

House Bill 312

In The House

January 19, 1981	Introduced and referred to Committee on Taxation.
January 26, 1981	Fiscal note requested.
January 30, 1981	Fiscal note returned.
February 7, 1981	Committee recommend bill do not pass.

HOUSE BILL NO. **312**

INTRODUCED BY Bengtson Williams

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A STATE RESERVE FUND THAT WILL PROVIDE INTEREST-FREE FUNDS TO SCHOOL DISTRICTS FOR CAPITAL OUTLAY; TO ALLOCATE A PORTION OF THE PROCEEDS OF THE COAL SEVERANCE TAX AS FUNDING FOR THE STATE RESERVE FUND; AMENDING SECTIONS 15-35-108, 20-9-406, 20-9-410, AND 20-9-421 THROUGH 20-9-428, MCA."

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

NEW SECTION. Section 1. Purpose and definition of capital outlay reserve fund. (1) A state reserve fund for capital outlay, hereafter referred to as the reserve, is created for the purpose of providing the elementary and high school districts of the state with interest-free funds for capital outlay. Funds from the reserve shall be used to:

- (a) sell general obligation bonds for the capital outlay needs of the school districts;
- (b) pay for the interest incurred by the sale of such bonds;
- (c) assume responsibility for the retirement of all interest due on outstanding bonded indebtedness incurred by all school districts prior to fiscal year 1980-81.

(2) All other funds remaining in the reserve shall be

invested.

NEW SECTION. Section 2. Creation of funds. The funding source for the state reserve fund for capital outlay shall be by allocation of a portion of the proceeds of the coal severance tax as provided in 15-35-108(2)(j).

NEW SECTION. Section 3. Financial obligations of the reserve. (1) The state shall assume immediate responsibility for the retirement of all interest due on outstanding bonded indebtedness incurred by the elementary and high school districts prior to fiscal year 1980-81. However, a school district may continue to finance capital outlay by issuing its own bonds, but the state may not be obligated to retire any interest due on such bonded indebtedness.

(2) A maximum of \$10 million in general obligation bonds may be sold each year to provide for the capital outlay needs of the elementary and high school districts. Interest incurred by the sale of such bonds shall be paid from the reserve fund.

(3) If reserve funds are available, a minimum of \$8 million shall be made available to the school districts with approved applications for capital outlay funds.

(4) All remaining funds shall be invested by the state in accordance with state investment policy, and all interest accrued for such investment shall become a part of the reserve.

1 NEW SECTION. Section 4. Limitations of the reserve
 2 fund. (1) The maximum amount of funds in the reserve may not
 3 exceed \$35 million. Reserve funds in excess of such amount
 4 shall be deposited to the earmarked revenue fund, state
 5 equalization aid account, for the support of the school
 6 foundation program.

7 (2) Total bonded indebtedness of the reserve may not
 8 exceed \$70 million.

9 NEW SECTION. Section 5. Limitations for receipt of
 10 funds by the school districts. (1) A school district may not
 11 receive any funds from the reserve for any purpose other
 12 than capital outlay.

13 (2) A school district may not receive any funds in
 14 excess of the limitations on bonded indebtedness as defined
 15 in 20-9-406 and 20-9-407.

16 (3) A school district is not eligible to receive funds
 17 from the reserve unless the receipt and repayment of such
 18 funds has been authorized by the qualified electors of the
 19 district at an election called for the purpose of
 20 considering a proposition to receive and repay such funds in
 21 accordance with this section and [sections 6 and 7].

22 (4) A school district may not receive any funds from
 23 the reserve unless an application for funds has been
 24 approved by the office of the superintendent of public
 25 instruction.

1 NEW SECTION. Section 6. Rules and criteria to be
 2 provided by the office of the superintendent of public
 3 instruction. The office of the superintendent of public
 4 instruction shall provide written rules that establish
 5 procedures to be followed and the criteria to be met by the
 6 school districts for the receipt of funds from the reserve.
 7 In the event that the applications for funds exceed the
 8 amount of reserve funds available in any fiscal year, the
 9 office of the superintendent of public instruction may
 10 determine who shall receive the available funds.

11 NEW SECTION. Section 7. Repayment of reserve funds by
 12 the school districts. (1) A school district shall repay to
 13 the reserve all of the funds received for the purpose of
 14 capital outlay within 30 years by levying no more than 10
 15 mills per year on all of the taxable property of the school
 16 district, or the school district may repay the reserve
 17 within 10 years by levying no more than 5 mills per year.

18 (2) If repayment by a combined elementary and high
 19 school district is to be made, then a maximum of 12 mills
 20 may be levied each year for a period not to exceed 30 years.

21 (3) If a school district is unable to repay all of the
 22 funds owed to the reserve within 30 years, the reserve fund
 23 will retire the remaining debt owed. The office of the
 24 superintendent of public instruction shall establish
 25 criteria for determining whether a school district will be

1 financially able to retire the full amount of debt within 30
2 years; such determination must be made prior to approval of
3 the school district's application for funds.

4 Section 8. Section 15-35-108, MCA, is amended to read:
5 *15-35-108. Disposal of severance taxes. Severance
6 taxes collected under the provisions of this chapter are
7 allocated as follows:

8 (1) To the trust fund created by Article IX, section 5,
9 of the Montana constitution, 25% of total collections a
10 year. After December 31, 1979, 50% of coal severance tax
11 collections are allocated to this trust fund. The trust fund
12 moneys shall be deposited in the fund established under
13 17-6-203(5) and invested by the board of investments as
14 provided by law.

15 (2) Coal severance tax collections remaining after
16 allocation to the trust fund under subsection (1) are
17 allocated in the following percentages of the remaining
18 balance:

19 (a) to the county in which coal is mined, 2% of the
20 severance tax paid on the coal mined in that county until
21 January 1, 1980, for such purposes as the governing body of
22 the county may determine;

23 (b) 2 1/2% until December 31, 1979, and thereafter 5%
24 to the earmarked revenue fund to the credit of the
25 alternative energy research development and demonstration

1 account;

2 (c) 26 1/2% until July 1, 1979, and thereafter 37 1/2%
3 to the earmarked revenue fund to the credit of the local
4 impact and education trust fund account;

5 (d) for each of the 2 fiscal years following June 30,
6 1977, 13% to the earmarked revenue fund to the credit of the
7 coal area highway improvement account;

8 (e) 10% to the earmarked revenue fund for state
9 equalization aid to public schools of the state;

10 (f) 1% to the earmarked revenue fund to the credit of
11 the county land planning account;

12 (g) 2 1/2% to the sinking fund to the credit of the
13 renewable resource development bond account;

14 (h) 5% to the earmarked revenue fund to the credit of a
15 trust fund for the purpose of parks acquisition or
16 management, protection of works of art in the state capitol,
17 and other cultural and aesthetic projects. Income from this
18 trust fund shall be appropriated as follows:

19 (i) 1/3 for protection of works of art in the state
20 capitol and other cultural and aesthetic projects; and

21 (ii) 2/3 for the acquisition of sites and areas
22 described in 23-1-102 and the operation and maintenance of
23 sites so acquired;

24 (j) 1% to the earmarked revenue fund to the credit of
25 the state library commission for the purposes of providing

1 basic library services for the residents of all counties
2 through library federations and for payment of the costs of
3 participating in regional and national networking;

4 ~~(j) 20% to the state reserve fund for capital outlay~~
5 ~~for elementary and high school districts in the state;~~

6 ~~(j)(k)~~ all other revenues from severance taxes
7 collected under the provisions of this chapter to the credit
8 of the general fund of the state."

9 Section 9. Section 20-9-406, MCA, is amended to read:

10 "20-9-406. Limitations on amount of bond issue. (1) The
11 maximum amount for which each school district may become
12 indebted by the issuance of bonds, ~~including bonds issued~~
13 ~~from the state reserve fund and~~ including all indebtedness
14 represented by outstanding bonds of previous issues and
15 registered warrants, is 29% of the taxable value of the
16 property subject to taxation as ascertained by the last
17 completed assessment for state, county, and school taxes
18 previous to the incurring of such indebtedness. The 29%
19 maximum, however, may not pertain to indebtedness imposed by
20 special improvement district obligations or assessments
21 against the school district. All bonds issued in excess of
22 such amount shall be null and void, except as provided in
23 this section.

24 (2) When the total indebtedness of a school district
25 has reached the 29% limitation prescribed in this section,

1 the school district may pay all reasonable and necessary
2 expenses of the school district on a cash basis in
3 accordance with the financial administration provisions of
4 this chapter.

5 (3) Whenever bonds are issued for the purpose of
6 refunding bonds, any moneys to the credit of the debt
7 service fund for the payment of the bonds to be refunded are
8 applied towards the payment of such bonds and the refunding
9 bond issue is decreased accordingly."

10 Section 10. Section 20-9-410, MCA, is amended to read:

11 "20-9-410. Limitation of term and interest -- timing
12 for redemption. ~~School-district-bonds~~ Bonds issued by school
13 districts shall not be issued for a term longer than 20
14 years, except that bonds issued to refund or redeem
15 outstanding bonds shall not be issued for a term longer than
16 10 years unless the unexpired term of the bonds to be
17 refunded or redeemed is in excess of 10 years, in which case
18 the refunding or redeeming bonds may be issued for such
19 unexpired term. All bonds issued for a longer term than 5
20 years shall be redeemable at the option of the school
21 district on any interest payment date after one-half of the
22 term for which they were issued has expired, and it shall be
23 so stated on the face of the bonds. The interest shall not
24 exceed 7% per annum and shall be payable semiannually."

25 Section 11. Section 20-9-421, MCA, is amended to read:

1 "20-9-421. Election to authorize the issuance of school
2 district bonds and the methods of introduction. A school
3 district or the state shall not issue bonds for any purpose
4 other than that provided in 20-9-412 unless the issuance of
5 bonds or the receipt and repayment of state reserve funds
6 has been authorized by the qualified electors of the school
7 district at an election called for the purpose of
8 considering a proposition to issue such bonds or to receive
9 or repay such funds. A school district bond election or
10 receipt and repayment election shall be called by a
11 resolution as prescribed under the provisions of 20-20-201
12 when:

13 (1) the trustees, of their own volition, adopt a
14 resolution to that effect; or

15 (2) the trustees have received a petition which asks
16 that an election be held to consider a bond or receipt and
17 repayment proposition and which has been validated under the
18 provisions of 20-9-425."

19 Section 12. Section 20-9-422, MCA, is amended to read:

20 "20-9-422. Additional requirements for trustees'
21 resolution calling bond or receipt and repayment election.
22 In addition to the requirements for calling an election that
23 are prescribed in 20-20-201 and 20-20-203, the trustees'
24 resolution calling a school district bond election shall:

25 (1) fix the exact amount of the bonds proposed to be

1 issued or the amount of funds to be received and repaid,
2 which may be more or less than the amounts estimated in a
3 petition;

4 (2) fix the maximum number of years in which the
5 proposed bonds or reserve funds would be paid; and

6 (3) in the case of initiation by a petition, state the
7 essential facts about the petition and its presentation."

8 Section 13. Section 20-9-423, MCA, is amended to read:

9 "20-9-423. Form, contents, and circularization of
10 petition proposing school district bond or receipt and
11 repayment election. Any petition for the calling of an
12 election on the proposition of issuing school district bonds
13 or on the receipt and repayment of state reserve funds
14 shall:

15 (1) plainly state each purpose of the proposed bond
16 issue or receipt of reserve funds and the estimated amount
17 of the bonds or reserve funds that would be issued or
18 received for each purpose;

19 (2) be signed by not less than 20% of the school
20 district electors qualified to vote under the provisions of
21 20-20-301 in order to constitute a valid petition;

22 (3) be a single petition or it may be composed of more
23 than one petition, all being identical in form, and after
24 being circulated and signed, they shall be fastened together
25 to form a single petition when submitted to the county

1 registrar;

2 (4) be circulated by any one or more qualified electors
3 of the school district; and

4 (5) contain an affidavit of each registered elector
5 circulating a petition attached to the portion of the
6 petition he circulated. Such affidavit shall attest to the
7 authenticity of the signatures and that the signers knew the
8 contents of the petition at the time of signing it."

9 Section 14. Section 20-9-424, MCA, is amended to read:

10 "20-9-424. Validation of petition -- election
11 administrator's certificate. (1) The petitioners for a
12 school district bond ~~or receipt and repayment of reserve~~
13 ~~fund~~ election shall submit their petition to the county
14 election administrator of the county where the school
15 district is located for validation of the signatures on the
16 petition. The county election administrator shall examine
17 the petition and attach or endorse thereon a certificate
18 which shall state:

19 (a) the total number of electors of the school district
20 who are, at the time, qualified to vote under the provisions
21 of 20-20-301;

22 (b) which and how many of the individuals whose names
23 are subscribed to the petition possess the qualifications to
24 vote on a bond ~~or receipt and repayment~~ proposition; and

25 (c) whether the number of qualified signers established

1 in subsection (1)(b) is more or less than 20% of the total
2 number of registered electors established in subsection
3 (1)(a).

4 (2) After completing the examination, the county
5 election administrator shall immediately send the petition
6 and his certificate to the school district. The county
7 election administrator shall not receive compensation for
8 the examination of school district bond ~~or receipt and~~
9 ~~repayment~~ petitions."

10 Section 15. Section 20-9-425, MCA, is amended to read:

11 "20-9-425. Trustees' consideration of validated
12 petition proposing ~~receipt and repayment or~~ bond election.
13 When a school district receives a school district bond ~~or~~
14 ~~receipt and repayment~~ petition from the county registrar, a
15 meeting of the trustees shall be called for the
16 consideration of the petition. The trustees shall be the
17 judges of the adequacy of the petition, and their findings
18 shall be conclusive against the school district in favor of
19 the innocent holder of bonds issued pursuant to the election
20 called and held by reason of the presentation of such
21 petition. The petition shall be valid if the trustees find
22 that it is in proper form and bears the signatures of not
23 less than 20% of the school district electors who are
24 qualified to vote under the provisions of 20-20-301."

25 Section 16. Section 20-9-426, MCA, is amended to read:

1 *20-9-426. Preparation and form of ballots for bond or
2 receipt and repayment election. The school district shall
3 cause ballots to be prepared for all bond or receipt and
4 repayment elections, and whenever bonds or reserve funds for
5 more than one purpose are to be voted upon at the same
6 election, separate ballots shall be prepared for each
7 purpose. All such ballots shall be substantially in the
8 following form:

9 OFFICIAL BALLOT

10 SCHOOL DISTRICT BOND ELECTION

11 INSTRUCTIONS TO VOTERS: Make an X or similar mark in the
12 vacant square before the words "BONDS--YES" if you wish to
13 vote for the bond issue; if you are opposed to the bond
14 issue make an X or similar mark in the square before the
15 words "BONDS--NO".

16 Shall the board of trustees be authorized to issue and
17 sell bonds of this school district in the amount of
18 dollars (\$....), bearing interest at a rate not more than
19 seven percent (7%) per annum, payable semiannually, during a
20 period not more than years, for the purpose (here
21 state the purpose the same way as in the notice of
22 election)?

23 BONDS -- YES.

24 BONDS -- NO.

25 OFFICIAL BALLOT

1 SCHOOL DISTRICT RECEIPT AND REPAYMENT OF
2 STATE RESERVE FUNDS ELECTION

3 INSTRUCTIONS TO VOTERS: Make an X or similar mark in the
4 vacant square before the words "RESERVE FUNDS--YES" if you
5 wish to vote for the receipt and repayment of reserve funds
6 for capital outlay; if you are opposed to the receipt and
7 repayment of reserve funds make an X or similar mark in the
8 square before the words "RESERVE FUNDS--NO".

9 Shall the board of trustees be authorized to receive and
10 repay funds from the state reserve fund for capital outlay
11 in the amount of dollars (\$....) payable during a
12 period not more than years, at the rate of mills
13 per year, for the purpose (here state the purpose the
14 same way as in the notice of election)?

15 RESERVE FUNDS -- YES.

16 RESERVE FUNDS -- NO.

17 Section 17. Section 20-9-427, MCA, is amended to read:

18 *20-9-427. Notice of bond election by separate purpose.

19 (1) Any school district bond or receipt and repayment
20 election shall be conducted in accordance with the school
21 election provisions of this title, except that the election
22 notice required therein shall be in substantially the
23 following form:

24 NOTICE OF SCHOOL DISTRICT BOND ELECTION

25 Notice is hereby given by the trustees of School

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1 District No. of County, state of Montana, that
 2 pursuant to a certain resolution duly adopted at a meeting
 3 of the board of trustees of said school district held on the
 4 day of, A.D. 19.., an election of the registered
 5 electors of School District No. of County, state
 6 of Montana, will be held on the day of, A.D. 19..,
 7 at for the purpose of voting upon the question of
 8 whether or not the trustees shall be authorized to issue and
 9 sell bonds of said school district in the amount of
 10 dollars (\$....), bearing interest at a rate not more than
 11 seven percent (7%) per annum, payable semiannually, for the
 12 purpose of (here state purpose). The bonds to be issued
 13 will be either amortization or serial bonds, and
 14 amortization bonds will be the first choice of the board of
 15 trustees. The bonds to be issued, whether amortization or
 16 serial bonds, will be payable in installments over a period
 17 not exceeding (state number) years.

18 The polls will be open from o'clockm. and
 19 until o'clockm. of the said day.

20 Dated and posted this day of, A.D. 19..
 21
 22 Chairman, School District No.
 23 of County
 24 Address.....
 25 or

1 NOTICE OF SCHOOL DISTRICT RECEIPT AND
 2 REPAYMENT OF STATE RESERVE FUNDS ELECTION

3 Notice is hereby given by the trustees of School
 4 District No. of County, state of Montana, that
 5 pursuant to a certain resolution duly adopted at a meeting
 6 of the board of trustees of said school district held on the
 7 day of A.D. 19..... an election of the registered
 8 electors of School District No. of County, state
 9 of Montana, will be held on the day of A.D.
 10 19..... at for the purpose of voting upon the question
 11 of whether or not the trustees shall be authorized to
 12 receive and repay funds from the state reserve fund for
 13 capital outlay for said school district in the amount of
 14 dollars (\$.....) payable within (state number)
 15 years, at the rate of mills per year, for the purpose
 16 of (here state purpose).

17 The polls will be open from o'clockm. and
 18 until o'clockm. of the said day.

19 Dated and posted this day of A.D. 19.....

20
 21 Chairman, School District No.
 22 of County
 23 Address.....

24 (2) If the bonds proposed to be issued or the receipt
 25 of reserve funds are for more than one purpose, then each

1 purpose shall be separately stated in the notice, together
2 with the proposed amount of bonds therefor."

3 Section 18. Section 20-9-428, MCA, is amended to read:

4 "20-9-428. Determination of approval or rejection of
5 proposition at bond or receipt and repayment election. (1)
6 When the trustees canvass the vote of a school district bond
7 or receipt and repayment election under the provisions of
8 20-20-415, they shall determine the approval or rejection of
9 the school bond or receipt and repayment proposition in the
10 following manner:

11 (a) determine the total number of electors of the
12 school district who are qualified to vote under the
13 provisions of 20-20-301 from the list of electors supplied
14 by the county registrar for such ~~school bond~~ election;

15 (b) determine the total number of qualified electors
16 who voted at the school bond election from the tally sheet
17 or sheets for such election;

18 (c) calculate the percentage of qualified electors
19 voting at the school bond election by dividing the amount
20 determined in subsection (1)(b) by the amount determined in
21 subsection (1)(a); and

22 (d) when the calculated percentage in subsection (1)(c)
23 is 40% or more, the school bond or receipt and repayment
24 proposition shall be deemed to have been approved and
25 adopted if a majority of the votes shall have been cast in

1 favor of such proposition, otherwise it shall be deemed to
2 have been rejected; or

3 (e) when the calculated percentage in subsection (1)(c)
4 is more than 30% but less than 40%, the school bond or
5 receipt and repayment proposition shall be deemed to have
6 been approved and adopted if 60% or more of the votes shall
7 have been cast in favor of such proposition, otherwise it
8 shall be deemed to have been rejected; or

9 (f) when the calculated percentage in subsection (1)(c)
10 is 30% or less, the school bond or receipt and repayment
11 proposition shall be deemed to have been rejected.

12 (2) If the canvass of the vote establishes the approval
13 and adoption of the school bond or receipt and repayment
14 proposition, the trustees shall issue a certificate
15 proclaiming the passage of such proposition and the
16 authorization to issue bonds of the school district or to
17 receive reserve funds for the purposes specified on the
18 ballot for such school district bond election."

19 Section 19. Codification instruction. Sections 1
20 through 7 are intended to be codified as an integral part of
21 Title 20, chapter 9, and the provisions of Title 20, chapter
22 9, apply to sections 1 through 7.

-End-

STATE OF MONTANA

REQUEST NO. 227-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 27, 19 81, there is hereby submitted a Fiscal Note for HOUSE BILL 312 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

An act to create a state reserve fund that will provide interest-free funds to school districts for capital outlay; to allocate a portion of the proceeds of the coal severance tax as funding for the state reserve fund.

ASSUMPTIONS

1. Fiscal note deals only with the reallocation of coal severance tax revenues.
2. Estimated coal severance tax revenues - FY 82 - \$106,565,000;
FY 83 - \$129,377,000 (OBPP Figures)
3. Impact of the reallocation is only on the general fund and the proposed state reserve fund.
4. The allocation of 20% to the state reserve fund is based on the remaining collections after 50% of the revenues have been allocated to the constitutional trust fund. 10% of the total collections would accrue to the state reserve fund under the proposed legislation.

5. <u>Allocation</u>	<u>Current law</u>	<u>Proposed law</u>
State Reserve Fund	0%	10%
General Fund	19%	9%

FISCAL IMPACT

	<u>FY 82</u>	<u>FY 83</u>
<u>General Fund</u>		
Under current law	\$20,247,350	\$24,581,630
Under proposed law	<u>9,590,850</u>	<u>11,643,930</u>
Estimated Decrease	(\$10,656,500)	(\$12,937,700)
<u>Proposed State Reserve Fund</u>		
Under current law	\$ 0	\$ 0
Under proposed law	<u>10,656,500</u>	<u>12,937,700</u>
Estimated Increase	\$10,656,500	\$12,937,700

LONG RANGE EFFECT

The proposed legislation would result in the loss of at least \$13 million to the General Fund in each subsequent fiscal year.

PREPARED BY THE DEPARTMENT OF REVENUE

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-29-81