

HOUSE BILL NO. 495

1/26 Introduced
1/28 Referred to Natural Resources
2/13 Hearing
2/25 Committee Report-Bill Pass As Amended
2/26 2nd Reading Pass
2/27 3rd Reading Pass

Transmitted to Senate

3/06 Referred to Taxation
3/22 Hearing
4/05 Tabled in Committee

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HOUSE BILL NO. 495

INTRODUCED BY

Ramirez, Gabriel
Alvarado, Rogan
Ellard

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE INFRASTRUCTURE BOND ACT OF 1985; PROVIDING FOR THE USE OF BONDS FOR INFRASTRUCTURE PROJECTS; PROVIDING FOR FUNDING OF THE BONDS FROM THE INTEREST AND INCOME OF THE MONTANA INFRASTRUCTURE TRUST FUND; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

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

Section 1. [This act] may be cited as the "Infrastructure Bond Act of 1985".

Section 2. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

- (1) "Authorized project" means a project for which the Montana infrastructure trust fund may be used as provided in [section 1 of __Bill No.__(LC 1443)].
- (2) "Board" means the board of examiners created under 2-15-1007.
- (3) "Bonds" means bonds, notes, or other evidences of indebtedness issued pursuant to [this act] as infrastructure bonds.
- (4) "Montana infrastructure trust fund" means the fund

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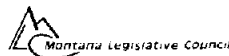
created by [section 1 of __Bill No.__(LC1443)].

Section 3. Purpose and intent. The purpose of the infrastructure bond provisions of [this act] is to establish the authority to issue and sell infrastructure bonds that have been approved by act of the legislature for financing authorized projects and activities in the state authorized by the legislature and to guarantee redemption of such bonds by revenue derived from the receipts from the interest and income of the infrastructure trust fund and such other money as the legislature may from time to time determine.

Section 4. Pledge of infrastructure bond fund.
(1) There is an infrastructure bond fund. The fund consists of the interest and income of the Montana infrastructure trust fund dedicated by the legislature to the retirement of bonds. The fund may be invested as provided in 17-6-201, until needed for the payment for bonds.

(2) The money in the infrastructure bond fund is pledged to the payment of the principal and interest on all state of Montana infrastructure bonds. All bonds issued after July 1, 1985, wherein the money in the infrastructure bond fund is pledged for their retirement must be called "state of Montana infrastructure bonds".

Section 5. Authority to issue infrastructure bonds. The board of examiners, upon approval of the legislature as provided in [this act], shall issue and sell infrastructure



1 bonds to finance authorized projects and activities when
 2 authorized to do so by any law that sets out the amount and
 3 purpose of the issue. Each project or activity must be
 4 separately approved as to amount by a vote of each house of
 5 the legislature.

6 Section 6. Board to issue bonds. The board may issue
 7 and sell infrastructure bonds, and no other agency of the
 8 state is so authorized. Any action taken by the board under
 9 [this act] must be approved by a majority vote of its
 10 members.

11 Section 7. Special fund revenues. (1) If a law
 12 authorizing an infrastructure bond issue for a specific
 13 purpose and in a specific amount contemplates the pledge and
 14 receipt of revenues, assets, or money other than or in
 15 addition to the money from the interest on the Montana
 16 infrastructure trust fund to the infrastructure bond fund,
 17 the money derived from such pledged revenues, assets, and
 18 money must be paid into a special bond fund for the benefit
 19 of such bonds, which must be part of a debt service fund of
 20 the state treasury fund structure.

21 (2) Money must be withdrawn from the infrastructure
 22 bond fund and paid to the special bond fund as necessary to
 23 provide for payment of principal and interest on the
 24 infrastructure bonds secured by a pledge of the special bond
 25 fund.

1 Section 8. Continued interest deposit limit on
 2 additional bonds. (1) The legislature shall provide for the
 3 continued collection and deposit into the infrastructure
 4 bond fund of the interest of the Montana infrastructure
 5 trust fund which, together with such other revenues, assets,
 6 and money as may be deposited to one or more special bond
 7 funds pledged for the benefit of infrastructure bonds, will
 8 be sufficient to produce an amount that is at least the
 9 amount necessary to pay, when due, the annual debt service
 10 charges on all outstanding infrastructure bonds.

11 (2) The board may issue no infrastructure bonds unless
 12 the aggregate amount of infrastructure bonds outstanding,
 13 including the proposed issue and any other infrastructure
 14 bonds authorized but not yet issued, can be serviced with
 15 the annual deposits of interest of the Montana
 16 infrastructure trust fund into the infrastructure bond fund,
 17 as determined by the average earnings on that percentage of
 18 the trust deposits during the preceding 3 fiscal years,
 19 together with the average of the aggregate amount of
 20 revenues, assets, or money deposited in one or more special
 21 bond funds used to pay debt service on outstanding
 22 infrastructure bonds during the preceding 3 fiscal years.

23 (3) The provisions of this section may not be modified
 24 so as to reduce the security for any infrastructure bonds
 25 while such bonds are outstanding.

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

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

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

25 (4) The board is authorized to employ a fiscal agent

1 to assist in the performance of its duties under [this act].

2 (5) All proceeds of a state of Montana infrastructure
 3 bond issue must be deposited in a capital projects fund or a
 4 state special revenue account established for that bond
 5 issue, except that any premiums and accrued interest
 6 received must be deposited in a debt service fund
 7 established for that bond issue.

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

21 Section 11. Provisions for protecting bondholders.
 22 Either the legislative act providing for the issuance of
 23 infrastructure bonds or the trust indenture may contain
 24 provisions for protecting and enforcing the rights and
 25 remedies of the bondholders as are reasonable, proper, and

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

14 Section 12. Personal liability -- suit to compel
 15 performance. (1) The members of the board and officers and
 16 employees of the departments, boards, or agencies of state
 17 government are not personally liable or accountable by
 18 reason of the issuance of or on any infrastructure bond
 19 issued by the board.

20 (2) Any holder of infrastructure bonds or any person
 21 or officer being a party in interest, subject to any
 22 applicable agreements or trust indentures, may sue to
 23 enforce and compel the performance of the infrastructure
 24 bond provisions as set out in [this act].

25 Section 13. Negotiability of bonds. Infrastructure

1 bonds issued are negotiable instruments under the Uniform
 2 Commercial Code, subject only to the provisions for
 3 registration of bonds.

4 Section 14. Signatures of board members. In the case
 5 any member of the board whose signature appears on
 6 infrastructure bonds or coupons ceases to be a member before
 7 the delivery of the bonds, his signature is nevertheless
 8 valid and sufficient for all purposes, the same as if the
 9 member had remained in office until delivery.

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

21 (2) Refunding obligations issued as provided in
 22 subsection (1) may be sold or exchanged for outstanding
 23 obligations issued under [this act]. The proceeds may be
 24 applied to the purchase, redemption, or payment of
 25 outstanding obligations. Pending the application of the

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

9 Section 16. Pledge of the state. In accordance with
 10 the constitutions of the United States and the state of
 11 Montana, the state pledges that it will not in any way
 12 impair the obligations of any agreement between the state
 13 and the holders of notes and bonds issued by the state.

14 Section 17. Tax exemption of bonds -- legal
 15 investments. (1) All infrastructure bonds, their transfer,
 16 and their income, including any profits made on their sale,
 17 are exempt from taxation by the state or any political
 18 subdivisions or other instrumentality of the state,
 19 excepting inheritance, estate, and gift taxes.

20 (2) Infrastructure bonds are legal investments for any
 21 person or board charged with investment of public funds and
 22 are acceptable as security for any deposit of public money.

23 Section 18. Limitation on amount of bonds issued. No
 24 more than \$250,000,000 worth of infrastructure bonds may be
 25 outstanding at any one time for authorized projects and

1 activities.

2 Section 19. Effective date -- contingency. This act is
 3 effective only if __Bill No.__ [LC 836] and __Bill No.__ [LC
 4 1443] are approved by the electors. If __Bill No.__ [LC 836]
 5 and __Bill No.__ [LC 1443] are approved by the electors,
 6 this act is effective July 1, 1987.

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

1 HOUSE BILL NO. 495
2 INTRODUCED BY RAMIREZ, PAVLOVICH, HOLLIDAY, THOFT,
3 DONALDSON, ABRAMS, BOYLAN, ELLERD, GAGE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE
6 INFRASTRUCTURE BOND ACT OF 1985; PROVIDING FOR THE USE OF
7 BONDS FOR INFRASTRUCTURE PROJECTS; PROVIDING FOR FUNDING OF
8 THE BONDS FROM ~~THE--INTEREST--AND--INCOME--OF~~ THE MONTANA
9 INFRASTRUCTURE TRUST FUND; AND PROVIDING A CONTINGENT
10 EFFECTIVE DATE."

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

13 Section 1. [This act] may be cited as the
14 "Infrastructure Bond Act of 1985".

15 Section 2. Definitions. As used in [this act], unless
16 the context requires otherwise, the following definitions
17 apply:

18 (1) "Authorized project" means a project APPROVED BY
19 THE LEGISLATURE for which the Montana infrastructure trust
20 fund may be used as provided in [section 1 of House Bill No.
21 493].

22 (2) "Board" means the board of examiners created under
23 2-15-1007.

24 (3) "Bonds" means bonds, notes, or other evidences of
25 indebtedness issued pursuant to [this act] as infrastructure

1 bonds.

2 (4) "Montana infrastructure trust fund" means the fund
3 created by [section 1 of House Bill No. 493].

4 (5) "PLEGDED COAL SEVERANCE TAXES" MEANS ONE-HALF OF
5 THE COLLECTIONS OF COAL SEVERANCE TAXES REQUIRED TO BE
6 DEPOSITED IN THE MONTANA INFRASTRUCTURE TRUST FUND.

7 Section 3. Purpose and intent. The purpose of the
8 infrastructure bond provisions of [this act] is to establish
9 the authority to issue and sell infrastructure bonds that
10 have been approved by act of the legislature for financing
11 authorized projects ~~and-activities~~ in the state authorized
12 ~~by--the--legislature~~ and to ~~guarantee-redemption-of~~ PAY AND
13 SECURE such bonds by ~~revenue-derived-from-the-receipts--from~~
14 ~~the--interest--and--income--of-the-infrastructure-trust-fund~~
15 PLEGDED COAL SEVERANCE TAXES and such other money as the
16 legislature may from time to time determine.

17 Section 4. ~~Pledge---of---infrastructure~~ INFRASTRUCTURE
18 bond fund -- INCOME FUND. (1) There is an infrastructure
19 bond fund AND AN INCOME FUND WITHIN THE MONTANA
20 INFRASTRUCTURE TRUST FUND. The-fund-consists-of-the-interest
21 and--income--of--the--Montana--infrastructure---trust---fund
22 dedicated--by--the--legislature--to-the-retirement-of-bonds-
23 THERE IS HEREBY IRREVOCABLY PLEDGED, APPROPRIATED, AND
24 DEPOSITED TO THE INFRASTRUCTURE BOND FUND AS COLLECTED, SO
25 MUCH OF THE PLEDGED COAL SEVERANCE TAXES AS ARE REQUIRED TO



1 ESTABLISH WITH OTHER FUNDS THEREIN, A BALANCE EQUAL TO THE
 2 PRINCIPAL, INTEREST, AND PREMIUMS TO COME DUE ON ALL BONDS
 3 PAYABLE THEREFROM WITHIN THE NEXT 6 MONTHS AND TO ESTABLISH
 4 AND MAINTAIN RESERVES THEREFOR IN ADDITIONAL AMOUNTS
 5 AUTHORIZED BY THE BOARD IN CONNECTION WITH THE ISSUANCE OF
 6 THE BONDS NOT TO EXCEED THE MAXIMUM PRINCIPAL AND INTEREST
 7 TO COME DUE ON ALL SUCH BONDS IN ANY FUTURE FISCAL YEAR. ALL
 8 OTHER PLEDGED COAL SEVERANCE TAXES SHALL BE DEPOSITED AS
 9 RECEIVED IN THE INFRASTRUCTURE INCOME FUND. SUBJECT TO THE
 10 PRIOR LIEN AND CLAIM ON THE PLEDGED COAL SEVERANCE TAXES FOR
 11 THE PAYMENT AND SECURITY OF BONDS AND NOTES ISSUED PURSUANT
 12 TO TITLE 17, CHAPTER 5, PART 7, THE PLEDGE AND APPROPRIATION
 13 OF THE PLEDGED COAL SEVERANCE TAXES HEREIN PROVIDED SHALL
 14 CONSTITUTE A FIRST AND PRIOR LIEN AND CLAIM THEREON. The
 15 fund may be invested as provided ~~in 17-5-201~~ BY LAW, until
 16 needed for the payment for bonds. SUBJECT TO THE RIGHTS OF
 17 BONDHOLDERS, SURPLUS MONEY IN THE INFRASTRUCTURE BOND FUND
 18 SHALL BE TRANSFERRED TO THE INFRASTRUCTURE INCOME FUND.

19 (2) The money in the infrastructure bond fund is
 20 pledged SOLELY to the payment of the principal, PREMIUM, and
 21 interest on all state of Montana infrastructure bonds. All
 22 bonds issued after July 1, ~~1985~~ 1987, wherein the money in
 23 the infrastructure bond fund is pledged for their retirement
 24 must be called "state of Montana infrastructure bonds".

25 Section 5. Authority to issue infrastructure bonds.

1 Section 5. Authority to issue infrastructure bonds.
 2 The board of examiners, upon approval BY A TWO-THIRDS VOTE
 3 OF THE MEMBERS OF EACH HOUSE of the legislature as provided
 4 in [this act], shall issue and sell infrastructure bonds to
 5 finance authorized projects and activities when authorized
 6 to do so by any law that sets out the amount and purpose of
 7 the issue. Each project or activity must be separately
 8 approved as to amount by a vote TWO-THIRDS VOTE OF THE
 9 MEMBERS of each house of the legislature.

10 Section 6. Board to issue bonds. The board may issue
 11 and sell infrastructure bonds, and no other agency of the
 12 state is so authorized. Any action taken by the board under
 13 [this act] must be approved by a majority vote of its
 14 members.

15 Section 7. Special fund revenues. ~~{}~~ If a law
 16 authorizing an infrastructure bond issue for a specific
 17 purpose and in a specific amount contemplates the pledge and
 18 receipt of revenues, assets, or money ~~other--than--or~~ in
 19 addition to the ~~money--from--the--interest-on-the-Montana~~
 20 ~~infrastructure-trust-fund-to-the--infrastructure--bond--fund~~
 21 PLEDGED COAL SEVERANCE TAXES, the money derived from such
 22 pledged revenues, assets, and money must be paid into THE
 23 INFRASTRUCTURE BOND FUND OR a special bond-fund ACCOUNT
 24 THEREIN AS AUTHORIZED BY THE BOARD for the benefit PAYMENT
 25 AND SECURITY of such bonds, ~~which-must-be-part-of-a-debt~~

1 ~~service-fund-of-the-state-treasury-fund-structure.~~

2 ~~(2)--Money-must-be-withdrawn--from--the--infrastructure~~
 3 ~~bond--fund-and-paid-to-the-special-bond-fund-as-necessary-to~~
 4 ~~provide--for--payment--of--principal--and--interest--on--the~~
 5 ~~infrastructure-bonds-secured-by-a-pledge-of-the-special-bond~~
 6 ~~fund.~~

7 Section 8. Continued interest deposit OF PLEDGED COAL
 8 SEVERANCE TAXES AND limit on additional bonds. (1) The
 9 legislature shall provide for the continued collection and
 10 deposit into the infrastructure bond fund of the ~~interest-of~~
 11 ~~the-Montana-infrastructure-trust--fund--which~~ PLEDGED COAL
 12 SEVERANCE TAXES, together with such other revenues, assets,
 13 and money as may be deposited ~~to-one-or--more--special--bond~~
 14 ~~funds--pledged~~ THEREIN for the benefit PAYMENT AND SECURITY
 15 of infrastructure bonds, will be sufficient to produce an
 16 amount that is at least the amount necessary to pay, when
 17 due, the annual debt service charges on all outstanding
 18 infrastructure bonds AND TO ESTABLISH AND MAINTAIN RESERVES
 19 THEREFOR.

20 (2) The board may issue no infrastructure bonds unless
 21 the aggregate amount of infrastructure bonds outstanding,
 22 including the proposed issue ~~and-any-other-infrastructure~~
 23 ~~bonds-authorized-but-not-yet-issued~~, can be serviced with
 24 the annual ~~deposits---of---interest---of---the---Montana~~
 25 ~~infrastructure-trust-fund-into-the-infrastructure-bond-fund,~~

1 COLLECTION OF THE PLEDGED COAL SEVERANCE TAXES as determined
 2 by the average earnings ~~on--that--percentage--of--the--trust~~
 3 deposits OF SUCH COLLECTIONS during the preceding 3 fiscal
 4 years, together with the average of the aggregate amount of
 5 revenues, assets, or money deposited in one or more special
 6 bond funds used to pay debt service on outstanding
 7 infrastructure bonds during the preceding 3 fiscal years.

8 (3) The provisions of this section may not be modified
 9 so as to reduce the security for any infrastructure bonds
 10 while such bonds are outstanding.

11 Section 9. Form -- principal and interest -- fiscal
 12 agent -- deposit of proceeds. (1) Each series of
 13 infrastructure bonds must be issued by the board at public
 14 or private sale, in such denominations and form, whether
 15 payable to bearer or registered as to principal or both
 16 principal and interest, with such provisions for the
 17 conversion or exchange, bearing interest at such rate or
 18 rates, maturing at such times not exceeding 40 years from
 19 date of issue, subject to redemption at such earlier times
 20 and prices and upon such notice, and payable at the office
 21 of such fiscal agency of the state as the board shall
 22 determine, subject to the limitations contained in [this
 23 act].

24 (2) In all other respects the board is authorized to
 25 prescribe the form and terms of the bonds and shall do

1 whatever is lawful and necessary for their issuance and
2 payment.

3 (3) Infrastructure bonds and any interest coupons
4 appurtenant thereto must be signed by the members of the
5 board, and the bonds must be issued under the great seal of
6 the state of Montana. The bonds and coupons may be executed
7 with facsimile signatures and seal in the manner and subject
8 to the limitations prescribed by law. The state treasurer
9 shall keep a record of all such bonds issued and sold.

10 (4) The board is authorized to employ a fiscal agent
11 to assist in the performance of its duties under [this act].

12 (5) All proceeds of a state of Montana infrastructure
13 bond issue must be deposited in a capital projects fund or a
14 state special revenue account established for that bond
15 issue, except that any premiums and accrued interest
16 received must be deposited in a debt service fund
17 established for that bond issue.

18 Section 10. Trust indenture OR RESOLUTION. In the
19 discretion of the board, a series of infrastructure bonds
20 may be secured by a RESOLUTION OF THE BOARD OR A trust
21 indenture by and between the board and a trustee, which may
22 be any trust company or bank having the powers of a trust
23 company within or outside of the state. Each RESOLUTION OR
24 trust indenture or an executed counterpart thereof must be
25 filed in the office of the secretary of state of Montana.

1 The filing of a trust indenture or an executed counterpart
2 thereof in the office of the ~~county clerk of the county in~~
3 ~~which the property covered by the trust indenture is located~~
4 SECRETARY OF STATE is constructive notice of its contents to
5 all persons from the time of the filing, and the recording
6 of the RESOLUTION OR trust indenture or its contents is not
7 necessary.

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

1 Section 12. Personal liability -- suit to compel
2 performance. (1) The members of the board and officers and
3 employees of the departments, boards, or agencies of state
4 government are not personally liable or accountable by
5 reason of the issuance of or on any infrastructure bond
6 issued by the board.

7 (2) Any holder of infrastructure bonds or any person
8 or officer being a party in interest, subject to any
9 applicable agreements or trust indentures, may sue to
10 enforce and compel the performance of the infrastructure
11 bond provisions as set out in [this act].

12 Section 13. Negotiability of bonds. Infrastructure
13 bonds issued are negotiable instruments under the Uniform
14 Commercial Code, subject only to the provisions for
15 registration of bonds.

16 Section 14. Signatures of board members. In the case
17 any member of the board whose signature appears on
18 infrastructure bonds or coupons ceases to be a member before
19 the delivery of the bonds, his signature is nevertheless
20 valid and sufficient for all purposes, the same as if the
21 member had remained in office until delivery.

22 Section 15. Refunding obligations. (1) The board may
23 provide for the issuance of refunding obligations for
24 refunding any obligations then outstanding that have been
25 issued under [this act], including the payment of any

1 redemption premium and any interest accrued or to accrue to
2 the date of redemption of the obligations. The issuance of
3 refunding obligations, the maturities and other details, the
4 rights of the holders, and the rights, duties, and
5 obligations of the state are governed by the appropriate
6 provisions of [this act] that relate to the issuance of
7 obligations.

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

21 Section 16. Pledge of the state. In accordance with
22 the constitutions of the United States and the state of
23 Montana, the state pledges that it will not in any way
24 impair the obligations of any agreement between the state
25 and the holders of notes and bonds issued by the state.

1 Section 17. Tax exemption of bonds -- legal
2 investments. (1) All infrastructure bonds, their transfer,
3 and their income, including any profits made on their sale,
4 are exempt from taxation by the state or any political
5 subdivisions or other instrumentality of the state,
6 excepting inheritance, estate, and gift taxes.

7 (2) Infrastructure bonds are legal investments for any
8 person or board charged with investment of public funds and
9 are acceptable as security for any deposit of public money.

10 Section 18. Limitation on amount of bonds issued. No
11 more than \$250,000,000 worth of infrastructure bonds may be
12 outstanding at any one time for authorized projects and
13 activities.

14 Section 19. Effective date -- contingency. This act is
15 effective only if House Bill No. 494 and House Bill No. 493
16 are approved by the electors. If House Bill No. 494 and
17 House Bill No. 493 are approved by the electors, this act is
18 effective July 1, 1987.

-End-

HOUSE BILL NO. 495

INTRODUCED BY RAMIREZ, PAVLOVICH, HOLLIDAY, THOPT,
DONALDSON, ABRAMS, BOYLAN, ELLERD, GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE
INFRASTRUCTURE BOND ACT OF 1985; PROVIDING FOR THE USE OF
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INFRASTRUCTURE TRUST FUND; AND PROVIDING A CONTINGENT
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. [This act] may be cited as the
"Infrastructure Bond Act of 1985".

Section 2. Definitions. As used in [this act], unless
the context requires otherwise, the following definitions
apply:

(1) "Authorized project" means a project APPROVED BY
THE LEGISLATURE for which the Montana infrastructure trust
fund may be used as provided in [section 1 of House Bill No.
493].

(2) "Board" means the board of examiners created under
2-15-1007.

(3) "Bonds" means bonds, notes, or other evidences of
indebtedness issued pursuant to [this act] as infrastructure

bonds.

(4) "Montana infrastructure trust fund" means the fund
created by [section 1 of House Bill No. 493].

(5) "PLEGGED COAL SEVERANCE TAXES" MEANS ONE-HALF OF
THE COLLECTIONS OF COAL SEVERANCE TAXES REQUIRED TO BE
DEPOSITED IN THE MONTANA INFRASTRUCTURE TRUST FUND.

Section 3. Purpose and intent. The purpose of the
infrastructure bond provisions of [this act] is to establish
the authority to issue and sell infrastructure bonds that
have been approved by act of the legislature for financing
authorized projects and activities in the state authorized
by ~~the legislature~~ and to guarantee redemption of PAY AND
SECURE such bonds by revenue ~~derived from the receipts from~~
~~the interest and income of the infrastructure trust fund~~
PLEGGED COAL SEVERANCE TAXES and such other money as the
legislature may from time to time determine.

Section 4. Pledge ~~of infrastructure~~ INFRASTRUCTURE
bond fund -- INCOME FUND. (1) There is an infrastructure
bond fund AND AN INCOME FUND WITHIN THE MONTANA
INFRASTRUCTURE TRUST FUND. ~~The fund consists of the interest
and income of the Montana infrastructure trust fund
dedicated by the legislature to the retirement of bonds.~~
THERE IS HEREBY IRREVOCABLY PLEDGED, APPROPRIATED, AND
DEPOSITED TO THE INFRASTRUCTURE BOND FUND AS COLLECTED, SO
MUCH OF THE PLEDGED COAL SEVERANCE TAXES AS ARE REQUIRED TO

1 ESTABLISH WITH OTHER FUNDS THEREIN, A BALANCE EQUAL TO THE
 2 PRINCIPAL, INTEREST, AND PREMIUMS TO COME DUE ON ALL BONDS
 3 PAYABLE THEREFROM WITHIN THE NEXT 6 MONTHS AND TO ESTABLISH
 4 AND MAINTAIN RESERVES THEREFOR IN ADDITIONAL AMOUNTS
 5 AUTHORIZED BY THE BOARD IN CONNECTION WITH THE ISSUANCE OF
 6 THE BONDS NOT TO EXCEED THE MAXIMUM PRINCIPAL AND INTEREST
 7 TO COME DUE ON ALL SUCH BONDS IN ANY FUTURE FISCAL YEAR. ALL
 8 OTHER PLEDGED COAL SEVERANCE TAXES SHALL BE DEPOSITED AS
 9 RECEIVED IN THE INFRASTRUCTURE INCOME FUND. SUBJECT TO THE
 10 PRIOR LIEN AND CLAIM ON THE PLEDGED COAL SEVERANCE TAXES FOR
 11 THE PAYMENT AND SECURITY OF BONDS AND NOTES ISSUED PURSUANT
 12 TO TITLE 17, CHAPTER 5, PART 7, THE PLEDGE AND APPROPRIATION
 13 OF THE PLEDGED COAL SEVERANCE TAXES HEREIN PROVIDED SHALL
 14 CONSTITUTE A FIRST AND PRIOR LIEN AND CLAIM THEREON. The
 15 fund may be invested as provided in ~~17-6-201~~ BY LAW, until
 16 needed for the payment for bonds. SUBJECT TO THE RIGHTS OF
 17 BONDHOLDERS, SURPLUS MONEY IN THE INFRASTRUCTURE BOND FUND
 18 SHALL BE TRANSFERRED TO THE INFRASTRUCTURE INCOME FUND.

19 (2) The money in the infrastructure bond fund is
 20 pledged SOLELY to the payment of the principal, PREMIUM, and
 21 interest on all state of Montana infrastructure bonds. All
 22 bonds issued after July 1, ~~1985~~ 1987, wherein the money in
 23 the infrastructure bond fund is pledged for their retirement
 24 must be called "state of Montana infrastructure bonds".

25 Section 5. Authority to issue infrastructure bonds.

1 Section 5. Authority to issue infrastructure bonds.
 2 The board of examiners, upon approval BY A TWO-THIRDS VOTE
 3 OF THE MEMBERS OF EACH HOUSE of the legislature as provided
 4 in [this act], shall issue and sell infrastructure bonds to
 5 finance authorized projects and activities when authorized
 6 to do so by any law that sets out the amount and purpose of
 7 the issue. Each project or activity must be separately
 8 approved as to amount by a vote TWO-THIRDS VOTE OF THE
 9 MEMBERS of each house of the legislature.

10 Section 6. Board to issue bonds. The board may issue
 11 and sell infrastructure bonds, and no other agency of the
 12 state is so authorized. Any action taken by the board under
 13 [this act] must be approved by a majority vote of its
 14 members.

15 Section 7. Special fund revenues. (1) If a law
 16 authorizing an infrastructure bond issue for a specific
 17 purpose and in a specific amount contemplates the pledge and
 18 ~~receipt~~ of revenues, assets, or money ~~other--than--or~~ in
 19 addition to the ~~money--from--the--interest--on--the--Montana~~
 20 ~~infrastructure--trust--fund--to--the--infrastructure--bond--fund~~
 21 PLEDGED COAL SEVERANCE TAXES, the money derived from such
 22 pledged revenues, assets, and money must be paid into THE
 23 INFRASTRUCTURE BOND FUND OR a special bond-fund ACCOUNT
 24 THEREIN AS AUTHORIZED BY THE BOARD for the benefit PAYMENT
 25 AND SECURITY of such bonds, ~~which must be part of a debt~~

1 ~~service-fund-of-the-state-treasury-fund-structure.~~

2 ~~(2) Money must be withdrawn from the infrastructure~~
3 ~~bond fund and paid to the special bond fund as necessary to~~
4 ~~provide for payment of principal and interest on the~~
5 ~~infrastructure bonds secured by a pledge of the special bond~~
6 ~~fund.~~

7 Section 8. Continued interest deposit OF PLEDGED COAL
8 SEVERANCE TAXES AND limit on additional bonds. (1) The
9 legislature shall provide for the continued collection and
10 deposit into the infrastructure bond fund of the interest of
11 ~~the-Montana-infrastructure-trust-fund-which~~ PLEDGED COAL
12 SEVERANCE TAXES, together with such other revenues, assets,
13 and money as may be deposited to one or more special bond
14 funds pledged THEREIN for the benefit PAYMENT AND SECURITY
15 of infrastructure bonds, will be sufficient to produce an
16 amount that is at least the amount necessary to pay, when
17 due, the annual debt service charges on all outstanding
18 infrastructure bonds AND TO ESTABLISH AND MAINTAIN RESERVES
19 THEREFOR.

20 (2) The board may issue no infrastructure bonds unless
21 the aggregate amount of infrastructure bonds outstanding,
22 including the proposed issue ~~and any other infrastructure~~
23 ~~bonds authorized but not yet issued~~, can be serviced with
24 the annual deposits ~~of interest of the Montana~~
25 ~~infrastructure trust fund into the infrastructure bond fund,~~

1 COLLECTION OF THE PLEDGED COAL SEVERANCE TAXES as determined
2 by the average earnings on that percentage of the trust
3 deposits OF SUCH COLLECTIONS during the preceding 3 fiscal
4 years, together with the average of the aggregate amount of
5 revenues, assets, or money deposited in one or more special
6 bond funds used to pay debt service on outstanding
7 infrastructure bonds during the preceding 3 fiscal years.

8 (3) The provisions of this section may not be modified
9 so as to reduce the security for any infrastructure bonds
10 while such bonds are outstanding.

11 Section 9. Form -- principal and interest -- fiscal
12 agent -- deposit of proceeds. (1) Each series of
13 infrastructure bonds must be issued by the board at public
14 or private sale, in such denominations and form, whether
15 payable to bearer or registered as to principal or both
16 principal and interest, with such provisions for the
17 conversion or exchange, bearing interest at such rate or
18 rates, maturing at such times not exceeding 40 years from
19 date of issue, subject to redemption at such earlier times
20 and prices and upon such notice, and payable at the office
21 of such fiscal agency of the state as the board shall
22 determine, subject to the limitations contained in [this
23 act].

24 (2) In all other respects the board is authorized to
25 prescribe the form and terms of the bonds and shall do

1 whatever is lawful and necessary for their issuance and
2 payment.

3 (3) Infrastructure bonds and any interest coupons
4 appurtenant thereto must be signed by the members of the
5 board, and the bonds must be issued under the great seal of
6 the state of Montana. The bonds and coupons may be executed
7 with facsimile signatures and seal in the manner and subject
8 to the limitations prescribed by law. The state treasurer
9 shall keep a record of all such bonds issued and sold.

10 (4) The board is authorized to employ a fiscal agent
11 to assist in the performance of its duties under [this act].

12 (5) All proceeds of a state of Montana infrastructure
13 bond issue must be deposited in a capital projects fund or a
14 state special revenue account established for that bond
15 issue, except that any premiums and accrued interest
16 received must be deposited in a debt service fund
17 established for that bond issue.

18 Section 10. Trust indenture OR RESOLUTION. In the
19 discretion of the board, a series of infrastructure bonds
20 may be secured by a RESOLUTION OF THE BOARD OR A trust
21 indenture by and between the board and a trustee, which may
22 be any trust company or bank having the powers of a trust
23 company within or outside of the state. Each RESOLUTION OR
24 trust indenture or an executed counterpart thereof must be
25 filed in the office of the secretary of state of Montana.

1 The filing of a trust indenture or an executed counterpart
2 thereof in the office of the ~~county-clerk-of-the-county-in~~
3 ~~which-the-property-covered-by-the-trust-indenture-is-located~~
4 SECRETARY OF STATE is constructive notice of its contents to
5 all persons from the time of the filing, and the recording
6 of the RESOLUTION OR trust indenture or its contents is not
7 necessary.

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

1 Section 12. Personal liability -- suit to compel
2 performance. (1) The members of the board and officers and
3 employees of the departments, boards, or agencies of state
4 government are not personally liable or accountable by
5 reason of the issuance of or on any infrastructure bond
6 issued by the board.

7 (2) Any holder of infrastructure bonds or any person
8 or officer being a party in interest, subject to any
9 applicable agreements or trust indentures, may sue to
10 enforce and compel the performance of the infrastructure
11 bond provisions as set out in [this act].

12 Section 13. Negotiability of bonds. Infrastructure
13 bonds issued are negotiable instruments under the Uniform
14 Commercial Code, subject only to the provisions for
15 registration of bonds.

16 Section 14. Signatures of board members. In the case
17 any member of the board whose signature appears on
18 infrastructure bonds or coupons ceases to be a member before
19 the delivery of the bonds, his signature is nevertheless
20 valid and sufficient for all purposes, the same as if the
21 member had remained in office until delivery.

22 Section 15. Refunding obligations. (1) The board may
23 provide for the issuance of refunding obligations for
24 refunding any obligations then outstanding that have been
25 issued under [this act], including the payment of any

1 redemption premium and any interest accrued or to accrue to
2 the date of redemption of the obligations. The issuance of
3 refunding obligations, the maturities and other details, the
4 rights of the holders, and the rights, duties, and
5 obligations of the state are governed by the appropriate
6 provisions of [this act] that relate to the issuance of
7 obligations.

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

21 Section 16. Pledge of the state. In accordance with
22 the constitutions of the United States and the state of
23 Montana, the state pledges that it will not in any way
24 impair the obligations of any agreement between the state
25 and the holders of notes and bonds issued by the state.

1 Section 17. Tax exemption of bonds -- legal
2 investments. (1) All infrastructure bonds, their transfer,
3 and their income, including any profits made on their sale,
4 are exempt from taxation by the state or any political
5 subdivisions or other instrumentality of the state,
6 excepting inheritance, estate, and gift taxes.

7 (2) Infrastructure bonds are legal investments for any
8 person or board charged with investment of public funds and
9 are acceptable as security for any deposit of public money.

10 Section 18. Limitation on amount of bonds issued. No
11 more than \$250,000,000 worth of infrastructure bonds may be
12 outstanding at any one time for authorized projects and
13 activities.

14 Section 19. Effective date -- contingency. This act is
15 effective only if House Bill No. 494 and House Bill No. 493
16 are approved by the electors. If House Bill No. 494 and
17 House Bill No. 493 are approved by the electors, this act is
18 effective July 1, 1987.

-End-