

SENATE BILL NO. 146

INTRODUCED BY D. MANNING, GALT, TOWE

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

IN THE SENATE

January 14, 1983	Introduced and referred to Committee on Taxation.
January 28, 1983	Committee recommend bill do pass. Report adopted.
January 29, 1983	Bill printed and placed on members' desks.
January 31, 1983	Second reading, do pass.
February 1, 1983	Correctly engrossed.
February 2, 1983	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

February 3, 1983	Introduced and referred to Committee on Taxation.
March 8, 1983	Committee recommend bill be concurrent in. Report adopted.
March 9, 1983	Second reading, concurrent in.
March 10, 1983	Third reading, concurrent in.

IN THE SENATE

March 11, 1983	Returned to Senate. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* BILL NO. *1469*
 2 INTRODUCED BY *Dave Manning*
 3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES
 4 AND CONSERVATION

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 CLARIFY THE LAWS RELATING TO THE WATER DEVELOPMENT PROGRAM;
 8 AMENDING SECTIONS 17-5-704, 85-1-604, 85-1-605, 85-1-613,
 9 85-1-616, AND 85-1-617, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 17-5-704, MCA, is amended to read:

14 "17-5-704. Investment of funds. (1) Money in the coal
 15 severance tax bond subfund, the coal severance tax permanent
 16 subfund, and the coal severance tax income subfund must be
 17 invested in accordance with the investment standards for
 18 coal severance tax funds except as provided in subsection
 19 (2). Income and earnings from all subfunds must be
 20 transferred to and retained in the coal severance tax income
 21 subfund until appropriated by the legislature.

22 (2) Beginning on July 1, 1983, the legislature shall
 23 appropriate 15% of the income and earnings from all subfunds
 24 to be deposited to the coal severance tax permanent subfund
 25 each year. The funds appropriated to the coal severance tax

1 permanent subfund under this subsection may not be further
 2 appropriated except by vote of three-fourths of the members
 3 of each house of the legislature."

4 Section 2. Section 85-1-604, MCA, is amended to read:

5 "85-1-604. Water development earmarked account created
 6 -- revenues allocated -- limitations on appropriations from
 7 account. (1) There is created a water development earmarked
 8 account within the earmarked revenue fund established in
 9 17-2-102.

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

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

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

17 (c) the excess of the coal severance tax proceeds
 18 allocated by 85-1-603 to the water development sinking
 19 account above debt service requirements as provided in and
 20 subject to the conditions of 85-1-619;

21 (d) any principal and accrued interest received in
 22 repayment of a loan made from the proceeds of bonds issued
 23 under 85-1-617; and

24 (e) any fees or charges collected by the department
 25 pursuant to 85-1-616 for the servicing of loans, including

arrangements for obtaining security interests.

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

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

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

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

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

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

(iv) assistance in the implementation of the water reservations established under 85-2-316 of conservation

districts;

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

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

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

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

(c) An amount less than or equal to that paid into the account from the ~~water development sinking account~~ SOURCES provided for in (c) through (e) of subsection (2) and only that amount may be appropriated from the account for loans and grants for water development projects and activities ~~and; for administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, and office space; for the servicing of loans, including arrangements for obtaining security interests; and for other necessities incurred in administering the loans and grants.~~

Section 3. Section 85-1-605, MCA, is amended to read:

"85-1-605. Grants and loans to state and local governments. (1) The department may recommend to the

1 legislature that grants and loans be made from coal
 2 severance tax proceeds deposited in the water development
 3 earmarked account, and that loans be made from water
 4 development bond proceeds deposited in the water development
 5 clearance account, and that coal severance tax bonds be
 6 authorized pursuant to Title 17, chapter 5, part 7, to
 7 provide financial assistance to a department, agency, board,
 8 commission, or other division of state government or to a
 9 city, county, or other political subdivision or local
 10 government body of the state. The legislature may approve by
 11 appropriation or other appropriate means those grants and
 12 loans it finds consistent with the policies and purposes of
 13 the program.

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

1 legislature."

2 Section 4. Section 85-1-613, MCA, is amended to read:

3 "85-1-613. Limits on loans. (1) No loan for a water
 4 development project or activity may be made from the water
 5 development earmarked or clearance account that exceeds the
 6 least of ~~\$100,000~~ \$200,000, 10% of the estimated total funds
 7 potentially available for loans in the water development
 8 earmarked and clearance accounts in the biennium in which
 9 the loan will be made, or 80% of the fair market value of
 10 the security given therefor. In determining the fair market
 11 value for the security given for a loan, the department
 12 shall consider appraisals made by qualified appraisers and
 13 other factors it considers important.

14 (2) The period for repayment of loans may not exceed
 15 30 years.

16 (3) The board shall from time to time establish the
 17 interest rate at which loans may be made under this part."

18 Section 5. Section 85-1-616, MCA, is amended to read:

19 "85-1-616. Administration of loans and grants. The
 20 department shall:

21 (1) administer the loan and grant program established
 22 by this part;

23 (2) service loans made or contract and pay for the
 24 servicing of loans, including arrangements for obtaining
 25 security interests; and

(3) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the water development earmarked account pursuant to 85-1-604."

Section 6. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing bonds. (1) When authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water development bonds of the state in the amount and manner it considers necessary and proper to finance the water development loan program. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds so issued and interest and redemption premiums payable thereon according to their terms.

(2) Each series of water development bonds may be issued by the board of examiners, upon request of the board of natural resources and conservation, at public or private sale, in such denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at such rate or rates, maturing at

such rate or rates, maturing at such time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at such earlier times and prices and upon such notice, with such provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the office of such banking institution or institutions within or outside the state, as the board of examiners shall determine subject to the limitations contained in this section.

(3) In the issuance of each series of water development bonds, the interest rates and the maturities and any mandatory redemption provisions thereof shall be established in such manner that the funds then specifically pledged and appropriated by law to the water development sinking account will in the judgment of the board of examiners be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of such bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and

1 shall do whatever is lawful and necessary for their issuance
 2 and payment. Such bonds and any interest coupons appurtenant
 3 thereto must be signed by the members of the board of
 4 examiners, and the bonds must be issued under the great seal
 5 of the state of Montana. The bonds and coupons may be
 6 executed with facsimile signatures and seal in the manner
 7 and subject to the limitations prescribed by law. The state
 8 treasurer shall keep a record of all such bonds issued and
 9 sold.

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

13 (6) All proceeds of bonds issued under this section,
 14 other than refunding bonds, must be deposited in the water
 15 development clearance account established in subsection (5),
 16 except that any principal and accrued interest received in
 17 repayment of a loan made from the proceeds of bonds issued
 18 under this section must be deposited in the water
 19 development sinking ~~account and must be applied to the~~
 20 ~~payment, redemption premiums, and interest on the particular~~
 21 ~~bond issue from whose proceeds the loan was made~~ s earmarked
 22 account pursuant to 85-1-604. All proceeds of refunding
 23 bonds must be deposited in the water development sinking
 24 account and applied to the payment and redemption of
 25 outstanding bonds issued under this section as directed by

1 the board, whether at maturity or on any earlier date ~~on~~
 2 which they may be prepaid according to their terms.

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

6 NEW SECTION. Section 7. Severability. If a part of
 7 this act is invalid, all valid parts that are severable from
 8 the invalid part remain in effect. If a part of this act is
 9 invalid in one or more of its applications, the part remains
 10 in effect in all valid applications that are severable from
 11 the invalid applications.

12 NEW SECTION. Section 8. Effective date. This act is
 13 effective July 1, 1983.

-End-

Approved by committee
on Taxation

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15 severance tax bond subfund, the coal severance tax permanent
16 subfund, and the coal severance tax income subfund must be
17 invested in accordance with the investment standards for
18 coal severance tax funds except as provided in subsection
19 (2). Income and earnings from all subfunds must be
20 transferred to and retained in the coal severance tax income
21 subfund until appropriated by the legislature.
22 (2) Beginning on July 1, 1983, the legislature shall
23 appropriate 15% of the income and earnings from all subfunds
24 to be deposited to the coal severance tax permanent subfund
25 each year. The funds appropriated to the coal severance tax

1 permanent subfund under this subsection may not be further
2 appropriated except by vote of three-fourths of the members
3 of each house of the legislature."
4 Section 2. Section 85-1-604, MCA, is amended to read:
5 "85-1-604. Water development earmarked account created
6 -- revenues allocated -- limitations on appropriations from
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8 account within the earmarked revenue fund established in
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10 (2) There shall be paid into the water development
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14 (b) 30% of the interest income of the resource
15 indemnity trust account as provided in and subject to the
16 conditions of 15-38-202;
17 (c) the excess of the coal severance tax proceeds
18 allocated by 85-1-603 to the water development sinking
19 account above debt service requirements as provided in and
20 subject to the conditions of 85-1-619;
21 (d) any principal and accrued interest received in
22 repayment of a loan made from the proceeds of bonds issued
23 under 85-1-617; and
24 (e) any fees or charges collected by the department
25 pursuant to 85-1-616 for the servicing of loans, including

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

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6 account under 85-1-332 and only that amount may be
7 appropriated for the operation and maintenance of
8 state-owned projects and works. If the amount of money
9 available for appropriation under this subsection (3)(a) is
10 greater than that necessary for operation and maintenance
11 expenses, the excess may be appropriated as provided in
12 subsection (3)(b).

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

17 (i) the rehabilitation of state-owned projects and
18 works, including the rehabilitation of spillways of
19 state-owned dams;

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

22 (iii) the development of the hydropower potential of
23 state-owned dams;

24 (iv) assistance in the implementation of the water
25 reservations established under 85-2-316 of conservation

1 districts;

2 (v) the promotion of the development of offstream and
3 tributary storage;

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

6 (vii) administrative expenses, including but not
7 limited to the salaries and expenses of personnel,
8 equipment, office space, and other necessities incurred in
9 the administration of the water development program except
10 the administration of loans and grants; and

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

13 (c) An amount less than or equal to that paid into the
14 account from the ~~water-development-sinking-account~~ sources
15 provided for in (c) through (e) of subsection (2) and only
16 that amount may be appropriated from the account for loans
17 and grants for water development projects and activities
18 ~~and;~~ for administrative expenses, including but not limited
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 7 ~~provide financial assistance~~ to a department, agency, board,
 8 commission, or other division of state government or to a
 9 city, county, or other political subdivision or local
 10 government body of the state. The legislature may approve by
 11 appropriation or other appropriate means those grants and
 12 loans it finds consistent with the policies and purposes of
 13 the program.

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

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 6 least of ~~\$100,000~~ \$200,000, 10% of the estimated total funds
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 9 the loan will be made, or 80% of the fair market value of
 10 the security given therefor. In determining the fair market
 11 value for the security given for a loan, the department
 12 shall consider appraisals made by qualified appraisers and
 13 other factors it considers important.

14 (2) The period for repayment of loans may not exceed
 15 30 years.

16 (3) The board shall from time to time establish the
 17 interest rate at which loans may be made under this part."

18 Section 5. Section 85-1-616, MCA, is amended to read:
 19 "85-1-616. Administration of loans and grants. The
 20 department shall:

21 (1) administer the loan and grant program established
 22 by this part;

23 (2) service loans made or contract and pay for the
 24 servicing of loans, including arrangements for obtaining
 25 security interests; and

(3) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the water development earmarked account pursuant to 85-1-604."

Section 6. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing bonds. (1) When authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water development bonds of the state in the amount and manner it considers necessary and proper to finance the water development loan program. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds so issued and interest and redemption premiums payable thereon according to their terms.

(2) Each series of water development bonds may be issued by the board of examiners, upon request of the board of natural resources and conservation, at public or private sale, in such denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at such rate or rates, maturing at

such rate or rates, maturing at such time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at such earlier times and prices and upon such notice, with such provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the office of such banking institution or institutions within or outside the state, as the board of examiners shall determine subject to the limitations contained in this section.

(3) In the issuance of each series of water development bonds, the interest rates and the maturities and any mandatory redemption provisions thereof shall be established in such manner that the funds then specifically pledged and appropriated by law to the water development sinking account will in the judgment of the board of examiners be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of such bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and

1 shall do whatever is lawful and necessary for their issuance
 2 and payment. Such bonds and any interest coupons appurtenant
 3 thereto must be signed by the members of the board of
 4 examiners, and the bonds must be issued under the great seal
 5 of the state of Montana. The bonds and coupons may be
 6 executed with facsimile signatures and seal in the manner
 7 and subject to the limitations prescribed by law. The state
 8 treasurer shall keep a record of all such bonds issued and
 9 sold.

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

13 (6) All proceeds of bonds issued under this section,
 14 other than refunding bonds, must be deposited in the water
 15 development clearance account established in subsection (5),
 16 except that any principal and accrued interest received in
 17 repayment of a loan made from the proceeds of bonds issued
 18 under this section must be deposited in the water
 19 development sinking--account--and--must--be--applied--to--the
 20 payment--redemption--premiums--and--interest--on--the--particular
 21 bond--issue--from--whose--proceeds--the--loan--was--made earmarked
 22 account pursuant to 85-1-604. All proceeds of refunding
 23 bonds must be deposited in the water development sinking
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 25 outstanding bonds issued under this section as directed by

1 the board, whether at maturity or on any earlier date on
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(a) An amount less than or equal to that paid into the account under 85-1-332 and only that amount may be appropriated for the operation and maintenance of state-owned projects and works. If the amount of money available for appropriation under this subsection (3)(a) is greater than that necessary for operation and maintenance expenses, the excess may be appropriated as provided in subsection (3)(b).

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

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

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(c) An amount less than or equal to that paid into the account from the ~~water-development-sinking-account~~ sources provided for in (c) through (e) of subsection (2) and only that amount may be appropriated from the account for loans and grants for water development projects and activities ~~and~~ for administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, ~~and~~ office space; for the servicing of loans, including arrangements for obtaining security interests; and for other necessities incurred in administering the loans and grants."

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 3 "85-1-613. Limits on loans. (1) No loan for a water
 4 development project or activity may be made from the water
 5 development earmarked or clearance account that exceeds the
 6 least of ~~\$100,000~~ \$200,000, 10% of the estimated total funds
 7 potentially available for loans in the water development
 8 earmarked and clearance accounts in the biennium in which
 9 the loan will be made, or 80% of the fair market value of
 10 the security given therefor. In determining the fair market
 11 value for the security given for a loan, the department
 12 shall consider appraisals made by qualified appraisers and
 13 other factors it considers important.

14 (2) The period for repayment of loans may not exceed
 15 30 years.

16 (3) The board shall from time to time establish the
 17 interest rate at which loans may be made under this part."

18 Section 5. Section 85-1-616, MCA, is amended to read:
 19 "85-1-616. Administration of loans and grants. The
 20 department shall:

21 (1) administer the loan and grant program established
 22 by this part;

23 (2) service loans made or contract and pay for the
 24 servicing of loans, including arrangements for obtaining
 25 security interests; and

(3) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the water development earmarked account pursuant to 85-1-604."

Section 6. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing bonds. (1) When authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water development bonds of the state in the amount and manner it considers necessary and proper to finance the water development loan program. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds so issued and interest and redemption premiums payable thereon according to their terms.

(2) Each series of water development bonds may be issued by the board of examiners, upon request of the board of natural resources and conservation, at public or private sale, in such denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at such rate or rates, maturing at

such rate or rates, maturing at such time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at such earlier times and prices and upon such notice, with such provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the office of such banking institution or institutions within or outside the state, as the board of examiners shall determine subject to the limitations contained in this section.

(3) In the issuance of each series of water development bonds, the interest rates and the maturities and any mandatory redemption provisions thereof shall be established in such manner that the funds then specifically pledged and appropriated by law to the water development sinking account will in the judgment of the board of examiners be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of such bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and

1 shall do whatever is lawful and necessary for their issuance
 2 and payment. Such bonds and any interest coupons appurtenant
 3 thereto must be signed by the members of the board of
 4 examiners, and the bonds must be issued under the great seal
 5 of the state of Montana. The bonds and coupons may be
 6 executed with facsimile signatures and seal in the manner
 7 and subject to the limitations prescribed by law. The state
 8 treasurer shall keep a record of all such bonds issued and
 9 sold.

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

13 (6) All proceeds of bonds issued under this section,
 14 other than refunding bonds, must be deposited in the water
 15 development clearance account established in subsection (5),
 16 except that any principal and accrued interest received in
 17 repayment of a loan made from the proceeds of bonds issued
 18 under this section must be deposited in the water
 19 development ~~sinking account and must be applied to the~~
 20 ~~payments, redemption premiums, and interest on the particular~~
 21 ~~bond issue from whose proceeds the loan was made~~ earmarked
 22 account pursuant to 85-1-604. All proceeds of refunding
 23 bonds must be deposited in the water development sinking
 24 account and applied to the payment and redemption of
 25 outstanding bonds issued under this section as directed by

1 the board, whether at maturity or on any earlier date on
 2 which they may be prepaid according to their terms.

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

6 NEW SECTION. Section 7. Severability. If a part of
 7 this act is invalid, all valid parts that are severable from
 8 the invalid part remain in effect. If a part of this act is
 9 invalid in one or more of its applications, the part remains
 10 in effect in all valid applications that are severable from
 11 the invalid applications.

12 NEW SECTION. Section 8. Effective date. This act is
 13 effective July 1, 1983.

-End-

SENATE BILL NO. 146

INTRODUCED BY D. MANNING, GALT, TOWE

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES

AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE WATER DEVELOPMENT PROGRAM; AMENDING SECTIONS 17-5-704, 85-1-604, 85-1-605, 85-1-613, 85-1-616, AND 85-1-617, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 17-5-704, MCA, is amended to read:

"17-5-704. Investment of funds. (1) Money in the coal severance tax bond subfund, the coal severance tax permanent subfund, and the coal severance tax income subfund must be invested in accordance with the investment standards for coal severance tax funds except as provided in subsection (2). Income and earnings from all subfunds must be transferred to and retained in the coal severance tax income subfund until appropriated by the legislature.

(2) Beginning on July 1, 1983, the legislature shall appropriate 15% of the income and earnings from all subfunds to be deposited to the coal severance tax permanent subfund each year. The funds appropriated to the coal severance tax

permanent subfund under this subsection may not be further appropriated except by vote of three-fourths of the members of each house of the legislature."

Section 2. Section 85-1-604, MCA, is amended to read:

"85-1-604. Water development earmarked account created -- revenues allocated -- limitations on appropriations from account. (1) There is created a water development earmarked account within the earmarked revenue fund established in 17-2-102.

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

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

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

(c) the excess of the coal severance tax proceeds allocated by 85-1-603 to the water development sinking account above debt service requirements as provided in and subject to the conditions of 85-1-619;

(d) ~~any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under 85-1-617; and~~

(e) ~~any fees or charges collected by the department pursuant to 85-1-616 for the servicing of loans, including~~

arrangements for obtaining security interests.

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

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

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

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

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

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

(iv) assistance in the implementation of the water reservations established under 85-2-316 of conservation

districts;

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

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

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

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

(c) An amount less than or equal to that paid into the account from the ~~water-development-sinking-account~~ sources provided for in (c) through (e) of subsection (2) and only that amount may be appropriated from the account for loans and grants for water development projects and activities ~~and; for administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, and office space; for the servicing of loans, including arrangements for obtaining security interests; and for other necessities incurred in administering the loans and grants.~~"

Section 3. Section 85-1-605, MCA, is amended to read:

"85-1-605. Grants and loans to state and local governments. (1) The department may recommend to the

1 legislature that grants and loans be made from coal
 2 severance tax proceeds deposited in the water development
 3 earmarked accounts, and that loans be made from water
 4 development bond proceeds deposited in the water development
 5 clearance accounts, and that coal severance tax bonds be
 6 authorized pursuant to Title 17, chapter 5, part 7, to
 7 provide financial assistance to a department, agency, board,
 8 commission, or other division of state government or to a
 9 city, county, or other political subdivision or local
 10 government body of the state. The legislature may approve by
 11 appropriation or other appropriate means those grants and
 12 loans it finds consistent with the policies and purposes of
 13 the program.

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

1 legislature."

2 Section 4. Section 85-1-613, MCA, is amended to read:

3 "85-1-613. Limits on loans. (1) No loan for a water
 4 development project or activity may be made from the water
 5 development earmarked or clearance account that exceeds the
 6 least of ~~\$100,000~~ \$200,000, 10% of the estimated total funds
 7 potentially available for loans in the water development
 8 earmarked and clearance accounts in the biennium in which
 9 the loan will be made, or 80% of the fair market value of
 10 the security given therefor. In determining the fair market
 11 value for the security given for a loan, the department
 12 shall consider appraisals made by qualified appraisers and
 13 other factors it considers important.

14 (2) The period for repayment of loans may not exceed
 15 30 years.

16 (3) The board shall from time to time establish the
 17 interest rate at which loans may be made under this part."

18 Section 5. Section 85-1-616, MCA, is amended to read:

19 "85-1-616. Administration of loans and grants. The
 20 department shall:

21 (1) administer the loan and grant program established
 22 by this part;

23 (2) service loans made or contract and pay for the
 24 servicing of loans, including arrangements for obtaining
 25 security interests; and

1 (3) collect reasonable fees or charges for the
 2 servicing of loans, including arrangements for obtaining
 3 security interests. The fees and charges must be deposited
 4 in the water development earmarked account pursuant to
 5 85-1-604a."

6 Section 6. Section 85-1-617, MCA, is amended to read:

7 "85-1-617. Issuing bonds. (1) When authorized by the
 8 legislature and within the limits of the authorization and
 9 within the further limitations established in this section,
 10 the board of examiners may issue and sell water development
 11 bonds of the state in the amount and manner it considers
 12 necessary and proper to finance the water development loan
 13 program. The full faith and credit and taxing powers of the
 14 state are pledged for the prompt and full payment of all
 15 bonds so issued and interest and redemption premiums payable
 16 thereon according to their terms.

17 (2) Each series of water development bonds may be
 18 issued by the board of examiners, upon request of the board
 19 of natural resources and conservation, at public or private
 20 sale, in such denominations and forms, whether payable to
 21 bearer with attached interest coupons or registered as to
 22 principal or as to both principal and interest, with such
 23 provisions for conversion or exchange and for the issuance
 24 of notes in anticipation of the issuance of definitive
 25 bonds, bearing interest at such rate or rates, maturing at

1 such rate or rates, maturing at such time or times not
 2 exceeding 30 years from date of issue, subject to optional
 3 or mandatory redemption at such earlier times and prices and
 4 upon such notice, with such provisions for payment and
 5 discharge by the deposit of funds or securities in escrow
 6 for that purpose, and payable at the office of such banking
 7 institution or institutions within or outside the state, as
 8 the board of examiners shall determine subject to the
 9 limitations contained in this section.

10 (3) In the issuance of each series of water
 11 development bonds, the interest rates and the maturities and
 12 any mandatory redemption provisions thereof shall be
 13 established in such manner that the funds then specifically
 14 pledged and appropriated by law to the water development
 15 sinking account will in the judgment of the board of
 16 examiners be received in an amount sufficient in each year
 17 to pay all principal, redemption premiums, and interest due
 18 and payable in that year with respect to that and all prior
 19 series of such bonds, except outstanding bonds as to which
 20 the obligation of the state has been discharged by the
 21 deposit of funds or securities sufficient for their payment
 22 in accordance with the terms of the resolutions by which
 23 they are authorized to be issued.

24 (4) In all other respects, the board of examiners is
 25 authorized to prescribe the form and terms of the bonds and

1 shall do whatever is lawful and necessary for their issuance
 2 and payment. Such bonds and any interest coupons appurtenant
 3 thereto must be signed by the members of the board of
 4 examiners, and the bonds must be issued under the great seal
 5 of the state of Montana. The bonds and coupons may be
 6 executed with facsimile signatures and seal in the manner
 7 and subject to the limitations prescribed by law. The state
 8 treasurer shall keep a record of all such bonds issued and
 9 sold.

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

13 (6) All proceeds of bonds issued under this section,
 14 other than refunding bonds, must be deposited in the water
 15 development clearance account established in subsection (5),
 16 except that any principal and accrued interest received in
 17 repayment of a loan made from the proceeds of bonds issued
 18 under this section must be deposited in the water
 19 development ~~sinking account and must be applied to the~~
 20 ~~payment redemption premiums and interest on the particular~~
 21 ~~bond issue from whose proceeds the loan was made earmarked~~
 22 ~~account pursuant to 85-1-604.~~ All proceeds of refunding
 23 bonds must be deposited in the water development sinking
 24 account and applied to the payment and redemption of
 25 outstanding bonds issued under this section as directed by

1 the board, whether at maturity or on any earlier date on
 2 which they may be prepaid according to their terms.

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

6 NEW SECTION. Section 7. Severability. If a part of
 7 this act is invalid, all valid parts that are severable from
 8 the invalid part remain in effect. If a part of this act is
 9 invalid in one or more of its applications, the part remains
 10 in effect in all valid applications that are severable from
 11 the invalid applications.

12 NEW SECTION. Section 8. Effective date. This act is
 13 effective July 1, 1983.

-End-