

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By Senator Mike Halligan, Chairman, on January 28, 1991, at 8:00 a.m.

**ROLL CALL**

**Members Present:**

Mike Halligan, Chairman (D)  
Dorothy Eck, Vice Chairman (D)  
Steve Doherty (D)  
Delwyn Gage (R)  
John Harp (R)  
Francis Koehnke (D)  
Gene Thayer (R)  
Thomas Towe (D)  
Fred Van Valkenburg (D)  
Bill Yellowtail (D)

**Members Excused:**

Robert Brown (R)

**Staff Present:** Jeff Martin (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** None

**HEARING ON SENATE JOINT RESOLUTION 11**

**Presentation and Opening Statement by Sponsor:**

Senator Doherty, District 20, sponsor, said the bill requests an interim study of the liquor license quota system. He said he recognizes the serious problem of devising mechanisms for reimbursing current license holders for a loss in economic value if the license system should change.

Since liquor licenses have been tied to gambling it has been almost impossible for restaurant owners to compete with casinos. It is cheaper for existing restaurants to "casino-ize" as it costs much less to pay for machines than it does to hire staff to wait on people. Due to the restrictions on the number of beverage licenses, it takes a great deal of money, a long time, and usually a "dog fight" to get a license. It keeps lawyers busy and business people angry. He said there is undoubtedly a question of equal protection involved. The quota system is anti-business as start-up costs are enormous and that precludes many people to even try to establish a business.

#### Proponents' Testimony:

Concetta Eckel, owner of the Panhandler Gourmet Food Shop, presented her testimony in support of the bill (Exhibit #1).

Clare Hueshs, High Plains Development Authority, Inc., presented testimony in support of the bill (Exhibit #2).

#### Opponents' Testimony:

Mark Staples, Montana Tavern Association, said all but five states limit licenses and the system has been upheld against attacks on equal protection grounds, illegal monopolies grounds, discrimination on limited number of licenses, and class legislation grounds. In 1951, the Montana Supreme Court ruled that liquor licenses are personal property and are transferrable and mortgageable. The owners have paid a great deal for them and they borrow against them. The 5th amendment of the U. S. Constitution and Section 17 of the Montana Constitution provide that no private property may be taken without just compensation. He said it has been ruled that this would be taking of property and it would cost hundreds of millions of dollars.

Denis Adams, Director, Department of Revenue, said a 1982 study determined there would be a \$35 - \$75 million loss of value if the quota system were abandoned. That figure would have increased dramatically because of the gambling in place in the state now. A beer license in Great Falls which costs \$500 is has a market value of \$5000. Beverage licenses in Billings, costing \$20,000 each, have a market value of over \$100,000.

Questions From Committee Members:

Senator Thayer suggested a new class of non-transferring license be developed for restaurant owners fighting for survival with casinos.

Mr. Adams said the casino/gambling issue justifies a study now.

A wide-ranging philosophical discussion of gambling vs. non-gambling relating to alcohol issues followed.

Closing by Sponsor:

Senator Doherty closed saying the "taking" issue is a valid one and should be addressed. Certainly, the effects of gambling have had an influence on values and competition. He said these are good reason for a study and urged the Committee to approve the study.

EXECUTIVE ACTION ON SENATE BILL 55

Discussion:

Senator Halligan said the discussion would continue on Senate Bill 55, Senator Crippen's "Big Sky Dividend" bill as there was not enough time to complete the members questions at the formal hearing.

Senator Halligan asked Chuck Brooke about the question soft match money that can be used by the local communities.

Mr. Brooke, Department of Commerce, said the requirements and guidelines for appropriate match monies would be set forth in administrative rule.

Senator Halligan asked about the reimbursement of grants and loans.

Mr. Brooke said grant monies do not have to be paid back. He said the loans versus grants situation has been intensely studied and the conclusion was the straight grant program would be the most effective for funding the most projects.

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Senator Halligan wondered how we could even begin to meet \$8 billion worth of needs with \$20 million of funding a year.

Mr. Brooke replied that the needs identified by the task force included all the infrastructure needs of the state including all the highway system improvements.

Senator Thayer asked about the loss of interest impact to the general fund.

Mr. Brooks said it is not reflected in the fiscal note as the costs are all contained in the appropriations bill before the House. All that is reflected in this fiscal note is the administrative costs.

Senator Thayer expressed concern about the counties that have undertaken expensive improvement projects recently and passed the levies to support them. He felt there should be some thought given to reimbursement to them.

Mr. Brooke said there is over \$800 million in county debt outstanding in Montana. If we were to try to reimburse everyone all the money would be gone. He noted all the counties need money for further improvement. He cited Helena as an example. Although they have just completed a comprehensive water improvement project and the taxpayers are now paying for it, they still have a landfill problem which must be dealt with in the near future. He said the philosophy of "I've got mine, why should you get yours" cannot stand in the way of funding the pressing needs all across the state.

Senator Towe asked about the 3/4 vote of both house and vote of the people issue on a constitutional amendment issue.

Mr. Brooke said it was originally intended to take this to a vote of the people, however, the decision was made to go the appropriations route for two years.

Karen Barclay, Director, Department of Natural Resources, presented two charts to the Committee detailing the flow of funds from the Coal Severance Tax Trust Fund (Exhibits #3 and #4).

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Senator Eck asked if every county and local area has problems to be addressed if it wouldn't be better to devise a local government assistance program that would provide revenue sharing directly to them rather than a grant program that looks like a pork barrel project.

Newell Anderson, Administrator, Local Government Services Department, Department of Commerce, said in the community development block grant program there are three categories: economic development, housing rehabilitation and public works. In the economic development category it is a revolving loan program. Housing and public facilities are funded strictly by a grant program. He said many types of money could be used to fund the infrastructure program.

Senator Koehnke asked if there will be established districts for the advisory councils.

Mr. Brooke responded the advisory council will be a statewide council made up of members with revolving terms.

Senator Gage asked if solid waste and sewers would qualify under the water development loan fund.

Mr. Brooke replied they would.

Senator Yellowtail asked if there would be any administrative reason not to use hard dollars for local match.

Mr. Anderson replied each project is different. Putting the hard match into law would be very restrictive. He felt the public hearing process for the development of the administrative rules would solve many of the problems in the most equitable way.

Mr. Brooke said the hard match provision would certainly benefit the larger communities.

Senator Van Valkenburg asked if a report could be made to the Committee on the job creation theory in relation to its dependency on hard match money and utilization of money not currently being circulated in the economy.

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Senator Yellowtail felt the fiscal note should be revised to reflect the balances that are being discussed. He would like to see the impact of this bill on other programs that now receive earmarked portions of the \$20 million from the trust.

Senator Towe said those projects are earmarked funds and not interest income funds, so there should be no effect.

Senator Halligan asked the Department to put together an overview on matching funds, an understandable flow chart of revenues and where they are coming from, and testimonies from the Department staff so that the Committee will have information to share with other members of the legislature who could not be here.

ADJOURNMENT

Adjournment At: 10:00 a.m.

  
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SENATOR MIKE HALLIGAN, Chairman  
\_\_\_\_\_  
JILL D. ROHYANS, Secretary

MH/jdr

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1/25/91

# Tapotom

# VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1/28/91

52<sup>nd</sup> LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN			X
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	V		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.



WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 28<sup>th</sup> day of January, 1991.

Name: Cornelia Eckel

Address: Lump Gulch Rte, Box 337, Clancy  
MT 59634

Telephone Number: 443-1916 wk / 933-8300 hm

Representing whom?

Myself + The Pan Handler, Helena

Appearing on which proposal?

STR 11

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

This proposal encourages the free  
enterprise system I am in favor of  
opening up the system as it encourages  
growth, adds additional revenue to the  
state but would not sacrifice control,  
and enhances our already bright spot in  
Montana - tourism. Elimination of the quota  
system will also put all eating establishments  
on an equal playing field & allow  
food to be enhanced with a complimentary  
beverage.

## JOINT RESOLUTION REQUESTING AN INTERIUM STUDY ON MONTANA'S LIQUOR LICENSE QUOTA SYSTEM

The High Plains Development Authority, Inc., an economic development organization charged with the responsibility to foster new business and industrial development, as well as assisting with the retention and expansion of the economic base in Great Falls, Cascade County, Montana, supports a joint resolution of the senate and the house of representatives of the State of Montana requesting an interim study on the liquor license quota system; and requiring a report of the findings of the study to the 53rd legislature.

In our effort to expand business opportunities, High Plains Development Authority supports legislative activity which opens expansion possibilities and creates a stronger market for the existing business community. High Plains Development Authority supports legislation that eliminates any barrier to the operation of a free and competitive market.

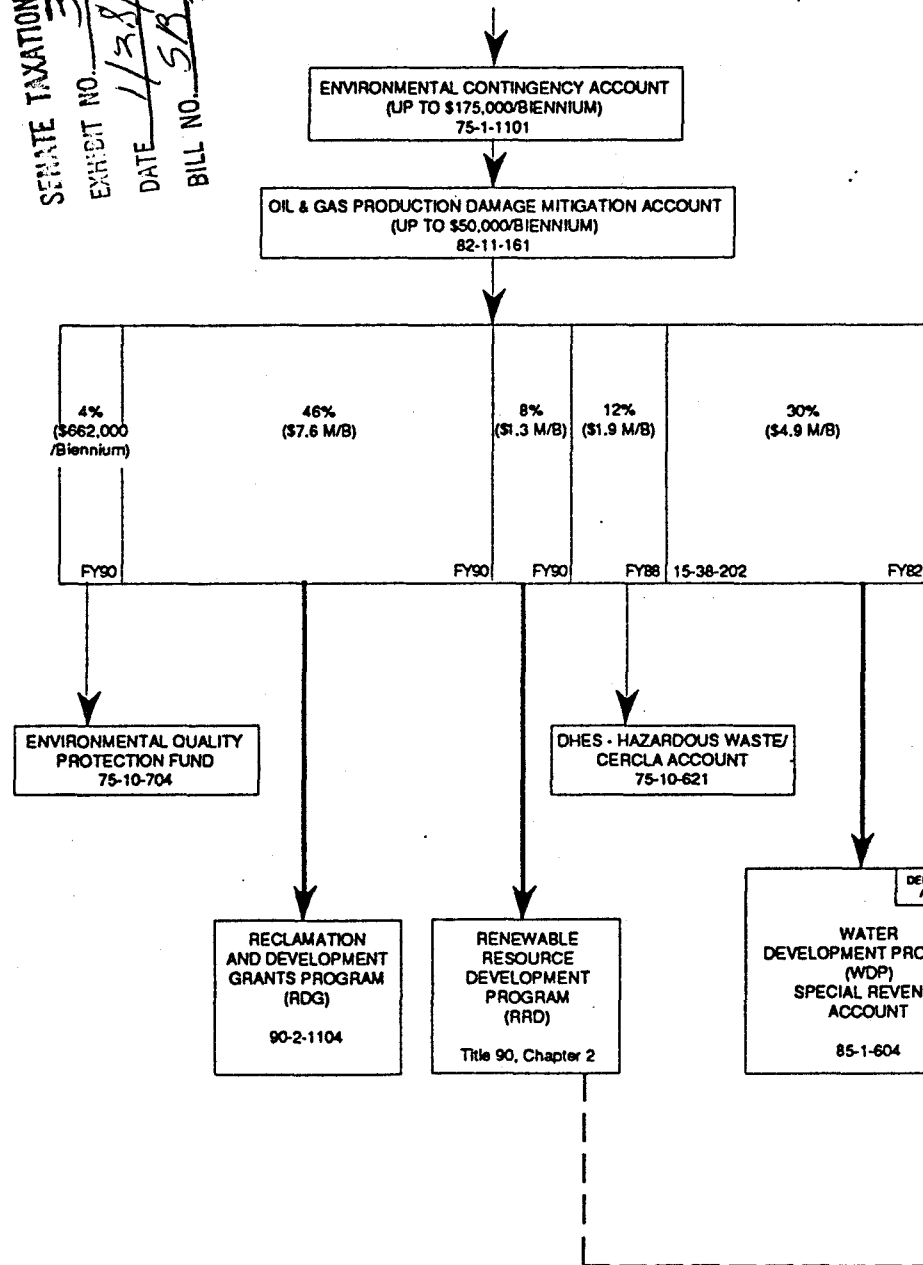
Much concern has been expressed by many of Great Falls and Cascade County eating establishments relative the lack of availability of beer and wine licenses. Many feel that it retards their competitiveness and thus hinders their growth and development. Since eating and drinking establishments constitute the third largest employment sector in Cascade County, High Plains Development Authority must support any legislative activity which could assist with the expansion and continued development of this service sector segment of Cascade County's economy.

SENATE TAXATION  
EXHIBIT NO. 3  
DATE 1/28/91  
BILL NO. 5855

FIGURE 1.

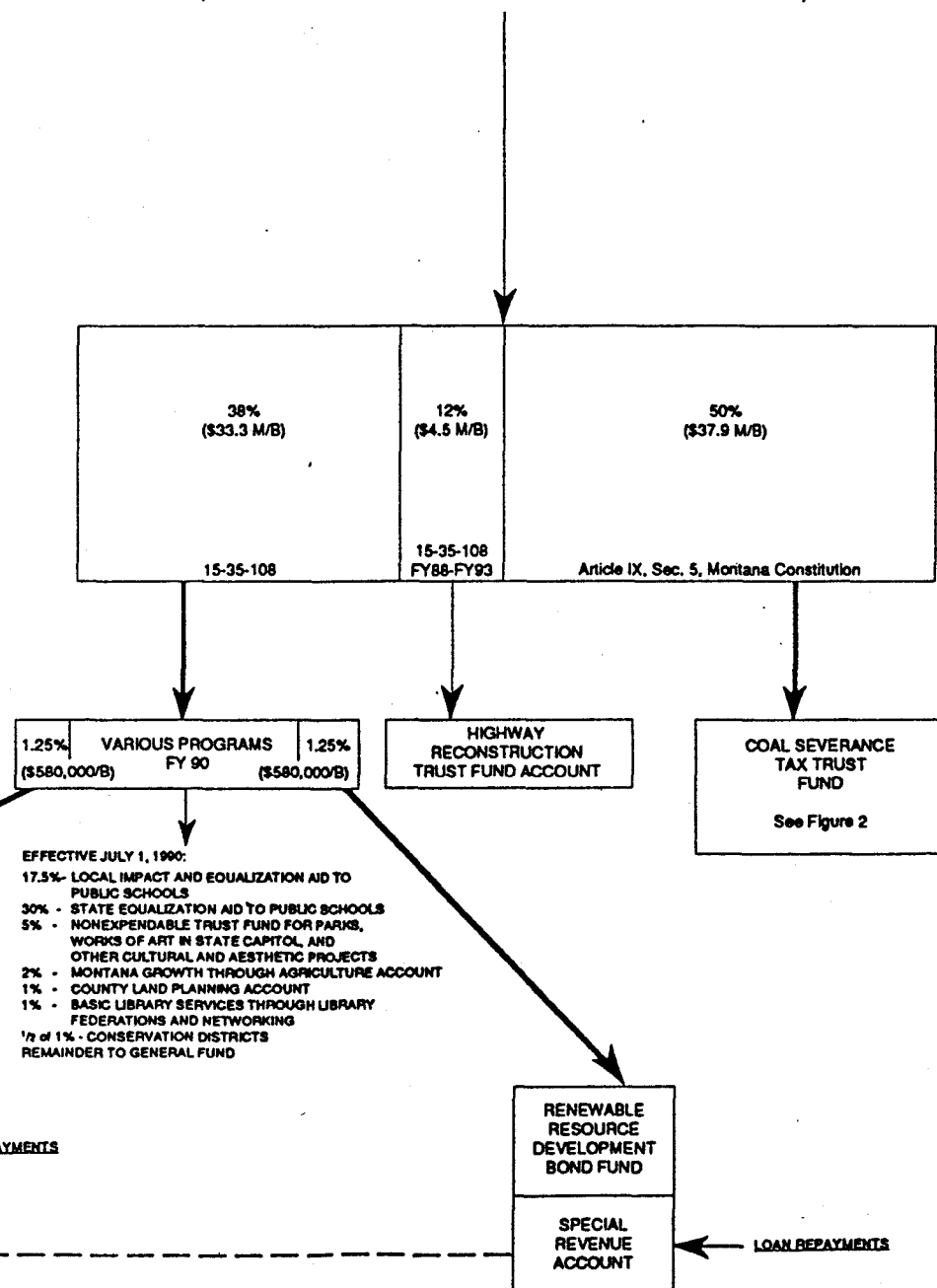
# RESOURCE INDEMNITY TRUST INTEREST INCOME

(\$16.5 MILLION / BIENNIUM FY 92-93 ESTIMATE)



# COAL SEVERANCE TAX

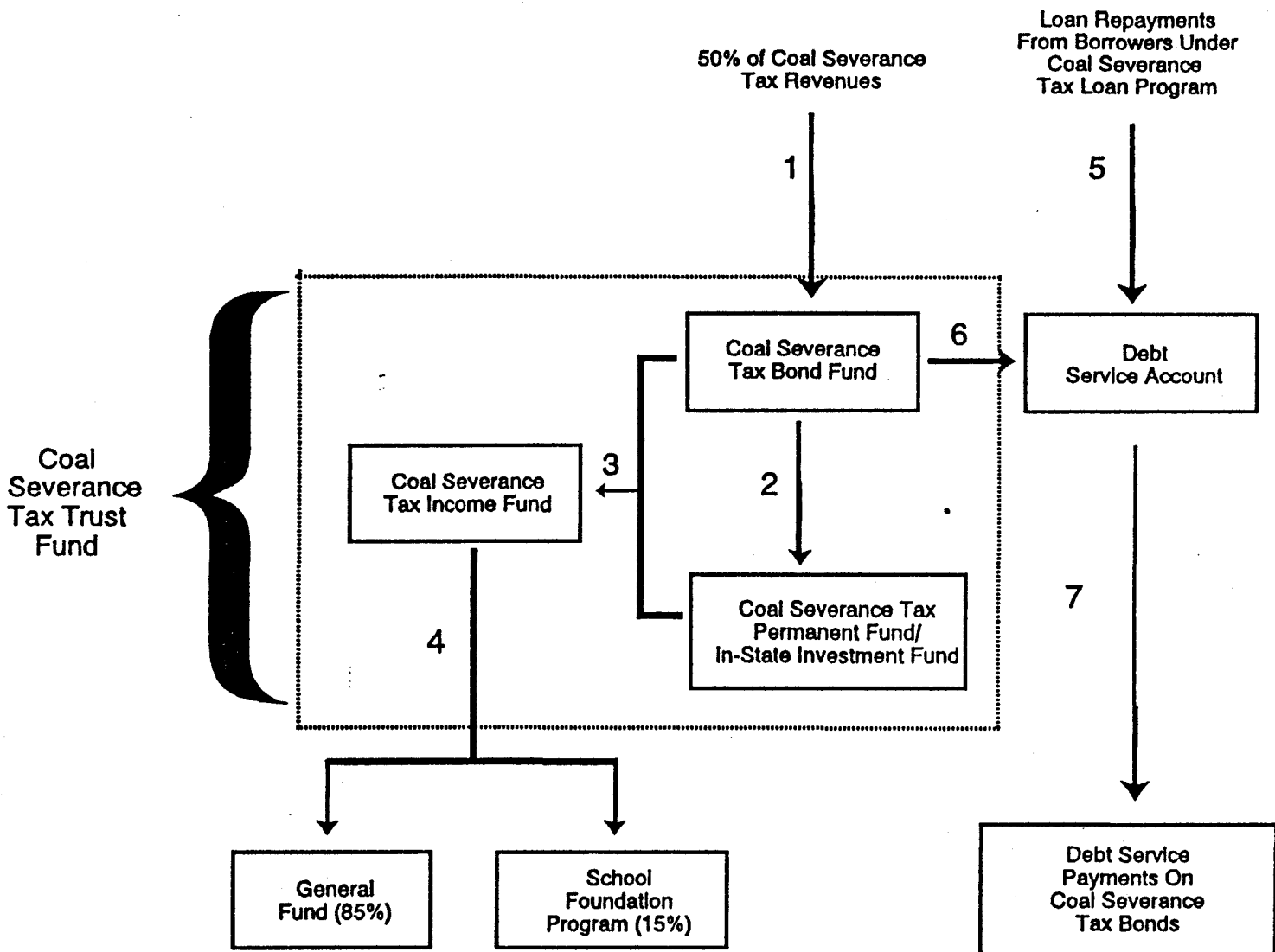
(\$75.7 MILLION / BIENNIUM FY 92-93 ESTIMATE)



# Coal Severance Tax Trust Fund

## Flow of Funds Summary

TE TAXATION 9  
 EMEND NO. 9  
 DATE 1/28/91  
 BILL NO. 5055



- (1) Within 30 days of the end of each calendar quarter, coal severance taxes are paid to the State, 50% of which are deposited in the Coal Severance Tax Trust Fund (the "Trust"). Three accounts are established within the Trust; the Coal Severance Tax Bond Fund, the Coal Severance Tax Permanent Fund (within which is established the In-State Investment Fund) and the Coal Severance Tax Income Fund. Coal tax revenues which flow to the Trust are initially deposited in the Bond Fund and made available for the payment of debt service on the Coal Severance Tax Bonds.
- (2) Periodically, the amount in the Bond Fund in excess of the next twelve months' debt service on the Bonds is transferred to the Permanent Fund. On each January 1, all amounts on hand in both the Bond Fund and the Debt Service Account (see footnotes 5 and 6 below) are swept to the Permanent Fund, except for an amount equal to one-twelfth of the next year's debt service on the Bonds. Twenty-five percent of the receipts to the Permanent Fund are segregated in an account within the Permanent Fund (the In-State Investment Fund) established for the purpose of making investments in Montana.

**SENATE TAXATION**EXHIBIT NO. 4DATE 1/25/91BILL NO. 18855

- (3) *Investment income on the monies in the Bond Fund and the Permanent Fund is periodically transferred to the Income Fund.*
- (4) *Eighty-five percent of the balance in the Income Fund is transferred to the State's General Fund; the remaining 15 percent is transferred to the State's school foundation program.*
- (5) *Under the Coal Severance Tax Loan Program, the State sells Coal Severance Tax Bonds and loans the proceeds to local government entities for various water projects. The borrowers make semiannual loan payments, which upon receipt are credited to a Debt Service Account created specifically in connection with the Bonds. The terms of the loans vary, but generally involve an interest rate subsidy for the first five years of the loan followed by a direct pass-through of the interest rate on the Bonds for the remaining life of the loan.*
- (6) *Debt service payments on the Bonds are due each June 1 and December 1. To the extent funds on hand in the Debt Service Account from loan repayments are insufficient to pay principal and interest on the Bonds when due, funds are transferred to the Debt Service Account from the Coal Severance Tax Bond Fund.*
- (7) *On each June 1 and December 1, the State pays debt service on the Bonds from amounts on hand in the Debt Service Account.*