

HOUSE BILL NO. 294

1/21 Introduced  
1/21 Referred to Appropriations  
3/27 Hearing  
4/04 Hearing  
Died in Committee

1                                    HOUSE BILL NO. 294  
 2 INTRODUCTION BY Baird  
 3 BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THE  
 6 REQUIREMENTS AND PROCEDURES FOR LONG-RANGE BUILDING BUDGET  
 7 AMENDMENTS; AMENDING SECTIONS 17-7-401 AND 17-8-101, MCA;  
 8 AND PROVIDING AN EFFECTIVE DATE."  
 9

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

11        NEW SECTION. Section 1. Definitions. As used in  
 12 [sections 1 through 5], the following definitions apply:

13        (1) "Agency" means each office, department, division,  
 14 board, commission, council, committee, institution,  
 15 university unit, or other entity or instrumentality of the  
 16 executive branch, office of the judicial branch, or office  
 17 of the legislative branch of state government.

18        (2) "Approving authority" means the governor or his  
 19 designated representative.

20        (3) "Building" includes a building, facility, or  
 21 structure:

22            (a) constructed or purchased wholly or in part with  
 23 state moneys;

24            (b) at a state institution; or

25            (c) owned or to be owned by a state agency, including

1 the department of highways.

2        (4) "Building" does not include a:

3            (a) building, facility, or structure owned or to be  
 4 owned by a county, city, town, school district, or special  
 5 improvement district; or

6            (b) facility or structure used as a component part of  
 7 a highway or water conservation project.

8        (5) "Capital project" means acquisition of land or  
 9 improvements, planning, and construction projects.

10        (6) "Construction" includes the construction,  
 11 alteration, repair, maintenance, or remodeling of a  
 12 building; the equipping and furnishing of a building during  
 13 construction, alteration, repair, maintenance, or  
 14 remodeling; and the required land acquisition related to  
 15 construction.

16        (7) "Emergency" means any catastrophe, disaster,  
 17 calamity, or other serious unforeseen and unanticipated  
 18 circumstance that has occurred subsequent to the most recent  
 19 legislative session open to consideration of long-range  
 20 building appropriations and that was clearly not within the  
 21 contemplation of the legislature and the governor.

22        (8) "Long-range building budget amendment" means a  
 23 legislative appropriation to increase the spending authority  
 24 of the special revenue fund, proprietary fund, capital  
 25 projects fund, agency fund type, or university funds, except

1 those expended on revenue-producing facilities as authorized  
2 in 20-25-302, requested for construction purposes.

3 (9) "Necessary" means:

4 (a) of a nature that cannot wait until the next  
5 legislative session for legislative consideration; or

6 (b) required to carry out construction approved by the  
7 legislature in such a manner as is clearly within  
8 legislative intent.

9 (10) "Requesting agency" means the agency of state  
10 government that has initiated a long-range building budget  
11 amendment through the department of administration.

12 (11) "University system unit" means the board of  
13 regents, office of the commissioner of higher education,  
14 university of Montana at Missoula, Montana state university  
15 at Bozeman, Montana college of mineral science and  
16 technology at Butte, eastern Montana college at Billings,  
17 northern Montana college at Havre, western Montana college  
18 at Dillon, the agricultural experiment station with central  
19 offices at Bozeman, the forestry and conservation experiment  
20 station with central offices at Missoula, the cooperative  
21 extension service with central offices at Bozeman, or the  
22 bureau of mines and geology with central offices at Butte.

23 NEW SECTION. Section 2. Long-range building budget  
24 amendment requirements. (1) A long-range building budget  
25 amendment must be requested through the department of

1 administration and is contingent on total compliance with  
2 all budget amendment requirements and procedures established  
3 in [sections 1 through 5].

4 (2) No long-range building budget amendment may be  
5 approved by the approving authority:

6 (a) except a long-range building budget amendment to  
7 spend funds that were not available for legislative  
8 consideration, or to transfer excess funds appropriated to a  
9 capital project within an agency in order to increase the  
10 appropriations of another capital project within that  
11 agency;

12 (b) that contains any significant ascertainable  
13 commitment for any present or future increased general fund  
14 support;

15 (c) that contains any significant ascertainable  
16 commitment for any present or future increased maintenance  
17 or operating costs;

18 (d) for the expenditure of money from the state  
19 special revenue fund or that causes the transfer of funds  
20 from the state special revenue fund to the capital projects  
21 fund or agency fund, unless:

22 (i) an emergency justifies such expenditure or  
23 transfer; or

24 (ii) the requesting agency can show that such transfer  
25 is fiscally prudent and clearly conforms to legislative

1 intent; or

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

8 (3) No long-range building budget amendment may be  
9 approved to extend beyond June 30 of the last year of any  
10 biennium.

11 (4) All long-range building budget amendments shall  
12 itemize planned expenditures for each capital project by  
13 land or interest in land, building, and other improvements.

14 (5) Each long-range building budget amendment must be  
15 submitted by the approving authority to the budget director  
16 and the office of the legislative fiscal analyst.

17 NEW SECTION. Section 3. Long-range building budget  
18 amendment certification. In approving a long-range building  
19 budget amendment, the approving authority shall make the  
20 following certifications and provide all information  
21 required below as an integral part of the certification.

22 (1) The approving authority shall certify that:

23 (a) construction will be funded as a result of the  
24 expenditures to be permitted under the budget amendment and  
25 shall list the specific construction to be funded, or if the

1 budget amendment is to fund a project approved by the  
2 legislature with no additional features, it must state the  
3 reasons the project cannot be completed for the appropriated  
4 amount and must certify that the request is no greater than  
5 5% over the amount approved by the legislature;

6 (b) the specific construction to be funded under the  
7 budget amendment is necessary;

8 (c) the requesting agency has no reasonable  
9 alternative available other than construction;

10 (d) the budget amendment makes no ascertainable  
11 present or future significant commitment for increased  
12 general fund support; and

13 (e) the budget amendment makes no ascertainable  
14 present or future significant commitment for increased  
15 maintenance or operating costs.

16 (2) For long-range building budget amendments to spend  
17 money from the state special revenue fund or to cause the  
18 transfer of funds from the state special revenue fund to the  
19 capital projects fund or agency fund, the approving  
20 authority shall certify either:

21 (a) that an emergency justifies the expenditure or  
22 transfer and shall state the specific nature of the  
23 emergency, the date on which the requesting agency became  
24 aware of the emergency, and the manner in which the  
25 requesting agency became aware of the emergency; or

1 (b) that such transfer is fiscally prudent and clearly  
 2 conforms to legislative intent and state the facts which  
 3 have caused the requesting agency to determine that the  
 4 transfer is fiscally prudent and that it clearly conforms to  
 5 legislative intent.

6 NEW SECTION. Section 4. Long-range building budget  
 7 amendment procedures. (1) The department of administration  
 8 is responsible for implementing the legislatively approved  
 9 long-range building program. Any change in the long-range  
 10 building program that results in a request for new or  
 11 increased spending authority for any project must be  
 12 approved by following long-range building budget amendment  
 13 procedures established in [sections 1 through 5].

14 (2) When the department of administration supervises  
 15 or concurs with a construction project as provided in  
 16 subsections (1) through (3) or (7) of 18-2-103, it shall  
 17 account for each project in the long-range building program.  
 18 Any new construction project supervised or concurred with by  
 19 the department of administration that has been proposed by a  
 20 requesting agency and is not included in the legislatively  
 21 approved long-range building program must be approved by  
 22 following the long-range building budget amendment  
 23 procedures established in [sections 1 through 5].

24 (3) Upon receiving a proposed long-range building  
 25 budget amendment from the department of administration, the

1 approving authority shall immediately forward a copy of the  
 2 entire long-range building budget amendment to the  
 3 legislative fiscal analyst.

4 (4) If the approving authority denies the request for  
 5 a long-range building budget amendment, he shall immediately  
 6 forward a notice of denial to the legislative fiscal  
 7 analyst.

8 (5) If the approving authority intends to make  
 9 certification of the long-range building budget amendment,  
 10 immediately upon his completion of the certification he  
 11 shall forward the certification and all supporting  
 12 documentation to the legislative fiscal analyst. The  
 13 approving authority may not approve the long-range building  
 14 budget amendment until he receives the legislative finance  
 15 committee's written report for that long-range building  
 16 budget amendment unless:

17 (a) the report is not received within 90 calendar days  
 18 from the date the certification and supporting documentation  
 19 were forwarded to the finance committee, in which case the  
 20 approving authority may approve the long-range building  
 21 budget amendment;

22 (b) there has been a waiver of review and report as  
 23 provided in subsection (8); or

24 (c) the requested long-range building budget amendment  
 25 is less than the amount for construction which requires

1 legislative consent under 18-2-102.

2 (6) The legislative fiscal analyst shall review each  
3 proposed long-range building budget amendment that has been  
4 certified by the approving authority for compliance with  
5 statutory long-range building budget amendment requirements  
6 and standards and shall present a written report of this  
7 review to the legislative finance committee. Within 10 days  
8 after the meeting of the legislative finance committee that  
9 considered the budget amendment, the legislative fiscal  
10 analyst shall submit the committee's report to the approving  
11 authority.

12 (7) Upon receipt of the legislative finance  
13 committee's written report, the approving authority may  
14 approve or deny the long-range building budget amendment or  
15 return the budget amendment to the requesting agency or the  
16 department of administration for further information. If  
17 the approving authority has returned the long-range building  
18 budget amendment to the requesting agency and the requesting  
19 agency or the department resubmits the budget amendment to  
20 the approving authority, all procedures set out in this  
21 section apply to the resubmitted budget amendment.

22 (8) If an emergency occurs that poses a serious threat  
23 to the life, health, or safety of the public, the  
24 legislative fiscal analyst may waive his written review and  
25 the legislative finance committee's written report required

1 by this section. Upon receipt of such waiver, the approving  
2 authority may approve the long-range building budget  
3 amendment on completion of his certification. Such a  
4 waiver, however, affects only the legislative fiscal  
5 analyst's written review and the legislative finance  
6 committee's written report on the budget amendment, and all  
7 other budget amendment requirements and standards remain in  
8 effect. After such a waiver, the legislative fiscal analyst  
9 may complete the written review.

10 NEW SECTION. Section 5. Improperly certified  
11 long-range building budget amendments void. Any long-range  
12 building budget amendment that is not certified by the  
13 approving authority according to the standards and  
14 procedures set out in [sections 1 through 5] may be declared  
15 void in its entirety by a court of competent jurisdiction on  
16 complaint of the attorney general, the legislature, or the  
17 legislative finance committee. No funds may be expended  
18 under an improperly certified long-range building budget  
19 amendment.

20 Section 6. Section 17-7-401, MCA, is amended to read:  
21 "17-7-401. Definitions. As used in this part, the  
22 following definitions apply:

23 (1) "Additional services" means different services or  
24 more of the same services.

25 (2) "Agency" means each state office, department,

1 division, board, commission, council, committee,  
2 institution, university unit, or other entity or  
3 instrumentality of the executive branch, office of the  
4 judicial branch, or office of the legislative branch of  
5 state government.

6 (3) "Approving authority" means the governor or his  
7 designated representative for executive branch agencies, the  
8 chief justice of the supreme court or his designated  
9 representative for judicial branch agencies, appropriate  
10 legislative committees or a designated representative for  
11 legislative branch agencies, or the board of regents or its  
12 designated representative for the university system.

13 (4) "Budget amendment" means a legislative  
14 appropriation to increase spending authority for of the  
15 special revenue fund, proprietary funds, or unrestricted  
16 subfund for purposes other than construction as defined in  
17 [section 1], contingent on total compliance with all budget  
18 amendment procedures.

19 (5) "Emergency" means any catastrophe, disaster,  
20 calamity, or other serious unforeseen and unanticipated  
21 circumstance that has occurred subsequent to the time an  
22 agency's appropriation was made, which was clearly not  
23 within the contemplation of the legislature and the  
24 governor, and which seriously affects one or more functions  
25 of a state agency and the agency's expenditure requirements

1 for the performance of the function or functions.

2 (6) "Executive branch approving authority" means the  
3 governor or his designated representative.

4 (7) "Necessary" means essential to the public welfare  
5 and of a nature which cannot wait until the next legislative  
6 session for legislative consideration.

7 (8) "Requesting agency" means the agency of state  
8 government that has requested a specific budget amendment.

9 (9) "University system unit" means the board of  
10 regents, office of the commissioner of higher education,  
11 university of Montana at Missoula, Montana state university  
12 at Bozeman, Montana college of mineral science and  
13 technology at Butte, eastern Montana college at Billings,  
14 northern Montana college at Havre, western Montana college  
15 at Dillon, the agricultural experiment station with central  
16 offices at Bozeman, the forestry and conservation experiment  
17 station with central offices at Missoula, the cooperative  
18 extension service with central offices at Bozeman, or the  
19 bureau of mines and geology with central offices at Butte."

20 Section 7. Section 17-8-101, MCA, is amended to read:

21 "17-8-101. Appropriation and disbursement of moneys  
22 from the treasury. (1) Moneys Except as provided in  
23 [sections 1 through 5], moneys deposited in the general  
24 fund, the special revenue fund type, the enterprise fund  
25 type, the internal service fund type, and the capital

1 projects fund type, with the exception of refunds authorized  
2 in subsection (3), shall be paid out of the treasury only on  
3 appropriation made by law.

4 (2) Moneys deposited in the debt service fund type,  
5 expendable trust fund type, nonexpendable trust fund type,  
6 pension trust fund type, and agency fund type may be paid  
7 out of the treasury under general laws, or contracts entered  
8 into in pursuance of law, permitting such disbursement.

9 (3) Money paid into the state treasury through error  
10 or under circumstances, such that the state is not legally  
11 entitled to retain it and a refund procedure is not  
12 otherwise provided by law, may be refunded upon the  
13 submission of a verified claim approved by the department of  
14 administration."

15 NEW SECTION. Section 8. Effective date. This act is  
16 effective July 1, 1985.

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