MONTANA STATE SENATE
STATE ADMINISTRATION COMMITTEE
MINUTES OF THE MEETING

June 18, 1986

The first meeting of the Senate State Administration Committee for the 49th Third Special Session was called to order at 10:15 A.M. on June 18, 1986, by Chairman Jack Haffey in Room 331 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SB 2: Senator Himsl, Senate District 3, Kalispell, presented this bill to the committee as sponsor at the request of the Department of Administration. See attached Exhibit 1.

PROPONENTS: Kathy Fabiano, Administrator, Accounting Division, Department of Administration, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 2.

Tom Chesbro, Budget and Accounting Director, Office of Public Instruction, supports this bill and agreed with the testimony presented by Kathy Fabiano.

Jack Noble, Montana University Systems, supports this bill.

Pat Godbout, Social Rehabilitation Service, supports this bill.

OPPONENTS: None.

QUESTIONS FROM COMMITTEE MEMBERS: Senator Harding asked Kathy Fabiano if the interentity loan money is budgeted for one fiscal year.

Kathy Fabiano said the agency receives an appropriation for one year which is based on revenue which is expected to be collected.

Senator Haffey said there was an amendment in 1983 and he understands the reason for that amendment at that time. The way the section reads now, it would allow certain exceptions, from specific things that can happen and another that would allow the Department of Administration, if there is sufficient justification, to allow for an extension of a loan into the next fiscal year. He asked Kathy Fabiano if this was to allow the Department to take care of the problem they have with less conflict and paper work.

Kathy Fabiano said there is a lot of paper work, with an average of 200 loans a year. She does not know that the law will eliminate all the paper work but the June 30th paper flow will be decreased substantially.

Senator Hirsch referred to page 3, line 23 and asked Kathy Fabiano if that language bothered her.

Kathy Fabiano said if you read on you will see that there are some allowances although we would be required under the current law to process a loan on June 25th if necessary.

CLOSING STATEMENT: Senator Himsl closed by stating that he is sure it is obvious that this simply will enable the Department of Administration to better manage funds.

ACTION ON SB 2: Senator Lynch moved that SB 2 DO PASS. The motion passed unanimously.

ADJOURNMENT: There being no further business the meeting adjourned at 10:31 A.M.

Jack Haffey

SENATOR JACK HAFFEY, CHAIRMAN

ah

ROLL CALL

STATE ADMINISTRATION COMMITTEE

48th LEGISLATIVE SESSION -- 1985 Date 3-18-85

SENATE SEAT	NAME	PRESENT	ABSENT	EXCUSED
22	SENATOR ANDERSON	✓		
2[illegible]	SENATOR CONOVER	✓		
3	SENATOR FARRELL	✓		
1	SENATOR HARDING	✓		
5	SENATOR LYNCH	✓		
2[illegible]	SENATOR MANNING	✓		
28	SENATOR MOHAR	✓		
3	SENATOR TVEIT	✓		
47	SENATOR HIRSCH, Vice Chairman	✓		
9	SENATOR HAFFEY, Chairman	✓		

Each day attach to minutes.

SENATE State Administration COMMITTEE

BILL S.B. 2 VISITORS' REGISTER DATE 6-18-86

Please note bill no. (check one)

NAME	REPRESENTING	BILL #	SUPPORT	OPPOSE
Kathy Fabiano	Administration	SB2	✓	
Chesbro	OPI	SB2	✓	
Linda Brandon	OPI			
Steve Bennyhoff	CHE	SB2	✓	
~~Pat Godbout~~				

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

TESTIMONY ON SB-2

INTERENTITY LOANS

SB-2 - An act to require that all interentity loans be paid within one calendar year of the date approved; amending Section 17-2-107, MCA, and providing an applicability date and an immediate effective date.

Purpose

SB-2 is requested by the Department of Administration. This bill amends MCA Section 17-2-107, the interentity loan law, removing the requirement that loans be repaid by fiscal year-end. As amended, the law will require all loans to be paid within twelve months of the date they are approved. This means agencies would be allowed to carry any loan over year-end, but normally could not carry a loan for more than one calendar year without legislative approval.

Background and Justification

Montana has several accounts that must pay expenses before their revenues are collected. This is typical for government accounts, where services provided are not always directly related to the revenues that pay for them. For example, payroll expenses are paid from an account every two weeks throughout the year; but an account's only revenue source may be fees which are collected once or twice a year. The State also has several accounts that operate on a reimbursement basis. These operations purchase an item one month and sell it the next, recovering their cost. These types of governmental operations must borrow cash from other accounts to pay expenses incurred before their revenues are received. The 1983 Legislature amended the interentity loan law to require all loans, except in limited circumstances, to be repaid by fiscal year-end.

The Department of Administration reviews all loans requested by agencies for compliance with the interentity loan law. Since the 1983 amendments to this law became effective, the department has had several requests for loans that, under the current law, could not be approved because the requesting agency did not anticipate collecting revenues in time to repay the loan by fiscal year-end. Many of these loans were necessary in order for the agency to meet its other statutory obligations.

The Department of Administration is requesting this legislation to correct the conflict between the loan law, which says an agency can't carry a loan over year-end and repay it with cash collected in the next year, and other laws which require agencies to pay their expenses timely and make cash distributions before year-end. A representative from the Department of Administration will provide the committee with examples of these conflicts.

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BILL NO. SB 2

Conclusion

It is unrealistic to expect all interentity loans to be repaid by fiscal year-end unless we also require state agencies to sell all their merchandise inventories and collect on every account receivable by June 30.

The legislation proposed by the Department of Administration will allow agencies to have a loan outstanding for one calendar year, recognizing the fact that the financial affairs of the State for a particular fiscal year are never completely wrapped up within that year. Rather, each year's activities carry over into the next fiscal year - and so must the interentity loans that are needed to conduct those activities.

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EXHIBIT NO. 1
DATE 06 18 86
BILL NO. S.B. 2

SB-2

BILL ANALYSIS

Bill Title - "AN ACT TO REQUIRE THAT ALL INTERENTITY LOANS BE PAID WITHIN ONE CALENDAR YEAR OF THE DATE APPROVED; AMENDING SECTION 17-2-107, MCA, AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

Purpose - Amend Section 17-2-107, MCA, repealing existing language that requires loans, if not made for one of the limited purposes set forth in subsection 3, to be repaid by fiscal year-end. New language will instead require all loans to be paid within one calendar year of the date approved.

Pros - The proposed amendment will eliminate the conflict between Section 17-2-107, MCA, which prohibits both a negative cash balance and the carry-over of an inter-entity loan at fiscal year-end, and other statutes which require certain expenditures and distributions to be made before June 30.

Cons - The proposed amendments may result in some loans going unpaid longer than necessary. However, the Accounting Division will still be monitoring all loans to ensure they are paid within 12 months of the date approved.

Alternatives to Legislation - None.

Financial Impact - None.

Prior legislative history - The language that will be amended by this proposed legislation was inserted by the 1983 Legislature at the request of the Legislative Fiscal Analyst.

Interested persons/parties -

- Judy Rippingale, Legislative Fiscal Analyst
  (not contacted, may oppose this legislation)

- University Units (CHE supports this legislation)

- Office of Public Instruction (supports this legislation)

Problems with October 1 effective date - The proposed legislation should be made effective upon passage and approval for loans processed on or after July 1, 1985 to alleviate the problem in time for fiscal year-end 1987.

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SB-2

POSSIBLE QUESTIONS AND ANSWERS

1. HOW MANY LOANS ARE RECORDED BY STATE AGENCIES EACH FISCAL YEAR?

   In FY85 the Department of Administration processed 176 loans and to date over 200 loans have been processed in FY86.

2. ARE ALL LOANS TO OTHER ACCOUNTS MADE FROM THE GENERAL FUND?

   No. In both FY84 and FY85, only 21 loans were made from the General Fund to other accounts. In FY86, to date, 45 loans have been made from the General Fund to other accounts. As of May, $5.8 million in General Fund loans are outstanding.

3. UNDER THE CURRENT LOAN LAW, WHAT TYPES OF LOANS CAN BE CARRIED OVER YEAR-END?

   Loans can be approved for carry-over into the next fiscal year if they are made -

   (1) to repair or replace property damage covered by insurance; or

   (2) to pay expenses which will later be reimbursed by

      (a) federal revenues

      (b) receipts due to the Higher Education agencies' auxiliary, restricted, and loan funds; or

      (c) receipts from the sale of prison ranch products.

4. HOW MANY LOANS ARE CARRIED OVER YEAR-END?

   FY85 interentity loans carried over year-end totalled $37.8 million, including intrafund loans.

Approved under 17-2-107(3)	- $ 28.6 million
Grandfathered (made prior to 3/1/83)	- 4.3 million
Not approved	- 4.9 million
	$ 37.8 million

5. WILL ALLOWING AGENCIES TO CARRY-OVER A LOAN AT YEAR-END DISTORT THEIR TRUE FINANCIAL POSITION ON THE STATE'S ACCOUNTING RECORDS?

   No. When an agency records a loan the cash borrowed (an asset) is offset in the accounting records with accounts payable (a liability). Thus, there is no affect on the account's fund balance.

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6. HOW MANY LOANS HAVE BEEN APPROVED UNDER THE CURRENT PROVISION WHICH ALLOWS THE DEPARTMENT OF ADMINISTRATION'S DIRECTOR TO AUTHORIZE ONE ADDITIONAL EXTENSION OF LOANS APPROVED FOR CARRY-OVER YEAR-END?

   None of the loans approved for carry-over year-end have been outstanding for longer than twelve months. One loan that was not approved for carry-over Fiscal Year-End 1985 is still outstanding. This loan is for $1.3 million from the General Fund to the SRS county revolving account.

7. WILL THE PROPOSED AMENDMENTS SOLVE ALL THE PROBLEMS AGENCIES ARE HAVING COMPLYING WITH MCA 17-2-107?

   No. Most agencies will be able to repay their loans within the twelve month period proposed in SB-2. However, some loans are needed for longer than twelve months. This legislation will require those agencies to get legislative approval to carry a loan for longer than twelve months.

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TESTIMONY

Interentity Loans

Currently the law requires all interentity loans processed during the year to be repaid by fiscal year-end (June 30), unless they are for one of the limited purposes set forth in statute or are legislatively authorized to be carried over year-end. This proposed legislation will amend MCA Section 17-2-107 to remove the requirement that loans be repaid by June 30 and replace it with language that instead requires all loans to be repaid within 12 months of the date they originated. As proposed, the amendments will be effective retroactively to loans processed on or after July 1, 1985. Because of the revenue shortfalls this year, more interentity loans than usual that cannot be paid back by June 30 are necessary.

The language specifically requiring most loans to be repaid each year by June 30th was enacted by the 1983 Legislature at the request of the Legislative Fiscal Analyst, effective for all loans processed after March 1, 1983. The Department of Administration (DOA) reviews support for all loans before they are processed, including the agency's reason for needing the loan and the revenue source that will be used to repay it. We monitor all loan due dates, contacting an agency when its loan is not paid on time. Since FY84, the department has processed over 600 loans. Most loans are either between two university accounting entities or between federal and earmarked accounts. Such loans comply with the current law for carry over year-end. However, since the DOA implemented the 1983 Legislative amendments to 17-2-107, we have also seen a number of requests from agencies for loans that do not qualify under the current law for carry-over year-end, yet the revenue source used to repay them will not be collected before June 30. For example -

- The university system has a number of "designated" accounts which, by their nature, pay expenses which are later reimbursed through the sale of goods to the various university departments. These accounts pay expenses in one year, for example, for inventory purchases, the cost of which will not be recovered through user charges until the next fiscal year. For fiscal years 1984 and 1985, five of the six universities had loans outstanding in their designated accounts which could not be repaid by year-end.
- Last fiscal year-end the University of Montana needed a loan on the last working day of June in order to make a bond payment on July 1 of this fiscal year. The payment is due July 1 so the cash must be wired to the fiscal paying agent the working day before. The University did not have cash available to make the transfer on June 30 because it was held in escrow and couldn't be withdrawn until July 1.
- This year because of revenue shortfalls the General Fund will need, or will come very close to needing, a loan from another account the last week in June. The Governor's Executive Budget is projecting a FYE86 fund balance of approximately $1 million and the General Fund's year-end cash balance is usually very close to its fund balance.
- Also this fiscal year-end, the Office of Public Instruction expects to need a loan in order to make their June distribution to schools. The loan will be repaid from FY86 interest and income revenues distributed

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in July. This situation results from the legislature using an accounting accrual (non-cash revenue) to balance the budget last session. This LFA proposal, by its nature, requires a loan over year-end.

For each of these examples, according to 17-2-107 a loan should not be processed because it must be carried over year-end and repaid in July; but at the same time, there are other statutes and legal requirements that cannot be complied with unless these accounts are given loans.

- In the case of the university designated accounts, the law allows these individual accounts to have negative cash all year long (as long as the subfund's cash in total is positive); but requires that each account have a zero or positive cash balance by fiscal year-end. The General Fund is also required to have positive cash at year-end. If the General Fund or a designated account is negative on June 30, we have a choice between violating the section of law that says an account can't have negative cash at year-end, or violating the section that says an account can't have a loan that is carried over year-end.
- We could either give UofM a loan to make the transfer to their fiscal agent on June 30 for bond payments due July 1, or have the fiscal paying agent refuse to service the debt.
- We can either give OPI a loan for the foundation program this year, or violate the law that says county treasurers must receive their distributions by June 30.

The Legislative Auditor's recent audit report for the Department of Administration has also noted a statutory conflict, that is between the current loan law and the law that requires the State's accounting system to be in accordance with generally accepted accounting principles. Their report says they are finding cases where agencies have financial activity that, according to generally accepted accounting principles should be recorded as a loan, but isn't because the loan can't be repaid by year-end in accordance with 17-2-107.

We don't see how the LFA can oppose this bill when, in part, they created the situation. The current law fails to consider a number of situations where interentity loans are necessary but can't reasonably be repaid by June 30th. Agencies are being put in the position of not complying with the loan law so that they can comply with another law, or vice versa. As amended, the law will require all loans to be repaid within one calendar year of the date they are approved. The Accounting Division will review all loan requests and monitor repayments for compliance with the twelve month limitation. Loans that are needed for a period longer than twelve months will require legislative authorization.

Prepared by:

Kathy Fabiano, Administrator
Accounting Division
Department of Administration

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Source: FY85 Comprehensive Annual Financial Report

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2. INTERFUND LOANS

Interfund loans receivable and payable balances at June 30, 1985 are as follows (in $000's):

Fund	Interfund Loans Receivable	Interfund Loans Payable
General Fund	$ 2,074	$
Special Revenue Funds		
State	28,795	
Federal		25,724
Revolving		4,991
Capital Projects Funds		
Long-Range Building Program	150	
Federal and Private Construction Grant		150
Enterprise Funds		
Economic Development Board		150
Beginning Farm Loans		138
Internal Service Funds		
Motor Pool		3
Prison Ranch	40	
Prison Industries		40
FWP-Office Supplies		25
FWP-Warehouse Inventory		75
Expendable Trust Funds		
Unemployment Insurance	237	
Higher Education Current Funds		
General Operating	4,168	
Designated		1,164
Auxiliary	90	147
Restricted		2,074
Higher Education Fiduciary Funds		
Agency	110	326
Higher Education Plant Funds		
Unexpended	11	
Renewal and Replacement	275	8
Retirement of Indebtedness	8	943
	$ 35,958	$ 35,958

STANDING COMMITTEE REPORT

June 13, 1986

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE BILL No. 2

first reading copy (white)
color

EXPAND INTER ENTITY LOAN AUTHORITY

Respectfully report as follows: That SENATE BILL No. 2

DO PASS

~~DO NOT PASS~~

SENATOR HAFFEY, Chairman.