

SENATE BILL 188

IN THE SENATE

January 20, 1979	Introduced and referred to Committee on Taxation.
January 22, 1979	Fiscal note requested.
January 26, 1979	Fiscal note returned.
April 20, 1979	Died in Committee.

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INTRODUCED BY *Sen. Steve Waddell* BILL NO. *188*  
*Watt* *Agnew* *Hoffman* *Palmer*  
*Sp*

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A PORTION OF THE COAL SEVERANCE TAX TRUST FUND BE INVESTED IN MORTGAGE LOANS TO PERSONS AND FAMILIES OF LOWER INCOME; ESTABLISHING A MORTGAGE PURCHASE PROGRAM ADMINISTERED BY THE BOARD OF HOUSING AND FINANCED BY THE INVESTMENT OF THESE FUNDS; AND AMENDING SECTIONS 17-6-211 AND 90-6-104, MCA."

WHEREAS, the current high interest rates for mortgage loans make it impossible for persons of lower income to purchase homes; and

WHEREAS, the building trades in Montana are stagnating because many people cannot afford homes; and

WHEREAS, adequate, affordable housing nurtures stronger families and healthier and happier children; and

WHEREAS, the coal tax trust fund was created to benefit future generations; and

WHEREAS, the coal tax trust fund grows continuously as coal severance taxes are received; and

WHEREAS, the coal tax trust fund is not pledged to any specific purpose and is being invested only to produce the highest possible safe return; and

WHEREAS, investing a portion of the coal tax trust fund

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in mortgages for lower income families would allow future generations of Montanans to be raised in healthful, pleasant surroundings, which would be of more lasting value to all the citizens of Montana than investing all the coal tax trust fund money in high interest securities.

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

Section 1. Section 17-6-211, MCA, is amended to read:

"17-6-211. Permissible investments. (1) The following securities are permissible investments for all investment funds referred to in 17-6-203, except as indicated:

(a) any securities authorized to be pledged to secure deposits of public funds under 17-6-103;

(b) bonds, notes, debentures, equipment obligations, or any other kind of absolute obligation of any corporation organized and operating in any state of the United States or in Canada, if the obligations purchased are payable in United States dollars, provided that all investments under this subsection (b) must be rated by one nationally recognized rating agency among the top third of their quality categories, not applicable to defaulted bonds;

(c) commercial paper of prime quality, as defined by one nationally recognized rating agency, issued by any corporation organized and operating in any state of the United States, provided that:

-2- SB 188  
INTRODUCED BILL

1 (i) such securities mature in 270 days or less;

2 (ii) the issuing corporation or the parent company of a  
3 finance subsidiary issuing commercial paper, at the time of  
4 the last financial reporting period, had a ratio of current  
5 assets to current liabilities, including among current  
6 liabilities long-term debt maturing within 1 year, of at  
7 least 1 1/2 to 1 and had received net income averaging \$1  
8 million or more annually for the preceding 5 years; and

9 (iii) no investment may be made at any time under this  
10 subsection (c) which would cause the book value of such  
11 investments in any investment fund to exceed 10% of the book  
12 value of such fund or would cause the commercial paper of  
13 any one corporation to exceed 2% of the book value of such  
14 fund;

15 (d) bankers' acceptances guaranteed by any bank having  
16 its principal office in any state of the United States and  
17 having deposits in excess of \$500 million;

18 (e) interest-bearing deposits in banks, building and  
19 loan associations, and savings and loan associations located  
20 in Montana, provided, however, that the board of investments  
21 shall require pledged securities as specified in 17-6-102  
22 (interest on said deposits shall not be less than the  
23 prevailing rate of interest being paid on deposits of  
24 private funds);

25 (f) unencumbered real property, first mortgages, and

1 participations in first mortgages on unencumbered real  
2 property, provided that:

3 (i) no such mortgage or mortgage participation may be  
4 purchased unless:

5 (A) the principal amount of the loan secured by the  
6 mortgage or mortgage participation is 80% or less of the  
7 appraised value of the property;

8 (B) the principal amount of the loan secured by the  
9 mortgage or mortgage participation exceeds 80% of the  
10 appraised value of the property but the amount of the loan  
11 in excess of 80%, determined at the time the loan was made,  
12 is guaranteed or insured by a mortgage insurance company  
13 which the board of investments has determined to be a  
14 qualified private insurer;

15 (C) 25% or more of the loan or participation therein  
16 secured is guaranteed or insured in the event of default by  
17 the United States of America or an agency thereof; or

18 (D) the mortgagor has leased the mortgaged property to  
19 a person, firm, or corporation whose rental payments under  
20 the lease are guaranteed for the full term of the loan or  
21 participation therein by an agency of the United States; and

22 (ii) no investment shall be made at any time under  
23 subsection (1)(f) which would cause the book value of such  
24 investments in any investment fund to exceed 50% of the book  
25 value of such fund.

1 (2) Investments from the pooled investment fund shall  
2 be restricted to fixed income securities described in  
3 subsections (1)(a) to (1)(e) above.

4 (3) Retirement funds, only, may be invested in  
5 preferred and common stocks of any corporation organized and  
6 operating in any state of the United States provided that:

7 (a) the corporation has assets of a value not less  
8 than \$10 million;

9 (b) if the investment is preferred stock, the  
10 corporation's aggregate earnings available for payment of  
11 interest and preferred dividends, for a period of 5  
12 consecutive years immediately before the date of investment,  
13 have been at least 1 1/2 times the aggregate of interest and  
14 preferred dividends required to be paid during this period;  
15 and

16 (c) if the investment is common stock:

17 (i) the stock has paid cash dividends in each of at  
18 least 5 years immediately before it is purchased;

19 (ii) the aggregate earnings of the corporation during  
20 this period which were available for payment of dividends on  
21 common stock were at least equal to the aggregate of the  
22 cash dividends paid thereon; and

23 (iii) not more than 2% of the assets of any retirement  
24 fund may be invested in common stocks or in fixed income  
25 securities convertible into common stock not conforming to

1 the dividend and earnings standards stated in subsections  
2 (3)(c)(i) and (3)(c)(ii) above, so long as the corporation  
3 maintains the asset value required in subsection (3)(a) and  
4 evidences appropriate growth potential and probable earnings  
5 gain; and

6 (d) no investment may be made at any time under  
7 subsection (3) which would cause the book value of such  
8 investments in any retirement fund to exceed 20% of the book  
9 value of such fund or would cause the stock of one  
10 corporation to exceed 1% of the book value of such  
11 retirement fund.

12 (4) The board of investments shall endeavor to direct  
13 the state's investment business to those investment firms  
14 and/or banks which maintain offices in the state and thereby  
15 make contributions to the state economy. Further, due  
16 consideration shall be given to investments which will  
17 benefit the smaller communities in the state. The state's  
18 investment business will be directed to out-of-state firms  
19 only when there is a distinct economic advantage to the  
20 state of Montana.

21 (5) The coal severance tax trust fund, listed in  
22 17-6-203(5), may be invested in first mortgages purchased by  
23 the board of housing under the program established in  
24 [section 4]."

25 NEW SECTION. Section 2. Required investment for a

1 portion of the coal severance tax trust fund -- exception.  
 2 (1) Except as provided below, the board of investments must  
 3 invest at least 2% of the principal of the coal severance  
 4 tax trust fund each fiscal year in mortgages purchased by  
 5 the board of housing under the program established in  
 6 [section 4]. The board may invest a larger portion of the  
 7 trust funds in these mortgages.

8 (2) If, in any year, the board of housing notifies the  
 9 board of investments that less than 2% of the principal is  
 10 needed or that no mortgage funds are needed, the board of  
 11 investments is required to invest only that portion of the  
 12 coal severance tax trust fund less than 2% as will meet the  
 13 needs certified by the board of housing.

14 Section 3. Section 90-6-104, MCA, is amended to read:  
 15 "90-6-104. General powers of the board. The board may:

16 (1) sue and be sued;

17 (2) have a seal;

18 (3) adopt all procedural and substantive rules  
 19 necessary for the administration of this part, including  
 20 rules concerning its mortgage, construction, and temporary  
 21 lending programs;

22 (4) make contracts, agreements, and other instruments  
 23 necessary or convenient for the exercise of its powers under  
 24 this part;

25 (5) enter into agreements or other transactions with

1 any federal, state, or local governmental agency, any  
 2 persons, and any domestic or foreign partnership,  
 3 corporation, association, or organization in carrying out  
 4 this part;

5 (6) enter into agreements under its rules with  
 6 sponsors, mortgagors, or lending institutions for the  
 7 purpose of regulating the analysis, planning, development,  
 8 and management of housing developments financed in whole or  
 9 in part by the proceeds of its loans or securities and  
 10 mortgage purchase programs;

11 (7) enter into agreements or other transactions with,  
 12 and accept grants and the cooperation of, any governmental  
 13 agency in furtherance of this part, including but not  
 14 limited to the development, leasing, maintenance, operation,  
 15 and financing of any housing development;

16 (8) accept services, appropriations, gifts, grants,  
 17 bequests, and devises and utilize or dispose of them  
 18 carrying out this part;

19 (9) acquire real or personal property or any right,  
 20 interest, or easement therein by gift, purchase, transfer,  
 21 foreclosure, lease, or otherwise; hold, sell, assign, lease,  
 22 encumber, mortgage, or otherwise dispose thereof; hold,  
 23 sell, assign, or otherwise dispose of any mortgage or loan  
 24 owned by it or in its control or custody; release or  
 25 relinquish any right, title, claim, interest, easement, or

1 demand, however acquired, including any equity or right of  
 2 redemption; do any of the foregoing by public or private  
 3 sale, with or without public bidding; commence any action to  
 4 protect or enforce any right conferred upon it by any law,  
 5 mortgage, contract, or other agreement; bid for and purchase  
 6 property at any foreclosure or other sale or acquire or take  
 7 possession of it in lieu of foreclosure; and operate,  
 8 manage, lease, dispose of, and otherwise deal with such  
 9 property in any manner necessary or desirable to protect its  
 10 interests and the holders of its bonds or notes and  
 11 consistent with any agreement with such holders;

12 (10) service and contract and pay for the servicing of  
 13 loans;

14 (11) provide general technical services in the  
 15 analysis, planning, design, processing, construction,  
 16 rehabilitation, and management of housing developments for  
 17 persons and families of lower income where these services  
 18 are not otherwise available;

19 (12) provide general consultative services to housing  
 20 developments for persons and families of lower income and  
 21 the residents thereof with respect to counseling and  
 22 training in management, home ownership, and maintenance  
 23 where these services are not otherwise available;

24 (13) invest any funds not required for immediate use,  
 25 subject to any agreements with its bondholders and

1 noteholders, as provided in Title 17, chapter 6, except all  
 2 investment income from funds of the board less the cost for  
 3 investment as prescribed by law shall be deposited in the  
 4 housing finance account;

5 (14) sell its loans or securities to the federal  
 6 national mortgage association or any other agency or  
 7 instrumentality of the United States and invest in the  
 8 capital stock issued by the association or other agency or  
 9 instrumentality to the extent, if any, required as a  
 10 condition of such sale;

11 (15) consent, whenever it deems it necessary or  
 12 desirable in fulfilling its purposes, to the modification of  
 13 the rate of interest, time, and payment of any installment  
 14 of principal or interest, security, or any other term of any  
 15 contract, mortgage, mortgage loan, mortgage loan commitment,  
 16 construction loan, advance contract, or agreement of any  
 17 kind, subject to any agreement with bondholders and  
 18 noteholders;

19 (16) collect reasonable interest, fees, and charges in  
 20 connection with making and servicing its loans, notes,  
 21 bonds, commitments, and other evidences of indebtedness and  
 22 in connection with providing technical, consultative, and  
 23 project assistance services. Interest fees and charges shall  
 24 be limited to the amounts required to pay the costs of the  
 25 board, including operating and administrative expenses and

1 reasonable allowances for losses which may be incurred.

2 (17) procure insurance against any loss in connection  
3 with its mortgages and mortgage loans and other assets or  
4 property in amounts and from insurers as the board considers  
5 desirable or necessary;

6 (18) act as agent for governmental agencies concerning  
7 acquisition, construction, leasing, operation, or management  
8 of a housing development;

9 (19) issue notes and bonds and replace lost, destroyed,  
10 or mutilated notes and bonds; and

11 (20) develop special programs for housing developments  
12 for veterans of the armed forces of the United States who  
13 are unable to acquire safe and sanitary housing through  
14 lending institutions by conventional means; and

15 ~~(21) receive funds from the coal severance tax trust~~  
16 ~~fund for use in the program established in [section 4]."~~

17 NEW SECTION. Section 4. Mortgage purchase program  
18 financed by coal tax trust fund investment. (1) With the  
19 money received from the coal severance tax trust fund as  
20 provided in [section 2], the board shall establish a program  
21 to purchase mortgage loans made by lending institutions to  
22 persons and families of lower income.

23 (2) The board shall establish rules to:

24 (a) set income and asset limitations for persons  
25 eligible to secure mortgage loans under this program. These

1 limitations shall be lower than those adopted by the board  
2 for its other programs.

3 (b) govern the method of selecting loans to purchase;

4 (c) set conditions and terms for servicing loans; and

5 (d) govern other matters as the board considers  
6 necessary to safeguard the coal tax trust fund money  
7 invested by the board and to make mortgage loans available  
8 to persons and families of lower income.

9 (3) The board may only purchase mortgaged loans that  
10 meet the following criteria:

11 (a) the mortgages are guaranteed or insured against  
12 default by a federal government agency;

13 (b) the mortgage loan was made to a person or family  
14 qualifying under the income limitations the board  
15 establishes by rule for this program;

16 (c) the mortgage loans were made at an interest rate  
17 set by the board; and

18 (d) the mortgage was made by a lending institution.

19 (4) The board shall establish a rate of interest for  
20 mortgages purchased under this program equal to between 1%  
21 and 2% below the average rate of interest the board  
22 established for mortgages or loans financed by the sale of  
23 revenue bonds during the past 12 months.

24 NEW SECTION. Section 5. Quarterly payment to coal  
25 severance tax trust fund. (1) The board of housing shall

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1 remit each quarter to the board of investments all payments  
2 of principal and interest made on mortgages purchased under  
3 the provisions of [section 4] during the preceding quarter.

4 (2) The board of investments shall credit these  
5 payments to the coal severance tax trust fund.

-End-



## STATE OF MONTANA

69-79  
REQUEST NO. \_\_\_\_\_

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 22, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 188 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

An act requiring that a portion of the coal severance tax trust fund be invested in mortgage loans to persons and families of lower income; establishing a mortgage purchase program administered by the Board of Housing and financed by the investment of these funds.

ASSUMPTIONS

1. Two additional employees will be needed by the Board to monitor provision of the bill for the "low income" mortgages.
2. Approximately 4 percent will be lost from current investment return from the monies that will be diverted to these mortgages.

FISCAL IMPACT

Additional cost of proposed legislation:	<u>FY 80</u>	<u>FY 81</u>
Personal services	\$29,300	\$29,975
Operating cost	1,500	500
Equipment	<u>1,500</u>	<u>500</u>
	<u>\$32,300</u>	<u>\$30,975</u>

No estimate of the 4% investment earnings loss can be determined due to the fact that the magnitude and number of loans is unknown.

The increased cost must be supported by the State General Fund.

*Richard L. Drury*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/26/79