

HOUSE BILL 540

Introduced by Bachini, et al.

2/09	Introduced
2/09	Referred to Education & Cultural Resources
2/09	First Reading
2/09	Fiscal Note Requested
2/13	Fiscal Note Received
2/15	Fiscal Note Printed
3/03	Hearing
3/16	Committee Report--Bill Passed
3/25	2nd Reading Do Pass Motion Failed

1 House BILL NO. 540  
 2 INTRODUCED BY Rashmi Suryagopal, Rochell Mitchell  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DIVERTING \$20 MILLION  
 5 FROM THE MONEY THAT WOULD OTHERWISE BE DEPOSITED IN THE COAL  
 6 SEVERANCE TAX PERMANENT FUND TO A HIGHER EDUCATION DEFERRED  
 7 MAINTENANCE FUND; STATUTORILY APPROPRIATING THE INTEREST ON  
 8 THE FUND TO FUND DEFERRED MAINTENANCE PROJECTS AT MONTANA  
 9 UNITS OF HIGHER EDUCATION; AMENDING SECTIONS 17-5-703 AND  
 10 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."  
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 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 NEW SECTION. Section 1. Higher education deferred  
 14 maintenance fund. (1) There is a higher education deferred  
 15 maintenance fund in the state treasury. The fund consists of  
 16 \$20 million of the money that would otherwise be deposited  
 17 in the coal severance tax permanent fund from the coal  
 18 severance tax bond fund.  
 19 (2) The principal of the fund must be maintained as a  
 20 perpetual endowment. The interest on the fund is statutorily  
 21 appropriated, as provided in 17-7-502, to the board of  
 22 regents to fund any deferred maintenance projects budgeted  
 23 for Montana units of higher education. The interest from the  
 24 fund may not be used to supplant normal legislative  
 25 appropriations.

1 **Section 2.** Section 17-5-703, MCA, is amended to read:  
 2 "17-5-703. Coal severance tax trust funds. (1) The  
 3 trust established under Article IX, section 5, of the  
 4 Montana constitution shall be composed of the following  
 5 funds:  
 6 (a) a coal severance tax bond fund into which the  
 7 constitutionally dedicated receipts from the coal severance  
 8 tax shall be deposited;  
 9 (b) a treasure state endowment fund;  
 10 (c) a clean coal technology demonstration fund;  
 11 (d) a coal severance tax permanent fund;  
 12 (e) a coal severance tax income fund; and  
 13 (f) a coal severance tax school bond contingency loan  
 14 fund; and  
 15 (g) a higher education deferred maintenance fund.  
 16 (2) The state treasurer shall determine the amount  
 17 necessary to meet all principal and interest payments on  
 18 bonds payable from the coal severance tax bond fund on the  
 19 next two ensuing semiannual payment dates and retain that  
 20 amount in the coal severance tax bond fund.  
 21 (3) (a) On January 21, 1992, and continuing as long as  
 22 any school district bonds secured by state loans under  
 23 20-9-466 are outstanding, the state treasurer shall from  
 24 time to time and as provided in subsection (3)(b) transfer  
 25 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 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 transfer an amount not exceeding \$5 million per fiscal year to the clean coal technology demonstration fund.

(5) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall transfer to the treasure state endowment 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 and in excess of amounts that are transferred pursuant to subsections (3) and (4).

(6) (a) Beginning July 1, 1993, the state treasurer shall from time to time transfer to the higher education

deferred maintenance fund 50% of the principal transferred from the coal severance tax bond fund to the treasure state endowment fund in the preceding year until the higher education deferred maintenance fund reaches \$20 million. Beginning on the date the higher education deferred maintenance fund reaches \$20 million 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.

(b) The state treasurer shall annually transfer to the treasure state endowment special revenue account the amount of interest earnings required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Interest earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund."

**Section 3.** Section 17-7-502, MCA, is amended to read:

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

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

1 of the following provisions:

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

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

7 (3) The following laws are the only laws containing  
8 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
9 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
10 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;  
11 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
12 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409;  
13 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007;  
14 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
15 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109;  
16 20-6-406; 20-8-111; 20-9-361; [section 1]; 20-26-1503;  
17 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612;  
18 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204;  
19 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150;  
20 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507;  
21 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103;  
22 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301;  
23 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

24 (4) There is a statutory appropriation to pay the  
25 principal, interest, premiums, and costs of issuing, paying,

1 and securing all bonds, notes, or other obligations, as due,  
2 that have been authorized and issued pursuant to the laws of  
3 Montana. Agencies that have entered into agreements  
4 authorized by the laws of Montana to pay the state  
5 treasurer, for deposit in accordance with 17-2-101 through  
6 17-2-107, as determined by the state treasurer, an amount  
7 sufficient to pay the principal and interest as due on the  
8 bonds or notes have statutory appropriation authority for  
9 the payments. (In subsection (3): pursuant to sec. 7, Ch.  
10 567, L. 1991, the inclusion of 19-6-709 terminates upon  
11 death of last recipient eligible for supplemental benefit;  
12 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of  
13 22-3-811 terminates June 30, 1993.)"

14 NEW SECTION. **Section 4.** Codification instruction.  
15 [Section 1] is intended to be codified as an integral part  
16 of Title 20, chapter 25, and the provisions of Title 20,  
17 chapter 25, apply to [section 1].

18 NEW SECTION. **Section 5.** Effective date. [This act] is  
19 effective July 1, 1993.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Revised Fiscal Note for HB0540, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act diverting \$20 million from the money that would otherwise be deposited in the coal severance tax permanent fund to a higher education deferred maintenance fund; statutorily appropriating the interest on the fund to fund deferred maintenance projects at Montana units of higher education; and providing an effective date.

ASSUMPTIONS:


1. The Revenue Oversight Committee (ROC) revenues and interest rates are the basis for fiscal projections.
2. The 53rd legislature will appropriate available funds to Treasure State Endowment Program (TSEP) projects and administration.
3. \$7,250,000 would be deposited into the treasure state endowment fund in each of the two fiscal years of the biennium under current law (ROC).
4. The bill establishes the proposed diversion beginning in FY95 because it references amounts distributed in the preceding year (FY 94 is the first distribution year) and continues the diversion until the higher education maintenance fund reaches \$20 million (MDOR).

FISCAL IMPACT:

## Treasure State Endowment

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
DOC Administration	271,020	271,020	0	293,375	293,375	0
Pass Through to Local Govts.	<u>749,116</u>	<u>749,116</u>	<u>0</u>	<u>1,360,373</u>	<u>1,255,846</u>	<u>(104,527)</u>
Total	1,013,136	1,013,136	0	1,653,748	1,549,221	(104,527)
Funding: State Special (02)	1,013,136	1,013,136	0	1,653,748	1,549,221	(104,527)
University Maintenance (07)	0	0	0	0	104,527	104,527
<u>Revenues:</u>						
TSEP Fund (09)	7,250,000	7,250,000	0	7,250,000	3,625,000	(3,625,000)
Higher Education Maint. Fund (09)	0	0	0	0	3,625,000	3,625,000

(Continued next page)

 2-12-93  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

 2/15/93  
 BOB BACHINI, PRIMARY SPONSOR DATE

Revised Fiscal Note for HB0540, as introduced

HB 540

EFFECT ON LOCAL EXPENDITURES:

The proposal would reduce the funds available to local government eligible projects by \$104,527 for the biennium. This would equal (based on an average dollar amount per 1993 applications) the elimination of about one local project.

LONG TERM EFFECTS OF THE PROPOSED LEGISLATION:

The proposal would reduce the interest earnings from the TSEP by approximately 50%, however, this loss would be offset by increased earnings of the same magnitude from the higher education deferred maintenance fund.

HB 540

APPROVED BY COMM. ON EDUCATION  
AND CULTURAL RESOURCES

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2 INTRODUCED BY Rashida Suryogun, Ardelia Mendenhall  
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16 of Title 20, chapter 25, and the provisions of Title 20,  
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-End-