2) "Budget director" means the budget director
19 appointed pursuant to 17-7-103.20 (3) "Committee" means the legislative finance
21 committee created by this chapter.22 (4) "State agency" means all offices, departments,
23 boards, commissions, institutions, universities, colleges,
24 and any other person or any other administrative unit of
25 state government that spends or encumbers public moneys by1 virtue of an appropriation from the legislature, that
2 handles money on behalf of the state, or that holds any
3 trust or agency moneys from any source.4 (5) "Appropriate approval authority" means:5 (a) for the Montana university system, the board of
6 regents;7 (b) for the executive ~~and legislative branches~~ BRANCH,
8 the budget director;9 (c) for the judicial branch, the supreme court;10 (D) FOR THE LEGISLATIVE BRANCH, THE APPROPRIATE
11 LEGISLATIVE COMMITTEES."

12 Section 2. Section 5-12-401, MCA, is amended to read:

13 "5-12-401. Submission of budget amendments to
14 committee. All budget amendments for state agencies must be
15 submitted through to the budget-director APPROPRIATE
16 APPROVAL AUTHORITY to for his approval and be reviewed by
17 the committee. No state agency shall expend in excess of the
18 appropriation except under authority of a budget amendment.
19 Additional funds are appropriated through budget amendments
20 contingent upon total compliance with all budget amendment
21 procedures specified in [section 2 3]."22 NEW SECTION. Section 3. Amendment procedures. In
23 seeking approval of a budget amendment by the budget
24 director APPROPRIATE APPROVAL AUTHORITY, each state agency
25 shall in writing:

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2 EQUIPMENT, OR services that will be provided as a result of
3 a higher expenditure level;

4 (2) certify that no other MORE EFFICIENT OR LESS
5 COSTLY alternative is available to provide the additional
6 GOODS, EQUIPMENT, OR services;

7 (3) certify that WHETHER the additional proposed
8 GOODS, EQUIPMENT, OR services have not been considered and
9 rejected by the legislature AND IF SO, THE DISPOSITION BY
10 THE LEGISLATURE;

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17 finance committee shall investigate whether the state agency
18 has ~~complied with~~ ADEQUATELY FULFILLED THE REQUIREMENTS OF
19 {section 2} and OR HAS VIOLATED 5-12-401. If the committee
20 determines FINDS that a state agency has not ~~complied with~~
21 ADEQUATELY FOLLOWED the amendment procedures, or has
22 violated 5-12-401, the committee shall refer the violation
23 to the attorney general AUTHORITY OF THE STATE AGENCY
24 REQUESTING A BUDGET AMENDMENT SHALL AUTOMATICALLY BE
25 RESCINDED FOR THE ENTIRE FISCAL YEAR DURING WHICH THE

1 NONCOMPLYING BUDGET AMENDMENT REQUEST WAS SUBMITTED, UNLESS
2 THE REQUESTING AGENCY CAN SHOW GOOD CAUSE FOR THE APPROVAL
3 OF ADDITIONAL BUDGET AMENDMENTS TO THE APPROPRIATE APPROVAL
4 AUTHORITY AND THE COMMITTEE PARTICULAR BUDGET AMENDMENT
5 SHALL AUTOMATICALLY BE RESCINDED FOR THE FISCAL YEAR UNLESS
6 THE AGENCY CAN SUBSTANTIATE THE NEED FOR THE BUDGET
7 AMENDMENT TO THE APPROPRIATE APPROVAL AUTHORITY AND THE
8 COMMITTEE.

9 (2) The attorney general has authority to investigate
10 and prosecute any allegation of noncompliance referred to
11 him by the legislative finance committee A WRIT OF
12 PROHIBITION ACTION OR OTHER INJUNCTIVE SUIT OR PROCEEDING AS
13 IS NECESSARY AGAINST ANY STATE AGENCY VIOLATING 5-12-401.
14 If an allegation ANY INVESTIGATION is made in reference to
15 OR PROCEEDING BROUGHT CONCERNING any subdivision or unit of
16 the department of justice, the attorney general shall
17 appoint a special prosecutor not associated with the
18 department of justice to investigate and prosecute such an
19 allegation INVESTIGATION OR PROCEEDING.

20 ~~(3) If any state agency fails to comply with the~~
21 ~~amendment procedures in {section 2} or violates 5-12-401,~~
22 ~~the authority of the requesting state agency or of the~~
23 ~~department or commission of which the agency is a part to~~
24 ~~request a budget amendment shall be rescinded for the entire~~
25 ~~fiscal year during which the noncomplying budget amendment~~

1 ~~request-was-made~~

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3 [THIS ACT] SHALL BE CONSTRUED TO ALTER OR AFFECT IN ANY WAY
4 THE DUTIES, LIABILITIES OR PENALTIES IMPOSED IN SECTIONS
5 17-8-103 AND 17-8-104, MCA.

6 Section 6. Codification instruction. Sections 2 and 3
7 are intended to be codified as an integral part of Title 5,
8 chapter 12, part 4, and the provisions of Title 5, chapter
9 12, apply to sections 2 and 3.

-End-

March 26, 1981

SENATE STANDING COMMITTEE REPORT
(State Administration)

That House Bill No. 565 be amended as follows:

1. Title, line 5.

Following: "AMENDMENT;"

Insert: "TO PROVIDE FOR APPROVAL BY BOARD OF EXAMINERS;"

2. Page 1.

Following: line 13

Insert: "(1) "Appropriate approval authority" means:

(a) for the Montana university system, the board of regents;

(b) for the executive branch, the budget director;

(c) for the judicial branch, the supreme court; and

(d) for the legislative branch, the appropriate legislative committees."

Re-number: subsequent subsections

3. Page 1, line 15.

Following: "appropriate"

Insert: "approval"

4. Page 1, line 16.

Following: "committee"

Strike: "for executive branch agencies"

5. Page 2, lines 4 through 11.

Strike: subsection (5) in its entirety

6. Page 2, line 16.

Following: "for"

Strike: "his"

7. Page 2, line 16.

Following: "and"

Insert: "then"

Following: "be"

Strike: "reviewed"

Insert: "submitted for review"

8. Page 2, line 17.

Following: "committee."

Insert: "Such submission shall be made prior to any expenditure of funds for which the amendment is sought."

9. Page 3, line 1.

Strike: lines 1 through "(4)" on line 11

Insert: "(1) specify the source, amount and expected duration of funding that is requested in the amendment;

(2) specify the particular additional services that will be provided as a result of this amendment as well as the operating expenses, personnel, equipment or grants that will be used to provide such services;

(3) specify if added services are: (a) new, that is not currently provided by the agency; or (b) expanded, that is currently funded services to be provided more extensively or intensively;

(4) if the added services are new, specify the legal authority the

(5) if the added services are expanded, specify the extent of services provided in the current appropriation and the added service included in the amendment;

(6) certify that there is not a more efficient or less costly alternative to provided these added services;

(7) certify the services to be provided by the amendment have not been specifically rejected by the legislature;

(8) "

10. Page 3, lines 16 and 17.

Following: "the" on line 16

Strike: "legislative finance"

11. Page 3, line 19.

Following: "[section"

Strike: "2"

Insert: "3"

12. Page 4, line 5.

Following: line 4

Strike: "SHALL AUTOMATICALLY"

Insert: "may"

Following: "BE"

Strike: "RESCINDED FOR THE FISCAL YEAR UNLESS"

Insert: "referred to the board of examiners. The board shall afford"

13. Page 4, line 6.

Following: "AGENCY"

Strike: "CAN"

Insert: "and appropriate approval authority an opportunity to"

14. Page 4, lines 7 and 8.

Following: "AMENDMENT"

Strike: "TO THE APPROPRIATE APPROVAL AUTHORITY AND THE COMMITTEE"

Insert: "If the board by a majority vote concurs in the recommendation of the committee, the particular budget amendment shall automatically be rescinded"

15. Page 5, line 3.

Following: line 2

Strike: "[THIS ACT] SHALL"

Insert: "Title 5, chapter 12 may"

16. Page 5, line 4.

Following: "IN"

Strike: "SECTIONS"

17. Page 5, line 5.

Following: "17-8-104"

Strike: ", MCA"

18. Page 5, line 6.

Following: "Sections"

Strike: "2 and 3"

Insert: "3 through 5"

19. Page 5, line 9.

Following: "sections"

Strike: "2 and 3"

Insert: "3 through 5"