

HB 382 INTRODUCED BY CONNELLY, ET AL.
CREATING EDUCATION BUILDING AND INSURANCE ACCOUNT

1/21	INTRODUCED	
1/21	REFERRED TO APPROPRIATIONS	
1/21	FISCAL NOTE REQUESTED	
1/27	FISCAL NOTE RECEIVED	
2/09	HEARING	
2/20	HEARING	
3/19	TAKEN FROM COMMITTEE	51 46
3/24	2ND READING NOT PASSED AS AMENDED	50 46

*Lincoln
Regan
Wicks
Hansen
E. Smith
Bobby*

1 *Nelson* House BILL NO. 382
 2 INTRODUCED BY *Connelly Moore Peterson Miller*
 3 *Regan G. Brown* *Jack Harper Long Kelson Moore*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN *Basler*
 EDUCATION BUILDING AND INSURANCE FUND TO FINANCE *Education*
 5 *Lawrence Smith O'Connell Harper* *Education*
 6 LOW-INTEREST LOANS TO ELEMENTARY AND SECONDARY SCHOOL *Manual*
 DISTRICTS FOR CAPITAL EXPENDITURES; APPROPRIATING COAL *Technik*
 7 SEVERANCE TAX REVENUE; PROVIDING A SELF-INSURANCE PLAN AND *Paul*
 8 AN INSURANCE RESERVE FOR ELEMENTARY AND SECONDARY SCHOOL *Payne*
 9 DISTRICTS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN *Payne*
 10 EFFECTIVE DATE." *Carroll* *Smith* *James* *Heard*
 11 *GRINER* *McCallan* *Ray* *Smith* *James* *Heard*
 12 *Smith* *Nisbet* *Ed* *Harold* *Thies* *D. Mary*
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: *Conner*

14 NEW SECTION. Section 1. Short title. [This act] may *Brady*
 15 be cited as the "Education Building and Insurance Fund Act". *Harold*

16 NEW SECTION. Section 2. Definitions. In [this act],
 17 the following definitions apply: *Hoyer* *Bob Braun*

18 (1) "Amortized payments" are loan payments scheduled *Ramin*
 19 in such a way that a portion of the principal is paid each *Ward*
 20 time interest becomes due and payable, that portion of the *Sawney*
 21 principal increasing at each succeeding installment in the
 22 same amount that interest decreases, so that the combined
 23 amount due on principal and interest at each installment
 24 remains the same until the loan is paid in full, except that
 25 the last installment may differ from the others if

1 fractional cents were disregarded in previous installments.
 2 (2) "Coal severance tax permanent fund" means a fund
 3 identified in 17-6-203, consisting of coal severance taxes
 4 allocated thereto under Article IX, section 5, of the
 5 Montana constitution.

6 NEW SECTION. Section 3. Purpose. (1) The legislature
 7 finds that state equalization aid for public education under
 8 20-9-344 is apportioned and distributed to provide an annual
 9 minimum operating revenue for the elementary and high
 10 schools in each county and that the apportionment of aid
 11 does not take into account a district's insurance costs and
 12 capital expenditures.

13 (2) The purpose of [this act] is to equalize the costs
 14 of capital projects and insurance by providing for
 15 low-interest loans to school districts and for repayment of
 16 the loans based on ability to pay.

17 NEW SECTION. Section 4. Education building and
 18 insurance account created -- coal severance tax
 19 appropriated. (1) There is an education building and
 20 insurance account in the state special revenue fund category
 21 established in 17-2-102.

22 (2) Beginning July 1, 1987, the legislature, upon a
 23 vote of three-fourths of the members of each house, may
 24 appropriate from the coal severance tax permanent fund an
 25 amount, up to \$10 million, requested by the superintendent



1 of public instruction, to be transferred to the education
 2 building and insurance account on the first day of each
 3 fiscal year. The superintendent of public instruction may
 4 request an appropriation of \$10 million or an amount that
 5 would create a balance of \$30 million in the education
 6 building and insurance account, whichever is less.

7 (3) In addition to the appropriation required by
 8 subsection (2), the following must be deposited in the
 9 education building and insurance account:

10 (a) proceeds of the bonds issued under [section 6];

11 (b) any fees or charges collected by the
 12 superintendent of public instruction for servicing loans;
 13 and

14 (c) insurance premiums paid to the superintendent of
 15 public instruction under [section 16].

16 (4) Deposits in the education building and insurance
 17 account are statutorily appropriated as provided in 17-7-502
 18 to the superintendent of public instruction for the
 19 following purposes:

20 (a) loans to school districts under [sections 11, 17,
 21 and 18];

22 (b) payment of insurance claims under [sections 17 and
 23 18];

24 (c) costs incurred in defending a denial of an
 25 insurance claim or a civil suit against an employee

1 administering the education building and insurance account;

2 (d) administrative expenses incurred by the
 3 superintendent of public instruction, including but not
 4 limited to salaries and other personnel expenses, equipment,
 5 operating expenses, office space, and the costs of hiring
 6 necessary consultants, actuaries, and auditors;

7 (e) costs of servicing loans; and

8 (f) interest on money transferred to the education
 9 building and insurance account from the coal severance tax
 10 permanent fund under subsection (2), at an annual rate of
 11 10% for fiscal years 1988 and 1989 and at a rate 1% below
 12 the rate paid by school districts under [section 13]
 13 thereafter. This interest must be transferred to the coal
 14 severance tax income fund and allocated as provided in
 15 17-5-704(2).

16 (5) The superintendent of public instruction may use a
 17 portion of any money remaining in the education building and
 18 insurance account at the end of a fiscal year to pay the
 19 interest due during the next fiscal year on outstanding
 20 bonds issued by any school district if:

21 (a) the bonds were issued before the effective date of
 22 [this act] or the obligation was approved by the
 23 superintendent of public instruction before the bonds were
 24 issued;

25 (b) the interest rate is more than 7% but not more

1 than 9%; and

2 (c) the bonds were issued to finance insurance
3 premiums, insurance losses, or one or more of the capital
4 expenditures enumerated in [section 11].

5 (6) The board of investments shall invest any surplus
6 remaining in the education building and insurance account,
7 after the appropriations in subsections (4) and (5) have
8 been made, as provided in 17-6-201; but if the balance in
9 the account on June 30 of any year exceeds \$30 million after
10 interest has been paid to the coal severance tax permanent
11 fund under subsection (4), the excess over \$30 million must
12 be transferred to and retained in the coal severance tax
13 permanent fund until all funds appropriated from the coal
14 severance tax permanent fund have been repaid.

15 NEW SECTION. Section 5. Education building and
16 insurance debt service fund. (1) There is an education
17 building and insurance debt service fund within the debt
18 service fund type established in 17-2-102.

19 (2) The state pledges, allocates, and directs to be
20 credited to the education building and insurance debt
21 service fund, as received:

22 (a) any principal and accrued interest received in
23 repayment of a loan made from the proceeds of bonds issued
24 under [section 6];

25 (b) all interest earned on proceeds of bonds issued

1 under [section 6]; and

2 (c) revenue or money otherwise required to be
3 deposited in the education building and insurance account
4 pursuant to [section 4], as determined by the board of
5 examiners, in connection with the issuance of bonds under
6 [section 6].

7 NEW SECTION. Section 6. Authority to issue education
8 building and insurance bonds. The board of examiners is
9 authorized to issue and sell bonds for the purpose of
10 financing loans to school districts, subject to the
11 limitation in [section 10].

12 NEW SECTION. Section 7. Deposit of bond proceeds.
13 Proceeds from education building and insurance bonds must be
14 deposited in the education building and insurance account
15 established in [section 4].

16 NEW SECTION. Section 8. Provisions for education and
17 insurance bond issues. (1) The board of examiners is
18 authorized to prescribe the form and terms of education and
19 insurance bonds and to do whatever is lawful and necessary
20 for their issuance and payment.

21 (2) The members of the board of examiners and officers
22 and employees of the departments, boards, or agencies of
23 state government are not personally liable or accountable by
24 reason of the issuance of any education building and
25 insurance bond.

1 (3) A holder of education building and insurance bonds
2 or any person or officer who is a party in interest, subject
3 to any applicable agreements, may sue to enforce and compel
4 the performance of the bond provisions as set out in [this
5 act].

6 (4) In case a member of the board of examiners whose
7 signature appears on bonds issued under [this act] ceases to
8 be a member before the delivery of the bonds, his signature
9 is nevertheless valid and sufficient for all purposes, the
10 same as if the member had remained in office until delivery.

11 (5) The board of examiners may provide for the
12 issuance of refunding obligations for refunding any
13 obligations then outstanding that have been issued under
14 [this act], including the payment of any redemption premium
15 and any interest accrued or to accrue to the date of
16 redemption of the obligations. The issuance of refunding
17 obligations, the maturities and other details, the rights of
18 the holders, and the rights, duties, and obligations of the
19 state are governed by the appropriate provisions of [this
20 act] that relate to the issuance of obligations.

21 (6) Refunding obligations issued as provided in
22 subsection (5) may be sold or exchanged for outstanding
23 obligations issued under [this act]. The proceeds may be
24 applied to the purchase, redemption, or payment of
25 outstanding obligations. Pending the application of the

1 proceeds of refunding obligations, with other available
2 funds, to the payment of principal, accrued interest, and
3 any redemption premium on the obligations being refunded
4 and, if permitted in the resolution authorizing the issuance
5 of the refunding obligations, to the payment of interest on
6 refunding obligations and expenses in connection with
7 refunding, the proceeds may be invested as provided in
8 [section 4].

9 NEW SECTION. Section 9. Tax exemption of bonds --
10 legal investments. (1) All bonds issued under [this act],
11 their transfer, and their income, including any profit made
12 on their sale, are exempt from taxation by the state or any
13 political subdivision or other instrumentality of the state,
14 except inheritance, estate, and gift taxes.

15 (2) Bonds issued under [this act] are legal
16 investments for any person or board charged with investment
17 of public funds and are acceptable as security for any
18 deposit of public money.

19 NEW SECTION. Section 10. Pledge of education building
20 and insurance account -- tax deposit limit on additional
21 bonds. (1) The money in the education building and insurance
22 account is pledged to the payment of the principal and
23 interest on all education building and insurance bonds.

24 (2) The legislature shall provide for the continued
25 assessment, levy, collection, and deposit in the education

1 building and insurance account of a portion of the coal
2 severance tax sufficient to pay the annual debt service
3 charges on all outstanding education building and insurance
4 bonds.

5 (3) The board of examiners may not issue education
6 building and insurance bonds unless the total amount of
7 bonds outstanding, including the proposed issue and any
8 other education building and insurance bonds approved but
9 not yet issued, can be serviced with no more than two-thirds
10 of the average amount deposited in the education building
11 and insurance debt service account during the preceding 3
12 fiscal years.

13 NEW SECTION. Section 11. Loans to elementary and
14 secondary school districts. A school district with bonding
15 authority under 20-9-402 may apply to the superintendent of
16 public instruction for a loan to finance all or part of the
17 cost of:

- 18 (1) construction of new buildings;
19 (2) acquisition, expansion, remodeling, or alteration
20 of existing buildings;
21 (3) site acquisition and improvements;
22 (4) architectural fees; or
23 (5) purchase of initial equipment for new or enlarged
24 buildings.

25 NEW SECTION. Section 12. Administration of loan

1 program. The superintendent of public instruction shall:

2 (1) administer the loan program established by [this
3 act];

4 (2) service loans made or contract and pay for the
5 servicing of loans; and

6 (3) collect reasonable fees or charges for the
7 servicing of loans. The fees and charges must be deposited
8 in the education building and insurance account pursuant to
9 [section 4].

10 NEW SECTION. Section 13. Terms and conditions of
11 loans. (1) A school district shall repay a loan issued under
12 [section 11] in amortized payments at an annual interest
13 rate 1% below the rate established for the bonds issued
14 under [section 6] to finance the loan.

15 (2) Subject to the approval of the qualified electors
16 as provided in Title 20, chapter 9, part 4, a district shall
17 levy at least 2 mills but not more than 35 mills annually to
18 finance its loan payments.

19 (3) The superintendent of public instruction shall
20 establish a plan in which the loan period corresponds to the
21 annual mill levy required to repay the loan. The plan must
22 provide that:

23 (a) if the district can repay the loan with an annual
24 levy of 10 mills or less, the loan period may not exceed 10
25 years;

1 (b) if the district requires an annual levy of 35
2 mills to repay the loan, no interest may be charged on the
3 remaining principal after 20 years; and

4 (c) the maximum loan period is 30 years.

5 NEW SECTION. Section 14. Limits on loans. (1) No more
6 than \$5 million may be loaned to school districts from the
7 education building and insurance account during fiscal year
8 1988.

9 (2) After June 30, 1988, no loan may be made to a
10 school district from the education building and insurance
11 account that reduces the account below the amount required
12 to pay the debt service on all outstanding bonds or impairs
13 the insurance loss reserve.

14 NEW SECTION. Section 15. Rulemaking authority. The
15 superintendent of public instruction shall adopt rules:

16 (1) prescribing the form and content of applications
17 for loans from the education building and insurance account;

18 (2) establishing criteria for approving loans to
19 school districts under [section 11];

20 (3) providing for the servicing of loans and the
21 establishment of reasonable fees or charges to be made; and

22 (4) describing the terms and conditions for making
23 loans, subject to the provisions of [section 13].

24 NEW SECTION. Section 16. Self-insurance reserve fund.

25 (1) The education building and insurance account established

1 by [section 4] is a reserve fund for a statewide deductible
2 self-insurance plan for elementary and secondary school
3 districts.

4 (2) A school district that elects to subscribe to this
5 plan must pay into the education building and insurance
6 account an annual premium based on the type and extent of
7 coverage. Premiums are established by the superintendent of
8 public instruction and must be set at a 75% loss ratio for
9 comprehensive insurance and at an 80% loss ratio for
10 liability insurance.

11 (3) A school district may elect to subscribe to the
12 plan for comprehensive coverage as defined in [section 17],
13 liability coverage as defined in [section 18], or both.

14 NEW SECTION. Section 17. Comprehensive insurance. (1)
15 Under the statewide deductible self-insurance plan
16 established in [section 16], comprehensive insurance covers
17 risks other than liability to:

18 (a) school buildings at 60% of the insured value;

19 (b) school equipment and supplies at 60% of the
20 insured value related to the premium paid and accountable on
21 inventory;

22 (c) school buses and cars at replacement value related
23 to the premium paid; and

24 (d) other property at the discretion of the
25 superintendent of public instruction.

1 (2) The deductible paid by the district on school
 2 buildings, equipment, and supplies is the greater of \$1,000
 3 or 1% of the district's general fund budget, to a maximum of
 4 \$25,000 for the first loss. Each loss thereafter carries an
 5 additional deductible of \$1,250 or 1.5% of the district's
 6 general fund budget, whichever is greater.

7 (3) Sixty percent of each loss, less the deductible,
 8 must be paid to the district from the education building and
 9 insurance account.

10 (4) Forty percent of each loss, plus the deductible,
 11 must be loaned to the district from the education building
 12 and insurance account under the following terms and
 13 conditions:

14 (a) The district shall repay the loan in amortized
 15 payments at the annual interest rate established for loans
 16 in [section 13].

17 (b) Notwithstanding any provisions of law to the
 18 contrary, a district shall levy at least 2 mills but not
 19 more than 10 mills annually to finance its loan payments,
 20 even though as a result of this levy the maximum levy as
 21 otherwise provided by law is exceeded thereby, provided that
 22 the revenue derived therefrom is not used for any other
 23 purpose.

24 (c) The loan period is 10 years or less.

25 (5) If losses exceed 75% of the premium income, all

1 losses must be prorated equally up to 60% of each individual
 2 loss. The amount of the loss to the district is added to the
 3 loan required by subsection (4).

4 NEW SECTION. Section 18. Liability insurance. (1)
 5 Under the statewide deductible self-insurance plan
 6 established in [section 16], liability insurance coverage is
 7 limited to \$750,000 for each claim and \$1.5 million for each
 8 occurrence.

9 (2) The deductible paid by the district is the greater
 10 of \$1,000 or 1% of the district's general fund budget, to a
 11 maximum of \$25,000 per loss.

12 (3) Eighty percent of each loss, less the deductible,
 13 must be paid to the district from the education building and
 14 insurance account.

15 (4) Twenty percent of each loss, plus the deductible,
 16 must be loaned to the district from the education building
 17 and insurance account under the following terms and
 18 conditions:

19 (a) The district shall repay the loan in amortized
 20 payments at the annual interest rate paid for loans under
 21 [section 13].

22 (b) Notwithstanding any provisions of law to the
 23 contrary, a district shall levy at least 2 mills but not
 24 more than 10 mills annually to finance its loan payments,
 25 even though as a result of this levy the maximum levy as

1 otherwise provided by law is exceeded thereby, provided that
2 the revenue derived therefrom is not used for any other
3 purpose.

4 (c) The loan period is 10 years or less.

5 (5) If losses exceed 80% of the premium income, all
6 losses must be prorated equally up to 80% of each individual
7 loss. The amount of the loss to the district is added to the
8 loan required by subsection (4).

9 NEW SECTION. Section 19. Administration of statewide
10 deductible self-insurance plan -- rulemaking authority. (1)
11 The superintendent of public instruction shall:

12 (a) adopt rules for the conduct of business under
13 [this act];

14 (b) determine insurance premiums and establish a
15 method of collection;

16 (c) pay, adjust, or deny claims arising under
17 [sections 17 and 18];

18 (d) administer and service the loans required by
19 [sections 17 and 18];

20 (e) maintain the education building and insurance fund
21 on an actuarially sound basis, with a reserve sufficient to
22 liquidate the claims liability of the deductible
23 self-insurance plan provided for in [section 16];

24 (f) collect reasonable fees or charges for the
25 servicing of loans; and

1 (g) provide for an annual audit of the education
2 building and insurance fund by the legislative auditor or an
3 independent certified public accountant.

4 (2) All claims against the education building and
5 insurance fund arising under [sections 17 and 18] must be
6 presented to and filed with the superintendent of public
7 instruction, and the superintendent of public instruction
8 may settle any claim subject to the terms of the insurance.

9 (3) The provisions of Title 33 do not apply to the
10 superintendent of public instruction when he is exercising
11 the powers and duties provided in this section.

12 NEW SECTION. Section 20. Immunization, defense, and
13 indemnification of employees of the superintendent of public
14 instruction. The provisions of 2-9-305 apply to employees
15 whose salaries are paid by the education building and
16 insurance account, except that the costs of defending an
17 action taken against an employee who is civilly sued for his
18 actions within the course and scope of his employment must
19 be paid from the education building and insurance account.

20 Section 21. Section 17-7-502, MCA, is amended to read:

21 "17-7-502. Statutory appropriations -- definition --
22 requisites for validity. (1) A statutory appropriation is an
23 appropriation made by permanent law that authorizes spending
24 by a state agency without the need for a biennial
25 legislative appropriation or budget amendment.

1 (2) Except as provided in subsection (4), to be
2 effective, a statutory appropriation must comply with both
3 of the following provisions:

4 (a) The law containing the statutory authority must be
5 listed in subsection (3).

6 (b) The law or portion of the law making a statutory
7 appropriation must specifically state that a statutory
8 appropriation is made as provided in this section.

9 (3) The following laws are the only laws containing
10 statutory appropriations:

- 11 (a) 2-9-202;
- 12 (b) 2-17-105;
- 13 (c) 2-18-812;
- 14 (d) 10-3-203;
- 15 (e) 10-3-312;
- 16 (f) 10-3-314;
- 17 (g) 10-4-301;
- 18 (h) 13-37-304;
- 19 (i) 15-31-702;
- 20 (j) 15-36-112;
- 21 (k) 15-70-101;
- 22 (l) 16-1-404;
- 23 (m) 16-1-410;
- 24 (n) 16-1-411;
- 25 (o) 17-3-212;

- 1 (p) 17-5-404;
- 2 (q) 17-5-424;
- 3 (r) 17-5-804;
- 4 (s) 19-8-504;
- 5 (t) 19-9-702;
- 6 (u) 19-9-1007;
- 7 (v) 19-10-205;
- 8 (w) 19-10-305;
- 9 (x) 19-10-506;
- 10 (y) 19-11-512;
- 11 (z) 19-11-513;
- 12 (aa) 19-11-606;
- 13 (bb) 19-12-301;
- 14 (cc) 19-13-604;
- 15 (dd) 20-6-406;
- 16 (ee) 20-8-111;
- 17 (ff) 23-5-612;
- 18 (gg) 37-51-501;
- 19 (hh) 53-24-206;
- 20 (ii) 75-1-1101;
- 21 (jj) 75-7-305;
- 22 (kk) 80-2-103;
- 23 (ll) 80-2-228;
- 24 (mm) 90-3-301;
- 25 (nn) 90-3-302;

1 (oo) 90-15-103; and

2 (pp) Sec. 13, HB 861, L. 1985; and

3 (qq) [section 4].

4 (4) There is a statutory appropriation to pay the
5 principal, interest, premiums, and costs of issuing, paying,
6 and securing all bonds, notes, or other obligations, as due,
7 that have been authorized and issued pursuant to the laws of
8 Montana. Agencies that have entered into agreements
9 authorized by the laws of Montana to pay the state
10 treasurer, for deposit in accordance with 17-2-101 through
11 17-2-107, as determined by the state treasurer, an amount
12 sufficient to pay the principal and interest as due on the
13 bonds or notes have statutory appropriation authority for
14 such payments."

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

21 NEW SECTION. Section 23. Requirements for approval of
22 appropriation from coal severance tax permanent fund --
23 severability. Because sections 4 and 10 appropriate and
24 pledge money from the coal severance tax trust fund
25 established by Article IX, section 5, of the Montana

1 constitution, a vote of three-fourths of the members of each
2 house is required for enactment of sections 4 and 10. If
3 sections 4 and 10 are not approved by the required vote,
4 sections 4 and 10 are void and the remaining sections of
5 this act are valid and remain in effect in all valid
6 applications upon enactment.

7 NEW SECTION. Section 24. Codification instruction.
8 Sections 1 through 20 are intended to be codified as an
9 integral part of Title 20, chapter 9, and the provisions of
10 Title 20, chapter 9, apply to sections 1 through 20.

11 NEW SECTION. Section 25. Effective date. This act is
12 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB382, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing an Education and Insurance Fund to finance low-interest loans to elementary and secondary school districts for capital expenditures; appropriating coal severance tax revenue; providing for a self-insurance plan and an insurance reserve for elementary and secondary school districts; providing an effective date.

ASSUMPTIONS:


1. Revenue Estimating Advisory Council coal severance tax estimates are \$78,663,000 in FY1988 and \$81,856,000 in FY1989.

FISCAL IMPACTS:

To provide partial funding for the Education Building and Insurance Account, this bill would allow, by a three-quarters vote of both houses of the Legislature, the transfer of up to \$10,000,000 from the Coal Severance Tax Permanent Trust to the Education Building and Insurance Account at the beginning of each fiscal year. A full transfer of \$10,000,000 would reduce estimated deposits to the coal tax permanent trust from \$39,331,500 to \$29,331,500 in FY1988, and from \$40,928,000 to \$30,928,000 in FY1989. Interest earnings from the coal tax permanent trust would be decreased slightly each year. Short term revenue would be increased during the 1988-89 biennium. The rate of return earned on the \$10,000,000 transferred to the proposed Education Building and Insurance Account would be something less than that which could be earned if the money remained invested in the permanent trust during the total period coal severance tax permanent trust funds were obligated to the program.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

The bill does not specify from which coal severance tax fund these funds are to be paid. If you assume the In-State Investment fund would decrease by a pro-rated share of the \$10 million, funds available for investment in Montana businesses through the Montana Economic Development Board will be reduced by \$2.5 million per year.

 DATE 1/28/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 1/29/87
MARY ELLEN CONNELLY, PRIMARY SPONSOR

Fiscal Note for HB382, as introduced.

HB-382

ON APPROPRIATIONS
WITHOUT RECOMMENDATION
ON MOTION, PRINTED AND
PLACED ON SECOND READING

HOUSE BILL NO. 382

INTRODUCED BY CONNELLY, MERCER, PETERSON, MILLER, NELSON,
HIRSCH, MEYER, JENKINS, MENAHAN, HANNAH, ADDY, REAM, PECK,
HAYNE, LORY, KADAS, MOORE, MCCORMICK, J. BROWN, PISTORIA,
BACHINI, BRANDEWIE, SPAETH, O'CONNELL, HARP, IVERSON,
EUDAILY, HARRINGTON, SWIFT, MANNING, C. SMITH, MANUEL,
KEENAN, D. BROWN, KOEHNKE, FRITZ, VINCENT, MAZUREK,
HARPER, CORNE', RAPP-SVRCEK, JONES, HOLLIDAY, GRINDE,
MCCALLUM, QUILICI, DRISCOLL, NISBET, SCHYE, DARKO,
COHEN, MILES, DEMARS, POULSEN, BULGER, HARDING, HAGER,
B. BROWN, RAMIREZ, MARKS, SEVERSON, PAVLOVICH, ABRAMS,
PHILLIPS, THOFT, GRADY, KENNERLY, COMPTON, KELLER,
SWITZER, STANG, DONALDSON, CAMPBELL, STRATFORD, GILBERT,
PATTERSON, REHBERG, SWYSGOOD, NATHE, POFF, CODY, STRIZICH,
WINSLOW, THOMAS, SIMON

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN
EDUCATION BUILDING AND INSURANCE FUND TO FINANCE
LOW-INTEREST LOANS TO ELEMENTARY AND SECONDARY SCHOOL
DISTRICTS FOR CAPITAL EXPENDITURES; APPROPRIATING COAL
SEVERANCE TAX REVENUE; PROVIDING A SELF-INSURANCE PLAN AND
AN INSURANCE RESERVE FOR ELEMENTARY AND SECONDARY SCHOOL
DISTRICTS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN
EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [This act] may
be cited as the "Education Building and Insurance Fund Act".

NEW SECTION. Section 2. Definitions. In [this act],
the following definitions apply:

(1) "Amortized payments" are loan payments scheduled
in such a way that a portion of the principal is paid each
time interest becomes due and payable, that portion of the
principal increasing at each succeeding installment in the
same amount that interest decreases, so that the combined
amount due on principal and interest at each installment
remains the same until the loan is paid in full, except that
the last installment may differ from the others if
fractional cents were disregarded in previous installments.

(2) "Coal severance tax permanent fund" means a fund
identified in 17-6-203, consisting of coal severance taxes
allocated thereto under Article IX, section 5, of the
Montana constitution.

NEW SECTION. Section 3. Purpose. (1) The legislature
finds that state equalization aid for public education under
20-9-344 is apportioned and distributed to provide an annual
minimum operating revenue for the elementary and high
schools in each county and that the apportionment of aid
does not take into account a district's insurance costs and
capital expenditures.



1 (2) The purpose of [this act] is to equalize the costs
2 of capital projects and insurance by providing for
3 low-interest loans to school districts and for repayment of
4 the loans based on ability to pay.

5 NEW SECTION. Section 4. Education building and
6 insurance account created -- coal severance tax
7 appropriated. (1) There is an education building and
8 insurance account in the state special revenue fund category
9 established in 17-2-102.

10 (2) Beginning July 1, 1987, the legislature, upon a
11 vote of three-fourths of the members of each house, may
12 appropriate from the coal severance tax permanent fund an
13 amount, up to \$10 million, requested by the superintendent
14 of public instruction, to be transferred to the education
15 building and insurance account on the first day of each
16 fiscal year. The superintendent of public instruction may
17 request an appropriation of \$10 million or an amount that
18 would create a balance of \$30 million in the education
19 building and insurance account, whichever is less.

20 (3) In addition to the appropriation required by
21 subsection (2), the following must be deposited in the
22 education building and insurance account:

- 23 (a) proceeds of the bonds issued under [section 6];
24 (b) any fees or charges collected by the
25 superintendent of public instruction for servicing loans;

1 and

2 (c) insurance premiums paid to the superintendent of
3 public instruction under [section 16].

4 (4) Deposits in the education building and insurance
5 account are statutorily appropriated as provided in 17-7-502
6 to the superintendent of public instruction for the
7 following purposes:

8 (a) loans to school districts under [sections 11, 17,
9 and 18];

10 (b) payment of insurance claims under [sections 17 and
11 18];

12 (c) costs incurred in defending a denial of an
13 insurance claim or a civil suit against an employee
14 administering the education building and insurance account;

15 (d) administrative expenses incurred by the
16 superintendent of public instruction, including but not
17 limited to salaries and other personnel expenses, equipment,
18 operating expenses, office space, and the costs of hiring
19 necessary consultants, actuaries, and auditors;

20 (e) costs of servicing loans; and

21 (f) interest on money transferred to the education
22 building and insurance account from the coal severance tax
23 permanent fund under subsection (2), at an annual rate of
24 10% for fiscal years 1988 and 1989 and at a rate 1% below
25 the rate paid by school districts under [section 13]

1 thereafter. This interest must be transferred to the coal
 2 severance tax income fund and allocated as provided in
 3 17-5-704(2).

4 (5) The superintendent of public instruction may use a
 5 portion of any money remaining in the education building and
 6 insurance account at the end of a fiscal year to pay the
 7 interest due during the next fiscal year on outstanding
 8 bonds issued by any school district if:

9 (a) the bonds were issued before the effective date of
 10 [this act] or the obligation was approved by the
 11 superintendent of public instruction before the bonds were
 12 issued;

13 (b) the interest rate is more than 7% but not more
 14 than 9%; and

15 (c) the bonds were issued to finance insurance
 16 premiums, insurance losses, or one or more of the capital
 17 expenditures enumerated in [section 11].

18 (6) The board of investments shall invest any surplus
 19 remaining in the education building and insurance account,
 20 after the appropriations in subsections (4) and (5) have
 21 been made, as provided in 17-6-201; but if the balance in
 22 the account on June 30 of any year exceeds \$30 million after
 23 interest has been paid to the coal severance tax permanent
 24 fund under subsection (4), the excess over \$30 million must
 25 be transferred to and retained in the coal severance tax

1 permanent fund until all funds appropriated from the coal
 2 severance tax permanent fund have been repaid.

3 NEW SECTION. Section 5. Education building and
 4 insurance debt service fund. (1) There is an education
 5 building and insurance debt service fund within the debt
 6 service fund type established in 17-2-102.

7 (2) The state pledges, allocates, and directs to be
 8 credited to the education building and insurance debt
 9 service fund, as received:

10 (a) any principal and accrued interest received in
 11 repayment of a loan made from the proceeds of bonds issued
 12 under [section 6];

13 (b) all interest earned on proceeds of bonds issued
 14 under [section 6]; and

15 (c) revenue or money otherwise required to be
 16 deposited in the education building and insurance account
 17 pursuant to [section 4], as determined by the board of
 18 examiners, in connection with the issuance of bonds under
 19 [section 6].

20 NEW SECTION. Section 6. Authority to issue education
 21 building and insurance bonds. The board of examiners is
 22 authorized to issue and sell bonds for the purpose of
 23 financing loans to school districts, subject to the
 24 limitation in [section 10].

25 NEW SECTION. Section 7. Deposit of bond proceeds.

1 Proceeds from education building and insurance bonds must be
2 deposited in the education building and insurance account
3 established in [section 4].

4 NEW SECTION. Section 8. Provisions for education and
5 insurance bond issues. (1) The board of examiners is
6 authorized to prescribe the form and terms of education and
7 insurance bonds and to do whatever is lawful and necessary
8 for their issuance and payment.

9 (2) The members of the board of examiners and officers
10 and employees of the departments, boards, or agencies of
11 state government are not personally liable or accountable by
12 reason of the issuance of any education building and
13 insurance bond.

14 (3) A holder of education building and insurance bonds
15 or any person or officer who is a party in interest, subject
16 to any applicable agreements, may sue to enforce and compel
17 the performance of the bond provisions as set out in [this
18 act].

19 (4) In case a member of the board of examiners whose
20 signature appears on bonds issued under [this act] ceases to
21 be a member before the delivery of the bonds, his signature
22 is nevertheless valid and sufficient for all purposes, the
23 same as if the member had remained in office until delivery.

24 (5) The board of examiners may provide for the
25 issuance of refunding obligations for refunding any

1 obligations then outstanding that have been issued under
2 [this act], including the payment of any redemption premium
3 and any interest accrued or to accrue to the date of
4 redemption of the obligations. The issuance of refunding
5 obligations, the maturities and other details, the rights of
6 the holders, and the rights, duties, and obligations of the
7 state are governed by the appropriate provisions of [this
8 act] that relate to the issuance of obligations.

9 (6) Refunding obligations issued as provided in
10 subsection (5) may be sold or exchanged for outstanding
11 obligations issued under [this act]. The proceeds may be
12 applied to the purchase, redemption, or payment of
13 outstanding obligations. Pending the application of the
14 proceeds of refunding obligations, with other available
15 funds, to the payment of principal, accrued interest, and
16 any redemption premium on the obligations being refunded
17 and, if permitted in the resolution authorizing the issuance
18 of the refunding obligations, to the payment of interest on
19 refunding obligations and expenses in connection with
20 refunding, the proceeds may be invested as provided in
21 [section 4].

22 NEW SECTION. Section 9. Tax exemption of bonds --
23 legal investments. (1) All bonds issued under [this act],
24 their transfer, and their income, including any profit made
25 on their sale, are exempt from taxation by the state or any

1 political subdivision or other instrumentality of the state,
 2 except inheritance, estate, and gift taxes.

3 (2) Bonds issued under [this act] are legal
 4 investments for any person or board charged with investment
 5 of public funds and are acceptable as security for any
 6 deposit of public money.

7 NEW SECTION. Section 10. Pledge of education building
 8 and insurance account -- tax deposit limit on additional
 9 bonds. (1) The money in the education building and insurance
 10 account is pledged to the payment of the principal and
 11 interest on all education building and insurance bonds.

12 (2) The legislature shall provide for the continued
 13 assessment, levy, collection, and deposit in the education
 14 building and insurance account of a portion of the coal
 15 severance tax sufficient to pay the annual debt service
 16 charges on all outstanding education building and insurance
 17 bonds.

18 (3) The board of examiners may not issue education
 19 building and insurance bonds unless the total amount of
 20 bonds outstanding, including the proposed issue and any
 21 other education building and insurance bonds approved but
 22 not yet issued, can be serviced with no more than two-thirds
 23 of the average amount deposited in the education building
 24 and insurance debt service account during the preceding 3
 25 fiscal years.

1 NEW SECTION. Section 11. Loans to elementary and
 2 secondary school districts. A school district with bonding
 3 authority under 20-9-402 may apply to the superintendent of
 4 public instruction for a loan to finance all or part of the
 5 cost of:

- 6 (1) construction of new buildings;
- 7 (2) acquisition, expansion, remodeling, or alteration
- 8 of existing buildings;
- 9 (3) site acquisition and improvements;
- 10 (4) architectural fees; or
- 11 (5) purchase of initial equipment for new or enlarged
- 12 buildings.

13 NEW SECTION. Section 12. Administration of loan
 14 program. The superintendent of public instruction shall:

- 15 (1) administer the loan program established by [this
- 16 act];
- 17 (2) service loans made or contract and pay for the
- 18 servicing of loans; and
- 19 (3) collect reasonable fees or charges for the
- 20 servicing of loans. The fees and charges must be deposited
- 21 in the education building and insurance account pursuant to
- 22 [section 4].

23 NEW SECTION. Section 13. Terms and conditions of
 24 loans. (1) A school district shall repay a loan issued under
 25 [section 11] in amortized payments at an annual interest

1 rate 1% below the rate established for the bonds issued
2 under [section 6] to finance the loan.

3 (2) Subject to the approval of the qualified electors
4 as provided in Title 20, chapter 9, part 4, a district shall
5 levy at least 2 mills but not more than 35 mills annually to
6 finance its loan payments.

7 (3) The superintendent of public instruction shall
8 establish a plan in which the loan period corresponds to the
9 annual mill levy required to repay the loan. The plan must
10 provide that:

11 (a) if the district can repay the loan with an annual
12 levy of 10 mills or less, the loan period may not exceed 10
13 years;

14 (b) if the district requires an annual levy of 35
15 mills to repay the loan, no interest may be charged on the
16 remaining principal after 20 years; and

17 (c) the maximum loan period is 30 years.

18 NEW SECTION. Section 14. Limits on loans. (1) No more
19 than \$5 million may be loaned to school districts from the
20 education building and insurance account during fiscal year
21 1988.

22 (2) After June 30, 1988, no loan may be made to a
23 school district from the education building and insurance
24 account that reduces the account below the amount required
25 to pay the debt service on all outstanding bonds or impairs

1 the insurance loss reserve.

2 NEW SECTION. Section 15. Rulemaking authority. The
3 superintendent of public instruction shall adopt rules:

4 (1) prescribing the form and content of applications
5 for loans from the education building and insurance account;

6 (2) establishing criteria for approving loans to
7 school districts under [section 11];

8 (3) providing for the servicing of loans and the
9 establishment of reasonable fees or charges to be made; and

10 (4) describing the terms and conditions for making
11 loans, subject to the provisions of [section 13].

12 NEW SECTION. Section 16. Self-insurance reserve fund.

13 (1) The education building and insurance account established
14 by [section 4] is a reserve fund for a statewide deductible
15 self-insurance plan for elementary and secondary school
16 districts.

17 (2) A school district that elects to subscribe to this
18 plan must pay into the education building and insurance
19 account an annual premium based on the type and extent of
20 coverage. Premiums are established by the superintendent of
21 public instruction and must be set at a 75% loss ratio for
22 comprehensive insurance and at an 80% loss ratio for
23 liability insurance.

24 (3) A school district may elect to subscribe to the
25 plan for comprehensive coverage as defined in [section 17],

1 liability coverage as defined in [section 18], or both.

2 NEW SECTION. Section 17. Comprehensive insurance. (1)

3 Under the statewide deductible self-insurance plan
4 established in [section 16], comprehensive insurance covers
5 risks other than liability to:

6 (a) school buildings at 60% of the insured value;

7 (b) school equipment and supplies at 60% of the
8 insured value related to the premium paid and accountable on
9 inventory;

10 (c) school buses and cars at replacement value related
11 to the premium paid; and

12 (d) other property at the discretion of the
13 superintendent of public instruction.

14 (2) The deductible paid by the district on school
15 buildings, equipment, and supplies is the greater of \$1,000
16 or 1% of the district's general fund budget, to a maximum of
17 \$25,000 for the first loss. Each loss thereafter carries an
18 additional deductible of \$1,250 or 1.5% of the district's
19 general fund budget, whichever is greater.

20 (3) Sixty percent of each loss, less the deductible,
21 must be paid to the district from the education building and
22 insurance account.

23 (4) Forty percent of each loss, plus the deductible,
24 must be loaned to the district from the education building
25 and insurance account under the following terms and

1 conditions:

2 (a) The district shall repay the loan in amortized
3 payments at the annual interest rate established for loans
4 in [section 13].

5 (b) Notwithstanding any provisions of law to the
6 contrary, a district shall levy at least 2 mills but not
7 more than 10 mills annually to finance its loan payments,
8 even though as a result of this levy the maximum levy as
9 otherwise provided by law is exceeded thereby, provided that
10 the revenue derived therefrom is not used for any other
11 purpose.

12 (c) The loan period is 10 years or less.

13 (5) If losses exceed 75% of the premium income, all
14 losses must be prorated equally up to 60% of each individual
15 loss. The amount of the loss to the district is added to the
16 loan required by subsection (4).

17 NEW SECTION. Section 18. Liability insurance. (1)

18 Under the statewide deductible self-insurance plan
19 established in [section 16], liability insurance coverage is
20 limited to \$750,000 for each claim and \$1.5 million for each
21 occurrence.

22 (2) The deductible paid by the district is the greater
23 of \$1,000 or 1% of the district's general fund budget, to a
24 maximum of \$25,000 per loss.

25 (3) Eighty percent of each loss, less the deductible,

1 must be paid to the district from the education building and
2 insurance account.

3 (4) Twenty percent of each loss, plus the deductible,
4 must be loaned to the district from the education building
5 and insurance account under the following terms and
6 conditions:

7 (a) The district shall repay the loan in amortized
8 payments at the annual interest rate paid for loans under
9 [section 13].

10 (b) Notwithstanding any provisions of law to the
11 contrary, a district shall levy at least 2 mills but not
12 more than 10 mills annually to finance its loan payments,
13 even though as a result of this levy the maximum levy as
14 otherwise provided by law is exceeded thereby, provided that
15 the revenue derived therefrom is not used for any other
16 purpose.

17 (c) The loan period is 10 years or less.

18 (5) If losses exceed 80% of the premium income, all
19 losses must be prorated equally up to 80% of each individual
20 loss. The amount of the loss to the district is added to the
21 loan required by subsection (4).

22 NEW SECTION. Section 19. Administration of statewide
23 deductible self-insurance plan -- rulemaking authority. (1)
24 The superintendent of public instruction shall:

25 (a) adopt rules for the conduct of business under

1 [this act];

2 (b) determine insurance premiums and establish a
3 method of collection;

4 (c) pay, adjust, or deny claims arising under
5 [sections 17 and 18];

6 (d) administer and service the loans required by
7 [sections 17 and 18];

8 (e) maintain the education building and insurance fund
9 on an actuarially sound basis, with a reserve sufficient to
10 liquidate the claims liability of the deductible
11 self-insurance plan provided for in [section 16];

12 (f) collect reasonable fees or charges for the
13 servicing of loans; and

14 (g) provide for an annual audit of the education
15 building and insurance fund by the legislative auditor or an
16 independent certified public accountant.

17 (2) All claims against the education building and
18 insurance fund arising under [sections 17 and 18] must be
19 presented to and filed with the superintendent of public
20 instruction, and the superintendent of public instruction
21 may settle any claim subject to the terms of the insurance.

22 (3) The provisions of Title 33 do not apply to the
23 superintendent of public instruction when he is exercising
24 the powers and duties provided in this section.

25 NEW SECTION. Section 20. Immunization, defense, and

1 indemnification of employees of the superintendent of public
 2 instruction. The provisions of 2-9-305 apply to employees
 3 whose salaries are paid by the education building and
 4 insurance account, except that the costs of defending an
 5 action taken against an employee who is civilly sued for his
 6 actions within the course and scope of his employment must
 7 be paid from the education building and insurance account.

8 Section 21. Section 17-7-502, MCA, is amended to read:

9 "17-7-502. Statutory appropriations -- definition --
 10 requisites for validity. (1) A statutory appropriation is an
 11 appropriation made by permanent law that authorizes spending
 12 by a state agency without the need for a biennial
 13 legislative appropriation or budget amendment.

14 (2) Except as provided in subsection (4), to be
 15 effective, a statutory appropriation must comply with both
 16 of the following provisions:

17 (a) The law containing the statutory authority must be
 18 listed in subsection (3).

19 (b) The law or portion of the law making a statutory
 20 appropriation must specifically state that a statutory
 21 appropriation is made as provided in this section.

22 (3) The following laws are the only laws containing
 23 statutory appropriations:

- 24 (a) 2-9-202;
- 25 (b) 2-17-105;

- 1 (c) 2-18-812;
- 2 (d) 10-3-203;
- 3 (e) 10-3-312;
- 4 (f) 10-3-314;
- 5 (g) 10-4-301;
- 6 (h) 13-37-304;
- 7 (i) 15-31-702;
- 8 (j) 15-36-112;
- 9 (k) 15-70-101;
- 10 (l) 16-1-404;
- 11 (m) 16-1-410;
- 12 (n) 16-1-411;
- 13 (o) 17-3-212;
- 14 (p) 17-5-404;
- 15 (q) 17-5-424;
- 16 (r) 17-5-804;
- 17 (s) 19-8-504;
- 18 (t) 19-9-702;
- 19 (u) 19-9-1007;
- 20 (v) 19-10-205;
- 21 (w) 19-10-305;
- 22 (x) 19-10-506;
- 23 (y) 19-11-512;
- 24 (z) 19-11-513;
- 25 (aa) 19-11-606;

1 (bb) 19-12-301;
 2 (cc) 19-13-604;
 3 (dd) 20-6-406;
 4 (ee) 20-8-111;
 5 (ff) 23-5-612;
 6 (gg) 37-51-501;
 7 (hh) 53-24-206;
 8 (ii) 75-1-1101;
 9 (jj) 75-7-305;
 10 (kk) 80-2-103;
 11 (ll) 80-2-228;
 12 (mm) 90-3-301;
 13 (nn) 90-3-302;
 14 (oo) 90-15-103; and
 15 (pp) Sec. 13, HB 861, L. 1985; and
 16 (qq) [section 4].
 17 (4) There is a statutory appropriation to pay the
 18 principal, interest, premiums, and costs of issuing, paying,
 19 and securing all bonds, notes, or other obligations, as due,
 20 that have been authorized and issued pursuant to the laws of
 21 Montana. Agencies that have entered into agreements
 22 authorized by the laws of Montana to pay the state
 23 treasurer, for deposit in accordance with 17-2-101 through
 24 17-2-107, as determined by the state treasurer, an amount
 25 sufficient to pay the principal and interest as due on the

1 bonds or notes have statutory appropriation authority for
 2 such payments."
 3 NEW SECTION. Section 22. Severability. If a part of
 4 this act is invalid, all valid parts that are severable from
 5 the invalid part remain in effect. If a part of this act is
 6 invalid in one or more of its applications, the part remains
 7 in effect in all valid applications that are severable from
 8 the invalid applications.
 9 NEW SECTION. Section 23. Requirements for approval of
 10 appropriation from coal severance tax permanent fund --
 11 severability. Because sections 4 and 10 appropriate and
 12 pledge money from the coal severance tax trust fund
 13 established by Article IX, section 5, of the Montana
 14 constitution, a vote of three-fourths of the members of each
 15 house is required for enactment of sections 4 and 10. If
 16 sections 4 and 10 are not approved by the required vote,
 17 sections 4 and 10 are void and the remaining sections of
 18 this act are valid and remain in effect in all valid
 19 applications upon enactment.
 20 NEW SECTION. Section 24. Codification instruction.
 21 Sections 1 through 20 are intended to be codified as an
 22 integral part of Title 20, chapter 9, and the provisions of
 23 Title 20, chapter 9, apply to sections 1 through 20.
 24 NEW SECTION. Section 25. Effective date. This act is
 25 effective July 1, 1987.