

HOUSE BILL 866

IN THE HOUSE

February 17, 1979

Introduced and referred to
Committee on State Administration.

February 19, 1979

Rereferred to Committee on Taxation.

House BILL NO. *866*

1 INTRODUCED BY *Shelden Burdane*

3 BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE COAL
6 BOARD WITH A COMMUNITY DEVELOPMENT BOARD EMPOWERED TO MAKE
7 GRANTS AND LOANS TO LOCAL GOVERNMENT UNITS FOR CAPITAL
8 PROJECTS; REALLOCATING THE DISTRIBUTION OF THE COAL
9 SEVERANCE TAX FUNDS AND A PORTION OF OTHER TAXES ON NATURAL
10 RESOURCES TO A COMMUNITY DEVELOPMENT ACCOUNT; AMENDING
11 SECTIONS 15-35-108, 15-37-207, 15-59-108, 20-9-343,
12 85-1-332, 90-6-202, AND 90-6-210, MCA; AND REPEALING
13 SECTIONS 2-15-1104, 90-6-201, 90-6-203 THROUGH 90-6-209, AND
14 90-6-211, MCA."

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

17 NEW SECTION Section 1. Purpose. (1) The Montana
18 legislature recognizes that:

19 (a) development of the state's coal and other natural
20 resources has stimulated rapid growth in certain areas and
21 strained the ability of nearby communities to provide
22 essential public facilities and services;

23 (b) federal laws and regulations requiring upgraded
24 community water, sewer, and solid waste systems to meet
25 national environmental standards frequently require

1 expenditures beyond local government's capability to
2 finance; and

3 (c) adequate public facilities and services foster the
4 economic development and social well-being of a community.

5 (2) Therefore, the legislature hereby allocates a
6 portion of the revenue derived from the development of the
7 state's natural resources to a community development
8 account. Communities will receive loans and grants from this
9 account to provide essential public services and facilities
10 to their residents.

11 NEW SECTION Section 2. Definitions. As used in
12 [sections 1, 2, and 5 through 10], the following definitions
13 apply:

14 (1) "Board" means the community development board
15 created in [section 4].

16 (2) "Capital project" includes:

17 (a) the acquisition of land, rights-of-way, buildings,
18 or structures;

19 (b) preparation of sites; and

20 (c) construction, reconstruction, demolition, or
21 alteration of existing facilities, including but not limited
22 to streets, roads, and bridges.

23 (3) "Energy development" means exploration for or
24 extraction, conversion, storage, processing, or
25 transportation of natural resources necessary to the

1 production, storage, or transportation of energy.

2 (4) "Financial assistance" means grants, loans, loan
3 guarantees, or any combination thereof.

4 (5) "Local government unit" means counties, cities,
5 towns, school districts, and other political subdivisions of
6 the state, including rural improvement and special
7 improvement districts.

8 NEW SECTION. Section 3. Community development account
9 established -- administration. (1) There is within the
10 earmarked revenue fund a community development account.

11 (2) Money from the following sources are paid into
12 this account:

13 (a) the coal severance tax collections, as provided in
14 15-35-108;

15 (b) 25% of the tax collected from the license tax on:

16 (i) metal mines imposed in 15-37-101;

17 (ii) micaceous mineral mines imposed in 15-37-201; and

18 (iii) cement and gypsum producers imposed in 15-59-102;

19 (c) 25% of the tax collected from the tax on
20 electrical energy producers imposed in 15-51-101;

21 (d) 25% of the tax collected from the oil and gas
22 severance tax imposed in 15-36-101; and

23 (e) 25% of the money collected from the water
24 resources projects under the terms of 85-1-332(2).

25 (3) Any unobligated or unspent funds in the local

1 impact and education trust fund, created in the former
2 90-6-202, to the credit of the coal board on [the effective
3 date of this act] shall be transferred to the community
4 development account.

5 (4) The state treasurer shall draw warrants from this
6 account upon order of the board.

7 (5) All payment of principal and interest on loans
8 made by the board shall be deposited in the account.

9 (6) At the end of each fiscal year, any obligated but
10 unspent balance of a grant or loan and any unobligated funds
11 shall be retained in the account.

12 (7) The balance in the account shall be invested under
13 the unified investment program. The income produced from the
14 investment of the balance shall be placed in the general
15 fund.

16 NEW SECTION. Section 4. Community development board
17 -- allocation -- composition. (1) There is a community
18 development board composed of seven members.

19 (2) The community development board is allocated to
20 the department of community affairs for administrative
21 purposes only, as prescribed in 2-15-121.

22 (3) The members of the board are selected as follows:

23 (a) The president and the minority leader of the state
24 senate and the speaker and minority leader of the state
25 house of representatives shall each appoint one member.

1 (b) The governor shall appoint three members, one of
2 whom must be the director of the department of community
3 affairs.

4 (4) No more than 4 members may be residents of the
5 same congressional district.

6 (5) Members' terms expire on January 1 of the year
7 following the gubernatorial election.

8 NEW SECTION. Section 5. Community development board
9 -- membership -- organization. (1) The governor shall
10 designate the chairman of the board, created in [section 4].
11 The chairman may make and second motions and vote.

12 (2) Vacancies on the board shall be filled in the same
13 manner as regular appointments, and the member appointed to
14 fill a vacancy shall serve for the unexpired term to which
15 he is appointed.

16 (3) A member may be removed for cause by the officer
17 appointing that member to the board.

18 (4) A majority of the membership constitutes a quorum
19 to do business. A favorable vote of a majority of all
20 members of the board is required to adopt any resolution,
21 motion, or other action concerning the awarding of financial
22 assistance.

23 (5) The board shall meet semiannually and may meet at
24 other times as called by the chairman or a majority of the
25 members.

1 (6) Members are entitled to compensation as provided
2 for in 2-15-127(7).

3 NEW SECTION. Section 6. Community development board
4 -- powers and duties. (1) The board may:

5 (a) sue and be sued;

6 (b) take and hold title to property given to secure
7 loans made from the community development account;

8 (c) grant financial assistance to local government
9 units to fund essential capital projects.

10 (2) The board shall:

11 (a) adopt rules establishing procedures and guidelines
12 for evaluating and granting financial assistance;

13 (b) consider applications for financial assistance
14 from the community development account; and

15 (c) administer any grants awarded under the former
16 90-6-205 for which funds are unspent on [the effective date
17 of this act].

18 NEW SECTION. Section 7. Application for financial
19 assistance. (1) The governing body of a local government
20 unit may apply to the board for financial assistance.

21 (2) The board shall provide the application forms and
22 require such information as it considers necessary to
23 evaluate the application under the criteria established in
24 [section 8].

25 (3) The governing body must submit its application

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1 during a submittal period established by the board as
2 required in [section 9].

3 NEW SECTION. Section 8. Basis for evaluating
4 applications and awarding financial assistance. (1) By
5 December 31, 1979, and before awarding any financial
6 assistance, the board shall publish rules establishing
7 detailed guidelines for evaluating the criteria listed in
8 subsection (2).

9 (2) In evaluating applications, the board shall
10 consider each of the following criteria according to the
11 guidelines established in its rules:

12 (a) whether the project would eliminate or reduce a
13 direct and obvious threat to the public health, safety, or
14 welfare;

15 (b) whether the project is consistent with an overall
16 plan in the community or area;

17 (c) the applicant's ability to finance the project
18 through the issue of bonds;

19 (d) the applicant's mill levy in recent years compared
20 to levies in similar local government units in the same
21 years;

22 (e) the applicant's efforts to secure financial
23 assistance from other sources for the project;

24 (f) the applicant's history of management capability
25 and fiscal responsibility; and

1 (g) the funds available to the board.

2 NEW SECTION. Section 9. Procedure for awarding
3 financial assistance. (1) The board shall establish two
4 dates each year by which applications must be received. All
5 applications received in one of the submittal periods shall
6 be considered together and ranked according to their public
7 needs. Except as provided in subsection (2), the board may
8 not grant financial assistance to any applicant without
9 considering all other applications received during a
10 submittal period.

11 (2) The board may consider an individual application
12 and award financial assistance prior to the end of the
13 submittal period if the application involves an imminent
14 threat to public health, safety, or welfare.

15 (3) The board shall award loans, rather than grants,
16 whenever possible and shall encourage applicants to seek
17 funding from other sources.

18 (4) The board must award at least one-third of the
19 total funds awarded for financial assistance during any
20 biennium to projects designed to meet needs created by
21 energy development.

22 (5) The total amount of funds the board awards each
23 fiscal year may not exceed the balance in the community
24 development account.

25 NEW SECTION. Section 10. Limitations on financial

1 assistance. (1) The term over which any grant is paid may
2 not exceed 3 years. Any unspent balance of a grant reverts
3 to the community development account after 3 years.

4 (2) The amount of a loan may not exceed 90% of the
5 cost of the capital project for which it is granted.

6 (3) The term of the loan may not exceed 20 years.

7 (4) Loans made by the board shall bear interest at the
8 same rate charged by the United States farmers' home
9 administration or its successor for community facility loans
10 at the time the board makes the loan.

11 NEW SECTION. Section 11. Education trust fund created
12 -- administration. (1) There is within the earmarked revenue
13 fund an education trust fund account. Money is paid into
14 this account under 15-35-108.

15 (2) Money in this account shall be invested under the
16 unified investment program established in 17-6-201. Of the
17 income from such investments each year, 10% shall be added
18 to the principal of the account to be segregated and held in
19 trust for the purposes of supporting the public schools and
20 university systems of the state. Of the remaining 90% of the
21 income from such investments, three-fourths shall be
22 annually paid into the earmarked revenue fund for state
23 equalization aid to public schools of the state and
24 one-fourth each year shall be paid to the board of regents
25 of higher education for use by the institutions of higher

1 learning in the state, subject to the budgeting authority of
2 the legislature. The principal of the education trust fund
3 account shall be dedicated to education and forever remain
4 inviolate and sacred to this purpose as provided in sections
5 3 and 10 of Article X of the Montana constitution.

6 Section 12. Section 15-35-108, MCA, is amended to
7 read:

8 "15-35-108. Disposal of severance taxes. Severance
9 taxes collected under the provisions of this chapter are
10 allocated as follows:

11 (1) To the trust fund created by Article IX, section
12 5, of the Montana constitution, 25% of total collections a
13 year. After December 31, 1979, 50% of coal severance tax
14 collections are allocated to this trust fund. The trust fund
15 moneys shall be deposited in the fund established under
16 17-6-203(5) and invested by the board of investments as
17 provided by law.

18 (2) Coal severance tax collections remaining after
19 allocation to the trust fund under subsection (1) are
20 allocated in the following percentages of the remaining
21 balance:

22 (a) to the county in which coal is mined, 2% of the
23 severance tax paid on the coal mined in that county until
24 January 1, 1980, for such purposes as the governing body of
25 the county may determine;

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1 (b) ~~2 1/2% until December 31, 1979, and thereafter--5%~~
 2 to the earmarked revenue fund to the credit of the
 3 alternative energy research development and demonstration
 4 account;

5 (c) ~~2 1/2% until July 1, 1979, and thereafter--3 1/2%~~
 6 1 1/2% to the earmarked revenue fund to the credit of the
 7 ~~forest impact and education trust fund account;~~

8 (d) ~~for each of the 2 fiscal years following June 30,~~
 9 ~~1977, 13% to the earmarked revenue fund to the credit of the~~
 10 ~~east area highway improvement account 20% to the earmarked~~
 11 ~~revenue fund to the credit of the community development~~
 12 ~~account;~~

13 (e) 10% to the earmarked revenue fund for state
 14 equalization aid to public schools of the state;

15 (f) 1% to the earmarked revenue fund to the credit of
 16 the county land planning account;

17 (g) ~~2 1/2% to the sinking fund to the credit of the~~
 18 ~~renewable resource development bond account;~~

19 (h)(i) ~~2 1/2% through June 30, 1979, one-half 1 1/4%~~
 20 to the earmarked revenue fund for the purpose of
 21 acquisition, operation, or maintenance of sites and areas
 22 described in 23-1-102 and protection of works of art in the
 23 state capitol and other cultural and aesthetic projects,
 24 subject to legislative appropriations, and ~~one-half 1 1/4%~~
 25 to the earmarked revenue fund to be invested in a trust fund

1 for the purpose of parks acquisition or management. After
 2 ~~June 30, 1979, 5% to the trust fund for the purpose of parks~~
 3 ~~acquisition or management.~~ Income from the trust fund
 4 established in this subsection (h) (i) may be appropriated
 5 for the acquisition of sites and areas described in 23-1-102
 6 and the operation and maintenance of sites so acquired and
 7 protection of works of art in the state capitol and other
 8 cultural and aesthetic projects.

9 (j)(h) all other revenues from severance taxes
 10 collected under the provisions of this chapter to the credit
 11 of the general fund of the state."

12 Section 13. Section 15-37-207, MCA, is amended to
 13 read:

14 "15-37-207. Disposition of proceeds of tax. ~~At least~~ Of the
 15 license taxes collected under the provisions of this part,
 16 75% shall be deposited to the credit of the general fund of
 17 the state ~~and 25% to the credit of the community development~~
 18 ~~account created in [section 3]."~~

19 Section 14. Section 15-59-108, MCA, is amended to
 20 read:

21 "15-59-108. Deposit of taxes. ~~At least~~ Of the license taxes
 22 collected under the provisions of this part, 75% shall be
 23 deposited to the credit of the general fund of the state and
 24 25% to the credit of the community development account
 25 ~~created in [section 3]."~~

1 Section 15. Section 20-9-343, MCA, is amended to read:

2 "20-9-343. Definition of and revenue for state
3 equalization aid. (1) As used in this title, the term "state
4 equalization aid" means those moneys deposited in the
5 earmarked revenue fund as required in this section plus any
6 legislative appropriation of moneys from other sources for
7 distribution to the public schools for the purpose of
8 equalization of the foundation program.

9 (2) The following shall be paid into the earmarked
10 revenue fund for state equalization aid to public schools of
11 the state:

12 (a) 25% of all moneys received from the collection of
13 income taxes under chapter 30 of Title 15;

14 (b) 25% of all moneys received from the collection of
15 corporation license taxes under chapter 31 of Title 15, as
16 provided by 15-1-501;

17 (c) 10% of the moneys received from the collection of
18 the severance tax on coal under chapter 35 of Title 15;

19 (d) 62 1/2% of the moneys received from the treasurer
20 of the United States as the state's shares of oil, gas, and
21 other mineral royalties under the federal Mineral Lands
22 Leasing Act, as amended;

23 (e) interest and income moneys described in 20-9-341
24 and 20-9-342;

25 (f) income from the ~~total-impact~~ education trust

1 fund account; and

2 (g) in addition to these revenues, the surplus
3 revenues collected by the counties for foundation program
4 support according to 20-9-331 and 20-9-333 shall be paid
5 into the same earmarked revenue fund."

6 Section 16. Section 85-1-332, MCA, is amended to read:

7 "85-1-332. Disposition of moneys collected. (1) For
8 the purpose of carrying out the provisions of this chapter
9 and such other water resource authority, powers, and duties
10 as are conferred upon the department by law, the following
11 moneys shall be deposited in the earmarked revenue fund for
12 the use of the department:

13 (a) all sums of money donated or contributed by the
14 federal government or any department or agencies thereof;

15 (b) all gifts, donations, bequests, and devises made
16 to the state therefor and proceeds of the sale thereof; and
17 the proceeds of the sale or redemption of and the interest
18 earned by the securities purchased or acquired with money
19 received under this subsection;

20 (c) all reimbursements for money advanced for the
21 payment of the assessments upon state, school-granted, and
22 other public lands for the improvement thereof as provided
23 by law;

24 (d) all reimbursements for money advanced for the
25 investigation and survey of reclamation, electrification,

1 and rehabilitation systems or projects proposed to be
 2 financed in whole or in part by the reclamation of lands and
 3 diking, drainage, and diking and drainage dams for
 4 conservation of water to be used in reclamation of land or
 5 stock reservoirs or for the construction, maintenance, and
 6 operation of plants or projects for the manufacture or
 7 distribution of electric current;

8 (e) all reimbursements for costs of surveys and
 9 investigations for moneys advanced to counties, cities, or
 10 towns or their proportion of the cost thereof or from any
 11 other sources.

12 (2) ~~Of the~~ following ~~75%~~ shall be deposited in
 13 the state general fund ~~and 25% in the earmarked revenue fund~~
 14 ~~to the credit of the community development account:~~

15 (a) all income or profit and revenue of the works and
 16 all money received from the sale or disposal of water, use
 17 of water, water storage, or other service and from the
 18 operation, lease, sale, or other disposition of the works,
 19 property, and facilities acquired under this chapter; and

20 (b) all sums received by the department for the use of
 21 electricity in excess of the maintenance and operation of
 22 the electrification system or project."

23 Section 17. Section 90-6-202, MCA, is amended to read:

24 "90-6-202. Accounts Account established. (1) ~~There is~~
 25 ~~within the earmarked revenue fund a local impact and~~

1 ~~education trust fund account. Moneys are payable into this~~
 2 ~~account under 15-35-106. The state treasurer shall draw~~
 3 ~~warrants from this account upon order of the coal boards~~

4 ~~(2) There is~~ within the earmarked revenue fund a coal
 5 area highway improvement account.

6 (2) This account is abolished June 30, 1981. Any
 7 unobligated funds remaining in the account on that date
 8 shall be transferred to the general fund."

9 Section 18. Section 90-6-210, MCA, is amended to read:

10 "90-6-210. Coal area highway reconstruction program.

11 (1) The department of highways, within the area designated
 12 as the eastern Montana coal field economic growth center as
 13 certified to the secretary of transportation by the governor
 14 under section 143, Title 23, United States Code, shall
 15 prepare a special construction program for the
 16 reconstruction of deficient sections of these highways.

17 (2) The department of highways shall expedite the
 18 planning and reconstruction program for projects on the
 19 designated portions within this area by using funds
 20 ~~allocated under this subsection in the coal area highway~~
 21 improvement account and any federal funds that may be made
 22 available to match such funds. Until federal funds are made
 23 available to match the funds ~~allocated under this~~
 24 subsection in the account, the department of highways may,
 25 upon approval of the Montana state highway commission,

1 expend such funds for planning and reconstruction projects
2 with or without assurance from the federal government that
3 unmatched state expenditures will be retroactively
4 recognized for matching purposes.

5 (3) Funds ~~allocated under this subsection in the coal~~
6 ~~area highway improvement account~~ shall not be used to match
7 apportionments made for primary and secondary highways under
8 the Federal-Aid Highway Acts; however, nothing in this
9 subsection should be construed to prohibit the
10 implementation of projects otherwise funded by
11 apportionments made under the Federal-Aid Highway Acts;
12 furthermore, planning and reconstruction projects may be
13 financed in whole or in part by public and private funds
14 provided such projects conform to the applicable standards,
15 regulations, and procedures of the department of highways
16 and the federal highway administration."

17 Section 19. Repealer. Section 2-15-1104, 90-6-201,
18 90-6-203 through 90-6-209, and 90-6-211, MCA, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 410-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 20, 19 79, there is hereby submitted a Fiscal Note for HB 866 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

This proposed bill replaces the coal board with a community development board empowered to make grants and loans to local government units for capital projects; reallocating the distribution of the coal severance tax funds and a portion of other taxes on natural resources to a community development account.

ASSUMPTIONS:

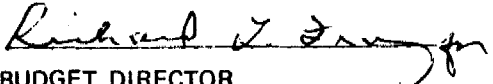
1. The change mentioned in Technical Note No. 2 is made.
2. Department of Revenue projections for the coal severance tax, oil producers severance tax, natural gas severance tax, electrical energy producers tax, cement and gypsum producers tax, micaceous mines tax and metal mines tax are correct.
3. Collections from the taxes mentioned in assumption No. 2 are homogeneous. (One quarter of the estimated fiscal year collections is collected each quarter.)
4. The 1980-81 executive budget called for an administrative staff to support the Coal Board of five people. The same number of people would be needed to support the Community Development Board with no increase in cost to state government.

FISCAL IMPACT:

The proposed legislation will provide over \$8 million per year for community development and program administration. General fund revenues will be reduced by approximately \$1 million per year (see attached).

TECHNICAL NOTE:

1. Section 15-1-501 MCA should be amended to reflect the change in allocations of several taxes. Without this change two statutes would allocate the same monies.
2. To avoid ambiguity on distribution of the various taxes, effective dates should be included. It is suggested that for all taxes changed, with the exception of the metal mines license tax, that the tax distribution become effective on production in all quarters beginning on or after July 1, 1979. The metal mines license tax allocation should become effective on production in calendar years beginning on or after January 1, 1979.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/23/79

MILLIONS OF DOLLARS

	FY 80			FY 81		
	Current Law	Proposed Law	Change	Current Law	Proposed Law	Change
Coal Severance Tax						
Coal Tax Trust	15.342	15.342	0	27.136	27.136	0
County of Origin	.552	.552	0	0	0	0
Alternative Energy	.997	.614	(.383)	1.357	.678	(.679)
Local Impact & Educational Trust	11.644	2.439	(9.205)	10.176	0	(10.176)
School Equalization	3.375	3.375	0	2.714	2.714	0
County Planning	.338	.338	0	.271	.271	0
Renewable Resources	.844	.230	(.614)	.678	0	(.678)
Sites & Areas	1.457	.614	(.843)	1.357	.678	(.679)
Coal Area Highways	1.197	1.197	0	0	0	0
Education Trust	0	4.050	4.050	0	4.477	4.477
Community Development	0	4.909	4.909	0	5.427	5.427
General Fund	13.347	15.433	2.086	10.583	12.891	2.308
	<u>49.093</u>	<u>49.093</u>	<u>0</u>	<u>54.272</u>	<u>54.272</u>	<u>0</u>
Oil Producers Severance Tax						
General Fund	7.148	5.361	(1.787)	7.241	5.431	(1.810)
Community Development	0	1.787	1.787	0	1.810	1.810
Natural Gas Severance Tax						
General Fund	1.031	.773	(.258)	1.089	.817	(.272)
Community Development	0	.258	.258	0	.272	.272
Electrical Energy Producers Tax						
General Fund	2.426	1.820	(.606)	2.507	1.880	(.627)
Community Development	0	.606	.606	0	.627	.627
Cement & Gypsum Producers						
General Fund	.150	.112	(.038)	.150	.112	(.038)
Community Development	0	.038	.038	0	.038	.038
Micaceous Mines						
General Fund	.010	.007	(.003)	.010	.007	(.003)
Community Development	0	.003	.003	0	.003	.003
Metal Mines						
General Fund	1.975	1.481	(.494)	2.045	1.534	(.511)
Community Development	0	.494	.494	0	.511	.511
SUMMARY						
General Fund	26.087	24.987	(1.100)	23.625	22.672	(.953)
Community Development	0	8.095	8.095	0	8.688	8.688