

HOUSE FINAL STATUS

HB 32 INTRODUCED BY KITSELMAN
COAL SEVERANCE TAX BONDS TO FINANCE PUBLIC WORKS
BY REQUEST OF JOINT INTERIM SUBCOMMITTEE ON
INFRASTRUCTURE

1/05 INTRODUCED
1/05 REFERRED TO LOCAL GOVERNMENT
1/05 FISCAL NOTE REQUESTED
1/06 REREFERRED TO TAXATION
1/09 FISCAL NOTE RECEIVED
1/14 HEARING
2/13 TABLED IN COMMITTEE

1 HOUSE BILL NO. 32
 2 INTRODUCED BY KITSELMAN
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON INFRASTRUCTURE

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE PURPOSE
 7 OF COAL SEVERANCE TAX BONDS TO INCLUDE PUBLIC WORKS
 8 GENERALLY; PROVIDING FOR GRANTS AND LOANS TO LOCAL
 9 GOVERNMENTS FOR PUBLIC WORKS PROJECTS; AMENDING SECTIONS
 10 15-35-108, 17-5-701, 17-5-702, 17-5-706, 17-5-719, AND
 11 85-1-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

14 NEW SECTION. Section 1. Definitions. In [sections 1
 15 through 7], the following definitions apply:

- 16 (1) "Department" means the department of commerce.
- 17 (2) "Local government" means a county, city, town,
 18 special improvement district, county water or sewer
 19 district, irrigation district, or any other political
 20 subdivision of the state, except a school district.
- 21 (3) "Project" means the planning, acquisition,
 22 construction, repair, rehabilitation, reconstruction,
 23 replacement, or improvement of public works.
- 24 (4) "Public works" means streets, roads, and bridges;
 25 drainage facilities; public transportation systems; water

1 systems; sewer systems; public health and safety facilities;
 2 communications systems; libraries; jails; juvenile detention
 3 centers; administrative buildings; and other public works
 4 constructed, improved, or maintained by a local government.

5 NEW SECTION. Section 2. Purpose and policy. The
 6 legislature finds that:

- 7 (1) adequate public works are crucial to public health
 8 and safety, essential for economic development, and an
 9 important factor in the quality of life in Montana;
 - 10 (2) the condition of Montana's public works has
 11 deteriorated to the point that the need for repair or
 12 replacement is urgent;
 - 13 (3) many local governments in Montana lack sufficient
 14 resources to build, maintain, or improve the public works
 15 for which they are responsible; and
 - 16 (4) it is in the state's best interest to assist local
 17 governments that otherwise are unable to finance their
 18 public works projects.
- 19 NEW SECTION. Section 3. Public works debt service
 20 fund created -- coal severance tax allocated. (1) There is a
 21 public works debt service fund within the debt service fund
 22 type established in 17-2-102.
- 23 (2) The state pledges, allocates, and directs to be
 24 credited to the public works debt service fund, as received:
 25 (a) 0.625% of all money received from the coal



-2- INTRODUCED BILL
 HB 32

1 severance tax collected under Title 15, chapter 35, and
 2 remaining after allocation of such tax to the trust fund
 3 established under Article IX, section 5, of the Montana
 4 constitution;

5 (b) any principal and accrued interest received in
 6 repayment of a loan made from the proceeds of coal severance
 7 tax bonds issued under 17-5-706 for purposes other than
 8 water resource development;

9 (c) all interest earned on proceeds of coal severance
 10 tax bonds issued under 17-5-706 for purposes other than
 11 water resource development; and

12 (d) revenue or money otherwise required to be paid
 13 into the public works state special revenue account pursuant
 14 to [section 4], as determined by the board of examiners, in
 15 connection with the issuance of bonds pursuant to 17-5-706
 16 for purposes other than water resource development.

17 (3) The legislature may levy, pledge, and appropriate
 18 to the public works debt service fund any tax, charge, fee,
 19 rental, or other income from any designated source. The
 20 state reserves the right to modify the nature and amount of
 21 special taxes and other revenues pledged and appropriated to
 22 the public works debt service fund, provided that the
 23 aggregate resources so pledged and appropriated are
 24 determined by the legislature to be sufficient for the
 25 prompt and full repayment of the principal, interest, and

1 redemption premiums of all bonds payable from that fund.

2 NEW SECTION. Section 4. Public works state special
 3 revenue account created -- revenue allocated. (1) There is a
 4 public works state special revenue account within the state
 5 special revenue fund established in 17-2-102.

6 (2) The following must be paid into the public works
 7 state special revenue account:

8 (a) proceeds from coal severance tax bonds issued
 9 under 17-5-706 for purposes other than water resource
 10 development;

11 (b) the excess of the coal severance tax collections
 12 allocated by [section 3] to the public works debt service
 13 fund above debt service requirements provided in 17-5-708;
 14 and

15 (c) any fees or charges collected by the department
 16 for servicing loans.

17 (3) Appropriations may be made from the public works
 18 state special revenue account for the following purposes:

19 (a) loans and grants for public works projects;

20 (b) administrative expenses, including but not limited
 21 to salaries and other personnel expenses, equipment, and
 22 office space;

23 (c) costs of servicing loans; and

24 (d) other necessary expenses incurred in administering
 25 the loans and grants.

1 NEW SECTION. Section 5. Grants and loans for local
2 government assistance. (1) A local government may apply to
3 the department for a grant or loan to finance all or part of
4 the cost of a public works project.

5 (2) The department shall review all applications and
6 may recommend to the legislature that certain projects be
7 funded with a grant or loan, or both, and that coal
8 severance tax bonds be authorized pursuant to Title 17,
9 chapter 5, part 7, to fund the grant or loan. The
10 legislature may approve by appropriation or other
11 appropriate means those grants and loans it finds consistent
12 with the purpose and policy set forth in [section 2].

13 (3) The department shall:

14 (a) administer the grants and loans for public works
15 projects;

16 (b) service loans made or contract and pay for the
17 servicing of loans, including arrangements for obtaining
18 security interests; and

19 (c) collect reasonable fees or charges for the
20 servicing of loans, including arrangements for obtaining
21 security interests. The fees and charges must be deposited
22 in the public works state special revenue account pursuant
23 to [section 4].

24 NEW SECTION. Section 6. Eligibility and priority. (1)
25 In recommending a project for a grant or loan, the

1 department shall determine that a local government meets the
2 following conditions:

3 (a) it has developed a long-term plan for financing
4 public works; and

5 (b) it is using all local revenue sources that are
6 reasonably available for funding public works, taking into
7 consideration local economic conditions.

8 (2) The department shall develop a priority process
9 for public works projects eligible for financing under
10 [sections 1 through 7]. In assigning a priority to a
11 project, the department shall consider at least the
12 following factors:

13 (a) whether the local government is experiencing
14 severe fiscal distress due to a natural disaster or other
15 emergency public works need;

16 (b) whether the project is critical in nature and
17 would affect the health and safety of a substantial number
18 of residents;

19 (c) the number of communities served by or funding the
20 project; and

21 (d) whether the project is located in an area of high
22 unemployment, compared with the average state unemployment.

23 NEW SECTION. Section 7. Rulemaking authority. The
24 department shall adopt rules:

25 (1) prescribing the form and content of applications

1 for grants and loans;

2 (2) establishing criteria for recommending a project
3 for a grant or loan, based on the factors in [section 6];

4 (3) providing for the servicing of loans, including
5 arrangements for obtaining security interests and for
6 charging reasonable fees; and

7 (4) describing the terms and conditions for making
8 grants and loans, the security instruments, and the
9 agreements necessary.

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

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

14 (1) To the trust fund created by Article IX, section
15 5, of the Montana constitution, 50% of total coal severance
16 tax collections. The trust fund moneys shall be deposited
17 in the fund established under 17-6-203(5) and invested by
18 the board of investments as provided by law.

19 (2) Starting July 1, 1986, and ending June 30, 1987,
20 6% of coal severance tax collections are allocated to the
21 highway reconstruction trust fund account in the state
22 special revenue fund. Starting July 1, 1987, and ending June
23 30, 1993, 12% of coal severance tax collections are
24 allocated to the highway reconstruction trust fund account
25 in the state special revenue fund.

1 (3) Coal severance tax collections remaining after the
2 allocations provided by subsections (1) and (2) are
3 allocated in the following percentages of the remaining
4 balance:

5 (a) 2 1/2% until July 1, 1987, and thereafter 4 1/2%
6 to the state special revenue fund to the credit of the
7 alternative energy research development and demonstration
8 account;

9 (b) 6% until July 1, 1987, and thereafter 37 1/2% to
10 the state special revenue fund to the credit of the local
11 impact and education trust fund account;

12 (c) 30% until July 1, 1987, and thereafter 10% to the
13 state special revenue fund for state equalization aid to
14 public schools of the state;

15 (d) 1% to the state special revenue fund to the credit
16 of the county land planning account;

17 (e) 1 1/4% to the credit of the renewable resource
18 development bond fund;

19 (f) starting July 1, 1986, and ending June 30, 1989,
20 5% to the general fund, and after June 30, 1989, 5% to a
21 nonexpendable trust fund for the purpose of parks
22 acquisition or management, protection of works of art in the
23 state capitol, and other cultural and aesthetic projects.
24 Income from this trust fund shall be appropriated as
25 follows:

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

3 (ii) 2/3 for the acquisition, development, operation,
4 and maintenance of any sites and areas described in
5 23-1-102;

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

11 (h) 1/2 of 1% to the state special revenue fund for
12 conservation districts;

13 (i) 1 1/4% to the debt service fund type ~~to the credit~~
14 ~~of to be divided equally between~~ the water development debt
15 service fund and the public works debt service fund;

16 (j) 4% until July 1, 1987, to the highway
17 reconstruction trust fund account in the state special
18 revenue fund;

19 (k) all other revenues from severance taxes collected
20 under the provisions of this chapter to the credit of the
21 general fund of the state."

22 Section 9. Section 17-5-701, MCA, is amended to read:

23 "17-5-701. State of Montana coal severance tax bonds.

24 (1) In this part, the following definitions apply:

25 (a) "Local government" means a county, city, town,

1 special improvement district, county water or sewer
2 district, irrigation district, or any other political
3 subdivision of the state, except a school district.

4 (b) "Project" means the planning, acquisition,
5 construction, repair, rehabilitation, reconstruction,
6 replacement, or improvement of public works.

7 (c) "Public works" means streets, roads, and bridges;
8 drainage facilities; public transportation systems; water
9 systems; sewer systems; public health and safety facilities;
10 communications systems; libraries; jails; juvenile detention
11 centers; administrative buildings; and other public works
12 constructed, improved, or maintained by a local government.

13 (2) This part provides for the issuance of state of
14 Montana coal severance tax bonds (also referred to as coal
15 severance tax bonds in this part) to finance water resource
16 development projects and activities and other public works
17 projects in the state designed to provide ~~during-and-after~~
18 ~~extensive-coal-mining,~~ a healthy economy, ~~the-alleviation-of~~
19 ~~social-and-economic-impacts-created-by-coal-development,~~ and
20 a clean and healthful environment for present and future
21 generations."

22 Section 10. Section 17-5-702, MCA, is amended to read:

23 "17-5-702. Purpose and intent. (1) The purpose of the
24 coal severance tax trust fund bond provisions of this part
25 is to establish the authority to issue and sell coal

1 severance tax bonds that have been approved by act of the
 2 legislature for financing specific water resource
 3 development projects and activities and other public works
 4 projects in the state authorized by the legislature and to
 5 guarantee redemption of such bonds by revenue derived from
 6 the receipts from the coal severance tax imposed by Title
 7 15, chapter 35, part 1, and such other money as the
 8 legislature may from time to time determine.

9 (2) The legislature intends that projects to be
 10 financed by coal severance tax bonds include but are not
 11 limited to water resource development projects and
 12 activities as part of the water development program
 13 established in Title 85, chapter 1, part 6. The legislature
 14 further intends that the income from water resource
 15 development projects and activities in excess of the amount
 16 required for debt service and operation and maintenance of
 17 those projects and activities be deposited in the water
 18 development state special revenue account established in
 19 85-1-604."

20 Section 11. Section 17-5-706, MCA, is amended to read:
 21 "17-5-706. Authority to issue coal severance tax
 22 bonds. The board of examiners, upon approval of the
 23 legislature as hereinafter provided, shall issue and sell
 24 coal severance tax bonds to finance such approved water
 25 resource development projects and activities and other

1 public works projects when authorized to do so by any law
 2 that sets out the amount and purpose of the issue. Each
 3 project or activity shall be separately approved as to
 4 amount by a two-thirds vote of each house of the
 5 legislature."

6 Section 12. Section 17-5-719, MCA, is amended to read:
 7 "17-5-719. Limitation on amount of coal severance tax
 8 bonds issued. No more than \$250 million worth of coal
 9 severance tax bonds may be issued for water development
 10 projects and activities and other public works projects."

11 Section 13. Section 85-1-603, MCA, is amended to read:
 12 "85-1-603. Water development debt service fund created
 13 -- coal severance tax allocated. (1) There is created a
 14 water development debt service fund within the debt service
 15 fund type established in 17-2-102.

16 (2) The state pledges and allocates and directs to be
 17 credited to the water development debt service fund, as
 18 received:

19 (a) ~~1-1/4%~~ 0.625% of all money from time to time
 20 received from the coal severance tax collected under Title
 21 15, chapter 35, and remaining after allocation of such tax
 22 to the trust fund established under Article IX, section 5,
 23 of The Constitution of the State of Montana;

24 (b) any principal and accrued interest received in
 25 repayment of a loan made from the proceeds of bonds issued

1 under 85-1-617;

2 (c) all interest income earned on proceeds of water
3 development bonds; and

4 (d) revenue or money otherwise required to be paid
5 into the water development state special revenue account
6 pursuant to 85-1-604, as determined by the board of
7 examiners in connection with the issuance of bonds pursuant
8 to 85-1-617."

9 NEW SECTION. Section 14. Severability. If a part of
10 this act is invalid, all valid parts that are severable from
11 the invalid part remain in effect. If a part of this act is
12 invalid in one or more of its applications, the part remains
13 in effect in all valid applications that are severable from
14 the invalid applications.

15 NEW SECTION. Section 15. Requirements for approval of
16 appropriation from coal severance tax trust fund --
17 severability. Because sections 9 through 12 amend the
18 purpose of an appropriation from the coal severance tax bond
19 fund, which is one of the coal severance tax trust funds
20 established under Article IX, section 5, of the Montana
21 constitution, a vote of three-fourths of the members of each
22 house is required for enactment of sections 9 through 12. If
23 sections 9 through 12 are not approved by the required vote,
24 sections 9 through 12 are void, and the remaining sections
25 of this act are valid and remain in effect in all valid

1 applications upon enactment.

2 NEW SECTION. Section 16. Coordination instruction.

3 (1) The bonds authorized under 17-5-706 for purposes other
4 than water resource development may not be issued unless a
5 bill authorizing the debts and appropriating the funds
6 pledged for their repayment is passed and approved by a
7 three-fourths vote of each house of the legislature.

8 (2) The legislature shall specifically approve each
9 public works project before the bonds to finance that
10 project can be issued.

11 NEW SECTION. Section 17. Effective date. This act is
12 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB032, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act expanding the purpose of coal severance tax bonds to include public works generally to provide grants and loans to local governments for public works projects.

ASSUMPTIONS:

1. The public works projects program will be in a startup mode throughout the 1989 biennium because HB032 states that legislative approval is required for "each public works project before the bonds to finance that project can be issued." (New Section 16(2))
2. Administrative startup costs of the Department of Commerce will be paid from the debt service account established with half of the current allocation to the water development program.
3. The Revenue Estimating Advisory Council (REAC) coal severance tax estimates are used, applied to collections after July 1, 1987.
4. Four full-time equivalent positions and operating costs will be required to establish rules, request grant loan applications, explore bonding options, evaluate requests and prepare a list of recommended public works projects for review and approval by the 51st Legislature.

FISCAL IMPACT:

<u>Current Law:</u>	Revenues	<u>FY88</u> \$377,584	<u>FY89</u> \$392,910	Coal tax into debt service fund
	Expenditures	<u>377,584</u>	<u>392,910</u>	Water development only
	Difference	0	0	
<u>Proposed Law:</u>	Revenues	\$377,584	\$392,910	Coal tax into debt service fund
	Expenditures	<u>376,902</u>	<u>382,565</u>	Water development and public works
	Difference	\$ (682)	\$(10,345)	

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

When bonds approved by 51st Legislature, grants and loans will be available to local governments (excluding school districts) for infrastructure financing not currently available. Fiscal impact undeterminable in 89 biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Water development loans will decrease because the cap for the amount of Water Development Program bonds will be lowered. However, grants/loan for public works projects would become available that were not previously provided through use of state resources.

David L. Hunter DATE 1/9/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Les Kitseiman DATE 1-12-87
LES KITSEIMAN, PRIMARY SPONSOR
Fiscal Note for HB032, as introduced.

HB32

Fiscal Note Request, HB032, as introduced

Form BD-15

Page 2

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Dividing the existing water development debt service fund revenues with the new public work project debt service fund would be in conflict with existing general obligation bond resolutions which pledge those funds as security through 1995.

Facilities such as community centers, bridges, streets are not truly fundable on a user fee basis. Thus, bond counsel and underwriters may have technical concerns in establishing coverage ratios, payback plans and bond security for the "non-user fee" facilities.

HB 32