

SENATE BILL 44

Introduced by Beck

1/02	Introduced
1/02	Referred to Local Government
1/30	Sponsor Withdrew
	Died in Committee

1 SENATE BILL NO. 44
2 INTRODUCED BY BECK
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT THE
5 APPLICATION OF OPTIONAL BUILDING CODES RELATED TO ENERGY
6 STANDARDS TO ANY CLASS OF BUILDINGS WITHIN THE STATE; AND
7 AMENDING SECTIONS 50-60-102, 50-60-203 AND 50-60-206, MCA."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 **Section 1.** Section 50-60-102, MCA, is amended to read:
11 "50-60-102. **Applicability.** (1) The state building
12 codes do not apply to:
13 (a) residential buildings containing less than five
14 dwelling units or their attached-to structures, any farm or
15 ranch building, and any private garage or private storage
16 structure used only for the owner's own use, located within
17 the municipality's or county's jurisdictional area, unless
18 the local legislative body or board of county commissioners
19 by ordinance or resolution makes the state building code
20 applicable to these structures; or
21 (b) mines and buildings on mine property regulated
22 under Title 82, chapter 4, and subject to inspection under
23 the Federal Mine Safety and Health Act.
24 (2) The state may not enforce the state building code
25 under 50-60-205 for the aforementioned buildings. Local

1 governments that have made the state building codes
2 applicable to the aforementioned buildings may enforce
3 within their jurisdictional areas the state building code as
4 adopted by the respective local government. The state may
5 not enforce the state building code under 50-60-205 for
6 those buildings.
7 (3) Where good and sufficient cause exists, a written
8 request for limitation of the state building code may be
9 filed with the department for filing as a permanent record.
10 (4) The department may limit the application of any
11 rule or portion of the state building code to include or
12 exclude:
13 (a) specified classes or types of buildings according
14 to use or other distinctions as may make differentiation or
15 separate classification or regulation necessary, proper, or
16 desirable;
17 (b) specified areas of the state based upon size,
18 population density, special conditions prevailing therein,
19 or other factors which make differentiation or separate
20 classification or regulation necessary, proper, or
21 desirable.
22 (5) If the application of any rule or portion of the
23 state building code relating to the efficient use of energy
24 in any class of buildings within the state is limited as
25 provided in subsection (4), the department may not establish

alternative standards to the rule or portion of the state building code."

Section 2. Section 50-60-203, MCA, is amended to read:

"50-60-203. Department to adopt state building code by rule. (1) The department shall adopt rules relating to the construction of, the installation of equipment in, and standards for materials to be used in all buildings or classes of buildings, including provisions dealing with safety, sanitation, and conservation of energy. The department may amend or repeal such rules.

(2) The department may adopt by reference nationally recognized building codes in whole or in part, but this does not prevent the department from adopting rules more stringent than those contained in such codes.

(3) The department may not adopt optional building codes related to energy standards for any class of buildings within the state.

~~{3}~~(4) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and are acceptable for the buildings to which they are applicable."

Section 3. Section 50-60-206, MCA, is amended to read:

"50-60-206. Variances to state building code. (1) The department has the power, on satisfactory proof after a public hearing, to:

(a) vary or modify, in whole or part, the application

of any provision or requirement of the state building code if strict compliance would cause any undue hardship; but no variance or modification shall affect adversely provisions for health, safety, and security, and equally safe and proper alternatives may be prescribed therefor;

(b) reverse, modify, or annul, in whole or part, any ruling, direction, determination, or order of any state agency affecting or relating to the construction of any building, the construction of which is pursuant or purports to be pursuant to the provisions of the state building code;

(c) review within 30 days after disapproval any application for permission for the construction of a building pursuant to the provisions of the state building code or plans or specifications submitted in connection therewith;

(d) reverse, modify, or annul the disapproval in whole or part;

(e) within 30 days make a determination that the application or plans or specifications are in compliance with the provisions of the state building code. If this determination is made, the officer charged with the duty shall issue any permit, license, certificate, authorization, or other document required for the construction.

(2) An application for a variance, modification, reversal, annulment, or review may be made by any person

1 aggrieved pursuant to the Montana Administrative Procedure
2 Act.

3 (3) An application for a variance, modification,
4 reversal, annulment, or review shall stay all proceedings in
5 furtherance of the action appealed from unless there is a
6 showing by the state agency that a stay would involve
7 imminent peril to life or property.

8 (4) The department, in hearings conducted under this
9 section, shall not be bound by common-law or statutory rules
10 of evidence.

11 (5) The department may not grant a variance or
12 modification that allows the application of an optional
13 building code related to energy standards for any class of
14 buildings within the state."

-End-

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 44

INTRODUCED BY PECK

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ~~DEFINING TERMS RELATING TO INTERACCOUNT--LOANS--WITHIN--STATE--GOVERNMENT~~; REVISING PROVISIONS CONCERNING INTERACCOUNT INTERENTITY LOANS ~~BY THE UNIVERSITY-SYSTEM-AND--VOCATIONAL-TECHNICAL--CENTERS WITHIN STATE GOVERNMENT~~; AMENDING SECTION 17-2-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 17-2-107, MCA, is amended to read:

"17-2-107. Accurate accounting records and interaccount INTERENTITY loans. (1) The department of administration shall record receipts and disbursements for treasury funds and for accounts ACCOUNTING ENTITIES within treasury funds and shall maintain records in such a manner as to reflect the total cash and invested balance of each fund and each account ACCOUNTING ENTITY. The department of administration shall adopt the necessary procedures to insure that interdepartmental or intradepartmental transfers of money OR LOANS do not result in inflation of figures reflecting total governmental costs and revenues.

(2) (A) When the expenditure of an appropriation FROM

A FUND DESIGNATED IN 17-2-102(1)(A) THROUGH (1)(C) is necessary and the cash balance in the account ACCOUNTING ENTITY from which the appropriation was made is insufficient, the department of administration may authorize ~~a-transfer,~~ as a temporary loan, bearing no interest, of unrestricted moneys MONEY from other accounts, ~~provided that~~ ACCOUNTING ENTITIES IF there is reasonable evidence that the income will be sufficient to ~~restore--the--amount--so~~ transferred REPAY THE LOAN within 1 calendar year and provided IF the loan is recorded in the state accounting records. AN ACCOUNTING ENTITY RECEIVING A LOAN OR AN ACCOUNTING ENTITY FROM WHICH A LOAN IS MADE MAY NOT BE SO IMPAIRED THAT ALL PROPER DEMANDS ON THE ACCOUNTING ENTITY CANNOT BE MET EVEN IF THE LOAN IS EXTENDED.

(B) (I) WHEN AN EXPENDITURE FROM A FUND OR SUBFUND DESIGNATED IN 17-2-102(1)(D)(I)(A) THROUGH (1)(D)(VI) IS NECESSARY AND THE CASH BALANCE IN THE FUND OR SUBFUND FROM WHICH THE EXPENDITURE IS TO BE MADE IS INSUFFICIENT, THE COMMISSIONER OF HIGHER EDUCATION MAY AUTHORIZE A TEMPORARY LOAN, BEARING INTEREST AS PROVIDED IN SUBSECTION (4), OF MONEY FROM THE AGENCY'S OTHER FUNDS OR SUBFUNDS IF THERE IS REASONABLE EVIDENCE THAT THE INCOME WILL BE SUFFICIENT TO REPAY THE LOAN WITHIN 1 CALENDAR YEAR AND IF THE LOAN IS RECORDED IN THE STATE ACCOUNTING RECORDS. A FUND OR SUBFUND RECEIVING A LOAN OR FROM WHICH A LOAN IS MADE MAY NOT BE SO

1 IMPAIRED THAT ALL PROPER DEMANDS ON THE FUND OR SUBFUND
 2 CANNOT BE MET EVEN IF THE LOAN IS EXTENDED.

3 (II) ONE ACCOUNTING ENTITY WITHIN EACH FUND OR SUBFUND
 4 DESIGNATED IN 17-2-102(1)(D)(I)(A) THROUGH (1)(D)(VI) MUST
 5 BE ESTABLISHED FOR THE SOLE PURPOSE OF RECORDING LOANS
 6 BETWEEN THE FUNDS OR SUBFUNDS. THIS ACCOUNTING ENTITY IS
 7 THE ONLY ACCOUNTING ENTITY WITHIN EACH FUND OR SUBFUND THAT
 8 MAY RECEIVE A LOAN OR FROM WHICH A LOAN MAY BE MADE.

9 (C) The A loan MADE UNDER SUBSECTION (2)(A) OR (2)(B)
 10 must be repaid within 1 calendar year of the date the loan
 11 is approved unless it is extended under subsection (3) or by
 12 specific legislative authorization. No-account-shall--be--so
 13 impaired--that-all-proper-demands-thereon-cannot-be-met-even
 14 if-the-loan-is-extended-

15 (3) Under unusual circumstances the director of the
 16 department of administration OR THE BOARD OF REGENTS may
 17 grant one extension of-a-loan for up to 1 year FOR A LOAN
 18 MADE UNDER SUBSECTION (2)(A) OR (2)(B). The department-of
 19 administration DIRECTOR OR BOARD shall prepare a written
 20 justification and proposed repayment plan for each loan
 21 extension authorized and shall furnish a copy of the written
 22 justification and proposed repayment plan to the house
 23 appropriations and senate finance and claims committees at
 24 the next legislative session.

25 (4) Any loan from the--general--fund--or the current

1 unrestricted subfund to funds designated in subsections
 2 (1)(d)(i)(D), 17-2-102(1)(d)(i)(D), and (1)(d)(ii) through
 3 (1)(d)(vi) of--17-2-102--shall MUST bear interest at a rate
 4 equivalent to the previous fiscal year's average rate of
 5 return on the board of investments' short-term investment
 6 pool. Except for investment earnings on restricted
 7 donations, all designated and restricted subfund investment
 8 earnings, other than investment earnings on student activity
 9 fees used to support student governments at units of the
 10 university system, are credited to the state general fund.

11 (5) IF FOR TWO CONSECUTIVE FISCAL YEARENDS A LOAN OR
 12 AN EXTENSION OF A LOAN HAS BEEN AUTHORIZED TO THE SAME
 13 ACCOUNTING ENTITY AS PROVIDED IN SUBSECTION (2) OR (3), THE
 14 DEPARTMENT OF ADMINISTRATION OR THE COMMISSIONER OF HIGHER
 15 EDUCATION SHALL SUBMIT TO THE LEGISLATIVE FINANCE COMMITTEE
 16 BY SEPTEMBER 1 OF THE FOLLOWING FISCAL YEAR A WRITTEN REPORT
 17 CONTAINING AN EXPLANATION AS TO WHY THE SECOND LOAN OR
 18 EXTENSION WAS MADE, AN ANALYSIS OF THE SOLVENCY OF THE
 19 ACCOUNTING ENTITY OR ACCOUNTING ENTITIES WITHIN THE
 20 UNIVERSITY FUND OR SUBFUND, AND A PLAN FOR REPAYING THE
 21 LOANS.

22 (6) IF FOR TWO CONSECUTIVE FISCAL YEARENDS AN
 23 ACCOUNTING ENTITY IN A FUND OR SUBFUND DESIGNATED IN
 24 17-2-102(1)(D)(I) THROUGH (1)(D)(VI) HAS A NEGATIVE CASH
 25 BALANCE, THE COMMISSIONER OF HIGHER EDUCATION SHALL SUBMIT

TO THE LEGISLATIVE FINANCE COMMITTEE BY SEPTEMBER 1 OF THE FOLLOWING FISCAL YEAR A WRITTEN REPORT CONTAINING AN EXPLANATION AS TO WHY THE ACCOUNTING ENTITY HAS A NEGATIVE CASH BALANCE, AN ANALYSIS OF THE SOLVENCY OF THE ACCOUNTING ENTITY, AND A PLAN TO ADDRESS ANY PROBLEMS CONCERNING THE ACCOUNTING ENTITY'S NEGATIVE CASH BALANCE OR SOLVENCY.

~~{5}--No accounting---entity account (7) (A) AN ACCOUNTING ENTITY IN A FUND DESIGNATED IN 17-2-102(1)(A) THROUGH (1)(C) may NOT have a negative cash balance at fiscal yearend. The department of administration may, however, allow any-entity an-account AN ACCOUNTING ENTITY to carry a negative balance at any point during the fiscal year subject-to-the-following-restrictions:~~

~~{a}--Accounting-entity if the negative cash balances may of--the-account-do BALANCE DOES not exist for more than 7 working days in-the-funds-provided-in--subsections--{1}{a} through-{1}{c}-of-17-2-102.~~

~~{b}--Units-----of----the---university---system---and vocational-technical-centers--must--maintain--positive--cash balances---in---the---subfunds---provided---in---subsections {1}{d}{1}{A}-through--{1}{d}{1}{B}--and--{1}{d}{1}{1}--through {1}{d}{1}{vi}-of-17-2-102.~~

(B) (I) EXCEPT AS PROVIDED IN SUBSECTION (7)(B)(II), A UNIT OF THE UNIVERSITY SYSTEM OR VOCATIONAL-TECHNICAL CENTER SHALL MAINTAIN A POSITIVE CASH BALANCE IN THE FUNDS AND

SUBFUNDS DESIGNATED IN 17-2-102(1)(D)(I)(A) THROUGH (1)(D)(I)(D) AND (1)(D)(II) THROUGH (1)(D)(VI).

(II) IF A FUND OR SUBFUND INADVERTENTLY HAS A NEGATIVE CASH BALANCE, THE DEPARTMENT OF ADMINISTRATION MAY ALLOW THE FUND OR SUBFUND TO CARRY THE NEGATIVE CASH BALANCE FOR NO MORE THAN 7 WORKING DAYS. IF THE NEGATIVE CASH BALANCE EXISTS FOR MORE THAN 7 WORKING DAYS, A TRANSACTION MAY NOT BE PROCESSED THROUGH THE STATEWIDE ACCOUNTING SYSTEM FOR THAT FUND OR SUBFUND.

~~{6}{8}~~ Notwithstanding the provisions of subsections (2) through (4), the department of social and rehabilitation services may maintain positive cash balances in the federal special revenue fund with long-term repayment whenever necessary due to the timing for transmittal of obligated matching funds if it can be demonstrated to the satisfaction of the department of administration that the total loan balance does not exceed total receivables from federal and county governments and receivables have been billed on a timely basis. The loan must be repaid under such terms and conditions as may be determined by the department of administration or by specific legislative authorization.

~~{7}--Notwithstanding--the-provisions-of-subsections-{2} and--{3},---units---of---the---university---system---and vocational-technical--centers--may-borrow-from-other-accounts to-maintain--a--positive--cash--balance--in--the--restricted~~

1 subfund--with--long-term-repayment-whenever-necessary-due-to
2 the-reimbursement-nature-of-the-restricted-subfund-if-it-can
3 be-demonstrated-that-the-total-loan-balance-does-not--exceed
4 total-restricted-subfund-receivables:

5 {8}--For--purposes--of-applying-subsections-{2}-through
6 {7}---to---units---of---the---university---system---and---to
7 vocational-technical---centers,---"account"---means---the
8 unrestricted---subfund,---restricted---subfund,---designated
9 subfund,---auxiliary---subfund,---student---loan-fund,---endowment
10 fund,---annuity-and-life-income-fund,---plant-fund,---and---agency
11 fund--as--defined--in--17-2-102,--For--other-state-agencies,
12 "account"--means-an-accounting-entity."

13 **NEW SECTION. Section 2.** Effective date. [This act] is
14 effective on passage and approval.

-End-