

SENATE BILL NO. 4

INTRODUCED BY TOWE
BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING,
THE DEPARTMENT OF COMMERCE, AND THE DEPARTMENT OF REVENUE

| | |
|-------------------|---|
| NOVEMBER 29, 1993 | INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION. |
| | FIRST READING. |
| DECEMBER 3, 1993 | COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. |
| DECEMBER 4, 1993 | PRINTING REPORT. |
| | SECOND READING, DO PASS. |
| | ENGROSSING REPORT. |
| | THIRD READING, PASSED. AYES, 44; NOES, 2. |
| | TRANSMITTED TO HOUSE. |

IN THE HOUSE

| | |
|-------------------|--|
| DECEMBER 6, 1993 | INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS. |
| | FIRST READING. |
| DECEMBER 13, 1993 | COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED. |
| DECEMBER 14, 1993 | SECOND READING, CONCURRED IN. |
| | THIRD READING, CONCURRED IN. AYES, 93; NOES, 3. |
| DECEMBER 15, 1993 | RETURNED TO SENATE. |

IN THE SENATE

| | |
|-------------------|------------------------------|
| DECEMBER 15, 1993 | RECEIVED FROM HOUSE. |
| | SENT TO ENROLLING. |
| | REPORTED CORRECTLY ENROLLED. |

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ALLOCATION
OF COAL SEVERANCE TAXES WITHIN THE TRUST ESTABLISHED UNDER
ARTICLE IX, SECTION 5, OF THE MONTANA CONSTITUTION; REDUCING
DEPOSITS TO THE TREASURE STATE ENDOWMENT FUND; PROVIDING FOR
A CONTINGENT TRANSFER OF THE BALANCE OF THE CLEAN COAL
TECHNOLOGY DEMONSTRATION FUND TO THE COAL SEVERANCE TAX
PERMANENT FUND; TRANSFERRING MONEY FROM THE COAL SEVERANCE
TAX BOND FUND TO THE COAL SEVERANCE TAX PERMANENT FUND;
AMENDING SECTION 17-5-703, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

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

Section 1. 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~~ is composed of the following
funds:

(a) a coal severance tax bond fund into which the
constitutionally dedicated receipts from the coal severance
tax ~~shall~~ must 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 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 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 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 department of revenue shall, upon request from the department of natural resources and conservation, transfer an amount up to \$5 million per fiscal year to the clean coal technology demonstration fund.

(5) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall transfer to the treasure state endowment fund any 50% 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).

~~(6) --(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.~~

(b) The state treasurer shall ~~annually~~ quarterly 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.

(6) 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 that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

NEW SECTION. **Section 2.** Contingent fund transfer. If House Bill No. ____ [LC 0092] is not passed and approved, the state treasurer shall transfer the balance of the clean coal technology demonstration fund to the coal severance tax permanent fund.

NEW SECTION. **Section 3.** Fund transfer. The state treasurer shall transfer \$37,100,000 from the coal severance tax bond fund to the coal severance tax permanent fund.

NEW SECTION. **Section 4.** 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 SB0004, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act revising the allocation of coal severance taxes within the trust established under Article IX, Section 5, of the Montana Constitution, reducing deposits to the treasure state endowment fund; providing for a contingent transfer of the balance of the clean coal demonstration fund to the coal severance tax permanent fund; and transferring money from the coal severance tax bond fund to the coal severance tax permanent fund.

ASSUMPTIONS:

1. Coal severance taxes flowing to the permanent trust and treasure state endowment fund (TSEF) will be \$19.534 million in FY 94 and \$19.487 million in FY 95 (ROC).
2. Coal trust interest earnings under current law will be \$44.127 million in FY 94 and \$43.012 million in FY 95 (ROC). In FY 94 the earnings are allocated to the general fund (85%) and SEA (15%). In FY 95 all the earnings are allocated to the general fund.
3. Under current law, the \$37.1 million of excess funds in the coal severance tax bond fund will remain in the fund and be invested in STIP at a 3.5% yield.
4. The transfer of \$37.1 million from the bond fund to the permanent trust will allow the funds to be invested in long-term securities at a rate of 6.99% in FY 94 and 6.97% in FY 95. The funds will be reinvested beginning in January, 1994. Amounts in the bond fund cannot be invested long-term because the fund is an arbitrage fund.
5. The balance of the permanent trust will be \$496.379 million at FYE 94 and \$506.145 million at FYE 95. The balance of the TSEF will be \$29.533 million at FYE 94 and \$39.254 million at FYE 95 under current law (LFA).
6. Earnings of the TSEF will be \$0.952 million in FY 94 and \$1.873 million in FY 95 assuming a 50/50 front-end allocation as proposed (Commerce).

FISCAL IMPACT:

| | FY '94 | | | FY '95 | | |
|-----------------------------|-------------|--------------|------------|-------------|--------------|------------|
| | Current Law | Proposed Law | Difference | Current Law | Proposed Law | Difference |
| Trust Fund Balances | | | | | | |
| Coal Permanent Trust | 496.379 | 506.147 | 9.766 | 506.145 | 515.889 | 9.744 |
| Treasure State Endowment | 29.533 | 19.766 | (9.766) | 39.253 | 29.510 | (9.744) |
| Interest Earnings | | | | | | |
| Coal Trust Earnings | 44.127 | 44.729 | 0.602 | 43.012 | 44.960 | 1.948 |
| TSEF Earnings | 0.952 | 0.781 | (0.171) | 1.873 | 1.219 | (0.654) |
| Fund Allocation: | | | | | | |
| General Fund | 37.508 | 38.020 | 0.512 | 43.012 | 44.960 | 1.948 |
| School Equalization Account | 6.619 | 6.709 | 0.090 | 0 | 0 | 0 |
| TSEF State Special | 0.952 | 0.781 | (0.171) | 1.873 | 1.219 | (0.654) |

(Continued)

David Lewis 11/24

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

TOM TOWE, PRIMARY SPONSOR DATE
Fiscal Note for SB0004, as introduced

SB 4

TECHNICAL NOTES:

Section 2, which specifies a contingent transfer of the clean coal demonstration fund to the permanent trust, is in anticipation of the transfer of \$35 million of prior year deposits to the account as required by law. The clean coal account currently has a zero balance. If these funds are not transferred, this section can be deleted.

However, the Office of the Legislative Auditor apparently will require the Department of Revenue to make these deposits this year. It is in the state's best interest that the amounts remain in the permanent trust where they can be more effectively invested. Therefore, this section may be necessary to reverse previous legislative action requiring transfers to the clean coal account.

The Board of Investments prefers to distribute TSEF earnings to the state special account as they are earned rather than quarterly as proposed in the introduced version of the bill. Replacing "quarterly" on page 3, line 22 with "from time to time" will simplify accounting requirements.

APPROVED BY COMMITTEE
ON TAXATION

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fund.

(2) (A) The state treasurer shall determine, ON JULY 1
OF EACH YEAR, 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.

(B) THE AMOUNT IN THE COAL SEVERANCE TAX BOND FUND IN
EXCESS OF THE AMOUNT REQUIRED IN SUBSECTION (2)(A) MUST BE
TRANSFERRED FROM THAT FUND AS PROVIDED IN SUBSECTIONS (3)
THROUGH (6).

(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 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 department of revenue shall, upon request from the department of natural resources and conservation, transfer an amount up to \$5 million per fiscal year to the clean coal technology demonstration fund.

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(b) The state treasurer shall ~~annually~~ quarterly MONTHLY transfer FROM THE TREASURE STATE ENDOWMENT FUND 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~~ EARNINGS not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(A) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

~~NEW SECTION:--Section 2.--Contingent fund--transfer--if-- House Bill No.----{50-0092} is not passed and approved, the state treasurer shall transfer the balance of the clean coal technology demonstration fund to the coal severance tax permanent fund.~~

NEW SECTION. Section 2. Fund transfer. The state treasurer shall ON [THE EFFECTIVE DATE OF THIS ACT] transfer \$37,100,000 from the coal severance tax bond fund to the coal severance tax permanent fund THE CASH BALANCE OF THE BOND FUND AS OF JULY 1, 1993, THAT IS IN EXCESS OF THE

1 AMOUNT REQUIRED BY 17-5-703(2)(A), INCLUDING THE AMOUNT
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4 CLEAN COAL TECHNOLOGY DEMONSTRATION FUND. THE PROVISIONS OF
5 THIS SECTION DO NOT AFFECT THE AUTHORIZATIONS CONTAINED IN
6 SECTION 10, CHAPTER 722, LAWS OF 1991.

7 NEW SECTION. **SECTION 3.** REPEALER. SECTION 11, CHAPTER
8 722, LAWS OF 1991, IS REPEALED.

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(2) (A) The state treasurer shall determine, ON JULY 1
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interest payments on bonds payable from the coal severance
tax bond fund ~~on--the--next--two--ensuing--semiannual--payment~~
DURING THE NEXT 12 MONTHS and retain that amount in
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(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 department of revenue shall, upon request from the department of natural resources and conservation, transfer an amount up to \$5 million per fiscal year to the clean coal technology demonstration fund.

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~~NEW-SECTION--Section 2--Contingent fund transfer--if--House-Bill-No-----{LC-0092}-is-not-passed-and-approved--the--state-treasurer--shall--transfer--the--balance--of--the--clean-coal--technology--demonstration--fund--to--the--coal--severance--tax--permanent--fund--~~

NEW SECTION. Section 2. Fund transfer. The state treasurer shall ON [THE EFFECTIVE DATE OF THIS ACT] transfer \$37,100,000 from the coal severance tax bond fund to the coal severance tax permanent fund THE CASH BALANCE OF THE BOND FUND AS OF JULY 1, 1993, THAT IS IN EXCESS OF THE

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