

HOUSE BILL NO. 858

INTRODUCED BY HARRINGTON, QUILICI, PAVLOVICH, HAFPEY,
KRUEGER, D. BROWN, STIMATZ, JACOBSON, LYNCH

IN THE HOUSE

February 16, 1985	Introduced and referred to Committee on Local Government.
March 13, 1985	Committee recommend bill do pass as amended. Report adopted.
March 14, 1985	Bill printed and placed on members' desks.
March 16, 1985	Second reading, do pass. Considered correctly engrossed.
March 18, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 19, 1985	Introduced and referred to Committee on Business and Industry.
March 29, 1985	Committee recommend bill be concurrent in. Report adopted. On motion, rules temporarily suspended in order that all bills considered on second reading on the 70th Legislative Day advance to third reading that same day.
April 1, 1985	Second reading, concurred in. Third reading, concurred in. Ayes, 37; Noes, 13. Returned to House.

IN THE HOUSE

April 2, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 858

INTRODUCED BY

Staff

Hamilton Zulueta Paulson
KRUEGER *Don Brown* *Thomas Jackson*

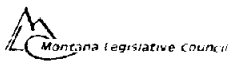
A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH MUNICIPAL AND REGIONAL PORT AUTHORITIES; TO PROVIDE FOR A TAX LEVY FOR THE OPERATION THEREOF; TO PROVIDE FOR PORT COMMISSIONERS; TO PROVIDE FOR THE GENERAL POWER OF A PORT AUTHORITY; TO PROVIDE FOR POWERS OF EMINENT DOMAIN, FOR ISSUANCE OF BONDS, AND FOR ESTABLISHMENT OF OPERATION AND USE PRIVILEGES; TO PROVIDE FOR RULES IN CONNECTION WITH A PORT AUTHORITY; TO PROVIDE FOR ACCEPTANCE OF FEDERAL AID FOR PORTS; AND TO PROVIDE FOR MUNICIPAL COOPERATION IN REGARD TO PORT OPERATION; AMENDING SECTION 67-10-402, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
NEW SECTION. Section 1. Municipal port authority. (1) Any municipality may, by resolution of its governing body, create a public body, corporate and politic, to be known as a municipal port authority, authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof. Such a governing body may by resolution determine to exercise any or all powers granted to such authorities in [sections 1 through 18], unless such powers have been conferred upon a municipal or regional port authority.

(2) Upon the adoption of a resolution creating a municipal port authority, the governing body of the municipality shall, pursuant to the resolution, appoint not less than five persons as commissioners of the authority. The commissioners who are first appointed must be designated to serve for terms of 1, 2, 3, 4, and 5 years, respectively, but thereafter each commissioner must be appointed for a term of 5 years, except that vacancies occurring other than by expiration of a term must be filled for the unexpired term by the governing body.

NEW SECTION. Section 2. Regional port authority. (1) Two or more municipalities may by joint resolution create a public body, corporate and politic, to be known as a regional port authority. The resolution creating a regional port authority must create a board of not less than five commissioners. The number to be appointed, their term, and their compensation, if any, must be provided for in the resolution. Each such regional port authority shall organize, select officers for terms to be fixed by agreement, and adopt and amend from time to time rules for its own procedure.

(2) A regional port authority may be increased from time to time to serve one or more additional municipalities if each additional municipality, each of the municipalities then included in the regional authority, and the



1 commissioners of the regional authority, respectively, adopt
 2 a joint resolution consenting thereto. However, if a
 3 municipal port authority for any municipality seeking to be
 4 included in the regional authority is then in existence, the
 5 commissioners of the municipal authority must consent to the
 6 inclusion of the municipality in the regional authority;
 7 upon the inclusion of such municipality in the regional
 8 authority, all rights, contracts, obligations, and real and
 9 personal property of the municipal authority must be in the
 10 name of and vest in the regional authority.

11 (3) A regional port authority may be decreased if each
 12 of the municipalities then included in the regional
 13 authority and the commissioners of the regional authority
 14 consent to the decrease and make provisions for the
 15 retention or disposition of its assets and liabilities.

16 (4) A municipality may not adopt any resolution
 17 authorized by this section without a public hearing thereon.
 18 Notice must be given at least 10 days prior to the hearing
 19 in a newspaper published in the municipality or, if there is
 20 no newspaper published therein, in a newspaper having
 21 general circulation in the municipality.

22 (5) For the purpose of [sections 1 through 18], a
 23 regional port authority has the same powers as all other
 24 political subdivisions in the adoption and enforcement of
 25 comprehensive port zoning regulations, as provided by the

1 laws of this state.

2 NEW SECTION. Section 3. Commissioners. (1) The powers
 3 of each authority are vested in the commissioners thereof. A
 4 majority of the commissioners of an authority constitutes a
 5 quorum for the purpose of conducting business of the
 6 authority and exercising its powers for all other purposes.
 7 Action may be taken by the authority upon a vote of not less
 8 than a majority of the commissioners present.

9 (2) There must be elected a chairman and vice-chairman
 10 from among the commissioners. An authority may employ an
 11 executive director, secretary, technical experts, and such
 12 other officers, agents, and employees, permanent and
 13 temporary, as it may require and shall determine their
 14 qualifications, duties, and compensation. An authority may
 15 delegate to one or more of its agents or employees such
 16 powers or duties as it considers proper.

17 (3) A commissioner of an authority is entitled to
 18 receive expenses, as provided in 2-18-501 through 2-18-503,
 19 incurred in the discharge of his duties. Each commissioner
 20 shall hold office until his successor has been appointed and
 21 has qualified. The certificates of the appointment and
 22 reappointment of commissioners must be filed with the
 23 authority.

24 NEW SECTION. Section 4. Functions -- public and
 25 governmental. The acquisition of any land or interest

1 therein pursuant to [sections 1 through 18], the planning,
 2 acquisition, establishment, development, construction,
 3 improvement, maintenance, equipment, operation, regulation,
 4 and protection of ports and transportation and storage
 5 facilities, and the exercise of any powers granted to port
 6 authorities and other public agencies to be severally or
 7 jointly exercised are public and governmental functions,
 8 exercised for a public purpose, and matters of public
 9 necessity. All land and other property and privileges
 10 acquired and used by or on behalf of any authority or other
 11 public agency, as provided in [sections 1 through 18], must
 12 be used for public and governmental purposes and as a matter
 13 of public necessity.

14 NEW SECTION. Section 5. Cooperation of municipality.
 15 For the purpose of aiding and cooperating in the planning,
 16 undertaking, construction, or operation of ports and
 17 facilities pursuant to [sections 1 through 18], any
 18 municipality for which an authority has been created upon
 19 such terms, with or without consideration, as it may
 20 determine may:

- 21 (1) lend or donate money to the authority;
- 22 (2) provide that all or a portion of the taxes or
- 23 funds available or to become available to or required by law
- 24 to be used by the municipality for port purposes be
- 25 transferred or paid directly to the port authority as such

1 funds become available to the municipality;

2 (3) cause water, sewer, or drainage facilities or any
 3 other facilities that it is empowered to provide to be
 4 furnished adjacent to or in connection with such ports or
 5 facilities;

6 (4) dedicate, sell, convey, or lease any of its
 7 interest in any property or grant easements, licenses, or
 8 any other rights or privileges therein to the authority;

9 (5) furnish, dedicate, close, pave, install, grade,
 10 regrade, plan or replan streets, roads, roadways, and walks
 11 from established streets or roads to such port or
 12 facilities;

13 (6) do any and all things, whether or not specifically
 14 authorized in this section and not otherwise prohibited by
 15 law, that are necessary or convenient to aid and cooperate
 16 with the authority in the planning, undertaking,
 17 construction, or operation of ports and facilities; and

18 (7) enter into agreements with the authority
 19 respecting action to be taken by the municipality pursuant
 20 to the provisions of this section.

21 NEW SECTION. Section 6. General powers of authority.
 22 An authority has all the powers necessary or convenient to
 23 carry out the purposes of [sections 1 through 18], including
 24 but not limited to the power to:

- 25 (1) certify annually to the governing bodies creating

1 it the amount of tax to be levied by the governing bodies
2 for port purposes;

3 (2) sue and be sued, have a seal, and have perpetual
4 succession;

5 (3) execute such contracts and other instruments and
6 take such other action as may be necessary or convenient to
7 carry out the purposes of [sections 1 through 18];

8 (4) plan, establish, acquire, develop, construct,
9 purchase, enlarge, improve, maintain, equip, operate,
10 regulate, and protect ports and transportation and storage
11 facilities. For such purposes an authority may, by purchase,
12 gift, devise, lease, eminent domain proceedings, or
13 otherwise, acquire real or personal property or any interest
14 therein, including easements.

15 (5) establish comprehensive port zoning regulations in
16 accordance with the laws of this state;

17 (6) acquire, by purchase, gift, devise, lease, eminent
18 domain proceedings, or otherwise, existing ports and
19 transportation and storage facilities. However, an authority
20 may not acquire or take over any port or transportation and
21 storage facility owned or controlled by another authority,
22 municipality, or public agency without the consent of such
23 authority, municipality, or public agency.

24 NEW SECTION. Section 7. Rules. An authority may
25 adopt, amend, and repeal such reasonable resolutions, rules,

1 and orders as it considers necessary for the management,
2 government, and use of any port or transportation and
3 storage facility owned by it or under its control. No rule,
4 order, or standard prescribed by the commission may be
5 inconsistent with or contrary to any act of the congress of
6 the United States or any regulation promulgated or standard
7 established pursuant thereto. The authority shall keep on
8 file at the principal office of the authority a copy of all
9 its rules for public inspection.

10 NEW SECTION. Section 8. Supplementary powers. In
11 addition to the general and special powers conferred by
12 [sections 1 through 18], each authority may exercise all
13 powers incidental to the exercise of such general and
14 special powers.

15 NEW SECTION. Section 9. Granting of operation and use
16 privileges. (1) In connection with the operation of a port
17 or transportation and storage facility owned or controlled
18 by an authority, the authority may enter into contracts,
19 leases, and other arrangements for terms not to exceed 30
20 years with any persons:

21 (a) granting the privilege of using or improving the
22 port or transportation and storage facility or any portion
23 or facility thereof or space therein for commercial
24 purposes;

25 (b) conferring the privilege of supplying goods,

1 commodities, services, or facilities at the port or
2 transportation and storage facility; and

3 (c) making available services to be furnished by the
4 authority or its agents at the port or transportation and
5 storage facility.

6 (2) In each case the authority may establish the terms
7 and conditions and fix the charges, rentals, or fees for the
8 privileges or services, which must be reasonable and uniform
9 for the same class of privilege or service and must be
10 established with due regard to the property and improvements
11 used and the expenses of operation to the authority.

12 NEW SECTION. Section 10. Port property -- acquisition
13 by eminent domain. In the acquisition of property by eminent
14 domain proceedings authorized by [sections 1 through 18], a
15 port authority shall proceed in the manner provided by the
16 laws of this state and such other laws that apply to the
17 state or to political subdivisions of this state in
18 exercising the right of eminent domain. The port authority
19 may not be precluded from abandoning such proceedings in any
20 case where possession of the property has not been taken.

21 NEW SECTION. Section 11. Port property -- disposal.
22 Except as may be limited by the terms and conditions of any
23 grant, loan, or agreement authorized by [section 17], an
24 authority may sell, lease, or otherwise dispose of any port,
25 transportation and storage facility, or other property or

1 portion thereof or interest therein acquired pursuant to
2 [sections 1 through 18]. Such disposal by sale, lease, or
3 otherwise must be in accordance with the laws of this state
4 governing the disposition of other public property.

5 NEW SECTION. Section 12. Municipal tax levy. The port
6 authority may certify annually to the governing bodies the
7 amount of tax to be levied by each municipality
8 participating in the creation of the port authority, and the
9 municipality shall levy the amount certified, pursuant to
10 provisions of law authorizing cities and other political
11 subdivisions of this state to levy taxes. The levy made may
12 not exceed the maximum levy permitted by 67-10-402 for port
13 purposes or any lower limit that may have been established
14 by the municipality or municipalities in the resolution
15 creating the authority. The municipality shall collect the
16 taxes certified by a port authority in the same manner as
17 other taxes are levied and collected and make payment to the
18 port authority. The proceeds of such taxes when and as paid
19 to the port authority must be deposited in a special account
20 or accounts in which other revenues of the authority are
21 deposited and may be expended by the authority as provided
22 for in [sections 1 through 18]. Prior to the issuance of
23 bonds under [sections 14 and 15], the port authority or the
24 municipality may by resolution covenant and agree that the
25 total amount of such taxes then authorized by law, or such

1 portion thereof as may be specified by the resolution, will
 2 be certified, levied, and deposited annually as provided in
 3 this section until the bonds and interest thereon are fully
 4 paid.

5 NEW SECTION. Section 13. County tax levy. In counties
 6 supporting ports of port authorities, a levy authorized in
 7 67-10-402 may be made for such purposes.

8 NEW SECTION. Section 14. Bonds and obligations.

9 (1) An authority may borrow money for any of its corporate
 10 purposes and issue bonds therefor, including refunding
 11 bonds, in such form and upon such terms as it determines,
 12 payable out of any revenues of the authority, including
 13 revenues derived from:

14 (a) any port or transportation and storage facility;

15 (b) taxes levied pursuant to [section 12] or
 16 67-10-402;

17 (c) grants or contributions from the federal
 18 government; or

19 (d) other sources.

20 (2) The bonds may be issued by resolution of the
 21 authority, without an election and without any limitation of
 22 amount, except that no bonds may be issued at any time if
 23 the total amount of principal and interest to become due in
 24 any year on such bonds and on any then outstanding bonds for
 25 which revenues from the same source are pledged exceeds the

1 amount of such revenues to be received in that year, as
 2 estimated in the resolution authorizing the issuance of the
 3 bonds. The authority shall take all action necessary and
 4 possible to impose, maintain, and collect rates, charges,
 5 rentals, and taxes, if any are pledged, sufficient to make
 6 the revenues from the pledged source in such year at least
 7 equal to the amount of principal and interest due in that
 8 year.

9 (3) The bonds may be sold at public or private sale
 10 and may bear interest at a rate not exceeding the limitation
 11 of 17-5-102. Except as otherwise provided in [sections 1
 12 through 18], any bonds issued pursuant to [sections 1
 13 through 18] by an authority may be payable as to principal
 14 and interest solely from revenues of the authority and shall
 15 state on their face the applicable limitations or
 16 restrictions regarding the source from which such principal
 17 and interest are payable.

18 (4) Bonds issued by an authority or municipality
 19 pursuant to the provisions of [sections 1 through 18] are
 20 declared to be issued for an essential public and
 21 governmental purpose by a political subdivision within the
 22 meaning of 15-30-111(2)(a).

23 (5) For the security of any such bonds, the authority
 24 or municipality may by resolution make and enter into any
 25 covenant, agreement, or indenture and may exercise any

1 additional powers authorized to be exercised by a
 2 municipality under Title 7, chapter 7, parts 44 and 45. The
 3 sums required from time to time to pay principal and
 4 interest and to create and maintain a reserve for the bonds
 5 may be paid from any revenues referred to in [sections 1
 6 through 18], prior to the payment of current costs of
 7 operation and maintenance of the facilities.

8 NEW SECTION. Section 15. Method of funding
 9 deficiency. (1) Subject to the conditions stated in this
 10 section, the governing body of any municipality having a
 11 population in excess of 10,000, with respect to bonds issued
 12 pursuant to [sections 1 through 18] by the municipality or
 13 by an authority in which the municipality is included, may
 14 by resolution covenant that if at any time all revenues,
 15 including taxes, appropriated and collected for such bonds
 16 are insufficient to pay principal or interest then due, it
 17 will levy a general tax upon all of the taxable property in
 18 the municipality for the payment of such deficiency. The
 19 governing body may further covenant that at any time a
 20 deficiency is likely to occur within 1 year for the payment
 21 of principal and interest due on such bonds, it will levy a
 22 general tax upon all the taxable property in the
 23 municipality for the payment of such deficiency, and such
 24 taxes are not subject to any limitation of rate or amount
 25 applicable to other municipal taxes but are limited to a

1 rate estimated to be sufficient to produce the amount of the
 2 deficiency. If more than one municipality having a
 3 population in excess of 10,000 is included in an authority
 4 issuing bonds pursuant to [sections 1 through 18], the
 5 municipalities may apportion the obligation to levy taxes
 6 for the payment of, or in anticipation of, a deficiency in
 7 the revenues appropriated for such bonds in such manner as
 8 the municipalities may determine.

9 (2) The resolution shall state the principal amount
 10 and purpose of the bonds and the substance of the covenant
 11 respecting deficiencies.

12 (3) No such resolution becomes effective until the
 13 question of its approval has been submitted to the qualified
 14 electors of the municipality at a special election called
 15 for that purpose by the governing body of the municipality
 16 and a majority of the electors voting on the question have
 17 voted in favor thereof. The notice and conduct of the
 18 election is governed, to the extent applicable, as provided
 19 for municipal general obligation bonds in Title 7, chapter
 20 7, part 42, for an election called by cities and towns, and
 21 as provided for county general obligation bonds in Title 7,
 22 chapter 7, part 22, for an election called by counties. If a
 23 majority of the electors voting thereon vote against
 24 approval of the resolution, the municipality has no
 25 authority to make the covenant or to levy a tax for the

1 payment of deficiencies pursuant to this section, but such
 2 municipality or authority may nevertheless issue bonds under
 3 [sections 1 through 18] payable solely from the sources
 4 referred to in [section 14(1)].

5 NEW SECTION. Section 16. Debt service fund. A port
 6 authority may create a debt service fund and accumulate
 7 therein the sum of \$5,000,000, together with interest
 8 thereon, for the use, repairs, maintenance, and capital
 9 outlays of a port.

10 NEW SECTION. Section 17. Federal and state money. An
 11 authority may accept, receive, receipt for, and spend
 12 federal and state money and other public or private money
 13 made available by grant or loan to accomplish any of the
 14 purposes of [sections 1 through 18]. All federal money
 15 accepted under this section must be accepted and spent by
 16 the authority upon terms and conditions prescribed by the
 17 United States and consistent with state law. All state money
 18 accepted under this section must be accepted and spent by
 19 the authority upon terms and conditions prescribed by the
 20 state.

21 NEW SECTION. Section 18. Tax exemption. Any property
 22 in this state acquired by an authority for port purposes
 23 pursuant to the provisions of [sections 1 through 18], and
 24 any income derived by the authority from the ownership,
 25 operation, or control thereof, are exempt from taxation to

1 the same extent as other property used for public purposes.

2 Section 19. Section 67-10-402, MCA, is amended to
 3 read:

4 "67-10-402. Tax levy. (1) For the purpose of
 5 establishing, constructing, equipping, maintaining, and
 6 operating airports, and landing fields, and ports under the
 7 provisions of this chapter and as provided in [sections 1
 8 through 18], the county commissioners or the city or town
 9 council may each year assess and levy, in addition to the
 10 annual levy for general administrative purposes or the
 11 all-purpose levy authorized by 7-6-4451 and 7-6-4452, a tax
 12 of not to exceed 2 mills on the dollar of taxable value of
 13 the property of said county, city, or town.

14 (2) In the event of a jointly established airport, or
 15 landing field, or port, the county commissioners and the
 16 council or councils involved shall determine in advance the
 17 levy necessary for such purposes and the proportion each
 18 political subdivision joining in the venture must pay.

19 (3) No property within any political subdivision may
 20 be subject to a tax pursuant to this section at an annual
 21 rate in excess of 2 mills unless it is found that the levy
 22 is insufficient for the purposes enumerated. In such a case
 23 the commissioners and councils acting are authorized and
 24 empowered to contract an indebtedness on behalf of such
 25 county, city, or town, as the case may be, upon the credit

1 thereof by borrowing money or issuing bonds for such
 2 purposes, provided that no bonds may be issued for such
 3 purpose until the proposition has been submitted to the
 4 qualified electors and a majority vote cast therefor, except
 5 as provided in subsection (4).

6 (4) For the purpose of establishing a reserve fund to
 7 resurface, overlay, or improve existing runways, taxiways,
 8 and ramps, the governing bodies may set up annual reserve
 9 funds in their annual budget if:

10 (a) the reserve is approved by the governing bodies
 11 during the normal budgeting procedure;

12 (b) the necessity to resurface or improve said runways
 13 by overlays or similar methods every so many years is based
 14 upon competent engineering estimates; and

15 (c) the funds are expended at least within each
 16 10-year period.

17 (5) The reserve fund may not exceed at any time a
 18 competent engineering estimate of the cost of resurfacing or
 19 overlaying the existing runways, taxiways, and ramps of any
 20 one airport for each fund. The governing body of the
 21 airport or port, if in its judgment it considers it
 22 advantageous, may invest the fund in any interest-bearing
 23 deposits in a state or national bank insured by the FDIC or
 24 obligations of the United States of America, either
 25 short-term or long-term. Interest earned from such

1 investments must be credited to the operations and
 2 maintenance budget of the airport or port governing body.
 3 The above provisions, notwithstanding other budget control
 4 measures and due to the uniqueness of the subject matter,
 5 are declared necessary in the interests of the public health
 6 and safety."

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 HOUSE BILL NO. 858
 2 INTRODUCED BY HARRINGTON, QUILICI, PAVLOVICH, HAPFEY,
 3 KRUEGER, D. BROWN, STIMATZ, JACOBSON, LYNCH
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH MUNICIPAL
 6 LOCAL AND REGIONAL PORT AUTHORITIES; TO PROVIDE FOR A TAX
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 9 AUTHORITY; TO PROVIDE FOR POWERS OF EMINENT DOMAIN; FOR
 10 ISSUANCE OF BONDS; AND FOR ESTABLISHMENT OF OPERATION AND
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 12 PORT AUTHORITY; TO PROVIDE FOR ACCEPTANCE OF FEDERAL AID FOR
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 14 IN REGARD TO PORT OPERATION; AMENDING SECTION 67-10-402,
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16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 18 NEW SECTION. Section 1. Municipal LOCAL port
 19 authority. (1) Any COUNTY OR municipality may, by resolution
 20 of its governing body, create a public body, corporate and
 21 politic, to be known as a municipal LOCAL port authority,
 22 authorized to exercise its functions upon the appointment
 23 and qualification of the first commissioners thereof. Such a
 24 governing body may by resolution determine to exercise any
 25 or all powers granted to such authorities in [sections 1

1 through 17], unless such powers have been conferred upon
 2 a municipal LOCAL or regional port authority.

3 (2) Upon the adoption of a resolution creating a
 4 municipal LOCAL port authority, the governing body of the
 5 COUNTY OR municipality shall, pursuant to the resolution,
 6 appoint not less than five persons as commissioners of the
 7 authority. The commissioners who are first appointed must be
 8 designated to serve for terms of 1, 2, 3, 4, and 5 years,
 9 respectively, but thereafter each commissioner must be
 10 appointed for a term of 5 years, except that vacancies
 11 occurring other than by expiration of a term must be filled
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 14 Two or more municipalities LOCAL GOVERNMENTS may by joint
 15 resolution create a public body, corporate and politic, to
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 18 not less than five commissioners. The number to be
 19 appointed, their term, and their compensation, if any, must
 20 be provided for in the resolution. Each such regional port
 21 authority shall organize, select officers for terms to be
 22 fixed by agreement, and adopt and amend from time to time
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 25 time to time to serve one or more additional COUNTIES OR



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 2 GOVERNMENT, each of the ~~municipalities~~ LOCAL GOVERNMENTS
 3 then included in the regional authority, and the
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 12 regional authority, all rights, contracts, obligations, and
 13 real and personal property of the ~~municipal~~ LOCAL authority
 14 must be in the name of and vest in the regional authority.

15 (3) A regional port authority may be decreased if each
 16 of the ~~municipalities~~ LOCAL GOVERNMENTS then included in the
 17 regional authority and the commissioners of the regional
 18 authority consent to the decrease and make provisions for
 19 the retention or disposition of its assets and liabilities.

20 (4) A COUNTY OR municipality may not adopt any
 21 resolution authorized by this section without a public
 22 hearing thereon. Notice must be given at least 10 days prior
 23 to the hearing in a newspaper published in the COUNTY OR
 24 municipality or, if there is no newspaper published therein,
 25 in a newspaper having general circulation in the COUNTY OR

1 municipality.

2 (5) For the purpose of [sections 1 through ~~18~~ 17], a
 3 regional port authority has the same powers as all other
 4 political subdivisions in the adoption and enforcement of
 5 comprehensive port zoning regulations, as provided by the
 6 laws of this state.

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 8 of each authority are vested in the commissioners thereof. A
 9 majority of the commissioners of an authority constitutes a
 10 quorum for the purpose of conducting business of the
 11 authority and exercising its powers for all other purposes.
 12 Action may be taken by the authority upon a vote of not less
 13 than a majority of the commissioners present.

14 (2) There must be elected a chairman and vice-chairman
 15 from among the commissioners. An authority may employ an
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 17 other officers, agents, and employees, permanent and
 18 temporary, as it may require and shall determine their
 19 qualifications, duties, and compensation. An authority may
 20 delegate to one or more of its agents or employees such
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 23 receive expenses, as provided in 2-18-501 through 2-18-503,
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24 created upon such terms, with or without consideration, as
25 it may determine may:

- 1 (1) lend or donate money to the authority;
- 2 (2) provide that all or a portion of the taxes or
3 funds available or to become available to or required by law
4 to be used by the COUNTY OR municipality for port purposes
5 be transferred or paid directly to the port authority as
6 such funds become available to the COUNTY OR municipality;
- 7 (3) cause water, sewer, or drainage facilities or any
8 other facilities that it is empowered to provide to be
9 furnished adjacent to or in connection with such ports or
10 facilities;
- 11 (4) dedicate, sell, convey, or lease any of its
12 interest in any property or grant easements, licenses, or
13 any other rights or privileges therein to the authority;
- 14 (5) furnish, dedicate, close, pave, install, grade,
15 regrade, plan or replan streets, roads, roadways, and walks
16 from established streets or roads to such port or
17 facilities;
- 18 (6) do any and all things, whether or not specifically
19 authorized in this section and not otherwise prohibited by
20 law, that are necessary or convenient to aid and cooperate
21 with the authority in the planning, undertaking,
22 construction, or operation of ports and facilities; and
- 23 (7) enter into agreements with the authority
24 respecting action to be taken by the COUNTY OR municipality
25 pursuant to the provisions of this section.

1 NEW SECTION. Section 6. General powers of authority.
 2 An authority has all the powers necessary or convenient to
 3 carry out the purposes of [sections 1 through ~~10~~ 17],
 4 including but not limited to the power to:
 5 (1) certify annually to the governing bodies creating
 6 it the amount of tax to be levied by the governing bodies
 7 for port purposes;
 8 (2) sue and be sued, have a seal, and have perpetual
 9 succession;
 10 (3) execute such contracts and other instruments and
 11 take such other action as may be necessary or convenient to
 12 carry out the purposes of [sections 1 through ~~10~~ 17];
 13 (4) plan, establish, acquire, develop, construct,
 14 purchase, enlarge, improve, maintain, equip, operate,
 15 regulate, and protect ports and transportation and storage
 16 facilities. For such purposes an authority may, by purchase,
 17 gift, devise, lease, ~~eminent---domain---proceedings,~~ or
 18 otherwise, acquire real or personal property or any interest
 19 therein, including easements.
 20 (5) establish comprehensive port zoning regulations in
 21 accordance with the laws of this state;
 22 (6) acquire, by purchase, gift, devise, lease, ~~eminent~~
 23 ~~domain---proceedings,~~ or otherwise, existing ports and
 24 transportation and storage facilities. However, an authority
 25 may not acquire or take over any port or transportation and

1 storage facility owned or controlled by another authority,
 2 COUNTY, municipality, or public agency without the consent
 3 of such authority, COUNTY, municipality, or public agency.
 4 NEW SECTION. Section 7. Rules. An authority may
 5 adopt, amend, and repeal such reasonable resolutions, rules,
 6 and orders as it considers necessary for the management,
 7 government, and use of any port or transportation and
 8 storage facility owned by it or under its control. No rule,
 9 order, or standard prescribed by the commission may be
 10 inconsistent with or contrary to any act of the congress of
 11 the United States or any regulation promulgated or standard
 12 established pursuant thereto. The authority shall keep on
 13 file at the principal office of the authority a copy of all
 14 its rules for public inspection.
 15 NEW SECTION. Section 8. Supplementary powers. In
 16 addition to the general and special powers conferred by
 17 [sections 1 through ~~10~~ 17], each authority may exercise all
 18 powers incidental to the exercise of such general and
 19 special powers.
 20 NEW SECTION. Section 9. Granting of operation and use
 21 privileges. (1) In connection with the operation of a port
 22 or transportation and storage facility owned or controlled
 23 by an authority, the authority may enter into contracts,
 24 leases, and other arrangements for terms not to exceed 30
 25 years with any persons:

1 (a) granting the privilege of using or improving the
 2 port or transportation and storage facility or any portion
 3 or facility thereof or space therein for commercial
 4 purposes;

5 (b) conferring the privilege of supplying goods,
 6 commodities, services, or facilities at the port or
 7 transportation and storage facility; and

8 (c) making available services to be furnished by the
 9 authority or its agents at the port or transportation and
 10 storage facility.

11 (2) In each case the authority may establish the terms
 12 and conditions and fix the charges, rentals, or fees for the
 13 privileges or services, which must be reasonable and uniform
 14 for the same class of privilege or service and must be
 15 established with due regard to the property and improvements
 16 used and the expenses of operation to the authority.

17 ~~NEW SECTION. Section 10. Port property acquisition~~
 18 ~~by eminent domain in the acquisition of property by~~
 19 ~~eminent domain proceedings authorized by sections 1 through~~
 20 ~~10; a port authority shall proceed in the manner provided~~
 21 ~~by the laws of this state and such other laws that apply to~~
 22 ~~the state or to political subdivisions of this state in~~
 23 ~~exercising the right of eminent domain. The port authority~~
 24 ~~may not be precluded from abandoning such proceedings in any~~
 25 ~~case where possession of the property has not been taken.~~

1 NEW SECTION. Section 10. Port property -- disposal.
 2 Except as may be limited by the terms and conditions of any
 3 grant, loan, or agreement authorized by [section 17 16], an
 4 authority may sell, lease, or otherwise dispose of any port,
 5 transportation and storage facility, or other property or
 6 portion thereof or interest therein acquired pursuant to
 7 [sections 1 through 17]. Such disposal by sale, lease, or
 8 otherwise must be in accordance with the laws of this state
 9 governing the disposition of other public property.

10 NEW SECTION. Section 11. Municipal tax levy. The port
 11 authority may certify annually to the governing bodies the
 12 amount of tax to be levied by each municipality
 13 participating in the creation of the port authority, and the
 14 municipality shall MAY levy the amount certified, pursuant
 15 to provisions of law authorizing cities and other political
 16 subdivisions of this state to levy taxes. The levy made may
 17 not exceed the maximum levy permitted by 67-10-402 for port
 18 purposes or any lower limit that may have been established
 19 by the municipality or municipalities in the resolution
 20 creating the authority. The municipality shall collect the
 21 taxes certified by a port authority in the same manner as
 22 other taxes are levied and collected and make payment to the
 23 port authority. The proceeds of such taxes when and as paid
 24 to the port authority must be deposited in a special account
 25 or accounts in which other revenues of the authority are

1 deposited and may be expended by the authority as provided
 2 for in [sections 1 through ~~10~~ 17]. Prior to the issuance of
 3 bonds under [sections ~~14~~ 13 and ~~15~~ 14], the port authority
 4 or the municipality may by resolution covenant and agree
 5 that the total amount of such taxes then authorized by law,
 6 or such portion thereof as may be specified by the
 7 resolution, will be certified, levied, and deposited
 8 annually as provided in this section until the bonds and
 9 interest thereon are fully paid.

10 NEW SECTION. Section 12. County tax levy. In counties
 11 supporting ports of port authorities, a levy authorized in
 12 67-10-402 may be made for such purposes.

13 NEW SECTION. Section 13. Bonds and obligations.

14 (1) An authority may borrow money for any of its corporate
 15 purposes and issue bonds therefor, including refunding
 16 bonds, in such form and upon such terms as it determines,
 17 payable out of any revenues of the authority, including
 18 revenues derived from:

19 (a) any port or transportation and storage facility;

20 (b) taxes levied pursuant to [section ~~12~~ 11] or
 21 67-10-402;

22 (c) grants or contributions from the federal
 23 government; or

24 (d) other sources.

25 (2) The bonds may be issued by resolution of the

1 authority, without an election and without any limitation of
 2 amount, except that no bonds may be issued at any time if
 3 the total amount of principal and interest to become due in
 4 any year on such bonds and on any then outstanding bonds for
 5 which revenues from the same source are pledged exceeds the
 6 amount of such revenues to be received in that year, as
 7 estimated in the resolution authorizing the issuance of the
 8 bonds. The authority shall take all action necessary and
 9 possible to impose, maintain, and collect rates, charges,
 10 rentals, and taxes, if any are pledged, sufficient to make
 11 the revenues from the pledged source in such year at least
 12 equal to the amount of principal and interest due in that
 13 year.

14 (3) The bonds may be sold at public or private sale
 15 and may bear interest at a rate not exceeding the limitation
 16 of 17-5-102. Except as otherwise provided in [sections 1
 17 through ~~10~~ 17], any bonds issued pursuant to [sections 1
 18 through ~~10~~ 17] by an authority may be payable as to
 19 principal and interest solely from revenues of the authority
 20 and shall state on their face the applicable limitations or
 21 restrictions regarding the source from which such principal
 22 and interest are payable.

23 (4) Bonds issued by an authority, COUNTY, or
 24 municipality pursuant to the provisions of [sections 1
 25 through ~~10~~ 17] are declared to be issued for an essential

1 public and governmental purpose by a political subdivision
 2 within the meaning of 15-30-111(2)(a).

3 (5) For the security of any such bonds, the authority,
 4 COUNTY, or municipality may by resolution make and enter
 5 into any covenant, agreement, or indenture and may exercise
 6 any additional powers authorized to be exercised by a
 7 municipality under Title 7, chapter 7, parts 44 and 45. The
 8 sums required from time to time to pay principal and
 9 interest and to create and maintain a reserve for the bonds
 10 may be paid from any revenues referred to in [sections 1
 11 through ~~18~~ 17], prior to the payment of current costs of
 12 operation and maintenance of the facilities.

13 NEW SECTION. Section 14. Method of funding
 14 deficiency. (1) Subject to the conditions stated in this
 15 section, the governing body of ANY COUNTY OR any
 16 municipality having a population in excess of 10,000, with
 17 respect to bonds issued pursuant to [sections 1 through ~~18~~
 18 17] by the municipality LOCAL GOVERNMENT or by an authority
 19 in which the municipality LOCAL GOVERNMENT is included, may
 20 by resolution covenant that if at any time all revenues,
 21 including taxes, appropriated and collected for such bonds
 22 are insufficient to pay principal or interest then due, it
 23 will levy a general tax upon all of the taxable property in
 24 the COUNTY OR municipality for the payment of such
 25 deficiency. The governing body may further covenant that at

1 any time a deficiency is likely to occur within 1 year for
 2 the payment of principal and interest due on such bonds, it
 3 will levy a general tax upon all the taxable property in the
 4 COUNTY OR municipality for the payment of such deficiency,
 5 and such taxes are not subject to any limitation of rate or
 6 amount applicable to other COUNTY OR municipal taxes but are
 7 limited to a rate estimated to be sufficient to produce the
 8 amount of the deficiency. If more than one municipality
 9 ~~having a population in excess of 10,000~~ LOCAL GOVERNMENT is
 10 included in an authority issuing bonds pursuant to [sections
 11 1 through ~~18~~ 17], the municipalities LOCAL GOVERNMENTS may
 12 apportion the obligation to levy taxes for the payment of,
 13 or in anticipation of, a deficiency in the revenues
 14 appropriated for such bonds in such manner as the
 15 municipalities LOCAL GOVERNMENTS may determine.

16 (2) The resolution shall state the principal amount
 17 and purpose of the bonds and the substance of the covenant
 18 respecting deficiencies.

19 (3) No such resolution becomes effective until the
 20 question of its approval has been submitted to the qualified
 21 electors of the municipality LOCAL GOVERNMENT at a special
 22 election called for that purpose by the governing body of
 23 the municipality LOCAL GOVERNMENT and a majority of the
 24 electors voting on the question have voted in favor thereof.
 25 The notice and conduct of the election is governed, to the

1 extent applicable, as provided for municipal general
 2 obligation bonds in Title 7, chapter 7, part 42, for an
 3 election called by cities and towns, and as provided for
 4 county general obligation bonds in Title 7, chapter 7, part
 5 22, for an election called by counties. If a majority of the
 6 electors voting thereon vote against approval of the
 7 resolution, the municipality LOCAL GOVERNMENT has no
 8 authority to make the covenant or to levy a tax for the
 9 payment of deficiencies pursuant to this section, but such
 10 municipality LOCAL GOVERNMENT or authority may nevertheless
 11 issue bonds under [sections 1 through ~~18~~ 17] payable solely
 12 from the sources referred to in [section ~~14(1)~~ 13(1)].

13 NEW SECTION. Section 15. Debt service fund. A port
 14 authority may create a debt service fund and accumulate
 15 therein the A sum of--\$5,000,000 DETERMINED BY THE GOVERNING
 16 BODY, together with interest thereon, for the use, repairs,
 17 maintenance, and capital outlays of a port.

18 NEW SECTION. Section 16. Federal and state money. An
 19 authority may accept, receive, receipt for, and spend
 20 federal and state money and other public or private money
 21 made available by grant or loan to accomplish any of the
 22 purposes of [sections 1 through ~~18~~ 17]. All federal money
 23 accepted under this section must be accepted and spent by
 24 the authority upon terms and conditions prescribed by the
 25 United States and consistent with state law. All state money

1 accepted under this section must be accepted and spent by
 2 the authority upon terms and conditions prescribed by the
 3 state.

4 NEW SECTION. Section 17. Tax exemption. Any property
 5 in this state acquired by an authority for port purposes
 6 pursuant to the provisions of [sections 1 through ~~18~~ 17],
 7 and any income derived by the authority from the ownership,
 8 operation, or control thereof, are exempt from taxation to
 9 the same extent as other property used for public purposes.

10 Section 18. Section 67-10-402, MCA, is amended to
 11 read:

12 "67-10-402. Tax levy. (1) For the purpose of
 13 establishing, constructing, equipping, maintaining, and
 14 operating airports, and landing fields, and ports under the
 15 provisions of this chapter and as provided in [sections 1
 16 through ~~18~~ 17], the county commissioners or the city or town
 17 council may each year assess and levy, in addition to the
 18 annual levy for general administrative purposes or the
 19 all-purpose levy authorized by 7-6-4451 and 7-6-4452, a tax
 20 ~~of--not--to-exceed-2-mills~~ on the dollar of taxable value of
 21 the property of said county, city, or town:

22 (A) NOT TO EXCEED 2 MILLS FOR AIRPORTS AND LANDING
 23 FIELDS; AND

24 (B) NOT TO EXCEED 2 MILLS FOR PORTS.

25 (2) In the event of a jointly established airport, or

1 landing field, or port, the county commissioners and the
 2 council' or councils involved shall determine in advance the
 3 levy necessary for such purposes and the proportion each
 4 political subdivision joining in the venture must pay.

5 (3) No property within any political subdivision may
 6 be subject to a tax pursuant to this section at an annual
 7 rate in excess of 2 mills FOR AIRPORTS, LANDING FIELDS, OR
 8 PORTS unless it is found that the levy is insufficient for
 9 the purposes enumerated. In such a case the commissioners
 10 and councils acting are authorized and empowered to contract
 11 an indebtedness on behalf of such county, city, or town, as
 12 the case may be, upon the credit thereof by borrowing money
 13 or issuing bonds for such purposes, provided that no bonds
 14 may be issued for such purpose until the proposition has
 15 been submitted to the qualified electors and a majority vote
 16 cast therefor, except as provided in subsection (4).

17 (4) For the purpose of establishing a reserve fund to
 18 resurface, overlay, or improve existing runways, taxiways,
 19 and ramps, the governing bodies may set up annual reserve
 20 funds in their annual budget if:

21 (a) the reserve is approved by the governing bodies
 22 during the normal budgeting procedure;

23 (b) the necessity to resurface or improve said runways
 24 by overlays or similar methods every so many years is based
 25 upon competent engineering estimates; and

1 (c) the funds are expended at least within each
 2 10-year period.

3 (5) The reserve fund may not exceed at any time a
 4 competent engineering estimate of the cost of resurfacing or
 5 overlaying the existing runways, taxiways, and ramps of any
 6 one airport for each fund. The governing body of the
 7 airport or port, if in its judgment it considers it
 8 advantageous, may invest the fund in any interest-bearing
 9 deposits in a state or national bank insured by the FDIC or
 10 obligations of the United States of America, either
 11 short-term or long-term. Interest earned from such
 12 investments must be credited to the operations and
 13 maintenance budget of the airport or port governing body.
 14 The above provisions, notwithstanding other budget control
 15 measures and due to the uniqueness of the subject matter,
 16 are declared necessary in the interests of the public health
 17 and safety."

-End-

1 HOUSE BILL NO. 858

2 INTRODUCED BY HARRINGTON, QUILICI, PAVLOVICH, HAFHEY,

3 KRUEGER, D. BROWN, STIMATZ, JACOBSON, LYNCH

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH MUNICIPAL
6 LOCAL AND REGIONAL PORT AUTHORITIES; TO PROVIDE FOR A TAX
7 LEVY FOR THE OPERATION THEREOF; TO PROVIDE FOR PORT
8 COMMISSIONERS; TO PROVIDE FOR THE GENERAL POWER OF A PORT
9 AUTHORITY; TO PROVIDE FOR ~~POWERS OF EMINENT DOMAIN~~ FOR
10 ISSUANCE OF BONDS; AND FOR ESTABLISHMENT OF OPERATION AND
11 USE PRIVILEGES; TO PROVIDE FOR RULES IN CONNECTION WITH A
12 PORT AUTHORITY; TO PROVIDE FOR ACCEPTANCE OF FEDERAL AID FOR
13 PORTS; AND TO PROVIDE FOR COUNTY AND MUNICIPAL COOPERATION
14 IN REGARD TO PORT OPERATION; AMENDING SECTION 67-10-402,
15 MCA."

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

18 NEW SECTION. Section 1. Municipal LOCAL port
19 authority. (1) Any COUNTY OR municipality may, by resolution
20 of its governing body, create a public body, corporate and
21 politic, to be known as a municipal LOCAL port authority,
22 authorized to exercise its functions upon the appointment
23 and qualification of the first commissioners thereof. Such a
24 governing body may by resolution determine to exercise any
25 or all powers granted to such authorities in [sections 1

1 through ~~§ 17~~], unless such powers have been conferred upon
2 a municipal LOCAL or regional port authority.

3 (2) Upon the adoption of a resolution creating a
4 municipal LOCAL port authority, the governing body of the
5 COUNTY OR municipality shall, pursuant to the resolution,
6 appoint not less than five persons as commissioners of the
7 authority. The commissioners who are first appointed must be
8 designated to serve for terms of 1, 2, 3, 4, and 5 years,
9 respectively, but thereafter each commissioner must be
10 appointed for a term of 5 years, except that vacancies
11 occurring other than by expiration of a term must be filled
12 for the unexpired term by the governing body.

13 NEW SECTION. Section 2. Regional port authority. (1)
14 Two or more municipalities LOCAL GOVERNMENTS may by joint
15 resolution create a public body, corporate and politic, to
16 be known as a regional port authority. The resolution
17 creating a regional port authority must create a board of
18 not less than five commissioners. The number to be
19 appointed, their term, and their compensation, if any, must
20 be provided for in the resolution. Each such regional port
21 authority shall organize, select officers for terms to be
22 fixed by agreement, and adopt and amend from time to time
23 rules for its own procedure.

24 (2) A regional port authority may be increased from
25 time to time to serve one or more additional COUNTIES OR

1 municipalities if each additional municipality LOCAL
 2 GOVERNMENT, each of the municipalities LOCAL GOVERNMENTS
 3 then included in the regional authority, and the
 4 commissioners of the regional authority, respectively, adopt
 5 a joint resolution consenting thereto. However, if a
 6 municipal LOCAL port authority for any municipality LOCAL
 7 GOVERNMENT seeking to be included in the regional authority
 8 is then in existence, the commissioners of the municipal
 9 LOCAL authority must consent to the inclusion of the COUNTY
 10 OR municipality in the regional authority; upon the
 11 inclusion of such municipality LOCAL GOVERNMENT in the
 12 regional authority, all rights, contracts, obligations, and
 13 real and personal property of the municipal LOCAL authority
 14 must be in the name of and vest in the regional authority.

15 (3) A regional port authority may be decreased if each
 16 of the municipalities LOCAL GOVERNMENTS then included in the
 17 regional authority and the commissioners of the regional
 18 authority consent to the decrease and make provisions for
 19 the retention or disposition of its assets and liabilities.

20 (4) A COUNTY OR municipality may not adopt any
 21 resolution authorized by this section without a public
 22 hearing thereon. Notice must be given at least 10 days prior
 23 to the hearing in a newspaper published in the COUNTY OR
 24 municipality or, if there is no newspaper published therein,
 25 in a newspaper having general circulation in the COUNTY OR

1 municipality.

2 (5) For the purpose of [sections 1 through ~~18~~ 17], a
 3 regional port authority has the same powers as all other
 4 political subdivisions in the adoption and enforcement of
 5 comprehensive port zoning regulations, as provided by the
 6 laws of this state.

7 NEW SECTION. Section 3. Commissioners. (1) The powers
 8 of each authority are vested in the commissioners thereof. A
 9 majority of the commissioners of an authority constitutes a
 10 quorum for the purpose of conducting business of the
 11 authority and exercising its powers for all other purposes.
 12 Action may be taken by the authority upon a vote of not less
 13 than a majority of the commissioners present.

14 (2) There must be elected a chairman and vice-chairman
 15 from among the commissioners. An authority may employ an
 16 executive director, secretary, technical experts, and such
 17 other officers, agents, and employees, permanent and
 18 temporary, as it may require and shall determine their
 19 qualifications, duties, and compensation. An authority may
 20 delegate to one or more of its agents or employees such
 21 powers or duties as it considers proper.

22 (3) A commissioner of an authority is entitled to
 23 receive expenses, as provided in 2-18-501 through 2-18-503,
 24 incurred in the discharge of his duties. Each commissioner
 25 shall hold office until his successor has been appointed and

1 has qualified. The certificates of the appointment and
2 reappointment of commissioners must be filed with the
3 authority.

4 NEW SECTION. Section 4. Functions -- public and
5 governmental. The acquisition of any land or interest
6 therein pursuant to [sections 1 through ~~10~~ 17], the
7 planning, acquisition, establishment, development,
8 construction, improvement, maintenance, equipment,
9 operation, regulation, and protection of ports and
10 transportation and storage facilities, and the exercise of
11 any powers granted to port authorities and other public
12 agencies to be severally or jointly exercised are public and
13 governmental functions, exercised for a public purpose, and
14 matters of public necessity. All land and other property
15 and privileges acquired and used by or on behalf of any
16 authority or other public agency, as provided in [sections
17 1 through ~~10~~ 17], must be used for public and governmental
18 purposes and as a matter of public necessity.

19 NEW SECTION. Section 5. Cooperation of COUNTY OR
20 municipality. For the purpose of aiding and cooperating in
21 the planning, undertaking, construction, or operation of
22 ports and facilities pursuant to [sections 1 through ~~10~~ 17],
23 any COUNTY OR municipality for which an authority has been
24 created upon such terms, with or without consideration, as
25 it may determine may:

- 1 (1) lend or donate money to the authority;
- 2 (2) provide that all or a portion of the taxes or
3 funds available or to become available to or required by law
4 to be used by the COUNTY OR municipality for port purposes
5 be transferred or paid directly to the port authority as
6 such funds become available to the COUNTY OR municipality;
- 7 (3) cause water, sewer, or drainage facilities or any
8 other facilities that it is empowered to provide to be
9 furnished adjacent to or in connection with such ports or
10 facilities;
- 11 (4) dedicate, sell, convey, or lease any of its
12 interest in any property or grant easements, licenses, or
13 any other rights or privileges therein to the authority;
- 14 (5) furnish, dedicate, close, pave, install, grade,
15 regrade, plan or replan streets, roads, roadways, and walks
16 from established streets or roads to such port or
17 facilities;
- 18 (6) do any and all things, whether or not specifically
19 authorized in this section and not otherwise prohibited by
20 law, that are necessary or convenient to aid and cooperate
21 with the authority in the planning, undertaking,
22 construction, or operation of ports and facilities; and
- 23 (7) enter into agreements with the authority
24 respecting action to be taken by the COUNTY OR municipality
25 pursuant to the provisions of this section.

1 NEW SECTION. Section 6. General powers of authority.
 2 An authority has all the powers necessary or convenient to
 3 carry out the purposes of [sections 1 through ~~18~~ 17],
 4 including but not limited to the power to:

5 (1) certify annually to the governing bodies creating
 6 it the amount of tax to be levied by the governing bodies
 7 for port purposes;

8 (2) sue and be sued, have a seal, and have perpetual
 9 succession;

10 (3) execute such contracts and other instruments and
 11 take such other action as may be necessary or convenient to
 12 carry out the purposes of [sections 1 through ~~18~~ 17];

13 (4) plan, establish, acquire, develop, construct,
 14 purchase, enlarge, improve, maintain, equip, operate,
 15 regulate, and protect ports and transportation and storage
 16 facilities. For such purposes an authority may, by purchase,
 17 gift, devise, lease, eminent---domain---proceedings, or
 18 otherwise, acquire real or personal property or any interest
 19 therein, including easements.

20 (5) establish comprehensive port zoning regulations in
 21 accordance with the laws of this state;

22 (6) acquire, by purchase, gift, devise, lease, eminent
 23 domain---proceedings, or otherwise, existing ports and
 24 transportation and storage facilities. However, an authority
 25 may not acquire or take over any port or transportation and

1 storage facility owned or controlled by another authority,
 2 COUNTY, municipality, or public agency without the consent
 3 of such authority, COUNTY, municipality, or public agency.

4 NEW SECTION. Section 7. Rules. An authority may
 5 adopt, amend, and repeal such reasonable resolutions, rules,
 6 and orders as it considers necessary for the management,
 7 government, and use of any port or transportation and
 8 storage facility owned by it or under its control. No rule,
 9 order, or standard prescribed by the commission may be
 10 inconsistent with or contrary to any act of the congress of
 11 the United States or any regulation promulgated or standard
 12 established pursuant thereto. The authority shall keep on
 13 file at the principal office of the authority a copy of all
 14 its rules for public inspection.

15 NEW SECTION. Section 8. Supplementary powers. In
 16 addition to the general and special powers conferred by
 17 [sections 1 through ~~18~~ 17], each authority may exercise all
 18 powers incidental to the exercise of such general and
 19 special powers.

20 NEW SECTION. Section 9. Granting of operation and use
 21 privileges. (1) In connection with the operation of a port
 22 or transportation and storage facility owned or controlled
 23 by an authority, the authority may enter into contracts,
 24 leases, and other arrangements for terms not to exceed 30
 25 years with any persons:

1 (a) granting the privilege of using or improving the
2 port or transportation and storage facility or any portion
3 or facility thereof or space therein for commercial
4 purposes;

5 (b) conferring the privilege of supplying goods,
6 commodities, services, or facilities at the port or
7 transportation and storage facility; and

8 (c) making available services to be furnished by the
9 authority or its agents at the port or transportation and
10 storage facility.

11 (2) In each case the authority may establish the terms
12 and conditions and fix the charges, rentals, or fees for the
13 privileges or services, which must be reasonable and uniform
14 for the same class of privilege or service and must be
15 established with due regard to the property and improvements
16 used and the expenses of operation to the authority.

17 ~~NEW SECTION. Section 10. Port property acquisition~~
18 ~~by eminent domain. In the acquisition of property by~~
19 ~~eminent domain proceedings authorized by sections 1 through~~
20 ~~18, a port authority shall proceed in the manner provided~~
21 ~~by the laws of this state and such other laws that apply to~~
22 ~~the state or to political subdivisions of this state in~~
23 ~~exercising the right of eminent domain. The port authority~~
24 ~~may not be precluded from abandoning such proceedings in any~~
25 ~~case where possession of the property has not been taken.~~

1 NEW SECTION. Section 10. Port property -- disposal.
2 Except as may be limited by the terms and conditions of any
3 grant, loan, or agreement authorized by [section 17 16], an
4 authority may sell, lease, or otherwise dispose of any port,
5 transportation and storage facility, or other property or
6 portion thereof or interest therein acquired pursuant to
7 [sections 1 through 18 17]. Such disposal by sale, lease, or
8 otherwise must be in accordance with the laws of this state
9 governing the disposition of other public property.

10 NEW SECTION. Section 11. Municipal tax levy. The port
11 authority may certify annually to the governing bodies the
12 amount of tax to be levied by each municipality
13 participating in the creation of the port authority, and the
14 municipality shall MAY levy the amount certified, pursuant
15 to provisions of law authorizing cities and other political
16 subdivisions of this state to levy taxes. The levy made may
17 not exceed the maximum levy permitted by 67-10-402 for port
18 purposes or any lower limit that may have been established
19 by the municipality or municipalities in the resolution
20 creating the authority. The municipality shall collect the
21 taxes certified by a port authority in the same manner as
22 other taxes are levied and collected and make payment to the
23 port authority. The proceeds of such taxes when and as paid
24 to the port authority must be deposited in a special account
25 or accounts in which other revenues of the authority are

1 deposited and may be expended by the authority as provided
 2 for in [sections 1 through ~~10~~ 17]. Prior to the issuance of
 3 bonds under [sections ~~14~~ 13 and ~~15~~ 14], the port authority
 4 or the municipality may by resolution covenant and agree
 5 that the total amount of such taxes then authorized by law,
 6 or such portion thereof as may be specified by the
 7 resolution, will be certified, levied, and deposited
 8 annually as provided in this section until the bonds and
 9 interest thereon are fully paid.

10 NEW SECTION. Section 12. County tax levy. In counties
 11 supporting ports of port authorities, a levy authorized in
 12 67-10-402 may be made for such purposes.

13 NEW SECTION. Section 13. Bonds and obligations.
 14 (1) An authority may borrow money for any of its corporate
 15 purposes and issue bonds therefor, including refunding
 16 bonds, in such form and upon such terms as it determines,
 17 payable out of any revenues of the authority, including
 18 revenues derived from:

- 19 (a) any port or transportation and storage facility;
 20 (b) taxes levied pursuant to [section ~~12~~ 11] or
 21 67-10-402;
 22 (c) grants or contributions from the federal
 23 government; or
 24 (d) other sources.
 25 (2) The bonds may be issued by resolution of the

1 authority, without an election and without any limitation of
 2 amount, except that no bonds may be issued at any time if
 3 the total amount of principal and interest to become due in
 4 any year on such bonds and on any then outstanding bonds for
 5 which revenues from the same source are pledged exceeds the
 6 amount of such revenues to be received in that year, as
 7 estimated in the resolution authorizing the issuance of the
 8 bonds. The authority shall take all action necessary and
 9 possible to impose, maintain, and collect rates, charges,
 10 rentals, and taxes, if any are pledged, sufficient to make
 11 the revenues from the pledged source in such year at least
 12 equal to the amount of principal and interest due in that
 13 year.

14 (3) The bonds may be sold at public or private sale
 15 and may bear interest at a rate not exceeding the limitation
 16 of 17-5-102. Except as otherwise provided in [sections 1
 17 through ~~10~~ 17], any bonds issued pursuant to [sections 1
 18 through ~~10~~ 17] by an authority may be payable as to
 19 principal and interest solely from revenues of the authority
 20 and shall state on their face the applicable limitations or
 21 restrictions regarding the source from which such principal
 22 and interest are payable.

23 (4) Bonds issued by an authority, COUNTY, or
 24 municipality pursuant to the provisions of [sections 1
 25 through ~~10~~ 17] are declared to be issued for an essential

1 public and governmental purpose by a political subdivision
 2 within the meaning of 15-30-111(2)(a).

3 (5) For the security of any such bonds, the authority,
 4 COUNTY, or municipality may by resolution make and enter
 5 into any covenant, agreement, or indenture and may exercise
 6 any additional powers authorized to be exercised by a
 7 municipality under Title 7, chapter 7, parts 44 and 45. The
 8 sums required from time to time to pay principal and
 9 interest and to create and maintain a reserve for the bonds
 10 may be paid from any revenues referred to in [sections 1
 11 through ~~18~~ 17], prior to the payment of current costs of
 12 operation and maintenance of the facilities.

13 NEW SECTION. Section 14. Method of funding
 14 deficiency. (1) Subject to the conditions stated in this
 15 section, the governing body of ANY COUNTY OR any
 16 municipality having a population in excess of 10,000, with
 17 respect to bonds issued pursuant to [sections 1 through ~~18~~
 18 17] by the municipality LOCAL GOVERNMENT or by an authority
 19 in which the municipality LOCAL GOVERNMENT is included, may
 20 by resolution covenant that if at any time all revenues,
 21 including taxes, appropriated and collected for such bonds
 22 are insufficient to pay principal or interest then due, it
 23 will levy a general tax upon all of the taxable property in
 24 the COUNTY OR municipality for the payment of such
 25 deficiency. The governing body may further covenant that at

1 any time a deficiency is likely to occur within 1 year for
 2 the payment of principal and interest due on such bonds, it
 3 will levy a general tax upon all the taxable property in the
 4 COUNTY OR municipality for the payment of such deficiency,
 5 and such taxes are not subject to any limitation of rate or
 6 amount applicable to other COUNTY OR municipal taxes but are
 7 limited to a rate estimated to be sufficient to produce the
 8 amount of the deficiency. If more than one municipality
 9 ~~having a population in excess of 10,000~~ LOCAL GOVERNMENT is
 10 included in an authority issuing bonds pursuant to [sections
 11 1 through ~~18~~ 17], the municipalities LOCAL GOVERNMENTS may
 12 apportion the obligation to levy taxes for the payment of,
 13 or in anticipation of, a deficiency in the revenues
 14 appropriated for such bonds in such manner as the
 15 municipalities LOCAL GOVERNMENTS may determine.

16 (2) The resolution shall state the principal amount
 17 and purpose of the bonds and the substance of the covenant
 18 respecting deficiencies.

19 (3) No such resolution becomes effective until the
 20 question of its approval has been submitted to the qualified
 21 electors of the municipality LOCAL GOVERNMENT at a special
 22 election called for that purpose by the governing body of
 23 the municipality LOCAL GOVERNMENT and a majority of the
 24 electors voting on the question have voted in favor thereof.
 25 The notice and conduct of the election is governed, to the

1 extent applicable, as provided for municipal general
 2 obligation bonds in Title 7, chapter 7, part 42, for an
 3 election called by cities and towns, and as provided for
 4 county general obligation bonds in Title 7, chapter 7, part
 5 22, for an election called by counties. If a majority of the
 6 electors voting thereon vote against approval of the
 7 resolution, the ~~municipality~~ LOCAL GOVERNMENT has no
 8 authority to make the covenant or to levy a tax for the
 9 payment of deficiencies pursuant to this section, but such
 10 ~~municipality~~ LOCAL GOVERNMENT or authority may nevertheless
 11 issue bonds under [sections 1 through ~~18~~ 17] payable solely
 12 from the sources referred to in [section ~~14(1)~~ 13(1)].

13 NEW SECTION. Section 15. Debt service fund. A port
 14 authority may create a debt service fund and accumulate
 15 therein the ~~A sum of \$5,000,000~~ DETERMINED BY THE GOVERNING
 16 BODY, together with interest thereon, for the use, repairs,
 17 maintenance, and capital outlays of a port.

18 NEW SECTION. Section 16. Federal and state money. An
 19 authority may accept, receive, receipt for, and spend
 20 federal and state money and other public or private money
 21 made available by grant or loan to accomplish any of the
 22 purposes of [sections 1 through ~~18~~ 17]. All federal money
 23 accepted under this section must be accepted and spent by
 24 the authority upon terms and conditions prescribed by the
 25 United States and consistent with state law. All state money

1 accepted under this section must be accepted and spent by
 2 the authority upon terms and conditions prescribed by the
 3 state.

4 NEW SECTION. Section 17. Tax exemption. Any property
 5 in this state acquired by an authority for port purposes
 6 pursuant to the provisions of [sections 1 through ~~18~~ 17],
 7 and any income derived by the authority from the ownership,
 8 operation, or control thereof, are exempt from taxation to
 9 the same extent as other property used for public purposes.

10 Section 18. Section 67-10-402, MCA, is amended to
 11 read:

12 "67-10-402. Tax levy. (1) For the purpose of
 13 establishing, constructing, equipping, maintaining, and
 14 operating airports, and landing fields, and ports under the
 15 provisions of this chapter and as provided in [sections 1
 16 through ~~18~~ 17], the county commissioners or the city or town
 17 council may each year assess and levy, in addition to the
 18 annual levy for general administrative purposes or the
 19 all-purpose levy authorized by 7-6-4451 and 7-6-4452, a tax
 20 ~~of--not--to-exceed-2-mills~~ on the dollar of taxable value of
 21 the property of said county, city, or town;

22 (A) NOT TO EXCEED 2 MILLS FOR AIRPORTS AND LANDING
 23 FIELDS; AND

24 (B) NOT TO EXCEED 2 MILLS FOR PORTS.

25 (2) In the event of a jointly established airport, or

1 landing field, or port, the county commissioners and the
 2 council or councils involved shall determine in advance the
 3 levy necessary for such purposes and the proportion each
 4 political subdivision joining in the venture must pay.

5 (3) No property within any political subdivision may
 6 be subject to a tax pursuant to this section at an annual
 7 rate in excess of 2 mills FOR AIRPORTS, LANDING FIELDS, OR
 8 PORTS unless it is found that the levy is insufficient for
 9 the purposes enumerated. In such a case the commissioners
 10 and councils acting are authorized and empowered to contract
 11 an indebtedness on behalf of such county, city, or town, as
 12 the case may be, upon the credit thereof by borrowing money
 13 or issuing bonds for such purposes, provided that no bonds
 14 may be issued for such purpose until the proposition has
 15 been submitted to the qualified electors and a majority vote
 16 cast therefor, except as provided in subsection (4).

17 (4) For the purpose of establishing a reserve fund to
 18 resurface, overlay, or improve existing runways, taxiways,
 19 and ramps, the governing bodies may set up annual reserve
 20 funds in their annual budget if:

21 (a) the reserve is approved by the governing bodies
 22 during the normal budgeting procedure;

23 (b) the necessity to resurface or improve said runways
 24 by overlays or similar methods every so many years is based
 25 upon competent engineering estimates; and

1 (c) the funds are expended at least within each
 2 10-year period.

3 (5) The reserve fund may not exceed at any time a
 4 competent engineering estimate of the cost of resurfacing or
 5 overlaying the existing runways, taxiways, and ramps of any
 6 one airport for each fund. The governing body of the
 7 airport or port, if in its judgment it considers it
 8 advantageous, may invest the fund in any interest-bearing
 9 deposits in a state or national bank insured by the FDIC or
 10 obligations of the United States of America, either
 11 short-term or long-term. Interest earned from such
 12 investments must be credited to the operations and
 13 maintenance budget of the airport or port governing body.
 14 The above provisions, notwithstanding other budget control
 15 measures and due to the uniqueness of the subject matter,
 16 are declared necessary in the interests of the public health
 17 and safety."

-End-

HOUSE BILL NO. 858

INTRODUCED BY HARRINGTON, QUILICI, PAVLOVICH, HAFPEY,
KRUEGER, D. BROWN, STIMATZ, JACOBSON, LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH MUNICIPAL LOCAL AND REGIONAL PORT AUTHORITIES; TO PROVIDE FOR A TAX LEVY FOR THE OPERATION THEREOF; TO PROVIDE FOR PORT COMMISSIONERS; TO PROVIDE FOR THE GENERAL POWER OF A PORT AUTHORITY; TO PROVIDE FOR POWERS OF EMINENT DOMAIN; FOR ISSUANCE OF BONDS; AND FOR ESTABLISHMENT OF OPERATION AND USE PRIVILEGES; TO PROVIDE FOR RULES IN CONNECTION WITH A PORT AUTHORITY; TO PROVIDE FOR ACCEPTANCE OF FEDERAL AID FOR PORTS; AND TO PROVIDE FOR COUNTY AND MUNICIPAL COOPERATION IN REGARD TO PORT OPERATION; AMENDING SECTION 67-10-402, MCA."

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

NEW SECTION. Section 1. Municipal LOCAL port authority. (1) Any COUNTY OR municipality may, by resolution of its governing body, create a public body, corporate and politic, to be known as a municipal LOCAL port authority, authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof. Such a governing body may by resolution determine to exercise any or all powers granted to such authorities in [sections 1

through ~~18 17~~], unless such powers have been conferred upon a municipal LOCAL or regional port authority.

(2) Upon the adoption of a resolution creating a municipal LOCAL port authority, the governing body of the COUNTY OR municipality shall, pursuant to the resolution, appoint not less than five persons as commissioners of the authority. The commissioners who are first appointed must be designated to serve for terms of 1, 2, 3, 4, and 5 years, respectively, but thereafter each commissioner must be appointed for a term of 5 years, except that vacancies occurring other than by expiration of a term must be filled for the unexpired term by the governing body.

NEW SECTION. Section 2. Regional port authority. (1) Two or more municipalities LOCAL GOVERNMENTS may by joint resolution create a public body, corporate and politic, to be known as a regional port authority. The resolution creating a regional port authority must create a board of not less than five commissioners. The number to be appointed, their term, and their compensation, if any, must be provided for in the resolution. Each such regional port authority shall organize, select officers for terms to be fixed by agreement, and adopt and amend from time to time rules for its own procedure.

(2) A regional port authority may be increased from time to time to serve one or more additional COUNTIES OR



1 municipalities if each additional municipality LOCAL
 2 GOVERNMENT, each of the municipalities LOCAL GOVERNMENTS
 3 then included in the regional authority, and the
 4 commissioners of the regional authority, respectively, adopt
 5 a joint resolution consenting thereto. However, if a
 6 ~~municipal~~ LOCAL port authority for any municipality LOCAL
 7 GOVERNMENT seeking to be included in the regional authority
 8 is then in existence, the commissioners of the ~~municipal~~
 9 LOCAL authority must consent to the inclusion of the COUNTY
 10 OR municipality in the regional authority; upon the
 11 inclusion of such municipality LOCAL GOVERNMENT in the
 12 regional authority, all rights, contracts, obligations, and
 13 real and personal property of the ~~municipal~~ LOCAL authority
 14 must be in the name of and vest in the regional authority.

15 (3) A regional port authority may be decreased if each
 16 of the municipalities LOCAL GOVERNMENTS then included in the
 17 regional authority and the commissioners of the regional
 18 authority consent to the decrease and make provisions for
 19 the retention or disposition of its assets and liabilities.

20 (4) A COUNTY OR municipality may not adopt any
 21 resolution authorized by this section without a public
 22 hearing thereon. Notice must be given at least 10 days prior
 23 to the hearing in a newspaper published in the COUNTY OR
 24 municipality or, if there is no newspaper published therein,
 25 in a newspaper having general circulation in the COUNTY OR

1 municipality.

2 (5) For the purpose of [sections 1 through ~~18~~ 17], a
 3 regional port authority has the same powers as all other
 4 political subdivisions in the adoption and enforcement of
 5 comprehensive port zoning regulations, as provided by the
 6 laws of this state.

7 NEW SECTION. Section 3. Commissioners. (1) The powers
 8 of each authority are vested in the commissioners thereof. A
 9 majority of the commissioners of an authority constitutes a
 10 quorum for the purpose of conducting business of the
 11 authority and exercising its powers for all other purposes.
 12 Action may be taken by the authority upon a vote of not less
 13 than a majority of the commissioners present.

14 (2) There must be elected a chairman and vice-chairman
 15 from among the commissioners. An authority may employ an
 16 executive director, secretary, technical experts, and such
 17 other officers, agents, and employees, permanent and
 18 temporary, as it may require and shall determine their
 19 qualifications, duties, and compensation. An authority may
 20 delegate to one or more of its agents or employees such
 21 powers or duties as it considers proper.

22 (3) A commissioner of an authority is entitled to
 23 receive expenses, as provided in 2-18-501 through 2-18-503,
 24 incurred in the discharge of his duties. Each commissioner
 25 shall hold office until his successor has been appointed and

1 has qualified. The certificates of the appointment and
 2 reappointment of commissioners must be filed with the
 3 authority.

4 NEW SECTION. Section 4. Functions -- public and
 5 governmental. The acquisition of any land or interest
 6 therein pursuant to [sections 1 through ~~18~~ 17], the
 7 planning, acquisition, establishment, development,
 8 construction, improvement, maintenance, equipment,
 9 operation, regulation, and protection of ports and
 10 transportation and storage facilities, and the exercise of
 11 any powers granted to port authorities and other public
 12 agencies to be severally or jointly exercised are public and
 13 governmental functions, exercised for a public purpose, and
 14 matters of public necessity. All land and other property
 15 and privileges acquired and used by or on behalf of any
 16 authority or other public agency, as provided in [sections
 17 1 through ~~18~~ 17], must be used for public and governmental
 18 purposes and as a matter of public necessity.

19 NEW SECTION. Section 5. Cooperation of COUNTY OR
 20 municipality. For the purpose of aiding and cooperating in
 21 the planning, undertaking, construction, or operation of
 22 ports and facilities pursuant to [sections 1 through ~~18~~ 17],
 23 any COUNTY OR municipality for which an authority has been
 24 created upon such terms, with or without consideration, as
 25 it may determine may:

- 1 (1) lend or donate money to the authority;
- 2 (2) provide that all or a portion of the taxes or
 3 funds available or to become available to or required by law
 4 to be used by the COUNTY OR municipality for port purposes
 5 be transferred or paid directly to the port authority as
 6 such funds become available to the COUNTY OR municipality;
- 7 (3) cause water, sewer, or drainage facilities or any
 8 other facilities that it is empowered to provide to be
 9 furnished adjacent to or in connection with such ports or
 10 facilities;
- 11 (4) dedicate, sell, convey, or lease any of its
 12 interest in any property or grant easements, licenses, or
 13 any other rights or privileges therein to the authority;
- 14 (5) furnish, dedicate, close, pave, install, grade,
 15 regrade, plan or replan streets, roads, roadways, and walks
 16 from established streets or roads to such port or
 17 facilities;
- 18 (6) do any and all things, whether or not specifically
 19 authorized in this section and not otherwise prohibited by
 20 law, that are necessary or convenient to aid and cooperate
 21 with the authority in the planning, undertaking,
 22 construction, or operation of ports and facilities; and
- 23 (7) enter into agreements with the authority
 24 respecting action to be taken by the COUNTY OR municipality
 25 pursuant to the provisions of this section.

1 NEW SECTION. Section 6. General powers of authority.
 2 An authority has all the powers necessary or convenient to
 3 carry out the purposes of [sections 1 through ~~18~~ 17],
 4 including but not limited to the power to:

5 (1) certify annually to the governing bodies creating
 6 it the amount of tax to be levied by the governing bodies
 7 for port purposes;

8 (2) sue and be sued, have a seal, and have perpetual
 9 succession;

10 (3) execute such contracts and other instruments and
 11 take such other action as may be necessary or convenient to
 12 carry out the purposes of [sections 1 through ~~18~~ 17];

13 (4) plan, establish, acquire, develop, construct,
 14 purchase, enlarge, improve, maintain, equip, operate,
 15 regulate, and protect ports and transportation and storage
 16 facilities. For such purposes an authority may, by purchase,
 17 gift, devise, lease, eminent---domain---proceedings, or
 18 otherwise, acquire real or personal property or any interest
 19 therein, including easements.

20 (5) establish comprehensive port zoning regulations in
 21 accordance with the laws of this state;

22 (6) acquire, by purchase, gift, devise, lease, eminent
 23 domain---proceedings, or otherwise, existing ports and
 24 transportation and storage facilities. However, an authority
 25 may not acquire or take over any port or transportation and

1 storage facility owned or controlled by another authority,
 2 COUNTY, municipality, or public agency without the consent
 3 of such authority, COUNTY, municipality, or public agency.

4 NEW SECTION. Section 7. Rules. An authority may
 5 adopt, amend, and repeal such reasonable resolutions, rules,
 6 and orders as it considers necessary for the management,
 7 government, and use of any port or transportation and
 8 storage facility owned by it or under its control. No rule,
 9 order, or standard prescribed by the commission may be
 10 inconsistent with or contrary to any act of the congress of
 11 the United States or any regulation promulgated or standard
 12 established pursuant thereto. The authority shall keep on
 13 file at the principal office of the authority a copy of all
 14 its rules for public inspection.

15 NEW SECTION. Section 8. Supplementary powers. In
 16 addition to the general and special powers conferred by
 17 [sections 1 through ~~18~~ 17], each authority may exercise all
 18 powers incidental to the exercise of such general and
 19 special powers.

20 NEW SECTION. Section 9. Granting of operation and use
 21 privileges. (1) In connection with the operation of a port
 22 or transportation and storage facility owned or controlled
 23 by an authority, the authority may enter into contracts,
 24 leases, and other arrangements for terms not to exceed 30
 25 years with any persons:

1 (a) granting the privilege of using or improving the
2 port or transportation and storage facility or any portion
3 or facility thereof or space therein for commercial
4 purposes;

5 (b) conferring the privilege of supplying goods,
6 commodities, services, or facilities at the port or
7 transportation and storage facility; and

8 (c) making available services to be furnished by the
9 authority or its agents at the port or transportation and
10 storage facility.

11 (2) In each case the authority may establish the terms
12 and conditions and fix the charges, rentals, or fees for the
13 privileges or services, which must be reasonable and uniform
14 for the same class of privilege or service and must be
15 established with due regard to the property and improvements
16 used and the expenses of operation to the authority.

17 ~~NEW SECTION. Section 10. Port property acquisition~~
18 ~~by eminent domain. In the acquisition of property by~~
19 ~~eminent domain proceedings authorized by sections 1 through~~
20 ~~18, a port authority shall proceed in the manner provided~~
21 ~~by the laws of this state and such other laws that apply to~~
22 ~~the state or to political subdivisions of this state in~~
23 ~~exercising the right of eminent domain. The port authority~~
24 ~~may not be precluded from abandoning such proceedings in any~~
25 ~~case where possession of the property has not been taken.~~

1 NEW SECTION. Section 10. Port property -- disposal.
2 Except as may be limited by the terms and conditions of any
3 grant, loan, or agreement authorized by [section 17 16], an
4 authority may sell, lease, or otherwise dispose of any port,
5 transportation and storage facility, or other property or
6 portion thereof or interest therein acquired pursuant to
7 [sections 1 through 18 17]. Such disposal by sale, lease, or
8 otherwise must be in accordance with the laws of this state
9 governing the disposition of other public property.

10 NEW SECTION. Section 11. Municipal tax levy. The port
11 authority may certify annually to the governing bodies the
12 amount of tax to be levied by each municipality
13 participating in the creation of the port authority, and the
14 municipality shall MAY levy the amount certified, pursuant
15 to provisions of law authorizing cities and other political
16 subdivisions of this state to levy taxes. The levy made may
17 not exceed the maximum levy permitted by 67-10-402 for port
18 purposes or any lower limit that may have been established
19 by the municipality or municipalities in the resolution
20 creating the authority. The municipality shall collect the
21 taxes certified by a port authority in the same manner as
22 other taxes are levied and collected and make payment to the
23 port authority. The proceeds of such taxes when and as paid
24 to the port authority must be deposited in a special account
25 or accounts in which other revenues of the authority are

1 deposited and may be expended by the authority as provided
 2 for in [sections 1 through ~~10~~ 17]. Prior to the issuance of
 3 bonds under [sections ~~14~~ 13 and ~~15~~ 14], the port authority
 4 or the municipality may by resolution covenant and agree
 5 that the total amount of such taxes then authorized by law,
 6 or such portion thereof as may be specified by the
 7 resolution, will be certified, levied, and deposited
 8 annually as provided in this section until the bonds and
 9 interest thereon are fully paid.

10 NEW SECTION. Section 12. County tax levy. In counties
 11 supporting ports of port authorities, a levy authorized in
 12 67-10-402 may be made for such purposes.

13 NEW SECTION. Section 13. Bonds and obligations.
 14 (1) An authority may borrow money for any of its corporate
 15 purposes and issue bonds therefor, including refunding
 16 bonds, in such form and upon such terms as it determines,
 17 payable out of any revenues of the authority, including
 18 revenues derived from:

- 19 (a) any port or transportation and storage facility;
- 20 (b) taxes levied pursuant to [section ~~12~~ 11] or
- 21 67-10-402;
- 22 (c) grants or contributions from the federal
- 23 government; or
- 24 (d) other sources.

25 (2) The bonds may be issued by resolution of the

1 authority, without an election and without any limitation of
 2 amount, except that no bonds may be issued at any time if
 3 the total amount of principal and interest to become due in
 4 any year on such bonds and on any then outstanding bonds for
 5 which revenues from the same source are pledged exceeds the
 6 amount of such revenues to be received in that year, as
 7 estimated in the resolution authorizing the issuance of the
 8 bonds. The authority shall take all action necessary and
 9 possible to impose, maintain, and collect rates, charges,
 10 rentals, and taxes, if any are pledged, sufficient to make
 11 the revenues from the pledged source in such year at least
 12 equal to the amount of principal and interest due in that
 13 year.

14 (3) The bonds may be sold at public or private sale
 15 and may bear interest at a rate not exceeding the limitation
 16 of 17-5-102. Except as otherwise provided in [sections 1
 17 through ~~10~~ 17], any bonds issued pursuant to [sections 1
 18 through ~~10~~ 17] by an authority may be payable as to
 19 principal and interest solely from revenues of the authority
 20 and shall state on their face the applicable limitations or
 21 restrictions regarding the source from which such principal
 22 and interest are payable.

23 (4) Bonds issued by an authority, COUNTY, or
 24 municipality pursuant to the provisions of [sections 1
 25 through ~~10~~ 17] are declared to be issued for an essential

1 public and governmental purpose by a political subdivision
2 within the meaning of 15-30-111(2)(a).

3 (5) For the security of any such bonds, the authority,
4 COUNTY, or municipality may by resolution make and enter
5 into any covenant, agreement, or indenture and may exercise
6 any additional powers authorized to be exercised by a
7 municipality under Title 7, chapter 7, parts 44 and 45. The
8 sums required from time to time to pay principal and
9 interest and to create and maintain a reserve for the bonds
10 may be paid from any revenues referred to in [sections 1
11 through ~~10~~ 17], prior to the payment of current costs of
12 operation and maintenance of the facilities.

13 NEW SECTION. Section 14. Method of funding
14 deficiency. (1) Subject to the conditions stated in this
15 section, the governing body of ANY COUNTY OR any
16 municipality having a population in excess of 10,000, with
17 respect to bonds issued pursuant to [sections 1 through ~~10~~
18 17] by the municipality LOCAL GOVERNMENT or by an authority
19 in which the municipality LOCAL GOVERNMENT is included, may
20 by resolution covenant that if at any time all revenues,
21 including taxes, appropriated and collected for such bonds
22 are insufficient to pay principal or interest then due, it
23 will levy a general tax upon all of the taxable property in
24 the COUNTY OR municipality for the payment of such
25 deficiency. The governing body may further covenant that at

1 any time a deficiency is likely to occur within 1 year for
2 the payment of principal and interest due on such bonds, it
3 will levy a general tax upon all the taxable property in the
4 COUNTY OR municipality for the payment of such deficiency,
5 and such taxes are not subject to any limitation of rate or
6 amount applicable to other COUNTY OR municipal taxes but are
7 limited to a rate estimated to be sufficient to produce the
8 amount of the deficiency. If more than one municipality
9 ~~having a population in excess of 10,000~~ LOCAL GOVERNMENT is
10 included in an authority issuing bonds pursuant to [sections
11 1 through ~~10~~ 17], the municipalities LOCAL GOVERNMENTS may
12 apportion the obligation to levy taxes for the payment of,
13 or in anticipation of, a deficiency in the revenues
14 appropriated for such bonds in such manner as the
15 municipalities LOCAL GOVERNMENTS may determine.

16 (2) The resolution shall state the principal amount
17 and purpose of the bonds and the substance of the covenant
18 respecting deficiencies.

19 (3) No such resolution becomes effective until the
20 question of its approval has been submitted to the qualified
21 electors of the municipality LOCAL GOVERNMENT at a special
22 election called for that purpose by the governing body of
23 the municipality LOCAL GOVERNMENT and a majority of the
24 electors voting on the question have voted in favor thereof.
25 The notice and conduct of the election is governed, to the

1 extent applicable, as provided for municipal general
 2 obligation bonds in Title 7, chapter 7, part 42, for an
 3 election called by cities and towns, and as provided for
 4 county general obligation bonds in Title 7, chapter 7, part
 5 22, for an election called by counties. If a majority of the
 6 electors voting thereon vote against approval of the
 7 resolution, the ~~municipality~~ LOCAL GOVERNMENT has no
 8 authority to make the covenant or to levy a tax for the
 9 payment of deficiencies pursuant to this section, but such
 10 ~~municipality~~ LOCAL GOVERNMENT or authority may nevertheless
 11 issue bonds under [sections 1 through ~~18~~ 17] payable solely
 12 from the sources referred to in [section ~~14(1)~~ 13(1)].

13 NEW SECTION. Section 15. Debt service fund. A port
 14 authority may create a debt service fund and accumulate
 15 therein ~~the A sum of \$5,000,000~~ DETERMINED BY THE GOVERNING
 16 BODY, together with interest thereon, for the use, repairs,
 17 maintenance, and capital outlays of a port.

18 NEW SECTION. Section 16. Federal and state money. An
 19 authority may accept, receive, receipt for, and spend
 20 federal and state money and other public or private money
 21 made available by grant or loan to accomplish any of the
 22 purposes of [sections 1 through ~~18~~ 17]. All federal money
 23 accepted under this section must be accepted and spent by
 24 the authority upon terms and conditions prescribed by the
 25 United States and consistent with state law. All state money

1 accepted under this section must be accepted and spent by
 2 the authority upon terms and conditions prescribed by the
 3 state.

4 NEW SECTION. Section 17. Tax exemption. Any property
 5 in this state acquired by an authority for port purposes
 6 pursuant to the provisions of [sections 1 through ~~18~~ 17],
 7 and any income derived by the authority from the ownership,
 8 operation, or control thereof, are exempt from taxation to
 9 the same extent as other property used for public purposes.

10 Section 18. Section 67-10-402, MCA, is amended to
 11 read:

12 "67-10-402. Tax levy. (1) For the purpose of
 13 establishing, constructing, equipping, maintaining, and
 14 operating airports, and landing fields, and ports under the
 15 provisions of this chapter and as provided in [sections 1
 16 through ~~18~~ 17], the county commissioners or the city or town
 17 council may each year assess and levy, in addition to the
 18 annual levy for general administrative purposes or the
 19 all-purpose levy authorized by 7-6-4451 and 7-6-4452, a tax
 20 ~~of--not--to-exceed-2-mills~~ on the dollar of taxable value of
 21 the property of said county, city, or town:

22 (A) NOT TO EXCEED 2 MILLS FOR AIRPORTS AND LANDING
 23 FIELDS; AND

24 (B) NOT TO EXCEED 2 MILLS FOR PORTS.

25 (2) In the event of a jointly established airport, or

1 landing field, or port, the county commissioners and the
 2 council or councils involved shall determine in advance the
 3 levy necessary for such purposes and the proportion each
 4 political subdivision joining in the venture must pay.

5 (3) No property within any political subdivision may
 6 be subject to a tax pursuant to this section at an annual
 7 rate in excess of 2 mills FOR AIRPORTS, LANDING FIELDS, OR
 8 PORTS unless it is found that the levy is insufficient for
 9 the purposes enumerated. In such a case the commissioners
 10 and councils acting are authorized and empowered to contract
 11 an indebtedness on behalf of such county, city, or town, as
 12 the case may be, upon the credit thereof by borrowing money
 13 or issuing bonds for such purposes, provided that no bonds
 14 may be issued for such purpose until the proposition has
 15 been submitted to the qualified electors and a majority vote
 16 cast therefor, except as provided in subsection (4).

17 (4) For the purpose of establishing a reserve fund to
 18 resurface, overlay, or improve existing runways, taxiways,
 19 and ramps, the governing bodies may set up annual reserve
 20 funds in their annual budget if:

21 (a) the reserve is approved by the governing bodies
 22 during the normal budgeting procedure;

23 (b) the necessity to resurface or improve said runways
 24 by overlays or similar methods every so many years is based
 25 upon competent engineering estimates; and

1 (c) the funds are expended at least within each
 2 10-year period.

3 (5) The reserve fund may not exceed at any time a
 4 competent engineering estimate of the cost of resurfacing or
 5 overlaying the existing runways, taxiways, and ramps of any
 6 one airport for each fund. The governing body of the
 7 airport or port, if in its judgment it considers it
 8 advantageous, may invest the fund in any interest-bearing
 9 deposits in a state or national bank insured by the FDIC or
 10 obligations of the United States of America, either
 11 short-term or long-term. Interest earned from such
 12 investments must be credited to the operations and
 13 maintenance budget of the airport or port governing body.
 14 The above provisions, notwithstanding other budget control
 15 measures and due to the uniqueness of the subject matter,
 16 are declared necessary in the interests of the public health
 17 and safety."

-End-