

HOUSE BILL 638

Introduced by Ramirez, et al.

2/10	Introduced
2/11	Referred to Taxation
2/13	Fiscal Note Requested
2/18	Fiscal Note Received
3/22	Fiscal Note Printed
3/03	Hearing
3/07	Tabled in Committee

1 *House Bill NO. 638*  
2 INTRODUCED BY *Ramsey Paulson*  
3  
4 A BILL FOR AN ACT ENTITLED: "THE INFRASTRUCTURE AND  
5 ECONOMIC DEVELOPMENT BOND ACT; PROVIDING FOR THE USE OF  
6 BONDS FOR INFRASTRUCTURE AND ECONOMIC DEVELOPMENT PROJECTS  
7 TO THE EXTENT CONSTITUTIONALLY PERMISSABLE; AND PROVIDING  
8 FOR FUNDING FROM THE COAL SEVERANCE TAX TRUST."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. Section 1. Short title. [This act] may be  
12 cited as the "Infrastructure and Economic Development Bond  
13 Act".

14 NEW SECTION. Section 2. Definitions. In [sections 1  
15 through 18], the following definitions apply:

16 (1) "Authorized project" means a project approved by  
17 the legislature pursuant to [section 2 of LC 1676].

18 (2) "Board" means the board of examiners provided for  
19 in 2-15-1007.

20 (3) "Bonds" means bonds, notes, or other evidences of  
21 indebtedness issued pursuant to [this act] as infrastructure  
22 or economic development bonds.

23 (4) "Pledged coal severance taxes" means up to one-half  
24 of the coal severance tax collections deposited in the coal  
25 severance tax trust fund pursuant to Article IX, section 5,

1 of the Montana constitution.

2 NEW SECTION. Section 3. Purpose and intent. The  
3 purpose of [this act] is to establish the authority to issue  
4 and sell bonds that have been approved by the legislature  
5 for financing authorized projects and to pay and secure the  
6 bonds with pledged coal severance taxes and other money as  
7 the legislature may from time to time determine.

8 NEW SECTION. Section 4. Bond and income funds. (1) The  
9 pledged coal severance taxes are composed of the following  
10 funds:

11 (a) an infrastructure and economic development bond  
12 fund; and

13 (b) an infrastructure and economic development income  
14 fund.

15 (2) There is hereby irrevocably pledged, appropriated,  
16 and deposited to the infrastructure and economic development  
17 bond fund, as collected, so much of the pledged coal  
18 severance taxes as are required to establish with other  
19 money in the fund a balance equal to the principal,  
20 interest, and premiums due on all bonds payable from the  
21 fund within the next 6 months and to establish and maintain  
22 reserves for bond payments, in additional amounts authorized  
23 by the board in connection with the issuance of the bonds,  
24 not to exceed the maximum principal and interest due on all  
25 bonds in any future fiscal year. Subject to the prior lien

1 and claim on coal severance tax collections for the payment  
2 and security of bonds issued pursuant to Title 17, chapter  
3 5, part 7, the pledge and appropriation of the pledged coal  
4 taxes provided in this section constitute a first and prior  
5 lien and claim on the tax collections.

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

12 (4) The money in the infrastructure and economic  
13 development bond fund is pledged solely to the payment of  
14 the principal, premium, and interest on all bonds. All bonds  
15 issued after July 1, 1991, for which the money in the  
16 infrastructure and economic development bond fund is pledged  
17 for retirement are called state of Montana infrastructure  
18 and economic development bonds.

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

1 legislature.

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

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

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

(2) The board may not issue bonds unless the aggregate amount of bonds outstanding, including the proposed issue, can be serviced with the annual collection of the pledged coal severance taxes as determined by the average of the collections during the preceding 3 fiscal years, together with the average of the aggregate amount of revenues, assets, or money deposited in one or more special bond funds used to pay debt service charges on outstanding bonds during the preceding 3 fiscal years.

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

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

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

lawful and necessary for their issuance and payment.

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

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

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

**NEW SECTION. Section 10.** Trust indenture or resolution. In the discretion of the board, a series of bonds or notes issued under [this act] may be secured by a resolution of the board or a trust indenture by and between the board and a trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state. Each resolution or trust indenture, or an executed counterpart of the resolution or trust indenture, must be filed in the office of the secretary of state. The filing of a trust indenture or an executed counterpart of

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

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

23 NEW SECTION. Section 12. Personal liability -- suit to  
24 compel performance. (1) The members of the board and  
25 officers and employees of the departments, boards, or

1 agencies of state government are not personally liable or  
2 accountable by reason of the issuance of a bond issued by  
3 the board.

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

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

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

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

the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of [this act] that relate to the issuance of obligations.

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

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

NEW SECTION. Section 17. Tax exemption of bonds -- legal investments. (1) All bonds, their transfer, and their income, including profits made on their sale, are exempt

from taxation by the state or any political subdivision or other instrumentality of the state, except inheritance, estate, and gift taxes.

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

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

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

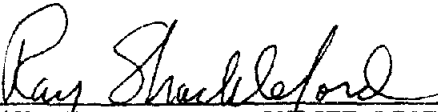
In compliance with a written request, there is hereby submitted a Fiscal Note for HB638, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act entitled: The Infrastructure and Economic Development Bond Act; providing for the use of bonds for infrastructure and economic development projects to the extent constitutionally permissible; and providing for funding from the coal severance tax trust.

FISCAL IMPACT:

The proposal establishes authority upon approval by a three-fourths vote of the members of each house of the legislature, to issue and sell bonds for financing authorized infrastructure and economic development projects. Each project itself must be approved by a three-fourths vote of the members of each house of the legislature. The proposal provides authority to deposit up to one-half of the coal severance tax collections deposited in the coal severance tax trust fund into the infrastructure and economic development bond fund. Coal severance tax trust fund receipts are estimated to be \$25.8 million in FY90 and \$22.2 million in FY91 (REAC). Deposits into the infrastructure and economic bond fund would be \$12.9 million in FY90 and \$11.1 million in FY91.



RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/18/89



JACK RAMIREZ, PRIMARY SPONSOR

DATE 2/21/89

Fiscal Note for HB638, as introduced

**HB 638**