

SENATE BILL NO. 409

INTRODUCED BY MANNING, GALT

BY REQUEST OF THE GOVERNOR

IN THE SENATE

February 9, 1981	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation. Fiscal note requested.
February 16, 1981	Fiscal note returned.
February 18, 1981	Committee recommend bill do pass as amended. Report adopted. Statement of intent attached.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Motion pass consideration. On motion taken from second reading and rereferred to Committee on Taxation. Motion adopted.
March 20, 1981	Committee recommend bill do pass as amended. Report adopted.
March 21, 1981	Bill printed and placed on members' desks.
March 23, 1981	Second reading, do pass.
March 24, 1981	Correctly engrossed.
March 25, 1981	Third reading, passed. Ayes, 43; Noes, 6. Transmitted to House.

IN THE HOUSE

March 26, 1981

Introduced and referred to
Select Committee on Water.

April 4, 1981

Committee recommend bill be
concurring in as amended.
Report adopted.

April 6, 1981

Second reading, concurred in.

On motion rules suspended and
bill placed on third reading
this day.

Third reading, concurred in
as amended. Ayes, 93; Noes, 0.

IN THE SENATE

April 7, 1981

Returned from House with
amendments.

April 15, 1981

Second reading, amendments
concurring in.

April 16, 1981

Third reading, amendments
concurring in. Ayes, 50;
Noes, 0. Sent to enrolling.

Reported correctly enrolled.

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Agate BILL NO. *409*
Manning *Walt*

INTRODUCED BY _____
BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A WATER DEVELOPMENT PROGRAM; ESTABLISHING A LOAN AND GRANT PROGRAM FOR WATER DEVELOPMENT PROJECTS AND ACTIVITIES; ESTABLISHING AN EARMARKED WATER DEVELOPMENT ACCOUNT; ALLOCATING A PORTION OF THE COAL SEVERANCE TAX PROCEEDS; ALLOCATING A PORTION OF THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST ACCOUNT; CREATING AUTHORITY FOR WATER DEVELOPMENT BONDS; CREATING AUTHORITY FOR COAL SEVERANCE TAX TRUST FUND BONDS; LIFTING THE INTEREST CEILING ON WATER CONSERVATION REVENUE BONDS; AMENDING SECTIONS 15-35-108, 15-38-202, 85-1-102, 85-1-301, 85-1-332, 90-2-101, 90-2-111, AND 90-2-124, MCA; REPEALING SECTIONS 85-1-333 AND 85-1-334, MCA; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. Section 1. Purpose and policies. (1) The legislature finds and declares that in order that the people of Montana may enjoy the full economic and recreational benefits of the state's water resources, the state must establish this long-term water development program providing financial and administrative assistance to private, local,

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and state entities for water resource development projects and activities.

(2) The purpose of the water development program is to further the state's policies, set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources.

(3) The legislature recognizes that water is one of the most valuable and important renewable resources in Montana; therefore, it is appropriate that a portion of the taxes on the removal of nonrenewable resources be dedicated to the conservation, development, and beneficial use of water resources.

(4) The development of water resources is of a high priority because a large portion of Montana's present and future economy is based either directly or indirectly on the wise use of water.

(5) This water development program is an integral part of the implementation and development of the comprehensive, coordinated, multiple-use water resources plan known as the "state water plan".

NEW SECTION. Section 2. Objectives. The department shall administer a water development program to accomplish such objectives as rehabilitation of state-owned water projects and works; promotion of private, local government, and state water development; development of water-based

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1 recreation and the protection of water resources for the
 2 benefit of agriculture, flood control, and other uses;
 3 development of offstream and tributary storage; and
 4 development of state-tribal, state-federal, and
 5 state-tribal-federal water projects. The water development
 6 program is the key implementation portion of the state water
 7 plan and shall be administered to accomplish the objectives
 8 of the plan.

9 Section 3. Section 85-1-102, MCA, is amended to read:
 10 "85-1-102. Definitions. Unless the context requires
 11 otherwise, in this chapter the following definitions apply:

12 (1) "Board" means the board of natural resources and
 13 conservation provided for in 2-15-3302.

14 (2) "Cost of works" means the cost of construction;
 15 the cost of all lands, property, rights, easements, and
 16 franchises acquired which are deemed necessary for the
 17 construction; the cost of all water rights acquired or
 18 exercised by the department in connection with those works;
 19 the cost of all machinery and equipment, financing charges,
 20 interest prior to and during construction and for a period
 21 not exceeding 3 years after the completion of construction;
 22 cost of engineering and legal expenses, plans,
 23 specifications, surveys, estimates of cost, and other
 24 expenses necessary or incident to determining the
 25 feasibility or practicability of any project; administrative

1 expense; and such other expenses as may be necessary or
 2 incident to the financing herein authorized and the
 3 construction of the works and the placing of the same in
 4 operation.

5 (3) "Department" means the department of natural
 6 resources and conservation provided for in Title 2, chapter
 7 15, part 33.

8 (4) "Owner" means all individuals, irrigation
 9 districts, drainage districts, flood control districts,
 10 incorporated companies, societies, or associations having
 11 any title or interest in any properties, rights, easements,
 12 or franchises to be acquired.

13 ~~(5) "Private person" means any individual,~~
 14 ~~association, partnership, corporation, or other~~
 15 ~~nongovernmental entity not eligible for loans and grants~~
 16 ~~under [section 6] but does not include a governmental entity~~
 17 ~~such as an agency, local government, or political~~
 18 ~~subdivision of the state, the United States, or any agency~~
 19 ~~thereof, or any other governmental entity.~~

20 ~~(5)(6)~~ (6) "Project" means any one of the works herein
 21 defined or any combination of such works which are
 22 physically connected or jointly managed and operated as a
 23 single unit.

24 ~~(7) "Public benefits" means those benefits that accrue~~
 25 ~~from a water development project or activity to persons~~

1 other than the private grant or loan recipient and that
 2 enhance the common well-being of the people of Montana.
 3 Public benefits include but are not limited to recreation,
 4 flood control, erosion reduction, agricultural flood damage
 5 reduction, water quality enhancement, sediment reduction,
 6 access to recreation opportunities, and wildlife
 7 conservation.

8 (8) "Water development clearance account" means a
 9 separate account created by [section 18] within the bond and
 10 insurance clearance fund of the state treasury to finance
 11 loans under the provisions of the water development program
 12 to agencies, local governments, and political subdivisions
 13 of the state, private persons, and any other eligible
 14 recipients from proceeds of bonds issued under [sections 1,
 15 2, and 4 through 23].

16 (9) "Water development activity" means an action or
 17 program to promote water-based recreation or to protect or
 18 enhance water resources for the benefit of agriculture,
 19 flood control, or other uses, including but not limited to
 20 such purposes as the promotion of efficient use of water in
 21 agriculture, the improvement of water quality in agriculture
 22 and other nonpoint source uses, the promotion of water-based
 23 recreation, the control of erosion of streambanks, and
 24 control of sedimentation of rivers and streams, and
 25 providing greater local and state control of Montana water

1 resources. Water development activities may provide any
 2 combination of marketable and nonmarketable benefits.

3 (10) "Water development earmarked account" means a
 4 separate account created by [section 5] within the earmarked
 5 revenue fund of the state treasury for the purposes of the
 6 water development program as set forth in [section 5].

7 (11) "Water development project" means a project as
 8 defined in subsection (6), except that water development
 9 projects are not limited to projects owned or operated by
 10 the department.

11 (12) "Water development sinking account" means a
 12 separate account created by [section 4] within the sinking
 13 fund of the state treasury to be used as provided in
 14 [section 20].

15 (6)(13) "Works" means all property, rights, easements,
 16 and franchises relating thereto and deemed necessary or
 17 convenient for their operation and all water rights acquired
 18 or exercised by the department in connection with those
 19 works and includes all means of conserving and distributing
 20 water, including, without limiting the generality of the
 21 foregoing, reservoirs, dams, diversion canals, distributing
 22 canals, waste canals, drainage canals, dikes, lateral
 23 ditches and pumping units, mains, pipelines, and waterworks
 24 systems and includes all such works for the conservation,
 25 development, storage, distribution, and utilization of

1 water, including without limiting the generality of the
 2 foregoing, works for the purpose of irrigation, flood
 3 prevention, drainage, fish and wildlife, recreation,
 4 development of power, watering of stock, supplying of water
 5 for public, domestic, industrial, or other uses and for fire
 6 protection."

7 **NEW SECTION.** Section 4. Water development sinking
 8 account created -- coal severance tax allocated. (1) There
 9 is created a water development sinking account within the
 10 sinking fund established in 17-2-102.

11 (2) The state pledges and allocates and directs to be
 12 credited to the water development sinking account, as
 13 received, 1 1/4% of all money from time to time received
 14 from the coal severance tax collected under Title 15,
 15 chapter 35, and remaining after allocation of such tax to
 16 the trust fund established under Article IX, section 5, of
 17 The Constitution of the State of Montana.

18 **NEW SECTION.** Section 5. Water development earmarked
 19 account created -- revenues allocated -- limitations on
 20 appropriations from account. (1) There is created a water
 21 development earmarked account within the earmarked revenue
 22 fund established in 17-2-102.

23 (2) There shall be paid into the water development
 24 earmarked account:

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

1 provided in 85-1-332;

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

5 (c) the excess of the coal severance tax proceeds
 6 allocated by [section 4] to the water development sinking
 7 account above debt service requirements as provided in and
 8 subject to the conditions of [section 20].

9 (3) Appropriations may be made from the water
 10 development earmarked account for the following purposes and
 11 subject to the following conditions:

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

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

24 (i) the rehabilitation of state-owned projects and
 25 works, including the rehabilitation of spillways of

1 state-owned dams;

2 (ii) the formulation of downstream emergency warning

3 and evacuation plans for state-owned dams;

4 (iii) the development of the hydropower potential of

5 state-owned dams;

6 (iv) assistance in the implementation of the water

7 reservations established under 85-2-316 of conservation

8 districts;

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

10 tributary storage;

11 (vi) the promotion of joint state-tribal,

12 state-federal, and state-tribal-federal water development;

13 (vii) administrative expenses, including but not

14 limited to the salaries and expenses of personnel,

15 equipment, office space, and other necessities incurred in

16 the administration of the water development program except

17 the administration of loans and grants; and

18 (viii) any other expenditures that meet the policies

19 and objectives of the state water development program.

20 (c) An amount less than or equal to that paid into the

21 account from the water development sinking account and only

22 that amount may be appropriated from the account for loans

23 and grants for water development projects and activities and

24 for administrative expenses, including but not limited to

25 the salaries and expenses of personnel, equipment, office

1 space, and other necessities incurred in administering the

2 loans and grants.

3 NEW SECTION. Section 6. Grants and loans to state and

4 local governments. (1) The department may recommend to the

5 legislature that grants and loans be made from coal

6 severance tax proceeds deposited in the water development

7 earmarked account and loans be made from water development

8 bond proceeds deposited in the water development clearance

9 account to a department, agency, board, commission, or other

10 division of state government or to a city, county, or other

11 political subdivision or local government body of the state.

12 The legislature may approve by appropriation or other

13 appropriate means those grants and loans it finds consistent

14 with the policies and purposes of the program.

15 (2) The grants and loans provided for by this section

16 may be made for the purchase, lease, development, or

17 construction of water development projects and activities

18 for the conservation, management, use, development, or

19 protection of the water and related agricultural, land,

20 fish, wildlife, and water recreation resources in the state;

21 for the purpose of feasibility and design studies for such

22 projects; for development of plans for and the

23 rehabilitation, expansion, and modification of water

24 development projects; for other water development projects

25 and activities that will enhance the water resources of the

1 state; and for similar purposes approved by the legislature.

2 • NEW SECTION. Section 7. Grants and loans to private
3 persons. (1) To encourage the construction and development
4 of water development projects and activities, the department
5 may make grants and loans to private persons from funds
6 appropriated from the water development earmarked account
7 and may make loans to private persons from the water
8 development clearance account.

9 (2) The department shall publicize the statutes and
10 rules governing grants and loans to private persons for
11 water development projects and activities, set and publicize
12 application deadlines, and accept applications for grants
13 and loans.

14 (3) The department shall review, evaluate, and select
15 water development projects and activities for which grants
16 or loans may be awarded.

17 NEW SECTION. Section 8. Division of funds between
18 water development projects and activities. (1) The
19 department shall recommend, to the extent possible, that
20 water development projects and water development activities
21 be funded equally when making recommendations to the
22 legislature on loans and grants for state and local water
23 development under [section 6].

24 (2) The department shall, to the extent possible, in
25 approving grants and loans to private persons fund water

1 development projects and water development activities
2 equally.

3 NEW SECTION. Section 9. Applications for grants and
4 loans to private persons. (1) A private person may apply for
5 a grant or loan to finance a water development project or
6 activity to be constructed, developed, and operated in
7 Montana.

8 (2) An application for a loan or grant must be in the
9 form prescribed by the board and contain or be accompanied
10 by any information necessary to adequately describe the
11 proposed project or activity and necessary for evaluation of
12 the proposed project or activity under the criteria set out
13 in [sections 10 and 11].

14 NEW SECTION. Section 10. Eligibility for a loan or
15 grant to a private person. The department may not award a
16 grant or loan to a private person unless the department
17 finds, based on the application and the department's
18 investigation and evaluation of the proposal, that:

19 (1) the proposed water development project or
20 activity:

21 (a) will promote, enhance, or advance the purpose,
22 policies, and objectives of the water development program;

23 (b) will be constructed, developed, and operated
24 within the state of Montana;

25 (c) will be economically feasible. (A project or

1 activity is economically feasible if the project benefits
2 exceed the project costs. The department shall consider both
3 tangible and intangible benefits and costs in calculating
4 economic feasibility.)

5 (d) will be an efficient use of natural resources
6 including water, energy, land, and air. (An efficient use is
7 one that minimizes waste.)

8 (e) will provide multipurpose facilities to the extent
9 practicable;

10 (f) will comply with statutory and regulatory
11 standards protecting the quality of resources such as air,
12 water, land, fish, wildlife, and recreational opportunities;

13 (g) will provide associated public benefits in
14 addition to any private benefits the project or activity may
15 provide; and

16 (h) is needed to accomplish the purpose for which the
17 water development project or activity is proposed;

18 (2) the applicant has adequate financial resources to
19 construct, operate, and maintain the water development
20 project or activity. The department shall consider financial
21 resources from any source for which the applicant has
22 qualified, including a water development grant or loan.

23 (3) the applicant holds or can acquire all necessary
24 lands, other than public lands, and interests therein and
25 water rights necessary for the construction, operation, and

1 maintenance of the proposed water development project or
2 activity;

3 (4) if the application is for a loan, the applicant is
4 credit-worthy and able and willing to enter into a contract
5 with the department for loan repayment and construction or
6 development of the proposed water development project or
7 activity; and

8 (5) if the application is for a grant, the applicant
9 is able and willing to enter into a contract with the
10 department for construction or development of the proposed
11 water development project or activity.

12 NEW SECTION. Section 11. Evaluation of grants and
13 loans to private persons. The department shall consider the
14 following criteria and preferences in evaluating
15 applications and selecting the recipients of grants and
16 loans for water development projects and activities that are
17 eligible for funding under [section 10]:

18 (1) The extent and desirability of the public benefits
19 that will be provided must be considered.

20 (2) A water development project or activity that will
21 be used as part of a family farm or in starting a new
22 business shall be given preference. A family farm is one
23 devoted primarily to agriculture under the ownership of a
24 resident Montana family.

25 (3) A water development project or activity that will

1 utilize or develop water reserved under 85-2-316 shall be
2 given preference.

3 (4) The department, to the extent practicable, shall
4 attempt to achieve geographic balance in the promotion of
5 water development projects and activities through the
6 awarding of loans and grants to private persons.

7 (5) The extent to which the water development project
8 or activity will fully utilize water resources and promote
9 the conservation and efficient use of the water resource
10 shall be evaluated and considered.

11 (6) Projects or activities that could not be
12 accomplished without the assistance of a loan or grant shall
13 be given preference.

14 (7) The department shall give due consideration to any
15 other factor that, in the department's judgment, is
16 important to the evaluation of the water development project
17 or activity in light of the purposes, policies, and
18 objectives of the water development program.

19 NEW SECTION. Section 12. Department to solicit views.
20 The department shall solicit and consider in its evaluation
21 of proposed projects and activities the views of interested
22 and affected departments, boards, agencies, commissions, and
23 other subdivisions of the state, including local political
24 subdivisions, of the federal government, and of other
25 interested and affected persons.

1 NEW SECTION. Section 13. Rulemaking authority. The
2 board shall adopt rules:

3 (1) prescribing the form and content of applications
4 for grants and loans;

5 (2) governing the application of the criteria for
6 awarding loans and grants to private persons;

7 (3) providing for the servicing of loans including
8 arrangements for obtaining security interests and the
9 establishment of reasonable fees or charges to be made; and

10 (4) describing the terms and conditions for making
11 grants and loans, the security instruments, and the
12 agreements necessary.

13 NEW SECTION. Section 14. Limits on loans. (1) No loan
14 for a water development project or activity may be made from
15 the water development earmarked or clearance account that
16 exceeds the least of \$100,000, 10% of the estimated total
17 funds potentially available for loans in the water
18 development earmarked and clearance accounts in the biennium
19 in which the loan will be made, or 80% of the fair market
20 value of the security given therefor. In determining the
21 fair market value for the security given for a loan, the
22 department shall consider appraisals made by qualified
23 appraisers and other factors it considers important.

24 (2) The period for repayment of loans may not exceed
25 30 years.

1 (3) The board shall from time to time establish the
2 interest rate at which loans may be made under [sections 1,
3 2, and 4 through 23].

4 NEW SECTION. Section 15. Limits on grants from water
5 development earmarked account. The maximum grant awarded to
6 a private person may not exceed 5% of the estimated total
7 funds potentially available in the water development
8 earmarked account for grants in the biennium in which the
9 grant will be made.

10 NEW SECTION. Section 16. Security interests. The
11 state has a lien upon a project constructed with money from
12 the water development earmarked or clearance account for the
13 amount of the loan and interest due the state. This lien may
14 attach to any project facilities, equipment, easements, real
15 property, and property of any kind or nature owned by the
16 debtor, including all water rights. The department shall
17 file with the county clerk and recorder of each county in
18 which a part of the project is located either a financing
19 statement or a real estate mortgage covering the loan, its
20 amount, terms, and a description of the security. The
21 county clerk and recorder shall record and index the lien as
22 other liens are required by law to be recorded and indexed.
23 The lien shall be valid until paid in full or otherwise
24 discharged. The lien shall be foreclosed in accordance with
25 applicable state law governing foreclosure of mortgages and

1 liens.

2 NEW SECTION. Section 17. Administration of loans and
3 grants. The department shall:

4 (1) administer the loan and grant program established
5 by [sections 1, 2, and 4 through 23];

6 (2) service loans made or contract and pay for the
7 servicing of loans, including arrangements for obtaining
8 security interests; and

9 (3) collect reasonable fees or charges for the
10 servicing of loans, including arrangements for obtaining
11 security interests.

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

23 (2) Each series of water development bonds may be
24 issued by the board of examiners, upon request of the board
25 of natural resources and conservation, at public or private

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

16 (3) In the issuance of each series of water
 17 development bonds, the interest rates and the maturities and
 18 any mandatory redemption provisions thereof shall be
 19 established in such manner that the funds then specifically
 20 pledged and appropriated by law to the water development
 21 sinking account will in the judgment of the board of
 22 examiners be received in an amount sufficient in each year
 23 to pay all principal, redemption premiums, and interest due
 24 and payable in that year with respect to that and all prior
 25 series of such bonds, except outstanding bonds as to which

1 the obligation of the state has been discharged by the
 2 deposit of funds or securities sufficient for their payment
 3 in accordance with the terms of the resolutions by which
 4 they are authorized to be issued.

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

16 (5) There is created a water development clearance
 17 account within the bond proceeds and insurance clearance
 18 fund established in 17-2-102.

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

1 payment, redemption premiums, and interest on the particular
 2 bond issue from whose proceeds the loan was made. All
 3 proceeds of refunding bonds must be deposited in the water
 4 development sinking account and applied to the payment and
 5 redemption of outstanding bonds issued under this section as
 6 directed by the board, whether at maturity or on any earlier
 7 date on which they may be prepaid according to their terms.

8 (7) All actions taken by the board of examiners under
 9 this section or [section 20] must be authorized by a vote of
 10 a majority of the members of the board of examiners.

11 NEW SECTION. Section 19. Bond proceeds only for
 12 loans. Water development bond proceeds may be used only for
 13 the purpose of making loans as provided in the water
 14 development program.

15 NEW SECTION. Section 20. Sinking fund account --
 16 pledge and administration of sufficient balance. (1) The
 17 legislature may levy, impose, assess, and pledge and
 18 appropriate to the water development sinking account any
 19 tax, charge, fee, rental, or other income from any
 20 designated source. The state reserves the right to modify
 21 from time to time the nature and amount of special taxes and
 22 other revenues pledged and appropriated to the water
 23 development sinking account, provided that the aggregate
 24 resources so pledged and appropriated are determined by the
 25 legislature to be sufficient for the prompt and full payment

1 of the principal of and interest and redemption premiums
 2 when due on all bonds payable from that account and provided
 3 that the pledge of the full faith and credit and taxing
 4 powers of the state for the security of all such bonds shall
 5 be and remain irrevocable until they are fully paid.

6 (2) Money in the water development sinking account
 7 must be used first to pay interest, principal, and
 8 redemption premiums when due and payable with respect to
 9 water development bonds; second to accumulate a reserve for
 10 the further security of such payments, to the amount
 11 required each month to meet those payments due within 12
 12 months thereafter; and third to restore the reserve to this
 13 amount after each payment.

14 (3) After the reserve provided for in subsection (2)
 15 has been accumulated in the water development sinking
 16 account, money at any time received in the water development
 17 sinking account in excess of that amount must be transferred
 18 by the treasurer to the water development earmarked account.
 19 If the balance on hand at any time in the water development
 20 sinking account is not sufficient to accumulate required
 21 reserves under subsection (2) and is not restored to the
 22 required amount within 3 months thereafter from funds
 23 specifically pledged and appropriated to the water
 24 development sinking account, the treasurer shall transfer an
 25 amount sufficient to restore the required balance from the

1 general fund to the water development sinking account.

2 NEW SECTION. Section 21. Water development refunding
3 bonds. (1) The board of examiners may issue refunding bonds
4 at such times and in such amounts, if any, as may be
5 necessary to pay principal or interest due that cannot be
6 paid from funds then on hand in the water development
7 sinking account. The board of examiners may also issue
8 refunding bonds to refund outstanding bonds before maturity
9 for the purpose of extending the maturities thereof so far
10 as determined by the board of examiners to be necessary to
11 assure that the funds then pledged to the water development
12 sinking account will be sufficient for payment of principal
13 and interest due in subsequent years. The board of examiners
14 may also issue refunding bonds to refund outstanding bonds
15 before maturity for the purpose of reducing the interest
16 cost or the total amount of principal and interest payable
17 thereon.

18 (2) No refunding bonds may be issued and sold more
19 than 3 months before all bonds refunded thereby mature or
20 are called for redemption unless the proceeds thereof, with
21 any other funds in the water development sinking account
22 that are needed and available for the purpose or securities
23 purchased from such proceeds and other funds, are deposited
24 with a suitable banking institution within or outside the
25 state, in escrow, for the retirement of the refunded bonds

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

7 (3) No new debt may be created by the issuance of
8 refunding bonds in accordance with this section, but such
9 refunding bonds shall evidence the debt previously created
10 and shall be secured by the pledge of the full faith and
11 credit and taxing powers of the state and by the further
12 provisions of this part in the same manner as the bonds
13 refunded thereby.

14 NEW SECTION. Section 22. Report to the legislature.
15 The department shall prepare a biennial report to the
16 legislature describing the status of the water development
17 program. The report must describe ongoing projects and
18 activities and those which have been completed during the
19 biennium. The report must also describe proposed projects
20 and activities for the coming biennium and recommendations
21 for necessary appropriations. A copy of the report shall be
22 submitted to the president of the senate and the speaker of
23 the house and to such other members as may request a copy.

24 NEW SECTION. Section 23. Penalty. No member, officer,
25 attorney, or other employee of the board of natural

1 resources and conservation or the department of natural
 2 resources and conservation may, directly or indirectly, be
 3 the beneficiary of or receive any fee, commission, gift, or
 4 other consideration for or in connection with any
 5 transaction or business under [sections 1, 2, and 4 through
 6 23] other than the salary, fee, or other compensation as he
 7 may receive as a member, officer, attorney, or employee. A
 8 person convicted of violating any provision of this section
 9 shall be punished by a fine not to exceed \$2,000 or be
 10 imprisoned for not to exceed 2 years, or both.

11 NEW SECTION. Section 24. State of Montana coal
 12 severance tax bonds. [Sections 24 through 42] provide for
 13 the issuance of state of Montana coal severance tax bonds
 14 (also referred to as coal severance tax bonds in [sections
 15 24 through 42]) to finance water resource development
 16 projects and activities, other capital improvements, and
 17 economic development in the state designed to provide,
 18 during and after extensive coal mining, a healthy economy,
 19 the alleviation of social and economic impacts created by
 20 coal development, and a clean and healthful environment for
 21 present and future generations.

22 NEW SECTION. Section 25. Purpose and intent. (1) The
 23 purpose of the coal severance tax trust fund bond provisions
 24 of [sections 24 through 42] is to establish the authority to
 25 issue and sell coal severance tax bonds for financing

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

8 (2) The legislature intends that projects to be
 9 financed by coal severance tax bonds include but are not
 10 limited to water resource development projects and
 11 activities as part of the water development program
 12 established in [sections 1, 2, and 4 through 23]. The
 13 legislature further intends that the income from water
 14 resource development projects and activities in excess of
 15 the amount required for debt service and operation and
 16 maintenance of those projects and activities be deposited in
 17 the water development earmarked account established in
 18 [section 5].

19 NEW SECTION. Section 26. Coal severance tax trust
 20 subfunds. (1) The trust established under Article IX,
 21 section 5, of the Montana constitution shall be composed of
 22 the following subfunds:

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

1 (b) a coal severance tax permanent subfund; and

2 (c) a coal severance tax income subfund.

3 (2) On each December 31 and June 30 the state
4 treasurer shall transfer to the coal severance tax permanent
5 subfund all money in the coal severance tax bond subfund
6 except the amount necessary to meet all principal and
7 interest payments on bonds payable from the coal severance
8 tax bond subfund on the next ensuing semiannual payment
9 date.

10 NEW SECTION. Section 27. Investment of funds. Money
11 in the coal severance tax bond subfund, the coal severance
12 tax permanent subfund, and the coal severance tax income
13 subfund must be invested in accordance with the investment
14 standards for coal severance tax funds. Income and earnings
15 from all subfunds must be transferred to and retained in the
16 coal severance tax income subfund until appropriated by the
17 legislature.

18 NEW SECTION. Section 28. Pledge of coal severance tax
19 bond subfund. The money in the coal severance tax bond
20 subfund is pledged to the payment of the principal and
21 interest on all state of Montana coal severance tax bonds.
22 All bonds issued after [the effective date of sections 24
23 through 42] wherein the money in the coal severance tax bond
24 subfund is pledged for their retirement shall be called
25 "state of Montana coal severance tax bonds".

1 NEW SECTION. Section 29. Authority to issue coal
2 severance tax bonds. The board of examiners shall issue and
3 sell coal severance tax bonds to finance water resource
4 development projects and activities, other capital
5 improvements, or economic development when authorized to do
6 so by any law that sets out the amount and purpose of the
7 issue.

8 NEW SECTION. Section 30. Board of examiners to issue
9 bonds. The board of examiners may issue and sell coal
10 severance tax bonds, and no other agency of the state is so
11 authorized. Any action taken by the board of examiners under
12 [sections 24 through 42] must be approved by a majority vote
13 of its members.

14 NEW SECTION. Section 31. Special fund revenues. (1)
15 If a law authorizing a coal severance tax bond issue
16 contemplates the pledge and receipt of revenues, assets, or
17 money other than or in addition to the money in the coal
18 severance tax bond subfund, then the money derived from such
19 pledged revenues, assets, and money must be paid into a
20 special bond account for the benefit of such bonds, which
21 must be part of the sinking fund of the state treasury fund
22 structure.

23 (2) Money must be withdrawn from the coal severance
24 tax bond account and paid to the special bond fund as
25 necessary to provide for payment of principal and interest

1 on the coal severance tax bonds secured by a pledge of the
2 special account.

3 NEW SECTION. Section 32. Continued tax deposit limit
4 on additional bonds. (1) The legislature shall provide for
5 the continued assessment, levy, collection, and deposit into
6 the coal severance tax bond subfund of the coal severance
7 tax which, together with such other revenues, assets, and
8 money as may be deposited to one or more special bond
9 accounts pledged for the benefit of coal severance tax
10 bonds, will be sufficient to produce an amount that is at
11 least the amount necessary to pay, when due, the annual debt
12 service charges on all outstanding coal severance tax bonds.

13 (2) The board of examiners may issue no coal severance
14 tax bonds unless the aggregate amount of coal severance tax
15 bonds outstanding, including the proposed issue and any
16 other coal severance tax bonds authorized but not yet
17 issued, can be serviced with no more than two-thirds of the
18 annual deposits into the coal severance tax bond subfund, as
19 determined by the average of the deposits during the
20 preceding 3 fiscal years, together with the average of the
21 aggregate amount of revenues, assets, or money deposited in
22 one or more special bond accounts used to pay debt service
23 on outstanding coal severance tax bonds during the preceding
24 3 fiscal years.

25 (3) The provisions of this section may not be modified

1 so as to reduce the security for any coal severance tax
2 bonds while such bonds are outstanding.

3 NEW SECTION. Section 33. Form -- principal and
4 interest -- fiscal agent -- deposit of proceeds. (1) Each
5 series of coal severance tax bonds must be issued by the
6 board of examiners at public or private sale, in such
7 denominations and form, whether payable to bearer or
8 registered as to principal or both principal and interest,
9 with such provisions for the conversion or exchange, bearing
10 interest at such rate or rates, maturing at such times not
11 exceeding 40 years from date of issue, subject to redemption
12 at such earlier times and prices and upon such notice, and
13 payable at the office of such fiscal agency of the state as
14 the board of examiners shall determine subject to the
15 limitations contained in [sections 24 through 42].

16 (2) In all other respects the board of examiners is
17 authorized to prescribe the form and terms of the bonds and
18 shall do whatever is lawful and necessary for their issuance
19 and payment.

20 (3) Coal severance tax bonds and any interest coupons
21 appurtenant thereto shall be signed by the members of the
22 board of examiners, and the bonds shall be issued under the
23 great seal of the state of Montana. The bonds and coupons
24 may be executed with facsimile signatures and seal in the
25 manner and subject to the limitations prescribed by law. The

1 state treasurer shall keep a record of all such bonds issued
2 and sold.

3 (4) The board of examiners is authorized to employ a
4 fiscal agent to assist in the performance of its duties
5 hereunder.

6 (5) All proceeds of a state of Montana coal severance
7 tax bonds issue shall be deposited in a bond proceeds and
8 insurance clearance fund account established for that bond
9 issue, except that any premiums and accrued interest
10 received shall be deposited in a sinking fund account
11 established for that bond issue.

12 NEW SECTION. Section 34. Trust indenture. In the
13 discretion of the board of examiners, a series of coal
14 severance tax bonds may be secured by a trust indenture by
15 and between the board of examiners and a trustee, which may
16 be any trust company or bank having the powers of a trust
17 company within or outside of the state. Each trust indenture
18 or an executed counterpart thereof shall be filed in the
19 office of the secretary of state of Montana. The filing of a
20 trust indenture or an executed counterpart thereof in the
21 office of the county clerk of the county in which the
22 property covered by the trust indenture is located is
23 constructive notice of its contents to all persons from the
24 time of the filing, and the recording of the trust indenture
25 of its contents is not necessary.

1 NEW SECTION. Section 35. Provisions for protecting
2 bondholders. Either the legislative act providing for the
3 issuance of coal severance tax bonds or the trust indenture
4 may contain provisions for protecting and enforcing the
5 rights and remedies of the bondholders as are reasonable,
6 proper, and not in violation of law, including covenants
7 setting forth the duties of the state, the board of
8 examiners, and the departments, boards, or agencies of state
9 government in relation to the acquisition, construction,
10 improvement, maintenance, operation, repair, and insurance
11 of the projects financed with the proceeds of coal severance
12 tax bonds and the custody, safeguarding, and application of
13 all money. The indenture may set forth the rights and
14 remedies of the bondholders as is customary in trust
15 indentures, deeds of trusts, and mortgages securing bonds or
16 debentures of corporations. No enumeration of particular
17 powers granted by this section impairs any general grant of
18 power contained in [sections 24 through 42].

19 NEW SECTION. Section 36. Personal liability -- suit
20 to compel performance. (1) The members of the board of
21 examiners and officers and employees of the departments,
22 boards, or agencies of state government are not personally
23 liable or accountable by reason of the issuance of or on any
24 coal severance tax bond issued by the board of examiners.

25 (2) Any holder of coal severance tax bonds or any

1 person or officer being a party in interest, subject to any
2 applicable coal severance tax agreements or indentures, may
3 sue to enforce and compel the performance of the coal
4 severance tax bond provisions as set out in [sections 24
5 through 42].

6 NEW SECTION. Section 37. Negotiability of bonds. Coal
7 severance tax bonds issued are negotiable instruments under
8 the Uniform Commercial Code, subject only to the provisions
9 for registration of bonds.

10 NEW SECTION. Section 38. Signatures of board members.
11 In the case any member of the board of examiners whose
12 signature appears on coal severance tax bonds or coupons
13 ceases to be a member before the delivery of the bonds, his
14 signature is nevertheless valid and sufficient for all
15 purposes, the same as if the member has remained in office
16 until delivery.

17 NEW SECTION. Section 39. Refunding obligations. (1)
18 The state board of examiners may provide for the issuance of
19 refunding obligations for refunding any obligations then
20 outstanding that have been issued under [sections 24 through
21 42], including the payment of any redemption premium and any
22 interest accrued or to accrue to the date of redemption of
23 the obligations. The issuance of refunding obligations, the
24 maturities and other details, the rights of the holders, and
25 the rights, duties, and obligations of the state are

1 governed by the appropriate provisions of [sections 24
2 through 42] that relate to the issuance of obligations.

3 (2) Refunding obligations issued as provided in
4 subsection (1) may be sold or exchanged for outstanding
5 obligations issued under [sections 24 through 42]. The
6 proceeds may be applied to the purchase, redemption, or
7 payment of outstanding obligations. Pending the application
8 of the proceeds of refunding obligations, with other
9 available funds, to the payment of principal, accrued
10 interest, and any redemption premium on the obligations
11 being refunded and, if permitted in the resolution
12 authorizing the issuance of the refunding obligations or in
13 the trust agreement securing them, to the payment of
14 interest on refunding obligations and expenses in connection
15 with refunding, the proceeds may be invested as provided in
16 Title 17, chapter 6.

17 NEW SECTION. Section 40. Pledge of the state. In
18 accordance with the constitutions of the United States and
19 the state of Montana, the state pledges that it will not in
20 any way impair the obligations of any agreement between the
21 state and the holders of notes and bonds issued by the
22 state.

23 NEW SECTION. Section 41. Tax exemption of bonds --
24 legal investments. (1) All coal severance tax bonds, their
25 transfer, and their income, including any profits made on

1 their sale, are exempt from taxation by the state or any
2 political subdivisions or other instrumentality of the
3 state, excepting inheritance, estate, and gift taxes.

4 (2) Coal severance tax bonds are legal investments for
5 any person or board charged with investment of public funds
6 and are acceptable as security for any deposit of public
7 money.

8 NEW SECTION. Section 42. Limitation on amount of coal
9 severance tax bonds issued. No more than \$500 million worth
10 of coal severance tax bonds may be issued for water
11 development projects and activities, other capital
12 improvements, and economic development.

13 Section 43. Section 15-35-108, MCA, is amended to
14 read:

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

18 (1) To the trust fund created by Article IX, section
19 5, of the Montana constitution, 25% of total collections a
20 year. After December 31, 1979, 50% of coal severance tax
21 collections are allocated to this trust fund. The trust fund
22 moneys shall be deposited in the fund established under
23 17-6-203(5) and invested by the board of investments as
24 provided by law.

25 (2) Coal severance tax collections remaining after

1 allocation to the trust fund under subsection (1) are
2 allocated in the following percentages of the remaining
3 balance:

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

8 (b) 2 1/2% until December 31, 1979, and thereafter 5%
9 to the earmarked revenue fund to the credit of the
10 alternative energy research development and demonstration
11 account;

12 (c) 26 1/2% until July 1, 1979, and thereafter 37 1/2%
13 to the earmarked revenue fund to the credit of the local
14 impact and education trust fund account;

15 (d) for each of the 2 fiscal years following June 30,
16 1977, 13% to the earmarked revenue fund to the credit of the
17 coal area highway improvement account;

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

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

22 (g) ~~2-1/2%~~ 1 1/4% to the sinking fund to the credit of
23 the renewable resource development bond account;

24 (h) 5% to the earmarked revenue fund to the credit of
25 a trust fund for the purpose of parks acquisition or

1 management, protection of works of art in the state capitol,
2 and other cultural and aesthetic projects. Income from this
3 trust fund shall be appropriated as follows:

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

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

9 (i) 1% to the earmarked revenue fund to the credit of
10 the state library commission for the purposes of providing
11 basic library services for the residents of all counties
12 through library federations and for payment of the costs of
13 participating in regional and national networking;

14 ~~(j) 1 1/4% to the sinking fund to the credit of the~~
15 ~~water development sinking account;~~

16 ~~(j)(k) all other revenues from severance taxes~~
17 ~~collected under the provisions of this chapter to the credit~~
18 ~~of the general fund of the state."~~

19 Section 44. Section 15-38-202, MCA, is amended to
20 read:

21 "15-38-202. Investment of resource indemnity trust
22 account -- expenditure -- minimum balance. (1) All moneys
23 paid into the resource indemnity trust account shall be
24 invested at the discretion of the board of investments. All
25 the net earnings accruing to the resource indemnity trust

1 account shall annually be added thereto until it has reached
2 the sum of \$10 million. Thereafter, only the net earnings
3 may be appropriated and expended until the account reaches
4 \$100 million. Thereafter, all net earnings and all receipts
5 shall be appropriated by the legislature and expended,
6 provided that the balance in the account may never be less
7 than \$100 million.

8 ~~(2) Beginning in fiscal year 1982, provided the amount~~
9 ~~in the resource trust account is greater than \$10 million,~~
10 ~~30% of the interest income of the resource indemnity trust~~
11 ~~account must be allocated to water development earmarked~~
12 ~~account created by [section 5]."~~

13 Section 45. Section 85-1-301, MCA, is amended to read:

14 "85-1-301. Water conservation revenue bonds. (1) The
15 board is hereby authorized to provide, by resolution, at one
16 time or from time to time, for the issuance of water
17 conservation revenue bonds of the state for the purpose of
18 paying the cost, as hereinabove defined, of any one or more
19 such public works, the principal and interest of which bonds
20 shall be payable solely from the special fund herein
21 provided for such payment. Such bonds shall mature at such
22 time or times, not more than 40 years from their date or
23 dates, as may be fixed by such resolution but may be made
24 redeemable before maturity at the option of the state, to be
25 exercised by the board, at such price or prices and under

1 such terms and conditions as may be fixed by the board prior
 2 to the issuance of the bonds. The board shall determine the
 3 rate of interest such bonds shall bear, ~~not exceeding 6% per~~
 4 ~~annum~~; the time or times of payment of such interest; the
 5 form of the bonds and the interest coupons to be attached
 6 thereto; and the manner of executing the bonds and coupons
 7 and shall fix the denomination or denominations of the bonds
 8 and the place or places of payment of principal and interest
 9 thereof, which may be at any bank or trust company within or
 10 without the state.

11 (2) Provisions may be made for the registration of any
 12 of the bonds in the name of the owner as to principal alone
 13 or as to both principal and interest. The bonds authorized
 14 under the provisions of this section and 85-1-303 may be
 15 issued and sold from time to time and in such amounts as may
 16 be determined by the board, and the board may sell the bonds
 17 in such manner and for such price as it may determine to be
 18 for the best interests of the state, ~~but no such sale shall~~
 19 ~~be made for less than a price which, computed with relation~~
 20 ~~to the absolute maturity of the bonds in accordance with~~
 21 ~~standard tables of bond values, will show a net return of 6%~~
 22 ~~per annum to the purchaser upon the amount paid therefor.~~
 23 The proceeds of such bonds shall be used solely for the
 24 payment of the cost of the works and shall be checked out in
 25 such manner and under such restrictions, if any, as the

1 board may provide.

2 (3) Each resolution providing for the issuance of
 3 bonds shall set forth the project or projects for which the
 4 bonds are to be issued, and the bonds authorized by each
 5 such resolution shall constitute a separate series. The
 6 bonds of each series shall be identified by a series letter
 7 or letters and may be sold and delivered at one time or from
 8 time to time."

9 Section 46. Section 85-1-332, MCA, is amended to read:
 10 "85-1-332. Disposition of moneys collected. ~~(1)~~ For
 11 the purpose of carrying out the provisions of this chapter
 12 and such other water resource authority, powers, and duties
 13 as are conferred upon the department by law, the following
 14 moneys shall be deposited in the ~~earmarked revenue fund for~~
 15 ~~the use of the department~~ water development earmarked
 16 account created by [section 5]:

17 ~~(1)~~ all sums of money donated or contributed by the
 18 federal government or any department or agencies thereof;

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

24 ~~(3)~~ all reimbursements for money advanced for the
 25 payment of the assessments upon state, school-granted, and

1 other public lands for the improvement thereof as provided
2 by law;

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

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

16 ~~(2) The following shall be deposited in the state~~
17 ~~general fund.~~

18 ~~(6) except as otherwise provided by law,~~ all income
19 or profit and revenue of the works and all money received
20 from the sale or disposal of water, use of water, water
21 storage, or other service and from the operation, lease,
22 sale, or other disposition of the works, property, and
23 facilities acquired under this chapter; and

24 ~~(7) except as otherwise provided by law,~~ all sums
25 received by the department for the use of electricity in

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

3 Section 47. Section 90-2-101, MCA, is amended to read:

4 "90-2-101. Policy and purpose. (1) In the development
5 of the natural resources of the state, it is essential to
6 distinguish between those which are and those which are not
7 renewable; to make proper charges through taxation and
8 otherwise for the depreciation of nonrenewable resources;
9 and to invest a proper proportion of the tax and other
10 revenues from nonrenewable resources in the replacement
11 thereof with developments of renewable natural resources
12 that will preserve for the citizens the benefit of the
13 state's natural heritage and to ensure that the quality of
14 existing public resources such as land, air, water, fish,
15 wildlife, and recreational opportunities are not
16 significantly diminished by developments supported by this
17 part.

18 (2) In order to finance such developments, it is
19 necessary to borrow in anticipation of the receipt of the
20 revenues so that replacement will not lag behind
21 consumption. The purpose of this part is to provide a
22 procedure for borrowing in the most economical way for this
23 purpose, to authorize the creation of debt to finance the
24 first stage of the program, and to describe the types of
25 projects, loans, and grants to be included in the program."

1 Section 48. Section 90-2-111, MCA, is amended to read:

2 *90-2-111. Grants to divisions of state government.

3 (1) The department of natural resources and conservation may
4 recommend to the governor that grants from the renewable
5 resource development account provided for by this part be
6 made to any department, agency, board, commission, or other
7 division of state government.

8 (2) The department shall solicit and consider in its
9 evaluation of proposed projects the views of interested and
10 affected departments, boards, agencies, and other
11 subdivisions of state and federal government and of other
12 interested and affected persons.

13 (3) The governor shall submit those grant proposals
14 having his approval to the legislature by the 20th day of
15 any legislative session. Those grant proposals approved by
16 the legislature shall be administered by the department.

17 (4) The grants provided for by this section may be
18 made for the purchase, lease, or construction of projects
19 for the conservation, management, utilization, development,
20 or preservation of the land, water, fish, wildlife,
21 recreational, and other renewable resources in the state;
22 for the purpose of feasibility and design studies for such
23 projects; for development of plans for the rehabilitation,
24 expansion, or modification of existing projects; and for
25 such other and further similar purposes as the legislature

1 may approve.

2 (5) The department may adopt rules as required to
3 govern the terms and conditions for making grants pursuant
4 to this section."

5 Section 49. Section 90-2-124, MCA, is amended to read:

6 *90-2-124. Appropriation of coal severance tax. The
7 state pledges and appropriates and directs to be credited to
8 the sinking fund account, as received, ~~2-1/2%~~ 1.1/4% of all
9 money from time to time received from the collection of the
10 severance tax and remaining after allocation of such tax to
11 the trust fund established under section 5, Article IX, of
12 the Montana constitution and such additional amount thereof,
13 if any, as may be required from time to time to provide
14 sufficient funds for the purposes stated in 90-2-123(2),
15 provided that no more than ~~2-1/2%~~ 1.1/4% of such tax
16 collections shall be deemed to be pledged for the purpose of
17 90-2-121(3)."

18 Section 50. Codification instruction. Sections 1, 2,
19 and 4 through 23 are intended to be codified as an integral
20 part of Title 85, chapter 1, and the provisions of Title 85,
21 chapter 1, apply to sections 1, 2, and 4 through 23.

22 Section 51. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the
2 invalid applications.

3 Section 52. Repealer. Sections 85-1-333 and 85-1-334,
4 MCA, are repealed.

5 Section 53. Effective date. This act, except for
6 sections 4, 43, and 49, is effective July 1, 1981. Sections
7 4, 43, and 49 are effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 338-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 9, , 1981 , there is hereby submitted a Fiscal Note for Senate Bill 409 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

The proposed legislation creates a water-development program which is funded in one of three ways: (1) Revenues from state-water projects and 30 percent of the interest income from the Resource Indemnity Trust Account which previously went into the general fund will be earmarked for the water-development earmarked account. This account will fund biennial water-development projects and activities and administration of the program; (2) The legislation reallocates the coal severance tax dedicated to the Renewable Resources Development fund (RRD) equally between RRD and the water-development earmarked account. This .625 percent of the gross proceeds of the coal severance tax will finance water-development grants and loans to private persons, local governments, political subdivisions of the state, and state agencies, and it will also finance up to \$5 million worth of water-development bonds. Water-development bond proceeds will be used for water-development loans. These general obligation bonds will be backed by loan repayments, and .625 percent of the coal severance tax. (3) Proceeds of the coal severance tax which flow into the constitutional coal severance tax trust fund will be used to back State of Montana Severance Tax Bonds. Up to two-thirds of coal severance tax revenues can be used to back severance tax bonds; the remaining one-third will continue to flow into the trust. Severance tax bonds will be used to finance water-development projects, other capital improvements and economic development.

ASSUMPTIONS

1. Estimates of the interest income from the Resource Indemnity Trust Account made by the Governor's Budget Office were used.
2. Estimates of income from state water projects were made by the Water Resources Division, Department of Natural Resources and Conservation.

REVENUE IMPACT

SB 409 will establish an earmarked water-development account to be funded by revenues from state water projects and 30 percent of the interest income from the Resource Indemnity Trust Account. Currently, revenues from state water projects are deposited to the general fund, and interest from the Resource Indemnity Trust Account is available for discretionary appropriation to natural-resource projects.

David M. Leuss

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-12-81

	<u>FY 1982</u>	<u>FY 1983</u>	<u>Total Biennium</u>
General Fund - State Water Projects Revenues	\$305,700	\$314,871	\$ 620,571
30% of the interest income from the Resource Indemnity Trust Account	602,962	788,378	1,391,340
Appropriation of the interest income from the Resource Indemnity Trust Account			<u>40,732</u>
 Total Revenue Deposited to the Earmarked Water Development Account	 <u>\$908,662</u>	 <u>\$1,103,249</u>	 <u>\$2,052,643</u>
 .625% of the Coal Severance Tax	 \$666,032	 \$808,606	 \$1,474,638

The proposal does not generate additional revenue; it reallocates existing tax revenue.

Expenditure Impact

Personal Services	\$201,663	\$228,527	\$ 430,190
Operating Expenses	375,400	387,755	765,155
Capital Outlay	<u>125,000</u>	<u>175,000</u>	<u>300,000</u>
 Total Expenditures	 \$702,063	 \$793,282	 \$1,495,345

1 STATEMENT OF INTENT

2 SENATE BILL 409

3 Senate Agriculture, Livestock and Irrigation Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Board of Natural
7 Resources and Conservation in section 13.

8 The intent is to provide the Board with the authority
9 to adopt those rules necessary to administer the loan and
10 grant portion of the water development program. The
11 authority is limited by section 13 to prescribing the form
12 and content of applications for grants and loans, to
13 adopting rules governing the application of the criteria for
14 awarding loans and grants to private persons, to adopting
15 rules providing for the servicing of loans including
16 arrangements for obtaining security interests and the
17 establishment of reasonable fees or charges to be made, and
18 to prescribing the terms and conditions for making grants
19 and loans, the security instruments, and the agreements
20 necessary.

21 First adopted by the Senate Agriculture, Livestock and
22 Irrigation Committee on the 18th day of February, 1981.

Approved by Committee
on Agriculture Livestock
& Irrigation

1 SENATE BILL NO. 409

2 INTRODUCED BY MANNING, GALT

3 BY REQUEST OF THE GOVERNOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A WATER
6 DEVELOPMENT PROGRAM; ESTABLISHING A LOAN AND GRANT PROGRAM
7 FOR WATER DEVELOPMENT PROJECTS AND ACTIVITIES; ESTABLISHING
8 AN EARMARKED WATER DEVELOPMENT ACCOUNT; ALLOCATING A PORTION
9 OF THE COAL SEVERANCE TAX PROCEEDS; ALLOCATING A PORTION OF
10 THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST
11 ACCOUNT; CREATING AUTHORITY FOR WATER DEVELOPMENT BONDS;
12 CREATING AUTHORITY FOR COAL SEVERANCE TAX TRUST FUND BONDS;
13 LIFTING THE INTEREST CEILING ON WATER CONSERVATION REVENUE
14 BONDS; AMENDING SECTIONS 15-35-108, 15-38-202, 85-1-102,
15 85-1-301, 85-1-332, 90-2-101, 90-2-111, AND 90-2-124, MCA;
16 REPEALING SECTIONS 85-1-333 AND 85-1-334, MCA; AND PROVIDING
17 EFFECTIVE DATES."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 NEW SECTION. Section 1. Purpose and policies. (1) The
21 legislature finds and declares that in order that the people
22 of Montana may enjoy the full economic and recreational
23 benefits of the state's water resources, the state must
24 establish this long-term water development program providing
25 financial and administrative assistance to private, local,

1 and state entities for water resource development projects
2 and activities.

3 (2) The purpose of the water development program is to
4 further the state's policies, set forth in 85-1-101,
5 regarding the conservation, development, and beneficial use
6 of water resources.

7 (3) The legislature recognizes that water is one of
8 the most valuable and important renewable resources in
9 Montana; therefore, it is appropriate that a portion of the
10 taxes on the removal of nonrenewable resources be dedicated
11 to the conservation, development, and beneficial use of
12 water resources.

13 (4) The development of water resources is of a high
14 priority because a large portion of Montana's present and
15 future economy is based either directly or indirectly on the
16 wise use of water.

17 (5) This water development program is an integral part
18 of the implementation and development of the comprehensive,
19 coordinated, multiple-use water resources plan known as the
20 "state water plan".

21 NEW SECTION. Section 2. Objectives. The department
22 shall administer a water development program to accomplish
23 such objectives as rehabilitation of state-owned water
24 projects and works; promotion of private, local government,
25 and state water development; development of water-based

1 recreation and the protection of water resources for the
 2 benefit of agriculture, flood control, and other uses;
 3 development of offstream and tributary storage; and
 4 development of state-tribal, state-federal, and
 5 state-tribal-federal water projects. The water development
 6 program is the key implementation portion of the state water
 7 plan and shall be administered to accomplish the objectives
 8 of the plan.

9 Section 3. Section 85-1-102, MCA, is amended to read:

10 "85-1-102. Definitions. Unless the context requires
 11 otherwise, in this chapter the following definitions apply:

12 (1) "Board" means the board of natural resources and
 13 conservation provided for in 2-15-3302.

14 (2) "Cost of works" means the cost of construction;
 15 the cost of all lands, property, rights, easements, and
 16 franchises acquired which are deemed necessary for the
 17 construction; the cost of all water rights acquired or
 18 exercised by the department in connection with those works;
 19 the cost of all machinery and equipment, financing charges,
 20 interest prior to and during construction and for a period
 21 not exceeding 3 years after the completion of construction;
 22 cost of engineering and legal expenses, plans,
 23 specifications, surveys, estimates of cost, and other
 24 expenses necessary or incident to determining the
 25 feasibility or practicability of any project; administrative

1 expense; and such other expenses as may be necessary or
 2 incident to the financing herein authorized and the
 3 construction of the works and the placing of the same in
 4 operation.

5 (3) "Department" means the department of natural
 6 resources and conservation provided for in Title 2, chapter
 7 15, part 33.

8 (4) "Owner" means all individuals, irrigation
 9 districts, drainage districts, flood control districts,
 10 incorporated companies, societies, or associations having
 11 any title or interest in any properties, rights, easements,
 12 or franchises to be acquired.

13 (5) "Private person" means any individual,
 14 association, partnership, corporation, or other
 15 nongovernmental entity not eligible for loans and grants
 16 under [section 6] but does not include a governmental entity
 17 such as an agency, local government, or political
 18 subdivision of the state, the United States, or any agency
 19 thereof, or any other governmental entity.

20 ~~(5)~~(6) "Project" means any one of the works herein
 21 defined or any combination of such works which are
 22 physically connected or jointly managed and operated as a
 23 single unit.

24 (7) "Public benefits" means those benefits that accrue
 25 from a water development project or activity to persons

1 other than the private grant or loan recipient and that
 2 enhance the common well-being of the people of Montana.
 3 Public benefits include but are not limited to recreation,
 4 flood control, erosion reduction, agricultural flood damage
 5 reduction, water quality enhancement, sediment reduction,
 6 access to recreation opportunities, and wildlife
 7 conservation.

8 (8) "Water development clearance account" means a
 9 separate account created by [section 18] within the bond
 10 PROCEEDS and insurance clearance fund of the state treasury
 11 to finance loans under the provisions of the water
 12 development program to agencies, local governments, and
 13 political subdivisions of the state, private persons, and
 14 any other eligible recipients from proceeds of bonds issued
 15 under [sections 1, 2, and 4 through 23].

16 (9) "Water development activity" means an action or
 17 program to promote water-based recreation or to protect or
 18 enhance water resources for the benefit of agriculture,
 19 flood control, or other uses, including but not limited to
 20 such purposes as the promotion of efficient use of water in
 21 agriculture, the improvement of water quality in agriculture
 22 and other nonpoint source uses, the promotion of water-based
 23 recreation, the control of erosion of streambanks and
 24 control of sedimentation of rivers and streams, and
 25 providing greater local and state control of Montana water

1 resources. Water development activities may provide any
 2 combination of marketable and nonmarketable benefits.

3 (10) "Water development earmarked account" means a
 4 separate account created by [section 5] within the earmarked
 5 revenue fund of the state treasury for the purposes of the
 6 water development program as set forth in [section 5].

7 (11) "Water development project" means a project as
 8 defined in subsection (6), except that water development
 9 projects are not limited to projects owned or operated by
 10 the department.

11 (12) "Water development sinking account" means a
 12 separate account created by [section 4] within the sinking
 13 fund of the state treasury to be used as provided in
 14 [section 20].

15 (6)(13) "Works" means all property, rights, easements,
 16 and franchises relating thereto and deemed necessary or
 17 convenient for their operation and all water rights acquired
 18 or exercised by the department in connection with those
 19 works and includes all means of conserving and distributing
 20 water, including, without limiting the generality of the
 21 foregoing, reservoirs, dams, diversion canals, distributing
 22 canals, waste canals, drainage canals, dikes, lateral
 23 ditches and pumping units, mains, pipelines, and waterworks
 24 systems and includes all such works for the conservation,
 25 development, storage, distribution, and utilization of

1 water, including without limiting the generality of the
 2 foregoing, works for the purpose of irrigation, flood
 3 prevention, drainage, fish and wildlife, recreation,
 4 development of power, watering of stock, supplying of water
 5 for public, domestic, industrial, or other uses and for fire
 6 protection."

7 NEW SECTION. Section 4. Water development sinking
 8 account created -- coal severance tax allocated. (1) There
 9 is created a water development sinking account within the
 10 sinking fund established in 17-2-102.

11 (2) The state pledges and allocates and directs to be
 12 credited to the water development sinking account, as
 13 received, 1 1/4% of all money from time to time received
 14 from the coal severance tax collected under Title 15,
 15 chapter 35, and remaining after allocation of such tax to
 16 the trust fund established under Article IX, section 5, of
 17 The Constitution of the State of Montana.

18 NEW SECTION. Section 5. Water development earmarked
 19 account created -- revenues allocated -- limitations on
 20 appropriations from account. (1) There is created a water
 21 development earmarked account within the earmarked revenue
 22 fund established in 17-2-102.

23 (2) There shall be paid into the water development
 24 earmarked account:

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

1 provided in 85-1-332;

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

5 (c) the excess of the coal severance tax proceeds
 6 allocated by [section 4] to the water development sinking
 7 account above debt service requirements as provided in and
 8 subject to the conditions of [section 20].

9 (3) Appropriations may be made from the water
 10 development earmarked account for the following purposes and
 11 subject to the following conditions:

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

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

24 (i) the rehabilitation of state-owned projects and
 25 works, including the rehabilitation of spillways of

1 state-owned dams;

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

4 (iii) the development of the hydropower potential of
5 state-owned dams;

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

9 (v) the promotion of the development of offstream and
10 tributary storage;

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

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

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

20 (c) An amount less than or equal to that paid into the
21 account from the water development sinking account and only
22 that amount may be appropriated from the account for loans
23 and grants for water development projects and activities and
24 for administrative expenses, including but not limited to
25 the salaries and expenses of personnel, equipment, office

1 space, and other necessities incurred in administering the
2 loans and grants.

3 NEW SECTION. Section 6. Grants and loans to state and
4 local governments. (1) The department may recommend to the
5 legislature that grants and loans be made from coal
6 severance tax proceeds deposited in the water development
7 earmarked account and loans be made from water development
8 bond proceeds deposited in the water development clearance
9 account to a department, agency, board, commission, or other
10 division of state government or to a city, county, or other
11 political subdivision or local government body of the state.
12 The legislature may approve by appropriation or other
13 appropriate means those grants and loans it finds consistent
14 with the policies and purposes of the program.

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

1 state; and for similar purposes approved by the legislature.

2 NEW SECTION. Section 7. Grants and loans to private
3 persons. (1) To encourage the construction and development
4 of water development projects and activities, the department
5 may make grants and loans to private persons from funds
6 appropriated from the water development earmarked account
7 and may make loans to private persons from the water
8 development clearance account.

9 (2) The department shall publicize the statutes and
10 rules governing grants and loans to private persons for
11 water development projects and activities, set and publicize
12 application deadlines, and accept applications for grants
13 and loans.

14 (3) The department shall review, evaluate, and select
15 water development projects and activities for which grants
16 or loans may be awarded.

17 NEW SECTION. Section 8. Division of funds between
18 water development projects and activities. (1) The
19 department shall recommend, to the extent possible, that
20 water development projects and water development activities
21 be funded equally when making recommendations to the
22 legislature on loans and grants for state and local water
23 development under [section 6].

24 (2) The department shall, to the extent possible, in
25 approving grants and loans to private persons fund water

1 development projects and water development activities
2 equally.

3 NEW SECTION. Section 9. Applications for grants and
4 loans to private persons. (1) A private person may apply for
5 a grant or loan to finance a water development project or
6 activity to be constructed, developed, and operated in
7 Montana.

8 (2) An application for a loan or grant must be in the
9 form prescribed by the board and contain or be accompanied
10 by any information necessary to adequately describe the
11 proposed project or activity and necessary for evaluation of
12 the proposed project or activity under the criteria set out
13 in [sections 10 and 11].

14 NEW SECTION. Section 10. Eligibility for a loan or
15 grant to a private person. The department may not award a
16 grant or loan to a private person unless the department
17 finds, based on the application and the department's
18 investigation and evaluation of the proposal, that:

19 (1) the proposed water development project or
20 activity:

21 (a) will promote, enhance, or advance the purpose,
22 policies, and objectives of the water development program;

23 (b) will be constructed, developed, and operated
24 within the state of Montana;

25 (c) will be economically feasible. (A project or

1 activity is economically feasible if the project benefits
2 exceed the project costs. The department shall consider both
3 tangible and intangible benefits and costs in calculating
4 economic feasibility.)

5 (d) will be an efficient use of natural resources
6 including water, energy, land, and air. (An efficient use is
7 one that minimizes waste.)

8 (e) will provide multipurpose facilities to the extent
9 practicable;

10 (f) will comply with statutory and regulatory
11 standards protecting the quality of resources such as air,
12 water, land, fish, wildlife, and recreational opportunities;

13 (g) will provide associated public benefits in
14 addition to any private benefits the project or activity may
15 provide; and

16 (h) is needed to accomplish the purpose for which the
17 water development project or activity is proposed;

18 (2) the applicant has adequate financial resources to
19 construct, operate, and maintain the water development
20 project or activity. The department shall consider financial
21 resources from any source for which the applicant has
22 qualified, including a water development grant or loan.

23 (3) the applicant holds or can acquire all necessary
24 lands, other than public lands, and interests therein and
25 water rights necessary for the construction, operation, and

1 maintenance of the proposed water development project or
2 activity;

3 (4) if the application is for a loan, the applicant is
4 credit-worthy and able and willing to enter into a contract
5 with the department for loan repayment and construction or
6 development of the proposed water development project or
7 activity; and

8 (5) if the application is for a grant, the applicant
9 is able and willing to enter into a contract with the
10 department for construction or development of the proposed
11 water development project or activity.

12 NEW SECTION. Section 11. Evaluation of grants and
13 loans to private persons. The department shall consider the
14 following criteria and preferences in evaluating
15 applications and selecting the recipients of grants and
16 loans for water development projects and activities that are
17 eligible for funding under [section 10]:

18 (1) The extent and desirability of the public benefits
19 that will be provided must be considered.

20 (2) A water development project or activity that will
21 be used as part of a family farm or in starting a new
22 business shall be given preference. A family farm is one
23 devoted primarily to agriculture under the ownership of a
24 resident Montana family.

25 (3) A water development project or activity that will

1 utilize or develop water reserved under 85-2-316 shall be
2 given preference.

3 (4) The department, to the extent practicable, shall
4 attempt to achieve geographic balance in the promotion of
5 water development projects and activities through the
6 awarding of loans and grants to private persons.

7 (5) The extent to which the water development project
8 or activity will fully utilize water resources and promote
9 the conservation and efficient use of the water resource
10 shall be evaluated and considered.

11 (6) Projects or activities that could not be
12 accomplished without the assistance of a loan or grant shall
13 be given preference.

14 (7) The department shall give due consideration to any
15 other factor that, in the department's judgment, is
16 important to the evaluation of the water development project
17 or activity in light of the purposes, policies, and
18 objectives of the water development program.

19 NEW SECTION. Section 12. Department to solicit views.
20 The department shall solicit and consider in its evaluation
21 of proposed projects and activities the views of interested
22 and affected departments, boards, agencies, commissions, and
23 other subdivisions of the state, including local political
24 subdivisions, of the federal government, and of other
25 interested and affected persons.

1 NEW SECTION. Section 13. Rulemaking authority. The
2 board shall adopt rules:

3 (1) prescribing the form and content of applications
4 for grants and loans;

5 (2) governing the application of the criteria for
6 awarding loans and grants to private persons;

7 (3) providing for the servicing of loans including
8 arrangements for obtaining security interests and the
9 establishment of reasonable fees or charges to be made; and

10 (4) describing the terms and conditions for making
11 grants and loans, the security instruments, and the
12 agreements necessary.

13 NEW SECTION. Section 14. Limits on loans. (1) No loan
14 for a water development project or activity may be made from
15 the water development earmarked or clearance account that
16 exceeds the least of \$100,000, 10% of the estimated total
17 funds potentially available for loans in the water
18 development earmarked and clearance accounts in the biennium
19 in which the loan will be made, or 80% of the fair market
20 value of the security given therefor. In determining the
21 fair market value for the security given for a loan, the
22 department shall consider appraisals made by qualified
23 appraisers and other factors it considers important.

24 (2) The period for repayment of loans may not exceed
25 30 years.

1 (3) The board shall from time to time establish the
2 interest rate at which loans may be made under [sections 1,
3 2, and 4 through 23].

4 NEW SECTION. Section 15. Limits on grants from water
5 development earmarked account. The maximum grant awarded to
6 a private person may not exceed 5% of the estimated total
7 funds potentially available in the water development
8 earmarked account for grants in the biennium in which the
9 grant will be made.

10 NEW SECTION. Section 16. Security interests. The
11 state has a lien upon a project constructed with money from
12 the water development earmarked or clearance account for the
13 amount of the loan and interest due the state. This lien may
14 attach to any project facilities, equipment, easements, real
15 property, and property of any kind or nature owned by the
16 debtor, including all water rights. The department shall
17 file with the county clerk and recorder of each county in
18 which a part of the project is located either a financing
19 statement or a real estate mortgage covering the loan, its
20 amount, terms, and a description of the security. The
21 county clerk and recorder shall record and index the lien as
22 other liens are required by law to be recorded and indexed.
23 The lien shall be valid until paid in full or otherwise
24 discharged. The lien shall be foreclosed in accordance with
25 applicable state law governing foreclosure of mortgages and

1 liens.

2 NEW SECTION. Section 17. Administration of loans and
3 grants. The department shall:

4 (1) administer the loan and grant program established
5 by [sections 1, 2, and 4 through 23];

6 (2) service loans made or contract and pay for the
7 servicing of loans, including arrangements for obtaining
8 security interests; and

9 (3) collect reasonable fees or charges for the
10 servicing of loans, including arrangements for obtaining
11 security interests.

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

23 (2) Each series of water development bonds may be
24 issued by the board of examiners, upon request of the board
25 of natural resources and conservation, at public or private

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

16 (3) In the issuance of each series of water
 17 development bonds, the interest rates and the maturities and
 18 any mandatory redemption provisions thereof shall be
 19 established in such manner that the funds then specifically
 20 pledged and appropriated by law to the water development
 21 sinking account will in the judgment of the board of
 22 examiners be received in an amount sufficient in each year
 23 to pay all principal, redemption premiums, and interest due
 24 and payable in that year with respect to that and all prior
 25 series of such bonds, except outstanding bonds as to which

1 the obligation of the state has been discharged by the
 2 deposit of funds or securities sufficient for their payment
 3 in accordance with the terms of the resolutions by which
 4 they are authorized to be issued.

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

16 (5) There is created a water development clearance
 17 account within the bond proceeds and insurance clearance
 18 fund established in 17-2-102.

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

1 payment, redemption premiums, and interest on the particular
 2 bond issue from whose proceeds the loan was made. All
 3 proceeds of refunding bonds must be deposited in the water
 4 development sinking account and applied to the payment and
 5 redemption of outstanding bonds issued under this section as
 6 directed by the board, whether at maturity or on any earlier
 7 date on which they may be prepaid according to their terms.

8 (7) All actions taken by the board of examiners under
 9 this section or [section 20] must be authorized by a vote of
 10 a majority of the members of the board of examiners.

11 NEW SECTION. Section 19. Bond proceeds only for
 12 loans. Water development bond proceeds may be used only for
 13 the purpose of making loans as provided in the water
 14 development program.

15 NEW SECTION. Section 20. Sinking fund account --
 16 pledge and administration of sufficient balance. (1) The
 17 legislature may levy, impose, assess, and pledge and
 18 appropriate to the water development sinking account any
 19 tax, charge, fee, rental, or other income from any
 20 designated source. The state reserves the right to modify
 21 from time to time the nature and amount of special taxes and
 22 other revenues pledged and appropriated to the water
 23 development sinking account, provided that the aggregate
 24 resources so pledged and appropriated are determined by the
 25 legislature to be sufficient for the prompt and full payment

1 of the principal of and interest and redemption premiums
 2 when due on all bonds payable from that account and provided
 3 that the pledge of the full faith and credit and taxing
 4 powers of the state for the security of all such bonds shall
 5 be and remain irrevocable until they are fully paid.

6 (2) Money in the water development sinking account
 7 must be used first to pay interest, principal, and
 8 redemption premiums when due and payable with respect to
 9 water development bonds; second to accumulate a reserve for
 10 the further security of such payments, to the amount
 11 required each month to meet those payments due within 12
 12 months thereafter; and third to restore the reserve to this
 13 amount after each payment.

14 (3) After the reserve provided for in subsection (2)
 15 has been accumulated in the water development sinking
 16 account, money at any time received in the water development
 17 sinking account in excess of that amount must be transferred
 18 by the treasurer to the water development earmarked account.
 19 If the balance on hand at any time in the water development
 20 sinking account is not sufficient to accumulate required
 21 reserves under subsection (2) and is not restored to the
 22 required amount within 3 months thereafter from funds
 23 specifically pledged and appropriated to the water
 24 development sinking account, the treasurer shall transfer an
 25 amount sufficient to restore the required balance from the

1 general fund to the water development sinking account.

2 NEW SECTION. Section 21. Water development refunding
3 bonds. (1) The board of examiners may issue refunding bonds
4 at such times and in such amounts, if any, as may be
5 necessary to pay principal or interest due that cannot be
6 paid from funds then on hand in the water development
7 sinking account. The board of examiners may also issue
8 refunding bonds to refund outstanding bonds before maturity
9 for the purpose of extending the maturities thereof so far
10 as determined by the board of examiners to be necessary to
11 assure that the funds then pledged to the water development
12 sinking account will be sufficient for payment of principal
13 and interest due in subsequent years. The board of examiners
14 may also issue refunding bonds to refund outstanding bonds
15 before maturity for the purpose of reducing the interest
16 cost or the total amount of principal and interest payable
17 thereon.

18 (2) No refunding bonds may be issued and sold more
19 than 3 months before all bonds refunded thereby mature or
20 are called for redemption unless the proceeds thereof, with
21 any other funds in the water development sinking account
22 that are needed and available for the purpose or securities
23 purchased from such proceeds and other funds, are deposited
24 with a suitable banking institution within or outside the
25 state, in escrow, for the retirement of the refunded bonds

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

7 (3) No new debt may be created by the issuance of
8 refunding bonds in accordance with this section, but such
9 refunding bonds shall evidence the debt previously created
10 and shall be secured by the pledge of the full faith and
11 credit and taxing powers of the state and by the further
12 provisions of this part in the same manner as the bonds
13 refunded thereby.

14 NEW SECTION. Section 22. Report to the legislature.
15 The department shall prepare a biennial report to the
16 legislature describing the status of the water development
17 program. The report must describe ongoing projects and
18 activities and those which have been completed during the
19 biennium. The report must also describe proposed projects
20 and activities for the coming biennium and recommendations
21 for necessary appropriations. A copy of the report shall be
22 submitted to the president of the senate and the speaker of
23 the house and to such other members as may request a copy.

24 NEW SECTION. Section 23. Penalty. No member, officer,
25 attorney, or other employee of the board of---natural

1 ~~resources--and--conservation~~ or the department of ~~natural~~
 2 ~~resources-and-conservation~~ may, directly or indirectly, be
 3 the beneficiary of or receive any fee, commission, gift, or
 4 other consideration for or in connection with any
 5 transaction or business under [sections 1, 2, and 4 through
 6 23] other than the salary, fee, or other compensation as he
 7 may receive as a member, officer, attorney, or employee. A
 8 person convicted of violating any provision of this section
 9 shall be punished by a fine not to exceed \$2,000 or be
 10 imprisoned for not to exceed 2 years, or both.

11 NEW SECTION. Section 24. State of Montana coal
 12 severance tax bonds. [Sections 24 through 42] provide for
 13 the issuance of state of Montana coal severance tax bonds
 14 (also referred to as coal severance tax bonds in [sections
 15 24 through 42]) to finance water resource development
 16 projects and activities, other capital improvements, and
 17 economic development in the state designed to provide,
 18 during and after extensive coal mining, a healthy economy,
 19 the alleviation of social and economic impacts created by
 20 coal development, and a clean and healthful environment for
 21 present and future generations.

22 NEW SECTION. Section 25. Purpose and intent. (1) The
 23 purpose of the coal severance tax trust fund bond provisions
 24 of [sections 24 through 42] is to establish the authority to
 25 issue and sell coal severance tax bonds for financing

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

8 (2) The legislature intends that projects to be
 9 financed by coal severance tax bonds include but are not
 10 limited to water resource development projects and
 11 activities as part of the water development program
 12 established in [sections 1, 2, and 4 through 23]. The
 13 legislature further intends that the income from water
 14 resource development projects and activities in excess of
 15 the amount required for debt service and operation and
 16 maintenance of those projects and activities be deposited in
 17 the water development earmarked account established in
 18 [section 5].

19 NEW SECTION. Section 26. Coal severance tax trust
 20 subfunds. (1) The trust established under Article IX,
 21 section 5, of the Montana constitution shall be composed of
 22 the following subfunds:

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

1 (b) a coal severance tax permanent subfund; and

2 (c) a coal severance tax income subfund.

3 (2) On each December 31 and June 30 the state
4 treasurer shall transfer to the coal severance tax permanent
5 subfund all money in the coal severance tax bond subfund
6 except the amount necessary to meet all principal and
7 interest payments on bonds payable from the coal severance
8 tax bond subfund on the next ensuing semiannual payment
9 date.

10 NEW SECTION. Section 27. Investment of funds. Money
11 in the coal severance tax bond subfund, the coal severance
12 tax permanent subfund, and the coal severance tax income
13 subfund must be invested in accordance with the investment
14 standards for coal severance tax funds. Income and earnings
15 from all subfunds must be transferred to and retained in the
16 coal severance tax income subfund until appropriated by the
17 legislature.

18 NEW SECTION. Section 28. Pledge of coal severance tax
19 bond subfund. The money in the coal severance tax bond
20 subfund is pledged to the payment of the principal and
21 interest on all state of Montana coal severance tax bonds.
22 All bonds issued after [the effective date of sections 24
23 through 42] wherein the money in the coal severance tax bond
24 subfund is pledged for their retirement shall be called
25 "state of Montana coal severance tax bonds".

1 NEW SECTION. Section 29. Authority to issue coal
2 severance tax bonds. The board of examiners shall issue and
3 sell coal severance tax bonds to finance water resource
4 development projects and activities, other capital
5 improvements, or economic development when authorized to do
6 so by any law that sets out the amount and purpose of the
7 issue.

8 NEW SECTION. Section 30. Board of examiners to issue
9 bonds. The board of examiners may issue and sell coal
10 severance tax bonds, and no other agency of the state is so
11 authorized. Any action taken by the board of examiners under
12 [sections 24 through 42] must be approved by a majority vote
13 of its members.

14 NEW SECTION. Section 31. Special fund revenues. (1)
15 If a law authorizing a coal severance tax bond issue
16 contemplates the pledge and receipt of revenues, assets, or
17 money other than or in addition to the money in the coal
18 severance tax bond subfund, then the money derived from such
19 pledged revenues, assets, and money must be paid into a
20 special bond account for the benefit of such bonds, which
21 must be part of the sinking fund of the state treasury fund
22 structure.

23 (2) Money must be withdrawn from the coal severance
24 tax bond account and paid to the special bond fund as
25 necessary to provide for payment of principal and interest

1 on the coal severance tax bonds secured by a pledge of the
2 special account.

3 NEW SECTION. Section 32. Continued tax deposit limit
4 on additional bonds. (1) The legislature shall provide for
5 the continued assessment, levy, collection, and deposit into
6 the coal severance tax bond subfund of the coal severance
7 tax which, together with such other revenues, assets, and
8 money as may be deposited to one or more special bond
9 accounts pledged for the benefit of coal severance tax
10 bonds, will be sufficient to produce an amount that is at
11 least the amount necessary to pay, when due, the annual debt
12 service charges on all outstanding coal severance tax bonds.

13 (2) The board of examiners may issue no coal severance
14 tax bonds unless the aggregate amount of coal severance tax
15 bonds outstanding, including the proposed issue and any
16 other coal severance tax bonds authorized but not yet
17 issued, can be serviced with no more than two-thirds of the
18 annual deposits into the coal severance tax bond subfund, as
19 determined by the average of the deposits during the
20 preceding 3 fiscal years, together with the average of the
21 aggregate amount of revenues, assets, or money deposited in
22 one or more special bond accounts used to pay debt service
23 on outstanding coal severance tax bonds during the preceding
24 3 fiscal years.

25 (3) The provisions of this section may not be modified

1 so as to reduce the security for any coal severance tax
2 bonds while such bonds are outstanding.

3 NEW SECTION. Section 33. Form -- principal and
4 interest -- fiscal agent -- deposit of proceeds. (1) Each
5 series of coal severance tax bonds must be issued by the
6 board of examiners at public or private sale, in such
7 denominations and form, whether payable to bearer or
8 registered as to principal or both principal and interest,
9 with such provisions for the conversion or exchange, bearing
10 interest at such rate or rates, maturing at such times not
11 exceeding 40 years from date of issue, subject to redemption
12 at such earlier times and prices and upon such notice, and
13 payable at the office of such fiscal agency of the state as
14 the board of examiners shall determine subject to the
15 limitations contained in [sections 24 through 42].

16 (2) In all other respects the board of examiners is
17 authorized to prescribe the form and terms of the bonds and
18 shall do whatever is lawful and necessary for their issuance
19 and payment.

20 (3) Coal severance tax bonds and any interest coupons
21 appurtenant thereto shall be signed by the members of the
22 board of examiners, and the bonds shall be issued under the
23 great seal of the state of Montana. The bonds and coupons
24 may be executed with facsimile signatures and seal in the
25 manner and subject to the limitations prescribed by law. The

1 state treasurer shall keep a record of all such bonds issued
2 and sold.

3 (4) The board of examiners is authorized to employ a
4 fiscal agent to assist in the performance of its duties
5 hereunder.

6 (5) All proceeds of a state of Montana coal severance
7 tax bonds issue shall be deposited in a bond proceeds and
8 insurance clearance fund account established for that bond
9 issue, except that any premiums and accrued interest
10 received shall be deposited in a sinking fund account
11 established for that bond issue.

12 NEW SECTION. Section 34. Trust indenture. In the
13 discretion of the board of examiners, a series of coal
14 severance tax bonds may be secured by a trust indenture by
15 and between the board of examiners and a trustee, which may
16 be any trust company or bank having the powers of a trust
17 company within or outside of the state. Each trust indenture
18 or an executed counterpart thereof shall be filed in the
19 office of the secretary of state of Montana. The filing of a
20 trust indenture or an executed counterpart thereof in the
21 office of the county clerk of the county in which the
22 property covered by the trust indenture is located is
23 constructive notice of its contents to all persons from the
24 time of the filing, and the recording of the trust indenture
25 of OR its contents is not necessary.

1 NEW SECTION. Section 35. Provisions for protecting
2 bondholders. Either the legislative act providing for the
3 issuance of coal severance tax bonds or the trust indenture
4 may contain provisions for protecting and enforcing the
5 rights and remedies of the bondholders as are reasonable,
6 proper, and not in violation of law, including covenants
7 setting forth the duties of the state, the board of
8 examiners, and the departments, boards, or agencies of state
9 government in relation to the acquisition, construction,
10 improvement, maintenance, operation, repair, and insurance
11 of the projects financed with the proceeds of coal severance
12 tax bonds and the custody, safeguarding, and application of
13 all money. The TRUST indenture may set forth the rights and
14 remedies of the bondholders as is customary in trust
15 indentures, deeds of trusts, and mortgages securing bonds or
16 debentures of corporations. No enumeration of particular
17 powers granted by this section impairs any general grant of
18 power contained in [sections 24 through 42].

19 NEW SECTION. Section 36. Personal liability -- suit
20 to compel performance. (1) The members of the board of
21 examiners and officers and employees of the departments,
22 boards, or agencies of state government are not personally
23 liable or accountable by reason of the issuance of or on any
24 coal severance tax bond issued by the board of examiners.

25 (2) Any holder of coal severance tax bonds or any

1 person or officer being a party in interest, subject to any
 2 applicable coal severance tax agreements or TRUST
 3 indentures, may sue to enforce and compel the performance of
 4 the coal severance tax bond provisions as set out in
 5 [sections 24 through 42].

6 NEW SECTION. Section 37. Negotiability of bonds. Coal
 7 severance tax bonds issued are negotiable instruments under
 8 the Uniform Commercial Code, subject only to the provisions
 9 for registration of bonds.

10 NEW SECTION. Section 38. Signatures of board members.
 11 In the case any member of the board of examiners whose
 12 signature appears on coal severance tax bonds or coupons
 13 ceases to be a member before the delivery of the bonds, his
 14 signature is nevertheless valid and sufficient for all
 15 purposes, the same as if the member has HAD remained in
 16 office until delivery.

17 NEW SECTION. Section 39. Refunding obligations. (1)
 18 The state board of examiners may provide for the issuance of
 19 refunding obligations for refunding any obligations then
 20 outstanding that have been issued under [sections 24 through
 21 42], including the payment of any redemption premium and any
 22 interest accrued or to accrue to the date of redemption of
 23 the obligations. The issuance of refunding obligations, the
 24 maturities and other details, the rights of the holders, and
 25 the rights, duties, and obligations of the state are

1 governed by the appropriate provisions of [sections 24
 2 through 42] that relate to the issuance of obligations.

3 (2) Refunding obligations issued as provided in
 4 subsection (1) may be sold or exchanged for outstanding
 5 obligations issued under [sections 24 through 42]. The
 6 proceeds may be applied to the purchase, redemption, or
 7 payment of outstanding obligations. Pending the application
 8 of the proceeds of refunding obligations, with other
 9 available funds, to the payment of principal, accrued
 10 interest, and any redemption premium on the obligations
 11 being refunded and, if permitted in the resolution
 12 authorizing the issuance of the refunding obligations or in
 13 the trust agreement securing them, to the payment of
 14 interest on refunding obligations and expenses in connection
 15 with refunding, the proceeds may be invested as provided in
 16 Title 17, chapter 6.

17 NEW SECTION. Section 40. Pledge of the state. In
 18 accordance with the constitutions of the United States and
 19 the state of Montana, the state pledges that it will not in
 20 any way impair the obligations of any agreement between the
 21 state and the holders of notes and bonds issued by the
 22 state.

23 NEW SECTION. Section 41. Tax exemption of bonds --
 24 legal investments. (1) All coal severance tax bonds, their
 25 transfer, and their income, including any profits made on

1 their sale, are exempt from taxation by the state or any
2 political subdivisions or other instrumentality of the
3 state, excepting inheritance, estate, and gift taxes.

4 (2) Coal severance tax bonds are legal investments for
5 any person or board charged with investment of public funds
6 and are acceptable as security for any deposit of public
7 money.

8 NEW SECTION. Section 42. Limitation on amount of coal
9 severance tax bonds issued. No more than \$500 million worth
10 of coal severance tax bonds may be issued for water
11 development projects and activities, other capital
12 improvements, and economic development.

13 Section 43. Section 15-35-108, MCA, is amended to
14 read:

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

18 (1) To the trust fund created by Article IX, section
19 5, of the Montana constitution, 25% of total collections a
20 year. After December 31, 1979, 50% of coal severance tax
21 collections are allocated to this trust fund. The trust fund
22 moneys shall be deposited in the fund established under
23 17-6-203(5) and invested by the board of investments as
24 provided by law.

25 (2) Coal severance tax collections remaining after

1 allocation to the trust fund under subsection (1) are
2 allocated in the following percentages of the remaining
3 balance:

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

8 (b) 2 1/2% until December 31, 1979, and thereafter 5%
9 to the earmarked revenue fund to the credit of the
10 alternative energy research development and demonstration
11 account;

12 (c) 26 1/2% until July 1, 1979, and thereafter 37 1/2%
13 to the earmarked revenue fund to the credit of the local
14 impact and education trust fund account;

15 (d) for each of the 2 fiscal years following June 30,
16 1977, 13% to the earmarked revenue fund to the credit of the
17 coal area highway improvement account;

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

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

22 (g) ~~2-1/2%~~ 1-1/4% to the sinking fund to the credit of
23 the renewable resource development bond account;

24 (h) 5% to the earmarked revenue fund to the credit of
25 a trust fund for the purpose of parks acquisition or

1 management, protection of works of art in the state capitol,
2 and other cultural and aesthetic projects. Income from this
3 trust fund shall be appropriated as follows:

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

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

9 (i) 1% to the earmarked revenue fund to the credit of
10 the state library commission for the purposes of providing
11 basic library services for the residents of all counties
12 through library federations and for payment of the costs of
13 participating in regional and national networking;

14 (j) 1 1/4% to the sinking fund to the credit of the
15 water development sinking account;

16 ~~(j)(k)~~ all other revenues from severance taxes
17 collected under the provisions of this chapter to the credit
18 of the general fund of the state."

19 Section 44. Section 15-38-202, MCA, is amended to
20 read:

21 "15-38-202. Investment of resource indemnity trust
22 account -- expenditure -- minimum balance. (1) All moneys
23 paid into the resource indemnity trust account shall be
24 invested at the discretion of the board of investments. All
25 the net earnings accruing to the resource indemnity trust

1 account shall annually be added thereto until it has reached
2 the sum of \$10 million. Thereafter, only the net earnings
3 may be appropriated and expended until the account reaches
4 \$100 million. Thereafter, all net earnings and all receipts
5 shall be appropriated by the legislature and expended,
6 provided that the balance in the account may never be less
7 than \$100 million.

8 (2) Beginning in fiscal year 1982, provided the amount
9 in the resource trust account is greater than \$10 million,
10 30% of the interest income of the resource indemnity trust
11 account must be allocated to water development earmarked
12 account created by [section 5]."

13 Section 45. Section 85-1-301, MCA, is amended to read:
14 "85-1-301. Water conservation revenue bonds. (1) The
15 board is hereby authorized to provide, by resolution, at one
16 time or from time to time, for the issuance of water
17 conservation revenue bonds of the state for the purpose of
18 paying the cost, as hereinabove defined, of any one or more
19 such public works, the principal and interest of which bonds
20 shall be payable solely from the special fund herein
21 provided for such payment. Such bonds shall mature at such
22 time or times, not more than 40 years from their date or
23 dates, as may be fixed by such resolution but may be made
24 redeemable before maturity at the option of the state, to be
25 exercised by the board, at such price or prices and under

1 such terms and conditions as may be fixed by the board prior
 2 to the issuance of the bonds. The board shall determine the
 3 rate of interest such bonds shall bear ~~not exceeding 5% per~~
 4 ~~annum~~; the time or times of payment of such interest; the
 5 form of the bonds and the interest coupons to be attached
 6 thereto; and the manner of executing the bonds and coupons
 7 and shall fix the denomination or denominations of the bonds
 8 and the place or places of payment of principal and interest
 9 thereof, which may be at any bank or trust company within or
 10 without the state.

11 (2) Provisions may be made for the registration of any
 12 of the bonds in the name of the owner as to principal alone
 13 or as to both principal and interest. The bonds authorized
 14 under the provisions of this section and 85-1-303 may be
 15 issued and sold from time to time and in such amounts as may
 16 be determined by the board, and the board may sell the bonds
 17 in such manner and for such price as it may determine to be
 18 for the best interests of the state ~~but no such sale shall~~
 19 ~~be made for less than a price which, computed with relation~~
 20 ~~to the absolute maturity of the bonds in accordance with~~
 21 ~~standard tables of bond values, will show a net return of 6%~~
 22 ~~per annum to the purchaser upon the amount paid therefor.~~
 23 The proceeds of such bonds shall be used solely for the
 24 payment of the cost of the works and shall be checked out in
 25 such manner and under such restrictions, if any, as the

1 board may provide.

2 (3) Each resolution providing for the issuance of
 3 bonds shall set forth the project or projects for which the
 4 bonds are to be issued, and the bonds authorized by each
 5 such resolution shall constitute a separate series. The
 6 bonds of each series shall be identified by a series letter
 7 or letters and may be sold and delivered at one time or from
 8 time to time."

9 Section 46. Section 85-1-332, MCA, is amended to read:
 10 "85-1-332. Disposition of moneys collected. ~~It~~ For
 11 the purpose of carrying out the provisions of this chapter
 12 and such other water resource authority, powers, and duties
 13 as are conferred upon the department by law, the following
 14 moneys shall be deposited in the ~~earmarked revenue fund for~~
 15 ~~the use of the department~~ water development earmarked
 16 account created by [section 5]:

17 ~~(a)(1)~~ all sums of money donated or contributed by the
 18 federal government or any department or agencies thereof;

19 ~~(b)(2)~~ all gifts, donations, bequests, and devises
 20 made to the state therefor and proceeds of the sale thereof;
 21 and the proceeds of the sale or redemption of and the
 22 interest earned by the securities purchased or acquired with
 23 money received under this subsection;

24 ~~(c)(3)~~ all reimbursements for money advanced for the
 25 payment of the assessments upon state, school-granted, and

1 other public lands for the improvement thereof as provided
2 by law;

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

12 ~~(e)~~(5) all reimbursements for costs of surveys and
13 investigations for moneys advanced to counties, cities, or
14 towns or their proportion of the cost thereof or from any
15 other sources;

16 ~~(2) --The following shall be deposited in the state~~
17 ~~general fund:~~

18 ~~(a)~~(6) except as otherwise provided by law, all income
19 or profit and revenue of the works and all money received
20 from the sale or disposal of water, use of water, water
21 storage, or other service and from the operation, lease,
22 sale, or other disposition of the works, property, and
23 facilities acquired under this chapter; and

24 ~~(b)~~(7) except as otherwise provided by law, all sums
25 received by the department for the use of electricity in

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

3 Section 47. Section 90-2-101, MCA, is amended to read:

4 "90-2-101. Policy and purpose. (1) In the development
5 of the natural resources of the state, it is essential to
6 distinguish between those which are and those which are not
7 renewable; to make proper charges through taxation and
8 otherwise for the depreciation of nonrenewable resources;
9 and to invest a proper proportion of the tax and other
10 revenues from nonrenewable resources in the replacement
11 thereof with developments of renewable natural resources
12 that will preserve for the citizens the benefit of the
13 state's natural heritage and to ensure that the quality of
14 existing public resources such as land, air, water, fish,
15 wildlife, and recreational opportunities are not
16 significantly diminished by developments supported by this
17 part.

18 (2) In order to finance such developments, it is
19 necessary to borrow in anticipation of the receipt of the
20 revenues so that replacement will not lag behind
21 consumption. The purpose of this part is to provide a
22 procedure for borrowing in the most economical way for this
23 purpose, to authorize the creation of debt to finance the
24 first stage of the program, and to describe the types of
25 projects, loans, and grants to be included in the program."

1 Section 48. Section 90-2-111, MCA, is amended to read:

2 "90-2-111. Grants to divisions of state government.

3 (1) The department of natural resources and conservation may
4 recommend to the governor that grants from the renewable
5 resource development account provided for by this part be
6 made to any department, agency, board, commission, or other
7 division of state government.

8 (2) The department shall solicit and consider in its
9 evaluation of proposed projects the views of interested and
10 affected departments, boards, agencies, and other
11 subdivisions of state and federal government and of other
12 interested and affected persons.

13 (3) The governor shall submit those grant proposals
14 having his approval to the legislature by the 20th day of
15 any legislative session. Those grant proposals approved by
16 the legislature shall be administered by the department.

17 (4) The grants provided for by this section may be
18 made for the purchase, lease, or construction of projects
19 for the conservation, management, utilization, development,
20 or preservation of the land, waters, fish, wildlife,
21 recreational, and other renewable resources in the state;
22 for the purpose of feasibility and design studies for such
23 projects; for development of plans for the rehabilitation,
24 expansion, or modification of existing projects; and for
25 such other and further similar purposes as the legislature

1 may approve.

2 (5) The department may adopt rules as required to
3 govern the terms and conditions for making grants pursuant
4 to this section."

5 Section 49. Section 90-2-124, MCA, is amended to read:

6 "90-2-124. Appropriation of coal severance tax. The
7 state pledges and appropriates and directs to be credited to
8 the sinking fund account, as received, ~~2-1/2%~~ 1-1/4% of all
9 money from time to time received from the collection of the
10 severance tax and remaining after allocation of such tax to
11 the trust fund established under section 5, Article IX, of
12 the Montana constitution and such additional amount thereof,
13 if any, as may be required from time to time to provide
14 sufficient funds for the purposes stated in 90-2-123(2),
15 provided that no more than ~~2-1/2%~~ 1-1/4% of such tax
16 collections shall be deemed to be pledged for the purpose of
17 90-2-121(3)."

18 Section 50. Codification instruction. Sections 1, 2,
19 and 4 through 23 are intended to be codified as an integral
20 part of Title 85, chapter 1, and the provisions of Title 85,
21 chapter 1, apply to sections 1, 2, and 4 through 23.

22 Section 51. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the
2 invalid applications.

3 Section 52. Repealer. Sections 85-1-333 and 85-1-334,
4 MCA, are repealed.

5 Section 53. Effective date. This act, except for
6 sections 4, 43, and 49, is effective July 1, 1981. Sections
7 4, 43, and 49 are effective July 1, 1983.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 409

3 Senate Agriculture, Livestock and Irrigation Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Board of Natural
7 Resources and Conservation in section 13.

8 The intent is to provide the Board with the authority
9 to adopt those rules necessary to administer the loan and
10 grant portion of the water development program. The
11 authority is limited by section 13 to prescribing the form
12 and content of applications for grants and loans, to
13 adopting rules governing the application of the criteria for
14 awarding loans and grants to private persons, to adopting
15 rules providing for the servicing of loans including
16 arrangements for obtaining security interests and the
17 establishment of reasonable fees or charges to be made, and
18 to prescribing the terms and conditions for making grants
19 and loans, the security instruments, and the agreements
20 necessary.

21 First adopted by the Senate Agriculture, Livestock and
22 Irrigation Committee on the 18th day of February, 1981.

Approved by Committee
on Agriculture Livestock
& Irrigation

1 SENATE BILL NO. 409

2 INTRODUCED BY MANNING, GALT

3 BY REQUEST OF THE GOVERNOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A WATER
6 DEVELOPMENT PROGRAM; ESTABLISHING A LOAN AND GRANT PROGRAM
7 FOR WATER DEVELOPMENT PROJECTS AND ACTIVITIES; ESTABLISHING
8 AN EARMARKED WATER DEVELOPMENT ACCOUNT; ALLOCATING A PORTION
9 OF THE COAL SEVERANCE TAX PROCEEDS; ALLOCATING A PORTION OF
10 THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST
11 ACCOUNT; CREATING AUTHORITY FOR WATER DEVELOPMENT BONDS;
12 CREATING AUTHORITY FOR COAL SEVERANCE TAX TRUST FUND BONDS;
13 REQUIRING A LIMITED APPROPRIATION OF INCOME AND INTEREST
14 FROM THE COAL SEVERANCE TAX TRUST; LIFTING THE INTEREST
15 CEILING ON WATER CONSERVATION REVENUE BONDS; AMENDING
16 SECTIONS 15-35-108, 15-38-202, 85-1-102, 85-1-301, 85-1-332,
17 90-2-101, 90-2-111, AND 90-2-124, MCA; REPEALING SECTIONS
18 85-1-333 AND 85-1-334, MCA; AND PROVIDING EFFECTIVE DATES."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 NEW SECTION. Section 1. Purpose and policies. (1) The
22 legislature finds and declares that in order that the people
23 of Montana may enjoy the full economic and recreational
24 benefits of the state's water resources, the state must
25 establish this long-term water development program providing

1 financial and administrative assistance to private, local,
2 and state entities for water resource development projects
3 and activities.

4 (2) The purpose of the water development program is to
5 further the state's policies, set forth in 85-1-101,
6 regarding the conservation, development, and beneficial use
7 of water resources.

8 (3) The legislature recognizes that water is one of
9 the most valuable and important renewable resources in
10 Montana; therefore, it is appropriate that a portion of the
11 taxes on the removal of nonrenewable resources be dedicated
12 to the conservation, development, and beneficial use of
13 water resources.

14 (4) The development of water resources is of a high
15 priority because a large portion of Montana's present and
16 future economy is based either directly or indirectly on the
17 wise use of water.

18 (5) This water development program is an integral part
19 of the implementation and development of the comprehensive,
20 coordinated, multiple-use water resources plan known as the
21 "state water plan".

22 NEW SECTION. Section 2. Objectives. The department
23 shall administer a water development program to accomplish
24 such objectives as rehabilitation of state-owned water
25 projects and works; promotion of private, local government,

1 and state water development; development of water-based
 2 recreation and the protection of water resources for the
 3 benefit of agriculture, flood control, and other uses;
 4 development of offstream and tributary storage; and
 5 development of state-tribal, state-federal, and
 6 state-tribal-federal water projects. THE STORAGE OF WATER
 7 FOR EXISTING AND FUTURE BENEFICIAL USES SHALL BE GIVEN A
 8 HIGH PRIORITY. The water development program is the key
 9 implementation portion of the state water plan and shall be
 10 administered to accomplish the objectives of the plan.

11 Section 3. Section 85-1-102, MCA, is amended to read:

12 "85-1-102. Definitions. Unless the context requires
 13 otherwise, in this chapter the following definitions apply:

14 (1) "Board" means the board of natural resources and
 15 conservation provided for in 2-15-3302.

16 (2) "Cost of works" means the cost of construction;
 17 the cost of all lands, property, rights, easements, and
 18 franchises acquired which are deemed necessary for the
 19 construction; the cost of all water rights acquired or
 20 exercised by the department in connection with those works;
 21 the cost of all machinery and equipment, financing charges,
 22 interest prior to and during construction and for a period
 23 not exceeding 3 years after the completion of construction;
 24 cost of engineering and legal expenses, plans,
 25 specifications, surveys, estimates of cost, and other

1 expenses necessary or incident to determining the
 2 feasibility or practicability of any project; administrative
 3 expense; and such other expenses as may be necessary or
 4 incident to the financing herein authorized and the
 5 construction of the works and the placing of the same in
 6 operation.

7 (3) "Department" means the department of natural
 8 resources and conservation provided for in Title 2, chapter
 9 15, part 33.

10 (4) "Owner" means all individuals, irrigation
 11 districts, drainage districts, flood control districts,
 12 incorporated companies, societies, or associations having
 13 any title or interest in any properties, rights, easements,
 14 or franchises to be acquired.

15 (5) "Private person" means any individual,
 16 association, partnership, corporation, or other
 17 nongovernmental entity not eligible for loans and grants
 18 under [section 6] but does not include a governmental entity
 19 such as an agency, local government, or political
 20 subdivision of the state, the United States, or any agency
 21 thereof, or any other governmental entity.

22 ~~(5)~~(6) "Project" means any one of the works herein
 23 defined or any combination of such works which are
 24 physically connected or jointly managed and operated as a
 25 single unit.

1 (7) "Public benefits" means those benefits that accrue
 2 from a water development project or activity to persons
 3 other than the private grant or loan recipient and that
 4 enhance the common well-being of the people of Montana.
 5 Public benefits include but are not limited to recreation,
 6 flood control, erosion reduction, agricultural flood damage
 7 reduction, water quality enhancement, sediment reduction,
 8 access to recreation opportunities, and wildlife
 9 conservation.

10 (8) "Water development clearance account" means a
 11 separate account created by [section 18] within the bond
 12 PROCEEDS and insurance clearance fund of the state treasury
 13 to finance loans under the provisions of the water
 14 development program to agencies, local governments, and
 15 political subdivisions of the state, private persons, and
 16 any other eligible recipients from proceeds of bonds issued
 17 under [sections 1, 2, and 4 through 23].

18 (9) "Water development activity" means an action or
 19 program to promote PROTECT AND ENHANCE water-based
 20 recreation or to protect or enhance water resources for the
 21 benefit of agriculture, flood control, or other uses,
 22 including but not limited to such purposes as the promotion
 23 of efficient use of water in agriculture, the improvement of
 24 water quality in agriculture and other nonpoint source uses,
 25 the promotion PROTECTION AND ENHANCEMENT of water-based

1 recreation, the control of erosion of streambanks and
 2 control of sedimentation of rivers and streams, and
 3 providing greater local and state control of Montana water
 4 resources. Water development activities may provide any
 5 combination of marketable and nonmarketable benefits.

6 (10) "Water development earmarked account" means a
 7 separate account created by [section 5] within the earmarked
 8 revenue fund of the state treasury for the purposes of the
 9 water development program as set forth in [section 5].

10 (11) "Water development project" means a project as
 11 defined in subsection (6), except that water development
 12 projects are not limited to projects owned or operated by
 13 the department.

14 (12) "Water development sinking account" means a
 15 separate account created by [section 4] within the sinking
 16 fund of the state treasury to be used as provided in
 17 [section 20].

18 (6)(13) "works" means all property, rights, easements,
 19 and franchises relating thereto and deemed necessary or
 20 convenient for their operation and all water rights acquired
 21 or exercised by the department in connection with those
 22 works and includes all means of conserving and distributing
 23 water, including, without limiting the generality of the
 24 foregoing, reservoirs, dams, diversion canals, distributing
 25 canals, waste canals, drainage canals, dikes, lateral

1 ditches and pumping units, mains, pipelines, and waterworks
 2 systems and includes all such works for the conservation,
 3 development, storage, distribution, and utilization of
 4 water, including without limiting the generality of the
 5 foregoing, works for the purpose of irrigation, flood
 6 prevention, drainage, fish and wildlife, recreation,
 7 development of power, watering of stock, supplying of water
 8 for public, domestic, industrial, or other uses and for fire
 9 protection."

10 NEW SECTION. Section 4. Water development sinking
 11 account created -- coal severance tax allocated. (1) There
 12 is created a water development sinking account within the
 13 sinking fund established in 17-2-102.

14 (2) The state pledges and allocates and directs to be
 15 credited to the water development sinking account, as
 16 received, 1 1/4% of all money from time to time received
 17 from the coal severance tax collected under Title 15,
 18 chapter 35, and remaining after allocation of such tax to
 19 the trust fund established under Article IX, section 5, of
 20 The Constitution of the State of Montana.

21 NEW SECTION. Section 5. Water development earmarked
 22 account created -- revenues allocated -- limitations on
 23 appropriations from account. (1) There is created a water
 24 development earmarked account within the earmarked revenue
 25 fund established in 17-2-102.

1 (2) There shall be paid into the water development
 2 earmarked account:

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

5 (b) 30% of the interest income of the resource
 6 indemnity trust account as provided in and subject to the
 7 conditions of 15-38-202;

8 (c) the excess of the coal severance tax proceeds
 9 allocated by [section 4] to the water development sinking
 10 account above debt service requirements as provided in and
 11 subject to the conditions of [section 20].

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

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

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

1 appropriated from the account for:

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

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

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

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

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

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

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

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

23 (c) An amount less than or equal to that paid into the
24 account from the water development sinking account and only
25 that amount may be appropriated from the account for loans

1 and grants for water development projects and activities and
2 for administrative expenses, including but not limited to
3 the salaries and expenses of personnel, equipment, office
4 space, and other necessities incurred in administering the
5 loans and grants.

6 NEW SECTION. Section 6. Grants and loans to state and
7 local governments. (1) The department may recommend to the
8 legislature that grants and loans be made from coal
9 severance tax proceeds deposited in the water development
10 earmarked account and loans be made from water development
11 bond proceeds deposited in the water development clearance
12 account to a department, agency, board, commission, or other
13 division of state government or to a city, county, or other
14 political subdivision or local government body of the state.
15 The legislature may approve by appropriation or other
16 appropriate means those grants and loans it finds consistent
17 with the policies and purposes of the program.

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

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

5 NEW SECTION. Section 7. Grants and loans to private
6 persons. (1) To encourage the construction and development
7 of water development projects and activities, the department
8 may make grants and loans to private persons from funds
9 appropriated from the water development earmarked account
10 and may make loans to private persons from the water
11 development clearance account.

12 (2) The department shall publicize the statutes and
13 rules governing grants and loans to private persons for
14 water development projects and activities, set and publicize
15 application deadlines, and accept applications for grants
16 and loans.

17 (3) The department shall review, evaluate, and select
18 water development projects and activities for which grants
19 or loans may be awarded.

20 NEW SECTION. Section 8. Division of funds between
21 water development projects and activities. (1) The
22 department shall recommend, to the extent possible, that
23 water development projects and water development activities
24 be funded equally when making recommendations to the
25 legislature on loans and grants for state and local water

1 development under [section 6].

2 (2) The department shall, to the extent possible, in
3 approving grants and loans to private persons fund water
4 development projects and water development activities
5 equally.

6 NEW SECTION. Section 9. Applications for grants and
7 loans to private persons. (1) A private person may apply for
8 a grant or loan to finance a water development project or
9 activity to be constructed, developed, and operated in
10 Montana.

11 (2) An application for a loan or grant must be in the
12 form prescribed by the board and contain or be accompanied
13 by any information necessary to adequately describe the
14 proposed project or activity and necessary for evaluation of
15 the proposed project or activity under the criteria set out
16 in [sections 10 and 11].

17 NEW SECTION. Section 10. Eligibility for a loan or
18 grant to a private person. The department may not award a
19 grant or loan to a private person unless the department
20 finds, based on the application and the department's
21 investigation and evaluation of the proposal, that:

22 (1) the proposed water development project or
23 activity:

24 (a) will promote, enhance, or advance the purpose,
25 policies, and objectives of the water development program;

1 (b) will be constructed, developed, and operated
2 within the state of Montana;

3 (c) will be economically feasible. (A project or
4 activity is economically feasible if the project benefits
5 exceed the project costs. The department shall consider both
6 ONLY tangible ~~and---intangible~~ benefits and costs in
7 calculating economic feasibility.)

8 (d) will be an efficient use of natural resources
9 including water, energy, land, and air. (An efficient use is
10 one that minimizes waste.)

11 (e) will provide multipurpose facilities to the extent
12 practicable;

13 (f) will comply with statutory and regulatory
14 standards protecting the quality of resources such as air,
15 water, land, fish, wildlife, and recreational opportunities;

16 (g) will provide associated public benefits in
17 addition to any private benefits the project or activity may
18 provide; and

19 (h) is needed to accomplish the purpose for which the
20 water development project or activity is proposed;

21 (2) the applicant has adequate financial resources to
22 construct, operate, and maintain the water development
23 project or activity. The department shall consider financial
24 resources from any source for which the applicant has
25 qualified, including a water development grant or loan.

1 (3) the applicant holds or can acquire all necessary
2 lands, other than public lands, and interests therein and
3 water rights necessary for the construction, operation, and
4 maintenance of the proposed water development project or
5 activity;

6 (4) if the application is for a loan, the applicant is
7 credit-worthy and able and willing to enter into a contract
8 with the department for loan repayment and construction or
9 development of the proposed water development project or
10 activity; and

11 (5) if the application is for a grant, the applicant
12 is able and willing to enter into a contract with the
13 department for construction or development of the proposed
14 water development project or activity; AND

15 (6) IF THE APPLICATION IS FOR A GRANT, THE APPLICANT
16 MUST SHARE IN THE COST OF THE PROJECT SO THAT THE GRANT MAY
17 NOT EXCEED 25% OF THE TOTAL PROJECT COST.

18 NEW SECTION. Section 11. Evaluation of grants and
19 loans to private persons. The department shall consider the
20 following criteria and preferences in evaluating
21 applications and selecting the recipients of grants and
22 loans for water development projects and activities that are
23 eligible for funding under [section 10]:

24 (1) The extent and desirability of the public benefits
25 that will be provided must be considered.

1 (2) A water development project or activity that will
2 be used as part of a family farm or in starting a new
3 business shall be given preference. A family farm is one
4 devoted primarily to agriculture under the ownership of a
5 resident Montana family.

6 (3) A water development project or activity that will
7 utilize or develop water reserved under 85-2-316 shall be
8 given preference.

9 (4) The department, to the extent practicable, shall
10 attempt to achieve geographic balance in the promotion of
11 water development projects and activities through the
12 awarding of loans and grants to private persons.

13 (5) The extent to which the water development project
14 or activity will fully utilize water resources and promote
15 the conservation and efficient use of the water resource
16 shall be evaluated and considered.

17 (6) Projects or activities that could not be
18 accomplished without the assistance of a loan or grant shall
19 be given preference.

20 (7) The department shall give due consideration to any
21 other factor that, in the department's judgment, is
22 important to the evaluation of the water development project
23 or activity in light of the purposes, policies, and
24 objectives of the water development program.

25 NEW SECTION. Section 12. Department to solicit views.

1 The department shall solicit and consider in its evaluation
2 of proposed projects and activities the views of interested
3 and affected departments, boards, agencies, commissions, and
4 other subdivisions of the state, including local political
5 subdivisions, of the federal government, and of other
6 interested and affected persons.

7 NEW SECTION. Section 13. Rulemaking authority. The
8 board shall adopt rules:

9 (1) prescribing the form and content of applications
10 for grants and loans;

11 (2) governing the application of the criteria for
12 awarding loans and grants to private persons;

13 (3) providing for the servicing of loans including
14 arrangements for obtaining security interests and the
15 establishment of reasonable fees or charges to be made; and

16 (4) describing the terms and conditions for making
17 grants and loans, the security instruments, and the
18 agreements necessary.

19 NEW SECTION. Section 14. Limits on loans. (1) No loan
20 for a water development project or activity may be made from
21 the water development earmarked or clearance account that
22 exceeds the least of \$100,000, 10% of the estimated total
23 funds potentially available for loans in the water
24 development earmarked and clearance accounts in the biennium
25 in which the loan will be made, or 80% of the fair market

1 value of the security given therefor. In determining the
2 fair market value for the security given for a loan, the
3 department shall consider appraisals made by qualified
4 appraisers and other factors it considers important.

5 (2) The period for repayment of loans may not exceed
6 30 years.

7 (3) The board shall from time to time establish the
8 interest rate at which loans may be made under [sections 1,
9 2, and 4 through 23].

10 NEW SECTION. Section 15. Limits on grants from water
11 development earmarked account. The maximum grant awarded to
12 a private person may not exceed 5% of the estimated total
13 funds potentially available in the water development
14 earmarked account for grants in the biennium in which the
15 grant will be made.

16 NEW SECTION. Section 16. Security interests. The
17 state has a lien upon a project constructed with money from
18 the water development earmarked or clearance account for the
19 amount of the loan and interest due the state. This lien may
20 attach to any project facilities, equipment, easements, real
21 property, and property of any kind or nature owned by the
22 debtor, including all water rights. The department shall
23 file with the county clerk and recorder of each county in
24 which a part of the project is located either a financing
25 statement or a real estate mortgage covering the loan, its

1 amount, terms, and a description of the security. The
2 county clerk and recorder shall record and index the lien as
3 other liens are required by law to be recorded and indexed.
4 The lien shall be valid until paid in full or otherwise
5 discharged. The lien shall be foreclosed in accordance with
6 applicable state law governing foreclosure of mortgages and
7 liens.

8 NEW SECTION. Section 17. Administration of loans and
9 grants. The department shall:

10 (1) administer the loan and grant program established
11 by [sections 1, 2, and 4 through 23];

12 (2) service loans made or contract and pay for the
13 servicing of loans, including arrangements for obtaining
14 security interests; and

15 (3) collect reasonable fees or charges for the
16 servicing of loans, including arrangements for obtaining
17 security interests.

18 NEW SECTION. Section 18. Issuing bonds. (1) When
19 authorized by the legislature and within the limits of the
20 authorization and within the further limitations established
21 in this section, the board of examiners may issue and sell
22 water development bonds of the state in the amount and
23 manner it considers necessary and proper to finance the
24 water development loan program. The full faith and credit
25 and taxing powers of the state are pledged for the prompt

1 and full payment of all bonds so issued and interest and
 2 redemption premiums payable thereon according to their
 3 terms.

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

22 (3) In the issuance of each series of water
 23 development bonds, the interest rates and the maturities and
 24 any mandatory redemption provisions thereof shall be
 25 established in such manner that the funds then specifically

1 pledged and appropriated by law to the water development
 2 sinking account will in the judgment of the board of
 3 examiners be received in an amount sufficient in each year
 4 to pay all principal, redemption premiums, and interest due
 5 and payable in that year with respect to that and all prior
 6 series of such bonds, except outstanding bonds as to which
 7 the obligation of the state has been discharged by the
 8 deposit of funds or securities sufficient for their payment
 9 in accordance with the terms of the resolutions by which
 10 they are authorized to be issued.

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

22 (5) There is created a water development clearance
 23 account within the bond proceeds and insurance clearance
 24 fund established in 17-2-102.

25 (6) All proceeds of bonds issued under this section,

1 other than refunding bonds, must be deposited in the water
 2 development clearance account established in subsection (5),
 3 except that any principal and accrued interest received in
 4 repayment of a loan made from the proceeds of bonds issued
 5 under this section must be deposited in the water
 6 development sinking account and must be applied to the
 7 payment, redemption premiums, and interest on the particular
 8 bond issue from whose proceeds the loan was made. All
 9 proceeds of refunding bonds must be deposited in the water
 10 development sinking account and applied to the payment and
 11 redemption of outstanding bonds issued under this section as
 12 directed by the board, whether at maturity or on any earlier
 13 date on which they may be prepaid according to their terms.

14 (7) All actions taken by the board of examiners under
 15 this section or [section 20] must be authorized by a vote of
 16 a majority of the members of the board of examiners.

17 NEW SECTION. Section 19. Bond proceeds only for
 18 loans. Water development bond proceeds may be used only for
 19 the purpose of making loans as provided in the water
 20 development program.

21 NEW SECTION. Section 20. Sinking fund account --
 22 pledge and administration of sufficient balance. (1) The
 23 legislature may levy, impose, assess, and pledge and
 24 appropriate to the water development sinking account any
 25 tax, charge, fee, rental, or other income from any

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

12 (2) Money in the water development sinking account
 13 must be used first to pay interest, principal, and
 14 redemption premiums when due and payable with respect to
 15 water development bonds; second to accumulate a reserve for
 16 the further security of such payments, to the amount
 17 required each month to meet those payments due within 12
 18 months thereafter; and third to restore the reserve to this
 19 amount after each payment.

20 (3) After the reserve provided for in subsection (2)
 21 has been accumulated in the water development sinking
 22 account, money at any time received in the water development
 23 sinking account in excess of that amount must be transferred
 24 by the treasurer to the water development earmarked account.
 25 If the balance on hand at any time in the water development

1 sinking account is not sufficient to accumulate required
 2 reserves under subsection (2) and is not restored to the
 3 required amount within 3 months thereafter from funds
 4 specifically pledged and appropriated to the water
 5 development sinking account, the treasurer IN ACCORDANCE
 6 WITH THE PLEDGE OF THE FULL FAITH AND CREDIT AND TAXING
 7 POWERS OF THE STATE shall transfer an amount sufficient to
 8 restore the required balance from the general fund to the
 9 water development sinking account.

10 NEW SECTION. Section 21. Water development refunding
 11 bonds. (1) The board of examiners may issue refunding bonds
 12 at such times and in such amounts, if any, as may be
 13 necessary to pay principal or interest due that cannot be
 14 paid from funds then on hand in the water development
 15 sinking account. The board of examiners may also issue
 16 refunding bonds to refund outstanding bonds before maturity
 17 for the purpose of extending the maturities thereof so far
 18 as determined by the board of examiners to be necessary to
 19 assure that the funds then pledged to the water development
 20 sinking account will be sufficient for payment of principal
 21 and interest due in subsequent years. The board of examiners
 22 may also issue refunding bonds to refund outstanding bonds
 23 before maturity for the purpose of reducing the interest
 24 cost or the total amount of principal and interest payable
 25 thereon.

1 (2) No refunding bonds may be issued and sold more
 2 than 3 months before all bonds refunded thereby mature or
 3 are called for redemption unless the proceeds thereof, with
 4 any other funds in the water development sinking account
 5 that are needed and available for the purpose or securities
 6 purchased from such proceeds and other funds, are deposited
 7 with a suitable banking institution within or outside the
 8 state, in escrow, for the retirement of the refunded bonds
 9 at maturity or at a prior date or dates on which they have
 10 been called for redemption in accordance with their terms,
 11 in an amount and in a manner sufficient under the provisions
 12 securing the refunded bonds, so that the state's obligation
 13 to pay the same, from sources other than the escrow fund, is
 14 discharged.

15 (3) No new debt may be created by the issuance of
 16 refunding bonds in accordance with this section, but such
 17 refunding bonds shall evidence the debt previously created
 18 and shall be secured by the pledge of the full faith and
 19 credit and taxing powers of the state and by the further
 20 provisions of this part in the same manner as the bonds
 21 refunded thereby.

22 NEW SECTION. Section 22. Report to the legislature.
 23 The department shall prepare a biennial report to the
 24 legislature describing the status of the water development
 25 program. The report must describe ongoing projects and

1 activities and those which have been completed during the
 2 biennium. The report must also describe proposed projects
 3 and activities for the coming biennium and recommendations
 4 for necessary appropriations. A copy of the report shall be
 5 submitted to the president of the senate and the speaker of
 6 the house and to such other members as may request a copy.

7 NEW SECTION. Section 23. Penalty. No member, officer,
 8 attorney, or other employee of the board of ~~natural~~
 9 ~~resources--and--conservation~~ or the department of ~~natural~~
 10 ~~resources--and--conservation~~ may, directly or indirectly, be
 11 the beneficiary of or receive any fee, commission, gift, or
 12 other consideration for or in connection with any
 13 transaction or business under [sections 1, 2, and 4 through
 14 23] other than the salary, fee, or other compensation as he
 15 may receive as a member, officer, attorney, or employee. A
 16 person convicted of violating any provision of this section
 17 shall be punished by a fine not to exceed \$2,000 or be
 18 imprisoned for not to exceed 2 years, or both.

19 NEW SECTION. Section 24. State of Montana coal
 20 severance tax bonds. [Sections 24 through 42] provide for
 21 the issuance of state of Montana coal severance tax bonds
 22 (also referred to as coal severance tax bonds in [sections
 23 24 through 42]) to finance water resource development
 24 projects and activities, other capital improvements, and
 25 economic development in the state designed to provide,

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

5 NEW SECTION. Section 25. Purpose and intent. (1) The
 6 purpose of the coal severance tax trust fund bond provisions
 7 of [sections 24 through 42] is to establish the authority to
 8 issue and sell coal severance tax bonds THAT HAVE BEEN
 9 APPROVED BY ACT OF THE LEGISLATURE for financing specific
 10 water resource development projects and activities, other
 11 capital improvements, and economic development in the state
 12 authorized by the legislature and to guarantee redemption of
 13 such bonds by revenue derived from the receipts from the
 14 coal severance tax imposed by Title 15, chapter 35, part 1,
 15 and such other money as the legislature may from time to
 16 time determine.

17 (2) The legislature intends that projects to be
 18 financed by coal severance tax bonds include but are not
 19 limited to water resource development projects and
 20 activities as part of the water development program
 21 established in [sections 1, 2, and 4 through 23]. The
 22 legislature further intends that the income from water
 23 resource development projects and activities in excess of
 24 the amount required for debt service and operation and
 25 maintenance of those projects and activities be deposited in

1 the water development earmarked account established in
2 [section 5].

3 NEW SECTION. Section 26. Coal severance tax trust
4 subfunds. (1) The trust established under Article IX,
5 section 5, of the Montana constitution shall be composed of
6 the following subfunds:

7 (a) a coal severance tax bond subfund into which the
8 constitutionally dedicated receipts from the coal severance
9 tax shall be deposited;

10 (b) a coal severance tax permanent subfund; and

11 (c) a coal severance tax income subfund.

12 (2) On each December 31 and June 30 the state
13 treasurer shall transfer to the coal severance tax permanent
14 subfund all money in the coal severance tax bond subfund
15 except the amount necessary to meet all principal and
16 interest payments on bonds payable from the coal severance
17 tax bond subfund on the next ensuing semiannual payment
18 date.

19 NEW SECTION. Section 27. Investment of funds. (1)
20 Money in the coal severance tax bond subfund, the coal
21 severance tax permanent subfund, and the coal severance tax
22 income subfund must be invested in accordance with the
23 investment standards for coal severance tax funds EXCEPT AS
24 PROVIDED IN SUBSECTION (2). Income and earnings from all
25 subfunds must be transferred to and retained in the coal

1 severance tax income subfund ~~until appropriated by the~~
2 ~~legislature.~~

3 (2) BEGINNING ON JULY 1, 1983, THE LEGISLATURE SHALL
4 APPROPRIATE 15% OF THE INCOME AND EARNINGS FROM ALL SUBFUNDS
5 TO BE DEPOSITED TO THE COAL SEVERANCE TAX PERMANENT SUBFUND
6 EACH YEAR. THE FUNDS APPROPRIATED TO THE COAL SEVERANCE TAX
7 PERMANENT SUBFUND UNDER THIS SUBSECTION MAY NOT BE FURTHER
8 APPROPRIATED EXCEPT BY VOTE OF THREE-FOURTHS OF THE MEMBERS
9 OF EACH HOUSE OF THE LEGISLATURE.

10 NEW SECTION. Section 28. Pledge of coal severance tax
11 bond subfund. The money in the coal severance tax bond
12 subfund is pledged to the payment of the principal and
13 interest on all state of Montana coal severance tax bonds.
14 All bonds issued after [the effective date of sections 24
15 through 42] wherein the money in the coal severance tax bond
16 subfund is pledged for their retirement shall be called
17 "state of Montana coal severance tax bonds".

18 NEW SECTION. Section 29. Authority to issue coal
19 severance tax bonds. The board of examiners, UPON APPROVAL
20 OF THE LEGISLATURE AS HEREINAFTER PROVIDED, shall issue and
21 sell coal severance tax bonds to finance SUCH APPROVED water
22 resource development projects and activities, other capital
23 improvements, or economic development when authorized to do
24 so by any law that sets out the amount and purpose of the
25 issue. EACH PROJECT, ACTIVITY, OTHER CAPITAL IMPROVEMENT OR

1 OTHER ITEM OF DEVELOPMENT SHALL BE SEPARATELY APPROVED AS TO
2 AMOUNT BY THE LEGISLATURE.

3 NEW SECTION. Section 30. Board of examiners to issue
4 bonds. The board of examiners may issue and sell coal
5 severance tax bonds, and no other agency of the state is so
6 authorized. Any action taken by the board of examiners under
7 [sections 24 through 42] must be approved by a majority vote
8 of its members.

9 NEW SECTION. Section 31. Special fund revenues. (1)
10 If a law authorizing a coal severance tax bond issue FOR A
11 SPECIFIC PURPOSE AND IN A SPECIFIC AMOUNT contemplates the
12 pledge and receipt of revenues, assets, or money other than
13 or in addition to the money in the coal severance tax bond
14 subfund, then the money derived from such pledged revenues,
15 assets, and money must be paid into a special bond account
16 for the benefit of such bonds, which must be part of the
17 sinking fund of the state treasury fund structure.

18 (2) Money must be withdrawn from the coal severance
19 tax bond account and paid to the special bond fund as
20 necessary to provide for payment of principal and interest
21 on the coal severance tax bonds secured by a pledge of the
22 special account.

23 NEW SECTION. Section 32. Continued tax deposit limit
24 on additional bonds. (1) The legislature shall provide for
25 the continued assessment, levy, collection, and deposit into

1 the coal severance tax bond subfund of the coal severance
2 tax which, together with such other revenues, assets, and
3 money as may be deposited to one or more special bond
4 accounts pledged for the benefit of coal severance tax
5 bonds, will be sufficient to produce an amount that is at
6 least the amount necessary to pay, when due, the annual debt
7 service charges on all outstanding coal severance tax bonds.

8 (2) The board of examiners may issue no coal severance
9 tax bonds unless the aggregate amount of coal severance tax
10 bonds outstanding, including the proposed issue and any
11 other coal severance tax bonds authorized but not yet
12 issued, can be serviced with no more than two-thirds of the
13 annual deposits into the coal severance tax bond subfund, as
14 determined by the average of the deposits during the
15 preceding 3 fiscal years, together with the average of the
16 aggregate amount of revenues, assets, or money deposited in
17 one or more special bond accounts used to pay debt service
18 on outstanding coal severance tax bonds during the preceding
19 3 fiscal years.

20 (3) The provisions of this section may not be modified
21 so as to reduce the security for any coal severance tax
22 bonds while such bonds are outstanding.

23 NEW SECTION. Section 33. Form -- principal and
24 interest -- fiscal agent -- deposit of proceeds. (1) Each
25 series of coal severance tax bonds must be issued by the

1 board of examiners at public or private sale, in such
 2 denominations and form, whether payable to bearer or
 3 registered as to principal or both principal and interest,
 4 with such provisions for the conversion or exchange, bearing
 5 interest at such rate or rates, maturing at such times not
 6 exceeding 40 years from date of issue, subject to redemption
 7 at such earlier times and prices and upon such notice, and
 8 payable at the office of such fiscal agency of the state as
 9 the board of examiners shall determine subject to the
 10 limitations contained in [sections 24 through 42].

11 (2) In all other respects the board of examiners is
 12 authorized to prescribe the form and terms of the bonds and
 13 shall do whatever is lawful and necessary for their issuance
 14 and payment.

15 (3) Coal severance tax bonds and any interest coupons
 16 appurtenant thereto shall be signed by the members of the
 17 board of examiners, and the bonds shall be issued under the
 18 great seal of the state of Montana. The bonds and coupons
 19 may be executed with facsimile signatures and seal in the
 20 manner and subject to the limitations prescribed by law. The
 21 state treasurer shall keep a record of all such bonds issued
 22 and sold.

23 (4) The board of examiners is authorized to employ a
 24 fiscal agent to assist in the performance of its duties
 25 hereunder.

1 (5) All proceeds of a state of Montana coal severance
 2 tax bonds issue shall be deposited in a bond proceeds and
 3 insurance clearance fund account established for that bond
 4 issue, except that any premiums and accrued interest
 5 received shall be deposited in a sinking fund account
 6 established for that bond issue.

7 NEW SECTION. Section 34. Trust indenture. In the
 8 discretion of the board of examiners, a series of coal
 9 severance tax bonds may be secured by a trust indenture by
 10 and between the board of examiners and a trustee, which may
 11 be any trust company or bank having the powers of a trust
 12 company within or outside of the state. Each trust indenture
 13 or an executed counterpart thereof shall be filed in the
 14 office of the secretary of state of Montana. The filing of a
 15 trust indenture or an executed counterpart thereof in the
 16 office of the county clerk of the county in which the
 17 property covered by the trust indenture is located is
 18 constructive notice of its contents to all persons from the
 19 time of the filing, and the recording of the trust indenture
 20 of OR its contents is not necessary.

21 NEW SECTION. Section 35. Provisions for protecting
 22 bondholders. Either the legislative act providing for the
 23 issuance of coal severance tax bonds or the trust indenture
 24 may contain provisions for protecting and enforcing the
 25 rights and remedies of the bondholders as are reasonable.

1 proper, and not in violation of law, including covenants
 2 setting forth the duties of the state, the board of
 3 examiners, and the departments, boards, or agencies of state
 4 government in relation to the acquisition, construction,
 5 improvement, maintenance, operation, repair, and insurance
 6 of the projects financed with the proceeds of coal severance
 7 tax bonds and the custody, safeguarding, and application of
 8 all money. The TRUST indenture may set forth the rights and
 9 remedies of the bondholders as is customary in trust
 10 indentures, deeds of trusts, and mortgages securing bonds or
 11 debentures of corporations. No enumeration of particular
 12 powers granted by this section impairs any general grant of
 13 power contained in [sections 24 through 42].

14 NEW SECTION. Section 36. Personal liability -- suit
 15 to compel performance. (1) The members of the board of
 16 examiners and officers and employees of the departments,
 17 boards, or agencies of state government are not personally
 18 liable or accountable by reason of the issuance of or on any
 19 coal severance tax bond issued by the board of examiners.

20 (2) Any holder of coal severance tax bonds or any
 21 person or officer being a party in interest, subject to any
 22 applicable coal severance tax agreements or TRUST
 23 indentures, may sue to enforce and compel the performance of
 24 the coal severance tax bond provisions as set out in
 25 [sections 24 through 42].

1 NEW SECTION. Section 37. Negotiability of bonds. Coal
 2 severance tax bonds issued are negotiable instruments under
 3 the Uniform Commercial Code, subject only to the provisions
 4 for registration of bonds.

5 NEW SECTION. Section 38. Signatures of board members.
 6 In the case any member of the board of examiners whose
 7 signature appears on coal severance tax bonds or coupons
 8 ceases to be a member before the delivery of the bonds, his
 9 signature is nevertheless valid and sufficient for all
 10 purposes, the same as if the member has HAD remained in
 11 office until delivery.

12 NEW SECTION. Section 39. Refunding obligations. (1)
 13 The state board of examiners may provide for the issuance of
 14 refunding obligations for refunding any obligations then
 15 outstanding that have been issued under [sections 24 through
 16 42], including the payment of any redemption premium and any
 17 interest accrued or to accrue to the date of redemption of
 18 the obligations. The issuance of refunding obligations, the
 19 maturities and other details, the rights of the holders, and
 20 the rights, duties, and obligations of the state are
 21 governed by the appropriate provisions of [sections 24
 22 through 42] that relate to the issuance of obligations.

23 (2) Refunding obligations issued as provided in
 24 subsection (1) may be sold or exchanged for outstanding
 25 obligations issued under [sections 24 through 42]. The

1 proceeds may be applied to the purchase, redemption, or
 2 payment of outstanding obligations. Pending the application
 3 of the proceeds of refunding obligations, with other
 4 available funds, to the payment of principal, accrued
 5 interest, and any redemption premium on the obligations
 6 being refunded and, if permitted in the resolution
 7 authorizing the issuance of the refunding obligations or in
 8 the trust agreement securing them, to the payment of
 9 interest on refunding obligations and expenses in connection
 10 with refunding, the proceeds may be invested as provided in
 11 Title 17, chapter 6.

12 NEW SECTION. Section 40. Pledge of the state. In
 13 accordance with the constitutions of the United States and
 14 the state of Montana, the state pledges that it will not in
 15 any way impair the obligations of any agreement between the
 16 state and the holders of notes and bonds issued by the
 17 state.

18 NEW SECTION. Section 41. Tax exemption of bonds --
 19 legal investments. (1) All coal severance tax bonds, their
 20 transfer, and their income, including any profits made on
 21 their sale, are exempt from taxation by the state or any
 22 political subdivisions or other instrumentality of the
 23 state, excepting inheritance, estate, and gift taxes.

24 (2) Coal severance tax bonds are legal investments for
 25 any person or board charged with investment of public funds

1 and are acceptable as security for any deposit of public
 2 money.

3 NEW SECTION. Section 42. Limitation on amount of coal
 4 severance tax bonds issued. No more than \$500 ~~1250~~ million
 5 worth of coal severance tax bonds may be issued for water
 6 development projects and activities, other capital
 7 improvements, and economic development.

8 Section 43. Section 15-35-108, MCA, is amended to
 9 read:

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

13 (1) To the trust fund created by Article IX, section
 14 5, of the Montana constitution, 25% of total collections a
 15 year. After December 31, 1979, 50% of coal severance tax
 16 collections are allocated to this trust fund. The trust fund
 17 moneys shall be deposited in the fund established under
 18 17-6-203(5) and invested by the board of investments as
 19 provided by law.

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

24 (a) to the county in which coal is mined, 2% of the
 25 severance tax paid on the coal mined in that county until

1 January 1, 1980, for such purposes as the governing body of
2 the county may determine;

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

7 (c) 26 1/2% until July 1, 1979, and thereafter 37 1/2%
8 to the earmarked revenue fund to the credit of the local
9 impact and education trust fund account;

10 (d) for each of the 2 fiscal years following June 30,
11 1977, 13% to the earmarked revenue fund to the credit of the
12 coal area highway improvement 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% 1 1/4% to the sinking fund to the credit of
18 the renewable resource development bond account;

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

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

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

4 (i) 1% to the earmarked revenue fund to the credit of
5 the state library commission for the purposes of providing
6 basic library services for the residents of all counties
7 through library federations and for payment of the costs of
8 participating in regional and national networking;

9 (j) 1 1/4% to the sinking fund to the credit of the
10 water development sinking account;

11 ~~fj~~[k] all other revenues from severance taxes
12 collected under the provisions of this chapter to the credit
13 of the general fund of the state."

14 Section 44. Section 15-38-202, MCA, is amended to
15 read:

16 "15-38-202. Investment of resource indemnity trust
17 account -- expenditure -- minimum balance. (1) All moneys
18 paid into the resource indemnity trust account shall be
19 invested at the discretion of the board of investments. All
20 the net earnings accruing to the resource indemnity trust
21 account shall annually be added thereto until it has reached
22 the sum of \$10 million. Thereafter, only the net earnings
23 may be appropriated and expended until the account reaches
24 \$100 million. Thereafter, all net earnings and all receipts
25 shall be appropriated by the legislature and expended.

1 provided that the balance in the account may never be less
2 than \$100 million.

3 (2) Beginning in fiscal year 1982, provided the amount
4 in the resource trust account is greater than \$10 million,
5 30% of the interest income of the resource indemnity trust
6 account must be allocated to water development earmarked
7 account created by [section 5]."

8 Section 45. Section 85-1-301, MCA, is amended to read:
9 "85-1-301. Water conservation revenue bonds. (1) The
10 board is hereby authorized to provide, by resolution, at one
11 time or from time to time, for the issuance of water
12 conservation revenue bonds of the state for the purpose of
13 paying the cost, as hereinabove defined, of any one or more
14 such public works, the principal and interest of which bonds
15 shall be payable solely from the special fund herein
16 provided for such payment. Such bonds shall mature at such
17 time or times, not more than 40 years from their date or
18 dates, as may be fixed by such resolution but may be made
19 redeemable before maturity at the option of the state, to be
20 exercised by the board, at such price or prices and under
21 such terms and conditions as may be fixed by the board prior
22 to the issuance of the bonds. The board shall determine the
23 rate of interest such bonds shall bear, ~~not exceeding 6% per~~
24 ~~annum~~; the time or times of payment of such interest; the
25 form of the bonds and the interest coupons to be attached

1 thereto; and the manner of executing the bonds and coupons
2 and shall fix the denomination or denominations of the bonds
3 and the place or places of payment of principal and interest
4 thereof, which may be at any bank or trust company within or
5 without the state.

6 (2) Provisions may be made for the registration of any
7 of the bonds in the name of the owner as to principal alone
8 or as to both principal and interest. The bonds authorized
9 under the provisions of this section and 85-1-303 may be
10 issued and sold from time to time and in such amounts as may
11 be determined by the board, and the board may sell the bonds
12 in such manner and for such price as it may determine to be
13 for the best interests of the state, ~~but no such sale shall~~
14 ~~be made for less than a price which, computed with relation~~
15 ~~to the absolute maturity of the bonds, in accordance with~~
16 ~~standard tables of bond values, will show a net return of 6%~~
17 ~~per annum to the purchaser upon the amount paid therefor.~~
18 The proceeds of such bonds shall be used solely for the
19 payment of the cost of the works and shall be checked out in
20 such manner and under such restrictions, if any, as the
21 board may provide.

22 (3) Each resolution providing for the issuance of
23 bonds shall set forth the project or projects for which the
24 bonds are to be issued, and the bonds authorized by each
25 such resolution shall constitute a separate series. The

1 bonds of each series shall be identified by a series letter
2 or letters and may be sold and delivered at one time or from
3 time to time."

4 Section 46. Section 85-1-332, MCA, is amended to read:
5 "85-1-332. Disposition of moneys collected. ~~{1}~~ For
6 the purpose of carrying out the provisions of this chapter
7 and such other water resource authority, powers, and duties
8 as are conferred upon the department by law, the following
9 moneys shall be deposited in the ~~earmarked-revenue-fund-for~~
10 ~~the--use--of--the--department~~ water development earmarked
11 account created by [section 5]:

12 ~~{a}~~ (1) all sums of money donated or contributed by the
13 federal government or any department or agencies thereof;

14 ~~{b}~~ (2) all gifts, donations, bequests, and devises
15 made to the state therefor and proceeds of the sale thereof;
16 and the proceeds of the sale or redemption of and the
17 interest earned by the securities purchased or acquired with
18 money received under this subsection;

19 ~~{c}~~ (3) all reimbursements for money advanced for the
20 payment of the assessments upon state, school-granted, and
21 other public lands for the improvement thereof as provided
22 by law;

23 ~~{d}~~ (4) all reimbursements for money advanced for the
24 investigation and survey of reclamation, electrification,
25 and rehabilitation systems or projects proposed to be

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

7 ~~{e}~~ (5) all reimbursements for costs of surveys and
8 investigations for moneys advanced to counties, cities, or
9 towns or their proportion of the cost thereof or from any
10 other sources;

11 ~~{f}~~ ~~the following shall be deposited in the state~~
12 ~~general fund~~;

13 ~~{g}~~ (6) except as otherwise provided by law, all income
14 or profit and revenue of the works and all money received
15 from the sale or disposal of water, use of water, water
16 storage, or other service and from the operation, lease,
17 sale, or other disposition of the works, property, and
18 facilities acquired under this chapter; and

19 ~~{h}~~ (7) except as otherwise provided by law, all sums
20 received by the department for the use of electricity in
21 excess of the maintenance and operation of the
22 electrification system or project."

23 Section 47. Section 90-2-101, MCA, is amended to read:
24 "90-2-101. Policy and purpose. (1) In the development
25 of the natural resources of the state, it is essential to

1 distinguish between those which are and those which are not
 2 renewable; to make proper charges through taxation and
 3 otherwise for the depreciation of nonrenewable resources;
 4 and to invest a proper proportion of the tax and other
 5 revenues from nonrenewable resources in the replacement
 6 thereof with developments of renewable natural resources
 7 that will preserve for the citizens the benefit of the
 8 state's natural heritage and to ensure that the quality of
 9 existing public resources such as land, air, water, fish,
 10 wildlife, and recreational opportunities are not
 11 significantly diminished by developments supported by this
 12 part.

13 (2) In order to finance such developments, it is
 14 necessary to borrow in anticipation of the receipt of the
 15 revenues so that replacement will not lag behind
 16 consumption. The purpose of this part is to provide a
 17 procedure for borrowing in the most economical way for this
 18 purpose, to authorize the creation of debt to finance the
 19 first stage of the program, and to describe the types of
 20 projects, loans, and grants to be included in the program."

21 Section 48. Section 90-2-111, MCA, is amended to read:

22 "90-2-111. Grants to divisions of state government.

23 (1) The department of natural resources and conservation may
 24 recommend to the governor that grants from the renewable
 25 resource development account provided for by this part be

1 made to any department, agency, board, commission, or other
 2 division of state government.

3 (2) The department shall solicit and consider in its
 4 evaluation of proposed projects the views of interested and
 5 affected departments, boards, agencies, and other
 6 subdivisions of state and federal government and of other
 7 interested and affected persons.

8 (3) The governor shall submit those grant proposals
 9 having his approval to the legislature by the 20th day of
 10 any legislative session. Those grant proposals approved by
 11 the legislature shall be administered by the department.

12 (4) The grants provided for by this section may be
 13 made for the purchase, lease, or construction of projects
 14 for the conservation, management, utilization, development,
 15 or preservation of the land, water, fish, wildlife,
 16 recreational, and other renewable resources in the state;
 17 for the purpose of feasibility and design studies for such
 18 projects; for development of plans for the rehabilitation,
 19 expansion, or modification of existing projects; and for
 20 such other and further similar purposes as the legislature
 21 may approve.

22 (5) The department may adopt rules as required to
 23 govern the terms and conditions for making grants pursuant
 24 to this section."

25 Section 49. Section 90-2-124, MCA, is amended to read:

1 "90-2-124. Appropriation of coal severance tax. The
 2 state pledges and appropriates and directs to be credited to
 3 the sinking fund account, as received, 2-1/2% 1 1/4% of all
 4 money from time to time received from the collection of the
 5 severance tax and remaining after allocation of such tax to
 6 the trust fund established under section 5, Article IX, of
 7 the Montana constitution and such additional amount thereof,
 8 if any, as may be required from time to time to provide
 9 sufficient funds for the purposes stated in 90-2-123(2),
 10 provided that no more than 2-1/2% 1 1/4% of such tax
 11 collections shall be deemed to be pledged for the purpose of
 12 90-2-121(3)."

13 Section 50. Codification instruction. Sections 1, 2,
 14 and 4 through 23 are intended to be codified as an integral
 15 part of Title 85, chapter 1, and the provisions of Title 85,
 16 chapter 1, apply to sections 1, 2, and 4 through 23.

17 Section 51. Severability. If a part of this act is
 18 invalid, all valid parts that are severable from the invalid
 19 part remain in effect. If a part of this act is invalid in
 20 one or more of its applications, the part remains in effect
 21 in all valid applications that are severable from the
 22 invalid applications.

23 Section 52. Repealer. Sections 85-1-333 and 85-1-334,
 24 MCA, are repealed.

25 SECTION 53. COORDINATION INSTRUCTION. (1) THE BONDS

1 AUTHORIZED UNDER [SECTION 29] MAY NOT BE ISSUED UNLESS:
 2 (A) HB [LC 1477] IS PASSED AND APPROVED BY A
 3 THREE-FOURTHS VOTE OF EACH HOUSE OF THE LEGISLATURE; OR
 4 (B) ANOTHER BILL AUTHORIZING THE DEBTS AND
 5 APPROPRIATING THE FUNDS PLEDGED FOR THEIR REPAYMENT IS
 6 PASSED AND APPROVED BY A THREE-FOURTHS VOTE OF EACH HOUSE OF
 7 THE LEGISLATURE.
 8 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1),
 9 THE LEGISLATURE MUST SPECIFICALLY APPROVE EACH PROJECT,
 10 ACTIVITY, CAPITAL IMPROVEMENT OR ITEM OF DEVELOPMENT BEFORE
 11 THE BONDS TO FINANCE THAT PROJECT, ACTIVITY, CAPITAL
 12 IMPROVEMENT, OR ITEM OF DEVELOPMENT MAY BE ISSUED.
 13 (3) THE BONDS AUTHORIZED UNDER [SECTION 18] MAY NOT BE
 14 ISSUED UNLESS A BILL AUTHORIZING THE DEBT CREATED BY THE
 15 SALE OF THE BONDS AND APPROPRIATING THE FUNDS PLEDGED FOR
 16 THEIR REPAYMENT IS PASSED AND APPROVED BY TWO-THIRDS VOTE OF
 17 EACH HOUSE OF THE LEGISLATURE.

18 Section 54. Effective date. This act, except for
 19 sections 4, 43, and 49, is effective July 1, 1981. Sections
 20 4, 43, and 49 are effective July 1, 1983.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 409

3 Senate Agriculture, Livestock and Irrigation Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Board of Natural
7 Resources and Conservation in section 13.8 The intent is to provide the Board with the authority
9 to adopt those rules necessary to administer the loan and
10 grant portion of the water development program. The
11 authority is limited by section 13 to prescribing the form
12 and content of applications for grants and loans, to
13 adopting rules governing the application of the criteria for
14 awarding loans and grants to private persons, to adopting
15 rules providing for the servicing of loans including
16 arrangements for obtaining security interests and the
17 establishment of reasonable fees or charges to be made, and
18 to prescribing the terms and conditions for making grants
19 and loans, the security instruments, and the agreements
20 necessary.21 First adopted by the Senate Agriculture, Livestock and
22 Irrigation Committee on the 18th day of February, 1981.

1 SENATE BILL NO. 409
2 INTRODUCED BY MANNING, GALT
3 BY REQUEST OF THE GOVERNOR
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A WATER
6 DEVELOPMENT PROGRAM; ESTABLISHING A LOAN AND GRANT PROGRAM
7 FOR WATER DEVELOPMENT PROJECTS AND ACTIVITIES; ESTABLISHING
8 AN EARMARKED WATER DEVELOPMENT ACCOUNT; ALLOCATING A PORTION
9 OF THE COAL SEVERANCE TAX PROCEEDS; ALLOCATING A PORTION OF
10 THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST
11 ACCOUNT; CREATING AUTHORITY FOR WATER DEVELOPMENT BONDS;
12 CREATING AUTHORITY FOR COAL SEVERANCE TAX TRUST FUND BONDS;
13 REQUIRING A LIMITED APPROPRIATION OF INCOME AND INTEREST
14 FROM THE COAL SEVERANCE TAX TRUST; LIFTING THE INTEREST
15 CEILING ON WATER CONSERVATION REVENUE BONDS; AMENDING
16 SECTIONS 15-35-108, 15-38-202, 85-1-102, 85-1-301, 85-1-332,
17 90-2-101, 90-2-111, AND 90-2-124, MCA; REPEALING SECTIONS
18 85-1-333 AND 85-1-334, MCA; AND PROVIDING EFFECTIVE DATES."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
21 NEW SECTION. Section 1. Purpose and policies. (1) The
22 legislature finds and declares that in order that the people
23 of Montana may enjoy the full economic and recreational
24 benefits of the state's water resources, the state must
25 establish this long-term water development program providing

1 financial and administrative assistance to private, local,
2 and state entities for water resource development projects
3 and activities.

4 (2) The purpose of the water development program is to
5 further the state's policies, set forth in 85-1-101,
6 regarding the conservation, development, and beneficial use
7 of water resources.

8 (3) The legislature recognizes that water is one of
9 the most valuable and important renewable resources in
10 Montana; therefore, it is appropriate that a portion of the
11 taxes on the removal of nonrenewable resources be dedicated
12 to the conservation, development, and beneficial use of
13 water resources.

14 (4) The development of water resources is of a high
15 priority because a large portion of Montana's present and
16 future economy is based either directly or indirectly on the
17 wise use of water.

18 (5) This water development program is an integral part
19 of the implementation and development of the comprehensive,
20 coordinated, multiple-use water resources plan known as the
21 "state water plan".

22 NEW SECTION. Section 2. Objectives. The department
23 shall administer a water development program to accomplish
24 such objectives as rehabilitation of state-owned water
25 projects and works; promotion of private, local government,

1 and state water development; development of water-based
 2 recreation and the protection of water resources for the
 3 benefit of agriculture, flood control, and other uses;
 4 development of offstream and tributary storage; and
 5 development of state-tribal, state-federal, and
 6 state-tribal-federal water projects. THE STORAGE OF WATER
 7 FOR EXISTING AND FUTURE BENEFICIAL USES SHALL BE GIVEN A
 8 HIGH PRIORITY. The water development program is the key
 9 implementation portion of the state water plan and shall be
 10 administered to accomplish the objectives of the plan.

11 Section 3. Section 85-1-102, MCA, is amended to read:
 12 "85-1-102. Definitions. Unless the context requires
 13 otherwise, in this chapter the following definitions apply:

14 (1) "Board" means the board of natural resources and
 15 conservation provided for in 2-15-3302.

16 (2) "Cost of works" means the cost of construction;
 17 the cost of all lands, property, rights, easements, and
 18 franchises acquired which are deemed necessary for the
 19 construction; the cost of all water rights acquired or
 20 exercised by the department in connection with those works;
 21 the cost of all machinery and equipment, financing charges,
 22 interest prior to and during construction and for a period
 23 not exceeding 3 years after the completion of construction;
 24 cost of engineering and legal expenses, plans,
 25 specifications, surveys, estimates of cost, and other

1 expenses necessary or incident to determining the
 2 feasibility or practicability of any project; administrative
 3 expense; and such other expenses as may be necessary or
 4 incident to the financing herein authorized and the
 5 construction of the works and the placing of the same in
 6 operation.

7 (3) "Department" means the department of natural
 8 resources and conservation provided for in Title 2, chapter
 9 15, part 33.

10 (4) "Owner" means all individuals, irrigation
 11 districts, drainage districts, flood control districts,
 12 incorporated companies, societies, or associations having
 13 any title or interest in any properties, rights, easements,
 14 or franchises to be acquired.

15 (5) "Private person" means any individual,
 16 association, partnership, corporation, or other
 17 nongovernmental entity not eligible for loans and grants
 18 under [section 6] but does not include a governmental entity
 19 such as an agency, local government, or political
 20 subdivision of the state, the United States, or any agency
 21 thereof, or any other governmental entity.

22 ~~(5)~~(6) "Project" means any one of the works herein
 23 defined or any combination of such works which are
 24 physically connected or jointly managed and operated as a
 25 single unit.

1 (7) "Public benefits" means those benefits that accrue
 2 from a water development project or activity to persons
 3 other than the private grant or loan recipient and that
 4 enhance the common well-being of the people of Montana.
 5 Public benefits include but are not limited to recreation,
 6 flood control, erosion reduction, agricultural flood damage
 7 reduction, water quality enhancement, sediment reduction,
 8 access to recreation opportunities, and wildlife
 9 conservation.

10 (8) "Water development clearance account" means a
 11 separate account created by [section 18] within the bond
 12 PROCEEDS and insurance clearance fund of the state treasury
 13 to finance loans under the provisions of the water
 14 development program to agencies, local governments, and
 15 political subdivisions of the state, private persons, and
 16 any other eligible recipients from proceeds of bonds issued
 17 under [sections 1, 2, and 4 through 23].

18 (9) "Water development activity" means an action or
 19 program to promote PROTECT AND ENHANCE water-based
 20 recreation or to protect or enhance water resources for the
 21 benefit of agriculture, flood control, or other uses,
 22 including but not limited to such purposes as the promotion
 23 of efficient use of water in agriculture, the improvement of
 24 water quality in agriculture and other nonpoint source uses,
 25 the promotion PROTECTION AND ENHANCEMENT of water-based

1 recreation, the control of erosion of streambanks and
 2 control of sedimentation of rivers and streams, and
 3 providing greater local and state control of Montana water
 4 resources. Water development activities may provide any
 5 combination of marketable and nonmarketable benefits.

6 (10) "Water development earmarked account" means a
 7 separate account created by [section 5] within the earmarked
 8 revenue fund of the state treasury for the purposes of the
 9 water development program as set forth in [section 5].

10 (11) "Water development project" means a project as
 11 defined in subsection (6), except that water development
 12 projects are not limited to projects owned or operated by
 13 the department.

14 (12) "Water development sinking account" means a
 15 separate account created by [section 4] within the sinking
 16 fund of the state treasury to be used as provided in
 17 [section 20].

18 ~~(6)~~ (13) "Works" means all property, rights, easements,
 19 and franchises relating thereto and deemed necessary or
 20 convenient for their operation and all water rights acquired
 21 or exercised by the department in connection with those
 22 works and includes all means of conserving and distributing
 23 water, including, without limiting the generality of the
 24 foregoing, reservoirs, dams, diversion canals, distributing
 25 canals, waste canals, drainage canals, dikes, lateral

1 ditches and pumping units, mains, pipelines, and waterworks
 2 systems and includes all such works for the conservation,
 3 development, storage, distribution, and utilization of
 4 water, including without limiting the generality of the
 5 foregoing, works for the purpose of irrigation, flood
 6 prevention, drainage, fish and wildlife, recreation,
 7 development of power, watering of stock, supplying of water
 8 for public, domestic, industrial, or other uses and for fire
 9 protection."

10 NEW SECTION. Section 4. Water development sinking
 11 account created -- coal severance tax allocated. (1) There
 12 is created a water development sinking account within the
 13 sinking fund established in 17-2-102.

14 (2) The state pledges and allocates and directs to be
 15 credited to the water development sinking account, as
 16 received, 1 1/4% of all money from time to time received
 17 from the coal severance tax collected under Title 15,
 18 chapter 35, and remaining after allocation of such tax to
 19 the trust fund established under Article IX, section 5, of
 20 The Constitution of the State of Montana.

21 NEW SECTION. Section 5. Water development earmarked
 22 account created -- revenues allocated -- limitations on
 23 appropriations from account. (1) There is created a water
 24 development earmarked account within the earmarked revenue
 25 fund established in 17-2-102.

1 (2) There shall be paid into the water development
 2 earmarked account:

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

5 (b) 30% of the interest income of the resource
 6 indemnity trust account as provided in and subject to the
 7 conditions of 15-38-202;

8 (c) the excess of the coal severance tax proceeds
 9 allocated by [section 4] to the water development sinking
 10 account above debt service requirements as provided in and
 11 subject to the conditions of [section 20].

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

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

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

1 appropriated from the account for:

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

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

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

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

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

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

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

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

23 (c) An amount less than or equal to that paid into the
24 account from the water development sinking account and only
25 that amount may be appropriated from the account for loans

1 and grants for water development projects and activities and
2 for administrative expenses, including but not limited to
3 the salaries and expenses of personnel, equipment, office
4 space, and other necessities incurred in administering the
5 loans and grants.

6 NEW SECTION. Section 6. Grants and loans to state and
7 local governments. (1) The department may recommend to the
8 legislature that grants and loans be made from coal
9 severance tax proceeds deposited in the water development
10 earmarked account and loans be made from water development
11 bond proceeds deposited in the water development clearance
12 account to a department, agency, board, commission, or other
13 division of state government or to a city, county, or other
14 political subdivision or local government body of the state.
15 The legislature may approve by appropriation or other
16 appropriate means those grants and loans it finds consistent
17 with the policies and purposes of the program.

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

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

5 NEW SECTION. Section 7. Grants and loans to private
6 persons. (1) To encourage the construction and development
7 of water development projects and activities, the department
8 may make grants and loans to private persons from funds
9 appropriated from the water development earmarked account
10 and may make loans to private persons from the water
11 development clearance account.

12 (2) The department shall publicize the statutes and
13 rules governing grants and loans to private persons for
14 water development projects and activities, set and publicize
15 application deadlines, and accept applications for grants
16 and loans.

17 (3) The department shall review, evaluate, and select
18 water development projects and activities for which grants
19 or loans may be awarded.

20 NEW SECTION. Section 8. Division of funds between
21 water development projects and activities. (1) The
22 department shall recommend, to the extent possible, that
23 water development projects and water development activities
24 be funded equally when making recommendations to the
25 legislature on loans and grants for state and local water

1 development under [section 6].

2 (2) The department shall, to the extent possible, in
3 approving grants and loans to private persons fund water
4 development projects and water development activities
5 equally.

6 NEW SECTION. Section 9. Applications for grants and
7 loans to private persons. (1) A private person may apply for
8 a grant or loan to finance a water development project or
9 activity to be constructed, developed, and operated in
10 Montana.

11 (2) An application for a loan or grant must be in the
12 form prescribed by the board and contain or be accompanied
13 by any information necessary to adequately describe the
14 proposed project or activity and necessary for evaluation of
15 the proposed project or activity under the criteria set out
16 in [sections 10 and 11].

17 NEW SECTION. Section 10. Eligibility for a loan or
18 grant to a private person. The department may not award a
19 grant or loan to a private person unless the department
20 finds, based on the application and the department's
21 investigation and evaluation of the proposal, that:

22 (1) the proposed water development project or
23 activity:

24 (a) will promote, enhance, or advance the purpose,
25 policies, and objectives of the water development program;

1 (b) will be constructed, developed, and operated
2 within the state of Montana;

3 (c) will be economically feasible. (A project or
4 activity is economically feasible if the project benefits
5 exceed the project costs. The department shall consider both
6 ONLY tangible ~~and--intangible~~ benefits and costs in
7 calculating economic feasibility.)

8 (d) will be an efficient use of natural resources
9 including water, energy, land, and air. (An efficient use is
10 one that minimizes waste.)

11 (e) will provide multipurpose facilities to the extent
12 practicable;

13 (f) will comply with statutory and regulatory
14 standards protecting the quality of resources such as air,
15 water, land, fish, wildlife, and recreational opportunities;

16 (g) will provide associated public benefits in
17 addition to any private benefits the project or activity may
18 provide; and

19 (h) is needed to accomplish the purpose for which the
20 water development project or activity is proposed;

21 (2) the applicant has adequate financial resources to
22 construct, operate, and maintain the water development
23 project or activity. The department shall consider financial
24 resources from any source for which the applicant has
25 qualified, including a water development grant or loan.

1 (3) the applicant holds or can acquire all necessary
2 lands, other than public lands, and interests therein and
3 water rights necessary for the construction, operation, and
4 maintenance of the proposed water development project or
5 activity;

6 (4) if the application is for a loan, the applicant is
7 credit-worthy and able and willing to enter into a contract
8 with the department for loan repayment and construction or
9 development of the proposed water development project or
10 activity; and

11 (5) if the application is for a grant, the applicant
12 is able and willing to enter into a contract with the
13 department for construction or development of the proposed
14 water development project or activity; AND

15 (6) IF THE APPLICATION IS FOR A GRANT, THE APPLICANT
16 MUST SHARE IN THE COST OF THE PROJECT SO THAT THE GRANT MAY
17 NOT EXCEED 25% OF THE TOTAL PROJECT COST.

18 NEW SECTION. Section 11. Evaluation of grants and
19 loans to private persons. The department shall consider the
20 following criteria and preferences in evaluating
21 applications and selecting the recipients of grants and
22 loans for water development projects and activities that are
23 eligible for funding under [section 10]:

24 (1) The extent and desirability of the public benefits
25 that will be provided must be considered.

1 (2) A water development project or activity that will
2 be used as part of a family farm or in starting a new
3 business shall be given preference. A family farm is one
4 devoted primarily to agriculture under the ownership of a
5 resident Montana family.

6 (3) A water development project or activity that will
7 utilize or develop water reserved under 85-2-316 shall be
8 given preference.

9 (4) The department, to the extent practicable, shall
10 attempt to achieve geographic balance in the promotion of
11 water development projects and activities through the
12 awarding of loans and grants to private persons.

13 (5) The extent to which the water development project
14 or activity will fully utilize water resources and promote
15 the conservation and efficient use of the water resource
16 shall be evaluated and considered.

17 (6) Projects or activities that could not be
18 accomplished without the assistance of a loan or grant shall
19 be given preference.

20 (7) The department shall give due consideration to any
21 other factor that, in the department's judgment, is
22 important to the evaluation of the water development project
23 or activity in light of the purposes, policies, and
24 objectives of the water development program.

25 NEW SECTION. Section 12. Department to solicit views.

1 The department shall solicit and consider in its evaluation
2 of proposed projects and activities the views of interested
3 and affected departments, boards, agencies, commissions, and
4 other subdivisions of the state, including local political
5 subdivisions, of the federal government, and of other
6 interested and affected persons.

7 NEW SECTION. Section 13. Rulemaking authority. The
8 board shall adopt rules:

9 (1) prescribing the form and content of applications
10 for grants and loans;

11 (2) governing the application of the criteria for
12 awarding loans and grants to private persons;

13 (3) providing for the servicing of loans including
14 arrangements for obtaining security interests and the
15 establishment of reasonable fees or charges to be made; and

16 (4) describing the terms and conditions for making
17 grants and loans, the security instruments, and the
18 agreements necessary.

19 NEW SECTION. Section 14. Limits on loans. (1) No loan
20 for a water development project or activity may be made from
21 the water development earmarked or clearance account that
22 exceeds the least of \$100,000, 10% of the estimated total
23 funds potentially available for loans in the water
24 development earmarked and clearance accounts in the biennium
25 in which the loan will be made, or 80% of the fair market

1 value of the security given therefor. In determining the
2 fair market value for the security given for a loan, the
3 department shall consider appraisals made by qualified
4 appraisers and other factors it considers important.

5 (2) The period for repayment of loans may not exceed
6 30 years.

7 (3) The board shall from time to time establish the
8 interest rate at which loans may be made under [sections 1,
9 2, and 4 through 23].

10 NEW SECTION. Section 15. Limits on grants from water
11 development earmarked account. The maximum grant awarded to
12 a private person may not exceed 5% of the estimated total
13 funds potentially available in the water development
14 earmarked account for grants in the biennium in which the
15 grant will be made.

16 NEW SECTION. Section 16. Security interests. The
17 state has a lien upon a project constructed with money from
18 the water development earmarked or clearance account for the
19 amount of the loan and interest due the state. This lien may
20 attach to any project facilities, equipment, easements, real
21 property, and property of any kind or nature owned by the
22 debtor, including all water rights. The department shall
23 file with the county clerk and recorder of each county in
24 which a part of the project is located either a financing
25 statement or a real estate mortgage covering the loan, its

1 amount, terms, and a description of the security. The
2 county clerk and recorder shall record and index the lien as
3 other liens are required by law to be recorded and indexed.
4 The lien shall be valid until paid in full or otherwise
5 discharged. The lien shall be foreclosed in accordance with
6 applicable state law governing foreclosure of mortgages and
7 liens.

8 NEW SECTION. Section 17. Administration of loans and
9 grants. The department shall:

10 (1) administer the loan and grant program established
11 by [sections 1, 2, and 4 through 23];

12 (2) service loans made or contract and pay for the
13 servicing of loans, including arrangements for obtaining
14 security interests; and

15 (3) collect reasonable fees or charges for the
16 servicing of loans, including arrangements for obtaining
17 security interests.

18 NEW SECTION. Section 18. Issuing bonds. (1) When
19 authorized by the legislature and within the limits of the
20 authorization and within the further limitations established
21 in this section, the board of examiners may issue and sell
22 water development bonds of the state in the amount and
23 manner it considers necessary and proper to finance the
24 water development loan program. The full faith and credit
25 and taxing powers of the state are pledged for the prompt

1 and full payment of all bonds so issued and interest and
 2 redemption premiums payable thereon according to their
 3 terms.

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

22 (3) In the issuance of each series of water
 23 development bonds, the interest rates and the maturities and
 24 any mandatory redemption provisions thereof shall be
 25 established in such manner that the funds then specifically

1 pledged and appropriated by law to the water development
 2 sinking account will in the judgment of the board of
 3 examiners be received in an amount sufficient in each year
 4 to pay all principal, redemption premiums, and interest due
 5 and payable in that year with respect to that and all prior
 6 series of such bonds, except outstanding bonds as to which
 7 the obligation of the state has been discharged by the
 8 deposit of funds or securities sufficient for their payment
 9 in accordance with the terms of the resolutions by which
 10 they are authorized to be issued.

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

22 (5) There is created a water development clearance
 23 account within the bond proceeds and insurance clearance
 24 fund established in 17-2-102.

25 (6) All proceeds of bonds issued under this section,

1 other than refunding bonds, must be deposited in the water
 2 development clearance account established in subsection (5),
 3 except that any principal and accrued interest received in
 4 repayment of a loan made from the proceeds of bonds issued
 5 under this section must be deposited in the water
 6 development sinking account and must be applied to the
 7 payment, redemption premiums, and interest on the particular
 8 bond issue from whose proceeds the loan was made. All
 9 proceeds of refunding bonds must be deposited in the water
 10 development sinking account and applied to the payment and
 11 redemption of outstanding bonds issued under this section as
 12 directed by the board, whether at maturity or on any earlier
 13 date on which they may be prepaid according to their terms.

14 (7) All actions taken by the board of examiners under
 15 this section or [section 20] must be authorized by a vote of
 16 a majority of the members of the board of examiners.

17 NEW SECTION. Section 19. Bond proceeds only for
 18 loans. Water development bond proceeds may be used only for
 19 the purpose of making loans as provided in the water
 20 development program.

21 NEW SECTION. Section 20. Sinking fund account --
 22 pledge and administration of sufficient balance. (1) The
 23 legislature may levy, impose, assess, and pledge and
 24 appropriate to the water development sinking account any
 25 tax, charge, fee, rental, or other income from any

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

12 (2) Money in the water development sinking account
 13 must be used first to pay interest, principal, and
 14 redemption premiums when due and payable with respect to
 15 water development bonds; second to accumulate a reserve for
 16 the further security of such payments, to the amount
 17 required each month to meet those payments due within 12
 18 months thereafter; and third to restore the reserve to this
 19 amount after each payment.

20 (3) After the reserve provided for in subsection (2)
 21 has been accumulated in the water development sinking
 22 account, money at any time received in the water development
 23 sinking account in excess of that amount must be transferred
 24 by the treasurer to the water development earmarked account.
 25 If the balance on hand at any time in the water development

1 sinking account is not sufficient to accumulate required
 2 reserves under subsection (2) and is not restored to the
 3 required amount within 3 months thereafter from funds
 4 specifically pledged and appropriated to the water
 5 development sinking account, the treasurer IN ACCORDANCE
 6 WITH THE PLEDGE OF THE FULL FAITH AND CREDIT AND TAXING
 7 POWERS OF THE STATE shall transfer an amount sufficient to
 8 restore the required balance from the general fund to the
 9 water development sinking account.

10 NEW SECTION. Section 21. Water development refunding
 11 bonds. (1) The board of examiners may issue refunding bonds
 12 at such times and in such amounts, if any, as may be
 13 necessary to pay principal or interest due that cannot be
 14 paid from funds then on hand in the water development
 15 sinking account. The board of examiners may also issue
 16 refunding bonds to refund outstanding bonds before maturity
 17 for the purpose of extending the maturities thereof so far
 18 as determined by the board of examiners to be necessary to
 19 assure that the funds then pledged to the water development
 20 sinking account will be sufficient for payment of principal
 21 and interest due in subsequent years. The board of examiners
 22 may also issue refunding bonds to refund outstanding bonds
 23 before maturity for the purpose of reducing the interest
 24 cost or the total amount of principal and interest payable
 25 thereon.

1 (2) No refunding bonds may be issued and sold more
 2 than 3 months before all bonds refunded thereby mature or
 3 are called for redemption unless the proceeds thereof, with
 4 any other funds in the water development sinking account
 5 that are needed and available for the purpose or securities
 6 purchased from such proceeds and other funds, are deposited
 7 with a suitable banking institution within or outside the
 8 state, in escrow, for the retirement of the refunded bonds
 9 at maturity or at a prior date or dates on which they have
 10 been called for redemption in accordance with their terms,
 11 in an amount and in a manner sufficient under the provisions
 12 securing the refunded bonds, so that the state's obligation
 13 to pay the same, from sources other than the escrow fund, is
 14 discharged.

15 (3) No new debt may be created by the issuance of
 16 refunding bonds in accordance with this section, but such
 17 refunding bonds shall evidence the debt previously created
 18 and shall be secured by the pledge of the full faith and
 19 credit and taxing powers of the state and by the further
 20 provisions of this part in the same manner as the bonds
 21 refunded thereby.

22 NEW SECTION. Section 22. Report to the legislature.
 23 The department shall prepare a biennial report to the
 24 legislature describing the status of the water development
 25 program. The report must describe ongoing projects and

1 activities and those which have been completed during the
 2 biennium. The report must also describe proposed projects
 3 and activities for the coming biennium and recommendations
 4 for necessary appropriations. A copy of the report shall be
 5 submitted to the president of the senate and the speaker of
 6 the house and to such other members as may request a copy.

7 NEW SECTION. Section 23. Penalty. No member, officer,
 8 attorney, or other employee of the board of ~~natural~~
 9 ~~resources--and--conservation~~ or the department of ~~natural~~
 10 ~~resources--and--conservation~~ may, directly or indirectly, be
 11 the beneficiary of or receive any fee, commission, gift, or
 12 other consideration for or in connection with any
 13 transaction or business under [sections 1, 2, and 4 through
 14 23] other than the salary, fee, or other compensation as he
 15 may receive as a member, officer, attorney, or employee. A
 16 person convicted of violating any provision of this section
 17 shall be punished by a fine not to exceed \$2,000 or be
 18 imprisoned for not to exceed 2 years, or both.

19 NEW SECTION. Section 24. State of Montana coal
 20 severance tax bonds. [Sections 24 through 42] provide for
 21 the issuance of state of Montana coal severance tax bonds
 22 (also referred to as coal severance tax bonds in [sections
 23 24 through 42]) to finance water resource development
 24 projects and activities, other capital improvements, and
 25 economic development in the state designed to provide,

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

5 NEW SECTION. Section 25. Purpose and intent. (1) The
 6 purpose of the coal severance tax trust fund bond provisions
 7 of [sections 24 through 42] is to establish the authority to
 8 issue and sell coal severance tax bonds THAT HAVE BEEN
 9 APPROVED BY ACT OF THE LEGISLATURE for financing specific
 10 water resource development projects and activities, other
 11 capital improvements, and economic development in the state
 12 authorized by the legislature and to guarantee redemption of
 13 such bonds by revenue derived from the receipts from the
 14 coal severance tax imposed by Title 15, chapter 35, part 1,
 15 and such other money as the legislature may from time to
 16 time determine.

17 (2) The legislature intends that projects to be
 18 financed by coal severance tax bonds include but are not
 19 limited to water resource development projects and
 20 activities as part of the water development program
 21 established in [sections 1, 2, and 4 through 23]. The
 22 legislature further intends that the income from water
 23 resource development projects and activities in excess of
 24 the amount required for debt service and operation and
 25 maintenance of those projects and activities be deposited in

1 the water development earmarked account established in
2 [section 5].

3 NEW SECTION. Section 26. Coal severance tax trust
4 subfunds. (1) The trust established under Article IX,
5 section 5, of the Montana constitution shall be composed of
6 the following subfunds:

7 (a) a coal severance tax bond subfund into which the
8 constitutionally dedicated receipts from the coal severance
9 tax shall be deposited;

10 (b) a coal severance tax permanent subfund; and

11 (c) a coal severance tax income subfund.

12 (2) On each December 31 and June 30 the state
13 treasurer shall transfer to the coal severance tax permanent
14 subfund all money in the coal severance tax bond subfund
15 except the amount necessary to meet all principal and
16 interest payments on bonds payable from the coal severance
17 tax bond subfund on the next ensuing semiannual payment
18 date.

19 NEW SECTION. Section 27. Investment of funds. (1)
20 Money in the coal severance tax bond subfund, the coal
21 severance tax permanent subfund, and the coal severance tax
22 income subfund must be invested in accordance with the
23 investment standards for coal severance tax funds EXCEPT AS
24 PROVIDED IN SUBSECTION (2). Income and earnings from all
25 subfunds must be transferred to and retained in the coal

1 severance tax income subfund ~~until appropriated by the~~
2 ~~legislature.~~

3 (2) BEGINNING ON JULY 1, 1983, THE LEGISLATURE SHALL
4 APPROPRIATE 15% OF THE INCOME AND EARNINGS FROM ALL SUBFUNDS
5 TO BE DEPOSITED TO THE COAL SEVERANCE TAX PERMANENT SUBFUND
6 EACH YEAR. THE FUNDS APPROPRIATED TO THE COAL SEVERANCE TAX
7 PERMANENT SUBFUND UNDER THIS SUBSECTION MAY NOT BE FURTHER
8 APPROPRIATED EXCEPT BY VOTE OF THREE-FOURTHS OF THE MEMBERS
9 OF EACH HOUSE OF THE LEGISLATURE.

10 NEW SECTION. Section 28. Pledge of coal severance tax
11 bond subfund. The money in the coal severance tax bond
12 subfund is pledged to the payment of the principal and
13 interest on all state of Montana coal severance tax bonds.
14 All bonds issued after [the effective date of sections 24
15 through 42] wherein the money in the coal severance tax bond
16 subfund is pledged for their retirement shall be called
17 "state of Montana coal severance tax bonds".

18 NEW SECTION. Section 29. Authority to issue coal
19 severance tax bonds. The board of examiners, UPON APPROVAL
20 OF THE LEGISLATURE AS HEREINAFTER PROVIDED, shall issue and
21 sell coal severance tax bonds to finance SUCH APPROVED water
22 resource development projects and activities, other capital
23 improvements, or economic development when authorized to do
24 so by any law that sets out the amount and purpose of the
25 issue. EACH PROJECT, ACTIVITY, OTHER CAPITAL IMPROVEMENT OR

1 OTHER ITEM OF DEVELOPMENT SHALL BE SEPARATELY APPROVED AS TO
 2 AMOUNT BY THE LEGISLATURE.

3 NEW SECTION. Section 30. Board of examiners to issue
 4 bonds. The board of examiners may issue and sell coal
 5 severance tax bonds, and no other agency of the state is so
 6 authorized. Any action taken by the board of examiners under
 7 [sections 24 through 42] must be approved by a majority vote
 8 of its members.

9 NEW SECTION. Section 31. Special fund revenues. (1)
 10 If a law authorizing a coal severance tax bond issue FOR A
 11 SPECIFIC PURPOSE AND IN A SPECIFIC AMOUNT contemplates the
 12 pledge and receipt of revenues, assets, or money other than
 13 or in addition to the money in the coal severance tax bond
 14 subfund, then the money derived from such pledged revenues,
 15 assets, and money must be paid into a special bond account
 16 for the benefit of such bonds, which must be part of the
 17 sinking fund of the state treasury fund structure.

18 (2) Money must be withdrawn from the coal severance
 19 tax bond account and paid to the special bond fund as
 20 necessary to provide for payment of principal and interest
 21 on the coal severance tax bonds secured by a pledge of the
 22 special account.

23 NEW SECTION. Section 32. Continued tax deposit limit
 24 on additional bonds. (1) The legislature shall provide for
 25 the continued assessment, levy, collection, and deposit into

1 the coal severance tax bond subfund of the coal severance
 2 tax which, together with such other revenues, assets, and
 3 money as may be deposited to one or more special bond
 4 accounts pledged for the benefit of coal severance tax
 5 bonds, will be sufficient to produce an amount that is at
 6 least the amount necessary to pay, when due, the annual debt
 7 service charges on all outstanding coal severance tax bonds.

8 (2) The board of examiners may issue no coal severance
 9 tax bonds unless the aggregate amount of coal severance tax
 10 bonds outstanding, including the proposed issue and any
 11 other coal severance tax bonds authorized but not yet
 12 issued, can be serviced with no more than two-thirds of the
 13 annual deposits into the coal severance tax bond subfund, as
 14 determined by the average of the deposits during the
 15 preceding 3 fiscal years, together with the average of the
 16 aggregate amount of revenues, assets, or money deposited in
 17 one or more special bond accounts used to pay debt service
 18 on outstanding coal severance tax bonds during the preceding
 19 3 fiscal years.

20 (3) The provisions of this section may not be modified
 21 so as to reduce the security for any coal severance tax
 22 bonds while such bonds are outstanding.

23 NEW SECTION. Section 33. Form -- principal and
 24 interest -- fiscal agent -- deposit of proceeds. (1) Each
 25 series of coal severance tax bonds must be issued by the

1 board of examiners at public or private sale, in such
 2 denominations and form, whether payable to bearer or
 3 registered as to principal or both principal and interest,
 4 with such provisions for the conversion or exchange, bearing
 5 interest at such rate or rates, maturing at such times not
 6 exceeding 40 years from date of issue, subject to redemption
 7 at such earlier times and prices and upon such notice, and
 8 payable at the office of such fiscal agency of the state as
 9 the board of examiners shall determine subject to the
 10 limitations contained in [sections 24 through 42].

11 (2) In all other respects the board of examiners is
 12 authorized to prescribe the form and terms of the bonds and
 13 shall do whatever is lawful and necessary for their issuance
 14 and payment.

15 (3) Coal severance tax bonds and any interest coupons
 16 appurtenant thereto shall be signed by the members of the
 17 board of examiners, and the bonds shall be issued under the
 18 great seal of the state of Montana. The bonds and coupons
 19 may be executed with facsimile signatures and seal in the
 20 manner and subject to the limitations prescribed by law. The
 21 state treasurer shall keep a record of all such bonds issued
 22 and sold.

23 (4) The board of examiners is authorized to employ a
 24 fiscal agent to assist in the performance of its duties
 25 hereunder.

1 (5) All proceeds of a state of Montana coal severance
 2 tax bonds issue shall be deposited in a bond proceeds and
 3 insurance clearance fund account established for that bond
 4 issue, except that any premiums and accrued interest
 5 received shall be deposited in a sinking fund account
 6 established for that bond issue.

7 NEW SECTION. Section 34. Trust indenture. In the
 8 discretion of the board of examiners, a series of coal
 9 severance tax bonds may be secured by a trust indenture by
 10 and between the board of examiners and a trustee, which may
 11 be any trust company or bank having the powers of a trust
 12 company within or outside of the state. Each trust indenture
 13 or an executed counterpart thereof shall be filed in the
 14 office of the secretary of state of Montana. The filing of a
 15 trust indenture or an executed counterpart thereof in the
 16 office of the county clerk of the county in which the
 17 property covered by the trust indenture is located is
 18 constructive notice of its contents to all persons from the
 19 time of the filing, and the recording of the trust indenture
 20 of OR its contents is not necessary.

21 NEW SECTION. Section 35. Provisions for protecting
 22 bondholders. Either the legislative act providing for the
 23 issuance of coal severance tax bonds or the trust indenture
 24 may contain provisions for protecting and enforcing the
 25 rights and remedies of the bondholders as are reasonable.

1 proper, and not in violation of law, including covenants
 2 setting forth the duties of the state, the board of
 3 examiners, and the departments, boards, or agencies of state
 4 government in relation to the acquisition, construction,
 5 improvement, maintenance, operation, repair, and insurance
 6 of the projects financed with the proceeds of coal severance
 7 tax bonds and the custody, safeguarding, and application of
 8 all money. The TRUST indenture may set forth the rights and
 9 remedies of the bondholders as is customary in trust
 10 indentures, deeds of trusts, and mortgages securing bonds or
 11 debentures of corporations. No enumeration of particular
 12 powers granted by this section impairs any general grant of
 13 power contained in [sections 24 through 42].

14 NEW SECTION. Section 36. Personal liability -- suit
 15 to compel performance. (1) The members of the board of
 16 examiners and officers and employees of the departments,
 17 boards, or agencies of state government are not personally
 18 liable or accountable by reason of the issuance of or on any
 19 coal severance tax bond issued by the board of examiners.

20 (2) Any holder of coal severance tax bonds or any
 21 person or officer being a party in interest, subject to any
 22 applicable coal severance tax agreements or TRUST
 23 indentures, may sue to enforce and compel the performance of
 24 the coal severance tax bond provisions as set out in
 25 [sections 24 through 42].

1 NEW SECTION. Section 37. Negotiability of bonds. Coal
 2 severance tax bonds issued are negotiable instruments under
 3 the Uniform Commercial Code, subject only to the provisions
 4 for registration of bonds.

5 NEW SECTION. Section 38. Signatures of board members.
 6 In the case any member of the board of examiners whose
 7 signature appears on coal severance tax bonds or coupons
 8 ceases to be a member before the delivery of the bonds, his
 9 signature is nevertheless valid and sufficient for all
 10 purposes, the same as if the member HAD remained in
 11 office until delivery.

12 NEW SECTION. Section 39. Refunding obligations. (1)
 13 The state board of examiners may provide for the issuance of
 14 refunding obligations for refunding any obligations then
 15 outstanding that have been issued under [sections 24 through
 16 42], including the payment of any redemption premium and any
 17 interest accrued or to accrue to the date of redemption of
 18 the obligations. The issuance of refunding obligations, the
 19 maturities and other details, the rights of the holders, and
 20 the rights, duties, and obligations of the state are
 21 governed by the appropriate provisions of [sections 24
 22 through 42] that relate to the issuance of obligations.

23 (2) Refunding obligations issued as provided in
 24 subsection (1) may be sold or exchanged for outstanding
 25 obligations issued under [sections 24 through 42]. The

1 proceeds may be applied to the purchase, redemption, or
 2 payment of outstanding obligations. Pending the application
 3 of the proceeds of refunding obligations, with other
 4 available funds, to the payment of principal, accrued
 5 interest, and any redemption premium on the obligations
 6 being refunded and, if permitted in the resolution
 7 authorizing the issuance of the refunding obligations or in
 8 the trust agreement securing them, to the payment of
 9 interest on refunding obligations and expenses in connection
 10 with refunding, the proceeds may be invested as provided in
 11 Title 17, chapter 6.

12 NEW SECTION. Section 40. Pledge of the state. In
 13 accordance with the constitutions of the United States and
 14 the state of Montana, the state pledges that it will not in
 15 any way impair the obligations of any agreement between the
 16 state and the holders of notes and bonds issued by the
 17 state.

18 NEW SECTION. Section 41. Tax exemption of bonds --
 19 legal investments. (1) All coal severance tax bonds, their
 20 transfer, and their income, including any profits made on
 21 their sale, are exempt from taxation by the state or any
 22 political subdivisions or other instrumentality of the
 23 state, excepting inheritance, estate, and gift taxes.

24 (2) Coal severance tax bonds are legal investments for
 25 any person or board charged with investment of public funds

1 and are acceptable as security for any deposit of public
 2 money.

3 NEW SECTION. Section 42. Limitation on amount of coal
 4 severance tax bonds issued. No more than \$500 ~~\$250~~ million
 5 worth of coal severance tax bonds may be issued for water
 6 development projects and activities, other capital
 7 improvements, and economic development.

8 Section 43. Section 15-35-108, MCA, is amended to
 9 read:

10 *15-35-108. Disposal of severance taxes. Severance
 11 taxes collected under the provisions of this chapter are
 12 allocated as follows:

13 (1) To the trust fund created by Article IX, section
 14 5, of the Montana constitution, 25% of total collections a
 15 year. After December 31, 1979, 50% of coal severance tax
 16 collections are allocated to this trust fund. The trust fund
 17 moneys shall be deposited in the fund established under
 18 17-6-203(5) and invested by the board of investments as
 19 provided by law.

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

24 (a) to the county in which coal is mined, 2% of the
 25 severance tax paid on the coal mined in that county until

1 January 1, 1980, for such purposes as the governing body of
2 the county may determine;

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

7 (c) 26 1/2% until July 1, 1979, and thereafter 37 1/2%
8 to the earmarked revenue fund to the credit of the local
9 impact and education trust fund account;

10 (d) for each of the 2 fiscal years following June 30,
11 1977, 13% to the earmarked revenue fund to the credit of the
12 coal area highway improvement 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% 1 1/4% to the sinking fund to the credit of
18 the renewable resource development bond account;

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

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

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

4 (i) 1% to the earmarked revenue fund to the credit of
5 the state library commission for the purposes of providing
6 basic library services for the residents of all counties
7 through library federations and for payment of the costs of
8 participating in regional and national networking;

9 (j) 1 1/4% to the sinking fund to the credit of the
10 water development sinking account;

11 ~~††~~[k] all other revenues from severance taxes
12 collected under the provisions of this chapter to the credit
13 of the general fund of the state."

14 Section 44. Section 15-38-202, MCA, is amended to
15 read:

16 "15-38-202. Investment of resource indemnity trust
17 account -- expenditure -- minimum balance. [1] All moneys
18 paid into the resource indemnity trust account shall be
19 invested at the discretion of the board of investments. All
20 the net earnings accruing to the resource indemnity trust
21 account shall annually be added thereto until it has reached
22 the sum of \$10 million. Thereafter, only the net earnings
23 may be appropriated and expended until the account reaches
24 \$100 million. Thereafter, all net earnings and all receipts
25 shall be appropriated by the legislature and expended,

1 provided that the balance in the account may never be less
2 than \$100 million.

3 (2) Beginning in fiscal year 1982, provided the amount
4 in the resource trust account is greater than \$10 million,
5 30% of the interest income of the resource indemnity trust
6 account must be allocated to water development earmarked
7 account created by [section 5]."

8 Section 45. Section 85-1-301, MCA, is amended to read:

9 "85-1-301. Water conservation revenue bonds. (1) The
10 board is hereby authorized to provide, by resolution, at one
11 time or from time to time, for the issuance of water
12 conservation revenue bonds of the state for the purpose of
13 paying the cost, as hereinabove defined, of any one or more
14 such public works, the principal and interest of which bonds
15 shall be payable solely from the special fund herein
16 provided for such payment. Such bonds shall mature at such
17 time or times, not more than 40 years from their date or
18 dates, as may be fixed by such resolution but may be made
19 redeemable before maturity at the option of the state, to be
20 exercised by the board, at such price or prices and under
21 such terms and conditions as may be fixed by the board prior
22 to the issuance of the bonds. The board shall determine the
23 rate of interest such bonds shall bear, ~~not exceeding 6% per~~
24 ~~annum~~; the time or times of payment of such interest; the
25 form of the bonds and the interest coupons to be attached

1 thereto; and the manner of executing the bonds and coupons
2 and shall fix the denomination or denominations of the bonds
3 and the place or places of payment of principal and interest
4 thereof, which may be at any bank or trust company within or
5 without the state.

6 (2) Provisions may be made for the registration of any
7 of the bonds in the name of the owner as to principal alone
8 or as to both principal and interest. The bonds authorized
9 under the provisions of this section and 85-1-303 may be
10 issued and sold from time to time and in such amounts as may
11 be determined by the board, and the board may sell the bonds
12 in such manner and for such price as it may determine to be
13 for the best interests of the state, ~~but no such sale shall~~
14 ~~be made for less than a price which, computed with relation~~
15 ~~to the absolute maturity of the bonds, in accordance with~~
16 ~~standard tables of bond values, will show a net return of 6%~~
17 ~~per annum to the purchaser upon the amount paid therefor.~~
18 The proceeds of such bonds shall be used solely for the
19 payment of the cost of the works and shall be checked out in
20 such manner and under such restrictions, if any, as the
21 board may provide.

22 (3) Each resolution providing for the issuance of
23 bonds shall set forth the project or projects for which the
24 bonds are to be issued, and the bonds authorized by each
25 such resolution shall constitute a separate series. The

1 bonds of each series shall be identified by a series letter
2 or letters and may be sold and delivered at one time or from
3 time to time."

4 Section 46. Section 85-1-332, MCA, is amended to read:

5 "85-1-332. Disposition of moneys collected. ~~{t}~~ For
6 the purpose of carrying out the provisions of this chapter
7 and such other water resource authority, powers, and duties
8 as are conferred upon the department by law, the following
9 moneys shall be deposited in the ~~earmarked-revenue-fund-for~~
10 ~~the--use--of--the--department~~ water development earmarked
11 account created by [section 5]:

12 ~~{e}~~{1} all sums of money donated or contributed by the
13 federal government or any department or agencies thereof;

14 ~~{b}~~{2} all gifts, donations, bequests, and devises
15 made to the state therefor and proceeds of the sale thereof;
16 and the proceeds of the sale or redemption of and the
17 interest earned by the securities purchased or acquired with
18 money received under this subsection;

19 ~~{e}~~{3} all reimbursements for money advanced for the
20 payment of the assessments upon state, school-granted, and
21 other public lands for the improvement thereof as provided
22 by law;

23 ~~{d}~~{4} all reimbursements for money advanced for the
24 investigation and survey of reclamation, electrification,
25 and rehabilitation systems or projects proposed to be

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

7 ~~{e}~~{5} all reimbursements for costs of surveys and
8 investigations for moneys advanced to counties, cities, or
9 towns or their proportion of the cost thereof or from any
10 other sources;

11 ~~{2}~~--The following shall be deposited in the state
12 general fund:

13 ~~{e}~~{6} except as otherwise provided by law, all income
14 or profit and revenue of the works and all money received
15 from the sale or disposal of water, use of water, water
16 storage, or other service and from the operation, lease,
17 sale, or other disposition of the works, property, and
18 facilities acquired under this chapter; and

19 ~~{b}~~{7} except as otherwise provided by law, all sums
20 received by the department for the use of electricity in
21 excess of the maintenance and operation of the
22 electrification system or project."

23 Section 47. Section 90-2-101, MCA, is amended to read:

24 "90-2-101. Policy and purpose. (1) In the development
25 of the natural resources of the state, it is essential to

1 distinguish between those which are and those which are not
 2 renewable; to make proper charges through taxation and
 3 otherwise for the depreciation of nonrenewable resources;
 4 and to invest a proper proportion of the tax and other
 5 revenues from nonrenewable resources in the replacement
 6 thereof with developments of renewable natural resources
 7 that will preserve for the citizens the benefit of the
 8 state's natural heritage and to ensure that the quality of
 9 existing public resources such as land, air, water, fish,
 10 wildlife, and recreational opportunities are not
 11 significantly diminished by developments supported by this
 12 part.

13 (2) In order to finance such developments, it is
 14 necessary to borrow in anticipation of the receipt of the
 15 revenues so that replacement will not lag behind
 16 consumption. The purpose of this part is to provide a
 17 procedure for borrowing in the most economical way for this
 18 purpose, to authorize the creation of debt to finance the
 19 first stage of the program, and to describe the types of
 20 projects, loans, and grants to be included in the program."

21 Section 48. Section 90-2-111, MCA, is amended to read:

22 "90-2-111. Grants to divisions of state government.

23 (1) The department of natural resources and conservation may
 24 recommend to the governor that grants from the renewable
 25 resource development account provided for by this part be

1 made to any department, agency, board, commission, or other
 2 division of state government.

3 (2) The department shall solicit and consider in its
 4 evaluation of proposed projects the views of interested and
 5 affected departments, boards, agencies, and other
 6 subdivisions of state and federal government and of other
 7 interested and affected persons.

8 (3) The governor shall submit those grant proposals
 9 having his approval to the legislature by the 20th day of
 10 any legislative session. Those grant proposals approved by
 11 the legislature shall be administered by the department.

12 (4) The grants provided for by this section may be
 13 made for the purchase, lease, or construction of projects
 14 for the conservation, management, utilization, development,
 15 or preservation of the land, water, fish, wildlife,
 16 recreational, and other renewable resources in the state;
 17 for the purpose of feasibility and design studies for such
 18 projects; for development of plans for the rehabilitation,
 19 expansion, or modification of existing projects; and for
 20 such other and further similar purposes as the legislature
 21 may approve.

22 (5) The department may adopt rules as required to
 23 govern the terms and conditions for making grants pursuant
 24 to this section."

25 Section 49. Section 90-2-124, MCA, is amended to read:

1 "90-2-124. Appropriation of coal severance tax. The
 2 state pledges and appropriates and directs to be credited to
 3 the sinking fund account, as received, 2-1/2% 1 1/4% of all
 4 money from time to time received from the collection of the
 5 severance tax and remaining after allocation of such tax to
 6 the trust fund established under section 5, Article IX, of
 7 the Montana constitution and such additional amount thereof,
 8 if any, as may be required from time to time to provide
 9 sufficient funds for the purposes stated in 90-2-123(2),
 10 provided that no more than 2-1/2% 1 1/4% of such tax
 11 collections shall be deemed to be pledged for the purpose of
 12 90-2-121(3)."

13 Section 50. Codification instruction. Sections 1, 2,
 14 and 4 through 23 are intended to be codified as an integral
 15 part of Title 85, chapter 1, and the provisions of Title 85,
 16 chapter 1, apply to sections 1, 2, and 4 through 23.

17 Section 51. Severability. If a part of this act is
 18 invalid, all valid parts that are severable from the invalid
 19 part remain in effect. If a part of this act is invalid in
 20 one or more of its applications, the part remains in effect
 21 in all valid applications that are severable from the
 22 invalid applications.

23 Section 52. Repealer. Sections 85-1-333 and 85-1-334,
 24 MCA, are repealed.

25 SECTION 53. COORDINATION INSTRUCTION. (1) THE BONDS

1 AUTHORIZED UNDER [SECTION 29] MAY NOT BE ISSUED UNLESS:
 2 (A) HB [LC 1477] IS PASSED AND APPROVED BY A
 3 THREE-FOURTHS VOTE OF EACH HOUSE OF THE LEGISLATURE; OR
 4 (B) ANOTHER BILL AUTHORIZING THE DEBTS AND
 5 APPROPRIATING THE FUNDS PLEDGED FOR THEIR REPAYMENT IS
 6 PASSED AND APPROVED BY A THREE-FOURTHS VOTE OF EACH HOUSE OF
 7 THE LEGISLATURE.
 8 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1),
 9 THE LEGISLATURE MUST SPECIFICALLY APPROVE EACH PROJECT,
 10 ACTIVITY, CAPITAL IMPROVEMENT OR ITEM OF DEVELOPMENT BEFORE
 11 THE BONDS TO FINANCE THAT PROJECT, ACTIVITY, CAPITAL
 12 IMPROVEMENT, OR ITEM OF DEVELOPMENT MAY BE ISSUED.
 13 (3) THE BONDS AUTHORIZED UNDER [SECTION 18] MAY NOT BE
 14 ISSUED UNLESS A BILL AUTHORIZING THE DEBT CREATED BY THE
 15 SALE OF THE BONDS AND APPROPRIATING THE FUNDS PLEDGED FOR
 16 THEIR REPAYMENT IS PASSED AND APPROVED BY TWO-THIRDS VOTE OF
 17 EACH HOUSE OF THE LEGISLATURE.

18 Section 54. Effective date. This act, except for
 19 sections 4, 43, and 49, is effective July 1, 1981. Sections
 20 4, 43, and 49 are effective July 1, 1983.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 409

3 Senate Agriculture, Livestock and Irrigation Committee
4

5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Board of Natural
7 Resources and Conservation in section 13.

8 The intent is to provide the Board with the authority
9 to adopt those rules necessary to administer the loan and
10 grant portion of the water development program. The
11 authority is limited by section 13 to prescribing the form
12 and content of applications for grants and loans, to
13 adopting rules governing the application of the criteria for
14 awarding loans and grants to private persons, to adopting
15 rules providing for the servicing of loans including
16 arrangements for obtaining security interests and the
17 establishment of reasonable fees or charges to be made, and
18 to prescribing the terms and conditions for making grants
19 and loans, the security instruments, and the agreements
20 necessary.

21 First adopted by the Senate Agriculture, Livestock and
22 Irrigation Committee on the 18th day of February, 1981.

1 SENATE BILL NO. 409

2 INTRODUCED BY MANNING, GALT

3 BY REQUEST OF THE GOVERNOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A WATER
6 DEVELOPMENT PROGRAM; ESTABLISHING A LOAN AND GRANT PROGRAM
7 FOR WATER DEVELOPMENT PROJECTS AND ACTIVITIES; ESTABLISHING
8 AN EARMARKED WATER DEVELOPMENT ACCOUNT; ALLOCATING A PORTION
9 OF THE COAL SEVERANCE TAX PROCEEDS; ALLOCATING A PORTION OF
10 THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST
11 ACCOUNT; CREATING AUTHORITY FOR WATER DEVELOPMENT BONDS;
12 CREATING AUTHORITY FOR COAL SEVERANCE TAX TRUST FUND BONDS;
13 REQUIRING A LIMITED APPROPRIATION OF INCOME AND INTEREST
14 FROM THE COAL SEVERANCE TAX TRUST; LIFTING THE INTEREST
15 CEILING ON WATER CONSERVATION REVENUE BONDS; AMENDING
16 SECTIONS 15-35-108, 15-38-202, 85-1-102, 85-1-301, 85-1-332,
17 90-2-101, 90-2-111, AND 90-2-124, MCA; REPEALING SECTIONS
18 85-1-333 AND 85-1-334, MCA; AND PROVIDING EFFECTIVE DATES."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 NEW SECTION. Section 1. Purpose and policies. (1) The
22 legislature finds and declares that in order that the people
23 of Montana may enjoy the full economic and recreational
24 benefits of the state's water resources, the state must
25 establish this long-term water development program providing

1 financial and administrative assistance to private, local,
2 and state entities for water resource development projects
3 and activities.

4 (2) The purpose of the water development program is to
5 further the state's policies, set forth in 85-1-101,
6 regarding the conservation, development, and beneficial use
7 of water resources.

8 (3) The legislature recognizes that water is one of
9 the most valuable and important renewable resources in
10 Montana; therefore, it is appropriate that a portion of the
11 taxes on the removal of nonrenewable resources be dedicated
12 to the conservation, development, and beneficial use of
13 water resources.

14 (4) The development of water resources is of a high
15 priority because a large portion of Montana's present and
16 future economy is based either directly or indirectly on the
17 wise use of water.

18 (5) This water development program is an integral part
19 of the implementation and development of the comprehensive,
20 coordinated, multiple-use water resources plan known as the
21 "state water plan".

22 NEW SECTION. Section 2. Objectives. The department
23 shall administer a water development program to accomplish
24 such objectives as rehabilitation of state-owned water
25 projects and works; promotion of private, local government,

1 and state water development; development of water-based
 2 recreation and the protection of water resources for the
 3 benefit of agriculture, flood control, and other uses;
 4 development of offstream and tributary storage; and
 5 development of state-tribal, state-federal, and
 6 state-tribal-federal water projects. THE STORAGE OF WATER
 7 FOR EXISTING AND FUTURE BENEFICIAL USES SHALL BE GIVEN A
 8 HIGH THE HIGHEST PRIORITY UNLESS A WATER DEVELOPMENT PROJECT
 9 OR ACTIVITY DESIGNED TO ACCOMPLISH ANOTHER OBJECTIVE IS
 10 DEMONSTRATED TO BE MORE BENEFICIAL TO A GREATER NUMBER OF
 11 PEOPLE. The water development program is the key
 12 implementation portion of the state water plan and shall be
 13 administered to accomplish the objectives of the plan.

14 Section 3. Section 85-1-102, MCA, is amended to read:

15 "85-1-102. Definitions. Unless the context requires
 16 otherwise, in this chapter the following definitions apply:

17 (1) "Board" means the board of natural resources and
 18 conservation provided for in 2-15-3302.

19 (2) "Cost of works" means the cost of construction;
 20 the cost of all lands, property, rights, easements, and
 21 franchises acquired which are deemed necessary for the
 22 construction; the cost of all water rights acquired or
 23 exercised by the department in connection with those works;
 24 the cost of all machinery and equipment, financing charges,
 25 interest prior to and during construction and for a period

1 not exceeding 3 years after the completion of construction;
 2 cost of engineering and legal expenses, plans,
 3 specifications, surveys, estimates of cost, and other
 4 expenses necessary or incident to determining the
 5 feasibility or practicability of any project; administrative
 6 expense; and such other expenses as may be necessary or
 7 incident to the financing herein authorized and the
 8 construction of the works and the placing of the same in
 9 operation.

10 (3) "Department" means the department of natural
 11 resources and conservation provided for in Title 2, chapter
 12 15, part 33.

13 (4) "Owner" means all individuals, irrigation
 14 districts, drainage districts, flood control districts,
 15 incorporated companies, societies, or associations having
 16 any title or interest in any properties, rights, easements,
 17 or franchises to be acquired.

18 (5) "Private person" means any individual,
 19 association, partnership, corporation, or other
 20 nongovernmental entity not eligible for loans and grants
 21 under [section 6] but does not include a governmental entity
 22 such as an agency, local government, or political
 23 subdivision of the state, the United States, or any agency
 24 thereof, or any other governmental entity.

25 (5)(6) "Project" means any one of the works herein

1 defined or any combination of such works which are
2 physically connected or jointly managed and operated as a
3 single unit.

4 (7) "Public benefits" means those benefits that accrue
5 from a water development project or activity to persons
6 other than the private grant or loan recipient and that
7 enhance the common well-being of the people of Montana.
8 Public benefits include but are not limited to recreation,
9 flood control, erosion reduction, agricultural flood damage
10 reduction, water quality enhancement, sediment reduction,
11 access to recreation opportunities, and wildlife
12 conservation.

13 (8) "Water development clearance account" means a
14 separate account created by [section 18] within the bond
15 PROCEEDS and insurance clearance fund of the state treasury
16 to finance loans under the provisions of the water
17 development program to agencies, local governments, and
18 political subdivisions of the state, private persons, and
19 any other eligible recipients from proceeds of bonds issued
20 under [sections 1, 2, and 4 through 23].

21 (9) "Water development activity" means an action or
22 program to promote PROTECT AND ENHANCE water-based
23 recreation or to protect or enhance water resources for the
24 benefit of agriculture, flood control, or other uses,
25 including but not limited to such purposes as the promotion

1 of efficient use of water in agriculture, the improvement of
2 water quality in agriculture and other nonpoint source uses,
3 the promotion PROTECTION AND ENHANCEMENT of water-based
4 recreation, the control of erosion of streambanks and
5 control of sedimentation of rivers and streams, and
6 providing greater local and state control of Montana water
7 resources. Water development activities may provide any
8 combination of marketable and nonmarketable benefits.

9 (10) "Water development earmarked account" means a
10 separate account created by [section 5] within the earmarked
11 revenue fund of the state treasury for the purposes of the
12 water development program as set forth in [section 5].

13 (11) "Water development project" means a project as
14 defined in subsection (6), except that water development
15 projects are not limited to projects owned or operated by
16 the department.

17 (12) "Water development sinking account" means a
18 separate account created by [section 4] within the sinking
19 fund of the state treasury to be used as provided in
20 [section 20].

21 (13) "Works" means all property, rights, easements,
22 and franchises relating thereto and deemed necessary or
23 convenient for their operation and all water rights acquired
24 or exercised by the department in connection with those
25 works and includes all means of conserving and distributing

1 water, including, without limiting the generality of the
 2 foregoing, reservoirs, dams, diversion canals, distributing
 3 canals, waste canals, drainage canals, dikes, lateral
 4 ditches and pumping units, mains, pipelines, and waterworks
 5 systems and includes all such works for the conservation,
 6 development, storage, distribution, and utilization of
 7 water, including without limiting the generality of the
 8 foregoing, works for the purpose of irrigation, flood
 9 prevention, drainage, fish and wildlife, recreation,
 10 development of power, watering of stock, supplying of water
 11 for public, domestic, industrial, or other uses and for fire
 12 protection."

13 NEW SECTION. Section 4. Water development sinking
 14 account created -- coal severance tax allocated. (1) There
 15 is created a water development sinking account within the
 16 sinking fund established in 17-2-102.

17 (2) The state pledges and allocates and directs to be
 18 credited to the water development sinking account, as
 19 received, 1 1/4% of all money from time to time received
 20 from the coal severance tax collected under Title 15,
 21 chapter 35, and remaining after allocation of such tax to
 22 the trust fund established under Article IX, section 5, of
 23 The Constitution of the State of Montana.

24 NEW SECTION. Section 5. Water development earmarked
 25 account created -- revenues allocated -- limitations on

1 appropriations from account. (1) There is created a water
 2 development earmarked account within the earmarked revenue
 3 fund established in 17-2-102.

4 (2) There shall be paid into the water development
 5 earmarked account:

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

8 (b) 30% of the interest income of the resource
 9 indemnity trust account as provided in and subject to the
 10 conditions of 15-38-202;

11 (c) the excess of the coal severance tax proceeds
 12 allocated by [section 4] to the water development sinking
 13 account above debt service requirements as provided in and
 14 subject to the conditions of [section 20].

15 (3) Appropriations may be made from the water
 16 development earmarked account for the following purposes and
 17 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
9 and 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,
18 state-federal, and state-tribal-federal water development;

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

24 (viii) any other expenditures that meet the policies
25 and objectives of the state water development program.

1 (c) An amount less than or equal to that paid into the
2 account from the water development sinking account and only
3 that amount may be appropriated from the account for loans
4 and grants for water development projects and activities and
5 for administrative expenses, including but not limited to
6 the salaries and expenses of personnel, equipment, office
7 space, and other necessities incurred in administering the
8 loans and grants.

9 NEW SECTION. Section 6. Grants and loans to state and
10 local governments. (1) The department may recommend to the
11 legislature that grants and loans be made from coal
12 severance tax proceeds deposited in the water development
13 earmarked account and loans be made from water development
14 bond proceeds deposited in the water development clearance
15 account to a department, agency, board, commission, or other
16 division of state government or to a city, county, or other
17 political subdivision or local government body of the state.
18 The legislature may approve by appropriation or other
19 appropriate means those grants and loans it finds consistent
20 with the policies and purposes of the program.

21 (2) The grants and loans provided for by this section
22 may be made for the purchase, lease, development, or
23 construction of water development projects and activities
24 for the conservation, management, use, development, or
25 protection of the water and related agricultural, land,

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

8 NEW SECTION. Section 7. Grants and loans to private
 9 persons. (1) To encourage the construction and development
 10 of water development projects and activities, the department
 11 may make grants and loans to private persons from funds
 12 appropriated from the water development earmarked account
 13 and may make loans to private persons from the water
 14 development clearance account.

15 (2) The department shall publicize the statutes and
 16 rules governing grants and loans to private persons for
 17 water development projects and activities, set and publicize
 18 application deadlines, and accept applications for grants
 19 and loans.

20 (3) The department shall review, evaluate, and select
 21 water development projects and activities for which grants
 22 or loans may be awarded.

23 NEW SECTION. Section 8. Division of funds between
 24 water development projects and activities. (1) The
 25 department shall recommend, to the extent possible, that

1 water development projects and water development activities
 2 be funded equally when making recommendations to the
 3 legislature on loans and grants for state and local water
 4 development under [section 6].

5 (2) The department shall, to the extent possible, in
 6 approving grants and loans to private persons fund water
 7 development projects and water development activities
 8 equally.

9 NEW SECTION. Section 9. Applications for grants and
 10 loans to private persons. (1) A private person may apply for
 11 a grant or loan to finance a water development project or
 12 activity to be constructed, developed, and operated in
 13 Montana.

14 (2) An application for a loan or grant must be in the
 15 form prescribed by the board and contain or be accompanied
 16 by any information necessary to adequately describe the
 17 proposed project or activity and necessary for evaluation of
 18 the proposed project or activity under the criteria set out
 19 in [sections 10 and 11].

20 NEW SECTION. Section 10. Eligibility for a loan or
 21 grant to a private person. The department may not award a
 22 grant or loan to a private person unless the department
 23 finds, based on the application and the department's
 24 investigation and evaluation of the proposal, that:

25 (1) the proposed water development project or

1 activity:

2 (a) will promote, enhance, or advance the purpose,
3 policies, and objectives of the water development program;

4 (b) will be constructed, developed, and operated
5 within the state of Montana;

6 (c) will be economically feasible. (A project or
7 activity is economically feasible if the project benefits
8 exceed the project costs. The department shall consider both
9 ONLY tangible and---intangible benefits and costs in
10 calculating economic feasibility.)

11 (d) will be an efficient use of natural resources
12 including water, energy, land, and air. (An efficient use is
13 one that minimizes waste.)

14 (e) will provide multipurpose facilities to the extent
15 practicable;

16 (f) will comply with statutory and regulatory
17 standards protecting the quality of resources such as air,
18 water, land, fish, wildlife, and recreational opportunities;

19 (g) will provide associated public benefits in
20 addition to any private benefits the project or activity may
21 provide; and

22 (h) is needed to accomplish the purpose for which the
23 water development project or activity is proposed;

24 (2) the applicant has adequate financial resources to
25 construct, operate, and maintain the water development

1 project or activity. The department shall consider financial
2 resources from any source for which the applicant has
3 qualified, including a water development grant or loan.

4 (3) the applicant holds or can acquire all necessary
5 lands, other than public lands, and interests therein and
6 water rights necessary for the construction, operation, and
7 maintenance of the proposed water development project or
8 activity;

9 (4) if the application is for a loan, the applicant is
10 credit-worthy and able and willing to enter into a contract
11 with the department for loan repayment and construction or
12 development of the proposed water development project or
13 activity; and AND

14 (5) if the application is for a grant, the applicant
15 is able and willing to enter into a contract with the
16 department for construction or development of the proposed
17 water development project or activity; ~~AND~~

18 ~~(6) IF THE APPLICATION IS FOR A GRANT, THE APPLICANT~~
19 ~~MUST SHARE IN THE COST OF THE PROJECT SO THAT THE GRANT MAY~~
20 ~~NOT EXCEED 25% OF THE TOTAL PROJECT COST.~~

21 NEW SECTION. Section 11. Evaluation of grants and
22 loans to private persons. The department shall consider the
23 following criteria and preferences in evaluating
24 applications and selecting the recipients of grants and
25 loans for water development projects and activities that are

1 eligible for funding under [section 10]:

2 (1) The extent and desirability of the public benefits
3 that will be provided must be considered.

4 (2) A water development project or activity that will
5 be used as part of a family farm ~~or-in-starting-a-new~~
6 ~~business~~ shall be given preference. A family farm is one
7 devoted primarily to agriculture under the ownership AND
8 OPERATION of a resident Montana family.

9 (3) A water development project or activity that will
10 utilize or develop water reserved under 85-2-316 shall be
11 given preference.

12 (4) The department, to the extent practicable, shall
13 attempt to achieve geographic balance in the promotion of
14 water development projects and activities through the
15 awarding of loans and grants to private persons.

16 (5) The extent to which the water development project
17 or activity will fully utilize water resources and promote
18 the conservation and efficient use of the water resource
19 shall be evaluated and considered.

20 (6) Projects or activities that could not be
21 accomplished without the assistance of a loan or grant shall
22 be given preference.

23 (7) The department shall give due consideration to any
24 other factor that, in the department's judgment, is
25 important to the evaluation of the water development project

1 or activity in light of the purposes, policies, and
2 objectives of the water development program.

3 NEW SECTION. Section 12. Department to solicit views.
4 The department shall solicit and consider in its evaluation
5 of proposed projects and activities the views of interested
6 and affected departments, boards, agencies, commissions, and
7 other subdivisions of the state, including local political
8 subdivisions, of the federal government, and of other
9 interested and affected persons.

10 NEW SECTION. Section 13. Rulemaking authority. The
11 board shall adopt rules:

12 (1) prescribing the form and content of applications
13 for grants and loans;

14 (2) governing the application of the criteria for
15 awarding loans and grants to private persons;

16 (3) providing for the servicing of loans including
17 arrangements for obtaining security interests and the
18 establishment of reasonable fees or charges to be made; and

19 (4) describing the terms and conditions for making
20 grants and loans, the security instruments, and the
21 agreements necessary.

22 NEW SECTION. Section 14. Limits on loans. (1) No loan
23 for a water development project or activity may be made from
24 the water development earmarked or clearance account that
25 exceeds the least of \$100,000, 10% of the estimated total

1 funds potentially available for loans in the water
 2 development earmarked and clearance accounts in the biennium
 3 in which the loan will be made, or 80% of the fair market
 4 value of the security given therefor. In determining the
 5 fair market value for the security given for a loan, the
 6 department shall consider appraisals made by qualified
 7 appraisers and other factors it considers important.

8 (2) The period for repayment of loans may not exceed
 9 30 years.

10 (3) The board shall from time to time establish the
 11 interest rate at which loans may be made under [sections 1,
 12 2, and 4 through 23].

13 NEW SECTION. Section 15. Limits on grants from water
 14 development earmarked account. The maximum grant awarded to
 15 a private person may not exceed 5% of the estimated total
 16 funds potentially available in the water development
 17 earmarked account for grants in the biennium in which the
 18 grant will be made OR 25% OF THE TOTAL PROJECT COST,
 19 WHICHEVER IS LESS.

20 NEW SECTION. Section 16. Security interests. The
 21 state has a lien upon a project constructed with money from
 22 the water development earmarked or clearance account for the
 23 amount of the loan and interest due the state. This lien may
 24 attach to any project facilities, equipment, easements, real
 25 property, and property of any kind or nature owned by the

1 debtor, including all water rights. The department shall
 2 file with the county clerk and recorder of each county in
 3 which a part of the project is located either a financing
 4 statement or a real estate mortgage covering the loan, its
 5 amount, terms, and a description of the security. The
 6 county clerk and recorder shall record and index the lien as
 7 other liens are required by law to be recorded and indexed.
 8 The lien shall be valid until paid in full or otherwise
 9 discharged. The lien shall be foreclosed in accordance with
 10 applicable state law governing foreclosure of mortgages and
 11 liens.

12 NEW SECTION. Section 17. Administration of loans and
 13 grants. The department shall:

14 (1) administer the loan and grant program established
 15 by [sections 1, 2, and 4 through 23];

16 (2) service loans made or contract and pay for the
 17 servicing of loans, including arrangements for obtaining
 18 security interests; and

19 (3) collect reasonable fees or charges for the
 20 servicing of loans, including arrangements for obtaining
 21 security interests.

22 NEW SECTION. Section 18. Issuing bonds. (1) When
 23 authorized by the legislature and within the limits of the
 24 authorization and within the further limitations established
 25 in this section, the board of examiners may issue and sell

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

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

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

15 (4) In all other respects, the board of examiners is
 16 authorized to prescribe the form and terms of the bonds and
 17 shall do whatever is lawful and necessary for their issuance
 18 and payment. Such bonds and any interest coupons appurtenant
 19 thereto must be signed by the members of the board of
 20 examiners, and the bonds must be issued under the great seal
 21 of the state of Montana. The bonds and coupons may be
 22 executed with facsimile signatures and seal in the manner
 23 and subject to the limitations prescribed by law. The state
 24 treasurer shall keep a record of all such bonds issued and
 25 sold.

1 (5) There is created a water development clearance
2 account within the bond proceeds and insurance clearance
3 fund established in 17-2-102.

4 (6) All proceeds of bonds issued under this section,
5 other than refunding bonds, must be deposited in the water
6 development clearance account established in subsection (5),
7 except that any principal and accrued interest received in
8 repayment of a loan made from the proceeds of bonds issued
9 under this section must be deposited in the water
10 development sinking account and must be applied to the
11 payment, redemption premiums, and interest on the particular
12 bond issue from whose proceeds the loan was made. All
13 proceeds of refunding bonds must be deposited in the water
14 development sinking account and applied to the payment and
15 redemption of outstanding bonds issued under this section as
16 directed by the board, whether at maturity or on any earlier
17 date on which they may be prepaid according to their terms.

18 (7) All actions taken by the board of examiners under
19 this section or [section 20] must be authorized by a vote of
20 a majority of the members of the board of examiners.

21 NEW SECTION. Section 19. Bond proceeds only for
22 loans. Water development bond proceeds may be used only for
23 the purpose of making loans as provided in the water
24 development program.

25 NEW SECTION. Section 20. Sinking fund account --

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

16 (2) Money in the water development sinking account
17 must be used first to pay interest, principal, and
18 redemption premiums when due and payable with respect to
19 water development bonds; second to accumulate a reserve for
20 the further security of such payments, to the amount
21 required each month to meet those payments due within 12
22 months thereafter; and third to restore the reserve to this
23 amount after each payment.

24 (3) After the reserve provided for in subsection (2)
25 has been accumulated in the water development sinking

1 account, money at any time received in the water development
 2 sinking account in excess of that amount must be transferred
 3 by the treasurer to the water development earmarked account.
 4 If the balance on hand at any time in the water development
 5 sinking account is not sufficient to accumulate required
 6 reserves under subsection (2) and is not restored to the
 7 required amount within 3 months thereafter from funds
 8 specifically pledged and appropriated to the water
 9 development sinking account, the treasurer IN ACCORDANCE
 10 WITH THE PLEDGE OF THE FULL FAITH AND CREDIT AND TAXING
 11 POWERS OF THE STATE shall transfer an amount sufficient to
 12 restore the required balance from the general fund to the
 13 water development sinking account.

14 NEW SECTION. Section 21. Water development refunding
 15 bonds. (1) The board of examiners may issue refunding bonds
 16 at such times and in such amounts, if any, as may be
 17 necessary to pay principal or interest due that cannot be
 18 paid from funds then on hand in the water development
 19 sinking account. The board of examiners may also issue
 20 refunding bonds to refund outstanding bonds before maturity
 21 for the purpose of extending the maturities thereof so far
 22 as determined by the board of examiners to be necessary to
 23 assure that the funds then pledged to the water development
 24 sinking account will be sufficient for payment of principal
 25 and interest due in subsequent years. The board of examiners

1 may also issue refunding bonds to refund outstanding bonds
 2 before maturity for the purpose of reducing the interest
 3 cost or the total amount of principal and interest payable
 4 thereon.

5 (2) No refunding bonds may be issued and sold more
 6 than 3 months before all bonds refunded thereby mature or
 7 are called for redemption unless the proceeds thereof, with
 8 any other funds in the water development sinking account
 9 that are needed and available for the purpose or securities
 10 purchased from such proceeds and other funds, are deposited
 11 with a suitable banking institution within or outside the
 12 state, in escrow, for the retirement of the refunded bonds
 13 at maturity or at a prior date or dates on which they have
 14 been called for redemption in accordance with their terms,
 15 in an amount and in a manner sufficient under the provisions
 16 securing the refunded bonds, so that the state's obligation
 17 to pay the same, from sources other than the escrow fund, is
 18 discharged.

19 (3) No new debt may be created by the issuance of
 20 refunding bonds in accordance with this section, but such
 21 refunding bonds shall evidence the debt previously created
 22 and shall be secured by the pledge of the full faith and
 23 credit and taxing powers of the state and by the further
 24 provisions of this part in the same manner as the bonds
 25 refunded thereby.

1 NEW SECTION. Section 22. Report to the legislature.
 2 The department shall prepare a biennial report to the
 3 legislature describing the status of the water development
 4 program. The report must describe ongoing projects and
 5 activities and those which have been completed during the
 6 biennium. The report must also describe proposed projects
 7 and activities for the coming biennium and recommendations
 8 for necessary appropriations. A copy of the report shall be
 9 submitted to the president of the senate and the speaker of
 10 the house and to such other members as may request a copy.

11 NEW SECTION. Section 23. Penalty. No member, officer,
 12 attorney, or other employee of the board of ~~natural~~
 13 ~~resources-and-conservation~~ or the department of ~~natural~~
 14 ~~resources--and--conservation~~ may, directly or indirectly, be
 15 the beneficiary of or receive any fee, commission, gift, or
 16 other consideration for or in connection with any
 17 transaction or business under [sections 1, 2, and 4 through
 18 23] other than the salary, fee, or other compensation as he
 19 may receive as a member, officer, attorney, or employee. A
 20 person convicted of violating any provision of this section
 21 shall be punished by a fine not to exceed \$2,000 or be
 22 imprisoned for not to exceed 2 years, or both.

23 NEW SECTION. Section 24. State of Montana coal
 24 severance tax bonds. [Sections 24 through 42] provide for
 25 the issuance of state of Montana coal severance tax bonds

1 (also referred to as coal severance tax bonds in [sections
 2 24 through 42]) to finance water resource development
 3 projects and activities, ~~other capital improvements, and~~
 4 ~~economic--development~~ in the state designed to provide,
 5 during and after extensive coal mining, a healthy economy,
 6 the alleviation of social and economic impacts created by
 7 coal development, and a clean and healthful environment for
 8 present and future generations.

9 NEW SECTION. Section 25. Purpose and intent. (1) The
 10 purpose of the coal severance tax trust fund bond provisions
 11 of [sections 24 through 42] is to establish the authority to
 12 issue and sell coal severance tax bonds THAT HAVE BEEN
 13 APPROVED BY ACT OF THE LEGISLATURE for financing specific
 14 water resource development projects and activities, ~~other~~
 15 ~~capital--improvements--and--economic--development~~ in the state
 16 authorized by the legislature and to guarantee redemption of
 17 such bonds by revenue derived from the receipts from the
 18 coal severance tax imposed by Title 15, chapter 35, part 1,
 19 and such other money as the legislature may from time to
 20 time determine.

21 (2) The legislature intends that projects to be
 22 financed by coal severance tax bonds include ~~but--are--not~~
 23 ~~limited---to~~ water resource development projects and
 24 activities as part of the water development program
 25 established in [sections 1, 2, and 4 through 23]. The

1 legislature further intends that the income from water
2 resource development projects and activities in excess of
3 the amount required for debt service and operation and
4 maintenance of those projects and activities be deposited in
5 the water development earmarked account established in
6 [section 5].

7 NEW SECTION. Section 26. Coal severance tax trust
8 subfunds. (1) The trust established under Article IX,
9 section 5, of the Montana constitution shall be composed of
10 the following subfunds:

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

14 (b) a coal severance tax permanent subfund; and

15 (c) a coal severance tax income subfund.

16 (2) On each December 31 and June 30 the state
17 treasurer shall transfer to the coal severance tax permanent
18 subfund all money in the coal severance tax bond subfund
19 except the amount necessary to meet all principal and
20 interest payments on bonds payable from the coal severance
21 tax bond subfund on the next ensuing semiannual payment
22 date.

23 NEW SECTION. Section 27. Investment of funds. (1)
24 Money in the coal severance tax bond subfund, the coal
25 severance tax permanent subfund, and the coal severance tax

1 income subfund must be invested in accordance with the
2 investment standards for coal severance tax funds EXCEPT AS
3 PROVIDED IN SUBSECTION (2). Income and earnings from all
4 subfunds must be transferred to and retained in the coal
5 severance tax income subfund ~~until~~ ~~appropriated by the~~
6 legislature.

7 (2) BEGINNING ON JULY 1, 1983, THE LEGISLATURE SHALL
8 APPROPRIATE 15% OF THE INCOME AND EARNINGS FROM ALL SUBFUNDS
9 TO BE DEPOSITED TO THE COAL SEVERANCE TAX PERMANENT SUBFUND
10 EACH YEAR. THE FUNDS APPROPRIATED TO THE COAL SEVERANCE TAX
11 PERMANENT SUBFUND UNDER THIS SUBSECTION MAY NOT BE FURTHER
12 APPROPRIATED EXCEPT BY VOTE OF THREE-FOURTHS OF THE MEMBERS
13 OF EACH HOUSE OF THE LEGISLATURE.

14 NEW SECTION. Section 28. Pledge of coal severance tax
15 bond subfund. The money in the coal severance tax bond
16 subfund is pledged to the payment of the principal and
17 interest on all state of Montana coal severance tax bonds.
18 All bonds issued after [the effective date of sections 24
19 through 42] wherein the money in the coal severance tax bond
20 subfund is pledged for their retirement shall be called
21 "state of Montana coal severance tax bonds".

22 NEW SECTION. Section 29. Authority to issue coal
23 severance tax bonds. The board of examiners, UPON APPROVAL
24 OF THE LEGISLATURE AS HEREINAFTER PROVIDED, shall issue and
25 sell coal severance tax bonds to finance SUCH APPROVED water

1 resource development projects and activities, ~~other-capital~~
 2 ~~improvements, or economic development~~ when authorized to do
 3 so by any law that sets out the amount and purpose of the
 4 issue. EACH PROJECT, OR ACTIVITY, OTHER-CAPITAL--IMPROVEMENT
 5 OR-OTHER-ITEM-OF-DEVELOPMENT SHALL BE SEPARATELY APPROVED AS
 6 TO AMOUNT BY A TWO-THIRDS VOTE OF EACH HOUSE OF THE
 7 LEGISLATURE.

8 NEW SECTION. Section 30. Board of examiners to issue
 9 bonds. The board of examiners may issue and sell coal
 10 severance tax bonds, and no other agency of the state is so
 11 authorized. Any action taken by the board of examiners under
 12 [sections 24 through 42] must be approved by a majority vote
 13 of its members.

14 NEW SECTION. Section 31. Special fund revenues. (1)
 15 If a law authorizing a coal severance tax bond issue FOR A
 16 SPECIFIC PURPOSE AND IN A SPECIFIC AMOUNT contemplates the
 17 pledge and receipt of revenues, assets, or money other than
 18 or in addition to the money in the coal severance tax bond
 19 subfund, then the money derived from such pledged revenues,
 20 assets, and money must be paid into a special bond account
 21 for the benefit of such bonds, which must be part of the
 22 sinking fund of the state treasury fund structure.

23 (2) Money must be withdrawn from the coal severance
 24 tax bond account and paid to the special bond fund as
 25 necessary to provide for payment of principal and interest

1 on the coal severance tax bonds secured by a pledge of the
 2 special account.

3 NEW SECTION. Section 32. Continued tax deposit limit
 4 on additional bonds. (1) The legislature shall provide for
 5 the continued assessment, levy, collection, and deposit into
 6 the coal severance tax bond subfund of the coal severance
 7 tax which, together with such other revenues, assets, and
 8 money as may be deposited to one or more special bond
 9 accounts pledged for the benefit of coal severance tax
 10 bonds, will be sufficient to produce an amount that is at
 11 least the amount necessary to pay, when due, the annual debt
 12 service charges on all outstanding coal severance tax bonds.

13 (2) The board of examiners may issue no coal severance
 14 tax bonds unless the aggregate amount of coal severance tax
 15 bonds outstanding, including the proposed issue and any
 16 other coal severance tax bonds authorized but not yet
 17 issued, can be serviced with no more than two-thirds of the
 18 annual deposits into the coal severance tax bond subfund, as
 19 determined by the average of the deposits during the
 20 preceding 3 fiscal years, together with the average of the
 21 aggregate amount of revenues, assets, or money deposited in
 22 one or more special bond accounts used to pay debt service
 23 on outstanding coal severance tax bonds during the preceding
 24 3 fiscal years.

25 (3) The provisions of this section may not be modified

1 so as to reduce the security for any coal severance tax
2 bonds while such bonds are outstanding.

3 NEW SECTION. Section 33. Form -- principal and
4 interest -- fiscal agent -- deposit of proceeds. (1) Each
5 series of coal severance tax bonds must be issued by the
6 board of examiners at public or private sale, in such
7 denominations and form, whether payable to bearer or
8 registered as to principal or both principal and interest,
9 with such provisions for the conversion or exchange, bearing
10 interest at such rate or rates, maturing at such times not
11 exceeding 40 years from date of issue, subject to redemption
12 at such earlier times and prices and upon such notice, and
13 payable at the office of such fiscal agency of the state as
14 the board of examiners shall determine subject to the
15 limitations contained in [sections 24 through 42].

16 (2) In all other respects the board of examiners is
17 authorized to prescribe the form and terms of the bonds and
18 shall do whatever is lawful and necessary for their issuance
19 and payment.

20 (3) Coal severance tax bonds and any interest coupons
21 appurtenant thereto shall be signed by the members of the
22 board of examiners, and the bonds shall be issued under the
23 great seal of the state of Montana. The bonds and coupons
24 may be executed with facsimile signatures and seal in the
25 manner and subject to the limitations prescribed by law. The

1 state treasurer shall keep a record of all such bonds issued
2 and sold.

3 (4) The board of examiners is authorized to employ a
4 fiscal agent to assist in the performance of its duties
5 hereunder.

6 (5) All proceeds of a state of Montana coal severance
7 tax bonds issue shall be deposited in a bond proceeds and
8 insurance clearance fund account established for that bond
9 issue, except that any premiums and accrued interest
10 received shall be deposited in a sinking fund account
11 established for that bond issue.

12 NEW SECTION. Section 34. Trust indenture. In the
13 discretion of the board of examiners, a series of coal
14 severance tax bonds may be secured by a trust indenture by
15 and between the board of examiners and a trustee, which may
16 be any trust company or bank having the powers of a trust
17 company within or outside of the state. Each trust indenture
18 or an executed counterpart thereof shall be filed in the
19 office of the secretary of state of Montana. The filing of a
20 trust indenture or an executed counterpart thereof in the
21 office of the county clerk of the county in which the
22 property covered by the trust indenture is located is
23 constructive notice of its contents to all persons from the
24 time of the filing, and the recording of the trust indenture
25 of OR its contents is not necessary.

1 NEW SECTION. Section 35. Provisions for protecting
 2 bondholders. Either the legislative act providing for the
 3 issuance of coal severance tax bonds or the trust indenture
 4 may contain provisions for protecting and enforcing the
 5 rights and remedies of the bondholders as are reasonable,
 6 proper, and not in violation of law, including covenants
 7 setting forth the duties of the state, the board of
 8 examiners, and the departments, boards, or agencies of state
 9 government in relation to the acquisition, construction,
 10 improvement, maintenance, operation, repair, and insurance
 11 of the projects financed with the proceeds of coal severance
 12 tax bonds and the custody, safeguarding, and application of
 13 all money. The TRUST indenture may set forth the rights and
 14 remedies of the bondholders as is customary in trust
 15 indentures, deeds of trusts, and mortgages securing bonds or
 16 debentures of corporations. No enumeration of particular
 17 powers granted by this section impairs any general grant of
 18 power contained in [sections 24 through 42].

19 NEW SECTION. Section 36. Personal liability -- suit
 20 to compel performance. (1) The members of the board of
 21 examiners and officers and employees of the departments,
 22 boards, or agencies of state government are not personally
 23 liable or accountable by reason of the issuance of or on any
 24 coal severance tax bond issued by the board of examiners.

25 (2) Any holder of coal severance tax bonds or any

1 person or officer being a party in interest, subject to any
 2 applicable coal severance tax agreements or TRUST
 3 indentures, may sue to enforce and compel the performance of
 4 the coal severance tax bond provisions' as set out in
 5 [sections 24 through 42].

6 NEW SECTION. Section 37. Negotiability of bonds. Coal
 7 severance tax bonds issued are negotiable instruments under
 8 the Uniform Commercial Code, subject only to the provisions
 9 for registration of bonds.

10 NEW SECTION. Section 38. Signatures of board members.
 11 In the case any member of the board of examiners whose
 12 signature appears on coal severance tax bonds or coupons
 13 ceases to be a member before the delivery of the bonds, his
 14 signature is nevertheless valid and sufficient for all
 15 purposes, the same as if the member HAD remained in
 16 office until delivery.

17 NEW SECTION. Section 39. Refunding obligations. (1)
 18 The state board of examiners may provide for the issuance of
 19 refunding obligations for refunding any obligations then
 20 outstanding that have been issued under [sections 24 through
 21 42], including the payment of any redemption premium and any
 22 interest accrued or to accrue to the date of redemption of
 23 the obligations. The issuance of refunding obligations, the
 24 maturities and other details, the rights of the holders, and
 25 the rights, duties, and obligations of the state are

1 governed by the appropriate provisions of [sections 24
2 through 42] that relate to the issuance of obligations.

3 (2) Refunding obligations issued as provided in
4 subsection (1) may be sold or exchanged for outstanding
5 obligations issued under [sections 24 through 42]. The
6 proceeds may be applied to the purchase, redemption, or
7 payment of outstanding obligations. Pending the application
8 of the proceeds of refunding obligations, with other
9 available funds, to the payment of principal, accrued
10 interest, and any redemption premium on the obligations
11 being refunded and, if permitted in the resolution
12 authorizing the issuance of the refunding obligations or in
13 the trust agreement securing them, to the payment of
14 interest on refunding obligations and expenses in connection
15 with refunding, the proceeds may be invested as provided in
16 Title 17, chapter 6.

17 NEW SECTION. Section 40. Pledge of the state. In
18 accordance with the constitutions of the United States and
19 the state of Montana, the state pledges that it will not in
20 any way impair the obligations of any agreement between the
21 state and the holders of notes and bonds issued by the
22 state.

23 NEW SECTION. Section 41. Tax exemption of bonds --
24 legal investments. (1) All coal severance tax bonds, their
25 transfer, and their income, including any profits made on

1 their sale, are exempt from taxation by the state or any
2 political subdivisions or other instrumentality of the
3 state, excepting inheritance, estate, and gift taxes.

4 (2) Coal severance tax bonds are legal investments for
5 any person or board charged with investment of public funds
6 and are acceptable as security for any deposit of public
7 money.

8 NEW SECTION. Section 42. Limitation on amount of coal
9 severance tax bonds issued. No more than ~~\$500~~ \$250 million
10 worth of coal severance tax bonds may be issued for water
11 development projects and activities, ~~and other capital~~
12 ~~improvements and economic development.~~

13 Section 43. Section 15-35-108, MCA, is amended to
14 read:

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

18 (1) To the trust fund created by Article IX, section
19 5, of the Montana constitution, 25% of total collections a
20 year. After December 31, 1979, 50% of coal severance tax
21 collections are allocated to this trust fund. The trust fund
22 moneys shall be deposited in the fund established under
23 17-6-203(5) and invested by the board of investments as
24 provided by law.

25 (2) Coal severance tax collections remaining after

1 allocation to the trust fund under subsection (1) are
2 allocated in the following percentages of the remaining
3 balance:

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

8 (b) 2 1/2% until December 31, 1979, and thereafter 5%
9 to the earmarked revenue fund to the credit of the
10 alternative energy research development and demonstration
11 account;

12 (c) 26 1/2% until July 1, 1979, and thereafter 37 1/2%
13 to the earmarked revenue fund to the credit of the local
14 impact and education trust fund account;

15 (d) for each of the 2 fiscal years following June 30,
16 1977, 13% to the earmarked revenue fund to the credit of the
17 coal area highway improvement account;

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

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

22 (g) ~~2-1/2%~~ 1 1/4% to the sinking fund to the credit of
23 the renewable resource development bond account;

24 (h) 5% to the earmarked revenue fund to the credit of
25 a trust fund for the purpose of parks acquisition or

1 management, protection of works of art in the state capitol,
2 and other cultural and aesthetic projects. Income from this
3 trust fund shall be appropriated as follows:

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

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

9 (i) 1% to the earmarked revenue fund to the credit of
10 the state library commission for the purposes of providing
11 basic library services for the residents of all counties
12 through library federations and for payment of the costs of
13 participating in regional and national networking;

14 ~~(j) 1 1/4% to the sinking fund to the credit of the~~
15 ~~water development sinking account;~~

16 ~~(j)(k) all other revenues from severance taxes~~
17 ~~collected under the provisions of this chapter to the credit~~
18 ~~of the general fund of the state."~~

19 Section 44. Section 15-38-202, MCA, is amended to
20 read:

21 "15-38-202. Investment of resource indemnity trust
22 account -- expenditure -- minimum balance. (1) All moneys
23 paid into the resource indemnity trust account shall be
24 invested at the discretion of the board of investments. All
25 the net earnings accruing to the resource indemnity trust

1 account shall annually be added thereto until it has reached
 2 the sum of \$10 million. Thereafter, only the net earnings
 3 may be appropriated and expended until the account reaches
 4 \$100 million. Thereafter, all net earnings and all receipts
 5 shall be appropriated by the legislature and expended,
 6 provided that the balance in the account may never be less
 7 than \$100 million.

8 (2) Beginning in fiscal year 1982, provided the amount
 9 in the resource trust account is greater than \$10 million,
 10 30% of the interest income of the resource indemnity trust
 11 account must be allocated to water development earmarked
 12 account created by [section 5]."

13 Section 45. Section 85-1-301, MCA, is amended to read:
 14 "85-1-301. Water conservation revenue bonds. (1) The
 15 board is hereby authorized to provide, by resolution, at one
 16 time or from time to time, for the issuance of water
 17 conservation revenue bonds of the state for the purpose of
 18 paying the cost, as hereinabove defined, of any one or more
 19 such public works, the principal and interest of which bonds
 20 shall be payable solely from the special fund herein
 21 provided for such payment. Such bonds shall mature at such
 22 time or times, not more than 40 years from their date or
 23 dates, as may be fixed by such resolution but may be made
 24 redeemable before maturity at the option of the state, to be
 25 exercised by the board, at such price or prices and under

1 such terms and conditions as may be fixed by the board prior
 2 to the issuance of the bonds. The board shall determine the
 3 rate of interest such bonds shall bear, ~~not exceeding 6% per~~
 4 ~~annum~~; the time or times of payment of such interest; the
 5 form of the bonds and the interest coupons to be attached
 6 thereto; and the manner of executing the bonds and coupons
 7 and shall fix the denomination or denominations of the bonds
 8 and the place or places of payment of principal and interest
 9 thereof, which may be at any bank or trust company within or
 10 without the state.

11 (2) Provisions may be made for the registration of any
 12 of the bonds in the name of the owner as to principal alone
 13 or as to both principal and interest. The bonds authorized
 14 under the provisions of this section and 85-1-303 may be
 15 issued and sold from time to time and in such amounts as may
 16 be determined by the board, and the board may sell the bonds
 17 in such manner and for such price as it may determine to be
 18 for the best interests of the state, ~~but no such sale shall~~
 19 ~~be made for less than a price which, computed with relation~~
 20 ~~to the absolute maturity of the bonds in accordance with~~
 21 ~~standard tables of bond values, will show a net return of 6%~~
 22 ~~per annum to the purchaser upon the amount paid therefor.~~
 23 The proceeds of such bonds shall be used solely for the
 24 payment of the cost of the works and shall be checked out in
 25 such manner and under such restrictions, if any, as the

1 board may provide.

2 (3) Each resolution providing for the issuance of
3 bonds shall set forth the project or projects for which the
4 bonds are to be issued, and the bonds authorized by each
5 such resolution shall constitute a separate series. The
6 bonds of each series shall be identified by a series letter
7 or letters and may be sold and delivered at one time or from
8 time to time."

9 Section 46. Section 85-1-332, MCA, is amended to read:

10 "85-1-332. Disposition of moneys collected. ~~{t}~~ For
11 the purpose of carrying out the provisions of this chapter
12 and such other water resource authority, powers, and duties
13 as are conferred upon the department by law, the following
14 moneys shall be deposited in the ~~earmarked-revenue-fund-for~~
15 ~~the--use--of--the--department~~ water development earmarked
16 account created by [section 5]:

17 ~~{a}~~{1} all sums of money donated or contributed by the
18 federal government or any department or agencies thereof;

19 ~~{b}~~{2} all gifts, donations, bequests, and devises
20 made to the state therefor and proceeds of the sale thereof;
21 and the proceeds of the sale or redemption of and the
22 interest earned by the securities purchased or acquired with
23 money received under this subsection;

24 ~~{c}~~{3} all reimbursements for money advanced for the
25 payment of the assessments upon state, school-granted, and

1 other public lands for the improvement thereof as provided
2 by law;

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

12 ~~{e}~~{5} all reimbursements for costs of surveys and
13 investigations for moneys advanced to counties, cities, or
14 towns or their proportion of the cost thereof or from any
15 other sources;

16 ~~{f}~~{6} ~~The following shall be deposited in the state~~
17 ~~general fund:~~

18 ~~{g}~~{6} except as otherwise provided by law, all income
19 or profit and revenue of the works and all money received
20 from the sale or disposal of water, use of water, water
21 storage, or other service and from the operation, lease,
22 sale, or other disposition of the works, property, and
23 facilities acquired under this chapter; and

24 ~~{h}~~{7} except as otherwise provided by law, all sums
25 received by the department for the use of electricity in

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

3 Section 47. Section 90-2-101, MCA, is amended to read:

4 "90-2-101. Policy and purpose. (1) In the development
5 of the natural resources of the state, it is essential to
6 distinguish between those which are and those which are not
7 renewable; to make proper charges through taxation and
8 otherwise for the depreciation of nonrenewable resources;
9 and to invest a proper proportion of the tax and other
10 revenues from nonrenewable resources in the replacement
11 thereof with developments of renewable natural resources
12 that will preserve for the citizens the benefit of the
13 state's natural heritage and to ensure that the quality of
14 existing public resources such as land, air, water, fish,
15 wildlife, and recreational opportunities are not
16 significantly diminished by developments supported by this
17 part.

18 (2) In order to finance such developments, it is
19 necessary to borrow in anticipation of the receipt of the
20 revenues so that replacement will not lag behind
21 consumption. The purpose of this part is to provide a
22 procedure for borrowing in the most economical way for this
23 purpose, to authorize the creation of debt to finance the
24 first stage of the program, and to describe the types of
25 projects, loans, and grants to be included in the program."

1 Section 48. Section 90-2-111, MCA, is amended to read:

2 "90-2-111. Grants to divisions of state government.

3 (1) The department of natural resources and conservation may
4 recommend to the governor that grants from the renewable
5 resource development account provided for by this part be
6 made to any department, agency, board, commission, or other
7 division of state government.

8 (2) The department shall solicit and consider in its
9 evaluation of proposed projects the views of interested and
10 affected departments, boards, agencies, and other
11 subdivisions of state and federal government and of other
12 interested and affected persons.

13 (3) The governor shall submit those grant proposals
14 having his approval to the legislature by the 20th day of
15 any legislative session. Those grant proposals approved by
16 the legislature shall be administered by the department.

17 (4) The grants provided for by this section may be
18 made for the purchase, lease, or construction of projects
19 for the conservation, management, utilization, development,
20 or preservation of the land, water, fish, wildlife,
21 recreational, and other renewable resources in the state;
22 for the purpose of feasibility and design studies for such
23 projects; for development of plans for the rehabilitation,
24 expansion, or modification of existing projects; and for
25 such other and further similar purposes as the legislature

1 may approve.

2 (5) The department may adopt rules as required to
3 govern the terms and conditions for making grants pursuant
4 to this section."

5 Section 49. Section 90-2-124, MCA, is amended to read:

6 "90-2-124. Appropriation of coal severance tax. The
7 state pledges and appropriates and directs to be credited to
8 the sinking fund account, as received, 2-1/2% 1 1/4% of all
9 money from time to time received from the collection of the
10 severance tax and remaining after allocation of such tax to
11 the trust fund established under section 5, Article IX, of
12 the Montana constitution and such additional amount thereof,
13 if any, as may be required from time to time to provide
14 sufficient funds for the purposes stated in 90-2-123(2),
15 provided that no more than 2-1/2% 1 1/4% of such tax
16 collections shall be deemed to be pledged for the purpose of
17 90-2-121(3)."

18 Section 50. Codification instruction. Sections 1, 2,
19 and 4 through 23 are intended to be codified as an integral
20 part of Title 85, chapter 1, and the provisions of Title 85,
21 chapter 1, apply to sections 1, 2, and 4 through 23.

22 Section 51. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the
2 invalid applications.

3 Section 52. Repealer. Sections 85-1-333 and 85-1-334,
4 MCA, are repealed.

5 SECTION 53. COORDINATION INSTRUCTION. (1) THE BONDS
6 AUTHORIZED UNDER [SECTION 29] MAY NOT BE ISSUED UNLESS:

7 (A) HB [LC 1477] IS PASSED AND APPROVED BY A
8 THREE-FOURTHS VOTE OF EACH HOUSE OF THE LEGISLATURE; OR

9 (B) ANOTHER BILL AUTHORIZING THE DEBTS AND
10 APPROPRIATING THE FUNDS PLEDGED FOR THEIR REPAYMENT IS
11 PASSED AND APPROVED BY A THREE-FOURTHS VOTE OF EACH HOUSE OF
12 THE LEGISLATURE.

13 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1),
14 THE LEGISLATURE MUST SPECIFICALLY APPROVE EACH PROJECT, OR
15 ACTIVITY,--CAPITAL-IMPROVEMENT-OR-ITEM-OF-DEVELOPMENT BEFORE
16 THE BONDS TO FINANCE THAT PROJECT, OR ACTIVITY,--CAPITAL
17 IMPROVEMENT,--OR-ITEM-OF-DEVELOPMENT MAY BE ISSUED.

18 (3) THE BONDS AUTHORIZED UNDER [SECTION 18] MAY NOT BE
19 ISSUED UNLESS A BILL AUTHORIZING THE DEBT CREATED BY THE
20 SALE OF THE BONDS AND APPROPRIATING THE FUNDS PLEDGED FOR
21 THEIR REPAYMENT IS PASSED AND APPROVED BY TWO-THIRDS VOTE OF
22 EACH HOUSE OF THE LEGISLATURE.

23 Section 54. Effective date. This act, except for
24 sections 4, 43, and 49, is effective July 1, 1981. Sections
25 4, 43, and 49 are effective July 1, 1983.

April 3, 1981

WATER COMMITTEE AMENDMENTS TO SB 409

That Senate Bill 409 be amended in its third reading copy as follows:

1. Page 3, line 8.
Strike: "HIGH"
Insert: "the highest"
Following: "PRIORITY"
Insert: "unless a water development project or activity designed to accomplish another objective is demonstrated to be more beneficial to a greater number of people"
2. Page 14, line 10.
Following: "~~and~~"
Insert: "and"
3. Page 14, line 14.
Strike: "; AND"
Insert: "."
4. Page 14, lines 15 through 17.
Strike: subsection (6) in its entirety
5. Page 15, lines 2 and 3.
Strike: "or in starting a new business"
6. Page 15, line 4.
Following: "ownership"
Insert: "and operation"
7. Page 17, line 15.
Following: "made"
Insert: "or 25% of the total project cost, whichever is less"
8. Page 25, lines 24 and 25.
Strike: ", other capital improvements, and economic development"
9. Page 26, lines 10 and 11.
Strike: ", other capital improvements, and economic development"
10. Page 26, lines 18 and 19.
Strike: "but are not limited to"
11. Page 28, lines 22 and 23.
Strike: ", other capital improvements, or economic development"
12. Page 28, line 25 through page 29, line 1.
Following: "PROJECT" on line 25
Strike: ","
Insert: "Or"
Following: "ACTIVITY" on line 25
Strike: ", OTHER CAPITAL IMPROVEMENT OR OTHER ITEM OF DEVELOPMENT"
13. Page 29, line 2.
Following: "BY"
Insert: "a two-thirds vote of each house of"

14. Page 36, lines 6 and 7.

Strike: ", other capital improvements, and economic development."

15. Page 46, line 9.

Following: "PROJECT"

Strike: ", "

Insert: "or"

16. Page 46, line 10.

Strike: ", CAPITAL IMPROVEMENT OR ITEM OF DEVELOPMENT"

17. Page 46, lines 11 and 12.

Following: "PROJECT"

Strike: ", "

Insert: "Or"

Following: "ACTIVITY"

Strike: ", CAPITAL IMPROVEMENT, OR ITEM OF DEVELOPMENT"