

HOUSE BILL 702

Introduced by Driscoll, et al.

2/08	Introduced
2/08	Referred to Taxation
2/08	First Reading
2/08	Fiscal Note Requested
2/15	Fiscal Note Received
2/22	Fiscal Note Printed
3/08	Hearing
3/15	Rereferred to Appropriations
3/21	Hearing
3/23	Tabled in Committee

1 *House* BILL NO. *702* *Bob Pappas*
 2 INTRODUCED BY *Scott Smith, Capin, G. L. ...*
 3 *Bob Brown, Femberley, Blaylock, Hager*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING STATE FUNDING *Hager*
 5 FOR CLEAN COAL TECHNOLOGY PROJECTS; CREATING A CLEAN COAL *Bradley*
 6 TECHNOLOGY DEVELOPMENT ACCOUNT USING COAL SEVERANCE TAX
 7 PROCEEDS NOT DEDICATED TO THE PERMANENT TRUST FUND; *Harter*
 8 AUTHORIZING CLEAN COAL TECHNOLOGY DEVELOPMENT LOANS FOR
 9 DESIGNATED CLEAN COAL TECHNOLOGY PROJECTS; STATUTORILY
 10 APPROPRIATING MONEY FOR LOANS; AUTHORIZING A SPECIFIC LOAN;
 11 AMENDING SECTIONS 15-35-108 AND 17-7-502, MCA; AND PROVIDING
 12 AN EFFECTIVE DATE."
 13

STATEMENT OF INTENT

15 A statement of intent is required for this bill because it
 16 grants rulemaking authority to the department of natural
 17 resources and conservation. In adopting rules to implement
 18 this bill, the department should model its rules on the
 19 water development project loans that it currently
 20 administers.

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

Section 1. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes.

Severance taxes collected under this chapter must be

1 allocated according to the provisions in effect on the date
 2 the tax is due under 15-35-104. Severance taxes collected
 3 under the provisions of this chapter are allocated as
 4 follows:

(1) To the trust fund created by Article IX, section 5,
 of the Montana constitution, 50% of total coal severance tax
 collections. The trust fund moneys shall be deposited in the
 fund established under 17-6-203(5) and invested by the board
 of investments as provided by law.

(2) Starting July 1, 1987, and ending June 30, 1993,
 12% of coal severance tax collections are allocated to the
 highway reconstruction trust fund account in the state
 special revenue fund.

(3) Coal severance tax collections remaining after the
 allocations provided by subsections (1) and (2) are
 allocated in the following percentages of the remaining
 balance:

(a) 17.5% to the credit of the local impact account.
 Unencumbered funds remaining in the local impact account at
 the end of each biennium are allocated to the state special
 revenue fund for state equalization aid to public schools of
 the state.

(b) 30% to the state special revenue fund for state
 equalization aid to public schools of the state;

(c) 1% to the state special revenue fund to the credit



1 of the county land planning account;

2 (d) 1 1/4% to the credit of the renewable resource
3 development bond fund;

4 (e) 5% to a nonexpendable trust fund for the purpose of
5 parks acquisition or management, protection of works of art
6 in the state capitol, and other cultural and aesthetic
7 projects. Income from this trust fund shall be appropriated
8 as follows:

9 (i) 1/3 for protection of works of art in the state
10 capitol and other cultural and aesthetic projects; and

11 (ii) 2/3 for the acquisition, development, operation,
12 and maintenance of any sites and areas described in
13 23-1-102;

14 (f) 1% to the state special revenue fund to the credit
15 of the state library commission for the purposes of
16 providing basic library services for the residents of all
17 counties through library federations and for payment of the
18 costs of participating in regional and national networking;

19 (g) 1/2 of 1% to the state special revenue fund for
20 conservation districts;

21 (h) 1 1/4% to the debt service fund type to the credit
22 of the water development debt service fund;

23 (i) 2% to the state special revenue fund for the
24 Montana Growth Through Agriculture Act;

25 (j) beginning July 1, 1991, and ending June 30, 1997,

1 7% to the clean coal technology development account;

2 (k) all other revenues from severance taxes collected
3 under the provisions of this chapter to the credit of the
4 general fund of the state. (Terminates July 1, 1993--sec. 7,
5 Ch. 541, L. 1983.)

6 15-35-108. (Effective July 1, 1993) Disposal of
7 severance taxes. Severance taxes collected under this
8 chapter must be allocated according to the provisions in
9 effect on the date the tax is due under 15-35-104. Severance
10 taxes collected under the provisions of this chapter are
11 allocated as follows:

12 (1) To the trust fund created by Article IX, section 5,
13 of the Montana constitution, 50% of total coal severance tax
14 collections. The trust fund moneys shall be deposited in the
15 fund established under 17-6-203(5) and invested by the board
16 of investments as provided by law.

17 (2) Coal severance tax collections remaining after
18 allocation to the trust fund under subsection (1) are
19 allocated in the following percentages of the remaining
20 balance:

21 (a) 17.5% to the credit of the local impact account.
22 Unencumbered funds remaining in the local impact account at
23 the end of each biennium are allocated to the state special
24 revenue fund for state equalization aid to public schools of
25 the state.

1 (b) 30% to the state special revenue fund for state
2 equalization aid to public schools of the state;

3 (c) 1% to the state special revenue fund to the credit
4 of the county land planning account;

5 (d) 1 1/4% to the credit of the renewable resource
6 development bond fund;

7 (e) 5% to a nonexpendable trust fund for the purpose of
8 parks acquisition or management, protection of works of art
9 in the state capitol, and other cultural and aesthetic
10 projects. Income from this trust fund shall be appropriated
11 as follows:

12 (i) 1/3 for protection of works of art in the state
13 capitol and other cultural and aesthetic projects; and

14 (ii) 2/3 for the acquisition, development, operation,
15 and maintenance of any sites and areas described in
16 23-1-102;

17 (f) 1% to the state special revenue fund to the credit
18 of the state library commission for the purposes of
19 providing basic library services for the residents of all
20 counties through library federations and for payment of the
21 costs of participating in regional and national networking;

22 (g) 1/2 of 1% to the state special revenue fund for
23 conservation districts;

24 (h) 1 1/4% to the debt service fund type to the credit
25 of the water development debt service fund;

1 (i) 2% to the state special revenue fund for the
2 Montana Growth Through Agriculture Act;

3 (j) beginning July 1, 1991, and ending June 30, 1997,
4 7% to the clean coal technology development account;

5 (k) all other revenues from severance taxes collected
6 under the provisions of this chapter to the credit of the
7 general fund of the state."

8 NEW SECTION. Section 2. Clean coal technology
9 development account. (1) There is a clean coal technology
10 development account in the state treasury. The account
11 consists of coal severance tax proceeds allocated under
12 15-35-108, the principal and interest received from the
13 repayment of clean coal technology development loans made
14 from the account, and money from any other source the
15 legislature determines.

16 (2) The clean coal technology development account is
17 statutorily appropriated, as provided in 17-7-502, to the
18 department of natural resources and conservation to be used
19 for clean coal technology development loans to clean coal
20 technology projects and for the administration of the clean
21 coal technology program.

22 NEW SECTION. Section 3. Definitions. As used in
23 {sections 3 through 7}, the following definitions apply:

24 (1) "Clean coal technology project" means a project
25 that employs an effective and efficient method of using coal

1 to generate energy and that results in substantially reduced
2 pollutant emissions compared to the commercial methods of
3 coal energy generation in use at the time.

4 (2) "Department" means the department of natural
5 resources and conservation established in 2-15-3301.

6 (3) "Person" means an individual, association,
7 partnership, corporation, or other entity.

8 NEW SECTION. Section 4. Clean coal technology loans --
9 administrative costs. (1) The department may make loans from
10 the clean coal technology development account for clean coal
11 technology projects authorized by the legislature.

12 (2) Loans may be secured or unsecured in nature and
13 must contain repayment provisions using income sources that
14 do not jeopardize the financial viability of the projects.
15 Repayment may be made from operating income, net project
16 income, revenue from the licensing or sale of technology,
17 sale or lease of the project, or other sources determined by
18 the department.

19 (3) The department may determine the payment dates for
20 loans and a rate of interest for the loan as part of the
21 loan agreement. The rate of interest may not be less than
22 the rate of interest for any federal funds dedicated to a
23 project. Payments of principal and interest on loans must be
24 deposited in the clean coal technology development account
25 created in [section 2].

1 (4) The department may use funds in the account to
2 administer the clean coal technology program as authorized
3 by the legislature in the general appropriations act.

4 NEW SECTION. Section 5. Applications for clean coal
5 technology loans. A person may apply for a loan for a clean
6 coal technology project to be conducted in Montana. An
7 application for a loan must be in a form prescribed by the
8 department and contain or be accompanied by any information
9 necessary to adequately describe the proposed project and
10 necessary to evaluate the proposed project.

11 NEW SECTION. Section 6. Eligibility for loan --
12 approval. (1) In order to make a clean coal technology
13 development loan, the department must find, based on the
14 application and the department's investigation and
15 evaluation of the proposal, that the loan will be:

16 (a) used for a clean coal technology project that is in
17 its applied research, planning, or development stage; and

18 (b) matched on at least a 1:1 basis from federal or
19 private sources.

20 (2) Loans may be used for project development,
21 planning, applied research activities, construction, and
22 operations.

23 (3) A loan of \$250,000 to the MHD-Corette project is
24 approved at an interest rate of 12% compounded annually. The
25 loan must be repaid from revenue the project's owner derives

1 from the sale or licensing of the MHD technology or from the
2 sale, lease, or licensing of the project. The total debt of
3 the project related to this loan may not exceed 2 1/2 times
4 the loan amount.

5 NEW SECTION. **Section 7.** Rulemaking. The department may
6 adopt rules to implement [sections 3 through 7].

7 **Section 8.** Section 17-7-502, MCA, is amended to read:

8 "17-7-502. **Statutory appropriations -- definition --**
9 **requisites for validity.** (1) A statutory appropriation is an
10 appropriation made by permanent law that authorizes spending
11 by a state agency without the need for a biennial
12 legislative appropriation or budget amendment.

13 (2) Except as provided in subsection (4), to be
14 effective, a statutory appropriation must comply with both
15 of the following provisions:

16 (a) The law containing the statutory authority must be
17 listed in subsection (3).

18 (b) The law or portion of the law making a statutory
19 appropriation must specifically state that a statutory
20 appropriation is made as provided in this section.

21 (3) The following laws are the only laws containing
22 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
23 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
24 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
25 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;

1 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
2 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
3 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
4 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
5 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;
6 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;
7 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;
8 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;
9 [section 2]; and section 13, House Bill No. 861, Laws of
10 1985.

11 (4) There is a statutory appropriation to pay the
12 principal, interest, premiums, and costs of issuing, paying,
13 and securing all bonds, notes, or other obligations, as due,
14 that have been authorized and issued pursuant to the laws of
15 Montana. Agencies that have entered into agreements
16 authorized by the laws of Montana to pay the state
17 treasurer, for deposit in accordance with 17-2-101 through
18 17-2-107, as determined by the state treasurer, an amount
19 sufficient to pay the principal and interest as due on the
20 bonds or notes have statutory appropriation authority for
21 such payments. (In subsection (3), pursuant to sec. 10, Ch.
22 664, L. 1987, the inclusion of 39-71-2504 terminates June
23 30, 1991.)"

24 NEW SECTION. **Section 9.** Codification instruction.
25 [Sections 2 through 7] are intended to be codified as an

LC 1733/01

1 integral part of Title 90, chapter 4, and the provisions of
2 Title 90, chapter 4, apply to [sections 2 through 7].

3 NEW SECTION. **Section 10.** Coordination. If ___ Bill No.
4 ___, [LC 1732] is passed and approved, the code commissioner
5 shall codify [this act] as an integral part of ___ Bill No.
6 ___, [LC 1732]. If ___ Bill No. ___, [LC 1732] is not passed
7 and approved the bracketed language in [section 2] is void.

8 NEW SECTION. **Section 11.** Effective date. [This act] is
9 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0702, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act providing state funding for clean coal technology projects; creating a clean coal technology development account using coal severance tax proceeds not dedicated to the permanent trust fund; authorizing clean coal technology development loans for designated clean coal technology projects; statutorily appropriating money for loans; and authorizing a specific loan.

ASSUMPTIONS:

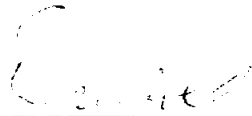
1. Coal severance tax receipts will be \$38,595,000 and \$37,109,000 in FY92 and FY93, respectively. (OBPP)
2. Assume no other legislation is passed which affects the CST proceeds.
3. DNRC will have some administrative costs associated with this program. One FTE and operating costs total \$80,000 per year; loan administration fees CARDD total \$30,000 per year. These administrative costs of about \$110,000 per year will be paid from the deposits to the clean coal technology development account.
4. The bill contains a \$250,000 loan to the MHD-Corette project at an interest rate of 12%.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



JERRY L. DRISCOLL, PRIMARY SPONSOR DATE
Fiscal Note for HB0702, as introduced **HB 702**

FISCAL IMPACT:

Revenues:

Coal Severance Tax Fund Information:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
General Fund	5,939,771	4,913,144	(1,026,627)	5,711,075	4,723,976	(987,099)
Clean Coal Tech. Acct.	0	1,026,627	1,026,627	0	987,099	987,099
Conservation Districts	73,331	73,331	0	70,507	70,507	0
County Land Planning	146,661	146,661	0	141,014	141,014	0
Local Impact	2,566,568	2,566,568	0	2,467,749	2,467,749	0
Agricultural Growth	293,322	293,322	0	282,028	282,028	0
Public Schools	4,399,830	4,399,830	0	4,230,426	4,230,426	0
State Library	146,661	146,661	0	141,014	141,014	0
Renewable Resource	183,326	183,326	0	176,268	176,268	0
Parks Trust	733,305	733,305	0	705,071	705,071	0
Permanent Trust	19,297,500	19,297,500	0	18,554,500	18,554,500	0
Water Development	183,326	183,326	0	176,268	176,268	0
Highway Trust	<u>4,631,400</u>	<u>4,631,400</u>	<u>0</u>	<u>4,453,080</u>	<u>4,453,080</u>	<u>0</u>
Total	38,595,000	38,595,000	0	37,109,000	37,109,000	0

Department of Natural Resources and Conservation:

Expenditures:

FTE	0.00	1.00	1.00	0.00	1.00	1.00
Personal Services	0	35,000	35,000	0	35,000	35,000
Operating Costs	0	45,000	45,000	0	45,000	45,000
Loan Administration Costs	<u>0</u>	<u>30,000</u>	<u>30,000</u>	<u>0</u>	<u>30,000</u>	<u>30,000</u>
Total	0	110,000	110,000	0	110,000	110,000

Funding:

Clean Coal Account (02)	0	110,000	110,000	0	110,000	110,000
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LONG-RANGE IMPACTS OF PROPOSAL:

The proposal would reallocate 2.66% of the coal severance tax from the general fund to the clean coal technology account. This reallocation would be in effect from FY92 through FY97.

HB 702