

HOUSE BILL 905

Introduced by Bradley, et al.

2/16	Introduced
2/16	Referred to Business & Economic Development
2/16	First Reading
2/16	Fiscal Note Requested
2/25	Fiscal Note Received
2/27	Fiscal Note Printed
3/13	Hearing
3/25	Committee Report--Bill Passed as Amended
3/25	Rereferred to Appropriations
4/01	Committee Report--Bill Passed as Amended
4/02	2nd Reading Do Pass as Amended Motion Failed

1 HOUSE BILL NO. 905  
 2 INTRODUCED BY Bradley Selge  
 3 Chrisell John Johnson, Bengtson Harrington J. Brown  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT BUILDING A NEW CENTURY;  
 5 AUTHORIZING COAL SEVERANCE TAX PROCEEDS THAT WOULD OTHERWISE  
 6 BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT TRUST FUND  
 7 TO BE DEPOSITED IN THE BUILDING A NEW CENTURY FUND WITHIN  
 8 THE TRUST FUND; AUTHORIZING NEW PROJECTS TO BE FUNDED  
 9 THROUGH THE ISSUANCE OF COAL SEVERANCE TAX BONDS; PROVIDING  
 10 FOR THE FUNDING OF IMPROVEMENT PROJECTS FOR STATE GOVERNMENT  
 11 AND UNIVERSITY SYSTEM FACILITIES; PROVIDING FOR LOANS TO  
 12 LOCAL GOVERNMENTS FOR INFRASTRUCTURE PROJECTS; PROVIDING FOR  
 13 IMPROVEMENT PROJECTS FOR STATE PARKS AND RECREATION AREAS;  
 14 AMENDING SECTIONS 17-5-701, 17-5-702, 17-5-703, 17-5-706,  
 15 17-5-719, 85-1-603, 85-1-604, 85-1-605, 85-1-617, 85-1-618,  
 16 85-1-619, AND 85-1-620, MCA; AND PROVIDING AN EFFECTIVE DATE  
 17 AND A TERMINATION DATE."  
 18

19 STATEMENT OF INTENT

20 A statement of intent is required for this bill because  
 21 it delegates rulemaking authority to the department of  
 22 commerce to administer loans for local government  
 23 infrastructure projects. The legislature intends that the  
 24 department of commerce adopt rules substantially similar to  
 25 those adopted by the department of natural resources and

1 conservation to administer water development loans.  
 2  
 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 4 NEW SECTION. Section 1. Building a new century fund --  
 5 statutory appropriation -- bonds. (1) There is a building a  
 6 new century fund in the coal severance tax trust fund. The  
 7 fund consists of money deposited in the coal severance tax  
 8 trust fund from the coal severance tax bond fund, the  
 9 principal and interest received from the repayment of loans  
 10 made from the fund, and money from any other source the  
 11 legislature determines.  
 12 (2) The building a new century fund is to be used for  
 13 loans and grants for projects authorized by the legislature  
 14 pursuant to [sections 7 and 8]. Projects authorized under  
 15 [section 7] must receive priority over projects authorized  
 16 under [section 8].  
 17 NEW SECTION. Section 2. Purpose. The purpose of  
 18 [sections 2 through 6] is to establish a program that will:  
 19 (1) enhance the quality of life and protect the health,  
 20 safety, and welfare of Montana's citizens by creating a  
 21 partnership between the state and local governments to help  
 22 finance necessary public infrastructure projects;  
 23 (2) support long-term, stable economic growth and job  
 24 creation and help keep Montana competitive with nearby  
 25 states by providing a means for financing the public



1 infrastructure necessary for economic growth;

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

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

8 (5) encourage maximum utilization of all available  
9 private and public funding sources;

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

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

16 **NEW SECTION. Section 3. Eligible projects.** (1) A  
17 county, incorporated city or town, consolidated local  
18 government, school district, conservation district, special  
19 purpose district, or private nonprofit corporation that  
20 provides public services is eligible to apply for a loan  
21 under [sections 2 through 6].

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

1 (a) drinking water systems;

2 (b) sewer systems;

3 (c) solid waste collection and disposal systems;

4 (d) transportation systems;

5 (e) telecommunications and other high-technology  
6 systems; or

7 (f) other public works projects that the legislature  
8 determines to be in the public interest.

9 **NEW SECTION. Section 4. Priorities for projects --**  
10 **procedure -- bond issuance.** (1) The department of commerce  
11 shall receive proposals for projects from the local  
12 government entities listed in [section 3(1)]. The department  
13 shall work with the local government in preparing cost  
14 estimates for the project. In reviewing project proposals,  
15 the department may consult with other state agencies with  
16 expertise pertinent to the proposal. The department shall  
17 prepare and submit a list of recommended projects to the  
18 governor prioritized pursuant to subsection (2). The  
19 governor shall review the projects recommended under this  
20 section and the projects recommended by the department of  
21 natural resources and conservation under 85-1-605 and shall  
22 submit a prioritized list of recommended projects to the  
23 legislature.

24 (2) In preparing recommendations under subsection (1),  
25 the department shall give preference to projects based on

1 the following order of priority:

2 (a) projects that solve urgent and serious public  
3 health or safety problems;

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

6 (c) projects that provide long-term, full-time job  
7 opportunities for Montanans;

8 (d) projects that enable local governments to obtain  
9 funds from sources other than the funds provided under  
10 [sections 2 through 6];

11 (e) projects that provide public facilities necessary  
12 for the expansion of a business that has a high potential  
13 for financial success; and

14 (f) projects that result in a benefit to the public  
15 commensurate with the size of the grant.

16 (3) In preparing recommendations from the list of  
17 priorities in subsection (2) the following criteria must  
18 also be considered:

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

21 (b) projects of government entities that do not have  
22 access to other sources of funding or have reached a mill  
23 levy limit; and

24 (c) projects that are high local priorities and have  
25 strong community support.

1 (4) The legislature may authorize the board of  
2 examiners to sell coal severance tax bonds to finance loans  
3 for the projects authorized by the legislature. The proceeds  
4 of the bonds to be used for the loans to local governments  
5 must be deposited in a local government infrastructure loan  
6 account in the state special revenue fund to be administered  
7 by the department of commerce. Principal and interest  
8 received in repayment of a loan made from the proceeds of  
9 coal severance tax bonds must be deposited in the coal  
10 severance tax bond debt service fund.

11 NEW SECTION. Section 5. Loan terms. (1) The period for  
12 repayment of a local government infrastructure investment  
13 loan may not exceed 20 years.

14 (2) Coal severance tax bond proceeds issued for local  
15 government infrastructure projects may be used only for the  
16 purpose of loans as provided in [section 2 through 6].

17 (3) The department shall from time to time establish  
18 the interest rate at which local government infrastructure  
19 loans may be made that is sufficient to:

20 (a) cover the bond debt service for a loan; and

21 (b) establish and maintain a loan loss reserve fund to  
22 be used for bond debt service if a loan loss occurs.

23 NEW SECTION. Section 6. Administration of loans. The  
24 department of commerce shall:

25 (1) administer the loan program established by

1 [sections 2 through 6];

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

4 (3) adopt rules for prioritizing projects and  
5 administering loans.

6 **NEW SECTION. Section 7. State improvement and**  
7 **construction projects.** (1) The department of administration  
8 shall assess and develop a plan for the improvement and  
9 construction of facilities for state government, including  
10 the university system. The plan must emphasize capital  
11 improvement and the expansion of existing facilities and  
12 must be designed to provide for the longest and best use of  
13 existing facilities. The construction of new facilities must  
14 receive a lower priority than improvement of existing  
15 facilities.

16 (2) The plan must identify improvement or expansion  
17 projects on a project-by-project basis and must include the  
18 estimated cost of each project. The department shall  
19 prioritize the projects according to the facilities most in  
20 need of improvement or expansion. A list of the projects  
21 proposed for funding must be presented to each regular  
22 session of the legislature, and funding must be approved by  
23 a three-fourths vote of each house of the legislature.

24 (3) The state treasurer shall transfer money from the  
25 building a new century fund to the agency authorized to

1 carry out each project in the amount authorized by the  
2 legislature.

3 **NEW SECTION. Section 8. Park and recreation area**  
4 **projects and activities.** The department of fish, wildlife,  
5 and parks shall develop a 5-year plan for the improvement  
6 and construction of facilities at parks and recreation  
7 areas. The plan must emphasize capital improvements and  
8 expansion of existing facilities and must be designed to  
9 provide for the longest and best use of existing facilities.  
10 The construction of new facilities must receive a lower  
11 priority than improvement of existing facilities.

12 (2) The plan must identify improvement or expansion of  
13 individual projects and must include the estimated cost of  
14 each project. The department shall prioritize the projects  
15 according to the facilities most in need of improvement or  
16 expansion. A list of projects for funding must be presented  
17 to each regular session of the legislature, and funding must  
18 be approved by a three-fourths vote of each house of the  
19 legislature. The total funding for projects approved  
20 pursuant to this section may not exceed \$4 million in any  
21 year of the program.

22 (3) The state treasurer shall transfer money from the  
23 building a new century fund to the department to carry out  
24 each project authorized by the legislature.

25 **Section 9.** Section 17-5-701, MCA, is amended to read:

1       **"17-5-701. State of Montana coal severance tax bonds.**  
 2 This part provides for the issuance of state of Montana coal  
 3 severance tax bonds (also referred to as coal severance tax  
 4 bonds in this part) to:

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

11       (2) finance public infrastructure projects for local  
 12 governments that enhance the quality of life and protect the  
 13 health, safety, and welfare of Montana's citizens and that  
 14 support long-term, stable economic growth and job creation  
 15 by keeping Montana competitive with nearby states by  
 16 providing for the public infrastructure necessary for  
 17 economic growth."

18       **Section 10.** 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 is to establish the authority to issue and sell coal  
 22 severance tax bonds that have been approved by act of the  
 23 legislature for financing specific water resource  
 24 development projects and activities and local government  
 25 infrastructure projects and activities in the state

1 authorized by the legislature and to guarantee **redemption**  
 2 **payment** of such the bonds by revenue derived from the  
 3 receipts from the coal severance tax imposed by Title 15,  
 4 chapter 35, part 1, and such other money as the legislature  
 5 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 2 through 6]. The payments  
 19 of principal and interest on local government infrastructure  
 20 loans in excess of the amount required for debt service must  
 21 be deposited in the local government loan loss reserve  
 22 fund."

23       **Section 11.** Section 17-5-703, MCA, is amended to read:

24       **"17-5-703. Coal severance tax trust funds.** (1) The  
 25 trust established under Article IX, section 5, of the

1 Montana constitution shall be composed of the following  
2 funds:

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

6 (b) a building a new century fund;

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

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

9 (2) The state treasurer shall from time to time  
10 transfer to the ~~coal-severance-tax-permanent~~ building a new  
11 century fund all money in the coal severance tax bond fund  
12 except the amount necessary to meet all principal and  
13 interest payments on bonds payable from the coal severance  
14 tax bond fund on the next two ensuing semiannual payment  
15 dates. The state treasurer shall from time to time transfer  
16 to the coal severance tax permanent fund all money in the  
17 building a new century fund not encumbered for projects by  
18 the legislature."

19 **Section 12.** Section 17-5-706, MCA, is amended to read:

20 "17-5-706. Authority to issue coal severance tax bonds.

21 The board of examiners, upon approval of the legislature as  
22 hereinafter provided in this section, shall issue and sell  
23 coal severance tax bonds to finance such approved water  
24 resource development projects and activities and local  
25 government infrastructure projects and activities when

1 authorized to do so by any law that sets out the amount and  
2 purpose of the issue. Each project or activity shall be  
3 separately approved as to amount by a two-thirds vote of  
4 each house of the legislature."

5 **Section 13.** Section 17-5-719, MCA, is amended to read:

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

11 **Section 14.** 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 coal severance tax bond  
20 debt service fund, as received:

21 (i) 1 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) or [section 5(3)(a)] received in repayment of  
 2 a loan made from the proceeds of bonds issued under  
 3 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 state special revenue account pursuant  
 8 to 85-1-604 and the local government infrastructure loan  
 9 account pursuant to [section 4], as determined by the board  
 10 of examiners in connection with the issuance of bonds  
 11 pursuant to Title 17, chapter 5, part 7, and 85-1-617; and

12 (v) money received from the water--development coal  
 13 severance tax bond loan loss reserve fund as the result of a  
 14 loan loss.

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

18 (b) The state pledges and allocates and directs to be  
 19 credited to the water-development coal severance tax bond  
 20 loan loss reserve fund all accrued interest under  
 21 85-1-613(3)(b) and [section 5(3)(b)] received in repayment  
 22 of a loan made from the proceeds of bonds issued under  
 23 85-1-617.

24 (c) If the department of natural resources and  
 25 conservation or the department of commerce determines that a

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

8 **Section 15.** Section 85-1-604, MCA, is amended to read:

9 "85-1-604. Water development state special revenue  
 10 account created -- revenues allocated -- limitations on  
 11 appropriations from account. (1) There is created a water  
 12 development state special revenue account within the state  
 13 special revenue fund established in 17-2-102.

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

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

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

23 (c) the excess of the coal severance tax proceeds  
 24 allocated by 85-1-603 to the water---development coal  
 25 severance tax bond debt service fund above debt service



1 requirements as provided in and subject to the conditions of  
2 85-1-619; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **Section 16.** Section 85-1-605, MCA, is amended to read:

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

1 loans it finds consistent with the policies and purposes of  
 2 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 17.** 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 18.** 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 19.** 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 20.** 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 issued before or after July 1, 1991,  
3 before maturity for the purpose of extending the maturities  
4 thereof of the outstanding bond so far as determined by the  
5 board of examiners to be necessary to assure ensure that the  
6 funds then pledged to the water-development coal severance  
7 tax bond debt service fund will be sufficient for payment of  
8 principal and interest due in subsequent years. The board of  
9 examiners may also issue refunding bonds to refund  
10 outstanding bonds before maturity for the purpose of  
11 reducing the interest cost or the total amount of principal  
12 and interest payable thereon on the 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 21. Codification instruction. (1)  
11 [Section 1] is intended to be codified as an integral part  
12 of Title 17, chapter 5, part 7, and the provisions of Title  
13 17, chapter 5, part 7, apply to [section 1].

14 (2) [Sections 2 through 6] are intended to be codified  
15 as an integral part of Title 7, chapter 6, and the  
16 provisions of Title 7, chapter 6, apply to [sections 2  
17 through 6].

18 (3) [Section 7] is intended to be codified as an  
19 integral part of Title 2, chapter 17, and the provisions of  
20 Title 2, chapter 17, apply to [section 7].

21 (4) [Section 8] is intended to be codified as an  
22 integral part of Title 87, chapter 1, part 2, and the  
23 provisions of Title 87, chapter 1, part 2, apply to [section  
24 8].

25 NEW SECTION. Section 22. Severability. If a part of

1 [this act] is invalid, all valid parts that are severable  
2 from the invalid part remain in effect. If a part of [this  
3 act] is invalid in one or more of its applications, the part  
4 remains in effect in all valid applications that are  
5 severable from the invalid applications.

6 NEW SECTION. Section 23. Saving clause. [This act]  
7 does not affect rights and duties that matured, penalties  
8 that were incurred, or proceedings that were begun before  
9 [the effective date of this act].

10 NEW SECTION. Section 24. Effective date. [This act] is  
11 effective July 1, 1991.

12 NEW SECTION. Section 25. Termination. [Section 8]  
13 terminates July 1, 1996.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0905, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill: 1) authorizes coal severance tax (CST) proceeds that would otherwise be deposited in the CST permanent trust fund to be deposited in the building a new century fund within the trust fund; 2) authorizes new projects to be funded through the issuance of CST bonds; 3) provides for the funding of improvement projects for state government and university system facilities; 4) provides for loans to local governments for infrastructure projects; and 5) provides for improvements projects for state parks and recreation areas.

ASSUMPTIONS:


General Assumptions:

1. Revenue estimates for the coal severance tax (CST) trust are executive revenue projections.
2. One new account called the new century 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. HB0905 creates a CST local government infrastructure loan program and a state government facilities and parks infrastructure grant and loan program.


Assumptions on bonding authority limits and bonding capacity:

6. Bonding authority limit is maintained at \$250 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 an amount 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  
Office of Budget and Program Planning

2-22-91  
DATE

  
DOROTHY BRADLEY, PRIMARY SPONSOR

2-27-91  
DATE

Fiscal Note for HB0905, as introduced

HB 905

Fiscal Note Request, HB0905, as introduced

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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 in to 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 6 through 13, the CST bonding capacity will be approximately \$112 million.
  14. Outstanding CST bond debt is \$55.7 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. Remaining bonding capacity will be \$12 million. This bonding authority would be available for both future DNRC public loans and Department of Commerce local government infrastructure loans through the "building a new century fund".
  18. The 1993 Legislature will allocate the remaining \$12 million of bonding capacity for local government infrastructure loans.
  19. Section 5 requires the Department of Commerce to establish the interest rate at which local government infrastructure loans may be made that is sufficient to:
    - a. cover the bond debt service for a loan; and
    - b. establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs.
  20. The DOC calculation of the local government repayment interest rate can be subsidized if the legislature via a 3/4 vote authorizes that new century funds be used to subsidize a specific loan. Currently, the legislature has subsidized public loans administered by the DNRC.
  21. If the legislature authorizes bonds be sold to finance local government infrastructure loans totalling \$12 million and the bond interest rate averages 7.5%, and the loans receive a 3% interest subsidy or \$360,000 per year, then the general fund and school equalization account will be reduced by a total of \$360,000.
- Assumptions on the grants and loans for state improvement and construction projects and park and recreation area projects and activities:
22. The legislature will authorize additional bonded indebtedness as described in assumptions 15 and 16.
  23. The CST bond fund must maintain a \$5.2 million balance which is equal to two bond repayments for the \$55.7 million of outstanding bonds.
  24. If \$45 million of additional bonds are sold in FY92, the CST bond fund will need to maintain a \$9.3 fund balance.
  25. New public loans approved by the Long-Range Building Committee will require approximately \$540,000 for interest subsidy.
  26. The legislature will not approve any local government infrastructure loans during the 1991 Legislative session.

HB 905



27. Based upon the above assumptions the following table details the CST which would be available for grants for state improvement and construction projects and park and recreation area projects and activities:

50% of CST deposited into the permanent trust	\$ 37.9 million
Current public loan subsidy	(0.5)
Future public loan subsidy	(0.5)
New CST bond coverage	<u>(4.1)</u>
Total available for grants	\$ 32.8

28. If the legislature authorized \$4 million of the \$32.8 million for parks and recreation area projects, \$28.8 million would remain for grants or loans for state facilities improvement and construction projects.
29. Based upon an interest rate of 9.5%, each \$1 million of CST funds authorized for a loan subsidy, a state facility loan or grant, or a parks loan or grant reduces general fund interest income by \$95,000 per year.
30. The interest and principal payments from loans to state facilities or parks will be deposited in to the new century fund and, unless they are reencumbered by the legislature, the funds would be transferred to the permanent trust.

Assumptions concerning the water development debt service accounts:

31. 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.
32. 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.
33. Sections 12 and 13 of HB0795 combine the water development GO bonding program with the CST bonding program.
34. Water development GO bonding authority is statutorily limited to \$10 million.
35. Combining these two bonding programs would create the following problems:
- Water development GO bonds which are backed by the full faith and credit of the state would be backed only by CST revenues;
  - A potential conflict between the two statutory bonding limitations; and possible state violation of the existing GO and CST bond contracts.

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

36. The administrative budget is based on an annual program of approximately \$4.5 million
37. The infrastructure loan program will have an effective date of July 1, 1991.
38. 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.
39. 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.
40. 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.
41. Financial servicing of the loans and the monitoring of loan repayments would be done by the DNRC Conservation Resource and Development Division, under contract to DOC.
42. 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.

Fiscal Note Request, HB0905, as introduced

Form BD-15

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- 43) The DNRC would need 0.50 FTE and a budget of \$20,000 per year to provide contract financial assistance to DOC.  
 44) The bill does not identify a funding source to finance the administrative costs; therefore, it is assumed the cost will be general fund.

Assumptions on the use of Parks and Recreation Area Grant:

- 45) The five-year capital improvement plan developed by the Department of Fish, Wildlife and Parks and endorsed by the State Parks Futures Committee will meet the study requirement of Section 8 of HB0905. Therefore, funds would be available to FWP in the 1993 biennium.  
 46) The State Parks Futures Committee identified over \$20 million of capital needs for the Montana parks system. Through FY96, it is assumed that the full \$4 million annual allotment would be appropriated to FWP.

FISCAL IMPACT:

Department of Commerce:

<u>Expenditures:</u>	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	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:

<u>Expenditures:</u>						
FTE	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

Department of Fish, Wildlife, and Parks:

<u>Expenditures:</u>						
Capital Outlay	0	4,000,000	4,000,000	0	4,000,000	4,000,000
<u>Funding:</u>						
CST Funds	0	4,000,000	4,000,000	0	4,000,000	4,000,000
General Fund Impact			(559,769)			(563,519)

HB 905

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. Section 21 incorrectly codifies Section 7 as an integral part of Title 2 Chapter 17. The section should be codified as an integral part of Title 17, Chapter 7, Part 2, since the section involves planning improvements to state facilities including the university system.
2. There are potential legal and financial problems if the water development GO bond and CST bonds are combined.
3. There is a potential problem of DOC and DNRC competing over limited bonding capacity.
4. See also the attached memorandum from Mae Nan Ellington, Dorsey and Whitney, state bond counsel.

Attachments: (4)

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CI-000-3000

**MEMORANDUM****VIA FACSIMILE**

**TO:** Department of Natural Resources and Conservation  
Office of Budget and Program Planning

**FROM:** Dorsey & Whitney *Mac Lane Ellerson*

**DATE:** February 22, 1991

**RE:** House Bill No. 905

You have requested that we, as the State's bond counsel, provide you with technical comments on HB 905 to assist you in preparing a fiscal note to accompany the bill.

Like House Bill No. 795, House Bill No. 905 (HB 905) authorizes the issuance of Coal Severance Tax Bonds to fund loans to local governments for infrastructure projects approved by the legislature. The Coal Severance Tax Bonds would be issued on a parity with the State's outstanding Coal Severance Tax Bonds.

This bill creates the "building a new century fund" within the coal severance tax trust fund into which, according to Section 1, will be deposited: (i) the annual coal severance tax receipts remaining in the coal severance tax trust fund bond fund after provision for payment of the principal and interest on the Coal Severance Tax Bonds on the next two ensuing semiannual payment, (ii) the principal and interest of loan repayments made from the fund (emphasis added), and (iii) money from any other source the legislature determines.

Subsection (2) of Section 1 of HB 905 provides that the "building a new century fund" is to be used for loans and grants for projects authorized by the legislature pursuant to Sections 7 and 8 of the bill.

HB 905

**DORSEY & WHITNEY**

Department of Natural Resources and Conservation  
Office of Budget and Program Planning

Page 2

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Consistent with Section 1, Section 11 of HB 905 provides that the treasurer shall transfer into the "building a new century fund" the coal tax receipts not necessary to meet principal and interest payments on coal severance tax bonds on the next two ensuing semiannual payment dates. It further provides for the transfer out of the "building a new century fund" and into the permanent coal severance tax trust fund all money not encumbered for projects by the legislature.

On the basis of these provisions, we can draw a few conclusions, but ultimately, we have as many questions as answers.

1. It appears that the "building a new century fund" cannot be used for local government loans, but can only be used for "loans and grants" for Section 7 and 8 projects approved by the legislature. Local government projects would be funded only from Coal Severance Tax Bond proceeds deposited in the local government infrastructure local account created by Section 4 of the bill.

2. Sections 7 and 8 of the bill, however, seem to envision "grants" for the projects described in those sections, since they provide for a three-quarters vote of each house of the legislature to approve the funding of the project and those sections make no reference to loan terms or loan repayments of the amounts authorized for projects. As you recall, Section 1(1) provides that loan repayments on loans made from the fund go back into the fund, but since it is not clear that there will be "loans" made from the fund, it is equally unclear that there will be loan repayments going into the fund. Section 4(4) of HB 905 does make clear that loan repayments for local government loans made from the proceeds of Coal Severance Tax Bonds are deposited in the coal severance tax bond [debt service] fund. Again, since there is no authority to make local government loans from the "building a new century project," it seems clear that no local government loan repayments would go into the fund.

3. With respect to the amount to be transferred out of the "building a new century fund" pursuant to Section 11(2) of HB 905, it seems to me that although the bill does not define what "encumbered for projects by the legislature" means, it can be interpreted (or perhaps can be amended, if that is the intent) to mean "encumbered in accordance with the provisions of Sections 7 and 8." If that is what is meant,

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DORSEY & WHITNEY

Department of Natural Resources and Conservation  
Office of Budget and Program Planning  
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this section seems relatively straightforward. All amounts that are not needed to fund a project authorized by a three-quarters of the legislature or in accordance with Sections 7 and 8 would be transferred out of the "building a new century fund."

Assuming, however, that some loan repayments do get into this fund by virtue of the legislature authorizing loans pursuant to Sections 7 and 8, rather than grants, it would seem that under Section 11(2) such loan repayments would get swept out every year into the permanent trust fund if that money had not been previously encumbered. I am not sure that is intended, but I do think that is the result. Prior to reading the bill I had heard about the concept of this bill, which I understood to be to create a revolving fund type program where loan repayments could be reloaned. If that is the desire, the loan repayments in the fund would need to be captured and not transferred.

In summary, it seems that

4. With respect to the loans made to local governments for approved projects financed from the proceeds of the Coal Severance Tax Bonds, the loan repayments are to be used to be deposited in the coal severance tax bond trust fund bond fund and used to pay debt service on the Coal Severance Tax Bonds. Section 5 of the bill requires that the Department of Commerce establish the interest rate on the loans at a rate sufficient "to cover the bond debt service for a loan, and to establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs."

We assume from this provision that the intent of the program with respect to the loans is not to provide any interest rate subsidies to any local governments, other than whatever rate advantage accrues by virtue of the State, rather than the local government borrowing the money. In some cases, but not all, this rate would be somewhat lower than the rates at which the local governments could borrow. It appears that under this bill, unlike the water development loan program funded by Coal Severance Tax Bonds where the legislature specifies the interest rate to be borne by the local government loans (i.e., the rate on the State's bonds, or two percent below the rate on the State's bonds, etc.), the legislature could not grant a subsidized interest rate to the local governments. This bill uses a rate setting mechanism found in

HB 905

**DORSEY & WHITNEY**

Department of Natural Resources and Conservation  
Office of Budget and Program Planning

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the general obligation bond water development program statutes, including the establishment of a loan loss reserve fund (Title 85, Chapter 1, Part 6) to secure those bonds.

Thus, the interest rate on a local government loan would be in excess of the rate on the State's bonds at least by the interest component necessary to fund the loan loss reserve. The statute is silent as to the level at which the loan loss reserve is to be maintained. Since the Coal Severance Tax Bonds are currently secured by a reserve (discussed below), it was probably deemed unnecessary when the enabling legislation was enacted to have a loan loss reserve to secure those bonds. The Coal Severance Tax Bond Water Development Program does require that the local government borrowers establish and maintain reserves for their loans at the local level, to the extent allowed by law.

Since a reserve fund cannot be funded from the proceeds of general obligation bonds, a loan loss reserve was established in Section 85-1-613, M.C.A., to somewhat insulate the general fund from delinquent loan repayments. It should also be noted that the bulk of the loans made for water development projects from the General Obligation Water Development Bonds are for private entities, not local governments.

It is not exactly clear what is meant by the term "cover the bond debt service for a loan." Currently, Coal Severance Tax Bonds are secured by a debt service reserve which is most often funded from the proceeds of the Coal Severance Tax Bonds. Thus, any given issue of Coal Severance Tax Bonds will fund several loans, pay costs of issuance of the bonds, and fund or partially fund the reserve account.

The annual payment of principal and interest on all local government loans made from the proceeds of a series of the State's Coal Severance Tax Bonds would not be sufficient to pay the annual debt service on the bonds, due to the bonds issued to pay costs of issuance and the reserve (although the reserve may pay for itself if it can be invested at a rate equal to the rate being paid on the bonds). Thus, it is difficult to determine what precisely is meant by "cover the bond debt service for a loan."

5. Given that under the bill it is likely that no loan repayments come into the "building a new century fund" the purpose of the fund is unclear since the legislature can now be

HB 905

**DORSEY & WHITNEY**

Department of Natural Resources and Conservation  
Office of Budget and Program Planning  
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appropriated the permanent coal tax trust fund by a three-quarters vote. I wonder if this is what was intended?

6. As pointed out in our memorandum related to House Bill No. 795, there are limits, other than the limit of \$250 Million contained in Section 17-5-719, M.C.A.

One limitation is found in Section 17-5-709, M.C.A., and limits the amount of Coal Severance Tax Bonds that can be issued to an amount that can be serviced with no more than 2/3 of the annual deposits into the Coal Severance Tax 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 and used to pay debt service on the outstanding Coal Severance Tax Bonds during the preceding three fiscal years. This provision cannot be modified so as to reduce security for any outstanding Coal Severance Tax Bonds.

The other provision limiting the amount of coal severance bonds that can be issued is found in the General Resolution of the State, adopted by the Board of Examiners on September 30, 1985, under which all outstanding Coal Severance Tax Bonds have been issued. That Resolution provides that the State will not issue additional Coal Severance Tax 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."

Based on projections of coal severance tax receipts by the Office of Budget and Program Planning, it has been calculated that under today's market conditions, the maximum amount of Coal Severance Tax Bonds that could be issued in accordance with provisions of the General Resolution is

H3905



**DORSEY & WHITNEY**

Department of Natural Resources and Conservation  
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approximately \$57,020,000. This amount is, of course, subject to change with the level of Coal Severance Tax receipts, pledged project revenues (loan repayments), the annual debt service payments adjusted for market interest rates, and rating agency consideration and is further limited by the amount of Coal Severance Tax Bonds previously authorized but not issued by the Legislation for certain water development projects, which we understand to be \$36 Million. Thus, under existing circumstances, the State's capacity for issuing Coal Severance Tax Bonds is about \$21 Million.

7. Finally, as with Sections 12-18 in HB 795, I believe Sections 14-20 should not be included in this bill. The water development debt service fund created in Title 85, Chapter 1, Part 6 and changed to the "coal severance tax bond debt service fund" by these sections [14 through 20] secures the General Obligation Water Development Bonds and not the Coal Severance Tax Water Development General Obligation Bonds.

MNE:tl

0358t

HB 905

APPROVED BY COMMITTEE ON APPROPRIATIONS

*HOUSE* BILL NO. *905*

INTRODUCED BY *Bradley S. Lutz* *Maxwell*  
*Orsiell John Johnson, Bluntson Harrington & Brown*

A BILL FOR AN ACT ENTITLED: "AN ACT BUILDING A NEW CENTURY;  
AUTHORIZING COAL SEVERANCE TAX PROCEEDS THAT WOULD OTHERWISE  
BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT TRUST FUND  
TO BE DEPOSITED IN THE BUILDING A NEW CENTURY FUND WITHIN  
THE TRUST FUND; AUTHORIZING NEW PROJECTS TO BE FUNDED  
THROUGH THE ISSUANCE OF COAL SEVERANCE TAX BONDS; PROVIDING  
FOR THE FUNDING OF IMPROVEMENT PROJECTS FOR STATE GOVERNMENT  
AND UNIVERSITY SYSTEM FACILITIES; PROVIDING FOR LOANS TO  
LOCAL GOVERNMENTS FOR INFRASTRUCTURE PROJECTS; PROVIDING FOR  
IMPROVEMENT PROJECTS FOR STATE PARKS AND RECREATION AREAS;  
AMENDING SECTIONS 17-5-701, 17-5-702, 17-5-703, 17-5-706,  
17-5-719, 85-1-603, 85-1-604, 85-1-605, 85-1-617, 85-1-618,  
85-1-619, AND 85-1-620, MCA; AND PROVIDING AN EFFECTIVE DATE  
AND A TERMINATION DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because  
it delegates rulemaking authority to the department of  
commerce to administer loans for local government  
infrastructure projects. The legislature intends that the  
department of commerce adopt rules substantially similar to  
those adopted by the department of natural resources and

conservation to administer water development loans.

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

NEW SECTION. **Section 1.** Building a new century fund --

statutory appropriation -- bonds. (1) There is a building a  
new century fund in the coal severance tax trust fund. The  
fund consists of money deposited in the coal severance tax  
trust fund from the coal severance tax bond fund, the  
principal and interest received from the repayment of loans  
made from the fund, and money from any other source the  
legislature determines.

(2) The building a new century fund is to be used for  
loans and grants for projects authorized by the legislature  
pursuant to [sections 7 and 8]. Projects authorized under  
[section 7] must receive priority over projects authorized  
under [section 8].

NEW SECTION. **Section 2.** Purpose. The purpose of

[sections 2 through 6] is to establish a 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 public



1 infrastructure necessary for economic growth;

2 (3) encourage local public facility improvements by

3 state investment in improvements in order to make these

4 improvements affordable to Montana citizens;

5 (4) protect future generations from the undue fiscal

6 burdens that result when public infrastructure systems are

7 inadequate or are allowed to deteriorate;

8 (5) encourage maximum utilization of all available

9 private and public funding sources;

10 (6) complement and improve the effectiveness of

11 existing public infrastructure financing mechanisms and

12 improve coordination between state and federal

13 infrastructure financing programs; and

14 (7) encourage coordinated, long-term strategies for

15 addressing Montana's infrastructure needs.

16 **NEW SECTION. Section 3. Eligible projects.** (1) A

17 county, incorporated city or town, consolidated local

18 government, school district, conservation district, special

19 purpose district, or private nonprofit corporation that

20 provides public services is eligible to apply for a loan

21 under [sections 2 through 6].

22 (2) Loans may be made for the direct costs related to

23 the planning, design, construction, reconstruction,

24 acquisition, alteration, modernization, improvement, or

25 expansion of:

1 (a) drinking water systems;

2 (b) sewer systems;

3 (c) solid waste collection and disposal systems;

4 (d) transportation systems;

5 (e) telecommunications and other high-technology

6 systems; or

7 (f) other public works projects that the legislature

8 determines to be in the public interest.

9 **NEW SECTION. Section 4. Priorities for projects --**

10 **procedure -- bond issuance.** (1) The department of commerce

11 shall receive proposals for projects from the local

12 government entities listed in [section 3(1)]. The department

13 shall work with the local government in preparing cost

14 estimates for the project. In reviewing project proposals,

15 the department may consult with other state agencies with

16 expertise pertinent to the proposal. The department shall

17 prepare and submit a list of recommended projects to the

18 governor prioritized pursuant to subsection (2). The

19 governor shall review the projects recommended under this

20 section and the projects recommended by the department of

21 natural resources and conservation under 85-1-605 and shall

22 submit a prioritized list of recommended projects to the

23 legislature.

24 (2) In preparing recommendations under subsection (1),

25 the department shall give preference to projects based on

1 the following order of priority:

2 (a) projects that solve urgent and serious public  
3 health or safety problems;

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

6 (c) projects that provide long-term, full-time job  
7 opportunities for Montanans;

8 (d) projects that enable local governments to obtain  
9 funds from sources other than the funds provided under  
10 [sections 2 through 6];

11 (e) projects that provide public facilities necessary  
12 for the expansion of a business that has a high potential  
13 for financial success; and

14 (f) projects that result in a benefit to the public  
15 commensurate with the size of the grant.

16 (3) In preparing recommendations from the list of  
17 priorities in subsection (2) the following criteria must  
18 also be considered:

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

21 (b) projects of government entities that do not have  
22 access to other sources of funding or have reached a mill  
23 levy limit; and

24 (c) projects that are high local priorities and have  
25 strong community support.

1 (4) The legislature may authorize the board of  
2 examiners to sell coal severance tax bonds to finance loans  
3 for the projects authorized by the legislature. The proceeds  
4 of the bonds to be used for the loans to local governments  
5 must be deposited in a local government infrastructure loan  
6 account in the state special revenue fund to be administered  
7 by the department of commerce. Principal and interest  
8 received in repayment of a loan made from the proceeds of  
9 coal severance tax bonds must be deposited in the coal  
10 severance tax bond debt service fund.

11 NEW SECTION. Section 5. Loan terms. (1) The period for  
12 repayment of a local government infrastructure investment  
13 loan may not exceed 20 years.

14 (2) Coal severance tax bond proceeds issued for local  
15 government infrastructure projects may be used only for the  
16 purpose of loans as provided in [section 2 through 6].

17 (3) The department shall from time to time establish  
18 the interest rate at which local government infrastructure  
19 loans may be made that is sufficient to:

20 (a) cover the bond debt service for a loan; and

21 (b) establish and maintain a loan loss reserve fund to  
22 be used for bond debt service if a loan loss occurs.

23 NEW SECTION. Section 6. Administration of loans. The  
24 department of commerce shall:

25 (1) administer the loan program established by

1 [sections 2 through 6];

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

4 (3) adopt rules for prioritizing projects and  
5 administering loans.

6 **NEW SECTION. Section 7.** State improvement and  
7 construction projects. (1) The department of administration  
8 shall assess and develop a plan for the improvement and  
9 construction of facilities for state government, including  
10 the university system. The plan must emphasize capital  
11 improvement and the expansion of existing facilities and  
12 must be designed to provide for the longest and best use of  
13 existing facilities. The construction of new facilities must  
14 receive a lower priority than improvement of existing  
15 facilities.

16 (2) The plan must identify improvement or expansion  
17 projects on a project-by-project basis and must include the  
18 estimated cost of each project. The department shall  
19 prioritize the projects according to the facilities most in  
20 need of improvement or expansion. A list of the projects  
21 proposed for funding must be presented to each regular  
22 session of the legislature, and funding must be approved by  
23 a three-fourths vote of each house of the legislature.

24 (3) The state treasurer shall transfer money from the  
25 building a new century fund to the agency authorized to

1 carry out each project in the amount authorized by the  
2 legislature.

3 **NEW SECTION. Section 8.** Park and recreation area  
4 projects and activities. The department of fish, wildlife,  
5 and parks shall develop a 5-year plan for the improvement  
6 and construction of facilities at parks and recreation  
7 areas. The plan must emphasize capital improvements and  
8 expansion of existing facilities and must be designed to  
9 provide for the longest and best use of existing facilities.  
10 The construction of new facilities must receive a lower  
11 priority than improvement of existing facilities.

12 (2) The plan must identify improvement or expansion of  
13 individual projects and must include the estimated cost of  
14 each project. The department shall prioritize the projects  
15 according to the facilities most in need of improvement or  
16 expansion. A list of projects for funding must be presented  
17 to each regular session of the legislature, and funding must  
18 be approved by a three-fourths vote of each house of the  
19 legislature. The total funding for projects approved  
20 pursuant to this section may not exceed \$4 million in any  
21 year of the program.

22 (3) The state treasurer shall transfer money from the  
23 building a new century fund to the department to carry out  
24 each project authorized by the legislature.

25 **Section 9.** Section 17-5-701, MCA, is amended to read:

1       **"17-5-701. State of Montana coal severance tax bonds.**

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

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

11      (2) finance public infrastructure projects for local  
12      governments that enhance the quality of life and protect the  
13      health, safety, and welfare of Montana's citizens and that  
14      support long-term, stable economic growth and job creation  
15      by keeping Montana competitive with nearby states by  
16      providing for the public infrastructure necessary for  
17      economic growth."

18      **Section 10.** 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      is to establish the authority to issue and sell coal  
22      severance tax bonds that have been approved by act of the  
23      legislature for financing specific water resource  
24      development projects and activities and local government  
25      infrastructure projects and activities in the state

1      authorized by the legislature and to guarantee redemption  
2      payment of such the bonds by revenue derived from the  
3      receipts from the coal severance tax imposed by Title 15,  
4      chapter 35, part 1, and such other money as the legislature  
5      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 2 through 6]. The payments  
19     of principal and interest on local government infrastructure  
20     loans in excess of the amount required for debt service must  
21     be deposited in the local government loan loss reserve  
22     fund."

23      **Section 11.** Section 17-5-703, MCA, is amended to read:

24      **"17-5-703. Coal severance tax trust funds.** (1) The  
25      trust established under Article IX, section 5, of the

1 Montana constitution shall be composed of the following  
2 funds:

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

6 (b) a building a new century fund;

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

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

9 (2) The state treasurer shall from time to time  
10 transfer to the ~~coal-severance-tax-permanent~~ building a new  
11 century fund all money in the coal severance tax bond fund  
12 except the amount necessary to meet all principal and  
13 interest payments on bonds payable from the coal severance  
14 tax bond fund on the next two ensuing semiannual payment  
15 dates. The state treasurer shall from time to time transfer  
16 to the coal severance tax permanent fund all money in the  
17 building a new century fund not encumbered for projects by  
18 the legislature."

19 **Section 12.** Section 17-5-706, MCA, is amended to read:

20 "17-5-706. Authority to issue coal severance tax bonds.  
21 The board of examiners, upon approval of the legislature as  
22 hereinafter provided in this section, shall issue and sell  
23 coal severance tax bonds to finance such approved water  
24 resource development projects and activities and local  
25 government infrastructure projects and activities when

1 authorized to do so by any law that sets out the amount and  
2 purpose of the issue. Each project or activity shall be  
3 separately approved as to amount by a two-thirds vote of  
4 each house of the legislature."

5 **Section 13.** Section 17-5-719, MCA, is amended to read:

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

11 **Section 14.** 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 coal severance tax bond  
20 debt service fund, as received:

21 (i) 1 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) or [section 5(3)(a)] received in repayment of  
 2 a loan made from the proceeds of bonds issued under  
 3 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 state special revenue account pursuant  
 8 to 85-1-604 and the local government infrastructure loan  
 9 account pursuant to [section 4], as determined by the board  
 10 of examiners in connection with the issuance of bonds  
 11 pursuant to Title 17, chapter 5, part 7, and 85-1-617; and

12 (v) money received from the water--development coal  
 13 severance tax bond loan loss reserve fund as the result of a  
 14 loan loss.

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

18 (b) The state pledges and allocates and directs to be  
 19 credited to the water-development coal severance tax bond  
 20 loan loss reserve fund all accrued interest under  
 21 85-1-613(3)(b) and [section 5(3)(b)] received in repayment  
 22 of a loan made from the proceeds of bonds issued under  
 23 85-1-617.

24 (c) If the department of natural resources and  
 25 conservation or the department of commerce determines that a

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

8 **Section 15.** Section 85-1-604, MCA, is amended to read:

9 "85-1-604. Water development state special revenue  
 10 account created -- revenues allocated -- limitations on  
 11 appropriations from account. (1) There is created a water  
 12 development state special revenue account within the state  
 13 special revenue fund established in 17-2-102.

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

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

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

23 (c) the excess of the coal severance tax proceeds  
 24 allocated by 85-1-603 to the water---development coal  
 25 severance tax bond debt service fund above debt service



1 requirements as provided in and subject to the conditions of  
2 85-1-619; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **Section 16.** Section 85-1-605, MCA, is amended to read:

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

1 loans it finds consistent with the policies and purposes of  
 2 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 17.** 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 18.** 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 19.** 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 20.** 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 issued before or after July 1, 1991,  
 3 before maturity for the purpose of extending the maturities  
 4 thereof of the outstanding bond so far as determined by the  
 5 board of examiners to be necessary to assure ensure that the  
 6 funds then pledged to the water-development coal severance  
 7 tax bond debt service fund will be sufficient for payment of  
 8 principal and interest due in subsequent years. The board of  
 9 examiners may also issue refunding bonds to refund  
 10 outstanding bonds before maturity for the purpose of  
 11 reducing the interest cost or the total amount of principal  
 12 and interest payable thereon on the 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 21. Codification instruction. (1)  
11 [Section 1] is intended to be codified as an integral part  
12 of Title 17, chapter 5, part 7, and the provisions of Title  
13 17, chapter 5, part 7, apply to [section 1].

14 (2) [Sections 2 through 6] are intended to be codified  
15 as an integral part of Title 7, chapter 6, and the  
16 provisions of Title 7, chapter 6, apply to [sections 2  
17 through 6].

18 (3) [Section 7] is intended to be codified as an  
19 integral part of Title 2, chapter 17, and the provisions of  
20 Title 2, chapter 17, apply to [section 7].

21 (4) [Section 8] is intended to be codified as an  
22 integral part of Title 87, chapter 1, part 2, and the  
23 provisions of Title 87, chapter 1, part 2, apply to [section  
24 8].

25 NEW SECTION. Section 22. Severability. If a part of

1 [this act] is invalid, all valid parts that are severable  
2 from the invalid part remain in effect. If a part of [this  
3 act] is invalid in one or more of its applications, the part  
4 remains in effect in all valid applications that are  
5 severable from the invalid applications.

6 NEW SECTION. Section 23. Saving clause. [This act]  
7 does not affect rights and duties that matured, penalties  
8 that were incurred, or proceedings that were begun before  
9 [the effective date of this act].

10 NEW SECTION. Section 24. Effective date. [This act] is  
11 effective July 1, 1991.

12 NEW SECTION. Section 25. Termination. [Section 8]  
13 terminates July 1, 1996.

-End-

APPROVED BY COMMITTEE  
ON APPROPRIATIONS  
AS AMENDED

1 HOUSE BILL NO. 905  
 2 INTRODUCED BY BRADLEY, SCHEE, MAZUREK,  
 3 DRISCOLL, J. JOHNSON, BENGTON,  
 4 HARRINGTON, J. BROWN  
 5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT BUILDING A NEW CENTURY;  
 7 AUTHORIZING COAL SEVERANCE TAX PROCEEDS THAT WOULD OTHERWISE  
 8 BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT TRUST FUND  
 9 TO BE DEPOSITED IN THE BUILDING A NEW CENTURY FUND WITHIN  
 10 THE TRUST FUND; ~~AUTHORIZING--NEW--PROJECTS--TO--BE--FUNDED~~  
 11 ~~THROUGH--THE--ISSUANCE--OF--COAL--SEVERANCE--TAX--BONDS;~~ PROVIDING  
 12 FOR THE FUNDING OF IMPROVEMENT PROJECTS FOR STATE GOVERNMENT  
 13 AND UNIVERSITY SYSTEM FACILITIES; ~~PROVIDING--FOR--LOANS--TO~~  
 14 ~~LOCAL--GOVERNMENTS--FOR--INFRASTRUCTURE--PROJECTS;~~ PROVIDING FOR  
 15 IMPROVEMENT PROJECTS FOR STATE PARKS, HISTORIC SITES, AND  
 16 RECREATION AREAS; AMENDING ~~SECTIONS--17-5-7017--17-5-7027~~  
 17 SECTION 17-5-703, 17-5-7067--17-5-7197--85-1-6037--85-1-6047  
 18 85-1-6057--85-1-6177--85-1-6187-85-1-6197-AND-85-1-6207 MCA;  
 19 AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

STATEMENT-OF-INTENT

22 A-statement-of-intent-is-required-for-this-bill--because  
 23 it--delegates--rulemaking--authority--to--the--department-of  
 24 commerce--to--administer--loans--for--local--government  
 25 infrastructure--projects;--The--legislature-intends-that-the

1 department-of-commerce-adopt-rules-substantially-similar--to  
 2 those--adopted--by--the--department-of-natural-resources-and  
 3 conservation-to-administer-water-development-loans;

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

6 NEW SECTION. Section 1. Building a new century fund --  
 7 statutory-appropriation--- bonds. (1) There is a building a  
 8 new century fund in the coal severance tax trust fund. The  
 9 fund consists of money deposited in the coal severance tax  
 10 trust fund from--the--coal--severance--tax--bond--fund; the  
 11 principal-and-interest-received-from-the-repayment-of--loans  
 12 made--from--the--fund; and money from any other source the  
 13 legislature determines.

14 (2) The building a new century fund is to be used for  
 15 loans--and grants for projects authorized by the legislature  
 16 pursuant to [sections 7 5 and 8 6]. Projects authorized  
 17 under [section 7 5] must receive priority over projects  
 18 authorized under [section 8 6].

19 NEW SECTION. Section 2. Purpose. The purpose of  
 20 [sections 2 through 6 4] is to establish a program that  
 21 will:

22 (+) enhance the quality of life and protect the health,  
 23 safety, and welfare of Montana's citizens by creating a  
 24 partnership between the state and local governments to help  
 25 finance necessary public infrastructure projects;



1 {2}--support-long-term, stable-economic-growth--and--job  
 2 creation--and--help--keep--Montana--competitive--with-nearby  
 3 states--by--providing--a--means--for--financing--the--public  
 4 infrastructure-necessary-for-economic-growth;

5 {3}--encourage-local-public-facility-improvements--by  
 6 state-investment--in--improvements--in--order-to-make-these  
 7 improvements-affordable-to-Montana-citizens;

8 {4}--protect-future-generations-from--the--undue--fiscal  
 9 burdens--that--result-when-public-infrastructure-systems-are  
 10 inadequate-or-are-allowed-to-deteriorate;

11 {5}--encourage--maximum--utilization--of--all--available  
 12 private-and-public-funding-sources;

13 {6}--complement--and--improve--the--effectiveness--of  
 14 existing--public--infrastructure--financing--mechanisms--and  
 15 improve--coordination--between--state--and--federal  
 16 infrastructure-financing-programs; and

17 {7}--encourage--coordinated, long-term--strategies--for  
 18 addressing-Montana's--infrastructure-needs.

19 NEW SECTION. Section 3. Eligible projects. (1) A  
 20 county, incorporated city or town, consolidated local  
 21 government, school district, conservation district, special  
 22 purpose district, or private nonprofit corporation that  
 23 provides public services is eligible to apply for a loan  
 24 GRANT under [sections 2 through 6 4].

25 (2) loans GRANTS may be made for the direct costs

1 related to the planning, design, construction,  
 2 reconstruction, acquisition, alteration, modernization,  
 3 improvement, or expansion of:

- 4 {a}--drinking-water-systems;
- 5 {b}--sewer-systems;
- 6 {c}--solid-waste-collection-and-disposal-systems;
- 7 {d}--transportation-systems;
- 8 {e}--telecommunications--and--other--high-technology  
 9 systems

10 (A) PUBLIC BUILDINGS, AS DEFINED IN 37-65-102,  
 11 INCLUDING BUT NOT LIMITED TO INTERPRETIVE CENTERS AND  
 12 VISITORS' CENTERS;

13 (B) AREAS, SITES, OR OBJECTS SUBJECT TO THE PROVISIONS  
 14 OF 23-1-102; or

15 {f}(C) other public works projects that the legislature  
 16 determines to be in the public interest.

17 NEW SECTION. Section 4. Priorities for projects --  
 18 procedure -- bond issuance. (1) The department of commerce  
 19 shall receive proposals for projects from the local  
 20 government entities listed in [section 3(1)]. The department  
 21 shall work with the local government in preparing cost  
 22 estimates for the project. In reviewing project proposals,  
 23 the department may consult with other state agencies with  
 24 expertise pertinent to the proposal. The department shall  
 25 prepare and submit a list of recommended projects to the



1 governor--prioritized--pursuant--to--subsection--(2)--The  
 2 governor--shall--review--the--projects--recommended--under--this  
 3 section--and--the--projects--recommended--by--the--department--of  
 4 natural--resources--and--conservation--under--85-1-605--and--shall  
 5 submit--a--prioritized--list--of--recommended--projects to the  
 6 legislature.

7 (2) In preparing recommendations under subsection (1),  
 8 the department shall give preference to projects based on  
 9 the following order-of-priority:

10 (a) projects that solve urgent and serious public  
 11 health or safety problems;

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

14 (c) projects that provide long-term, full-time job  
 15 opportunities for Montanans;

16 (d) projects that enable local governments to obtain  
 17 funds from sources other than the funds provided under  
 18 [sections 2 through 6 4];

19 (e) projects that provide public facilities necessary  
 20 for the expansion of a business that has a high potential  
 21 for financial success; and

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

24 (3)--In--preparing--recommendations--from--the--list--of  
 25 priorities--in--subsection--(2)--the--following--criteria--must

1 also-be-considered:

2 (a)(G) projects that reflect greater need for financial  
 3 assistance than other projects;

4 (b)(H) projects of government entities that do not have  
 5 access to other sources of funding or have reached a mill  
 6 levy limit; and

7 (e)(I) projects that are high local priorities and have  
 8 strong community support.

9 (4)--The--legislature--may--authorize--the--board--of  
 10 examiners--to--sell--coal--severance--tax--bonds--to--finance--loans  
 11 for--the--projects--authorized--by--the--legislature--The--proceeds  
 12 of--the--bonds--to--be--used--for--the--loans--to--local--governments  
 13 must--be--deposited--in--a--local--government--infrastructure--loan  
 14 account--in--the--state--special--revenue--fund--to--be--administered  
 15 by--the--department--of--commerce--Principal--and--interest  
 16 received--in--repayment--of--a--loan--made--from--the--proceeds--of  
 17 coal--severance--tax--bonds--must--be--deposited--in--the--coal  
 18 severance--tax--bond--debt--service--fund.

19 NEW SECTION--Section 5--Loan terms--(1)--The period for  
 20 repayment--of--a--local--government--infrastructure--investment  
 21 loan--may--not--exceed--20--years.

22 (2)--Coal--severance--tax--bond--proceeds--issued--for--local  
 23 government--infrastructure--projects--may--be--used--only--for--the  
 24 purpose--of--loans--as--provided--in--(section--2--through--6)--

25 (3)--The--department--shall--from--time--to--time--establish

~~the interest rate at which local government infrastructure loans may be made that is sufficient to:~~

~~(a) cover the bond debt service for a loan; and~~

~~(b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs.~~

~~NEW SECTION. Section 6. Administration of loans. The department of commerce shall:~~

~~(1) administer the loan program established by sections 2 through 6;~~

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

~~(3) adopt rules for prioritizing projects and administering loans.~~

NEW SECTION. Section 5. State improvement and construction projects. (1) The department of administration shall assess and develop a plan for the improvement and construction of facilities for state government, including the university system. The plan must emphasize capital improvement and the expansion of existing facilities and must be designed to provide for the longest and best use of existing facilities. The construction of new facilities must receive a lower priority than improvement of existing facilities.

(2) The plan must identify improvement or expansion projects on a project-by-project basis and must include the

estimated cost of each project. The department shall prioritize the projects according to the facilities most in need of improvement or expansion. A list of the projects proposed for funding must be presented to each regular session of the legislature, and funding must be approved by a three-fourths vote of each house of the legislature.

(3) The state treasurer shall transfer money from the building a new century fund to the agency authorized to carry out each project in the amount authorized by the legislature.

NEW SECTION. Section 6. Park, HISTORIC SITE, and recreation area projects and activities. The department of fish, wildlife, and parks shall develop a 5-year plan for the improvement and construction of facilities at parks, HISTORIC SITES, and recreation areas. The plan must emphasize capital improvements and expansion of existing facilities and must be designed to provide for the longest and best use of existing facilities. The construction of new facilities must receive a lower priority than improvement of existing facilities.

(2) The plan must identify improvement or expansion of individual projects and must include the estimated cost of each project. The department shall prioritize the projects according to the facilities most in need of improvement or expansion. A list of projects for funding must be presented

1 to each regular session of the legislature, and funding must  
2 be approved by a three-fourths vote of each house of the  
3 legislature. The total funding for projects approved  
4 pursuant to this section may not exceed \$4 million in any  
5 year of the program.

6 (3) The state treasurer shall transfer money from the  
7 building a new century fund to the department to carry out  
8 each project authorized by the legislature.

9 Section 97--Section 17-5-701, MCA, is amended to read:

10 "17-5-701. State of Montana coal-severance tax bonds.  
11 This part provides for the issuance of state of Montana coal  
12 severance tax bonds (also referred to as coal-severance tax  
13 bonds in this part) to:

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

20 (2) finance public infrastructure projects for local  
21 governments that enhance the quality of life and protect the  
22 health, safety, and welfare of Montana's citizens and that  
23 support long-term, stable economic growth and job creation  
24 by keeping Montana competitive with nearby states by  
25 providing for the public infrastructure necessary for

1 economic growth."

2 Section 107--Section 17-5-702, MCA, is amended to read:

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

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

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

25 (b) local government infrastructure projects and

1 ~~activities as part of the local government infrastructure~~  
 2 ~~program established in sections 2 through 6. The payments~~  
 3 ~~of principal and interest on local government infrastructure~~  
 4 ~~loans in excess of the amount required for debt service must~~  
 5 ~~be deposited in the local government loan loss reserve~~  
 6 ~~fund."~~

7 **Section 7.** Section 17-5-703, MCA, is amended to read:

8 "17-5-703. Coal severance tax trust funds. (1) The  
 9 trust established under Article IX, section 5, of the  
 10 Montana constitution shall be composed of the following  
 11 funds:

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

15 (b) a building a new century fund;

16 (c) a coal severance tax permanent fund; and

17 (d) a coal severance tax income fund.

18 (2) The state treasurer shall from time to time  
 19 transfer to the coal severance tax permanent building a new  
 20 century fund all money in the coal severance tax bond fund  
 21 except the amount necessary to meet all principal and  
 22 interest payments on bonds payable from the coal severance  
 23 tax bond fund on the next two ensuing semiannual payment  
 24 dates. The state treasurer shall from time to time transfer  
 25 to the coal severance tax permanent fund all money in the

1 building a new century fund not encumbered for projects by  
 2 the legislature."

3 ~~Section 12. Section 17-5-706, MCA, is amended to read:~~

4 "17-5-706. Authority to issue coal severance tax bonds.  
 5 The board of examiners, upon approval of the legislature as  
 6 hereinafter provided in this section, shall issue and sell  
 7 coal severance tax bonds to finance such approved water  
 8 resource development projects and activities and local  
 9 government infrastructure projects and activities when  
 10 authorized to do so by any law that sets out the amount and  
 11 purpose of the issue. Each project or activity shall be  
 12 separately approved as to amount by a two-thirds vote of  
 13 each house of the legislature."

14 ~~Section 13. Section 17-5-719, MCA, is amended to read:~~

15 "17-5-719. Limitation on amount of coal severance tax  
 16 bonds issued. No more than \$250 million worth of coal  
 17 severance tax bonds may be issued for water development  
 18 projects and activities and local government infrastructure  
 19 projects and activities."

20 ~~Section 14. Section 85-1-603, MCA, is amended to read:~~

21 "85-1-603. Water development coal severance tax bond  
 22 debt service fund created. ~~coal severance tax allocated~~  
 23 water development loan loss reserve fund created. (1) (a)  
 24 There is created a water development coal severance tax bond  
 25 debt service fund within the debt service fund type

1 established-in-17-2-102;  
 2 (b)--The--state--pledges-and-allocates-and-directs-to-be  
 3 credited-to-the-water-development coal--severance--tax--bond  
 4 debt-service-fund, as-received;  
 5 (i)--1-1/4%--of--all--money--from--time--to--time--received--from  
 6 the-coal-severance-tax-collected-under-Title-15, chapter-35,  
 7 and--remaining--after--allocation--of--such--tax--under  
 8 15-35-108(1)-and-(2);  
 9 (ii)--any--principal--and--accrued--interest--under  
 10 85-1-613(3)(a)-or-~~{section-5(3)(a)}~~-received-in-repayment-of  
 11 a--loan--made--from--the--proceeds--of--bonds--issued--under  
 12 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-state-special-revenue-account-pursuant  
 17 to-85-1-604-and-the--local--government--infrastructure--loan  
 18 account--pursuant-to-~~{section-4}~~, as-determined-by-the-board  
 19 of-examiners--in--connection--with--the--issuance--of--bonds  
 20 pursuant-to-Title-17, chapter-5, part-7, and-85-1-617; and  
 21 (v)--money--received--from--the--water--development coal  
 22 severance-tax-bond loan-loss-reserve-fund-as-the-result-of-a  
 23 loan-loss;  
 24 (2)--(a)--There--is--created--a--water--development coal  
 25 severance-tax-bond loan-loss-reserve-fund--within--the--debt

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

1 into the water development state special revenue account;

2 (a) all revenues of the works and other money as

3 provided in 85-1-332;

4 (b) 30% of the interest income of the resource

5 indemnity trust fund as provided in and subject to the

6 conditions of 15-38-202;

7 (c) the excess of the coal severance tax proceeds

8 allocated by 85-1-603 to the water development coal

9 severance tax bond debt service fund above debt service

10 requirements as provided in and subject to the conditions of

11 85-1-619; and

12 (d) any fees or charges collected by the department

13 pursuant to 85-1-616 for the servicing of loans, including

14 arrangements for obtaining security interests;

15 (3) Appropriations may be made from the water

16 development state special revenue account for the following

17 purposes and subject to the following conditions:

18 (a) An amount less than or equal to that paid into the

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

20 appropriated for the operation and maintenance of

21 state-owned projects and works, if the amount of money

22 available for appropriation under this subsection (3)(a) is

23 greater than that necessary for operation and maintenance

24 expenses, the excess may be appropriated as provided in

25 subsection (3)(b):

1 (b) An amount less than or equal to that paid into the

2 account from the resource indemnity trust account plus any

3 excess from subsection (3)(a) and only that amount may be

4 appropriated from the account for:

5 (i) the rehabilitation of state-owned projects and

6 works, including the rehabilitation of spillways of

7 state-owned dams;

8 (ii) the formulation of downstream emergency warning and

9 evacuation plans for state-owned dams;

10 (iii) the development of the hydropower potential of

11 state-owned dams;

12 (iv) assistance in the implementation of the water

13 reservations established under 85-2-316 of conservation

14 districts;

15 (v) the promotion of the development of offstream and

16 tributary storage;

17 (vi) the promotion of joint state-tribal, state-federal,

18 and state-tribal-federal water development;

19 (vii) projects or programs that improve water use

20 efficiency, including development of new, efficient water

21 systems and rehabilitation of older, less-efficient water

22 systems;

23 (viii) administrative expenses, including but not

24 limited to the salaries and expenses of personnel,

25 equipment, office space, and other necessities incurred in

1 the--administration--of--the--water--development--program--except  
 2 the--administration--of--loans--and--grants;--and  
 3 (ix)--any--other--expenditures--that--meet--the--policies--and  
 4 objectives--of--the--state--water--development--program;  
 5 (c)--An--amount--less--than--or--equal--to--that--paid--into--the  
 6 account--from--the--sources--provided--for--in--(c)--and--(d)--of  
 7 subsection--(2)--and--only--that--amount--may--be--appropriated--from  
 8 the--account--for--loans--and--grants--for--water--development  
 9 projects--and--activities;--for--purchase--of--liens--and--operation  
 10 of--property--as--provided--in--85-1-615;--for--administrative  
 11 expenses;--including--but--not--limited--to--the--salaries--and  
 12 expenses--of--personnel;--equipment;--and--office--space;--for--the  
 13 servicing--of--loans;--including--arrangements--for--obtaining  
 14 security--interests;--and--for--other--necessities--incurred--in  
 15 administering--the--loans--and--grants.<sup>4</sup>  
 16 Section--16;--Section--85-1-605;--MCA;--is--amended--to--read:  
 17 "85-1-605;--Grants;--loans;--and--bonds--for--state--and--local  
 18 government--assistance.--(1)--The--department--may--recommend--to  
 19 the--legislature governor that--grants--and--loans--be--made--from  
 20 coal--severance--tax--proceeds--deposited--in--the--water  
 21 development--state--special--revenue--account;--that--loans--be  
 22 made--from--water--development coal--severance--tax bond--proceeds  
 23 deposited--in--the--water--development--account;--and--that--coal  
 24 severance--tax--bonds--be--authorized--pursuant--to--Title--17,  
 25 chapter--5;--part--7;--to--provide--financial--assistance--for--a

1 water--development--project--to--a--department;--agency;--board;  
 2 commission;--or--other--division--of--state--government--or--to--a  
 3 city;--county;--or--other--political--subdivision--or--local  
 4 government--body--of--the--state;--The--governor--shall--review--the  
 5 projects--recommended--under--this--section--and--the--projects  
 6 recommended--by--the--department--of--commerce--under--(section--4)  
 7 and--shall--submit--a--prioritized--list--of--recommended--projects  
 8 to--the--legislature;--The--legislature--may--approve--by  
 9 appropriation--or--other--appropriate--means--those--grants--and  
 10 loans--it--finds--consistent--with--the--policies--and--purposes--of  
 11 the--program;  
 12 (2)--In--addition--to--implementing--those--projects--approved  
 13 by--the--legislature;--the--department--may--request--up--to--10%--of  
 14 the--funds--available--for--grants--from--the--water--development  
 15 special--revenue--account--in--any--biennium--to--be--used--for  
 16 emergencies;--These--emergency--projects--must--be--approved--by  
 17 the--department--and--be--defined--as--those--projects--which;--if  
 18 delayed--until--legislative--approval--can--be--obtained;--will  
 19 cause--substantial--damages--or--legal--liability--to--the--project  
 20 sponsor;--In--allocating--such--funds;--the--department--shall  
 21 inform--the--legislative--finance--committee--of--the--legislature;  
 22 (3)--The--grants--and--loans--provided--for--by--this--section  
 23 may--be--made--for--the--purchase;--lease;--development;--or  
 24 construction--of--water--development--projects--and--activities  
 25 for--the--conservation;--management;--use;--development;--or

1 protection--of--the--water--and--related-agricultural-land,  
 2 fish,wildlife,and-water-recreation-resources-in-the-state,  
 3 for-the-purpose-of-feasibility-and-design-studies--for--such  
 4 projects,--for--development--of--plans--for--and--the  
 5 rehabilitation,--expansion,--and--modification--of--water  
 6 development-projects,for-other-water-development-projects  
 7 and-activities-that-will-enhance-the-water-resources-of-the  
 8 state,--and--for--similar--purposes--approved--by--the  
 9 legislature."

10 Section 17, Section 85-1-617, MCA, is amended to read:

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

23 (2) Each series of water development coal-severance-tax  
 24 bonds may be issued by the board of examiners, upon request  
 25 of the board of natural resources and conservation or the

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

17 (3) In the issuance of each series of water development  
 18 coal-severance-tax bonds, the interest rates and the  
 19 maturities and any mandatory redemption provisions thereof  
 20 shall of the bonds must be established in such a manner that  
 21 the funds then specifically pledged and appropriated by law  
 22 to the water development coal-severance-tax bond debt  
 23 service fund will in the judgment of the board of examiners  
 24 be received in an amount sufficient in each year to pay all  
 25 principal, redemption premiums, and interest due and payable



1 in that year with respect to that and all prior series of  
 2 such bonds, except outstanding bonds as to which the  
 3 obligation of the state has been discharged by the deposit  
 4 of funds or securities sufficient for their payment in  
 5 accordance with the terms of the resolutions by which they  
 6 are authorized to be issued.

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

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

21 (6) All proceeds of bonds or notes issued under this  
 22 section for water development projects, other than refunding  
 23 bonds, must be deposited in the water development account  
 24 established in subsection (5), except that any principal and  
 25 accrued interest received in repayment of a loan made from

1 the proceeds of bonds issued under this section must be  
 2 deposited in the water development coal severance tax bond  
 3 debt service fund and the water development coal severance  
 4 tax bond loan loss reserve fund pursuant to 85-1-603. All  
 5 proceeds of refunding bonds must be deposited in the water  
 6 development coal severance tax bond debt service fund and  
 7 applied to the payment and redemption of outstanding bonds  
 8 issued under this section as directed by the board, whether  
 9 at maturity or on any earlier date on which they may be  
 10 prepaid according to their terms.

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

14 Section 18. Section 85-1-618, MCA, is amended to read:

15 "85-1-618. Restrictions on use of bond proceeds. Water  
 16 development Coal severance tax bond proceeds issued for  
 17 water development projects may be used only for the purpose  
 18 of making loans as provided in the water development program  
 19 or for purchasing liens and operating property as provided  
 20 in 85-1-615."

21 Section 19. Section 85-1-619, MCA, is amended to read:

22 "85-1-619. Debt service fund. Pledge and  
 23 administration of sufficient balance. (1) The legislature  
 24 may levy, impose, assess, and pledge and appropriate to the  
 25 water development coal severance tax bond debt service fund

1 any tax, charge, fee, rental, or other income from any  
 2 designated source. The state reserves the right to modify  
 3 from time to time the nature and amount of special taxes and  
 4 other revenues pledged and appropriated to the water  
 5 development coal severance tax bond debt service fund,  
 6 provided that the aggregate resources so pledged and  
 7 appropriated are determined by the legislature to be  
 8 sufficient for the prompt and full payment of the principal  
 9 of and interest and redemption premiums when due on all  
 10 bonds payable from that fund and provided that the pledge of  
 11 the full faith and credit and taxing powers of the state for  
 12 the security of all such coal severance tax bonds shall be  
 13 are and remain irrevocable until they are fully paid.

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

20 (3) After the reserve provided for in subsection (2)  
 21 for bonds issued prior to 1985 has been accumulated in the  
 22 water development coal severance tax bond debt service fund,  
 23 money at any time received in the water development coal  
 24 severance tax bond debt service fund from water development  
 25 projects in excess of that amount must be transferred by the

1 treasurer to the water development state special revenue  
 2 account."

3 Section 20, Section 85-1-620, MCA, is amended to read:  
 4 "85-1-620. Water development coal severance tax  
 5 refunding bonds. (1) The board of examiners may issue  
 6 refunding bonds at such times and in such amounts, if any,  
 7 as may be necessary to pay principal or interest due that  
 8 cannot be paid from funds then on hand in the water  
 9 development coal severance tax bond debt service fund. The  
 10 board of examiners may also issue refunding bonds to refund  
 11 outstanding bonds issued before or after July 1, 1991  
 12 before maturity for the purpose of extending the maturities  
 13 thereof of the outstanding bond so far as determined by the  
 14 board of examiners to be necessary to assure ensure that the  
 15 funds then pledged to the water development coal severance  
 16 tax bond debt service fund will be sufficient for payment of  
 17 principal and interest due in subsequent years. The board of  
 18 examiners may also issue refunding bonds to refund  
 19 outstanding bonds before maturity for the purpose of  
 20 reducing the interest cost or the total amount of principal  
 21 and interest payable thereon on the outstanding bonds.

22 (2) No refunding Refunding bonds may not be issued and  
 23 sold more than 3 months before all bonds refunded thereby by  
 24 the refunding bonds mature or are called for redemption  
 25 unless the proceeds thereof of the refunding bonds, with any

1 ~~other funds in the water development coal severance tax bond~~  
 2 ~~debt service fund that are needed and available for the~~  
 3 ~~purpose or securities purchased from such bond proceeds and~~  
 4 ~~other funds, are deposited with a suitable banking~~  
 5 ~~institution within or outside the state, in escrow, for the~~  
 6 ~~retirement of the refunded bonds at maturity or at a prior~~  
 7 ~~date or dates on which they have been called for redemption~~  
 8 ~~in accordance with their terms, in an amount and in a manner~~  
 9 ~~sufficient under the provisions securing the refunded bonds,~~  
 10 ~~so that the state's obligation to pay the same bonds from~~  
 11 ~~sources other than the escrow fund, is discharged.~~

12 ~~(3) No new New debt may not be created by the issuance~~  
 13 ~~of refunding bonds in accordance with this section, but such~~  
 14 ~~the refunding bonds shall evidence the debt previously~~  
 15 ~~created and shall be are secured by the pledge of the full~~  
 16 ~~faith and credit and taxing powers of the state and by the~~  
 17 ~~further provisions of this part in the same manner as the~~  
 18 ~~bonds refunded thereby."~~

19 NEW SECTION. Section 8. Codification instruction. (1)  
 20 [Section 1] is intended to be codified as an integral part  
 21 of Title 17, chapter 5, part 7, and the provisions of Title  
 22 17, chapter 5, part 7, apply to [section 1].

23 (2) [Sections 2 through 6 4] are intended to be  
 24 codified as an integral part of Title 7, chapter 6, and the  
 25 provisions of Title 7, chapter 6, apply to [sections 2

1 through 6 4].

2 (3) [Section 7 5] is intended to be codified as an  
 3 integral part of Title 2, chapter 17, and the provisions of  
 4 Title 2, chapter 17, apply to [section 7 5].

5 (4) [Section 8 6] is intended to be codified as an  
 6 integral part of Title 87, chapter 1, part 2, and the  
 7 provisions of Title 87, chapter 1, part 2, apply to [section  
 8 8 6].

9 NEW SECTION. Section 9. Severability. If a part of  
 10 [this act] is invalid, all valid parts that are severable  
 11 from the invalid part remain in effect. If a part of [this  
 12 act] is invalid in one or more of its applications, the part  
 13 remains in effect in all valid applications that are  
 14 severable from the invalid applications.

15 NEW SECTION. Section 10. Saving clause. [This act]  
 16 does not affect rights and duties that matured, penalties  
 17 that were incurred, or proceedings that were begun before  
 18 [the effective date of this act].

19 NEW SECTION. Section 11. Effective date. [This act] is  
 20 effective July 1, 1991.

21 NEW SECTION. Section 12. Termination. [Section 8 6]  
 22 terminates July 1, 1996.

-End-

1 HOUSE BILL NO. 905  
 2 INTRODUCED BY BRADLEY, SCHYE, MAZUREK,  
 3 DRISCOLL, J. JOHNSON, BENGTSON,  
 4 HARRINGTON, J. BROWN  
 5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT BUILDING A NEW CENTURY;  
 7 AUTHORIZING COAL SEVERANCE TAX PROCEEDS THAT WOULD OTHERWISE  
 8 BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT TRUST FUND  
 9 TO BE DEPOSITED IN THE BUILDING A NEW CENTURY FUND WITHIN  
 10 THE TRUST FUND; ~~AUTHORIZING--NEW--PROJECTS--TO--BE--FUNDED~~  
 11 ~~THROUGH--THE--ISSUANCE--OF--COAL--SEVERANCE--TAX--BONDS;~~ PROVIDING  
 12 FOR THE FUNDING OF IMPROVEMENT PROJECTS FOR STATE GOVERNMENT  
 13 AND UNIVERSITY SYSTEM FACILITIES; ~~PROVIDING--FOR--LOANS--TO~~  
 14 ~~LOCAL--GOVERNMENTS--FOR--INFRASTRUCTURE--PROJECTS;~~ PROVIDING FOR  
 15 IMPROVEMENT PROJECTS FOR STATE PARKS, HISTORIC SITES, AND  
 16 RECREATION AREAS; AMENDING ~~SECTIONS--17-5-701;--17-5-702;~~  
 17 SECTION 17-5-703, ~~17-5-706;--17-5-719;--05-1-603;--05-1-604;~~  
 18 ~~05-1-605;--05-1-617;--05-1-618;--05-1-619;--AND--05-1-620;~~ MCA;  
 19 AND PROVIDING AN EFFECTIVE DATE ~~AND--A--TERMINATION--DATE."~~

20  
 21 STATEMENT-OF-INTENT  
 22 A-statement-of-intent-is-required-for-this-bill--because  
 23 it--delegates--rulemaking--authority--to--the--department-of  
 24 commerce--to--administer--loans--for--local--government  
 25 infrastructure--projects;--The--legislature-intends-that-the

1 ~~department-of-commerce-adopt-rules-substantially-similar--to~~  
 2 ~~those--adopted--by--the--department-of-natural-resources-and~~  
 3 ~~conservation-to-administer-water-development-loans;~~

4  
 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 6 NEW SECTION. Section 1. Building a new century fund--  
 7 ~~statutory-appropriation--~~ bonds. (1) There is a building a  
 8 new century fund in the coal severance tax trust fund. The  
 9 fund consists of money deposited in the coal severance tax  
 10 trust fund ~~from--the--coal--severance--tax--bond--fund;~~ the  
 11 ~~principal-and-interest-received-from-the-repayment-of--loans~~  
 12 ~~made--from--the--fund;~~ and money from any other source the  
 13 legislature determines.

14 (2) The building a new century fund is to be used for  
 15 ~~loans--and~~ grants for projects authorized by the legislature  
 16 pursuant to [sections 7 5 and 8 6]. Projects authorized  
 17 under [section 7 5] must receive priority over projects  
 18 authorized under [section 8 6].

19 NEW SECTION. Section 2. Purpose. The purpose of  
 20 [sections 2 through 6 4] is to establish a program that  
 21 will:

22 ~~(+)~~ enhance the quality of life and protect the health,  
 23 safety, and welfare of Montana's citizens by creating a  
 24 partnership between the state and local governments to help  
 25 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--public 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--public--infrastructure--systems--are inadequate--or--are--allowed--to--deteriorate;~~

~~{5}--encourage--maximum--utilization--of--all--available private--and--public--funding--sources;~~

~~{6}--complement--and--improve--the--effectiveness--of existing--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.~~

**NEW SECTION. Section 3.** Eligible projects. (1) A county, incorporated city or town, consolidated local government, school district, conservation district, special purpose district, or private nonprofit corporation that provides public services is eligible to apply for a loan GRANT under [sections 2 through 6 4].

(2) Beans GRANTS may be made for the direct costs

related to the 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~~

(A) PUBLIC BUILDINGS, AS DEFINED IN 37-65-102, INCLUDING BUT NOT LIMITED TO INTERPRETIVE CENTERS AND VISITORS' CENTERS;

(B)--AREAS,--SITES,--OR--OBJECTS--SUBJECT--TO--THE--PROVISIONS OF-23-1-102; or

~~{f}{e}(B)~~ other public works projects that the legislature determines to be in the public interest.

(3) THE STATE TREASURER SHALL TRANSFER MONEY FROM THE BUILDING A NEW CENTURY FUND TO THE DEPARTMENT TO CARRY OUT EACH GRANT PROJECT IN THE AMOUNT AUTHORIZED BY THE LEGISLATURE, AND FUNDING MUST BE APPROVED BY A THREE-FOURTHS VOTE OF EACH HOUSE OF THE LEGISLATURE.

**NEW SECTION. Section 4.** Priorities for projects -- procedure ---bond-issuance. (1) The department of commerce shall receive proposals for projects from the local government entities listed in [section 3(1)]. The department

1 shall work with the local government in preparing cost  
 2 estimates for the project. In reviewing project proposals,  
 3 the department may consult with other state agencies with  
 4 expertise pertinent to the proposal. The department shall  
 5 prepare and submit a list of recommended projects to the  
 6 governor--prioritized--pursuant--to--subsection--(2).--The  
 7 governor--shall--review--the--projects--recommended--under--this  
 8 section--and--the--projects--recommended--by--the--department--of  
 9 natural--resources--and--conservation--under--85-1-605--and--shall  
 10 submit--a--prioritized--list--of--recommended--projects TO THE  
 11 GOVERNOR, PRIORITIZED PURSUANT TO SUBSECTION (2). THE  
 12 GOVERNOR SHALL REVIEW THE PROJECTS RECOMMENDED UNDER THIS  
 13 SECTION, THE PROJECTS RECOMMENDED BY THE DEPARTMENT OF  
 14 ADMINISTRATION UNDER [SECTION 5], AND THE PROJECTS  
 15 RECOMMENDED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS  
 16 UNDER [SECTION 6] AND SHALL SUBMIT A PRIORITIZED LIST OF  
 17 RECOMMENDED PROJECTS to the legislature.

18 (2) In preparing recommendations under subsection (1),  
 19 the department shall give preference to projects based on  
 20 the following order-of-priority:

- 21 (a) projects that solve urgent and serious public  
 22 health or safety problems;  
 23 (b) projects that enable local governments to meet  
 24 state or federal health or safety standards;  
 25 (c) projects that provide long-term, full-time job

1 opportunities for Montanans;

2 (d) projects that enable local governments to obtain  
 3 funds from sources other than the funds provided under  
 4 [sections 2 through 6 4];

5 (e) projects that provide public facilities necessary  
 6 for the expansion of a business that has a high potential  
 7 for financial success; and

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

10 (3)--in--preparing--recommendations--from--the--list--of  
 11 priorities--in--subsection--(2)--the--following--criteria--must  
 12 also--be--considered--

13 (a)(G) projects that reflect greater need for financial  
 14 assistance than other projects;

15 (b)(H) projects of government entities that do not have  
 16 access to other sources of funding or have reached a mill  
 17 levy limit; and

18 (c)(I) projects that are high local priorities and have  
 19 strong community support.

20 (4)--The--legislature--may--authorize--the--board--of  
 21 examiners--to--sell--coal--severance--tax--bonds--to--finance--loans  
 22 for--the--projects--authorized--by--the--legislature--The--proceeds  
 23 of--the--bonds--to--be--used--for--the--loans--to--local--governments  
 24 must--be--deposited--in--a--local--government--infrastructure--loan  
 25 account--in--the--state--special--revenue--fund--to--be--administered

1 by--the--department--of--commerce--Principal--and--interest  
 2 received--in--repayment--of--a--loan--made--from--the--proceeds--of  
 3 coal-severance-tax-bonds--must--be--deposited--in--the--coal  
 4 severance-tax-bond-debt-service-fund;

5 NEW SECTION.--Section 5.--Loan terms.--(1)--The period for  
 6 repayment--of--a--local-government-infrastructure-investment  
 7 loan--may--not--exceed--20--years--;

8 (2)--Coal-severance-tax-bond-proceeds-issued--for--local  
 9 government--infrastructure-projects--may--be--used--only--for--the  
 10 purpose-of-loans-as-provided-in--{section-2-through-6}--;

11 (3)--The department shall from time--to--time--establish  
 12 the--interest--rate--at--which--local-government-infrastructure  
 13 loans--may--be--made--that--is--sufficient--to--;

14 (a)--cover--the--bond-debt-service--for--a--loan--;--and  
 15 (b)--establish--and--maintain--a--loan-loss-reserve-fund--to  
 16 be--used--for--bond-debt-service--if--a--loan-loss--occurs--;

17 NEW SECTION.--Section 6.--Administration--of--loans--The  
 18 department-of-commerce-shall--;

19 (1)--administer--the--loan--program--established--by  
 20 {sections-2-through-6}--;

21 (2)--service--loans--made--or--contract--and--pay--for--the  
 22 servicing-of-loans--;--and

23 (3)--adopt--rules--for--prioritizing--projects--and  
 24 administering-loans--;

25 NEW SECTION. Section 5. State improvement and

1 construction projects. (1) The department of administration  
 2 shall assess and develop a plan for the improvement and  
 3 construction of facilities for state government, including  
 4 the university system. The plan must emphasize capital  
 5 improvement and the expansion of existing facilities and  
 6 must be designed to provide for the longest and best use of  
 7 existing facilities. The construction of new facilities must  
 8 receive a lower priority than improvement of existing  
 9 facilities.

10 (2) The plan must identify improvement or expansion  
 11 projects on a project-by-project basis and must include the  
 12 estimated cost of each project. The department shall  
 13 prioritize the projects according to the facilities most in  
 14 need of improvement or expansion. A list of the projects  
 15 proposed for funding must be presented to each--regular  
 16 session--of THE GOVERNOR FOR RECOMMENDATION TO the  
 17 legislature, and funding must be approved by a three-fourths  
 18 vote of each house of the legislature.

19 (3) The state treasurer shall transfer money from the  
 20 building a new century fund to the agency authorized to  
 21 carry out each project in the amount authorized by the  
 22 legislature.

23 NEW SECTION. Section 6. Park, HISTORIC SITE, and  
 24 recreation area projects and activities. The department of  
 25 fish, wildlife, and parks shall develop a 5-year plan for

1 the improvement and construction of facilities at parks,  
 2 HISTORIC SITES, and recreation areas. The plan must  
 3 emphasize capital improvements and expansion of existing  
 4 facilities and must be designed to provide for the longest  
 5 and best use of existing facilities. The construction of new  
 6 facilities must receive a lower priority than improvement of  
 7 existing facilities.

8 (2) The plan must identify improvement or expansion of  
 9 individual projects and must include the estimated cost of  
 10 each project. The department shall prioritize the projects  
 11 according to the facilities most in need of improvement or  
 12 expansion. A list of projects for funding must be presented  
 13 to ~~each regular session of~~ THE GOVERNOR FOR RECOMMENDATION  
 14 TO the legislature, and funding must be approved by a  
 15 three-fourths vote of each house of the legislature. The  
 16 total funding for projects approved pursuant to this section  
 17 may not exceed \$4 million in any year of the program.

18 (3) The state treasurer shall transfer money from the  
 19 building a new century fund to the department to carry out  
 20 each project authorized by the legislature.

21 ~~Section 9--Section 17-5-701, MCA, is amended to read:~~

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

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

7 ~~(2)--finance--public--infrastructure--projects--for--local~~  
 8 ~~governments--that--enhance--the--quality--of--life--and--protect--the~~  
 9 ~~health,--safety,--and--welfare--of--Montana's--citizens--and--that~~  
 10 ~~support--long--term,--stable--economic--growth--and--job--creation~~  
 11 ~~by--keeping--Montana--competitive--with--nearby--states--by~~  
 12 ~~providing--for--the--public--infrastructure--necessary--for~~  
 13 ~~economic--growth."~~

14 ~~Section 10--Section 17-5-702, MCA, is amended to read:~~

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



1 ~~may from time to time determine.~~  
 2 ~~{2}--The--legislature--intends--that--projects---to---be~~  
 3 ~~financed-by-coal-severance-tax-bonds-include:~~  
 4 ~~{a}--water--resource-development-projects-and-activities~~  
 5 ~~as-part-of-the--water--development--program--established--in~~  
 6 ~~Title-85, chapter-1, part-6.--The-legislature-further-intends~~  
 7 ~~that-the-income-from-water-resource-development-projects-and~~  
 8 ~~activities-in-excess-of-the-amount-required-for-debt-service~~  
 9 ~~and---operation---and--maintenance--of--those--projects--and~~  
 10 ~~activities-be--deposited--in--the--water--development--state~~  
 11 ~~special-revenue-account-established-in-85-1-604.~~  
 12 ~~{b}--local---government---infrastructure---projects--and~~  
 13 ~~activities-as-part-of-the--local--government--infrastructure~~  
 14 ~~program--established-in-{sections-2-through-6}.--The-payments~~  
 15 ~~of-principal-and-interest-on-local-government-infrastructure~~  
 16 ~~loans-in-excess-of-the-amount-required-for-debt-service-must~~  
 17 ~~be-deposited-in--the--local--government--loan-loss-reserve~~  
 18 ~~fund."~~

19 **Section 7.** Section 17-5-703, MCA, is amended to read:  
 20 "17-5-703. Coal severance tax trust funds. (1) The  
 21 trust established under Article IX, section 5, of the  
 22 Montana constitution shall be composed of the following  
 23 funds:  
 24 (a) a coal severance tax bond fund into which the  
 25 constitutionally dedicated receipts from the coal severance

1 tax shall be deposited;  
 2 (b) a building a new century fund;  
 3 ~~{b}~~(c) a coal severance tax permanent fund; and  
 4 ~~{c}~~(d) a coal severance tax income fund.  
 5 (2) The state treasurer shall from time to time  
 6 transfer to the ~~coal-severance-tax-permanent~~ building a new  
 7 century fund all money in the coal severance tax bond fund  
 8 except the amount necessary to meet all principal and  
 9 interest payments on bonds payable from the coal severance  
 10 tax bond fund on the next two ensuing semiannual payment  
 11 dates. The state treasurer shall from time to time transfer  
 12 to the coal severance tax permanent fund all money in the  
 13 building a new century fund not encumbered for projects by  
 14 the legislature."

15 Section 17-5-706, MCA, is amended to read:  
 16 "17-5-706. Authority to issue coal severance tax bonds.  
 17 The board of examiners, upon approval of the legislature as  
 18 hereinafter provided in this section, shall issue and sell  
 19 coal severance tax bonds to finance such approved water  
 20 resource development projects and activities and local  
 21 government infrastructure projects and activities when  
 22 authorized to do so by any law that sets out the amount and  
 23 purpose of the issue. Each project or activity shall be  
 24 separately approved as to amount by a two-thirds vote of  
 25 each house of the legislature."

1 Section 13, Section 17-5-719, MCA, is amended to read:  
 2 "17-5-719. Limitation on amount of coal severance tax  
 3 bonds issued. No more than \$250 million worth of coal  
 4 severance tax bonds may be issued for water development  
 5 projects and activities and local government infrastructure  
 6 projects and activities."  
 7 Section 14, Section 85-1-603, MCA, is amended to read:  
 8 "85-1-603. Water development coal severance tax bond  
 9 debt service fund created. Coal severance tax allocated to  
 10 water development loan loss reserve fund created. (1) (a)  
 11 There is created a water development coal severance tax bond  
 12 debt service fund within the debt service fund type  
 13 established in 17-2-102.  
 14 (b) The state pledges and allocates and directs to be  
 15 credited to the water development coal severance tax bond  
 16 debt service fund, as received:  
 17 (i) 1/4% of all money from time to time received from  
 18 the coal severance tax collected under Title 15, chapter 35,  
 19 and remaining after allocation of such tax under  
 20 15-35-108(1) and (2);  
 21 (ii) any principal and accrued interest under  
 22 85-1-613(3)(a) or section 5(3)(a) received in repayment of  
 23 a loan made from the proceeds of bonds issued under  
 24 85-1-617;  
 25 (iii) all interest income earned on proceeds of water

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

1 amount equal to the amount that would otherwise be available  
2 for debt service under subsection (1)(b) as a result of the  
3 loan loss.\*

4 Section 15. 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 (c) 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 16, 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 4)

19 and shall submit a prioritized list of recommended projects

20 to the legislature. The legislature may approve by

21 appropriation or other appropriate means those grants and

22 loans it finds consistent with the policies and purposes of

23 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.<sup>4</sup>  
 22 Section 17, 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. 4

1 Section 18, 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.<sup>4</sup>

8 Section 19, 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.<sup>4</sup>

15 Section 20, Section 85-1-620, MCA, is amended to read:  
 16 \*85-1-620. 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 issued before or after July 17, 1991,  
 24 before maturity for the purpose of extending the maturities  
 25 thereof of the outstanding bond so far as determined by the

1 board-of-examiners-to-be-necessary-to-assure ensure-that-the  
 2 funds--then--pledged-to-the-water-development coal-severance  
 3 tax-bond-debt-service-fund-will-be-sufficient-for-payment-of  
 4 principal-and-interest-due-in-subsequent-years--The-board-of  
 5 examiners--may--also--issue--refunding--bonds--to--refund  
 6 outstanding--bonds--before--maturity--for--the--purpose--of  
 7 reducing-the-interest-cost-or-the-total-amount-of--principal  
 8 and-interest-payable-thereon on-the-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 are-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 8. Codification instruction. (1)  
 7 [Section 1] is intended to be codified as an integral part  
 8 of Title 17, chapter 5, part 7, and the provisions of Title  
 9 17, chapter 5, part 7, apply to [section 1].

10 (2) [Sections 2 through 6 4] are intended to be  
 11 codified as an integral part of Title 7, chapter 6, and the  
 12 provisions of Title 7, chapter 6, apply to [sections 2  
 13 through 6 4].

14 (3) [Section 7 5] is intended to be codified as an  
 15 integral part of Title 2, chapter 17, and the provisions of  
 16 Title 2, chapter 17, apply to [section 7 5].

17 (4) [Section 8 6] is intended to be codified as an  
 18 integral part of Title 87, chapter 1, part 2, and the  
 19 provisions of Title 87, chapter 1, part 2, apply to [section  
 20 8 6].

21 NEW SECTION. Section 9. Severability. If a part of  
 22 [this act] is invalid, all valid parts that are severable  
 23 from the invalid part remain in effect. If a part of [this  
 24 act] is invalid in one or more of its applications, the part  
 25 remains in effect in all valid applications that are



1 severable from the invalid applications.

2 NEW SECTION. Section 10. saving clause. [This act]  
3 does not affect rights and duties that matured, penalties  
4 that were incurred, or proceedings that were begun before  
5 [the effective date of this act].

6 NEW SECTION. Section 11. Effective date. [This act] is  
7 effective July 1, 1991.

8 ~~NEW SECTION. Section 12. Termination. (Section 8 6)~~  
9 ~~terminates July 1, 1996.~~

-End-