

*Montana*

Senate BILL NO. 223

INTRODUCED BY

*Cole Holland Beaudry*  
*Storall John Dap Verkin*

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE MONTANA COAL BOARD TO ASSIST LOCAL GOVERNMENTAL UNITS IN PROVIDING SERVICES NECESSITATED BY A SIGNIFICANT DECLINE IN COAL MINING OR IN THE CONSUMPTION OF COAL BY COAL-USING ENERGY COMPLEXES; ELIMINATING THE COAL BOARD'S AUTHORITY TO MAKE LOANS TO LOCAL GOVERNMENTAL UNITS; AMENDING SECTIONS 90-6-201, 90-6-205, 90-6-206, 90-6-207, 90-6-208, AND 90-6-209, MCA; REPEALING SECTION 90-6-212, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 90-6-201, MCA, is amended to read:

"90-6-201. Purpose. The purposes of this part are to assist local governmental units that have been required to expand the provision of public services as a consequence of large-scale development of coal mines and coal-using energy complexes or as a consequence of a major decline in coal mining or in the operation of coal-using energy complexes, to assist in the construction and reconstruction of designated portions of highways that serve the area affected by the large-scale development, to support county land planning, and to support public schools throughout the state."

Section 2. Section 90-6-205, MCA, is amended to read:

"90-6-205. Coal board -- general powers. The board may:

- (1) retain professional consultants and advisors;
- (2) adopt rules governing its proceedings;
- (3) consider applications for grants from available funds;
- ~~(4) consider applications for loans from available funds for periods and interest rates to be determined by the board; and~~
- ~~(5)~~(4) award grants ~~and loans~~, subject to 90-6-207, from available funds:

(a) to local governmental units, state agencies, and governing bodies of federally recognized Indian tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact

1 of coal development or a major decline in coal mining or in the operation of coal-using energy complexes  
 2 by enabling them to adequately provide governmental services and facilities that are needed as a direct  
 3 consequence of an increase or decrease in coal development or in the consumption of coal by a coal-using  
 4 energy complex; and

5 (b) notwithstanding the provisions of 90-6-207, to the department of transportation, established  
 6 in 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway within  
 7 the area designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the  
 8 development of coal resources; and

9 ~~(6)~~(5) award a grant to a local ~~government~~ governmental unit for the purpose of paying for part  
 10 or all of the credit that the local ~~government~~ governmental unit is obligated to give to a major new industrial  
 11 facility that has prepaid property taxes under 15-16-201. The board ~~must~~ shall award the grant in  
 12 accordance with 90-6-206."

13

14 **Section 3.** Section 90-6-206, MCA, is amended to read:

15 **"90-6-206. Basis for awarding grants ~~or loans~~.** (1) Grants ~~and loans shall~~ must be awarded on the  
 16 basis of:

17 (a) need;

18 (b) degree of severity of impact from ~~the~~ an increase or decrease in coal development or in the  
 19 consumption of coal by a coal-using energy complex;

20 (c) availability of funds; and

21 (d) degree of local effort in meeting these needs.

22 (2) In determining the degree of local effort, the board shall review the millage rates levied for the  
 23 present fiscal year in relation to the average millage rates levied during the 3 years immediately preceding  
 24 coal development in that area or 1970, whichever is later, which impacts the local government unit applying  
 25 ~~for assistance~~ the year of application for assistance.

26 (3) Millage rates for the present fiscal year ~~which~~ that are lower than the average millage rate levied  
 27 during the 3 years immediately preceding coal development in that area or 1970, whichever is later, shall  
 28 the year of application for assistance must be deemed considered by the board to indicate the lack of local  
 29 effort. The application under ~~such~~ these circumstances may be rejected.

30 (4) Further, in determining the degree of local effort, the board shall consider the possibility of

1 requiring that local ~~government~~ governmental unit to increase its bonded indebtedness to provide all or part  
 2 of the governmental service or facility ~~which~~ that is needed as a direct consequence of an increase or  
 3 decrease in coal development or in the consumption of coal by a coal-using energy complex.

4 (5) To the extent that funds are needed to evaluate and plan for the impact needs caused by the  
 5 increase or decrease in coal development or in the consumption of coal by a coal-using energy complex,  
 6 consideration of bond issues and millage levies may be waived.

7 (6) To the extent that the applicant has no history of mill levies, subsections (2) and (3) do not  
 8 apply."

9

10 **Section 4.** Section 90-6-207, MCA, is amended to read:

11 **"90-6-207. Priorities for impact grants.** (1) The department of commerce shall ~~annually~~ biennially  
 12 designate:

13 (a) each county, incorporated city and town, school district, and other governmental unit that has  
 14 had or expects to have as a result of the impact of coal development a net increase in estimated population  
 15 of at least 10% over one of the 3-year periods specified in subsection (4);

16 (b) each county and all local governmental units within each county in which:

17 (i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act  
 18 has been granted by the department of environmental quality for a project within the county that will  
 19 establish a new coal mine to produce at least 300,000 tons a year and that the department of commerce  
 20 determines will commence production within 2 years;

21 (ii) the department of commerce has determined that the production of an existing mine will increase  
 22 by at least 1 million tons a year and that the new or expanded production will commence within 2 years  
 23 of the designation;

24 (iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

25 (iv) a certificate of environmental compatibility and public need in accordance with the Montana  
 26 Major Facility Siting Act has been granted by the board of environmental review for a new steam-generating  
 27 or other new coal-burning facility that will consume at least 1 million tons a year of Montana-mined coal  
 28 and for which the department of commerce determines the construction or operation will commence within  
 29 2 years of the designation;

30 (c) each local governmental unit located within 100 miles, measured over the shortest all-weather

1 public road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and

2 (d) each local governmental unit in which:

3 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining  
4 or is scheduled to cease within 1 year; or

5 (ii) a steam-generating or other coal-burning facility that has operated under a certificate of  
6 environmental compatibility and public need in accordance with the Montana Major Facility Siting Act and  
7 that has consumed at least 1 million tons of Montana-mined coal a year has closed or is scheduled to close  
8 within 1 year.

9 (2) Designation under subsection (1) of:

10 (a) any local governmental unit extends to and includes as a designated unit the county in which  
11 it is located; and

12 (b) a county extends to and includes as a designated unit any local governmental unit in the county  
13 that contains at least 10% of the total population of the county.

14 (3) ~~(a) Except as provided in 90-6-205(5)(b), beginning July 1, 1993, and ending June 30, 1995,~~  
15 ~~the coal board may not award more than 20% of the funds appropriated to it each year for grants and loans~~  
16 ~~to governmental units and state agencies for meeting the needs caused by coal development to local~~  
17 ~~governmental units other than those governmental units designated under subsection (1).~~

18 ~~(b) Except as provided in 90-6-205(5)(b)(4)(b), beginning July 1, 1995, and thereafter, the coal~~  
19 ~~board may not award more than 40% 50% of the funds appropriated to it each year for grants and loans~~  
20 ~~to governmental units and state agencies for meeting the needs caused by an increase or decrease in coal~~  
21 ~~development or in the consumption of coal by a coal-using energy complex to local governmental units~~  
22 ~~other than those governmental units designated under subsection (1).~~

23 (4) For the purposes of subsection (1), the department of commerce shall use five 3-year periods  
24 as follows:

25 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

26 (b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

27 (c) one consecutive 3-year period ending with the current calendar year;

28 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

29 (e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

30 (5) Attention should be given by the coal board to the need for community planning before the full

1 impact is realized. Applicants should be able to show how their request reasonably fits into an overall plan  
2 for the orderly management of the existing or contemplated growth or decline problems.

3 (6) All funds appropriated under this part are for use related to local impact.

4 (7) All designations based on an increase in coal development or in the consumption of coal by a  
5 coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) ~~this section~~ must be for 1 year.  
6 A designation may not continue after the department of commerce determines that the mine, railroad, or  
7 facility that provided the basis for a designation is contributing sufficient tax revenue to the designated  
8 ~~government~~ governmental unit to meet the increased costs of providing the services necessitated by the  
9 development of the mine, railroad, or facility. However, nondesignated local governmental units continue  
10 to be eligible for coal impact grants ~~and loans~~ of not more than ~~20% and beginning July 1, 1995, not more~~  
11 ~~than 10%~~ 50% of the funds appropriated to the coal board for grants ~~and loans~~ in circumstances in which:

12 ~~(a)~~ an impact exists in a community or area directly affected by:

13 (a) the operation of a coal mine or ~~mines~~ a coal-using energy complex; or

14 (b) ~~tax revenue is not available to mitigate the impact due to the closure of a mine or facility~~ the  
15 cessation or reduction of coal mining activity or of the operation of a coal-using energy complex."

16

17 **Section 5.** Section 90-6-208, MCA, is amended to read:

18 "**90-6-208. Applications for grants ~~or loans~~.** The governing body of a city, town, county, or school  
19 district, any other local or state governmental unit or agency, or the governing body of a federally  
20 recognized Indian tribe may apply for a grant ~~or a loan~~ to enable it to provide governmental services ~~which~~  
21 that are needed as a direct consequence of an increase or decrease of coal development or of an increase  
22 or decrease in the consumption of coal by a coal-using energy complex. The ~~coal~~ board shall prescribe the  
23 form for applications. Applicants shall describe the nature of their proposed expenditures and the time  
24 involved."

25

26 **Section 6.** Section 90-6-209, MCA, is amended to read:

27 "**90-6-209. Limitations on grants ~~and loans~~.** (1) The board may commit itself to the expenditure  
28 of funds for more than 1 year for a single project, ~~as long as the grant or loan does not extend over more~~  
29 ~~than 10 years and does not exceed reasonable revenue expectations~~ but the board may not obligate funds  
30 not yet appropriated by the legislature. The total amount of grants ~~and loans~~ to state agencies, except

1 grants made pursuant to 90-6-205~~(5)(b)(4)(b)~~, and Indian tribes may not exceed 7% of the total money  
2 allocated to the board during each fiscal year.

3 ~~(2) (a) No loan may be approved by the board if the source of money for repayment would be  
4 derived from property taxes. Repayment may be made from fees, rentals, admissions, use charges, and  
5 special assessments.~~

6 ~~(b) The repayment period for loans approved by the board may not exceed 20 years.~~

7 ~~(c) The board shall hold all loan contracts within its administrative offices. The board may not sell,  
8 assign, or pledge a loan contract to any other entity.~~

9 ~~(d) A local government unit or the governing body of a federally recognized Indian tribe receiving  
10 a loan from the board shall use or commit for use the loan money within 1 year of the date of the board's  
11 final approval of the loan.~~

12 ~~(e) If a local government unit or the governing body of a federally recognized Indian tribe fails to  
13 comply with subsection (2)(d), the entire loan must be repaid within 30 days following expiration of the  
14 1-year period.~~

15 ~~(3)(2) No loan or A~~ grant to an Indian tribe under 90-6-205 may not be approved by the board  
16 unless, with respect to that loan or grant:

17 (a) the governing body of the tribe has agreed:

18 (i) to waive its immunity from suit on any issue specifically arising from the transaction of a ~~loan~~  
19 ~~or~~ grant obtained under this part; and

20 (ii) to the adjudication of any dispute arising out of the ~~loan or~~ grant transaction in the district court  
21 of the first judicial district of the state of Montana; and

22 (b) approval of the transaction has been obtained from the secretary of the United States  
23 department of the interior whenever ~~such~~ approval is necessary."

24

25 NEW SECTION. Section 7. Repealer. Section 90-6-212, MCA, is repealed.

26

27 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 1997.

28

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0223, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

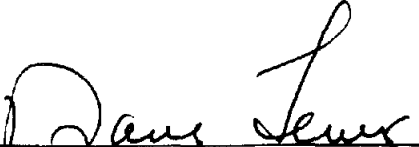
An act clarifying the authority of the Montana Coal Board to assist local governmental units in providing services necessitated by a significant decline in coal mining or in the consumption of coal by coal-using energy complexes; eliminating the coal board's authority to make loans to local governmental units.


ASSUMPTIONS:

1. The proposed bill clarifies the coal board authority with specific reference to the impacts of coal decline and to issue loans.
2. The coal board is not funded by an earmarked percentage of revenues as before fiscal year 1996, but by a biennial appropriation from each succeeding legislative session.

FISCAL IMPACT:

There is no discernible fiscal impact.

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

  
MACK COLE, PRIMARY SPONSOR      DATE  
Fiscal Note for SB0223, as introduced

SB 223

APPROVED BY COM ON  
NATURAL RESOURCES

SENATE BILL NO. 223

INTRODUCED BY COLE, HOLLAND, BEAUDRY, KEATING, ZOOK, STOVALL, JABS, GAGE, DEVLIN,  
MAHLUM

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE MONTANA COAL BOARD TO ASSIST LOCAL GOVERNMENTAL UNITS IN PROVIDING SERVICES NECESSITATED BY A SIGNIFICANT DECLINE IN COAL MINING OR IN THE CONSUMPTION OF COAL BY COAL-USING ENERGY COMPLEXES; ELIMINATING THE COAL BOARD'S AUTHORITY TO MAKE LOANS TO LOCAL GOVERNMENTAL UNITS; AMENDING SECTIONS 90-6-201, 90-6-205, 90-6-206, 90-6-207, 90-6-208, AND 90-6-209, MCA; REPEALING SECTION 90-6-212, MCA; AND PROVIDING AN EFFECTIVE DATE."

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**Section 2.** Section 90-6-205, MCA, is amended to read:

**"90-6-205. Coal board -- general powers.** The board may:

(1) retain professional consultants and advisors;

(2) adopt rules governing its proceedings;

(3) consider applications for grants from available funds;

~~(4) consider applications for loans from available funds for periods and interest rates to be determined by the board; and~~

~~(5)(4)~~ award grants ~~and loans~~, subject to 90-6-207, from available funds:

(a) to local governmental units, state agencies, and governing bodies of federally recognized Indian



1 tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact  
 2 of coal development or a major decline in coal mining or in the operation of coal-using energy complexes  
 3 by enabling them to adequately provide governmental services and facilities that are needed as a direct  
 4 consequence of an increase or decrease in coal development or in the consumption of coal by a coal-using  
 5 energy complex; and

6 (b) notwithstanding the provisions of 90-6-207, to the department of transportation, established  
 7 in 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway within  
 8 the area designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the  
 9 development of coal resources; and

10 ~~(6)(5)~~ award a grant to a local ~~government~~ governmental unit for the purpose of paying for part  
 11 or all of the credit that the local ~~government~~ governmental unit is obligated to give to a major new industrial  
 12 facility that has prepaid property taxes under 15-16-201. The board ~~must~~ shall award the grant in  
 13 accordance with 90-6-206."

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 15 **Section 3.** Section 90-6-206, MCA, is amended to read:

16 **"90-6-206. Basis for awarding grants ~~or loans~~.** (1) Grants ~~and loans shall~~ must be awarded on the  
 17 basis of:

18 (a) need;

19 (b) degree of severity of impact from ~~the~~ an increase or decrease in coal development or in the  
 20 consumption of coal by a coal-using energy complex;

21 (c) availability of funds; and

22 (d) degree of local effort in meeting these needs.

23 (2) In determining the degree of local effort, the board shall review the millage rates levied for the  
 24 present fiscal year in relation to the average millage rates levied during the 3 years immediately preceding  
 25 ~~coal development in that area or 1970, whichever is later, which impacts the local government unit applying~~  
 26 ~~for assistance~~ the year of application for assistance.

27 (3) Millage rates for the present fiscal year ~~which that~~ are lower than the average millage rate levied  
 28 during the 3 years immediately preceding ~~coal development in that area or 1970, whichever is later,~~ shall  
 29 the year of application for assistance must be deemed considered by the board to indicate the lack of local  
 30 effort. The application under ~~such~~ these circumstances may be rejected.

1 (4) Further, in determining the degree of local effort, the board shall consider the possibility of  
 2 requiring that local ~~government~~ governmental unit to increase its bonded indebtedness to provide all or part  
 3 of the governmental service or facility ~~which~~ that is needed as a direct consequence of an increase or  
 4 decrease in coal development or in the consumption of coal by a coal-using energy complex.

5 (5) To the extent that funds are needed to evaluate and plan for the impact needs caused by the  
 6 increase or decrease in coal development or in the consumption of coal by a coal-using energy complex,  
 7 consideration of bond issues and millage levies may be waived.

8 (6) To the extent that the applicant has no history of mill levies, subsections (2) and (3) do not  
 9 apply."

10  
 11 **Section 4.** Section 90-6-207, MCA, is amended to read:

12 "**90-6-207. Priorities for impact grants.** (1) The department of commerce shall ~~annually~~ biennially  
 13 designate:

14 (a) each county, incorporated city and town, school district, and other governmental unit that has  
 15 had or expects to have as a result of the impact of coal development a net increase OR DECREASE in  
 16 estimated population of at least 10% over one of the 3-year periods specified in subsection (4);

17 (b) each county and all local governmental units within each county in which:

18 (i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act  
 19 has been granted by the department of environmental quality for a project within the county that will  
 20 establish a new coal mine to produce at least 300,000 tons a year and that the department of commerce  
 21 determines will commence production within 2 years;

22 (ii) the department of commerce has determined that the production of an existing mine will increase  
 23 OR DECREASE by at least 1 million tons a year and that the ~~new or expanded~~ NEW, EXPANDED, OR  
 24 REDUCED production will commence within 2 years of the designation;

25 (iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

26 (iv) a certificate of environmental compatibility and public need in accordance with the Montana  
 27 Major Facility Siting Act has been granted by the board of environmental review for a new steam-generating  
 28 or other new coal-burning facility that will consume at least 1 million tons a year of Montana-mined coal  
 29 and for which the department of commerce determines the construction or operation will commence within  
 30 2 years of the designation;

1 (c) each local governmental unit located within 100 miles, measured over the shortest all-weather  
2 public road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and

3 (d) each local governmental unit in which:

4 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining  
5 or is scheduled to cease within 1 year; or

6 (ii) a steam-generating or other coal-burning facility that has operated under a certificate of  
7 environmental compatibility and public need in accordance with the Montana Major Facility Siting Act and  
8 that has consumed at least 1 million tons of Montana-mined coal a year has closed or is scheduled to close  
9 within 1 year.

10 (2) Designation under subsection (1) of:

11 (a) any local governmental unit extends to and includes as a designated unit the county in which  
12 it is located; and

13 (b) a county extends to and includes as a designated unit any local governmental unit in the county  
14 that contains at least 10% of the total population of the county.

15 (3) ~~(a) Except as provided in 90-6-205(5)(b), beginning July 1, 1993, and ending June 30, 1995,~~  
16 ~~the coal board may not award more than 20% of the funds appropriated to it each year for grants and loans~~  
17 ~~to governmental units and state agencies for meeting the needs caused by coal development to local~~  
18 ~~governmental units other than those governmental units designated under subsection (1).~~

19 ~~(b) Except as provided in 90-6-205(5)(b)(4)(b), beginning July 1, 1995, and thereafter, the coal~~  
20 ~~board may not award more than 10% 50% of the funds appropriated to it each year for grants and loans~~  
21 ~~to governmental units and state agencies for meeting the needs caused by an increase or decrease in coal~~  
22 ~~development or in the consumption of coal by a coal-using energy complex to local governmental units~~  
23 ~~other than those governmental units designated under subsection (1).~~

24 (4) For the purposes of subsection (1), the department of commerce shall use five 3-year periods  
25 as follows:

26 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

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29 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

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2 impact is realized. Applicants should be able to show how their request reasonably fits into an overall plan  
3 for the orderly management of the existing or contemplated growth or decline problems.

4 (6) All funds appropriated under this part are for use related to local impact.

5 (7) All designations based on an increase in coal development or in the consumption of coal by a  
6 coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) this section must be for 1 year.

7 A designation may not continue after the department of commerce determines that the mine, railroad, or  
8 facility that provided the basis for a designation is contributing sufficient tax revenue to the designated  
9 ~~government~~ governmental unit to meet the increased costs of providing the services necessitated by the  
10 development of the mine, railroad, or facility. However, nondesignated local governmental units continue  
11 to be eligible for coal impact grants ~~and loans~~ of not more than ~~20% and beginning July 1, 1995, not more~~  
12 ~~than 10%~~ 50% of the funds appropriated to the coal board for grants ~~and loans~~ in circumstances in which:

13 ~~(a)~~ an impact exists in a community or area directly affected by;

14 (a) the operation of a coal mine or ~~mines~~ a coal-using energy complex; or

15 ~~(b) tax revenue is not available to mitigate the impact due to the closure of a mine or facility~~ the  
16 cessation or reduction of coal mining activity or of the operation of a coal-using energy complex."

17  
18 **Section 5.** Section 90-6-208, MCA, is amended to read:

19 **"90-6-208. Applications for grants ~~or loans~~.** The governing body of a city, town, county, or school  
20 district, any other local or state governmental unit or agency, or the governing body of a federally  
21 recognized Indian tribe may apply for a grant ~~or a loan~~ to enable it to provide governmental services ~~which~~  
22 that are needed as a direct consequence of an increase or decrease of coal development or of an increase  
23 or decrease in the consumption of coal by a coal-using energy complex. The coal board shall prescribe the  
24 form for applications. Applicants shall describe the nature of their proposed expenditures and the time  
25 involved."

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27 **Section 6.** Section 90-6-209, MCA, is amended to read:

28 **"90-6-209. Limitations on grants ~~and loans~~.** (1) The board may commit itself to the expenditure  
29 of funds for more than 1 year for a single project, ~~as long as the grant or loan does not extend over more~~  
30 ~~than 10 years and does not exceed reasonable revenue expectations~~ but the board may not obligate funds

1 ~~not yet appropriated by the legislature.~~ The total amount of grants ~~and loans~~ to state agencies, except  
 2 grants made pursuant to 90-6-205~~(5)(b)(4)(b)~~, and Indian tribes may not exceed 7% of the total money  
 3 allocated to the board during each fiscal year.

4 ~~(2) (a) No loan may be approved by the board if the source of money for repayment would be~~  
 5 ~~derived from property taxes. Repayment may be made from fees, rentals, admissions, use charges, and~~  
 6 ~~special assessments.~~

7 ~~(b) The repayment period for loans approved by the board may not exceed 20 years.~~

8 ~~(c) The board shall hold all loan contracts within its administrative offices. The board may not sell,~~  
 9 ~~assign, or pledge a loan contract to any other entity.~~

10 ~~(d) A local government unit or the governing body of a federally recognized Indian tribe receiving~~  
 11 ~~a loan from the board shall use or commit for use the loan money within 1 year of the date of the board's~~  
 12 ~~final approval of the loan.~~

13 ~~(e) If a local government unit or the governing body of a federally recognized Indian tribe fails to~~  
 14 ~~comply with subsection (2)(d), the entire loan must be repaid within 30 days following expiration of the~~  
 15 ~~1-year period.~~

16 ~~(3)(2) No loan or A grant to an Indian tribe under 90-6-205 may not be approved by the board~~  
 17 ~~unless, with respect to that loan or grant:~~

18 (a) the governing body of the tribe has agreed:

19 (i) to waive its immunity from suit on any issue specifically arising from the transaction of a ~~loan~~  
 20 ~~or grant~~ obtained under this part; and

21 (ii) to the adjudication of any dispute arising out of the ~~loan or grant~~ transaction in the district court  
 22 of the first judicial district of the state of Montana; and

23 (b) approval of the transaction has been obtained from the secretary of the United States  
 24 department of the interior whenever ~~such~~ approval is necessary."

25  
 26 NEW SECTION. **Section 7. Repealer.** Section 90-6-212, MCA, is repealed.

27  
 28 NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 1997.

29 -END-

## 1 SENATE BILL NO. 223

2 INTRODUCED BY COLE, HOLLAND, BEAUDRY, KEATING, ZOOK, STOVALL, JABS, GAGE, DEVLIN,

3 MAHLUM

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE MONTANA COAL BOARD  
6 TO ASSIST LOCAL GOVERNMENTAL UNITS IN PROVIDING SERVICES NECESSITATED BY A SIGNIFICANT  
7 DECLINE IN COAL MINING OR IN THE CONSUMPTION OF COAL BY COAL-USING ENERGY COMPLEXES;  
8 ELIMINATING THE COAL BOARD'S AUTHORITY TO MAKE LOANS TO LOCAL GOVERNMENTAL UNITS;  
9 AMENDING SECTIONS 90-6-201, 90-6-205, 90-6-206, 90-6-207, 90-6-208, AND 90-6-209, MCA;  
10 REPEALING SECTION 90-6-212, MCA; AND PROVIDING AN EFFECTIVE DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**

SENATE BILL NO. 223

INTRODUCED BY COLE, HOLLAND, BEAUDRY, KEATING, ZOOK, STOVALL, JABS, GAGE, DEVLIN,  
MAHLUM

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE MONTANA COAL BOARD  
TO ASSIST LOCAL GOVERNMENTAL UNITS IN PROVIDING SERVICES NECESSITATED BY A SIGNIFICANT  
DECLINE IN COAL MINING OR IN THE CONSUMPTION OF COAL BY COAL-USING ENERGY COMPLEXES;  
ELIMINATING THE COAL BOARD'S AUTHORITY TO MAKE LOANS TO LOCAL GOVERNMENTAL UNITS;  
AMENDING SECTIONS 90-6-201, 90-6-205, 90-6-206, 90-6-207, 90-6-208, AND 90-6-209, MCA;  
REPEALING SECTION 90-6-212, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**

## 1 SENATE BILL NO. 223

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3 MAHLUM

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE MONTANA COAL BOARD  
6 TO ASSIST LOCAL GOVERNMENTAL UNITS IN PROVIDING SERVICES NECESSITATED BY A SIGNIFICANT  
7 DECLINE IN COAL MINING OR IN THE CONSUMPTION OF COAL BY COAL-USING ENERGY COMPLEXES;  
8 ELIMINATING THE COAL BOARD'S AUTHORITY TO MAKE LOANS TO LOCAL GOVERNMENTAL UNITS;  
9 AMENDING SECTIONS 90-6-201, 90-6-205, 90-6-206, 90-6-207, 90-6-208, AND 90-6-209, MCA;  
10 REPEALING SECTION 90-6-212, MCA; AND PROVIDING AN EFFECTIVE DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 **Section 1.** Section 90-6-201, MCA, is amended to read:

15 "90-6-201. **Purpose.** The purposes of this part are to assist local governmental units that have  
16 been required to expand the provision of public services as a consequence of large-scale development of  
17 coal mines and coal-using energy complexes or as a consequence of a major decline in coal mining or in  
18 the operation of coal-using energy complexes, to assist in the construction and reconstruction of designated  
19 portions of highways that serve the area affected by the large-scale development, to support county land  
20 planning, and to support public schools throughout the state."

21  
22 **Section 2.** Section 90-6-205, MCA, is amended to read:

23 "90-6-205. **Coal board -- general powers.** The board may:

24 (1) retain professional consultants and advisors;

25 (2) adopt rules governing its proceedings;

26 (3) consider applications for grants from available funds;

27 ~~(4) consider applications for loans from available funds for periods and interest rates to be~~  
28 ~~determined by the board; and~~

29 ~~(5)(4)~~ award grants ~~and loans~~, subject to 90-6-207, from available funds:

30 (a) to local governmental units, state agencies, and governing bodies of federally recognized Indian



1 tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact  
 2 of coal development or a major decline in coal mining or in the operation of coal-using energy complexes  
 3 by enabling them to adequately provide governmental services and facilities that are needed as a direct  
 4 consequence of an increase or decrease in coal development or in the consumption of coal by a coal-using  
 5 energy complex; and

6 (b) notwithstanding the provisions of 90-6-207, to the department of transportation, established  
 7 in 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway within  
 8 the area designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the  
 9 development of coal resources; and

10 ~~(6)~~(5) award a grant to a local ~~government~~ governmental unit for the purpose of paying for part  
 11 or all of the credit that the local ~~government~~ governmental unit is obligated to give to a major new industrial  
 12 facility that has prepaid property taxes under 15-16-201. The board ~~must~~ shall award the grant in  
 13 accordance with 90-6-206."

14  
 15 **Section 3.** Section 90-6-206, MCA, is amended to read:

16 "**90-6-206. Basis for awarding grants or loans.** (1) Grants ~~and loans shall~~ must be awarded on the  
 17 basis of:

18 (a) need;

19 (b) degree of severity of impact from ~~the~~ an increase or decrease in coal development or in the  
 20 consumption of coal by a coal-using energy complex;

21 (c) availability of funds; and

22 (d) degree of local effort in meeting these needs.

23 (2) In determining the degree of local effort, the board shall review the millage rates levied for the  
 24 present fiscal year in relation to the average millage rates levied during the 3 years immediately preceding  
 25 ~~coal development in that area or 1970, whichever is later, which impacts the local government unit applying~~  
 26 ~~for assistance~~ the year of application for assistance.

27 (3) Millage rates for the present fiscal year ~~which that~~ are lower than the average millage rate levied  
 28 during the 3 years immediately preceding ~~coal development in that area or 1970, whichever is later,~~  
 29 the year of application for assistance must be deemed considered by the board to indicate the lack of local  
 30 effort. The application under ~~such~~ these circumstances may be rejected.

1 (4) Further, in determining the degree of local effort, the board shall consider the possibility of  
 2 requiring that local ~~government~~ governmental unit to increase its bonded indebtedness to provide all or part  
 3 of the governmental service or facility ~~which~~ that is needed as a direct consequence of an increase or  
 4 decrease in coal development or in the consumption of coal by a coal-using energy complex.

5 (5) To the extent that funds are needed to evaluate and plan for the impact needs caused by the  
 6 increase or decrease in coal development or in the consumption of coal by a coal-using energy complex,  
 7 consideration of bond issues and millage levies may be waived.

8 (6) To the extent that the applicant has no history of mill levies, subsections (2) and (3) do not  
 9 apply."

10  
 11 **Section 4.** Section 90-6-207, MCA, is amended to read:

12 **"90-6-207. Priorities for impact grants.** (1) The department of commerce shall ~~annually~~ biennially  
 13 designate:

14 (a) each county, incorporated city and town, school district, and other governmental unit that has  
 15 had or expects to have as a result of the impact of coal development a net increase OR DECREASE in  
 16 estimated population of at least 10% over one of the 3-year periods specified in subsection (4);

17 (b) each county and all local governmental units within each county in which:

18 (i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act  
 19 has been granted by the department of environmental quality for a project within the county that will  
 20 establish a new coal mine to produce at least 300,000 tons a year and that the department of commerce  
 21 determines will commence production within 2 years;

22 (ii) the department of commerce has determined that the production of an existing mine will increase  
 23 OR DECREASE by at least 1 million tons a year and that the ~~new or expanded~~ NEW, EXPANDED, OR  
 24 REDUCED production will commence within 2 years of the designation;

25 (iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

26 (iv) a certificate of environmental compatibility and public need in accordance with the Montana  
 27 Major Facility Siting Act has been granted by the board of environmental review for a new steam-generating  
 28 or other new coal-burning facility that will consume at least 1 million tons a year of Montana-mined coal  
 29 and for which the department of commerce determines the construction or operation will commence within  
 30 2 years of the designation;

1 (c) each local governmental unit located within 100 miles, measured over the shortest all-weather  
2 public road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and

3 (d) each local governmental unit in which:

4 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining  
5 or is scheduled to cease within 1 year; or

6 (ii) a steam-generating or other coal-burning facility that has operated under a certificate of  
7 environmental compatibility and public need in accordance with the Montana Major Facility Siting Act and  
8 that has consumed at least 1 million tons of Montana-mined coal a year has closed or is scheduled to close  
9 within 1 year.

10 (2) Designation under subsection (1) of:

11 (a) any local governmental unit extends to and includes as a designated unit the county in which  
12 it is located; and

13 (b) a county extends to and includes as a designated unit any local governmental unit in the county  
14 that contains at least 10% of the total population of the county.

15 ~~(3) (a) Except as provided in 90-6-205(5)(b), beginning July 1, 1993, and ending June 30, 1996,~~  
16 ~~the coal board may not award more than 20% of the funds appropriated to it each year for grants and loans~~  
17 ~~to governmental units and state agencies for meeting the needs caused by coal development to local~~  
18 ~~governmental units other than those governmental units designated under subsection (1).~~

19 ~~(b) Except as provided in 90-6-205(5)(b)(4)(b), beginning July 1, 1995, and thereafter,~~ the coal  
20 board may not award more than ~~10%~~ 50% of the funds appropriated to it each year for grants and loans  
21 to governmental units and state agencies for meeting the needs caused by an increase or decrease in coal  
22 development or in the consumption of coal by a coal-using energy complex to local governmental units  
23 other than those governmental units designated under subsection (1).

24 (4) For the purposes of subsection (1), the department of commerce shall use five 3-year periods  
25 as follows:

26 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

27 (b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

28 (c) one consecutive 3-year period ending with the current calendar year;

29 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

30 (e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

1 (5) Attention should be given by the ~~coal~~ board to the need for community planning before the full  
 2 impact is realized. Applicants should be able to show how their request reasonably fits into an overall plan  
 3 for the orderly management of the existing or contemplated growth or decline problems.

4 (6) All funds appropriated under this part are for use related to local impact.

5 (7) All designations based on an increase in coal development or in the consumption of coal by a  
 6 coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) this section must be for 1 year.  
 7 A designation may not continue after the department of commerce determines that the mine, railroad, or  
 8 facility that provided the basis for a designation is contributing sufficient tax revenue to the designated  
 9 ~~government~~ governmental unit to meet the increased costs of providing the services necessitated by the  
 10 development of the mine, railroad, or facility. However, nondesignated local governmental units continue  
 11 to be eligible for coal impact grants ~~and loans~~ of not more than ~~20% and beginning July 1, 1995, not more~~  
 12 ~~than 10%~~ 50% of the funds appropriated to the ~~coal~~ board for grants ~~and loans~~ in circumstances in which:

13 ~~(a)~~ an impact exists in a community or area directly affected by:

14 (a) the operation of a coal mine or ~~mines~~ a coal-using energy complex; or

15 (b) tax revenue is not available to mitigate the impact due to the closure of a mine or facility the  
 16 cessation or reduction of coal mining activity or of the operation of a coal-using energy complex."

17  
 18 **Section 5.** Section 90-6-208, MCA, is amended to read:

19 "**90-6-208. Applications for grants ~~or loans~~.** The governing body of a city, town, county, or school  
 20 district, any other local or state governmental unit or agency, or the governing body of a federally  
 21 recognized Indian tribe may apply for a grant ~~or a loan~~ to enable it to provide governmental services ~~which~~  
 22 that are needed as a direct consequence of an increase or decrease of coal development or of an increase  
 23 or decrease in the consumption of coal by a coal-using energy complex. The ~~coal~~ board shall prescribe the  
 24 form for applications. Applicants shall describe the nature of their proposed expenditures and the time  
 25 involved."

26  
 27 **Section 6.** Section 90-6-209, MCA, is amended to read:

28 "**90-6-209. Limitations on grants ~~and loans~~.** (1) The board may commit itself to the expenditure  
 29 of funds for more than 1 year for a single project, ~~as long as the grant or loan does not extend over more~~  
 30 ~~than 10 years and does not exceed reasonable revenue expectations~~ but the board may not obligate funds

1 not yet appropriated by the legislature. The total amount of grants and loans to state agencies, except  
 2 grants made pursuant to 90-6-205(5)(b)(4)(b), and Indian tribes may not exceed 7% of the total money  
 3 allocated to the board during each fiscal year.

4 ~~(2) (a) No loan may be approved by the board if the source of money for repayment would be~~  
 5 ~~derived from property taxes. Repayment may be made from fees, rentals, admissions, use charges, and~~  
 6 ~~special assessments.~~

7 ~~(b) The repayment period for loans approved by the board may not exceed 20 years.~~

8 ~~(c) The board shall hold all loan contracts within its administrative offices. The board may not sell,~~  
 9 ~~assign, or pledge a loan contract to any other entity.~~

10 ~~(d) A local government unit or the governing body of a federally recognized Indian tribe receiving~~  
 11 ~~a loan from the board shall use or commit for use the loan money within 1 year of the date of the board's~~  
 12 ~~final approval of the loan.~~

13 ~~(e) If a local government unit or the governing body of a federally recognized Indian tribe fails to~~  
 14 ~~comply with subsection (2)(d), the entire loan must be repaid within 30 days following expiration of the~~  
 15 ~~1-year period.~~

16 ~~(3)(2) No loan or A grant to an Indian tribe under 90-6-205 may not be approved by the board~~  
 17 ~~unless, with respect to that loan or grant:~~

18 (a) the governing body of the tribe has agreed:

19 (i) to waive its immunity from suit on any issue specifically arising from the transaction of a loan  
 20 or grant obtained under this part; and

21 (ii) to the adjudication of any dispute arising out of the loan or grant transaction in the district court  
 22 of the first judicial district of the state of Montana; and

23 (b) approval of the transaction has been obtained from the secretary of the United States  
 24 department of the interior whenever such approval is necessary."

25  
 26 **NEW SECTION. Section 7. Repealer.** Section 90-6-212, MCA, is repealed.

27  
 28 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 1997.

29 END.