

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Senate BILL NO. 286

INTRODUCED BY *Cynthia Luby* BENEFIT *Hollygan Eddy*
Carttett *Richard* *James* *John* *Carl* *Mike*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INSPECTION OF THE CONSTRUCTION OF
A FACILITY OR ALTERATION OF PRIMARY FUNCTION AREAS FOR ACCESSIBILITY TO PERSONS WITH
DISABILITIES; REQUIRING ACCESSIBLE EXTERIOR ROUTES; REGULATING THE ALTERATION OF A
PRIMARY FUNCTION AREA; PROVIDING FOR A DISCLAIMER ON BUILDING PERMITS AND CERTIFICATES
OF OCCUPANCY; AMENDING SECTIONS 50-60-101, 50-60-201, AND 50-60-203, MCA; AND PROVIDING
AN APPLICABILITY DATE." *LAEP* *Esther Kottel*

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

NEW SECTION. **Section 1. Inspections.** (1) The construction of a building or facility or alteration to a primary function area of a building or facility that is subject to the provisions of this part must be inspected for physical accessibility to persons with disabilities.

(2) The inspection must include the building site and applicable exterior features, such as parking areas, passenger loading zones, public sidewalks, and public transportation stops.

(3) (a) The inspections must be completed by state building inspectors in areas not covered by a municipal or county building code.

(b) (i) Municipalities and counties that have adopted a building code may assign appropriately trained personnel to perform site inspections conducted pursuant to this part.

(ii) Municipalities and counties conducting inspections pursuant to this section must have an enforcement mechanism in place to ensure compliance with the accessibility provisions of this part, including but not limited to denying building permits or certificates of occupancy, injunctions, or other civil enforcement procedures allowed by law.

(4) Existing buildings or facilities that are not undergoing an alteration to a primary function area are not subject to the inspection provisions of this section.

NEW SECTION. **Section 2. Disclaimer.** A building permit or certificate of occupancy issued by the state or by a municipality or county must contain a statement that reads: "Compliance with the

1 requirements of the state building code for physical accessibility to persons with disabilities does not
2 necessarily guarantee compliance with the Americans with Disabilities Act of 1990, the Rehabilitation Act
3 of 1973, the Fair Housing Amendments Act of 1988, Title 49, chapter 2, commonly known as the Montana
4 Human Rights Act, or other similar federal, state, or local laws that mandate accessibility to commercial
5 construction or multifamily housing."
6

7 **NEW SECTION. Section 3. Accessible exterior routes -- exceptions.** (1) Except as provided in
8 subsection (6), for a building or facility subject to the provisions of this part, an accessible exterior route
9 must be provided from public transportation stops located within the boundary of the building site, from
10 accessible parking and accessible passenger loading zones within the boundaries of the building site, and
11 from public sidewalks that are immediately adjacent to the building site, if sidewalks exist, to the building's
12 or facility's accessible entrance served by the transportation stops, parking and loading zones, or sidewalks.

13 (2) (a) When more than one building or facility subject to the provisions of this part is located on
14 a site, at least one accessible exterior route must connect accessible elements, facilities, and buildings that
15 are on the site.

16 (b) For the purposes of [section 4] and this section, "element" means an architectural or mechanical
17 component of a building, facility, space, or site and includes but is not limited to telephones, curb ramps,
18 doors, drinking fountains, seating, and restrooms.

19 (3) An accessible exterior route between accessible parking and an accessible building or facility
20 entrance must be the most practical direct route.

21 (4) (a) A person or entity constructing a building or facility subject to the provisions of this part
22 is not required to fully comply with the provisions of this section if the person can demonstrate that due
23 to characteristics of the terrain, it is structurally impractical to fully comply.

24 (b) Full compliance may be considered structurally impractical only in those rare circumstances
25 when the unique characteristics of the terrain prevent the incorporation of accessibility features.

26 (c) The person or entity shall comply with the provisions of this section to the extent that
27 compliance is not structurally impractical.

28 (d) The department shall adopt rules to assist builders and building inspectors in determining
29 structural impracticality.

30 (5) (a) If a paved parking lot is not planned or present for a building or facility subject to this part,

1 a person or entity constructing the building or facility is not required to pave the entire lot, unless otherwise
2 required by law, ordinance, or applicable building code, but shall provide pavement or a similarly firm,
3 stable, and slip-resistant surface for parking spaces designated for persons with disabilities.

4 (b) An accessible exterior route with a suitably firm, stable, and slip-resistant surface must be
5 provided from the designated parking spaces to an accessible building or facility entrance.

6 (c) The total number of designated accessible parking spaces in a parking lot or area must be the
7 number provided for in the applicable state or local government building code.

8 (6) An accessible route is not required in cases where there is not a pedestrian route for the general
9 public.

10 (7) The state, municipalities, and counties shall use the same accessibility standards.

11

12 **NEW SECTION. Section 4. Alteration of primary function area.** (1) An alteration that affects or
13 could affect the use of or access to a primary function area in a building or facility that is subject to the
14 provisions of this part must be made to ensure, to the extent possible, that the path of travel to the altered
15 primary function area and the restrooms, telephones, and drinking fountains serving the altered primary
16 function area are readily accessible and usable by persons with disabilities.

17 (2) (a) A person or entity is not required to make alterations to provide an accessible path of travel
18 to an altered primary function area if in terms of cost and scope the alterations to the path of travel are
19 disproportionate to the cost of the alterations to the primary function area. Alterations to a path of travel
20 to an altered primary function area must be considered disproportionate if the cost exceeds 20% of the cost
21 of the alterations to the primary function area. This subsection does not prohibit an expenditure to alter
22 a path of travel that exceeds 20% of the cost of the alterations to a primary function area.

23 (b) If the cost of altering a path of travel to an altered primary function area is disproportionate as
24 provided in subsection (2)(a), the path of travel must be made accessible to the extent possible without
25 incurring disproportionate costs. The alterations to the path of travel must be made by providing, in the
26 following order or priority:

27 (i) an accessible entrance and accessible exterior route from accessible parking and passenger
28 loading zones or from a public sidewalk if the public sidewalk is immediately adjacent to the facility site;

29 (ii) an accessible path of travel to the altered primary function area;

30 (iii) accessible restrooms for each sex or a single unisex restroom when allowed by the applicable

1 building code; and

2 (iv) accessible elements, including but not limited to storage spaces and alarms.

3 (3) A person or entity subject to the provisions of this section is also subject to the provisions of
4 [section 3(5)(a) and (5)(b)].

5

6 **Section 5.** Section 50-60-101, MCA, is amended to read:

7 "**50-60-101. Definitions.** As used in parts 1 through 4 and part 7 of this chapter, unless the
8 context requires otherwise, the following definitions apply:

9 (1) "Alteration" means any change, addition, or modification in construction or occupancy.

10 ~~(1)(2)~~ "Building" means a combination of any materials, whether mobile, portable, or fixed, to form
11 a structure and the related facilities for the use or occupancy by persons or property. The word "building"
12 shall ~~must~~ be construed as though followed by the words "or part or parts thereof of the building".

13 ~~(2)(3)~~ (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code,
14 general or special, or ~~any~~ compilation thereof enacted or adopted by the state or any municipality, including
15 departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the
16 design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and
17 installation of equipment in buildings.

18 (b) The term does not include zoning ordinances.

19 ~~(3)(4)~~ "Construction" means the original construction and equipment of buildings and requirements
20 or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

21 ~~(4)(5)~~ "Department" means the department of commerce provided for in Title 2, chapter 15, part
22 18.

23 ~~(5)(6)~~ "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and
24 refrigerating equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

25 ~~(6)(7)~~ (a) "Factory-built building" means a factory-assembled structure or structures equipped with
26 the necessary service connections but not made so as to be readily movable as a unit or units and designed
27 to be used with a permanent foundation. ~~"Factory-built building"~~

28 (b) The term does not include manufactured housing constructed after June 15, 1976, under the
29 HUD, National Mobile Home Construction and Safety Act of 1974.

30 ~~(7)(8)~~ "Local building department" means the agency or agencies of any municipality charged with

1 the administration, supervision, or enforcement of building regulations, approval of plans, inspection of
 2 buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required
 3 by state or local building regulations.

4 ~~(8)~~(9) "Local legislative body" means the council or commission charged with governing the
 5 municipality.

6 ~~(9)~~(10) "Municipality" means any incorporated city or town and its jurisdictional area as defined
 7 by subsection ~~(10)~~ of this section (11).

8 ~~(10)~~(11) (a) "Municipal jurisdictional area" means the area within the limits of an incorporated
 9 municipality unless the area is extended at the written request of a municipality.

10 (b) Upon request, the department may approve extension of the jurisdictional area to include:

11 (i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;

12 (ii) all of any platted subdivision which is partially within 4 1/2 miles of the corporate limits of a
 13 municipality; and

14 (iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially
 15 within 4 1/2 miles of the corporate limits of a municipality.

16 (c) Distances ~~shall~~ must be measured in a straight line in a horizontal plane.

17 (12) "Primary function area" means an area of a building or facility in which a major activity for
 18 which the building or facility is designed is carried out. Primary function areas include but are not limited
 19 to a customer service lobby of a savings institution, a cafeteria dining area, and meeting rooms of a
 20 conference center. Areas that are not primary function areas include but are not limited to boiler rooms,
 21 storage rooms, employee lounges, janitorial closets, entrances, corridors, and restrooms.

22 (13) "Public building" means a building or facility owned or operated by a governmental entity or
 23 a private sector building or facility that is open to members of the public.

24 (14) "Public sidewalk" means a sidewalk located in a public right-of-way.

25 ~~(11)~~(15) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or
 26 vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or
 27 corporation in control of a building.

28 ~~(12)~~(16) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living
 29 quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted
 30 on or towed by another vehicle, including but not limited to a:

- 1 (a) travel trailer;
- 2 (b) camping trailer;
- 3 (c) truck camper; or
- 4 (d) motor home.

5 (17) "Site" means a parcel of land bounded by property lines or a designated portion of a public
 6 right-of-way.

7 ~~(13)~~(18) "State agency" means any state officer, department, board, bureau, commission, or other
 8 agency of this state.

9 ~~(14)~~(19) "State building code" means the state building code provided for in 50-60-203 or any
 10 portion of the code of limited application and any of its modifications or amendments."

11

12 **Section 6.** Section 50-60-201, MCA, is amended to read:

13 **"50-60-201. Purpose of state building code.** The state building code ~~shall~~ must be designed to
 14 effectuate the general purposes of parts 1 through 4 and the following specific objectives and standards
 15 to:

16 (1) provide reasonably uniform standards and requirements for construction and construction
 17 materials ~~ensuant~~ consistent with accepted standards of design, engineering, and fire prevention
 18 practices;

19 (2) permit to the fullest extent feasible the use of modern technical methods, devices, and
 20 improvements ~~which that~~ tend to reduce the cost of construction consistent with reasonable requirements
 21 for the health and safety of the occupants or users of buildings and, consistent with the conservation of
 22 energy, by design requirements and criteria that will result in the efficient utilization of energy, whether
 23 used directly or in a refined form, in buildings;

24 (3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and
 25 requirements ~~which that~~ tend to ~~increase~~ unnecessarily increase construction costs, ~~retard~~ unnecessarily
 26 prevent the use of proven new materials ~~which that~~ have been found adequate through experience or
 27 testing, or provide unwarranted preferential treatment to types or classes of materials, products, or methods
 28 of construction;

29 (4) ~~ensure that any new buildings constructed with public funds are accessible to and functional~~
 30 ~~for physically handicapped persons according to the principles applicable to accessibility to public buildings~~

1 ~~for handicapped persons adopted, recommended, or issued as Part II, Uniform Federal Accessibility~~
 2 ~~Standards, as it reads in the Federal Register dated August 7, 1984, and as the department may amend~~
 3 ~~by rule to reflect changes in the principles~~ ensure statewide uniformity in the inspection of exterior features
 4 of all newly constructed public buildings and certain altered buildings for physical accessibility to people
 5 with disabilities;

6 (5) encourage efficiencies of design and insulation ~~which that~~ enable buildings to be heated in the
 7 winter with the least possible quantities of energy and to be kept cool in the summer without air
 8 conditioning equipment or with the least possible use of ~~such~~ the equipment;

9 (6) encourage efficiencies and criteria directed toward design of building envelopes with high
 10 thermal resistance and low air leakage and toward requiring practices in the design and selection of
 11 mechanical, electrical, and illumination systems ~~which that~~ promote the efficient use of energy."

12

13 **Section 7.** Section 50-60-203, MCA, is amended to read:

14 **"50-60-203. Department to adopt state building code by rule.** (1) (a) The department shall adopt
 15 rules relating to the construction of, the installation of equipment in, and standards for materials to be used
 16 in all buildings or classes of buildings, including provisions dealing with safety, accessibility to persons with
 17 disabilities, sanitation, and conservation of energy. The department may amend or repeal the rules.

18 (b) In adopting rules concerning the conservation of energy, the department shall conform those
 19 rules to the policy established in 50-60-801 and to relevant policies developed under the provisions of Title
 20 90, chapter 4, part 10.

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

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

26 (4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum
 27 gas-burning appliances in single-family dwellings."

28

29 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 4] are intended to be
 30 codified as an integral part of Title 50, chapter 60, part 2, and the provisions of Title 50, chapter 60, part

1 2, apply to [sections 1 through 4].

2

3 **NEW SECTION. Section 9. Applicability.** [This act] applies to the construction or alteration of
4 buildings subject to the provisions of [this act] for which the applicable building permits are obtained on
5 or after October 1, 1997.

6

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0286, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing for the inspection of the construction of a facility or alteration of primary function areas for accessibility to persons with disabilities.

ASSUMPTIONS:

1. Extending project jurisdiction from the building only (current law) to the building plus accessible ways and parking areas will increase the amount of plan review and building inspection workload by an estimated 30%, resulting in the need for 2.00 FTE building inspector positions (grade 14) and an additional 1.00 FTE plan reviewer position (grade 15). Estimated personal services costs are \$98,100 for FY99.
2. Extending project jurisdiction to include the accessible way and parking areas will result in significantly increased legal activity in order to bring about ANSI A117.1 (accessibility) compliance, resulting in the need for an additional 0.50 FTE attorney (grade 17). Estimated personal services cost are \$20,300 for FY99.
3. Additional operating expenses are estimated at \$23,000 in FY99 and 2 additional vehicles will be required in FY98 for the new inspectors at an estimated cost of \$26,000. SB 286 will require the Building Codes Bureau to purchase laser equipment for accurate determination of site slopes at a total cost of \$40,000 in FY98.
4. It is expected that project valuations will be expanded to include the costs of site improvements, e.g., grading, parking areas, sidewalks, thereby increasing building permit fees. It is also assumed that increased fees will be sufficient to recover the operating costs of implementing the bill.
5. An assumed October 1, 1997, effective date provides that FY98 personal services and operating expenses are 75% of a full year's expense, as reflected in the FY99 amounts.


FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	2.63	3.50
Personal Services	88,800	118,400
Operating Expenses	17,300	23,000
Equipment	<u>66,000</u>	<u>0</u>
Total	172,100	141,400
 <u>Funding:</u>		
State special revenue (02)	172,100	141,400
 <u>Revenues:</u>		
Building Permit Fees (02)	106,000	141,400
 <u>Net Impact on Fund Balance: (revenue minus expense)</u>		
State special (02)	(\$66,100)	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments are likely to have the same impact as the state and may need to hire additional FTEs. But it is assumed that increased inspections fees would cover the increased costs.

(Continued)


 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

BRUCE CRIPPEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0286, as introduced

SB 286

TECHNICAL NOTES:

1. Some language in the bill may not be as clear as it could be. The following clarifying amendments are suggested:
 - a. Replace the terms "building or facility", "building or facility that is subject to the provisions of this part", "building or facility subject to the provisions of this part" used in several places with the term "public buildings" since that is apparently the intent.
 - b. The term "building site" should be defined. Suggest "building site" is the land upon which the building is located and the immediately adjacent land under the same ownership, upon which exterior improvements associated with the building, such as, but not limited to, parking lots, passenger loading areas and private sidewalks, are located or are capable of being located.
 - c. The term "alteration" as defined is confusing, as it relates to change of occupancy. Does a rewire, or plumbing or heating system modification constitute an alteration? Would a change of occupancy that does not require construction be an alteration?
 - d. Page 1, line 13 and 14: "alteration to a primary function area"
4.1.1(3), *ADA Accessibility Guidelines*, states: Areas Used Only by Employees as Work Areas. Areas that are used only as work areas shall be designed and constructed so that individuals with disabilities can approach, enter, and exit the areas. These guidelines do not require that any areas used only as work areas be constructed to permit maneuvering within the work area or be constructed or equipped (i.e., with racks or shelves) to be accessible. This bill needs language that is consistent with the ADA.

1 SENATE BILL NO. 286

2 INTRODUCED BY CRIPPEN, VAN VALKENBURG, BENEDICT, HALLIGAN, ECK, HARGROVE, BARTLETT,
3 COCCHIARELLA, SQUIRES, SIMON, PAVLOVICH, BOHLINGER, GRIMES, SANDS, HARP, FRANKLIN,
4 ESTRADA, KOTTEL, GILLAN

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INSPECTION OF THE CONSTRUCTION OF
7 A FACILITY PUBLIC BUILDING OR ALTERATION OF PRIMARY FUNCTION AREAS FOR ACCESSIBILITY TO
8 PERSONS WITH DISABILITIES; REQUIRING ACCESSIBLE EXTERIOR ROUTES; REGULATING THE
9 ALTERATION OF A PRIMARY FUNCTION AREA; PROVIDING FOR A DISCLAIMER ON BUILDING PERMITS
10 AND CERTIFICATES OF OCCUPANCY; AMENDING SECTIONS 50-60-101, 50-60-201, AND 50-60-203,
11 MCA; AND PROVIDING AN APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. Section 1. Inspections. (1) The construction of a PUBLIC building ~~or facility~~ or
16 alteration to a primary function area of a PUBLIC building ~~or facility~~ that is subject to the provisions of this
17 ~~part~~ must be inspected for physical accessibility to persons with disabilities.

18 (2) The inspection must include the building site ~~and~~, INCLUDING applicable exterior features, such
19 as parking areas, passenger loading zones, PRIVATE SIDEWALKS, AND THE ACCESSIBILITY FROM
20 ADJACENT public sidewalks, PUBLIC STREETS, and public transportation stops.

21 (3) (a) The inspections must be completed by state building inspectors in areas not covered by a
22 municipal or county building code.

23 (b) (i) Municipalities and counties that have adopted a building code may assign appropriately
24 trained personnel to perform site inspections conducted pursuant to this part.

25 (ii) Municipalities and counties conducting inspections pursuant to this section must have an
26 enforcement mechanism in place to ensure compliance with the accessibility provisions of this part,
27 including but not limited to denying building permits or certificates of occupancy, injunctions, or other civil
28 enforcement procedures allowed by law.

29 (4) Existing PUBLIC buildings ~~or facilities~~ that are not undergoing an alteration to a primary function
30 area are not subject to the inspection provisions of this section.

1 NEW SECTION. **Section 2. Disclaimer.** A building permit or certificate of occupancy issued by the
2 state or by a municipality or county must contain a statement that reads: "Compliance with the
3 requirements of the state building code for physical accessibility to persons with disabilities does not
4 necessarily guarantee compliance with the Americans with Disabilities Act of 1990, the Rehabilitation Act
5 of 1973, the Fair Housing Amendments Act of 1988, Title 49, chapter 2, commonly known as the Montana
6 Human Rights Act, or other similar federal, state, or local laws that mandate accessibility to commercial
7 construction or multifamily housing."
8

9 NEW SECTION. **Section 3. Accessible exterior routes -- exceptions.** (1) Except as provided in
10 subsection (6), for a PUBLIC building ~~or facility subject to the provisions of this part~~, an accessible exterior
11 route must be provided from public transportation stops located within the boundary of the building site,
12 from accessible parking and accessible passenger loading zones within the boundaries of the building site,
13 and from public sidewalks that are immediately adjacent to the building site, if sidewalks exist, to the
14 building's ~~or facility's~~ accessible entrance served by the transportation stops, parking and loading zones,
15 or sidewalks.

16 (2) (a) When more than one PUBLIC building ~~or facility subject to the provisions of this part~~ is
17 located on a site, at least one accessible exterior route must connect accessible elements, facilities, and
18 buildings that are on the site.

19 (b) For the purposes of [section 4] and this section, "element" means an architectural or mechanical
20 component of a PUBLIC building, facility, space, or site and includes but is not limited to telephones, curb
21 ramps, doors, drinking fountains, seating, and ~~restrooms~~ WATER CLOSETS.

22 (3) An accessible exterior route between accessible PUBLIC parking and an accessible building ~~or~~
23 ~~facility~~ entrance must be the most practical direct route.

24 (4) (a) A person or entity constructing a PUBLIC building ~~or facility subject to the provisions of this~~
25 ~~part~~ is not required to fully comply with the provisions of this section if the person can demonstrate that
26 due to characteristics of the terrain, it is structurally impractical to fully comply.

27 (b) Full compliance may be considered structurally impractical only in those rare circumstances
28 when the unique characteristics of the terrain prevent the incorporation of accessibility features.

29 (c) The person or entity shall comply with the provisions of this section to the extent that
30 compliance is not structurally impractical.

1 (d) The department shall adopt rules to assist ~~builders and building inspectors~~ ALL INTERESTED
 2 PARTIES INVOLVED IN THE DESIGN, CONSTRUCTION, AND INSPECTION PROCESSES in determining
 3 structural impracticality.

4 (5) (a) If a paved parking lot is not planned or present for a PUBLIC building ~~or facility~~ ~~subject to~~
 5 ~~this part~~, a person or entity constructing the PUBLIC building ~~or facility~~ is not required to pave the entire
 6 lot, unless otherwise required by law, ordinance, or applicable building code, but shall provide pavement
 7 or a similarly firm, stable, and slip-resistant surface for parking spaces designated for persons with
 8 disabilities.

9 (b) An accessible exterior route with a suitably firm, stable, and slip-resistant surface must be
 10 provided from the designated parking spaces to an accessible building or facility entrance.

11 (c) The total number of designated accessible parking spaces in a parking lot or area must be the
 12 number provided for in the applicable state or local government building code.

13 (6) An accessible route is not required in cases where there is not a pedestrian route for the general
 14 public.

15 (7) The state, municipalities, and counties shall use the same accessibility standards.

16
 17 **NEW SECTION. Section 4. Alteration of primary function area.** (1) An alteration that affects or
 18 could affect the use of or access to a primary function area in a PUBLIC building ~~or facility~~ ~~that is subject~~
 19 ~~to the provisions of this part~~ must be made to ensure, to the extent possible, that the path of travel to the
 20 altered primary function area and the restrooms, telephones, and drinking fountains serving the altered
 21 primary function area are readily accessible and usable by persons with disabilities.

22 (2) (a) A person or entity is not required to make alterations to provide an accessible path of travel
 23 to an altered primary function area if in terms of cost and scope the alterations to the path of travel are
 24 disproportionate to the cost of the alterations to the primary function area. Alterations to a path of travel
 25 to an altered primary function area must be considered disproportionate if the cost exceeds 20% of the cost
 26 of the alterations to the primary function area. This subsection does not prohibit an expenditure to alter
 27 a path of travel that exceeds 20% of the cost of the alterations to a primary function area.

28 (b) If the cost of altering a path of travel to an altered primary function area is disproportionate as
 29 provided in subsection (2)(a), the path of travel must be made accessible to the extent possible without
 30 incurring disproportionate costs. The alterations to the path of travel must be made by providing, in the

1 following order or priority:

2 (i) an accessible entrance and accessible exterior route TO THE ACCESSIBLE ENTRANCE from
3 accessible parking and passenger loading zones or from a public sidewalk if the public sidewalk is
4 immediately adjacent to the ~~facility~~ PUBLIC BUILDING site;

5 (ii) an accessible path of travel to the altered primary function area;

6 (iii) accessible restrooms for each sex or a single unisex restroom when allowed by the applicable
7 building code; and

8 (iv) accessible elements, including but not limited to storage spaces and alarms.

9 (3) A person or entity subject to the provisions of this section is also subject to the provisions of
10 [section 3(5)(a) and (5)(b)].

11

12 **Section 5.** Section 50-60-101, MCA, is amended to read:

13 "**50-60-101. Definitions.** As used in parts 1 through 4 and part 7 of this chapter, unless the
14 context requires otherwise, the following definitions apply:

15 (1) "Alteration" means any change, addition, or modification in construction or occupancy.

16 ~~(1)(2)~~ "Building" means a combination of any materials, whether mobile, portable, or fixed, to form
17 a structure and the related facilities for the use or occupancy by persons or property. The word "building"
18 ~~shall~~ must be construed as though followed by the words "or part or parts ~~thereof~~ of the building".

19 ~~(2)(3)~~ (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code,
20 general or special, or any compilation ~~thereof~~ enacted or adopted by the state or any municipality, including
21 departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the
22 design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and
23 installation of equipment in buildings.

24 (b) The term does not include zoning ordinances.

25 ~~(3)(4)~~ "Construction" means the original construction and equipment of buildings and requirements
26 or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

27 ~~(4)(5)~~ "Department" means the department of commerce provided for in Title 2, chapter 15, part
28 18.

29 ~~(5)(6)~~ "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and
30 refrigerating equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

1 ~~(6)(7)~~ (a) "Factory-built building" means a factory-assembled structure or structures equipped with
 2 the necessary service connections but not made so as to be readily movable as a unit or units and designed
 3 to be used with a permanent foundation. ~~"Factory built building"~~

4 (b) The term does not include manufactured housing constructed after June 15, 1976, under the
 5 HUD, National Mobile Home Construction and Safety Act of 1974.

6 ~~(7)(8)~~ "Local building department" means the agency or agencies of any municipality charged with
 7 the administration, supervision, or enforcement of building regulations, approval of plans, inspection of
 8 buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required
 9 by state or local building regulations.

10 ~~(8)(9)~~ "Local legislative body" means the council or commission charged with governing the
 11 municipality.

12 ~~(9)(10)~~ "Municipality" means any incorporated city or town and its jurisdictional area as defined
 13 by subsection ~~(10)~~ of this section (11).

14 ~~(10)(11)~~ (a) "Municipal jurisdictional area" means the area within the limits of an incorporated
 15 municipality unless the area is extended at the written request of a municipality.

16 (b) Upon request, the department may approve extension of the jurisdictional area to include:

17 (i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;

18 (ii) all of any platted subdivision which is partially within 4 1/2 miles of the corporate limits of a
 19 municipality; and

20 (iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially
 21 within 4 1/2 miles of the corporate limits of a municipality.

22 (c) Distances ~~shall~~ must be measured in a straight line in a horizontal plane.

23 (12) "Primary function area" means an area of a building or facility in which a major activity for
 24 which the building or facility is designed is carried out. Primary function areas include but are not limited
 25 to a customer service lobby of a savings institution, a cafeteria dining area, and meeting rooms of a
 26 conference center. Areas that are not primary function areas include but are not limited to boiler rooms,
 27 storage rooms, employee lounges, janitorial closets, entrances, corridors, and restrooms.

28 (13) "Public building" means a building or facility owned or operated by a governmental entity or
 29 a private sector building or facility that is open to members of the public.

30 (14) "Public sidewalk" means a sidewalk located in a public right-of-way.

1 ~~(14)~~(15) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or
2 vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or
3 corporation in control of a building.

4 ~~(12)~~(16) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living
5 quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted
6 on or towed by another vehicle, including but not limited to a:

7 (a) travel trailer;

8 (b) camping trailer;

9 (c) truck camper; or

10 (d) motor home.

11 (17) "Site" means a parcel of land bounded by property lines or a designated portion of a public
12 right-of-way.

13 ~~(13)~~(18) "State agency" means any state officer, department, board, bureau, commission, or other
14 agency of this state.

15 ~~(14)~~(19) "State building code" means the state building code provided for in 50-60-203 or any
16 portion of the code of limited application and any of its modifications or amendments."

17

18 **Section 6.** Section 50-60-201, MCA, is amended to read:

19 "**50-60-201. Purpose of state building code.** The state building code ~~shall~~ must be designed to
20 effectuate the general purposes of parts 1 through 4 and the following specific objectives and standards
21 to:

22 (1) provide reasonably uniform standards and requirements for construction and construction
23 materials ~~consistent~~ consistent with accepted standards of design, engineering, and fire prevention
24 practices;

25 (2) permit to the fullest extent feasible the use of modern technical methods, devices, and
26 improvements ~~which~~ that tend to reduce the cost of construction consistent with reasonable requirements
27 for the health and safety of the occupants or users of buildings and, consistent with the conservation of
28 energy, by design requirements and criteria that will result in the efficient utilization of energy, whether
29 used directly or in a refined form, in buildings;

30 (3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and

1 requirements ~~which that~~ tend to ~~increase~~ unnecessarily increase construction costs, ~~retard~~ unnecessarily
 2 prevent the use of proven new materials ~~which that~~ have been found adequate through experience or
 3 testing, or provide unwarranted preferential treatment to types or classes of materials, products, or methods
 4 of construction;

5 (4) ENSURE THAT ANY NEWLY CONSTRUCTED PUBLIC BUILDINGS AND CERTAIN ALTERED
 6 PUBLIC BUILDINGS ARE READILY ACCESSIBLE TO AND USABLE BY PERSONS WITH DISABILITIES,
 7 ACCORDING TO THE PRINCIPLES APPLICABLE TO ACCESSIBILITY TO PUBLIC BUILDINGS FOR PERSONS
 8 WITH DISABILITIES IN THE STATE BUILDING CODE;

9 ~~(4)(5) ensure that any new buildings constructed with public funds are accessible to and functional~~
 10 ~~for physically handicapped persons according to the principles applicable to accessibility to public buildings~~
 11 ~~for handicapped persons adopted, recommended, or issued as Part II, Uniform Federal Accessibility~~
 12 ~~Standards, as it reads in the Federal Register dated August 7, 1984, and as the department may amend~~
 13 ~~by rule to reflect changes in the principles~~ ensure statewide uniformity in the inspection AND
 14 ENFORCEMENT of exterior features of all newly constructed public buildings and certain altered PUBLIC
 15 buildings, INCLUDING BUILDING SITES, for physical accessibility to people with disabilities;

16 ~~(5)(6) encourage efficiencies of design and insulation which that~~ enable buildings to be heated in
 17 the winter with the least possible quantities of energy and to be kept cool in the summer without air
 18 conditioning equipment or with the least possible use of ~~such~~ the equipment;

19 ~~(6)(7) encourage efficiencies and criteria directed toward design of building envelopes with high~~
 20 ~~thermal resistance and low air leakage and toward requiring practices in the design and selection of~~
 21 ~~mechanical, electrical, and illumination systems which that~~ promote the efficient use of energy."

22
 23 **Section 7.** Section 50-60-203, MCA, is amended to read:

24 "**50-60-203. Department to adopt state building code by rule.** (1) (a) The department shall adopt
 25 rules relating to the construction of, the installation of equipment in, and standards for materials to be used
 26 in all buildings or classes of buildings, including provisions dealing with safety, accessibility to persons with
 27 disabilities, sanitation, and conservation of energy. The department may amend or repeal the rules.

28 (b) In adopting rules concerning the conservation of energy, the department shall conform those
 29 rules to the policy established in 50-60-801 and to relevant policies developed under the provisions of Title
 30 90, chapter 4, part 10.

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

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

6 (4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum
7 gas-burning appliances in single-family dwellings."

8

9 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 4] are intended to be
10 codified as an integral part of Title 50, chapter 60, part 2, and the provisions of Title 50, chapter 60, part
11 2, apply to [sections 1 through 4].

12

13 NEW SECTION. **Section 9. Applicability.** [This act] applies to the construction or alteration of
14 buildings subject to the provisions of [this act] for which the applicable building permits are obtained on
15 or after October 1, 1997.

16

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0286, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act providing for the inspection of the construction of a public building or alteration of primary function areas for accessibility to persons with disabilities; requiring accessible exterior routes; regulating the alteration of a primary function area; providing for a disclaimer on building permits and certificates of occupancy; amending sections 50-60-101, 50-60-201, and 50-60-203, MCA; and providing an applicability date.

ASSUMPTIONS:

Department of Commerce/Building Codes Bureau:

1. Extending project jurisdiction from the building only (current law) to the building plus accessible ways and parking areas will increase the amount of plan review and building inspection workload by an estimated 30%, resulting in the need for 2.00 FTE building inspector positions (grade 14) and an additional 1.00 FTE plan reviewer position (grade 15). Estimated personal services cost is \$98,110 for fiscal year 1998 and fiscal year 1999.
2. Extending project jurisdiction to include the accessible way and parking areas will result in significantly increased legal activity in order to bring about ANSI A117.1 (accessibility) compliance, resulting in the need for an additional 0.50 FTE attorney (grade 17). Estimated personal services cost is \$20,289 for fiscal year 1998 and fiscal year 1999.
3. Additional operating expenses are estimated at \$23,049 in both fiscal year 1998 and fiscal year 1999 and two additional vehicles will be required in fiscal year 1998 for the new inspectors at an estimated cost of \$26,000. SB 286 will require the bureau to purchase laser equipment for accurate determination of site slopes at a total cost of \$40,000 in fiscal year 1998.
4. It is expected that project valuations will be expanded to include the costs of site improvements, e.g., grading, parking areas, sidewalks, thereby increasing building permit fees. It is also assumed that increased fees will be sufficient to recover the costs of implementing SB 286.
5. The October 1, 1997, effective date provides that fiscal year 1998 personal services and operating expenses are 75% of a full year's expense.

FISCAL IMPACT:

Department of Commerce/Building Codes Bureau:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	2.63	3.50
Personal Services	88,800	118,400
Operating Expenses	17,300	23,000
Equipment	<u>66,000</u>	<u>0</u>
Total	172,100	141,400
 <u>Funding:</u>		
Building Permit Fees (02)	172,100	141,400
 <u>Revenues:</u>		
Building Permit Fees (02)	106,000	141,400
 <u>Net Impact on Fund Balance:</u> (Revenue minus expense)		
Building Codes SSR (02)	(66,100)	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

For those certified local government building code enforcement programs that rely on this proposed legislation to acquire authority to enforce site accessibility standards, the proposed legislation will likely have an effect similar to that on the State, in that they will have an increased workload and may have to add employees in order to complete the additional work.

Dave Lewis 3-11-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

BRUCE CRIPPEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0286, second reading

AM-SB 286 #2

1
2
3
4
5
6
7
8
9
10
11
12
13

SENATE BILL NO. 286

INTRODUCED BY CRIPPEN, VAN VALKENBURG, BENEDICT, HALLIGAN, ECK, HARGROVE, BARTLETT,
COCCHIARELLA, SQUIRES, SIMON, PAVLOVICH, BOHLINGER, GRIMES, SANDS, HARP, FRANKLIN,
ESTRADA, KOTTEL, GILLAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INSPECTION OF THE CONSTRUCTION OF
~~A FACILITY~~ PUBLIC BUILDING OR ALTERATION OF PRIMARY FUNCTION AREAS FOR ACCESSIBILITY TO
PERSONS WITH DISABILITIES; REQUIRING ACCESSIBLE EXTERIOR ROUTES; REGULATING THE
ALTERATION OF A PRIMARY FUNCTION AREA; PROVIDING FOR A DISCLAIMER ON BUILDING PERMITS
AND CERTIFICATES OF OCCUPANCY; AMENDING SECTIONS 50-60-101, 50-60-201, AND 50-60-203,
MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

1 SENATE BILL NO. 286
2 INTRODUCED BY CRIPPEN, VAN VALKENBURG, BENEDICT, HALLIGAN, ECK, HARGROVE, BARTLETT,
3 COCCHIARELLA, SQUIRES, SIMON, PAVLOVICH, BOHLINGER, GRIMES, SANDS, HARP, FRANKLIN,
4 ESTRADA, KOTTEL, GILLAN

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INSPECTION OF THE CONSTRUCTION OF
7 A FACILITY PUBLIC BUILDING OR ALTERATION OF PRIMARY FUNCTION AREAS FOR ACCESSIBILITY TO
8 PERSONS WITH DISABILITIES; REQUIRING ACCESSIBLE EXTERIOR ROUTES; REGULATING THE
9 ALTERATION OF A PRIMARY FUNCTION AREA; PROVIDING FOR A DISCLAIMER ON BUILDING PERMITS
10 AND CERTIFICATES OF OCCUPANCY; AMENDING SECTIONS 50-60-101, 50-60-201, AND 50-60-203,
11 MCA; AND PROVIDING AN APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

1 SENATE BILL NO. 286

2 INTRODUCED BY CRIPPEN, VAN VALKENBURG, BENEDICT, HALLIGAN, ECK, HARGROVE, BARTLETT,
3 COCCHIARELLA, SQUIRES, SIMON, PAVLOVICH, BOHLINGER, GRIMES, SANDS, HARP, FRANKLIN,
4 ESTRADA, KOTTEL, GILLAN

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE INSPECTION OF THE CONSTRUCTION OF
7 A ~~FACILITY~~ PUBLIC BUILDING OR ALTERATION OF PRIMARY FUNCTION AREAS FOR ACCESSIBILITY TO
8 PERSONS WITH DISABILITIES; REQUIRING ACCESSIBLE EXTERIOR ROUTES; REGULATING THE
9 ALTERATION OF A PRIMARY FUNCTION AREA; PROVIDING FOR A DISCLAIMER ON BUILDING PERMITS
10 AND CERTIFICATES OF OCCUPANCY; AMENDING SECTIONS 50-60-101, 50-60-201, AND 50-60-203,
11 MCA; AND PROVIDING AN APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. Section 1. Inspections. (1) The construction of a PUBLIC building ~~or facility~~ or
16 alteration to a primary function area of a PUBLIC building ~~or facility that is subject to the provisions of this~~
17 ~~part~~ must be inspected for physical accessibility to persons with disabilities.

18 (2) The inspection must include the building site ~~and~~ INCLUDING applicable exterior features, such
19 as parking areas, passenger loading zones, PRIVATE SIDEWALKS, AND THE ACCESSIBILITY FROM
20 ADJACENT public sidewalks, PUBLIC STREETS, and public transportation stops.

21 (3) (a) The inspections must be completed by state building inspectors in areas not covered by a
22 municipal or county building code.

23 (b) (i) Municipalities and counties that have adopted a building code may assign appropriately
24 trained personnel to perform site inspections conducted pursuant to this part.

25 (ii) Municipalities and counties conducting inspections pursuant to this section must have an
26 enforcement mechanism in place to ensure compliance with the accessibility provisions of this part,
27 including but not limited to denying building permits or certificates of occupancy, injunctions, or other civil
28 enforcement procedures allowed by law.

29 (4) Existing PUBLIC buildings ~~or facilities~~ that are not undergoing an alteration to a primary function
30 area are not subject to the inspection provisions of this section.

1 NEW SECTION. **Section 2. Disclaimer.** A building permit or certificate of occupancy issued by the
 2 state or by a municipality or county must contain a statement that reads: "Compliance with the
 3 requirements of the state building code for physical accessibility to persons with disabilities does not
 4 necessarily guarantee compliance with the Americans with Disabilities Act of 1990, the Rehabilitation Act
 5 of 1973, the Fair Housing Amendments Act of 1988, Title 49, chapter 2, commonly known as the Montana
 6 Human Rights Act, or other similar federal, state, or local laws that mandate accessibility to commercial
 7 construction or multifamily housing."
 8

9 NEW SECTION. **Section 3. Accessible exterior routes -- exceptions.** (1) Except as provided in
 10 subsection (6), for a PUBLIC building ~~or facility subject to the provisions of this part~~, an accessible exterior
 11 route must be provided from public transportation stops located within the boundary of the building site,
 12 from accessible parking and accessible passenger loading zones within the boundaries of the building site,
 13 and from public sidewalks that are immediately adjacent to the building site, if sidewalks exist, to the
 14 building's ~~or facility's~~ accessible entrance served by the transportation stops, parking and loading zones,
 15 or sidewalks.

16 (2) (a) When more than one PUBLIC building ~~or facility subject to the provisions of this part~~ is
 17 located on a site, at least one accessible exterior route must connect accessible elements, facilities, and
 18 buildings that are on the site.

19 (b) For the purposes of [section 4] and this section, "element" means an architectural or mechanical
 20 component of a PUBLIC building, facility, space, or site and includes but is not limited to telephones, curb
 21 ramps, doors, drinking fountains, seating, and ~~restrooms~~ WATER CLOSETS.

22 (3) An accessible exterior route between accessible PUBLIC parking and an accessible building ~~or~~
 23 ~~facility~~ entrance must be the most practical direct route.

24 (4) (a) A person or entity constructing a PUBLIC building ~~or facility subject to the provisions of this~~
 25 ~~part~~ is not required to fully comply with the provisions of this section if the person can demonstrate that
 26 due to characteristics of the terrain, it is structurally impractical to fully comply.

27 (b) Full compliance may be considered structurally impractical only in those rare circumstances
 28 when the unique characteristics of the terrain prevent the incorporation of accessibility features.

29 (c) The person or entity shall comply with the provisions of this section to the extent that
 30 compliance is not structurally impractical.

1 (d) The department shall adopt rules to assist ~~builders and building inspectors~~ ALL INTERESTED
 2 PARTIES INVOLVED IN THE DESIGN, CONSTRUCTION, AND INSPECTION PROCESSES in determining
 3 structural impracticality.

4 (5) (a) If a paved parking lot is not planned or present for a PUBLIC building ~~or facility subject to~~
 5 ~~this part~~, a person or entity constructing the PUBLIC building ~~or facility~~ is not required to pave the entire
 6 lot, unless otherwise required by law, ordinance, or applicable building code, but shall provide pavement
 7 or a similarly firm, stable, and slip-resistant surface for parking spaces designated for persons with
 8 disabilities.

9 (b) An accessible exterior route with a suitably firm, stable, and slip-resistant surface must be
 10 provided from the designated parking spaces to an accessible building or facility entrance.

11 (c) The total number of designated accessible parking spaces in a parking lot or area must be the
 12 number provided for in the applicable state or local government building code.

13 (6) An accessible route is not required in cases where there is not a pedestrian route for the general
 14 public.

15 (7) The state, municipalities, and counties shall use the same accessibility standards.

16
 17 **NEW SECTION. Section 4. Alteration of primary function area.** (1) An alteration that affects or
 18 could affect the use of or access to a primary function area in a PUBLIC building ~~or facility that is subject~~
 19 ~~to the provisions of this part~~ must be made to ensure, to the extent possible, that the path of travel to the
 20 altered primary function area and the restrooms, telephones, and drinking fountains serving the altered
 21 primary function area are readily accessible and usable by persons with disabilities.

22 (2) (a) A person or entity is not required to make alterations to provide an accessible path of travel
 23 to an altered primary function area if in terms of cost and scope the alterations to the path of travel are
 24 disproportionate to the cost of the alterations to the primary function area. Alterations to a path of travel
 25 to an altered primary function area must be considered disproportionate if the cost exceeds 20% of the cost
 26 of the alterations to the primary function area. This subsection does not prohibit an expenditure to alter
 27 a path of travel that exceeds 20% of the cost of the alterations to a primary function area.

28 (b) If the cost of altering a path of travel to an altered primary function area is disproportionate as
 29 provided in subsection (2)(a), the path of travel must be made accessible to the extent possible without
 30 incurring disproportionate costs. The alterations to the path of travel must be made by providing, in the

1 following order or priority:

2 (i) an accessible entrance and accessible exterior route TO THE ACCESSIBLE ENTRANCE from
3 accessible parking and passenger loading zones or from a public sidewalk if the public sidewalk is
4 immediately adjacent to the ~~facility~~ PUBLIC BUILDING site;

5 (ii) an accessible path of travel to the altered primary function area;

6 (iii) accessible restrooms for each sex or a single unisex restroom when allowed by the applicable
7 building code; and

8 (iv) accessible elements, including but not limited to storage spaces and alarms.

9 (3) A person or entity subject to the provisions of this section is also subject to the provisions of
10 [section 3(5)(a) and (5)(b)].

11

12 **Section 5.** Section 50-60-101, MCA, is amended to read:

13 **"50-60-101. Definitions.** As used in parts 1 through 4 and part 7 of this chapter, unless the
14 context requires otherwise, the following definitions apply:

15 (1) "Alteration" means any change, addition, or modification in construction or occupancy.

16 ~~(1)(2)~~ (2) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form
17 a structure and the related facilities for the use or occupancy by persons or property. The word "building"
18 shall **must** be construed as though followed by the words "or part or parts thereof of the building".

19 ~~(2)(3)~~ (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code,
20 general or special, or **any** compilation thereof enacted or adopted by the state or any municipality, including
21 departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the
22 design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and
23 installation of equipment in buildings.

24 (b) The term does not include zoning ordinances.

25 ~~(3)(4)~~ (4) "Construction" means the original construction and equipment of buildings and requirements
26 or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

27 ~~(4)(5)~~ (5) "Department" means the department of commerce provided for in Title 2, chapter 15, part
28 18.

29 ~~(5)(6)~~ (6) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and
30 refrigerating equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

1 ~~(6)~~(7) (a) "Factory-built building" means a factory-assembled structure or structures equipped with
 2 the necessary service connections but not made so as to be readily movable as a unit or units and designed
 3 to be used with a permanent foundation. ~~"Factory-built building"~~

4 (b) The term does not include manufactured housing constructed after June 15, 1976, under the
 5 HUD, National Mobile Home Construction and Safety Act of 1974.

6 ~~(7)~~(8) "Local building department" means the agency or agencies of any municipality charged with
 7 the administration, supervision, or enforcement of building regulations, approval of plans, inspection of
 8 buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required
 9 by state or local building regulations.

10 ~~(8)~~(9) "Local legislative body" means the council or commission charged with governing the
 11 municipality.

12 ~~(9)~~(10) "Municipality" means any incorporated city or town and its jurisdictional area as defined
 13 by subsection ~~(10) of this section~~ (11).

14 ~~(10)~~(11) (a) "Municipal jurisdictional area" means the area within the limits of an incorporated
 15 municipality unless the area is extended at the written request of a municipality.

16 (b) Upon request, the department may approve extension of the jurisdictional area to include:

17 (i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;

18 (ii) all of any platted subdivision which is partially within 4 1/2 miles of the corporate limits of a
 19 municipality; and

20 (iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially
 21 within 4 1/2 miles of the corporate limits of a municipality.

22 (c) Distances ~~shall~~ must be measured in a straight line in a horizontal plane.

23 (12) "Primary function area" means an area of a building or facility in which a major activity for
 24 which the building or facility is designed is carried out. Primary function areas include but are not limited
 25 to a customer service lobby of a savings institution, a cafeteria dining area, and meeting rooms of a
 26 conference center. Areas that are not primary function areas include but are not limited to boiler rooms,
 27 storage rooms, employee lounges, janitorial closets, entrances, corridors, and restrooms.

28 (13) "Public building" means a building or facility owned or operated by a governmental entity or
 29 a private sector building or facility that is open to members of the public.

30 (14) "Public sidewalk" means a sidewalk located in a public right-of-way.

1 ~~(11)~~(15) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or
 2 vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or
 3 corporation in control of a building.

4 ~~(12)~~(16) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living
 5 quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted
 6 on or towed by another vehicle, including but not limited to a:

- 7 (a) travel trailer;
 8 (b) camping trailer;
 9 (c) truck camper; or
 10 (d) motor home.

11 (17) "Site" means a parcel of land bounded by property lines or a designated portion of a public
 12 right-of-way.

13 ~~(13)~~(18) "State agency" means any state officer, department, board, bureau, commission, or other
 14 agency of this state.

15 ~~(14)~~(19) "State building code" means the state building code provided for in 50-60-203 or any
 16 portion of the code of limited application and any of its modifications or amendments."

17

18 **Section 6.** Section 50-60-201, MCA, is amended to read:

19 **"50-60-201. Purpose of state building code.** The state building code ~~shall~~ must be designed to
 20 effectuate the general purposes of parts 1 through 4 and the following specific objectives and standards
 21 to:

22 (1) provide reasonably uniform standards and requirements for construction and construction
 23 materials ~~reasonant~~ consistent with accepted standards of design, engineering, and fire prevention
 24 practices;

25 (2) permit to the fullest extent feasible the use of modern technical methods, devices, and
 26 improvements ~~which~~ that tend to reduce the cost of construction consistent with reasonable requirements
 27 for the health and safety of the occupants or users of buildings and, consistent with the conservation of
 28 energy, by design requirements and criteria that will result in the efficient utilization of energy, whether
 29 used directly or in a refined form, in buildings;

30 (3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and

1 requirements ~~which that~~ tend to ~~increase~~ unnecessarily increase construction costs, ~~retard~~ unnecessarily
 2 prevent the use of proven new materials ~~which that~~ have been found adequate through experience or
 3 testing, or provide unwarranted preferential treatment to types or classes of materials, products, or methods
 4 of construction;

5 (4) ENSURE THAT ANY NEWLY CONSTRUCTED PUBLIC BUILDINGS AND CERTAIN ALTERED
 6 PUBLIC BUILDINGS ARE READILY ACCESSIBLE TO AND USABLE BY PERSONS WITH DISABILITIES,
 7 ACCORDING TO THE PRINCIPLES APPLICABLE TO ACCESSIBILITY TO PUBLIC BUILDINGS FOR PERSONS
 8 WITH DISABILITIES IN THE STATE BUILDING CODE;

9 ~~(4)(5) ensure that any new buildings constructed with public funds are accessible to and functional~~
 10 ~~for physically handicapped persons according to the principles applicable to accessibility to public buildings~~
 11 ~~for handicapped persons adopted, recommended, or issued as Part II, Uniform Federal Accessibility~~
 12 ~~Standards, as it reads in the Federal Register dated August 7, 1984, and as the department may amend~~
 13 ~~by rule to reflect changes in the principles~~ ensure statewide uniformity in the inspection AND
 14 ENFORCEMENT of exterior features of all newly constructed public buildings and certain altered PUBLIC
 15 buildings, INCLUDING BUILDING SITES, for physical accessibility to people with disabilities;

16 ~~(5)(6)~~ encourage efficiencies of design and insulation ~~which that~~ enable buildings to be heated in
 17 the winter with the least possible quantities of energy and to be kept cool in the summer without air
 18 conditioning equipment or with the least possible use of ~~such~~ the equipment;

19 ~~(6)(7)~~ encourage efficiencies and criteria directed toward design of building envelopes with high
 20 thermal resistance and low air leakage and toward requiring practices in the design and selection of
 21 mechanical, electrical, and illumination systems ~~which that~~ promote the efficient use of energy."

22
 23 **Section 7.** Section 50-60-203, MCA, is amended to read:

24 **"50-60-203. Department to adopt state building code by rule.** (1) (a) The department shall adopt
 25 rules relating to the construction of, the installation of equipment in, and standards for materials to be used
 26 in all buildings or classes of buildings, including provisions dealing with safety, accessibility to persons with
 27 disabilities, sanitation, and conservation of energy. The department may amend or repeal the rules.

28 (b) In adopting rules concerning the conservation of energy, the department shall conform those
 29 rules to the policy established in 50-60-801 and to relevant policies developed under the provisions of Title
 30 90, chapter 4, part 10.

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

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

6 (4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum
7 gas-burning appliances in single-family dwellings."

8

9 NEW SECTION. Section 8. Codification instruction. [Sections 1 through 4] are intended to be
10 codified as an integral part of Title 50, chapter 60, part 2, and the provisions of Title 50, chapter 60, part
11 2, apply to [sections 1 through 4].

12

13 NEW SECTION. Section 9. Applicability. [This act] applies to the construction or alteration of
14 buildings subject to the provisions of [this act] for which the applicable building permits are obtained on
15 or after October 1, 1997.

16

-END-