

HOUSE BILL NO. 23

INTRODUCED BY PECK
BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

IN THE HOUSE

DECEMBER 23, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS.
JANUARY 4, 1993	FIRST READING.
FEBRUARY 3, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 4, 1993	PRINTING REPORT.
FEBRUARY 5, 1993	SECOND READING, DO PASS.
FEBRUARY 6, 1993	ENGROSSING REPORT.
FEBRUARY 8, 1993	THIRD READING, PASSED. AYES, 97; NOES, 2.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 10, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.
MARCH 18, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 24, 1993	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 25, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 1, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 2, 1993	THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 23

INTRODUCED BY PECK

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW CONCERNING BUDGET AMENDMENTS; ESTABLISHING CRITERIA FOR THE ACCEPTANCE AND EXPENDITURE BY STATE AGENCIES OF CERTAIN MONEY FROM PRIVATE SOURCES; EXEMPTING CERTAIN FUNDS FROM THE BUDGET AMENDMENT PROCESS; ELIMINATING THE EVALUATION CRITERIA REQUIREMENT FOR BUDGET AMENDMENTS; AMENDING SECTIONS 17-2-102, 17-7-402, 17-7-403, AND 17-8-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1.** Criteria for acceptance and expenditure of certain nonstate and nonfederal money. (1) Before an agency may accept or expend money from a nonstate or nonfederal source that would be deposited in the state special revenue fund or in the current restricted subfund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, the approving authority for the agency shall submit to the legislative finance committee a copy of the agreement and a certification containing:

(a) the specific service that will be provided;

(b) the proposed duration of the agreement; and

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

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

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

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

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

(3) The legislative fiscal analyst shall present a written report of each review that is conducted to the legislative finance committee. Within 10 days after the meeting of the legislative finance committee that considered the proposed agreement and certification, the legislative fiscal analyst shall submit the committee's written report to the approving authority.

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

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

1 legislative fiscal analyst determines that a review is not
 2 necessary, the legislative fiscal analyst may waive the
 3 written review and the legislative finance committee's
 4 written report provided for by this section. Upon receipt of
 5 the waiver, the approving authority may approve or deny the
 6 proposed agreement upon completion of the certification. The
 7 waiver, however, affects only the legislative fiscal
 8 analyst's written review and the legislative finance
 9 committee's written report. All other requirements and
 10 standards remain in effect. After the waiver, the
 11 legislative fiscal analyst may complete the written review.

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

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

16 "17-2-102. Fund structure. (1) There are in the state
 17 treasury only the following fund categories and types:

18 (a) the governmental fund category, which includes:

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

22 (ii) the special revenue fund type, which accounts for
 23 the proceeds of specific revenue sources (other than
 24 expendable trusts or major capital projects) that are
 25 legally restricted to expenditure for specified purposes.

1 The financial activities of the special revenue fund type
 2 ~~shall--be~~ are subdivided, for operational purposes, into the
 3 following funds to serve the purpose indicated:

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

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

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

22 (iv) the debt service fund type, which accounts for the
 23 accumulation of resources for and the payment of general
 24 long-term debt principal and interest;

25 (b) the proprietary fund category, which includes:

1 (i) the enterprise fund type, which accounts for
2 operations;

3 (A) that are financed and operated in a manner similar
4 to private business enterprises whenever the intent of the
5 legislature is that costs (i.e., expenses, including
6 depreciation) of providing goods or services to the general
7 public on a continuing basis are to be financed or recovered
8 primarily through user charges; or

9 (B) whenever the legislature has decided that periodic
10 determination of revenue earned, expenses incurred, or net
11 income is appropriate for capital maintenance, public
12 policy, management control, accountability, or other
13 purposes; and

14 (ii) the internal service fund type, which accounts for
15 the financing of goods or services provided by one
16 department or agency to other departments or agencies of
17 state government or to other governmental entities on a
18 cost-reimbursed basis;

19 (c) the fiduciary fund category, which includes trust
20 and agency fund types used to account for assets held by
21 state government in a trustee capacity or as an agent for
22 individuals, private organizations, other governmental
23 entities, or other funds. These include the:

24 (i) expendable trust fund type;

25 (ii) nonexpendable trust fund type;

1 (iii) pension trust fund type; and

2 (iv) agency fund type.

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

4 (i) the current fund, which accounts for ~~moneys~~ money
5 deposited in the state treasury ~~which are~~ that is used to
6 pay current operating costs relating to instruction,
7 research, public service, and allied support operations and
8 programs conducted within the Montana university system and
9 vocational-technical centers. The financial activities of
10 the current fund ~~shall--be~~ are subdivided, for operation
11 operational purposes, into the four following subfunds to
12 serve the purpose indicated:

13 (A) The unrestricted subfund segregates that portion of
14 the current fund's financial resources that can be expended
15 for general operations and is free of externally imposed
16 restrictions, except those imposed by the legislature.

17 (B) The restricted subfund segregates that portion of
18 the current fund's financial resources that can be expended
19 for general operations but only for purposes imposed by
20 sources external to the board of regents and the
21 legislature.

22 (C) The designated subfund segregates that portion of
23 the current fund's financial resources that is associated
24 with general operations but is separately classified in
25 order to accumulate costs that are to be recharged as

allocated to other funds or subfunds; identifies financial activities related to special organized activities of educational departments wherein the activity is fully supported by supplemental assessments; and identifies special supply and facility fees that are approved for collections beyond normal course fees and their disposition.

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

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

(iii) the endowment fund, which accounts for moneys money deposited in the state treasury by the Montana university system and vocational-technical centers wherein the principal portion of the amount received is nonexpendable but is available for investment, thus producing consumable income. Expendable earnings on endowment funds are to be transferred to appropriate operating funds pursuant to prevailing administrative

requirements.

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

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

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

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

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

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

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

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

"17-7-402. Budget amendment requirements. (1) No Except as provided in subsection (6), a budget amendment may not be approved:

(a) by the approving authority, except a budget amendment to spend funds additional grant revenue or a new source of revenue which were that was not available for legislative consideration during the most recent legislative session open to that matter;

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

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

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

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

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

(2) All budget amendments ~~shall~~ must itemize planned expenditures by fiscal year.

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

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

(5) An appropriation that would usually be the subject

1 of a budget amendment that is submitted to the legislature
 2 for approval during a legislative session may not include
 3 authority to spend money beyond the first fiscal year of the
 4 next biennium.

5 (6) A budget amendment to spend state funds, other than
 6 from the general fund, required for matching funds in order
 7 to receive a grant is exempt from the provisions of
 8 subsection (1)."

9 **Section 4.** Section 17-7-403, MCA, is amended to read:

10 "17-7-403. Budget amendment certification. In approving
 11 a budget amendment, the approving authority shall make the
 12 following certifications and in addition shall provide all
 13 other information required below as an integral part of the
 14 certification:

15 (1) The approving authority shall certify that:

16 (a) specific additional services will be provided as a
 17 result of the expenditures to be permitted under this budget
 18 amendment and shall also list each specific service to be so
 19 provided;

20 (b) the specific services to be provided under this
 21 budget amendment are necessary;

22 (c) the agency requesting this budget amendment has no
 23 other reasonable alternative available to provide the
 24 additional services. ~~Such~~ The certification ~~shall~~ must
 25 specifically include determinations by the approving

1 authority that the agency cannot provide all or specific
 2 parts or amounts of the additional services with existing
 3 ~~personnel--because--of--the--present--required--workload--of~~
 4 ~~existing-personnel~~ appropriations or that the agency is
 5 unable within its existing funding appropriations to fund
 6 all or part of such the additional services from any source
 7 lawfully available to it.

8 (d) the budget amendment makes no ascertainable present
 9 or future significant commitment for increased general fund
 10 support.

11 (2) ~~The--approving--authority--shall--include--in--its~~
 12 ~~certification--the--specific--criteria--by--which--the~~
 13 ~~effectiveness--of--the--additional--services--will--be--evaluated~~
 14 ~~and--shall--state--a--specific--followup--date--on--which--the~~
 15 ~~written--evaluation--of--such--services,--using--the--listed~~
 16 ~~criteria,--will--be--presented--to--the--legislative--fiscal~~
 17 ~~analyst. The--written--evaluation--must--be--presented--to--the~~
 18 ~~legislative--fiscal--analyst--on--or--before--that--date.~~

19 (3) For budget amendments to spend money in the state
 20 special revenue fund, except money from nonstate or
 21 nonfederal sources that is restricted by law or by the terms
 22 of an agreement, such as a contract, trust agreement, or
 23 donation, the approving authority shall certify that an
 24 emergency justifies the expenditure and shall state the
 25 specific nature of the emergency, the date on which the

1 requesting agency became aware of the emergency, and the
 2 manner in which the requesting agency became aware of the
 3 emergency."

4 **Section 5.** Section 17-8-101, MCA, is amended to read:

5 "17-8-101. Appropriation and disbursement of moneys
 6 money from the treasury. (1) Moneys Money deposited in the
 7 general fund, the special revenue fund type (except money
 8 deposited in the treasury from nonstate and nonfederal
 9 sources restricted by law or by the terms of an agreement,
 10 such as a contract, trust agreement, or donation), the
 11 enterprise fund type, the internal service fund type, and
 12 the capital projects fund type, with the exception of
 13 refunds authorized in subsection (3), ~~shall~~ must be paid out
 14 of the treasury only on appropriation made by law.

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

23 (3) Money paid into the state treasury through error or
 24 under circumstances, such that the state is not legally
 25 entitled to retain it and a refund procedure is not

1 otherwise provided by law, may be refunded upon the
 2 submission of a verified claim approved by the department of
 3 administration."

4 **NEW SECTION. Section 6.** Codification instruction.

5 [Section 1] is intended to be codified as an integral part
 6 of Title 17, chapter 7, and the provisions of Title 17,
 7 chapter 7, apply to [section 1].

8 **NEW SECTION. Section 7.** Effective date. [This act] is
 9 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0023, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

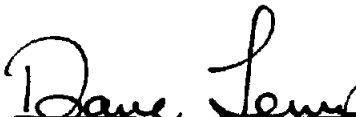
The bill revises the law concerning budget amendments, establishes criteria for the acceptance and expenditure of money from private sources, and eliminates the evaluation criteria requirement for budget amendments.

ASSUMPTIONS:

1. The bill will not affect the number of B212 forms for budget amendments processed by the Office of Budget and Program Planning (OBPP). There will be no fiscal impact on OBPP operations.
2. There will be no fiscal impact on the operations of the Office of the Legislative Fiscal Analyst.

FISCAL IMPACT:

None.

 1-8-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/8/93
RAY PECK, PRIMARY SPONSOR DATE

Fiscal Note for HB0023, as introduced

HB 23

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 23

INTRODUCED BY PECK

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW CONCERNING BUDGET AMENDMENTS; ESTABLISHING CRITERIA FOR THE ACCEPTANCE AND EXPENDITURE BY STATE AGENCIES OF CERTAIN MONEY FROM PRIVATE SOURCES; EXEMPTING CERTAIN FUNDS AND FUND TRANSFERS FROM THE BUDGET AMENDMENT PROCESS; PROVIDING FOR TRANSFER OF FUNDS BETWEEN AGENCIES; ELIMINATING THE EVALUATION CRITERIA REQUIREMENT FOR BUDGET AMENDMENTS; AMENDING SECTIONS 17-2-102, 17-7-402, 17-7-403, AND 17-8-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1.** Criteria for acceptance and expenditure of certain nonstate and nonfederal money. (1) Before an agency may accept or expend money from a nonstate or nonfederal source that would be deposited in the state special revenue fund or in the current restricted subfund and that is restricted by law or by the terms of a written agreement, such as a contract, a trust agreement, or a donation OF \$500 OR MORE THAT IS ACCOMPANIED BY A WRITTEN AGREEMENT, the approving authority for the agency shall submit to the legislative finance committee a copy of the

agreement and a certification containing:

- (a) the specific service that will be provided;
- (b) the proposed duration of the agreement; and
- (c) a statement that CONCERNING THE DEGREE TO WHICH the agreement ~~will not~~ MAY result in an ascertainable present or future commitment for general fund support.

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

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

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

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

(3) The legislative fiscal analyst shall present a written report of each review that is conducted to the legislative finance committee. Within 10 days after the meeting of the legislative finance committee that considered the proposed agreement and certification, the legislative fiscal analyst shall submit the committee's written report to the approving authority.

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

1 (5) If an emergency occurs that poses a serious threat
 2 to the life, health, or safety of the public or if the
 3 legislative fiscal analyst determines that a review is not
 4 necessary, the legislative fiscal analyst may waive the
 5 written review and the legislative finance committee's
 6 written report provided for by this section. Upon receipt of
 7 the waiver, the approving authority may approve or deny the
 8 proposed agreement upon completion of the certification. The
 9 waiver, however, affects only the legislative fiscal
 10 analyst's written review and the legislative finance
 11 committee's written report. All other requirements and
 12 standards remain in effect. After the waiver, the
 13 legislative fiscal analyst may complete the written review.

14 (6) Nothing in this section confers any authority on
 15 the legislative finance committee to approve or deny the
 16 proposed agreement.

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) the 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~~ are 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 money from other nonstate
 11 or nonfederal sources that is restricted by law or by the
 12 terms of an agreement, such as a contract, trust agreement,
 13 or donation. ~~Other-nonstate-and-nonfederal-revenue-deposited~~
 14 ~~in-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) the 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~~ money
7 deposited in the state treasury ~~which are that~~ is used to
8 pay current operating costs relating to instruction,
9 research, public service, and allied support operations and
10 programs conducted within the Montana university system and
11 vocational-technical centers. The financial activities of
12 the current fund ~~shall be~~ are subdivided, for operation
13 operational purposes, into the four following subfunds to
14 serve the 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

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

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

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

(iii) the endowment fund, which accounts for moneys money deposited in the state treasury by the Montana university system and vocational-technical centers wherein the principal portion of the amount received is nonexpendable but is available for investment, thus producing consumable income. Expendable earnings on

endowment funds are to be transferred to appropriate operating funds pursuant to prevailing administrative requirements.

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

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

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

(2) In addition to the funds provided for in subsection (1) of this section, there are in the state treasury the

1 following account groups:

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

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

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

17 "17-7-402. Budget amendment requirements. (1) No Except
18 as provided in subsection (6), a budget amendment may not be
19 approved:

20 (a) by the approving authority, except a budget
21 amendment to spend funds additional grant FEDERAL revenue,
22 ADDITIONAL TUITION COLLECTED BY THE MONTANA UNIVERSITY
23 SYSTEM, ADDITIONAL REVENUE DEPOSITED IN THE INTERNAL SERVICE
24 FUNDS WITHIN THE DEPARTMENT AS A RESULT OF INCREASED SERVICE
25 DEMANDS BY STATE AGENCIES, or a new source of revenue which

1 were that was not available for legislative consideration
2 during the most recent legislative session open to that
3 matter;

4 (b) by the approving authority, which contains any
5 significant ascertainable commitment for any present or
6 future increased general fund support;

7 (c) by the approving authority, for the expenditure of
8 money in the state special revenue fund unless an emergency
9 justifies such the expenditure;

10 (d) by the approving authority, unless it will provide
11 additional services;

12 (e) by the approving authority, for any matter of which
13 the requesting agency had knowledge at a time when the
14 proposal could have been presented to an appropriation
15 subcommittee, the house appropriations committee, or the
16 senate finance and claims committee of the most recent
17 legislative session open to that matter; or

18 (f) to extend beyond June 30 of the last year of any
19 biennium.

20 (2) All budget amendments shall must itemize planned
21 expenditures by fiscal year.

22 (3) Each budget amendment must be submitted by the
23 approving authority to the budget director and the office of
24 the legislative fiscal analyst.

25 (4) Money from nonstate or nonfederal sources that

1 would be deposited in the state special revenue fund and
 2 that is restricted by law or by the terms of a written
 3 agreement, such as a contract, trust agreement, or donation,
 4 is subject to the review process provided in [section 1] and
 5 is exempt from the requirements of this part.

6 (5) An appropriation that would usually be the subject
 7 of a budget amendment that is submitted to the legislature
 8 for approval during a legislative session may not include
 9 authority to spend money beyond the first fiscal year of the
 10 next biennium.

11 (6) A budget amendment to spend state funds, other than
 12 from the general fund, required for matching funds in order
 13 to receive a grant is exempt from the provisions of
 14 subsection (1)."

15 **Section 4.** Section 17-7-403, MCA, is amended to read:

16 "17-7-403. Budget amendment certification. In approving
 17 a budget amendment, the approving authority shall make the
 18 following certifications and in addition shall provide all
 19 other information required below as an integral part of the
 20 certification:

21 (1) The approving authority shall certify that:

22 (a) specific additional services will be provided as a
 23 result of the expenditures to be permitted under this budget
 24 amendment and shall also list each specific service to be so
 25 provided;

1 (b) the specific services to be provided under this
 2 budget amendment are necessary;

3 (c) the agency requesting this budget amendment has no
 4 other reasonable alternative available to provide the
 5 additional services. Such ~~The~~ certification shall must
 6 specifically include determinations by the approving
 7 authority that the agency cannot provide all or specific
 8 parts or amounts of the additional services with existing
 9 personnel--because--of--the--present--required--workload--of
 10 existing-personnel appropriations or that the agency is
 11 unable within its existing funding appropriations to fund
 12 all or part of such the additional services from any source
 13 lawfully available to it.

14 (d) the budget amendment makes no ascertainable present
 15 or future significant commitment for increased general fund
 16 support.

17 (2) ~~The--approving--authority--shall--include--in--its~~
 18 ~~certification--the--specific--criteria--by--which--the~~
 19 ~~effectiveness--of--the--additional--services--will--be--evaluated~~
 20 ~~and--shall--state--a--specific--followup--date--on--which--the~~
 21 ~~written--evaluation--of--such--services--using--the--listed~~
 22 ~~criteria--will--be--presented--to--the--legislative--fiscal~~
 23 ~~analyst--The--written--evaluation--must--be--presented--to--the~~
 24 ~~legislative--fiscal--analyst--on--or--before--that--date~~

25 (3) For budget amendments to spend money in the state

special revenue fund, except money from nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation, the approving authority shall certify that an emergency justifies the expenditure and shall state the specific nature of the emergency, the date on which the requesting agency became aware of the emergency, and the manner in which the requesting agency became aware of the emergency."

Section 5. Section 17-8-101, MCA, is amended to read:

"17-8-101. Appropriation and disbursement of moneys money from the treasury. (1) Moneys Money deposited in the general fund, the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation), the enterprise fund type, the internal service fund type, and the capital projects fund type, with the exception of refunds authorized in subsection (3), ~~shall~~ must be paid out of the treasury only on appropriation made by law.

(2) Moneys Money deposited in the debt service fund type, expendable trust fund type, nonexpendable trust fund type, pension trust fund type, the state special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust

agreement, or donation, and agency fund type may be paid out of the treasury under general laws, or contracts entered into in pursuance of law, permitting such the disbursement.

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

(4) AUTHORITY TO EXPEND APPROPRIATED MONEY MAY BE TRANSFERRED FROM ONE STATE AGENCY TO ANOTHER, PROVIDED THAT THE ORIGINAL PURPOSE OF THE APPROPRIATION IS MAINTAINED. THE OFFICE OF BUDGET AND PROGRAM PLANNING SHALL REPORT SEMIANNUALLY TO THE LEGISLATIVE FINANCE COMMITTEE CONCERNING ALL APPROPRIATIONS TRANSFERRED UNDER THE PROVISIONS OF THIS SECTION."

NEW SECTION. **Section 6.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 7, and the provisions of Title 17, chapter 7, apply to [section 1].

NEW SECTION. **Section 7.** Effective date. [This act] is effective July 1, 1993.

-End-

1 HOUSE BILL NO. 23

2 INTRODUCED BY PECK

3 BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6 LAW CONCERNING BUDGET AMENDMENTS; ESTABLISHING CRITERIA FOR
7 THE ACCEPTANCE AND EXPENDITURE BY STATE AGENCIES OF CERTAIN
8 MONEY FROM PRIVATE SOURCES; EXEMPTING CERTAIN FUNDS AND FUND
9 TRANSFERS FROM THE BUDGET AMENDMENT PROCESS; PROVIDING FOR
10 TRANSFER OF FUNDS BETWEEN AGENCIES; ELIMINATING THE
11 EVALUATION CRITERIA REQUIREMENT FOR BUDGET AMENDMENTS;
12 AMENDING SECTIONS 17-2-102, 17-7-402, 17-7-403, AND
13 17-8-101, MCA; AND PROVIDING AN EFFECTIVE DATE."
14

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

16 NEW SECTION. Section 1. Criteria for acceptance and
17 expenditure of certain nonstate and nonfederal money. (1)
18 Before an agency may accept or expend money from a nonstate
19 or nonfederal source that would be deposited in the state
20 special revenue fund or in the current restricted subfund
21 and that is restricted by law or by the terms of a-written
22 agreement, such as a contract, a trust agreement, or a
23 donation OF \$500 OR MORE THAT IS ACCOMPANIED BY A WRITTEN
24 AGREEMENT, the approving authority for the agency shall
25 submit to the legislative finance committee a copy of the

1 agreement and a certification containing:

- 2 (a) the specific service that will be provided;
3 (b) the proposed duration of the agreement; and
4 (c) a statement that CONCERNING THE DEGREE TO WHICH the
5 agreement will not MAY result in an ascertainable present or
6 future commitment for general fund support.
7 (2) The legislative fiscal analyst shall review the
8 agreement and certification to ensure that:
9 (a) the proposed use of the money has not been
10 specifically disapproved by the legislature;
11 (b) the terms of the agreement are not contrary to
12 state law; and
13 (c) the agreement will not result in an ascertainable
14 present or future commitment for general fund support.
15 (3) The legislative fiscal analyst shall present a
16 written report of each review that is conducted to the
17 legislative finance committee. Within 10 days after the
18 meeting of the legislative finance committee that considered
19 the proposed agreement and certification, the legislative
20 fiscal analyst shall submit the committee's written report
21 to the approving authority.
22 (4) Upon receipt of the legislative finance committee's
23 report, the approving authority may approve or deny the
24 proposed agreement, taking into consideration the
25 legislative finance committee's report.

1 (5) If an emergency occurs that poses a serious threat
 2 to the life, health, or safety of the public or if the
 3 legislative fiscal analyst determines that a review is not
 4 necessary, the legislative fiscal analyst may waive the
 5 written review and the legislative finance committee's
 6 written report provided for by this section. Upon receipt of
 7 the waiver, the approving authority may approve or deny the
 8 proposed agreement upon completion of the certification. The
 9 waiver, however, affects only the legislative fiscal
 10 analyst's written review and the legislative finance
 11 committee's written report. All other requirements and
 12 standards remain in effect. After the waiver, the
 13 legislative fiscal analyst may complete the written review.

14 (6) Nothing in this section confers any authority on
 15 the legislative finance committee to approve or deny the
 16 proposed agreement.

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) the 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~~ are 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 money from other nonstate
 11 or nonfederal sources that is restricted by law or by the
 12 terms of an agreement, such as a contract, trust agreement,
 13 or donation. ~~Other-nonstate-and-nonfederal-revenue-deposited~~
 14 ~~in-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) the 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 money
7 deposited in the state treasury which-are that is used to
8 pay current operating costs relating to instruction,
9 research, public service, and allied support operations and
10 programs conducted within the Montana university system and
11 vocational-technical centers. The financial activities of
12 the current fund shall--be are subdivided, for operation
13 operational purposes, into the four following subfunds to
14 serve the 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

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

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

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

(iii) the endowment fund, which accounts for moneys money deposited in the state treasury by the Montana university system and vocational-technical centers wherein the principal portion of the amount received is nonexpendable but is available for investment, thus producing consumable income. Expendable earnings on

endowment funds are to be transferred to appropriate operating funds pursuant to prevailing administrative requirements.

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

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

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

(2) In addition to the funds provided for in subsection (1) of this section, there are in the state treasury the

1 following account groups:

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

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

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

17 "17-7-402. Budget amendment requirements. (1) No Except
18 as provided in subsection (6), a budget amendment may not be
19 approved:

20 (a) by the approving authority, except a budget
21 amendment to spend funds additional grant FEDERAL revenue,
22 ADDITIONAL TUITION COLLECTED BY THE MONTANA UNIVERSITY
23 SYSTEM, ADDITIONAL REVENUE DEPOSITED IN THE INTERNAL SERVICE
24 FUNDS WITHIN THE DEPARTMENT AS A RESULT OF INCREASED SERVICE
25 DEMANDS BY STATE AGENCIES, or a new source of revenue which

1 were that was not available for legislative consideration
2 during the most recent legislative session open to that
3 matter;

4 (b) by the approving authority, which contains any
5 significant ascertainable commitment for any present or
6 future increased general fund support;

7 (c) by the approving authority, for the expenditure of
8 money in the state special revenue fund unless an emergency
9 justifies such the expenditure;

10 (d) by the approving authority, unless it will provide
11 additional services;

12 (e) by the approving authority, for any matter of which
13 the requesting agency had knowledge at a time when the
14 proposal could have been presented to an appropriation
15 subcommittee, the house appropriations committee, or the
16 senate finance and claims committee of the most recent
17 legislative session open to that matter; or

18 (f) to extend beyond June 30 of the last year of any
19 biennium.

20 (2) All budget amendments shall must itemize planned
21 expenditures by fiscal year.

22 (3) Each budget amendment must be submitted by the
23 approving authority to the budget director and the office of
24 the legislative fiscal analyst.

25 (4) Money from nonstate or nonfederal sources that

would be deposited in the state special revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, is subject to the review process provided in [section 1] and is exempt from the requirements of this part.

(5) An appropriation that would usually be the subject of a budget amendment that is submitted to the legislature for approval during a legislative session may not include authority to spend money beyond the first fiscal year of the next biennium.

(6) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1)."

Section 4. Section 17-7-403, MCA, is amended to read:

"17-7-403. Budget amendment certification. In approving a budget amendment, the approving authority shall make the following certifications and in addition shall provide all other information required below as an integral part of the certification:

(1) The approving authority shall certify that:

(a) specific additional services will be provided as a result of the expenditures to be permitted under this budget amendment and shall also list each specific service to be so provided;

(b) the specific services to be provided under this budget amendment are necessary;

(c) the agency requesting this budget amendment has no other reasonable alternative available to provide the additional services. Such The certification shall must specifically include determinations by the approving authority that the agency cannot provide all or specific parts or amounts of the additional services with existing personnel--because--of--the--present--required--workload--of existing-personnel appropriations or that the agency is unable within its existing funding appropriations to fund all or part of such the additional services from any source lawfully available to it.

(d) the budget amendment makes no ascertainable present or future significant commitment for increased general fund support.

(2) ~~The--approving--authority--shall--include--in--its certification--the--specific--criteria--by--which--the effectiveness--of--the--additional--services--will--be--evaluated and--shall--state--a--specific--followup--date--on--which--the written--evaluation--of--such--services--using--the--listed criteria--will--be--presented--to--the--legislative--fiscal analyst--The--written--evaluation--must--be--presented--to--the legislative--fiscal--analyst--on--or--before--that--date.~~

(3) For budget amendments to spend money in the state

special revenue fund, except money from nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation, the approving authority shall certify that an emergency justifies the expenditure and shall state the specific nature of the emergency, the date on which the requesting agency became aware of the emergency, and the manner in which the requesting agency became aware of the emergency."

Section 5. Section 17-8-101, MCA, is amended to read:

"17-8-101. Appropriation and disbursement of moneys money from the treasury. (1) Moneys Money deposited in the general fund, the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation), the enterprise fund type, the internal service fund type, and the capital projects fund type, with the exception of refunds authorized in subsection (3), ~~shall~~ must be paid out of the treasury only on appropriation made by law.

(2) Moneys Money deposited in the debt service fund type, expendable trust fund type, nonexpendable trust fund type, pension trust fund type, the state special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust

agreement, or donation, and agency fund type may be paid out of the treasury under general laws, or contracts entered into in pursuance of law, permitting such the disbursement.

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

(4) AUTHORITY TO EXPEND APPROPRIATED MONEY MAY BE TRANSFERRED FROM ONE STATE AGENCY TO ANOTHER, PROVIDED THAT THE ORIGINAL PURPOSE OF THE APPROPRIATION IS MAINTAINED. THE OFFICE OF BUDGET AND PROGRAM PLANNING SHALL REPORT SEMIANNUALLY TO THE LEGISLATIVE FINANCE COMMITTEE CONCERNING ALL APPROPRIATIONS TRANSFERRED UNDER THE PROVISIONS OF THIS SECTION."

NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 7, and the provisions of Title 17, chapter 7, apply to [section 1].

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 1993.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 23 (first reading copy -- blue), respectfully report that House Bill No. 23 be amended as follows and as so amended be concurred in.

Signed: Judy H. Jacobson
Senator Judy H. Jacobson, Chair

That such amendments read:

1. Page 1, line 18.
Strike: "accept or"

2. Page 1, line 23.
Strike: "\$500"
Insert: "\$5,000"

3. Page 9, line 24.
Following: "DEPARTMENT"
Insert: "or the office of the commissioner of higher education"

4. Page 9, line 25.
Following: ", "
Insert: "Montana historical society enterprise revenue resulting from sales to the public, additional revenue deposited in funds, other than the general fund, from the sale of fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91,"

-END-

Mc Amd. Coord.
in Sec. of Senate

Jacobson
Senator Carrying Bill

SENATE
HB 23
611119SC.Spm

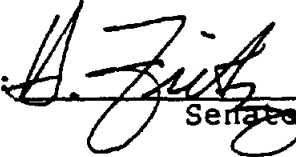
SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 19, 1993 4:39 pm

Mr. Chairman: I move to amend House Bill No. 23 (third reading copy -- blue).

ADOPT

REJECT

Signed: 

Senator Harry Fritz

That such amendments read:

1. Page 1, line 20.

Following: "fund"

Strike: "or in the current restricted subfund"

-END-

SENATE

HB 23

r621639CW.Sma

1 HOUSE BILL NO. 23

2 INTRODUCED BY PECK

3 BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6 LAW CONCERNING BUDGET AMENDMENTS; ESTABLISHING CRITERIA FOR
7 THE ACCEPTANCE AND EXPENDITURE BY STATE AGENCIES OF CERTAIN
8 MONEY FROM PRIVATE SOURCES; EXEMPTING CERTAIN FUNDS AND FUND
9 TRANSFERS FROM THE BUDGET AMENDMENT PROCESS; PROVIDING FOR
10 TRANSFER OF FUNDS BETWEEN AGENCIES; ELIMINATING THE
11 EVALUATION CRITERIA REQUIREMENT FOR BUDGET AMENDMENTS;
12 AMENDING SECTIONS 17-2-102, 17-7-402, 17-7-403, AND
13 17-8-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

16 NEW SECTION. Section 1. Criteria for acceptance and
17 expenditure of certain nonstate and nonfederal money. (1)
18 Before an agency may accept or expend money from a nonstate
19 or nonfederal source that would be deposited in the state
20 special revenue fund or in the current restricted subfund
21 and that is restricted by law or by the terms of a written
22 agreement, such as a contract, a trust agreement, or a
23 donation OF \$500 \$5,000 OR MORE THAT IS ACCOMPANIED BY A
24 WRITTEN AGREEMENT, the approving authority for the agency
25 shall submit to the legislative finance committee a copy of

1 the agreement and a certification containing:

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

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

4 (c) a statement that CONCERNING THE DEGREE TO WHICH the
5 agreement will not MAY result in an ascertainable present or
6 future commitment for general fund support.

7 (2) The legislative fiscal analyst shall review the
8 agreement and certification to ensure that:

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

11 (b) the terms of the agreement are not contrary to
12 state law; and

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

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

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

1 (5) If an emergency occurs that poses a serious threat
 2 to the life, health, or safety of the public or if the
 3 legislative fiscal analyst determines that a review is not
 4 necessary, the legislative fiscal analyst may waive the
 5 written review and the legislative finance committee's
 6 written report provided for by this section. Upon receipt of
 7 the waiver, the approving authority may approve or deny the
 8 proposed agreement upon completion of the certification. The
 9 waiver, however, affects only the legislative fiscal
 10 analyst's written review and the legislative finance
 11 committee's written report. All other requirements and
 12 standards remain in effect. After the waiver, the
 13 legislative fiscal analyst may complete the written review.

14 (6) Nothing in this section confers any authority on
 15 the legislative finance committee to approve or deny the
 16 proposed agreement.

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) the 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~~ are 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 money from other nonstate
 11 or nonfederal sources that is restricted by law or by the
 12 terms of an agreement, such as a contract, trust agreement,
 13 or donation. ~~Other-nonstate-and-nonfederal-revenue-deposited~~
 14 ~~in--the--state-special-revenue-account-is-not-subject-to-the~~
 15 ~~emergency-budget-amendment-provisions-of-17-7-483.~~

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) the 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 money
7 deposited in the state treasury which-are that is used to
8 pay current operating costs relating to instruction,
9 research, public service, and allied support operations and
10 programs conducted within the Montana university system and
11 vocational-technical centers. The financial activities of
12 the current fund shall--be are subdivided, for operation
13 operational purposes, into the four following subfunds to
14 serve the 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 money deposited in the state treasury which that may be
 17 loaned to students, faculty, or staff for purposes related
 18 to 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 money deposited in the state treasury by the Montana
 22 university system and vocational-technical centers wherein
 23 the principal portion of the amount received is
 24 nonexpendable but is available for investment, thus
 25 producing consumable income. Expendable earnings on

1 endowment funds are to be transferred to appropriate
 2 operating funds pursuant to prevailing administrative
 3 requirements.

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

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

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

24 (2) In addition to the funds provided for in subsection
 25 (1) ~~of--this--section~~, there are in the state treasury the

1 following account groups:

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

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

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

17 "17-7-402. Budget amendment requirements. (1) No Except
18 as provided in subsection (6), a budget amendment may not be
19 approved:

20 (a) by the approving authority, except a budget
21 amendment to spend funds additional grant FEDERAL revenue,
22 ADDITIONAL TUITION COLLECTED BY THE MONTANA UNIVERSITY
23 SYSTEM, ADDITIONAL REVENUE DEPOSITED IN THE INTERNAL SERVICE
24 FUNDS WITHIN THE DEPARTMENT OR THE OFFICE OF THE
25 COMMISSIONER OF HIGHER EDUCATION AS A RESULT OF INCREASED

1 SERVICE DEMANDS BY STATE AGENCIES, MONTANA HISTORICAL
2 SOCIETY ENTERPRISE REVENUE RESULTING FROM SALES TO THE
3 PUBLIC, ADDITIONAL REVENUE DEPOSITED IN FUNDS, OTHER THAN
4 THE GENERAL FUND, FROM THE SALE OF FUEL FOR THOSE AGENCIES
5 PARTICIPATING IN THE MONTANA PUBLIC VEHICLE FUELING PROGRAM
6 ESTABLISHED BY EXECUTIVE ORDER 22-91, or a new source of
7 revenue which--were that was not available for legislative
8 consideration during the most recent legislative session
9 open to that matter;

10 (b) by the approving authority, which contains any
11 significant ascertainable commitment for any present or
12 future increased general fund support;

13 (c) by the approving authority, for the expenditure of
14 money in the state special revenue fund unless an emergency
15 justifies such the expenditure;

16 (d) by the approving authority, unless it will provide
17 additional services;

18 (e) by the approving authority, for any matter of which
19 the requesting agency had knowledge at a time when the
20 proposal could have been presented to an appropriation
21 subcommittee, the house appropriations committee, or the
22 senate finance and claims committee of the most recent
23 legislative session open to that matter; or

24 (f) to extend beyond June 30 of the last year of any
25 biennium.

1 (2) All budget amendments ~~shall~~ must itemize planned
2 expenditures by fiscal year.

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

6 (4) Money from nonstate or nonfederal sources that
7 would be deposited in the state special revenue fund and
8 that is restricted by law or by the terms of a written
9 agreement, such as a contract, trust agreement, or donation,
10 is subject to the review process provided in [section 1] and
11 is exempt from the requirements of this part.

12 (5) An appropriation that would usually be the subject
13 of a budget amendment that is submitted to the legislature
14 for approval during a legislative session may not include
15 authority to spend money beyond the first fiscal year of the
16 next biennium.

17 (6) A budget amendment to spend state funds, other than
18 from the general fund, required for matching funds in order
19 to receive a grant is exempt from the provisions of
20 subsection (1)."

21 **Section 4.** Section 17-7-403, MCA, is amended to read:

22 "17-7-403. Budget amendment certification. In approving
23 a budget amendment, the approving authority shall make the
24 following certifications and in addition shall provide all
25 other information required below as an integral part of the

1 certification:

2 (1) The approving authority shall certify that:

3 (a) specific additional services will be provided as a
4 result of the expenditures to be permitted under this budget
5 amendment and shall also list each specific service to be so
6 provided;

7 (b) the specific services to be provided under this
8 budget amendment are necessary;

9 (c) the agency requesting this budget amendment has no
10 other reasonable alternative available to provide the
11 additional services. Such The certification ~~shall~~ must
12 specifically include determinations by the approving
13 authority that the agency cannot provide all or specific
14 parts or amounts of the additional services with existing
15 ~~personnel--because--of--the--present--required--workload--of~~
16 ~~existing-personnel~~ appropriations or that the agency is
17 unable within its existing funding appropriations to fund
18 all or part of such the additional services from any source
19 lawfully available to it.

20 (d) the budget amendment makes no ascertainable present
21 or future significant commitment for increased general fund
22 support.

23 (2) ~~The--approving--authority--shall--include--in--its~~
24 ~~certification---the---specific---criteria---by---which---the~~
25 ~~effectiveness--of--the--additional--services--will--be--evaluated~~

~~and shall state a specific followup date on which the written evaluation of such services, using the listed criteria, will be presented to the legislative fiscal analyst. The written evaluation must be presented to the legislative fiscal analyst on or before that date.~~

{3} For budget amendments to spend money in the state special revenue fund, except money from nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation, the approving authority shall certify that an emergency justifies the expenditure and shall state the specific nature of the emergency, the date on which the requesting agency became aware of the emergency, and the manner in which the requesting agency became aware of the emergency."

Section 5. Section 17-8-101, MCA, is amended to read:

"17-8-101. Appropriation and disbursement of moneys money from the treasury. (1) Moneys Money deposited in the general fund, the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation), the enterprise fund type, the internal service fund type, and the capital projects fund type, with the exception of refunds authorized in subsection (3), ~~shall~~ must be paid out

of the treasury only on appropriation made by law.

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

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

(4) AUTHORITY TO EXPEND APPROPRIATED MONEY MAY BE TRANSFERRED FROM ONE STATE AGENCY TO ANOTHER, PROVIDED THAT THE ORIGINAL PURPOSE OF THE APPROPRIATION IS MAINTAINED. THE OFFICE OF BUDGET AND PROGRAM PLANNING SHALL REPORT SEMIANNUALLY TO THE LEGISLATIVE FINANCE COMMITTEE CONCERNING ALL APPROPRIATIONS TRANSFERRED UNDER THE PROVISIONS OF THIS SECTION.

NEW SECTION. **Section 6.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 7, and the provisions of Title 17,

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1 chapter 7, apply to [section 1].

2 NEW SECTION. **Section 7.** Effective date. [This act] is

3 effective July 1, 1993.

-End-