

SENATE BILL NO. 283

INTRODUCED BY GALT, NEUMAN

BY REQUEST OF THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION

IN THE SENATE

January 31, 1985	Introduced and referred to Committee on Natural Resources.
February 4, 1985	Fiscal Note requested.
February 9, 1985	Fiscal Note returned.
February 15, 1985	Committee recommend bill do pass as amended. Report adopted.
February 16, 1985	Bill printed and placed on members' desks.
February 18, 1985	Second reading, do pass.
February 19, 1985	Considered correctly engrossed.
February 20, 1985	Third reading, passed. Ayes, 49; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Natural Resources.
March 25, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 30, 1985	Second reading, concurrred in.
April 1, 1985	Third reading, concurrred in.
	Returned to Senate with amendments.

IN THE SENATE

April 1, 1985

Received from House.

April 3, 1985

Second reading, amendments
concurrent in.

April 5, 1985

Third reading, amendments
concurrent in. Ayes, 45; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 283
 2 INTRODUCED BY Walt Neuman
 3 BY REQUEST OF THE DEPARTMENT
 4 OF NATURAL RESOURCES AND CONSERVATION

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 BONDING PROGRAMS OF THE DEPARTMENT OF NATURAL RESOURCES AND
 8 CONSERVATION; TO GENERALLY REVISE AND CLARIFY THE LAWS
 9 RELATING TO THE WATER DEVELOPMENT PROGRAM; TO AUTHORIZE
 10 COUNTY WATER OR SEWER DISTRICTS, RURAL SPECIAL IMPROVEMENT
 11 DISTRICTS, AND THE BOARD OF EXAMINERS TO ISSUE TEMPORARY
 12 OBLIGATIONS IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO
 13 GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE
 14 RENEWABLE RESOURCE DEVELOPMENT PROGRAM TO MAKE IT COMPATIBLE
 15 WITH THE WATER DEVELOPMENT PROGRAM; AMENDING SECTIONS
 16 7-7-109, 17-5-703, 17-5-711, 17-5-713 THROUGH 17-5-715,
 17 17-5-718, 85-1-332, 85-1-604, 85-1-605, 85-1-610, 85-1-617,
 18 85-1-619, 90-2-121, 90-2-123, AND 90-2-125, MCA; AND
 19 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
 20 APPLICABILITY DATE."

21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 Section 1. Section 7-7-109, MCA, is amended to read:
 24 "7-7-109. Sale of notes in anticipation of federal or
 25 state revenue. (1) As used in this section, the following

1 definitions apply:

2 (a) "Bonds" means bonds, notes, warrants, debentures,
 3 certificates of indebtedness, and all instruments or
 4 obligations evidencing or representing indebtedness, or
 5 evidencing or representing the borrowing of money, or
 6 evidencing or representing a charge, lien, or encumbrance on
 7 specific revenues, special assessments, income, or property
 8 of a political subdivision, including all instruments or
 9 obligations payable from a special fund.

10 (b) "Political subdivision" means a county, city,
 11 town, school district, irrigation district, rural special
 12 improvement district, special improvement district, county
 13 water or sewer district, or any other political subdivision
 14 of the state, but does not include the state or any board,
 15 agency, or commission of the state.

16 (c) "Governing body" means the board, council,
 17 commission, or other body charged with the general control
 18 of the issuance of bonds of a political subdivision.

19 (2) When all conditions exist precedent to the
 20 offering for sale of bonds of a political subdivision in any
 21 amount and for any purpose authorized by law and the
 22 political subdivision has applied for a grant or loan of
 23 state or federal funds to aid in payment of costs incurred
 24 or to be incurred for the authorized purpose, its governing
 25 body may by resolution issue and sell notes in anticipation

1 of the receipt of the grant or loan, in an amount not
2 exceeding the total amount of bonds authorized and maturing
3 within not more than 3 years from the date such notes are
4 issued.

5 (3) The proceeds of the grant or loan, when received,
6 shall be credited to the debt service fund for the notes as
7 may be needed for their payment, with interest, when due.

8 (4) Any amount of the notes which cannot be paid at
9 maturity from the proceeds of the grant or loan or from any
10 other funds appropriated by the governing body for the
11 purpose shall be paid from the proceeds of bonds to be
12 issued and sold before the maturity date, or if sufficient
13 funds are not available for payment in full of the notes at
14 maturity, those bondholders may require the issuance, in
15 exchange, of bonds bearing interest at the maximum rate
16 permitted by law. The bonds so issued are secured and
17 subject to the terms and conditions provided by the law
18 authorizing their issuance. Notes and bonds may be issued
19 as provided in this section regardless of the amount
20 authorized if the amount which may legally be issued is less
21 than the commitment for which the grant or loan is made.
22 Before the notes or bonds are issued, the political
23 subdivision must receive a written commitment for a grant or
24 loan in an amount equal to the remaining estimated costs and
25 must by resolution provide for the fulfillment of the

1 conditions of the commitment."

2 Section 2. Section 17-5-703, MCA, is amended to read:
3 "17-5-703. Coal severance tax trust funds. (1) The
4 trust established under Article IX, section 5, of the
5 Montana constitution shall be composed of the following
6 funds:

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

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

11 (c) a coal severance tax income fund.

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

19 Section 3. Section 17-5-711, MCA, is amended to read:

20 "17-5-711. Trust indenture. In the discretion of the
21 board of examiners, a series of ~~coal-severance-tax~~ bonds or
22 notes issued under this part may be secured by a trust
23 indenture by and between the board of examiners and a
24 trustee, which may be any trust company or bank having the
25 powers of a trust company within or outside of the state.

1 Each trust indenture or an executed counterpart thereof
 2 shall be filed in the office of the secretary of state of
 3 Montana. The filing of a trust indenture or an executed
 4 counterpart thereof in the office of the county clerk of the
 5 county in which the property covered by the trust indenture
 6 is located is constructive notice of its contents to all
 7 persons from the time of the filing, and the recording of
 8 the trust indenture or its contents is not necessary."

9 Section 4. Section 17-5-713, MCA, is amended to read:

10 "17-5-713. Personal liability -- suit to compel
 11 performance. (1) The members of the board of examiners and
 12 officers and employees of the departments, boards, or
 13 agencies of state government are not personally liable or
 14 accountable by reason of the issuance of or on any coal
 15 severance tax bond or bond anticipation note issued by the
 16 board of examiners.

17 (2) Any holder of coal severance tax bonds or any
 18 person or officer being a party in interest, subject to any
 19 applicable coal severance tax agreements or trust
 20 indentures, may sue to enforce and compel the performance of
 21 the coal severance tax bond provisions as set out in this
 22 part."

23 Section 5. Section 17-5-714, MCA, is amended to read:

24 "17-5-714. Negotiability of bonds. ~~Coal-severance--tax~~
 25 ~~bonds~~ Bonds or notes issued under this part are negotiable

1 instruments under the Uniform Commercial Code, subject only
 2 to the provisions for registration of bonds."

3 Section 6. Section 17-5-715, MCA, is amended to read:

4 "17-5-715. Signatures of board members. In ~~the~~ case
 5 any member of the board of examiners whose signature appears
 6 on ~~coal-severance-tax~~ bonds, notes, or coupons issued under
 7 this part ceases to be a member before the delivery of the
 8 bonds or notes, his signature is nevertheless valid and
 9 sufficient for all purposes, the same as if the member had
 10 remained in office until delivery."

11 Section 7. Section 17-5-718, MCA, is amended to read:

12 "17-5-718. Tax exemption of bonds -- legal
 13 investments. (1) All ~~coal--severance--tax~~ bonds or notes
 14 issued under this part, their transfer, and their income,
 15 including any profits made on their sale, are exempt from
 16 taxation by the state or any political subdivisions or other
 17 instrumentality of the state, excepting inheritance, estate,
 18 and gift taxes.

19 (2) ~~Coal-severance-tax-bonds~~ Bonds or notes issued
 20 under this part are legal investments for any person or
 21 board charged with investment of public funds and are
 22 acceptable as security for any deposit of public money."

23 NEW SECTION. Section 8. Bond anticipation notes --
 24 when issued -- payment of principal and interest. (1) When
 25 the board of examiners has been authorized by the

1 legislature to issue and sell bonds under this part, it may,
 2 pending the issuance of the bonds, issue temporary notes in
 3 anticipation of the receipt of proceeds to be derived from
 4 the sale of the bonds. The notes are designated as "bond
 5 anticipation notes". The proceeds of the sale of the bond
 6 anticipation notes must be used only for the purposes for
 7 which the proceeds of the bonds could be used, including
 8 costs of issuance. If, prior to the issuance of the bonds,
 9 it becomes necessary to redeem outstanding notes, additional
 10 bond anticipation notes may be issued to redeem the
 11 outstanding notes. No renewal of any note may be issued
 12 after the sale of bonds in anticipation of which the
 13 original notes were issued. As much of the proceeds of the
 14 bonds, when issued, must be credited to the note debt
 15 service fund as may be needed for payment of the notes, with
 16 interest, when due.

17 (2) Bond anticipation notes or other short-term
 18 evidences of indebtedness maturing not more than 3 years
 19 after the date of issue may be issued from time to time as
 20 needed. Notes must be authorized by the board of examiners
 21 and contain such terms and details as may be provided by
 22 resolution of the board. Each resolution of the board of
 23 examiners authorizing notes must:

24 (a) describe the need for the proceeds of the notes to
 25 be issued; and

1 (b) specify:

2 (i) the principal amount of the notes or maximum
 3 principal amount of the notes that may be outstanding at any
 4 time;

5 (ii) the rate or rates of interest, the maximum rate of
 6 interest, or the interest rate formula (to be determined in
 7 the manner specified in the resolution authorizing the
 8 notes) of such notes; and

9 (iii) the maturity date or maximum maturity date of the
 10 notes.

11 (3) Subject to the limitations contained in this
 12 section and the standards and limitations prescribed in the
 13 authorizing resolution, the board in its discretion may
 14 provide for notes to be issued and sold, in whole or in
 15 part, from time to time. The board may delegate to the state
 16 treasurer the power to determine the time or times of sale,
 17 the manner of sale, the amounts, the maturities, the rate or
 18 rates of interest, and such other terms and details of the
 19 notes as may be considered appropriate by the board or, if
 20 there has been such a delegation, the state treasurer. The
 21 board may, in its discretion but subject to the limitations
 22 contained in this section, also provide in the resolution
 23 authorizing the issuance of notes for:

24 (a) the employment of one or more persons or firms to
 25 assist the board in the sale of the notes;

1 (b) the appointment of one or more banks or trust
2 companies, either within or outside of the state, as
3 depository for safekeeping and as agent for the delivery and
4 payment of the notes;

5 (c) the refunding of the notes, from time to time,
6 without further action by the board, unless the board
7 revokes such authority to refund; and

8 (d) such other terms and conditions as the board may
9 consider appropriate.

10 (4) In connection with the issuance and sale of notes,
11 the board may arrange for lines of credit with any bank,
12 firm, or person for the purpose of providing an additional
13 source of repayment for notes issued pursuant to this
14 section. Amounts drawn on such lines of credit may be
15 evidenced by negotiable or nonnegotiable notes or other
16 evidences of indebtedness, containing such terms and
17 conditions as the board may authorize in the resolution
18 approving them.

19 Section 9. Section 85-1-332, MCA, is amended to read:

20 "85-1-332. Disposition of moneys collected. (1) For
21 the purpose of carrying out the provisions of this chapter
22 and such other water resource authority, powers, and duties
23 as are conferred upon the department by law, the following
24 moneys shall be deposited in the water development state
25 special revenue account created by 85-1-604:

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

3 ~~(2)(a)~~ all gifts, donations, bequests, and devises
4 made to the state therefor and proceeds of the sale thereof;
5 and the proceeds of the sale or redemption of and the
6 interest earned by the securities purchased or acquired with
7 money received under this subsection;

8 ~~(3)(b)~~ all reimbursements for money advanced for the
9 payment of the assessments upon state, school-granted, and
10 other public lands for the improvement thereof as provided
11 by law;

12 ~~(4)(c)~~ all reimbursements for money advanced for the
13 investigation and survey of reclamation, electrification,
14 and rehabilitation systems or projects proposed to be
15 financed in whole or in part by the reclamation of lands and
16 diking, drainage, and diking and drainage dams for
17 conservation of water to be used in reclamation of land or
18 stock reservoirs or for the construction, maintenance, and
19 operation of plants or projects for the manufacture or
20 distribution of electric current;

21 ~~(5)(d)~~ all reimbursements for costs of surveys and
22 investigations for moneys advanced to counties, cities, or
23 towns or their proportion of the cost thereof or from any
24 other sources;

25 ~~(6)(e)~~ except as otherwise provided by law, all income

1 or profit and revenue of the works and all money received
2 from the sale or disposal of water, use of water, water
3 storage, or other service and from the operation, lease,
4 sale, or other disposition of the works, property, and
5 facilities acquired under this chapter; and

6 ~~(7)~~(f) except as otherwise provided by law, all sums
7 received by the department for the use of electricity in
8 excess of the maintenance and operation of the
9 electrification system or project.

10 (2) All sums of money donated or contributed by the
11 federal government or any department or agency thereof shall
12 be deposited in a federal special revenue account."

13 Section 10. Section 85-1-604, MCA, is amended to read:

14 "85-1-604. Water development state special revenue
15 account created -- revenues allocated -- limitations on
16 appropriations from account. (1) There is created a water
17 development state special revenue account within the state
18 special revenue fund established in 17-2-102.

19 (2) There shall be paid into the water development
20 state special revenue account:

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

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

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

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

8 (e) any fees or charges collected by the department
9 pursuant to 85-1-616 for the servicing of loans, including
10 arrangements for obtaining security interests; and

11 (f) all interest income earned on proceeds of water
12 development bonds.

13 (3) Appropriations may be made from the water
14 development state special revenue account for the following
15 purposes and subject to the following conditions:

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

24 (b) An amount less than or equal to that paid into the
25 account from the resource indemnity trust account plus any

1 excess from subsection (3)(a) and only that amount may be
2 appropriated from the account for:

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

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

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

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

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

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

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

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

24 (c) An amount less than or equal to that paid into the
25 account from the sources provided for in (c) through ~~(e)~~ (f)

1 of subsection (2) and only that amount may be appropriated
2 from the account for loans and grants for water development
3 projects and activities; for administrative expenses,
4 including but not limited to the salaries and expenses of
5 personnel, equipment, and office space; for the servicing of
6 loans, including arrangements for obtaining security
7 interests; and for other necessities incurred in
8 administering the loans and grants."

9 Section 11. Section 85-1-605, MCA, is amended to read:

10 "85-1-605. Grants, loans, and bonds for state and
11 local government assistance. (1) The department may
12 recommend to the legislature that grants and loans be made
13 from coal severance tax proceeds deposited in the water
14 development state special revenue account, that loans be
15 made from water development bond proceeds deposited in the
16 water development account, and that coal severance tax bonds
17 be authorized pursuant to Title 17, chapter 5, part 7, to
18 provide financial assistance to a department, agency, board,
19 commission, or other division of state government or to a
20 city, county, or other political subdivision or local
21 government body of the state. The legislature may approve by
22 appropriation or other appropriate means those grants and
23 loans it finds consistent with the policies and purposes of
24 the program.

25 (2) In addition to implementing those projects

1 approved by the legislature, the department may request up
 2 to 10% of the funds available for grants from the water
 3 development special revenue account in any biennium to be
 4 used for emergencies. These emergency projects must be
 5 approved by the department and be defined as those projects
 6 which, if delayed until legislative approval can be
 7 obtained, will cause substantial damages or legal liability
 8 to the project sponsor. In allocating such funds, the
 9 department shall consult with the legislative finance
 10 committee of the legislature.

11 {2}(3) The grants and loans provided for by this
 12 section may be made for the purchase, lease, development, or
 13 construction of water development projects and activities
 14 for the conservation, management, use, development, or
 15 protection of the water and related agricultural, land,
 16 fish, wildlife, and water recreation resources in the state;
 17 for the purpose of feasibility and design studies for such
 18 projects; for development of plans for and the
 19 rehabilitation, expansion, and modification of water
 20 development projects; for other water development projects
 21 and activities that will enhance the water resources of the
 22 state; and for similar purposes approved by the
 23 legislature."

24 Section 12. Section 85-1-610, MCA, is amended to read:

25 "85-1-610. Evaluation of grants and loans to private

1 persons. The department shall consider the following
 2 criteria and preferences in evaluating applications and
 3 selecting the recipients of grants and loans for water
 4 development projects and activities that are eligible for
 5 funding under 85-1-609:

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

8 (2) A water development project or activity that will
 9 be used as part of a family farm shall be given preference.
 10 A family farm is one devoted primarily to agriculture under
 11 the ownership and operation of a resident Montana family.

12 (3) A water development project or activity that will
 13 utilize or develop water reserved under 85-2-316 shall be
 14 given preference. An activity includes all necessary work
 15 associated with a project, beginning with application
 16 preparation through the implementation of a water
 17 reservation by a qualified state applicant.

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

22 (5) The extent to which the water development project
 23 or activity will fully utilize water resources and promote
 24 the conservation and efficient use of the water resource
 25 shall be evaluated and considered.

1 (6) Projects or activities that could not be
2 accomplished without the assistance of a loan or grant shall
3 be given preference.

4 (7) The department shall give due consideration to any
5 other factor that, in the department's judgment, is
6 important to the evaluation of the water development project
7 or activity in light of the purposes, policies, and
8 objectives of the water development program."

9 Section 13. Section 85-1-617, MCA, is amended to read:

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

20 (2) Each series of water development bonds may be
21 issued by the board of examiners, upon request of the board
22 of natural resources and conservation, at public or private
23 sale, in such denominations and forms, whether payable to
24 bearer with attached interest coupons or registered as to
25 principal or as to both principal and interest, with such

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

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

1 they are authorized to be issued.

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

13 (5) There is created a water development account
14 within the state special revenue fund established in
15 17-2-102.

16 (6) All proceeds of bonds or notes issued under this
17 section, other than refunding bonds, must be deposited in
18 the water development account established in subsection (5),
19 except that any principal and accrued interest received in
20 repayment of a loan made from the proceeds of bonds issued
21 under this section must be deposited in the water
22 development state special revenue account pursuant to
23 85-1-604. All proceeds of refunding bonds must be deposited
24 in the water development debt service fund and applied to
25 the payment and redemption of outstanding bonds issued under

1 this section as directed by the board, whether at maturity
2 or on any earlier date on which they may be prepaid
3 according to their terms.

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

7 Section 14. Section 85-1-619, MCA, is amended to read:

8 "85-1-619. Debt service fund -- pledge and
9 administration of sufficient balance. (1) The legislature
10 may levy, impose, assess, and pledge and appropriate to the
11 water development debt service fund any tax, charge, fee,
12 rental, or other income from any designated source. The
13 state reserves the right to modify from time to time the
14 nature and amount of special taxes and other revenues
15 pledged and appropriated to the water development debt
16 service fund, provided that the aggregate resources so
17 pledged and appropriated are determined by the legislature
18 to be sufficient for the prompt and full payment of the
19 principal of and interest and redemption premiums when due
20 on all bonds payable from that fund and provided that the
21 pledge of the full faith and credit and taxing powers of the
22 state for the security of all such bonds shall be and remain
23 irrevocable until they are fully paid.

24 (2) Money in the water development debt service fund
25 must be used ~~first~~ to pay interest, principal, and

1 redemption premiums when due and payable with respect to
 2 water development bonds;~~second, and for bonds issued prior~~
 3 ~~to 1985,~~ to accumulate a reserve for the further security of
 4 such payments;~~to the amount required each month to meet~~
 5 ~~those payments due within 12 months thereafter;~~ and ~~third;~~
 6 ~~to restore the reserve to this amount after each payment.~~

7 (3) After the reserve provided for in subsection (2)
 8 for bonds issued prior to 1985 has been accumulated in the
 9 water development debt service fund, money at any time
 10 received in the water development debt service fund in
 11 excess of that amount must be transferred by the treasurer
 12 to the water development state special revenue account. ~~If~~
 13 ~~the balance on hand at any time in the water development~~
 14 ~~debt service fund is not sufficient to accumulate required~~
 15 ~~reserves under subsection (2) and is not restored to the~~
 16 ~~required amount within 3 months thereafter from funds~~
 17 ~~specifically pledged and appropriated to the water~~
 18 ~~development debt service fund, the treasurer in accordance~~
 19 ~~with the pledge of the full faith and credit and taxing~~
 20 ~~powers of the state shall transfer an amount sufficient to~~
 21 ~~restore the required balance from the general fund to the~~
 22 ~~water development debt service fund."~~

23 Section 15. Section 90-2-121, MCA, is amended to read:
 24 "90-2-121. Issuing bonds. (1) Within the limits
 25 authorized by 90-2-127 and within the further limitations in

1 this section, the board of examiners may issue and sell
 2 bonds of the state in such manner as it considers necessary
 3 and proper to finance the renewable resource development
 4 program. The full faith and credit and taxing powers of the
 5 state shall be pledged for the prompt and full payment of
 6 all bonds so issued and interest and redemption premiums
 7 payable thereon according to their terms.

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

25 (3) In the issuance of each series of such bonds the

1 interest rates and the maturities and any mandatory
 2 redemption provisions thereof shall be established in such
 3 manner that the funds then specifically pledged and
 4 appropriated by law to the debt service fund will in the
 5 judgment of the board be received in an amount sufficient in
 6 each year to pay all principal, redemption premiums, and
 7 interest due and payable in that year with respect to that
 8 and all prior series of such bonds, except outstanding bonds
 9 as to which the obligation of the state has been discharged
 10 by the deposit of funds or securities sufficient for their
 11 payment in accordance with the terms of the resolutions by
 12 which they are authorized to be issued.

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

24 (5) All proceeds of bonds issued hereunder and
 25 interest earned on such proceeds, other than refunding

1 bonds, shall be deposited in the renewable resource
 2 development account, ~~except that any principal and accrued~~
 3 ~~interest received in repayment of the loans provided for in~~
 4 ~~this part shall be deposited in the debt service fund.~~ All
 5 proceeds of refunding bonds shall be deposited in the debt
 6 service fund and applied to the payment and redemption of
 7 outstanding bonds issued hereunder as directed by the board,
 8 whether at maturity or on any previous date on which they
 9 may be prepaid according to their terms."

10 Section 16. Section 90-2-123, MCA, is amended to read:

11 "90-2-123. Debt service fund. (1) The state may by
 12 enactment of the legislature or the people levy, impose,
 13 assess, and pledge and appropriate to the debt service fund
 14 any tax, charge, fee, rental, or other income from any
 15 designated source. The state reserves the right to modify
 16 from time to time the nature and amount of special taxes and
 17 other revenues pledged and appropriated to the debt service
 18 fund, provided that the aggregate resources so pledged and
 19 appropriated are determined by the legislature to be
 20 sufficient for the prompt and full payment of the principal
 21 of and interest and redemption premiums when due on all
 22 bonds payable from that fund, and provided that the pledge
 23 of the full faith and credit and taxing powers of the state
 24 for the security of all such bonds shall be and remain
 25 irrevocable until they are fully paid.

1 (2) Money in the debt service fund shall be used first
 2 to pay interest, principal, and redemption premiums when due
 3 and payable with respect to renewable resource development
 4 bonds; ~~second--to--accumulate--a--reserve--for--the--further~~
 5 ~~security--of--such--payments;--to--the--amount--required--each--month~~
 6 ~~to--meet--these--payments--due--within--12--months--thereafter;--and~~
 7 ~~third--to--restore--the--reserve--to--this--amount--after--each~~
 8 ~~payment.~~

9 (3) ~~After--the--reserve--provided--for--in--subsection--(2)~~
 10 ~~above--is--in--the--debt--service--fund;--money~~ Money at any time
 11 received in the debt service fund in excess of that the
 12 amount required by subsection (2) shall be transferred by
 13 the treasurer to the renewable resource development account.
 14 ~~If--the--balance--at--any--time--on--hand--in--the--debt--service--fund~~
 15 ~~is--not--sufficient--for--compliance--with--subsection--(2)--and--is~~
 16 ~~not--restored--to--the--required--amount--within--3--months~~
 17 ~~thereafter--from--funds--specifically--pledged--and--appropriated~~
 18 ~~to--the--debt--service--fund;--the--treasurer--shall--transfer~~
 19 ~~thereto--from--the--general--fund--an--amount--sufficient--to~~
 20 ~~restore--the--required--balance."~~

21 Section 17. Section 90-2-125, MCA, is amended to read:
 22 "90-2-125. Renewable resource development account. The
 23 state may by enactment of the legislature or the people
 24 levy, impose, assess, and pledge and appropriate to the
 25 renewable resource development account any tax, charge, fee,

1 rental, or other income from any source, including but not
 2 limited to renewable resource development bond proceeds,
 3 interest earned on the bond proceeds, and any principal and
 4 accrued interest received in repayment of a loan made from
 5 the proceeds of bonds issued under 90-2-121."

6 NEW SECTION. Section 18. Remedial character. Section
 7 1 of this act is remedial in character, and nothing therein
 8 may be considered to imply that authority for the taking of
 9 any action therein expressly authorized did not previously
 10 exist.

11 NEW SECTION. Section 19. Codification instruction.
 12 Section 8 is intended to be codified as an integral part of
 13 Title 17, chapter 5, part 7, and the provisions of Title 17,
 14 chapter 5, part 7, apply to section 8.

15 NEW SECTION. Section 20. Applicability. Section 10
 16 applies retroactively, within the meaning of 1-2-109, to all
 17 occurrences after July 1, 1981.

18 NEW SECTION. Section 21. Effective date. This act is
 19 effective on passage and approval.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 314-85

Form BD-15

In compliance with a written request received February 4, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 283 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

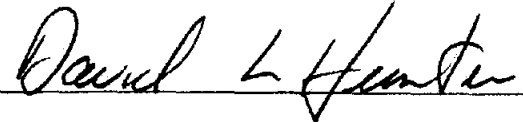
Revises the bonding programs of the Department of Natural Resources and Conservation; revises and clarifies the laws relating to the Water Development Program; authorizes county water or sewer districts, rural special improvement districts, and the Board of Examiners to issue temporary obligations in anticipation of the issuance of bonds; and revises and clarifies the laws relating to the Renewable Resource Development Program to make it compatible with the Water Development Program.

ASSUMPTIONS:

There will be no changes in administrative costs with the implementation of this bill.

There will be changes in the amount of funds available for grants under the water development program. These changes are as follows:

- (a) Section 2. (2). The amount of reserve to be retained in the coal severance tax bond account will be increased to an amount equal to two semiannual payments rather than one. This will delay the flow of funds into the trust temporarily, until sufficient reserves are accumulated.
- (b) Section 10. (f). Interest on general obligation bonds is now unavailable for use, but this legislation will allow arbitrage earnings to be used to offset bond debt service incurred before loans are made.
- (c) Section 11. (2). If 10% of the funds available are used for emergencies, they will be unavailable for specific grants approved by the legislature.
- (d) Section 14. (2). If the reserve is eliminated these funds will be available for grants. This amounts to 10-20% of the face value of the bonds.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 9, 1985

SB 283

FISCAL IMPACT:

Revenue:

This bill will not affect the total revenues. However, it does eliminate the reserve requirements for general obligation bonds, consistent with federal requirements, thus releasing \$150,000 of reserve funds for additional grants in FY 1986. In subsequent years, the net amount of revenue available for grants from future bond sales will also be increased from 10% to 20%. It is impossible to estimate dollar amounts at this time, because they are dependent on the amount of bonds sold and the interest rates at that time.

Expenditures:

		<u>FY 86</u>	<u>FY 87</u>
Water Development Grants -	Current Law	\$649,162	\$616,181
	Proposed Law	799,162	<u>616,181</u>
	Increase	\$150,000	-0-

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

\$150,000 of additional funds will be available to private and public entities for water development projects.

TECHNICAL OR MECHANICAL DEFECTS:

Section 1 (4) lines 14 and 15 should be amended to read: "... those bond holders may in exchange require the issuance of long-term bonds in exchange, ~~of bonds bearing interest at the maximum rate permitted by law.~~"

APPROVED BY COMM. ON
NATURAL RESOURCES

1 SENATE BILL NO. 283
2 INTRODUCED BY GALT, NEUMAN
3 BY REQUEST OF THE DEPARTMENT
4 OF NATURAL RESOURCES AND CONSERVATION
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 BONDING PROGRAMS OF THE DEPARTMENT OF NATURAL RESOURCES AND
8 CONSERVATION; TO GENERALLY REVISE AND CLARIFY THE LAWS
9 RELATING TO THE WATER DEVELOPMENT PROGRAM; TO AUTHORIZE
10 COUNTY WATER OR SEWER DISTRICTS, RURAL SPECIAL IMPROVEMENT
11 DISTRICTS, AND THE BOARD OF EXAMINERS TO ISSUE TEMPORARY
12 OBLIGATIONS IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO
13 GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE
14 RENEWABLE RESOURCE DEVELOPMENT PROGRAM TO MAKE IT COMPATIBLE
15 WITH THE WATER DEVELOPMENT PROGRAM; AMENDING SECTIONS
16 7-7-109, 17-5-703, 17-5-711, 17-5-713 THROUGH 17-5-715,
17 17-5-718, 85-1-332, 85-1-604, 85-1-605, 85-1-610, 85-1-617,
18 85-1-619, 90-2-121, 90-2-123, AND 90-2-125, MCA; AND
19 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
20 APPLICABILITY DATE."
21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
23 Section 1. Section 7-7-109, MCA, is amended to read:
24 "7-7-109. Sale of notes in anticipation of federal or
25 state revenue. (1) As used in this section, the following

1 definitions apply:
2 (a) "Bonds" means bonds, notes, warrants, debentures,
3 certificates of indebtedness, and all instruments or
4 obligations evidencing or representing indebtedness, or
5 evidencing or representing the borrowing of money, or
6 evidencing or representing a charge, lien, or encumbrance on
7 specific revenues, special assessments, income, or property
8 of a political subdivision, including all instruments or
9 obligations payable from a special fund.
10 (b) "Political subdivision" means a county, city,
11 town, school district, irrigation district, rural special
12 improvement district, special improvement district, county
13 water or sewer district, or any other political subdivision
14 of the state, but does not include the state or any board,
15 agency, or commission of the state.
16 (c) "Governing body" means the board, council,
17 commission, or other body charged with the general control
18 of the issuance of bonds of a political subdivision.
19 (2) When all conditions exist precedent to the
20 offering for sale of bonds of a political subdivision in any
21 amount and for any purpose authorized by law and the
22 political subdivision has applied for a grant or loan of
23 state or federal funds to aid in payment of costs incurred
24 or to be incurred for the authorized purpose, its governing
25 body may by resolution issue and sell notes in anticipation

1 of the receipt of the grant or loan, in an amount not
2 exceeding the total amount of bonds authorized and maturing
3 within not more than 3 years from the date such notes are
4 issued.

5 (3) The proceeds of the grant or loan, when received,
6 shall be credited to the debt service fund for the notes as
7 may be needed for their payment, with interest, when due.

8 (4) Any amount of the notes which cannot be paid at
9 maturity from the proceeds of the grant or loan or from any
10 other funds appropriated by the governing body for the
11 purpose shall be paid from the proceeds of bonds to be
12 issued and sold before the maturity date, or if sufficient
13 funds are not available for payment in full of the notes at
14 maturity, those bondholders may, IN EXCHANGE, require the
15 issuance, ~~in-exchange,~~ of LONG-TERM bonds ~~bearing--interest~~
16 ~~at--the--maximum--rate--permitted--by--law.~~ The bonds so issued
17 are secured and subject to the terms and conditions provided
18 by the law authorizing their issuance. Notes and bonds may
19 be issued as provided in this section regardless of the
20 amount authorized if the amount which may legally be issued
21 is less than the commitment for which the grant or loan is
22 made. Before the notes or bonds are issued, the political
23 subdivision must receive a written commitment for a grant or
24 loan in an amount equal to the remaining estimated costs and
25 must by resolution provide for the fulfillment of the

1 conditions of the commitment."

2 Section 2. Section 17-5-703, MCA, is amended to read:

3 "17-5-703. Coal severance tax trust funds. (1) The
4 trust established under Article IX, section 5, of the
5 Montana constitution shall be composed of the following
6 funds:

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

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

11 (c) a coal severance tax income fund.

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

19 Section 3. Section 17-5-711, MCA, is amended to read:

20 "17-5-711. Trust indenture. In the discretion of the
21 board of examiners, a series of ~~coal-severance-tax bonds~~ or
22 notes issued under this part may be secured by a trust
23 indenture by and between the board of examiners and a
24 trustee, which may be any trust company or bank having the
25 powers of a trust company within or outside of the state.

1 Each trust indenture or an executed counterpart thereof
 2 shall be filed in the office of the secretary of state of
 3 Montana. The filing of a trust indenture or an executed
 4 counterpart thereof in the office of the county clerk of the
 5 county in which the property covered by the trust indenture
 6 is located is constructive notice of its contents to all
 7 persons from the time of the filing, and the recording of
 8 the trust indenture or its contents is not necessary."

9 Section 4. Section 17-5-713, MCA, is amended to read:

10 "17-5-713. Personal liability -- suit to compel
 11 performance. (1) The members of the board of examiners and
 12 officers and employees of the departments, boards, or
 13 agencies of state government are not personally liable or
 14 accountable by reason of the issuance of or on any coal
 15 severance tax bond or bond anticipation note issued by the
 16 board of examiners.

17 (2) Any holder of coal severance tax bonds or any
 18 person or officer being a party in interest, subject to any
 19 applicable coal severance tax agreements or trust
 20 indentures, may sue to enforce and compel the performance of
 21 the coal severance tax bond provisions as set out in this
 22 part."

23 Section 5. Section 17-5-714, MCA, is amended to read:

24 "17-5-714. Negotiability of bonds. ~~Coal-severance--tax~~
 25 ~~bonds~~ Bonds or notes issued under this part are negotiable

1 instruments under the Uniform Commercial Code, subject only
 2 to the provisions for registration of bonds."

3 Section 6. Section 17-5-715, MCA, is amended to read:

4 "17-5-715. Signatures of board members. In the case
 5 any member of the board of examiners whose signature appears
 6 on ~~coal-severance-tax~~ bonds, notes, or coupons issued under
 7 this part ceases to be a member before the delivery of the
 8 bonds or notes, his signature is nevertheless valid and
 9 sufficient for all purposes, the same as if the member had
 10 remained in office until delivery."

11 Section 7. Section 17-5-718, MCA, is amended to read:

12 "17-5-718. Tax exemption of bonds -- legal
 13 investments. (1) All ~~coal--severance--tax~~ bonds or notes
 14 issued under this part, their transfer, and their income,
 15 including any profits made on their sale, are exempt from
 16 taxation by the state or any political subdivisions or other
 17 instrumentality of the state, excepting inheritance, estate,
 18 and gift taxes.

19 (2) ~~Coal-severance-tax-bonds~~ Bonds or notes issued
 20 under this part are legal investments for any person or
 21 board charged with investment of public funds and are
 22 acceptable as security for any deposit of public money."

23 NEW SECTION. Section 8. Bond anticipation notes --

24 when issued -- payment of principal and interest. (1) When
 25 the board of examiners has been authorized by the

1 legislature to issue and sell bonds under this part, it may,
 2 pending the issuance of the bonds, issue temporary notes in
 3 anticipation of the receipt of proceeds to be derived from
 4 the sale of the bonds. The notes are designated as "bond
 5 anticipation notes". The proceeds of the sale of the bond
 6 anticipation notes must be used only for the purposes for
 7 which the proceeds of the bonds could be used, including
 8 costs of issuance. If, prior to the issuance of the bonds,
 9 it becomes necessary to redeem outstanding notes, additional
 10 bond anticipation notes may be issued to redeem the
 11 outstanding notes. No renewal of any note may be issued
 12 after the sale of bonds in anticipation of which the
 13 original notes were issued. As much of the proceeds of the
 14 bonds, when issued, must be credited to the note debt
 15 service fund as may be needed for payment of the notes, with
 16 interest, when due.

17 (2) Bond anticipation notes or other short-term
 18 evidences of indebtedness maturing not more than 3 years
 19 after the date of issue may be issued from time to time as
 20 needed. Notes must be authorized by the board of examiners
 21 and contain such terms and details as may be provided by
 22 resolution of the board. Each resolution of the board of
 23 examiners authorizing notes must:

24 (a) describe the need for the proceeds of the notes to
 25 be issued; and

1 (b) specify:

2 (i) the principal amount of the notes or maximum
 3 principal amount of the notes that may be outstanding at any
 4 time;

5 (ii) the rate or rates of interest, the maximum rate of
 6 interest, or the interest rate formula (to be determined in
 7 the manner specified in the resolution authorizing the
 8 notes) of such notes; and

9 (iii) the maturity date or maximum maturity date of the
 10 notes.

11 (3) Subject to the limitations contained in this
 12 section and the standards and limitations prescribed in the
 13 authorizing resolution, the board in its discretion may
 14 provide for notes to be issued and sold, in whole or in
 15 part, from time to time. The board may delegate to the state
 16 treasurer the power to determine the time or times of sale,
 17 the manner of sale, the amounts, the maturities, the rate or
 18 rates of interest, and such other terms and details of the
 19 notes as may be considered appropriate by the board or, if
 20 there has been such a delegation, the state treasurer. The
 21 board may, in its discretion but subject to the limitations
 22 contained in this section, also provide in the resolution
 23 authorizing the issuance of notes for:

24 (a) the employment of one or more persons or firms to
 25 assist the board in the sale of the notes;

1 (b) the appointment of one or more banks or trust
2 companies, either within or outside of the state, as
3 depository for safekeeping and as agent for the delivery and
4 payment of the notes;

5 (c) the refunding of the notes, from time to time,
6 without further action by the board, unless the board
7 revokes such authority to refund; and

8 (d) such other terms and conditions as the board may
9 consider appropriate.

10 (4) In connection with the issuance and sale of notes,
11 the board may arrange for lines of credit with any bank,
12 firm, or person for the purpose of providing an additional
13 source of repayment for notes issued pursuant to this
14 section. Amounts drawn on such lines of credit may be
15 evidenced by negotiable or nonnegotiable notes or other
16 evidences of indebtedness, containing such terms and
17 conditions as the board may authorize in the resolution
18 approving them.

19 Section 9. Section 85-1-332, MCA, is amended to read:

20 "85-1-332. Disposition of moneys collected. (1) For
21 the purpose of carrying out the provisions of this chapter
22 and such other water resource authority, powers, and duties
23 as are conferred upon the department by law, the following
24 moneys shall be deposited in the water development state
25 special revenue account created by 85-1-604:

1 ~~(1) all sums of money donated or contributed by the~~
2 ~~federal government or any department or agencies thereof,~~

3 ~~(2)(a)~~ all gifts, donations, bequests, and devises
4 made to the state therefor and proceeds of the sale thereof;
5 and the proceeds of the sale or redemption of and the
6 interest earned by the securities purchased or acquired with
7 money received under this subsection;

8 ~~(3)(b)~~ all reimbursements for money advanced for the
9 payment of the assessments upon state, school-granted, and
10 other public lands for the improvement thereof as provided
11 by law;

12 ~~(4)(c)~~ all reimbursements for money advanced for the
13 investigation and survey of reclamation, electrification,
14 and rehabilitation systems or projects proposed to be
15 financed in whole or in part by the reclamation of lands and
16 diking, drainage, and diking and drainage dams for
17 conservation of water to be used in reclamation of land or
18 stock reservoirs or for the construction, maintenance, and
19 operation of plants or projects for the manufacture or
20 distribution of electric current;

21 ~~(5)(d)~~ all reimbursements for costs of surveys and
22 investigations for moneys advanced to counties, cities, or
23 towns or their proportion of the cost thereof or from any
24 other sources;

25 ~~(6)(e)~~ except as otherwise provided by law, all income

1 or profit and revenue of the works and all money received
 2 from the sale or disposal of water, use of water, water
 3 storage, or other service and from the operation, lease,
 4 sale, or other disposition of the works, property, and
 5 facilities acquired under this chapter; and

6 ~~(f)~~ except as otherwise provided by law, all sums
 7 received by the department for the use of electricity in
 8 excess of the maintenance and operation of the
 9 electrification system or project.

10 (2) All sums of money donated or contributed by the
 11 federal government or any department or agency thereof shall
 12 be deposited in a federal special revenue account."

13 Section 10. Section 85-1-604, MCA, is amended to read:

14 "85-1-604. Water development state special revenue
 15 account created -- revenues allocated -- limitations on
 16 appropriations from account. (1) There is created a water
 17 development state special revenue account within the state
 18 special revenue fund established in 17-2-102.

19 (2) There shall be paid into the water development
 20 state special revenue account:

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

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

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

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

8 (e) any fees or charges collected by the department
 9 pursuant to 85-1-616 for the servicing of loans, including
 10 arrangements for obtaining security interests; and

11 (f) all interest income earned on proceeds of water
 12 development bonds.

13 (3) Appropriations may be made from the water
 14 development state special revenue account for the following
 15 purposes and subject to the following conditions:

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

24 (b) An amount less than or equal to that paid into the
 25 account from the resource indemnity trust account plus any

1 excess from subsection (3)(a) and only that amount may be
2 appropriated from the account for:

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

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

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

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

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

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

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

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

24 (c) An amount less than or equal to that paid into the
25 account from the sources provided for in (c) through ~~(e)~~ (f)

1 of subsection (2) and only that amount may be appropriated
2 from the account for loans and grants for water development
3 projects and activities; for administrative expenses,
4 including but not limited to the salaries and expenses of
5 personnel, equipment, and office space; for the servicing of
6 loans, including arrangements for obtaining security
7 interests; and for other necessities incurred in
8 administering the loans and grants."

9 Section 11. Section 85-1-605, MCA, is amended to read:

10 "85-1-605. Grants, loans, and bonds for state and
11 local government assistance. (1) The department may
12 recommend to the legislature that grants and loans be made
13 from coal severance tax proceeds deposited in the water
14 development state special revenue account, that loans be
15 made from water development bond proceeds deposited in the
16 water development account, and that coal severance tax bonds
17 be authorized pursuant to Title 17, chapter 5, part 7, to
18 provide financial assistance to a department, agency, board,
19 commission, or other division of state government or to a
20 city, county, or other political subdivision or local
21 government body of the state. The legislature may approve by
22 appropriation or other appropriate means those grants and
23 loans it finds consistent with the policies and purposes of
24 the program.

25 (2) In addition to implementing those projects

1 approved by the legislature, the department may request up
 2 to 10% of the funds available for grants from the water
 3 development special revenue account in any biennium to be
 4 used for emergencies. These emergency projects must be
 5 approved by the department and be defined as those projects
 6 which, if delayed until legislative approval can be
 7 obtained, will cause substantial damages or legal liability
 8 to the project sponsor. In allocating such funds, the
 9 department shall ~~consult with~~ INFORM the legislative finance
 10 committee of the legislature.

11 ~~(2)~~(3) The grants and loans provided for by this
 12 section may be made for the purchase, lease, development, or
 13 construction of water development projects and activities
 14 for the conservation, management, use, development, or
 15 protection of the water and related agricultural, land,
 16 fish, wildlife, and water recreation resources in the state;
 17 for the purpose of feasibility and design studies for such
 18 projects; for development of plans for and the
 19 rehabilitation, expansion, and modification of water
 20 development projects; for other water development projects
 21 and activities that will enhance the water resources of the
 22 state; and for similar purposes approved by the
 23 legislature."

24 Section 12. Section 85-1-610, MCA, is amended to read:
 25 "85-1-610. Evaluation of grants and loans to private

1 persons. The department shall consider the following
 2 criteria and preferences in evaluating applications and
 3 selecting the recipients of grants and loans for water
 4 development projects and activities that are eligible for
 5 funding under 85-1-609:

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

8 (2) A water development project or activity that will
 9 be used as part of a family farm shall be given preference.
 10 A family farm is one devoted primarily to agriculture under
 11 the ownership and operation of a resident Montana family.

12 (3) A water development project or activity that will
 13 utilize or develop water reserved under 85-2-316 shall be
 14 given preference. An activity includes all necessary work
 15 associated with a project, beginning with application
 16 preparation through the implementation of a water
 17 reservation by a qualified state applicant.

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

22 (5) The extent to which the water development project
 23 or activity will fully utilize water resources and promote
 24 the conservation and efficient use of the water resource
 25 shall be evaluated and considered.

1 (6) Projects or activities that could not be
2 accomplished without the assistance of a loan or grant shall
3 be given preference.

4 (7) The department shall give due consideration to any
5 other factor that, in the department's judgment, is
6 important to the evaluation of the water development project
7 or activity in light of the purposes, policies, and
8 objectives of the water development program."

9 Section 13. Section 85-1-617, MCA, is amended to read:

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

20 (2) Each series of water development bonds may be
21 issued by the board of examiners, upon request of the board
22 of natural resources and conservation, at public or private
23 sale, in such denominations and forms, whether payable to
24 bearer with attached interest coupons or registered as to
25 principal or as to both principal and interest, with such

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

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

1 they are authorized to be issued.

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

13 (5) There is created a water development account
14 within the state special revenue fund established in
15 17-2-102.

16 (6) All proceeds of bonds or notes issued under this
17 section, other than refunding bonds, must be deposited in
18 the water development account established in subsection (5),
19 except that any principal and accrued interest received in
20 repayment of a loan made from the proceeds of bonds issued
21 under this section must be deposited in the water
22 development state special revenue account pursuant to
23 85-1-604. All proceeds of refunding bonds must be deposited
24 in the water development debt service fund and applied to
25 the payment and redemption of outstanding bonds issued under

1 this section as directed by the board, whether at maturity
2 or on any earlier date on which they may be prepaid
3 according to their terms.

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

7 Section 14. Section 85-1-619, MCA, is amended to read:
8 "85-1-619. Debt service fund -- pledge and
9 administration of sufficient balance. (1) The legislature
10 may levy, impose, assess, and pledge and appropriate to the
11 water development debt service fund any tax, charge, fee,
12 rental, or other income from any designated source. The
13 state reserves the right to modify from time to time the
14 nature and amount of special taxes and other revenues
15 pledged and appropriated to the water development debt
16 service fund, provided that the aggregate resources so
17 pledged and appropriated are determined by the legislature
18 to be sufficient for the prompt and full payment of the
19 principal of and interest and redemption premiums when due
20 on all bonds payable from that fund and provided that the
21 pledge of the full faith and credit and taxing powers of the
22 state for the security of all such bonds shall be and remain
23 irrevocable until they are fully paid.

24 (2) Money in the water development debt service fund
25 must be used first to pay interest, principal, and

1 redemption premiums when due and payable with respect to
 2 water development bonds; ~~second, and for bonds issued prior~~
 3 ~~to 1985, to accumulate a reserve for the further security of~~
 4 ~~such payments, to the amount required each month to meet~~
 5 ~~those payments due within 12 months thereafter, and third,~~
 6 ~~to restore the reserve to this amount after each payment.~~

7 (3) After the reserve provided for in subsection (2)
 8 for bonds issued prior to 1985 has been accumulated in the
 9 water development debt service fund, money at any time
 10 received in the water development debt service fund in
 11 excess of that amount must be transferred by the treasurer
 12 to the water development state special revenue account. ~~If~~
 13 ~~the balance on hand at any time in the water development~~
 14 ~~debt service fund is not sufficient to accumulate required~~
 15 ~~reserves under subsection (2) and is not restored to the~~
 16 ~~required amount within 3 months thereafter from funds~~
 17 ~~specifically pledged and appropriated to the water~~
 18 ~~development debt service fund, the treasurer in accordance~~
 19 ~~with the pledge of the full faith and credit and taxing~~
 20 ~~powers of the state shall transfer an amount sufficient to~~
 21 ~~restore the required balance from the general fund to the~~
 22 ~~water development debt service fund."~~

23 Section 15. Section 90-2-121, MCA, is amended to read:

24 "90-2-121. Issuing bonds. (1) Within the limits
 25 authorized by 90-2-127 and within the further limitations in

1 this section, the board of examiners may issue and sell
 2 bonds of the state in such manner as it considers necessary
 3 and proper to finance the renewable resource development
 4 program. The full faith and credit and taxing powers of the
 5 state shall be pledged for the prompt and full payment of
 6 all bonds so issued and interest and redemption premiums
 7 payable thereon according to their terms.

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

25 (3) In the issuance of each series of such bonds the

1 interest rates and the maturities and any mandatory
 2 redemption provisions thereof shall be established in such
 3 manner that the funds then specifically pledged and
 4 appropriated by law to the debt service fund will in the
 5 judgment of the board be received in an amount sufficient in
 6 each year to pay all principal, redemption premiums, and
 7 interest due and payable in that year with respect to that
 8 and all prior series of such bonds, except outstanding bonds
 9 as to which the obligation of the state has been discharged
 10 by the deposit of funds or securities sufficient for their
 11 payment in accordance with the terms of the resolutions by
 12 which they are authorized to be issued.

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

24 (5) All proceeds of bonds issued hereunder and
 25 interest earned on such proceeds, other than refunding

1 bonds, shall be deposited in the renewable resource
 2 development account,~~---except-that-any-principal-and-accrued~~
 3 ~~interest-received-in-repayment-of-the-loans-provided-for--in~~
 4 ~~this--part-shall-be-deposited-in-the-debt-service-fund.~~ All
 5 proceeds of refunding bonds shall be deposited in the debt
 6 service fund and applied to the payment and redemption of
 7 outstanding bonds issued hereunder as directed by the board,
 8 whether at maturity or on any previous date on which they
 9 may be prepaid according to their terms."

10 Section 16. Section 90-2-123, MCA, is amended to read:
 11 "90-2-123. Debt service fund. (1) The state may by
 12 enactment of the legislature or the people levy, impose,
 13 assess, and pledge and appropriate to the debt service fund
 14 any tax, charge, fee, rental, or other income from any
 15 designated source. The state reserves the right to modify
 16 from time to time the nature and amount of special taxes and
 17 other revenues pledged and appropriated to the debt service
 18 fund, provided that the aggregate resources so pledged and
 19 appropriated are determined by the legislature to be
 20 sufficient for the prompt and full payment of the principal
 21 of and interest and redemption premiums when due on all
 22 bonds payable from that fund, and provided that the pledge
 23 of the full faith and credit and taxing powers of the state
 24 for the security of all such bonds shall be and remain
 25 irrevocable until they are fully paid.

1 (2) Money in the debt service fund shall be used first
 2 to pay interest, principal, and redemption premiums when due
 3 and payable with respect to renewable resource development
 4 bonds; ~~second--to--accumulate--a--reserve--for--the--further~~
 5 ~~security-of-such-payments; to the amount required each month~~
 6 ~~to--meet--those--payments--due--within--12--months--thereafter; and~~
 7 ~~third--to--restore--the--reserve--to--this--amount--after--each~~
 8 ~~payment.~~

9 (3) ~~After--the--reserve--provided--for--in--subsection--(2)~~
 10 ~~above--is--in--the--debt--service--fund; money Money at any time~~
 11 ~~received in the debt service fund in excess of that the~~
 12 ~~amount required by subsection (2) shall be transferred by~~
 13 ~~the treasurer to the renewable resource development account.~~
 14 ~~If--the--balance--at--any--time--on--hand--in--the--debt--service--fund~~
 15 ~~is--not--sufficient--for--compliance--with--subsection--(2)--and--is~~
 16 ~~not---restored--to--the--required--amount--within--3--months~~
 17 ~~thereafter--from--funds--specifically--pledged--and--appropriated~~
 18 ~~to--the--debt--service--fund; the--treasurer--shall--transfer~~
 19 ~~thereto--from--the--general--fund--an--amount--sufficient--to~~
 20 ~~restore--the--required--balance."~~

21 Section 17. Section 90-2-125, MCA, is amended to read:
 22 "90-2-125. Renewable resource development account. The
 23 state may by enactment of the legislature or the people
 24 levy, impose, assess, and pledge and appropriate to the
 25 renewable resource development account any tax, charge, fee,

1 rental, or other income from any source, including but not
 2 limited to renewable resource development bond proceeds,
 3 interest earned on the bond proceeds, and any principal and
 4 accrued interest received in repayment of a loan made from
 5 the proceeds of bonds issued under 90-2-121."

6 NEW SECTION. Section 18. Remedial character. Section
 7 1 of this act is remedial in character, and nothing therein
 8 may be considered to imply that authority for the taking of
 9 any action therein expressly authorized did not previously
 10 exist.

11 NEW SECTION. Section 19. Codification instruction.
 12 Section 8 is intended to be codified as an integral part of
 13 Title 17, chapter 5, part 7, and the provisions of Title 17,
 14 chapter 5, part 7, apply to section 8.

15 NEW SECTION. Section 20. Applicability. Section 10
 16 applies retroactively, within the meaning of 1-2-109, to all
 17 occurrences after July 1, 1981.

18 NEW SECTION. Section 21. Effective date. This act is
 19 effective on passage and approval.

-End-

1 SENATE BILL NO. 283

2 INTRODUCED BY GALT, NEUMAN

3 BY REQUEST OF THE DEPARTMENT

4 OF NATURAL RESOURCES AND CONSERVATION

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 BONDING PROGRAMS OF THE DEPARTMENT OF NATURAL RESOURCES AND
8 CONSERVATION; TO GENERALLY REVISE AND CLARIFY THE LAWS
9 RELATING TO THE WATER DEVELOPMENT PROGRAM; TO AUTHORIZE
10 COUNTY WATER OR SEWER DISTRICTS, RURAL SPECIAL IMPROVEMENT
11 DISTRICTS, AND THE BOARD OF EXAMINERS TO ISSUE TEMPORARY
12 OBLIGATIONS IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO
13 GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE
14 RENEWABLE RESOURCE DEVELOPMENT PROGRAM TO MAKE IT COMPATIBLE
15 WITH THE WATER DEVELOPMENT PROGRAM; AMENDING SECTIONS
16 7-7-109, 17-5-703, 17-5-711, 17-5-713 THROUGH 17-5-715,
17 17-5-718, 85-1-332, 85-1-604, 85-1-605, 85-1-610, 85-1-617,
18 85-1-619, 90-2-121, 90-2-123, AND 90-2-125, MCA; AND
19 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
20 APPLICABILITY DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 Section 1. Section 7-7-109, MCA, is amended to read:

24 "7-7-109. Sale of notes in anticipation of federal or
25 state revenue. (1) As used in this section, the following

1 definitions apply:

2 (a) "Bonds" means bonds, notes, warrants, debentures,
3 certificates of indebtedness, and all instruments or
4 obligations evidencing or representing indebtedness, or
5 evidencing or representing the borrowing of money, or
6 evidencing or representing a charge, lien, or encumbrance on
7 specific revenues, special assessments, income, or property
8 of a political subdivision, including all instruments or
9 obligations payable from a special fund.

10 (b) "Political subdivision" means a county, city,
11 town, school district, irrigation district, rural special
12 improvement district, special improvement district, county
13 water or sewer district, or any other political subdivision
14 of the state, but does not include the state or any board,
15 agency, or commission of the state.

16 (c) "Governing body" means the board, council,
17 commission, or other body charged with the general control
18 of the issuance of bonds of a political subdivision.

19 (2) When all conditions exist precedent to the
20 offering for sale of bonds of a political subdivision in any
21 amount and for any purpose authorized by law and the
22 political subdivision has applied for a grant or loan of
23 state or federal funds to aid in payment of costs incurred
24 or to be incurred for the authorized purpose, its governing
25 body may by resolution issue and sell notes in anticipation

1 of the receipt of the grant or loan, in an amount not
2 exceeding the total amount of bonds authorized and maturing
3 within not more than 3 years from the date such notes are
4 issued.

5 (3) The proceeds of the grant or loan, when received,
6 shall be credited to the debt service fund for the notes as
7 may be needed for their payment, with interest, when due.

8 (4) Any amount of the notes which cannot be paid at
9 maturity from the proceeds of the grant or loan or from any
10 other funds appropriated by the governing body for the
11 purpose shall be paid from the proceeds of bonds to be
12 issued and sold before the maturity date, or if sufficient
13 funds are not available for payment in full of the notes at
14 maturity, those bondholders may, IN EXCHANGE, require the
15 issuance, ~~in exchange,~~ of LONG-TERM bonds bearing ~~interest~~
16 ~~at the maximum rate permitted by law.~~ The bonds so issued
17 are secured and subject to the terms and conditions provided
18 by the law authorizing their issuance. Notes and bonds may
19 be issued as provided in this section regardless of the
20 amount authorized if the amount which may legally be issued
21 is less than the commitment for which the grant or loan is
22 made. Before the notes or bonds are issued, the political
23 subdivision must receive a written commitment for a grant or
24 loan in an amount equal to the remaining estimated costs and
25 must by resolution provide for the fulfillment of the

1 conditions of the commitment."

2 Section 2. Section 17-5-703, MCA, is amended to read:

3 "17-5-703. Coal severance tax trust funds. (1) The
4 trust established under Article IX, section 5, of the
5 Montana constitution shall be composed of the following
6 funds:

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

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

11 (c) a coal severance tax income fund.

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

19 Section 3. Section 17-5-711, MCA, is amended to read:

20 "17-5-711. Trust indenture. In the discretion of the
21 board of examiners, a series of ~~coal-severance-tax bonds or~~
22 notes issued under this part may be secured by a trust
23 indenture by and between the board of examiners and a
24 trustee, which may be any trust company or bank having the
25 powers of a trust company within or outside of the state.

1 Each trust indenture or an executed counterpart thereof
 2 shall be filed in the office of the secretary of state of
 3 Montana. The filing of a trust indenture or an executed
 4 counterpart thereof in the office of the county clerk of the
 5 county in which the property covered by the trust indenture
 6 is located is constructive notice of its contents to all
 7 persons from the time of the filing, and the recording of
 8 the trust indenture or its contents is not necessary."

9 Section 4. Section 17-5-713, MCA, is amended to read:

10 "17-5-713. Personal liability -- suit to compel
 11 performance. (1) The members of the board of examiners and
 12 officers and employees of the departments, boards, or
 13 agencies of state government are not personally liable or
 14 accountable by reason of the issuance of or on any coal
 15 severance tax bond or bond anticipation note issued by the
 16 board of examiners.

17 (2) Any holder of coal severance tax bonds or any
 18 person or officer being a party in interest, subject to any
 19 applicable coal severance tax agreements or trust
 20 indentures, may sue to enforce and compel the performance of
 21 the coal severance tax bond provisions as set out in this
 22 part."

23 Section 5. Section 17-5-714, MCA, is amended to read:

24 "17-5-714. Negotiability of bonds. ~~Coal-severance--tax~~
 25 bonds Bonds or notes issued under this part are negotiable

1 instruments under the Uniform Commercial Code, subject only
 2 to the provisions for registration of bonds."

3 Section 6. Section 17-5-715, MCA, is amended to read:

4 "17-5-715. Signatures of board members. In the case
 5 any member of the board of examiners whose signature appears
 6 on ~~coal-severance-tax~~ bonds, notes, or coupons issued under
 7 this part ceases to be a member before the delivery of the
 8 bonds or notes, his signature is nevertheless valid and
 9 sufficient for all purposes, the same as if the member had
 10 remained in office until delivery."

11 Section 7. Section 17-5-718, MCA, is amended to read:

12 "17-5-718. Tax exemption of bonds -- legal
 13 investments. (1) All ~~coal--severance--tax~~ bonds or notes
 14 issued under this part, their transfer, and their income,
 15 including any profits made on their sale, are exempt from
 16 taxation by the state or any political subdivisions or other
 17 instrumentality of the state, excepting inheritance, estate,
 18 and gift taxes.

19 (2) ~~Coal-severance-tax-bonds~~ Bonds or notes issued
 20 under this part are legal investments for any person or
 21 board charged with investment of public funds and are
 22 acceptable as security for any deposit of public money."

23 NEW SECTION. Section 8. Bond anticipation notes --

24 when issued -- payment of principal and interest. (1) When
 25 the board of examiners has been authorized by the

1 legislature to issue and sell bonds under this part, it may,
 2 pending the issuance of the bonds, issue temporary notes in
 3 anticipation of the receipt of proceeds to be derived from
 4 the sale of the bonds. The notes are designated as "bond
 5 anticipation notes". The proceeds of the sale of the bond
 6 anticipation notes must be used only for the purposes for
 7 which the proceeds of the bonds could be used, including
 8 costs of issuance. If, prior to the issuance of the bonds,
 9 it becomes necessary to redeem outstanding notes, additional
 10 bond anticipation notes may be issued to redeem the
 11 outstanding notes. No renewal of any note may be issued
 12 after the sale of bonds in anticipation of which the
 13 original notes were issued. As much of the proceeds of the
 14 bonds, when issued, must be credited to the note debt
 15 service fund as may be needed for payment of the notes, with
 16 interest, when due.

17 (2) Bond anticipation notes or other short-term
 18 evidences of indebtedness maturing not more than 3 years
 19 after the date of issue may be issued from time to time as
 20 needed. Notes must be authorized by the board of examiners
 21 and contain such terms and details as may be provided by
 22 resolution of the board. Each resolution of the board of
 23 examiners authorizing notes must:

24 (a) describe the need for the proceeds of the notes to
 25 be issued; and

1 (b) specify:

2 (i) the principal amount of the notes or maximum
 3 principal amount of the notes that may be outstanding at any
 4 time;

5 (ii) the rate or rates of interest, the maximum rate of
 6 interest, or the interest rate formula (to be determined in
 7 the manner specified in the resolution authorizing the
 8 notes) of such notes; and

9 (iii) the maturity date or maximum maturity date of the
 10 notes.

11 (3) Subject to the limitations contained in this
 12 section and the standards and limitations prescribed in the
 13 authorizing resolution, the board in its discretion may
 14 provide for notes to be issued and sold, in whole or in
 15 part, from time to time. The board may delegate to the state
 16 treasurer the power to determine the time or times of sale,
 17 the manner of sale, the amounts, the maturities, the rate or
 18 rates of interest, and such other terms and details of the
 19 notes as may be considered appropriate by the board or, if
 20 there has been such a delegation, the state treasurer. The
 21 board may, in its discretion but subject to the limitations
 22 contained in this section, also provide in the resolution
 23 authorizing the issuance of notes for:

24 (a) the employment of one or more persons or firms to
 25 assist the board in the sale of the notes;

1 (b) the appointment of one or more banks or trust
2 companies, either within or outside of the state, as
3 depository for safekeeping and as agent for the delivery and
4 payment of the notes;

5 (c) the refunding of the notes, from time to time,
6 without further action by the board, unless the board
7 revokes such authority to refund; and

8 (d) such other terms and conditions as the board may
9 consider appropriate.

10 (4) In connection with the issuance and sale of notes,
11 the board may arrange for lines of credit with any bank,
12 firm, or person for the purpose of providing an additional
13 source of repayment for notes issued pursuant to this
14 section. Amounts drawn on such lines of credit may be
15 evidenced by negotiable or nonnegotiable notes or other
16 evidences of indebtedness, containing such terms and
17 conditions as the board may authorize in the resolution
18 approving them.

19 Section 9. Section 85-1-332, MCA, is amended to read:

20 "85-1-332. Disposition of moneys collected. (1) For
21 the purpose of carrying out the provisions of this chapter
22 and such other water resource authority, powers, and duties
23 as are conferred upon the department by law, the following
24 moneys shall be deposited in the water development state
25 special revenue account created by 85-1-604:

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

3 ~~(2)(a) all gifts, donations, bequests, and devises~~
4 ~~made to the state therefor and proceeds of the sale thereof;~~
5 ~~and the proceeds of the sale or redemption of and the~~
6 ~~interest earned by the securities purchased or acquired with~~
7 ~~money received under this subsection;~~

8 ~~(3)(b) all reimbursements for money advanced for the~~
9 ~~payment of the assessments upon state, school-granted, and~~
10 ~~other public lands for the improvement thereof as provided~~
11 ~~by law;~~

12 ~~(4)(c) all reimbursements for money advanced for the~~
13 ~~investigation and survey of reclamation, electrification,~~
14 ~~and rehabilitation systems or projects proposed to be~~
15 ~~financed in whole or in part by the reclamation of lands and~~
16 ~~diking, drainage, and diking and drainage dams for~~
17 ~~conservation of water to be used in reclamation of land or~~
18 ~~stock reservoirs or for the construction, maintenance, and~~
19 ~~operation of plants or projects for the manufacture or~~
20 ~~distribution of electric current;~~

21 ~~(5)(d) all reimbursements for costs of surveys and~~
22 ~~investigations for moneys advanced to counties, cities, or~~
23 ~~towns or their proportion of the cost thereof or from any~~
24 ~~other sources;~~

25 ~~(6)(e) except as otherwise provided by law, all income~~

1 or profit and revenue of the works and all money received
 2 from the sale or disposal of water, use of water, water
 3 storage, or other service and from the operation, lease,
 4 sale, or other disposition of the works, property, and
 5 facilities acquired under this chapter; and

6 ~~(7)~~(f) except as otherwise provided by law, all sums
 7 received by the department for the use of electricity in
 8 excess of the maintenance and operation of the
 9 electrification system or project.

10 (2) All sums of money donated or contributed by the
 11 federal government or any department or agency thereof shall
 12 be deposited in a federal special revenue account."

13 Section 10. Section 85-1-604, MCA, is amended to read:

14 "85-1-604. Water development state special revenue
 15 account created -- revenues allocated -- limitations on
 16 appropriations from account. (1) There is created a water
 17 development state special revenue account within the state
 18 special revenue fund established in 17-2-102.

19 (2) There shall be paid into the water development
 20 state special revenue account:

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

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

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

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

8 (e) any fees or charges collected by the department
 9 pursuant to 85-1-616 for the servicing of loans, including
 10 arrangements for obtaining security interests; and

11 (f) all interest income earned on proceeds of water
 12 development bonds.

13 (3) Appropriations may be made from the water
 14 development state special revenue account for the following
 15 purposes and subject to the following conditions:

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

24 (b) An amount less than or equal to that paid into the
 25 account from the resource indemnity trust account plus any

1 excess from subsection (3)(a) and only that amount may be
2 appropriated from the account for:

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

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

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

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

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

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

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

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

24 (c) An amount less than or equal to that paid into the
25 account from the sources provided for in (c) through ~~(e)~~ (f)

1 of subsection (2) and only that amount may be appropriated
2 from the account for loans and grants for water development
3 projects and activities; for administrative expenses,
4 including but not limited to the salaries and expenses of
5 personnel, equipment, and office space; for the servicing of
6 loans, including arrangements for obtaining security
7 interests; and for other necessities incurred in
8 administering the loans and grants."

9 Section 11. Section 85-1-605, MCA, is amended to read:

10 "85-1-605. Grants, loans, and bonds for state and
11 local government assistance. (1) The department may
12 recommend to the legislature that grants and loans be made
13 from coal severance tax proceeds deposited in the water
14 development state special revenue account, that loans be
15 made from water development bond proceeds deposited in the
16 water development account, and that coal severance tax bonds
17 be authorized pursuant to Title 17, chapter 5, part 7, to
18 provide financial assistance to a department, agency, board,
19 commission, or other division of state government or to a
20 city, county, or other political subdivision or local
21 government body of the state. The legislature may approve by
22 appropriation or other appropriate means those grants and
23 loans it finds consistent with the policies and purposes of
24 the program.

25 (2) In addition to implementing those projects

1 approved by the legislature, the department may request up
 2 to 10% of the funds available for grants from the water
 3 development special revenue account in any biennium to be
 4 used for emergencies. These emergency projects must be
 5 approved by the department and be defined as those projects
 6 which, if delayed until legislative approval can be
 7 obtained, will cause substantial damages or legal liability
 8 to the project sponsor. In allocating such funds, the
 9 department shall ~~consult with~~ INFORM the legislative finance
 10 committee of the legislature.

11 ~~{2}~~(3) The grants and loans provided for by this
 12 section may be made for the purchase, lease, development, or
 13 construction of water development projects and activities
 14 for the conservation, management, use, development, or
 15 protection of the water and related agricultural, land,
 16 fish, wildlife, and water recreation resources in the state;
 17 for the purpose of feasibility and design studies for such
 18 projects; for development of plans for and the
 19 rehabilitation, expansion, and modification of water
 20 development projects; for other water development projects
 21 and activities that will enhance the water resources of the
 22 state; and for similar purposes approved by the
 23 legislature."

24 Section 12. Section 85-1-610, MCA, is amended to read:

25 "85-1-610. Evaluation of grants and loans to private

1 persons. The department shall consider the following
 2 criteria and preferences in evaluating applications and
 3 selecting the recipients of grants and loans for water
 4 development projects and activities that are eligible for
 5 funding under 85-1-609:

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

8 (2) A water development project or activity that will
 9 be used as part of a family farm shall be given preference.
 10 A family farm is one devoted primarily to agriculture under
 11 the ownership and operation of a resident Montana family.

12 (3) A water development project or activity that will
 13 utilize or develop water reserved under 85-2-316 shall be
 14 given preference. An activity includes all necessary work
 15 associated with a project, beginning with application
 16 preparation through the implementation of a water
 17 reservation by a qualified state applicant.

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

22 (5) The extent to which the water development project
 23 or activity will fully utilize water resources and promote
 24 the conservation and efficient use of the water resource
 25 shall be evaluated and considered.

1 (6) Projects or activities that could not be
2 accomplished without the assistance of a loan or grant shall
3 be given preference.

4 (7) The department shall give due consideration to any
5 other factor that, in the department's judgment, is
6 important to the evaluation of the water development project
7 or activity in light of the purposes, policies, and
8 objectives of the water development program."

9 Section 13. Section 85-1-617, MCA, is amended to read:

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

20 (2) Each series of water development bonds may be
21 issued by the board of examiners, upon request of the board
22 of natural resources and conservation, at public or private
23 sale, in such denominations and forms, whether payable to
24 bearer with attached interest coupons or registered as to
25 principal or as to both principal and interest, with such

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

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

1 they are authorized to be issued.

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

13 (5) There is created a water development account
14 within the state special revenue fund established in
15 17-2-102.

16 (6) All proceeds of bonds or notes issued under this
17 section, other than refunding bonds, must be deposited in
18 the water development account established in subsection (5),
19 except that any principal and accrued interest received in
20 repayment of a loan made from the proceeds of bonds issued
21 under this section must be deposited in the water
22 development state special revenue account pursuant to
23 85-1-604. All proceeds of refunding bonds must be deposited
24 in the water development debt service fund and applied to
25 the payment and redemption of outstanding bonds issued under

1 this section as directed by the board, whether at maturity
2 or on any earlier date on which they may be prepaid
3 according to their terms.

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

7 Section 14. Section 85-1-619, MCA, is amended to read:
8 "85-1-619. Debt service fund -- pledge and
9 administration of sufficient balance. (1) The legislature
10 may levy, impose, assess, and pledge and appropriate to the
11 water development debt service fund any tax, charge, fee,
12 rental, or other income from any designated source. The
13 state reserves the right to modify from time to time the
14 nature and amount of special taxes and other revenues
15 pledged and appropriated to the water development debt
16 service fund, provided that the aggregate resources so
17 pledged and appropriated are determined by the legislature
18 to be sufficient for the prompt and full payment of the
19 principal of and interest and redemption premiums when due
20 on all bonds payable from that fund and provided that the
21 pledge of the full faith and credit and taxing powers of the
22 state for the security of all such bonds shall be and remain
23 irrevocable until they are fully paid.

24 (2) Money in the water development debt service fund
25 must be used ~~first~~ to pay interest, principal, and

1 redemption premiums when due and payable with respect to
 2 water development bonds; ~~second, and for bonds issued prior~~
 3 ~~to 1985,~~ to accumulate a reserve for the further security of
 4 such payments; ~~to the amount required each month to meet~~
 5 ~~those payments due within 12 months thereafter; and third,~~
 6 ~~to restore the reserve to this amount after each payment.~~

7 (3) After the reserve provided for in subsection (2)
 8 for bonds issued prior to 1985 has been accumulated in the
 9 water development debt service fund, money at any time
 10 received in the water development debt service fund in
 11 excess of that amount must be transferred by the treasurer
 12 to the water development state special revenue account. ~~if~~
 13 ~~the balance on hand at any time in the water development~~
 14 ~~debt service fund is not sufficient to accumulate required~~
 15 ~~reserves under subsection (2) and is not restored to the~~
 16 ~~required amount within 3 months thereafter from funds~~
 17 ~~specifically pledged and appropriated to the water~~
 18 ~~development debt service fund, the treasurer in accordance~~
 19 ~~with the pledge of the full faith and credit and taxing~~
 20 ~~powers of the state shall transfer an amount sufficient to~~
 21 ~~restore the required balance from the general fund to the~~
 22 ~~water development debt service fund."~~

23 Section 15. Section 90-2-121, MCA, is amended to read:
 24 "90-2-121. Issuing bonds. (1) Within the limits
 25 authorized by 90-2-127 and within the further limitations in

1 this section, the board of examiners may issue and sell
 2 bonds of the state in such manner as it considers necessary
 3 and proper to finance the renewable resource development
 4 program. The full faith and credit and taxing powers of the
 5 state shall be pledged for the prompt and full payment of
 6 all bonds so issued and interest and redemption premiums
 7 payable thereon according to their terms.

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

25 (3) In the issuance of each series of such bonds the

1 interest rates and the maturities and any mandatory
 2 redemption provisions thereof shall be established in such
 3 manner that the funds then specifically pledged and
 4 appropriated by law to the debt service fund will in the
 5 judgment of the board be received in an amount sufficient in
 6 each year to pay all principal, redemption premiums, and
 7 interest due and payable in that year with respect to that
 8 and all prior series of such bonds, except outstanding bonds
 9 as to which the obligation of the state has been discharged
 10 by the deposit of funds or securities sufficient for their
 11 payment in accordance with the terms of the resolutions by
 12 which they are authorized to be issued.

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

24 (5) All proceeds of bonds issued hereunder and
 25 interest earned on such proceeds, other than refunding

1 bonds, shall be deposited in the renewable resource
 2 development account, ~~except that any principal and accrued~~
 3 ~~interest received in repayment of the loans provided for in~~
 4 ~~this part shall be deposited in the debt service fund.~~ All
 5 proceeds of refunding bonds shall be deposited in the debt
 6 service fund and applied to the payment and redemption of
 7 outstanding bonds issued hereunder as directed by the board,
 8 whether at maturity or on any previous date on which they
 9 may be prepaid according to their terms."

10 Section 16. Section 90-2-123, MCA, is amended to read:

11 "90-2-123. Debt service fund. (1) The state may by
 12 enactment of the legislature or the people levy, impose,
 13 assess, and pledge and appropriate to the debt service fund
 14 any tax, charge, fee, rental, or other income from any
 15 designated source. The state reserves the right to modify
 16 from time to time the nature and amount of special taxes and
 17 other revenues pledged and appropriated to the debt service
 18 fund, provided that the aggregate resources so pledged and
 19 appropriated are determined by the legislature to be
 20 sufficient for the prompt and full payment of the principal
 21 of and interest and redemption premiums when due on all
 22 bonds payable from that fund, and provided that the pledge
 23 of the full faith and credit and taxing powers of the state
 24 for the security of all such bonds shall be and remain
 25 irrevocable until they are fully paid.

1 (2) Money in the debt service fund shall be used first
 2 to pay interest, principal, and redemption premiums when due
 3 and payable with respect to renewable resource development
 4 bonds; ~~second--to--accumulate--a--reserve--for--the--further~~
 5 ~~security-of-such-payments; to the amount required each month~~
 6 ~~to meet those payments due within 12 months thereafter; and~~
 7 ~~third to restore the reserve to this amount after each~~
 8 payment.

9 (3) ~~After the reserve provided for in subsection (2)~~
 10 ~~above is in the debt service fund, money~~ Money at any time
 11 received in the debt service fund in excess of that the
 12 amount required by subsection (2) shall be transferred by
 13 the treasurer to the renewable resource development account.
 14 ~~If the balance at any time on hand in the debt service fund~~
 15 ~~is not sufficient for compliance with subsection (2) and is~~
 16 ~~not restored to the required amount within 3 months~~
 17 ~~thereafter from funds specifically pledged and appropriated~~
 18 ~~to the debt service fund, the treasurer shall transfer~~
 19 ~~thereto from the general fund an amount sufficient to~~
 20 ~~restore the required balance."~~

21 Section 17. Section 90-2-125, MCA, is amended to read:

22 "90-2-125. Renewable resource development account. The
 23 state may by enactment of the legislature or the people
 24 levy, impose, assess, and pledge and appropriate to the
 25 renewable resource development account any tax, charge, fee,

1 rental, or other income from any source, including but not
 2 limited to renewable resource development bond proceeds,
 3 interest earned on the bond proceeds, and any principal and
 4 accrued interest received in repayment of a loan made from
 5 the proceeds of bonds issued under 90-2-121."

6 NEW SECTION. Section 18. Remedial character. Section
 7 1 of this act is remedial in character, and nothing therein
 8 may be considered to imply that authority for the taking of
 9 any action therein expressly authorized did not previously
 10 exist.

11 NEW SECTION. Section 19. Codification instruction.
 12 Section 8 is intended to be codified as an integral part of
 13 Title 17, chapter 5, part 7, and the provisions of Title 17,
 14 chapter 5, part 7, apply to section 8.

15 NEW SECTION. Section 20. Applicability. Section 10
 16 applies retroactively, within the meaning of 1-2-109, to all
 17 occurrences after July 1, 1981.

18 NEW SECTION. Section 21. Effective date. This act is
 19 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

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MARCH 22

19 85

HOUSE

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL 283

Bill No.

THIRD reading copy (BLUE)
color

AN ACT TO REVISE THE BONDING PROGRAMS OF THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION

Respectfully report as follows: That SENATE BILL 283

Bill No.

BE AMENDED AS FOLLOWS:

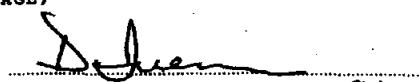
1) Title, line 18:
Following: "85-1-619,"
Insert: "85-1-623,"

2) Page 21.
Following: line 22
Insert: "Section 15. Section 85-1-623, MCA, is amended to read: "85-1-623. Authorization of water development bonds. The legislature, through the enactment of this section by a two-thirds vote of the members of each house, authorizes the creation of state debt in an amount not to exceed \$5 \$10 million and the issuance and sale of water development bonds in this amount for the purpose of providing funds appropriated to the water development account for loans as provided in the water development program."

Renumber; subsequent sections.

(CONTINUED ON FOLLOWING PAGE)

XCKPASE


Chairman.

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March 22

85

3) Page 26.

Following: line 17

Insert: "NEW SECTION. Section 22. Requirements for approval of state debt -- severability. Because section 15 authorizes the creation of state debt, a vote of two-thirds of the members of each house is required for enactment of section 15. If section 15 is not approved by the required vote, section 15 is void, and the remaining sections of this act are valid and remain in effect in all valid applications upon enactment."

Renumber; subsequent section.

AND AS AMENDED,

BE CONCURRED IN



Rep. DENNIS IVERSON,

Chairman.

1 SENATE BILL NO. 283
 2 INTRODUCED BY GALT, NEUMAN
 3 BY REQUEST OF THE DEPARTMENT
 4 OF NATURAL RESOURCES AND CONSERVATION
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 BONDING PROGRAMS OF THE DEPARTMENT OF NATURAL RESOURCES AND
 8 CONSERVATION; TO GENERALLY REVISE AND CLARIFY THE LAWS
 9 RELATING TO THE WATER DEVELOPMENT PROGRAM; TO AUTHORIZE
 10 COUNTY WATER OR SEWER DISTRICTS, RURAL SPECIAL IMPROVEMENT
 11 DISTRICTS, AND THE BOARD OF EXAMINERS TO ISSUE TEMPORARY
 12 OBLIGATIONS IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO
 13 GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE
 14 RENEWABLE RESOURCE DEVELOPMENT PROGRAM TO MAKE IT COMPATIBLE
 15 WITH THE WATER DEVELOPMENT PROGRAM; AMENDING SECTIONS
 16 7-7-109, 17-5-703, 17-5-711, 17-5-713 THROUGH 17-5-715,
 17 17-5-718, 85-1-332, 85-1-604, 85-1-605, 85-1-610, 85-1-617,
 18 85-1-619, 85-1-623, 90-2-121, 90-2-123, AND 90-2-125, MCA;
 19 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
 20 APPLICABILITY DATE."
 21

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

23 Section 1. Section 7-7-109, MCA, is amended to read:

24 "7-7-109. Sale of notes in anticipation of federal or
 25 state revenue. (1) As used in this section, the following

1 definitions apply:

2 (a) "Bonds" means bonds, notes, warrants, debentures,
 3 certificates of indebtedness, and all instruments or
 4 obligations evidencing or representing indebtedness, or
 5 evidencing or representing the borrowing of money, or
 6 evidencing or representing a charge, lien, or encumbrance on
 7 specific revenues, special assessments, income, or property
 8 of a political subdivision, including all instruments or
 9 obligations payable from a special fund.

10 (b) "Political subdivision" means a county, city,
 11 town, school district, irrigation district, rural special
 12 improvement district, special improvement district, county
 13 water or sewer district, or any other political subdivision
 14 of the state, but does not include the state or any board,
 15 agency, or commission of the state.

16 (c) "Governing body" means the board, council,
 17 commission, or other body charged with the general control
 18 of the issuance of bonds of a political subdivision.

19 (2) When all conditions exist precedent to the
 20 offering for sale of bonds of a political subdivision in any
 21 amount and for any purpose authorized by law and the
 22 political subdivision has applied for a grant or loan of
 23 state or federal funds to aid in payment of costs incurred
 24 or to be incurred for the authorized purpose, its governing
 25 body may by resolution issue and sell notes in anticipation

REFERENCE BILL

1 of the receipt of the grant or loan, in an amount not
2 exceeding the total amount of bonds authorized and maturing
3 within not more than 3 years from the date such notes are
4 issued.

5 (3) The proceeds of the grant or loan, when received,
6 shall be credited to the debt service fund for the notes as
7 may be needed for their payment, with interest, when due.

8 (4) Any amount of the notes which cannot be paid at
9 maturity from the proceeds of the grant or loan or from any
10 other funds appropriated by the governing body for the
11 purpose shall be paid from the proceeds of bonds to be
12 issued and sold before the maturity date, or if sufficient
13 funds are not available for payment in full of the notes at
14 maturity, those bondholders may, IN EXCHANGE, require the
15 issuance, ~~in exchange,~~ of LONG-TERM bonds ~~bearing interest~~
16 ~~at the maximum rate permitted by law.~~ The bonds so issued
17 are secured and subject to the terms and conditions provided
18 by the law authorizing their issuance. Notes and bonds may
19 be issued as provided in this section regardless of the
20 amount authorized if the amount which may legally be issued
21 is less than the commitment for which the grant or loan is
22 made. Before the notes or bonds are issued, the political
23 subdivision must receive a written commitment for a grant or
24 loan in an amount equal to the remaining estimated costs and
25 must by resolution provide for the fulfillment of the

1 conditions of the commitment."

2 Section 2. Section 17-5-703, MCA, is amended to read:

3 "17-5-703. Coal severance tax trust funds. (1) The
4 trust established under Article IX, section 5, of the
5 Montana constitution shall be composed of the following
6 funds:

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

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

11 (c) a coal severance tax income fund.

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

19 Section 3. Section 17-5-711, MCA, is amended to read:

20 "17-5-711. Trust indenture. In the discretion of the
21 board of examiners, a series of ~~coal severance tax~~ coal bonds or
22 notes issued under this part may be secured by a trust
23 indenture by and between the board of examiners and a
24 trustee, which may be any trust company or bank having the
25 powers of a trust company within or outside of the state.

1 Each trust indenture or an executed counterpart thereof
 2 shall be filed in the office of the secretary of state of
 3 Montana. The filing of a trust indenture or an executed
 4 counterpart thereof in the office of the county clerk of the
 5 county in which the property covered by the trust indenture
 6 is located is constructive notice of its contents to all
 7 persons from the time of the filing, and the recording of
 8 the trust indenture or its contents is not necessary."

9 Section 4. Section 17-5-713, MCA, is amended to read:
 10 "17-5-713. Personal liability -- suit to compel
 11 performance. (1) The members of the board of examiners and
 12 officers and employees of the departments, boards, or
 13 agencies of state government are not personally liable or
 14 accountable by reason of the issuance of or on any coal
 15 severance tax bond or bond anticipation note issued by the
 16 board of examiners.

17 (2) Any holder of coal severance tax bonds or any
 18 person or officer being a party in interest, subject to any
 19 applicable coal severance tax agreements or trust
 20 indentures, may sue to enforce and compel the performance of
 21 the coal severance tax bond provisions as set out in this
 22 part."

23 Section 5. Section 17-5-714, MCA, is amended to read:
 24 "17-5-714. Negotiability of bonds. ~~Coal-severance--tax~~
 25 ~~bonds~~ Bonds or notes issued under this part are negotiable

1 instruments under the Uniform Commercial Code, subject only
 2 to the provisions for registration of bonds."

3 Section 6. Section 17-5-715, MCA, is amended to read:
 4 "17-5-715. Signatures of board members. In the case
 5 any member of the board of examiners whose signature appears
 6 on ~~coal-severance-tax~~ bonds, notes, or coupons issued under
 7 this part ceases to be a member before the delivery of the
 8 bonds or notes, his signature is nevertheless valid and
 9 sufficient for all purposes, the same as if the member had
 10 remained in office until delivery."

11 Section 7. Section 17-5-718, MCA, is amended to read:
 12 "17-5-718. Tax exemption of bonds -- legal
 13 investments. (1) All ~~coal--severance--tax~~ bonds or notes
 14 issued under this part, their transfer, and their income,
 15 including any profits made on their sale, are exempt from
 16 taxation by the state or any political subdivisions or other
 17 instrumentality of the state, excepting inheritance, estate,
 18 and gift taxes.

19 (2) ~~Coal-severance-tax-bonds~~ Bonds or notes issued
 20 under this part are legal investments for any person or
 21 board charged with investment of public funds and are
 22 acceptable as security for any deposit of public money."

23 NEW SECTION. Section 8. Bond anticipation notes --
 24 when issued -- payment of principal and interest. (1) When
 25 the board of examiners has been authorized by the

1 legislature to issue and sell bonds under this part, it may,
 2 pending the issuance of the bonds, issue temporary notes in
 3 anticipation of the receipt of proceeds to be derived from
 4 the sale of the bonds. The notes are designated as "bond
 5 anticipation notes". The proceeds of the sale of the bond
 6 anticipation notes must be used only for the purposes for
 7 which the proceeds of the bonds could be used, including
 8 costs of issuance. If, prior to the issuance of the bonds,
 9 it becomes necessary to redeem outstanding notes, additional
 10 bond anticipation notes may be issued to redeem the
 11 outstanding notes. No renewal of any note may be issued
 12 after the sale of bonds in anticipation of which the
 13 original notes were issued. As much of the proceeds of the
 14 bonds, when issued, must be credited to the note debt
 15 service fund as may be needed for payment of the notes, with
 16 interest, when due.

17 (2) Bond anticipation notes or other short-term
 18 evidences of indebtedness maturing not more than 3 years
 19 after the date of issue may be issued from time to time as
 20 needed. Notes must be authorized by the board of examiners
 21 and contain such terms and details as may be provided by
 22 resolution of the board. Each resolution of the board of
 23 examiners authorizing notes must:

24 (a) describe the need for the proceeds of the notes to
 25 be issued; and

1 (b) specify:

2 (i) the principal amount of the notes or maximum
 3 principal amount of the notes that may be outstanding at any
 4 time;

5 (ii) the rate or rates of interest, the maximum rate of
 6 interest, or the interest rate formula (to be determined in
 7 the manner specified in the resolution authorizing the
 8 notes) of such notes; and

9 (iii) the maturity date or maximum maturity date of the
 10 notes.

11 (3) Subject to the limitations contained in this
 12 section and the standards and limitations prescribed in the
 13 authorizing resolution, the board in its discretion may
 14 provide for notes to be issued and sold, in whole or in
 15 part, from time to time. The board may delegate to the state
 16 treasurer the power to determine the time or times of sale,
 17 the manner of sale, the amounts, the maturities, the rate or
 18 rates of interest, and such other terms and details of the
 19 notes as may be considered appropriate by the board or, if
 20 there has been such a delegation, the state treasurer. The
 21 board may, in its discretion but subject to the limitations
 22 contained in this section, also provide in the resolution
 23 authorizing the issuance of notes for:

24 (a) the employment of one or more persons or firms to
 25 assist the board in the sale of the notes;

1 (b) the appointment of one or more banks or trust
2 companies, either within or outside of the state, as
3 depository for safekeeping and as agent for the delivery and
4 payment of the notes;

5 (c) the refunding of the notes, from time to time,
6 without further action by the board, unless the board
7 revokes such authority to refund; and

8 (d) such other terms and conditions as the board may
9 consider appropriate.

10 (4) In connection with the issuance and sale of notes,
11 the board may arrange for lines of credit with any bank,
12 firm, or person for the purpose of providing an additional
13 source of repayment for notes issued pursuant to this
14 section. Amounts drawn on such lines of credit may be
15 evidenced by negotiable or nonnegotiable notes or other
16 evidences of indebtedness, containing such terms and
17 conditions as the board may authorize in the resolution
18 approving them.

19 Section 9. Section 85-1-332, MCA, is amended to read:

20 "85-1-332. Disposition of moneys collected. (1) For
21 the purpose of carrying out the provisions of this chapter
22 and such other water resource authority, powers, and duties
23 as are conferred upon the department by law, the following
24 moneys shall be deposited in the water development state
25 special revenue account created by 85-1-604:

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

3 (2)(a) all gifts, donations, bequests, and devises
4 made to the state therefor and proceeds of the sale thereof;
5 and the proceeds of the sale or redemption of and the
6 interest earned by the securities purchased or acquired with
7 money received under this subsection;

8 (3)(b) all reimbursements for money advanced for the
9 payment of the assessments upon state, school-granted, and
10 other public lands for the improvement thereof as provided
11 by law;

12 (4)(c) all reimbursements for money advanced for the
13 investigation and survey of reclamation, electrification,
14 and rehabilitation systems or projects proposed to be
15 financed in whole or in part by the reclamation of lands and
16 diking, drainage, and diking and drainage dams for
17 conservation of water to be used in reclamation of land or
18 stock reservoirs or for the construction, maintenance, and
19 operation of plants or projects for the manufacture or
20 distribution of electric current;

21 (5)(d) all reimbursements for costs of surveys and
22 investigations for moneys advanced to counties, cities, or
23 towns or their proportion of the cost thereof or from any
24 other sources;

25 (6)(e) except as otherwise provided by law, all income

1 or profit and revenue of the works and all money received
 2 from the sale or disposal of water, use of water, water
 3 storage, or other service and from the operation, lease,
 4 sale, or other disposition of the works, property, and
 5 facilities acquired under this chapter; and

6 ~~(f)~~(f) except as otherwise provided by law, all sums
 7 received by the department for the use of electricity in
 8 excess of the maintenance and operation of the
 9 electrification system or project.

10 (2) All sums of money donated or contributed by the
 11 federal government or any department or agency thereof shall
 12 be deposited in a federal special revenue account."

13 Section 10. Section 85-1-604, MCA, is amended to read:

14 "85-1-604. Water development state special revenue
 15 account created -- revenues allocated -- limitations on
 16 appropriations from account. (1) There is created a water
 17 development state special revenue account within the state
 18 special revenue fund established in 17-2-102.

19 (2) There shall be paid into the water development
 20 state special revenue account:

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

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

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

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

8 (e) any fees or charges collected by the department
 9 pursuant to 85-1-616 for the servicing of loans, including
 10 arrangements for obtaining security interests; and

11 (f) all interest income earned on proceeds of water
 12 development bonds.

13 (3) Appropriations may be made from the water
 14 development state special revenue account for the following
 15 purposes and subject to the following conditions:

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

24 (b) An amount less than or equal to that paid into the
 25 account from the resource indemnity trust account plus any

1 excess from subsection (3)(a) and only that amount may be
2 appropriated from the account for:

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

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

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

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

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

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

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

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

24 (c) An amount less than or equal to that paid into the
25 account from the sources provided for in (c) through (e) (f)

1 of subsection (2) and only that amount may be appropriated
2 from the account for loans and grants for water development
3 projects and activities; for administrative expenses,
4 including but not limited to the salaries and expenses of
5 personnel, equipment, and office space; for the servicing of
6 loans, including arrangements for obtaining security
7 interests; and for other necessities incurred in
8 administering the loans and grants."

9 Section 11. Section 85-1-605, MCA, is amended to read:
10 "85-1-605. Grants, loans, and bonds for state and
11 local government assistance. (1) The department may
12 recommend to the legislature that grants and loans be made
13 from coal severance tax proceeds deposited in the water
14 development state special revenue account, that loans be
15 made from water development bond proceeds deposited in the
16 water development account, and that coal severance tax bonds
17 be authorized pursuant to Title 17, chapter 5, part 7, to
18 provide financial assistance to a department, agency, board,
19 commission, or other division of state government or to a
20 city, county, or other political subdivision or local
21 government body of the state. The legislature may approve by
22 appropriation or other appropriate means those grants and
23 loans it finds consistent with the policies and purposes of
24 the program.

25 (2) In addition to implementing those projects

1 approved by the legislature, the department may request up
 2 to 10% of the funds available for grants from the water
 3 development special revenue account in any biennium to be
 4 used for emergencies. These emergency projects must be
 5 approved by the department and be defined as those projects
 6 which, if delayed until legislative approval can be
 7 obtained, will cause substantial damages or legal liability
 8 to the project sponsor. In allocating such funds, the
 9 department shall ~~consult-with~~ INFORM the legislative finance
 10 committee of the legislature.

11 ~~{2}~~(3) The grants and loans provided for by this
 12 section may be made for the purchase, lease, development, or
 13 construction of water development projects and activities
 14 for the conservation, management, use, development, or
 15 protection of the water and related agricultural, land,
 16 fish, wildlife, and water recreation resources in the state;
 17 for the purpose of feasibility and design studies for such
 18 projects; for development of plans for and the
 19 rehabilitation, expansion, and modification of water
 20 development projects; for other water development projects
 21 and activities that will enhance the water resources of the
 22 state; and for similar purposes approved by the
 23 legislature."

24 Section 12. Section 85-1-610, MCA, is amended to read:
 25 "85-1-610. Evaluation of grants and loans to private

1 persons. The department shall consider the following
 2 criteria and preferences in evaluating applications and
 3 selecting the recipients of grants and loans for water
 4 development projects and activities that are eligible for
 5 funding under 85-1-609:

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

8 (2) A water development project or activity that will
 9 be used as part of a family farm shall be given preference.
 10 A family farm is one devoted primarily to agriculture under
 11 the ownership and operation of a resident Montana family.

12 (3) A water development project or activity that will
 13 utilize or develop water reserved under 85-2-316 shall be
 14 given preference. An activity includes all necessary work
 15 associated with a project, beginning with application
 16 preparation through the implementation of a water
 17 reservation by a qualified state applicant.

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

22 (5) The extent to which the water development project
 23 or activity will fully utilize water resources and promote
 24 the conservation and efficient use of the water resource
 25 shall be evaluated and considered.

1 (6) Projects or activities that could not be
2 accomplished without the assistance of a loan or grant shall
3 be given preference.

4 (7) The department shall give due consideration to any
5 other factor that, in the department's judgment, is
6 important to the evaluation of the water development project
7 or activity in light of the purposes, policies, and
8 objectives of the water development program."

9 Section 13. Section 85-1-617, MCA, is amended to read:

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

20 (2) Each series of water development bonds may be
21 issued by the board of examiners, upon request of the board
22 of natural resources and conservation, at public or private
23 sale, in such denominations and forms, whether payable to
24 bearer with attached interest coupons or registered as to
25 principal or as to both principal and interest, with such

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

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

1 they are authorized to be issued.

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

13 (5) There is created a water development account
14 within the state special revenue fund established in
15 17-2-102.

16 (6) All proceeds of bonds or notes issued under this
17 section, other than refunding bonds, must be deposited in
18 the water development account established in subsection (5),
19 except that any principal and accrued interest received in
20 repayment of a loan made from the proceeds of bonds issued
21 under this section must be deposited in the water
22 development state special revenue account pursuant to
23 85-1-604. All proceeds of refunding bonds must be deposited
24 in the water development debt service fund and applied to
25 the payment and redemption of outstanding bonds issued under

1 this section as directed by the board, whether at maturity
2 or on any earlier date on which they may be prepaid
3 according to their terms.

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

7 Section 14. Section 85-1-619, MCA, is amended to read:
8 "85-1-619. Debt service fund -- pledge and
9 administration of sufficient balance. (1) The legislature
10 may levy, impose, assess, and pledge and appropriate to the
11 water development debt service fund any tax, charge, fee,
12 rental, or other income from any designated source. The
13 state reserves the right to modify from time to time the
14 nature and amount of special taxes and other revenues
15 pledged and appropriated to the water development debt
16 service fund, provided that the aggregate resources so
17 pledged and appropriated are determined by the legislature
18 to be sufficient for the prompt and full payment of the
19 principal of and interest and redemption premiums when due
20 on all bonds payable from that fund and provided that the
21 pledge of the full faith and credit and taxing powers of the
22 state for the security of all such bonds shall be and remain
23 irrevocable until they are fully paid.

24 (2) Money in the water development debt service fund
25 must be used first to pay interest, principal, and

1 redemption premiums when due and payable with respect to
 2 water development bonds, ~~second, and for bonds issued prior~~
 3 ~~to 1985, to accumulate a reserve for the further security of~~
 4 ~~such payments, to the amount required each month to meet~~
 5 ~~those payments due within 12 months thereafter, and third,~~
 6 ~~to restore the reserve to this amount after each payment.~~

7 (3) After the reserve provided for in subsection (2)
 8 for bonds issued prior to 1985 has been accumulated in the
 9 water development debt service fund, money at any time
 10 received in the water development debt service fund in
 11 excess of that amount must be transferred by the treasurer
 12 to the water development state special revenue account. If
 13 ~~the balance on hand at any time in the water development~~
 14 ~~debt service fund is not sufficient to accumulate required~~
 15 ~~reserves under subsection (2) and is not restored to the~~
 16 ~~required amount within 3 months thereafter from funds~~
 17 ~~specifically pledged and appropriated to the water~~
 18 ~~development debt service fund, the treasurer in accordance~~
 19 ~~with the pledge of the full faith and credit and taxing~~
 20 ~~powers of the state shall transfer an amount sufficient to~~
 21 ~~restore the required balance from the general fund to the~~
 22 ~~water development debt service fund."~~

23 SECTION 15. SECTION 85-1-623, MCA, IS AMENDED TO READ:
 24 "85-1-623. Authorization of water development bonds.
 25 The legislature, through the enactment of this section by a

1 two-thirds vote of the members of each house, authorizes the
 2 creation of state debt in an amount not to exceed \$5 \$10
 3 million and the issuance and sale of water development bonds
 4 in this amount for the purpose of providing funds
 5 appropriated to the water development account for loans as
 6 provided in the water development program."

7 Section 16. Section 90-2-121, MCA, is amended to read:
 8 "90-2-121. Issuing bonds. (1) Within the limits
 9 authorized by 90-2-127 and within the further limitations in
 10 this section, the board of examiners may issue and sell
 11 bonds of the state in such manner as it considers necessary
 12 and proper to finance the renewable resource development
 13 program. The full faith and credit and taxing powers of the
 14 state shall be pledged for the prompt and full payment of
 15 all bonds so issued and interest and redemption premiums
 16 payable thereon according to their terms.

17 (2) Each series of such bonds shall be issued by the
 18 board of examiners upon request of the board of natural
 19 resources and conservation in such denominations and forms,
 20 whether payable to bearer with attached interest coupons or
 21 registered as to principal or as to both principal and
 22 interest, with such provisions for conversion or exchange
 23 and for the issuance of notes in anticipation of the
 24 issuance of definitive bonds, bearing interest at such rate
 25 or rates, maturing at such time or times not exceeding 30

1 years from date of issue, subject to optional or mandatory
 2 redemption at such earlier times and prices and upon such
 3 notice, with such provisions for payment and discharge by
 4 the deposit of funds or securities in escrow for that
 5 purpose, and payable at the office of such banking
 6 institution or institutions within or outside the state, as
 7 the board shall determine subject to the limitations
 8 contained in this section.

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

22 (4) In all other respects the board of examiners is
 23 authorized to prescribe the form and terms of the bonds and
 24 shall do whatever is lawful and necessary for their issuance
 25 and payment. Such bonds and any interest coupons appurtenant

1 thereto shall be signed by the members of the board of
 2 examiners, and the bonds shall be issued under the great
 3 seal of the state of Montana. The bonds and coupons may be
 4 executed with facsimile signatures and seal in the manner
 5 and subject to the limitations prescribed by law. The state
 6 treasurer shall keep a record of all such bonds issued and
 7 sold.

8 (5) All proceeds of bonds issued hereunder and
 9 interest earned on such proceeds, other than refunding
 10 bonds, shall be deposited in the renewable resource
 11 development account, ~~except that any principal and accrued~~
 12 ~~interest received in repayment of the loans provided for in~~
 13 ~~this part shall be deposited in the debt service fund.~~ All
 14 proceeds of refunding bonds shall be deposited in the debt
 15 service fund and applied to the payment and redemption of
 16 outstanding bonds issued hereunder as directed by the board,
 17 whether at maturity or on any previous date on which they
 18 may be prepaid according to their terms."

19 Section 17. Section 90-2-123, MCA, is amended to read:
 20 "90-2-123. Debt service fund. (1) The state may by
 21 enactment of the legislature or the people levy, impose,
 22 assess, and pledge and appropriate to the debt service fund
 23 any tax, charge, fee, rental, or other income from any
 24 designated source. The state reserves the right to modify
 25 from time to time the nature and amount of special taxes and

1 other revenues pledged and appropriated to the debt service
 2 fund, provided that the aggregate resources so pledged and
 3 appropriated are determined by the legislature to be
 4 sufficient for the prompt and full payment of the principal
 5 of and interest and redemption premiums when due on all
 6 bonds payable from that fund, and provided that the pledge
 7 of the full faith and credit and taxing powers of the state
 8 for the security of all such bonds shall be and remain
 9 irrevocable until they are fully paid.

10 (2) Money in the debt service fund shall be used first
 11 to pay interest, principal, and redemption premiums when due
 12 and payable with respect to renewable resource development
 13 bonds; ~~second--to--accumulate--a--reserve--for--the--further~~
 14 ~~security--of--such--payments;--to--the--amount--required--each--month~~
 15 ~~to--meet--those--payments--due--within--12--months--thereafter;--and~~
 16 ~~third--to--restore--the--reserve--to--this--amount--after--each~~
 17 ~~payment.~~

18 (3) ~~After--the--reserve--provided--for--in--subsection--(2)~~
 19 ~~above--is--in--the--debt--service--fund;--money~~ Money at any time
 20 received in the debt service fund in excess of that the
 21 amount required by subsection (2) shall be transferred by
 22 the treasurer to the renewable resource development account.
 23 ~~if--the--balance--at--any--time--on--hand--in--the--debt--service--fund~~
 24 ~~is--not--sufficient--for--compliance--with--subsection--(2)--and--is~~
 25 ~~not--restored--to--the--required--amount--within--3--months~~

1 ~~thereafter--from--funds--specifically--pledged--and--appropriated~~
 2 ~~to--the--debt--service--fund;--the--treasurer--shall--transfer~~
 3 ~~thereto--from--the--general--fund--an--amount--sufficient--to~~
 4 ~~restore--the--required--balance."~~

5 Section 18. Section 90-2-125, MCA, is amended to read:
 6 "90-2-125. Renewable resource development account. The
 7 state may by enactment of the legislature or the people
 8 levy, impose, assess, and pledge and appropriate to the
 9 renewable resource development account any tax, charge, fee,
 10 rental, or other income from any source, including but not
 11 limited to renewable resource development bond proceeds,
 12 interest earned on the bond proceeds, and any principal and
 13 accrued interest received in repayment of a loan made from
 14 the proceeds of bonds issued under 90-2-121."

15 NEW SECTION. Section 19. Remedial character. Section
 16 1 of this act is remedial in character, and nothing therein
 17 may be considered to imply that authority for the taking of
 18 any action therein expressly authorized did not previously
 19 exist.

20 NEW SECTION. Section 20. Codification instruction.
 21 Section 8 is intended to be codified as an integral part of
 22 Title 17, chapter 5, part 7, and the provisions of Title 17,
 23 chapter 5, part 7, apply to section 8.

24 NEW SECTION. Section 21. Applicability. Section 10
 25 applies retroactively, within the meaning of 1-2-109, to all

1 occurrences after July 1, 1981.

2 NEW SECTION. SECTION 22. REQUIREMENTS FOR APPROVAL OF
3 STATE DEBT -- SEVERABILITY. BECAUSE SECTION 15 AUTHORIZES
4 THE CREATION OF STATE DEBT, A VOTE OF TWO-THIRDS OF THE
5 MEMBERS OF EACH HOUSE IS REQUIRED FOR ENACTMENT OF SECTION
6 15. IF SECTION 15 IS NOT APPROVED BY THE REQUIRED VOTE,
7 SECTION 15 IS VOID, AND THE REMAINING SECTIONS OF THIS ACT
8 ARE VALID AND REMAIN IN EFFECT IN ALL VALID APPLICATIONS
9 UPON ENACTMENT.

10 NEW SECTION. Section 23. Effective date. This act is
11 effective on passage and approval.

-End-