

HOUSE BILL NO. 244

1/18 Introduced
1/18 Referred to State Administration
1/21 Fiscal Note Requested
1/25 Hearing
1/26 Fiscal Note Received
Died in Committee

1 HOUSE BILL NO. 244
2 INTRODUCED BY Connelly Lybeck Kuder

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTAIN GRANT
5 RECIPIENTS TO SHARE PROFITS FROM SALES OF SPONSORED PRODUCTS
6 WITH THE GRANTING AGENCY; AMENDING SECTIONS 22-2-306 AND
7 90-4-106, MCA; AND PROVIDING AN APPLICABILITY DATE AND A
8 DELAYED EFFECTIVE DATE."

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

11 Section 1. Section 22-2-306, MCA, is amended to read:

12 "22-2-306. Grant conditions -- additional funds --
13 accounts and reports. (1) No grant may be awarded unless the
14 grantee accepts the Montana arts council's conditions of the
15 grant and signs a contract stipulating those conditions.

16 (2) A grantee must agree in writing that:

17 (a) the grantee is the official and sole agency for
18 the administration of the project described in the grant
19 agreement; and

20 (b) no person will, on the grounds of race, color,
21 national origin, sex, or age, be excluded from participation
22 in, be denied the benefits of, or be subjected to
23 discrimination under any program or activity that results
24 from the expenditure of grant funds.

25 (3) The grantee must agree that the funds granted will

1 be expended solely for the purpose and activities described
2 in the approved proposal. If the grant award proves to be
3 inadequate for the administration of the project as
4 originally submitted, the grantee may submit, prior to the
5 beginning of the grant period, modifications to the proposal
6 and an operational budget supporting the modifications. All
7 granted funds to be expended by the grantee must be spent or
8 encumbered during the grant period.

9 (4) No project may receive more than 25% of the total
10 grant award during any 6-month period, except that a grantee
11 may accumulate grant payments. The second and each
12 succeeding payment may be made only after an examination of
13 the costs incurred and expenditures made to date by the
14 grantee and a determination of any remaining balance from
15 prior grant periods is made.

16 (5) The grantee must maintain accounts, records, and
17 other pertinent material pertaining to the costs incurred
18 and expenditures made under the grant. The system of
19 accounting employed by the grantee must be in accordance
20 with generally accepted accounting principles and be applied
21 in a consistent manner so that project costs and
22 expenditures can be clearly identified. Accounts, records,
23 and other pertinent material must be maintained for 3 years
24 from the official termination date of the grant period or
25 until an audit, approved by the council, has been completed

1 and any questions arising from the audit have been resolved
2 to the satisfaction of the council.

3 (6) Grantees must submit to the council semiannual
4 reports of expenditures during the course of the project and
5 such other financial and descriptive reports as the council
6 may require. The grantee must submit, within 30 days after
7 completion of the project, a final financial report and a
8 narrative report stating what was accomplished with the
9 grant. Five percent of the total grant award must be held
10 pending receipt of final reports by the council.

11 (7) The council may, at the principal place of
12 business of the grantee and during regular business hours,
13 examine any directly pertinent records, accounts, and
14 documents of the grantee involving transactions related to
15 the grant.

16 (8) (a) If the project funded by the grant results in
17 a marketable product, the grantee may copyright his work or
18 secure, under the patent laws of the United States, the
19 exclusive right to his invention, except that any profit or
20 royalties derived from sales of the product must be divided
21 equally between the grantee and the council.

22 (b) The council shall deposit all receipts from shared
23 profits or royalties in the cultural and aesthetics projects
24 fund created in 15-35-108."

25 Section 2. Section 90-4-106, MCA, is amended to read:

1 "90-4-106. Criteria for grant or loan awards. The
2 department may award grants or loans to applicants under
3 90-4-105 in accordance with the following criteria:

4 (1) A grant may cover a period exceeding 1 year,
5 provided that all funds for the grant must be encumbered or
6 accrued from the program appropriation for the year the
7 grant is authorized.

8 (2) The department may give preference to projects
9 which are also supported by funding from the federal
10 government or other persons, provided the projects are
11 consistent with the other objectives of the department. The
12 purpose of this preference is to use the alternative energy
13 and energy conservation research development and
14 demonstration account for matching moneys in order to
15 support more substantial research or commercialization.

16 (3) The department may give preference to research
17 centers unattached to existing educational institutions
18 where several investigators can share supporting services.
19 However, this shall not be interpreted to prohibit the
20 department from awarding grants or loans to existing
21 educational institutions.

22 (4) The department may give preference to research
23 centers which make information available to individuals,
24 small businesses, and small communities seeking the use of
25 renewable energy sources and energy conservation in their

1 homes, plants, places of business, and small communities.

2 (5) All information resulting from such research shall
3 be made available to the public.

4 (6) The department may expend or commit available
5 alternative energy and energy conservation research
6 development and demonstration funds. The department may
7 commit funds for demonstration purposes only when in its
8 judgment such expenditures or commitments have good
9 potential for producing savings of nonrenewable energy
10 sources. The department may not commit funds for
11 demonstration purposes when any of the following conditions
12 are present:

13 (a) previous commitments of a similar nature were not
14 productive;

15 (b) a similar demonstration has been conducted within
16 close geographic proximity of the geographic location of the
17 proposed demonstration project;

18 (c) the proposed demonstration project would not
19 further the purpose of this part.

20 (7) (a) If research and development supported
21 primarily by a grant from the development and demonstration
22 account established in 90-4-103 result in a marketable
23 product, the grant recipient may copyright his work or
24 secure, under the patent laws of the United States, the
25 exclusive right to his invention, except that any profit or

1 royalties from sales of the product must be divided equally
2 between the recipient and the department.

3 (b) The department shall deposit all receipts from
4 shared profits and royalties in the development and
5 demonstration account established in 90-4-103."

6 NEW SECTION. Section 3. Extension of authority. Any
7 existing authority of the Montana historical society, the
8 Montana arts council, and the department of natural
9 resources and conservation to make rules on the subject of
10 the provisions of this act is extended to the provisions of
11 sections 1 and 2 of this act.

12 NEW SECTION. Section 4. Effective date --
13 applicability. This act is effective January 1, 1986, and
14 applies to grants awarded after December 31, 1985.

-End-

STATE OF MONTANA
F I S C A L N O T E

REQUEST NO. FNN 157-85

Form BD-15

In compliance with a written request received January 21, 19 85 , there is hereby submitted a Fiscal Note for H.B. 244 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

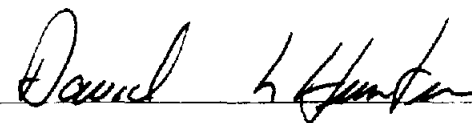
House Bill 244 requires a grantee under DNRC's development and demonstration account and the Arts Council's cultural and aesthetics account whose grant results in a marketable product to give one-half of the profits or royalties to the Department of Natural Resources or the Arts Council. The receipts from the shared profits and royalties will be deposited in the development and demonstration account or the cultural and aesthetics account.

FISCAL IMPACT:

The fiscal impact of this legislation cannot be estimated. It is not possible to estimate the royalties or profits that might be generated. Available agency records reflect that no grant has ever made a profit.

TECHNICAL NOTE:

The bill does not define "profits" and how they would be calculated. The bill does not define "royalties" and how they would be calculated. The bill does not state who is required to determine profits and/or royalties. The bill does not address the profit share if the project is only partially funded with a grant.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 25, 1985

HB 244