

HOUSE BILL NO. 12

1st Special Session

Introduced and Referred to Committee on Local Government:  
11/18/81

Hearing: 11/18/81

Report: 11/20/81, Do Not Pass

Report Adopted: 11/20

1                                    HOUSE      BILL NO. 12      Special Session I  
 2    INTRODUCED BY Felipe M. Garcia  
 3

4    A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A METHOD  
 5    OF PREVENTING COUNTY POOR FUND CASH-FLOW PROBLEMS THROUGH  
 6    THE CURRENT BIENNIUM BY DIRECTING THE STATE BOARD OF  
 7    INVESTMENTS TO PURCHASE COUNTY POOR FUND WARRANTS AT 6  
 8    PERCENT IF CERTAIN CRITERIA ARE MET; PROVIDING A METHOD OF  
 9    REDEMPTION OF SUCH WARRANTS; CONFORMING EXISTING LAW  
 10    RELATING TO PUBLIC INVESTMENTS AND PUBLIC ASSISTANCE TO  
 11    ALLOW FOR SUCH PURCHASE, COUNTY REDEMPTION, AND COUNTY  
 12    ABILITY TO REPAY SUCH WARRANTS; AMENDING SECTIONS 17-6-201  
 13    AND 53-2-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
 14    AND A TERMINATION DATE."  
 15

16            WHEREAS, the Board of Investments invests money for the  
 17    State of Montana and the interest income of the Short Term  
 18    Investment Pool goes to the general fund and is thus  
 19    available for appropriation; and

20            WHEREAS, the Legislature, by directing the board of  
 21    Investments to invest in county poor fund warrants as  
 22    provided in this act at the rate of 6%, could appropriate  
 23    funds to the Board of Investments to cover the lost  
 24    opportunity of investing in higher yield investments; but so  
 25    doing would be contrary to the public good by requiring as

1    administrative overhead the transfer of interest income from  
 2    the Short Term Investment Pool to the general fund and then  
 3    back to the Board of Investments to use in the Short Term  
 4    Investment Pool; and

5            WHEREAS, the Legislature recognizes that subsidizing a  
 6    higher return on such warrants by the use of form over  
 7    substance is not proper fiscal management; and

8            WHEREAS, to encourage sound fiscal management and to  
 9    provide a proper atmosphere for the State to comply with  
 10    sections 12 and 13, Article VIII, of the Montana  
 11    Constitution, a proper segregation of funds involved with  
 12    State purchase of county poor fund warrants pursuant to this  
 13    act as a separate accounting entity is necessary to properly  
 14    develop a long-term solution to the present crisis by  
 15    providing:

16            (1) the proper management tool to strictly track  
 17    county funds necessary for legislation to comply with the  
 18    mandate of section 3(3), Article XII, of the Montana  
 19    Constitution during future legislative sessions;

20            (2) a manner for ascertaining the costs involved in  
 21    the forbearance of higher investment yields; and

22            (3) the exact amount of cash for counties to overcome  
 23    the present cash-flow crisis with cash lent at a reasonable  
 24    rate of interest rather than with appropriated cash.

25            THEREFORE, from the perspective of the State as a

INTRODUCED BILL

1 whole, the Legislature has determined that the investment of  
2 money in county poor fund warrants as provided in this act  
3 is a prudent investment of state funds.

4  
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6 NEW SECTION. Section 1. State purchase of county poor  
7 fund warrants. (1) (a) A county may apply for state  
8 purchase of poor fund warrants to fund county general  
9 assistance and county medical assistance programs if the  
10 county has depleted all funds available to the county poor  
11 fund. The warrants to be sold to the state shall be of an  
12 amount sufficient to fund anticipated county poor fund  
13 expenses for the month following sale plus the amount  
14 necessary for the redemption of any outstanding warrants  
15 that were registered for proper county general assistance  
16 and medical assistance purposes.

17 (b) (i) The county is eligible for state purchase of  
18 its poor fund warrants if and only if the following criteria  
19 are met and the county governing body certifies to the  
20 governor that they are met:

21 (A) all income collected and available to the county  
22 poor fund has been depleted;

23 (B) the county has complied with all requirements of  
24 law for registration of warrants; and

25 (C) the county by selling warrants to the state will

1 gain no advantage other than availing the county of an  
2 interest rate for the sale of the warrants that is lower  
3 than it could otherwise obtain.

4 (ii) The county shall allow and cooperate in an audit  
5 of the county poor fund by the department of administration  
6 to determine compliance with the criteria provided for in  
7 subsection (1)(b)(i) and shall include in its certification  
8 a statement that it will comply with this subsection  
9 (1)(b)(ii).

10 (2) Upon receipt of a certification under subsection  
11 (1), the governor shall direct the board of investments to  
12 purchase county poor fund warrants of the certified county.  
13 The county may use the proceeds of warrants purchased by the  
14 state only for county general assistance and county medical  
15 assistance programs as prescribed by rules adopted by the  
16 department of social and rehabilitation services under  
17 subsection (6).

18 (3) Each certification provided for in subsection (2)  
19 expires the next November 30 or May 31, whichever comes  
20 first following the date of certification.

21 (4) The department of administration may audit county  
22 poor funds:

23 (a) to determine whether the criteria established by  
24 this section have been met; and

25 (b) to determine if the proceeds of warrants sold to

1 the state have been used only for county general assistance  
 2 and county medical assistance as defined by rules adopted by  
 3 the department of social and rehabilitation services.  
 4 Redemption of registered warrants for proper expenses of  
 5 county general assistance and medical assistance are a  
 6 proper use of the proceeds of the sale of poor fund warrants  
 7 to the state.

8 (5) (a) The county poor fund warrants purchased by the  
 9 state shall bear interest at 6% per year.

10 (b) If upon an audit by the department of  
 11 administration it is determined that a county which sold  
 12 poor fund warrants to the state has not met the criteria set  
 13 forth in subsection (1) or the county has used the proceeds  
 14 of the warrants for other than county general assistance or  
 15 county medical assistance as defined by rules adopted by the  
 16 department of social and rehabilitation services, the  
 17 warrants shall bear interest at an annual rate equal to 18%.

18 (6) (a) The department of social and rehabilitation  
 19 services may by rule provide for administrative requirements  
 20 necessary to effectuate the purposes of this section and  
 21 [section 2].

22 (b) The department of social and rehabilitation  
 23 services shall adopt rules prescribing what services and  
 24 expenditures are reasonable and necessary expenses of the  
 25 county poor fund for the purposes of state purchase of poor

1 fund warrants.

2 (7) In cooperation with the department of  
 3 administration, the board of investments may by rule  
 4 establish an appropriate administrative procedure for county  
 5 poor fund warrant purchase and redemption.

6 NEW SECTION. Section 2. Redemption of state-purchased  
 7 county poor fund warrants. (1) Notwithstanding the  
 8 provisions of Title 7, chapter 6, parts 23 and 26, county  
 9 poor fund warrants purchased by the state shall be redeemed  
 10 by the county in the fiscal year following purchase  
 11 according to the following schedule:

12 (a) not less than one-half shall be redeemed not later  
 13 than December 15; and

14 (b) the balance shall be redeemed not later than June  
 15 15.

16 (2) (a) Any poor fund warrants sold to the state  
 17 outstanding on June 30 shall be redeemed through the regular  
 18 county budget process.

19 (b) If the number of mills necessary for both the  
 20 current operation of county public assistance and for the  
 21 redemption of state-purchased warrants exceeds 13 1/2 mills,  
 22 the number of mills necessary for the redemption of the poor  
 23 fund warrants purchased by the state during the preceding  
 24 fiscal year may be levied by the county for their  
 25 redemption, notwithstanding the provisions of 53-2-321. For

1 purposes of grants of funds authorized by 53-2-323, the  
 2 extra mills allocated for the redemption of the poor fund  
 3 warrants are attributable to the fiscal year in which the  
 4 warrants were sold to the state.

5 (3) All county poor fund warrants that are sold to the  
 6 state and that qualify for the state grant authorized by  
 7 53-2-323 shall be redeemed by the state. The state shall pay  
 8 both the principal and interest on the warrants.

9 NEW SECTION. Section 3. Investment status of  
 10 qualifying county poor fund warrants. For the purposes of  
 11 investments but not for pledges or guarantees issued to  
 12 secure deposits of public funds under 17-6-103, any county  
 13 poor fund warrants complying with the provisions of [section  
 14 1(1)] are considered to be funds validly appropriated in the  
 15 current county budget for expenditures from the poor fund  
 16 for the fiscal year in which they are issued.

17 Section 4. Section 17-6-201, MCA, is amended to read:  
 18 "17-6-201. Unified investment program -- general  
 19 provisions. (1) ~~The Except as provided in [section 1], the~~  
 20 uniform investment program directed by Article VIII, section  
 21 13, of the 1972 Montana constitution to be provided for  
 22 public funds shall be administered by the board of  
 23 investments in accordance with the rules provided in this  
 24 chapter and with that degree of judgment and care, under  
 25 circumstances from time to time prevailing, which men of

1 prudence, discretion, and intelligence exercise in the  
 2 management of their own affairs, not for speculation but for  
 3 investment, considering the probable safety of their capital  
 4 as well as the probable income to be derived, and  
 5 preservation of purchasing power of capital during periods  
 6 of sustained high monetary inflation.

7 (2) All state funds shall be invested and reinvested  
 8 in securities enumerated in 17-6-211 to the maximum extent  
 9 consistent with this policy and with the need and timing of  
 10 cash expenditures for particular purposes.

11 (3) The board of investments has the sole authority to  
 12 invest state funds. No other agency may invest state funds.  
 13 The board shall direct the investment of state funds in  
 14 accordance with the laws and constitution of this state. The  
 15 board has the power to veto any investments made under its  
 16 general supervision.

17 (4) The board shall:

18 (a) assist agencies with public money to determine if,  
 19 when, and how much surplus cash is available for investment;

20 (b) determine the amount of surplus treasury cash to  
 21 be invested;

22 (c) determine the type of investment to be made; and

23 (d) prepare the claim to pay for the investment.

24 (5) The board of investments may:

25 (a) execute deeds of conveyance transferring all real

1 property obtained through foreclosure of any investments  
 2 purchased under the provisions of 17-6-211 when full payment  
 3 has been received therefor;

4 (b) direct the withdrawal of any funds deposited by or  
 5 for the state treasurer pursuant to 17-6-101 and 17-6-105;

6 (c) direct the sale of any securities in the program  
 7 at their full and true value when found necessary to raise  
 8 money for payments due from the treasury funds for which the  
 9 securities have been purchased.

10 (6) The state treasurer shall keep an account of the  
 11 total of each investment fund and of all the investments  
 12 belonging to such fund and of the participation of each  
 13 treasury fund account therein and shall make from time to  
 14 time such reports with reference thereto as may be directed  
 15 by the board of investments.

16 (7) The cost of administering and accounting for each  
 17 investment fund shall be deducted from the income therefrom,  
 18 except that such costs of the trust and legacy fund shall be  
 19 paid from income otherwise receivable from the pooled  
 20 investment fund, and the amounts required for this purpose  
 21 shall be appropriated by the legislature from the respective  
 22 investment funds."

23 Section 5. Section 53-2-323, MCA, is amended to read:  
 24 "53-2-323. Grants from state funds to counties. A  
 25 county may apply to the department for an emergency

1 grant-in-aid, and the grant shall be made to the county upon  
 2 the following conditions:

3 (1) The board of county commissioners or a duly  
 4 elected or appointed executive officer of the county shall  
 5 make written application to the department for emergency  
 6 assistance and shall show by written report and sworn  
 7 affidavit of the county clerk and recorder and chairman of  
 8 the board of county commissioners or other duly elected or  
 9 appointed executive officer of the county the following:

10 (a) that the county will not be able to meet its  
 11 obligations under law to provide assistance to the needy of  
 12 the county or meet its proportionate share of any public  
 13 assistance activity carried on jointly with the department;

14 (b) that all lawful sources of revenue and other  
 15 income to the county poor fund will be exhausted;

16 (c) that all expenditures from the county poor fund  
 17 have been lawfully made; and

18 (d) that all expenditures from the county poor fund  
 19 have been reasonable and necessary, according to criteria  
 20 set by the department in rules adopted for that purpose, for  
 21 the county to meet its obligations under law to provide  
 22 assistance to the needy.

23 (2) Within 10 days of receipt of the application and  
 24 affidavit, the department shall determine whether the county  
 25 poor fund will be depleted and shall give notice to the

1 county of the department's intention to deny or allow the  
 2 grant-in-aid. Before a grant-in-aid for any fiscal year may  
 3 be made to a county under this section, any money credited  
 4 during that fiscal year to the depletion allowance reserve  
 5 fund from the sources provided by 7-34-2402(2) shall be  
 6 transferred to the county poor fund to be used for lawful  
 7 poor fund expenditures. The amount of the grant-in-aid shall  
 8 be determined after all sources of income available to the  
 9 poor fund, including the depletion allowance reserve fund  
 10 transfers, have been exhausted.

11 (3) Within 10 days of receiving notice from the  
 12 department that a grant-in-aid will be made to the county,  
 13 the board of county commissioners or other duly elected or  
 14 appointed executive officer of the county shall adopt an  
 15 emergency budget. There is no requirement of notice and  
 16 hearing for that emergency budget. The emergency budget  
 17 shall state the amount required to meet the obligation of  
 18 the county and shall allocate that whole amount among the  
 19 various classes of expenditures for which the grant was  
 20 made.

21 (4) Upon receipt and approval of the county emergency  
 22 budget, the department shall issue a warrant to the county  
 23 treasurer of the county for the total amount stated in the  
 24 approved emergency budget.

25 (5) The grant-in-aid received by the county shall be

1 placed in an emergency fund account to be kept separate and  
 2 distinct from the poor fund account. All expenditures from  
 3 the emergency fund account shall be made by a separate  
 4 series of warrants or checks marked as emergency warrants or  
 5 checks.

6 (6) The grants-in-aid from the department may be used  
 7 only for public assistance activities lawfully conducted by  
 8 the county, including but not limited to medical aid,  
 9 hospitalization, and institutional care. No part of a  
 10 grant-in-aid may be used, directly or indirectly, to pay for  
 11 the erection or improvement of any county building or for  
 12 furniture, fixtures, appliances, or equipment for a county  
 13 building.

14 (7) In the event the county poor fund is replenished  
 15 by other lawful sources of revenue, the county shall issue  
 16 warrants to meet its obligations from the county poor fund  
 17 until such time as that fund is again so depleted that  
 18 warrants can no longer lawfully be drawn on that account.  
 19 Upon depletion of the county poor fund, the county may again  
 20 make disbursements from the emergency fund account as  
 21 provided in subsection (5). At the close of the county  
 22 fiscal year, the county shall return to the department any  
 23 amounts remaining in the county poor fund and the emergency  
 24 fund account, but the remaining amount to be returned may  
 25 not exceed the total amount of the emergency grant-in-aid

1 for that fiscal year.

2 (8) Any amount which is unlawfully disbursed or  
3 transferred from the emergency fund account or used for a  
4 purpose other than that specified in the grant-in-aid shall  
5 be returned by the county to the department.

6 (9) For the purposes of subsection (1)(b), a county  
7 qualifies for a grant-in-aid if for any fiscal year it  
8 levies 13 1/2 mills, including the actual mill levy for the  
9 particular year, plus any mills levied in the following  
10 fiscal year that are attributable to the prior fiscal year  
11 by virtue of the provisions of [section 2]. Such  
12 expenditures in excess of the 13 1/2 mills otherwise  
13 qualifying under the provisions of this section shall be  
14 assumed by the state through state redemption of the county  
15 poor fund warrants held by the board of investments. The  
16 redemption includes both the principal and the interest  
17 owing on the warrants."

18 Section 6. Severability. If a part of this act is  
19 invalid, all valid parts that are severable from the invalid  
20 part remain in effect. If a part of this act is invalid in  
21 one or more of its applications, the part remains in effect  
22 in all valid applications that are severable from the  
23 invalid applications.

24 Section 7. Effective date and termination date. (1)  
25 This act is effective on passage and approval.

1 (2) This act terminates on June 30, 1983, except that  
2 repayment and mill-levy authorizations terminate on June 30,  
3 1984.

-End-