

McClubb  
Moore  
Cochran

1 *McClubb*  
 2 *Moore* SB BILL NO. 187 *Van Valkenburg* *Boyle*  
 3 INTRODUCED BY *Cochran* *Johnson* *Stranover* *Josh Holzer* *HARP*  
 4 *Cochran* *Johnson* *DENNY* *Johnson* *K. Kelly*

5 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE CONFLICT BETWEEN ARTICLE X, SECTION 10,  
 6 OF THE MONTANA CONSTITUTION AND STATUTORY LAW BY AUTHORIZING THE MONTANA  
 7 UNIVERSITY SYSTEM TO RETAIN INVESTMENT EARNINGS ON ALL UNIVERSITY FUNDS; AMENDING  
 8 SECTION 17-2-107, MCA; AND PROVIDING AN EFFECTIVE DATE."

9 WHEREAS, Article X, section 10, of the Montana Constitution provides in part that the interest from  
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 11 institutions; and

12 WHEREAS, section 17-2-107, MCA, currently requires some of the investment earnings from some  
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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 20 the necessary procedures to ensure that interdepartmental or intradepartmental transfers of money or loans  
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22 (2) (a) When the expenditure of an appropriation from a fund designated in 17-2-102(1)(a) through  
 23 (1)(c) is necessary and the cash balance in the accounting entity from which the appropriation was made  
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13 (c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date  
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16 (3) Under unusual circumstances, the director of the department of administration or the board of  
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21 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(1)(d)(i)(D) and  
22 (1)(d)(ii) through (1)(d)(vi) must bear interest at a rate equivalent to the previous fiscal year's average rate  
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27 (5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the  
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3 (6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in  
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9 (7) (a) An accounting entity in a fund designated in 17-2-102(1)(a) through (1)(c) may not have  
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13 (b) (i) Except as provided in subsection (7)(b)(ii), a unit of the university system shall maintain a  
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20 (8) Notwithstanding the provisions of subsections (2) through (4), the department of administration  
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27 be determined by the department of administration or by specific legislative authorization."

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29 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 1997.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0187, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act removing the conflict between Article X, Section 10, of the Montana Constitution and statutory law by authorizing the Montana University System to retain investment earnings on all university funds, amending section 17-2-107, MCA and providing an effective date.

ASSUMPTIONS:

1. All retained investment earning on university funds would be used to fund the Montana Tuition Assistance Program (MTAP). Each unit would establish a designated fund to deposit all investment earnings from the university funds current unrestricted, current designated and current restricted sub-funds for funding the MTAP.
2. In calender year 1996, university system funds earned approximately \$1,866,000 of investment earnings based upon an expected Short Term Investment Pool (STIP) annual rate of 5.65% and the month end balances for the current unrestricted and current designated sub-funds. Calender year costs should not vary significantly from fiscal year costs.
3. Investment earnings will be retained on all funds received by units of the university system, including the general fund money accounted for in the current unrestricted sub-fund.
4. Investment earnings retained by the university units will no longer accrue to the treasurer's cash account in the general fund.

FISCAL IMPACT:

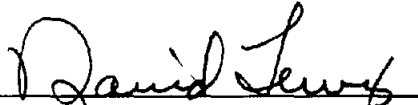
Revenues:

	FY98	FY99
	<u>Difference</u>	<u>Difference</u>
University System Current Designated(33)	1,866,000	1,866,000
General Fund (01)	(1,866,000)	(1,866,000)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: Continued loss of general fund revenue.

TECHNICAL NOTES:

1. Article X, Sec. 10 of the state constitution specifies that interest from University System Funds shall be dedicated to the Montana University System (MUS) uses. While this bill only mentions specifically interest earnings on monies on the designated and restricted funds sub-funds, the fiscal note is drawn up consistent with the intent of this bill as expressed in its title. This would also require interest earnings on University System monies in the current unrestricted sub-fund to be credited the MUS.
2. General fund is currently distributed to the units of the MUS by the Commissioner's Office of Higher Education on an "as needed" basis. Should this bill pass, the legislature may want to specify a distribution pattern for general fund in HB002.
3. All state accounts that do not retain their interest earnings are commingled in the Treasurer's fund, interest from which is deposited in the state General Fund. In order to retain interest earnings on state agency/university accounts, the Board of Investments must establish an account for the agency/university unit in the Short Term Investment Pool (STIP), from which interest is distributed to the specific account. Prior to establishing a STIP interest-bearing account, the Board requires that the agency/university unit requesting such an account, cite a specific reference in state law or other written documentation authorizing the account to retain its interest earnings. As introduced, this legislation would not provide the specific written documentation the Board would need to establish interest bearing accounts for these accounts.

 1-22-97  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

 1/22/97  
BRUCE CRIPPEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0187, as Introduced

SB 187

17-11-16-17

McClubb  
Wood

SB BILL NO. 187

Van Valkenburg  
Jergeson  
Baldwin  
Grante

INTRODUCED BY

Coccolia  
Parker

Stinson  
Shaw  
HARP  
Denny  
Harp  
Dove

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE CONFLICT BETWEEN ARTICLE X, SECTION 10, OF THE MONTANA CONSTITUTION AND STATUTORY LAW BY AUTHORIZING THE MONTANA UNIVERSITY SYSTEM TO RETAIN INVESTMENT EARNINGS ON ALL UNIVERSITY FUNDS; AMENDING SECTION 17-2-107, MCA; AND PROVIDING AN EFFECTIVE DATE."

Raney  
Hoyer  
Swanson  
Beaudry  
Lynch  
Wilson

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29 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 1997.

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-END-

17A466.001

1 *McCluskey*  
 2 *Wood*  
 3 *McClellan*  
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SB BILL NO. 187

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17466-1-11

McCulloch  
Wood

Van Valkenburg  
Jergeson  
Bridgman  
Beecher

SB BILL NO. 187

INTRODUCED BY

*[Handwritten signatures]*  
Cocchiarella  
HARP  
Denny  
Kupferberg

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

21 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(1)(d)(i)(D) and  
22 (1)(d)(ii) through (1)(d)(vi) must bear interest at a rate equivalent to the previous fiscal year's average rate  
23 of return on the board of investments' short-term investment pool. ~~Except for investment earnings on~~  
24 ~~restricted donations, all designated and restricted subfund investment earnings, other than investment~~  
25 ~~earnings on student activity fees used to support student governments at units of the university system,~~  
26 ~~are credited to the state general fund.~~

27 (5) If for 2 consecutive fiscal years a loan or an extension of a loan has been authorized to the  
28 same accounting entity as provided in subsection (2) or (3), the department of administration or the  
29 commissioner of higher education shall submit to the legislative finance committee by September 1 of the  
30 following fiscal year a written report containing an explanation as to why the second loan or extension was

1 made, an analysis of the solvency of the accounting entity or accounting entities within the university fund  
2 or subfund, and a plan for repaying the loans.

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

9 (7) (a) An accounting entity in a fund designated in 17-2-102(1)(a) through (1)(c) may not have  
10 a negative cash balance at fiscal yearend. The department of administration may, however, allow an  
11 accounting entity to carry a negative balance at any point during the fiscal year if the negative cash balance  
12 does not exist for more than 7 working days.

13 (b) (i) Except as provided in subsection (7)(b)(ii), a unit of the university system shall maintain a  
14 positive cash balance in the funds and subfunds designated in 17-2-102(1)(d)(i)(A) through (1)(d)(i)(D) and  
15 (1)(d)(ii) through (1)(d)(vi).

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

20 (8) Notwithstanding the provisions of subsections (2) through (4), the department of administration  
21 may authorize loans to accounting entities in the federal and state special revenue funds with long-term  
22 repayment whenever necessary because of the timing of the receipt of agreed upon reimbursements from  
23 federal, private, or other governmental entity sources for disbursements made. The department of  
24 administration may approve the loans if the requesting agency can demonstrate that the total loan balance  
25 does not exceed total receivables from federal, private, or other governmental entity sources and  
26 receivables have been billed on a timely basis. The loan must be repaid under terms and conditions as may  
27 be determined by the department of administration or by specific legislative authorization."  
28

29 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 1997.

30 -END-

## 1 SENATE BILL NO. 187

2 INTRODUCED BY CRIPPEN, BOHLINGER, SLITER, AHNER, TASH, HALLIGAN, HARP,  
3 VAN VALKENBURG, JERGESON, DEPRATU, BROOKE, MCCULLOCH, MAHLUM, MOOD,  
4 COCCHIARELLA, J. JOHNSON, MESAROS, DENNY, SQUIRES, KITZENBERG, ANDERSON, PECK,  
5 REAM, DOWELL, FRANKLIN, RANEY, HARPER, SWANSON, FOSTER, SOFT, BEAUDRY, LYNCH,  
6 WILSON

7  
8 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE CONFLICT BETWEEN ARTICLE X, SECTION 10,  
9 OF THE MONTANA CONSTITUTION AND STATUTORY LAW BY AUTHORIZING THE MONTANA  
10 UNIVERSITY SYSTEM TO RETAIN INVESTMENT EARNINGS ON ALL UNIVERSITY FUNDS; AMENDING  
11 SECTION 17-2-107, MCA; AND PROVIDING AN EFFECTIVE DATE."

12  
13 WHEREAS, Article X, section 10, of the Montana Constitution provides in part that the interest from  
14 university funds must be devoted to the maintenance and perpetuation of the respective University System  
15 institutions; and

16 WHEREAS, section 17-2-107, MCA, currently requires some of the investment earnings from some  
17 university funds to be credited to the state general fund.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20  
21 Section 1. Section 17-2-107, MCA, is amended to read:

22 "17-2-107. **Accurate accounting records and interentity loans.** (1) The department of  
23 administration shall record receipts and disbursements for treasury funds and for accounting entities within  
24 treasury funds and shall maintain records in ~~such a manner as to reflect~~ that reflects the total cash and  
25 invested balance of each fund and each accounting entity. The department of administration shall adopt  
26 the necessary procedures to ensure that interdepartmental or intradepartmental transfers of money or loans  
27 do not result in inflation of figures reflecting total governmental costs and revenue.

28 (2) (a) When the expenditure of an appropriation from a fund designated in 17-2-102(1)(a) through  
29 (1)(c) is necessary and the cash balance in the accounting entity from which the appropriation was made  
30 is insufficient, the department of administration may authorize a temporary loan, bearing no interest, of

1 unrestricted money from other accounting entities if there is reasonable evidence that the income will be  
2 sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting  
3 records. An accounting entity receiving a loan or an accounting entity from which a loan is made may not  
4 be so impaired that all proper demands on the accounting entity cannot be met even if the loan is extended.

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

13 (ii) One accounting entity within each fund or subfund designated in 17-2-102(1)(d)(i)(A) through  
14 (1)(d)(vi) must be established for the sole purpose of recording loans between the funds or subfunds. This  
15 accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from  
16 which a loan may be made.

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

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

25 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(1)(d)(i)(D) and  
26 (1)(d)(ii) through (1)(d)(vi) must bear interest at a rate equivalent to the previous fiscal year's average rate  
27 of return on the board of investments' short-term investment pool. ~~Except for investment earnings on~~  
28 ~~restricted donations, all designated and restricted subfund investment earnings, other than investment~~  
29 ~~earnings on student activity fees used to support student governments at units of the university system,~~  
30 ~~are credited to the state general fund.~~

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

7 (6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in  
8 17-2-102(1)(d)(i) through (1)(d)(vi) has a negative cash balance, the commissioner of higher education shall  
9 submit to the legislative finance committee by September 1 of the following fiscal year a written report  
10 containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the  
11 solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's  
12 negative cash balance or solvency.

13 (7) (a) An accounting entity in a fund designated in 17-2-102(1)(a) through (1)(c) may not have  
14 a negative cash balance at fiscal yearend. The department of administration may, however, allow an  
15 accounting entity to carry a negative balance at any point during the fiscal year if the negative cash balance  
16 does not exist for more than 7 working days.

17 (b) (i) Except as provided in subsection (7)(b)(ii), a unit of the university system shall maintain a  
18 positive cash balance in the funds and subfunds designated in 17-2-102(1)(d)(i)(A) through (1)(d)(i)(D) and  
19 (1)(d)(ii) through (1)(d)(vi).

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

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



1 be determined by the department of administration or by specific legislative authorization."

2

3

NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1997.

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-END-