

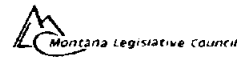
HB 272 INTRODUCED BY RAMIREZ, ET AL.
AUTHORIZING COAL TAX BONDS FOR INFRASTRUCTURE

1/17 INTRODUCED
1/17 REFERRED TO TAXATION
1/17 FISCAL NOTE REQUESTED
1/20 FISCAL NOTE RECEIVED
2/03 HEARING
2/13 TABLED IN COMMITTEE

1 *House* BILL NO. *272*
 2 INTRODUCED BY *Ramsey, Karamchik, Carlson*
 3 *Malden, Shady, Jeff, Kop*
 4 A BILL FOR AN ACT ENTITLED: "THE INFRASTRUCTURE BOND ACT;
 5 PROVIDING FOR THE USE OF BONDS FOR INFRASTRUCTURE PROJECTS;
 6 PROVIDING FOR FUNDING FROM THE MONTANA INFRASTRUCTURE TRUST;
 7 AND PROVIDING A CONTINGENT EFFECTIVE DATE."
 8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Short title. [This act] may be cited as the
 11 "Infrastructure Bond Act".
 12 Section 2. Definitions. In [sections 1 through 18],
 13 the following definitions apply:
 14 (1) "Authorized project" means a project approved by
 15 the legislature pursuant to [section 2 of LC 327].
 16 (2) "Board" means the board of examiners provided for
 17 in 2-15-1007.
 18 (3) "Bonds" means bonds, notes, or other evidences of
 19 indebtedness issued pursuant to [this act] as infrastructure
 20 bonds.
 21 (4) "Montana infrastructure trust" means the trust
 22 created by [section 2 of LC 327].
 23 (5) "Pledged coal severance taxes" means one-half of
 24 the coal severance tax collections deposited in the Montana
 25 infrastructure trust pursuant to Article IX, section 5, of

1 the Montana constitution.
 2 Section 3. Purpose and intent. The purpose of [this
 3 act] is to establish the authority to issue and sell
 4 infrastructure bonds that have been approved by the
 5 legislature for financing authorized projects and to pay and
 6 secure such bonds with pledged coal severance taxes and such
 7 other money as the legislature may from time to time
 8 determine.
 9 Section 4. Infrastructure bond and income funds. (1)
 10 The infrastructure trust established under Article IX,
 11 section 5, of the Montana constitution is composed of the
 12 following funds:
 13 (a) an infrastructure bond fund;
 14 (b) an infrastructure income fund; and
 15 (c) an infrastructure permanent fund, consisting of
 16 one-half the proceeds deposited in the trust.
 17 (2) There is hereby irrevocably pledged, appropriated,
 18 and deposited to the infrastructure bond fund, as collected,
 19 so much of the pledged coal severance taxes as are required
 20 to establish with other funds therein a balance equal to the
 21 principal, interest, and premiums due on all bonds payable
 22 therefrom within the next 6 months and to establish and
 23 maintain reserves therefor, in additional amounts authorized
 24 by the board in connection with the issuance of the bonds,
 25 not to exceed the maximum principal and interest due on all



1 such bonds in any future fiscal year. Subject to the prior
 2 lien and claim on coal severance tax collections for the
 3 payment and security of bonds issued pursuant to Title 17,
 4 chapter 5, part 7, the pledge and appropriation of the
 5 pledged coal taxes herein provided constitute a first and
 6 prior lien and claim thereon.

7 (3) Subject to the rights of bondholders, surplus
 8 money in the infrastructure bond fund must be transferred to
 9 the infrastructure income fund, and all other pledged coal
 10 severance taxes must be deposited as received in the
 11 infrastructure income fund.

12 (4) The money in the infrastructure bond fund is
 13 pledged solely to the payment of the principal, premium, and
 14 interest on all state of Montana infrastructure bonds. All
 15 bonds issued after July 1, 1989, wherein the money in the
 16 infrastructure bond fund is pledged for their retirement are
 17 called "state of Montana infrastructure bonds".

18 Section 5. Authority to issue infrastructure bonds.
 19 The board, upon approval by a two-thirds vote of the members
 20 of each house of the legislature, shall issue and sell
 21 infrastructure bonds to finance authorized projects when
 22 authorized to do so by any law that sets out the amount and
 23 purpose of the issue. Each project or activity must be
 24 approved by a two-thirds vote of the members of each house
 25 of the legislature.

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

6 Section 7. Special fund revenues. If a law authorizing
 7 infrastructure bonds for a specific purpose and in a
 8 specific amount contemplates the pledge and receipt of
 9 revenues, assets, or money other than or in addition to the
 10 pledged coal severance taxes, the money derived from such
 11 pledged revenues, assets, and money must be paid into the
 12 infrastructure bond fund for the payment and security of
 13 such bonds.

14 Section 8. Continued deposit of pledged coal severance
 15 taxes -- limit on additional bonds. (1) The legislature
 16 shall provide for the continued collection and deposit into
 17 the infrastructure bond fund of pledged coal severance taxes
 18 that, together with other revenues, assets, and money as may
 19 be deposited therein for the payment and security of
 20 infrastructure bonds, will be sufficient to produce an
 21 amount that is at least the amount necessary to pay, when
 22 due, the annual debt service charges on all outstanding
 23 infrastructure bonds and to establish and maintain reserves
 24 therefor.

25 (2) The board may issue no infrastructure bonds unless

1 the aggregate amount of infrastructure bonds outstanding,
 2 including the proposed issue, can be serviced with the
 3 annual collection of the pledged coal severance taxes as
 4 determined by the average of such collections during the
 5 preceding 3 fiscal years, together with the average of the
 6 aggregate amount of revenues, assets, or money deposited in
 7 one or more special bond funds used to pay debt service
 8 charges on outstanding infrastructure bonds during the
 9 preceding 3 fiscal years.

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

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

25 (2) In all other respects the board is authorized to

1 prescribe the form and terms of the bonds and do whatever is
 2 lawful and necessary for their issuance and payment.

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

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

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

18 Section 10. Trust indenture or resolution. In the
 19 discretion of the board, a series of bonds or notes issued
 20 under [this act] may be secured by a resolution of the board
 21 or a trust indenture by and between the board and a trustee,
 22 which may be any trust company or bank having the powers of
 23 a trust company within or outside of the state. Each
 24 resolution or trust indenture, or an executed counterpart
 25 thereof, must be filed in the office of the secretary of

1 state. The filing of a trust indenture or an executed
2 counterpart thereof in the office of the secretary of state
3 is constructive notice of its content to all persons from
4 the time of the filing, and the recording of the resolution
5 or trust indenture or its content is not necessary.

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

24 Section 12. Personal liability -- suit to compel
25 performance. (1) The members of the board and officers and

1 employees of the departments, boards, or agencies of state
2 government are not personally liable or accountable by
3 reason of the issuance of an infrastructure bond issued by
4 the board.

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

10 Section 13. Negotiability of bonds. Infrastructure
11 bonds issued under [this act] are negotiable instruments
12 under the Uniform Commercial Code, subject only to the
13 provisions for registration of bonds.

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

21 Section 15. Refunding obligations. (1) The board may
22 provide for the issuance of refunding obligations for
23 refunding obligations then outstanding that have been issued
24 under [this act], including the payment of a redemption
25 premium and any interest accrued or to accrue to the date of

1 redemption of the obligations. The issuance of refunding
 2 obligations, the maturities and other details, the rights of
 3 the holders, and the rights, duties, and obligations of the
 4 state are governed by the appropriate provisions of [this
 5 act] that relate to the issuance of obligations.

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

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

24 Section 17. Tax exemption of bonds -- legal
 25 investments. (1) All infrastructure bonds, their transfer,

1 and their income, including profits made on their sale, are
 2 exempt from taxation by the state or any political
 3 subdivision or other instrumentality of the state, except
 4 inheritance, estate, and gift taxes.

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

8 Section 18. Limitation on amount of bonds issued. No
 9 more than \$250 million worth of infrastructure bonds may be
 10 outstanding at any one time for authorized projects.

11 Section 19. Effective date. Sections 1 through 18 of
 12 this act are effective only if the constitutional referendum
 13 contained in [LC 328] is approved by the electorate at the
 14 general election to be held November 8, 1988, and if [LC
 15 327] is passed and approved. If the constitutional
 16 referendum contained in [LC 328] is approved by the
 17 electorate and if [LC 327] is passed and approved, sections
 18 1 through 18 of this act are effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB272, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

"The Infrastructure Bond Act"; providing for the use of bonds for infrastructure projects; providing for funding from the Montana Infrastructure Trust; and providing for a contingent effective date.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION.

This bill provides supporting legislation for HB270 and HB271, by establishing the necessary infrastructure bond funds, and the mechanisms by which bonds may be issued and secured to provide for the financing of local government infrastructure needs. Implementation of this bill is contingent upon passage of HB270, HB271, and the constitutional referendum provided for in HB271. The cost to administer this program would be about \$225,000 a year.

David L. Hunter DATE 1/20/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Jack Ramirez DATE 1/22/87

JACK RAMIREZ, PRIMARY SPONSOR

Fiscal Note for HB272, as introduced

HB-272