

HOUSE BILL NO. 795

INTRODUCED BY HARPER, TOWE, CROMLEY, RANEY, DARKO, TOOLE,
VAN VALKENBURG, MAZUREK, JACOBSON, BECKER, J. BROWN, SCHYE,
DRISCOLL, SQUIRES, SOUTHWORTH, DOLEZAL, DAILY, STRIZICH,
J. DEBRUYCKER, G. BECK, FORRESTER, BARDANOUVE, WANZENRIED

IN THE HOUSE

FEBRUARY 12, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

FEBRUARY 13, 1991 FIRST READING.

MARCH 23, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 25, 1991 ON MOTION, TAKEN FROM SECOND READING
AND REREFERRED TO COMMITTEE
ON APPROPRIATIONS.

APRIL 1, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

 PRINTING REPORT.

APRIL 2, 1991 SECOND READING, DO PASS.

APRIL 3, 1991 ENGROSSING REPORT.

APRIL 4, 1991 THIRD READING, PASSED.
AYES, 58; NOES, 41.

 TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

APRIL 15, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 16, 1991 SECOND READING, CONCURRED IN.

APRIL 17, 1991 THIRD READING, CONCURRED IN.
AYES, 29; NOES, 21.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 18, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 22, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 23, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 25, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 29, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 29, 1991

FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *795*
 2 INTRODUCED BY *Hayden* *Boyer* *Conley* *Raven*
 3 *Southworth* *Dolezal* *Boyer* *Conley* *Raven*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN
 5 INFRASTRUCTURE TRUST FUND WITHIN THE PERMANENT COAL TAX
 6 TRUST FUND; AUTHORIZING THE CREATION OF A STATE DEBT THROUGH

7 THE ISSUANCE OF COAL SEVERANCE TAX BONDS FOR THE PURPOSE OF
 8 MAKING LOANS FOR LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS;
 9 PROVIDING FOR THE TERMS AND CONDITIONS OF LOANS; PROVIDING A
 10 METHOD FOR RECOMMENDING PRIORITIES FOR LOANS; REQUIRING
 11 LEGISLATIVE AUTHORIZATION FOR LOAN PROJECTS; AND AMENDING
 12 SECTIONS 17-5-701, 17-5-702, 17-5-703, 17-5-704, 17-5-706,
 13 17-5-719, 85-1-603, 85-1-604, 85-1-605, 85-1-617, 85-1-618,
 14 85-1-619, AND 85-1-620, MCA."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 17-5-703, MCA, is amended to read:

18 "17-5-703. Coal severance tax trust funds. (1) The
 19 trust established under Article IX, section 5, of the
 20 Montana constitution shall be composed of the following
 21 funds:

22 (a) a coal severance tax bond fund into which the
 23 constitutionally dedicated receipts from the coal severance
 24 tax shall be deposited;

25 (b) A coal severance tax infrastructure fund;

1 (b)(c) a coal severance tax permanent fund; and
 2 (c)(d) a coal severance tax income fund.

3 (2) The state treasurer shall from time to time
 4 transfer to the coal-severance-tax-permanent coal severance
 5 tax infrastructure fund all money in the coal severance tax
 6 bond fund except the amount necessary to meet all principal
 7 and interest payments on bonds payable from the coal
 8 severance tax bond fund on the next two ensuing semiannual
 9 payment dates. The state treasurer shall from time to time
 10 transfer to the coal severance tax permanent fund 75% of the
 11 money in the coal severance tax infrastructure fund not
 12 encumbered for projects by the legislature.

13 (3) The purpose of the coal severance tax
 14 infrastructure fund is to assist local governments in
 15 funding infrastructure projects. Interest earned on the coal
 16 severance tax infrastructure fund is available for reducing
 17 principal and interest payments on coal severance tax bonds
 18 issued for local government infrastructure projects."

19 **Section 2.** Section 17-5-701, MCA, is amended to read:

20 "17-5-701. State of Montana coal severance tax bonds.
 21 This part provides for the issuance of state of Montana coal
 22 severance tax bonds (also referred to as coal severance tax
 23 bonds in this part) to:

24 (1) finance water resource development projects and
 25 activities in the state designed to provide, during and



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1 after extensive coal mining, a healthy economy, the
2 alleviation of social and economic impacts created by coal
3 development, and a clean and healthful environment for
4 present and future generations; and

5 (2) allow local governments a cost-effective
6 alternative method of financing infrastructure projects that
7 enhance the quality of life and protect the health, safety,
8 and welfare of Montana's citizens and that support
9 long-term, stable economic growth and job creation by
10 keeping Montana competitive with nearby states through the
11 provision of the infrastructure necessary for economic
12 growth."

13 **Section 3.** Section 17-5-702, MCA, is amended to read:

14 "17-5-702. Purpose and intent. (1) The purpose of the
15 coal severance tax trust fund bond provisions of this part
16 and [sections 6 through 10] is to establish the authority to
17 issue and sell coal severance tax bonds that have been
18 approved by an act of the legislature for financing specific
19 water resource development projects and activities and local
20 government infrastructure projects and activities in the
21 state authorized by the legislature and to guarantee
22 redemption of such the bonds by revenue derived from the
23 receipts from the coal severance tax imposed by Title 15,
24 chapter 35, part 1, and such other money as the legislature
25 may from time to time determine.

1 (2) The legislature intends that projects to be
2 financed by coal severance tax bonds include:

3 (a) water resource development projects and activities
4 as part of the water development program established in
5 Title 85, chapter 1, part 6. The legislature further intends
6 that the income from water resource development projects and
7 activities in excess of the amount required for debt service
8 and operation and maintenance of those projects and
9 activities be deposited in the water development state
10 special revenue account established in 85-1-604.

11 (b) local government infrastructure projects and
12 activities as part of the local government infrastructure
13 program established in [sections 6 through 10]. The payments
14 of principal and interest on local government infrastructure
15 loans in excess of the amount required for debt service must
16 be deposited in the coal severance tax permanent fund."

17 **Section 4.** Section 17-5-706, MCA, is amended to read:

18 "17-5-706. Authority to issue coal severance tax bonds.
19 The board of examiners, upon approval of the legislature as
20 hereinafter provided in this section, shall issue and sell
21 coal severance tax bonds to finance such approved water
22 resource development projects and activities and local
23 government infrastructure projects and activities when
24 authorized to do so by any law that sets out the amount and
25 purpose of the issue. Each project or activity shall must be

1 separately approved as to amount by a two-thirds vote of
2 each house of the legislature."

3 **Section 5.** Section 17-5-719, MCA, is amended to read:

4 "17-5-719. Limitation on amount of coal severance tax
5 bonds issued. No more than \$250 \$450 million worth of coal
6 severance tax bonds may be issued for water development
7 projects and activities and local government infrastructure
8 projects and activities."

9 **NEW SECTION. Section 6. Purpose.** The purpose of
10 [sections 6 through 10] is to establish a local government
11 infrastructure investment program that will:

12 (1) enhance the quality of life and protect the health,
13 safety, and welfare of Montana's citizens by creating a
14 partnership between the state and local governments to help
15 finance necessary public infrastructure projects;

16 (2) support long-term, stable economic growth and job
17 creation and help keep Montana competitive with nearby
18 states by providing a means for financing the infrastructure
19 necessary for economic growth;

20 (3) encourage local public facility improvements by
21 state investment in improvements in order to make these
22 improvements affordable to Montana citizens;

23 (4) protect future generations from the undue fiscal
24 burdens that result when infrastructure systems are
25 inadequate or are allowed to deteriorate;

1 (5) encourage maximum use of all available private and
2 public funding sources;

3 (6) complement and improve the effectiveness of
4 existing private and public infrastructure financing
5 mechanisms and improve coordination between state and
6 federal infrastructure financing programs; and

7 (7) encourage coordinated, long-term strategies for
8 addressing Montana's infrastructure needs.

9 **NEW SECTION. Section 7. Eligible projects.** (1) A
10 county, incorporated city or town, consolidated local
11 government, school district, special purpose district, or
12 private nonprofit corporation that provides public services
13 is eligible to apply for a loan under [sections 6 through
14 10].

15 (2) Loans may be made for the direct costs related to
16 the planning, design, construction, reconstruction,
17 acquisition, alteration, modernization, improvement, or
18 expansion of:

19 (a) drinking water systems;

20 (b) sewer systems;

21 (c) solid waste collection and disposal systems;

22 (d) transportation systems;

23 (e) telecommunications and other high-technology
24 systems for education; or

25 (f) other public works projects the department of

1 commerce determines to be in the public interest.

2 **NEW SECTION. Section 8. Priorities for projects --**
 3 **procedure.** (1) The department of commerce shall receive
 4 proposals for projects from the local government entities
 5 listed in [section 7(1)]. The department shall work with the
 6 local government in preparing cost estimates for the
 7 project. In reviewing project proposals, the department may
 8 consult with other state agencies with expertise pertinent
 9 to the proposal. The department shall prepare and submit a
 10 list of recommended projects to the governor.

11 (2) In preparing recommendations under subsection (1),
 12 preference must be given to projects based on the following
 13 order of priority:

14 (a) projects that solve urgent and serious public
 15 health or safety problems;

16 (b) projects that enable local governments to meet
 17 state or federal health or safety standards;

18 (c) projects that enable local governments to obtain
 19 funds from sources other than the funds provided under
 20 [sections 6 through 10];

21 (d) projects that provide long-term, full-time job
 22 opportunities for Montanans;

23 (e) projects that provide public facilities necessary
 24 for the expansion of a business that has a high potential
 25 for financial success;

1 (f) projects that result in a benefit to the public
 2 commensurate with the size of the grant;

3 (g) projects that reflect greater need for financial
 4 assistance than other projects; and

5 (h) projects that are high local priorities and have
 6 strong community support.

7 (3) The legislature shall authorize the board of
 8 examiners to sell coal severance tax bonds to finance loans
 9 for the projects authorized by the legislature.

10 **NEW SECTION. Section 9. Loan terms.** (1) The period for
 11 repayment of a local government infrastructure investment
 12 loan may not exceed 30 years. The department of commerce
 13 shall from time to time establish the interest rate at which
 14 loans may be made under [sections 6 through 10] that is
 15 sufficient to cover the bond debt service for a loan.

16 (2) The department of commerce shall make loans for the
 17 local government infrastructure projects approved by the
 18 legislature.

19 **NEW SECTION. Section 10. Administration of loans.** The
 20 department of commerce shall:

21 (1) administer the loan program established by
 22 [sections 6 through 10]; and

23 (2) service loans made or contract and pay for the
 24 servicing of loans.

25 **Section 11.** Section 17-5-704, MCA, is amended to read:

1 **"17-5-704. Investment of funds.** (1) Money in the coal
 2 severance tax bond fund, the coal severance tax permanent
 3 fund, the coal severance tax infrastructure fund, and the
 4 coal severance tax income fund must be invested in
 5 accordance with the investment standards for coal severance
 6 tax funds except as provided in subsection (2). Income
 7 Subject to the provisions of 17-5-703(3), income and
 8 earnings from all funds must be transferred to and retained
 9 in the coal severance tax income fund until appropriated by
 10 the legislature.

11 (2) Except as provided in subsection (1) and section 1,
 12 Chapter 634, Laws of 1989, beginning on July 1, 1990, the
 13 legislature shall appropriate 15% of the income and earnings
 14 from all funds to be deposited to the state equalization aid
 15 account each year."

16 **Section 12.** Section 85-1-603, MCA, is amended to read:

17 **"85-1-603. Water--development Coal severance tax bond**
 18 **debt service fund created -- coal severance tax allocated --**
 19 **water-development loan loss reserve fund created. (1) (a)**
 20 **There is created a water-development coal severance tax bond**
 21 **debt service fund within the debt service fund type**
 22 **established in 17-2-102.**

23 (b) The state pledges and allocates and directs to be
 24 credited to the water development debt service fund, as
 25 received:

1 (i) 1 1/4% of all money from time to time received from
 2 the coal severance tax collected under Title 15, chapter 35,
 3 and remaining after allocation of such tax under
 4 15-35-108(1) and (2);

5 (ii) any principal and accrued interest under
 6 85-1-613(3)(a) received in repayment of a loan made from the
 7 proceeds of bonds issued under 85-1-617;

8 (iii) all interest income earned on proceeds of water
 9 development coal severance tax bonds;

10 (iv) revenue or money otherwise required to be paid into
 11 the water-development coal severance tax bond state special
 12 revenue account pursuant to 85-1-604, as determined by the
 13 board of examiners in connection with the issuance of bonds
 14 pursuant to Title 17, chapter 5, part 7, and 85-1-617; and

15 (v) money received from the water--development coal
 16 severance tax bond loan loss reserve fund as the result of a
 17 loan loss.

18 (2) (a) There is created a water--development coal
 19 severance tax bond loan loss reserve fund within the debt
 20 service fund type established in 17-2-102.

21 (b) The state pledges and allocates and directs to be
 22 credited to the water-development coal severance tax bond
 23 loan loss reserve fund all accrued interest under
 24 85-1-613(3)(b) received in repayment of a loan made from the
 25 proceeds of bonds issued under 85-1-617.

1 (c) If the department determines that a loan loss has
 2 occurred on a loan made pursuant to this part, funds from
 3 the water--development coal severance tax bond loan loss
 4 reserve fund must be transferred to the water--development
 5 coal severance tax bond debt service fund in an amount equal
 6 to the amount that would otherwise be available for debt
 7 service under subsection (1)(b) as a result of the loan
 8 loss."

9 **Section 13.** Section 85-1-604, MCA, is amended to read:

10 **"85-1-604. Water development state special revenue**
 11 **account created -- revenues allocated -- limitations on**
 12 **appropriations from account.** (1) There is created a water
 13 development state special revenue account within the state
 14 special revenue fund established in 17-2-102.

15 (2) Except to the extent that they are required to be
 16 credited to the water-development coal severance tax bond
 17 debt service fund pursuant to 85-1-603, there shall be paid
 18 into the water development state special revenue account:

19 (a) all revenues of the works and other money as
 20 provided in 85-1-332;

21 (b) 30% of the interest income of the resource
 22 indemnity trust fund as provided in and subject to the
 23 conditions of 15-38-202;

24 (c) the excess of the coal severance tax proceeds
 25 allocated by 85-1-603 to the water--development coal

1 severance tax bond debt service fund above debt service
 2 requirements as provided in and subject to the conditions of
 3 85-1-619; and

4 (d) any fees or charges collected by the department
 5 pursuant to 85-1-616 for the servicing of loans including
 6 arrangements for obtaining security interests.

7 (3) Appropriations may be made from the water
 8 development state special revenue account for the following
 9 purposes and subject to the following conditions:

10 (a) An amount less than or equal to that paid into the
 11 account under 85-1-332 and only that amount may be
 12 appropriated for the operation and maintenance of
 13 state-owned projects and works. If the amount of money
 14 available for appropriation under this subsection (3)(a) is
 15 greater than that necessary for operation and maintenance
 16 expenses, the excess may be appropriated as provided in
 17 subsection (3)(b).

18 (b) An amount less than or equal to that paid into the
 19 account from the resource indemnity trust account plus any
 20 excess from subsection (3)(a) and only that amount may be
 21 appropriated from the account for:

22 (i) the rehabilitation of state-owned projects and
 23 works, including the rehabilitation of spillways of
 24 state-owned dams;

25 (ii) the formulation of downstream emergency warning and

1 evacuation plans for state-owned dams;

2 (iii) the development of the hydropower potential of
3 state-owned dams;

4 (iv) assistance in the implementation of the water
5 reservations established under 85-2-316 of conservation
6 districts;

7 (v) the promotion of the development of offstream and
8 tributary storage;

9 (vi) the promotion of joint state-tribal, state-federal,
10 and state-tribal-federal water development;

11 (vii) projects or programs that improve water use
12 efficiency, including development of new, efficient water
13 systems and rehabilitation of older, less efficient water
14 systems;

15 (viii) administrative expenses, including but not
16 limited to the salaries and expenses of personnel,
17 equipment, office space, and other necessities incurred in
18 the administration of the water development program except
19 the administration of loans and grants; and

20 (ix) any other expenditures that meet the policies and
21 objectives of the state water development program.

22 (c) An amount less than or equal to that paid into the
23 account from the sources provided for in (c) and (d) of
24 subsection (2) and only that amount may be appropriated from
25 the account for loans and grants for water development

1 projects and activities; for purchase of liens and operation
2 of property as provided in 85-1-615; for administrative
3 expenses, including but not limited to the salaries and
4 expenses of personnel, equipment, and office space; for the
5 servicing of loans, including arrangements for obtaining
6 security interests; and for other necessities incurred in
7 administering the loans and grants."

8 **Section 14.** Section 85-1-605, MCA, is amended to read:
9 "85-1-605. Grants, loans, and bonds for state and local
10 government assistance. (1) The department may recommend to
11 the legislature governor that grants and loans be made from
12 coal severance tax proceeds deposited in the water
13 development state special revenue account, that loans be
14 made from water-development coal severance tax bond proceeds
15 deposited in the water development account, and that coal
16 severance tax bonds be authorized pursuant to Title 17,
17 chapter 5, part 7, to provide financial assistance for a
18 water development project to a department, agency, board,
19 commission, or other division of state government or to a
20 city, county, or other political subdivision or local
21 government body of the state. The governor shall review the
22 projects recommended under this section and the projects
23 recommended by the department of commerce under [section 8]
24 and shall submit a list of recommended projects to the
25 legislature. The legislature may approve by appropriation or

1 other appropriate means those grants and loans it finds
2 consistent with the policies and purposes of the program.

3 (2) In addition to implementing those projects approved
4 by the legislature, the department may request up to 10% of
5 the funds available for grants from the water development
6 special revenue account in any biennium to be used for
7 emergencies. These emergency projects must be approved by
8 the department and be defined as those projects which, if
9 delayed until legislative approval can be obtained, will
10 cause substantial damages or legal liability to the project
11 sponsor. In allocating such funds, the department shall
12 inform the legislative finance committee of the legislature.

13 (3) The grants and loans provided for by this section
14 may be made for the purchase, lease, development, or
15 construction of water development projects and activities
16 for the conservation, management, use, development, or
17 protection of the water and related agricultural, land,
18 fish, wildlife, and water recreation resources in the state;
19 for the purpose of feasibility and design studies for such
20 projects; for development of plans for and the
21 rehabilitation, expansion, and modification of water
22 development projects; for other water development projects
23 and activities that will enhance the water resources of the
24 state; and for similar purposes approved by the
25 legislature."

1 **Section 15.** Section 85-1-617, MCA, is amended to read:

2 "85-1-617. **Issuing bonds.** (1) When authorized by the
3 legislature and within the limits of the authorization and
4 within the further limitations established in this section,
5 the board of examiners may issue and sell water--development
6 coal severance tax bonds of the state in the amount and
7 manner it considers necessary and proper to finance the
8 water development loan program and the local government
9 infrastructure loan program. The full faith and credit and
10 taxing powers of the state are pledged for the prompt and
11 full payment of all bonds so issued and interest and
12 redemption premiums payable thereon on the bonds according
13 to their terms.

14 (2) Each series of water-development coal severance tax
15 bonds may be issued by the board of examiners, upon request
16 of the board of natural resources and conservation or the
17 department of commerce, at public or private sale, in such
18 denominations and forms, whether payable to bearer with
19 attached interest coupons or registered as to principal or
20 as to both principal and interest, with such provisions for
21 conversion or exchange and for the issuance of notes in
22 anticipation of the issuance of definitive bonds, bearing
23 interest at such a rate or rates, maturing at such a rate or
24 rates, maturing at such a time or times not exceeding 30
25 years from date of issue, subject to optional or mandatory

1 redemption at such earlier times and prices and upon such
 2 notice, with such provisions for payment and discharge by
 3 the deposit of funds or securities in escrow for that
 4 purpose, and payable at the office of such a banking
 5 institution or institutions within or outside the state, as
 6 the board of examiners shall determine subject to the
 7 limitations contained in this section and 17-5-731.

8 (3) In the issuance of each series of ~~water-development~~
 9 coal severance tax bonds, the interest rates and the
 10 maturities and any mandatory redemption provisions thereof
 11 ~~shall~~ of the bonds must be established in such a manner that
 12 the funds then specifically pledged and appropriated by law
 13 to the ~~water--development~~ coal severance tax bond debt
 14 service fund will in the judgment of the board of examiners
 15 be received in an amount sufficient in each year to pay all
 16 principal, redemption premiums, and interest due and payable
 17 in that year with respect to that and all prior series of
 18 such bonds, except outstanding bonds as to which the
 19 obligation of the state has been discharged by the deposit
 20 of funds or securities sufficient for their payment in
 21 accordance with the terms of the resolutions by which they
 22 are authorized to be issued.

23 (4) In all other respects, the board of examiners is
 24 authorized to prescribe the form and terms of the bonds and
 25 notes and ~~shall~~ do whatever is lawful and necessary for

1 their issuance and payment. Such The coal severance tax
 2 bonds, notes, and any interest coupons appurtenant thereto
 3 to the bonds must be signed by the members of the board of
 4 examiners, and the bonds and notes must be issued under the
 5 great seal of the state of Montana. The bonds, notes, and
 6 coupons may be executed with facsimile signatures and seal
 7 in the manner and subject to the limitations prescribed by
 8 law. The state treasurer shall keep a record of all such
 9 bonds and notes issued and sold.

10 (5) There is created a water development account within
 11 the state special revenue fund established in 17-2-102.

12 (6) All proceeds of bonds or notes issued under this
 13 section for water development projects, other than refunding
 14 bonds, must be deposited in the water development account
 15 established in subsection (5), except that any principal and
 16 accrued interest received in repayment of a loan made from
 17 the proceeds of bonds issued under this section must be
 18 deposited in the ~~water-development~~ coal severance tax bond
 19 debt service fund and the ~~water-development~~ coal severance
 20 tax bond loan loss reserve fund pursuant to 85-1-603. All
 21 proceeds of refunding bonds must be deposited in the ~~water~~
 22 development coal severance tax bond debt service fund and
 23 applied to the payment and redemption of outstanding bonds
 24 issued under this section as directed by the board, whether
 25 at maturity or on any earlier date on which they may be

1 prepaid according to their terms.

2 (7) All actions taken by the board of examiners under
3 this section or 85-1-619 must be authorized by a vote of a
4 majority of the members of the board of examiners."

5 **Section 16.** Section 85-1-618, MCA, is amended to read:

6 **"85-1-618. Restrictions on use of bond proceeds. Water**
7 **development Coal severance tax bond proceeds issued for**
8 **water development projects may be used only for the purpose**
9 **of making loans as provided in the water development program**
10 **or for purchasing liens and operating property as provided**
11 **in 85-1-615."**

12 **Section 17.** Section 85-1-619, MCA, is amended to read:

13 **"85-1-619. Debt service fund -- pledge and**
14 **administration of sufficient balance. (1) The legislature**
15 **may levy, impose, assess, and pledge and appropriate to the**
16 **water--development coal severance tax bond debt service fund**
17 **any tax, charge, fee, rental, or other income from any**
18 **designated source. The state reserves the right to modify**
19 **from time to time the nature and amount of special taxes and**
20 **other revenues pledged and appropriated to the water**
21 **development coal severance tax bond debt service fund,**
22 **provided that the aggregate resources so pledged and**
23 **appropriated are determined by the legislature to be**
24 **sufficient for the prompt and full payment of the principal**
25 **of and interest and redemption premiums when due on all**

1 bonds payable from that fund and provided that the pledge of
2 the full faith and credit and taxing powers of the state for
3 the security of all such coal severance tax bonds ~~shall--be~~
4 are and remain irrevocable until they are fully paid.

5 (2) Money in the water-development coal severance tax
6 bond debt service fund must be used to pay interest,
7 principal, and redemption premiums when due and payable with
8 respect to water-development coal severance tax bonds, and
9 for bonds issued prior to 1985, to accumulate a reserve for
10 the further security of such payments.

11 (3) After the reserve provided for in subsection (2)
12 for bonds issued prior to 1985 has been accumulated in the
13 water-development coal severance tax bond debt service fund,
14 money at any time received in the water-development coal
15 severance tax bond debt service fund from water development
16 projects in excess of that amount must be transferred by the
17 treasurer to the water development state special revenue
18 account."

19 **Section 18.** Section 85-1-620, MCA, is amended to read:

20 **"85-1-620. Water--development Coal severance tax**
21 **refunding bonds. (1) The board of examiners may issue**
22 **refunding bonds at such times and in such amounts, if any,**
23 **as may be necessary to pay principal or interest due that**
24 **cannot be paid from funds then on hand in the water**
25 **development coal severance tax bond debt service fund. The**

1 board of examiners may also issue refunding bonds to refund
 2 outstanding bonds before maturity for the purpose of
 3 extending the maturities thereof of the outstanding bond so
 4 far as determined by the board of examiners to be necessary
 5 to ~~assure~~ ensure that the funds then pledged to the water
 6 development coal severance tax bond debt service fund will
 7 be sufficient for payment of principal and interest due in
 8 subsequent years. The board of examiners may also issue
 9 refunding bonds to refund outstanding bonds before maturity
 10 for the purpose of reducing the interest cost or the total
 11 amount of principal and interest payable thereon on the
 12 outstanding bonds.

13 (2) ~~No-refunding~~ Refunding bonds may not be issued and
 14 sold more than 3 months before all bonds refunded thereby by
 15 the refunding bonds mature or are called for redemption
 16 unless the proceeds thereof of the refunding bonds, with any
 17 other funds in the water-development coal severance tax bond
 18 debt service fund that are needed and available for the
 19 purpose or securities purchased from such bond proceeds and
 20 other funds, are deposited with a suitable banking
 21 institution within or outside the state, in escrow, for the
 22 retirement of the refunded bonds at maturity or at a prior
 23 date or dates on which they have been called for redemption
 24 in accordance with their terms, in an amount and in a manner
 25 sufficient under the provisions securing the refunded bonds,

1 so that the state's obligation to pay the same bonds, from
 2 sources other than the escrow fund, is discharged.

3 (3) ~~No--new~~ New debt may not be created by the issuance
 4 of refunding bonds in accordance with this section, but such
 5 the refunding bonds ~~shall~~ evidence the debt previously
 6 created and ~~shall-be~~ are secured by the pledge of the full
 7 faith and credit and taxing powers of the state and by the
 8 further provisions of this part in the same manner as the
 9 bonds refunded thereby."

10 NEW SECTION. Section 19. Three-fourths vote. Because
 11 [this act] appropriates money that would otherwise be
 12 deposited in the coal severance tax permanent fund, a vote
 13 of three-fourths of the members of each house is required
 14 for enactment of [this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0795, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill creates an infrastructure trust fund within the permanent coal tax trust fund; authorizes the creation of a state debt through the issuance of coal severance tax bonds for the purpose of making loans for local government infrastructure projects; provides for the terms and conditions of loans; provides a method for recommending priorities for loans and requires legislative authorization for loan projects.

ASSUMPTIONS:


General Assumptions:

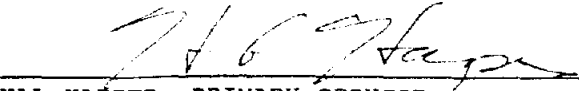
1. Revenue estimates for the coal severance tax (CST) trust are executive revenue projections.
2. One new account called the infrastructure fund is established within the CST trust.
3. There is a CST debt service account and a water development debt service account in current law.
4. No other legislation is passed that affects the coal severance tax.
5. HB0795 creates a CST infrastructure loan program and not an infrastructure grants program.

Assumptions on bonding authority limits and bonding capacity:

6. Bonding authority limit is increased from \$250 million to \$450 million.
7. Bonding capacity is dependent upon the CST revenue stream rather than bonding authority.
8. The CST revenue stream is based upon a tax rate of 15% which is projected to produce \$38.6 million in FY92 and \$37.11 million in FY93.
9. 50% of the CST revenue stream is deposited in the CST bond fund and 50% to various state programs, the general fund, and state special revenue accounts.
10. Section 17-5-709, MCA, limits the amount of CST bonds that can be issued to a level that can be serviced with no more than 2/3 of the annual deposits into the CST bonds fund, as determined by the average of the deposits over the three preceding fiscal years, together with the average amount of other revenues deposited in a special bond fund used to pay debt service on the outstanding CST bonds during the preceding three fiscal years. This provision cannot be modified so as to reduce security for any outstanding CST bonds.

(continued on next page)


ROD SUNDSTED, BUDGET DIRECTOR DATE 2-21-91
Office of Budget and Program Planning


HAL HARPER, PRIMARY SPONSOR DATE 2-23-91
Fiscal Note for HB0795, as introduced **HB 795**

11. The General Resolution of the State, adopted by the Board of Examiners on September 30, 1985, provides that the state will not issue additional CST bonds on a parity with outstanding bonds unless:
"...during the three fiscal years preceding the issuance of such additional bonds the average amount of coal severance tax revenues received annually by the state and deposited into the coal severance tax trust fund plus (ii) the amount of Pledged Project Revenues received annually by the state and deposited into the debt service account is at least twice the maximum annual debt service on such additional Bonds and all outstanding bonds. In no event shall Pledged Project Revenues received during such three year period be recognized....to the extent of more than 50% of the maximum annual debt service on such additional bonds and the outstanding bonds."
12. The current CST bond account uses approximately \$500,000 per year for subsidized public loans.
13. Based upon assumptions 7 through 12, the CST bonding capacity will be approximately \$112 million.
14. Outstanding CST bond debt is \$55 million.
15. The legislature will reauthorize \$37 million of CST bonds approved by prior legislatures.
16. The legislature will approve \$8 million of bonds recommended by the Department of Natural Resources and Conservation.
17. The remaining bonding capacity will be \$12 million. This bonding authority would be available for both future DNRC public loans and Department of Commerce infrastructure loans.

Assumptions of potential CST trust account arbitrage and yield restriction problems:

18. The CST infrastructure account will be an interest earning account.
19. The CST infrastructure account interest will accrue to the account and be used to subsidize principal and interest payments on infrastructure loans.
20. The permanent CST trust account will earn approximately 10% interest.
21. CST infrastructure bonds issued will have repayment interest rates which will be less than the interest rate earned by the CST accounts.
22. The disparity in interest rates described in assumption 21 could produce violations of IRS arbitrage and yield restrictions rules.

Assumptions concerning the water development debt service accounts:

23. The water development bonding program is a general obligation (GO) bonding program. A GO bonding program pledges the full faith and credit of the state's taxing power to repay the bonds.
24. The CST bonding program is a limited liability bonding program in which the state has guaranteed only the proceeds from the coal severance tax as collateral for the bonds.
25. Sections 12 and 13 of HB0795 combine the water development GO bonding program with the CST bonding program.
26. Water development GO bonding authority is statutorily limited to \$10 million.
27. Combining these two bonding programs would create the following problems:
 - a. Water development GO bonds which are backed by the full faith and credit of the state would be backed only by CST revenues.
 - b. A potential conflict between the two statutory bonding limitations.
 - c. The state may be violating the existing GO and CST bond contracts.

(continued on next page)

HB 795

Assumptions on Department of Commerce (DOC) and DNRC administrative costs to manage the CST infrastructure loan program:

28. The administrative budget is based on an annual program of approximately \$4.5 million
29. The infrastructure loan program will have an effective date of July 1, 1991.
30. Loan applications would be submitted in May of the year preceding a legislative session. This is the cycle followed by the existing DNRC water development program. Project administration training for new loan recipients would be conducted following each legislative session.
31. DOC staff would have lead responsibility for application review, preparation of departmental recommendations to the Governor, and construction monitoring. Each project would be staff monitored on-site at least once.
32. Staff from other state agencies would be utilized for application review as appropriate. When appropriate, the program would contract with private consultants to review grant proposals requiring special expertise.
33. Financial servicing of the loans and the monitoring of loan repayments would be done by DNRC's Conservation Resource and Development Division, under contract to DOC.
- 34) DOC would need 3.00 FTE and a budget of \$159,769 in FY92 and \$163,619 in FY93 to administer the infrastructure loan program.
- 35) The DNRC would need 0.50 FTE and a budget of \$20,000 per year to provide contract financial assistance to DOC.
- 36) The bill does not identify a funding source to finance the administrative costs; therefore, is assumed the cost will be general fund.

FISCAL IMPACT:

Department of Commerce:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
F.T.E.	0	3.00	3.00	0	3.00	3.00
Personal Services	0	80,688	80,688	0	80,688	80,688
Operating Costs	0	59,581	59,581	0	80,581	80,581
Equipment	0	19,500	19,500	0	2,250	2,250
Total	0	159,769	159,769	0	163,519	163,519
<u>Funding:</u>						
General Fund	0	159,769	159,769	0	163,519	163,519

Department of Natural Resources and Conservation:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
F.T.E.	0	0.50	0.50	0	0.50	0.50
Personal Services	0	16,000	16,000	0	16,000	16,000
Operating Costs	0	4,000	4,000	0	4,000	4,000
Total	0	20,000	20,000	0	20,000	20,000
<u>Funding:</u>						
General Fund	0	20,000	20,000	0	20,000	20,000

General Fund Impact (179,769) (183,519)

Fiscal Note Request, HB0795, as introduced

Form BD-15

Page 4

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposed bill will provide local government infrastructure loans for planning, design, construction, reconstruction, acquisition, alteration, modernization, improvement, or expansion of:

- a. drinking water systems,
- b. sewer systems,
- c. solid waste collection and disposal systems,
- d. transportation systems,
- e. telecommunications and other high-technology systems for education, and/or
- f. other public works projects the Department of Commerce determines to be in the public interest.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

When the legislature authorizes subsidized infrastructure loans, the general fund and school equalization account will be reduced by an amount equal to the infrastructure principal and interest subsidy.

TECHNICAL NOTES:

1. In section 1 of the bill, the interest earned on the infrastructure fund is "available for reducing principal and interest payment on CST bonds issued for local government infrastructure projects". However, section 9 requires that the Department of Commerce "shall from time to time establish the interest rate at which loans may be made under [sections 6 through 10] that is sufficient to cover the bond debt service for a loan". If the repayment interest rate is sufficient to cover bond debt service is there a need for a section which provides for interest and principal subsidy?
2. The word "encumbered" on page 2 line 12 [of LC0993] in section 1(2) is unclear. If encumbered means the amount authorized by the legislature for projects, the fiscal result could be in the millions of dollars. However, if encumbered means the amount equal to the subsidy paid out to bonds, the impact to the CST trust would be in the hundreds of thousands of dollars. This second interpretation is currently how the existing CST loan program functions.
3. The potential IRS arbitrage and yield restriction concerns identified in assumptions 18 through 22.
4. There are potential legal and financial problems if the water development GO bonds and CST bonds are combined.
5. There is a potential problem of DOC and DNRC competing over limited bonding capacity.

HB 795

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 795

INTRODUCED BY HARPER, TOWE, CROMLEY, RANEY, DARKO, TOOLE,
VAN VALKENBURG, MAZUREK, JACOBSON, BECKER, J. BROWN, SCHYE,
DRISCOLL, SQUIRES, SOUTHWORTH, DOLEZAL, DAILY, STRIZICH,
J. DEBRUYCKER, G. BECK, FORRESTER, BARDANOUE, WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA
COMMUNITY INFRASTRUCTURE ACT; CREATING AN INFRASTRUCTURE
TRUST FUND WITHIN THE PERMANENT COAL TAX TRUST FUND;
AUTHORIZING THE CREATION OF A STATE DEBT THROUGH THE
ISSUANCE OF COAL SEVERANCE TAX BONDS FOR THE PURPOSE OF
MAKING LOANS FOR LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS;
PROVIDING FOR THE TERMS AND CONDITIONS OF LOANS; PROVIDING A
METHOD FOR RECOMMENDING PRIORITIES FOR LOANS; REQUIRING
LEGISLATIVE AUTHORIZATION FOR LOAN PROJECTS; AND
APPROPRIATING MONEY IN THE SPECIAL REVENUE ACCOUNT TO THE
DEPARTMENT OF COMMERCE FOR USE BY LOCAL GOVERNMENTS FOR
ENGINEERING STUDIES FOR LOCAL GOVERNMENT INFRASTRUCTURE
PROJECTS; AMENDING SECTIONS 17-5-701, 17-5-702, 17-5-703,
17-5-704, 17-5-706, AND 17-5-7197--85-1-6037--85-1-6047
85-1-6057-85-1-6177-85-1-6187-85-1-6197-AND--85-1-620, MCA;
AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. 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:

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

(b) A coal severance tax infrastructure fund;

~~(b)(c)~~ a coal severance tax permanent fund; and

~~(c)(d)~~ a coal severance tax income fund.

(2) The state treasurer shall from time to time transfer to the coal-severance-tax-permanent coal severance tax infrastructure fund all money in the coal severance tax bond fund except 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. The state treasurer shall from time to time transfer to the coal severance tax permanent fund 75% 50% of the money in the coal severance tax infrastructure fund not encumbered-for-projects-by-the-legislature.

(3) The purpose of the coal severance tax infrastructure fund is to assist local governments in funding infrastructure projects. Interest earned on the coal severance tax infrastructure fund MUST BE DEPOSITED IN A SPECIAL REVENUE ACCOUNT. UP TO \$10 MILLION A YEAR is

1 available for reducing principal and interest payments on
2 coal severance tax bonds issued for local government
3 infrastructure projects AND BONDS ISSUED PURSUANT TO TITLE
4 17, CHAPTER 5, PART 16, FOR PROJECTS APPROVED BY THE
5 LEGISLATURE TO RECEIVE A SUBSIDY."

6 **Section 2.** Section 17-5-701, MCA, is amended to read:

7 "17-5-701. State of Montana coal severance tax bonds.

8 This part provides for the issuance of state of Montana coal
9 severance tax bonds (also referred to as coal severance tax
10 bonds in this part) to:

11 (1) finance water resource development projects and
12 activities in the state designed to provide, during and
13 after extensive coal mining, a healthy economy, the
14 alleviation of social and economic impacts created by coal
15 development, and a clean and healthful environment for
16 present and future generations; and

17 (2) allow local governments a cost-effective
18 alternative method of financing infrastructure projects that
19 enhance the quality of life and protect the health, safety,
20 and welfare of Montana's citizens and that support
21 long-term, stable economic growth and job creation by
22 keeping Montana competitive with nearby states through the
23 provision of the infrastructure necessary for economic
24 growth."

25 **Section 3.** Section 17-5-702, MCA, is amended to read:

1 "17-5-702. Purpose and intent. (1) The purpose of the
2 coal severance tax trust fund bond provisions of this part
3 and [sections 6 through 10] is to establish the authority to
4 issue and sell coal severance tax bonds that have been
5 approved by an act of the legislature for financing specific
6 water resource development projects and activities and local
7 government infrastructure projects and activities in the
8 state authorized by the legislature and to guarantee
9 redemption of such the bonds by revenue derived from the
10 receipts from the coal severance tax imposed by Title 15,
11 chapter 35, part 1, and such other money as the legislature
12 may from time to time determine.

13 (2) The legislature intends that projects to be
14 financed by coal severance tax bonds include:

15 (a) water resource development projects and activities
16 as part of the water development program established in
17 Title 85, chapter 1, part 6. The legislature further intends
18 that the income from water resource development projects and
19 activities in excess of the amount required for debt service
20 and operation and maintenance of those projects and
21 activities be deposited in the water development state
22 special revenue account established in 85-1-604.

23 (b) local government infrastructure projects and
24 activities as part of the local government infrastructure
25 program established in [sections 6 through 10]. The payments

1 of principal and interest on local government infrastructure
 2 loans in excess of the amount required for debt service must
 3 be deposited in the coal severance tax permanent fund."

4 **Section 4.** Section 17-5-706, MCA, is amended to read:

5 "17-5-706. Authority to issue coal severance tax bonds.

6 The board of examiners, upon approval of the legislature as
 7 hereinafter provided in this section, shall issue and sell
 8 coal severance tax bonds to finance such approved water
 9 resource development projects and activities and local
 10 government infrastructure projects and activities when
 11 authorized to do so by any law that sets out the amount and
 12 purpose of the issue. Each project or activity shall must be
 13 separately approved as to amount by a two-thirds vote of
 14 each house of the legislature."

15 **Section 5.** Section 17-5-719, MCA, is amended to read:

16 "17-5-719. Limitation on amount of coal severance tax
 17 bonds issued. No more than \$250 \$450 million worth of coal
 18 severance tax bonds may be issued for water development
 19 projects and activities and local government infrastructure
 20 projects and activities."

21 NEW SECTION. **Section 6.** Purpose. The purpose of
 22 [sections 6 through 10] is to establish a local government
 23 infrastructure investment program that will:

24 (1) enhance the quality of life and protect the health,
 25 safety, and welfare of Montana's citizens by creating a

1 partnership between the state and local governments to help
 2 finance necessary public infrastructure projects;

3 (2) support long-term, stable economic growth and job
 4 creation and help keep Montana competitive with nearby
 5 states by providing a means for financing the infrastructure
 6 necessary for economic growth;

7 (3) encourage local public facility improvements by
 8 state investment in improvements in order to make these
 9 improvements affordable to Montana citizens;

10 (4) protect future generations from the undue fiscal
 11 burdens that result when infrastructure systems are
 12 inadequate or are allowed to deteriorate;

13 (5) encourage maximum use of all available private and
 14 public funding sources;

15 (6) complement and improve the effectiveness of
 16 existing private and public infrastructure financing
 17 mechanisms and improve coordination between state and
 18 federal infrastructure financing programs; and

19 (7) encourage coordinated, long-term strategies for
 20 addressing Montana's infrastructure needs.

21 NEW SECTION. **Section 7.** Eligible projects. (1) A
 22 county, incorporated city or town, consolidated local
 23 government, ~~school-district,~~ OR special purpose district, ~~or~~
 24 ~~private--nonprofit-corporation-that-provides-public-services~~
 25 is eligible to apply for a loan under [sections 6 through

1 10].

2 (2) Loans may be made for the direct costs related to
3 the planning, design, construction, reconstruction,
4 acquisition, alteration, modernization, improvement, or
5 expansion of:

- 6 (a) drinking water systems;
- 7 (b) SANITARY OR STORM sewer systems;
- 8 (c) solid waste collection and disposal systems; OR
- 9 (d) ~~transportation systems;~~

10 ~~(e) telecommunications and other high-technology~~
11 ~~systems for education; or~~

12 ~~(f) other public works projects the department of~~
13 ~~commerce determines to be in the public interest~~ BRIDGES.

14 NEW SECTION. Section 8. Priorities for projects --

15 procedure. (1) The department of commerce shall receive
16 proposals for projects from the local government entities
17 listed in [section 7(1)]. The department shall work with the
18 local government in preparing cost estimates for the
19 project. In reviewing project proposals, the department may
20 consult with other state agencies with expertise pertinent
21 to the proposal. The department shall prepare and submit a
22 list of recommended projects to the governor. THE DEPARTMENT
23 MAY RECOMMEND EITHER THAT THE PROJECTS BE FUNDED THROUGH THE
24 ISSUANCE OF COAL SEVERANCE TAX BONDS OR THAT THE PROJECTS BY
25 FUNDED THROUGH BONDS ISSUED PURSUANT TO TITLE 17, CHAPTER 5,

1 PART 16, AND RECEIVE A SUBSIDY.

2 (2) In preparing recommendations under subsection (1),
3 preference must be given to projects based on the following
4 order of priority:

5 (a) projects that solve urgent and serious public
6 health or safety problems;

7 (b) projects that enable local governments to meet
8 state or federal health or safety standards;

9 (c) projects that enable local governments to obtain
10 funds from sources other than the funds provided under
11 [sections 6 through 10];

12 (d) projects that provide long-term, full-time job
13 opportunities for Montanans;

14 (e) projects that provide public facilities necessary
15 for the expansion of a business that has a high potential
16 for financial success;

17 (f) projects that result in a benefit to the public
18 commensurate with the size of the grant;

19 (g) projects that reflect greater need for financial
20 assistance than other projects; and

21 (h) projects that are high local priorities and have
22 strong community support.

23 (3) The legislature shall authorize the board of
24 examiners to sell coal severance tax bonds to finance loans
25 for the projects authorized by the legislature OR

1 APPROPRIATE MONEY FROM THE SPECIAL REVENUE ACCOUNT
2 ESTABLISHED IN 17-5-703(3) FOR A SUBSIDY ON PROJECTS
3 AUTHORIZED TO RECEIVE THE SUBSIDY AS PROVIDED IN SUBSECTION
4 (1).

5 NEW SECTION. Section 9. Loan terms. (1) The period for
6 repayment of a local government infrastructure investment
7 loan may not exceed 30 years. The department of commerce
8 shall from time to time establish the interest rate at which
9 loans may be made under [sections 6 through 10] that is
10 sufficient to cover the bond debt service for a loan.

11 (2) The department of commerce shall make loans for the
12 local government infrastructure projects approved by the
13 legislature.

14 NEW SECTION. Section 10. Administration of loans. The
15 department of commerce shall:

16 (1) administer the loan program established by
17 [sections 6 through 10]; and

18 (2) service loans made or contract and pay for the
19 servicing of loans.

20 **Section 11.** Section 17-5-704, MCA, is amended to read:

21 "17-5-704. Investment of funds. (1) Money in the coal
22 severance tax bond fund, the coal severance tax permanent
23 fund, the coal severance tax infrastructure fund, and the
24 coal severance tax income fund must be invested in
25 accordance with the investment standards for coal severance

1 tax funds except as provided in subsection (2). **Income**
2 Subject to the provisions of 17-5-703(3), income and
3 earnings from all funds must be transferred to and retained
4 in the coal severance tax income fund until appropriated by
5 the legislature.

6 (2) Except as provided in subsection (1) and section 1,
7 Chapter 634, Laws of 1989, beginning on July 1, 1990, the
8 legislature shall appropriate 15% of the income and earnings
9 from all funds to be deposited to the state equalization aid
10 account each year."

11 ~~Section 12--Section 85-1-603, MCA, is amended to read:~~
12 ~~"85-1-603--Water--development coal--severance-tax-bond~~
13 ~~debt-service-fund-created---coal-severance-tax-allocated---~~
14 ~~water-development loan-loss-reserve--fund--created---(1)--(a)~~
15 ~~There-is-created-a-water-development coal-severance-tax-bond~~
16 ~~debt---service--fund--within--the--debt--service--fund--type~~
17 ~~established-in-17-2-102.~~

18 ~~(b)--The-state-pledges-and-allocates-and-directs--to--be~~
19 ~~credited--to--the--water--development--debt-service-fund, as~~
20 ~~received:~~

21 ~~(i)--1/4% of all money from time to time received from~~
22 ~~the coal severance tax collected under Title 15, chapter 35,~~
23 ~~and--remaining--after--allocation--of--such--tax--under~~
24 ~~15-35-108(1)--and--(2);~~

25 ~~(ii)--any---principal---and---accrued---interest---under~~

1 85-1-613(3)(a) received in repayment of a loan made from the
 2 proceeds of bonds issued under 85-1-617;
 3 (iii) all interest income earned on proceeds of water
 4 development coal severance tax bonds;
 5 (iv) revenue or money otherwise required to be paid into
 6 the water development coal severance tax bond state special
 7 revenue account pursuant to 85-1-604 as determined by the
 8 board of examiners in connection with the issuance of bonds
 9 pursuant to Title 17 chapter 5 part 7 and 85-1-617; and
 10 (v) money received from the water development coal
 11 severance tax bond loan loss reserve fund as the result of a
 12 loan loss;
 13 (2) (a) There is created a water development coal
 14 severance tax bond loan loss reserve fund within the debt
 15 service fund type established in 17-2-102;
 16 (b) The state pledges and allocates and directs to be
 17 credited to the water development coal severance tax bond
 18 loan loss reserve fund all accrued interest under
 19 85-1-613(3)(b) received in repayment of a loan made from the
 20 proceeds of bonds issued under 85-1-617;
 21 (c) If the department determines that a loan loss has
 22 occurred on a loan made pursuant to this part, funds from
 23 the water development coal severance tax bond loan loss
 24 reserve fund must be transferred to the water development
 25 coal severance tax bond debt service fund in an amount equal

1 to the amount that would otherwise be available for debt
 2 service under subsection (1)(b) as a result of the loan
 3 loss;
 4 Section 13, Section 85-1-604, MCA, is amended to read:
 5 "85-1-604. Water development state special revenue
 6 account created - revenues allocated - limitations on
 7 appropriations from account - (1) There is created a water
 8 development state special revenue account within the state
 9 special revenue fund established in 17-2-102;
 10 (2) Except to the extent that they are required to be
 11 credited to the water development coal severance tax bond
 12 debt service fund pursuant to 85-1-603, there shall be paid
 13 into the water development state special revenue account:
 14 (a) all revenues of the works and other money as
 15 provided in 85-1-332;
 16 (b) 30% of the interest income of the resource
 17 indemnity trust fund as provided in and subject to the
 18 conditions of 15-30-202;
 19 (c) the excess of the coal severance tax proceeds
 20 allocated by 85-1-603 to the water development coal
 21 severance tax bond debt service fund above debt service
 22 requirements as provided in and subject to the conditions of
 23 85-1-619; and
 24 (d) any fees or charges collected by the department
 25 pursuant to 85-1-616 for the servicing of loans, including

1 arrangements-for-obtaining-security-interests;

2 {3}--Appropriations--may--be--made--from--the--water

3 development--state-special-revenue-account-for-the-following

4 purposes-and-subject-to-the-following-conditions:

5 {a)--An-amount-less-than-or-equal-to-that-paid-into--the

6 account---under---85-1-332--and--only--that--amount--may--be

7 appropriated--for--the--operation--and--maintenance---of

8 state-owned--projects--and--works--If--the--amount-of-money

9 available-for-appropriation-under-this-subsection-{3}{a)--is

10 greater--than--that--necessary-for-operation-and-maintenance

11 expenses,-the-excess-may-be-appropriated-as-provided--in

12 subsection-{3}{b}:

13 {b)--An--amount-less-than-or-equal-to-that-paid-into-the

14 account-from-the-resource-indemnity-trust-account--plus--any

15 excess--from--subsection--{3}{a)-and-only-that-amount-may-be

16 appropriated-from-the-account-for:

17 {i)--the--rehabilitation--of--state-owned--projects--and

18 works,-including--the--rehabilitation---of---spillways---of

19 state-owned-dams;

20 {ii)--the-formulation-of-downstream-emergency-warning-and

21 evacuation-plans-for-state-owned-dams;

22 {iii)--the--development--of--the--hydropower-potential-of

23 state-owned-dams;

24 {iv)--assistance--in--the--implementation--of--the--water

25 reservations--established--under--85-2-316--of--conservation

1 districts;

2 {v)--the-promotion-of-the-development-of--offstream--and

3 tributary-storage;

4 {vi)--the-promotion-of-joint-state-tribal,-state-federal,

5 and-state-tribal-federal-water-development;

6 {vii)--projects---or--programs--that--improve--water--use

7 efficiency,-including-development-of--new,-efficient--water

8 systems--and--rehabilitation--of--older,-less-efficient-water

9 systems;

10 {viii)--administrative--expenses,-including---but---not

11 limited---to---the---salaries--and--expenses--of--personnel,-

12 equipment,-office-space,-and-other-necessities--incurred--in

13 the--administration--of--the-water-development-program-except

14 the-administration-of-loans-and-grants,-and

15 {ix)--any-other-expenditures-that-meet-the--policies--and

16 objectives-of-the-state-water-development-program;

17 {c)--An--amount-less-than-or-equal-to-that-paid-into-the

18 account-from-the-sources-provided-for--in--(e)--and--(d)--of

19 subsection-(2)-and-only-that-amount-may-be-appropriated-from

20 the--account--for--loans--and--grants--for-water-development

21 projects-and-activities,-for-purchase-of-liens-and-operation

22 of-property-as--provided--in--85-1-615,-for--administrative

23 expenses,-including--but--not--limited--to-the-salaries-and

24 expenses-of-personnel,-equipment,-and-office-space,-for--the

25 servicing--of--loans,-including--arrangements-for-obtaining

1 security interests, and for other necessities incurred in
2 administering the loans and grants;"

3 Section 14, Section 85-1-605, MCA, is amended to read:

4 "85-1-605. Grants, loans, and bonds for state and local
5 government assistance. (1) The department may recommend to
6 the legislature governor that grants and loans be made from
7 coal severance tax proceeds deposited in the water
8 development state special revenue account, that loans be
9 made from water development coal severance tax bond proceeds
10 deposited in the water development account, and that coal
11 severance tax bonds be authorized pursuant to Title 17,
12 chapter 5, part 7, to provide financial assistance for a
13 water development project to a department, agency, board,
14 commission, or other division of state government or to a
15 city, county, or other political subdivision or local
16 government body of the state. The governor shall review the
17 projects recommended under this section and the projects
18 recommended by the department of commerce under {section 8}
19 and shall submit a list of recommended projects to the
20 legislature. The legislature may approve by appropriation or
21 other appropriate means those grants and loans it finds
22 consistent with the policies and purposes of the program.

23 (2) In addition to implementing those projects approved
24 by the legislature, the department may request up to 10% of
25 the funds available for grants from the water development

1 special revenue account in any biennium to be used for
2 emergencies. These emergency projects must be approved by
3 the department and be defined as those projects which, if
4 delayed until legislative approval can be obtained, will
5 cause substantial damages or legal liability to the project
6 sponsor. In allocating such funds, the department shall
7 inform the legislative finance committee of the legislature.

8 (3) The grants and loans provided for by this section
9 may be made for the purchase, lease, development, or
10 construction of water development projects and activities
11 for the conservation, management, use, development, or
12 protection of the water and related agricultural, land,
13 fish, wildlife, and water recreation resources in the state,
14 for the purpose of feasibility and design studies for such
15 projects, for development of plans for and the
16 rehabilitation, expansion, and modification of water
17 development projects, for other water development projects
18 and activities that will enhance the water resources of the
19 state, and for similar purposes approved by the
20 legislature."

21 Section 15, Section 85-1-617, MCA, is amended to read:

22 "85-1-617. Issuing bonds. (1) When authorized by the
23 legislature and within the limits of the authorization and
24 within the further limitations established in this section,
25 the board of examiners may issue and sell water development

1 ~~coal-severance-tax~~ bonds of the state in the amount and
 2 manner it considers necessary and proper to finance the
 3 water development loan program and the local government
 4 infrastructure loan program. The full faith and credit and
 5 taxing powers of the state are pledged for the prompt and
 6 full payment of all bonds so issued and interest and
 7 redemption premiums payable thereon on the bonds according
 8 to their terms.

9 (2) Each series of water development coal-severance-tax
 10 bonds may be issued by the board of examiners, upon request
 11 of the board of natural resources and conservation or the
 12 department of commerce, at public or private sale, in such
 13 denominations and forms, whether payable to bearer with
 14 attached interest coupons or registered as to principal or
 15 as to both principal and interest, with such provisions for
 16 conversion or exchange and for the issuance of notes in
 17 anticipation of the issuance of definitive bonds, bearing
 18 interest at such a rate or rates, maturing at such a rate or
 19 rates, maturing at such a time or times not exceeding 30
 20 years from date of issue, subject to optional or mandatory
 21 redemption at such earlier times and prices and upon such
 22 notice, with such provisions for payment and discharge by
 23 the deposit of funds or securities in escrow for that
 24 purpose, and payable at the office of such a banking
 25 institution or institutions within or outside the state, as

1 the board of examiners shall determine subject to the
 2 limitations contained in this section and 17-5-731.

3 (3) In the issuance of each series of water development
 4 coal-severance-tax bonds, the interest rates and the
 5 maturities and any mandatory redemption provisions thereof
 6 shall of the bonds must be established in such a manner that
 7 the funds then specifically pledged and appropriated by law
 8 to the water development coal-severance-tax bond debt
 9 service fund will in the judgment of the board of examiners
 10 be received in an amount sufficient in each year to pay all
 11 principal, redemption premiums, and interest due and payable
 12 in that year with respect to that and all prior series of
 13 such bonds, except outstanding bonds as to which the
 14 obligation of the state has been discharged by the deposit
 15 of funds or securities sufficient for their payment in
 16 accordance with the terms of the resolutions by which they
 17 are authorized to be issued.

18 (4) In all other respects, the board of examiners is
 19 authorized to prescribe the form and terms of the bonds and
 20 notes and shall do whatever is lawful and necessary for
 21 their issuance and payment. Such The coal-severance-tax
 22 bonds, notes, and any interest coupons appurtenant thereto
 23 to the bonds must be signed by the members of the board of
 24 examiners, and the bonds and notes must be issued under the
 25 great seal of the state of Montana. The bonds, notes, and

coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds and notes issued and sold.

(5) There is created a water development account within the state special revenue fund established in 17-2-102.

(6) All proceeds of bonds or notes issued under this section for water development projects, other than refunding bonds, must be deposited in the water development account established in subsection (5), except that any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under this section must be deposited in the water development coal severance tax bond debt service fund and the water development coal severance tax bond loan loss reserve fund pursuant to 85-1-603. All proceeds of refunding bonds must be deposited in the water development coal severance tax bond debt service fund and applied to the payment and redemption of outstanding bonds issued under this section as directed by the board, whether at maturity or on any earlier date on which they may be prepaid according to their terms.

(7) All actions taken by the board of examiners under this section or 85-1-619 must be authorized by a vote of a majority of the members of the board of examiners.

Section 16, Section 85-1-618, MCA, is amended to read:

85-1-618. Restrictions on use of bond proceeds: Water development coal severance tax bond proceeds issued for water development projects may be used only for the purpose of making loans as provided in the water development program or for purchasing liens and operating property as provided in 85-1-615.

Section 17, Section 85-1-619, MCA, is amended to read:

85-1-619. Debt service fund pledge and administration of sufficient balance. (1) The legislature may levy, impose, assess, and pledge and appropriate to the water development coal severance tax bond debt service fund any tax, charge, fee, rental, or other income from any designated source. The state reserves the right to modify from time to time the nature and amount of special taxes and other revenues pledged and appropriated to the water development coal severance tax bond debt service fund provided that the aggregate resources so pledged and appropriated are determined by the legislature to be sufficient for the prompt and full payment of the principal of and interest and redemption premiums when due on all bonds payable from that fund and provided that the pledge of the full faith and credit and taxing powers of the state for the security of all such coal severance tax bonds shall be irrevocable until they are fully paid.

(2) Money in the water development coal severance tax

1 bond-debt-service-fund-must-be-used-to-pay-interest,
 2 principal, and redemption premiums when due and payable with
 3 respect to water development coal-severance-tax-bonds, and
 4 for bonds issued prior to 1985 to accumulate a reserve for
 5 the further security of such payments.

6 (3) After the reserve provided for in subsection (2)
 7 for bonds issued prior to 1985 has been accumulated in the
 8 water development coal-severance-tax-bond-debt-service-fund,
 9 money at any time received in the water development coal
 10 severance-tax-bond-debt-service-fund from water development
 11 projects in excess of that amount must be transferred by the
 12 treasurer to the water development state special revenue
 13 account."

14 Section 18, Section 85-1-620, MCA, is amended to read:
 15 "85-1-620. Water development Coal-severance-tax
 16 refunding bonds. (1) The board of examiners may issue
 17 refunding bonds at such times and in such amounts, if any,
 18 as may be necessary to pay principal or interest due that
 19 cannot be paid from funds then on hand in the water
 20 development coal-severance-tax-bond-debt-service-fund. The
 21 board of examiners may also issue refunding bonds to refund
 22 outstanding bonds before maturity for the purpose of
 23 extending the maturities thereof of the outstanding bond so
 24 far as determined by the board of examiners to be necessary
 25 to assure ensure that the funds then pledged to the water

1 development coal-severance-tax-bond-debt-service-fund will
 2 be sufficient for payment of principal and interest due in
 3 subsequent years. The board of examiners may also issue
 4 refunding bonds to refund outstanding bonds before maturity
 5 for the purpose of reducing the interest cost or the total
 6 amount of principal and interest payable thereon on the
 7 outstanding bonds.

8 (2) No refunding Refunding bonds may not be issued and
 9 sold more than 3 months before all bonds refunded thereby by
 10 the refunding bonds mature or are called for redemption
 11 unless the proceeds thereof of the refunding bonds, with any
 12 other funds in the water development coal-severance-tax-bond
 13 debt-service-fund that are needed and available for the
 14 purpose or securities purchased from such bond proceeds and
 15 other funds, are deposited with a suitable banking
 16 institution within or outside the state, in escrow, for the
 17 retirement of the refunded bonds at maturity or at a prior
 18 date or dates on which they have been called for redemption
 19 in accordance with their terms, in an amount and in a manner
 20 sufficient under the provisions securing the refunded bonds,
 21 so that the state's obligation to pay the same bonds, from
 22 sources other than the escrow fund, is discharged.

23 (3) No new New debt may not be created by the issuance
 24 of refunding bonds in accordance with this section, but such
 25 the refunding bonds shall evidence the debt previously

1 ~~created--and--shall-be are-secured-by-the-pledge-of-the-full~~
2 ~~faith-and-credit-and-taxing-powers-of-the-state-and--by--the~~
3 ~~further--provisions--of--this-part-in-the-same-manner-as-the~~
4 ~~bonds-refunded-thereby-"~~

5 NEW SECTION. SECTION 12. APPROPRIATION. THE MONEY
6 ACCUMULATED IN THE SPECIAL REVENUE ACCOUNT CREATED IN
7 17-5-703(3) IS APPROPRIATED TO THE DEPARTMENT OF COMMERCE TO
8 BE USED FOR ENGINEERING STUDIES FOR ELIGIBLE PROJECTS UNDER
9 [SECTION 7].

10 NEW SECTION. Section 13. Three-fourths vote. Because
11 {this act} appropriates money that would otherwise be
12 deposited in the coal severance tax permanent fund, a vote
13 of three-fourths of the members of each house is required
14 for enactment of {this act}.

15 NEW SECTION. SECTION 14. EFFECTIVE DATE. {THIS ACT} IS
16 EFFECTIVE JULY 1, 1991.

-End-

1 HOUSE BILL NO. 795
 2 INTRODUCED BY HARPER, TOWE, CROMLEY, RANEY, DARKO, TOOLE,
 3 VAN VALKENBURG, MAZUREK, JACOBSON, BECKER, J. BROWN, SCHYE,
 4 DRISCOLL, SQUIRES, SOUTHWORTH, DOLEZAL, DAILY, STRIZICH,
 5 J. DEBRUYCKER, G. BECK, FORRESTER, BARDANOUVE, WANZENRIED
 6
 7 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA
 8 COMMUNITY INFRASTRUCTURE ACT; CREATING AN INFRASTRUCTURE
 9 TRUST FUND WITHIN THE PERMANENT COAL TAX TRUST FUND;
 10 AUTHORIZING THE CREATION OF A STATE DEBT THROUGH THE
 11 ISSUANCE OF COAL SEVERANCE TAX BONDS FOR THE PURPOSE OF
 12 MAKING LOANS FOR LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS;
 13 PROVIDING FOR THE TERMS AND CONDITIONS OF LOANS; PROVIDING A
 14 METHOD FOR RECOMMENDING PRIORITIES FOR LOANS; REQUIRING
 15 LEGISLATIVE AUTHORIZATION FOR LOAN PROJECTS; AND
 16 APPROPRIATING MONEY IN THE SPECIAL REVENUE ACCOUNT TO THE
 17 DEPARTMENT OF COMMERCE FOR USE BY LOCAL GOVERNMENTS FOR
 18 ENGINEERING STUDIES FOR LOCAL GOVERNMENT INFRASTRUCTURE
 19 PROJECTS; AMENDING SECTIONS 17-5-701, 17-5-702, 17-5-703,
 20 17-5-704, 17-5-706, AND 17-5-719--85-1-603--85-1-604;
 21 85-1-605--85-1-617--85-1-618--85-1-619--AND--85-1-620, MCA;
 22 AND PROVIDING AN EFFECTIVE DATE."
 23
 24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 25 **Section 1.** Section 17-5-703, MCA, is amended to read:

1 *17-5-703. Coal severance tax trust funds. (1) The
 2 trust established under Article IX, section 5, of the
 3 Montana constitution shall be composed of the following
 4 funds:
 5 (a) a coal severance tax bond fund into which the
 6 constitutionally dedicated receipts from the coal severance
 7 tax shall be deposited;
 8 (b) A coal severance tax infrastructure fund;
 9 ~~(b)~~(c) a coal severance tax permanent fund; and
 10 ~~(c)~~(d) a coal severance tax income fund.
 11 (2) The state treasurer shall from time to time
 12 transfer to the ~~coal-severance-tax-permanent~~ coal severance
 13 tax infrastructure fund all money in the coal severance tax
 14 bond fund except the amount necessary to meet all principal
 15 and interest payments on bonds payable from the coal
 16 severance tax bond fund on the next two ensuing semiannual
 17 payment dates. The state treasurer shall from time to time
 18 transfer to the coal severance tax permanent fund 75% 50% of
 19 the money DEPOSITED in the coal severance tax infrastructure
 20 fund IN THE PRECEDING YEAR not-encumbered--for--projects--by
 21 the-legislature.
 22 (3) The purpose of the coal severance tax
 23 infrastructure fund is to assist local governments in
 24 funding infrastructure projects. Interest earned on the coal
 25 severance tax infrastructure fund MUST BE DEPOSITED IN A

1 SPECIAL REVENUE ACCOUNT. UP TO \$10 MILLION A YEAR is
 2 available for reducing principal and interest payments on
 3 coal severance tax bonds issued for local government
 4 infrastructure projects AND BONDS ISSUED PURSUANT TO TITLE
 5 17, CHAPTER 5, PART 16, FOR PROJECTS APPROVED BY THE
 6 LEGISLATURE TO RECEIVE A SUBSIDY."

7 **Section 2.** Section 17-5-701, MCA, is amended to read:

8 "17-5-701. State of Montana coal severance tax bonds.

9 This part provides for the issuance of state of Montana coal
 10 severance tax bonds (also referred to as coal severance tax
 11 bonds in this part) to:

12 (1) finance water resource development projects and
 13 activities in the state designed to provide, during and
 14 after extensive coal mining, a healthy economy, the
 15 alleviation of social and economic impacts created by coal
 16 development, and a clean and healthful environment for
 17 present and future generations; and

18 (2) allow local governments a cost-effective
 19 alternative method of financing infrastructure projects that
 20 enhance the quality of life and protect the health, safety,
 21 and welfare of Montana's citizens and that support
 22 long-term, stable economic growth and job creation by
 23 keeping Montana competitive with nearby states through the
 24 provision of the infrastructure necessary for economic
 25 growth."

1 **Section 3.** Section 17-5-702, MCA, is amended to read:

2 "17-5-702. Purpose and intent. (1) The purpose of the
 3 coal severance tax trust fund bond provisions of this part
 4 and [sections 6 through 10] is to establish the authority to
 5 issue and sell coal severance tax bonds that have been
 6 approved by an act of the legislature for financing specific
 7 water resource development projects and activities and local
 8 government infrastructure projects and activities in the
 9 state authorized by the legislature and to guarantee
 10 redemption of such the bonds by revenue derived from the
 11 receipts from the coal severance tax imposed by Title 15,
 12 chapter 35, part 1, and such other money as the legislature
 13 may from time to time determine.

14 (2) The legislature intends that projects to be
 15 financed by coal severance tax bonds include:

16 (a) water resource development projects and activities
 17 as part of the water development program established in
 18 Title 85, chapter 1, part 6. The legislature further intends
 19 that the income from water resource development projects and
 20 activities in excess of the amount required for debt service
 21 and operation and maintenance of those projects and
 22 activities be deposited in the water development state
 23 special revenue account established in 85-1-604.

24 (b) local government infrastructure projects and
 25 activities as part of the local government infrastructure

1 program established in [sections 6 through 10]. The payments
2 of principal and interest on local government infrastructure
3 loans in excess of the amount required for debt service must
4 be deposited in the coal severance tax permanent fund."

5 **Section 4.** Section 17-5-706, MCA, is amended to read:

6 "17-5-706. Authority to issue coal severance tax bonds.

7 The board of examiners, upon approval of the legislature as
8 hereinafter provided in this section, shall issue and sell
9 coal severance tax bonds to finance such approved water
10 resource development projects and activities and local
11 government infrastructure projects and activities when
12 authorized to do so by any law that sets out the amount and
13 purpose of the issue. Each project or activity shall must be
14 separately approved as to amount by a two-thirds vote of
15 each house of the legislature."

16 **Section 5.** Section 17-5-719, MCA, is amended to read:

17 "17-5-719. Limitation on amount of coal severance tax
18 bonds issued. No more than \$250 \$450 million worth of coal
19 severance tax bonds may be issued for water development
20 projects and activities and local government infrastructure
21 projects and activities."

22 **NEW SECTION. Section 6.** Purpose. The purpose of
23 [sections 6 through 10] is to establish a local government
24 infrastructure investment program that will:

25 (1) enhance the quality of life and protect the health,

1 safety, and welfare of Montana's citizens by creating a
2 partnership between the state and local governments to help
3 finance necessary public infrastructure projects;

4 (2) support long-term, stable economic growth and job
5 creation and help keep Montana competitive with nearby
6 states by providing a means for financing the infrastructure
7 necessary for economic growth;

8 (3) encourage local public facility improvements by
9 state investment in improvements in order to make these
10 improvements affordable to Montana citizens;

11 (4) protect future generations from the undue fiscal
12 burdens that result when infrastructure systems are
13 inadequate or are allowed to deteriorate;

14 (5) encourage maximum use of all available private and
15 public funding sources;

16 (6) complement and improve the effectiveness of
17 existing private and public infrastructure financing
18 mechanisms and improve coordination between state and
19 federal infrastructure financing programs; and

20 (7) encourage coordinated, long-term strategies for
21 addressing Montana's infrastructure needs.

22 **NEW SECTION. Section 7.** Eligible projects. (1) A
23 county, incorporated city or town, consolidated local
24 government, ~~school-district,~~ OR special purpose district, ~~or~~
25 ~~private--nonprofit-corporation-that-provides-public-services~~

1 is eligible to apply for a loan under [sections 6 through
2 10].

3 (2) Loans may be made for the direct costs related to
4 the planning, design, construction, reconstruction,
5 acquisition, alteration, modernization, improvement, or
6 expansion of:

- 7 (a) drinking water systems;
- 8 (b) SANITARY OR STORM sewer systems;
- 9 (c) solid waste collection and disposal systems; OR
- 10 (d) ~~transportation systems;~~
- 11 ~~(e) telecommunications and other high-technology~~
- 12 ~~systems for education; or~~
- 13 ~~(f) other public works projects the department of~~
- 14 ~~commerce determines to be in the public interest BRIDGES.~~

15 NEW SECTION. Section 8. Priorities for projects --
16 procedure. (1) The department of commerce shall receive
17 proposals for projects from the local government entities
18 listed in [section 7(1)]. The department shall work with the
19 local government in preparing cost estimates for the
20 project. In reviewing project proposals, the department may
21 consult with other state agencies with expertise pertinent
22 to the proposal. The department shall prepare and submit a
23 list of recommended projects to the governor. THE DEPARTMENT
24 MAY RECOMMEND EITHER THAT THE PROJECTS BE FUNDED THROUGH THE
25 ISSUANCE OF COAL SEVERANCE TAX BONDS OR THAT THE PROJECTS BY

1 FUNDED THROUGH BONDS ISSUED PURSUANT TO TITLE 17, CHAPTER 5,
2 PART 16, AND RECEIVE A SUBSIDY.

3 (2) In preparing recommendations under subsection (1),
4 preference must be given to projects based on the following
5 order of priority:

- 6 (a) projects that solve urgent and serious public
7 health or safety problems;
- 8 (b) projects that enable local governments to meet
9 state or federal health or safety standards;
- 10 (c) projects that enable local governments to obtain
11 funds from sources other than the funds provided under
12 [sections 6 through 10];
- 13 (d) projects that provide long-term, full-time job
14 opportunities for Montanans;
- 15 (e) projects that provide public facilities necessary
16 for the expansion of a business that has a high potential
17 for financial success;
- 18 (f) projects that result in a benefit to the public
19 commensurate with the size of the grant;
- 20 (g) projects that reflect greater need for financial
21 assistance than other projects; and
- 22 (h) projects that are high local priorities and have
23 strong community support.

24 (3) The legislature shall authorize the board of
25 examiners to sell coal severance tax bonds to finance loans

1 for the projects authorized by the legislature OR
2 APPROPRIATE MONEY FROM THE SPECIAL REVENUE ACCOUNT
3 ESTABLISHED IN 17-5-703(3) FOR A SUBSIDY ON PROJECTS
4 AUTHORIZED TO RECEIVE THE SUBSIDY AS PROVIDED IN SUBSECTION
5 (1).

6 NEW SECTION. Section 9. Loan terms. (1) The period for
7 repayment of a local government infrastructure investment
8 loan may not exceed 30 years. The department of commerce
9 shall from time to time establish the interest rate at which
10 loans may be made under [sections 6 through 10] that is
11 sufficient to cover the bond debt service for a loan.

12 (2) The department of commerce shall make loans for the
13 local government infrastructure projects approved by the
14 legislature.

15 NEW SECTION. Section 10. Administration of loans. The
16 department of commerce shall:

17 (1) administer the loan program established by
18 [sections 6 through 10]; and

19 (2) service loans made or contract and pay for the
20 servicing of loans.

21 **Section 11.** Section 17-5-704, MCA, is amended to read:

22 "17-5-704. Investment of funds. (1) Money in the coal
23 severance tax bond fund, the coal severance tax permanent
24 fund, the coal severance tax infrastructure fund, and the
25 coal severance tax income fund must be invested in

1 accordance with the investment standards for coal severance
2 tax funds except as provided in subsection (2). Income
3 Subject to the provisions of 17-5-703(3), income and
4 earnings from all funds must be transferred to and retained
5 in the coal severance tax income fund until appropriated by
6 the legislature.

7 (2) Except as provided in subsection (1) and section 1,
8 Chapter 634, Laws of 1989, beginning on July 1, 1990, the
9 legislature shall appropriate 15% of the income and earnings
10 from all funds to be deposited to the state equalization aid
11 account each year."

12 ~~Section 12--Section 85-1-603, MCA, is amended to read:~~
13 ~~"85-1-603--Water--development Coal--severance--tax--bond~~
14 ~~debt--service--fund--created---coal--severance--tax--allocated---~~
15 ~~water--development loan--loss--reserve--fund--created--(1)--(a)~~
16 ~~There--is--created--a--water--development coal--severance--tax--bond~~
17 ~~debt---service--fund--within--the--debt--service--fund--type~~
18 ~~established--in--17-2-102.~~

19 ~~(b)--The--state--pledges--and--allocates--and--directs--to--be~~
20 ~~credited--to--the--water--development--debt--service--fund,--as~~
21 ~~received:~~

22 ~~(1)--1-1/4%--of--all--money--from--time--to--time--received--from~~
23 ~~the--coal--severance--tax--collected--under--Title--15,--chapter--35,~~
24 ~~and--remaining--after--allocation--of--such--tax--under~~
25 ~~15-35-100(1)--and--(2).~~

1 (ii) any principal and accrued interest under
 2 85-1-613(3)(a) received in repayment of a loan made from the
 3 proceeds of bonds issued under 85-1-617;
 4 (iii) all interest income earned on proceeds of water
 5 development coal severance tax bonds;
 6 (iv) revenue or money otherwise required to be paid into
 7 the water development coal severance tax bond state special
 8 revenue account pursuant to 85-1-604, as determined by the
 9 board of examiners in connection with the issuance of bonds
 10 pursuant to Title 17, chapter 57, part 7, and 85-1-617; and
 11 (v) money received from the water development coal
 12 severance tax bond loan loss reserve fund as the result of a
 13 loan loss.
 14 (2) (a) There is created a water development coal
 15 severance tax bond loan loss reserve fund within the debt
 16 service fund type established in 17-2-102.
 17 (b) The state pledges and allocates and directs to be
 18 credited to the water development coal severance tax bond
 19 loan loss reserve fund all accrued interest under
 20 85-1-613(3)(b) received in repayment of a loan made from the
 21 proceeds of bonds issued under 85-1-617.
 22 (c) If the department determines that a loan loss has
 23 occurred on a loan made pursuant to this part, funds from
 24 the water development coal severance tax bond loan loss
 25 reserve fund must be transferred to the water development

1 coal severance tax bond debt service fund in an amount equal
 2 to the amount that would otherwise be available for debt
 3 service under subsection (1)(b) as a result of the loan
 4 loss.⁴
 5 Section 13, Section 85-1-604, MCA, is amended to read:
 6 "85-1-604. Water development state special revenue
 7 account created --- revenues allocated --- limitations on
 8 appropriations from account. (1) There is created a water
 9 development state special revenue account within the state
 10 special revenue fund established in 17-2-102.
 11 (2) Except to the extent that they are required to be
 12 credited to the water development coal severance tax bond
 13 debt service fund pursuant to 85-1-603, there shall be paid
 14 into the water development state special revenue account:
 15 (a) all revenues of the works and other money as
 16 provided in 85-1-332;
 17 (b) 30% of the interest income of the resource
 18 indemnity trust fund as provided in and subject to the
 19 conditions of 15-38-202;
 20 (c) the excess of the coal severance tax proceeds
 21 allocated by 85-1-603 to the water development coal
 22 severance tax bond debt service fund above debt service
 23 requirements as provided in and subject to the conditions of
 24 85-1-619; and
 25 (d) any fees or charges collected by the department

1 pursuant to 85-1-616 for the servicing of loans, including
2 arrangements for obtaining security interests;

3 (3) Appropriations may be made from the water
4 development state special revenue account for the following
5 purposes and subject to the following conditions:

6 (a) An amount less than or equal to that paid into the
7 account under 85-1-332 and only that amount may be
8 appropriated for the operation and maintenance of
9 state-owned projects and works, if the amount of money
10 available for appropriation under this subsection (3)(a) is
11 greater than that necessary for operation and maintenance
12 expenses, the excess may be appropriated as provided in
13 subsection (3)(b);

14 (b) An amount less than or equal to that paid into the
15 account from the resource indemnity trust account plus any
16 excess from subsection (3)(a) and only that amount may be
17 appropriated from the account for:

18 (i) the rehabilitation of state-owned projects and
19 works, including the rehabilitation of spillways of
20 state-owned dams;

21 (ii) the formulation of downstream emergency warning and
22 evacuation plans for state-owned dams;

23 (iii) the development of the hydropower potential of
24 state-owned dams;

25 (iv) assistance in the implementation of the water

1 reservations established under 85-2-316 of conservation
2 districts;

3 (v) the promotion of the development of offstream and
4 tributary storage;

5 (vi) the promotion of joint state-tribal, state-federal,
6 and state-tribal-federal water development;

7 (vii) projects or programs that improve water use
8 efficiency, including development of new, efficient water
9 systems and rehabilitation of older, less efficient water
10 systems;

11 (viii) administrative expenses, including but not
12 limited to the salaries and expenses of personnel,
13 equipment, office space, and other necessities incurred in
14 the administration of the water development program except
15 the administration of loans and grants; and

16 (ix) any other expenditures that meet the policies and
17 objectives of the state water development program;

18 (c) An amount less than or equal to that paid into the
19 account from the sources provided for in (c) and (d) of
20 subsection (2) and only that amount may be appropriated from
21 the account for loans and grants for water development
22 projects and activities, for purchase of liens and operation
23 of property as provided in 85-1-615, for administrative
24 expenses, including but not limited to the salaries and
25 expenses of personnel, equipment, and office space, for the

1 servicing of loans, including arrangements for obtaining
 2 security interests, and for other necessities incurred in
 3 administering the loans and grants."

4 Section 14, Section 85-1-605, MCA, is amended to read:

5 "85-1-605. Grants, loans, and bonds for state and local
 6 government assistance. (1) The department may recommend to
 7 the legislature governor that grants and loans be made from
 8 coal severance tax proceeds deposited in the water
 9 development state special revenue account, that loans be
 10 made from water development coal severance tax bond proceeds
 11 deposited in the water development account, and that coal
 12 severance tax bonds be authorized pursuant to Title 17
 13 chapter 5, part 7, to provide financial assistance for a
 14 water development project to a department, agency, board,
 15 commission, or other division of state government or to a
 16 city, county, or other political subdivision or local
 17 government body of the state. The governor shall review the
 18 projects recommended under this section and the projects
 19 recommended by the department of commerce under {section 8}
 20 and shall submit a list of recommended projects to the
 21 legislature. The legislature may approve by appropriation or
 22 other appropriate means those grants and loans it finds
 23 consistent with the policies and purposes of the program.

24 (2) In addition to implementing those projects approved
 25 by the legislature, the department may request up to 10% of

1 the funds available for grants from the water development
 2 special revenue account in any biennium to be used for
 3 emergencies. These emergency projects must be approved by
 4 the department and be defined as those projects which, if
 5 delayed until legislative approval can be obtained, will
 6 cause substantial damages or legal liability to the project
 7 sponsor in allocating such funds, the department shall
 8 inform the legislative finance committee of the legislature.

9 (3) The grants and loans provided for by this section
 10 may be made for the purchase, lease, development, or
 11 construction of water development projects and activities
 12 for the conservation, management, use, development, or
 13 protection of the water and related agricultural, land,
 14 fish, wildlife, and water recreation resources in the state,
 15 for the purpose of feasibility and design studies for such
 16 projects, for development of plans for and the
 17 rehabilitation, expansion, and modification of water
 18 development projects, for other water development projects
 19 and activities that will enhance the water resources of the
 20 state, and for similar purposes approved by the
 21 legislature."

22 Section 15, Section 85-1-617, MCA, is amended to read:

23 "85-1-617. Issuing bonds. (1) When authorized by the
 24 legislature and within the limits of the authorization and
 25 within the further limitations established in this section,

1 the board of examiners may issue and sell water development
 2 coal severance tax bonds of the state in the amount and
 3 manner it considers necessary and proper to finance the
 4 water development loan program and the local government
 5 infrastructure loan program. The full faith and credit and
 6 taxing powers of the state are pledged for the prompt and
 7 full payment of all bonds so issued and interest and
 8 redemption premiums payable thereon on the bonds according
 9 to their terms.

10 (2) Each series of water development coal severance tax
 11 bonds may be issued by the board of examiners, upon request
 12 of the board of natural resources and conservation or the
 13 department of commerce, at public or private sale, in such
 14 denominations and forms, whether payable to bearer with
 15 attached interest coupons or registered as to principal or
 16 as to both principal and interest, with such provisions for
 17 conversion or exchange and for the issuance of notes in
 18 anticipation of the issuance of definitive bonds, bearing
 19 interest at such a rate or rates, maturing at such a rate or
 20 rates, maturing at such a time or times not exceeding 30
 21 years from date of issue, subject to optional or mandatory
 22 redemption at such earlier times and prices and upon such
 23 notice, with such provisions for payment and discharge by
 24 the deposit of funds or securities in escrow for that
 25 purpose, and payable at the office of such a banking

1 institution or institutions within or outside the state, as
 2 the board of examiners shall determine subject to the
 3 limitations contained in this section and 17-5-731.

4 (3) In the issuance of each series of water development
 5 coal severance tax bonds, the interest rates and the
 6 maturities and any mandatory redemption provisions thereof
 7 shall of the bonds must be established in such a manner that
 8 the funds then specifically pledged and appropriated by law
 9 to the water development coal severance tax bond debt
 10 service fund will in the judgment of the board of examiners
 11 be received in an amount sufficient in each year to pay all
 12 principal, redemption premiums, and interest due and payable
 13 in that year with respect to that and all prior series of
 14 such bonds, except outstanding bonds as to which the
 15 obligation of the state has been discharged by the deposit
 16 of funds or securities sufficient for their payment in
 17 accordance with the terms of the resolutions by which they
 18 are authorized to be issued.

19 (4) In all other respects, the board of examiners is
 20 authorized to prescribe the form and terms of the bonds and
 21 notes and shall do whatever is lawful and necessary for
 22 their issuance and payment. Such The coal severance tax
 23 bonds, notes, and any interest coupons appurtenant thereto
 24 to the bonds must be signed by the members of the board of
 25 examiners, and the bonds and notes must be issued under the

1 great seal of the state of Montana. The bonds, notes, and
2 coupons may be executed with facsimile signatures and seal
3 in the manner and subject to the limitations prescribed by
4 law. The state treasurer shall keep a record of all such
5 bonds and notes issued and sold.

6 {5} There is created a water development account within
7 the state special revenue fund established in 17-2-102.

8 {6} All proceeds of bonds or notes issued under this
9 section for water development projects, other than refunding
10 bonds, must be deposited in the water development account
11 established in subsection (5), except that any principal and
12 accrued interest received in repayment of a loan made from
13 the proceeds of bonds issued under this section must be
14 deposited in the water development coal severance tax bond
15 debt service fund and the water development coal severance
16 tax bond loan loss reserve fund pursuant to 85-1-603. All
17 proceeds of refunding bonds must be deposited in the water
18 development coal severance tax bond debt service fund and
19 applied to the payment and redemption of outstanding bonds
20 issued under this section as directed by the board, whether
21 at maturity or on any earlier date on which they may be
22 prepaid according to their terms.

23 {7} All actions taken by the board of examiners under
24 this section or 85-1-619 must be authorized by a vote of a
25 majority of the members of the board of examiners."

1 Section 16, Section 85-1-618, MCA, is amended to read:
2 "85-1-618. Restrictions on use of bond proceeds. Water
3 development coal severance tax bond proceeds issued for
4 water development projects may be used only for the purpose
5 of making loans as provided in the water development program
6 or for purchasing liens and operating property as provided
7 in 85-1-615."

8 Section 17, Section 85-1-619, MCA, is amended to read:
9 "85-1-619. Debt service fund. Pledge and
10 administration of sufficient balance. (1) The legislature
11 may levy, impose, assess, and pledge and appropriate to the
12 water development coal severance tax bond debt service fund
13 any tax, charge, fee, rental, or other income from any
14 designated source. The state reserves the right to modify
15 from time to time the nature and amount of special taxes and
16 other revenues pledged and appropriated to the water
17 development coal severance tax bond debt service fund,
18 provided that the aggregate resources so pledged and
19 appropriated are determined by the legislature to be
20 sufficient for the prompt and full payment of the principal
21 of and interest and redemption premiums when due on all
22 bonds payable from that fund and provided that the pledge of
23 the full faith and credit and taxing powers of the state for
24 the security of all such coal severance tax bonds shall be
25 are and remain irrevocable until they are fully paid.

1 (2) Money in the water development coal severance tax
 2 bond debt service fund must be used to pay interest,
 3 principal, and redemption premiums when due and payable with
 4 respect to water development coal severance tax bonds, and
 5 for bonds issued prior to 1985, to accumulate a reserve for
 6 the further security of such payments.

7 (3) After the reserve provided for in subsection (2)
 8 for bonds issued prior to 1985 has been accumulated in the
 9 water development coal severance tax bond debt service fund,
 10 money at any time received in the water development coal
 11 severance tax bond debt service fund from water development
 12 projects in excess of that amount must be transferred by the
 13 treasurer to the water development state special revenue
 14 account."

15 Section 10, Section 85-i-626, MCA, is amended to read:
 16 "85-i-626. Water development Coal severance tax
 17 refunding bonds. (1) The board of examiners may issue
 18 refunding bonds at such times and in such amounts, if any,
 19 as may be necessary to pay principal or interest due that
 20 cannot be paid from funds then on hand in the water
 21 development coal severance tax bond debt service fund. The
 22 board of examiners may also issue refunding bonds to refund
 23 outstanding bonds before maturity for the purpose of
 24 extending the maturities thereof of the outstanding bond so
 25 far as determined by the board of examiners to be necessary

1 to assure ensure that the funds then pledged to the water
 2 development coal severance tax bond debt service fund will
 3 be sufficient for payment of principal and interest due in
 4 subsequent years. The board of examiners may also issue
 5 refunding bonds to refund outstanding bonds before maturity
 6 for the purpose of reducing the interest cost or the total
 7 amount of principal and interest payable thereon on the
 8 outstanding bonds.

9 (2) No refunding Refunding bonds may not be issued and
 10 sold more than 3 months before all bonds refunded thereby by
 11 the refunding bonds mature or are called for redemption
 12 unless the proceeds thereof of the refunding bonds, with any
 13 other funds in the water development coal severance tax bond
 14 debt service fund that are needed and available for the
 15 purpose or securities purchased from such bond proceeds and
 16 other funds, are deposited with a suitable banking
 17 institution within or outside the state, in escrow, for the
 18 retirement of the refunded bonds at maturity or at a prior
 19 date or dates on which they have been called for redemption
 20 in accordance with their terms, in an amount and in a manner
 21 sufficient under the provisions securing the refunded bonds,
 22 so that the state's obligation to pay the same bonds from
 23 sources other than the escrow fund, is discharged.

24 (3) No new New debt may not be created by the issuance
 25 of refunding bonds in accordance with this section, but such

1 ~~the refunding bonds shall evidence the debt previously~~
2 ~~created and shall be secured by the pledge of the full~~
3 ~~faith and credit and taxing powers of the state and by the~~
4 ~~further provisions of this part in the same manner as the~~
5 ~~bonds refunded thereby."~~

6 NEW SECTION. SECTION 12. APPROPRIATION. THE MONEY
7 ACCUMULATED IN THERE IS APPROPRIATED \$225,000 FROM THE
8 SPECIAL REVENUE ACCOUNT CREATED IN 17-5-703(3) IS
9 APPROPRIATED TO THE DEPARTMENT OF COMMERCE TO BE USED FOR
10 ENGINEERING STUDIES FOR ELIGIBLE PROJECTS UNDER [SECTION 7].

11 NEW SECTION. Section 13. Three-fourths vote. Because
12 [this act] appropriates money that would otherwise be
13 deposited in the coal severance tax permanent fund, a vote
14 of three-fourths of the members of each house is required
15 for enactment of [this act].

16 NEW SECTION. SECTION 14. EFFECTIVE DATE. [THIS ACT] IS
17 EFFECTIVE JULY 1, 1991.

-End-

1 HOUSE BILL NO. 795

2 INTRODUCED BY HARPER, TOWE, CROMLEY, RANEY, DARKO, TOOLE,
 3 VAN VALKENBURG, MAZUREK, JACOBSON, BECKER, J. BROWN, SCHYE,
 4 DRISCOLL, SQUIRES, SOUTHWORTH, DOLEZAL, DAILY, STRIZICH,
 5 J. DEBRUYCKER, G. BECK, FORRESTER, BARDANOUE, WANZENRIED

6
 7 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA
 8 COMMUNITY INFRASTRUCTURE ACT; CREATING AN INFRASTRUCTURE
 9 TRUST FUND WITHIN THE PERMANENT COAL TAX TRUST FUND;
 10 AUTHORIZING THE CREATION OF A STATE DEBT THROUGH THE
 11 ISSUANCE OF COAL SEVERANCE TAX BONDS FOR THE PURPOSE OF
 12 MAKING LOANS FOR LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS;
 13 PROVIDING FOR THE TERMS AND CONDITIONS OF LOANS; PROVIDING A
 14 METHOD FOR RECOMMENDING PRIORITIES FOR LOANS; REQUIRING
 15 LEGISLATIVE AUTHORIZATION FOR LOAN PROJECTS; AND
 16 APPROPRIATING MONEY IN THE SPECIAL REVENUE ACCOUNT TO THE
 17 DEPARTMENT OF COMMERCE FOR USE BY LOCAL GOVERNMENTS FOR
 18 ENGINEERING STUDIES FOR LOCAL GOVERNMENT INFRASTRUCTURE
 19 PROJECTS; AMENDING SECTIONS 17-5-701, 17-5-702, 17-5-703,
 20 17-5-704, 17-5-706, AND 17-5-719~~7~~--85-~~1~~-603~~7~~--85-~~1~~-604~~7~~
 21 85-~~1~~-605~~7~~-85-~~1~~-617~~7~~-85-~~1~~-618~~7~~-85-~~1~~-619~~7~~-AND--85-~~1~~-620, MCA;
 22 AND PROVIDING AN EFFECTIVE DATE."

23
 24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 **Section 1.** Section 17-5-703, MCA, is amended to read:

THERE ARE NO CHANGES ON THIS
 BILL. PLEASE REFER TO YELLOW
 SECOND READING, SECOND
 PRINTING FOR COMPLETE TEXT.
 (HB 795/03)



HB 795
 THIRD READING

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 795 (third reading copy -- blue), respectfully report that House Bill No. 795 be amended and as so amended be concurred in:

1. Title, line 10.

Following: line 9

Insert: "CREATING A SPECIAL REVENUE ACCOUNT FOR INTEREST EARNED ON THE COAL SEVERANCE TAX INFRASTRUCTURE FUND; MAKING INTEREST IN THE SPECIAL REVENUE ACCOUNT AVAILABLE FOR SUBSIDIES TO LOCAL INFRASTRUCTURE PROJECTS;"

Following: "AUTHORIZING"

Strike: "THE CREATION OF A STATE DEBT THROUGH"

2. Page 1, line 23.

Insert: " STATEMENT OF INTENT

A statement of intent is required for this bill because [section 1] delegates rulemaking authority to the department of commerce to administer the Montana Community Infrastructure Act. This bill is intended to provide local governments with two cost-effective alternative methods of financing infrastructure projects that enhance the quality of life and protect the health, safety, and welfare of Montana's citizens and that support long-term, stable economic growth and job creation by keeping Montana competitive with nearby states by providing for the public infrastructure necessary for economic growth."

3. Page 1, line 25.

Following: line 24

Insert: "

NEW SECTION. Section 1. Montana Community Infrastructure Act -- powers and duties of department. (1) This section and [sections 7 through 11] may be cited as the "Montana Community Infrastructure Act".

(2) The Montana Community Infrastructure Act must be administered by the department of commerce. The department shall adopt rules to administer [sections 7 through 11]. The rules must include but not be limited to establishing criteria and procedures for:

- (a) determining the eligibility of local government entities for the community infrastructure program;
 - (b) determining the eligibility of specific projects;
 - (c) ensuring that local governments fund their infrastructure projects by local debt when possible;
 - (d) determining the amount of principal and interest payments available for infrastructure projects funded through loans from the coal severance tax bond fund program; and
 - (e) determining the amount of interest subsidy available for local infrastructure projects funded by bonds issued pursuant to Title 17, chapter 5, part 16."
- Renumber: subsequent sections

4. Page 2, line 25.

Following: "fund"

Insert: "necessary to meet the obligations provided for in [section 9(3)]"

5. Page 3, line 1.

Following: " _"

Insert: "Any remaining interest must be deposited in the coal severance tax infrastructure fund until the fund generates at least \$10 million in interest annually."

6. Page 3, line 2.

Following: "available"

Insert: "from the special revenue account"

7. Page 3, line 4.

Following: "AND"

Insert: "interest payments on"

8. Page 4, line 4.

Strike: "6"

Insert: "7"

Strike: "10"

Insert: "11"

9. Page 5, line 1.

Strike: "6"

Insert: "7"

Strike: "10"

Insert: "11"

10. Page 5, line 18.

Strike: "\$450"

Insert: "\$250"

11. Page 7, lines 1 and 2.

Strike: "6"

Insert: "7"

Strike: "10"

Insert: "11"

12. Page 7, line 9.

Strike: "OR"

13. Page 7, line 15.

Following: "BRIDGES" on line 14

Insert: "(e) transportation systems"

(f) telecommunications and other high technology systems for education; or

(g) other public works projects the department of commerce determines to be in the public interest

14. Page 7, line 18.

Strike: "7(1)"

Insert: "8(1)"

15. Page 7, line 23.

Following: "governor"

Insert: ", prioritized pursuant to subsection (2)"

Following: ". "

Insert: "The governor shall review the projects recommended by the department of commerce under this section and the projects recommended by the department of natural resources and conservation under Title 85, chapter 1, part 6, and shall submit a list of recommended projects to the legislature."

16. Page 7, line 25.

Strike: "BY"

Insert: "be"

17. Page 8, line 2.

Following: ". "

Insert: "A local government entity infrastructure project may not be funded through the issuance of coal severance tax bonds unless the local government entity cannot fund the project through bonds issued pursuant to Title 17, chapter 5, part 16."

18. Page 8, line 12.

Strike: "6"

Insert: "7"

Strike: "10"

Insert: "11"

19. Page 9, line 10.

Strike: "6"

Insert: "7"

Strike: "10"

Insert: "11"

20. Page 9, line 18.

Strike: "6"

Insert: "7"

Strike: "10"

Insert: "11"

21. Page 23, line 10.

Strike: "7"

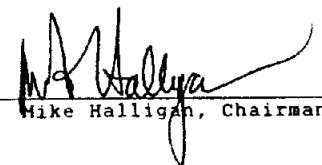
Insert: "8"

22. Page 23, lines 11 through 15.

Strike: section 13 in its entirety

Renumber: subsequent section

Signed: _____



Mike Halligan, Chairman

MH 4-15-91
Amd. Coord.
SB 4-15 3:15
Sec. of Senate

1 HOUSE BILL NO. 795

2 INTRODUCED BY HARPER, TOWE, CROMLEY, RANEY, DARKO, TOOLE,
3 VAN VALKENBURG, MAZUREK, JACOBSON, BECKER, J. BROWN, SCHYE,
4 DRISCOLL, SQUIRES, SOUTHWORTH, DOLEZAL, DAILY, STRIZICH,
5 J. DEBRUYCKER, G. BECK, FORRESTER, BARDANOUE, WANZENRIED

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA
8 COMMUNITY INFRASTRUCTURE ACT; CREATING AN INFRASTRUCTURE
9 TRUST FUND WITHIN THE PERMANENT COAL TAX TRUST FUND;
10 CREATING A SPECIAL REVENUE ACCOUNT FOR INTEREST EARNED ON
11 THE COAL SEVERANCE TAX INFRASTRUCTURE FUND; MAKING INTEREST
12 IN THE SPECIAL REVENUE ACCOUNT AVAILABLE FOR SUBSIDIES TO
13 LOCAL INFRASTRUCTURE PROJECTS; ~~AUTHORIZING THE CREATION OF A~~
14 ~~STATE DEBT THROUGH THE ISSUANCE OF COAL SEVERANCE TAX BONDS~~
15 FOR THE PURPOSE OF MAKING LOANS FOR LOCAL GOVERNMENT
16 INFRASTRUCTURE PROJECTS; PROVIDING FOR THE TERMS AND
17 CONDITIONS OF LOANS; PROVIDING A METHOD FOR RECOMMENDING
18 PRIORITIES FOR LOANS; REQUIRING LEGISLATIVE AUTHORIZATION
19 FOR LOAN PROJECTS; AND APPROPRIATING MONEY IN THE SPECIAL
20 REVENUE ACCOUNT TO THE DEPARTMENT OF COMMERCE FOR USE BY
21 LOCAL GOVERNMENTS FOR ENGINEERING STUDIES FOR LOCAL
22 GOVERNMENT INFRASTRUCTURE PROJECTS; AMENDING SECTIONS
23 17-5-701, 17-5-702, 17-5-703, 17-5-704, 17-5-706, AND
24 17-5-719~~7-85-1-6037-85-1-6047-85-1-6057-85-1-6177--85-1-6187~~
25 ~~85-1-6197--AND--85-1-620~~, MCA; AND PROVIDING AN EFFECTIVE

1 DATE."

3 STATEMENT OF INTENT

4 A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL BECAUSE
5 [SECTION 1] DELEGATES RULEMAKING AUTHORITY TO THE DEPARTMENT
6 OF COMMERCE TO ADMINISTER THE MONTANA COMMUNITY
7 INFRASTRUCTURE ACT. THIS BILL IS INTENDED TO PROVIDE LOCAL
8 GOVERNMENTS WITH TWO COST-EFFECTIVE ALTERNATIVE METHODS OF
9 FINANCING INFRASTRUCTURE PROJECTS THAT ENHANCE THE QUALITY
10 OF LIFE AND PROTECT THE HEALTH, SAFETY, AND WELFARE OF
11 MONTANA'S CITIZENS AND THAT SUPPORT LONG-TERM, STABLE
12 ECONOMIC GROWTH AND JOB CREATION BY KEEPING MONTANA
13 COMPETITIVE WITH NEARBY STATES BY PROVIDING FOR THE PUBLIC
14 INFRASTRUCTURE NECESSARY FOR ECONOMIC GROWTH.

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

16
17 NEW SECTION. SECTION 1. MONTANA COMMUNITY
18 INFRASTRUCTURE ACT -- POWERS AND DUTIES OF DEPARTMENT. (1)
19 THIS SECTION AND [SECTIONS 7 THROUGH 11] MAY BE CITED AS THE
20 "MONTANA COMMUNITY INFRASTRUCTURE ACT".

21 (2) THE MONTANA COMMUNITY INFRASTRUCTURE ACT MUST BE
22 ADMINISTERED BY THE DEPARTMENT OF COMMERCE. THE DEPARTMENT
23 SHALL ADOPT RULES TO ADMINISTER [SECTIONS 7 THROUGH 11]. THE
24 RULES MUST INCLUDE BUT NOT BE LIMITED TO ESTABLISHING
25 CRITERIA AND PROCEDURES FOR:

1 (A) DETERMINING THE ELIGIBILITY OF LOCAL GOVERNMENT
2 ENTITIES FOR THE COMMUNITY INFRASTRUCTURE PROGRAM;

3 (B) DETERMINING THE ELIGIBILITY OF SPECIFIC PROJECTS;

4 (C) ENSURING THAT LOCAL GOVERNMENTS FUND THEIR
5 INFRASTRUCTURE PROJECTS BY LOCAL DEBT WHEN POSSIBLE;

6 (D) DETERMINING THE AMOUNT OF PRINCIPAL AND INTEREST
7 PAYMENTS AVAILABLE FOR INFRASTRUCTURE PROJECTS FUNDED
8 THROUGH LOANS FROM THE COAL SEVERANCE TAX BOND FUND PROGRAM;

9 AND

10 (E) DETERMINING THE AMOUNT OF INTEREST SUBSIDY
11 AVAILABLE FOR LOCAL INFRASTRUCTURE PROJECTS FUNDED BY BONDS
12 ISSUED PURSUANT TO TITLE 17, CHAPTER 5, PART 16.

13 **Section 2.** 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 funds:

18 (a) a coal severance tax bond fund into which the
19 constitutionally dedicated receipts from the coal severance
20 tax shall be deposited;

21 (b) A coal severance tax infrastructure fund;

22 ~~(b)~~(c) a coal severance tax permanent fund; and

23 ~~(c)~~(d) a coal severance tax income fund.

24 (2) The state treasurer shall from time to time
25 transfer to the ~~coal-severance-tax-permanent~~ coal severance

1 tax infrastructure fund all money in the coal severance tax
2 bond fund except the amount necessary to meet all principal
3 and interest payments on bonds payable from the coal
4 severance tax bond fund on the next two ensuing semiannual
5 payment dates. The state treasurer shall from time to time
6 transfer to the coal severance tax permanent fund 75% 50% of
7 the money DEPOSITED in the coal severance tax infrastructure
8 fund IN THE PRECEDING YEAR ~~not-encumbered--for--projects--by~~
9 the-legislature.

10 (3) The purpose of the coal severance tax
11 infrastructure fund is to assist local governments in
12 funding infrastructure projects. Interest earned on the coal
13 severance tax infrastructure fund NECESSARY TO MEET THE
14 OBLIGATIONS PROVIDED FOR IN [SECTION 9(3)] MUST BE DEPOSITED
15 IN A SPECIAL REVENUE ACCOUNT. ANY REMAINING INTEREST MUST BE
16 DEPOSITED IN THE COAL SEVERANCE TAX INFRASTRUCTURE FUND
17 UNTIL THE FUND GENERATES AT LEAST \$10 MILLION IN INTEREST
18 ANNUALLY. UP TO \$10 MILLION A YEAR is available FROM THE
19 SPECIAL REVENUE ACCOUNT for reducing principal and interest
20 payments on coal severance tax bonds issued for local
21 government infrastructure projects AND INTEREST PAYMENTS ON
22 BONDS ISSUED PURSUANT TO TITLE 17, CHAPTER 5, PART 16, FOR
23 PROJECTS APPROVED BY THE LEGISLATURE TO RECEIVE A SUBSIDY."

24 **Section 3.** Section 17-5-701, MCA, is amended to read:

25 "17-5-701. State of Montana coal severance tax bonds.

1 This part provides for the issuance of state of Montana coal
 2 severance tax bonds (also referred to as coal severance tax
 3 bonds in this part) to:

4 (1) finance water resource development projects and
 5 activities in the state designed to provide, during and
 6 after extensive coal mining, a healthy economy, the
 7 alleviation of social and economic impacts created by coal
 8 development, and a clean and healthful environment for
 9 present and future generations; and

10 (2) allow local governments a cost-effective
 11 alternative method of financing infrastructure projects that
 12 enhance the quality of life and protect the health, safety,
 13 and welfare of Montana's citizens and that support
 14 long-term, stable economic growth and job creation by
 15 keeping Montana competitive with nearby states through the
 16 provision of the infrastructure necessary for economic
 17 growth."

18 **Section 4.** Section 17-5-702, MCA, is amended to read:

19 "17-5-702. Purpose and intent. (1) The purpose of the
 20 coal severance tax trust fund bond provisions of this part
 21 and [sections 6 7 through 10 11] is to establish the
 22 authority to issue and sell coal severance tax bonds that
 23 have been approved by an act of the legislature for
 24 financing specific water resource development projects and
 25 activities and local government infrastructure projects and

1 activities in the state authorized by the legislature and to
 2 guarantee redemption of such the bonds by revenue derived
 3 from the receipts from the coal severance tax imposed by
 4 Title 15, chapter 35, part 1, and such other money as the
 5 legislature may from time to time determine.

6 (2) The legislature intends that projects to be
 7 financed by coal severance tax bonds include:

8 (a) water resource development projects and activities
 9 as part of the water development program established in
 10 Title 85, chapter 1, part 6. The legislature further intends
 11 that the income from water resource development projects and
 12 activities in excess of the amount required for debt service
 13 and operation and maintenance of those projects and
 14 activities be deposited in the water development state
 15 special revenue account established in 85-1-604.

16 (b) local government infrastructure projects and
 17 activities as part of the local government infrastructure
 18 program established in [sections 6 7 through 10 11]. The
 19 payments of principal and interest on local government
 20 infrastructure loans in excess of the amount required for
 21 debt service must be deposited in the coal severance tax
 22 permanent fund."

23 **Section 5.** Section 17-5-706, MCA, is amended to read:

24 "17-5-706. Authority to issue coal severance tax bonds.
 25 The board of examiners, upon approval of the legislature as

1 hereinafter provided in this section, shall issue and sell
 2 coal severance tax bonds to finance such approved water
 3 resource development projects and activities and local
 4 government infrastructure projects and activities when
 5 authorized to do so by any law that sets out the amount and
 6 purpose of the issue. Each project or activity shall must be
 7 separately approved as to amount by a two-thirds vote of
 8 each house of the legislature."

9 **Section 6.** Section 17-5-719, MCA, is amended to read:

10 "17-5-719. Limitation on amount of coal severance tax
 11 bonds issued. No more than \$250 ~~\$450~~ \$250 million worth of
 12 coal severance tax bonds may be issued for water development
 13 projects and activities and local government infrastructure
 14 projects and activities."

15 **NEW SECTION. Section 7. Purpose.** The purpose of
 16 [sections 6 through 10] is to establish a local government
 17 infrastructure investment program that will:

18 (1) enhance the quality of life and protect the health,
 19 safety, and welfare of Montana's citizens by creating a
 20 partnership between the state and local governments to help
 21 finance necessary public infrastructure projects;

22 (2) support long-term, stable economic growth and job
 23 creation and help keep Montana competitive with nearby
 24 states by providing a means for financing the infrastructure
 25 necessary for economic growth;

1 (3) encourage local public facility improvements by
 2 state investment in improvements in order to make these
 3 improvements affordable to Montana citizens;

4 (4) protect future generations from the undue fiscal
 5 burdens that result when infrastructure systems are
 6 inadequate or are allowed to deteriorate;

7 (5) encourage maximum use of all available private and
 8 public funding sources;

9 (6) complement and improve the effectiveness of
 10 existing private and public infrastructure financing
 11 mechanisms and improve coordination between state and
 12 federal infrastructure financing programs; and

13 (7) encourage coordinated, long-term strategies for
 14 addressing Montana's infrastructure needs.

15 **NEW SECTION. Section 8. Eligible projects.** (1) A
 16 county, incorporated city or town, consolidated local
 17 government, ~~school-district, OR special purpose district, or~~
 18 ~~private--nonprofit-corporation-that-provides-public-services~~
 19 is eligible to apply for a loan under [sections 6 7 through
 20 ~~10~~ 11].

21 (2) Loans may be made for the direct costs related to
 22 the planning, design, construction, reconstruction,
 23 acquisition, alteration, modernization, improvement, or
 24 expansion of:

25 (a) drinking water systems;

1 (b) SANITARY OR STORM sewer systems;
 2 (c) solid waste collection and disposal systems; OR
 3 (d) transportation systems;
 4 ~~{e}--telecommunications---and---other---high-technology~~
 5 ~~systems-for-education;-or~~
 6 ~~{f}--other--public--works--projects--the--department--of~~
 7 ~~commerce-determines-to-be-in-the-public-interest~~ BRIDGES;
 8 (E) TRANSPORTATION SYSTEMS;
 9 (F) TELECOMMUNICATIONS AND OTHER HIGH TECHNOLOGY
 10 SYSTEMS FOR EDUCATION; OR
 11 (G) OTHER PUBLIC WORKS PROJECTS THE DEPARTMENT OF
 12 COMMERCE DETERMINES TO BE IN THE PUBLIC INTEREST.
 13 **NEW SECTION. Section 9. Priorities for projects --**
 14 **procedure. (1) The department of commerce shall receive**
 15 **proposals for projects from the local government entities**
 16 **listed in [section 7{1} 8(1)]. The department shall work**
 17 **with the local government in preparing cost estimates for**
 18 **the project. In reviewing project proposals, the department**
 19 **may consult with other state agencies with expertise**
 20 **pertinent to the proposal. The department shall prepare and**
 21 **submit a list of recommended projects to the governor,**
 22 **PRIORITIZED PURSUANT TO SUBSECTION (2). THE GOVERNOR SHALL**
 23 **REVIEW THE PROJECTS RECOMMENDED BY THE DEPARTMENT OF**
 24 **COMMERCE UNDER THIS SECTION AND THE PROJECTS RECOMMENDED BY**
 25 **THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION UNDER**

1 TITLE 85, CHAPTER 1, PART 6, AND SHALL SUBMIT A LIST OF
 2 RECOMMENDED PROJECTS TO THE LEGISLATURE. THE DEPARTMENT MAY
 3 RECOMMEND EITHER THAT THE PROJECTS BE FUNDED THROUGH THE
 4 ISSUANCE OF COAL SEVERANCE TAX BONDS OR THAT THE PROJECTS BY
 5 BE FUNDED THROUGH BONDS ISSUED PURSUANT TO TITLE 17, CHAPTER
 6 5, PART 16, AND RECEIVE A SUBSIDY. A LOCAL GOVERNMENT ENTITY
 7 INFRASTRUCTURE PROJECT MAY NOT BE FUNDED THROUGH THE
 8 ISSUANCE OF COAL SEVERANCE TAX BONDS UNLESS THE LOCAL
 9 GOVERNMENT ENTITY CANNOT FUND THE PROJECT THROUGH BONDS
 10 ISSUED PURSUANT TO TITLE 17, CHAPTER 5, PART 16.
 11 (2) In preparing recommendations under subsection (1),
 12 preference must be given to projects based on the following
 13 order of priority:
 14 (a) projects that solve urgent and serious public
 15 health or safety problems;
 16 (b) projects that enable local governments to meet
 17 state or federal health or safety standards;
 18 (c) projects that enable local governments to obtain
 19 funds from sources other than the funds provided under
 20 [sections 6 7 through 10 11];
 21 (d) projects that provide long-term, full-time job
 22 opportunities for Montanans;
 23 (e) projects that provide public facilities necessary
 24 for the expansion of a business that has a high potential
 25 for financial success;

1 (f) projects that result in a benefit to the public
2 commensurate with the size of the grant;

3 (g) projects that reflect greater need for financial
4 assistance than other projects; and

5 (h) projects that are high local priorities and have
6 strong community support.

7 (3) The legislature shall authorize the board of
8 examiners to sell coal severance tax bonds to finance loans
9 for the projects authorized by the legislature OR
10 APPROPRIATE MONEY FROM THE SPECIAL REVENUE ACCOUNT
11 ESTABLISHED IN 17-5-703(3) FOR A SUBSIDY ON PROJECTS
12 AUTHORIZED TO RECEIVE THE SUBSIDY AS PROVIDED IN SUBSECTION
13 (1).

14 NEW SECTION. Section 10. Loan terms. (1) The period
15 for repayment of a local government infrastructure
16 investment loan may not exceed 30 years. The department of
17 commerce shall from time to time establish the interest rate
18 at which loans may be made under [sections 6 7 through 10
19 11] that is sufficient to cover the bond debt service for a
20 loan.

21 (2) The department of commerce shall make loans for the
22 local government infrastructure projects approved by the
23 legislature.

24 NEW SECTION. Section 11. Administration of loans. The
25 department of commerce shall:

1 (1) administer the loan program established by
2 [sections 6 7 through 10 11]; and

3 (2) service loans made or contract and pay for the
4 servicing of loans.

5 **Section 12.** Section 17-5-704, MCA, is amended to read:

6 "17-5-704. Investment of funds. (1) Money in the coal
7 severance tax bond fund, the coal severance tax permanent
8 fund, the coal severance tax infrastructure fund, and the
9 coal severance tax income fund must be invested in
10 accordance with the investment standards for coal severance
11 tax funds except as provided in subsection (2). Income
12 Subject to the provisions of 17-5-703(3), income and
13 earnings from all funds must be transferred to and retained
14 in the coal severance tax income fund until appropriated by
15 the legislature.

16 (2) Except as provided in subsection (1) and section 1,
17 Chapter 634, Laws of 1989, beginning on July 1, 1990, the
18 legislature shall appropriate 15% of the income and earnings
19 from all funds to be deposited to the state equalization aid
20 account each year."

21 ~~Section 12--Section 85-1-603, MCA, is amended to read:~~
22 ~~"85-1-603--Water development coal--severance--tax--bond~~
23 ~~debt-service-fund-created---coal-severance-tax-allocated---~~
24 ~~water--development loan--loss-reserve-fund-created--(1)-(a)~~
25 ~~There-is-created-a-water-development coal-severance-tax-bond~~

1 debt--service--fund--within--the--debt--service--fund--type
 2 established-in-17-2-102.
 3 (b)--The--state--pledges-and-allocates-and-directs-to-be
 4 credited-to-the-water--development--debt--service--fund,--as
 5 received.
 6 (i)--1-1/4%--of--all--money--from--time--to--time--received--from
 7 the-coal-severance-tax--collected--under--Title-15,--chapter-35,
 8 and--remaining--after--allocation--of--such--tax--under
 9 15-35-100(1)--and--(2);
 10 (ii)--any--principal--and--accrued--interest--under
 11 85-1-613(3)(a)--received--in--repayment--of--a--loan--made--from--the
 12 proceeds--of--bonds--issued--under--85-1-617;
 13 (iii)--all--interest--income--earned--on--proceeds--of--water
 14 development coal-severance-tax bonds;
 15 (iv)--revenue--or--money--otherwise--required--to--be--paid--into
 16 the-water-development coal-severance-tax-bond state--special
 17 revenue--account--pursuant--to--85-1-604,--as--determined--by--the
 18 board--of--examiners--in--connection--with--the--issuance--of--bonds
 19 pursuant--to--Title-17,--chapter-5,--part-7,--and--85-1-617,--and
 20 (v)--money--received--from--the--water--development coal
 21 severance-tax-bond loan-loss-reserve-fund--as--the--result--of--a
 22 loan-loss.
 23 (2)--(a)--There--is--created--a--water--development coal
 24 severance-tax-bond loan-loss-reserve-fund--within--the--debt
 25 service-fund-type-established-in-17-2-102.

1 (b)--The--state--pledges-and-allocates-and-directs-to-be
 2 credited-to-the-water-development coal-severance-tax-bond
 3 loan--loss--reserve--fund--all--accrued--interest--under
 4 85-1-613(3)(b)--received--in--repayment--of--a--loan--made--from--the
 5 proceeds--of--bonds--issued--under--85-1-617;
 6 (c)--If--the--department--determines--that--a--loan--loss--has
 7 occurred--on--a--loan--made--pursuant--to--this--part,--funds--from
 8 the-water-development coal-severance-tax-bond loan-loss
 9 reserve--fund--must--be--transferred--to--the--water-development
 10 coal-severance-tax-bond debt-service-fund--in--an--amount--equal
 11 to--the--amount--that--would--otherwise--be--available--for--debt
 12 service--under--subsection--(1)(b)--as--a--result--of--the--loan
 13 loss.
 14 Section-13--Section-85-1-604,--MCA,--is--amended--to--read:
 15 "85-1-604,--Water--development--state--special--revenue
 16 account--created-----revenues--allocated-----limitations--on
 17 appropriations--from--account:--(1)--There--is--created--a--water
 18 development--state--special--revenue--account--within--the--state
 19 special--revenue--fund--established--in--17-2-102.
 20 (2)--Except--to--the--extent--that--they--are--required--to--be
 21 credited--to--the--water-development coal-severance-tax-bond
 22 debt-service-fund--pursuant--to--85-1-603,--there--shall--be--paid
 23 into--the--water-development--state--special--revenue--account:
 24 (a)--all--revenues--of--the--works--and--other--money--as
 25 provided--in--85-1-332;

1 (b) 30% of the interest income of the resource
2 indemnity trust fund as provided in and subject to the
3 conditions of 15-38-202;

4 (c) the excess of the coal severance tax proceeds
5 allocated by 85-1-603 to the water development coal
6 severance tax bond debt service fund above debt service
7 requirements as provided in and subject to the conditions of
8 85-1-619; and

9 (d) any fees or charges collected by the department
10 pursuant to 85-1-616 for the servicing of loans, including
11 arrangements for obtaining security interests;

12 (3) Appropriations may be made from the water
13 development state special revenue account for the following
14 purposes and subject to the following conditions:

15 (a) An amount less than or equal to that paid into the
16 account under 85-1-332 and only that amount may be
17 appropriated for the operation and maintenance of
18 state-owned projects and works, if the amount of money
19 available for appropriation under this subsection (3)(a) is
20 greater than that necessary for operation and maintenance
21 expenses; the excess may be appropriated as provided in
22 subsection (3)(b);

23 (b) An amount less than or equal to that paid into the
24 account from the resource indemnity trust account plus any
25 excess from subsection (3)(a) and only that amount may be

1 appropriated from the account for:

2 (i) the rehabilitation of state-owned projects and
3 works, including the rehabilitation of spillways of
4 state-owned dams;

5 (ii) the formulation of downstream emergency warning and
6 evacuation plans for state-owned dams;

7 (iii) the development of the hydropower potential of
8 state-owned dams;

9 (iv) assistance in the implementation of the water
10 reservations established under 85-2-316 of conservation
11 districts;

12 (v) the promotion of the development of offstream and
13 tributary storage;

14 (vi) the promotion of joint state-tribal, state-federal
15 and state-tribal-federal water development;

16 (vii) projects or programs that improve water use
17 efficiency, including development of new, efficient water
18 systems and rehabilitation of older, less efficient water
19 systems;

20 (viii) administrative expenses, including but not
21 limited to the salaries and expenses of personnel,
22 equipment, office space, and other necessities incurred in
23 the administration of the water development program except
24 the administration of loans and grants; and

25 (ix) any other expenditures that meet the policies and

1 objectives of the state water development program:

2 (c) An amount less than or equal to that paid into the
3 account from the sources provided for in (c) and (d) of
4 subsection (2) and only that amount may be appropriated from
5 the account for loans and grants for water development
6 projects and activities, for purchase of liens and operation
7 of property as provided in 85-1-615, for administrative
8 expenses, including but not limited to the salaries and
9 expenses of personnel, equipment, and office space, for the
10 servicing of loans, including arrangements for obtaining
11 security interests, and for other necessities incurred in
12 administering the loans and grants."

13 Section 14, Section 85-1-605, MCA, is amended to read:

14 "85-1-605. Grants, loans, and bonds for state and local
15 government assistance. (1) The department may recommend to
16 the legislature governor that grants and loans be made from
17 coal severance tax proceeds deposited in the water
18 development state special revenue account, that loans be
19 made from water development coal severance tax bond proceeds
20 deposited in the water development account, and that coal
21 severance tax bonds be authorized pursuant to Title 17,
22 chapter 5, part 7, to provide financial assistance for a
23 water development project to a department, agency, board,
24 commission, or other division of state government or to a
25 city, county, or other political subdivision or local

1 government body of the state. The governor shall review the
2 projects recommended under this section and the projects
3 recommended by the department of commerce under {section 8}
4 and shall submit a list of recommended projects to the
5 legislature. The legislature may approve by appropriation or
6 other appropriate means those grants and loans it finds
7 consistent with the policies and purposes of the program:

8 (2) In addition to implementing those projects approved
9 by the legislature, the department may request up to 10% of
10 the funds available for grants from the water development
11 special revenue account in any biennium to be used for
12 emergencies. These emergency projects must be approved by
13 the department and be defined as those projects which, if
14 delayed until legislative approval can be obtained, will
15 cause substantial damages or legal liability to the project
16 sponsor. In allocating such funds, the department shall
17 inform the legislative finance committee of the legislature.

18 (3) The grants and loans provided for by this section
19 may be made for the purchase, lease, development, or
20 construction of water development projects and activities
21 for the conservation, management, use, development, or
22 protection of the water and related agricultural, land,
23 fish, wildlife, and water recreation resources in the state,
24 for the purpose of feasibility and design studies for such
25 projects, for development of plans for and the

1 rehabilitation, expansion, and modification of water
2 development projects, for other water development projects
3 and activities that will enhance the water resources of the
4 state, and for similar purposes approved by the
5 legislature;

6 Section 15, Section 85-1-617, MCA, is amended to read:
7 "85-1-617. Issuing bonds. (1) When authorized by the
8 legislature and within the limits of the authorization and
9 within the further limitations established in this section,
10 the board of examiners may issue and sell water development
11 coal severance tax bonds of the state in the amount and
12 manner it considers necessary and proper to finance the
13 water development loan program and the local government
14 infrastructure loan program. The full faith and credit and
15 taxing powers of the state are pledged for the prompt and
16 full payment of all bonds so issued and interest and
17 redemption premiums payable thereon on the bonds according
18 to their terms.

19 (2) Each series of water development coal severance tax
20 bonds may be issued by the board of examiners, upon request
21 of the board of natural resources and conservation or the
22 department of commerce, at public or private sale, in such
23 denominations and forms, whether payable to bearer with
24 attached interest coupons or registered as to principal or
25 as to both principal and interest, with such provisions for

1 conversion or exchange and for the issuance of notes in
2 anticipation of the issuance of definitive bonds, bearing
3 interest at such a rate or rates, maturing at such a rate or
4 rates, maturing at such a time or times not exceeding 30
5 years from date of issue, subject to optional or mandatory
6 redemption at such earlier times and prices and upon such
7 notice, with such provisions for payment and discharge by
8 the deposit of funds or securities in escrow for that
9 purpose, and payable at the office of such a banking
10 institution or institutions within or outside the state, as
11 the board of examiners shall determine subject to the
12 limitations contained in this section and 17-5-731.

13 (3) In the issuance of each series of water development
14 coal severance tax bonds, the interest rates and the
15 maturities and any mandatory redemption provisions thereof
16 shall of the bonds must be established in such a manner that
17 the funds then specifically pledged and appropriated by law
18 to the water development coal severance tax bond debt
19 service fund will in the judgment of the board of examiners
20 be received in an amount sufficient in each year to pay all
21 principal, redemption premiums, and interest due and payable
22 in that year with respect to that and all prior series of
23 such bonds, except outstanding bonds as to which the
24 obligation of the state has been discharged by the deposit
25 of funds or securities sufficient for their payment in

1 accordance with the terms of the resolutions by which they
2 are authorized to be issued.

3 (4) In all other respects, the board of examiners is
4 authorized to prescribe the form and terms of the bonds and
5 notes and shall do whatever is lawful and necessary for
6 their issuance and payment. Such The coal severance tax
7 bonds, notes, and any interest coupons appurtenant thereto
8 to the bonds must be signed by the members of the board of
9 examiners, and the bonds and notes must be issued under the
10 great seal of the state of Montana. The bonds, notes, and
11 coupons may be executed with facsimile signatures and seal
12 in the manner and subject to the limitations prescribed by
13 law. The state treasurer shall keep a record of all such
14 bonds and notes issued and sold.

15 (5) There is created a water development account within
16 the state special revenue fund established in 17-2-102.

17 (6) All proceeds of bonds or notes issued under this
18 section for water development projects, other than refunding
19 bonds, must be deposited in the water development account
20 established in subsection (5), except that any principal and
21 accrued interest received in repayment of a loan made from
22 the proceeds of bonds issued under this section must be
23 deposited in the water development coal severance tax bond
24 debt service fund and the water development coal severance
25 tax bond loan loss reserve fund pursuant to 85-1-603. All

1 proceeds of refunding bonds must be deposited in the water
2 development coal severance tax bond debt service fund and
3 applied to the payment and redemption of outstanding bonds
4 issued under this section as directed by the board, whether
5 at maturity or on any earlier date on which they may be
6 prepaid according to their terms.

7 (7) All actions taken by the board of examiners under
8 this section or 85-1-619 must be authorized by a vote of a
9 majority of the members of the board of examiners.

10 Section 16, Section 85-1-618, MCA, is amended to read:
11 "85-1-618. Restrictions on use of bond proceeds. Water
12 development Coal severance tax bond proceeds issued for
13 water development projects may be used only for the purpose
14 of making loans as provided in the water development program
15 or for purchasing liens and operating property as provided
16 in 85-1-615."

17 Section 17, Section 85-1-619, MCA, is amended to read:
18 "85-1-619. Debt service fund pledge and
19 administration of sufficient balance. (1) The legislature
20 may levy, impose, assess, and pledge and appropriate to the
21 water development coal severance tax bond debt service fund
22 any tax, charge, fee, rental, or other income from any
23 designated source. The state reserves the right to modify
24 from time to time the nature and amount of special taxes and
25 other revenues pledged and appropriated to the water

1 ~~development coal-severance-tax-bond-debt-service-fund,~~
 2 ~~provided that the aggregate resources so pledged and~~
 3 ~~appropriated are determined by the legislature to be~~
 4 ~~sufficient for the prompt and full payment of the principal~~
 5 ~~of and interest and redemption premiums when due on all~~
 6 ~~bonds payable from that fund and provided that the pledge of~~
 7 ~~the full faith and credit and taxing powers of the state for~~
 8 ~~the security of all such coal-severance-tax bonds shall be~~
 9 ~~are and remain irrevocable until they are fully paid.~~

10 (2) ~~Money in the water development coal-severance-tax~~
 11 ~~bond-debt-service-fund must be used to pay interest,~~
 12 ~~principal, and redemption premiums when due and payable with~~
 13 ~~respect to water development coal-severance-tax bonds, and~~
 14 ~~for bonds issued prior to 1985, to accumulate a reserve for~~
 15 ~~the further security of such payments.~~

16 (3) ~~After the reserve provided for in subsection (2)~~
 17 ~~for bonds issued prior to 1985 has been accumulated in the~~
 18 ~~water development coal-severance-tax-bond-debt-service-fund,~~
 19 ~~money at any time received in the water development coal~~
 20 ~~severance-tax-bond-debt-service-fund from water development~~
 21 ~~projects in excess of that amount must be transferred by the~~
 22 ~~treasurer to the water development state special revenue~~
 23 ~~account."~~

24 Section 18, Section 85-1-620, MCA, is amended to read:
 25 "85-1-620. Water development Coal-severance-tax

1 ~~refunding bonds. (1) The board of examiners may issue~~
 2 ~~refunding bonds at such times and in such amounts, if any~~
 3 ~~as may be necessary to pay principal or interest due that~~
 4 ~~cannot be paid from funds then on hand in the water~~
 5 ~~development coal-severance-tax-bond-debt-service-fund. The~~
 6 ~~board of examiners may also issue refunding bonds to refund~~
 7 ~~outstanding bonds before maturity for the purpose of~~
 8 ~~extending the maturities thereof of the outstanding bond so~~
 9 ~~far as determined by the board of examiners to be necessary~~
 10 ~~to assure ensure that the funds then pledged to the water~~
 11 ~~development coal-severance-tax-bond-debt-service-fund will~~
 12 ~~be sufficient for payment of principal and interest due in~~
 13 ~~subsequent years. The board of examiners may also issue~~
 14 ~~refunding bonds to refund outstanding bonds before maturity~~
 15 ~~for the purpose of reducing the interest cost or the total~~
 16 ~~amount of principal and interest payable thereon on the~~
 17 ~~outstanding bonds.~~

18 (2) ~~No refunding Refunding bonds may not be issued and~~
 19 ~~sold more than 3 months before all bonds refunded thereby by~~
 20 ~~the refunding bonds mature or are called for redemption~~
 21 ~~unless the proceeds thereof of the refunding bonds, with any~~
 22 ~~other funds in the water development coal-severance-tax-bond~~
 23 ~~debt-service-fund that are needed and available for the~~
 24 ~~purpose or securities purchased from such bond proceeds and~~
 25 ~~other funds, are deposited with a suitable banking~~

1 institution within or outside the state, in escrow, for the
 2 retirement of the refunded bonds at maturity or at a prior
 3 date or dates on which they have been called for redemption
 4 in accordance with their terms, in an amount and in a manner
 5 sufficient under the provisions securing the refunded bonds,
 6 so that the state's obligation to pay the same bonds, from
 7 sources other than the escrow fund, is discharged.

8 {3} No new New debt may not be created by the issuance
 9 of refunding bonds in accordance with this section, but such
 10 the refunding bonds shall evidence the debt previously
 11 created and shall be are secured by the pledge of the full
 12 faith and credit and taxing powers of the state and by the
 13 further provisions of this part in the same manner as the
 14 bonds refunded thereby."

15 NEW SECTION. SECTION 13. APPROPRIATION. THE MONEY
 16 ACCUMULATED IN THERE IS APPROPRIATED \$225,000 FROM THE
 17 SPECIAL REVENUE ACCOUNT CREATED IN 17-5-703(3) IS
 18 APPROPRIATED TO THE DEPARTMENT OF COMMERCE TO BE USED FOR
 19 ENGINEERING STUDIES FOR ELIGIBLE PROJECTS UNDER [SECTION 7
 20 8].

21 NEW SECTION. Section 13. Three-fourths vote. Because
 22 {this act} appropriates money that would otherwise be
 23 deposited in the coal severance tax permanent fund, a vote
 24 of three-fourths of the members of each house is required
 25 for enactment of {this act}.

1 NEW SECTION. SECTION 14. EFFECTIVE DATE. [THIS ACT] IS
 2 EFFECTIVE JULY 1, 1991.

-End-

Free Conference Committee
on House Bill 795
Report No. 1, April 25, 1991

Page 1 of 8

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 795 and recommend that House Bill 795 (reference copy -- salmon) be amended as follows:

1. Title, line 12.
Strike: "SUBSIDIES TO"

2. Title, line 15.
Strike: "MAKING LOANS"
Insert: "PROVIDING FINANCIAL ASSISTANCE"

3. Title, line 17.
Strike: "LOANS"
Insert: "FINANCIAL ASSISTANCE"

4. Title, line 18.
Strike: "LOANS"
Insert: "PROJECTS"

5. Title, line 19.
Strike: "LOAN"

6. Page 2, line 8.
Strike: "TWO"

7. Page 2, line 15.
Insert: "This bill places the state of Montana in a position of partnership with local governments in meeting infrastructure needs. The primary emphasis of this bill is to assist local governments by:

(1) providing an annual debt service subsidy on local debt created to finance local infrastructure projects;

(2) providing a grant for up to 20% of the costs of local infrastructure projects; or

(3) as a last resort, making loans to finance local infrastructure projects from the proceeds of coal severance tax bonds that may include an annual debt service subsidy on the loans.

The source of revenue to fund the assistance will be the investment income derived from the coal severance tax infrastructure fund.

Money currently transferred from the coal severance tax bond fund into the coal severance tax permanent fund would, under this bill, be transferred to a coal severance tax infrastructure fund

ADOPT

REJECT

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within the coal severance tax trust fund. Fifty percent of the money flowing into the coal severance tax infrastructure fund will be retained in that fund, and 50% will be transferred to the coal severance tax permanent fund. The principal funds will be retained in the coal severance tax infrastructure fund; however, deposits to the fund will cease at the end of fiscal year 2012. Interest earnings on the fund will be transferred, as needed, upon appropriation by the legislature, to a special revenue account outside of the coal severance tax trust fund and will be used for community infrastructure assistance under the community infrastructure program."

8. Page 2, line 19.

Strike: "11"

Insert: "13"

9. Page 2, line 23.

Strike: "11"

Insert: "13"

10. Page 3, line 5.

Strike: "DEBT"

Insert: "funding"

11. Page 3, line 6.

Strike: "PRINCIPAL AND INTEREST"

Insert: "debt service"

12. Page 3, line 10.

Strike: "INTEREST"

Insert: "debt service"

13. Page 3, lines 11 and 12.

Following: "BY" on line 11

Strike: remainder of line 11 through "16" on line 12

Insert: "any local debt"

14. Page 4, line 5.

Following: "."

Insert: "The state treasurer shall stop deposits to the coal severance tax infrastructure fund on June 30, 2012."

15. Page 4, line 7.

Following: the first "the"

Insert: "principal amount of the"

Following: "money"

Strike: "DEPOSITED in "

Insert: "transferred from the coal severance tax bond fund to"

16. Page 4, lines 13 through 23.

Following: "fund" on line 13

Strike: remainder of line 13 through "SUBSIDY." on line 23

Insert: "may be used to provide financial assistance for local government infrastructure projects under the Montana Community Infrastructure Act, [sections 1 and 7 through 13]. The state treasurer shall transfer to the infrastructure special revenue account established in [section 11] the amount of interest earnings required to meet the obligations of the state that are payable from the account as authorized by the legislature pursuant to [sections 7 through 13]. Interest earnings not appropriated and transferred to the infrastructure special revenue account must be retained in the coal severance tax infrastructure fund.

(4) Beginning July 1, 2012, 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 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."

17. Page 5, lines 10 through 17.

Following: "(2)" on line 10

Strike: remainder of line 10 through "growth" on line 17

Insert: "finance loans to local governments for infrastructure projects under the Montana Community Infrastructure Act, [sections 1 and 7 through 13]"

18. Page 5, line 21.

Strike: "11"

Insert: "13"

19. Page 6, lines 18 through 22.

Strike: "11" on line 18

Insert: "13"

Following: "." on line 18

Strike: remainder of line 18 through "." on line 22

20. Page 7, line 16.

Strike: "6"

Insert: "7"

Strike: "10"

Insert: "13"

21. Page 8, line 16.

Following: "town,"

Insert: "or"

22. Page 8, line 17.

Following: "government"
Strike: ", "
Strike: "OR special purpose district"

23. Page 8, line 19.
Strike: "a loan"
Insert: "financial assistance"

24. Page 8, line 20.
Strike: "11"
Insert: "13"

25. Page 8, line 21.
Strike: "Loans"
Insert: "Financial assistance"
Strike: "made"
Insert: "provided"
Following: "the"
Strike: "direct"

26. Page 9, line 1.
Following: "(b)"
Insert: "wastewater treatment,"
Following: "SANITARY"
Insert: "sewer,"

27. Page 9, line 2.
Strike: "collection and"
Following: "disposal"
Insert: "and separation"
Following: "systems"
Insert: ", including site acquisition, preparation, and
monitoring"

28. Page 9, line 7.
Following: ";"
Insert: "or"

29. Page 9, lines 8 through 12.
Following: "(E)" on line 8
Strike: remainder of line 8 through "INTEREST" on line 12
Insert: "airport improvements, if the amount of state and local
funding is met by a matching grant of nine times the amount
of state and local funding and the financial assistance
requested represents not more than 20% of the state and
local financial funding"

30. Page 9, line 21.
Strike: "of"

Insert: "containing the"
Following: "projects"
Insert: "and the recommended form of financial assistance for
each project"

31. Page 9, line 22.
Following: "."
Insert: "In preparing grant recommendations for the 53rd
legislature, the department shall recommend projects that do
not exceed \$300,000."

32. Page 10, lines 2 through 10.
Following: "PROJECTS" on line 2
Insert: "and the recommended financial assistance"
Following: "." on line 2
Strike: remainder of line 2 through line 10 in its entirety

33. Page 10, line 20.
Strike: "11"
Insert: "13"

34. Page 11, line 2.
Strike: "size"
Insert: "amount"
Strike: "the grant"
Insert: "financial assistance"

35. Page 11, line 4.
Strike: "and"

36. Page 11, line 5.
Following: line 4
Insert: "(h) projects that do not discourage expansion of the
tax base; and"
Renumber: subsequent subsection

37. Page 11, lines 7 through 13.
Strike: subsection (3) in its entirety

38. Page 11, lines 14 through 23.
Strike: section 10 in its entirety
Insert: "NEW SECTION. Section 10. Legislative approval --
financial assistance. (1) If financial assistance is in
the form of an annual debt service subsidy on local
government debt, the legislature shall authorize the
department of commerce to enter into a written agreement
with the local government that obligates the state to
provide semiannual payments in a specified amount, over a

period not to exceed 30 years, established in the bill authorizing the financial assistance. The obligation established in the agreement is a general obligation of the state and is payable from any available source, including the infrastructure special revenue account established in [section 11].

(2) If financial assistance is in the form of a matching grant, the legislature shall appropriate the amount of the grant from the infrastructure special revenue account.

(3) If financial assistance is in the form of a loan funded from the proceeds of coal severance tax bonds, the legislature shall authorize the board of examiners to issue coal severance tax bonds to finance the loan as provided in 17-5-706. If an annual debt service subsidy on the loan is provided, the legislature shall authorize the department of commerce to enter into a written agreement with the local government that obligates the state to provide semiannual payments in a specified amount, over a period not to exceed 30 years, established in the bill authorizing the financial assistance. The obligation established in the agreement is a general obligation of the state and is payable from any available source, including the infrastructure special revenue account established in [section 11].

(4) The legislature may not authorize entering into an agreement to provide an annual debt service subsidy as provided in subsection (1) or (3) unless the aggregate amount of anticipated earnings on the coal severance tax infrastructure fund in each year available for transfer to the infrastructure special revenue account is equal to the sum of 1 1/2 times the annual amount of outstanding obligations and the proposed obligations payable from the special revenue account.

NEW SECTION. Section 11. Infrastructure special revenue account. (1) There is an infrastructure special revenue account in the state special revenue fund.

(2) The state treasurer shall from time to time transfer from the earnings on the coal severance tax infrastructure fund to the infrastructure special revenue account the amount necessary to meet the obligations of the state payable from the account.

(3) The state treasurer may transfer funds in the infrastructure special revenue account to the department of commerce for distribution to a local government or to a debt service fund created pursuant to 17-5-708.

NEW SECTION. Section 12. Financial assistance available.

(1) The following types of financial assistance are available under the Montana Community Infrastructure Act:

(a) an annual debt service subsidy on local government debt

created to finance eligible local infrastructure projects;

(b) grants for up to 20% of the costs of local infrastructure projects; and

(c) loans to finance local infrastructure projects from the proceeds of coal severance tax bonds that may include an annual debt service subsidy on the loans.

(2) Financial assistance described in subsection (1)(c) is available to a local government only if the assistance described in subsection (1)(a), taking into consideration the maximum debt service subsidy available, or if the availability of a grant described in subsection (1)(b) will not enable the local government to finance the proposed project.

(3) In reviewing the requests for financial assistance for eligible projects and making recommendations to the governor, the department of commerce shall attempt to allocate 40% of the funds available for financial assistance to projects funded under subsection (1)(a) and 60% of the funds available for financial assistance to projects funded under subsection (1)(b). If the department recommends financing under subsection (1)(c), the amount of funds available under subsections (1)(a) and (1)(b) must be reduced proportionally."

Renumber: subsequent sections

39. Page 11, line 24.

Strike: "Administration of loans"

Insert: "Infrastructure assistance"

40. Page 12, line 1.

Strike: "loan program"

Insert: "Montana Community Infrastructure Act"

41. Page 12, line 2.

Strike: "11"

Insert: "13"

Strike: "and"

42. Page 12, line 3.

Following: line 2

Insert: "(2) make loans approved by the legislature pursuant to [sections 7 through 13]; and"

Renumber: subsequent subsection

43. Page 25, line 16.

Strike: "\$225,000"

Insert: "\$500,000"

44. Page 25, line 17.

Strike: "17-5-703(3)"

Insert: "[section 11]"

45. Page 25, line 19.
Following: line 18
Insert: "matching funds for"

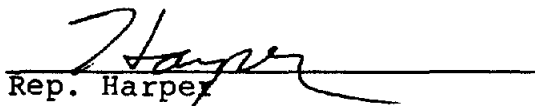
46. Page 25, line 20.
Following: "1"
Insert: "prioritized as provided in [section 9(2)]"

And this Free Conference Committee report be adopted.

For the House:



Rep. S. Rice, Chair



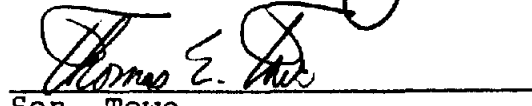
Rep. Harper

Rep. Zook

For the Senate:



Sen. Doherty, Chair



Sen. Towe

Sen. Thayer



AN ACT CREATING THE MONTANA COMMUNITY INFRASTRUCTURE ACT; CREATING AN INFRASTRUCTURE TRUST FUND WITHIN THE PERMANENT COAL TAX TRUST FUND; CREATING A SPECIAL REVENUE ACCOUNT FOR INTEREST EARNED ON THE COAL SEVERANCE TAX INFRASTRUCTURE FUND; MAKING INTEREST IN THE SPECIAL REVENUE ACCOUNT AVAILABLE FOR LOCAL INFRASTRUCTURE PROJECTS; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE FOR LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS; PROVIDING FOR THE TERMS AND CONDITIONS OF FINANCIAL ASSISTANCE; PROVIDING A METHOD FOR RECOMMENDING PRIORITIES FOR PROJECTS; REQUIRING LEGISLATIVE AUTHORIZATION FOR PROJECTS; APPROPRIATING MONEY IN THE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF COMMERCE FOR USE BY LOCAL GOVERNMENTS FOR ENGINEERING STUDIES FOR LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS; AMENDING SECTIONS 17-5-701, 17-5-702, 17-5-703, 17-5-704, 17-5-706, AND 17-5-719, MCA; AND PROVIDING AN EFFECTIVE DATE.

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 1] delegates rulemaking authority to the department of commerce to administer the Montana Community Infrastructure Act. This bill is intended to provide local governments with cost-effective alternative methods of financing infrastructure projects that enhance the quality of life and protect the health, safety, and welfare of Montana's citizens and that support long-term, stable economic growth and job creation by keeping

Montana competitive with nearby states by providing for the public infrastructure necessary for economic growth.

This bill places the state of Montana in a position of partnership with local governments in meeting infrastructure needs. The primary emphasis of this bill is to assist local governments by:

- (1) providing an annual debt service subsidy on local debt created to finance local infrastructure projects;
- (2) providing a grant for up to 20% of the costs of local infrastructure projects; or
- (3) as a last resort, making loans to finance local infrastructure projects from the proceeds of coal severance tax bonds that may include an annual debt service subsidy on the loans.

The source of revenue to fund the assistance will be the investment income derived from the coal severance tax infrastructure fund.

Money currently transferred from the coal severance tax bond fund into the coal severance tax permanent fund would, under this bill, be transferred to a coal severance tax infrastructure fund within the coal severance tax trust fund. Fifty percent of the money flowing into the coal severance tax infrastructure fund will be retained in that fund, and 50% will be transferred to the coal severance tax permanent fund. The principal funds will be retained in the coal severance tax infrastructure fund; however, deposits

to the fund will cease at the end of fiscal year 2012. Interest earnings on the fund will be transferred, as needed, upon appropriation by the legislature, to a special revenue account outside of the coal severance tax trust fund and will be used for community infrastructure assistance under the community infrastructure program.

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

Section 1. Montana Community Infrastructure Act -- powers and duties of department. (1) This section and [sections 7 through 13] may be cited as the "Montana Community Infrastructure Act".

(2) The Montana Community Infrastructure Act must be administered by the department of commerce. The department shall adopt rules to administer [sections 7 through 13]. The rules must include but not be limited to establishing criteria and procedures for:

- (a) determining the eligibility of local government entities for the community infrastructure program;
- (b) determining the eligibility of specific projects;
- (c) ensuring that local governments fund their infrastructure projects by local funding when possible;
- (d) determining the amount of debt service payments available for infrastructure projects funded through loans from the coal severance tax bond fund program; and
- (e) determining the amount of debt service subsidy available

for local infrastructure projects funded by any local debt.

Section 2. 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:

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

(b) a coal severance tax infrastructure fund;

~~(b)(c)~~ a coal severance tax permanent fund; and

~~(c)(d)~~ a coal severance tax income fund.

(2) The state treasurer shall from time to time transfer to the coal severance tax permanent infrastructure fund all money in the coal severance tax bond fund except 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. The state treasurer shall stop deposits to the coal severance tax infrastructure fund on June 30, 2012. The state treasurer shall from time to time transfer to the coal severance tax permanent fund 50% of the principal amount of the money transferred from the coal severance tax bond fund to the coal severance tax infrastructure fund in the preceding year.

(3) The purpose of the coal severance tax infrastructure fund is to assist local governments in funding infrastructure projects. Interest earned on the coal severance tax infrastructure fund may

be used to provide financial assistance for local government infrastructure projects under the Montana Community Infrastructure Act, [sections 1 and 7 through 13]. The state treasurer shall transfer to the infrastructure special revenue account established in [section 11] the amount of interest earnings required to meet the obligations of the state that are payable from the account as authorized by the legislature pursuant to [sections 7 through 13]. Interest earnings not appropriated and transferred to the infrastructure special revenue account must be retained in the coal severance tax infrastructure fund.

(4) Beginning July 1, 2012, 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 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."

Section 3. Section 17-5-701, MCA, is amended to read:

"17-5-701. State of Montana coal severance tax bonds. This part provides for the issuance of state of Montana coal severance tax bonds (also referred to as coal severance tax bonds in this part) to:

(1) finance water resource development projects and activities in the state designed to provide, during and after extensive coal mining, a healthy economy, the alleviation of social and economic impacts created by coal development, and a

clean and healthful environment for present and future generations; and

(2) finance loans to local governments for infrastructure projects under the Montana Community Infrastructure Act, [sections 1 and 7 through 13]."

Section 4. Section 17-5-702, MCA, is amended to read:

"17-5-702. Purpose and intent. (1) The purpose of the coal severance tax trust fund bond provisions of this part and [sections 7 through 13] is to establish the authority to issue and sell coal severance tax bonds that have been approved by an act of the legislature for financing specific water resource development projects and activities and local government infrastructure projects and activities in the state authorized by the legislature and to guarantee redemption of such the bonds by revenue derived from the receipts from the coal severance tax imposed by Title 15, chapter 35, part 1, and such other money as the legislature may from time to time determine.

(2) The legislature intends that projects to be financed by coal severance tax bonds include:

(a) water resource development projects and activities as part of the water development program established in Title 85, chapter 1, part 6. The legislature further intends that the income from water resource development projects and activities in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the

water development state special revenue account established in 85-1-604.

(b) local government infrastructure projects and activities as part of the local government infrastructure program established in [sections 7 through 13]."

Section 5. Section 17-5-706, MCA, is amended to read:

"17-5-706. Authority to issue coal severance tax bonds. The board of examiners, upon approval of the legislature as hereinafter provided in this section, shall issue and sell coal severance tax bonds to finance such approved water resource development projects and activities and local government infrastructure projects and activities when authorized to do so by any law that sets out the amount and purpose of the issue. Each project or activity ~~shall~~ must be separately approved as to amount by a two-thirds vote of each house of the legislature."

Section 6. Section 17-5-719, MCA, is amended to read:

"17-5-719. Limitation on amount of coal severance tax bonds issued. No more than \$250 million worth of coal severance tax bonds may be issued for water development projects and activities and local government infrastructure projects and activities."

Section 7. Purpose. The purpose of [sections 7 through 13] is to establish a local government infrastructure investment program that will:

(1) enhance the quality of life and protect the health, safety, and welfare of Montana's citizens by creating a

partnership between the state and local governments to help finance necessary public infrastructure projects;

(2) support long-term, stable economic growth and job creation and help keep Montana competitive with nearby states by providing a means for financing the infrastructure necessary for economic growth;

(3) encourage local public facility improvements by state investment in improvements in order to make these improvements affordable to Montana citizens;

(4) protect future generations from the undue fiscal burdens that result when infrastructure systems are inadequate or are allowed to deteriorate;

(5) encourage maximum use of all available private and public funding sources;

(6) complement and improve the effectiveness of existing private and public infrastructure financing mechanisms and improve coordination between state and federal infrastructure financing programs; and

(7) encourage coordinated, long-term strategies for addressing Montana's infrastructure needs.

Section 8. Eligible projects. (1) A county, incorporated city or town, or consolidated local government is eligible to apply for financial assistance under [sections 7 through 13].

(2) Financial assistance may be provided for the costs related to the planning, design, construction, reconstruction,

acquisition, alteration, modernization, improvement, or expansion of:

- (a) drinking water systems;
- (b) wastewater treatment, sanitary sewer, or storm sewer systems;
- (c) solid waste disposal and separation systems, including site acquisition, preparation, and monitoring;
- (d) bridges; or
- (e) airport improvements, if the amount of state and local funding is met by a matching grant of nine times the amount of state and local funding and the financial assistance requested represents not more than 20% of the state and local financial funding.

Section 9. Priorities for projects -- procedure. (1) The department of commerce shall receive proposals for projects from the local government entities listed in [section 8(1)]. The department shall work with the local government in preparing cost estimates for the project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The department shall prepare and submit a list containing the recommended projects and the recommended form of financial assistance for each project to the governor, prioritized pursuant to subsection (2). In preparing grant recommendations for the 53rd legislature, the department shall recommend projects that do not exceed \$300,000. The governor shall

review the projects recommended by the department of commerce under this section and the projects recommended by the department of natural resources and conservation under Title 85, chapter 1, part 6, and shall submit a list of recommended projects and the recommended financial assistance to the legislature.

(2) In preparing recommendations under subsection (1), preference must be given to projects based on the following order of priority:

- (a) projects that solve urgent and serious public health or safety problems;
- (b) projects that enable local governments to meet state or federal health or safety standards;
- (c) projects that enable local governments to obtain funds from sources other than the funds provided under [sections 7 through 13];
- (d) projects that provide long-term, full-time job opportunities for Montanans;
- (e) projects that provide public facilities necessary for the expansion of a business that has a high potential for financial success;
- (f) projects that result in a benefit to the public commensurate with the amount of financial assistance;
- (g) projects that reflect greater need for financial assistance than other projects;
- (h) projects that do not discourage expansion of the tax

base; and

(i) projects that are high local priorities and have strong community support.

Section 10. Legislative approval -- financial assistance. (1) If financial assistance is in the form of an annual debt service subsidy on local government debt, the legislature shall authorize the department of commerce to enter into a written agreement with the local government that obligates the state to provide semiannual payments in a specified amount, over a period not to exceed 30 years, established in the bill authorizing the financial assistance. The obligation established in the agreement is a general obligation of the state and is payable from any available source, including the infrastructure special revenue account established in [section 11].

(2) If financial assistance is in the form of a matching grant, the legislature shall appropriate the amount of the grant from the infrastructure special revenue account.

(3) If financial assistance is in the form of a loan funded from the proceeds of coal severance tax bonds, the legislature shall authorize the board of examiners to issue coal severance tax bonds to finance the loan as provided in 17-5-706. If an annual debt service subsidy on the loan is provided, the legislature shall authorize the department of commerce to enter into a written agreement with the local government that obligates the state to provide semiannual payments in a specified amount, over a period

not to exceed 30 years, established in the bill authorizing the financial assistance. The obligation established in the agreement is a general obligation of the state and is payable from any available source, including the infrastructure special revenue account established in [section 11].

(4) The legislature may not authorize entering into an agreement to provide an annual debt service subsidy as provided in subsection (1) or (3) unless the aggregate amount of anticipated earnings on the coal severance tax infrastructure fund in each year available for transfer to the infrastructure special revenue account is equal to the sum of 1 1/2 times the annual amount of outstanding obligations and the proposed obligations payable from the special revenue account.

Section 11. Infrastructure special revenue account. (1) There is an infrastructure special revenue account in the state special revenue fund.

(2) The state treasurer shall from time to time transfer from the earnings on the coal severance tax infrastructure fund to the infrastructure special revenue account the amount necessary to meet the obligations of the state payable from the account.

(3) The state treasurer may transfer funds in the infrastructure special revenue account to the department of commerce for distribution to a local government or to a debt service fund created pursuant to 17-5-708.

Section 12. Financial assistance available. (1) The following

types of financial assistance are available under the Montana Community Infrastructure Act:

(a) an annual debt service subsidy on local government debt created to finance eligible local infrastructure projects;

(b) grants for up to 20% of the costs of local infrastructure projects; and

(c) loans to finance local infrastructure projects from the proceeds of coal severance tax bonds that may include an annual debt service subsidy on the loans.

(2) Financial assistance described in subsection (1)(c) is available to a local government only if the assistance described in subsection (1)(a), taking into consideration the maximum debt service subsidy available, or if the availability of a grant described in subsection (1)(b) will not enable the local government to finance the proposed project.

(3) In reviewing the requests for financial assistance for eligible projects and making recommendations to the governor, the department of commerce shall attempt to allocate 40% of the funds available for financial assistance to projects funded under subsection (1)(a) and 60% of the funds available for financial assistance to projects funded under subsection (1)(b). If the department recommends financing under subsection (1)(c), the amount of funds available under subsections (1)(a) and (1)(b) must be reduced proportionally.

Section 13. Infrastructure assistance. The department of

commerce shall:

(1) administer the Montana Community Infrastructure Act established by [sections 7 through 13];

(2) make loans approved by the legislature pursuant to [sections 7 through 13]; and

(3) service loans made or contract and pay for the servicing of loans.

Section 14. Section 17-5-704, MCA, is amended to read:

"17-5-704. Investment of funds. (1) Money in the coal severance tax bond fund, the coal severance tax permanent fund, the coal severance tax infrastructure fund, and the coal severance tax income fund must be invested in accordance with the investment standards for coal severance tax funds except as provided in subsection (2). Income Subject to the provisions of 17-5-703(3), income and earnings from all funds must be transferred to and retained in the coal severance tax income fund until appropriated by the legislature.

(2) Except as provided in subsection (1) and section 1, Chapter 634, Laws of 1989, beginning on July 1, 1990, the legislature shall appropriate 15% of the income and earnings from all funds to be deposited to the state equalization aid account each year."

Section 15. Appropriation. There is appropriated \$500,000 from the special revenue account created in [section 11] to the department of commerce to be used for matching funds for

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engineering studies for eligible projects under [section 8]
prioritized as provided in [section 9(2)].

Section 16. Effective date. [This act] is effective July 1,
1991.