

1 House BILL NO. 305
2 INTRODUCED BY Kaela Wallen Benfield Wilson Reed
3 Benedict Q BY REQUEST OF THE DEPARTMENT OF JUSTICE Jackson
4 Anderson J. Smith
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ISSUANCE OF AN INTERENTITY LOAN TO
6 THE DEPARTMENT OF JUSTICE FROM THE GENERAL FUND TO BE APPROPRIATED FOR TECHNICAL,
7 LEGAL, AND ADMINISTRATIVE ACTIVITIES FOR THE STATE OF MONTANA NATURAL RESOURCE
8 DAMAGE LITIGATION IN THE CLARK FORK RIVER BASIN AND OTHER POTENTIAL SITES; EXTENDING
9 REPAYMENT AND PROVIDING FOR INTEREST ON PREVIOUS LOANS; AND PROVIDING AN EFFECTIVE
10 DATE "

11

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

13

14 NEW SECTION. Section 1. Natural resource damage program loan authorization and appropriation.

15 (1) There is authorized to the department of justice from the general fund for fiscal years 1996 and 1997
16 an interentity loan in the amount of \$2,359,857, the proceeds of which are appropriated for the biennium
17 ending June 30, 1997, for the purpose of conducting the litigation and natural resource damage claim
18 against the atlantic richfield company (ARCO) through the natural resource damage litigation program.

19 (2) If loan proceeds are not necessary for the litigation of the claim described in subsection (1), the
20 proceeds may be used for the purpose of conducting other natural resource damage assessment or litigation
21 as provided in Title 75, chapter 10, part 7.

(3) Repayment of principal and interest on the loan authorized in subsection (1) is extended through the end of the 1997 biennium in accordance with 17-2-107(8).

24
25 NEW SECTION. **Section 2. Extension of previous loans.** Repayment of principal and interest on
26 all loans authorized from the coal severance tax permanent fund under Chapter 354, Laws of 1993, is
27 extended through the end of the 1997 biennium in accordance with 17-2-107(8).

28
29 NEW SECTION. **Section 3. Rate of interest.** The interest to be paid on the loan authorized under
30 [section 1] and the previous loan extended under [section 2] must be the highest rates allowable for interest

1 recoverable under 42 U.S.C. 9607(a), which are based on the rates specified for interest on investments
2 of the hazardous substance superfund established under 26 U.S.C. 9507. The interest is payable as of the
3 date on which the loan proceeds were transferred from the coal severance tax trust fund or are transferred
4 from the general fund. The loan contract authorized under Chapter 354, Laws of 1993, must be revised
5 to reflect the interest rates in this section.

6

7 **NEW SECTION. Section 4. Effective date.** [This act] is effective July 1, 1995.

8

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0305, as amended

DESCRIPTION OF PROPOSED LEGISLATION: An act authorizing a loan from the Permanent Coal Tax Trust to the Department of Justice for technical, legal, and administrative activities for natural resource damage litigation.

ASSUMPTIONS:

1. The Board of Investments will, during the 1997 biennium, make a loan of \$2,359,857 from the Permanent Coal Tax Trust to the Department of Justice.
2. This loan will be in addition to the \$7,794,105 authorized by the legislature for the same purpose during the 1995 biennium.
3. No interest will be paid on the permanent trust loan(s) until and unless the litigation is resolved in the state's favor. (The loan request does not include interest payments). The case will not reach court until the spring of 1997, resulting in no loan repayment or interest deposits during the biennium.
4. To estimate the interest loss on the permanent trust, it is assumed the funds will be withdrawn from the permanent trust in uniform monthly amounts through the biennium.
5. The opportunity cost on the permanent trust loan will average 8.00% in FY 96 and 7.90% in FY 97 (ROC).

FISCAL IMPACT:

Expenditures:

If the entire 1997 biennium loan is expended, Department of Justice expenditures for the purposes intended in this act will be \$2,359,857.

Revenues:

	FY96 Difference	FY97 Difference
Permanent Trust Earnings	(51,130)	(143,700)
<u>Fund Information:</u>		
General Fund	(43,460)	(122,145)
School Equalization Acct.	(7,670)	(21,555)
Total	(51,130)	(143,700)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The cumulative loans and interest costs will be repaid from any damages awarded the state to the maximum extent allowed by federal law.

TECHNICAL NOTES:

This bill requires a three fourths vote of the members of each house because it appropriates money from the Permanent Coal Tax Trust.

DAVE LEWIS 3-5-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Mike Kadas
MIKE KADAS, PRIMARY SPONSOR DATE

Fiscal Note for HB0305, as amended

HB 305

1

HOUSE BILL NO. 305

2

INTRODUCED BY KADAS, HALLIGAN, GROSFIELD, QUILICI, BECK, BENEDICT, CRIPPEN, JACOBSON,
ANDERSON, L. SMITH

4

BY REQUEST OF THE DEPARTMENT OF JUSTICE

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6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ISSUANCE OF AN ~~INTERENTITY A~~ LOAN
7 TO THE DEPARTMENT OF JUSTICE ~~FROM THE GENERAL FUND~~ TO BE APPROPRIATED FOR TECHNICAL,
8 LEGAL, AND ADMINISTRATIVE ACTIVITIES FOR THE STATE OF MONTANA NATURAL RESOURCE
9 DAMAGE LITIGATION IN THE CLARK FORK RIVER BASIN AND OTHER POTENTIAL SITES; EXTENDING
10 REPAYMENT AND PROVIDING FOR INTEREST ON PREVIOUS LOANS; AND PROVIDING AN EFFECTIVE
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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14

15 **NEW SECTION. Section 1. Natural resource damage program loan authorization and appropriation.**

16 (1) There is authorized to the department of justice from the ~~general COAL SEVERANCE TAX PERMANENT~~
17 fund for fiscal years 1996 and 1997 ~~an interentity A~~ loan in the amount of \$2,359,857, the proceeds of
18 which are appropriated for the biennium ending June 30, 1997, for the purpose of conducting the litigation
19 and natural resource damage claim against the atlantic richfield company (ARCO) through the natural
20 resource damage litigation program.

21 (2) If loan proceeds are not necessary for the litigation of the claim described in subsection (1), the
22 proceeds may be used for the purpose of conducting other natural resource damage assessment or litigation
23 as provided in Title 75, chapter 10, part 7.

24 (3) Repayment of principal and interest on the loan authorized in subsection (1) is extended through
25 the end of the 1997 biennium in accordance with 17-2-107(8).

26

27 **NEW SECTION. Section 2. Extension of previous loans.** Repayment of principal and interest on
28 all loans authorized from the coal severance tax permanent fund under Chapter 354, Laws of 1993, is
29 extended through the end of the 1997 biennium in accordance with 17-2-107(8).

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1 **NEW SECTION. Section 3. Rate of interest.** The interest to be paid on the loan authorized under
2 [section 1] and the previous loan extended under [section 2] must be the highest rates allowable for interest
3 recoverable under 42 U.S.C. 9607(a), which are based on the rates specified for interest on investments
4 of the hazardous substance superfund established under 26 U.S.C. 9507. The interest is payable as of the
5 date on which the loan proceeds were OR ARE transferred from the coal severance tax trust fund ~~or are~~
6 ~~transferred from the general fund.~~ The loan contract authorized under Chapter 354, Laws of 1993, must
7 be revised to reflect the interest rates in this section AND THE TRANSFER OF THE PROGRAM FROM THE
8 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO THE DEPARTMENT OF JUSTICE. ALL
9 OBLIGATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES REFERENCED IN
10 CHAPTER 354, LAWS OF 1993, AND NOT COMPLETED BY THE TIME OF TRANSFER OF THE PROGRAM
11 TO THE DEPARTMENT OF JUSTICE MUST BE TRANSFERRED TO THE DEPARTMENT OF JUSTICE.

12
13 **NEW SECTION. SECTION 4. LOAN CONTRACT.** IN ORDER TO MAKE THE LOAN AUTHORIZED
14 IN [SECTION 1] AND EXTEND THE PREVIOUS LOANS AUTHORIZED IN CHAPTER 354, LAWS OF 1993,
15 THE BOARD OF INVESTMENTS SHALL ENTER INTO A REVISED CONTRACT WITH THE DEPARTMENT OF
16 JUSTICE PLEDGING THE AMOUNT RECOVERED IN THE LITIGATION TO THE REPAYMENT OF THE LOANS
17 TO THE FULL EXTENT ALLOWABLE UNDER THE LAW. THE CONTRACT MUST PROVIDE THAT LOAN
18 REPAYMENTS MUST BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT FUND. TO THE
19 EXTENT POSSIBLE, THE BOARD SHALL MAKE THE LOAN FROM THE PORTION OF THE COAL
20 SEVERANCE TAX PERMANENT FUND INVESTED IN THE SHORT-TERM POOL. THE LOAN AUTHORIZED
21 IN [SECTION 1] MAY NOT BE MADE UNTIL THE CONTRACT REQUIRED BY THIS SECTION HAS BECOME
22 EFFECTIVE.

23
24 **NEW SECTION. SECTION 5. THREE-FOURTHS VOTE.** BECAUSE [SECTION 1] APPROPRIATES
25 MONEY FROM THE COAL SEVERANCE TAX PERMANENT FUND, ARTICLE IX, SECTION 5, OF THE
26 MONTANA CONSTITUTION REQUIRES A VOTE OF THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE
27 OF THE LEGISLATURE FOR PASSAGE.

28
29 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 1995.
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