

Amendments to Senate Bill No. 65
3rd Reading Copy

Requested by Representative Walter McNutt

For the House Appropriations Committee

Prepared by Hope Stockwell
March 18, 2009 (10:03am)

1. Title, page 1, line 12.

Following: "SECTIONS"

Insert: "17-2-107,"

2. Page 1, line 19.

Following: line 18

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

"17-2-107. Accurate accounting records and interentity loans. (1) The department shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall maintain records in a manner that reflects the total cash and invested balance of each fund and each accounting entity. The department shall adopt the necessary procedures to ensure that interdepartmental or intradepartmental transfers of money or loans do not result in inflation of figures reflecting total governmental costs and revenue.

(2) (a) Subject Except as provided in 77-1-108 and subject to 17-2-105, when the expenditure of an appropriation from a fund designated in 17-2-102(1) through (3) is necessary and the cash balance in the accounting entity from which the appropriation was made is insufficient, the department may authorize a temporary loan, bearing no interest, of unrestricted money from other accounting entities if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. An accounting entity receiving a loan or an accounting entity from which a loan is made may not be so impaired that all proper demands on the accounting entity cannot be met even if the loan is extended.

(b) (i) When an expenditure from a fund or subfund designated in 17-2-102(4) is necessary and the cash balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner of higher education may authorize a temporary loan, bearing interest as provided in subsection (4) of this section, of money from the agency's other funds or subfunds if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. A fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands on the fund or subfund cannot

be met even if the loan is extended.

(ii) One accounting entity within each fund or subfund designated in 17-2-102(4) must be established for the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from which a loan may be made.

(c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

(3) Under unusual circumstances, the director of the department or the board of regents may grant one extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The director or board shall prepare a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy of the written justification and proposed repayment plan to the house appropriations and senate finance and claims committees at the next legislative session.

(4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(4)(a)(iv) and (4)(b) through (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

(5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the same accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education shall submit to the legislative finance committee by September 1 of the following fiscal year a written report containing an explanation as to why the second loan or extension was made, an analysis of the solvency of the accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the loans.

(6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative finance committee by September 1 of the following fiscal year a written report containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's negative cash balance or solvency.

(7) (a) An accounting entity in a fund designated in 17-2-102(1) through (3) may not have a negative cash balance at fiscal yearend. The department may, however, allow a fund type within each agency to carry a negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7 working days.

(b) (i) Except as provided in subsection (7)(b)(ii) of this

section, a unit of the university system shall maintain a positive cash balance in the funds and subfunds designated in 17-2-102(4).

(ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance exists for more than 7 working days, a transaction may not be processed through the statewide accounting system for that fund or subfund.

(8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans to accounting entities in the federal and state special revenue funds with long-term repayment whenever necessary because of the timing of the receipt of agreed-upon reimbursements from federal, private, or other governmental entity sources for disbursements made. If possible, the loans must be made from funds other than the general fund. The department may approve the loans if the requesting agency can demonstrate that the total loan balance does not exceed total receivables from federal, private, or other governmental entity sources and receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may be determined by the department or by specific legislative authorization.

(9) A loan may not be authorized under this section to any fund or accounting entity that is owed federal or other third-party funds unless the requesting agency certifies to the agency approving the loan that it has and will continue to bill the federal government or other third party for the requesting agency's share of costs incurred in the fund or accounting entity on the earliest date allowable under federal or other third-party regulations applicable to the program. The requesting agency shall recertify its timely billing status to the agency that approved the loan at least monthly during the term of the loan. If at any time the requesting agency fails to recertify the timely billing, the agency that approved the loan shall cancel the loan and return the money to its original source."

{Internal References to 17-2-107:

17-2-101 x 17-7-402 x 17-7-502 x 75-10-626 x}"

Renumber: subsequent sections

3. Page 6, line 1.

Following: "(4)"

Insert: "of this section"

4. Page 6, line 4 through line 5.

Strike: "22"

Insert: "25"

Strike: "use funds" on line 4 through "account" on line 5

Insert: "receive a general fund loan pursuant to 17-2-107"

5. Page 6, line 5.

Strike: "Those funds must be reimbursed with"

Insert: "A general fund loan made pursuant to this subsection (3) (c) must be repaid within 5 years and must bear"

6. Page 6, line 9.

Strike: "22"

Insert: "25"

7. Page 6, line 24.

Following: "lands."

Insert: "If the appropriation in subsection (5) (a) is insufficient to pay the calculated administrative cost, a general fund loan may be used pursuant to 17-2-107 to offset the difference. A general fund loan made pursuant to this subsection (5) (b) must be repaid within 5 years and must bear interest at a rate of return equal to that earned by the board of investments' short-term investment pool during that period."

8. Page 6, line 25.

Following: line 24

Insert: "Section 9. Section 77-1-108, MCA, is amended to read:

"77-1-108. Trust land administration account -- administrative costs -- appropriation. (1) There is a trust land administration account in the state special revenue fund. Money in the account is available to the department by appropriation and must be used to pay the costs of administering state trust lands. This includes the cost of managing assets, including but not limited to real property and monetary assets.

(2) Appropriations from the account for each fiscal year may not exceed the sum of 1 1/8% of the book value balance in the permanent funds administered by the department, an amount equal to 25% of the distributable revenue, as defined in 77-1-101, generated in the fiscal year completed prior to the legislative session that will appropriate money for the next biennium. This excludes revenue generated by the forest improvement fee provided for in 77-5-204 other than the fund containing proceeds derived from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329, on the first day of January preceding the new biennium and 10% of the revenue deposited in the capitol building land grant trust fund in the last-completed fiscal year prior to the new biennium.

(3) (a) Pursuant to subsection (1), the administrative costs must be determined for each land trust. The department may adopt rules regarding the calculation of administrative costs as necessary.

(b) Each fiscal year, the department shall compare administrative costs for each land trust to the amount of revenue

that land trust generates for the account. If the amount of revenue deposited pursuant to 77-1-109(2) exceeds the administrative costs for a specific land trust, the excess revenue must be distributed as provided in subsection (4) of this section.

(c) If revenue deposited from a specific land trust is insufficient to defray the administrative costs associated with managing that land trust and the money held for that trust in the earnings reserve account, established in [section 25], is also insufficient, the board may receive a general fund loan pursuant to 17-2-107 to offset the difference. A general fund loan made pursuant to this subsection (3) (c) must be repaid within 5 years and must bear interest at a rate of return equal to that earned by the board of investments' short-term investment pool during that period.

~~(3)~~(4) (a) Except as provided in ~~subsection (4)~~ subsections (4) (b) and (5), up to one-third of the unreserved distributable revenue funds remaining in the account at the end of a fiscal year ~~must~~ may be transferred to the earnings reserve account, provided for in [section 25], and accounted for by trust. The remaining unreserved revenue must be transferred to each of the permanent funds in proportionate shares to each fund's contribution to the account as ~~calculated in 77-1-109(3)~~.

(b) At the end of the fiscal year, unreserved funds received pursuant to 77-1-109(2) (a) (ii) must be transferred to each of the permanent funds or to the appropriate trust or distributed to the beneficiary in proportionate shares to each fund's contribution to the account.

~~(4)~~(5) (a) The amount of \$80,000 each biennium is transferred from the state general fund to an account in the state special revenue fund. The account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of administering the land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. Any unexpended portion of the statutory appropriation may be retained in the account and used for the administration of the Morrill Act land.

(b) At the end of each fiscal year, the department shall pay from the appropriation in ~~subsection (4)~~ (5) (a) to the trust containing proceeds derived from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329, an amount calculated to be the cost of administering the investment of the fund derived from that trust. The payment must be based upon the percentage that the Morrill Act fund constitutes of the total fund derived from all trust lands. If the appropriation in subsection (5) (a) is insufficient to pay the calculated administrative cost, a general fund loan may be used pursuant to 17-2-107 to offset the difference. A general fund loan made pursuant to this subsection (5) (b) must be repaid within 5 years

and must bear interest at a rate of return equal to that earned by the board of investments' short-term investment pool during that period."

{ Internal References to 77-1-108:

17-1-508 x 17-6-201 x 17-7-502 x 77-1-109 a
77-1-109 a 77-2-328 x }"

Renumber: subsequent sections

9. Page 7, line 29.

Following: line 28

Insert: "Section 11. Section 77-1-109, MCA, is amended to read:

"77-1-109. Deposits of proceeds in trust land administration account. (1) The amount of money that is deposited into the trust land administration account established in 77-1-108 may not exceed an amount equal to 25% of distributable revenue generated in the fiscal year completed prior to the legislative session that will appropriate money for the next biennium. This excludes revenue generated by the forest improvement fee provided for in 77-5-204.

~~(1)(2)~~ (a) Subject to subsection (1), the The department shall, ~~until the deposit equals the amount appropriated for the fiscal year pursuant to 77-1-108,~~ deposit into the trust land administration account ~~created by 77-1-108~~ the following:

(i) distributable revenue;

~~(i)~~ mineral royalties;

~~(ii)~~ (ii) the proceeds or income from the sale of easements and timber, except timber from public school and Montana university system lands; and

~~(iii)~~ 5% of the interest and income annually credited to the public school fund in accordance with 20-9-341; and

~~(iv)~~ (iii) fees collected pursuant to 77-2-328.

(b) As deposits are made, they must be identified and accounted for by trust.

~~(b)~~ (c) The department may not make deductions from interest or income generated from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329.

~~(2)~~ (3) After the deposits in subsection (1) (2) have been made, the remainder of the proceeds, other than proceeds from timber from Montana university system lands and other than those purchased pursuant to 17-6-340, must be deposited in the appropriate permanent fund and the capitol building land grant trust fund accordance with 17-3-1003, 18-2-107, and 20-9-341(2). Timber proceeds from university system lands must be paid over to the state treasurer, who shall deposit the money to the credit of the proper fund for use as provided in 17-3-1003~~(1)~~. Royalty payments purchased pursuant to 17-6-340 must be used as provided in that section and 20-9-622.

~~(3) The amount of money that is deposited into the trust land administration account may not exceed 1 1/8% of the book value balance in each of the permanent funds, other than the fund~~

~~containing proceeds derived from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329, administered by the department on the first day of January preceding the new biennium and 10% of the previous fiscal year revenue deposited into the capitol building land grant trust fund."~~

{ Internal References to 77-1-109:

17-3-1003 x 17-3-1003 x 18-2-107 x 20-9-341 x
20-9-601 x 20-9-601 x 20-25-422 x 77-1-108 a } "

Renumber: subsequent sections

10. Page 16, line 10.

Strike: "23"

Insert: "26"

11. Page 17, line 26.

Strike: "22"

Insert: "25"

12. Page 18, line 9.

Strike: "22"

Insert: "25"

13. Page 18, line 10.

Strike: "22"

Insert: "25"

14. Page 18, line 12.

Strike: "23"

Insert: "26"

15. Page 18, line 13.

Strike: "23"

Insert: "26"

16. Page 18, line 15.

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

17. Page 18, line 16.

Following: line 15

Insert: "(2) [Sections 9 and 11] are effective July 1, 2013."

- END -