HOUSE BILL NO. 701

INTRODUCED BY DRISCOLL, SOUTHWORTH, CRIPPEN, RYE, TOWE, PIPINICH, QUILICI, MENAHAN, JACOBSON, CODY, HARRINGTON, T. NELSON, B. BROWN, KIMBERLEY, BLAYLOCK, HAGER, LYNCH, YELLOWTAIL, KENNEDY, FRITZ, FARRELL, BRADLEY, ANDERSON, NOBLE, WEEDING, WILLIAMS, DEVLIN, BURNETT, BENGTSON, THAYER, HARP, GAGE, DOHERTY, T. BECK, NATHE, MCCARTHY, MCCULLOCH, STICKNEY, WHALEN, KEATING, R. JOHNSON

IN THE HOUSE

FEBRUARY	8,	1991	INT	RODUCED	AND	REFERRED	то	COMMITTEE
			ON '	TAXATION	N.			

FIRST READING.

MARCH 19, 1991 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 20, 1991 PRINTING REPORT.

APRIL 3, 1991 SECOND READING, DO PASS.

ON MOTION, RULES SUSPENDED. BILL PLACED ON THIRD READING THIS DAY.

INTRODUCED AND REFERRED TO COMMITTEE

THIRD READING, PASSED. AYES, 92; NOES, 8.

APRIL 4, 1991

ENGROSSING REPORT.

TRANSMITTED TO SENATE.

IN THE SENATE

ON TAXATION.

APRIL 4, 1991

FIRST READING.

APRIL 15, 1991

APRIL 17, 1991

COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

APRIL 16, 1991 SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 18, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 19, 1991

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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1 2 INTRODUCED BY X 3 PROVIDING STATE FUNDING Hayer 4 FOR AN ACT EN TECHNOLOGY PROPECTS; AUTHORIZING PROPERTY TAX 3 radia 5 CLEAN COAL EXEMPTIONS FOR CLEAN COAL TECHNOLOGY 6 тю́ THE COAL COAL /TECHNOLOGY DEMONSTRA alen SEVERANCE TAX TRUST FUND; AUTHORIZING INVESTMENT LOANS FOR CLEAN COAL TECHNOLOGY AUTHORIZED PROJECTS BY THE 10 LEGISLATURE: AUTHORIZING THE FIRST PROJECT TO BE ELIGIBLE FOR A LOAN; AMENDING SECTION 17-5-703, MCA; AND PROVIDING AN 11 12 EFFECTIVE DATE."

13 14

STATEMENT OF INTENT

A statement of intent is required for this bill because 15 it grants rulemaking authority to the department of natural 16 resources and conservation. In adopting rules to implement 17 this bill, the department should model its rules on the 18 water development project loans that it currently 19 20 administers.

21

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

23 <u>NEW SECTION.</u> Section 1. Definitions. As used in
 24 [section 2], the following definitions apply:

25 (1) "Clean coal technology project" means a project

intana Legislative Council

that uses coal as a method of generating energy, that is an effective and efficient method of coal energy generation and, that results in substantially reduced pollutant emissions compared to the commercial methods of coal energy generation in use at the time.

(2) "Department" means the department of natural resources and conservation established in 2-15-3301.

8 (3) "Local government" means a county, consolidated9 government, incorporated city or town, and school district.

10 <u>NEW SECTION.</u> Section 2. Clean coal technology tax
11 exemption -- procedure -- termination. (1) A clean coal
12 technology project is eligible for an exemption from
13 property taxes as provided in this section. A project must
14 be designated as a clean coal technology project by the
15 department under criteria contained in [section 8].

16 (2) In order to qualify for the tax exemption described 17 in this section, the legislature shall approve the project 18 and the governing body of each affected local government 19 shall approve the tax exemption by resolution, after notice 20 and hearing.

(3) If the governing body of each affected local
government approves a resolution granting the tax exemption
for a clean coal technology project, the project is exempt
from all state and local property taxes.

25 (4) Funds made available to a clean coal technology

INTRODUCED BILL -2-UR MOI

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project as a result of the tax exemption under this section
 must be used for project development, construction, or
 operation or for payment of debt service on instruments used
 to fund project development, construction, or operation.

5 (5) A tax exemption granted under this section is 6 effective for the life of the project or 25 years, whichever 7 occurs first. The termination of the exemption applies on 8 January 1 of the taxable year following the expiration of 9 the exemption.

Section 3. Section 17-5-703, MCA, is amended to read: "17-5-703. Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution shall be composed of the following funds:

15 (a) a coal severance tax bond fund into which the 16 constitutionally dedicated receipts from the coal severance 17 tax shall be deposited;

18 (b) a clean coal technology demonstration fund;

19 (b)(c) a coal severance tax permanent fund; and 20 (c)(d) a coal severance tax income fund.

(2) The state treasurer shall from--time--to---time transfer--to-the-coal-severance-tax-permanent-fund-all-money in-the-coal-severance-tax-bond--fund--except determine the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund on

1	the next two ensuing semiannual payment dates and retain
2	that amount in the coal severance tax bond fund.
3	(3) Beginning on July 1, 1991, and ending on June 30,
4	1997, the state treasurer shall transfer from the excess
5	amount in the coal severance tax bond fund \$5 million a year
6	to the clean coal technology demonstration fund and any
7	remaining amount to the coal severance tax permanent fund."
8	NEW SECTION. Section 4. Clean coal technology
9	demonstration fund. (1) There is a clean coal technology
10	demonstration fund in the state treasury. The fund consists
11	of money that would otherwise be deposited in the coal
12	severance tax permanent fund from the coal severance tax
13	bond fund, the principal and interest received from the
14	repayment of loans made from the fund, and money from any
15	other source the legislature determines.
16	(2) The clean coal technology demonstration fund may be
17	invested by the department of natural resources and
18	conservation in loans to clean coal technology projects
19	approved by the legislature.
20	NEW SECTION. Section 5. Definitions. As used in
21	[sections 6 through 9], the following definitions apply:
22	 "Clean coal technology project" means a project,
23	that employs an effective and efficient method of using coal
24	to generate energy and that results in substantially reduced
25	pollutant emissions compared to the commercial methods of

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1 coal energy generation in use at the time.

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2 (2) "Department" means the department of natural
3 resources and conservation established in 2-15-3301.

4 (3) "Person" means an individual, association,
5 partnership, corporation, or other entity.

NEW SECTION. Section 6. Clean 6 coal technology 7 demonstration loans. (1) The department shall make clean 8 coal technology demonstration loans from the clean coal 9 technology demonstration fund for clean coal technology 10 projects authorized by the legislature. The department shall 11 review loan applications and make recommendations to the 12 legislature concerning loans.

13 (2) Loans may be secured or unsecured in nature and 14 must contain repayment provisions using income sources that 15 do not jeopardize the financial viability of the projects. 16 Repayment may be made from operating income, net project 17 income, revenue from the licensing or sale of technology, 18 sale or lease of the project, or other sources determined by 19 the department.

20 (3) The department may determine the payment dates for 21 the loan, a rate of interest for the loan, and other 22 provisions as part of the loan agreement. The rate of 23 interest, security provisions, and other terms that increase 24 the likelihood of repayment may not be less than those 25 related to any federal funds dedicated to a project. Payments of principal and interest on loans must be
 deposited in the clean coal technology demonstration fund
 created in [section 4].

4 NEW SECTION. Section 7. Applications for clean coal 5 technology demonstration loans. A person may apply for a 6 clean coal technology demonstration loan for a clean coal 7 technology project to be conducted in Montana. An 8 application for a loan must be in a form prescribed by the 9 department and contain or be accompanied by any information necessary to adequately describe the proposed project and 10 11 necessary to evaluate the proposed project.

NEW SECTION. Section 8. Eligibility for loan -- clean 12 13 coal technology project designation. (1) In order for a 14 project to be eligible for a clean coal technology 15 demonstration loan, the department shall designate the 16 project as a clean coal technology project. The department 17 shall ensure, based on the application and the department's 18 investigation and evaluation of the proposal, that the 19 project loan will be:

(a) used for a clean coal technology project in a
 commercial testing, pilot plant, or initial commercial
 capitalization phase; and

23 (b) matched on at least a 4:1 basis from federal or 24 private sources.

25 (2) Loans may not be recommended for early stage

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1 planning or basic research activities.

<u>NEW SECTION.</u> Section 9. Rulemaking. The department may
 adopt rules to implement [sections 5 through 9].

NEW SECTION. Section 10. Project 4 approval. The 5 legislature authorizes the installation of MHD technology at 6 the J.E. Corette power plant in Billings, Montana, as the 7 first clean coal technology project. The project is eligible to apply to local governments for a property tax exemption 8 under [section 2]. The project is designated as a clean coal 9 10 technology project eligible to receive a clean coal 11 technology demonstration loan.

<u>NEW SECTION.</u> Section 11. Transfer of funds. There is
 transferred from the coal severance tax permanent fund \$25
 million to the clean coal technology demonstration fund.

NEW SECTION. Section 12. Codification instruction. (1)
[Sections 1 and 2] are intended to be codified as an
integral part of Title 15, chapter 24, and the provisions of
Title 15, chapter 24, apply to [sections 1 and 2].

19 (2) [Sections 4 through 9] are intended to be codified 20 as an integral part of Title 90, chapter 4, and the 21 provisions of Title 90, chapter 4, apply to [sections 4 22 through 9].

23 <u>NEW SECTION.</u> Section 13. Effective date. [This act] is
24 effective July 1, 1991.

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-End-

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STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0701, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill: 1) provides state funding for clean coal technology projects; 2) authorizes property tax exemptions for clean coal technology demonstration fund in the coal severance tax trust fund; 4) authorizes investment loans for clean coal technology projects authorized by the legislature; and 5) authorizes the first project to be eligible for a loan.

ASSUMPTIONS:

- 1. Assume no other legislation is passed that affects the CST trust.
- 2. DNRC will establish criteria for eligible projects and write rules for the loan process during FY92.
- 3. Assume \$25 million is moved from the permanent trust to the new clean coal demonstration fund account within the trust.
- 4. The rate of return on clean coal technology loans will be equal to the interest earned by the permanent trust fund; therefore, the general fund and the school foundation program will not experience a loss of revenue.
- 5. The property tax exemption applies only to additional land, plant, and equipment purchased which is associated with a clean coal technology project.
- 6. Only one project, the MHD-Corette project in Billings, will qualify as a clean coal technology project beginning in FY92 but no loans from the trust will be made without legislative approval.
- 7. All local governments concerned must approve the tax exemption for the MHD-Corette clean coal technology project before such exemptions could be effective.

FISCAL IMPACT:

No fiscal impact.

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ROD SUNDSTED, BUDGET DIRECTOR DA Office of Budget and Program Planning

JERRY L. DRISCOLL, PRIMARY SPONSOR

Fiscal Note for HB0701, as introduced

HB Jol

DATE

52nd Legislature

HB 0701/02

APPROVED BY COMMITTEE ON TAXATION

1 HOUSE BILL NO. 701 2 INTRODUCED BY DRISCOLL, SOUTHWORTH, CRIPPEN, RYE, 3 TOWE, PIPINICH, QUILICI, MENAHAN, JACOBSON, CODY, Δ HARRINGTON, T. NELSON, B. BROWN, KIMBERLEY, BLAYLOCK, S HAGER, LYNCH, YELLOWTAIL, KENNEDY, FRITZ, FARRELL, BRADLEY, ANDERSON, NOBLE, WEEDING, WILLIAMS, DEVLIN, 6 7 BURNETT, BENGTSON, THAYER, HARP, GAGE, DOHERTY, T. BECK, NATHE, 8 MCCARTHY, MCCULLOCH, STICKNEY, WHALEN, KEATING, R. JOHNSON 9 10 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING STATE FUNDING FOR CLEAN COAL TECHNOLOGY PROJECTS; AUTHORIZING PROPERTY TAX 11 12 EXEMPTIONS FOR CLEAN COAL TECHNOLOGY PROJECTS; CREATING A 13 CLEAN COAL TECHNOLOGY DEMONSTRATION FUND IN THE COAL 14 SEVERANCE TAX TRUST FUND; AUTHORIZING INVESTMENT LOANS FOR 15 CLEAN COAL TECHNOLOGY PROJECTS AUTHORIZED BY THE 16 LEGISLATURE; AUTHORIZING THE FIRST PROJECT TO BE ELIGIBLE 17 FOR A LOAN; AMENDING SECTION 17-5-703, MCA; AND PROVIDING AN 18 EFFECTIVE DATE."

19 20

STATEMENT OF INTENT

A statement of intent is required for this bill because it grants rulemaking authority to the department of natural resources and conservation. In adopting rules to implement this bill, the department should model its rules on the water development project loans that it currently



l administers.

2

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

<u>NEW SECTION.</u> Section 1. Definitions. As used in
 [section 2], the following definitions apply:

6 (1) "Clean coal technology project" means a project 7 that uses coal as a method of generating energy, that is an 8 effective and efficient method of coal energy generation 9 and, that results in substantially reduced pollutant 10 emissions compared to the commercial methods of coal energy 11 generation in use at the time.

(2) "Department" means the department of naturalresources and conservation established in 2-15-3301.

14 (3) "Local government" means a county, consolidated15 government, incorporated city or town, and school district.

16 <u>NEW SECTION.</u> Section 2. Clean coal technology tax 17 exemption -- procedure -- termination. (1) A THE BUILDINGS, 18 <u>FACILITIES, OR EQUIPMENT INSTALLED UNDER A</u> clean coal 19 technology project is eligible for an exemption from 20 property taxes as provided in this section. A project must 21 be designated as a clean coal technology project by the 22 department under criteria contained in [section 8].

(2) In order to qualify for the tax exemption described
 in this section, the legislature shall--approve <u>MUST_HAVE</u>
 <u>APPROVED</u> the project and the governing body of each affected

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SECOND READING

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local government shall--approve MUST HAVE APPROVED the tax 1 2 exemption by resolution, after notice and hearing. THE 3 GOVERNING BODY OF EACH AFFECTED LOCAL GOVERNMENT MUST BE NOTIFIED IN WRITING OF THE BUILDINGS, FACILITIES, AND 4 5 EQUIPMENT PROPOSED TO BE EXEMPT FROM TAXATION AND THE VALUE OF THE BUILDINGS, FACILITIES, AND EQUIPMENT. A TAX EXEMPTION 6 7 MAY NOT BE GRANTED UNDER THIS SECTION UNLESS IT IS APPROVED 8 BY EVERY LOCAL GOVERNMENT THAT WOULD BE AFFECTED BY THE 9 PROJECT. 10 (3) If the governing body of each affected local government approves a resolution granting the tax exemption 11

12 for a clean coal technology project, the <u>BUILDINGS</u>, 13 <u>FACILITIES</u>, OR <u>EQUIPMENT</u> INSTALLED UNDER THE project is 14 exempt from att <u>THE SPECIFIED PERCENTAGE OF</u> state and local 15 property taxes <u>AS APPROVED BY THE GOVERNING BODIES</u>. THE 16 <u>PERCENTAGE AMOUNT MAY BE ANY AMOUNT UP TO 100%</u>, BUT IT MUST 17 BE THE SAME FOR ALL STATE AND LOCAL PROPERTY TAXES.

18 (4) Funds made available to a clean coal technology 19 project as a result of the tax exemption under this section 20 must be used for project development, construction, or 21 operation or for payment of debt service on instruments used 22 to fund project development, construction, or operation.

(5) <u>THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE</u>
 DEPARTMENT OF REVENUE'S AGENT IN THE COUNTY OR COUNTIES IN
 WHICH THE PROJECT IS LOCATED OF THE DATE THE FINAL APPROVAL

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FOR THE TAX EXEMPTION OF THE PROPERTY WAS GRANTED UNDER THIS 1 2 SECTION AND SHALL SPECIFICALLY IDENTIFY EACH PIECE OF REAL 3 OR PERSONAL PROPERTY SUBJECT TO THE TAX EXEMPTION. A tax 4 exemption granted under this section is effective for the 5 life of the project or 25 years, whichever occurs first. THE TAX EXEMPTION BEGINS ON JANUARY 1 OF THE YEAR AFTER THE 6 DEPARTMENT OF REVENUE RECEIVES NOTIFICATION OF THE FINAL 7 8 APPROVAL UNDER THIS SECTION. THE DEPARTMENT SHALL, IN 9 WRITING, NOTIFY THE DEPARTMENT OF REVENUE'S AGENT IN THE 10 COUNTY OR COUNTIES IN WHICH THE PROJECT IS LOCATED WHEN THE EXEMPTION HAS EXPIRED. The termination of the exemption 11 12 applies on January 1 of the taxable year following the 13 expiration of the exemption. 14 **Section 3.** Section 17-5-703, MCA, is amended to read: 15 *17-5-703. Coal severance tax trust funds. (1) The 16 trust established under Article IX, section 5, of the 17 Montana constitution shall be composed of the following 18 funds: 19 (a) a coal severance tax bond fund into which the 20 constitutionally dedicated receipts from the coal severance 21 tax shall be deposited; 22 (b) a clean coal technology demonstration fund; 23 (b)(c) a coal severance tax permanent fund; and 24 (d) a coal severance tax income fund. 25 (2) The state treasurer shall from--time--to--time

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1 transfer-to-the-coal-severance-tax-permanent-fund-all--money 2 in--the--coal--severance--tax-bond-fund-except determine the 3 amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund on 4 5 the next two ensuing semiannual payment dates and retain 6 that amount in the coal severance tax bond fund. 7 (3) Beginning on July 1, 1991, and ending on June 30, 8 1997, the state treasurer shall FROM TIME TO TIME transfer 9 from the excess amount in the coal severance tax bond fund 10 \$5 million a year to the clean coal technology demonstration fund and any remaining amount to the coal severance tax 11 12 permanent fund."

NEW SECTION. Section 4. Clean 13 coal technology 14 demonstration fund. (1) There is a clean coal technology demonstration fund in the state treasury. The fund consists 15 16 of money that would otherwise be deposited in the coal 17 severance tax permanent fund from the coal severance tax 18 bond fund, the principal and--interest received from the 19 repayment of loans made from the fund, and money from any 20 other source the legislature determines.

(2) The clean coal technology demonstration fund may be
invested by the department of natural resources and
conservation in loans to clean coal technology projects
approved by the legislature.

25 NEW SECTION. Section 5. Definitions. As used in

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1 [sections 6 through 9], the following definitions apply: 2 (1) "Clean coal technology project" means a project, 3 that employs an effective and efficient method of using coal 4 to generate energy and that results in substantially reduced 5 pollutant emissions compared to the commercial methods of 6 coal energy generation in use at the time. 7 (2) "Department" means the department of natural **Q** resources and conservation established in 2-15-3301. 9 (3) "Person" means an individual, association, 10 partnership, corporation, or other entity. 11 NEW SECTION. Section 6. Clean coal technology 12 demonstration loans. (1) The department shall make clean 13 coal technology demonstration loans from the clean coal 14 technology demonstration fund for clean coal technology 15 projects authorized by the legislature. The department shall 16 review loan applications and make recommendations to the 17 legislature concerning loans. 18 (2) Loans may be secured or unsecured in nature and 19 must contain repayment provisions using income sources that 20 do not jeopardize the financial viability of the projects. 21 Repayment may be made from operating income, net project

23 sale or lease of the project, or other sources determined by 24 che department.

(3) The department may determine the payment dates for

income, revenue from the licensing or sale of technology,

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1 the loan, a rate of interest for the loan, and other 2 provisions as part of the loan agreement. The rate of 3 interest, security provisions, and other terms that increase 4 the likelihood of repayment may not be less than those 5 related to any federal funds dedicated to a project. 6 Payments of principal and--interest on loans must be 7 deposited in the clean coal technology demonstration fund 8 created in [section 4].

NEW SECTION. Section 7. Applications for clean coal 9 10 technology demonstration loans. A person may apply for a 11 clean coal technology demonstration loan for a clean coal technology project to be conducted in Montana. An 12 13 application for a loan must be in a form prescribed by the 14 department and contain or be accompanied by any information 15 necessary to adequately describe the proposed project and 16 necessary to evaluate the proposed project.

NEW SECTION. Section 8. Eligibility for loan -- clean 17 18 coal technology project designation. (1) In order for a project to be eligible for a clean coal technology 19 20 demonstration loan, the department shall designate the project as a clean coal technology project. The department 21 22 shall ensure, based on the application and the department's 23 investigation and evaluation of the proposal, that the 24 project loan will be:

25 (a) used for a clean coal technology project in a

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1 commercial testing, pilot plant, or initial commercial 2 capitalization <u>COMMERCIALIZATION</u> phase; and 3 (b) matched on at least a 4:1 basis from federal or 4 private sources.

5 (2) Loans may not be recommended for early stage6 planning or basic research activities.

NEW SECTION. Section 9. Rulemaking. The department may
 adopt rules to implement [sections 5 through 9].

9 NEW SECTION. Section 10. Project approval. The 10 legislature authorizes the installation of MHD technology at 11 the J.E. Corette power plant in Billings, Montana, as the 12 first clean coal technology project. The project is eligible 13 to apply to local governments for a property tax exemption 14 under [section 2]. The project is designated as a clean coal 15 technology project eligible to receive a clean coal technology demonstration loan IN AN AMOUNT UP TO \$25 16 17 MILLION.

18 <u>NEW SECTION.</u> Section 11. Transfer of funds. There is
 19 transferred from the coal severance tax permanent fund \$25
 20 million to the clean coal technology demonstration fund.

21 <u>NEW SECTION.</u> Section 12. Codification instruction. (1)
22 [Sections 1 and 2] are intended to be codified as an
23 integral part of Title 15, chapter 24, and the provisions of
24 Title 15, chapter 24, apply to [sections 1 and 2].

25 (2) [Sections 4 through 9] are intended to be codified

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1 as an integral part of Title 90, chapter 4, and the 2 provisions of Title 90, chapter 4, apply to [sections 4

3 through 9].

4 NEW SECTION. Section 13. Effective date. [This act] is

5 effective July 1, 1991.

-End-

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HB 0701/02

1	HOUSE BILL NO. 701	1	administers.
2	INTRODUCED BY DRISCOLL, SOUTHWORTH, CRIPPEN, RYE,	2	
3	TOWE, PIPINICH, QUILICI, MENAHAN, JACOBSON, CODY,	3	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
4	HARRINGTON, T. NELSON, B. BROWN, KIMBERLEY, BLAYLOCK,	4	NEW SECTION. Section 1. Definitions. As used in
5	HAGER, LYNCH, YELLOWTAIL, KENNEDY, FRITZ, FARRELL,	5	[section 2], the following definitions apply:
6	BRADLEY, ANDERSON, NOBLE, WEEDING, WILLIAMS, DEVLIN,	6	(1) "Clean coal technology project" means a project
7	BURNETT, BENGTSON, THAYER, HARP, GAGE, DOHERTY, T. BECK, NATHE,	7	that uses coal as a method of generating energy, that is an
8	MCCARTHY, MCCULLOCH, STICKNEY, WHALEN, KEATING, R. JOHNSON	8	effective and efficient method of coal energy generation
9		9	and, that results in substantially reduced pollutant
10	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING STATE FUNDING	10	emissions compared to the commercial methods of coal energy
11	FOR CLEAN COAL TECHNOLOGY PROJECTS; AUTHORIZING PROPERTY TAX	11	generation in use at the time.
12	EXEMPTIONS FOR CLEAN COAL TECHNOLOGY PROJECTS; CREATING A	12	(2) "Department" means the department of natural
13	CLEAN COAL TECHNOLOGY DEMONSTRATION FUND IN THE COAL	13	resources and conservation established in 2-15-3301.
14	SEVERANCE TAX TRUST FUND; AUTHORIZING INVESTMENT LOANS FOR	14	(3) "Local government" means a county, consolidated
15	CLEAN COAL TECHNOLOGY PROJECTS AUTHORIZED BY THE	15	government, incorporated city or town, and school district.
16	LEGISLATURE; AUTHORIZING THE FIRST PROJECT TO BE ELIGIBLE	16	NEW SECTION. Section 2. Clean coal technology tax
17	FOR A LOAN; AMENDING SECTION 17-5-703, MCA; AND PROVIDING AN	17	exemption procedure termination. (1) A THE BUILDINGS,
18	EFFECTIVE DATE."		
19		18	FACILITIES, OR EQUIPMENT INSTALLED UNDER A clean coal
20	STATEMENT OF INTENT	19	technology project is eligible for an exemption from
21	A statement of intent is required for this bill because	20	property taxes as provided in this section. A project must
22	it grants rulemaking authority to the department of natural	21	be designated as a clean coal technology project by the
23	3 resources and conservation. In adopting rules to implement		department under criteria contained in [section 8].
24			(2) In order to qualify for the tax exemption described
	this bill, the department should model its rules on the	24	in this section, the legislature shallapprove MUST HAVE
25	water development project loans that it currently	25	AFPROVED the project and the governing body of each affected

Montana Legislative Council

THIRD READING

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1	local government shallapprove MUST HAVE APPROVED the tax
2	exemption by resolution, after notice and hearing. THE
3	GOVERNING BODY OF EACH AFFECTED LOCAL GOVERNMENT MUST BE
4	NOTIFIED IN WRITING OF THE BUILDINGS, FACILITIES, AND
5	EQUIPMENT PROPOSED TO BE EXEMPT FROM TAXATION AND THE VALUE
6	OF THE BUILDINGS, FACILITIES, AND EQUIPMENT. A TAX EXEMPTION
7	MAY NOT BE GRANTED UNDER THIS SECTION UNLESS IT IS APPROVED
8	BY EVERY LOCAL GOVERNMENT THAT WOULD BE AFFECTED BY THE
9	PROJECT.
10	(3) If the governing body of each affected local
11	government approves a resolution granting the tax exemption
12	for a clean coal technology project, the BUILDINGS ,
13	FACILITIES, OR EQUIPMENT INSTALLED UNDER THE project is
14	exempt from all THE SPECIFIED PERCENTAGE OF state and local
15	property taxes AS APPROVED BY THE GOVERNING BODIES. THE
16	PERCENTAGE AMOUNT MAY BE ANY AMOUNT UP TO 100%, BUT IT MUST
17	BE THE SAME FOR ALL STATE AND LOCAL PROPERTY TAXES.
18	(4) Funds made available to a clean coal technology
19	project as a result of the tax exemption under this section
20	must be used for project development, construction, or
21	operation or for payment of debt service on instruments used
22	to fund project development, construction, or operation.
23	(5) THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE
24	DEPARTMENT OF REVENUE'S AGENT IN THE COUNTY OR COUNTIES IN
25	WHICH THE PROJECT IS LOCATED OF THE DATE THE FINAL APPROVAL
	-3- нв 701

1	FOR THE TAX EXEMPTION OF THE PROPERTY WAS GRANTED UNDER THIS
2	SECTION AND SHALL SPECIFICALLY IDENTIFY EACH PIECE OF REAL
3	OR PERSONAL PROPERTY SUBJECT TO THE TAX EXEMPTION. A tax
4	exemption granted under this section is effective for the
5	life of the project or 25 years, whichever occurs first. THE
6	TAX EXEMPTION BEGINS ON JANUARY 1 OF THE YEAR AFTER THE
7	DEPARTMENT OF REVENUE RECEIVES NOTIFICATION OF THE FINAL
8	APPROVAL UNDER THIS SECTION. THE DEPARTMENT SHALL, IN
9	WRITING, NOTIFY THE DEPARTMENT OF REVENUE'S AGENT IN THE
10	COUNTY OR COUNTIES IN WHICH THE PROJECT IS LOCATED WHEN THE
11	EXEMPTION HAS EXPIRED. The termination of the exemption
12	applies on January 1 of the taxable year following the
13	expiration of the exemption.
14	Section 3. Section 17-5-703, MCA, is amended to read:
15	*17-5-703. Coal severance tax trust funds. (1) The
16	trust established under Article IX, section 5, of the
17	Montana constitution shall be composed of the following
18	funds:
19	(a) a coal severance tax bond fund into which the
20	constitutionally dedicated receipts from the coal severance
21	tax shall be deposited;
22	(b) a clean coal technology demonstration fund;
23	<pre>{b;(c) a coal severance tax permanent fund; and</pre>
24	(c)(d) a coal severance tax income fund.
25	(2) The state treasurer shall fromtimetotime

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transfer-to-the-coal-severance-tax-permanent-fund-all--money in--the--coal--severance--tax-bond-fund-except determine the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund on the next two ensuing semiannual payment dates and retain that amount in the coal severance tax bond fund. (3) Beginning on July 1, 1991, and ending on June 30,

8 1997, the state treasurer shall FROM TIME TO TIME transfer
9 from the excess amount in the coal severance tax bond fund
10 \$5 million a year to the clean coal technology demonstration
11 fund and any remaining amount to the coal severance tax
12 permanent fund."

13 NEW SECTION. Section 4. Clean coal technology demonstration fund. (1) There is a clean coal technology 14 demonstration fund in the state treasury. The fund consists 15 16 of money that would otherwise be deposited in the coal 17 severance tax permanent fund from the coal severance tax bond fund, the principal and--interest received from the 18 19 repayment of loans made from the fund, and money from any other source the legislature determines. 20

(2) The clean coal technology demonstration fund may be
invested by the department of natural resources and
conservation in loans to clean coal technology projects
approved by the legislature.

25 NEW SECTION. Section 5. Definitions. As used in

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1 [sections 6 through 9], the following definitions apply: 2 (1) "Clean coal technology project" means a project, 3 that employs an effective and efficient method of using coal 4 to generate energy and that results in substantially reduced 5 pollutant emissions compared to the commercial methods of 6 coal energy generation in use at the time. 7 (2) "Department" means the department of natural 8 resources and conservation established in 2-15-3301. 9 (3) "Person" means an individual, association, 10 partnership, corporation, or other entity. NEW SECTION. Section 6. Clean 11 coal technology 12 demonstration loans. (1) The department shall make clean 13 coal technology demonstration loans from the clean coal 14 technology demonstration fund for clean coal technology 15 projects authorized by the legislature. The department shall 16 review loan applications and make recommendations to the 17 legislature concerning loans. 18 (2) Loans may be secured or unsecured in nature and 19 must contain repayment provisions using income sources that 20 do not jeopardize the financial viability of the projects.

21 Repayment may be made from operating income, net project 22 income, revenue from the licensing or sale of technology, 23 sale or lease of the project, or other sources determined by 24 the department.

25 (3) The department may determine the payment dates for

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1 the loan, a rate of interest for the loan, and other 2 provisions as part of the loan agreement. The rate of 3 interest, security provisions, and other terms that increase the likelihood of repayment may not be less than those 4 5 related to any federal funds dedicated to a project. Payments of principal and--interest on loans must be 6 deposited in the clean coal technology demonstration fund 7 8 created in [section 4].

9 NEW SECTION. Section 7. Applications for clean coal 10 technology demonstration loans. A person may apply for a 11 clean coal technology demonstration loan for a clean coal 12 technology project to be conducted in Montana. An 13 application for a loan must be in a form prescribed by the 14 department and contain or be accompanied by any information 15 necessary to adequately describe the proposed project and 16 necessary to evaluate the proposed project.

17 NEW SECTION. Section 8. Eligibility for loan -- clean 18 coal technology project designation. (1) In order for a 19 project to be eligible for a clean coal technology 20 demonstration loan, the department shall designate the 21 project as a clean coal technology project. The department 22 shall ensure, based on the application and the department's 23 investigation and evaluation of the proposal, that the 24 project loan will be:

25 (a) used for a clean coal technology project in a

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commercial testing, pilot plant, or initial commercial 1 2 capitalization COMMERCIALIZATION phase; and (b) matched on at least a 4:1 basis from federal or 3 4 private sources. 5 (2) Loans may not be recommended for early stage planning or basic research activities. 6 NEW SECTION. Section 9. Rulemaking. The department may 7 8 adopt rules to implement [sections 5 through 9]. NEW SECTION. Section 10. Project 9 The approval. 10 legislature authorizes the installation of MHD technology at 11 the J.E. Corette power plant in Billings, Montana, as the first clean coal technology project. The project is eligible 12 13 to apply to local governments for a property tax exemption under [section 2]. The project is designated as a clean coal 14 15 technology project eligible to receive a clean coal technology demonstration loan IN AN AMOUNT UP TO \$25 16 17 MILLION. 18 NEW SECTION. Section 11. Transfer of funds. There is

18 <u>NEW SECTION.</u> Section 11. Transfer of runds. There is
 19 transferred from the coal severance tax permanent fund \$25
 20 million to the clean coal technology demonstration fund.

21 <u>NEW_SECTION.</u> Section 12. Codification instruction. (1)
22 [Sections 1 and 2] are intended to be codified as an
23 integral part of Title 15, chapter 24, and the provisions of
24 Title 15, chapter 24, apply to [sections 1 and 2].

(2) [Sections 4 through 9] are intended to be codified

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1 as an integral part of Title 90, chapter 4, and the 2 provisions of Title 90, chapter 4, apply to {sections 4 3 through 9].

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4 <u>NEW SECTION.</u> Section 13. Effective date. [This act] is
5 effective July 1, 1991.

-End-

Page 1 of 1 April 15, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 701 (third reading copy -- blue), respectfully report that House Bill No. 701 be amended and as so amended be concurred in:

- 1. Page 9.
- Following: line 3

Insert: "<u>NEW SECTION.</u> Section 13. Coordination instruction. If House Bill No. 795 is passed and approved, then the clean coal technology demonstration fund created in 17-5-703(1)(b) of [this act] becomes 17-5-703(1)(c) and the code commissioner shall change references to the coal severance tax bond fund in [section 3(3) of this act] and [section 4(1) of this act] to the coal severance tax infrastructure fund."

Renumber: subsequent section

Signed: Mike Hall ĺgan, Chairman

And. Coord.

of Senate

SENATE HB 701

1	HOUSE BILL NO. 701
2	INTRODUCED BY DRISCOLL, SOUTHWORTH, CRIPPEN, RYE,
3	TOWE, PIPINICH, QUILICI, MENAHAN, JACOBSON, CODY,
4	HARRINGTON, T. NELSON, B. BROWN, KIMBERLEY, BLAYLOCK,
5	HAGER, LYNCH, YELLOWTAIL, KENNEDY, FRITZ, FARRELL,
6	BRADLEY, ANDERSON, NOBLE, WEEDING, WILLIAMS, DEVLIN,
7	BURNETT, BENGTSON, THAYER, HARP, GAGE, DOHERTY, T. BECK, NATHE,
8	MCCARTHY, MCCULLOCH, STICKNEY, WHALEN, KEATING, R. JOHNSON
9	
10	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING STATE FUNDING
11	FOR CLEAN COAL TECHNOLOGY PROJECTS; AUTHORIZING PROPERTY TAX
12	EXEMPTIONS FOR CLEAN COAL TECHNOLOGY PROJECTS; CREATING A
13	CLEAN COAL TECHNOLOGY DEMONSTRATION FUND IN THE COAL
14	SEVERANCE TAX TRUST FUND; AUTHORIZING INVESTMENT LOANS FOR
15	CLEAN COAL TECHNOLOGY PROJECTS AUTHORIZED BY THE
16	LEGISLATURE; AUTHORIZING THE FIRST PROJECT TO BE ELIGIBLE
17	FOR A LOAN; AMENDING SECTION 17-5-703, MCA; AND PROVIDING AN
18	EFFECTIVE DATE."

19 20

STATEMENT OF INTENT

A statement of intent is required for this bill because it grants rulemaking authority to the department of natural resources and conservation. In adopting rules to implement this bill, the department should model its rules on the water development project loans that it currently



1 administers.

2 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: NEW SECTION. Section 1. Definitions. 4 As used in 5 [section 2], the following definitions apply: 6 (1) "Clean coal technology project" means a project 7 that uses coal as a method of generating energy, that is an 8 effective and efficient method of coal energy generation 9 that results in substantially reduced pollutant and. 10 emissions compared to the commercial methods of coal energy 11 generation in use at the time. 12 (2) "Department" means the department of natural 13 resources and conservation established in 2-15-3301. 14 (3) "Local government" means a county, consolidated 15 government, incorporated city or town, and school district. 16 NEW SECTION. Section 2. Clean coal technology tax 17 exemption -- procedure -- termination. (1) A THE BUILDINGS, 18 FACILITIES, OR EQUIPMENT INSTALLED UNDER A clean coal 19 technology project is eligible for an exemption from 20 property taxes as provided in this section. A project must 21 be designated as a clean coal technology project by the 22 department under criteria contained in [section 8]. 23 (2) In order to qualify for the tax exemption described

in this section, the legislature shall--approve MUST HAVE
 APPROVED the project and the governing body of each affected

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dy of each affected

HB 701 REFERENCE BILL AS AMENDED

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lines of the construction of the and the and the test construction of the test of test

1 local government shall--approve MUST HAVE APPROVED the tax exemption by resolution, after notice and hearing. 2 THE 3 GOVERNING BODY OF EACH AFFECTED LOCAL GOVERNMENT MUST BE NOTIFIED IN WRITING OF THE BUILDINGS, FACILITIES, AND 4 EQUIPMENT PROPOSED TO BE EXEMPT FROM TAXATION AND THE VALUE 5 6 OF THE BUILDINGS, FACILITIES, AND EQUIPMENT. A TAX EXEMPTION 7 MAY NOT BE GRANTED UNDER THIS SECTION UNLESS IT IS APPROVED 8 BY EVERY LOCAL GOVERNMENT THAT WOULD BE AFFECTED BY THE 9 PROJECT. 1.0 (3) If the governing body of each affected local

11 government approves a resolution granting the tax exemption 12 for a clean coal technology project, the <u>BUILDINGS</u>, 13 <u>FACILITIES</u>, OR <u>EQUIPMENT INSTALLED UNDER THE</u> project is 14 exempt from ail <u>THE SPECIFIED PERCENTAGE OF</u> state and local 15 property taxes <u>AS APPROVED BY THE GOVERNING BODIES</u>. THE 16 <u>PERCENTAGE AMOUNT MAY BE ANY AMOUNT UP TO 100%</u>, BUT IT MUST 17 BE THE SAME FOR ALL STATE AND LOCAL PROPERTY TAXES.

18 (4) Funds made available to a clean coal technology
19 project as a result of the tax exemption under this section
20 must be used for project development, construction, or
21 operation or for payment of debt service on instruments used
22 to fund project development, construction, or operation.

(5) THE DEPARTMENT SHALL, IN WRITING, NOTIFY THE
 DEPARTMENT OF REVENUE'S AGENT IN THE COUNTY OR COUNTIES IN
 WHICH THE PROJECT IS LOCATED OF THE DATE THE FINAL APPROVAL

-3-

FOR THE TAX EXEMPTION OF THE PROPERTY WAS GRANTED UNDER THIS 1 SECTION AND SHALL SPECIFICALLY IDENTIFY EACH PIECE OF REAL 2 OR PERSONAL PROPERTY SUBJECT TO THE TAX EXEMPTION. A tax 3 4 exemption granted under this section is effective for the life of the project or 25 years, whichever occurs first. THE 5 TAX EXEMPTION BEGINS ON JANUARY 1 OF THE YEAR AFTER THE б DEPARTMENT OF REVENUE RECEIVES NOTIFICATION OF THE FINAL 7 APPROVAL UNDER THIS SECTION. THE DEPARTMENT SHALL, IN 8 WRITING, NOTIFY THE DEPARTMENT OF REVENUE'S AGENT IN THE ġ COUNTY OR COUNTIES IN WHICH THE PROJECT IS LOCATED WHEN THE 10 EXEMPTION HAS EXPIRED. The termination of the exemption 11 applies on January 1 of the taxable year following the 12 13 expiration of the exemption. Section 3. Section 17-5-703, MCA, is amended to read: 14 *17-5-703. Coal severance tax trust funds. (1) The 15 trust established under Article IX, section 5, of the 16 Montana constitution shall be composed of the following 17 18 funds: (a) a coal severance tax bond fund into which the 19 20 constitutionally dedicated receipts from the coal severance tax shall be deposited; 21 22 (b) a clean coal technology demonstration fund; (b)(c) a coal severance tax permanent fund; and 23 (c) a coal severance tax income fund. 24 (2) The state treasurer shall from--time--to--time 25

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transfer-to-the-coal-severance-tax-permanent-fund-all--money
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amount necessary to meet all principal and interest payments
on bonds payable from the coal severance tax bond fund on
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that amount in the coal severance tax bond fund.

7 (3) Beginning on July 1, 1991, and ending on June 30, 8 1997, the state treasurer shall FROM TIME TO TIME transfer 9 from the excess amount in the coal severance tax bond fund 10 §5 million a year to the clean coal technology demonstration 11 fund and any remaining amount to the coal severance tax 12 permanent fund."

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4 NEW SECTION. SECTION 13. COORDINATION INSTRUCTION. IF

5 HOUSE BILL NO. 795 IS PASSED AND APPROVED, THEN THE CLEAN

6 COAL TECHNOLOGY DEMONSTRATION FUND CREATED IN 17-5-703(1)(B)

7 OF [THIS ACT] BECOMES 17-5-703(1)(C) AND THE CODE

8 COMMISSIONER SHALL CHANGE REFERENCES TO THE COAL SEVERANCE

9 TAX BOND FUND IN [SECTION 3(3) OF THIS ACT] AND [SECTION

10 <u>4(1) OF THIS ACT] TO THE COAL SEVERANCE TAX INFRASTRUCTURE</u> 11 FUND.

12 NEW SECTION. Section 14. Effective date. [This act] is

13 effective July 1, 1991.

-End-