

SENATE BILL 402

Introduced by Towe, et al.

2/15	Introduced
2/15	Referred to Taxation
2/15	First Reading
2/16	Fiscal Note Requested
2/20	Fiscal Note Received
2/22	Fiscal Note Printed
3/09	Hearing
3/12	Committee Report--Bill Passed as Amended
3/13	2nd Reading Passed
3/15	3rd Reading Passed

	Transmitted to House
3/17	Referred to Appropriations
3/17	First Reading
3/29	Hearing
3/30	Tabled in Committee

1 Senate BILL NO. 402
2 INTRODUCED BY Sen. Hoyer
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
5 ISSUANCE OF TREASURE STATE ENDOWMENT BONDS; ESTABLISHING
6 PROCEDURES FOR ISSUING THE BONDS AND ESTABLISHING TERMS AND
7 CONDITIONS FOR THE BONDS; PROVIDING FOR SECURITY FOR
8 PURCHASERS OF THE BONDS; AMENDING SECTIONS 17-5-703 AND
9 90-6-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 NEW SECTION. Section 1. Treasure state endowment
13 bonds. [Sections 1 through 16] provide for the issuance of
14 treasure state endowment bonds to provide financial
15 assistance to local government infrastructure projects
16 approved by the legislature.
17 NEW SECTION. Section 2. Purpose and intent. (1) The
18 purposes of [sections 1 through 16] are to establish the
19 authority to issue and sell treasure state endowment bonds
20 to provide financial assistance in the form of grants for
21 local government infrastructure projects authorized by the
22 legislature and to provide for the payment of the principal
23 and interest on the bonds from income derived from the
24 investment of the treasure state endowment fund, created
25 under 17-5-703, and other money as the legislature may from

1 time to time determine.
2 (2) (a) The legislature intends that:
3 (i) financial assistance in the form of loans for local
4 government infrastructure projects be financed by coal
5 severance tax bonds as provided in 17-5-701 or pursuant to
6 Title 85, chapter 1, part 6;
7 (ii) financial assistance in the form of annual debt
8 service subsidies for local government infrastructure
9 projects be provided from income earned by the investment of
10 the treasure state endowment;
11 (iii) financial assistance in the form of grants for
12 local government infrastructure projects be provided from
13 income earned by the investment of the treasure state
14 endowment fund or from the proceeds of bonds payable from
15 the treasure state endowment fund, as provided in [sections
16 1 through 16].
17 (b) The legislature further intends that the income
18 from the investment of the treasure state endowment fund in
19 excess of the amount required to pay the obligations of the
20 state payable from the treasure state endowment fund,
21 including debt service on the bonds authorized in and the
22 financial assistance provided for in [sections 1 through
23 16], be retained in the treasure state endowment fund.
24 NEW SECTION. Section 3. Pledge of treasure state
25 endowment fund special revenue account. (1) The money in the

1 treasure state endowment special revenue account is pledged
2 to the payment of the principal and interest on all treasure
3 state endowment bonds. Except as provided in any resolution
4 or trust indenture authorizing the issuance of the bonds,
5 the bonds must have a first and prior lien upon all money
6 from time to time on hand in the special revenue account.

7 (2) All bonds issued after July 1, 1993, for which the
8 money in the treasure state endowment fund special revenue
9 account is pledged to pay for the principal and interest are
10 to be called treasure state endowment bonds.

11 (3) The principal, premium, if any, and interest on the
12 bonds is payable solely from the treasure state endowment
13 fund special revenue account.

14 NEW SECTION. **Section 4.** Accounts in treasure state
15 endowment fund. (1) Within the treasure state endowment fund
16 there must be maintained a principal account, a special
17 revenue account, a capital projects account, a debt service
18 account, a debt service reserve account, and other accounts
19 and subaccounts, as may be established by the board of
20 examiners.

21 (2) There must be credited to the principal account all
22 amounts transferred to the treasure state endowment fund
23 pursuant to 17-5-703 and other applicable law. All income
24 from the investment of the principal account must be
25 credited as received to the special revenue account.

1 (3) All proceeds of treasure state endowment bonds,
2 other than amounts representing accrued interest on the
3 bonds, premium, and debt service reserve, must be credited
4 to the capital projects account and must be disbursed from
5 time to time in the payment of grants, in accordance with
6 the resolution or trust indenture authorizing the issuance
7 of the bonds.

8 (4) From the special revenue account there must be
9 transferred to the debt service account the amounts
10 necessary to pay the principal, premium, if any, and
11 interest on treasure state endowment bonds when due.

12 (5) Subject to subsections (1) through (4), the amounts
13 must be credited, disbursed, and transferred from the
14 accounts within the treasure state endowment fund as
15 provided by the board of examiners in a resolution or trust
16 indenture authorizing the issuance of treasure state
17 endowment bonds or as otherwise directed by the board.

18 NEW SECTION. **Section 5.** Authority to issue treasure
19 state endowment bonds. The board of examiners, at the
20 request of the department of commerce and upon approval of
21 the legislature, shall sell and issue treasure state
22 endowment bonds to make grants to local governments for
23 approved infrastructure projects when authorized to do so by
24 any law that sets out the amount and purpose of the issue.
25 Each project must be separately approved as to amount by a

two-thirds vote of each house of the legislature.

NEW SECTION. Section 6. Board of examiners to issue bonds. Only the board of examiners may sell and issue treasure state endowment bonds. Any action taken by the board pursuant to [sections 1 through 16] must be approved by a majority vote of its members.

NEW SECTION. Section 7. Continued levy of coal tax for treasure state endowment -- limit on additional bonds. (1) From July 1, 1993, through June 30, 2013, the legislature shall provide for the continued assessment, levy, and collection of the coal severance tax and for the deposit of coal tax proceeds into the coal severance tax bond fund. During that time, the legislature shall provide for the continued transfer into the treasure state endowment special revenue account of the income earned from the investment of the treasure state endowment fund to the extent necessary to pay, when due, the principal and interest and other obligations on all outstanding treasure state endowment bonds.

(2) If any treasure state endowment bonds were issued for a purpose or use that would reduce the balance in the treasure state endowment fund available for investment, the legislature may not appropriate any portion of the amount on hand in the principal account of the treasure state endowment fund while those bonds are outstanding.

(3) The board of examiners may not issue any treasure state endowment bonds unless it determines that the annual income from the principal account of the treasure state endowment fund, during the term of the bonds, is reasonably and conservatively estimated to be at least 125% of the amount required in each year to pay the necessary amount of principal and interest on all outstanding treasure state endowment bonds, including the bonds proposed to be issued. The board may not issue any treasure state endowment bonds in an aggregate principal amount in excess of \$10 million.

(4) The provisions of this section may not be modified to reduce the security for any coal severance tax bonds while those bonds are outstanding.

NEW SECTION. Section 8. Form -- principal and interest -- fiscal agent -- deposit of proceeds. (1) Each series of treasure state endowment bonds may be sold by the board of examiners at public or private sale and must be issued in denominations and form, whether payable to bearer or registered agent as to principal or both principal and interest, with provisions for conversion or exchange, bearing interest at the rate or rates, maturing at times not exceeding 20 years from the date of issue, subject to redemption at times and prices and upon notice, and payable at the office of the fiscal agency of the state, as the board of examiners shall determine, subject to the

1 limitations contained in [sections 1 through 16].

2 (2) Except as provided in subsection (1), in all other
3 respects, the board of examiners is authorized to prescribe
4 the form and terms of each series of treasure state
5 endowment bonds, including whether the bonds of any series
6 must be issued as taxable or tax-exempt bonds, and shall do
7 whatever is lawful and necessary or appropriate for the
8 bonds' issuance and payment.

9 (3) Treasure state endowment bonds and any interest
10 coupons appurtenant to the bonds must be signed by the
11 members of the board of examiners, and the bonds must be
12 issued under the great seal of the state of Montana. The
13 bonds and any interest coupons may be executed with
14 facsimile signatures and seal in the manner and subject to
15 the limitations prescribed by law. The state treasurer shall
16 keep a record of all bonds issued and sold.

17 (4) The board of examiners is authorized to employ a
18 fiscal agent to assist in the performance of its duties
19 under [sections 1 through 16].

20 (5) All proceeds of treasure state endowment bonds must
21 be deposited in the capital projects account within the
22 treasure state endowment fund, except that:

23 (a) any premium and accrued interest received must be
24 deposited in the debt service account; and

25 (b) the board of examiners may provide that a portion

1 of the proceeds may be deposited in the debt service reserve
2 account.

3 (6) The board of investments is authorized to purchase
4 treasure state endowment bonds with money from the coal
5 severance tax permanent fund or any other funds for which
6 the board of investments considers the treasure state
7 endowment bonds an appropriate investment. In calculating
8 the rate of return for any investment in treasure state
9 endowment bonds, the board of investments shall consider the
10 long-term benefit to the Montana economy resulting from the
11 use of the proceeds of the treasure state endowment bonds.

12 NEW SECTION. Section 9. Trust indenture. In the
13 discretion of the board of examiners, a series of treasure
14 state endowment bonds may be secured by a trust indenture
15 between the board of examiners and a trustee that may be any
16 trust company or bank having the powers of a trust company
17 within or outside of the state. An executed counterpart of
18 any trust indenture must be filed in the office of the
19 secretary of state of Montana.

20 NEW SECTION. Section 10. Provisions for protecting
21 bondholders. (1) (a) The legislative act, resolution, or
22 trust indenture providing for the issuance of treasure state
23 endowment bonds may contain provisions for protecting and
24 enforcing the rights and remedies of the bondholders as are
25 reasonable, proper, and not in violation of law. The

provisions may include covenants that:

(i) set forth the duties of the state, the board of examiners, and the departments, boards, or agencies of state government in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the infrastructure projects financed with the proceeds of the treasure state endowment bonds; and

(ii) provide for the custody, safeguarding, and application of all money.

(b) The trust indenture may set forth the rights and remedies of the bondholders that are customary in trust indentures, deeds of trust, and mortgages securing bonds or debentures of corporations.

(2) The enumeration of particular powers granted by this section does not impair any general grant or power contained in [sections 1 through 16].

NEW SECTION. Section 11. Personal liability -- suit to compel performance. (1) The members of the board of examiners and the officers and employees of the departments, boards, or agencies of state government are not personally liable or accountable by reason of the issuance of any treasure state endowment bond or bond anticipation note issued by the board of examiners.

(2) Any holder of treasure state endowment bonds or any person or officer who is a party in interest, subject to any

applicable treasure state endowment agreement or trust indenture, may sue to enforce and compel the performance of the treasure state endowment bond provisions provided in [sections 1 through 16].

NEW SECTION. Section 12. Negotiability of bonds. Bonds or notes issued under [sections 1 through 16] are negotiable instruments under the Uniform Commercial Code provisions for the registration of bonds.

NEW SECTION. Section 13. Signatures of board members. If a member of the board of examiners whose signature appears on bonds, notes, or coupons issued under [sections 1 through 16] ceases to be a member before delivery of the bonds, notes, or coupons, the signature is nevertheless valid and sufficient for all purposes, as if the member had remained in office until delivery.

NEW SECTION. Section 14. Refunding obligations. (1) The board of examiners may issue treasure state endowment bonds to refund any treasure state endowment bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the stated maturity or redemption of the refunded bonds. The issuance of refunding bonds, the maturities and other details of the bonds, the rights of the holders of the bonds, and the rights, duties, and obligations of the state with respect to the bonds are governed by the appropriate provisions of

[sections 1 through 16] that relate to the issuance of treasure state endowment bonds.

(2) Refunding bonds, provided for in subsection (1), may be sold or exchanged for outstanding treasure state endowment bonds. Pending the application of the proceeds or any refunding bonds to the payment of principal, premium, if any, and interest on the bonds being refunded and, if permitted in the resolution authorizing the issuance of refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested as provided in Title 17, chapter 6.

NEW SECTION. Section 15. Pledge of state. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of treasure state endowment bonds.

NEW SECTION. Section 16. Tax exemption of bonds -- legal investments. (1) All treasure state endowment bonds, their transfer, and their income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, except for inheritance, estate, and gift taxes.

(2) Treasure state endowment bonds are legal investments for any person or board charged with investment

of public funds and are acceptable security for any deposit of public money.

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

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

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

(b) a treasure state endowment fund;

(c) a clean coal technology demonstration fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; and

(f) a coal severance tax school bond contingency loan fund.

(2) The state treasurer shall annually determine the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund ~~on the--next--two--ensuing--semiannual-payment-dates~~ during the next 12 months and retain that amount in the coal severance tax bond fund.

(3) (a) On January 21, 1992, and continuing as long as any school district bonds secured by state loans under 20-9-466 are outstanding, the state treasurer shall from

time to time and as provided in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12 months.

(4) Beginning During the period beginning July 1, 1991, and ending June 30, 1997, from any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of any amount that is required to be transferred by subsection (3), the state treasurer shall from time to time, not less often than once in each calendar quarter, transfer an amount not exceeding \$5 million per fiscal year to the clean coal technology demonstration fund.

(5) (a) Beginning During the period beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall from time to time:

(i) transfer to the treasure state endowment fund one-half of any amount in the coal severance tax bond fund

in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsections (3) and (4); and

~~(6)(ii) (a) Beginning--July-1, 1993, and ending June 30, 2013, the state treasurer shall from time to time transfer to the coal severance tax permanent fund 50%--of--the principal--transferred from the coal severance tax bond fund to the treasure state endowment fund in the--preceding--year the remaining one-half of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsections (3) and (4).~~

(b) The state treasurer shall annually, or more frequently if required by proceedings taken in the issuance of treasure state endowment bonds, transfer from the treasure state endowment fund principal account to the treasure state endowment special revenue account the amount of interest earnings or other investment income required to meet the obligations of the state that are payable from the account in accordance with 90-6-710 Title 90, chapter 6, part 7. Interest earnings and other investment income not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund."

Section 18. Section 90-6-701, MCA, is amended to read:

"90-6-701. Treasure state endowment program created -- definitions. (1) There is a treasure state endowment program that consists of:

(a) the treasure state endowment fund established in 17-5-703; and

(b) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

(2) (a) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects under this part.

(b) Interest from the treasure state endowment fund may also be used to pay principal and interest on bonds issued pursuant to [sections 1 through 16].

(3) As used in this part, the following definitions apply:

(a) "Infrastructure projects" means:

(i) drinking water systems;

(ii) wastewater treatment;

(iii) sanitary sewer or storm sewer systems;

(iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring; or

(v) bridges.

(b) "Local government" means an incorporated city or

town, a county, or a consolidated local government.

(c) "Treasure state endowment fund" means the coal severance tax infrastructure endowment fund established in 17-5-703(1)(b).

(d) "Treasure state endowment program" means the local government infrastructure investment program established in subsection (1)."

NEW SECTION. Section 19. Codification instruction. (1) [Sections 1 through 3 and 5 through 16] are intended to be codified as an integral part of Title 90, chapter 6, and the provisions of Title 90, chapter 6, apply to [sections 1 through 3 and 5 through 16].

(2) [Section 4] is intended to be codified as an integral part of Title 17, chapter 5, and the provisions of Title 17, chapter 5, apply to [section 4].

NEW SECTION. Section 20. Effective date. [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0402, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: This bill authorizes the issuance of Treasure State Endowment Bonds; establishes procedures for issuing the bonds and the terms and conditions for the bonds; and provides for security for purchasers of the bonds.

ASSUMPTIONS:

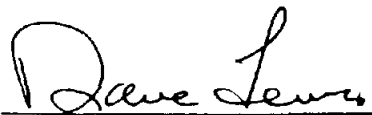
1. There is \$10 million of bond issuance authority in the Treasure State Endowment program.
2. The bond proceeds are used for grants to local governments for infrastructure projects.
3. All interest earnings from the treasure state endowment trust is used to pay back all principal and interest of the bonds issued.
4. The interest earnings of the treasure state endowment trust are adequate to fund all annual debt service subsidies authorized.
5. That House Bill 2 passes with the Department of Natural Resources and Conservation (DNRC) modification that provides funding to assist in administering this program.

FISCAL IMPACT: No determination can be made at this point. There has not been a recommendation for bonds to be issued. Bonds may be issued if the interest earnings are at least 125% of the debt service payment each year. Also, if debt service subsidies are authorized over time, the interest earnings must cover those commitments and the debt service on the bonds.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: If issued, treasure state endowment bond proceeds would be used to fund local government infrastructure projects.

TECHNICAL NOTES: Since DNRC already issues coal severance tax bonds and will continue to issue them, DNRC has agreed to issue the treasure state bonds for the Department of Commerce. Authority is needed to issue the treasure state endowment bonds with a bond resolution or a trust indenture. The bill presently allows for a trust indenture.

Debt subsidies authorized could be viewed as assumed debt of the State of Montana subject to section 8 of the state constitution.

 2-20-93

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

 2/22/93

TOM TOWE, PRIMARY SPONSOR DATE

Fiscal Note for SB0402, as introduced

SB 402

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 402

INTRODUCED BY TOWE, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
ISSUANCE OF TREASURE STATE ENDOWMENT BONDS; ESTABLISHING
PROCEDURES FOR ISSUING THE BONDS AND ESTABLISHING TERMS AND
CONDITIONS FOR THE BONDS; PROVIDING FOR SECURITY FOR
PURCHASERS OF THE BONDS; AMENDING SECTIONS 17-5-703 AND
90-6-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Treasure state endowment
bonds.** [Sections 1 through 16] provide for the issuance of
treasure state endowment bonds to provide financial
assistance to local government infrastructure projects
approved by the legislature.

NEW SECTION. **Section 2. Purpose and intent.** (1) The
purposes of [sections 1 through 16] are to establish the
authority to issue and sell treasure state endowment bonds
to provide financial assistance in the form of grants for
local government infrastructure projects authorized by the
legislature and to provide for the payment of the principal
and interest on the bonds from income derived from the
investment of the treasure state endowment fund, created
under 17-5-703, and other money as the legislature may from

time to time determine.

(2) (a) The legislature intends that:

(i) financial assistance in the form of loans for local
government infrastructure projects be financed by coal
severance tax bonds as provided in 17-5-701 or pursuant to
Title 85, chapter 1, part 6;

(ii) financial assistance in the form of annual debt
service subsidies for local government infrastructure
projects be provided from income earned by the investment of
the treasure state endowment;

(iii) financial assistance in the form of grants for
local government infrastructure projects be provided from
income earned by the investment of the treasure state
endowment fund or from the proceeds of bonds payable from
the treasure state endowment fund, as provided in [sections
1 through 16].

(b) The legislature further intends that the income
from the investment of the treasure state endowment fund in
excess of the amount required to pay the obligations of the
state payable from the treasure state endowment fund,
including debt service on the bonds authorized in and the
financial assistance provided for in [sections 1 through
16], be retained in the treasure state endowment fund.

NEW SECTION. **Section 3. Pledge of treasure state
endowment fund special revenue account.** (1) The money in the

1 treasure state endowment special revenue account is pledged
2 to the payment of the principal and interest on all treasure
3 state endowment bonds. Except as provided in any resolution
4 or trust indenture authorizing the issuance of the bonds,
5 the bonds must have a first and prior lien upon all money
6 from time to time on hand in the special revenue account.

7 (2) All bonds issued after July 1, 1993, for which the
8 money in the treasure state endowment fund special revenue
9 account is pledged to pay for the principal and interest are
10 to be called treasure state endowment bonds.

11 (3) The principal, premium, if any, and interest on the
12 bonds is payable solely from the treasure state endowment
13 fund special revenue account.

14 NEW SECTION. **Section 4.** Accounts in treasure state
15 endowment fund. (1) Within the treasure state endowment fund
16 there must be maintained a principal account, a special
17 revenue account, a capital projects account, a debt service
18 account, a debt service reserve account, and other accounts
19 and subaccounts, as may be established by the board of
20 examiners.

21 (2) There must be credited to the principal account all
22 amounts transferred to the treasure state endowment fund
23 pursuant to 17-5-703 and other applicable law. All income
24 from the investment of the principal account must be
25 credited as received to the special revenue account.

1 (3) All proceeds of treasure state endowment bonds,
2 other than amounts representing accrued interest on the
3 bonds, premium, and debt service reserve, must be credited
4 to the capital projects account and must be disbursed from
5 time to time in the payment of grants, in accordance with
6 the resolution or trust indenture authorizing the issuance
7 of the bonds.

8 (4) From the special revenue account there must be
9 transferred to the debt service account the amounts
10 necessary to pay the principal, premium, if any, and
11 interest on treasure state endowment bonds when due.

12 (5) Subject to subsections (1) through (4), the amounts
13 must be credited, disbursed, and transferred from the
14 accounts within the treasure state endowment fund as
15 provided by the board of examiners in a resolution or trust
16 indenture authorizing the issuance of treasure state
17 endowment bonds or as otherwise directed by the board.

18 NEW SECTION. **Section 5.** Authority to issue treasure
19 state endowment bonds. The board of examiners, at the
20 request of the department of commerce and upon approval of
21 the legislature, shall sell and issue treasure state
22 endowment bonds to make grants to local governments for
23 approved infrastructure projects when authorized to do so by
24 any law that sets out the amount and purpose of the issue.
25 Each project must be separately approved as to amount by a

two-thirds vote of each house of the legislature.

NEW SECTION. Section 6. Board of examiners to issue bonds. Only the board of examiners may sell and issue treasure state endowment bonds. Any action taken by the board pursuant to [sections 1 through 16] must be approved by a majority vote of its members.

NEW SECTION. Section 7. Continued levy of coal tax for treasure state endowment -- limit on additional bonds. (1) From July 1, 1993, through June 30, 2013, the legislature shall provide for the continued assessment, levy, and collection of the coal severance tax and for the deposit of coal tax proceeds into the coal severance tax bond fund. During that time, the legislature shall provide for the continued transfer into the treasure state endowment special revenue account of the income earned from the investment of the treasure state endowment fund to the extent necessary to pay, when due, the principal and interest and other obligations on all outstanding treasure state endowment bonds.

(2) If any treasure state endowment bonds were issued for a purpose or use that would reduce the balance in the treasure state endowment fund available for investment, the legislature may not appropriate any portion of the amount on hand in the principal account of the treasure state endowment fund while those bonds are outstanding.

(3) The board of examiners may not issue any treasure state endowment bonds unless it determines that the annual income from the principal account of the treasure state endowment fund, during the term of the bonds, is reasonably and conservatively estimated to be at least 125% of the amount required in each year to pay the necessary amount of principal and interest on all outstanding treasure state endowment bonds, including the bonds proposed to be issued. The board may not issue any treasure state endowment bonds in an aggregate principal amount in excess of \$10 million.

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1 limitations contained in [sections 1 through 16].

2 (2) Except as provided in subsection (1), in all other
3 respects, the board of examiners is authorized to prescribe
4 the form and terms of each series of treasure state
5 endowment bonds, including whether the bonds of any series
6 must be issued as taxable or tax-exempt bonds, and shall do
7 whatever is lawful and necessary or appropriate for the
8 bonds' issuance and payment.

9 (3) Treasure state endowment bonds and any interest
10 coupons appurtenant to the bonds must be signed by the
11 members of the board of examiners, and the bonds must be
12 issued under the great seal of the state of Montana. The
13 bonds and any interest coupons may be executed with
14 facsimile signatures and seal in the manner and subject to
15 the limitations prescribed by law. The state treasurer shall
16 keep a record of all bonds issued and sold.

17 (4) The board of examiners is authorized to employ a
18 fiscal agent to assist in the performance of its duties
19 under [sections 1 through 16].

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21 be deposited in the capital projects account within the
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8 the rate of return for any investment in treasure state
9 endowment bonds, the board of investments shall consider the
10 long-term benefit to the Montana economy resulting from the
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13 discretion of the board of examiners, a series of treasure
14 state endowment bonds may be secured by a trust indenture
15 between the board of examiners and a trustee that may be any
16 trust company or bank having the powers of a trust company
17 within or outside of the state. An executed counterpart of
18 any trust indenture must be filed in the office of the
19 secretary of state of Montana.

20 NEW SECTION. Section 10. Provisions for protecting
21 bondholders. (1) (a) The legislative act, resolution, or
22 trust indenture providing for the issuance of treasure state
23 endowment bonds may contain provisions for protecting and
24 enforcing the rights and remedies of the bondholders as are
25 reasonable, proper, and not in violation of law. The

provisions may include covenants that:

(i) set forth the duties of the state, the board of examiners, and the departments, boards, or agencies of state government in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the infrastructure projects financed with the proceeds of the treasure state endowment bonds; and

(ii) provide for the custody, safeguarding, and application of all money.

(b) The trust indenture may set forth the rights and remedies of the bondholders that are customary in trust indentures, deeds of trust, and mortgages securing bonds or debentures of corporations.

(2) The enumeration of particular powers granted by this section does not impair any general grant or power contained in [sections 1 through 16].

NEW SECTION. Section 11. Personal liability -- suit to compel performance. (1) The members of the board of examiners and the officers and employees of the departments, boards, or agencies of state government are not personally liable or accountable by reason of the issuance of any treasure state endowment bond or bond anticipation note issued by the board of examiners.

(2) Any holder of treasure state endowment bonds or any person or officer who is a party in interest, subject to any

applicable treasure state endowment agreement or trust indenture, may sue to enforce and compel the performance of the treasure state endowment bond provisions provided in [sections 1 through 16].

NEW SECTION. Section 12. Negotiability of bonds. Bonds or notes issued under [sections 1 through 16] are negotiable instruments under the Uniform Commercial Code provisions for the registration of bonds.

NEW SECTION. Section 13. Signatures of board members. If a member of the board of examiners whose signature appears on bonds, notes, or coupons issued under [sections 1 through 16] ceases to be a member before delivery of the bonds, notes, or coupons, the signature is nevertheless valid and sufficient for all purposes, as if the member had remained in office until delivery.

NEW SECTION. Section 14. Refunding obligations. (1) The board of examiners may issue treasure state endowment bonds to refund any treasure state endowment bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the stated maturity or redemption of the refunded bonds. The issuance of refunding bonds, the maturities and other details of the bonds, the rights of the holders of the bonds, and the rights, duties, and obligations of the state with respect to the bonds are governed by the appropriate provisions of

[sections 1 through 16] that relate to the issuance of treasure state endowment bonds.

(2) Refunding bonds, provided for in subsection (1), may be sold or exchanged for outstanding treasure state endowment bonds. Pending the application of the proceeds or any refunding bonds to the payment of principal, premium, if any, and interest on the bonds being refunded and, if permitted in the resolution authorizing the issuance of refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested as provided in Title 17, chapter 6.

NEW SECTION. Section 15. Pledge of state. In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of treasure state endowment bonds.

NEW SECTION. Section 16. Tax exemption of bonds -- legal investments. (1) All treasure state endowment bonds, their transfer, and their income, including any profits made on their sale, are exempt from taxation by the state or any political subdivision or other instrumentality of the state, except for inheritance, estate, and gift taxes.

(2) Treasure state endowment bonds are legal investments for any person or board charged with investment

of public funds and are acceptable security for any deposit of public money.

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

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

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

(b) a treasure state endowment fund;

(c) a clean coal technology demonstration fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; and

(f) a coal severance tax school bond contingency loan fund.

(2) The state treasurer shall annually determine the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund on ~~the--next--two--ensuing--semiannual--payment--dates~~ during the next 12 months and retain that amount in the coal severance tax bond fund.

(3) (a) On January 21, 1992, and continuing as long as any school district bonds secured by state loans under 20-9-466 are outstanding, the state treasurer shall from

1 time to time and as provided in subsection (3)(b) transfer
 2 from the coal severance tax bond fund to the coal severance
 3 tax school bond contingency loan fund any amount in the coal
 4 severance tax bond fund in excess of the amount that is
 5 specified in subsection (2) to be retained in the fund.

6 (b) The state treasurer shall transfer the amount
 7 referred to in subsection (3)(a) until and unless the
 8 balance in the coal severance tax school bond contingency
 9 loan fund is equal to the amount due as principal of and
 10 interest on the school district bonds secured by state loans
 11 under 20-9-466 during the next following 12 months.

12 (4) Beginning During the period beginning July 1, 1991,
 13 and ending June 30, 1997, from any amount in the coal
 14 severance tax bond fund in excess of the amount that is
 15 specified in subsection (2) to be retained in the fund and
 16 in excess of any amount that is required to be transferred
 17 by subsection (3), the state treasurer shall from time to
 18 time, not less often than once in each calendar quarter,
 19 transfer an amount not exceeding \$5 million per fiscal year
 20 to the clean coal technology demonstration fund.

21 (5) (a) Beginning During the period beginning July 1,
 22 1993, and ending June 30, 2013, the state treasurer shall
 23 from time to time:

24 (i) transfer to the treasure state endowment fund
 25 one-half of any amount in the coal severance tax bond fund

1 in excess of the amount that is specified in subsection (2)
 2 to be retained in the fund and in excess of amounts that are
 3 transferred pursuant to subsections (3) and (4); and

4 ~~(6)(ii) (a) Beginning--July 1, 1993, and ending June 30,~~
 5 ~~2013, the state treasurer shall from time to time~~ transfer
 6 to the coal severance tax permanent fund ~~50% of the~~
 7 ~~principal--transferred from the coal severance tax bond fund~~
 8 ~~to the treasure state endowment fund in the preceding year~~
 9 the remaining one-half of the amount in the coal severance
 10 tax bond fund in excess of the amount that is specified in
 11 subsection (2) to be retained in the fund and in excess of
 12 amounts that are transferred pursuant to subsections (3) and
 13 (4).

14 (b) The state treasurer shall annually, or more
 15 frequently if required by proceedings taken in the issuance
 16 of treasure state endowment bonds, transfer from the
 17 treasure state endowment fund principal account to the
 18 treasure state endowment special revenue account the amount
 19 of interest earnings or other investment income required to
 20 meet the obligations of the state that are payable from the
 21 account in accordance with 90-6-710 Title 90, chapter 6,
 22 part 7. Interest earnings and other investment income not
 23 transferred to the treasure state endowment special revenue
 24 account must be retained in the treasure state endowment
 25 fund."

Section 18. Section 90-6-701, MCA, is amended to read:

"90-6-701. Treasure state endowment program created -- definitions. (1) There is a treasure state endowment program that consists of:

(a) the treasure state endowment fund established in 17-5-703; and

(b) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

(2) (a) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects under this part.

(b) Interest from the treasure state endowment fund may also be used to pay principal and interest on bonds issued pursuant to [sections 1 through 16].

(3) As used in this part, the following definitions apply:

(a) "Infrastructure projects" means:

(i) drinking water systems;

(ii) wastewater treatment;

(iii) sanitary sewer or storm sewer systems;

(iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring; or

(v) bridges.

(b) "Local government" means an incorporated city or

town, a county, or a consolidated local government.

(c) "Treasure state endowment fund" means the coal severance tax infrastructure endowment fund established in 17-5-703(1)(b).

(d) "Treasure state endowment program" means the local government infrastructure investment program established in subsection (1)."

NEW SECTION. Section 19. Codification instruction. (1)

[Sections 1 through 3 and 5 through 16] are intended to be codified as an integral part of Title 90, chapter 6, and the provisions of Title 90, chapter 6, apply to [sections 1 through 3 and 5 through 16].

(2) [Section 4] is intended to be codified as an integral part of Title 17, chapter 5, and the provisions of Title 17, chapter 5, apply to [section 4].

NEW SECTION. Section 20. Effective date. [This act] is

effective on passage and approval.

-End-

SENATE BILL NO. 402

INTRODUCED BY TOWE, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ISSUANCE OF TREASURE STATE ENDOWMENT BONDS; ESTABLISHING PROCEDURES FOR ISSUING THE BONDS AND ESTABLISHING TERMS AND CONDITIONS FOR THE BONDS; PROVIDING FOR SECURITY FOR PURCHASERS OF THE BONDS; AMENDING SECTIONS 17-5-703 AND 90-6-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Treasure state endowment bonds. [Sections 1 through 16] provide for the issuance of treasure state endowment bonds to provide financial assistance to local government infrastructure projects approved by the legislature.

NEW SECTION. Section 2. Purpose and intent. (1) The purposes of [sections 1 through 16] are to establish the authority to issue and sell treasure state endowment bonds to provide financial assistance in the form of grants for local government infrastructure projects authorized by the legislature and to provide for the payment of the principal and interest on the bonds from income derived from the investment of the treasure state endowment fund, created under 17-5-703, and other money as the legislature may from

time to time determine.

(2) (a) The legislature intends that:

(i) financial assistance in the form of loans for local government infrastructure projects be financed by coal severance tax bonds as provided in 17-5-701 or pursuant to Title 85, chapter 1, part 6;

(ii) financial assistance in the form of annual debt service subsidies for local government infrastructure projects be provided from income earned by the investment of the treasure state endowment;

(iii) financial assistance in the form of grants for local government infrastructure projects be provided from income earned by the investment of the treasure state endowment fund or from the proceeds of bonds payable from the treasure state endowment fund, as provided in [sections 1 through 16].

(b) The legislature further intends that the income from the investment of the treasure state endowment fund in

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