

HOUSE BILL NO. 608

INTRODUCED BY BERGSAGEL, J. RICE, PECK, BACHINI, GRINDE,
B. BROWN, HOCKETT, SWYSGOOD, WEEDING, HARP, BOHARSKI
BY REQUEST OF THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION

IN THE HOUSE

FEBRUARY 12, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON APPROPRIATIONS.

FIRST READING.

MARCH 10, 1993

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 11, 1993

PRINTING REPORT.

MARCH 13, 1993

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

MARCH 15, 1993

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

ON MOTION, REREFERRED TO COMMITTEE
ON TAXATION.

MARCH 19, 1993

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 22, 1993

PRINTING REPORT.

MARCH 23, 1993

SECOND READING, DO PASS AS AMENDED.

MARCH 24, 1993

ON MOTION, RULES SUSPENDED
AND BILL PLACED ON SECOND READING.

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

MARCH 25, 1993

SECOND READING, DO PASS AS AMENDED.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED.
AYES, 67; NOES, 32.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 26, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON FINANCE & CLAIMS.

FIRST READING.

APRIL 7, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 8, 1993

SECOND READING, CONCURRED IN.

APRIL 12, 1993

THIRD READING, CONCURRED IN.
AYES, 35; NOES, 14.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 12, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 608
 2 INTRODUCED BY Barman
 3 Barman REQUEST OF THE DEPARTMENT OF Swygonski
 4 Wm E. Behar NATURAL RESOURCES AND CONSERVATION HARR
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING A PORTION OF
 7 THE RESOURCE INDEMNITY TAX PROCEEDS; ESTABLISHING MINIMUM
 8 FUNDING LEVELS FOR GRANT PROGRAMS; CHANGING THE DISTRIBUTION
 9 OF INTEREST EARNINGS FROM THE RESOURCE INDEMNITY TRUST FUND;
 10 COMBINING THE WATER DEVELOPMENT AND RENEWABLE RESOURCE
 11 DEVELOPMENT PROGRAMS TO CREATE THE RENEWABLE RESOURCE GRANT
 12 AND LOAN PROGRAM; REINVESTING THE INTEREST EARNINGS OF THE
 13 WATER STORAGE STATE SPECIAL REVENUE ACCOUNT; REMOVING THE
 14 CRUCIAL STATE NEED FUNDING CATEGORY FROM THE RECLAMATION AND
 15 DEVELOPMENT GRANTS PROGRAM AND LIMITING FUNDING TO MINERAL
 16 RECLAMATION PROJECTS; CREATING THE RURAL ECONOMIC
 17 REVITALIZATION PROGRAM THAT WILL FUND PROJECTS THAT PROMOTE
 18 AND IMPROVE MONTANA'S ECONOMY; AMENDING SECTIONS 15-38-106,
 19 15-38-202, 17-5-701, 17-5-702, 17-5-706, 85-1-102, 85-1-601,
 20 85-1-602, 85-1-603, 85-1-604, 85-1-605, 85-1-606, 85-1-608,
 21 85-1-609, 85-1-610, 85-1-611, 85-1-612, 85-1-613, 85-1-614,
 22 85-1-615, 85-1-616, 85-1-617, 85-1-618, 85-1-619, 85-1-620,
 23 85-1-621, 85-1-623, 85-1-631, 85-2-105, 90-2-1102,
 24 90-2-1103, 90-2-1104, 90-2-1105, 90-2-1112, AND 90-2-1121,
 25 MCA; REPEALING SECTIONS 85-1-607, 90-2-101, 90-2-102,

1 90-2-103, 90-2-104, 90-2-107, 90-2-108, 90-2-109, 90-2-110,
 2 90-2-111, 90-2-112, 90-2-121, 90-2-122, 90-2-123, 90-2-124,
 3 90-2-125, 90-2-126, 90-2-127, AND 90-2-128, MCA; AND
 4 PROVIDING EFFECTIVE DATES."
 5

6 STATEMENT OF INTENT

7 This bill is introduced as a result of a legislative
 8 request to combine the water development and renewable
 9 resource development programs. These grant and loan programs
 10 have been administered as essentially one program for the
 11 past 4 bienniums. The renewable resource grant and loan
 12 program keeps the critical elements of both the water
 13 development and renewable resource development programs and
 14 does not expand either eligible projects or eligible
 15 applicants.

16 This bill removes the "crucial state need" funding
 17 category from the reclamation and development grants program
 18 and limits funding to mineral reclamation projects. In place
 19 of the "crucial state need" category, the rural economic
 20 revitalization program is established to fund projects that
 21 promote and improve Montana's economy. These two programs
 22 will now have clear and specific goals. This bill will
 23 simplify the programs, making it easier to administer the
 24 programs and foster better public understanding.

25 The long-range planning subcommittee of the

1 appropriations and finance and claims committees stated its
 2 intent to establish minimum funding levels for these grant
 3 programs in House Bill No. 6 (Chapter 551, Laws of 1991) and
 4 House Bill No. 8 (Chapter 552, Laws of 1991) passed by the
 5 1991 legislature. Over the past several bienniums grant
 6 funding has decreased. At the same time, revenues allocated
 7 to the water development, renewable resource development,
 8 and reclamation and development accounts have increased.
 9 Appropriations to natural resource agencies have made up the
 10 difference and have increased at a rate surpassing the
 11 growth in resource indemnity trust (RIT) interest income.
 12 This bill establishes minimum funding levels for the
 13 renewable resource grant and loan program, the reclamation
 14 and development grants program, the rural economic
 15 revitalization program, and the water storage account.

16 In order to reflect the combining of the water
 17 development and renewable resource development programs, the
 18 allocation of interest earnings from the RIT is changed.
 19 Currently, 30% and 8%, respectively, of the RIT interest
 20 earnings are allocated to water development and the
 21 renewable resource development state special revenue
 22 accounts. This bill would eliminate these accounts. In their
 23 place, the renewable resource grant and loan program state
 24 special revenue account would be established and 38% of the
 25 RIT interest earnings would be allocated to this account.

1 Resource indemnity tax proceeds are allocated to the
 2 renewable resource grant and loan program and the
 3 reclamation and development grants state special revenue
 4 accounts. This will assure funding for the operation of
 5 state natural resource agencies.
 6

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

8 **Section 1.** Section 15-38-106, MCA, is amended to read:

9 "15-38-106. (Temporary) Payment of tax -- records --
 10 collection of taxes -- refunds. (1) The tax imposed by this
 11 chapter shall must be paid by each person to which the tax
 12 applies, on or before March 31, on the value of product in
 13 the year preceding January 1 of the year in which the tax is
 14 paid. The tax shall must be paid to the department at the
 15 time the statement of yield for the preceding calendar year
 16 is filed with the department.

17 (2) The department shall deposit the proceeds of the
 18 tax in the resource indemnity trust fund of the
 19 nonexpendable trust fund type. Every person to whom the tax
 20 applies shall keep records in accordance with 15-38-105, and
 21 the records are subject to inspection by the department upon
 22 reasonable notice during normal business hours.

23 (3) The department shall examine the statement and
 24 compute the taxes thereon, and the amount computed by the
 25 department shall be the taxes imposed, assessed against, and

payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess ~~shall~~ must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.

15-38-106. (Effective July 1, 1993) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter ~~shall~~ must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax ~~shall~~ must be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type, except that:

(a) 14.1% of the proceeds must be deposited in the ground water assessment account established by 85-2-905;

(b) 20% of the proceeds must be deposited in the renewable resource grant and loan program state special revenue account established by 85-1-604; and

(c) 20% of the proceeds must be deposited in the

reclamation and development grants account established by 90-2-1104.

(3) Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

~~(3)~~(4) The department shall examine the statement and compute the taxes thereon, and the amount computed by the department ~~shall~~ must be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess ~~shall~~ must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Section 2. Section 15-38-202, MCA, is amended to read:

"15-38-202. Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-37-117, ~~shall~~ must be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust fund ~~shall~~ must annually be added to the trust fund

until it has reached the sum of \$10 million. Thereafter, only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts shall must be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101; and

(ii) beginning-in-fiscal-year-1992, an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161;

(iii) \$1,600,000 to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iv) \$1,600,000 to be deposited into the reclamation and development grants state special revenue account, created by 90-2-1104, for the purpose of making grants;

(v) \$800,000 to be deposited into the rural economic revitalization state special revenue account, created by [section 39], for the purpose of making grants; and

(vi) beginning in fiscal year 1994, \$400,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(b) The remainder of the interest income is allocated as follows:

(i) Beginning--in-fiscal-year-1982, provided the amount in the resource indemnity trust fund--is--greater--than--\$10 million, 38% Thirty-eight percent of the interest income of the resource indemnity trust fund must be allocated to the water--development renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) Beginning-in-fiscal-year-1988, 12% Twelve percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Beginning--in-fiscal-year-1990, 8% of the interest income from--the--resource--indemnity--trust--fund--must--be allocated--to--the--renewable--resource--development-account provided-for-in-Title-90, chapter-2.

(iv) Beginning--in--fiscal--year--1990, 46% Forty-six percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(v) (iv) Beginning--in--fiscal-year-1998, 4% Four percent of the interest income of the resource indemnity trust fund

1 must be allocated to the environmental quality protection
2 fund provided for in 75-10-704.

3 (3) Any formal budget document prepared by the
4 legislature or the executive branch that proposes to
5 appropriate funds from the resource indemnity trust interest
6 account other than as provided for by the allocations in
7 subsection (2) must specify the amount of money from each
8 allocation that is proposed to be diverted and the proposed
9 use of the diverted funds. A formal budget document includes
10 a printed and publicly distributed budget proposal or
11 recommendation, an introduced bill, or a bill developed
12 during the legislative appropriation process or otherwise
13 during a legislative session."

14 **Section 3.** Section 15-38-202, MCA, is amended to read:

15 "15-38-202. (Effective July 1, 1995) Investment of
16 resource indemnity trust fund -- expenditure -- minimum
17 balance. (1) All money paid into the resource indemnity
18 trust fund, including money payable into the fund under the
19 provisions of 15-37-117, shall must be invested at the
20 discretion of the board of investments. All the net earnings
21 accruing to the resource indemnity trust fund shall must
22 annually be added to the trust fund until it has reached the
23 sum of \$10 million. Thereafter, only the net earnings may be
24 appropriated and expended until the fund reaches \$100
25 million. Thereafter, all net earnings and all receipts shall

1 must be appropriated by the legislature and expended,
2 provided that the balance in the fund may never be less than
3 \$100 million.

4 (2) (a) At the beginning of each biennium, there is
5 allocated from the interest income of the resource indemnity
6 trust fund:

7 (i) an amount not to exceed \$175,000 to the
8 environmental contingency account pursuant to the conditions
9 of 75-1-1101; and

10 (ii) beginning-in-fiscal-year-1992, an amount not to
11 exceed \$50,000 to the oil and gas production damage
12 mitigation account pursuant to the conditions of 82-11-161;

13 (iii) beginning in fiscal year 1996, \$2 million to be
14 deposited into the renewable resource grant and loan program
15 state special revenue account, created by 85-1-604, for the
16 purpose of making grants;

17 (iv) beginning in fiscal year 1996, \$2 million to be
18 deposited into the reclamation and development grants state
19 special revenue account, created by 90-2-1104, for the
20 purpose of making grants;

21 (v) beginning in fiscal year 1996, \$1 million to be
22 deposited into the rural economic revitalization state
23 special revenue account, created by [section 39], for the
24 purpose of making grants; and

25 (vi) beginning in fiscal year 1996, \$500,000 to be

1 deposited into the water storage state special revenue
2 account created by 85-1-631.

3 (b) The remainder of the interest income is allocated
4 as follows:

5 (i) ~~Beginning in fiscal year 1982, provided the amount~~
6 ~~in the resource indemnity trust fund is greater than \$10~~
7 ~~million, 30% Thirty-eight percent~~ of the interest income of
8 the resource indemnity trust fund must be allocated to the
9 water development renewable resource grant and loan program
10 state special revenue account created by 85-1-604.

11 (ii) ~~Beginning in fiscal year 1988, 12% Twelve percent~~
12 of the interest income of the resource indemnity trust fund
13 must be allocated to the hazardous waste/CERCLA special
14 revenue account provided for in 75-10-621.

15 (iii) ~~Beginning in fiscal year 1990, 8% of the interest~~
16 ~~income from the resource indemnity trust fund must be~~
17 ~~allocated to the renewable resource development account~~
18 ~~provided for in Title 90, chapter 2.~~

19 (iv) ~~Beginning in fiscal year 1990, 46% Forty-six~~
20 ~~percent~~ of the interest income from the resource indemnity
21 trust fund must be allocated to the reclamation and
22 development grants account provided for in 90-2-1104.

23 (v)(iv) ~~Beginning in fiscal year 1990, 4% Four percent~~
24 of the interest income of the resource indemnity trust fund
25 must be allocated to the environmental quality protection

1 fund provided for in 75-10-704.

2 (3) Any formal budget document prepared by the
3 legislature or the executive branch that proposes to
4 appropriate funds from the resource indemnity trust interest
5 account other than as provided for by the allocations in
6 subsection (2) must specify the amount of money from each
7 allocation that is proposed to be diverted and the proposed
8 use of the diverted funds. A formal budget document includes
9 a printed and publicly distributed budget proposal or
10 recommendation, an introduced bill, or a bill developed
11 during the legislative appropriation process or otherwise
12 during a legislative session."

13 **Section 4.** Section 17-5-701, MCA, is amended to read:

14 "17-5-701. State of Montana coal severance tax bonds.
15 This part provides for the issuance of state of Montana coal
16 severance tax bonds (also referred to as coal severance tax
17 bonds in this part) to:

18 (1) finance ~~water resource development~~ renewable
19 resource projects and ~~activities~~ in the state designed to
20 provide, during and after extensive coal mining, a healthy
21 economy, the alleviation of social and economic impacts
22 created by coal development, and a clean and healthful
23 environment for present and future generations; and

24 (2) finance loans to local governments for
25 infrastructure projects under Title 90, chapter 6, part 7."

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

"17-5-702. Purpose and intent. (1) The purpose of the coal severance tax trust fund bond provisions of this part is to establish the authority to issue and sell coal severance tax bonds that have been approved by act of the legislature for financing specific ~~water----~~resource development renewable resource projects and-activities in the state authorized by the legislature and to guarantee redemption of such the bonds by revenue derived from the receipts from the coal severance tax imposed by Title 15, chapter 35, part 1, and such other money as the legislature may from time to time determine.

(2) The legislature intends that projects to be financed by coal severance tax bonds include ~~water-resource development~~ renewable resource projects and--activities as part of the water-development program established in Title 85, chapter 1, part 6. The legislature further intends that the income from ~~water--resource--development~~ renewable resource projects and-activities in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the ~~water development~~ renewable resource grant and loan program state special revenue account established in 85-1-604."

Section 6. Section 17-5-706, MCA, is amended to read:

"17-5-706. Authority to issue coal severance tax bonds.

The board of examiners, upon approval of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance such approved ~~water----~~resource development renewable resource projects and-activities when authorized to do so by any law that sets out the amount and purpose of the issue. Each project ~~or-activity-shall~~ must be separately approved as to amount by a two-thirds vote of each house of the legislature."

Section 7. Section 85-1-102, MCA, is amended to read:

"85-1-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Administrative costs" means costs incurred by the department:

(a) for the purpose of protecting the department's properties and assets;

(b) to oversee the operation and maintenance of the projects;

(c) to administer contracts and receivables;

(d) to maintain project financial records;

(e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

(f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

1 (3) "Cost of operation and maintenance" means the costs
2 of operation, maintenance, and routine repairs and the costs
3 incurred by the water users' association or the department
4 in the distribution of water from the project, excluding the
5 department's administrative costs.

6 (4) "Cost of works" means the cost of construction,
7 including any rehabilitation or alteration of the project;
8 the cost of all lands, property, rights, easements, and
9 franchises acquired which are deemed necessary for the
10 construction; the cost of all water rights acquired or
11 exercised by the department in connection with those works;
12 the cost of all machinery and equipment, financing charges,
13 interest prior to and during construction and for a period
14 not exceeding 3 years after the completion of construction;
15 cost of engineering and legal expenses, plans,
16 specifications, surveys, estimates of cost, and other
17 expenses necessary or incident to determining the
18 feasibility or practicability of any project; administrative
19 expense; and other expenses as may be necessary or incident
20 to the financing authorized in this part and the
21 construction of the works and the placing of the works in
22 operation.

23 (5) "Department" means the department of natural
24 resources and conservation provided for in Title 2, chapter
25 15, part 33.

1 (6) "Owner" means all individuals, irrigation
2 districts, drainage districts, flood control districts,
3 incorporated companies, societies, or associations having
4 any title or interest in any properties, rights, easements,
5 or franchises to be acquired.

6 (7) "Private person" means any individual, association,
7 partnership, corporation, or other nongovernmental entity
8 not eligible for loans and grants under 85-1-605 but does
9 not include a governmental entity such as an agency, local
10 government, or political subdivision of the state, the
11 United States, or any agency thereof, or any other
12 governmental entity.

13 (8) "Project" means any one of the works defined in
14 this section or any combination of works which are
15 physically connected or jointly managed and operated as a
16 single unit.

17 (9) "Public benefits" means those benefits that accrue
18 from a water development project or activity to persons
19 other than the private grant or loan recipient and that
20 enhance the common well-being of the people of Montana.
21 Public benefits include but are not limited to recreation,
22 flood control, erosion reduction, agricultural flood damage
23 reduction, water quality enhancement, sediment reduction,
24 access to recreation opportunities, and wildlife
25 conservation.

(10) "Renewable resource grant and loan program state special revenue account" means a separate account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes of the water development program as set forth in 85-1-604.

(11) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603 within the debt service fund type of the state treasury to be used as provided in 85-1-619.

(12) "Water development Renewable resource loan proceeds account" means a separate account created by 85-1-617 within the state special revenue fund of the state treasury to finance loans under the provisions of the water development renewable resource grant and loan program to agencies, local governments, and political subdivisions of the state, private persons, and any other eligible recipients and to purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued under part 6 of this chapter.

(13) "Water development activity" means an action or program to protect and enhance water-based recreation or to protect or enhance water resources for the benefit of agriculture, flood control, or other uses, including but not limited to the promotion of efficient use of water in agriculture, the improvement of water quality in agriculture

and other nonpoint source uses, the protection and enhancement of water-based recreation, the control of erosion of streambanks and control of sedimentation of rivers and streams, and providing greater local and state control of Montana water resources. Water development activities may provide any combination of marketable and nonmarketable benefits.

(12) "Water development debt service fund" means a separate fund created by 85-1-603 within the debt service fund type of the state treasury to be used as provided in 85-1-619.

(14) "Water development project" means a project as defined in subsection (8), except that water development projects:

(a) are not limited to projects owned or operated by the department; and

(b) for purposes of the renewable resource grant and loan program, must include water development activities.

(14) "Water development state special revenue account" means a separate account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes of the water development program as set forth in 85-1-604.

(15) "Works" means all property and rights, easements, and franchises relating to property and considered necessary

1 or convenient for the operation of the works and all water
 2 rights acquired or exercised by the department in connection
 3 with those works and includes all means of conserving and
 4 distributing water, including, without limiting the
 5 generality of the foregoing, reservoirs, dams, diversion
 6 canals, distributing canals, waste canals, drainage canals,
 7 dikes, lateral ditches and pumping units, mains, pipelines,
 8 and waterworks systems and includes all works for the
 9 conservation, development, storage, distribution, and
 10 utilization of water, including without limiting the
 11 generality of the foregoing, works for the purpose of
 12 irrigation, flood prevention, drainage, fish and wildlife,
 13 recreation, development of power, watering of stock,
 14 supplying of water for public, domestic, industrial, or
 15 other uses and for fire protection."

16 **Section 8.** Section 85-1-601, MCA, is amended to read:

17 "85-1-601. Purpose and policies. (1) The legislature
 18 finds and declares that in order that the people of Montana
 19 may enjoy the full-economic-and-recreational benefits of the
 20 state's water and other renewable resources, the state must
 21 establish this long-term water--development renewable
 22 resource grant and loan program providing financial and
 23 administrative assistance to private for-profit, private
 24 nonprofit, local government, and state government entities
 25 for water renewable resource development grant and loan

1 projects and-activities.

2 (2) The purpose of the water--development renewable
 3 resource grant and loan program is to further the state's
 4 policies, set forth in 85-1-101, regarding the conservation,
 5 development, and beneficial use of water resources and to
 6 invest in renewable natural resource projects that will
 7 preserve for the citizens of Montana the economic and other
 8 benefits of the state's natural heritage.

9 (3) The legislature recognizes that-water-is-one-of-the
 10 most-valuable-and-important the value of Montana's renewable
 11 resources in--Montana; therefore, it is appropriate that a
 12 portion of the taxes and other revenue from on--the--removal
 13 of nonrenewable resources be dedicated-to-the-conservation,
 14 development,-and-beneficial-use-of-water-resources invested
 15 in the replacement of nonrenewable resources with the
 16 development of renewable resource projects that will
 17 continue to provide tax and other revenue and will preserve
 18 for the citizens the economic and other benefits of the
 19 state's natural heritage.

20 (4) The conservation, development, management, and
 21 preservation of water and other renewable resources is-of-a
 22 are high priority priorities because a large portion of
 23 Montana's present and future economy is based either
 24 directly or indirectly on the wise use of water these
 25 resources.

(5) Developments supported by this part may not significantly diminish the quality of existing public resources, such as land, air, fish, wildlife, and recreation opportunities.

{5}(6) This water-development renewable resource grant and loan program is an integral supports, in part, of the implementation and development of the comprehensive, coordinated, multiple-use water resources plan known as the "state water plan". In making funding recommendations for grants and loans, the department shall give preference to projects that will implement state water plan priorities if, in all other respects, the proposed projects are equal in public benefit and technical feasibility."

Section 9. Section 85-1-602, MCA, is amended to read:

"85-1-602. Objectives. (1) The department shall administer a water-development renewable resource grant and loan program to accomplish such objectives as rehabilitation of state-owned water projects and works; promotion of private local government, and state water development; enhance Montana's renewable resources through projects that measurably conserve, develop, manage, or preserve resources. Either grants or loans may be provided to fund the following:

(a) feasibility, design, research, and resource assessment studies;

(b) preparation of construction, rehabilitation, or production plans; and

(c) construction, rehabilitation, production, education, or other implementation efforts.

(2) Projects that may enhance renewable resources in Montana include but are not limited to:

(a) development of water-based natural resource-based recreation and the protection of water resources for the benefit of agriculture, flood control, and other uses;

(b) development of offstream and tributary storage;

(c) encouragement of projects or programs that improve improvement of water use efficiency, including development of new, efficient water systems, rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices required under 85-2-113; and development of state-tribal, state-federal, and state-tribal-federal water projects; and

(d) advancement of farming practices that reduce agricultural chemical use. The storage of water for existing and future beneficial uses shall be given the highest priority unless a water development project or activity designed to accomplish another objective is demonstrated to be more beneficial to a greater number of people.

(3) The water-development renewable resource grant and loan program is the key implementation portion of the state

water plan and shall must be administered to encourage grant
and loan applications for projects designed to accomplish
the objectives of the plan."

Section 10. Section 85-1-603, MCA, is amended to read:

"85-1-603. Water-development Renewable resource loan
debt service fund created -- coal severance tax allocated --
water--development renewable resource loan loss reserve fund
created. (1) (a) There is created a water--development
renewable resource loan debt service fund within the debt
service fund type established in 17-2-102.

(b) The state pledges and allocates and directs to be
credited to the water-development renewable resource loan
debt service fund, as received:

(i) ~~1-1/4%~~ 2 1/2% of all money from time to time
received from the coal severance tax collected under Title
15, chapter 35, and remaining after allocation of such the
tax under 15-35-108(1) and (2);

(ii) any principal and accrued interest under
85-1-613~~(3)(a)~~(4)(a) received in repayment of a loan made
from the proceeds of bonds issued under 85-1-617;

(iii) all interest income earned on proceeds of water
development renewable resource grant and loan program bonds;

(iv) revenue or money otherwise required to be paid into
the water--development renewable resource grant and loan
program state special revenue account pursuant to 85-1-604,

as determined by the board of examiners in connection with
the issuance of bonds pursuant to 85-1-617; and

(v) money received from the water-development renewable
resource loan loss reserve fund as the result of a loan
loss.

(2) (a) There is created a water-development renewable
resource loan loss reserve fund within the debt service fund
type established in 17-2-102.

(b) The state pledges and allocates and directs to be
credited to the water-development renewable resource loan
loss reserve fund all accrued interest under
85-1-613~~(3)(b)~~(4)(b) received in repayment of a loan made
from the proceeds of bonds issued under 85-1-617.

(c) If the department determines that a loan loss has
occurred on a loan made pursuant to this part, funds from
the water-development renewable resource loan loss reserve
fund must be transferred to the water-development renewable
resource loan debt service fund in an amount equal to the
amount that would otherwise be available for debt service
under subsection (1)(b) as a result of the loan loss."

Section 11. Section 85-1-604, MCA, is amended to read:

"85-1-604. Water-development Renewable resource grant
and loan program state special revenue account created --
revenues allocated -- limitations on appropriations from
account. (1) There is created a water-development renewable

1 resource grant and loan program state special revenue
2 account within the state special revenue fund established in
3 17-2-102.

4 (2) Except to the extent that they are required to be
5 credited to the water-development renewable resource loan
6 debt service fund pursuant to 85-1-603, there shall must be
7 paid into the water-development renewable resource grant and
8 loan program state special revenue account:

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

11 (b) ~~30%~~ 38% of the interest income of the resource
12 indemnity trust fund as provided in and subject to the
13 conditions of 15-38-202;

14 (c) the excess of the coal severance tax proceeds
15 allocated by 85-1-603 to the water-development renewable
16 resource loan debt service fund above debt service
17 requirements as provided in and subject to the conditions of
18 85-1-619; and

19 (d) any fees or charges collected by the department
20 pursuant to 85-1-616 for the servicing of loans, including
21 arrangements for obtaining security interests; and

22 (e) 20% of the resource indemnity tax proceeds.

23 (3) Appropriations may be made from the water
24 development renewable resource grant and loan program state
25 special revenue account for the following purposes and

1 subject to the following conditions:

2 (a) The amount of resource indemnity trust fund
3 interest earnings allocated under section 15-38-202(2)(b)
4 must be used for renewable resource grants.

5 (b) An amount less than or equal to that paid into the
6 account under 85-1-332 and only that amount may be
7 appropriated for the operation and maintenance of
8 state-owned projects and works. If the amount of money
9 available for appropriation under this subsection ~~{3}{a}~~ (b)
10 is greater than that necessary for operation and maintenance
11 expenses, the excess may be appropriated as provided in
12 subsection ~~{3}{b}~~ (3)(c).

13 ~~{b}{c}~~ An amount less than or equal to that paid into
14 the account from the resource indemnity trust account plus
15 any excess from subsection ~~{3}{a}~~ (3)(b) and only that
16 amount may be appropriated from the account for:

17 ~~{i}--the--rehabilitation--of--state-owned--projects--and~~
18 ~~works--including--the--rehabilitation--of--spillways--of~~
19 ~~state-owned-dams;~~

20 ~~{ii}--the--formulation--of--downstream--emergency--warning--and~~
21 ~~evacuation--plans--for--state-owned--dams;~~

22 ~~{iii}--the--development--of--the--hydropower--potential--of~~
23 ~~state-owned-dams;~~

24 ~~{iv}--assistance--in--the--implementation--of--the--water~~
25 ~~reservations--established--under--85-2-316--of--conservation~~

1 districts;

2 (v)--the-promotion-of-the-development-of--offstream--and
3 tributary-storage;

4 (vi)--the-promotion-of-joint-state-tribal--state-federal
5 and-state-tribal-federal-water-development;

6 (vii)--projects---or---programs--that--improve--water--use
7 efficiency--including-development-of--new--efficient--water
8 systems--rehabilitation--of--older--less--efficient--water
9 systems--and--acquisition--and--installation--of--measuring
10 devices-required-under-85-2-113;

11 (viii)--administrative---expenses--including---but--not
12 limited--to--the--salaries--and---expenses---of---personnel,
13 equipment--office--space--and--other-necessities-incurred-in
14 the-administration-of-the-water-development-program--except
15 the-administration-of-loans-and-grants--and

16 (ix)--any--other expenditures that meet the policies and
17 objectives of the state-water-development renewable resource
18 grant and loan program. If the amount of money available for
19 appropriation under this subsection (c) is greater than that
20 necessary for operation and maintenance expenses, the excess
21 may be appropriated as provided in subsection (3)(d).

22 (c)(d) An amount less than or equal to that paid into
23 the account from the sources provided for in (c)-and-(d)-of
24 subsection-(2) subsections (2)(c) and (2)(d) and any excess
25 from subsection (3)(c) and only that amount may be

1 appropriated from the account for loans and grants for water
2 development renewable resource projects and-activities; for
3 purchase of liens and operation of property as provided in
4 85-1-615; for administrative expenses, including but not
5 limited to the salaries and expenses of personnel,
6 equipment, and office space; for the servicing of loans,
7 including arrangements for obtaining security interests; and
8 for other necessities incurred in administering the loans
9 and grants.

10 (4)--An-amount-equal-to-25%--of-the-money--available--for
11 grants--under--subsection--(3)(c)--must-be-transferred-to-the
12 water-storage--state--special--revenue--account--created--in
13 85-1-631."

14 **Section 12.** Section 85-1-605, MCA, is amended to read:

15 "85-1-605. Grants, loans, and bonds for state and local
16 government assistance. (1) The department may recommend to
17 the legislature that grants and loans be made from coal
18 severance--tax--proceeds revenue deposited in the water
19 development renewable resource grant and loan program state
20 special revenue account, that loans be made from water
21 development--bond--proceeds renewable resource bond proceeds
22 deposited in the water-development renewable resource loan
23 proceeds account established in 85-1-617(5), and that coal
24 severance tax bonds be authorized pursuant to Title 17,
25 chapter 5, part 7, to provide financial assistance to a

department, agency, board, commission, or other division of state government or to a city, county, or other political subdivision or local government body of the state. The legislature may approve by appropriation or other appropriate means those grants and loans it finds consistent with the policies and purposes of the program.

(2) Nothing in this part creates or expands a state or local government's authority to incur debt, and the legislature may authorize loans only to state and local government entities otherwise structured to incur debt.

(3) Loans may not be authorized except to a state or local government entity that agrees to secure the authorized loan with its bond.

(4) In addition to implementing those projects approved by the legislature, the department may request up to 10% of the grant funds available for grants and up to \$1 million for loans from the water--development renewable resource grant and loan program state special revenue account and the renewable resource loan proceeds account in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, must may not be made because of the gross negligence of the state or local government applicant, must be approved by the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding, or both, which that, if delayed until

legislative approval can be obtained, will cause substantial damages or legal liability to the project sponsor. In allocating such the funds, the department shall inform the legislative finance committee of the legislature.

(3)(5) The grants and loans provided for by this section may be made for projects that enhance renewable resources in the state through conservation, development, management, or preservation; for assessing feasibility or planning; for implementing renewable resource projects the purchase,--lease,--development,--or--construction--of--water development--projects--and--activities--for--the--conservation, management, use, development, or protection of the water and related--agricultural,--land,--fish,--wildlife,--and--water recreation--resources--in--the--state,--for--the--purpose--of feasibility--and--design--studies--for--such--projects,--for development--of--plans--for--and--the--rehabilitation,--expansion, and--modification--of--water--development--projects,--for--other water--development--projects--and--activities--that--will--enhance the--water--resources--of--the--state; and for similar purposes approved by the legislature."

Section 13. Section 85-1-606, MCA, is amended to read:

"85-1-606. Grants and loans to private persons. (1) To encourage the construction and development of water water-related development projects and--activities, the department may make grants and loans to private persons from

funds appropriated from the water--development renewable resource grant and loan program state special revenue account and may make loans to private persons from the water development renewable resource loan proceeds account.

(2) The department shall publicize the statutes and rules governing grants and loans to private persons for water water-related development projects and activities, set and publicize application deadlines, and accept applications for grants and loans.

(3) The department shall review, evaluate, and select the water water-related development projects and activities for which grants or loans may be awarded."

Section 14. Section 85-1-608, MCA, is amended to read:

"85-1-608. Applications for grants and loans to private persons. (1) A private person may apply for a grant or loan to finance a water water-related development project or activity to be constructed, developed, and operated in Montana.

(2) An application for a loan or grant must be in the form prescribed by the--board rule and contain or be accompanied by any information necessary to adequately describe the proposed project or activity and necessary for evaluation of the proposed project or activity under the criteria set out in 85-1-609 and 85-1-610."

Section 15. Section 85-1-609, MCA, is amended to read:

"85-1-609. Eligibility for a loan or grant to a private person. The department may not award a grant or loan to a private person unless the department finds, based on the application and the department's investigation and evaluation of the proposal, that:

(1) the proposed water water-related development project or activity:

(a) will promote, enhance, or advance the purpose, policies, and objectives of the water-development renewable resource grant and loan program;

(b) will be constructed, developed, and operated within the state of Montana;

(c) will be economically feasible. (A project or activity is economically feasible if the project benefits exceed the project costs. The department shall consider only tangible quantifiable benefits and costs in calculating economic feasibility.)

(d) will be an efficient use of natural resources, including water, energy, land, and air. (An efficient use is one that minimizes waste.)

(e) will provide multipurpose facilities to the extent practicable;

(f) will comply with statutory and regulatory standards protecting the quality of resources such as air, water, land, fish, wildlife, and recreational opportunities;

(g) will provide associated public benefits in addition to any private benefits the project or-activity may provide; and

(h) is needed to accomplish the purpose for which the water-development project or-activity is proposed;

(2) the applicant has adequate financial resources to construct, operate, and maintain the water--development project or-activity. The department shall consider financial resources from any source for which the applicant has qualified, including a water-development renewable resource grant or loan.

(3) the applicant holds or can acquire all necessary lands, other than public lands, and interests therein in the lands and water rights necessary for the construction, operation, and maintenance of the proposed water-development project or-activity;

(4) if the application is for a loan, the applicant is credit-worthy creditworthy and able and willing to enter into a contract with the department for loan repayment and construction or development of the proposed water development project or-activity; and

(5) if the application is for a grant, the applicant is able and willing to enter into a contract with the department for construction or development of the proposed water-development project or-activity."

Section 16. Section 85-1-610, MCA, is amended to read:

"85-1-610. Evaluation of grants and loans to private persons. The department shall consider the following criteria and preferences in evaluating applications and selecting the recipients of grants and loans for water water-related development projects and-activities that are eligible for funding under 85-1-609:

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

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

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

(4) The department, to the extent practicable, shall attempt to achieve geographic balance in the promotion of water-development renewable resource grant and loan projects and-activities through the awarding of loans and grants to

private persons.

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

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

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

Section 17. Section 85-1-611, MCA, is amended to read:

"85-1-611. Department to solicit views. The department shall solicit and consider in its evaluation of proposed projects and-activities the views of interested and affected departments, boards, agencies, commissions, and other subdivisions of the state, including local political subdivisions, of the federal government, and of other interested and affected persons."

Section 18. Section 85-1-612, MCA, is amended to read:

"85-1-612. Rulemaking authority. The board department shall adopt rules:

(1) prescribing a reasonable application fee and the form and content of applications for grants and loans;

(2) governing the application of the criteria for awarding loans and grants to private persons;

(3) providing for the servicing of loans including arrangements for obtaining security interests and the establishment of reasonable fees or charges to be made; and

(4) describing the terms and conditions for making grants and loans, the security instruments, and the agreements necessary;

(5) describing the ranking criteria used to evaluate and prioritize grants to governmental entities; and

(6) specifying any other procedures necessary to accomplish the objectives of the renewable resource grant and loan program."

Section 19. Section 85-1-613, MCA, is amended to read:

"85-1-613. Limits on loans. (1) No A loan to a private person for a water-development renewable resource grant and loan program project or-activity may not be made from the water-development renewable resource grant and loan program state special revenue account or water--development the renewable resource loan proceeds account that if the loan exceeds the least lesser of \$200,000--18%--of--the--estimated total--funds--potentially--available--for--loans--in--the--water development---state---special---revenue--account--and--water

development-account-in-the-biennium-in-which-the--loan--will be--made, or 80% of the fair market value of the security given therefor for the project. In determining the fair market value for the security given for a loan, the department shall consider appraisals made by qualified appraisers and other factors it considers important.

(2) A loan to a state or local government for a renewable resource grant and loan program project may not be made by the department from the renewable resource grant and loan program state special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

(2)(3) The period for repayment of loans may not exceed 30 years.

(3)(4) The board shall from time to time establish the interest rate at which loans may be made under this part that is must be sufficient to:

(a) cover the bond debt service for a loan; and

(b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs."

Section 20. Section 85-1-614, MCA, is amended to read:

"85-1-614. Limits on grants from water--development renewable resource grant and loan program state special revenue account. (1) The maximum grant awarded to a private

person may not exceed the lesser of:

(a) 5% of the estimated total funds potentially available in the water-development renewable resource grant and loan state special revenue account for public and private grants in the biennium in which the grant will be made; or

(b) 25% of the total project cost, ~~whichever is less.~~

(2) This part does not limit the amount of grant funds that may be appropriated by the legislature to fund a state or local government project."

Section 21. Section 85-1-615, MCA, is amended to read:

"85-1-615. Security interests -- purchase, operation, and resale of encumbered property. (1) The state has a lien upon a project constructed with money from the water development renewable resource grant and loan state special revenue account or water-development the renewable resource loan proceeds account for the amount of the loan and interest due the state. This lien may attach to any project facilities, equipment, easements, real property, and property of any kind or nature owned by the debtor, including all water rights. The department shall file with the county clerk and recorder of each county in which a part of the project is located either a financing statement or a real estate mortgage covering the loan, its amount, terms, and a description of the security. The county clerk and

recorder shall record and index the lien as other liens are required by law to be recorded and indexed. The lien shall be is valid until paid in full or otherwise discharged. The lien shall must be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens.

(2) From the funds available under 85-1-604~~(3)(c)~~(3)(d) or 85-1-617, the state may:

(a) purchase a lien that is prior to the state's lien if:

(i) the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by purchasing the prior lien; and

(ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

(b) operate property that is subject to the state's lien if the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by operating the property that is subject to the state's lien; or

(c) purchase a prior lien as provided in (2)(a) and operate property as provided in (2)(b).

(3) Any property acquired under the provisions of this section must be resold as expeditiously as possible to recover funds used under this section and funds loaned to

the borrower."

Section 22. Section 85-1-616, MCA, is amended to read:

"85-1-616. Administration of loans and grants. The department shall:

(1) administer the loan and grant program established by this part;

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

(3) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the water-development renewable resource grant and loan program state special revenue account pursuant--to established in 85-1-604."

Section 23. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing renewable resource bonds -- renewable resource loan proceeds account. (1) When authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water-development renewable resource bonds of the state in the amount and manner it considers necessary and proper to finance the water-development renewable resource grant and loan program. The full faith and credit and taxing powers of

the state are pledged for the prompt and full payment of all bonds so issued and interest and redemption premiums payable thereon on the bonds according to their terms.

(2) Each series of water-development renewable resource bonds may be issued by the board of examiners, upon request of the ~~board of natural resources and conservation~~ department, at public or private sale, in such denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at such a rate or rates, maturing at such a rate or rates, maturing at such a time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at such earlier times and prices and upon such notice, with such provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the office of such a banking institution or institutions within or outside the state, ~~as that~~ the board of examiners shall determine subject to the limitations contained in this section and 17-5-731.

(3) In the issuance of each series of water-development renewable resource bonds, the interest rates and the maturities and any mandatory redemption provisions thereof

~~shall contained~~ in the bonds ~~must~~ be established in such a manner that the funds then specifically pledged and appropriated by law to the water--development renewable resource loan debt service fund will, in the judgment of the board of examiners, be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of such bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. Such The bonds, notes, and any interest coupons appurtenant thereto to the bonds or notes must be signed by the members of the board of examiners, and the bonds and notes must be issued under the great seal of the state of Montana. The bonds, notes, 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 such bonds and notes issued and sold.

(5) There is created a water--development renewable

1 resource loan proceeds account within the state special
2 revenue fund established in 17-2-102.

3 (6) All proceeds of bonds or notes issued under this
4 section, other than refunding bonds, must be deposited in
5 the water--development renewable resource loan proceeds
6 account established in subsection (5), except that any
7 principal and accrued interest received in repayment of a
8 loan made from the proceeds of bonds issued under this
9 section must be deposited in the water-development renewable
10 resource loan debt service fund and the water-development
11 renewable resource loan loss reserve fund pursuant to
12 85-1-603. All proceeds of refunding bonds must be deposited
13 in the water--development renewable resource loan debt
14 service fund and applied to the payment and redemption of
15 outstanding bonds issued under this section as directed by
16 the board of examiners, whether at maturity or on any
17 earlier date on which they may be prepaid according to their
18 terms.

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

22 **Section 24.** Section 85-1-618, MCA, is amended to read:

23 "85-1-618. **Restrictions on use of bond proceeds.** Water
24 development Renewable resource bond proceeds may be used
25 only for the purpose of making loans as provided in the

1 water--development renewable resource grant and loan program
2 or for purchasing liens and operating property as provided
3 in 85-1-615."

4 **Section 25.** Section 85-1-619, MCA, is amended to read:

5 "85-1-619. **Debt service fund -- pledge and**
6 **administration of sufficient balance.** (1) The legislature
7 may levy, impose, assess, and pledge and appropriate to the
8 water-development renewable resource loan debt service fund
9 any tax, charge, fee, rental, or other income from any
10 designated source. The state reserves the right to modify
11 from time to time the nature and amount of special taxes and
12 other revenues pledged and appropriated to the water
13 development renewable resource loan debt service fund,
14 provided that the aggregate resources so pledged and
15 appropriated are determined by the legislature to be
16 sufficient for the prompt and full payment of the principal
17 of and interest and redemption premiums when due on all
18 bonds payable from that fund and provided that the pledge of
19 the full faith and credit and taxing powers of the state for
20 the security of all such bonds shall be and remain
21 irrevocable until they are fully paid.

22 (2) Money in the water-development renewable resource
23 loan debt service fund must be used to pay interest,
24 principal, and redemption premiums when due and payable with
25 respect to water-development renewable resource bonds, and

for bonds issued prior to 1985, to accumulate a reserve for the further security of such the payments.

(3) After the reserve provided for in subsection (2) for bonds issued prior to 1985 has been accumulated in the water-development renewable resource loan debt service fund, money at any time received in the water--development renewable resource loan debt service fund in excess of that amount must be transferred by the treasurer to the water development renewable resource grant and loan program state special revenue account."

Section 26. Section 85-1-620, MCA, is amended to read:

"85-1-620. Water----development Renewable resource refunding bonds. (1) The board of examiners may issue refunding bonds at such times and in such amounts, if any, as may be necessary to pay principal or interest due that cannot be paid from funds then on hand in the water development renewable resource loan debt service fund. The board of examiners may also issue refunding bonds to refund outstanding bonds before maturity for the purpose of extending the maturities thereof of the outstanding bonds so far--as determined by the board of examiners to be necessary to assure that the funds then pledged to the water development renewable resource loan debt service fund will be sufficient for payment of principal and interest due in subsequent years. The board of examiners may also issue

refunding bonds to refund outstanding bonds before maturity for the purpose of reducing the interest cost or the total amount of principal and interest payable thereon on the outstanding bonds.

(2) No--refunding Refunding bonds may not be issued and sold more than 3 months before all of the bonds refunded thereby mature or are called for redemption unless the proceeds thereof of the refunded bonds, with any other funds in the water--development renewable resource loan debt service fund that are needed and available for the purpose or securities purchased from such proceeds and other funds, are deposited with a suitable banking institution within or outside the state, in escrow, for the retirement of the refunded bonds at maturity or at a prior date or dates on which they have been called for redemption in accordance with their terms, in an amount and in a manner sufficient under the provisions securing the refunded bonds, so that the state's obligation to pay the same, from sources other than the escrow fund, is discharged.

(3) No--new New debt may not be created by the issuance of refunding bonds in accordance with this section, but such the refunding bonds shall must evidence the debt previously created and shall must be secured by the pledge of the full faith and credit and taxing powers of the state and by--the further--provisions--of--this--part secured in the same manner

as the bonds refunded thereby by other provisions of this part."

Section 27. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report to the legislature. The department shall prepare a biennial report to the legislature describing the status of the water-development renewable resource grant and loan program. The report must describe ongoing projects ~~and--activities and those which projects~~ that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. ~~desires to seek congressional authorization and funding and the efforts the department will undertake in attempting to--secure--such authorization--and--funding.~~ The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report ~~shall~~ must be submitted to the president of the senate and the speaker of the house, to the members of the water policy committee established in 85-2-105, and, as provided in 5-11-210, to the legislature."

Section 28. Section 85-1-623, MCA, is amended to read:

"85-1-623. Authorization of water-development renewable resource 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 \$10 million and the issuance and sale of water development renewable resource bonds in this amount for the purpose of providing funds appropriated to the water development renewable resource loan proceeds account for loans as provided in the water--development renewable resource grant and loan program or for the purchase of liens and operation of property as provided in 85-1-615."

Section 29. Section 85-1-631, MCA, is amended to read:

"85-1-631. Water storage state special revenue account created -- revenues allocated -- appropriations from account. (1) There is a water storage state special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the water storage state special revenue account:

(a) money allocated from the resource indemnity trust fund interest earnings pursuant to 15-38-202 water development--state--special--revenue--account--as-provided-in 85-1-604;--and

(b)--money--from--the--renewable--resource---development account--as-provided-in-90-2-111.

(3) Money that was not encumbered or expended from the water storage state special revenue account during the previous biennium must remain in the account.

(4) Deposits to the water storage state special revenue

1 account are to be placed in short-term investments and
 2 accrue interest, which must be deposited in the water
 3 storage state special revenue account.

4 ~~(4)~~(5) The purpose of the water storage state special
 5 revenue account is to provide money for loans and grants
 6 exclusively for water storage projects, including the
 7 purchase or lease of property; planning, feasibility, and
 8 design studies; and other costs related to construction,
 9 rehabilitation, expansion, and modification of water storage
 10 projects.

11 ~~(5)~~(6) The department shall administer this section as
 12 an integral part of the water-development renewable resource
 13 grant and loan program, using, to the extent possible, the
 14 same procedures for soliciting, determining eligibility, and
 15 rating water storage project proposals and for administering
 16 grants and loans, subject to the same limitations, as
 17 applied to other water-development renewable resource grants
 18 and loans.

19 ~~(6)~~(7) The following preferences must be considered in
 20 ranking proposals for water storage grants and loans:

21 (a) first preference is for the rehabilitation of water
 22 storage projects that resolve threats to life and property;

23 (b) second preference is for the improvement or
 24 expansion of existing water storage projects; and

25 (c) third preference is for the development of new

1 water storage projects."

2 **Section 30.** Section 85-2-105, MCA, is amended to read:

3 "85-2-105. Water policy committee. (1) There is a
 4 permanent water policy committee of the legislature. The
 5 committee consists of eight members. The senate committee on
 6 committees and the speaker of the house of representatives
 7 shall each appoint four members on a bipartisan basis. The
 8 committee shall elect its chairman and vice-chairman. The
 9 committee shall meet as often as necessary, including during
 10 the interim between sessions, to perform the duties
 11 specified within this section.

12 (2) On a continuing basis, the committee shall:

13 (a) advise the legislature on the adequacy of the
 14 state's water policy and of important state, regional,
 15 national, and international developments which affect
 16 Montana's water resources;

17 (b) oversee the policies and activities of the
 18 department of natural resources and conservation, other
 19 state executive agencies, and other state institutions, as
 20 they affect the water resources of the state; and

21 (c) communicate with the public on matters of water
 22 policy as well as the water resources of the state.

23 (3) On a regular basis, the committee shall:

24 (a) analyze and comment on the state water plan
 25 required by 85-1-203, when filed by the department;

(b) analyze and comment on the report of the status of the state's water-development renewable resource grant and loan program required by 85-1-621, when filed by the department;

(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;

(d) analyze, verify, and comment on the adequacy of and information contained in the water resources data management system maintained by the department under 85-2-112; and

(e) report to the legislature as provided in 5-11-210.

(4) The environmental quality council shall provide staff assistance to the committee. The committee may contract with experts and consultants, in addition to receiving assistance from the environmental quality council, in carrying out its duties under this section."

Section 31. Section 90-2-1102, MCA, is amended to read:

"90-2-1102. Policy and purpose. (1) The policy of the state of Montana expressed in the Reclamation and Development Grants Program Act is to provide a state capability to fund projects that indemnify the people of the state for the effects of mineral development on public resources and that meet other crucial needs serving the public interest and the total environment of the citizens of Montana.

(2) The purposes of the reclamation and development grants program are to:

(a) repair, reclaim, and mitigate environmental damage to public resources from nonrenewable resource extraction; and

(b) develop and ensure the quality of public resources for the benefit of all Montanans."

Section 32. Section 90-2-1103, MCA, is amended to read:

"90-2-1103. Definitions. As used in this part, the following definitions apply:

~~{1}--"Board"--means the board of--natural--resources--and conservation provided for in 2-15-3302.~~

~~{2}~~(1) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

~~{3}~~(2) "Financially feasible" means that adequate funds are available to complete the project as approved.

~~{4}~~(3) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, oil, uranium, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.

~~{5}~~(4) "Mineral development" means exploration, extraction, processing, or other activity related to the production of a mineral.

1 †6†(5) "Mitigation" means the act of rectifying an
2 impact by repairing, rehabilitating, or restoring the
3 affected environment; reducing or eliminating an impact over
4 time by operations that preserve or maintain the
5 environment; or compensating for an impact by replacing or
6 providing substitute resources or habitats.

7 †7†(6) "Project" means a planned and coordinated action
8 or series of actions addressing an objective consistent with
9 the policy and purpose of the reclamation and development
10 grants program. A project may consist of problem analysis,
11 feasibility or design studies, environmental monitoring,
12 remedial action plans or implementation, technology
13 demonstration, research, construction or acquisition of
14 capital facilities, or other related actions.

15 †8†(7) "Public benefits" means those benefits that
16 accrue to citizens as a group and enhance the common
17 well-being of the people of Montana.

18 †9†(8) "Public resources" means the natural resources
19 of the state, including air, water, soil, minerals,
20 vegetation, and fish and wildlife, and the economic, social,
21 and cultural conditions of Montana citizens.

22 †10†(9) "Reclamation and development grants account"
23 means the reclamation and development grants special revenue
24 account established in 90-2-1104.

25 †11†(10) "Technically feasible" means that a project or

1 activity can be designed, constructed, operated, or carried
2 out to accomplish its objectives, utilizing accepted
3 engineering and other technical principles and concepts."

4 **Section 33.** Section 90-2-1104, MCA, is amended to read:

5 "90-2-1104. Reclamation and development grants account.

6 (1) There is a reclamation and development grants special
7 revenue account within the state special revenue fund
8 established in 17-2-102.

9 (2) There must be paid into the reclamation and
10 development grants account money allocated from:

11 (a) the interest income of the resource indemnity trust
12 fund under the provisions of 15-38-202; and

13 (b) the resource indemnity trust tax under the
14 provisions of 15-38-106.

15 (3) Appropriations may be made from the reclamation and
16 development grants account for the following purposes:

17 (a) grants for designated projects; and

18 (b) administrative expenses, including the salaries and
19 expenses of personnel, equipment, office space, and other
20 expenses necessarily incurred in the administration of the
21 grants program. These expenses may be funded prior to
22 funding of projects."

23 **Section 34.** Section 90-2-1105, MCA, is amended to read:

24 "90-2-1105. Adoption of rules. The board department may
25 adopt rules to:

1 (1) prescribe the form and content of applications for
2 grants;

3 (2) describe the terms and conditions of making grants;

4 (3) prescribe a monitoring program to evaluate the
5 effectiveness of funded projects; and

6 (4) develop any other procedures necessary to
7 accomplish the objectives of the reclamation and development
8 grants program."

9 **Section 35.** Section 90-2-1112, MCA, is amended to read:

10 "90-2-1112. Eligibility requirements. (1) Except--as
11 provided under subsection (2)--to To be eligible for funding
12 under the reclamation and development grants program, the
13 proposed project must:

14 (a) provide benefits in one or more of the following
15 categories:

16 (a)(i) reclamation of land, water, or other resources
17 adversely affected by mineral development;

18 (b)(ii) mitigation of damage to public resources caused
19 by mineral development;

20 (c)(iii) research, demonstration, or technical
21 assistance to promote the wise use of Montana minerals,
22 including efforts to make processing more environmentally
23 compatible;

24 (d)(iv) investigation and remediation of sites where
25 hazardous wastes or regulated substances threaten public

1 health or the environment; and

2 (e)(v) research to assess existing or potential
3 environmental damage resulting from mineral development;

4 (2)--if sufficient eligible and qualified applications
5 satisfying the mineral development objectives provided for
6 in subsection (1) are not received or if there is a crucial
7 state need, the department may evaluate and the governor may
8 recommend that the legislature approve funding for projects
9 that:

10 (a)--enhance Montana's economy through the development
11 of natural resources; or

12 (b)--develop, promote, protect, or further Montana's
13 total environment and public interest, including the general
14 health, safety, welfare, and public resources of Montana
15 citizens and communities;

16 (3)--to be eligible for funding under the reclamation
17 and development grants program, a project must:

18 (a)(b) be technically and financially feasible;

19 (b)(c) be the best cost-effective alternative to
20 address a problem or attain an objective;

21 (c)(d) comply with statutory and regulatory standards
22 protecting environmental quality; and

23 (d)(e) be from an applicant able and willing to enter
24 into a contract with the department for the implementation
25 of the proposed project or activity.

1 †4†(2) A project is not eligible for funding under the
2 reclamation and development grants program to the extent
3 that the project is eligible for and can reasonably be
4 expected to receive funding from other state or federal
5 reclamation programs or any other program or act that
6 provides funding to accomplish remedial action for
7 environmental damage or if the project is permitted under
8 Title 82, chapter 4 or 11.

9 †5†(3) A proposed project is not eligible for funding
10 under the reclamation and development grants program if
11 there is a liable party who would be relieved of financial
12 or legal responsibility and who can reasonably be expected
13 to be held responsible."

14 **Section 36.** Section 90-2-1121, MCA, is amended to read:

15 "90-2-1121. Prohibited compensation to public officers
16 or employees -- penalty. (1) No A member, officer, attorney,
17 or other employee of the board or the department may not
18 directly or indirectly be the beneficiary of or receive any
19 fee, commission, gift, or other consideration in connection
20 with any transaction or business under the reclamation and
21 development grants program other than the salary, fee, or
22 other compensation that he a person may receive as a member,
23 officer, attorney, or employee.

24 (2) A person convicted of violating any provision of
25 this section shall be punished by a fine not to exceed

1 \$2,000 plus the value of any consideration illegally
2 received or by imprisonment for a term not to exceed 2
3 years, or both. Any fines collected under this section must
4 be deposited in the reclamation and development grants
5 account."

6 NEW SECTION. **Section 37. Policy and purpose.** It is the
7 public policy of the state to promote, stimulate, and
8 encourage the planning and development of the economy of the
9 state in order to provide for the social and economic
10 prosperity of its citizens. Rural economic planning,
11 expansion of existing industry, greater diversification of
12 industry and attraction of additional industry, creation of
13 new uses for agricultural products, greater emphasis on
14 development of new products, and the attainment of a proper
15 balance in the overall economic base are all necessary in
16 order to create additional employment opportunities,
17 increase personal income, and promote the general welfare of
18 the people of this state.

19 NEW SECTION. **Section 38. Definitions.** As used in
20 [sections 38 through 45], the following definitions apply:

21 (1) "Department" means the department of natural
22 resources and conservation provided for in Title 2, chapter
23 15, part 33.

24 (2) "Financially feasible" means that adequate funds
25 are available to complete the project as approved.

(3) "Project" means a planned and coordinated action or series of actions addressing an objective consistent with the policy and purpose of the rural economic revitalization grants program.

(4) "Public benefits" means those benefits that accrue to citizens as a group and that enhance the common well-being of the people of Montana.

(5) "Public resources" means the natural resources of the state, including air, water, soil, minerals, vegetation, and fish and wildlife, and the economic, social, and cultural conditions of Montana citizens.

(6) "Technically feasible" means that a project or activity can be designed, constructed, operated, or carried out to accomplish its objectives, using accepted engineering and other technical principles and concepts.

NEW SECTION. Section 39. Rural economic revitalization account. (1) There is a rural economic revitalization account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the rural economic revitalization account money allocated from the interest income of the resource indemnity trust fund under the provisions of 15-38-202.

(3) Appropriations may be made from the rural economic revitalization account for the following purposes:

(a) grants for designated projects; and

(b) administrative expenses, including the salaries and expenses of personnel and equipment, office space, and other expenses necessarily incurred in the administration of the rural economic revitalization grants program. These expenses may be funded prior to funding of projects.

NEW SECTION. Section 40. Adoption of rules. The department may adopt rules to:

(1) prescribe the form and content of applications for grants;

(2) describe the terms and conditions of making grants;

(3) prescribe a monitoring program to evaluate the effectiveness of funded projects; and

(4) develop any other procedures necessary to accomplish the objectives of the rural economic revitalization grants program.

NEW SECTION. Section 41. Rural economic revitalization grants program. (1) Any department, agency, board, commission, or other division of state government, any city, county, or other political subdivision, or any tribal government within the state may apply, in accordance with the procedures established by the department, for a grant from the rural economic revitalization account for a project that is consistent with the policy and purpose of the rural economic revitalization grants program.

1 (2) The department shall evaluate applications under
2 the eligibility criteria provided in [section 42] and the
3 evaluation criteria provided in [section 43].

4 (3) The department shall solicit and consider in its
5 evaluation of applications the views of interested persons
6 and public agencies.

7 (4) Based on its evaluation of eligible applications,
8 the department shall recommend to the governor projects to
9 receive grants from the rural economic revitalization
10 account.

11 (5) The governor shall submit all proposals, with
12 recommended priorities, to the legislature. The legislature
13 may approve by appropriation or other appropriate means
14 grants for those projects it finds consistent with the
15 policies and purposes of the rural economic revitalization
16 grants program. The department shall administer and oversee
17 the grants to approved projects and monitor the projects.

18 NEW SECTION. Section 42. Eligibility requirements. (1)
19 To be eligible for funding under the rural economic
20 revitalization grants program, the proposed project must
21 provide public benefits in one or more of the following
22 categories:

23 (a) enhance Montana's economy through the development
24 of natural resources; or

25 (b) develop, promote, protect, or further Montana's

1 total environment and public resources.

2 (2) To be eligible for funding under the rural economic
3 revitalization grants program, a project must:

4 (a) be technically and financially feasible;

5 (b) be the best cost-effective alternative to address a
6 problem or attain an objective;

7 (c) comply with statutory and regulatory standards
8 protecting environmental quality; and

9 (d) be from an applicant able and willing to enter into
10 a contract with the department for the implementation of the
11 proposed project.

12 NEW SECTION. Section 43. Evaluation criteria. The
13 department shall consider the following criteria in
14 evaluating eligible applications and in selecting projects
15 to be recommended to the governor for funding:

16 (1) the degree to which the project provides economic
17 revitalization to an area or region;

18 (2) the degree to which the project will improve the
19 local tax base;

20 (3) the degree to which the project will result in
21 higher income levels;

22 (4) the degree to which the project will reduce
23 unemployment;

24 (5) the degree to which the project creates new jobs;

25 (6) the degree to which the project improves the

1 quality of life;

2 (7) the degree to which the project enhances local
3 leadership; and

4 (8) any other criteria the department considers
5 necessary to carry out the policies and purposes of the
6 rural economic revitalization grants program.

7 **NEW SECTION. Section 44.** Conditions of grants.

8 Disbursement of grant funds under this part is subject to
9 the following conditions, which must be met by project
10 sponsors:

11 (1) A scope of work and budget for the project must be
12 approved by the department. Reduction in the scope of work
13 or budget may not affect priority activities or
14 improvements.

15 (2) Other funds required for project completion must
16 have been committed and the commitment must be documented.

17 (3) An agreement between the department and the grant
18 applicant must be executed in a timely manner, taking into
19 consideration any changed conditions or circumstances that
20 govern the administration and disbursement of funds.

21 (4) Any other specific requirements must be
22 accomplished as considered necessary by the department to
23 accomplish the purpose of the grant as evidenced from the
24 application to the department or the proposal to the
25 legislature.

1 **NEW SECTION. Section 45.** Prohibited compensation to
2 public officers or employees -- penalty. (1) A member,
3 officer, attorney, or other employee of the department may
4 not directly or indirectly be the beneficiary of or receive
5 any fee, commission, gift, or other consideration in
6 connection with any transaction or business under the rural
7 economic revitalization grants program other than the
8 salary, fee, or other compensation that person may receive
9 as a member, officer, attorney, or employee.

10 (2) A person convicted of violating any provision of
11 this section shall be punished by a fine not to exceed
12 \$2,000 plus the value of any consideration illegally
13 received or by imprisonment for a term not to exceed 2
14 years, or both. Any fines collected under this section must
15 be deposited in the rural economic revitalization account.

16 **NEW SECTION. Section 46.** Repealer. Sections 85-1-607,
17 90-2-101, 90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108,
18 90-2-109, 90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122,
19 90-2-123, 90-2-124, 90-2-125, 90-2-126, 90-2-127, and
20 90-2-128, MCA, are repealed.

21 **NEW SECTION. Section 47.** Codification instruction.
22 [Sections 37 through 45] are intended to be codified as an
23 integral part of Title 90, chapter 2, part 1, and the
24 provisions of Title 90, chapter 2, part 1, apply to
25 [sections 37 through 45].

LC 1404/01

1 NEW SECTION. Section 48. Effective dates. (1)
2 [Sections 1, 2, and 4 through 48] are effective July 1,
3 1993.
4 (2) [Section 3] is effective July 1, 1995.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0608, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act allocating a portion of the resource indemnity tax proceeds; establishing minimum funding levels for grant programs; changing the distribution of interest earnings of the resource indemnity tax trust; combining the water development and renewable resource development programs creating the renewable resource grant and loan program; reinvesting the interest earnings of the water storage state special revenue account; removing the crucial state need funding category from the reclamation and development grants program and limiting funding to mineral reclamation projects; creating the rural economic revitalization program which will fund projects that promote and improve Montana's economy.

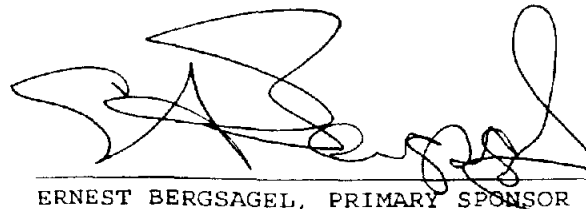
ASSUMPTIONS:

1. Estimated resource indemnity and groundwater assessment tax (RIGWAT) revenues, and resource indemnity trust (RIT) income are based on HJR3 assumptions.
2. Allocations of RIT interest exclude the \$175,000 biennial distribution to the environmental contingency account. \$50,000 is appropriated in each year to the oil and gas mitigation account (LFA).
3. The 14.1% of the RIGWAT tax proceeds that go to the groundwater assessment account are included in the 1995 biennium distribution.
4. The water development and renewable resource development programs are combined into the renewable resource grant and loan program.
5. The reclamation and development program is restructured by separating the two objectives of funding mineral reclamation projects and crucial state need projects into individual programs: the "reclamation grants program" and the "rural economic revitalization program." Reclamation and development would fund mineral reclamation projects and rural economic revitalization would fund economic development projects.
6. Minimum grant funding levels are \$1.6 million for the renewable resource grant and loan program, \$1.6 million for the reclamation and development grants program, \$800,000 for the rural economic revitalization program, and \$400,000 for water storage for the 1995 biennium.
7. The proposal allocates 20% of the RIGWAT proceeds to renewable resource grant and loan program state special revenue account and allocate 20% of the RIGWAT proceeds to reclamation and development grants program state special revenue account.
8. RIGWAT appropriations would replace \$2,487,302 of current general fund in natural resource agencies during the 1995 biennium and Northern Montana College would receive \$240,000 for water quality programs (see technical note).
9. The amount of funding available for water development and renewable resources development grants under current law will be \$505,039 each fiscal year. The amount available for deposit in the water storage account will be \$166,680 per year (LFA Budget Analysis, page S-124).

(continued on next page)

 2.22-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2.22-93
ERNEST BERGSAGEL, PRIMARY SPONSOR DATE

Fiscal Note for HB0608, as introduced

HB608

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
RIGWAT Collections	4,563,683	4,563,683	0	4,654,850	4,654,850	0
Fund Allocation:						
Ground Water Receipts	643,479	643,479	0	656,334	656,334	0
Resource Indemnity Trust	3,920,204	2,094,731	(1,825,473)	3,998,516	2,136,576	(1,861,940)
Renewable Resource	0	912,737	912,737	0	930,970	930,970
<u>Reclamation & Development</u>	<u>0</u>	<u>912,737</u>	<u>912,737</u>	<u>0</u>	<u>930,970</u>	<u>930,970</u>
Total	4,563,683	4,563,683	0	4,654,850	4,654,850	0
RIT Interest Income	8,724,950	8,715,992	(8,958)	9,102,853	8,940,752	(162,101)
Fund Allocation:						
Environmental Contingency	0	0	0	0	0	0
Oil & Gas Mitigation Acct	50,000	50,000	0	50,000	50,000	0
Renewable Resource Grant/Loan	623,815	3,221,077	2,597,262	724,228	3,378,486	2,654,258
Water Development Receipts	2,339,306	0	(2,339,306)	2,715,856	0	(2,715,856)
Reclamation & Development Grants	3,990,477	3,562,356	(428,121)	4,164,312	4,089,746	(74,566)
Rural Economic Revitalization	0	800,000	800,000	0	0	0
Water Storage	333,360	400,000	66,640	0	0	0
CERCLA	1,040,994	511,919	(529,075)	1,086,342	1,066,890	(19,452)
<u>EOP</u>	<u>346,998</u>	<u>170,640</u>	<u>(176,358)</u>	<u>362,114</u>	<u>355,630</u>	<u>(6,484)</u>
Total Interest Allocations	8,724,950	8,715,992	(8,958)	9,102,853	8,940,752	(162,101)
Total Allocation of Tax & Income						
Resource Indemnity Trust	3,920,204	2,094,731	(1,825,473)	3,998,516	2,136,576	(1,861,940)
Ground Water Receipts	643,479	643,479	0	656,334	656,334	0
Environmental Contingency	0	0	0	0	0	0
Oil & Gas Mitigation Acct	50,000	50,000	0	50,000	50,000	0
Renewable Resource Grant/Loan	623,815	4,133,814	3,509,999	724,228	4,309,456	3,585,228
Water Development Receipts	2,339,477	0	(2,339,477)	2,715,856	0	(2,715,856)
Reclamation & Development Grants	3,990,477	4,475,093	484,616	4,164,312	5,020,716	856,404
Rural Economic Revitalization	0	800,000	800,000	0	0	0
Water Storage	333,360	400,000	66,640	0	0	0
CERCLA	1,040,994	511,919	(529,075)	1,086,342	1,066,890	(19,452)
<u>EOP</u>	<u>346,998</u>	<u>170,640</u>	<u>(176,358)</u>	<u>362,114</u>	<u>355,630</u>	<u>(6,484)</u>
Total Tax & Income	13,288,633	13,279,675	(8,958)	13,757,703	13,595,602	(162,101)

A diagram illustrating the flow of funds is provided on page 4.

(Continued)

HB 608

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed reallocation of RIGWAT proceeds continues into future bienniums under the proposal; offering potential long-term reductions in general fund requirements for natural resource program funding. The bill also preserves a minimum level of funding for the grant programs. However, the RIT trust and its earnings will increase at a much slower rate under the proposal than would occur under current law.

TECHNICAL NOTES:

The Appropriations Subcommittee on Natural Resources and Commerce has approved general fund replacement with state special revenue in House Bill 2, contingent upon passage and approval of this bill. The amounts by agency are as follows:

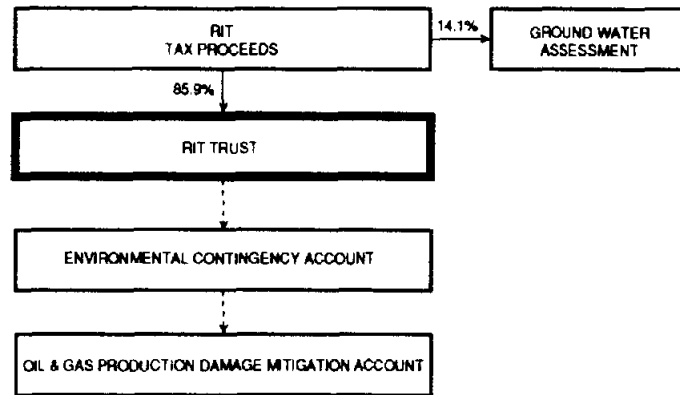
FISCAL IMPACT:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Dept. of Natural Resources	0	868,676	868,676	0	868,626	868,626
Dept. of State Lands	0	375,000	375,000	0	375,000	375,000
Northern Montana College	0	0	0	0	240,000	240,000
Net General Fund Savings			1,243,676			1,483,626

HB608

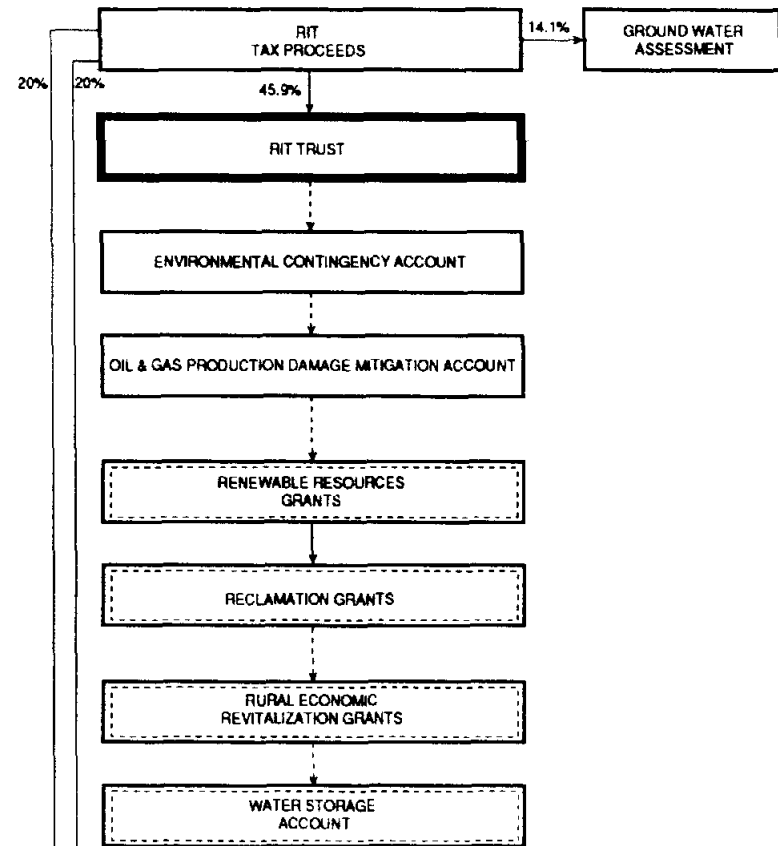
CURRENT LAW

15-38-106, 15-38-202



30%	8%	46%	12%	4%
WATER DEVELOPMENT PROGRAM SPECIAL REVENUE ACCOUNT	RENEWABLE RESOURCE DEVELOPMENT PROGRAM	RECLAMATION AND DEVELOPMENT GRANTS PROGRAM	DHS - HAZARDOUS WASTE/CERCLA ACCOUNT	ENVIRONMENTAL QUALITY PROTECTION FUND
AGENCY APPROPRIATIONS ↓ GRANTS	AGENCY APPROPRIATIONS ↓ GRANTS	AGENCY APPROPRIATIONS ↓ GRANTS	AGENCY APPROPRIATIONS	AGENCY APPROPRIATIONS

HB 608



30%	8%	46%	12%	4%
WATER DEVELOPMENT PROGRAM SPECIAL REVENUE ACCOUNT	RENEWABLE RESOURCE DEVELOPMENT PROGRAM	RECLAMATION AND DEVELOPMENT GRANTS PROGRAM	DHS - HAZARDOUS WASTE/CERCLA ACCOUNT	ENVIRONMENTAL QUALITY PROTECTION FUND
AGENCY APPROPRIATIONS ↓ GRANTS	AGENCY APPROPRIATIONS ↓ GRANTS	AGENCY APPROPRIATIONS ↓ GRANTS	AGENCY APPROPRIATIONS	AGENCY APPROPRIATIONS

————— PROCEEDS
 - - - - - INTEREST

HB 608

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 608

INTRODUCED BY BERGSAGEL, J. RICE, PECK, BACHINI, GRINDE,

B. BROWN, HOCKETT, SWYSGOOD, WEEDING, HARP, BOHARSKI

BY REQUEST OF THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING A PORTION OF
THE RESOURCE INDEMNITY TAX PROCEEDS; ESTABLISHING MINIMUM
FUNDING LEVELS FOR GRANT PROGRAMS; CHANGING THE DISTRIBUTION
OF INTEREST EARNINGS FROM THE RESOURCE INDEMNITY TRUST FUND;
COMBINING THE WATER DEVELOPMENT AND RENEWABLE RESOURCE
DEVELOPMENT PROGRAMS TO CREATE THE RENEWABLE RESOURCE GRANT
AND LOAN PROGRAM; REINVESTING THE INTEREST EARNINGS OF THE
WATER STORAGE STATE SPECIAL REVENUE ACCOUNT; REMOVING THE
~~CRUCIAL-STATE-NEED-FUNDING-CATEGORY-FROM-THE-RECLAMATION-AND-
DEVELOPMENT-GRANTS-PROGRAM-AND-LIMITING-FUNDING--TO--MINERAL
RECLAMATION---PROJECTS,---CREATING---THE---RURAL---ECONOMIC
REVITALIZATION-PROGRAM-THAT-WILL-FUND-PROJECTS-THAT--PROMOTE
AND--IMPROVE-MONTANA'S-ECONOMY,~~ AMENDING SECTIONS 15-38-106,
15-38-202, 17-5-701, 17-5-702, 17-5-706, 85-1-102, 85-1-601,
85-1-602, 85-1-603, 85-1-604, 85-1-605, 85-1-606, 85-1-608,
85-1-609, 85-1-610, 85-1-611, 85-1-612, 85-1-613, 85-1-614,
85-1-615, 85-1-616, 85-1-617, 85-1-618, 85-1-619, 85-1-620,
85-1-621, 85-1-623, 85-1-631, 85-2-105, 90-2-1102,
90-2-1103, 90-2-1104, AND 90-2-1105, 90-2-1112, ~~---AND~~

90-2-1121, MCA; REPEALING SECTIONS 85-1-607, 90-2-101,
90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108, 90-2-109,
90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122, 90-2-123,
90-2-124, 90-2-125, 90-2-126, 90-2-127, AND 90-2-128, MCA;
AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

This bill is introduced as a result of a legislative
request to combine the water development and renewable
resource development programs. These grant and loan programs
have been administered as essentially one program for the
past 4 bienniums. The renewable resource grant and loan
program keeps the critical elements of both the water
development and renewable resource development programs and
does not expand either eligible projects or eligible
applicants.

~~This bill removes the "crucial state need" funding
category from the reclamation and development grants program
and limits funding to mineral reclamation projects. In place
of the "crucial state need" category, the rural economic
revitalization program is established to fund projects that
promote and improve Montana's economy. These two programs
will now have clear and specific goals. This bill will
simplify the programs, making it easier to administer the
programs and foster better public understanding.~~

1 The long-range planning subcommittee of the
 2 appropriations and finance and claims committees stated its
 3 intent to establish minimum funding levels for these grant
 4 programs in House Bill No. 6 (Chapter 551, Laws of 1991) and
 5 House Bill No. 8 (Chapter 552, Laws of 1991) passed by the
 6 1991 legislature. Over the past several bienniums grant
 7 funding has decreased. At the same time, revenues allocated
 8 to the water development, renewable resource development,
 9 and reclamation and development accounts have increased.
 10 Appropriations to natural resource agencies have made up the
 11 difference and have increased at a rate surpassing the
 12 growth in resource indemnity trust (RIT) interest income.
 13 This bill establishes minimum funding levels for the
 14 renewable resource grant and loan program, the reclamation
 15 and development grants program, the rural economic
 16 revitalization program, and the water storage account.

17 In order to reflect the combining of the water
 18 development and renewable resource development programs, the
 19 allocation of interest earnings from the RIT is changed.
 20 Currently, 30% and 8%, respectively, of the RIT interest
 21 earnings are allocated to water development and the
 22 renewable resource development state special revenue
 23 accounts. This bill would eliminate these accounts. In their
 24 place, the renewable resource grant and loan program state
 25 special revenue account would be established and 38% of the

1 RIT interest earnings would be allocated to this account.

2 Resource indemnity tax proceeds are allocated to the
 3 renewable resource grant and loan program and the
 4 reclamation and development grants state special revenue
 5 accounts. This will assure funding for the operation of
 6 state natural resource agencies.

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 15-38-106, MCA, is amended to read:

10 "15-38-106. (Temporary) Payment of tax -- records --
 11 collection of taxes -- refunds. (1) The tax imposed by this
 12 chapter ~~shall~~ must be paid by each person to which the tax
 13 applies, on or before March 31, on the value of product in
 14 the year preceding January 1 of the year in which the tax is
 15 paid. The tax ~~shall~~ must be paid to the department at the
 16 time the statement of yield for the preceding calendar year
 17 is filed with the department.

18 (2) The department shall deposit the proceeds of the
 19 tax in the resource indemnity trust fund of the
 20 nonexpendable trust fund type. Every person to whom the tax
 21 applies shall keep records in accordance with 15-38-105, and
 22 the records are subject to inspection by the department upon
 23 reasonable notice during normal business hours.

24 (3) The department shall examine the statement and
 25 compute the taxes thereon, and the amount computed by the

department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess ~~shall~~ must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.

15-38-106. (Effective July 1, 1993) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter ~~shall~~ must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax ~~shall~~ must be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type, except that:

(a) 14.1% of the proceeds must be deposited in the ground water assessment account established by 85-2-905;

(b) 20% of the proceeds must be deposited in the renewable resource grant and loan program state special revenue account established by 85-1-604; and

(c) 20% of the proceeds must be deposited in the reclamation and development grants account established by 90-2-1104.

(3) Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

~~(3)~~ (4) The department shall examine the statement and compute the taxes thereon, and the amount computed by the department ~~shall~~ must be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess ~~shall~~ must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Section 2. Section 15-38-202, MCA, is amended to read:

"15-38-202. Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-37-117, ~~shall~~ must be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity

trust fund ~~shall~~ must annually be added to the trust fund until it has reached the sum of \$10 million. Thereafter, only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts ~~shall~~ must be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101; and

(ii) ~~beginning-in-fiscal-year-1992,~~ an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161;

(iii) \$1,600,000 to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iv) ~~\$1,600,000~~ \$2,400,000 to be deposited into the reclamation and development grants state special revenue account, created by 90-2-1104, for the purpose of making grants; AND

~~{v}--\$800,000--to--be--deposited--into--the--rural--economic~~

revitalization-state-special--revenue--account,--created--by {section-39},--for--the--purpose--of--making--grants,--and {vi}(V) beginning in fiscal year 1994, \$400,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(b) The remainder of the interest income is allocated as follows:

(i) ~~Beginning-in-fiscal-year-1982,--provided--the--amount in--the--resource--indemnity--trust--fund--is--greater--than--\$10 million,~~ 38% Thirty-eight percent of the interest income of the resource indemnity trust fund must be allocated to the water-development renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) ~~Beginning--in--fiscal-year-1980,--12% Twelve~~ SIXTEEN percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) ~~Beginning-in-fiscal-year-1990,--8%--of--the--interest income--from--the--resource--indemnity--trust--fund--must--be allocated--to--the--renewable--resource--development--account provided--for--in--Title--90,--chapter--2,~~

{iv}--Beginning--in--fiscal-year-1990,--46% Forty-six FORTY percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

1 ~~{v}~~(iv) Beginning-in--fiscal--year--19907--44 Four SIX
 2 percent of the interest income of the resource indemnity
 3 trust fund must be allocated to the environmental quality
 4 protection fund provided for in 75-10-704.

5 (3) Any formal budget document prepared by the
 6 legislature or the executive branch that proposes to
 7 appropriate funds from the resource indemnity trust interest
 8 account other than as provided for by the allocations in
 9 subsection (2) must specify the amount of money from each
 10 allocation that is proposed to be diverted and the proposed
 11 use of the diverted funds. A formal budget document includes
 12 a printed and publicly distributed budget proposal or
 13 recommendation, an introduced bill, or a bill developed
 14 during the legislative appropriation process or otherwise
 15 during a legislative session."

16 **Section 3.** Section 15-38-202, MCA, is amended to read:

17 "15-38-202. (Effective July 1, 1995) Investment of
 18 resource indemnity trust fund -- expenditure -- minimum
 19 balance. (1) All money paid into the resource indemnity
 20 trust fund, including money payable into the fund under the
 21 provisions of 15-37-117, ~~shall~~ must be invested at the
 22 discretion of the board of investments. All the net earnings
 23 accruing to the resource indemnity trust fund ~~shall~~ must
 24 annually be added to the trust fund until it has reached the
 25 sum of \$10 million. Thereafter, only the net earnings may be

1 appropriated and expended until the fund reaches \$100
 2 million. Thereafter, all net earnings and all receipts ~~shall~~
 3 must be appropriated by the legislature and expended,
 4 provided that the balance in the fund may never be less than
 5 \$100 million.

6 (2) (a) At the beginning of each biennium, there is
 7 allocated from the interest income of the resource indemnity
 8 trust fund:

9 (i) an amount not to exceed \$175,000 to the
 10 environmental contingency account pursuant to the conditions
 11 of 75-1-1101; and

12 (ii) ~~beginning--in--fiscal--year--1992,~~ an amount not to
 13 exceed \$50,000 to the oil and gas production damage
 14 mitigation account pursuant to the conditions of 82-11-1617;

15 (iii) beginning in fiscal year 1996, \$2 million to be
 16 deposited into the renewable resource grant and loan program
 17 state special revenue account, created by 85-1-604, for the
 18 purpose of making grants;

19 (iv) beginning in fiscal year 1996, \$2 \$3 million to be
 20 deposited into the reclamation and development grants state
 21 special revenue account, created by 90-2-1104, for the
 22 purpose of making grants; AND

23 ~~{v}~~--beginning-in-fiscal-year-19967--\$1--million--to--be
 24 deposited--into--the--rural--economic--revitalization--state
 25 special--revenue--account7--created-by--{section-39}7--for-the

purpose-of-making-grants,-and

{vi}{V} beginning in fiscal year 1996, \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(b) The remainder of the interest income is allocated as follows:

(i) ~~Beginning--in-fiscal-year-1982,-provided-the-amount in-the-resource-indemnity-trust-fund--is--greater--than--\$10 million,-30% Thirty-eight THIRTY-SIX percent~~ of the interest income of the resource indemnity trust fund must be allocated to the water-development renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) ~~Beginning-in-fiscal-year-1988,-12% Twelve EIGHTEEN percent~~ of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) ~~Beginning--in-fiscal-year-1990,-8%-of-the-interest income-from--the--resource--indemnity--trust--fund--must--be allocated--to--the--renewable--resource--development-account provided-for-in-Title-90,-chapter-2-~~

{iv}-Beginning-in-fiscal-year-1990,-46% Forty-six FORTY percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

{v}{iv} Beginning--in--fiscal--year--1990,-4% Four SIX percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds from the resource indemnity trust interest account other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

Section 4. Section 17-5-701, MCA, is amended to read:

"17-5-701. State of Montana coal severance tax bonds. This part provides for the issuance of state of Montana coal severance tax bonds (also referred to as coal severance tax bonds in this part) to:

(1) finance water---resource---development renewable resource projects and activities in the state designed to provide, during and after extensive coal mining, a healthy economy, the alleviation of social and economic impacts created by coal development, and a clean and healthful

environment for present and future generations; and

(2) finance loans to local governments for infrastructure projects under Title 90, chapter 6, part 7."

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

"17-5-702. Purpose and intent. (1) The purpose of the coal severance tax trust fund bond provisions of this part is to establish the authority to issue and sell coal severance tax bonds that have been approved by act of the legislature for financing specific ~~water---resource development renewable resource~~ projects and--activities in the state authorized by the legislature and to guarantee redemption of ~~such the~~ bonds by revenue derived from the receipts from the coal severance tax imposed by Title 15, chapter 35, part 1, and such other money as the legislature may from time to time determine.

(2) The legislature intends that projects to be financed by coal severance tax bonds include ~~water---resource development renewable resource~~ projects and--activities as part of the ~~water-development~~ program established in Title 85, chapter 1, part 6. The legislature further intends that the income from ~~water---resource---development renewable resource~~ projects and--activities in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the ~~water development renewable resource grant and loan program~~ state

special revenue account established in 85-1-604."

Section 6. Section 17-5-706, MCA, is amended to read:

"17-5-706. Authority to issue coal severance tax bonds.

The board of examiners, upon approval of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance such approved ~~water---resource development renewable resource~~ projects and--activities when authorized to do so by any law that sets out the amount and purpose of the issue. Each project ~~or-activity-shall~~ must be separately approved as to amount by a two-thirds vote of each house of the legislature."

Section 7. Section 85-1-102, MCA, is amended to read:

"85-1-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Administrative costs" means costs incurred by the department:

(a) for the purpose of protecting the department's properties and assets;

(b) to oversee the operation and maintenance of the projects;

(c) to administer contracts and receivables;

(d) to maintain project financial records;

(e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

(f) to assist in securing funds for operating,

maintaining, and rehabilitating the projects.

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(3) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine repairs and the costs incurred by the water users' association or the department in the distribution of water from the project, excluding the department's administrative costs.

(4) "Cost of works" means the cost of construction, including any rehabilitation or alteration of the project; the cost of all lands, property, rights, easements, and franchises acquired which are deemed necessary for the construction; the cost of all water rights acquired or exercised by the department in connection with those works; the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period not exceeding 3 years after the completion of construction; cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of any project; administrative expense; and other expenses as may be necessary or incident to the financing authorized in this part and the construction of the works and the placing of the works in operation.

(5) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(6) "Owner" means all individuals, irrigation districts, drainage districts, flood control districts, incorporated companies, societies, or associations having any title or interest in any properties, rights, easements, or franchises to be acquired.

(7) "Private person" means any individual, association, partnership, corporation, or other nongovernmental entity not eligible for loans and grants under 85-1-605 but does not include a governmental entity such as an agency, local government, or political subdivision of the state, the United States, or any agency thereof, or any other governmental entity.

(8) "Project" means any one of the works defined in this section or any combination of works which are physically connected or jointly managed and operated as a single unit.

(9) "Public benefits" means those benefits that accrue from a water development project or activity to persons other than the private grant or loan recipient and that enhance the common well-being of the people of Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction, agricultural flood damage

reduction, water quality enhancement, sediment reduction, access to recreation opportunities, and wildlife conservation.

(10) "Renewable resource grant and loan program state special revenue account" means a separate account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes of the water development program as set forth in 85-1-604.

(11) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603 within the debt service fund type of the state treasury to be used as provided in 85-1-619.

(12) "Water--development Renewable resource loan proceeds account" means a separate account created by 85-1-617 within the state special revenue fund of the state treasury to finance loans under the provisions of the water development renewable resource grant and loan program to agencies, local governments, and political subdivisions of the state, private persons, and any other eligible recipients and to purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued under part 6 of this chapter.

(13) "Water development activity" means an action or program to protect and enhance water-based recreation or to protect or enhance water resources for the benefit of

agriculture, flood control, or other uses, including but not limited to the promotion of efficient use of water in agriculture, the improvement of water quality in agriculture and other nonpoint source uses, the protection and enhancement of water-based recreation, the control of erosion of streambanks and control of sedimentation of rivers and streams, and providing greater local and state control of Montana water resources. Water development activities may provide any combination of marketable and nonmarketable benefits.

(12) "Water--development--debt--service--fund" means a separate--fund--created--by--85-1-603--within--the--debt--service--fund--type--of--the--state--treasury--to--be--used--as--provided--in--85-1-619.

(14) "Water development project" means a project as defined in subsection (8), except that water development projects:

(a) are not limited to projects owned or operated by the department; and

(b) for purposes of the renewable resource grant and loan program, must include water development activities.

(14) "Water--development--state--special--revenue--account" means--a--separate--account--created--by--85-1-604--within--the--state--special--revenue--fund--of--the--state--treasury--for--the--purposes--of--the--water--development--program--as--set--forth--in

85-1-604-

(15) "Works" means all property and rights, easements, and franchises relating to property and considered necessary or convenient for the operation of the works and all water rights acquired or exercised by the department in connection with those works and includes all means of conserving and distributing water, including, without limiting the generality of the foregoing, reservoirs, dams, diversion canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units, mains, pipelines, and waterworks systems and includes all works for the conservation, development, storage, distribution, and utilization of water, including without limiting the generality of the foregoing, works for the purpose of irrigation, flood prevention, drainage, fish and wildlife, recreation, development of power, watering of stock, supplying of water for public, domestic, industrial, or other uses and for fire protection."

Section 8. Section 85-1-601, MCA, is amended to read:

"85-1-601. Purpose and policies. (1) The legislature finds and declares that in order that the people of Montana may enjoy the ~~full-economic-and-recreational~~ benefits of the state's water and other renewable resources, the state must establish this long-term water---development renewable resource grant and loan program providing financial and

administrative assistance to private for-profit, private nonprofit, local government, and state government entities for water renewable resource development grant and loan projects and activities.

(2) The purpose of the water---development renewable resource grant and loan program is to further the state's policies, set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources and to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic and other benefits of the state's natural heritage.

(3) The legislature recognizes that ~~water-is-one-of-the most-valuable-and-important~~ the value of Montana's renewable resources ~~in-Montana~~; therefore, it is appropriate that a portion of the taxes and other revenue from on-the-removal of nonrenewable resources be ~~dedicated-to-the--conservation, development,--and-beneficial-use-of-water-resources~~ invested in the replacement of nonrenewable resources with the development of renewable resource projects that will continue to provide tax and other revenue and will preserve for the citizens the economic and other benefits of the state's natural heritage.

(4) The conservation, development, management, and preservation of water and other renewable resources ~~is-of--a~~ are high priority priorities because a large portion of

Montana's present and future economy is based either directly or indirectly on the wise use of water these resources.

(5) Developments supported by this part may not significantly diminish the quality of existing public resources, such as land, air, fish, wildlife, and recreation opportunities.

{5}(6) This water-development renewable resource grant and loan program is-an-integral supports, in part, of the implementation and development of the comprehensive, coordinated, multiple-use water resources plan known as the "state water plan". In making funding recommendations for grants and loans, the department shall give preference to projects that will implement state water plan priorities if, in all other respects, the proposed projects are equal in public benefit and technical feasibility."

Section 9. Section 85-1-602, MCA, is amended to read:

"85-1-602. Objectives. (1) The department shall administer a water-development renewable resource grant and loan program to accomplish-such-objectives-as-rehabilitation of--state-owned--water--projects--and--works;--promotion--of private;--local--government;--and--state--water--development; enhance Montana's renewable resources through projects that measurably conserve, develop, manage, or preserve resources. Either grants or loans may be provided to fund the

following:

(a) feasibility, design, research, and resource assessment studies;

(b) preparation of construction, rehabilitation, or production plans; and

(c) construction, rehabilitation, production, education, or other implementation efforts.

(2) Projects that may enhance renewable resources in Montana include but are not limited to:

(a) development of water-based natural resource-based recreation and--the--protection--of--water--resources--for--the benefit-of-agriculture;--flood-control;--and--other--uses;

(b) development of offstream and tributary storage;

(c) encouragement-of-projects-or-programs-that--improve improvement of water use efficiency, including development of new, efficient water systems, rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices required under 85-2-113; and development of state-tribal, state-federal, and state-tribal-federal water projects; and

(d) advancement of farming practices that reduce agricultural chemical use. The-storage-of-water-for-existing and--future--beneficial--uses--shall--be--given--the-highest priority-unless-a--water--development--project--or--activity designed--to-accomplish-another-objective-is-demonstrated-to

~~be more beneficial to a greater number of people.~~

(3) The water-development renewable resource grant and loan program is the key implementation portion of the state water plan and ~~shall~~ must be administered to encourage grant and loan applications for projects designed to accomplish the objectives of the plan."

Section 10. Section 85-1-603, MCA, is amended to read:

"85-1-603. Water--development Renewable resource loan debt service fund created -- coal severance tax allocated -- water-development renewable resource loan loss reserve fund created. (1) (a) There is created a water--development renewable resource loan debt service fund within the debt service fund type established in 17-2-102.

(b) The state pledges and allocates and directs to be credited to the water-development renewable resource loan debt service fund, as received:

(i) ~~1-1/4%~~ 2 1/2% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of ~~such~~ the tax under 15-35-108(1) and (2);

(ii) any principal and accrued interest under 85-1-613~~(3)(a)~~(4)(a) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617;

(iii) all interest income earned on proceeds of water development renewable resource grant and loan program bonds;

(iv) revenue or money otherwise required to be paid into the water-development renewable resource grant and loan program state special revenue account pursuant to 85-1-604, as determined by the board of examiners in connection with the issuance of bonds pursuant to 85-1-617; and

(v) money received from the water-development renewable resource loan loss reserve fund as the result of a loan loss.

(2) (a) There is created a water-development renewable resource loan loss reserve fund within the debt service fund type established in 17-2-102.

(b) The state pledges and allocates and directs to be credited to the water-development renewable resource loan loss reserve fund all accrued interest under 85-1-613~~(3)(b)~~(4)(b) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617.

(c) If the department determines that a loan loss has occurred on a loan made pursuant to this part, funds from the water--development renewable resource loan loss reserve fund must be transferred to the water-development renewable resource loan debt service fund in an amount equal to the amount that would otherwise be available for debt service under subsection (1)(b) as a result of the loan loss."

Section 11. Section 85-1-604, MCA, is amended to read:

"85-1-604. Water--development Renewable resource grant

and loan program state special revenue account created -- revenues allocated -- limitations on appropriations from account. (1) There is created a water-development renewable resource grant and loan program state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except to the extent that they are required to be credited to the water-development renewable resource loan debt service fund pursuant to 85-1-603, there shall ~~must~~ be paid into the water-development renewable resource grant and loan program state special revenue account:

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

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

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

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

(e) 20% of the resource indemnity tax proceeds.

(3) Appropriations may be made from the water development renewable resource grant and loan program state special revenue account for the following purposes and subject to the following conditions:

(a) The amount of resource indemnity trust fund interest earnings allocated under section 15-38-202(2)(b) must be used for renewable resource grants.

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

~~{b}{c}~~ An amount less than or equal to that paid into the account from the resource indemnity trust account plus any excess from subsection ~~{3}{a}~~ (3)(b) and only that amount may be appropriated from the account for:

~~{i}--the--rehabilitation--of--state-owned--projects--and works;---including---the---rehabilitation--of--spillways--of state-owned-dams;~~

~~{ii}--the--formulation--of--downstream--emergency--warning--and evacuation--plans--for--state-owned--dams;~~

~~{iii}--the--development--of--the--hydropower--potential--of~~

1 state-owned dams;

2 {iv}-assistance--in--the--implementation--of--the--water
3 reservations--established--under--85-2-316--of--conservation
4 districts;

5 {v}--the--promotion--of--the--development--of--offstream--and
6 tributary--storage;

7 {vi}-the--promotion--of--joint--state--tribal--state--federal,
8 and--state--tribal--federal--water--development;

9 {vii}-projects--or--programs--that--improve--water--use
10 efficiency--including--development--of--new--efficient--water
11 systems--rehabilitation--of--older--less--efficient--water
12 systems--and--acquisition--and--installation--of--measuring
13 devices--required--under--85-2-113;

14 {viii}-administrative--expenses--including--but--not
15 limited--to--the--salaries--and--expenses--of--personnel,
16 equipment, office--space, and--other--necessities--incurred--in
17 the--administration--of--the--water--development--program--except
18 the--administration--of--loans--and--grants; and

19 {ix}-any--other expenditures that meet the policies and
20 objectives of the state-water-development renewable resource
21 grant and loan program. If the amount of money available for
22 appropriation under this subsection (c) is greater than that
23 necessary for operation and maintenance expenses, the excess
24 may be appropriated as provided in subsection (3)(d).

25 {c}(d) An amount less than or equal to that paid into

1 the account from the sources provided for in {c}-and-{d}--of
2 subsection--{2} subsections (2)(c) and (2)(d) and any excess
3 from subsection (3)(c) and only that amount may be
4 appropriated from the account for loans and grants for water
5 development renewable resource projects and activities; for
6 purchase of liens and operation of property as provided in
7 85-1-615; for administrative expenses, including but not
8 limited to the salaries and expenses of personnel,
9 equipment, and office space; for the servicing of loans,
10 including arrangements for obtaining security interests; and
11 for other necessities incurred in administering the loans
12 and grants.

13 {4}--An--amount--equal--to--25%--of--the--money--available--for
14 grants--under--subsection--{3}{c}--must--be--transferred--to--the
15 water--storage--state--special--revenue--account--created--in
16 85-1-631."

17 **Section 12.** Section 85-1-605, MCA, is amended to read:

18 "85-1-605. Grants, loans, and bonds for state and local
19 government assistance. (1) The department may recommend to
20 the legislature that grants and loans be made from coal
21 severance--tax--proceeds revenue deposited in the water
22 development renewable resource grant and loan program state
23 special revenue account, that loans be made from water
24 development-bond-proceeds renewable resource bond proceeds
25 deposited in the water-development renewable resource loan

proceeds account established in 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide financial assistance to a department, agency, board, commission, or other division of state government or to a city, county, or other political subdivision or local government body of the state. The legislature may approve by appropriation or other appropriate means those grants and loans it finds consistent with the policies and purposes of the program.

(2) Nothing in this part creates or expands a state or local government's authority to incur debt, and the legislature may authorize loans only to state and local government entities otherwise structured to incur debt.

(3) Loans may not be authorized except to a state or local government entity that agrees to secure the authorized loan with its bond.

(4) In addition to implementing those projects approved by the legislature, the department may request up to 10% of the grant funds available for grants and up to \$1 million for loans from the water--development renewable resource grant and loan program state special revenue account and the renewable resource loan proceeds account in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, must may not be made because of the gross negligence of the state or local government applicant,

must be approved by the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding, or both, which that, if delayed until legislative approval can be obtained, will cause substantial damages or legal liability to the project sponsor. In allocating such the funds, the department shall inform the legislative finance committee of the legislature.

(3)(5) The grants and loans provided for by this section may be made for projects that enhance renewable resources in the state through conservation, development, management, or preservation; for assessing feasibility or planning; for implementing renewable resource projects the purchase--lease--development--or--construction--of--water development-projects-and-activities--for--the--conservation, management--use--development--or--protection--of--the--water--and related---agricultural--land--fish--wildlife--and--water recreation-resources--in--the--state--for--the--purpose--of feasibility--and--design--studies--for--such--projects--for development--of--plans--for--and--the--rehabilitation--expansion, and-modification-of-water-development--projects--for--other water--development-projects-and-activities-that-will-enhance the-water-resources-of-the-state; and for similar purposes approved by the legislature."

Section 13. Section 85-1-606, MCA, is amended to read:

"85-1-606. Grants and loans to private persons. (1) To

encourage the construction and development of water water-related development projects and--activities, the department may make grants and loans to private persons from funds appropriated from the water--development renewable resource grant and loan program state special revenue account and may make loans to private persons from the water development renewable resource loan proceeds account.

(2) The department shall publicize the statutes and rules governing grants and loans to private persons for water water-related development projects and--activities, set and publicize application deadlines, and accept applications for grants and loans.

(3) The department shall review, evaluate, and select the water water-related development projects and--activities for which grants or loans may be awarded."

Section 14. Section 85-1-608, MCA, is amended to read:

"85-1-608. Applications for grants and loans to private persons. (1) A private person may apply for a grant or loan to finance a water water-related development project or activity to be constructed, developed, and operated in Montana.

(2) An application for a loan or grant must be in the form prescribed by the--board rule and contain or be accompanied by any information necessary to adequately describe the proposed project or--activity and necessary for

evaluation of the proposed project or--activity under the criteria set out in 85-1-609 and 85-1-610."

Section 15. Section 85-1-609, MCA, is amended to read:

"85-1-609. Eligibility for a loan or grant to a private person. The department may not award a grant or loan to a private person unless the department finds, based on the application and the department's investigation and evaluation of the proposal, that:

(1) the proposed water water-related development project or--activity:

(a) will promote, enhance, or advance the purpose, policies, and objectives of the water-development renewable resource grant and loan program;

(b) will be constructed, developed, and operated within the state of Montana;

(c) will be economically feasible. (A project or activity is economically feasible if the project benefits exceed the project costs. The department shall consider only tangible quantifiable benefits and costs in calculating economic feasibility.)

(d) will be an efficient use of natural resources, including water, energy, land, and air. (An efficient use is one that minimizes waste.)

(e) will provide multipurpose facilities to the extent practicable;

(f) will comply with statutory and regulatory standards protecting the quality of resources such as air, water, land, fish, wildlife, and recreational opportunities;

(g) will provide associated public benefits in addition to any private benefits the project or-activity may provide; and

(h) is needed to accomplish the purpose for which the water-development project or-activity is proposed;

(2) the applicant has adequate financial resources to construct, operate, and maintain the water--development project or-activity. The department shall consider financial resources from any source for which the applicant has qualified, including a water-development renewable resource grant or loan.

(3) the applicant holds or can acquire all necessary lands, other than public lands, and interests therein in the lands and water rights necessary for the construction, operation, and maintenance of the proposed water-development project or-activity;

(4) if the application is for a loan, the applicant is credit-worthy creditworthy and able and willing to enter into a contract with the department for loan repayment and construction or development of the proposed water development project or-activity; and

(5) if the application is for a grant, the applicant is

able and willing to enter into a contract with the department for construction or development of the proposed water-development project or-activity."

Section 16. Section 85-1-610, MCA, is amended to read:

"85-1-610. Evaluation of grants and loans to private persons. The department shall consider the following criteria and preferences in evaluating applications and selecting the recipients of grants and loans for water water-related development projects and-activities that are eligible for funding under 85-1-609:

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

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

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

(4) The department, to the extent practicable, shall

1 attempt to achieve geographic balance in the promotion of
2 water-development renewable resource grant and loan projects
3 ~~and--activities~~ through the awarding of loans and grants to
4 private persons.

5 (5) The extent to which the ~~water--development~~ project
6 ~~or--activity~~ will fully effectively utilize water resources
7 and promote the conservation and efficient use of the water
8 resource ~~shall~~ must be evaluated and considered.

9 (6) Projects ~~or--activities~~ that could not be
10 accomplished without the assistance of a loan or grant ~~shall~~
11 must be given preference.

12 (7) The department shall give due consideration to any
13 other factor that, in the department's judgment, is
14 important to the evaluation of the water-development project
15 ~~or--activity~~ in light of the purposes, policies, and
16 objectives of the water-development renewable resource grant
17 and loan program."

18 **Section 17.** Section 85-1-611, MCA, is amended to read:

19 "85-1-611. Department to solicit views. The department
20 shall solicit and consider in its evaluation of proposed
21 projects ~~and-activities~~ the views of interested and affected
22 departments, boards, agencies, commissions, and other
23 subdivisions of the state, including local political
24 subdivisions, of the federal government, and of other
25 interested and affected persons."

1 **Section 18.** Section 85-1-612, MCA, is amended to read:

2 "85-1-612. Rulemaking authority. The board department
3 shall adopt rules:

4 (1) prescribing a reasonable application fee and the
5 form and content of applications for grants and loans;

6 (2) governing the application of the criteria for
7 awarding loans and grants to private persons;

8 (3) providing for the servicing of loans including
9 arrangements for obtaining security interests and the
10 establishment of reasonable fees or charges to be made; and

11 (4) describing the terms and conditions for making
12 grants and loans, the security instruments, and the
13 agreements necessary;

14 (5) describing the ranking criteria used to evaluate
15 and prioritize grants to governmental entities; and

16 (6) specifying any other procedures necessary to
17 accomplish the objectives of the renewable resource grant
18 and loan program."

19 **Section 19.** Section 85-1-613, MCA, is amended to read:

20 "85-1-613. Limits on loans. (1) No A loan to a private
21 person for a water-development renewable resource grant and
22 loan program project ~~or-activity~~ may not be made from the
23 water--development renewable resource grant and loan program
24 state special revenue account or water--development the
25 renewable resource loan proceeds account that if the loan

exceeds the least lesser of \$200,000, ~~10% of the estimated total funds potentially available for loans in the water development state special revenue account and water development account in the biennium in which the loan will be made~~, or 80% of the fair market value of the security given therefor for the project. In determining the fair market value for the security given for a loan, the department shall consider appraisals made by qualified appraisers and other factors it considers important.

(2) A loan to a state or local government for a renewable resource grant and loan program project may not be made by the department from the renewable resource grant and loan program state special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

~~(2)~~ (3) The period for repayment of loans may not exceed 30 years.

~~(3)~~ (4) The ~~board shall from time to time establish the~~ interest rate at which loans may be made under this part ~~that is must be~~ sufficient to:

- (a) cover the bond debt service for a loan; and
- (b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs."

Section 20. Section 85-1-614, MCA, is amended to read:

"85-1-614. Limits on grants from water--development renewable resource grant and loan program state special revenue account. (1) The maximum grant awarded to a private person may not exceed the lesser of:

(a) 5% of the estimated total funds potentially available in the water-development renewable resource grant and loan state special revenue account for public and private grants in the biennium in which the grant will be made; or

(b) 25% of the total project cost, ~~whichever is less.~~

(2) This part does not limit the amount of grant funds that may be appropriated by the legislature to fund a state or local government project."

Section 21. Section 85-1-615, MCA, is amended to read:

"85-1-615. Security interests -- purchase, operation, and resale of encumbered property. (1) The state has a lien upon a project constructed with money from the water development renewable resource grant and loan state special revenue account or water-development the renewable resource loan proceeds account for the amount of the loan and interest due the state. This lien may attach to any project facilities, equipment, easements, real property, and property of any kind or nature owned by the debtor, including all water rights. The department shall file with the county clerk and recorder of each county in which a part

of the project is located either a financing statement or a real estate mortgage covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall record and index the lien as other liens are required by law to be recorded and indexed. The lien ~~shall~~ be is valid until paid in full or otherwise discharged. The lien ~~shall~~ must be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens.

(2) From the funds available under 85-1-604~~(3)(c)~~(3)(d) or 85-1-617, the state may:

(a) purchase a lien that is prior to the state's lien if:

(i) the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by purchasing the prior lien; and

(ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

(b) operate property that is subject to the state's lien if the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by operating the property that is subject to the state's lien; or

(c) purchase a prior lien as provided in (2)(a) and operate property as provided in (2)(b).

(3) Any property acquired under the provisions of this section must be resold as expeditiously as possible to recover funds used under this section and funds loaned to the borrower."

Section 22. Section 85-1-616, MCA, is amended to read:

"85-1-616. Administration of loans and grants. The department shall:

(1) administer the loan and grant program established by this part;

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

(3) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the water-development renewable resource grant and loan program state special revenue account ~~pursuant---~~to established in 85-1-604."

Section 23. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing renewable resource bonds -- renewable resource loan proceeds account. (1) When authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell ~~water--development~~ renewable resource bonds of the state in

1 the amount and manner it considers necessary and proper to
 2 finance the water-development renewable resource grant and
 3 loan program. The full faith and credit and taxing powers of
 4 the state are pledged for the prompt and full payment of all
 5 bonds so issued and interest and redemption premiums payable
 6 thereon on the bonds according to their terms.

7 (2) Each series of water-development renewable resource
 8 bonds may be issued by the board of examiners, upon request
 9 of the ~~board---of---natural---resources---and---conservation~~
 10 department, at public or private sale, in such denominations
 11 and forms, whether payable to bearer with attached interest
 12 coupons or registered as to principal or as to both
 13 principal and interest, with such provisions for conversion
 14 or exchange and for the issuance of notes in anticipation of
 15 the issuance of definitive bonds, bearing interest at such a
 16 rate or rates, maturing at such a rate or rates, maturing at
 17 such a time or times not exceeding 30 years from date of
 18 issue, subject to optional or mandatory redemption at such
 19 earlier times and prices and upon such notice, with such
 20 provisions for payment and discharge by the deposit of funds
 21 or securities in escrow for that purpose, and payable at the
 22 office of such a banking institution or institutions within
 23 or outside the state ~~as that~~ the board of examiners shall
 24 determine subject to the limitations contained in this
 25 section and 17-5-731.

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

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

1 treasurer shall keep a record of all such bonds and notes
2 issued and sold.

3 (5) There is created a water--development renewable
4 resource loan proceeds account within the state special
5 revenue fund established in 17-2-102.

6 (6) All proceeds of bonds or notes issued under this
7 section, other than refunding bonds, must be deposited in
8 the water--development renewable resource loan proceeds
9 account established in subsection (5), except that any
10 principal and accrued interest received in repayment of a
11 loan made from the proceeds of bonds issued under this
12 section must be deposited in the water-development renewable
13 resource loan debt service fund and the water--development
14 renewable resource loan loss reserve fund pursuant to
15 85-1-603. All proceeds of refunding bonds must be deposited
16 in the water--development renewable resource loan debt
17 service fund and applied to the payment and redemption of
18 outstanding bonds issued under this section as directed by
19 the board of examiners, whether at maturity or on any
20 earlier date on which they may be prepaid according to their
21 terms.

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

25 **Section 24.** Section 85-1-618, MCA, is amended to read:

1 "85-1-618. Restrictions on use of bond proceeds. Water
2 development Renewable resource bond proceeds may be used
3 only for the purpose of making loans as provided in the
4 water-development renewable resource grant and loan program
5 or for purchasing liens and operating property as provided
6 in 85-1-615."

7 **Section 25.** 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 renewable resource loan debt service fund
12 any tax, charge, fee, rental, or other income from any
13 designated source. The state reserves the right to modify
14 from time to time the nature and amount of special taxes and
15 other revenues pledged and appropriated to the water
16 development renewable resource loan debt service fund,
17 provided that the aggregate resources so pledged and
18 appropriated are determined by the legislature to be
19 sufficient for the prompt and full payment of the principal
20 of and interest and redemption premiums when due on all
21 bonds payable from that fund and provided that the pledge of
22 the full faith and credit and taxing powers of the state for
23 the security of all such bonds shall be and remain
24 irrevocable until they are fully paid.

25 (2) Money in the water-development renewable resource

1 loan debt service fund must be used to pay interest,
2 principal, and redemption premiums when due and payable with
3 respect to water-development renewable resource bonds, and
4 for bonds issued prior to 1985, to accumulate a reserve for
5 the further security of such the payments.

6 (3) After the reserve provided for in subsection (2)
7 for bonds issued prior to 1985 has been accumulated in the
8 water-development renewable resource loan debt service fund,
9 money at any time received in the water---development
10 renewable resource loan debt service fund in excess of that
11 amount must be transferred by the treasurer to the water
12 development renewable resource grant and loan program state
13 special revenue account."

14 **Section 26.** Section 85-1-620, MCA, is amended to read:

15 "85-1-620. Water---development Renewable resource
16 refunding bonds. (1) The board of examiners may issue
17 refunding bonds at such times and in such amounts, if any,
18 as may be necessary to pay principal or interest due that
19 cannot be paid from funds then on hand in the water
20 development renewable resource loan debt service fund. The
21 board of examiners may also issue refunding bonds to refund
22 outstanding bonds before maturity for the purpose of
23 extending the maturities thereof of the outstanding bonds so
24 far-as determined by the board of examiners to be necessary
25 to assure that the funds then pledged to the water

1 development renewable resource loan debt service fund will
2 be sufficient for payment of principal and interest due in
3 subsequent years. The board of examiners may also issue
4 refunding bonds to refund outstanding bonds before maturity
5 for the purpose of reducing the interest cost or the total
6 amount of principal and interest payable thereon on the
7 outstanding bonds.

8 (2) No-refunding Refunding bonds may not be issued and
9 sold more than 3 months before all of the bonds refunded
10 thereby mature or are called for redemption unless the
11 proceeds thereof of the refunded bonds, with any other funds
12 in the water---development renewable resource loan debt
13 service fund that are needed and available for the purpose
14 or securities purchased from such proceeds and other funds,
15 are deposited with a suitable banking institution within or
16 outside the state, in escrow, for the retirement of the
17 refunded bonds at maturity or at a prior date or dates on
18 which they have been called for redemption in accordance
19 with their terms, in an amount and in a manner sufficient
20 under the provisions securing the refunded bonds, so that
21 the state's obligation to pay the same, from sources other
22 than the escrow fund, is discharged.

23 (3) No-new New debt may not be created by the issuance
24 of refunding bonds in accordance with this section, but such
25 the refunding bonds ~~shall~~ must evidence the debt previously

created and ~~shall~~ must be secured by the pledge of the full faith and credit and taxing powers of the state and ~~by the further provisions of this part~~ secured in the same manner as the bonds refunded thereby by other provisions of this part."

Section 27. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report to the legislature. The department shall prepare a biennial report to the legislature describing the status of the water--development renewable resource grant and loan program. The report must describe ongoing projects ~~and activities~~ and those--which projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. ~~desires--to seek congressional authorization and funding and the efforts the--department--will undertake in attempting to secure such authorization and funding.~~ The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report ~~shall~~ must be submitted to the president of the senate and the speaker of the house, to the members of the water policy committee established in 85-2-105, and, as provided in 5-11-210, to the legislature."

Section 28. Section 85-1-623, MCA, is amended to read:

"85-1-623. Authorization of water-development renewable

resource 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 \$10 million and the issuance and sale of water development renewable resource bonds in this amount for the purpose of providing funds appropriated to the water development renewable resource loan proceeds account for loans as provided in the water--development renewable resource grant and loan program or for the purchase of liens and operation of property as provided in 85-1-615."

Section 29. Section 85-1-631, MCA, is amended to read:

"85-1-631. Water storage state special revenue account created -- revenues allocated -- appropriations from account. (1) There is a water storage state special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the water storage state special revenue account:

(a) money allocated from the resource indemnity trust fund interest earnings pursuant to 15-38-202 water development-state-special-revenue--account--as--provided--in 85-1-604--and

(b) ~~money--from--the--renewable--resource--development account--as--provided--in--90-2-111.~~

(3) Money that was not encumbered or expended from the

water storage state special revenue account during the previous biennium must remain in the account.

(4) Deposits to the water storage state special revenue account are to be placed in short-term investments and accrue interest, which must be deposited in the water storage state special revenue account.

(5) The purpose of the water storage state special revenue account is to provide money for loans and grants exclusively for water storage projects, including the purchase or lease of property; planning, feasibility, and design studies; and other costs related to construction, rehabilitation, expansion, and modification of water storage projects.

(6) The department shall administer this section as an integral part of the water-development renewable resource grant and loan program, using, to the extent possible, the same procedures for soliciting, determining eligibility, and rating water storage project proposals and for administering grants and loans, subject to the same limitations, as applied to other water-development renewable resource grants and loans.

(7) The following preferences must be considered in ranking proposals for water storage grants and loans:

(a) first preference is for the rehabilitation of water storage projects that resolve threats to life and property;

(b) second preference is for the improvement or expansion of existing water storage projects; and

(c) third preference is for the development of new water storage projects."

Section 30. Section 85-2-105, MCA, is amended to read:

"85-2-105. Water policy committee. (1) There is a permanent water policy committee of the legislature. The committee consists of eight members. The senate committee on committees and the speaker of the house of representatives shall each appoint four members on a bipartisan basis. The committee shall elect its chairman and vice-chairman. The committee shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.

(2) On a continuing basis, the committee shall:

(a) advise the legislature on the adequacy of the state's water policy and of important state, regional, national, and international developments which affect Montana's water resources;

(b) oversee the policies and activities of the department of natural resources and conservation, other state executive agencies, and other state institutions, as they affect the water resources of the state; and

(c) communicate with the public on matters of water policy as well as the water resources of the state.

1 (3) On a regular basis, the committee shall:

2 (a) analyze and comment on the state water plan
3 required by 85-1-203, when filed by the department;

4 (b) analyze and comment on the report of the status of
5 the state's water-development renewable resource grant and
6 loan program required by 85-1-621, when filed by the
7 department;

8 (c) analyze and comment on water-related research
9 undertaken by any state agency, institution, college, or
10 university;

11 (d) analyze, verify, and comment on the adequacy of and
12 information contained in the water resources data management
13 system maintained by the department under 85-2-112; and

14 (e) report to the legislature as provided in 5-11-210.

15 (4) The environmental quality council shall provide
16 staff assistance to the committee. The committee may
17 contract with experts and consultants, in addition to
18 receiving assistance from the environmental quality council,
19 in carrying out its duties under this section."

20 **Section 31.** ~~Section 90-2-1102, MCA, is amended to read:~~

21 ~~"90-2-1102. Policy and purpose. (1) The policy of the~~
22 ~~state of Montana expressed in the Reclamation and~~
23 ~~Development Grants Program Act is to provide a state~~
24 ~~capability to fund projects that indemnify the people of the~~
25 ~~state for the effects of mineral development on public~~

1 ~~resources and that meet other crucial needs serving the~~
2 ~~public interest and the total environment of the citizens of~~
3 ~~Montana.~~

4 ~~(2) The purposes of the reclamation and development~~
5 ~~grants program are to:~~

6 ~~(a) repair, reclaim, and mitigate environmental damage~~
7 ~~to public resources from nonrenewable resource extraction;~~
8 ~~and~~

9 ~~(b) develop and ensure the quality of public resources~~
10 ~~for the benefit of all Montanans."~~

11 **Section 31.** Section 90-2-1103, MCA, is amended to read:

12 "90-2-1103. Definitions. As used in this part, the
13 following definitions apply:

14 ~~(1) "Board" means the board of natural resources and~~
15 ~~conservation provided for in 2-15-3302.~~

16 ~~(2)(1) "Department" means the department of natural~~
17 ~~resources and conservation provided for in Title 2, chapter~~
18 ~~15, part 33.~~

19 ~~(3)(2) "Financially feasible" means that adequate funds~~
20 ~~are available to complete the project as approved.~~

21 ~~(4)(3) "Mineral" means any precious stones or gems,~~
22 ~~gold, silver, copper, coal, lead, petroleum, natural gas,~~
23 ~~oil, uranium, or other nonrenewable merchantable products~~
24 ~~extracted from the surface or subsurface of the state of~~
25 ~~Montana.~~

{5}(4) "Mineral development" means exploration, extraction, processing, or other activity related to the production of a mineral.

{6}(5) "Mitigation" means the act of rectifying an impact by repairing, rehabilitating, or restoring the affected environment; reducing or eliminating an impact over time by operations that preserve or maintain the environment; or compensating for an impact by replacing or providing substitute resources or habitats.

{7}(6) "Project" means a planned and coordinated action or series of actions addressing an objective consistent with the policy and purpose of the reclamation and development grants program. A project may consist of problem analysis, feasibility or design studies, environmental monitoring, remedial action plans or implementation, technology demonstration, research, construction or acquisition of capital facilities, or other related actions.

{8}(7) "Public benefits" means those benefits that accrue to citizens as a group and enhance the common well-being of the people of Montana.

{9}(8) "Public resources" means the natural resources of the state, including air, water, soil, minerals, vegetation, and fish and wildlife, and the economic, social, and cultural conditions of Montana citizens.

{10}(9) "Reclamation and development grants account"

means the reclamation and development grants special revenue account established in 90-2-1104.

{11}(10) "Technically feasible" means that a project or activity can be designed, constructed, operated, or carried out to accomplish its objectives, utilizing accepted engineering and other technical principles and concepts."

Section 32. Section 90-2-1104, MCA, is amended to read:

"90-2-1104. Reclamation and development grants account.

(1) There is a reclamation and development grants special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the reclamation and development grants account money allocated from:

(a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202; and

(b) the resource indemnity trust tax under the provisions of 15-38-106.

(3) Appropriations may be made from the reclamation and development grants account for the following purposes:

(a) grants for designated projects; and

(b) administrative expenses, including the salaries and expenses of personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grants program. These expenses may be funded prior to funding of projects."

Section 33. Section 90-2-1105, MCA, is amended to read:

"90-2-1105. Adoption of rules. The board department may adopt rules to:

(1) prescribe the form and content of applications for grants;

(2) describe the terms and conditions of making grants;

(3) prescribe a monitoring program to evaluate the effectiveness of funded projects; and

(4) develop any other procedures necessary to accomplish the objectives of the reclamation and development grants program."

Section 35. ~~Section 90-2-1112, MCA, is amended to read:--~~

~~"90-2-1112. Eligibility requirements.--(1) Except as provided under subsection (2), to be eligible for funding under the reclamation and development grants program, the proposed project must:~~

~~(a) provide benefits in one or more of the following categories:~~

~~(a)(i) reclamation of land, water, or other resources adversely affected by mineral development;~~

~~(b)(ii) mitigation of damage to public resources caused by mineral development;~~

~~(c)(iii) research, demonstration, or technical assistance to promote the wise use of Montana minerals, including efforts to make processing more environmentally~~

~~compatible;~~

~~(d)(iv) investigation and remediation of sites where hazardous wastes or regulated substances threaten public health or the environment; and~~

~~(e)(v) research to assess existing or potential environmental damage resulting from mineral development;~~

~~(2) If sufficient eligible and qualified applications satisfying the mineral development objectives provided for in subsection (1) are not received or if there is a crucial state need, the department may evaluate and the governor may recommend that the legislature approve funding for projects that:~~

~~(a) enhance Montana's economy through the development of natural resources; or~~

~~(b) develop, promote, protect, or further Montana's total environment and public interest, including the general health, safety, welfare, and public resources of Montana citizens and communities;~~

~~(3) To be eligible for funding under the reclamation and development grants program, a project must:~~

~~(a)(b) be technically and financially feasible;~~

~~(b)(c) be the best cost-effective alternative to address a problem or attain an objective;~~

~~(c)(d) comply with statutory and regulatory standards protecting environmental quality; and~~

{d}{e}--be--from--an--applicant--able--and--willing--to--enter
into--a--contract--with--the--department--for--the--implementation
of--the--proposed--project--or--activity.

{4}{2}--A--project--is--not--eligible--for--funding--under--the
reclamation--and--development--grants--program--to--the--extent
that--the--project--is--eligible--for--and--can--reasonably--be
expected--to--receive--funding--from--other--state--or--federal
reclamation--programs--or--any--other--program--or--act--that
provides--funding--to--accomplish--remedial--action--for
environmental--damage--or--if--the--project--is--permitted--under
Title--82--chapter--4--or--11.

{5}{3}--A--proposed--project--is--not--eligible--for--funding
under--the--reclamation--and--development--grants--program--if
there--is--a--liable--party--who--would--be--relieved--of--financial
or--legal--responsibility--and--who--can--reasonably--be--expected
to--be--held--responsible."

Section 36.--Section 90-2-1121, MCA, is amended to read:--

"90-2-1121.--Prohibited compensation to public officers
or employees.---penalty.-(1) No A member, officer, attorney,
or other employee of the board or the department may not
directly or indirectly be the beneficiary of or receive any
fee, commission, gift, or other consideration in connection
with any transaction or business under the reclamation and
development grants program other than the salary, fee, or
other compensation that he a person may receive as a member,

officer, attorney, or employee.

{2}--A person convicted of violating any provision of
this section shall be punished by a fine not to exceed
\$2,000 plus the value of any consideration illegally
received or by imprisonment for a term not to exceed 2
years, or both. Any fines collected under this section must
be deposited in the reclamation and development grants
account."

NEW SECTION. Section 37.--Policy and purpose. It is the
public policy of the state to promote, stimulate, and
encourage the planning and development of the economy of the
state in order to provide for the social and economic
prosperity of its citizens. Rural economic planning,
expansion of existing industry, greater diversification of
industry and attraction of additional industry, creation of
new uses for agricultural products, greater emphasis on
development of new products, and the attainment of a proper
balance in the overall economic base are all necessary in
order to create additional employment opportunities,
increase personal income, and promote the general welfare of
the people of this state.

NEW SECTION. Section 38.--Definitions. As used in
{sections 38 through 45}, the following definitions apply:
{1}--"Department" means the department of natural
resources and conservation provided for in Title 2, chapter

157-part-33:

(2)--"Financially-feasible"--means--that--adequate--funds--are--available--to--complete--the--project--as--approved;

(3)--"Project"--means--a--planned--and--coordinated--action--or--series--of--actions--addressing--an--objective--consistent--with--the--policy--and--purpose--of--the--rural--economic--revitalization--grants--program;

(4)--"Public-benefits"--means--those--benefits--that--accrue--to--citizens--as--a--group--and--that--enhance--the--common--well-being--of--the--people--of--Montana;

(5)--"Public-resources"--means--the--natural--resources--of--the--state,--including--air,--water,--soil,--minerals,--vegetation,--and--fish--and--wildlife,--and--the--economic,--social,--and--cultural--conditions--of--Montana--citizens;

(6)--"Technically-feasible"--means--that--a--project--or--activity--can--be--designed,--constructed,--operated,--or--carried--out--to--accomplish--its--objectives,--using--accepted--engineering--and--other--technical--principles--and--concepts;

NEW SECTION--Section 39--Rural-economic revitalization--account. (1)--There--is--a--rural--economic--revitalization--account--within--the--state--special--revenue--fund--established--in--17-2-102;

(2)--There--must--be--paid--into--the--rural--economic--revitalization--account--money--allocated--from--the--interest--income--of--the--resource--indemnity--trust--fund--under--the

provisions-of-15-38-202:

(3)--Appropriations--may--be--made--from--the--rural--economic--revitalization--account--for--the--following--purposes:

(a)--grants--for--designated--projects; and

(b)--administrative--expenses,--including--the--salaries--and--expenses--of--personnel--and--equipment,--office--space,--and--other--expenses--necessarily--incurred--in--the--administration--of--the--rural--economic--revitalization--grants--program. These expenses may be funded prior to funding of projects;

NEW SECTION--Section 40--Adoption--of--rules. The--department--may--adopt--rules--to:

(1)--prescribe--the--form--and--content--of--applications--for--grants;

(2)--describe--the--terms--and--conditions--of--making--grants;

(3)--prescribe--a--monitoring--program--to--evaluate--the--effectiveness--of--funded--projects; and

(4)--develop--any--other--procedures--necessary--to--accomplish--the--objectives--of--the--rural--economic--revitalization--grants--program;

NEW SECTION--Section 41--Rural-economic revitalization--grants--program. (1)--Any--department,--agency,--board,--commission,--or--other--division--of--state--government,--any--city,--county,--or--other--political--subdivision,--or--any--tribal--government--within--the--state--may--apply,--in--accordance--with--the--procedures--established--by--the--department,--for--a--grant

from the rural economic revitalization account for a project that is consistent with the policy and purpose of the rural economic revitalization grants program.

{2}--The department shall evaluate applications under the eligibility criteria provided in {section 42} and the evaluation criteria provided in {section 43}.

{3}--The department shall solicit and consider in its evaluation of applications the views of interested persons and public agencies.

{4}--Based on its evaluation of eligible applications, the department shall recommend to the governor projects to receive grants from the rural economic revitalization account.

{5}--The governor shall submit all proposals with recommended priorities to the legislature. The legislature may approve by appropriation or other appropriate means grants for those projects it finds consistent with the policies and purposes of the rural economic revitalization grants program. The department shall administer and oversee the grants to approved projects and monitor the projects.

NEW SECTION. Section 42. Eligibility requirements. {1}--To be eligible for funding under the rural economic revitalization grants program, the proposed project must provide public benefits in one or more of the following categories:

{a}--enhance Montana's economy through the development of natural resources; or

{b}--develop, promote, protect, or further Montana's total environment and public resources.

{2}--To be eligible for funding under the rural economic revitalization grants program, a project must:

{a}--be technically and financially feasible;

{b}--be the best cost-effective alternative to address a problem or attain an objective;

{c}--comply with statutory and regulatory standards protecting environmental quality; and

{d}--be from an applicant able and willing to enter into a contract with the department for the implementation of the proposed project.

NEW SECTION. Section 43. Evaluation criteria. The department shall consider the following criteria in evaluating eligible applications and in selecting projects to be recommended to the governor for funding:

{1}--the degree to which the project provides economic revitalization to an area or region;

{2}--the degree to which the project will improve the local tax base;

{3}--the degree to which the project will result in higher income levels;

{4}--the degree to which the project will reduce

unemployment;

{5}--the-degree-to-which-the-project-creates-new-jobs;

{6}--the-degree-to-which-the-project-improves-the
quality-of-life;

{7}--the-degree-to-which-the-project-enhances-local
leadership; and

{8}--any-other-criteria-the-department-considers
necessary-to-carry-out-the-policies-and-purposes-of-the
rural-economic-revitalization-grants-program;

NEW SECTION. Section 44. Conditions of grants. Disbursement of grant funds under this part is subject to the following conditions, which must be met by project sponsors:

{1}--A scope of work and budget for the project must be approved by the department. Reduction in the scope of work or budget may not affect priority activities or improvements;

{2}--Other funds required for project completion must have been committed and the commitment must be documented;

{3}--An agreement between the department and the grant applicant must be executed in a timely manner, taking into consideration any changed conditions or circumstances that govern the administration and disbursement of funds;

{4}--Any other specific requirements must be accomplished as considered necessary by the department to

accomplish the purpose of the grant as evidenced from the application to the department or the proposal to the legislature;

NEW SECTION. Section 45. Prohibited compensation to public officers or employees. (1) A member, officer, attorney, or other employee of the department may not directly or indirectly be the beneficiary of or receive any fee, commission, gift, or other consideration in connection with any transaction or business under the rural economic revitalization grants program other than the salary, fee, or other compensation that person may receive as a member, officer, attorney, or employee;

{2}--A person convicted of violating any provision of this section shall be punished by a fine not to exceed \$2,000 plus the value of any consideration illegally received or by imprisonment for a term not to exceed 2 years, or both. Any fines collected under this section must be deposited in the rural economic revitalization account;

NEW SECTION. Section 34. Repealer. Sections 85-1-607, 90-2-101, 90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108, 90-2-109, 90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122, 90-2-123, 90-2-124, 90-2-125, 90-2-126, 90-2-127, and 90-2-128, MCA, are repealed.

NEW SECTION. Section 47. Codification instruction. {Sections 37 through 45} are intended to be codified as an

1 ~~integral--part--of--Title--907--chapter--27--part--17--and--the~~
2 ~~provisions--of--Title--907--chapter--27--part--17--apply--to~~
3 ~~{sections-37-through-45}.~~

4 NEW SECTION. **Section 35.** Effective dates. (1)
5 [Sections 1, 2, and 4 through 48 35] are effective July 1,
6 1993.

7 (2) [Section 3] is effective July 1, 1995.

-End-

RE-REFERRED AND
APPROVED BY COMMITTEE
ON APPROPRIATIONS
AS AMENDED

HB 0608/03

HB 0608/03

HOUSE BILL NO. 608

INTRODUCED BY BERGSAGEL, J. RICE, PECK, BACHINI, GRINDE,

B. BROWN, HOCKETT, SWYSGOOD, WEEDING, HARP, BOHARSKI

BY REQUEST OF THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ALLOCATING A PORTION OF~~
~~THE RESOURCE INDEMNITY TAX PROCEEDS,~~ ESTABLISHING MINIMUM
FUNDING LEVELS FOR GRANT PROGRAMS; CHANGING THE DISTRIBUTION
OF INTEREST EARNINGS FROM THE RESOURCE INDEMNITY TRUST FUND;
COMBINING THE WATER DEVELOPMENT AND RENEWABLE RESOURCE
DEVELOPMENT PROGRAMS TO CREATE THE RENEWABLE RESOURCE GRANT
AND LOAN PROGRAM; REINVESTING THE INTEREST EARNINGS OF THE
WATER STORAGE STATE SPECIAL REVENUE ACCOUNT; ~~REMOVING THE~~
~~CRUCIAL STATE NEED FUNDING CATEGORY FROM THE RECLAMATION AND~~
~~DEVELOPMENT GRANTS PROGRAM AND LIMITING FUNDING TO MINERAL~~
~~RECLAMATION PROJECTS, CREATING THE RURAL ECONOMIC~~
~~REVITALIZATION PROGRAM THAT WILL FUND PROJECTS THAT PROMOTE~~
~~AND IMPROVE MONTANA'S ECONOMY;~~ AMENDING SECTIONS 15-38-106,
15-38-202, 17-5-701, 17-5-702, 17-5-706, 85-1-102, 85-1-601,
85-1-602, 85-1-603, 85-1-604, 85-1-605, 85-1-606, 85-1-608,
85-1-609, 85-1-610, 85-1-611, 85-1-612, 85-1-613, 85-1-614,
85-1-615, 85-1-616, 85-1-617, 85-1-618, 85-1-619, 85-1-620,
85-1-621, 85-1-623, 85-1-631, 85-2-105, 90-2-1102,
90-2-1103, 90-2-1104, AND 90-2-1105, 90-2-1112, ~~AND~~

90-2-1121, MCA; REPEALING SECTIONS 85-1-607, 90-2-101,
90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108, 90-2-109,
90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122, 90-2-123,
90-2-124, 90-2-125, 90-2-126, 90-2-127, AND 90-2-128, MCA;
AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

This bill is introduced as a result of a legislative
request to combine the water development and renewable
resource development programs. These grant and loan programs
have been administered as essentially one program for the
past 4 bienniums. The renewable resource grant and loan
program keeps the critical elements of both the water
development and renewable resource development programs and
does not expand either eligible projects or eligible
applicants.

This bill ~~removes the "crucial state need" funding~~
~~category from the reclamation and development grants program~~
~~and limits funding to mineral reclamation projects. In place~~
~~of the "crucial state need" category, the rural economic~~
~~revitalization program is established to fund projects that~~
~~promote and improve Montana's economy. These two programs~~
~~will now have clear and specific goals. This bill will~~
~~simplify the programs, making it easier to administer the~~
~~programs and foster better public understanding.~~

The long-range planning subcommittee of the appropriations and finance and claims committees stated its intent to establish minimum funding levels for these grant programs in House Bill No. 6 (Chapter 551, Laws of 1991) and House Bill No. 8 (Chapter 552, Laws of 1991) passed by the 1991 legislature. Over the past several bienniums grant funding has decreased. At the same time, revenues allocated to the water development, renewable resource development, and reclamation and development accounts have increased. Appropriations to natural resource agencies have made up the difference and have increased at a rate surpassing the growth in resource indemnity trust (RIT) interest income. This bill establishes minimum funding levels for the renewable resource grant and loan program, the reclamation and development grants program, the rural economic revitalization program, and the water storage account.

In order to reflect the combining of the water development and renewable resource development programs, the allocation of interest earnings from the RIT is changed. Currently, 30% and 8%, respectively, of the RIT interest earnings are allocated to water development and the renewable resource development state special revenue accounts. This bill would eliminate these accounts. In their place, the renewable resource grant and loan program state special revenue account would be established and 38% of the

RIT interest earnings would be allocated to this account.

~~Resource indemnity tax proceeds are allocated to the renewable resource grant and loan program and the reclamation and development grants state special revenue accounts. This will assure funding for the operation of state natural resource agencies.~~

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

~~Section 15-38-106, MCA, is amended to read:~~

~~"15-38-106. (Temporary) Payment of tax records collection of taxes refunds. (1) The tax imposed by this chapter shall must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall must be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.~~

~~(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.~~

~~(3) The department shall examine the statement and compute the taxes thereon, and the amount computed by the~~

department shall be the taxes imposed, assessed against, and payable by the taxpayer, if the tax found to be due is greater than the amount paid, the excess shall must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer, if the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.

15-38-106, (Effective July 1, 1993) Payment of tax records collection of taxes refunds (1) The tax imposed by this chapter shall must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall must be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type, except that:

(a) 14.1% of the proceeds must be deposited in the ground-water assessment account established by 85-2-905;

(b) 20% of the proceeds must be deposited in the renewable resource grant and loan program state special revenue account established by 85-1-604; and

(c) 20% of the proceeds must be deposited in the reclamation and development grants account established by 90-2-1104;

(3) Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3)(4) The department shall examine the statement and compute the taxes thereon, and the amount computed by the department shall must be the taxes imposed, assessed against, and payable by the taxpayer, if the tax found to be due is greater than the amount paid, the excess shall must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer, if the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Section 1. Section 15-38-202, MCA, is amended to read:

"15-38-202. Investment of resource indemnity trust fund expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-37-117, shall must be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity

trust fund ~~shall~~ must annually be added to the trust fund until it has reached the sum of \$10 million. Thereafter, only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts ~~shall~~ must be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101; and

(ii) ~~beginning-in-fiscal-year-1992~~, an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161;

(iii) \$1,600,000 to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iv) ~~\$1,600,000~~ \$2,400,000 to be deposited into the reclamation and development grants state special revenue account, created by 90-2-1104, for the purpose of making grants; AND

~~(v) \$800,000 to be deposited into the rural economic~~

~~revitalization-state-special-revenue-account,--created--by~~
~~section-39,--for-the-purpose-of-making-grants,--and~~
~~(vi)(V) beginning in fiscal year 1994, \$400,000 to be~~
~~deposited into the water storage state special revenue~~
~~account created by 85-1-631.~~

(b) The remainder of the interest income is allocated as follows:

(i) ~~Beginning-in-fiscal-year-1982,--provided-the--amount~~
~~in--the--resource--indemnity--trust-fund-is-greater-than-\$10~~
~~million, 30% Thirty-eight percent~~ of the interest income of the resource indemnity trust fund must be allocated to the water-development renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) ~~Beginning--in--fiscal-year-1988,--12% Twelve~~ SIXTEEN percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) ~~Beginning-in-fiscal-year-1990,--8%--of--the--interest~~
~~income--from--the--resource--indemnity--trust--fund--must--be~~
~~allocated--to--the--renewable--resource--development--account~~
~~provided-for-in-Title-90,--chapter-2.~~

~~(iv)--Beginning--in--fiscal-year-1990,--46% Forty-six~~ FORTY percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

~~(v)~~(iv) Beginning in fiscal year 1990, 4% Four SIX
percent of the interest income of the resource indemnity
trust fund must be allocated to the environmental quality
protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the
legislature or the executive branch that proposes to
appropriate funds from the resource indemnity trust interest
account other than as provided for by the allocations in
subsection (2) must specify the amount of money from each
allocation that is proposed to be diverted and the proposed
use of the diverted funds. A formal budget document includes
a printed and publicly distributed budget proposal or
recommendation, an introduced bill, or a bill developed
during the legislative appropriation process or otherwise
during a legislative session."

Section 2. Section 15-38-202, MCA, is amended to read:

"15-38-202. (Effective July 1, 1995) Investment of
resource indemnity trust fund -- expenditure -- minimum
balance. (1) All money paid into the resource indemnity
trust fund, including money payable into the fund under the
provisions of 15-37-117, shall must be invested at the
discretion of the board of investments. All the net earnings
accruing to the resource indemnity trust fund shall must
annually be added to the trust fund until it has reached the
sum of \$10 million. Thereafter, only the net earnings may be

appropriated and expended until the fund reaches \$100
million. Thereafter, all net earnings and all receipts ~~shall~~
must be appropriated by the legislature and expended,
provided that the balance in the fund may never be less than
\$100 million.

(2) (a) At the beginning of each biennium, there is
allocated from the interest income of the resource indemnity
trust fund:

(i) an amount not to exceed \$175,000 to the
environmental contingency account pursuant to the conditions
of 75-1-1101; and

(ii) ~~beginning in fiscal year 1992,~~ an amount not to
exceed \$50,000 to the oil and gas production damage
mitigation account pursuant to the conditions of 82-11-161;

(iii) beginning in fiscal year 1996, \$2 million to be
deposited into the renewable resource grant and loan program
state special revenue account, created by 85-1-604, for the
purpose of making grants; AND

(iv) beginning in fiscal year 1996, \$2 \$3 million to be
deposited into the reclamation and development grants state
special revenue account, created by 90-2-1104, for the
purpose of making grants; AND

(v) --beginning in fiscal year 1996, \$1 million to be
deposited into the rural economic revitalization state
special revenue account, created by (section 39), for the

purpose-of-making-grants;-and

(vi)(V) beginning in fiscal year 1996, \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(b) The remainder of the interest income is allocated as follows:

(i) ~~Beginning--in-fiscal-year-1982,-provided-the-amount in-the-resource-indemnity-trust-fund--is--greater--than--\$10 million,-30% Thirty-eight~~ THIRTY-SIX percent of the interest income of the resource indemnity trust fund must be allocated to the water-development renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) ~~Beginning-in-fiscal-year-1988,-12% Twelve~~ EIGHTEEN percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) ~~Beginning--in-fiscal-year-1990,-8%-of-the-interest income-from--the--resource--indemnity--trust--fund--must--be allocated--to--the--renewable--resource--development-account provided-for-in-Title-98,-chapter-2-~~

~~(iv)-Beginning-in-fiscal-year-1990,-46% Forty-six~~ FORTY percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

~~(v)(iv) Beginning--in--fiscal--year--1990,--4% Four~~ SIX percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds from the resource indemnity trust interest account other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

Section 3. Section 17-5-701, MCA, is amended to read:

"17-5-701. State of Montana coal severance tax bonds. This part provides for the issuance of state of Montana coal severance tax bonds (also referred to as coal severance tax bonds in this part) to:

(1) finance ~~water---resource---development~~ renewable resource projects and-activities in the state designed to provide, during and after extensive coal mining, a healthy economy, the alleviation of social and economic impacts created by coal development, and a clean and healthful

environment for present and future generations; and

(2) finance loans to local governments for infrastructure projects under Title 90, chapter 6, part 7."

Section 4. Section 17-5-702, MCA, is amended to read:

"17-5-702. Purpose and intent. (1) The purpose of the coal severance tax trust fund bond provisions of this part is to establish the authority to issue and sell coal severance tax bonds that have been approved by act of the legislature for financing specific ~~water---~~resource development renewable resource projects and--activities in the state authorized by the legislature and to guarantee redemption of ~~such the~~ bonds by revenue derived from the receipts from the coal severance tax imposed by Title 15, chapter 35, part 1, and such other money as the legislature may from time to time determine.

(2) The legislature intends that projects to be financed by coal severance tax bonds include ~~water--resource development~~ renewable resource projects and--activities as part of the ~~water-development~~ program established in Title 85, chapter 1, part 6. The legislature further intends that the income from ~~water--resource---~~development renewable resource projects and--activities in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the ~~water development~~ renewable resource grant and loan program state

special revenue account established in 85-1-604."

Section 5. Section 17-5-706, MCA, is amended to read:

"17-5-706. Authority to issue coal severance tax bonds. The board of examiners, upon approval of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance such approved ~~water--resource development~~ renewable resource projects and--activities when authorized to do so by any law that sets out the amount and purpose of the issue. Each project ~~or-activity-shall~~ must be separately approved as to amount by a two-thirds vote of each house of the legislature."

Section 6. Section 85-1-102, MCA, is amended to read:

"85-1-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Administrative costs" means costs incurred by the department:

(a) for the purpose of protecting the department's properties and assets;

(b) to oversee the operation and maintenance of the projects;

(c) to administer contracts and receivables;

(d) to maintain project financial records;

(e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

(f) to assist in securing funds for operating,

1 maintaining, and rehabilitating the projects.

2 (2) "Board" means the board of natural resources and
3 conservation provided for in 2-15-3302.

4 (3) "Cost of operation and maintenance" means the costs
5 of operation, maintenance, and routine repairs and the costs
6 incurred by the water users' association or the department
7 in the distribution of water from the project, excluding the
8 department's administrative costs.

9 (4) "Cost of works" means the cost of construction,
10 including any rehabilitation or alteration of the project;
11 the cost of all lands, property, rights, easements, and
12 franchises acquired which are deemed necessary for the
13 construction; the cost of all water rights acquired or
14 exercised by the department in connection with those works;
15 the cost of all machinery and equipment, financing charges,
16 interest prior to and during construction and for a period
17 not exceeding 3 years after the completion of construction;
18 cost of engineering and legal expenses, plans,
19 specifications, surveys, estimates of cost, and other
20 expenses necessary or incident to determining the
21 feasibility or practicability of any project; administrative
22 expense; and other expenses as may be necessary or incident
23 to the financing authorized in this part and the
24 construction of the works and the placing of the works in
25 operation.

1 (5) "Department" means the department of natural
2 resources and conservation provided for in Title 2, chapter
3 15, part 33.

4 (6) "Owner" means all individuals, irrigation
5 districts, drainage districts, flood control districts,
6 incorporated companies, societies, or associations having
7 any title or interest in any properties, rights, easements,
8 or franchises to be acquired.

9 (7) "Private person" means any individual, association,
10 partnership, corporation, or other nongovernmental entity
11 not eligible for loans and grants under 85-1-605 but does
12 not include a governmental entity such as an agency, local
13 government, or political subdivision of the state, the
14 United States, or any agency thereof, or any other
15 governmental entity.

16 (8) "Project" means any one of the works defined in
17 this section or any combination of works which are
18 physically connected or jointly managed and operated as a
19 single unit.

20 (9) "Public benefits" means those benefits that accrue
21 from a water development project or activity to persons
22 other than the private grant or loan recipient and that
23 enhance the common well-being of the people of Montana.
24 Public benefits include but are not limited to recreation,
25 flood control, erosion reduction, agricultural flood damage

1 reduction, water quality enhancement, sediment reduction,
2 access to recreation opportunities, and wildlife
3 conservation.

4 (10) "Renewable resource grant and loan program state
5 special revenue account" means a separate account created by
6 85-1-604 within the state special revenue fund of the state
7 treasury for the purposes of the water development program
8 as set forth in 85-1-604.

9 (11) "Renewable resource loan debt service fund" means a
10 separate fund created by 85-1-603 within the debt service
11 fund type of the state treasury to be used as provided in
12 85-1-619.

13 (12) "Water--development Renewable resource loan
14 proceeds account" means a separate account created by
15 85-1-617 within the state special revenue fund of the state
16 treasury to finance loans under the provisions of the water
17 development renewable resource grant and loan program to
18 agencies, local governments, and political subdivisions of
19 the state, private persons, and any other eligible
20 recipients and to purchase liens and operate property, as
21 provided in 85-1-615, from proceeds of bonds issued under
22 part 6 of this chapter.

23 (13) "Water development activity" means an action or
24 program to protect and enhance water-based recreation or to
25 protect or enhance water resources for the benefit of

1 agriculture, flood control, or other uses, including but not
2 limited to the promotion of efficient use of water in
3 agriculture, the improvement of water quality in agriculture
4 and other nonpoint source uses, the protection and
5 enhancement of water-based recreation, the control of
6 erosion of streambanks and control of sedimentation of
7 rivers and streams, and providing greater local and state
8 control of Montana water resources. Water development
9 activities may provide any combination of marketable and
10 nonmarketable benefits.

11 (12) "Water--development--debt--service--fund"--means--a
12 separate--fund--created--by--85-1-603--within--the--debt--service
13 fund--type--of--the--state--treasury--to--be--used--as--provided--in
14 85-1-619.

15 (14) "Water development project" means a project as
16 defined in subsection (8), except that water development
17 projects;

18 (a) are not limited to projects owned or operated by
19 the department; and

20 (b) for purposes of the renewable resource grant and
21 loan program, must include water development activities.

22 (14) "Water--development--state--special--revenue--account"
23 means--a--separate--account--created--by--85-1-604--within--the
24 state--special--revenue--fund--of--the--state--treasury--for--the
25 purposes--of--the--water--development--program--as--set--forth--in

1 85-1-604:

2 (15) "Works" means all property and rights, easements,
3 and franchises relating to property and considered necessary
4 or convenient for the operation of the works and all water
5 rights acquired or exercised by the department in connection
6 with those works and includes all means of conserving and
7 distributing water, including, without limiting the
8 generality of the foregoing, reservoirs, dams, diversion
9 canals, distributing canals, waste canals, drainage canals,
10 dikes, lateral ditches and pumping units, mains, pipelines,
11 and waterworks systems and includes all works for the
12 conservation, development, storage, distribution, and
13 utilization of water, including without limiting the
14 generality of the foregoing, works for the purpose of
15 irrigation, flood prevention, drainage, fish and wildlife,
16 recreation, development of power, watering of stock,
17 supplying of water for public, domestic, industrial, or
18 other uses and for fire protection."

19 **Section 7.** Section 85-1-601, MCA, is amended to read:

20 "85-1-601. Purpose and policies. (1) The legislature
21 finds and declares that in order that the people of Montana
22 may enjoy the ~~full-economic-and-recreational~~ benefits of the
23 state's water and other renewable resources, the state must
24 establish this long-term water---development renewable
25 resource grant and loan program providing financial and

1 administrative assistance to private for-profit, private
2 nonprofit, local government, and state government entities
3 for water renewable resource development grant and loan
4 projects and-activities.

5 (2) The purpose of the water---development renewable
6 resource grant and loan program is to further the state's
7 policies, set forth in 85-1-101, regarding the conservation,
8 development, and beneficial use of water resources and to
9 invest in renewable natural resource projects that will
10 preserve for the citizens of Montana the economic and other
11 benefits of the state's natural heritage.

12 (3) The legislature recognizes that-water-is-one-of-the
13 ~~most-valuable-and-important~~ the value of Montana's renewable
14 resources in-Montana; therefore, it is appropriate that a
15 portion of the taxes and other revenue from on-the-removal
16 of nonrenewable resources be dedicated-to-the--conservation,
17 development,--and-beneficial-use-of-water-resources invested
18 in the replacement of nonrenewable resources with the
19 development of renewable resource projects that will
20 continue to provide tax and other revenue and will preserve
21 for the citizens the economic and other benefits of the
22 state's natural heritage.

23 (4) The conservation, development, management, and
24 preservation of water and other renewable resources is-of--a
25 are high priority priorities because a large portion of

1 Montana's present and future economy is based either
2 directly or indirectly on the wise use of water these
3 resources.

4 (5) Developments supported by this part may not
5 significantly diminish the quality of existing public
6 resources, such as land, air, fish, wildlife, and recreation
7 opportunities.

8 (5)(6) This water-development renewable resource grant
9 and loan program is-an-integral supports, in part, of the
10 implementation and development of the comprehensive,
11 coordinated, multiple-use water resources plan known as the
12 "state water plan". In making funding recommendations for
13 grants and loans, the department shall give preference to
14 projects that will implement state water plan priorities if,
15 in all other respects, the proposed projects are equal in
16 public benefit and technical feasibility."

17 **Section 8.** Section 85-1-602, MCA, is amended to read:

18 **"85-1-602. Objectives. (1)** The department shall
19 administer a water-development renewable resource grant and
20 loan program to accomplish-such-objectives-as-rehabilitation
21 of--state-owned--water--projects--and--works;--promotion--of
22 private;--local--government;--and--state--water--development;
23 enhance Montana's renewable resources through projects that
24 measurably conserve, develop, manage, or preserve resources.
25 Either grants or loans may be provided to fund the

1 following:

2 (a) feasibility, design, research, and resource
3 assessment studies;

4 (b) preparation of construction, rehabilitation, or
5 production plans; and

6 (c) construction, rehabilitation, production,
7 education, or other implementation efforts.

8 (2) Projects that may enhance renewable resources in
9 Montana include but are not limited to:

10 (a) development of water-based natural resource-based
11 recreation and--the--protection--of--water--resources--for--the
12 benefit--of--agriculture;--flood--control;--and--other--uses;

13 (b) development of offstream and tributary storage;

14 (c) encouragement-of-projects-or-programs-that--improve
15 improvement of water use efficiency, including development
16 of new, efficient water systems, rehabilitation of older,
17 less efficient water systems, and acquisition and
18 installation of measuring devices required under 85-2-113;
19 and development of state-tribal, state-federal, and
20 state-tribal-federal water projects; and

21 (d) advancement of farming practices that reduce
22 agricultural chemical use. The-storage-of-water-for-existing
23 and--future--beneficial--uses--shall--be--given--the--highest
24 priority-unless-a--water--development--project--or--activity
25 designed--to--accomplish--another--objective--is--demonstrated--to

be more beneficial to a greater number of people.

(3) The water-development renewable resource grant and loan program is the key implementation portion of the state water plan and ~~shall~~ must be administered to encourage grant and loan applications for projects designed to accomplish the objectives of the plan."

Section 9. Section 85-1-603, MCA, is amended to read:

"85-1-603. Water--development Renewable resource loan debt service fund created -- coal severance tax allocated -- water-development renewable resource loan loss reserve fund created. (1) (a) There is created a water--development renewable resource loan debt service fund within the debt service fund type established in 17-2-102.

(b) The state pledges and allocates and directs to be credited to the water-development renewable resource loan debt service fund, as received:

(i) ~~1-1/4%~~ 2 1/2% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such the tax under 15-35-108(1) and (2);

(ii) any principal and accrued interest under 85-1-613~~(3)(a)~~(4)(a) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617;

(iii) all interest income earned on proceeds of water development renewable resource grant and loan program bonds;

(iv) revenue or money otherwise required to be paid into the water-development renewable resource grant and loan program state special revenue account pursuant to 85-1-604, as determined by the board of examiners in connection with the issuance of bonds pursuant to 85-1-617; and

(v) money received from the water-development renewable resource loan loss reserve fund as the result of a loan loss.

(2) (a) There is created a water-development renewable resource loan loss reserve fund within the debt service fund type established in 17-2-102.

(b) The state pledges and allocates and directs to be credited to the water-development renewable resource loan loss reserve fund all accrued interest under 85-1-613~~(3)(b)~~(4)(b) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617.

(c) If the department determines that a loan loss has occurred on a loan made pursuant to this part, funds from the water--development renewable resource loan loss reserve fund must be transferred to the water-development renewable resource loan debt service fund in an amount equal to the amount that would otherwise be available for debt service under subsection (1)(b) as a result of the loan loss."

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

"85-1-604. Water--development Renewable resource grant

1 and loan program state special revenue account created --
 2 revenues allocated -- limitations on appropriations from
 3 account. (1) There is created a water-development renewable
 4 resource grant and loan program state special revenue
 5 account within the state special revenue fund established in
 6 17-2-102.

7 (2) Except to the extent that they are required to be
 8 credited to the water-development renewable resource loan
 9 debt service fund pursuant to 85-1-603, there shall must be
 10 paid into the water-development renewable resource grant and
 11 loan program state special revenue account:

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

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

17 (c) the excess of the coal severance tax proceeds
 18 allocated by 85-1-603 to the water--development renewable
 19 resource loan debt service fund above debt service
 20 requirements as provided in and subject to the conditions of
 21 85-1-619; and

22 (d) any fees or charges collected by the department
 23 pursuant to 85-1-616 for the servicing of loans, including
 24 arrangements for obtaining security interests; and

25 (e) 20% of the resource indemnity tax proceeds.

1 (3) Appropriations may be made from the water
 2 development renewable resource grant and loan program state
 3 special revenue account for the following purposes and
 4 subject to the following conditions:

5 (a) The amount of resource indemnity trust fund
 6 interest earnings allocated under section 15-38-202(2)(b)
 7 must be used for renewable resource grants.

8 (b) An amount less than or equal to that paid into the
 9 account under 85-1-332 and only that amount may be
 10 appropriated for the operation and maintenance of
 11 state-owned projects and works. If the amount of money
 12 available for appropriation under this subsection ~~(3)(a)~~ (b)
 13 is greater than that necessary for operation and maintenance
 14 expenses, the excess may be appropriated as provided in
 15 subsection ~~(3)(b)~~ (3)(c).

16 ~~(b)(c)~~ An amount less than or equal to that paid into
 17 the account from the resource indemnity trust account plus
 18 any excess from subsection ~~(3)(a)~~ (3)(b) and only that
 19 amount may be appropriated from the account for:

20 ~~(i)--the--rehabilitation--of--state-owned--projects--and~~
 21 ~~works;--including--the--rehabilitation--of--spillways--of~~
 22 ~~state-owned-dams;~~

23 ~~(ii)--the--formulation--of--downstream--emergency--warning--and~~
 24 ~~evacuation--plans--for--state-owned--dams;~~

25 ~~(iii)--the--development--of--the--hydropower--potential--of~~

1 state-owned dams;

2 {iv}-assistance--in--the--implementation--of--the--water
3 reservations--established--under--85-2-316--of--conservation
4 districts;

5 {v}--the--promotion--of--the--development--of--offstream--and
6 tributary--storage;

7 {vi}-the--promotion--of--joint--state--tribal--state--federal,
8 and--state--tribal--federal--water--development;

9 {vii}-projects--or--programs--that--improve--water--use
10 efficiency--including--development--of--new--efficient--water
11 systems--rehabilitation--of--older--less--efficient--water
12 systems--and--acquisition--and--installation--of--measuring
13 devices--required--under--85-2-113;

14 {viii}-administrative--expenses--including--but--not
15 limited--to--the--salaries--and--expenses--of--personnel,
16 equipment--office--space--and--other--necessities--incurred--in
17 the--administration--of--the--water--development--program--except
18 the--administration--of--loans--and--grants--and

19 {ix}-any--other expenditures that meet the policies and
20 objectives of the state-water-development renewable resource
21 grant and loan program. If the amount of money available for
22 appropriation under this subsection (c) is greater than that
23 necessary for operation and maintenance expenses, the excess
24 may be appropriated as provided in subsection (3)(d).

25 {c}{d} An amount less than or equal to that paid into

1 the account from the sources provided for in {c}-and-{d}-of
2 subsection--{2} subsections (2)(c) and (2)(d) and any excess
3 from subsection (3)(c) and only that amount may be
4 appropriated from the account for loans and grants for water
5 development renewable resource projects and activities; for
6 purchase of liens and operation of property as provided in
7 85-1-615; for administrative expenses, including but not
8 limited to the salaries and expenses of personnel,
9 equipment, and office space; for the servicing of loans,
10 including arrangements for obtaining security interests; and
11 for other necessities incurred in administering the loans
12 and grants.

13 {4}-An--amount--equal--to--25%--of--the--money--available--for
14 grants--under--subsection--{3}{c}-must--be--transferred--to--the
15 water--storage--state--special--revenue--account--created--in
16 85-1-631."

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

18 "85-1-605. Grants, loans, and bonds for state and local
19 government assistance. (1) The department may recommend to
20 the legislature that grants and loans be made from coal
21 severance--tax--proceeds revenue deposited in the water
22 development renewable resource grant and loan program state
23 special revenue account, that loans be made from water
24 development-bond-proceeds renewable resource bond proceeds
25 deposited in the water-development renewable resource loan

proceeds account established in 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide financial assistance to a department, agency, board, commission, or other division of state government or to a city, county, or other political subdivision or local government body of the state. The legislature may approve by appropriation or other appropriate means those grants and loans it finds consistent with the policies and purposes of the program.

(2) Nothing in this part creates or expands a state or local government's authority to incur debt, and the legislature may authorize loans only to state and local government entities otherwise structured to incur debt.

(3) Loans may not be authorized except to a state or local government entity that agrees to secure the authorized loan with its bond.

(4) In addition to implementing those projects approved by the legislature, the department may request up to 10% of the grant funds available for grants and up to \$1 million for loans from the water--development renewable resource grant and loan program state special revenue account and the renewable resource loan proceeds account in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, must may not be made because of the gross negligence of the state or local government applicant,

must be approved by the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding, or both, which that, if delayed until legislative approval can be obtained, will cause substantial damages or legal liability to the project sponsor. In allocating such the funds, the department shall inform the legislative finance committee of the legislature.

(3)(5) The grants and loans provided for by this section may be made for projects that enhance renewable resources in the state through conservation, development, management, or preservation; for assessing feasibility or planning; for implementing renewable resource projects the purchase--lease--development--or--construction--of--water development-projects-and-activities--for--the--conservation, management--use--development--or--protection--of--the--water--and related--agricultural--land--fish--wildlife--and--water recreation-resources--in--the--state--for--the--purpose--of feasibility--and--design--studies--for--such--projects--for development--of--plans--for--and--the--rehabilitation--expansion, and-modification-of-water-development--projects--for--other water--development-projects-and-activities--that--will--enhance the-water-resources-of-the-state; and for similar purposes approved by the legislature."

Section 12. Section 85-1-606, MCA, is amended to read:

"85-1-606. Grants and loans to private persons. (1) To

encourage the construction and development of water water-related development projects and--activities, the department may make grants and loans to private persons from funds appropriated from the water--development renewable resource grant and loan program state special revenue account and may make loans to private persons from the water development renewable resource loan proceeds account.

(2) The department shall publicize the statutes and rules governing grants and loans to private persons for water water-related development projects and--activities, set and publicize application deadlines, and accept applications for grants and loans.

(3) The department shall review, evaluate, and select the water water-related development projects and--activities for which grants or loans may be awarded."

Section 13. Section 85-1-608, MCA, is amended to read:

"85-1-608. Applications for grants and loans to private persons. (1) A private person may apply for a grant or loan to finance a water water-related development project or activity to be constructed, developed, and operated in Montana.

(2) An application for a loan or grant must be in the form prescribed by the--board rule and contain or be accompanied by any information necessary to adequately describe the proposed project or--activity and necessary for

evaluation of the proposed project or--activity under the criteria set out in 85-1-609 and 85-1-610."

Section 14. Section 85-1-609, MCA, is amended to read:

"85-1-609. Eligibility for a loan or grant to a private person. The department may not award a grant or loan to a private person unless the department finds, based on the application and the department's investigation and evaluation of the proposal, that:

(1) the proposed water water-related development project or--activity:

(a) will promote, enhance, or advance the purpose, policies, and objectives of the water-development renewable resource grant and loan program;

(b) will be constructed, developed, and operated within the state of Montana;

(c) will be economically feasible. (A project or activity is economically feasible if the project benefits exceed the project costs. The department shall consider only tangible quantifiable benefits and costs in calculating economic feasibility.)

(d) will be an efficient use of natural resources, including water, energy, land, and air. (An efficient use is one that minimizes waste.)

(e) will provide multipurpose facilities to the extent practicable;

(f) will comply with statutory and regulatory standards protecting the quality of resources such as air, water, land, fish, wildlife, and recreational opportunities;

(g) will provide associated public benefits in addition to any private benefits the project or-activity may provide; and

(h) is needed to accomplish the purpose for which the water-development project or-activity is proposed;

(2) the applicant has adequate financial resources to construct, operate, and maintain the water--development project or-activity. The department shall consider financial resources from any source for which the applicant has qualified, including a water-development renewable resource grant or loan.

(3) the applicant holds or can acquire all necessary lands, other than public lands, and interests therein in the lands and water rights necessary for the construction, operation, and maintenance of the proposed water-development project or-activity;

(4) if the application is for a loan, the applicant is credit-worthy creditworthy and able and willing to enter into a contract with the department for loan repayment and construction or development of the proposed water development project or-activity; and

(5) if the application is for a grant, the applicant is

able and willing to enter into a contract with the department for construction or development of the proposed water-development project or-activity."

Section 15. Section 85-1-610, MCA, is amended to read:

"85-1-610. Evaluation of grants and loans to private persons. The department shall consider the following criteria and preferences in evaluating applications and selecting the recipients of grants and loans for water water-related development projects and-activities that are eligible for funding under 85-1-609:

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

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

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

(4) The department, to the extent practicable, shall

attempt to achieve geographic balance in the promotion of water-development renewable resource grant and loan projects and--activities through the awarding of loans and grants to private persons.

(5) The extent to which the water--development project or--activity will fully effectively utilize water resources and promote the conservation and efficient use of the water resource ~~shall~~ must be evaluated and considered.

(6) Projects or--activities that could not be accomplished without the assistance of a loan or grant ~~shall~~ must be given preference.

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

Section 16. Section 85-1-611, MCA, is amended to read:

"85-1-611. Department to solicit views. The department shall solicit and consider in its evaluation of proposed projects and--activities the views of interested and affected departments, boards, agencies, commissions, and other subdivisions of the state, including local political subdivisions, of the federal government, and of other interested and affected persons."

Section 17. Section 85-1-612, MCA, is amended to read:

"85-1-612. Rulemaking authority. The board department shall adopt rules:

(1) prescribing a reasonable application fee and the form and content of applications for grants and loans;

(2) governing the application of the criteria for awarding loans and grants to private persons;

(3) providing for the servicing of loans including arrangements for obtaining security interests and the establishment of reasonable fees or charges to be made; and

(4) describing the terms and conditions for making grants and loans, the security instruments, and the agreements necessary;

(5) describing the ranking criteria used to evaluate and prioritize grants to governmental entities; and

(6) specifying any other procedures necessary to accomplish the objectives of the renewable resource grant and loan program."

Section 18. Section 85-1-613, MCA, is amended to read:

"85-1-613. Limits on loans. (1) No A loan to a private person for a water-development renewable resource grant and loan program project or-activity may not be made from the water--development renewable resource grant and loan program state special revenue account or water--development the renewable resource loan proceeds account that if the loan

exceeds the least lesser of \$200,000, ~~10% of the estimated total funds potentially available for loans in the water development state special revenue account and water development account in the biennium in which the loan will be made~~, or 80% of the fair market value of the security given therefor for the project. In determining the fair market value for the security given for a loan, the department shall consider appraisals made by qualified appraisers and other factors it considers important.

(2) A loan to a state or local government for a renewable resource grant and loan program project may not be made by the department from the renewable resource grant and loan program state special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

~~(2)(3)~~ The period for repayment of loans may not exceed 30 years.

~~(3)(4)~~ The board ~~shall from time to time establish the~~ interest rate at which loans may be made under this part ~~that is must be~~ sufficient to:

(a) cover the bond debt service for a loan; and

(b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs."

Section 19. Section 85-1-614, MCA, is amended to read:

"85-1-614. Limits on grants from water--development renewable resource grant and loan program state special revenue account. (1) The maximum grant awarded to a private person may not exceed the lesser of:

(a) 5% of the estimated total funds potentially available in the water-development renewable resource grant and loan state special revenue account for public and private grants in the biennium in which the grant will be made; or

(b) 25% of the total project cost, ~~whichever is less.~~

(2) This part does not limit the amount of grant funds that may be appropriated by the legislature to fund a state or local government project."

Section 20. Section 85-1-615, MCA, is amended to read:

"85-1-615. Security interests -- purchase, operation, and resale of encumbered property. (1) The state has a lien upon a project constructed with money from the water development renewable resource grant and loan state special revenue account or water-development the renewable resource loan proceeds account for the amount of the loan and interest due the state. This lien may attach to any project facilities, equipment, easements, real property, and property of any kind or nature owned by the debtor, including all water rights. The department shall file with the county clerk and recorder of each county in which a part

of the project is located either a financing statement or a real estate mortgage covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall record and index the lien as other liens are required by law to be recorded and indexed. The lien ~~shall~~ be is valid until paid in full or otherwise discharged. The lien ~~shall~~ must be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens.

(2) From the funds available under 85-1-604~~3~~~~(c)~~(3)(d) or 85-1-617, the state may:

(a) purchase a lien that is prior to the state's lien if:

(i) the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by purchasing the prior lien; and

(ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

(b) operate property that is subject to the state's lien if the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by operating the property that is subject to the state's lien; or

(c) purchase a prior lien as provided in (2)(a) and operate property as provided in (2)(b).

(3) Any property acquired under the provisions of this section must be resold as expeditiously as possible to recover funds used under this section and funds loaned to the borrower."

Section 21. Section 85-1-616, MCA, is amended to read:

"85-1-616. Administration of loans and grants. The department shall:

(1) administer the loan and grant program established by this part;

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

(3) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the water-development renewable resource grant and loan program state special revenue account pursuant---to established in 85-1-604."

Section 22. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing renewable resource bonds -- renewable resource loan proceeds account. (1) When authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water--development renewable resource bonds of the state in

1 the amount and manner it considers necessary and proper to
 2 finance the water-development renewable resource grant and
 3 loan program. The full faith and credit and taxing powers of
 4 the state are pledged for the prompt and full payment of all
 5 bonds so issued and interest and redemption premiums payable
 6 thereon on the bonds according to their terms.

7 (2) Each series of water-development renewable resource
 8 bonds may be issued by the board of examiners, upon request
 9 of the board---of---natural---resources---and---conservation
 10 department, at public or private sale, in such denominations
 11 and forms, whether payable to bearer with attached interest
 12 coupons or registered as to principal or as to both
 13 principal and interest, with such provisions for conversion
 14 or exchange and for the issuance of notes in anticipation of
 15 the issuance of definitive bonds, bearing interest at such a
 16 rate or rates, maturing at such a rate or rates, maturing at
 17 such a time or times not exceeding 30 years from date of
 18 issue, subject to optional or mandatory redemption at such
 19 earlier times and prices and upon such notice, with such
 20 provisions for payment and discharge by the deposit of funds
 21 or securities in escrow for that purpose, and payable at the
 22 office of such a banking institution or institutions within
 23 or outside the state, ~~as that~~ the board of examiners shall
 24 determine subject to the limitations contained in this
 25 section and 17-5-731.

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

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

1 treasurer shall keep a record of all such bonds and notes
2 issued and sold.

3 (5) There is created a water--development renewable
4 resource loan proceeds account within the state special
5 revenue fund established in 17-2-102.

6 (6) All proceeds of bonds or notes issued under this
7 section, other than refunding bonds, must be deposited in
8 the water--development renewable resource loan proceeds
9 account established in subsection (5), except that any
10 principal and accrued interest received in repayment of a
11 loan made from the proceeds of bonds issued under this
12 section must be deposited in the water-development renewable
13 resource loan debt service fund and the water--development
14 renewable resource loan loss reserve fund pursuant to
15 85-1-603. All proceeds of refunding bonds must be deposited
16 in the water--development renewable resource loan debt
17 service fund and applied to the payment and redemption of
18 outstanding bonds issued under this section as directed by
19 the board of examiners, whether at maturity or on any
20 earlier date on which they may be prepaid according to their
21 terms.

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

25 **Section 23.** Section 85-1-618, MCA, is amended to read:

1 "85-1-618. Restrictions on use of bond proceeds. Water
2 development Renewable resource bond proceeds may be used
3 only for the purpose of making loans as provided in the
4 water-development renewable resource grant and loan program
5 or for purchasing liens and operating property as provided
6 in 85-1-615."

7 **Section 24.** 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 renewable resource loan debt service fund
12 any tax, charge, fee, rental, or other income from any
13 designated source. The state reserves the right to modify
14 from time to time the nature and amount of special taxes and
15 other revenues pledged and appropriated to the water
16 development renewable resource loan debt service fund,
17 provided that the aggregate resources so pledged and
18 appropriated are determined by the legislature to be
19 sufficient for the prompt and full payment of the principal
20 of and interest and redemption premiums when due on all
21 bonds payable from that fund and provided that the pledge of
22 the full faith and credit and taxing powers of the state for
23 the security of all such bonds shall be and remain
24 irrevocable until they are fully paid.

25 (2) Money in the water-development renewable resource

1 loan debt service fund must be used to pay interest,
2 principal, and redemption premiums when due and payable with
3 respect to water-development renewable resource bonds, and
4 for bonds issued prior to 1985, to accumulate a reserve for
5 the further security of such the payments.

6 (3) After the reserve provided for in subsection (2)
7 for bonds issued prior to 1985 has been accumulated in the
8 water-development renewable resource loan debt service fund,
9 money at any time received in the water---development
10 renewable resource loan debt service fund in excess of that
11 amount must be transferred by the treasurer to the water
12 development renewable resource grant and loan program state
13 special revenue account."

14 **Section 25.** Section 85-1-620, MCA, is amended to read:

15 "85-1-620. Water---development Renewable resource
16 refunding bonds. (1) The board of examiners may issue
17 refunding bonds at such times and in such amounts, if any,
18 as may be necessary to pay principal or interest due that
19 cannot be paid from funds then on hand in the water
20 development renewable resource loan debt service fund. The
21 board of examiners may also issue refunding bonds to refund
22 outstanding bonds before maturity for the purpose of
23 extending the maturities thereof of the outstanding bonds so
24 far-as determined by the board of examiners to be necessary
25 to assure that the funds then pledged to the water

1 development renewable resource loan debt service fund will
2 be sufficient for payment of principal and interest due in
3 subsequent years. The board of examiners may also issue
4 refunding bonds to refund outstanding bonds before maturity
5 for the purpose of reducing the interest cost or the total
6 amount of principal and interest payable thereon on the
7 outstanding bonds.

8 (2) No-refunding Refunding bonds may not be issued and
9 sold more than 3 months before all of the bonds refunded
10 thereby mature or are called for redemption unless the
11 proceeds thereof of the refunded bonds, with any other funds
12 in the water--development renewable resource loan debt
13 service fund that are needed and available for the purpose
14 or securities purchased from such proceeds and other funds,
15 are deposited with a suitable banking institution within or
16 outside the state, in escrow, for the retirement of the
17 refunded bonds at maturity or at a prior date or dates on
18 which they have been called for redemption in accordance
19 with their terms, in an amount and in a manner sufficient
20 under the provisions securing the refunded bonds, so that
21 the state's obligation to pay the same, from sources other
22 than the escrow fund, is discharged.

23 (3) No-new New debt may not be created by the issuance
24 of refunding bonds in accordance with this section, but such
25 the refunding bonds shall must evidence the debt previously

created and ~~shall~~ must be secured by the pledge of the full faith and credit and taxing powers of the state and ~~by the further provisions of this part~~ secured in the same manner as the bonds refunded thereby by other provisions of this part."

Section 26. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report to the legislature. The department shall prepare a biennial report to the legislature describing the status of the water--development renewable resource grant and loan program. The report must describe ongoing projects ~~and activities~~ and those--which projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. ~~desires--to seek congressional authorization and funding and the efforts the--department--will undertake in attempting to secure such authorization and funding.~~ The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report ~~shall~~ must be submitted to the president of the senate and the speaker of the house, to the members of the water policy committee established in 85-2-105, and, as provided in 5-11-210, to the legislature."

Section 27. Section 85-1-623, MCA, is amended to read:

"85-1-623. Authorization of water-development renewable

resource 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 \$10 million and the issuance and sale of water development renewable resource bonds in this amount for the purpose of providing funds appropriated to the water development renewable resource loan proceeds account for loans as provided in the water--development renewable resource grant and loan program or for the purchase of liens and operation of property as provided in 85-1-615."

Section 28. Section 85-1-631, MCA, is amended to read:

"85-1-631. Water storage state special revenue account created -- revenues allocated -- appropriations from account. (1) There is a water storage state special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the water storage state special revenue account:

(a) money allocated from the resource indemnity trust fund interest earnings pursuant to 15-38-202 water development-state-special-revenue--account--as--provided--in 85-1-6047-and

(b) money--from--the--renewable--resource--development account-as-provided-in-90-2-111.

(3) Money that was not encumbered or expended from the

1 water storage state special revenue account during the
2 previous biennium must remain in the account.

3 (4) Deposits to the water storage state special revenue
4 account are to be placed in short-term investments and
5 accrue interest, which must be deposited in the water
6 storage state special revenue account.

7 ~~†4†~~(5) The purpose of the water storage state special
8 revenue account is to provide money for loans and grants
9 exclusively for water storage projects, including the
10 purchase or lease of property; planning, feasibility, and
11 design studies; and other costs related to construction,
12 rehabilitation, expansion, and modification of water storage
13 projects.

14 ~~†5†~~(6) The department shall administer this section as
15 an integral part of the water-development renewable resource
16 grant and loan program, using, to the extent possible, the
17 same procedures for soliciting, determining eligibility, and
18 rating water storage project proposals and for administering
19 grants and loans, subject to the same limitations, as
20 applied to other water-development renewable resource grants
21 and loans.

22 ~~†6†~~(7) The following preferences must be considered in
23 ranking proposals for water storage grants and loans:

24 (a) first preference is for the rehabilitation of water
25 storage projects that resolve threats to life and property;

1 (b) second preference is for the improvement or
2 expansion of existing water storage projects; and

3 (c) third preference is for the development of new
4 water storage projects."

5 **Section 29.** Section 85-2-105, MCA, is amended to read:

6 "85-2-105. Water policy committee. (1) There is a
7 permanent water policy committee of the legislature. The
8 committee consists of eight members. The senate committee on
9 committees and the speaker of the house of representatives
10 shall each appoint four members on a bipartisan basis. The
11 committee shall elect its chairman and vice-chairman. The
12 committee shall meet as often as necessary, including during
13 the interim between sessions, to perform the duties
14 specified within this section.

15 (2) On a continuing basis, the committee shall:

16 (a) advise the legislature on the adequacy of the
17 state's water policy and of important state, regional,
18 national, and international developments which affect
19 Montana's water resources;

20 (b) oversee the policies and activities of the
21 department of natural resources and conservation, other
22 state executive agencies, and other state institutions, as
23 they affect the water resources of the state; and

24 (c) communicate with the public on matters of water
25 policy as well as the water resources of the state.

(3) On a regular basis, the committee shall:

(a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;

(b) analyze and comment on the report of the status of the state's water-development renewable resource grant and loan program required by 85-1-621, when filed by the department;

(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;

(d) analyze, verify, and comment on the adequacy of and information contained in the water resources data management system maintained by the department under 85-2-112; and

(e) report to the legislature as provided in 5-11-210.

(4) The environmental quality council shall provide staff assistance to the committee. The committee may contract with experts and consultants, in addition to receiving assistance from the environmental quality council, in carrying out its duties under this section."

Section 31. ~~Section 90-2-1102, MCA, is amended to read:~~

~~"90-2-1102. Policy and purpose. (1) The policy of the state of Montana expressed in the Reclamation and Development Grants Program Act is to provide a state capability to fund projects that indemnify the people of the state for the effects of mineral development on public~~

~~resources and that meet other crucial needs serving the public interest and the total environment of the citizens of Montana;~~

~~(2) The purposes of the reclamation and development grants program are to~~

~~(a) repair, reclaim, and mitigate environmental damage to public resources from nonrenewable resource extraction; and~~

~~(b) develop and ensure the quality of public resources for the benefit of all Montanans."~~

Section 30. Section 90-2-1103, MCA, is amended to read:

"90-2-1103. Definitions. As used in this part, the following definitions apply:

~~(1) "Board" means the board of natural resources and conservation provided for in 2-15-3302.~~

~~(2)(1) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.~~

~~(3)(2) "Financially feasible" means that adequate funds are available to complete the project as approved.~~

~~(4)(3) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, oil, uranium, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.~~

1 †5†(4) "Mineral development" means exploration,
2 extraction, processing, or other activity related to the
3 production of a mineral.

4 †6†(5) "Mitigation" means the act of rectifying an
5 impact by repairing, rehabilitating, or restoring the
6 affected environment; reducing or eliminating an impact over
7 time by operations that preserve or maintain the
8 environment; or compensating for an impact by replacing or
9 providing substitute resources or habitats.

10 †7†(6) "Project" means a planned and coordinated action
11 or series of actions addressing an objective consistent with
12 the policy and purpose of the reclamation and development
13 grants program. A project may consist of problem analysis,
14 feasibility or design studies, environmental monitoring,
15 remedial action plans or implementation, technology
16 demonstration, research, construction or acquisition of
17 capital facilities, or other related actions.

18 †8†(7) "Public benefits" means those benefits that
19 accrue to citizens as a group and enhance the common
20 well-being of the people of Montana.

21 †9†(8) "Public resources" means the natural resources
22 of the state, including air, water, soil, minerals,
23 vegetation, and fish and wildlife, and the economic, social,
24 and cultural conditions of Montana citizens.

25 †10†(9) "Reclamation and development grants account"

1 means the reclamation and development grants special revenue
2 account established in 90-2-1104.

3 †11†(10) "Technically feasible" means that a project or
4 activity can be designed, constructed, operated, or carried
5 out to accomplish its objectives, utilizing accepted
6 engineering and other technical principles and concepts."

7 Section-32--Section-90-2-1104, MCA, is amended to read:

8 "90-2-1104--Reclamation-and-development-grants-account-
9 †1†--There--is--a-reclamation-and-development-grants-special
10 revenue--account--within--the--state--special--revenue--fund
11 established-in-17-2-102-

12 †2†--There--must--be--paid--into--the--reclamation--and
13 development-grants-account-money-allocated-from-

14 †a†--the-interest-income-of-the-resource-indemnity-trust
15 fund-under-the-provisions-of-15-30-202, and

16 †b†--the--resource--indemnity--trust--tax--under--the
17 provisions-of-15-30-106-

18 †3†--Appropriations-may-be-made-from-the-reclamation-and
19 development-grants-account-for-the-following-purposes-

20 †a†--grants-for-designated-projects, and

21 †b†--administrative-expenses, including the salaries and
22 expenses of personnel, equipment, office space, and other
23 expenses--necessarily--incurred-in-the-administration-of-the
24 grants-program--These--expenses--may--be--funded--prior--to
25 funding-of-projects."

Section 31. Section 90-2-1105, MCA, is amended to read:

"90-2-1105. Adoption of rules. The board department may adopt rules to:

- (1) prescribe the form and content of applications for grants;
- (2) describe the terms and conditions of making grants;
- (3) prescribe a monitoring program to evaluate the effectiveness of funded projects; and
- (4) develop any other procedures necessary to accomplish the objectives of the reclamation and development grants program."

Section 35. Section 90-2-1112, MCA, is amended to read:--

"90-2-1112. Eligibility requirements. (i) Except as provided under subsection (2), to be eligible for funding under the reclamation and development grants program, the proposed project must:

(a) provide benefits in one or more of the following categories:

(a)(i) reclamation of land, water, or other resources adversely affected by mineral development;

(b)(i) mitigation of damage to public resources caused by mineral development;

(c)(i) research, demonstration, or technical assistance to promote the wise use of Montana minerals, including efforts to make processing more environmentally

compatible;

(d)(iv) investigation and remediation of sites where hazardous wastes or regulated substances threaten public health or the environment; and

(e)(v) research to assess existing or potential environmental damage resulting from mineral development;

(2) if sufficient eligible and qualified applications satisfying the mineral development objectives provided for in subsection (i) are not received or if there is a crucial state need, the department may evaluate and the governor may recommend that the legislature approve funding for projects that:

(a) enhance Montana's economy through the development of natural resources; or

(b) develop, promote, protect, or further Montana's total environment and public interest, including the general health, safety, welfare, and public resources of Montana citizens and communities;

(3) To be eligible for funding under the reclamation and development grants program, a project must:

(a)(b) be technically and financially feasible;

(b)(c) be the best cost-effective alternative to address a problem or attain an objective;

(c)(d) comply with statutory and regulatory standards protecting environmental quality; and

(d)(e) be from an applicant able and willing to enter into a contract with the department for the implementation of the proposed project or activity.

(4)(2) A project is not eligible for funding under the reclamation and development grants program to the extent that the project is eligible for and can reasonably be expected to receive funding from other state or federal reclamation programs or any other program or act that provides funding to accomplish remedial action for environmental damage or if the project is permitted under Title 82, chapter 4 or 11.

(5)(3) A proposed project is not eligible for funding under the reclamation and development grants program if there is a liable party who would be relieved of financial or legal responsibility and who can reasonably be expected to be held responsible."

Section 36. Section 90-2-1121, MCA, is amended to read:

"90-2-1121. Prohibited compensation to public officers or employees --- penalty. (1) No A member, officer, attorney, or other employee of the board or the department may not directly or indirectly be the beneficiary of or receive any fee, commission, gift, or other consideration in connection with any transaction or business under the reclamation and development grants program other than the salary, fee, or other compensation that he a person may receive as a member,

officer, attorney, or employee.

(2) A person convicted of violating any provision of this section shall be punished by a fine not to exceed \$2,000 plus the value of any consideration illegally received or by imprisonment for a term not to exceed 2 years, or both. Any fines collected under this section must be deposited in the reclamation and development grants account."

NEW SECTION. Section 37. Policy and purpose. It is the public policy of the state to promote, stimulate, and encourage the planning and development of the economy of the state in order to provide for the social and economic prosperity of its citizens. Rural economic planning, expansion of existing industry, greater diversification of industry and attraction of additional industry, creation of new uses for agricultural products, greater emphasis on development of new products, and the attainment of a proper balance in the overall economic base are all necessary in order to create additional employment opportunities, increase personal income, and promote the general welfare of the people of this state.

NEW SECTION. Section 38. Definitions. As used in sections 38 through 45, the following definitions apply:

(1) "Department" means the department of natural resources and conservation provided for in Title 2, chapter

1 157-part-33.

2 {2}--"Financially-feasible"--means--that--adequate--funds
3 are--available--to--complete--the--project--as--approved;

4 {3}--"Project"--means--a--planned--and--coordinated--action--or
5 series--of--actions--addressing--an--objective--consistent--with
6 the--policy--and--purpose--of--the--rural--economic--revitalization
7 grants--program;

8 {4}--"Public-benefits"--means--those--benefits--that--accrue
9 to--citizens--as--a--group--and--that--enhance--the--common
10 well-being--of--the--people--of--Montana;

11 {5}--"Public-resources"--means--the--natural--resources--of
12 the--state--including--air--water--soil--minerals--vegetation--
13 and--fish--and--wildlife--and--the--economic--social--and
14 cultural--conditions--of--Montana--citizens;

15 {6}--"Technically-feasible"--means--that--a--project--or
16 activity--can--be--designed--constructed--operated--or--carried
17 out--to--accomplish--its--objectives--using--accepted--engineering
18 and--other--technical--principles--and--concepts;

19 NEW-SECTION--Section-39.--Rural-economic-revitalization--
20 account; {1}--There--is--a--rural--economic--revitalisation
21 account--within--the--state--special--revenue--fund--established--in
22 17-2-102;

23 {2}--There--must--be--paid--into--the--rural--economic
24 revitalization--account--money--allocated--from--the--interest
25 income--of--the--resource--indemnity--trust--fund--under--the

1 provisions--of--15-38-202;

2 {3}--Appropriations--may--be--made--from--the--rural--economic
3 revitalization--account--for--the--following--purposes:

4 {a}--grants--for--designated--projects--and

5 {b}--administrative--expenses--including--the--salaries--and
6 expenses--of--personnel--and--equipment--office--space--and--other
7 expenses--necessarily--incurred--in--the--administration--of--the
8 rural--economic--revitalization--grants--program--These--expenses
9 may--be--funded--prior--to--funding--of--projects;

10 NEW-SECTION--Section-40.--Adoption--of--rules--The--
11 department--may--adopt--rules--to:

12 {1}--prescribe--the--form--and--content--of--applications--for
13 grants;

14 {2}--describe--the--terms--and--conditions--of--making--grants;

15 {3}--prescribe--a--monitoring--program--to--evaluate--the
16 effectiveness--of--funded--projects--and

17 {4}--develop--any--other--procedures--necessary--to
18 accomplish--the--objectives--of--the--rural--economic
19 revitalization--grants--program;

20 NEW-SECTION--Section-41.--Rural-economic-revitalization--
21 grants--program--{1}--Any--department--agency--board--
22 commission--or--other--division--of--state--government--any--city--
23 county--or--other--political--subdivision--or--any--tribal
24 government--within--the--state--may--apply--in--accordance--with
25 the--procedures--established--by--the--department--for--a--grant

from the rural economic revitalization account for a project that is consistent with the policy and purpose of the rural economic revitalization grants program.

(2) The department shall evaluate applications under the eligibility criteria provided in {section 42} and the evaluation criteria provided in {section 43}.

(3) The department shall solicit and consider in its evaluation of applications the views of interested persons and public agencies.

(4) Based on its evaluation of eligible applications, the department shall recommend to the governor projects to receive grants from the rural economic revitalization account.

(5) The governor shall submit all proposals, with recommended priorities, to the legislature. The legislature may approve by appropriation or other appropriate means grants for those projects it finds consistent with the policies and purposes of the rural economic revitalization grants program. The department shall administer and oversee the grants to approved projects and monitor the projects.

NEW SECTION. Section 42. Eligibility requirements. (1) To be eligible for funding under the rural economic revitalization grants program, the proposed project must provide public benefits in one or more of the following categories:

(a) enhance Montana's economy through the development of natural resources; or

(b) develop, promote, protect, or further Montana's total environment and public resources.

(2) To be eligible for funding under the rural economic revitalization grants program, a project must:

(a) be technically and financially feasible;

(b) be the best cost-effective alternative to address a problem or attain an objective;

(c) comply with statutory and regulatory standards protecting environmental quality; and

(d) be from an applicant able and willing to enter into a contract with the department for the implementation of the proposed project.

NEW SECTION. Section 43. Evaluation criteria. The department shall consider the following criteria in evaluating eligible applications and in selecting projects to be recommended to the governor for funding:

(1) the degree to which the project provides economic revitalization to an area or region;

(2) the degree to which the project will improve the local tax base;

(3) the degree to which the project will result in higher income levels;

(4) the degree to which the project will reduce

unemployment;

{5}--the-degree-to-which-the-project-creates-new-jobs;

{6}--the-degree-to-which-the-project-improves-the
quality-of-life;

{7}--the-degree-to-which-the-project-enhances-local
leadership; and

{8}--any-other-criteria-the-department-considers
necessary-to-carry-out-the-policies-and-purposes-of-the
rural-economic-revitalization-grants-program.

NEW SECTION. Section 44. Conditions of grants.
Disbursement of grant funds under this part is subject to
the following conditions, which must be met by project
sponsors:

{1}--A scope of work and budget for the project must be
approved by the department. Reduction in the scope of work
or budget may not affect priority activities or
improvements.

{2}--Other funds required for project completion must
have been committed and the commitment must be documented.

{3}--An agreement between the department and the grant
applicant must be executed in a timely manner, taking into
consideration any changed conditions or circumstances that
govern the administration and disbursement of funds.

{4}--Any other specific requirements must be
accomplished as considered necessary by the department to

accomplish the purpose of the grant as evidenced from the
application to the department or the proposal to the
legislature.

NEW SECTION. Section 45. Prohibited compensation to
public officers or employees. (1) A member,
officer, attorney, or other employee of the department may
not directly or indirectly be the beneficiary of or receive
any fee, commission, gift, or other consideration in
connection with any transaction or business under the rural
economic revitalization grants program other than the
salary, fee, or other compensation that person may receive
as a member, officer, attorney, or employee.

{2}--A person convicted of violating any provision of
this section shall be punished by a fine not to exceed
\$2,000 plus the value of any consideration illegally
received or by imprisonment for a term not to exceed 2
years, or both. Any fines collected under this section must
be deposited in the rural-economic-revitalization account.

NEW SECTION. Section 32. Repealer. Sections 85-1-607,
90-2-101, 90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108,
90-2-109, 90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122,
90-2-123, 90-2-124, 90-2-125, 90-2-126, 90-2-127, and
90-2-128, MCA, are repealed.

NEW SECTION. Section 47. Codification instruction.
{Sections 37 through 45} are intended to be codified as an

1 ~~integral--part--of--Title--90,--chapter--2,--part--1,--and--the~~
2 ~~provisions--of--Title--90,--chapter--2,--part--1,--apply--to~~
3 ~~{sections--33--through--45}.~~

4 NEW SECTION. **Section 33.** Effective dates. (1)
5 [Sections 1, 2 and 4 3 through 40 35 33] are effective July
6 1, 1993.

7 (2) [Section 3 2] is effective July 1, 1995.

-End-

1 HOUSE BILL NO. 608
 2 INTRODUCED BY BERGSAGEL, J. RICE, PECK, BACHINI, GRINDE,
 3 B. BROWN, HOCKETT, SWYSGOOD, WEEDING, HARP, BOHARSKI
 4 BY REQUEST OF THE DEPARTMENT OF
 5 NATURAL RESOURCES AND CONSERVATION
 6
 7 A BILL FOR AN ACT ENTITLED: "AN ACT ~~ALLOCATING A PORTION OF~~
 8 ~~THE RESOURCE INDEMNITY TAX PROCEEDS; ALLOCATING A PORTION OF~~
 9 ~~THE RESOURCE INDEMNITY TAX PROCEEDS; ESTABLISHING MINIMUM~~
 10 ~~FUNDING LEVELS FOR GRANT PROGRAMS; CHANGING THE DISTRIBUTION~~
 11 ~~OF INTEREST EARNINGS FROM THE RESOURCE INDEMNITY TRUST FUND;~~
 12 ~~COMBINING THE WATER DEVELOPMENT AND RENEWABLE RESOURCE~~
 13 ~~DEVELOPMENT PROGRAMS TO CREATE THE RENEWABLE RESOURCE GRANT~~
 14 ~~AND LOAN PROGRAM; REINVESTING THE INTEREST EARNINGS OF THE~~
 15 ~~WATER STORAGE STATE SPECIAL REVENUE ACCOUNT; REMOVING THE~~
 16 ~~CRUCIAL STATE NEED FUNDING CATEGORY FROM THE RECLAMATION AND~~
 17 ~~DEVELOPMENT GRANTS PROGRAM AND LIMITING FUNDING TO MINERAL~~
 18 ~~RECLAMATION PROJECTS; CREATING THE RURAL ECONOMIC~~
 19 ~~REVITALIZATION PROGRAM THAT WILL FUND PROJECTS THAT PROMOTE~~
 20 ~~AND IMPROVE MONTANA'S ECONOMY; AMENDING SECTIONS 15-38-106,~~
 21 15-38-106, 15-38-202, 17-5-701, 17-5-702, 17-5-706,
 22 85-1-102, 85-1-601, 85-1-602, 85-1-603, 85-1-604, 85-1-605,
 23 85-1-606, 85-1-608, 85-1-609, 85-1-610, 85-1-611, 85-1-612,
 24 85-1-613, 85-1-614, 85-1-615, 85-1-616, 85-1-617, 85-1-618,
 25 85-1-619, 85-1-620, 85-1-621, 85-1-623, 85-1-631, 85-2-105,

1 90-2-1102, 90-2-1103, 90-2-1104, 90-2-1104, AND 90-2-1105,
 2 90-2-1112, ~~AND 90-2-1112,~~ MCA; REPEALING SECTIONS 85-1-607,
 3 90-2-101, 90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108,
 4 90-2-109, 90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122,
 5 90-2-123, 90-2-124, 90-2-125, 90-2-126, 90-2-127, AND
 6 90-2-128, MCA; AND PROVIDING EFFECTIVE DATES AND A
 7 TERMINATION DATE."
 8

9 STATEMENT OF INTENT

10 This bill is introduced as a result of a legislative
 11 request to combine the water development and renewable
 12 resource development programs. These grant and loan programs
 13 have been administered as essentially one program for the
 14 past 4 bienniums. The renewable resource grant and loan
 15 program keeps the critical elements of both the water
 16 development and renewable resource development programs and
 17 does not expand either eligible projects or eligible
 18 applicants.

19 This bill removes the "crucial state need" funding
 20 category from the reclamation and development grants program
 21 and limits funding to mineral reclamation projects in place
 22 of the "crucial state need" category; the rural economic
 23 revitalization program is established to fund projects that
 24 promote and improve Montana's economy. These two programs
 25 will now have clear and specific goals. This bill will

~~simplify the programs, making it easier to administer the programs and foster better public understanding.~~

The long-range planning subcommittee of the appropriations and finance and claims committees stated its intent to establish minimum funding levels for these grant programs in House Bill No. 6 (Chapter 551, Laws of 1991) and House Bill No. 8 (Chapter 552, Laws of 1991) passed by the 1991 legislature. Over the past several bienniums grant funding has decreased. At the same time, revenues allocated to the water development, renewable resource development, and reclamation and development accounts have increased. Appropriations to natural resource agencies have made up the difference and have increased at a rate surpassing the growth in resource indemnity trust (RIT) interest income. This bill establishes minimum funding levels for the renewable resource grant and loan program, the reclamation and development grants program, the rural economic revitalization program, and the water storage account.

In order to reflect the combining of the water development and renewable resource development programs, the allocation of interest earnings from the RIT is changed. Currently, 30% and 8%, respectively, of the RIT interest earnings are allocated to water development and the renewable resource development state special revenue accounts. This bill would eliminate these accounts. In their

place, the renewable resource grant and loan program state special revenue account would be established and 38% of the RIT interest earnings would be allocated to this account.

~~Resource indemnity tax proceeds are allocated to the renewable resource grant and loan program and the reclamation and development grants state special revenue accounts. This will assure funding for the operation of state natural resource agencies.~~

RESOURCE INDEMNITY TAX PROCEEDS ARE ALLOCATED TO THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM AND THE RECLAMATION AND DEVELOPMENT GRANTS STATE SPECIAL REVENUE ACCOUNTS. THIS WILL ENSURE FUNDING FOR THE OPERATION OF STATE NATURAL RESOURCE AGENCIES.

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

~~Section 1, Section 15-38-186, MCA, is amended to read:~~

~~"15-38-186. (Temporary) Payment of tax. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.~~

~~(2) The department shall deposit the proceeds of the~~

1 tax---in---the---resource---indemnity---trust--fund--of--the
 2 nonexpendable-trust-fund-type. Every person to whom the tax
 3 applies shall keep records in accordance with 15-38-105, and
 4 the records are subject to inspection by the department upon
 5 reasonable notice during normal business hours.

6 (3) The department shall examine the statement and
 7 compute the taxes thereon, and the amount computed by the
 8 department shall be the taxes imposed, assessed against, and
 9 payable by the taxpayer. If the tax found to be due is
 10 greater than the amount paid, the excess shall must be paid
 11 by the taxpayer to the department within 30 days after
 12 written notice of the amount of deficiency is mailed by the
 13 department to the taxpayer. If the tax imposed is less than
 14 the amount paid, the difference must be applied as a tax
 15 credit against tax liability for subsequent years or
 16 refunded if requested by the taxpayer.

17 15-38-106--(Effective July 1, 1993) Payment of tax---
 18 records-----collection--of--taxes-----refunds--(1) The tax
 19 imposed by this chapter shall must be paid by each person to
 20 which the tax applies, on or before March 31, on the value
 21 of product in the year preceding January 1 of the year in
 22 which the tax is paid. The tax shall must be paid to the
 23 department at the time the statement of yield for the
 24 preceding calendar year is filed with the department.

25 (2) The department shall deposit the proceeds of the

1 tax---in---the---resource---indemnity---trust--fund--of--the
 2 nonexpendable-trust-fund-type, except that:

3 (a) 14.1% of the proceeds must be deposited in the
 4 ground-water assessment account established by 85-2-905;

5 (b) 20% of the proceeds must be deposited in the
 6 renewable resource grant and loan program state special
 7 revenue account established by 85-1-604; and

8 (c) 20% of the proceeds must be deposited in the
 9 reclamation and development grants account established by
 10 90-2-1104.

11 (3) Every person to whom the tax applies shall keep
 12 records in accordance with 15-38-105, and the records are
 13 subject to inspection by the department upon reasonable
 14 notice during normal business hours.

15 (3)(4) The department shall examine the statement and
 16 compute the taxes thereon, and the amount computed by the
 17 department shall must be the taxes imposed, assessed
 18 against, and payable by the taxpayer. If the tax found to be
 19 due is greater than the amount paid, the excess shall must
 20 be paid by the taxpayer to the department within 30 days
 21 after written notice of the amount of deficiency is mailed
 22 by the department to the taxpayer. If the tax imposed is
 23 less than the amount paid, the difference must be applied as
 24 a tax credit against tax liability for subsequent years or
 25 refunded if requested by the taxpayer."

SECTION 1. SECTION 15-38-106, MCA, IS AMENDED TO READ:

"15-38-106. (Temporary) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine the statement and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or

refunded if requested by the taxpayer.

15-38-106. (Effective July 1, 1993) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall must be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type, except that:

(a) 14.1% of the proceeds must be deposited in the ground water assessment account established by 85-2-905;

(b) 15% of the proceeds must be deposited in the renewable resource grant and loan program state special revenue account established by 85-1-604; and

(c) 15% of the proceeds must be deposited in the reclamation and development grants account established by 90-2-1104.

(3) Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

{3}(4) The department shall examine the statement and

1 compute the taxes thereon, and the amount computed by the
 2 department shall must be the taxes imposed, assessed
 3 against, and payable by the taxpayer. If the tax found to be
 4 due is greater than the amount paid, the excess shall must
 5 be paid by the taxpayer to the department within 30 days
 6 after written notice of the amount of deficiency is mailed
 7 by the department to the taxpayer. If the tax imposed is
 8 less than the amount paid, the difference must be applied as
 9 a tax credit against tax liability for subsequent years or
 10 refunded if requested by the taxpayer."

11 **SECTION 2. SECTION 15-38-106, MCA, IS AMENDED TO READ:**

12 "15-38-106. (Temporary) Payment of tax -- records --
 13 collection of taxes -- refunds. (1) The tax imposed by this
 14 chapter shall be paid by each person to which the tax
 15 applies, on or before March 31, on the value of product in
 16 the year preceding January 1 of the year in which the tax is
 17 paid. The tax shall be paid to the department at the time
 18 the statement of yield for the preceding calendar year is
 19 filed with the department.

20 (2) The department shall deposit the proceeds of the
 21 tax in the resource indemnity trust fund of the
 22 nonexpendable trust fund type. Every person to whom the tax
 23 applies shall keep records in accordance with 15-38-105, and
 24 the records are subject to inspection by the department upon
 25 reasonable notice during normal business hours.

1 (3) The department shall examine the statement and
 2 compute the taxes thereon, and the amount computed by the
 3 department shall be the taxes imposed, assessed against, and
 4 payable by the taxpayer. If the tax found to be due is
 5 greater than the amount paid, the excess shall be paid by
 6 the taxpayer to the department within 30 days after written
 7 notice of the amount of deficiency is mailed by the
 8 department to the taxpayer. If the tax imposed is less than
 9 the amount paid, the difference must be applied as a tax
 10 credit against tax liability for subsequent years or
 11 refunded if requested by the taxpayer.

12 15-38-106. (Effective July 1, 1993 1995) Payment of tax
 13 -- records -- collection of taxes -- refunds. (1) The tax
 14 imposed by this chapter shall must be paid by each person to
 15 which the tax applies, on or before March 31, on the value
 16 of product in the year preceding January 1 of the year in
 17 which the tax is paid. The tax shall must be paid to the
 18 department at the time the statement of yield for the
 19 preceding calendar year is filed with the department.

20 (2) The department shall deposit the proceeds of the
 21 tax in the resource indemnity trust fund of the
 22 nonexpendable trust fund type, except that:

23 (a) 14.1% of the proceeds must be deposited in the
 24 ground water assessment account established by 85-2-905;

25 (b) 10% of the proceeds must be deposited in the

1 renewable resource grant and loan program state special
2 revenue account established by 85-1-604; and

3 (c) 30% of the proceeds must be deposited in the
4 reclamation and development grants account established by
5 90-2-1104.

6 (3) Every person to whom the tax applies shall keep
7 records in accordance with 15-38-105, and the records are
8 subject to inspection by the department upon reasonable
9 notice during normal business hours.

10 ~~(3)~~(4) The department shall examine the statement and
11 compute the taxes thereon, and the amount computed by the
12 department ~~shall~~ must be the taxes imposed, assessed
13 against, and payable by the taxpayer. If the tax found to be
14 due is greater than the amount paid, the excess ~~shall~~ must
15 be paid by the taxpayer to the department within 30 days
16 after written notice of the amount of deficiency is mailed
17 by the department to the taxpayer. If the tax imposed is
18 less than the amount paid, the difference must be applied as
19 a tax credit against tax liability for subsequent years or
20 refunded if requested by the taxpayer."

21 **Section 3.** Section 15-38-202, MCA, is amended to read:

22 "15-38-202. Investment of resource indemnity trust fund
23 -- expenditure -- minimum balance. (1) All money paid into
24 the resource indemnity trust fund, including money payable
25 into the fund under the provisions of 15-37-117, ~~shall~~ must

1 be invested at the discretion of the board of investments.
2 All the net earnings accruing to the resource indemnity
3 trust fund ~~shall~~ must annually be added to the trust fund
4 until it has reached the sum of \$10 million. Thereafter,
5 only the net earnings may be appropriated and expended until
6 the fund reaches \$100 million. Thereafter, all net earnings
7 and all receipts ~~shall~~ must be appropriated by the
8 legislature and expended, provided that the balance in the
9 fund may never be less than \$100 million.

10 (2) (a) At the beginning of each biennium, there is
11 allocated from the interest income of the resource indemnity
12 trust fund:

13 (i) an amount not to exceed \$175,000 to the
14 environmental contingency account pursuant to the conditions
15 of 75-1-1101; and

16 (ii) ~~beginning--in--fiscal--year--1992,~~ an amount not to
17 exceed \$50,000 to the oil and gas production damage
18 mitigation account pursuant to the conditions of 82-11-161;

19 (iii) ~~\$1,600,000~~ \$1,025,000 to be deposited into the
20 renewable resource grant and loan program state special
21 revenue account, created by 85-1-604, for the purpose of
22 making grants;

23 (iv) ~~\$1,600,000~~ ~~\$2,400,000~~ \$2,200,000 to be deposited
24 into the reclamation and development grants state special
25 revenue account, created by 90-2-1104, for the purpose of

1 making grants; AND
 2 {v}--\$800,000--to--be--deposited--into--the--rural--economic
 3 revitalization--state--special--revenue--account,--created--by
 4 {section-39},--for--the--purpose--of--making--grants,--and
 5 {vi}(V) beginning in fiscal year 1994, \$400,000
 6 \$250,000 to be deposited into the water storage state
 7 special revenue account created by 85-1-631.
 8 (b) The remainder of the interest income is allocated
 9 as follows:
 10 (i) Beginning-in-fiscal-year-1982,--provided--the--amount
 11 in--the--resource--indemnity--trust--fund--is--greater--than--\$10
 12 million, 30% Thirty-eight percent of the interest income of
 13 the resource indemnity trust fund must be allocated to the
 14 water-development renewable resource grant and loan program
 15 state special revenue account created by 85-1-604.
 16 (ii) Beginning--in--fiscal-year-1988,--12% Twelve SIXTEEN
 17 FIFTEEN percent of the interest income of the resource
 18 indemnity trust fund must be allocated to the hazardous
 19 waste/CERCLA special revenue account provided for in
 20 75-10-621.
 21 (iii) Beginning--in--fiscal-year-1990,--0%--of--the--interest
 22 income--from--the--resource--indemnity--trust--fund--must--be
 23 allocated--to--the--renewable--resource--development--account
 24 provided--for--in--Title-90,--chapter-2.
 25 {iv}--Beginning-in-fiscal-year-1990,--46% Forty-six FORTY

1 FORTY-ONE AND ONE-HALF percent of the interest income from
 2 the resource indemnity trust fund must be allocated to the
 3 reclamation and development grants account provided for in
 4 90-2-1104.
 5 {v}(iv) Beginning-in-fiscal-year-1990,--4% Four SIX FIVE
 6 AND ONE-HALF percent of the interest income of the resource
 7 indemnity trust fund must be allocated to the environmental
 8 quality protection fund provided for in 75-10-704.
 9 (3) Any formal budget document prepared by the
 10 legislature or the executive branch that proposes to
 11 appropriate funds from the resource indemnity trust interest
 12 account other than as provided for by the allocations in
 13 subsection (2) must specify the amount of money from each
 14 allocation that is proposed to be diverted and the proposed
 15 use of the diverted funds. A formal budget document includes
 16 a printed and publicly distributed budget proposal or
 17 recommendation, an introduced bill, or a bill developed
 18 during the legislative appropriation process or otherwise
 19 during a legislative session."
 20 **Section 4.** Section 15-38-202, MCA, is amended to read:
 21 "15-38-202. (Effective July 1, 1995) Investment of
 22 resource indemnity trust fund -- expenditure -- minimum
 23 balance. (1) All money paid into the resource indemnity
 24 trust fund, including money payable into the fund under the
 25 provisions of 15-37-117, shall must be invested at the

discretion of the board of investments. All the net earnings accruing to the resource indemnity trust fund shall must annually be added to the trust fund until it has reached the sum of \$10 million. Thereafter, only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts shall must be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101; and

(ii) ~~beginning--in--fiscal--year--1992,~~ an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161;

(iii) beginning in fiscal year 1996, \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iv) beginning in fiscal year 1996, \$2 \$3 million to be deposited into the reclamation and development grants state special revenue account, created by 90-2-1104, for the

purpose of making grants; AND

~~(v)--beginning-in-fiscal-year-1996,--\$1--million--to--be deposited--into--the--rural--economic--revitalization--state special--revenue--account,--created-by--{section-39},--for-the purpose-of-making-grants;--and~~

(vi)(V) beginning in fiscal year 1996, \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(b) The remainder of the interest income is allocated as follows:

(i) ~~Beginning--in-fiscal-year-1982,--provided-the-amount in-the-resource-indemnity-trust-fund--is--greater--than--\$10 million,--30% Thirty-eight THIRTY-SIX percent~~ of the interest income of the resource indemnity trust fund must be allocated to the water-development renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) ~~Beginning-in-fiscal-year-1988,--12% Twelve~~ EIGHTEEN percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) ~~Beginning--in-fiscal-year-1990,--8%--of--the--interest income--from--the--resource--indemnity--trust--fund--must--be allocated--to--the--renewable--resource--development-account provided-for-in-Title-90,--chapter-2.~~

(iv)-Beginning-in-fiscal-year-1990,-46% Forty-six FORTY
percent of the interest income from the resource indemnity
trust fund must be allocated to the reclamation and
development grants account provided for in 90-2-1104.

(v)(iv) Beginning--in--fiscal--year--1990,--4% Four SIX
percent of the interest income of the resource indemnity
trust fund must be allocated to the environmental quality
protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the
legislature or the executive branch that proposes to
appropriate funds from the resource indemnity trust interest
account other than as provided for by the allocations in
subsection (2) must specify the amount of money from each
allocation that is proposed to be diverted and the proposed
use of the diverted funds. A formal budget document includes
a printed and publicly distributed budget proposal or
recommendation, an introduced bill, or a bill developed
during the legislative appropriation process or otherwise
during a legislative session."

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

"17-5-701. State of Montana coal severance tax bonds.
This part provides for the issuance of state of Montana coal
severance tax bonds (also referred to as coal severance tax
bonds in this part) to:

(1) finance water---resource---development renewable

resource projects and-activities in the state designed to
provide, during and after extensive coal mining, a healthy
economy, the alleviation of social and economic impacts
created by coal development, and a clean and healthful
environment for present and future generations; and

(2) finance loans to local governments for
infrastructure projects under Title 90, chapter 6, part 7."

Section 6. Section 17-5-702, MCA, is amended to read:

"17-5-702. Purpose and intent. (1) The purpose of the
coal severance tax trust fund bond provisions of this part
is to establish the authority to issue and sell coal
severance tax bonds that have been approved by act of the
legislature for financing specific water---resource
development renewable resource projects and--activities in
the state authorized by the legislature and to guarantee
redemption of such the bonds by revenue derived from the
receipts from the coal severance tax imposed by Title 15,
chapter 35, part 1, and such other money as the legislature
may from time to time determine.

(2) The legislature intends that projects to be
financed by coal severance tax bonds include water---resource
development renewable resource projects and-activities as
part of the water-development program established in Title
85, chapter 1, part 6. The legislature further intends that
the income from water---resource---development renewable

resource projects and--activities in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the water development renewable resource grant and loan program state special revenue account established in 85-1-604."

Section 7. Section 17-5-706, MCA, is amended to read:

"17-5-706. Authority to issue coal severance tax bonds.

The board of examiners, upon approval of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance such approved water--resource development renewable resource projects and--activities when authorized to do so by any law that sets out the amount and purpose of the issue. Each project or--activity--shall must be separately approved as to amount by a two-thirds vote of each house of the legislature."

Section 8. Section 85-1-102, MCA, is amended to read:

"85-1-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Administrative costs" means costs incurred by the department:

(a) for the purpose of protecting the department's properties and assets;

(b) to oversee the operation and maintenance of the projects;

(c) to administer contracts and receivables;

(d) to maintain project financial records;

(e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

(f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(3) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine repairs and the costs incurred by the water users' association or the department in the distribution of water from the project, excluding the department's administrative costs.

(4) "Cost of works" means the cost of construction, including any rehabilitation or alteration of the project; the cost of all lands, property, rights, easements, and franchises acquired which are deemed necessary for the construction; the cost of all water rights acquired or exercised by the department in connection with those works; the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period not exceeding 3 years after the completion of construction; cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of any project; administrative

expense; and other expenses as may be necessary or incident to the financing authorized in this part and the construction of the works and the placing of the works in operation.

(5) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(6) "Owner" means all individuals, irrigation districts, drainage districts, flood control districts, incorporated companies, societies, or associations having any title or interest in any properties, rights, easements, or franchises to be acquired.

(7) "Private person" means any individual, association, partnership, corporation, or other nongovernmental entity not eligible for loans and grants under 85-1-605 but does not include a governmental entity such as an agency, local government, or political subdivision of the state, the United States, or any agency thereof, or any other governmental entity.

(8) "Project" means any one of the works defined in this section or any combination of works which are physically connected or jointly managed and operated as a single unit.

(9) "Public benefits" means those benefits that accrue from a water development project or activity to persons

other than the private grant or loan recipient and that enhance the common well-being of the people of Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction, agricultural flood damage reduction, water quality enhancement, sediment reduction, access to recreation opportunities, and wildlife conservation.

(10) "Renewable resource grant and loan program state special revenue account" means a separate account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes of the water development program as set forth in 85-1-604.

(11) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603 within the debt service fund type of the state treasury to be used as provided in 85-1-619.

(12) "Water--development Renewable resource loan proceeds account" means a separate account created by 85-1-617 within the state special revenue fund of the state treasury to finance loans under the provisions of the water development renewable resource grant and loan program to agencies, local governments, and political subdivisions of the state, private persons, and any other eligible recipients and to purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued under

part 6 of this chapter.

~~(11)~~(13) "Water development activity" means an action or program to protect and enhance water-based recreation or to protect or enhance water resources for the benefit of agriculture, flood control, or other uses, including but not limited to the promotion of efficient use of water in agriculture, the improvement of water quality in agriculture and other nonpoint source uses, the protection and enhancement of water-based recreation, the control of erosion of streambanks and control of sedimentation of rivers and streams, and providing greater local and state control of Montana water resources. Water development activities may provide any combination of marketable and nonmarketable benefits.

~~(12)~~"Water--development--debt--service--fund"--means--a separate--fund--created--by--85-1-603--within--the--debt--service fund--type--of--the--state--treasury--to--be--used--as--provided--in 85-1-619-

~~(13)~~(14) "Water development project" means a project as defined in subsection (8), except that water development projects:

(a) are not limited to projects owned or operated by the department; and

(b) for purposes of the renewable resource grant and loan program, must include water development activities.

~~(14)~~"Water--development--state--special--revenue--account" means--a--separate--account--created--by--85-1-604--within--the state--special--revenue--fund--of--the--state--treasury--for--the purposes--of--the--water--development--program--as--set--forth--in 85-1-604-

(15) "Works" means all property and rights, easements, and franchises relating to property and considered necessary or convenient for the operation of the works and all water rights acquired or exercised by the department in connection with those works and includes all means of conserving and distributing water, including, without limiting the generality of the foregoing, reservoirs, dams, diversion canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units, mains, pipelines, and waterworks systems and includes all works for the conservation, development, storage, distribution, and utilization of water, including without limiting the generality of the foregoing, works for the purpose of irrigation, flood prevention, drainage, fish and wildlife, recreation, development of power, watering of stock, supplying of water for public, domestic, industrial, or other uses and for fire protection."

Section 9. Section 85-1-601, MCA, is amended to read:

"85-1-601. Purpose and policies. (1) The legislature finds and declares that in order that the people of Montana

may enjoy the ~~full-economic-and-recreational~~ benefits of the state's water and other renewable resources, the state must establish this long-term water---development renewable resource grant and loan program providing financial and administrative assistance to private for-profit, private nonprofit, local government, and state government entities for water renewable resource development grant and loan projects and activities.

(2) The purpose of the water--development renewable resource grant and loan program is to further the state's policies, set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources and to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic and other benefits of the state's natural heritage.

(3) The legislature recognizes that ~~water-is-one-of-the most-valuable-and-important~~ the value of Montana's renewable resources in-Montana; therefore, it is appropriate that a portion of the taxes and other revenue from on-the-removal of nonrenewable resources be dedicated-to-the--conservation, development,--and-beneficial-use-of-water-resources invested in the replacement of nonrenewable resources with the development of renewable resource projects that will continue to provide tax and other revenue and will preserve for the citizens the economic and other benefits of the

state's natural heritage.

(4) The conservation, development, management, and preservation of water and other renewable resources is-of--a are high priority priorities because a large portion of Montana's present and future economy is based either directly or indirectly on the wise use of water these resources.

(5) Developments supported by this part may not significantly diminish the quality of existing public resources, such as land, air, fish, wildlife, and recreation opportunities.

~~(5)(6)~~ This water-development renewable resource grant and loan program ~~is-an-integral~~ supports, in part, of the implementation and development of the comprehensive, coordinated, multiple-use water resources plan known as the "state water plan". In making funding recommendations for grants and loans, the department shall give preference to projects that will implement state water plan priorities if, in all other respects, the proposed projects are equal in public benefit and technical feasibility."

Section 10. Section 85-1-602, MCA, is amended to read:

"85-1-602. Objectives. (1) The department shall administer a water-development renewable resource grant and loan program to accomplish ~~such-objectives-as-rehabilitation of--state-owned-water-projects--and--works;--promotion--of~~

1 ~~private, local, government, and state water development,~~
 2 enhance Montana's renewable resources through projects that
 3 measurably conserve, develop, manage, or preserve resources.
 4 Either grants or loans may be provided to fund the
 5 following:

6 (a) feasibility, design, research, and resource
 7 assessment studies;

8 (b) preparation of construction, rehabilitation, or
 9 production plans; and

10 (c) construction, rehabilitation, production,
 11 education, or other implementation efforts.

12 (2) Projects that may enhance renewable resources in
 13 Montana include but are not limited to:

14 (a) development of water-based natural resource-based
 15 recreation and the protection of water resources for the
 16 benefit of agriculture, flood control, and other uses;

17 (b) development of offstream and tributary storage;

18 (c) encouragement of projects or programs that improve
 19 improvement of water use efficiency, including development
 20 of new, efficient water systems, rehabilitation of older,
 21 less efficient water systems, and acquisition and
 22 installation of measuring devices required under 85-2-113;
 23 and development of state-tribal, state-federal, and
 24 state-tribal-federal water projects; and

25 (d) advancement of farming practices that reduce

1 agricultural chemical use. The storage of water for existing
 2 and future beneficial uses shall be given the highest
 3 priority unless a water development project or activity
 4 designed to accomplish another objective is demonstrated to
 5 be more beneficial to a greater number of people.

6 (3) The water development renewable resource grant and
 7 loan program is the key implementation portion of the state
 8 water plan and shall must be administered to encourage grant
 9 and loan applications for projects designed to accomplish
 10 the objectives of the plan."

11 **Section 11.** Section 85-1-603, MCA, is amended to read:

12 **"85-1-603. Water development Renewable resource loan**
 13 **debt service fund created -- coal severance tax allocated --**
 14 **water development renewable resource loan loss reserve fund**
 15 **created. (1) (a) There is created a water development**
 16 **renewable resource loan debt service fund within the debt**
 17 **service fund type established in 17-2-102.**

18 **(b) The state pledges and allocates and directs to be**
 19 **credited to the water development renewable resource loan**
 20 **debt service fund, as received:**

21 **(i) ~~1-1/4%~~ 2 1/2%** of all money from time to time
 22 **received from the coal severance tax collected under Title**
 23 **15, chapter 35, and remaining after allocation of such the**
 24 **tax under 15-35-108(1) and (2);**

25 **(ii) any principal and accrued interest under**

1 85-1-613+3+(a)(4)(a) received in repayment of a loan made
2 from the proceeds of bonds issued under 85-1-617;

3 (iii) all interest income earned on proceeds of water
4 development renewable resource grant and loan program bonds;

5 (iv) revenue or money otherwise required to be paid into
6 the water-development renewable resource grant and loan
7 program state special revenue account pursuant to 85-1-604,
8 as determined by the board of examiners in connection with
9 the issuance of bonds pursuant to 85-1-617; and

10 (v) money received from the water-development renewable
11 resource loan loss reserve fund as the result of a loan
12 loss.

13 (2) (a) There is created a water-development renewable
14 resource loan loss reserve fund within the debt service fund
15 type established in 17-2-102.

16 (b) The state pledges and allocates and directs to be
17 credited to the water-development renewable resource loan
18 loss reserve fund all accrued interest under
19 85-1-613+3+(b)(4)(b) received in repayment of a loan made
20 from the proceeds of bonds issued under 85-1-617.

21 (c) If the department determines that a loan loss has
22 occurred on a loan made pursuant to this part, funds from
23 the water--development renewable resource loan loss reserve
24 fund must be transferred to the water-development renewable
25 resource loan debt service fund in an amount equal to the

1 amount that would otherwise be available for debt service
2 under subsection (1)(b) as a result of the loan loss."

3 **Section 12.** Section 85-1-604, MCA, is amended to read:

4 "85-1-604. Water--development Renewable resource grant
5 and loan program state special revenue account created --
6 revenues allocated -- limitations on appropriations from
7 account. (1) There is created a water-development renewable
8 resource grant and loan program state special revenue
9 account within the state special revenue fund established in
10 17-2-102.

11 (2) Except to the extent that they are required to be
12 credited to the water-development renewable resource loan
13 debt service fund pursuant to 85-1-603, there shall must be
14 paid into the water-development renewable resource grant and
15 loan program state special revenue account:

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

18 (b) ~~30%~~ 38% of the interest income of the resource
19 indemnity trust fund as provided in and subject to the
20 conditions of 15-38-202;

21 (c) the excess of the coal severance tax proceeds
22 allocated by 85-1-603 to the water--development renewable
23 resource loan debt service fund above debt service
24 requirements as provided in and subject to the conditions of
25 85-1-619; and

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

(e) 20% of the resource indemnity tax proceeds.

(3) Appropriations may be made from the water development renewable resource grant and loan program state special revenue account for the following purposes and subject to the following conditions:

(a) The amount of resource indemnity trust fund interest earnings allocated under section 15-38-202(2)(b) must be used for renewable resource grants.

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

(b)(c) An amount less than or equal to that paid into the account from the resource indemnity trust account plus any excess from subsection (3)(a) (3)(b) and only that amount may be appropriated from the account for:

(i) ~~the rehabilitation of state-owned projects and works, including the rehabilitation of spillways of~~

~~state-owned dams;~~

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

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

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

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

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

~~(vii) projects or programs that improve water use efficiency, including development of new, efficient water systems, rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices required under 85-2-113;~~

~~(viii) administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, office space, and other necessities incurred in the administration of the water development program except the administration of loans and grants; and~~

~~(ix) any other expenditures that meet the policies and objectives of the state water development renewable resource grant and loan program. If the amount of money available for~~

1 appropriation under this subsection (c) is greater than that
 2 necessary for operation and maintenance expenses, the excess
 3 may be appropriated as provided in subsection (3)(d).

4 ~~(c)(d)~~ An amount less than or equal to that paid into
 5 the account from the sources provided for in ~~(c) and (d)~~ of
 6 ~~subsection--(2)~~ subsections (2)(c) and (2)(d) and any excess
 7 from subsection (3)(c) and only that amount may be
 8 appropriated from the account for loans and grants for water
 9 development renewable resource projects and activities; for
 10 purchase of liens and operation of property as provided in
 11 85-1-615; for administrative expenses, including but not
 12 limited to the salaries and expenses of personnel,
 13 equipment, and office space; for the servicing of loans,
 14 including arrangements for obtaining security interests; and
 15 for other necessities incurred in administering the loans
 16 and grants.

17 ~~(4)--An--amount--equal--to--25%--of--the--money--available--for~~
 18 ~~grants--under--subsection--(3)(c)--must--be--transferred--to--the~~
 19 ~~water--storage--state--special--revenue--account--created--in~~
 20 ~~85-1-631r"~~

21 **Section 13.** Section 85-1-605, MCA, is amended to read:

22 "85-1-605. Grants, loans, and bonds for state and local
 23 government assistance. (1) The department may recommend to
 24 the legislature that grants and loans be made from coal
 25 ~~severance--tax--proceeds~~ revenue deposited in the water

1 development renewable resource grant and loan program state
 2 special revenue account, that loans be made from water
 3 development-bond-proceeds renewable resource bond proceeds
 4 deposited in the water-development renewable resource loan
 5 proceeds account established in 85-1-617(5), and that coal
 6 severance tax bonds be authorized pursuant to Title 17,
 7 chapter 5, part 7, to provide financial assistance to a
 8 department, agency, board, commission, or other division of
 9 state government or to a city, county, or other political
 10 subdivision or local government body of the state. The
 11 legislature may approve by appropriation or other
 12 appropriate means those grants and loans it finds consistent
 13 with the policies and purposes of the program.

14 (2) Nothing in this part creates or expands a state or
 15 local government's authority to incur debt, and the
 16 legislature may authorize loans only to state and local
 17 government entities otherwise structured to incur debt.

18 (3) Loans may not be authorized except to a state or
 19 local government entity that agrees to secure the authorized
 20 loan with its bond.

21 (4) In addition to implementing those projects approved
 22 by the legislature, the department may request up to 10% of
 23 the grant funds available for grants and up to \$1 million
 24 for loans from the water--development renewable resource
 25 grant and loan program state special revenue account and the

renewable resource loan proceeds account in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, must may not be made because of the gross negligence of the state or local government applicant, must be approved by the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding, or both, which that, if delayed until legislative approval can be obtained, will cause substantial damages or legal liability to the project sponsor. In allocating such the funds, the department shall inform the legislative finance committee of the legislature.

†3†(5) The grants and loans provided for by this section may be made for projects that enhance renewable resources in the state through conservation, development, management, or preservation; for assessing feasibility or planning; for implementing renewable resource projects the purchase,--lease,--development,--or--construction--of--water development-projects-and-activities--for--the--conservation, management, use, development, or protection of the water and related--agricultural,--land,--fish,--wildlife,--and--water recreation resources--in--the--state,--for--the--purpose--of feasibility--and--design--studies--for--such--projects,--for development--of plans for and the rehabilitation, expansion, and modification of water development--projects,--for--other water--development-projects-and-activities-that-will-enhance

the-water-resources-of-the-state; and for similar purposes approved by the legislature."

Section 14. Section 85-1-606, MCA, is amended to read:

"85-1-606. Grants and loans to private persons. (1) To encourage the construction and development of water water-related development projects and--activities, the department may make grants and loans to private persons from funds appropriated from the water--development renewable resource grant and loan program state special revenue account and may make loans to private persons from the water development renewable resource loan proceeds account.

(2) The department shall publicize the statutes and rules governing grants and loans to private persons for water water-related development projects and--activities, set and publicize application deadlines, and accept applications for grants and loans.

(3) The department shall review, evaluate, and select the water water-related development projects and--activities for which grants or loans may be awarded."

Section 15. Section 85-1-608, MCA, is amended to read:

"85-1-608. Applications for grants and loans to private persons. (1) A private person may apply for a grant or loan to finance a water water-related development project or activity to be constructed, developed, and operated in Montana.

(2) An application for a loan or grant must be in the form prescribed by the--board rule and contain or be accompanied by any information necessary to adequately describe the proposed project or-activity and necessary for evaluation of the proposed project or--activity under the criteria set out in 85-1-609 and 85-1-610."

Section 16. Section 85-1-609, MCA, is amended to read:

"85-1-609. Eligibility for a loan or grant to a private person. The department may not award a grant or loan to a private person unless the department finds, based on the application and the department's investigation and evaluation of the proposal, that:

(1) the proposed water water-related development project or-activity:

(a) will promote, enhance, or advance the purpose, policies, and objectives of the water-development renewable resource grant and loan program;

(b) will be constructed, developed, and operated within the state of Montana;

(c) will be economically feasible. (A project or activity is economically feasible if the project benefits exceed the project costs. The department shall consider only tangible quantifiable benefits and costs in calculating economic feasibility.)

(d) will be an efficient use of natural resources,

including water, energy, land, and air. (An efficient use is one that minimizes waste.)

(e) will provide multipurpose facilities to the extent practicable;

(f) will comply with statutory and regulatory standards protecting the quality of resources such as air, water, land, fish, wildlife, and recreational opportunities;

(g) will provide associated public benefits in addition to any private benefits the project or-activity may provide; and

(h) is needed to accomplish the purpose for which the water-development project or-activity is proposed;

(2) the applicant has adequate financial resources to construct, operate, and maintain the water--development project or-activity. The department shall consider financial resources from any source for which the applicant has qualified, including a water-development renewable resource grant or loan.

(3) the applicant holds or can acquire all necessary lands, other than public lands, and interests therein in the lands and water rights necessary for the construction, operation, and maintenance of the proposed water-development project or-activity;

(4) if the application is for a loan, the applicant is credit-worthy creditworthy and able and willing to enter

1 into a contract with the department for loan repayment and
2 construction or development of the proposed water
3 development project or-activity; and

4 (5) if the application is for a grant, the applicant is
5 able and willing to enter into a contract with the
6 department for construction or development of the proposed
7 water-development project or-activity."

8 **Section 17.** Section 85-1-610, MCA, is amended to read:

9 "85-1-610. Evaluation of grants and loans to private
10 persons. The department shall consider the following
11 criteria and preferences in evaluating applications and
12 selecting the recipients of grants and loans for water
13 water-related development projects and-activities that are
14 eligible for funding under 85-1-609:

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

17 (2) A water water-related development project or
18 activity that will be used as part of a family farm shall
19 must be given preference. A family farm is one devoted
20 primarily to agriculture under the ownership and operation
21 of a resident Montana family.

22 (3) A water water-related development project or
23 activity that will utilize or develop water reserved under
24 85-2-316 shall must be given preference. An---activity
25 includes--all--necessary--work--associated--with--a-project

1 beginning---with---application---preparation---through---the
2 implementation-of-a-water-reservation-by-a--qualified--state
3 applicant.

4 (4) The department, to the extent practicable, shall
5 attempt to achieve geographic balance in the promotion of
6 water-development renewable resource grant and loan projects
7 and--activities through the awarding of loans and grants to
8 private persons.

9 (5) The extent to which the water--development project
10 or--activity will fully effectively utilize water resources
11 and promote the conservation and efficient use of the water
12 resource shall must be evaluated and considered.

13 (6) Projects or---activities that could not be
14 accomplished without the assistance of a loan or grant shall
15 must be given preference.

16 (7) The department shall give due consideration to any
17 other factor that, in the department's judgment, is
18 important to the evaluation of the water-development project
19 or--activity in light of the purposes, policies, and
20 objectives of the water-development renewable resource grant
21 and loan program."

22 **Section 18.** Section 85-1-611, MCA, is amended to read:

23 "85-1-611. Department to solicit views. The department
24 shall solicit and consider in its evaluation of proposed
25 projects and-activities the views of interested and affected

departments, boards, agencies, commissions, and other subdivisions of the state, including local political subdivisions, of the federal government, and of other interested and affected persons."

Section 19. Section 85-1-612, MCA, is amended to read:

"85-1-612. Rulemaking authority. The board department shall adopt rules:

(1) prescribing a reasonable application fee and the form and content of applications for grants and loans;

(2) governing the application of the criteria for awarding loans and grants to private persons;

(3) providing for the servicing of loans including arrangements for obtaining security interests and the establishment of reasonable fees or charges to be made; and

(4) describing the terms and conditions for making grants and loans, the security instruments, and the agreements necessary;

(5) describing the ranking criteria used to evaluate and prioritize grants to governmental entities; and

(6) specifying any other procedures necessary to accomplish the objectives of the renewable resource grant and loan program."

Section 20. Section 85-1-613, MCA, is amended to read:

"85-1-613. Limits on loans. (1) No A loan to a private person for a water-development renewable resource grant and

loan program project or activity may not be made from the water--development renewable resource grant and loan program state special revenue account or water--development the renewable resource loan proceeds account that if the loan exceeds the least lesser of \$200,000, 10% of the estimated total--funds--potentially--available--for--loans--in--the--water development--state--special--revenue--account--and--water development--account--in--the--biennium--in--which--the--loan--will be made, or 80% of the fair market value of the security given therefor for the project. In determining the fair market value for the security given for a loan, the department shall consider appraisals made by qualified appraisers and other factors it considers important.

(2) A loan to a state or local government for a renewable resource grant and loan program project may not be made by the department from the renewable resource grant and loan program state special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

(2)(3) The period for repayment of loans may not exceed 30 years.

(3)(4) The board ~~shall from time to time establish~~ the interest rate at which loans may be made under this part ~~that is~~ must be sufficient to:

(a) cover the bond debt service for a loan; and

(b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs."

Section 21. Section 85-1-614, MCA, is amended to read:

"85-1-614. Limits on grants from water--development renewable resource grant and loan program state special revenue account. (1) The maximum grant awarded to a private person may not exceed the lesser of:

(a) 5% of the estimated total funds potentially available in the water-development renewable resource grant and loan state special revenue account for public and private grants in the biennium in which the grant will be made; or

(b) 25% of the total project cost, whichever is less.

(2) This part does not limit the amount of grant funds that may be appropriated by the legislature to fund a state or local government project."

Section 22. Section 85-1-615, MCA, is amended to read:

"85-1-615. Security interests -- purchase, operation, and resale of encumbered property. (1) The state has a lien upon a project constructed with money from the water development renewable resource grant and loan state special revenue account or water-development the renewable resource loan proceeds account for the amount of the loan and interest due the state. This lien may attach to any project

facilities, equipment, easements, real property, and property of any kind or nature owned by the debtor, including all water rights. The department shall file with the county clerk and recorder of each county in which a part of the project is located either a financing statement or a real estate mortgage covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall record and index the lien as other liens are required by law to be recorded and indexed. The lien shall be valid until paid in full or otherwise discharged. The lien shall must be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens.

(2) From the funds available under 85-1-604(3)(d) or 85-1-617, the state may:

(a) purchase a lien that is prior to the state's lien if:

(i) the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by purchasing the prior lien; and

(ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

(b) operate property that is subject to the state's lien if the director of the department determines that the loan is in default and the prospects for collecting the loan

may be materially increased by operating the property that is subject to the state's lien; or

(c) purchase a prior lien as provided in (2)(a) and operate property as provided in (2)(b).

(3) Any property acquired under the provisions of this section must be resold as expeditiously as possible to recover funds used under this section and funds loaned to the borrower."

Section 23. Section 85-1-616, MCA, is amended to read:

"85-1-616. Administration of loans and grants. The department shall:

(1) administer the loan and grant program established by this part;

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

(3) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the water-development renewable resource grant and loan program state special revenue account pursuant---to established in 85-1-604."

Section 24. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing renewable resource bonds -- renewable resource loan proceeds account. (1) When

authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water--development renewable resource bonds of the state in the amount and manner it considers necessary and proper to finance the water-development renewable resource grant and loan program. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds so issued and interest and redemption premiums payable thereon on the bonds according to their terms.

(2) Each series of water-development renewable resource bonds may be issued by the board of examiners, upon request of the board---of---natural---resources---and---conservation department, at public or private sale, in such denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at such a rate or rates, maturing at such a rate or rates, maturing at such a time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at such earlier times and prices and upon such notice, with such provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the

office of such a banking institution or institutions within or outside the state--as that the board of examiners shall determine subject to the limitations contained in this section and 17-5-731.

(3) In the issuance of each series of water-development renewable resource bonds, the interest rates and the maturities and any mandatory redemption provisions thereof shall contained in the bonds must be established in such a manner that the funds then specifically pledged and appropriated by law to the water--development renewable resource loan debt service fund will, in the judgment of the board of examiners, be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of such bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. Such The bonds, notes, and any interest coupons appurtenant thereto to the bonds or notes must be signed by the members of the board of examiners, and

the bonds and notes must be issued under the great seal of the state of Montana. The bonds, notes, 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 such bonds and notes issued and sold.

(5) There is created a water--development renewable resource loan proceeds account within the state special revenue fund established in 17-2-102.

(6) All proceeds of bonds or notes issued under this section, other than refunding bonds, must be deposited in the water--development renewable resource loan proceeds account established in subsection (5), except that any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under this section must be deposited in the water-development renewable resource loan debt service fund and the water--development renewable resource loan loss reserve fund pursuant to 85-1-603. All proceeds of refunding bonds must be deposited in the water--development renewable resource loan debt service fund and applied to the payment and redemption of outstanding bonds issued under this section as directed by the board of examiners, whether at maturity or on any earlier date on which they may be prepaid according to their terms.

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

Section 25. Section 85-1-618, MCA, is amended to read:

"85-1-618. Restrictions on use of bond proceeds. Water development Renewable resource bond proceeds may be used only for the purpose of making loans as provided in the water-development renewable resource grant and loan program or for purchasing liens and operating property as provided in 85-1-615."

Section 26. Section 85-1-619, MCA, is amended to read:

"85-1-619. Debt service fund -- pledge and administration of sufficient balance. (1) The legislature may levy, impose, assess, and pledge and appropriate to the water--development renewable resource loan debt service fund any tax, charge, fee, rental, or other income from any designated source. The state reserves the right to modify from time to time the nature and amount of special taxes and other revenues pledged and appropriated to the water development renewable resource loan debt service fund, provided that the aggregate resources so pledged and appropriated are determined by the legislature to be sufficient for the prompt and full payment of the principal of and interest and redemption premiums when due on all bonds payable from that fund and provided that the pledge of

the full faith and credit and taxing powers of the state for the security of all such bonds shall be and remain irrevocable until they are fully paid.

(2) Money in the water-development renewable resource loan debt service fund must be used to pay interest, principal, and redemption premiums when due and payable with respect to water-development renewable resource bonds, and for bonds issued prior to 1985, to accumulate a reserve for the further security of such the payments.

(3) After the reserve provided for in subsection (2) for bonds issued prior to 1985 has been accumulated in the water-development renewable resource loan debt service fund, money at any time received in the water---development renewable resource loan debt service fund in excess of that amount must be transferred by the treasurer to the water development renewable resource grant and loan program state special revenue account."

Section 27. Section 85-1-620, MCA, is amended to read:

"85-1-620. Water---development Renewable resource refunding bonds. (1) The board of examiners may issue refunding bonds at such times and in such amounts, if any, as may be necessary to pay principal or interest due that cannot be paid from funds then on hand in the water development renewable resource loan debt service fund. The board of examiners may also issue refunding bonds to refund

outstanding bonds before maturity for the purpose of extending the maturities thereof of the outstanding bonds so far as determined by the board of examiners to be necessary to assure that the funds then pledged to the water development renewable resource loan debt service fund will be sufficient for payment of principal and interest due in subsequent years. The board of examiners may also issue refunding bonds to refund outstanding bonds before maturity for the purpose of reducing the interest cost or the total amount of principal and interest payable thereon on the outstanding bonds.

(2) No-refunding Refunding bonds may not be issued and sold more than 3 months before all of the bonds refunded thereby mature or are called for redemption unless the proceeds thereof of the refunded bonds, with any other funds in the water--development renewable resource loan debt service fund that are needed and available for the purpose or securities purchased from such proceeds and other funds, are deposited with a suitable banking institution within or outside the state, in escrow, for the retirement of the refunded bonds at maturity or at a prior date or dates on which they have been called for redemption in accordance with their terms, in an amount and in a manner sufficient under the provisions securing the refunded bonds, so that the state's obligation to pay the same, from sources other

than the escrow fund, is discharged.

(3) No-new New debt may not be created by the issuance of refunding bonds in accordance with this section, but such the refunding bonds shall must evidence the debt previously created and shall must be secured by the pledge of the full faith and credit and taxing powers of the state and by-the further-provisions-of-this-part secured in the same manner as the bonds refunded thereby by other provisions of this part."

Section 28. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report to the legislature. The department shall prepare a biennial report to the legislature describing the status of the water--development renewable resource grant and loan program. The report must describe ongoing projects and-activities and those--which projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. desires--to seek-congressional-authorization-and-funding-and-the-efforts the--department--will-undertake-in-attempting-to-secure-such authorization-and-funding. The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report shall must be submitted to the president of the senate and the speaker of the house, to the members of the

1 water policy committee established in 85-2-105, and, as
2 provided in 5-11-210, to the legislature."

3 **Section 29.** Section 85-1-623, MCA, is amended to read:

4 "85-1-623. Authorization of water-development renewable
5 resource bonds. The legislature, through the enactment of
6 this section by a two-thirds vote of the members of each
7 house, authorizes the creation of state debt in an amount
8 not to exceed \$10 million and the issuance and sale of water
9 development renewable resource bonds in this amount for the
10 purpose of providing funds appropriated to the water
11 development renewable resource loan proceeds account for
12 loans as provided in the water-development renewable
13 resource grant and loan program or for the purchase of liens
14 and operation of property as provided in 85-1-615."

15 **Section 30.** Section 85-1-631, MCA, is amended to read:

16 "85-1-631. Water storage state special revenue account
17 created -- revenues allocated -- appropriations from
18 account. (1) There is a water storage state special revenue
19 account within the state special revenue fund established in
20 17-2-102.

21 (2) There must be paid into the water storage state
22 special revenue account:

23 (a) money allocated from the resource indemnity trust
24 fund interest earnings pursuant to 15-38-202 water
25 development-state-special-revenue-account-as-provided-in

1 85-1-604, and

2 (b) ~~money from the renewable resource development~~
3 ~~account as provided in 90-2-111.~~

4 (3) Money that was not encumbered or expended from the
5 water storage state special revenue account during the
6 previous biennium must remain in the account.

7 (4) Deposits to the water storage state special revenue
8 account are to be placed in short-term investments and
9 accrue interest, which must be deposited in the water
10 storage state special revenue account.

11 (4)(5) The purpose of the water storage state special
12 revenue account is to provide money for loans and grants
13 exclusively for water storage projects, including the
14 purchase or lease of property; planning, feasibility, and
15 design studies; and other costs related to construction,
16 rehabilitation, expansion, and modification of water storage
17 projects.

18 (5)(6) The department shall administer this section as
19 an integral part of the water-development renewable resource
20 grant and loan program, using, to the extent possible, the
21 same procedures for soliciting, determining eligibility, and
22 rating water storage project proposals and for administering
23 grants and loans, subject to the same limitations, as
24 applied to other water-development renewable resource grants
25 and loans.

1 ~~(6)~~(7) The following preferences must be considered in
2 ranking proposals for water storage grants and loans:

3 (a) first preference is for the rehabilitation of water
4 storage projects that resolve threats to life and property;

5 (b) second preference is for the improvement or
6 expansion of existing water storage projects; and

7 (c) third preference is for the development of new
8 water storage projects."

9 **Section 31.** Section 85-2-105, MCA, is amended to read:

10 "85-2-105. Water policy committee. (1) There is a
11 permanent water policy committee of the legislature. The
12 committee consists of eight members. The senate committee on
13 committees and the speaker of the house of representatives
14 shall each appoint four members on a bipartisan basis. The
15 committee shall elect its chairman and vice-chairman. The
16 committee shall meet as often as necessary, including during
17 the interim between sessions, to perform the duties
18 specified within this section.

19 (2) On a continuing basis, the committee shall:

20 (a) advise the legislature on the adequacy of the
21 state's water policy and of important state, regional,
22 national, and international developments which affect
23 Montana's water resources;

24 (b) oversee the policies and activities of the
25 department of natural resources and conservation, other

1 state executive agencies, and other state institutions, as
2 they affect the water resources of the state; and

3 (c) communicate with the public on matters of water
4 policy as well as the water resources of the state.

5 (3) On a regular basis, the committee shall:

6 (a) analyze and comment on the state water plan
7 required by 85-1-203, when filed by the department;

8 (b) analyze and comment on the report of the status of
9 the state's water-development renewable resource grant and
10 loan program required by 85-1-621, when filed by the
11 department;

12 (c) analyze and comment on water-related research
13 undertaken by any state agency, institution, college, or
14 university;

15 (d) analyze, verify, and comment on the adequacy of and
16 information contained in the water resources data management
17 system maintained by the department under 85-2-112; and

18 (e) report to the legislature as provided in 5-11-210.

19 (4) The environmental quality council shall provide
20 staff assistance to the committee. The committee may
21 contract with experts and consultants, in addition to
22 receiving assistance from the environmental quality council,
23 in carrying out its duties under this section."

24 ~~Section 31. Section 90-2-1102, MCA, is amended to read:--~~

25 ~~"90-2-1102. Policy and purpose. (1) The policy of the~~

state---of---Montana---expressed---in---the---Reclamation---and
Development---Grants---Program---Act---is---to---provide---a---state
capability---to---fund---projects---that---indemnify---the---people---of---the
state---for---the---effects---of---mineral---development---on---public
resources---and---that---meet---other---crucial---needs---serving---the
public---interest---and---the---total---environment---of---the---citizens---of
Montana;

{2}--The purposes of the reclamation and development
grants program are to:

{a}--repair, reclaim, and mitigate environmental damage
to public resources from nonrenewable resource extraction;
and

{b}--develop and ensure the quality of public resources
for the benefit of all Montanans."

Section 32. Section 90-2-1103, MCA, is amended to read:

"90-2-1103. Definitions. As used in this part, the
following definitions apply:

{1}--"Board" means the board of natural resources and
conservation provided for in 2-15-3382.

{2}{1} "Department" means the department of natural
resources and conservation provided for in Title 2, chapter
15, part 33.

{3}{2} "Financially feasible" means that adequate funds
are available to complete the project as approved.

{4}{3} "Mineral" means any precious stones or gems,

gold, silver, copper, coal, lead, petroleum, natural gas,
oil, uranium, or other nonrenewable merchantable products
extracted from the surface or subsurface of the state of
Montana.

{5}{4} "Mineral development" means exploration,
extraction, processing, or other activity related to the
production of a mineral.

{6}{5} "Mitigation" means the act of rectifying an
impact by repairing, rehabilitating, or restoring the
affected environment; reducing or eliminating an impact over
time by operations that preserve or maintain the
environment; or compensating for an impact by replacing or
providing substitute resources or habitats.

{7}{6} "Project" means a planned and coordinated action
or series of actions addressing an objective consistent with
the policy and purpose of the reclamation and development
grants program. A project may consist of problem analysis,
feasibility or design studies, environmental monitoring,
remedial action plans or implementation, technology
demonstration, research, construction or acquisition of
capital facilities, or other related actions.

{8}{7} "Public benefits" means those benefits that
accrue to citizens as a group and enhance the common
well-being of the people of Montana.

{9}{8} "Public resources" means the natural resources

of the state, including air, water, soil, minerals, vegetation, and fish and wildlife, and the economic, social, and cultural conditions of Montana citizens.

~~{10}~~(9) "Reclamation and development grants account" means the reclamation and development grants special revenue account established in 90-2-1104.

~~{11}~~(10) "Technically feasible" means that a project or activity can be designed, constructed, operated, or carried out to accomplish its objectives, utilizing accepted engineering and other technical principles and concepts."

~~Section 32,--Section 90-2-1104, MCA, is amended to read:~~

~~"90-2-1104,--Reclamation and development grants account.~~

~~{1}--There--is--a--reclamation--and--development--grants--special--revenue--account--within--the--state--special--revenue--fund established in 17-2-102.~~

~~{2}--There--must--be--paid--into--the--reclamation--and development grants account money allocated from:~~

~~{a}--the--interest--income--of--the--resource--indemnity--trust fund under the provisions of 15-38-202, and~~

~~{b}--the--resource--indemnity--trust--tax--under--the provisions of 15-38-106.~~

~~{3}--Appropriations may be made from the reclamation and development grants account for the following purposes:~~

~~{a}--grants for designated projects, and~~

~~{b}--administrative expenses, including the salaries and~~

~~expenses of personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grants program. These expenses may be funded prior to funding of projects."~~

SECTION 33. SECTION 90-2-1104, MCA, IS AMENDED TO READ:

~~"90-2-1104. Reclamation and development grants account.~~

~~(1) There is a reclamation and development grants special revenue account within the state special revenue fund established in 17-2-102.~~

~~(2) There must be paid into the reclamation and development grants account money allocated from:~~

~~(a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202; and~~

~~(b) the resource indemnity trust tax under the provisions of 15-38-106.~~

~~(3) Appropriations may be made from the reclamation and development grants account for the following purposes:~~

~~(a) grants for designated projects; and~~

~~(b) administrative expenses, including the salaries and expenses of personnel, equipment, office space, and other expenses necessarily incurred in the administration of the grants program. These expenses may be funded prior to funding of projects."~~

Section 34. Section 90-2-1105, MCA, is amended to read:

~~"90-2-1105. Adoption of rules. The board department may~~

adopt rules to:

- (1) prescribe the form and content of applications for grants;
- (2) describe the terms and conditions of making grants;
- (3) prescribe a monitoring program to evaluate the effectiveness of funded projects; and
- (4) develop any other procedures necessary to accomplish the objectives of the reclamation and development grants program."

Section 35. ~~Section 90-2-1112, MCA, is amended to read:~~

~~"90-2-1112. Eligibility requirements. (1) Except as provided under subsection (2), to be eligible for funding under the reclamation and development grants program, the proposed project must:~~

~~(a) provide benefits in one or more of the following categories:~~

~~(a)(i) reclamation of land, water, or other resources adversely affected by mineral development;~~

~~(b)(ii) mitigation of damage to public resources caused by mineral development;~~

~~(c)(iii) research, demonstration, or technical assistance to promote the wise use of Montana minerals, including efforts to make processing more environmentally compatible;~~

~~(d)(iv) investigation and remediation of sites where~~

~~hazardous wastes or regulated substances threaten public health or the environment; and~~

~~(e)(v) research to assess existing or potential environmental damage resulting from mineral development;~~

~~(2) If sufficient eligible and qualified applications satisfying the mineral development objectives provided for in subsection (1) are not received or if there is a crucial state need, the department may evaluate and the governor may recommend that the legislature approve funding for projects that:~~

~~(a) enhance Montana's economy through the development of natural resources; or~~

~~(b) develop, promote, protect, or further Montana's total environment and public interest, including the general health, safety, welfare, and public resources of Montana citizens and communities;~~

~~(3) To be eligible for funding under the reclamation and development grants program, a project must:~~

~~(a)(b) be technically and financially feasible;~~

~~(b)(c) be the best cost-effective alternative to address a problem or attain an objective;~~

~~(c)(d) comply with statutory and regulatory standards protecting environmental quality; and~~

~~(d)(e) be from an applicant able and willing to enter into a contract with the department for the implementation~~

of the proposed project or activity,

(4)(2) A project is not eligible for funding under the reclamation and development grants program to the extent that the project is eligible for and can reasonably be expected to receive funding from other state or federal reclamation programs or any other program or act that provides funding to accomplish remedial action for environmental damage or if the project is permitted under Title 82, chapter 4 or 11.

(5)(3) A proposed project is not eligible for funding under the reclamation and development grants program if there is a liable party who would be relieved of financial or legal responsibility and who can reasonably be expected to be held responsible."

Section 36. Section 90-2-1121, MCA, is amended to read:

"90-2-1121. Prohibited compensation to public officers or employees. (1) No A member, officer, attorney, or other employee of the board or the department may not directly or indirectly be the beneficiary of or receive any fee, commission, gift, or other consideration in connection with any transaction or business under the reclamation and development grants program other than the salary, fee, or other compensation that he a person may receive as a member, officer, attorney or employee.

(2) A person convicted of violating any provision of

this section shall be punished by a fine not to exceed \$2,000 plus the value of any consideration illegally received or by imprisonment for a term not to exceed 2 years, or both. Any fines collected under this section must be deposited in the reclamation and development grants account."

NEW SECTION. Section 37. Policy and purpose. It is the public policy of the state to promote, stimulate, and encourage the planning and development of the economy of the state in order to provide for the social and economic prosperity of its citizens. Rural economic planning, expansion of existing industry, greater diversification of industry and attraction of additional industry, creation of new uses for agricultural products, greater emphasis on development of new products, and the attainment of a proper balance in the overall economic base are all necessary in order to create additional employment opportunities, increase personal income, and promote the general welfare of the people of this state.

NEW SECTION. Section 38. Definitions. As used in sections 38 through 45, the following definitions apply:

(1) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(2) "Financially feasible" means that adequate funds

are available to complete the project as approved.

{3}--"Project" means a planned and coordinated action or series of actions addressing an objective consistent with the policy and purpose of the rural economic revitalization grants program.

{4}--"Public benefits" means those benefits that accrue to citizens as a group and that enhance the common well-being of the people of Montana.

{5}--"Public resources" means the natural resources of the state, including air, water, soil, minerals, vegetation, and fish and wildlife, and the economic, social, and cultural conditions of Montana citizens.

{6}--"Technically feasible" means that a project or activity can be designed, constructed, operated, or carried out to accomplish its objectives, using accepted engineering and other technical principles and concepts.

NEW SECTION. Section 39. Rural economic revitalization account. {1}--There is a rural economic revitalization account within the state special revenue fund established in 17-2-102.

{2}--There must be paid into the rural economic revitalization account money allocated from the interest income of the resource indemnity trust fund under the provisions of 15-38-202.

{3}--Appropriations may be made from the rural economic

revitalization account for the following purposes:

{a}--grants for designated projects; and

{b}--administrative expenses, including the salaries and expenses of personnel and equipment, office space, and other expenses necessarily incurred in the administration of the rural economic revitalization grants program. These expenses may be funded prior to funding of projects.

NEW SECTION. Section 40. Adoption of rules. The department may adopt rules to:

{1}--prescribe the form and content of applications for grants;

{2}--describe the terms and conditions of making grants;

{3}--prescribe a monitoring program to evaluate the effectiveness of funded projects; and

{4}--develop any other procedures necessary to accomplish the objectives of the rural economic revitalization grants program.

NEW SECTION. Section 41. Rural economic revitalization grants program. {1}--Any department, agency, board, commission, or other division of state government, any city, county, or other political subdivision, or any tribal government within the state may apply, in accordance with the procedures established by the department, for a grant from the rural economic revitalization account for a project that is consistent with the policy and purpose of the rural

economic-revitalisation-grants-program.

{2}--The department shall evaluate applications under the eligibility criteria provided in {section 42} and the evaluation criteria provided in {section 43}.

{3}--The department shall solicit and consider in its evaluation of applications the views of interested persons and public agencies.

{4}--Based on its evaluation of eligible applications, the department shall recommend to the governor projects to receive grants from the rural economic revitalization account.

{5}--The governor shall submit all proposals, with recommended priorities, to the legislature. The legislature may approve by appropriation or other appropriate means grants for those projects it finds consistent with the policies and purposes of the rural economic revitalization grants program. The department shall administer and oversee the grants to approved projects and monitor the projects.

NEW SECTION. Section 42. Eligibility requirements. {1}--To be eligible for funding under the rural economic revitalization grants program, the proposed project must provide public benefits in one or more of the following categories:

{a}--enhance Montana's economy through the development of natural resources; or

{b}--develop, promote, protect, or further Montana's total environment and public resources;

{2}--To be eligible for funding under the rural economic revitalization grants program, a project must:

{a}--be technically and financially feasible;

{b}--be the best cost-effective alternative to address a problem or attain an objective;

{c}--comply with statutory and regulatory standards protecting environmental quality; and

{d}--be from an applicant able and willing to enter into a contract with the department for the implementation of the proposed project.

NEW SECTION. Section 43. Evaluation criteria. The department shall consider the following criteria in evaluating eligible applications and in selecting projects to be recommended to the governor for funding:

{1}--the degree to which the project provides economic revitalization to an area or region;

{2}--the degree to which the project will improve the local tax base;

{3}--the degree to which the project will result in higher income levels;

{4}--the degree to which the project will reduce unemployment;

{5}--the degree to which the project creates new jobs;

1 {6}--the--degree--to--which--the--project--improves--the
2 quality-of-life;

3 {7}--the--degree--to--which--the--project--enhances--local
4 leadership; and

5 {8}--any---other---criteria---the--department--considers
6 necessary-to-carry-out-the--policies--and--purposes--of--the
7 rural-economic-revitalization-grants-program;

8 NEW SECTION. **Section 44.** Conditions-----of-----grants.
9 Disbursement--of--grant--funds--under--this--part--is--subject--to
10 the--following--conditions,--which--must--be--met--by--project
11 sponsors:

12 {1}--A--scope-of-work-and-budget-for-the-project-must-be
13 approved-by-the-department. Reduction-in-the-scope--of--work
14 or---budget---may---not---affect---priority---activities--or
15 improvements;

16 {2}--Other-funds-required-for--project--completion--must
17 have-been-committed-and-the-commitment-must-be-documented;

18 {3}--An--agreement--between-the-department-and-the-grant
19 applicant-must-be-executed-in-a-timely-manner;--taking--into
20 consideration--any--changed-conditions-or-circumstances-that
21 govern-the-administration-and-disbursement-of-funds;

22 {4}--Any---other---specific---requirements---must---be
23 accomplished--as--considered--necessary-by-the-department-to
24 accomplish-the-purpose-of-the-grant-as--evidenced--from--the
25 application--to--the--department--or--the--proposal--to--the

1 legislatures

2 NEW SECTION. **Section 45.** Prohibited---compensation--to--
3 public-officers-or--employees-----penalty:--(1)--A--member,
4 officer,--attorney,--or--other-employee-of-the-department-may
5 not-directly-or-indirectly-be-the-beneficiary-of-or--receive
6 any---fee,--commission,--gift,--or--other--consideration--in
7 connection-with-any-transaction-or-business-under-the--rural
8 economic---revitalization-grants-program--other--than--the
9 salary,--fee,--or--other-compensation--that--person--may--receive
10 as-a-member, officer, attorney, or employee;

11 {2}--A--person--convicted--of--violating-any-provision-of
12 this-section-shall-be-punished--by--a--fine--not--to--exceed
13 \$2,000---plus--the--value--of--any--consideration--illegally
14 received-or-by-imprisonment-for--a--term--not--to--exceed--2
15 years,--or--both. Any-fines-collected-under-this-section-must
16 be-deposited-in-the-rural-economic-revitalization-account;

17 NEW SECTION. **Section 35.** Repealer. Sections 85-1-607,
18 90-2-101, 90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108,
19 90-2-109, 90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122,
20 90-2-123, 90-2-124, 90-2-125, 90-2-126, 90-2-127, and
21 90-2-128, MCA, are repealed.

22 NEW SECTION. **Section 47.** Codification-----instruction--
23 {Sections-37-through-45}--are-intended-to-be-codified--as--an
24 integral-part--of--Title--90,--chapter--2,--part--1,--and--the
25 provisions--of--Title--90,--chapter--2,--part--1,--apply--to

1 {sections-37-through-45}r

2 NEW SECTION. Section 36. Effective dates. (1)

3 [Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36] are
4 effective July 1, 1993.

5 (2) [Section SECTIONS 3 2 AND 4] is ARE effective July
6 1, 1995.

7 NEW SECTION. SECTION 37. TERMINATION. [SECTION 1]

8 TERMINATES JUNE 30, 1995.

-End-

HOUSE BILL NO. 608

INTRODUCED BY BERGSAGEL, J. RICE, PECK, BACHINI, GRINDE,

B. BROWN, HOCKETT, SWYSGOOD, WEEDING, HARP, BOHARSKI

BY REQUEST OF THE DEPARTMENT OF

NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ALLOCATING A PORTION OF~~
~~THE RESOURCE INDEMNITY TAX PROCEEDS;~~ ALLOCATING A PORTION OF
THE RESOURCE INDEMNITY TAX PROCEEDS; ESTABLISHING MINIMUM
 FUNDING LEVELS FOR GRANT PROGRAMS; CHANGING THE DISTRIBUTION
 OF INTEREST EARNINGS FROM THE RESOURCE INDEMNITY TRUST FUND;
 COMBINING THE WATER DEVELOPMENT AND RENEWABLE RESOURCE
 DEVELOPMENT PROGRAMS TO CREATE THE RENEWABLE RESOURCE GRANT
 AND LOAN PROGRAM; REINVESTING THE INTEREST EARNINGS OF THE
 WATER STORAGE STATE SPECIAL REVENUE ACCOUNT; ~~REMOVING THE~~
~~CRUCIAL-STATE-NEED-FUNDING-CATEGORY-FROM-THE-RECLAMATION-AND~~
~~DEVELOPMENT-GRANTS-PROGRAM-AND-LIMITING-FUNDING-TO-MINERAL~~
~~RECLAMATION-PROJECTS;---CREATING---THE---RURAL---ECONOMIC~~
~~REVITALIZATION-PROGRAM-THAT-WILL-FUND-PROJECTS-THAT--PROMOTE~~
~~AND--IMPROVE-MONTANA'S-ECONOMY;~~ AMENDING SECTIONS ~~15-38-106,~~
~~15-38-106,~~ 15-38-202, 17-5-701, 17-5-702, 17-5-706,
 85-1-102, 85-1-601, 85-1-602, 85-1-603, 85-1-604, 85-1-605,
 85-1-606, 85-1-608, 85-1-609, 85-1-610, 85-1-611, 85-1-612,
 85-1-613, 85-1-614, 85-1-615, 85-1-616, 85-1-617, 85-1-618,
 85-1-619, 85-1-620, 85-1-621, 85-1-623, 85-1-631, 85-2-105,

90-2-1102, 90-2-1103, 90-2-1104, 90-2-1104, AND 90-2-1105,
 90-2-1112, ~~AND 90-2-1121,~~ MCA; REPEALING SECTIONS 85-1-607,
 90-2-101, 90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108,
 90-2-109, 90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122,
 90-2-123, 90-2-124, 90-2-125, 90-2-126, 90-2-127, AND
 90-2-128, MCA; AND PROVIDING EFFECTIVE DATES AND A
TERMINATION DATE."

STATEMENT OF INTENT

This bill is introduced as a result of a legislative
 request to combine the water development and renewable
 resource development programs. These grant and loan programs
 have been administered as essentially one program for the
 past 4 bienniums. The renewable resource grant and loan
 program keeps the critical elements of both the water
 development and renewable resource development programs and
 does not expand either eligible projects or eligible
 applicants.

~~This bill removes the "crucial state need" funding~~
~~category from the reclamation and development grants program~~
~~and limits funding to mineral reclamation projects in place~~
~~of the "crucial state need" category, the rural economic~~
~~revitalization program is established to fund projects that~~
~~promote and improve Montana's economy. These two programs~~
~~will now have clear and specific goals. This bill will~~

~~simplify the programs, making it easier to administer the programs and foster better public understanding.~~

The long-range planning subcommittee of the appropriations and finance and claims committees stated its intent to establish minimum funding levels for these grant programs in House Bill No. 6 (Chapter 551, Laws of 1991) and House Bill No. 8 (Chapter 552, Laws of 1991) passed by the 1991 legislature. Over the past several bienniums grant funding has decreased. At the same time, revenues allocated to the water development, renewable resource development, and reclamation and development accounts have increased. Appropriations to natural resource agencies have made up the difference and have increased at a rate surpassing the growth in resource indemnity trust (RIT) interest income. This bill establishes minimum funding levels for the renewable resource grant and loan program, the reclamation and development grants program, the rural economic revitalization program, and the water storage account.

In order to reflect the combining of the water development and renewable resource development programs, the allocation of interest earnings from the RIT is changed. Currently, 30% and 8%, respectively, of the RIT interest earnings are allocated to water development and the renewable resource development state special revenue accounts. This bill would eliminate these accounts. In their

place, the renewable resource grant and loan program state special revenue account would be established and 38% of the RIT interest earnings would be allocated to this account.

~~Resource indemnity tax proceeds are allocated to the renewable resource grant and loan program and the reclamation and development grants state special revenue accounts. This will assure funding for the operation of state natural resource agencies.~~

RESOURCE INDEMNITY TAX PROCEEDS ARE ALLOCATED TO THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM AND THE RECLAMATION AND DEVELOPMENT GRANTS STATE SPECIAL REVENUE ACCOUNTS. THIS WILL ENSURE FUNDING FOR THE OPERATION OF STATE NATURAL RESOURCE AGENCIES.

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

~~Section 15-38-106, MCA, is amended to read:~~

~~15-38-106. (Temporary) Payment of tax records collection of taxes and refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.~~

~~(2) The department shall deposit the proceeds of the~~

tax---in---the---resource---indemnity---trust--fund--of--the
nonexpendable-trust-fund-type. Every person to whom the tax
applies shall keep records in accordance with 15-38-105, and
the records are subject to inspection by the department upon
reasonable notice during normal business hours.

{3}--The--department--shall--examine--the--statement--and
compute the taxes thereon, and the amount computed by the
department shall be the taxes imposed, assessed against, and
payable--by--the--taxpayer. If the tax found to be due is
greater than the amount paid, the excess shall must be paid
by the taxpayer to the department within 30 days after
written notice of the amount of deficiency is mailed by the
department to the taxpayer. If the tax imposed is less than
the amount paid, the difference must be applied as a tax
credit--against--tax--liability--for--subsequent--years--or
refunded if requested by the taxpayer.

15-38-106. (Effective July 1, 1993) Payment of tax---
records-----collection--of--taxes-----refunds. {1} The tax
imposed by this chapter shall must be paid by each person to
which the tax applies, on or before March 31, on the value
of--product--in--the--year--preceding--January--1--of--the--year--in
which the tax is paid. The tax shall must be paid to the
department at the time the statement of yield for the
preceding calendar year is filed with the department.

{2}--The--department--shall--deposit--the--proceeds--of--the

tax---in---the---resource---indemnity---trust--fund--of--the
nonexpendable-trust-fund-type, except that:

{a}--14% of the proceeds must be deposited in the
ground-water-assessment-account-established-by-85-2-905,

{b}--20% of the proceeds must be deposited in the
renewable resource grant and loan program state special
revenue account established by 85-1-604; and

{c}--20% of the proceeds must be deposited in the
reclamation and development grants account established by
90-2-1104.

{3}--Every person to whom the tax applies shall keep
records in accordance with 15-38-105, and the records are
subject to inspection by the department upon reasonable
notice during normal business hours.

{3}{4}--The department shall examine the statement and
compute the taxes thereon, and the amount computed by the
department shall must be the taxes imposed, assessed
against, and payable by the taxpayer. If the tax found to be
due is greater than the amount paid, the excess shall must
be paid by the taxpayer to the department within 30 days
after written notice of the amount of deficiency is mailed
by the department to the taxpayer. If the tax imposed is
less than the amount paid, the difference must be applied as
a tax credit against tax liability for subsequent years or
refunded if requested by the taxpayer."

SECTION 1. SECTION 15-38-106, MCA, IS AMENDED TO READ:

"15-38-106. (Temporary) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine the statement and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or

refunded if requested by the taxpayer.

15-38-106. (Effective July 1, 1993) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall must be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type, except that:

(a) 14.1% of the proceeds must be deposited in the ground water assessment account established by 85-2-905;

(b) 15% of the proceeds must be deposited in the renewable resource grant and loan program state special revenue account established by 85-1-604; and

(c) 15% of the proceeds must be deposited in the reclamation and development grants account established by 90-2-1104.

(3) Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

~~(3)~~(4) The department shall examine the statement and

compute the taxes thereon, and the amount computed by the department shall must be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

SECTION 2. SECTION 15-38-106, MCA, IS AMENDED TO READ:

"15-38-106. (Temporary) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine the statement and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.

15-38-106. (Effective July 1, 1993 1995) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall must be paid to the department at the time the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type, except that:

(a) 14.1% of the proceeds must be deposited in the ground water assessment account established by 85-2-905;

(b) 10% of the proceeds must be deposited in the

1 renewable resource grant and loan program state special
2 revenue account established by 85-1-604; and

3 (c) 30% of the proceeds must be deposited in the
4 reclamation and development grants account established by
5 90-2-1104.

6 (3) Every person to whom the tax applies shall keep
7 records in accordance with 15-38-105, and the records are
8 subject to inspection by the department upon reasonable
9 notice during normal business hours.

10 (3)(4) The department shall examine the statement and
11 compute the taxes thereon, and the amount computed by the
12 department shall must be the taxes imposed, assessed
13 against, and payable by the taxpayer. If the tax found to be
14 due is greater than the amount paid, the excess shall must
15 be paid by the taxpayer to the department within 30 days
16 after written notice of the amount of deficiency is mailed
17 by the department to the taxpayer. If the tax imposed is
18 less than the amount paid, the difference must be applied as
19 a tax credit against tax liability for subsequent years or
20 refunded if requested by the taxpayer."

21 **Section 3.** Section 15-38-202, MCA, is amended to read:

22 "15-38-202. Investment of resource indemnity trust fund
23 -- expenditure -- minimum balance. (1) All money paid into
24 the resource indemnity trust fund, including money payable
25 into the fund under the provisions of 15-37-117, shall must

1 be invested at the discretion of the board of investments.
2 All the net earnings accruing to the resource indemnity
3 trust fund shall must annually be added to the trust fund
4 until it has reached the sum of \$10 million. Thereafter,
5 only the net earnings may be appropriated and expended until
6 the fund reaches \$100 million. Thereafter, all net earnings
7 and all receipts shall must be appropriated by the
8 legislature and expended, provided that the balance in the
9 fund may never be less than \$100 million.

10 (2) (a) At the beginning of each biennium, there is
11 allocated from the interest income of the resource indemnity
12 trust fund:

13 (i) an amount not to exceed \$175,000 to the
14 environmental contingency account pursuant to the conditions
15 of 75-1-1101; and

16 (ii) ~~beginning--in--fiscal--year--1992,~~ an amount not to
17 exceed \$50,000 to the oil and gas production damage
18 mitigation account pursuant to the conditions of 82-11-161;

19 (iii) ~~\$17,600,000~~ \$1,025,000 to be deposited into the
20 renewable resource grant and loan program state special
21 revenue account, created by 85-1-604, for the purpose of
22 making grants;

23 (iv) ~~\$17,600,000~~ ~~\$2,400,000~~ \$2,200,000 to be deposited
24 into the reclamation and development grants state special
25 revenue account, created by 90-2-1104, for the purpose of

1 making grants; AND
 2 {v}--\$800,000--to--be--deposited--into--the--rural--economic
 3 revitalisation--state--special--revenue--account--created--by
 4 {section-39}--for--the--purpose--of--making--grants--and
 5 {vi}{V} beginning in fiscal year 1994, \$400,000
 6 \$250,000 to be deposited into the water storage state
 7 special revenue account created by 85-1-631.
 8 (b) The remainder of the interest income is allocated
 9 as follows:
 10 (i) Beginning-in-fiscal-year-1982,--provided--the--amount
 11 in--the--resource--indemnity--trust--fund--is--greater--than--\$10
 12 million, 30% Thirty-eight percent of the interest income of
 13 the resource indemnity trust fund must be allocated to the
 14 water-development renewable resource grant and loan program
 15 state special revenue account created by 85-1-604.
 16 (ii) Beginning--in--fiscal-year-1988,--12% Twelve SIXTEEN
 17 FIFTEEN percent of the interest income of the resource
 18 indemnity trust fund must be allocated to the hazardous
 19 waste/CERCLA special revenue account provided for in
 20 75-10-621.
 21 (iii) Beginning--in--fiscal-year-1990,--0%--of--the--interest
 22 income--from--the--resource--indemnity--trust--fund--must--be
 23 allocated--to--the--renewable--resource--development--account
 24 provided--for--in--Title-90,--chapter-2.
 25 {iv}--Beginning-in-fiscal-year-1990,--46% Forty-six FORTY

1 FORTY-ONE AND ONE-HALF percent of the interest income from
 2 the resource indemnity trust fund must be allocated to the
 3 reclamation and development grants account provided for in
 4 90-2-1104.
 5 {v}{iv} Beginning-in-fiscal-year-1990,--4% Four SIX FIVE
 6 AND ONE-HALF percent of the interest income of the resource
 7 indemnity trust fund must be allocated to the environmental
 8 quality protection fund provided for in 75-10-704.
 9 (3) Any formal budget document prepared by the
 10 legislature or the executive branch that proposes to
 11 appropriate funds from the resource indemnity trust interest
 12 account other than as provided for by the allocations in
 13 subsection (2) must specify the amount of money from each
 14 allocation that is proposed to be diverted and the proposed
 15 use of the diverted funds. A formal budget document includes
 16 a printed and publicly distributed budget proposal or
 17 recommendation, an introduced bill, or a bill developed
 18 during the legislative appropriation process or otherwise
 19 during a legislative session."
 20 **Section 4.** Section 15-38-202, MCA, is amended to read:
 21 "15-38-202. {Effective July 1, 1995} Investment of
 22 resource indemnity trust fund -- expenditure -- minimum
 23 balance. (1) All money paid into the resource indemnity
 24 trust fund, including money payable into the fund under the
 25 provisions of 15-37-117, shall must be invested at the

discretion of the board of investments. All the net earnings accruing to the resource indemnity trust fund shall must annually be added to the trust fund until it has reached the sum of \$10 million. Thereafter, only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts shall must be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101; and

(ii) ~~beginning--in--fiscal--year--1992,~~ an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161;

(iii) beginning in fiscal year 1996, \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iv) beginning in fiscal year 1996, \$2 \$3 million to be deposited into the reclamation and development grants state special revenue account, created by 90-2-1104, for the

purpose of making grants; AND

~~(v)--beginning-in-fiscal-year-1996,--\$1--million--to--be deposited--into--the--rural--economic--revitalisation--state special--revenue--account,--created-by--{section-39},--for--the purpose-of-making-grants,--and~~

(vi)(V) beginning in fiscal year 1996, \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(b) The remainder of the interest income is allocated as follows:

(i) ~~Beginning--in--fiscal--year--1982,--provided--the--amount in--the--resource--indemnity--trust--fund--is--greater--than--\$10 million,--30% Thirty-eight THIRTY-SIX percent~~ of the interest income of the resource indemnity trust fund must be allocated to the water-development renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) ~~Beginning-in-fiscal-year-1988,--12% Twelve~~ EIGHTEEN percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

~~(iii) Beginning--in--fiscal--year--1990,--8%--of--the--interest income--from--the--resource--indemnity--trust--fund--must--be allocated--to--the--renewable--resource--development--account provided--for--in--Title--90,--chapter--2.~~

~~(iv)~~-Beginning-in-fiscal-year-1998-46% Forty-six FORTY
percent of the interest income from the resource indemnity
trust fund must be allocated to the reclamation and
development grants account provided for in 90-2-1104.

~~(v)~~(iv) Beginning--in--fiscal--year--1998,--4% Four SIX
percent of the interest income of the resource indemnity
trust fund must be allocated to the environmental quality
protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the
legislature or the executive branch that proposes to
appropriate funds from the resource indemnity trust interest
account other than as provided for by the allocations in
subsection (2) must specify the amount of money from each
allocation that is proposed to be diverted and the proposed
use of the diverted funds. A formal budget document includes
a printed and publicly distributed budget proposal or
recommendation, an introduced bill, or a bill developed
during the legislative appropriation process or otherwise
during a legislative session."

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

"17-5-701. State of Montana coal severance tax bonds.
This part provides for the issuance of state of Montana coal
severance tax bonds (also referred to as coal severance tax
bonds in this part) to:

(1) finance water---resource---development renewable

resource projects and-activities in the state designed to
provide, during and after extensive coal mining, a healthy
economy, the alleviation of social and economic impacts
created by coal development, and a clean and healthful
environment for present and future generations; and

(2) finance loans to local governments for
infrastructure projects under Title 90, chapter 6, part 7."

Section 6. Section 17-5-702, MCA, is amended to read:

"17-5-702. Purpose and intent. (1) The purpose of the
coal severance tax trust fund bond provisions of this part
is to establish the authority to issue and sell coal
severance tax bonds that have been approved by act of the
legislature for financing specific water---resource
development renewable resource projects and--activities in
the state authorized by the legislature and to guarantee
redemption of such the bonds by revenue derived from the
receipts from the coal severance tax imposed by Title 15,
chapter 35, part 1, and such other money as the legislature
may from time to time determine.

(2) The legislature intends that projects to be
financed by coal severance tax bonds include water---resource
development renewable resource projects and-activities as
part of the water-development program established in Title
85, chapter 1, part 6. The legislature further intends that
the income from water---resource---development renewable

resource projects and--activities in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the water development renewable resource grant and loan program state special revenue account established in 85-1-604."

Section 7. Section 17-5-706, MCA, is amended to read:

"17-5-706. Authority to issue coal severance tax bonds. The board of examiners, upon approval of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance such approved water--resource development renewable resource projects and-activities when authorized to do so by any law that sets out the amount and purpose of the issue. Each project or-activity-shall must be separately approved as to amount by a two-thirds vote of each house of the legislature."

Section 8. Section 85-1-102, MCA, is amended to read:

"85-1-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Administrative costs" means costs incurred by the department:

(a) for the purpose of protecting the department's properties and assets;

(b) to oversee the operation and maintenance of the projects;

(c) to administer contracts and receivables;

(d) to maintain project financial records;

(e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

(f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(3) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine repairs and the costs incurred by the water users' association or the department in the distribution of water from the project, excluding the department's administrative costs.

(4) "Cost of works" means the cost of construction, including any rehabilitation or alteration of the project; the cost of all lands, property, rights, easements, and franchises acquired which are deemed necessary for the construction; the cost of all water rights acquired or exercised by the department in connection with those works; the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period not exceeding 3 years after the completion of construction; cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of any project; administrative

expense; and other expenses as may be necessary or incident to the financing authorized in this part and the construction of the works and the placing of the works in operation.

(5) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(6) "Owner" means all individuals, irrigation districts, drainage districts, flood control districts, incorporated companies, societies, or associations having any title or interest in any properties, rights, easements, or franchises to be acquired.

(7) "Private person" means any individual, association, partnership, corporation, or other nongovernmental entity not eligible for loans and grants under 85-1-605 but does not include a governmental entity such as an agency, local government, or political subdivision of the state, the United States, or any agency thereof, or any other governmental entity.

(8) "Project" means any one of the works defined in this section or any combination of works which are physically connected or jointly managed and operated as a single unit.

(9) "Public benefits" means those benefits that accrue from a water development project or activity to persons

other than the private grant or loan recipient and that enhance the common well-being of the people of Montana. Public benefits include but are not limited to recreation, flood control, erosion reduction, agricultural flood damage reduction, water quality enhancement, sediment reduction, access to recreation opportunities, and wildlife conservation.

(10) "Renewable resource grant and loan program state special revenue account" means a separate account created by 85-1-604 within the state special revenue fund of the state treasury for the purposes of the water development program as set forth in 85-1-604.

(11) "Renewable resource loan debt service fund" means a separate fund created by 85-1-603 within the debt service fund type of the state treasury to be used as provided in 85-1-619.

~~(10)~~(12) "Water--development Renewable resource loan proceeds account" means a separate account created by 85-1-617 within the state special revenue fund of the state treasury to finance loans under the provisions of the water development renewable resource grant and loan program to agencies, local governments, and political subdivisions of the state, private persons, and any other eligible recipients and to purchase liens and operate property, as provided in 85-1-615, from proceeds of bonds issued under

part 6 of this chapter.

~~(11)~~(13) "Water development activity" means an action or program to protect and enhance water-based recreation or to protect or enhance water resources for the benefit of agriculture, flood control, or other uses, including but not limited to the promotion of efficient use of water in agriculture, the improvement of water quality in agriculture and other nonpoint source uses, the protection and enhancement of water-based recreation, the control of erosion of streambanks and control of sedimentation of rivers and streams, and providing greater local and state control of Montana water resources. Water development activities may provide any combination of marketable and nonmarketable benefits.

~~(12)~~"Water--development--debt--service--fund"--means--a separate--fund--created--by--85-1-603--within--the--debt--service fund--type--of--the--state--treasury--to--be--used--as--provided--in 85-1-619.

~~(13)~~(14) "Water development project" means a project as defined in subsection (8), except that water development projects:

(a) are not limited to projects owned or operated by the department; and

(b) for purposes of the renewable resource grant and loan program, must include water development activities.

~~(14)~~"Water--development--state--special--revenue--account" means--a--separate--account--created--by--85-1-604--within--the state--special--revenue--fund--of--the--state--treasury--for--the purposes--of--the--water--development--program--as--set--forth--in 85-1-604.

(15) "Works" means all property and rights, easements, and franchises relating to property and considered necessary or convenient for the operation of the works and all water rights acquired or exercised by the department in connection with those works and includes all means of conserving and distributing water, including, without limiting the generality of the foregoing, reservoirs, dams, diversion canals, distributing canals, waste canals, drainage canals, dikes, lateral ditches and pumping units, mains, pipelines, and waterworks systems and includes all works for the conservation, development, storage, distribution, and utilization of water, including without limiting the generality of the foregoing, works for the purpose of irrigation, flood prevention, drainage, fish and wildlife, recreation, development of power, watering of stock, supplying of water for public, domestic, industrial, or other uses and for fire protection."

Section 9. Section 85-1-601, MCA, is amended to read:

"85-1-601. Purpose and policies. (1) The legislature finds and declares that in order that the people of Montana

may enjoy the full-economic-and-recreational benefits of the state's water and other renewable resources, the state must establish this long-term water---development renewable resource grant and loan program providing financial and administrative assistance to private for-profit, private nonprofit, local government, and state government entities for water renewable resource development grant and loan projects and-activities.

(2) The purpose of the water--development renewable resource grant and loan program is to further the state's policies, set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources and to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic and other benefits of the state's natural heritage.

(3) The legislature recognizes that-water-is-one-of-the most-valuable-and-important the value of Montana's renewable resources in-Montana; therefore, it is appropriate that a portion of the taxes and other revenue from on-the-removal of nonrenewable resources be dedicated-to-the--conservation, development,--and-beneficial-use-of-water-resources invested in the replacement of nonrenewable resources with the development of renewable resource projects that will continue to provide tax and other revenue and will preserve for the citizens the economic and other benefits of the

state's natural heritage.

(4) The conservation, development, management, and preservation of water and other renewable resources is-of--a are high priority priorities because a large portion of Montana's present and future economy is based either directly or indirectly on the wise use of water these resources.

(5) Developments supported by this part may not significantly diminish the quality of existing public resources, such as land, air, fish, wildlife, and recreation opportunities.

(5)(6) This water-development renewable resource grant and loan program is-an-integral supports, in part, of the implementation and development of the comprehensive, coordinated, multiple-use water resources plan known as the "state water plan". In making funding recommendations for grants and loans, the department shall give preference to projects that will implement state water plan priorities if, in all other respects, the proposed projects are equal in public benefit and technical feasibility."

Section 10. Section 85-1-602, MCA, is amended to read:

"85-1-602. Objectives. (1) The department shall administer a water-development renewable resource grant and loan program to accomplish-such-objectives-as-rehabilitation of--state-owned--water--projects--and--works;--promotion--of

1 ~~private, local, government, and state water development,~~
 2 enhance Montana's renewable resources through projects that
 3 measurably conserve, develop, manage, or preserve resources.
 4 Either grants or loans may be provided to fund the
 5 following:

6 (a) feasibility, design, research, and resource
 7 assessment studies;

8 (b) preparation of construction, rehabilitation, or
 9 production plans; and

10 (c) construction, rehabilitation, production,
 11 education, or other implementation efforts.

12 (2) Projects that may enhance renewable resources in
 13 Montana include but are not limited to:

14 (a) development of water-based natural resource-based
 15 recreation and the protection of water resources for the
 16 benefit of agriculture, flood control, and other uses;

17 (b) development of offstream and tributary storage;

18 (c) encouragement of projects or programs that improve
 19 improvement of water use efficiency, including development
 20 of new, efficient water systems, rehabilitation of older,
 21 less efficient water systems, and acquisition and
 22 installation of measuring devices required under 85-2-113;
 23 and development of state-tribal, state-federal, and
 24 state-tribal-federal water projects; and

25 (d) advancement of farming practices that reduce

1 agricultural chemical use. The storage of water for existing
 2 and future beneficial uses shall be given the highest
 3 priority unless a water development project or activity
 4 designed to accomplish another objective is demonstrated to
 5 be more beneficial to a greater number of people.

6 (3) The water development renewable resource grant and
 7 loan program is the key implementation portion of the state
 8 water plan and shall must be administered to encourage grant
 9 and loan applications for projects designed to accomplish
 10 the objectives of the plan."

11 **Section 11.** Section 85-1-603, MCA, is amended to read:

12 "85-1-603. Water development Renewable resource loan
 13 debt service fund created -- coal severance tax allocated --
 14 water development renewable resource loan loss reserve fund
 15 created. (1) (a) There is created a water development
 16 renewable resource loan debt service fund within the debt
 17 service fund type established in 17-2-102.

18 (b) The state pledges and allocates and directs to be
 19 credited to the water development renewable resource loan
 20 debt service fund, as received:

21 (i) ~~1-1/4%~~ 2 1/2% of all money from time to time
 22 received from the coal severance tax collected under Title
 23 15, chapter 35, and remaining after allocation of such the
 24 tax under 15-35-108(1) and (2);

25 (ii) any principal and accrued interest under

85-1-613(3)(a)(4)(a) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617;

(iii) all interest income earned on proceeds of water development renewable resource grant and loan program bonds;

(iv) revenue or money otherwise required to be paid into the water-development renewable resource grant and loan program state special revenue account pursuant to 85-1-604, as determined by the board of examiners in connection with the issuance of bonds pursuant to 85-1-617; and

(v) money received from the water-development renewable resource loan loss reserve fund as the result of a loan loss.

(2) (a) There is created a water-development renewable resource loan loss reserve fund within the debt service fund type established in 17-2-102.

(b) The state pledges and allocates and directs to be credited to the water-development renewable resource loan loss reserve fund all accrued interest under 85-1-613(3)(b)(4)(b) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617.

(c) If the department determines that a loan loss has occurred on a loan made pursuant to this part, funds from the water--development renewable resource loan loss reserve fund must be transferred to the water-development renewable resource loan debt service fund in an amount equal to the

amount that would otherwise be available for debt service under subsection (1)(b) as a result of the loan loss."

Section 12. Section 85-1-604, MCA, is amended to read:

"85-1-604. Water--development Renewable resource grant and loan program state special revenue account created -- revenues allocated -- limitations on appropriations from account. (1) There is created a water-development renewable resource grant and loan program state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except to the extent that they are required to be credited to the water-development renewable resource loan debt service fund pursuant to 85-1-603, there ~~shall~~ must be paid into the water-development renewable resource grant and loan program state special revenue account:

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

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

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

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

(e) 20% of the resource indemnity tax proceeds.

(3) Appropriations may be made from the water development renewable resource grant and loan program state special revenue account for the following purposes and subject to the following conditions:

(a) The amount of resource indemnity trust fund interest earnings allocated under section 15-38-202(2)(b) must be used for renewable resource grants.

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

~~(b)(c)~~ (c) An amount less than or equal to that paid into the account from the resource indemnity trust account plus any excess from subsection ~~(3)(a)~~ (3)(b) and only that amount may be appropriated from the account for:

~~(i) the rehabilitation of state-owned projects and works, including the rehabilitation of spillways of~~

~~state-owned dams;~~

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

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

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

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

~~(vi) the promotion of joint state-tribal-state-federal and state-tribal-federal water development;~~

~~(vii) projects or programs that improve water use efficiency, including development of new, efficient water systems, rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices required under 85-2-113;~~

~~(viii) administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, office space, and other necessities incurred in the administration of the water development program except the administration of loans and grants; and~~

~~(ix) any other expenditures that meet the policies and objectives of the state water development renewable resource grant and loan program. If the amount of money available for~~

1 appropriation under this subsection (c) is greater than that
 2 necessary for operation and maintenance expenses, the excess
 3 may be appropriated as provided in subsection (3)(d).

4 ~~(e)(d)~~ An amount less than or equal to that paid into
 5 the account from the sources provided for in ~~(e)-and-(d)--of~~
 6 ~~subsection--(2) subsections (2)(c) and (2)(d) and any excess~~
 7 ~~from subsection (3)(c)~~ and only that amount may be
 8 appropriated from the account for loans and grants for water
 9 development renewable resource projects and activities; for
 10 purchase of liens and operation of property as provided in
 11 85-1-615; for administrative expenses, including but not
 12 limited to the salaries and expenses of personnel,
 13 equipment, and office space; for the servicing of loans,
 14 including arrangements for obtaining security interests; and
 15 for other necessities incurred in administering the loans
 16 and grants.

17 ~~(4)--An--amount--equal--to--25%--of--the--money--available--for~~
 18 ~~grants--under--subsection--(3)(c)--must--be--transferred--to--the~~
 19 ~~water--storage--state--special--revenue--account--created--in~~
 20 ~~85-1-631."~~

21 **Section 13.** Section 85-1-605, MCA, is amended to read:

22 "85-1-605. Grants, loans, and bonds for state and local
 23 government assistance. (1) The department may recommend to
 24 the legislature that grants and loans be made from coal
 25 severance--tax--proceeds revenue deposited in the water

1 development renewable resource grant and loan program state
 2 special revenue account, that loans be made from water
 3 development-bond-proceeds renewable resource bond proceeds
 4 deposited in the water-development renewable resource loan
 5 proceeds account established in 85-1-617(5), and that coal
 6 severance tax bonds be authorized pursuant to Title 17,
 7 chapter 5, part 7, to provide financial assistance to a
 8 department, agency, board, commission, or other division of
 9 state government or to a city, county, or other political
 10 subdivision or local government body of the state. The
 11 legislature may approve by appropriation or other
 12 appropriate means those grants and loans it finds consistent
 13 with the policies and purposes of the program.

14 (2) Nothing in this part creates or expands a state or
 15 local government's authority to incur debt, and the
 16 legislature may authorize loans only to state and local
 17 government entities otherwise structured to incur debt.

18 (3) Loans may not be authorized except to a state or
 19 local government entity that agrees to secure the authorized
 20 loan with its bond.

21 (4) In addition to implementing those projects approved
 22 by the legislature, the department may request up to 10% of
 23 the grant funds available for-grants and up to \$1 million
 24 for loans from the water--development renewable resource
 25 grant and loan program state special revenue account and the

1 renewable resource loan proceeds account in any biennium to
 2 be used for emergencies. These emergency grant projects or
 3 loan projects, or both, must may not be made because of the
 4 gross negligence of the state or local government applicant,
 5 must be approved by the department, and must be defined as
 6 those projects otherwise eligible for either grant funding
 7 or loan funding, or both, which that, if delayed until
 8 legislative approval can be obtained, will cause substantial
 9 damages or legal liability to the project sponsor. In
 10 allocating such the funds, the department shall inform the
 11 legislative finance committee of the legislature.

12 {3}(5) The grants and loans provided for by this
 13 section may be made for projects that enhance renewable
 14 resources in the state through conservation, development,
 15 management, or preservation; for assessing feasibility or
 16 planning; for implementing renewable resource projects the
 17 purchase, lease, development, or construction of water
 18 development projects and activities for the conservation,
 19 management, use, development, or protection of the water and
 20 related agricultural, land, fish, wildlife, and water
 21 recreation resources in the state, for the purpose of
 22 feasibility and design studies for such projects, for
 23 development of plans for and the rehabilitation, expansion,
 24 and modification of water development projects, for other
 25 water development projects and activities that will enhance

1 the water resources of the state; and for similar purposes
 2 approved by the legislature."

3 **Section 14.** Section 85-1-606, MCA, is amended to read:

4 "85-1-606. Grants and loans to private persons. (1) To
 5 encourage the construction and development of water
 6 water-related development projects and activities, the
 7 department may make grants and loans to private persons from
 8 funds appropriated from the water development renewable
 9 resource grant and loan program state special revenue
 10 account and may make loans to private persons from the water
 11 development renewable resource loan proceeds account.

12 (2) The department shall publicize the statutes and
 13 rules governing grants and loans to private persons for
 14 water water-related development projects and activities, set
 15 and publicize application deadlines, and accept applications
 16 for grants and loans.

17 (3) The department shall review, evaluate, and select
 18 the water water-related development projects and activities
 19 for which grants or loans may be awarded."

20 **Section 15.** Section 85-1-608, MCA, is amended to read:

21 "85-1-608. Applications for grants and loans to private
 22 persons. (1) A private person may apply for a grant or loan
 23 to finance a water water-related development project or
 24 activity to be constructed, developed, and operated in
 25 Montana.

(2) An application for a loan or grant must be in the form prescribed by the--board rule and contain or be accompanied by any information necessary to adequately describe the proposed project or-activity and necessary for evaluation of the proposed project or--activity under the criteria set out in 85-1-609 and 85-1-610."

Section 16. Section 85-1-609, MCA, is amended to read:

"85-1-609. Eligibility for a loan or grant to a private person. The department may not award a grant or loan to a private person unless the department finds, based on the application and the department's investigation and evaluation of the proposal, that:

(1) the proposed water water-related development project or-activity:

(a) will promote, enhance, or advance the purpose, policies, and objectives of the water-development renewable resource grant and loan program;

(b) will be constructed, developed, and operated within the state of Montana;

(c) will be economically feasible. (A project or activity is economically feasible if the project benefits exceed the project costs. The department shall consider only tangible quantifiable benefits and costs in calculating economic feasibility.)

(d) will be an efficient use of natural resources,

including water, energy, land, and air. (An efficient use is one that minimizes waste.)

(e) will provide multipurpose facilities to the extent practicable;

(f) will comply with statutory and regulatory standards protecting the quality of resources such as air, water, land, fish, wildlife, and recreational opportunities;

(g) will provide associated public benefits in addition to any private benefits the project or-activity may provide; and

(h) is needed to accomplish the purpose for which the water-development project or-activity is proposed;

(2) the applicant has adequate financial resources to construct, operate, and maintain the water--development project or-activity. The department shall consider financial resources from any source for which the applicant has qualified, including a water-development renewable resource grant or loan.

(3) the applicant holds or can acquire all necessary lands, other than public lands, and interests therein in the lands and water rights necessary for the construction, operation, and maintenance of the proposed water-development project or-activity;

(4) if the application is for a loan, the applicant is credit-worthy creditworthy and able and willing to enter

into a contract with the department for loan repayment and construction or development of the proposed water development project or-activity; and

(5) if the application is for a grant, the applicant is able and willing to enter into a contract with the department for construction or development of the proposed water-development project or-activity."

Section 17. Section 85-1-610, MCA, is amended to read:

"85-1-610. Evaluation of grants and loans to private persons. The department shall consider the following criteria and preferences in evaluating applications and selecting the recipients of grants and loans for water water-related development projects and-activities that are eligible for funding under 85-1-609:

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

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

(3) A water water-related development project or activity that will utilize or develop water reserved under 85-2-316 shall must be given preference. An---activity includes--all--necessary--work--associated--with--a-project,

beginning---with---application---preparation---through---the implementation-of-a-water-reservation-by-a---qualified---state applicant;

(4) The department, to the extent practicable, shall attempt to achieve geographic balance in the promotion of water-development renewable resource grant and loan projects and--activities through the awarding of loans and grants to private persons.

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

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

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

Section 18. Section 85-1-611, MCA, is amended to read:

"85-1-611. Department to solicit views. The department shall solicit and consider in its evaluation of proposed projects and-activities the views of interested and affected

departments, boards, agencies, commissions, and other subdivisions of the state, including local political subdivisions, of the federal government, and of other interested and affected persons."

Section 19. Section 85-1-612, MCA, is amended to read:

"85-1-612. Rulemaking authority. The board department shall adopt rules:

(1) prescribing a reasonable application fee and the form and content of applications for grants and loans;

(2) governing the application of the criteria for awarding loans and grants to private persons;

(3) providing for the servicing of loans including arrangements for obtaining security interests and the establishment of reasonable fees or charges to be made; and

(4) describing the terms and conditions for making grants and loans, the security instruments, and the agreements necessary;

(5) describing the ranking criteria used to evaluate and prioritize grants to governmental entities; and

(6) specifying any other procedures necessary to accomplish the objectives of the renewable resource grant and loan program."

Section 20. Section 85-1-613, MCA, is amended to read:

"85-1-613. Limits on loans. (1) No A loan to a private person for a water-development renewable resource grant and

loan program project or activity may not be made from the water--development renewable resource grant and loan program state special revenue account or water--development the renewable resource loan proceeds account that if the loan exceeds the least lesser of \$200,000, 10% of the estimated total funds potentially available for loans in the water development--state--special--revenue--account--and--water development--account--in the biennium in which the loan will be made, or 80% of the fair market value of the security given therefor for the project. In determining the fair market value for the security given for a loan, the department shall consider appraisals made by qualified appraisers and other factors it considers important.

(2) A loan to a state or local government for a renewable resource grant and loan program project may not be made by the department from the renewable resource grant and loan program state special revenue account or renewable resource loan proceeds account if the loan exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

(3) The period for repayment of loans may not exceed 30 years.

(4) The board ~~shall from time to time establish~~ the interest rate at which loans may be made under this part that ~~is~~ must be sufficient to:

(a) cover the bond debt service for a loan; and
 (b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs."

Section 21. Section 85-1-614, MCA, is amended to read:

"85-1-614. Limits on grants from water--development renewable resource grant and loan program state special revenue account. (1) The maximum grant awarded to a private person may not exceed the lesser of:

(a) 5% of the estimated total funds potentially available in the water-development renewable resource grant and loan state special revenue account for public and private grants in the biennium in which the grant will be made; or

(b) 25% of the total project cost, whichever is less.

(2) This part does not limit the amount of grant funds that may be appropriated by the legislature to fund a state or local government project."

Section 22. Section 85-1-615, MCA, is amended to read:

"85-1-615. Security interests -- purchase, operation, and resale of encumbered property. (1) The state has a lien upon a project constructed with money from the water development renewable resource grant and loan state special revenue account or water-development the renewable resource loan proceeds account for the amount of the loan and interest due the state. This lien may attach to any project

facilities, equipment, easements, real property, and property of any kind or nature owned by the debtor, including all water rights. The department shall file with the county clerk and recorder of each county in which a part of the project is located either a financing statement or a real estate mortgage covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall record and index the lien as other liens are required by law to be recorded and indexed. The lien shall be is valid until paid in full or otherwise discharged. The lien shall must be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens.

(2) From the funds available under 85-1-604(3)(c)(3)(d) or 85-1-617, the state may:

(a) purchase a lien that is prior to the state's lien if:

(i) the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by purchasing the prior lien; and

(ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

(b) operate property that is subject to the state's lien if the director of the department determines that the loan is in default and the prospects for collecting the loan

may be materially increased by operating the property that is subject to the state's lien; or

(c) purchase a prior lien as provided in (2)(a) and operate property as provided in (2)(b).

(3) Any property acquired under the provisions of this section must be resold as expeditiously as possible to recover funds used under this section and funds loaned to the borrower."

Section 23. Section 85-1-616, MCA, is amended to read:

"85-1-616. Administration of loans and grants. The department shall:

(1) administer the loan and grant program established by this part;

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

(3) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the water-development renewable resource grant and loan program state special revenue account pursuant---to established in 85-1-604."

Section 24. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing renewable resource bonds -- renewable resource loan proceeds account. (1) When

authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water--development renewable resource bonds of the state in the amount and manner it considers necessary and proper to finance the water-development renewable resource grant and loan program. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds so issued and interest and redemption premiums payable thereon on the bonds according to their terms.

(2) Each series of water-development renewable resource bonds may be issued by the board of examiners, upon request of the board---of---natural---resources---and---conservation department, at public or private sale, in such denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at such a rate or rates, maturing at such a rate or rates, maturing at such a time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at such earlier times and prices and upon such notice, with such provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the

office of such a banking institution or institutions within or outside the state--as that the board of examiners shall determine subject to the limitations contained in this section and 17-5-731.

(3) In the issuance of each series of water-development renewable resource bonds, the interest rates and the maturities and any mandatory redemption provisions thereof ~~shall~~ contained in the bonds must be established in such a manner that the funds then specifically pledged and appropriated by law to the water--development renewable resource loan debt service fund will, in the judgment of the board of examiners, be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of such bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. ~~Such~~ The bonds, notes, and any interest coupons appurtenant thereto to the bonds or notes must be signed by the members of the board of examiners, and

the bonds and notes must be issued under the great seal of the state of Montana. The bonds, notes, 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 such bonds and notes issued and sold.

(5) There is created a water--development renewable resource loan proceeds account within the state special revenue fund established in 17-2-102.

(6) All proceeds of bonds or notes issued under this section, other than refunding bonds, must be deposited in the water--development renewable resource loan proceeds account established in subsection (5), except that any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under this section must be deposited in the water-development renewable resource loan debt service fund and the water--development renewable resource loan loss reserve fund pursuant to 85-1-603. All proceeds of refunding bonds must be deposited in the water--development renewable resource loan debt service fund and applied to the payment and redemption of outstanding bonds issued under this section as directed by the board of examiners, whether at maturity or on any earlier date on which they may be prepaid according to their terms.

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

Section 25. Section 85-1-618, MCA, is amended to read:

"85-1-618. Restrictions on use of bond proceeds. Water development Renewable resource bond proceeds may be used only for the purpose of making loans as provided in the water-development renewable resource grant and loan program or for purchasing liens and operating property as provided in 85-1-615."

Section 26. Section 85-1-619, MCA, is amended to read:

"85-1-619. Debt service fund -- pledge and administration of sufficient balance. (1) The legislature may levy, impose, assess, and pledge and appropriate to the water-development renewable resource loan debt service fund any tax, charge, fee, rental, or other income from any designated source. The state reserves the right to modify from time to time the nature and amount of special taxes and other revenues pledged and appropriated to the water development renewable resource loan debt service fund, provided that the aggregate resources so pledged and appropriated are determined by the legislature to be sufficient for the prompt and full payment of the principal of and interest and redemption premiums when due on all bonds payable from that fund and provided that the pledge of

the full faith and credit and taxing powers of the state for the security of all such bonds shall be and remain irrevocable until they are fully paid.

(2) Money in the water-development renewable resource loan debt service fund must be used to pay interest, principal, and redemption premiums when due and payable with respect to water-development renewable resource bonds, and for bonds issued prior to 1985, to accumulate a reserve for the further security of such the payments.

(3) After the reserve provided for in subsection (2) for bonds issued prior to 1985 has been accumulated in the water-development renewable resource loan debt service fund, money at any time received in the water-development renewable resource loan debt service fund in excess of that amount must be transferred by the treasurer to the water development renewable resource grant and loan program state special revenue account."

Section 27. Section 85-1-620, MCA, is amended to read:

"85-1-620. Water-development Renewable resource refunding bonds. (1) The board of examiners may issue refunding bonds at such times and in such amounts, if any, as may be necessary to pay principal or interest due that cannot be paid from funds then on hand in the water development renewable resource loan debt service fund. The board of examiners may also issue refunding bonds to refund

1 outstanding bonds before maturity for the purpose of
 2 extending the maturities thereof of the outstanding bonds so
 3 far-as determined by the board of examiners to be necessary
 4 to assure that the funds then pledged to the water
 5 development renewable resource loan debt service fund will
 6 be sufficient for payment of principal and interest due in
 7 subsequent years. The board of examiners may also issue
 8 refunding bonds to refund outstanding bonds before maturity
 9 for the purpose of reducing the interest cost or the total
 10 amount of principal and interest payable thereon on the
 11 outstanding bonds.

12 (2) No-refunding Refunding bonds may not be issued and
 13 sold more than 3 months before all of the bonds refunded
 14 thereby mature or are called for redemption unless the
 15 proceeds thereof of the refunded bonds, with any other funds
 16 in the water--development renewable resource loan debt
 17 service fund that are needed and available for the purpose
 18 or securities purchased from such proceeds and other funds,
 19 are deposited with a suitable banking institution within or
 20 outside the state, in escrow, for the retirement of the
 21 refunded bonds at maturity or at a prior date or dates on
 22 which they have been called for redemption in accordance
 23 with their terms, in an amount and in a manner sufficient
 24 under the provisions securing the refunded bonds, so that
 25 the state's obligation to pay the same, from sources other

1 than the escrow fund, is discharged.

2 (3) No-new New debt may not be created by the issuance
 3 of refunding bonds in accordance with this section, but such
 4 the refunding bonds shall must evidence the debt previously
 5 created and shall must be secured by the pledge of the full
 6 faith and credit and taxing powers of the state and by-the
 7 further-provisions-of-this-part secured in the same manner
 8 as the bonds refunded thereby by other provisions of this
 9 part."

10 **Section 28.** Section 85-1-621, MCA, is amended to read:

11 "85-1-621. Report to the legislature. The department
 12 shall prepare a biennial report to the legislature
 13 describing the status of the water--development renewable
 14 resource grant and loan program. The report must describe
 15 ongoing projects and-activities and those--which projects
 16 that have been completed during the biennium. The report
 17 must identify and rank in order of priority the projects for
 18 which the department has received applications. desires--to
 19 seek-congressional-authorization-and-funding-and-the-efforts
 20 the--department--will-undertake-in-attempting-to-secure-such
 21 authorization-and-funding. The report must also describe
 22 proposed projects and activities for the coming biennium and
 23 recommendations for necessary appropriations. A copy of the
 24 report shall must be submitted to the president of the
 25 senate and the speaker of the house, to the members of the

water policy committee established in 85-2-105, and, as provided in 5-11-210, to the legislature."

Section 29. Section 85-1-623, MCA, is amended to read:

"85-1-623. Authorization of water-development renewable resource 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 \$10 million and the issuance and sale of water development renewable resource bonds in this amount for the purpose of providing funds appropriated to the water development renewable resource loan proceeds account for loans as provided in the water--development renewable resource grant and loan program or for the purchase of liens and operation of property as provided in 85-1-615."

Section 30. Section 85-1-631, MCA, is amended to read:

"85-1-631. Water storage state special revenue account created -- revenues allocated -- appropriations from account. (1) There is a water storage state special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the water storage state special revenue account:

{a} money allocated from the resource indemnity trust fund interest earnings pursuant to 15-38-202 water development-state-special-revenue--account--as--provided--in

85-1-604; and

{b}--money---from--the--renewable--resource--development account-as-provided-in-90-2-111.

(3) Money that was not encumbered or expended from the water storage state special revenue account during the previous biennium must remain in the account.

(4) Deposits to the water storage state special revenue account are to be placed in short-term investments and accrue interest, which must be deposited in the water storage state special revenue account.

{4}{5} The purpose of the water storage state special revenue account is to provide money for loans and grants exclusively for water storage projects, including the purchase or lease of property; planning, feasibility, and design studies; and other costs related to construction, rehabilitation, expansion, and modification of water storage projects.

{5}{6} The department shall administer this section as an integral part of the water-development renewable resource grant and loan program, using, to the extent possible, the same procedures for soliciting, determining eligibility, and rating water storage project proposals and for administering grants and loans, subject to the same limitations, as applied to other water-development renewable resource grants and loans.

~~(6)~~(7) The following preferences must be considered in ranking proposals for water storage grants and loans:

(a) first preference is for the rehabilitation of water storage projects that resolve threats to life and property;

(b) second preference is for the improvement or expansion of existing water storage projects; and

(c) third preference is for the development of new water storage projects."

Section 31. Section 85-2-105, MCA, is amended to read:

"85-2-105. Water policy committee. (1) There is a permanent water policy committee of the legislature. The committee consists of eight members. The senate committee on committees and the speaker of the house of representatives shall each appoint four members on a bipartisan basis. The committee shall elect its chairman and vice-chairman. The committee shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.

(2) On a continuing basis, the committee shall:

(a) advise the legislature on the adequacy of the state's water policy and of important state, regional, national, and international developments which affect Montana's water resources;

(b) oversee the policies and activities of the department of natural resources and conservation, other

state executive agencies, and other state institutions, as they affect the water resources of the state; and

(c) communicate with the public on matters of water policy as well as the water resources of the state.

(3) On a regular basis, the committee shall:

(a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;

(b) analyze and comment on the report of the status of the state's water-development renewable resource grant and loan program required by 85-1-621, when filed by the department;

(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;

(d) analyze, verify, and comment on the adequacy of and information contained in the water resources data management system maintained by the department under 85-2-112; and

(e) report to the legislature as provided in 5-11-210.

(4) The environmental quality council shall provide staff assistance to the committee. The committee may contract with experts and consultants, in addition to receiving assistance from the environmental quality council, in carrying out its duties under this section."

Section 31. ~~Section 90-2-1102, MCA, is amended to read:~~

~~"90-2-1102. Policy and purpose. (1) The policy of the~~

state---of---Montana---expressed---in---the---Reclamation---and
Development---Grants---Program---Act---is---to---provide---a---state
capability---to---fund---projects---that---indemnify---the---people---of---the
state---for---the---effects---of---mineral---development---on---public
resources---and---that---meet---other---crucial---needs---serving---the
public---interest---and---the---total---environment---of---the---citizens---of
Montana:

{2}--The purposes of the reclamation and development
grants program are to:

{a}--repair, reclaim, and mitigate environmental damage
to public resources from nonrenewable resource extraction;
and

{b}--develop and ensure the quality of public resources
for the benefit of all Montanans."

Section 32. Section 90-2-1103, MCA, is amended to read:

"90-2-1103. Definitions. As used in this part, the
following definitions apply:

{1}--"Board"--means--the--board--of--natural--resources--and
conservation provided for in 2-15-3302.

{2}{1} "Department" means the department of natural
resources and conservation provided for in Title 2, chapter
15, part 33.

{3}{2} "Financially feasible" means that adequate funds
are available to complete the project as approved.

{4}{3} "Mineral" means any precious stones or gems,

gold, silver, copper, coal, lead, petroleum, natural gas,
oil, uranium, or other nonrenewable merchantable products
extracted from the surface or subsurface of the state of
Montana.

{5}{4} "Mineral development" means exploration,
extraction, processing, or other activity related to the
production of a mineral.

{6}{5} "Mitigation" means the act of rectifying an
impact by repairing, rehabilitating, or restoring the
affected environment; reducing or eliminating an impact over
time by operations that preserve or maintain the
environment; or compensating for an impact by replacing or
providing substitute resources or habitats.

{7}{6} "Project" means a planned and coordinated action
or series of actions addressing an objective consistent with
the policy and purpose of the reclamation and development
grants program. A project may consist of problem analysis,
feasibility or design studies, environmental monitoring,
remedial action plans or implementation, technology
demonstration, research, construction or acquisition of
capital facilities, or other related actions.

{8}{7} "Public benefits" means those benefits that
accrue to citizens as a group and enhance the common
well-being of the people of Montana.

{9}{8} "Public resources" means the natural resources

1 of the state, including air, water, soil, minerals,
2 vegetation, and fish and wildlife, and the economic, social,
3 and cultural conditions of Montana citizens.

4 ~~{10}~~{9} "Reclamation and development grants account"
5 means the reclamation and development grants special revenue
6 account established in 90-2-1104.

7 ~~{11}~~{10} "Technically feasible" means that a project or
8 activity can be designed, constructed, operated, or carried
9 out to accomplish its objectives, utilizing accepted
10 engineering and other technical principles and concepts."

11 ~~Section 32. Section 90-2-1104, MCA, is amended to read:~~

12 ~~"90-2-1104. Reclamation and development grants account:~~

13 ~~{1}--There--is--a--reclamation-and-development-grants-special~~
14 ~~revenue--account--within--the--state--special--revenue--fund~~
15 ~~established-in-17-2-102.~~

16 ~~{2}--There--must--be--paid--into--the--reclamation--and~~
17 ~~development-grants-account-money-allocated-from:~~

18 ~~{a}--the-interest-income-of-the-resource-indemnity-trust~~
19 ~~fund-under-the-provisions-of-15-38-202; and~~

20 ~~{b}--the--resource--indemnity--trust--tax--under--the~~
21 ~~provisions-of-15-38-106.~~

22 ~~{3}--Appropriations may be made from the reclamation and~~
23 ~~development-grants-account-for-the-following-purposes:~~

24 ~~{a}--grants-for-designated-projects; and~~

25 ~~{b}--administrative-expenses, including the salaries and~~

1 ~~expenses-of-personnel, equipment, office space, and other~~
2 ~~expenses--necessarily--incurred-in-the-administration-of-the~~
3 ~~grants-program. These expenses may be funded prior to~~
4 ~~funding-of-projects."~~

5 **SECTION 33. SECTION 90-2-1104, MCA, IS AMENDED TO READ:**

6 **"90-2-1104. Reclamation and development grants account.**

7 **{1} There is a reclamation and development grants special**
8 **revenue account within the state special revenue fund**
9 **established in 17-2-102.**

10 **{2} There must be paid into the reclamation and**
11 **development grants account money allocated from:**

12 **{a} the interest income of the resource indemnity trust**
13 **fund under the provisions of 15-38-202; and**

14 **{b} the resource indemnity trust tax under the**
15 **provisions of 15-38-106.**

16 **{3} Appropriations may be made from the reclamation and**
17 **development grants account for the following purposes:**

18 **{a} grants for designated projects; and**

19 **{b} administrative expenses, including the salaries and**
20 **expenses of personnel, equipment, office space, and other**
21 **expenses necessarily incurred in the administration of the**
22 **grants program. These expenses may be funded prior to**
23 **funding of projects."**

24 **Section 34. Section 90-2-1105, MCA, is amended to read:**

25 **"90-2-1105. Adoption of rules. The board department may**

adopt rules to:

- (1) prescribe the form and content of applications for grants;
- (2) describe the terms and conditions of making grants;
- (3) prescribe a monitoring program to evaluate the effectiveness of funded projects; and
- (4) develop any other procedures necessary to accomplish the objectives of the reclamation and development grants program."

Section 35. Section 90-2-1112, MCA, is amended to read:

"90-2-1112. Eligibility requirements. (1) Except as provided under subsection (2), to be eligible for funding under the reclamation and development grants program, the proposed project must:

(a) provide benefits in one or more of the following categories:

(a)(i) reclamation of land, water, or other resources adversely affected by mineral development;

(b)(ii) mitigation of damage to public resources caused by mineral development;

(c)(iii) research, demonstration, or technical assistance to promote the wise use of Montana minerals, including efforts to make processing more environmentally compatible;

(d)(iv) investigation and remediation of sites where

hazardous wastes or regulated substances threaten public health or the environment; and

(e)(v) research to assess existing or potential environmental damage resulting from mineral development;

(2) if sufficient eligible and qualified applications satisfying the mineral development objectives provided for in subsection (1) are not received or if there is a crucial state need, the department may evaluate and the governor may recommend that the legislature approve funding for projects that:

(a) enhance Montana's economy through the development of natural resources; or

(b) develop, promote, protect, or further Montana's total environment and public interest, including the general health, safety, welfare, and public resources of Montana citizens and communities;

(3) To be eligible for funding under the reclamation and development grants program, a project must:

(a)(b) be technically and financially feasible;

(b)(c) be the best cost-effective alternative to address a problem or attain an objective;

(c)(d) comply with statutory and regulatory standards protecting environmental quality; and

(d)(e) be from an applicant able and willing to enter into a contract with the department for the implementation

of the proposed project or activity.

~~(4)(2)~~ A project is not eligible for funding under the reclamation and development grants program to the extent that the project is eligible for and can reasonably be expected to receive funding from other state or federal reclamation programs or any other program or act that provides funding to accomplish remedial action for environmental damage or if the project is permitted under Title 82, chapter 4 or 11.

~~(5)(3)~~ A proposed project is not eligible for funding under the reclamation and development grants program if there is a liable party who would be relieved of financial or legal responsibility and who can reasonably be expected to be held responsible.

Section 36. Section 90-2-1121, MCA, is amended to read:

90-2-1121. Prohibited compensation to public officers or employees. (1) No A member, officer, attorney, or other employee of the board or the department may not directly or indirectly be the beneficiary of or receive any fee, commission, gift, or other consideration in connection with any transaction or business under the reclamation and development grants program other than the salary, fee, or other compensation that he a person may receive as a member, officer, attorney, or employee.

(2) A person convicted of violating any provision of

this section shall be punished by a fine not to exceed \$2,000 plus the value of any consideration illegally received or by imprisonment for a term not to exceed 2 years, or both. Any fines collected under this section must be deposited in the reclamation and development grants account.

NEW SECTION. Section 37. Policy and purpose. It is the public policy of the state to promote, stimulate, and encourage the planning and development of the economy of the state in order to provide for the social and economic prosperity of its citizens. Rural economic planning, expansion of existing industry, greater diversification of industry and attraction of additional industry, creation of new uses for agricultural products, greater emphasis on development of new products, and the attainment of a proper balance in the overall economic base are all necessary in order to create additional employment opportunities, increase personal income, and promote the general welfare of the people of this state.

NEW SECTION. Section 38. Definitions. As used in sections 38 through 45, the following definitions apply:

(1) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(2) "Financially feasible" means that adequate funds

are available to complete the project as approved:

{3}--"Project" means a planned and coordinated action or series of actions addressing an objective consistent with the policy and purpose of the rural economic revitalization grants program;

{4}--"Public benefits" means those benefits that accrue to citizens as a group and that enhance the common well-being of the people of Montana;

{5}--"Public resources" means the natural resources of the state, including air, water, soil, minerals, vegetation, and fish and wildlife, and the economic, social, and cultural conditions of Montana citizens;

{6}--"Technically feasible" means that a project or activity can be designed, constructed, operated, or carried out to accomplish its objectives, using accepted engineering and other technical principles and concepts;

NEW SECTION.--Section 39.--Rural economic revitalization account. {1}--There is a rural economic revitalization account within the state special revenue fund established in 17-2-102.

{2}--There must be paid into the rural economic revitalization account money allocated from the interest income of the resource indemnity trust fund under the provisions of 15-30-202.

{3}--Appropriations may be made from the rural economic

revitalization account for the following purposes:

{a}--grants for designated projects; and

{b}--administrative expenses, including the salaries and expenses of personnel and equipment, office space, and other expenses necessarily incurred in the administration of the rural economic revitalization grants program. These expenses may be funded prior to funding of projects;

NEW SECTION.--Section 40.--Adoption of rules. The department may adopt rules to:

{1}--prescribe the form and content of applications for grants;

{2}--describe the terms and conditions of making grants;

{3}--prescribe a monitoring program to evaluate the effectiveness of funded projects; and

{4}--develop any other procedures necessary to accomplish the objectives of the rural economic revitalization grants program.

NEW SECTION.--Section 41.--Rural economic revitalization grants program. {1}--Any department, agency, board, commission, or other division of state government, any city, county, or other political subdivision, or any tribal government within the state may apply, in accordance with the procedures established by the department, for a grant from the rural economic revitalization account for a project that is consistent with the policy and purpose of the rural

economic-revitalisation-grants-program;

{2}--The-department-shall-evaluate-applications-under
the-eligibility-criteria-provided-in-{section-42}-and-the
evaluation-criteria-provided-in-{section-43};

{3}--The-department-shall-solicit-and-consider-in-its
evaluation-of-applications-the-views-of-interested-persons
and-public-agencies;

{4}--Based-on-its-evaluation-of-eligible-applications,
the-department-shall-recommend-to-the-governor-projects-to
receive-grants-from-the-rural-economic-revitalization
account;

{5}--The-governor-shall-submit-all-proposals-with
recommended-priorities-to-the-legislature-The-legislature
may-approve-by-appropriation-or-other-appropriate-means
grants-for-those-projects-it-finds-consistent-with-the
policies-and-purposes-of-the-rural-economic-revitalization
grants-program-The-department-shall-administer-and-oversee
the-grants-to-approved-projects-and-monitor-the-projects;

NEW-SECTION. Section 42. Eligibility requirements. {1}--
To-be-eligible-for-funding-under-the-rural-economic
revitalization-grants-program-the-proposed-project-must
provide-public-benefits-in-one-or-more-of-the-following
categories;

{a}--enhance-Montana's-economy-through-the-development
of-natural-resources; or

{b}--develop, promote, protect, or further Montana's
total-environment-and-public-resources;

{2}--To-be-eligible-for-funding-under-the-rural-economic
revitalization-grants-program-a-project-must;

{a}--be-technically-and-financially-feasible;

{b}--be-the-best-cost-effective-alternative-to-address-a
problem-or-attain-an-objective;

{c}--comply-with-statutory-and-regulatory-standards
protecting-environmental-quality; and

{d}--be-from-an-applicant-able-and-willing-to-enter-into
a-contract-with-the-department-for-the-implementation-of-the
proposed-project;

NEW-SECTION. Section 43. Evaluation criteria. The--
department-shall-consider-the-following-criteria-in
evaluating-eligible-applications-and-in-selecting-projects
to-be-recommended-to-the-governor-for-funding;

{1}--the-degree-to-which-the-project-provides-economic
revitalisation-to-an-area-or-region;

{2}--the-degree-to-which-the-project-will-improve-the
local-tax-base;

{3}--the-degree-to-which-the-project-will-result-in
higher-income-levels;

{4}--the-degree-to-which-the-project-will-reduce
unemployment;

{5}--the-degree-to-which-the-project-creates-new-jobs;

1 {6}--the--degree--to--which--the--project--improves--the
2 quality-of-life;

3 {7}--the-degree-to--which--the--project--enhances--local
4 leadership; and

5 {8}--any---other---criteria---the--department--considers
6 necessary-to-carry-out-the--policies--and--purposes--of--the
7 rural-economic-revitalization-grants-program;

8 NEW SECTION. ~~Section 44.~~ Conditions-----of-----grants:--
9 Disbursement--of--grant--funds--under--this--part--is--subject--to
10 the--following--conditions,--which--must--be--met--by--project
11 sponsors;

12 {1}--A--scope-of-work-and-budget-for-the-project-must-be
13 approved-by-the-department; Reduction-in-the-scope--of--work
14 or---budget---may---not---affect---priority---activities--or
15 improvements;

16 {2}--Other-funds-required-for--project--completion--must
17 have-been-committed-and-the-commitment-must-be-documented;

18 {3}--An--agreement--between-the-department-and-the-grant
19 applicant-must-be-executed-in-a-timely-manner,--taking--into
20 consideration--any--changed-conditions-or-circumstances-that
21 govern-the-administration-and-disbursement-of-funds;

22 {4}--Any---other---specific---requirements---must---be
23 accomplished--as--considered--necessary-by-the-department-to
24 accomplish-the-purpose-of-the-grant-as--evidenced--from--the
25 application--to--the--department--or--the--proposal--to--the

1 legislature;

2 NEW SECTION. ~~Section 45.~~ Prohibited---compensation--to--
3 public-officers-or--employees-----penalty:--(1)--A--member,
4 officer,--attorney,--or--other-employee-of-the-department-may
5 not-directly-or-indirectly-be-the-beneficiary-of-or--receive
6 any---fee,--commission,--gift,--or--other--consideration--in
7 connection-with-any-transaction-or-business-under-the--rural
8 economic---revitalization--grants--program--other--than--the
9 salary,--fee,--or--other-compensation--that--person--may--receive
10 as-a-member, officer, attorney, or employee;

11 {2}--A--person--convicted--of--violating-any-provision-of
12 this-section-shall-be-punished--by--a--fine--not--to--exceed
13 \$2,000---plus--the--value--of--any--consideration--illegally
14 received-or-by-imprisonment-for--a--term--not--to--exceed--2
15 years,--or--both--Any-fines-collected-under-this-section-must
16 be-deposited-in-the-rural-economic-revitalization-account;

17 NEW SECTION. ~~Section 35.~~ Repealer. Sections 85-1-607,
18 90-2-101, 90-2-102, 90-2-103, 90-2-104, 90-2-107, 90-2-108,
19 90-2-109, 90-2-110, 90-2-111, 90-2-112, 90-2-121, 90-2-122,
20 90-2-123, 90-2-124, 90-2-125, 90-2-126, 90-2-127, and
21 90-2-128, MCA, are repealed.

22 NEW SECTION. ~~Section 47.~~ Codification-----instruction:--
23 {Sections-37-through-45}--are-intended-to-be-codified--as--an
24 integral-part-of--Title--90,--chapter--2,--part--1, and-the
25 provisions--of--Title--90,--chapter--2,--part--1,--apply--to

1 ~~{sections-37-through-45}~~;

2 NEW SECTION. Section 36. Effective dates. (1)

3 [Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 and 4 3, AND 5 through 48 35 33 36] are
4 effective July 1, 1993.

5 (2) [Section SECTIONS 3 2 AND 4] is ARE effective July
6 1, 1995.

7 NEW SECTION. SECTION 37. TERMINATION. (SECTION 1)

8 TERMINATES JUNE 30, 1995.

-End-