

SENATE BILL NO. 413

2/13 Introduced  
2/14 Referred to Business & Industry  
2/14 Fiscal Note Requested  
2/19 Fiscal Note Received  
2/19 Hearing  
2/20 Tabled in Committee



1 indebtedness, the guaranty payments are expected to be  
2 either:

3 (a) covered by the operating surplus of the board,  
4 including:

5 (i) funds generated by guaranty fees and participation  
6 in excess revenue from other projects as permitted by  
7 [section 5];

8 (ii) unappropriated investment income from the in-state  
9 investment fund;

10 (iii) any appropriations made to the board which are  
11 available to meet guaranty obligations; and

12 (iv) other available funds; or

13 (b) reimbursed by the issuer from sources other than  
14 the project;

15 (3) the terms and conditions of the bonds, including  
16 interest rate and underwriter's discount, may be negotiated  
17 without public bidding but must be fair and reasonable;

18 (4) the bonds must be accompanied by an approving  
19 opinion of bond counsel for the issuer, attesting to the  
20 validity and the taxable or tax-exempt status of the bonds;  
21 and

22 (5) the proceeds of the bonds or refunding bonds must  
23 be used for projects strengthening, stabilizing, and  
24 diversifying the local economy by increasing employment and  
25 business opportunities while maintaining a clean and

1 healthful environment.

2 NEW SECTION. Section 4. Selection of eligible bond  
3 issues for guaranty. (1) The Montana economic development  
4 board may by rule establish procedures and additional  
5 criteria for selecting eligible local government revenue  
6 bond issues for guaranty. Unless otherwise provided by board  
7 rule, applications may be considered and acted upon by the  
8 board in the order of submission.

9 (2) The administrator of the board shall make an  
10 initial determination as to whether the criteria in [section  
11 3] have been met and shall give notice of his determination  
12 by publication in a daily newspaper of general circulation  
13 where the local government is located. The board shall  
14 consider the administrator's recommendation at its next  
15 regularly scheduled meeting held no sooner than 20 days  
16 after notice is given. The board shall consider any  
17 objections raised at the meeting and issue its  
18 determination. The board's decision is final and conclusive.

19 (3) Any guaranty issued by the board is valid and  
20 enforceable according to its terms, notwithstanding any prior  
21 or subsequent challenge to the board's findings under  
22 [section 3].

23 NEW SECTION. Section 5. Terms and conditions of  
24 guaranties. The Montana economic development board may enter  
25 into contracts and covenants with bond issuers or bond

1 purchasers concerning the terms and conditions of its  
2 guaranties. The terms and conditions that may be addressed  
3 in contracts and covenants include:

- 4 (1) the priority of the bondholders' claim against the  
5 in-state investment fund as against other claims;
- 6 (2) limitations on subsequent guaranties in relation  
7 to the book value of the Montana in-state investment fund;
- 8 (3) undertakings by the local government bond issuer  
9 to charge and collect rates and revenues sufficient to  
10 service the bonded indebtedness;
- 11 (4) undertakings by the local government bond issuer  
12 to reimburse the fund for any payments made pursuant to a  
13 guaranty, including any security for such undertakings;
- 14 (5) requirements for casualty or other insurance on  
15 the project financed by the bonds;
- 16 (6) participation by the Montana in-state investment  
17 fund in any excess revenue or profit from the operation of  
18 the project; and
- 19 (7) fees for the issuance of the guaranty and for  
20 monitoring or service of the guaranty obligation.

21 NEW SECTION. Section 6. Bonds or notes as legal  
22 investments. Notwithstanding the restrictions of any other  
23 law, all banks, trust companies, savings banks and  
24 institutions, building and loan associations, savings and  
25 loan associations, investment companies, and other persons

1 carrying on a banking business; all insurance companies,  
2 insurance associations, and other persons carrying on an  
3 insurance business; and all executors, administrators,  
4 guardians, trustees, and other fiduciaries may legally  
5 invest debt service funds, money, or other funds belonging  
6 to them or within their control in local government revenue  
7 bonds guaranteed under [this act].

8 Section 7. Section 7-6-309, MCA, is amended to read:  
9 "7-6-309. Disposition and use of funds. Disbursements  
10 from the local government block grant account shall be made  
11 as follows:

- 12 (1) On October 1, 1983, a disbursement must be made  
13 from the general services block grant that is the lesser of:  
14 (a) \$2 million; or  
15 (b) one-third of the total general fund appropriation  
16 to the account for the biennium ending June 30, 1985.
- 17 (2) On March 1, 1984, and March 1 of each succeeding  
18 year the reimbursement required by 61-3-536 must be  
19 distributed.
- 20 (3) On June 30, 1984, a disbursement must be made from  
21 the general services block grants for municipalities and  
22 counties that equals the amount which is the lesser of the  
23 difference between the account balance on that date and:  
24 (a) \$3 million dollars; or  
25 (b) one-half of the total general fund appropriation

1 to the account for the biennium ending June 30, 1985.

2 (4) On June 30, 1985, and June 30 of each succeeding  
3 year, all funds remaining in the account must be  
4 distributed.

5 (5) The funds distributed by this part may be used for  
6 any purpose authorized by law and may be pledged to the  
7 repayment of any amounts paid from the in-state investment  
8 fund or from the earnings of the fund pursuant to [sections  
9 1 through 6]."

10 Section 8. Section 7-15-4289, MCA, is amended to read:

11 "7-15-4289. Use of tax increments for bond payments.  
12 The tax increment may be pledged to:

13 (1) the payment of the principal of premiums, if any,  
14 and interest on bonds which the municipality may issue for  
15 the purpose of providing funds to pay such costs; or

16 (2) the repayment of any amounts paid from the  
17 in-state investment fund or from the earnings of the fund  
18 pursuant to [sections 1 through 6]."

19 NEW SECTION. Section 9. Codification instruction.  
20 Sections 1 through 6 are intended to be codified as an  
21 integral part of Title 17, chapter 6, and the provisions of  
22 Title 17, chapter 6, apply to sections 1 through 6.

23 NEW SECTION. Section 10. Severability. If a part of  
24 this act is invalid, all valid parts that are severable from  
25 the invalid part remain in effect. If a part of this act is

1 invalid in one or more of its applications, the part remains  
2 in effect in all valid applications that are severable from  
3 the invalid applications.

4 NEW SECTION. Section 11. Effective date. This act is  
5 effective July 1, 1985.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 439-85

Form BD-15

In compliance with a written request received February 14, 19 85, there is hereby submitted a Fiscal Note for S.B. 413 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.

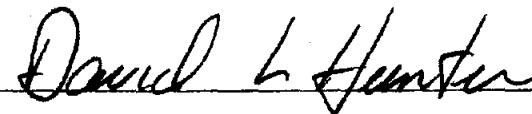
DESCRIPTION OF PROPOSED LEGISLATION

SB 413 authorizes use of the Instate Investment Fund (Coal Tax Trust Fund) to subsidize principal and interest payments on revenue bonds issued by local government by using the Fund to guarantee revenue bonds for projects that may not generate sufficient revenues to be self-supporting (and therefore, cannot access traditional finance markets).

ASSUMPTIONS:

IMPACT TO IN-STATE INVESTMENT FUND

1. It appears that a central purpose of this Act is to subsidize local government projects that are unable to generate sufficient revenue to be self-supporting with principal and interest payments from the Montana In-State Investment Fund (Coal Tax Trust Fund).
2. Assume annual volume of revenue bonds guaranteed through the Act would approximate \$15 million. Of these \$12 million would not generate sufficient revenues to meet debt service on their bonds. (On average, these project would generate 80% of the revenues necessary to make bond payments.)
3. The average maturity of project guaranteed through the Act would be 15 years with an average interest rate of 9 percent.
4. A guarantee fee of 50% of the outstanding principal balance would be charged as a guarantee.
5. No excess revenues from the \$3 million in self-supporting projects are used to subsidize the other projects.
6. 120 new jobs are created from the \$12,000,000 in projects that are undertaken, resulting in a return to the state in the form of new income tax receipts of \$71,000.
7. Each assumption could vary, i.e., volume, percent of self-supporting projects, guarantee fee and percentage of payments made by non-self-supporting projects.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 19, 1985

IMPACT TO GENERAL FUND

1. If the Montana Economic Development Board is to implement the Act, 1.5 new staff persons will need to be added to administer the Act.

FISCAL IMPACT

	<u>FY 86</u>	<u>FY 87</u>
Decrease Instate Investment Fund	(\$277,100)	(\$554,200)
Increase General Fund (Income Taxes)	\$ 71,000	\$142,000
General Fund Expenditure Increase	<u>(\$ 48,595)</u>	<u>(\$ 45,594)</u>
Net Total Less to State	\$254,694	\$457,794

TECHNICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION

- 1) Section 2(3)a states that a guaranty is payable first out of "unappropriated investment income." 85% of earnings from the Coal Tax Trust Fund are deposited to the General Fund and 15% are re-deposited to the permanent Coal Tax Trust.
- 2) If SB 403 is adopted, the authority in this bill is transferred to the new Community Development Board. Neither bill provides a mechanism for determining which board shall determine how the instate investment fund shall be allocated between investment alternatives. Both boards would have the authority to use the same fund to back guarantees.
- 3) It seems that the bill would require a 3/4 vote as an appropriation because it appears to anticipate that some projects will not be self-supporting, and expenditure of Coal Tax Trust Fund principle may be necessary.