

House Bill 791

In The House

February 16, 1981	Introduced and referred to Committee on Taxation.
February 17, 1981	Fiscal note requested.
February 23, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

1 House BILL NO. 791
2 INTRODUCED BY Baldwin

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE COAL
5 BOARD WITH A COMMUNITY DEVELOPMENT BOARD EMPOWERED TO MAKE
6 GRANTS AND LOANS TO LOCAL GOVERNMENT UNITS FOR CAPITAL
7 PROJECTS; REALLOCATING THE DISTRIBUTION OF THE COAL
8 SEVERANCE TAX FUNDS AND A PORTION OF OTHER TAXES ON NATURAL
9 RESOURCES TO A COMMUNITY DEVELOPMENT ACCOUNT; AMENDING
10 SECTIONS 15-35-108, 15-36-112, 15-37-207, 15-59-108,
11 20-9-343, 85-1-332, 90-6-202, AND 90-6-210, MCA; AND
12 REPEALING SECTIONS 2-15-1104, 90-6-201, 90-6-203 THROUGH
13 90-6-209, AND 90-6-211, MCA."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

22 (b) federal laws and regulations requiring upgraded
23 community water, sewer, and solid waste systems to meet
24 national environmental standards frequently require
25 expenditures beyond local government's capability to

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

4 (2) It is the purpose of the legislature, by
5 allocating a portion of the revenue derived from the
6 development of the state's natural resources to a community
7 development account, to enable communities to receive loans
8 and grants from the account to provide essential public
9 services and facilities to their residents.

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

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

15 (2) "Capital project" includes:
16 (a) the acquisition of land, rights-of-way, buildings,
17 or structures;

18 (b) preparation of sites; and
19 (c) construction, reconstruction, demolition, or
20 alteration of existing facilities, including but not limited
21 to streets, roads, and bridges.

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

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

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

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

10 (2) Money from the following sources is paid into this
11 account:

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

14 (b) 25% of the amount collected from the license tax
15 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) 5% of the amount collected from the oil and gas
20 severance tax imposed in 15-36-101; and

21 (d) 25% of the money collected from the water
22 resources projects under the terms of 85-1-332(2).

23 (3) The state treasurer shall draw warrants from this
24 account upon order of the board.

25 (4) All payment of principal and interest on loans

1 made by the board shall be deposited in the account.

2 (5) At the end of each fiscal year, any obligated but
3 unspent balance of a grant or loan and any unobligated funds
4 shall be retained in the account.

5 (6) The balance in the account shall be invested under
6 the unified investment program. The income produced from the
7 investment of the balance shall be placed in the general
8 fund.

9 NEW SECTION. Section 4. Community development board
10 -- allocation -- composition. (1) There is a community
11 development board composed of seven members.

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

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

16 (a) The president and the minority leader of the state
17 senate and the speaker and minority leader of the state
18 house of representatives shall each appoint one member.

19 (b) The governor shall appoint three members, one of
20 whom must be the director of the department of community
21 affairs.

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

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

1 NEW SECTION. Section 5. Community development board
2 -- membership -- organization. (1) The governor shall
3 designate the chairman of the board, created in [section 4].

4 The chairman may make and second motions and vote.

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

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

11 (4) A majority of the membership constitutes a quorum
12 to do business. A favorable vote of a majority of all
13 members of the board is required to adopt any resolution,
14 motion, or other action concerning the awarding of financial
15 assistance.

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

19 (6) Members are entitled to compensation as provided
20 for in 2-15-124(7).

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

23 (a) sue and be sued;

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

1 (c) grant financial assistance to local government
2 units to fund essential capital projects.

3 (2) The board shall:

4 (a) adopt rules establishing procedures and guidelines
5 for evaluating and granting financial assistance;

6 (b) consider applications for financial assistance
7 from the community development account; and

8 (c) administer any grants awarded under the former
9 90-6-205 for which funds are unspent on [the effective date
10 of this act].

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

14 (2) The board shall provide the application forms and
15 require such information as it considers necessary to
16 evaluate the application under the criteria established in
17 [section 8].

18 (3) The governing body must submit its application
19 during a submittal period established by the board as
20 required in [section 9].

21 NEW SECTION. Section 8. Basis for evaluation
22 applications and awarding financial assistance. (1) By
23 December 31, 1981, and before awarding any financial
24 assistance, the board shall publish rules establishing
25 detailed guidelines for evaluating the criteria listed in

1 subsection (2).

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

5 (a) whether the project would eliminate or reduce a
6 direct and obvious threat to the public health, safety, or
7 welfare;

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

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

12 (d) the applicant's mill levy in recent years compared
13 to levies in similar local government units in the same
14 years;

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

17 (f) the applicant's history of management capability
18 and fiscal responsibility; and

19 (g) the funds available to the board.

20 NEW SECTION. Section 9. Procedure for awarding
21 financial assistance. (1) The board shall establish two
22 dates each year by which applications must be received. All
23 applications received in one of the submittal periods shall
24 be considered together and ranked according to their public
25 needs. Except as provided in subsection (2), the board may

1 not grant financial assistance to any applicant without
2 considering all other applications received during a
3 submittal period.

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

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

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

15 (5) The total amount of funds the board awards each
16 fiscal year may not exceed the balance in the community
17 development account.

18 NEW SECTION. Section 10. Limitations on financial
19 assistance. (1) The term over which any grant is paid may
20 not exceed 3 years. Any unspent balance of a grant reverts
21 to the community development account after 3 years.

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

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

25 (4) Loans made by the board shall bear interest at the

1 same rate charged by the U.S. farmers home administration
2 (FHA) or its successor for community facility loans at the
3 time the board makes the loan.

4 ~~NEW SECTION.~~ Section 11. Education trust fund created
5 -- administration. (1) There is within the earmarked
6 revenue fund an education trust fund account. Money is paid
7 into this account under 15-35-108.

8 (2) Money in this account shall be invested under the
9 unified investment program established in 17-6-201. Of the
10 income from such investments each year, 10% shall be added
11 to the principal of the account to be segregated and held in
12 trust for the purposes of supporting the public schools and
13 university systems of the state. Of the remaining 90% of the
14 income from such investments, three-fourths shall be
15 annually paid into the earmarked revenue fund for state
16 equalization aid to public schools of the state and
17 one-fourth each year shall be paid to the board of regents
18 of higher education for use by the institutions of higher
19 learning in the state, subject to the budgeting authority of
20 the legislature. The principal of the education trust fund
21 account shall be dedicated to education and forever remain
22 inviolate and sacred to this purpose as provided in sections
23 3 and 10 of Article X of the Montana constitution.

24 Section 12. Section 15-35-108, MCA, is amended to
25 read:

1 "15-35-108. Disposal of severance taxes. Severance
2 taxes collected under the provisions of this chapter are
3 allocated as follows:

4 (1) To the trust fund created by Article IX, section
5 5, of the Montana constitution, 25% of total collections a
6 year. After December 31, 1979, 50% of coal severance tax
7 collections are allocated to this trust fund. The trust fund
8 moneys shall be deposited in the fund established under
9 17-6-203(5) and invested by the board of investments as
10 provided by law.

11 (2) Coal severance tax collections remaining after
12 allocation to the trust fund under subsection (1) are
13 allocated in the following percentages of the remaining
14 balance:

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

19 (b) 2 1/2% until December 31, 1979, and thereafter 5%
20 to the earmarked revenue fund to the credit of the
21 alternative energy research development and demonstr
22 account;

23 ~~(c) 26-1/2% until July 1, 1979, and thereafter 37-1/2%~~
24 ~~20%~~ to the earmarked revenue fund to the credit of the ~~local~~
25 ~~impact-and~~ education trust fund account;

1 ~~(d) for each of the 2 fiscal years following June 30,~~
 2 ~~1977, 13% to the earmarked revenue fund to the credit of the~~
 3 ~~cost-area-highway-improvement-account 20% to the earmarked~~
 4 ~~revenue fund to the credit of the community development~~
 5 ~~account;~~

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

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

10 (g) 2 1/2% to the sinking fund to the credit of the
 11 renewable resource development bond account;

12 (h) 5% to the earmarked revenue fund to the credit of
 13 a trust fund for the purpose of parks acquisition or
 14 management, protection of works of art in the state capitol,
 15 and other cultural and aesthetic projects. Income from this
 16 trust fund shall be appropriated as follows:

17 (i) 1/3 for protection of works of art in the state
 18 capitol and other cultural and aesthetic projects; and

19 (ii) 2/3 for the acquisition of sites and areas
 20 described in 23-1-102 and the operation and maintenance of
 21 sites so acquired;

22 (i) 1% to the earmarked revenue fund to the credit of
 23 the state library commission for the purposes of providing
 24 basic library services for the residents of all counties
 25 through library federations and for payment of the costs of

1 participating in regional and national networking;

2 (j) all other revenues from severance taxes collected
 3 under the provisions of this chapter to the credit of the
 4 general fund of the state."

5 Section 13. Section 15-36-112, MCA, is amended to
 6 read:

7 "15-36-112. Disposition of oil and gas severance
 8 taxes. (1) Each year the department of revenue shall
 9 determine the amount of tax collected under this chapter
 10 from within each county.

11 (2) The severance taxes collected under this chapter
 12 are allocated as follows:

13 ~~(a) 5% of amount collected to the community~~
 14 ~~development account;~~

15 ~~(a)(b)~~ the amount remaining, if any, by which the tax
 16 collected from within a county for any fiscal year exceeds
 17 the total amount collected from within that county for the
 18 previous fiscal year, by reason of increased production and
 19 not because of increase in or elimination of federal price
 20 ceilings on oil and gas, is allocated to the general fund of
 21 the county for distribution as provided in subsection (3);

22 ~~(b)(c)~~ any amount not allocated to the county under
 23 subsection ~~subsections~~ (2)(a) or ~~(2)(b)~~ is allocated to the
 24 state general fund.

25 (3) (a) The county treasurer shall distribute the

1 money received under ~~this section subsection (2)(b)~~ to the
 2 county and to all the incorporated cities and towns within
 3 the county in the following manner. The county receives the
 4 available money multiplied by the ratio of the rural
 5 population to the county population. Each incorporated
 6 municipality receives the available money multiplied by the
 7 ratio of the population of the incorporated municipality to
 8 the county population. The rural population is that
 9 population of the county living outside the boundaries of an
 10 incorporated municipality. Population shall be based on the
 11 most recent figures as determined by the department of
 12 community affairs.

13 (b) The money distributed under ~~this subsection (3)(a)~~
 14 may be used for any purpose as determined by the governing
 15 body of the county, city, or town."

16 Section 14. Section 15-37-207, MCA, is amended to
 17 read:

18 "15-37-207. Disposition of proceeds of tax. ~~75% of the~~
 19 license taxes collected under the provisions of this part,
 20 75% shall be deposited to the credit of the general fund of
 21 the state ~~and 25% to the credit of the community development~~
 22 account created in [section 3]."

23 Section 15. Section 15-59-108, MCA, is amended to
 24 read:

25 "15-59-108. Deposit of taxes. ~~75% of the~~ license taxes

1 collected under the provisions of this part, 75% shall be
 2 deposited to the credit of the general fund of the state ~~and~~
 3 25% to the credit of the community development account
 4 created in [section 3]."

5 Section 16. Section 20-9-343, MCA, is amended to read:

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

13 (2) The following shall be paid into the earmarked
 14 revenue fund for state equalization aid to public schools of
 15 the state:

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

18 (b) 25% of all moneys, except as provided in
 19 15-31-702, received from the collection of corporation
 20 license taxes under chapter 31 of Title 15, as provided by
 21 15-1-501;

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

24 (d) 62 1/2% of the moneys received from the treasurer
 25 of the United States as the state's shares of oil, gas, and

1 other mineral royalties under the federal Mineral Lands
2 Leasing Act, as amended;

3 (e) interest and income moneys described in 20-9-341
4 and 20-9-342;

5 (f) income from the ~~forest-impact-and~~ education trust
6 fund account; and

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

11 Section 17. Section 85-1-332, MCA, is amended to read:

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

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

20 (b) all gifts, donations, bequests, and devises made
21 to the state therefor and proceeds of the sale thereof; and
22 the proceeds of the sale or redemption of and the interest
23 earned by the securities purchased or acquired with money
24 received under this subsection;

25 (c) all reimbursements for money advanced for the

1 payment of the assessments upon state, school-granted, and
2 other public lands for the improvement thereof as provided
3 by law;

4 (d) all reimbursements for money advanced for the
5 investigation and survey of reclamation, electrification,
6 and rehabilitation systems or projects proposed to be
7 financed in whole or in part by the reclamation of lands and
8 diking, drainage, and diking and drainage dams for
9 conservation of water to be used in reclamation of land or
10 stock reservoirs or for the construction, maintenance, and
11 operation of plants or projects for the manufacture or
12 distribution of electric current;

13 (e) all reimbursements for costs of surveys and
14 investigations for moneys advanced to counties, cities, or
15 towns or their proportion of the cost thereof or from any
16 other sources.

17 (2) ~~The Of the following, 75%~~ shall be deposited in
18 the state general fund and 25% in the earmarked revenue fund
19 to the credit of the community development account:

20 (a) all income or profit and revenue of the works and
21 all money received from the sale or disposal of water, use
22 of water, water storage, or other service and from the
23 operation, lease, sale, or other disposition of the works,
24 property, and facilities acquired under this chapter; and

25 (b) all sums received by the department for the use of

1 electricity in excess of the maintenance and operation of
2 the electrification system or project."

3 Section 18. Section 90-6-202, MCA, is amended to read:

4 "90-6-202. Account Account established. (1) ~~There is~~
5 ~~within the earmarked revenue fund a local impact and~~
6 ~~education trust fund account. Moneys are payable into this~~
7 ~~account under 15-35-108. The state treasurer shall draw~~
8 ~~warrants from this account upon order of the coal board.~~

9 (2) There is within the earmarked revenue fund a coal
10 area highway improvement account.

11 (2) This account is abolished June 30, 1982. Any
12 unobligated funds remaining in the account on that date
13 shall be transferred to the general fund."

14 Section 19. Section 90-6-210, MCA, is amended to read:

15 "90-6-210. Coal area highway reconstruction program.

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

22 (2) The department of highways shall expedite the
23 planning and reconstruction program for projects on the
24 designated portions within this area by using funds
25 ~~allocated under this subsection in the coal area highway~~

1 improvement account and any federal funds that may be made
2 available to match such funds. Until federal funds are made
3 available to match the funds ~~allocated under this subsection~~
4 in the account, the department of highways may, upon
5 approval of the Montana state highway commission, expend
6 such funds for planning and reconstruction projects with or
7 without assurance from the federal government that unmatched
8 state expenditures will be retroactively recognized for
9 matching purposes.

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

22 Section 20. Transfer of funds. Any unobligated or
23 unspent funds in the local impact and education trust fund,
24 created in the former 90-6-202, to the credit of the coal
25 board on [the effective date of this act] shall be

LC 1239/01

1 transferred to the community development account established
2 in section 3.

3 Section 21. Codification instruction. (1) Sections 1
4 through 3 and 5 through 10 of this act are intended to be
5 codified as an integral part of Title 90, chapter 6, part 2,
6 and the provisions of Title 90, chapter 6, part 2, apply to
7 sections 1 through 3 and 5 through 10.

8 (2) Section 4 is intended to be codified as an
9 integral part of Title 2, chapter 15, part 11, and the
10 provisions of Title 2, chapter 15, part 11, apply to section
11 4.

12 (3) Section 11 is intended to be codified as an
13 integral part of Title 20, chapter 9, part 3, and the
14 provisions of Title 20, chapter 9, part 3, apply to section
15 11.

16 Section 22. Repealer. Sections 2-15-1104, 90-6-201,
17 90-6-203 through 90-6-209, and 90-6-211, MCA, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 402-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, 19 81, there is hereby submitted a Fiscal Note for House Bill 791 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

House Bill 791 would create a Community Development Board to make loans and grants to local government units for capital projects.

Expenditure Impact

Assumptions:

1. This fiscal note is for administrative expenses only.
2. All funds collected less administrative expenses will be available for loans and grants.
3. Revenue projections provided by Department of Revenue.
4. One additional FTE needed for loan officer.

	<u>FY 1982</u>	<u>FY 1983</u>
Expenditures: Additional personal services for loan officer	\$19,668	\$19,668

<u>Revenue Impact</u>	<u>FY 1982</u>			<u>FY 1983</u>		
	Estimated Amount Under Current Law	Estimated Amount Under Proposed Law	Increase (Decrease)	Estimated Amount Under Current Law	Estimated Amount Under Proposed Law	Increase (Decrease)
General Fund	\$48,120,296	\$44,729,924	\$(3,390,372)	\$53,206,938	\$49,513,470	\$(3,693,468)
Local Impact						
ERA	8,112,285	0	(8,112,285)	9,612,915	0	(9,612,915)
Com. Develop.	0	11,502,657	11,502,657	0	13,306,383	13,306,383
	<u>\$56,232,580</u>	<u>\$56,232,580</u>	<u>\$ 0</u>	<u>\$62,819,853</u>	<u>\$62,819,853</u>	<u>\$ 0</u>

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-23-81