

## 1 HOUSE BILL NO. 110

2 INTRODUCED BY SWANSON

3 BY REQUEST OF THE GOVERNOR AND THE DEPARTMENT OF JUSTICE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ISSUANCE OF LOANS TO THE  
6 DEPARTMENT OF JUSTICE TO BE APPROPRIATED FOR TECHNICAL, LEGAL, AND ADMINISTRATIVE  
7 ACTIVITIES FOR THE STATE OF MONTANA NATURAL RESOURCE DAMAGE LITIGATION IN THE CLARK  
8 FORK RIVER BASIN, INCLUDING A SUPPLEMENTAL LOAN FOR THE 1997 BIENNIUM; EXTENDING  
9 REPAYMENT AND PROVIDING FOR INTEREST ON PREVIOUS LOANS; AND PROVIDING AN IMMEDIATE  
10 EFFECTIVE 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 supplementation, authorization,**  
15 **and appropriation.** (1) There is authorized to the department of justice from the coal severance tax  
16 permanent fund a supplemental loan in the amount of \$675,000, the proceeds of which are appropriated  
17 for the biennium ending June 30, 1997, for the purpose of conducting the litigation and pursuing the state  
18 of Montana's natural resource damage claims against the atlantic richfield company through the natural  
19 resource damage litigation program.

20 (2) There is authorized to the department of justice from the coal severance tax permanent fund  
21 for fiscal years 1998 and 1999 a loan in the amount of \$1,492,000, the proceeds of which are  
22 appropriated for the biennium ending June 30, 1999, for the purpose of conducting the litigation and  
23 pursuing the state of Montana's natural resource damage claims, and any appeals, against the atlantic  
24 richfield company through the natural resource damage litigation program.

25 (3) Repayment of principal and interest on the loans authorized in subsections (1) and (2) is  
26 extended through the end of the 1999 biennium in accordance with 17-2-107(8).

27

28 **NEW SECTION. Section 2. Extension of previous loans.** Repayment of principal and interest on  
29 all loans authorized from the coal severance tax permanent fund under Chapter 354, Laws of 1993, and  
30 Chapter 411, Laws of 1995, is extended through the end of the 1999 biennium in accordance with

1 17-2-107(8).

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3 **NEW SECTION. Section 3. Rate of interest.** The interest to be paid on the loans authorized under  
4 [section 1] and the previous loans extended under [section 2] must be the highest rates allowable for  
5 interest recoverable under 42 U.S.C. 9607(a), which are based on the rates specified for interest on  
6 investments of the hazardous substance superfund established under 26 U.S.C. 9507. The interest is  
7 payable as of the date on which the loan proceeds were or are transferred from the coal severance tax  
8 permanent fund.

9

10 **NEW SECTION. Section 4. Loan contract.** In order to make the loans authorized in [section 1] and  
11 to extend the previous loans authorized in Chapter 354, Laws of 1993, and Chapter 411, Laws of 1995,  
12 the board of investments shall enter into a revised contract with the department of justice, pledging the  
13 amount recovered in the litigation to the repayment of the loans to the full extent allowable under law. The  
14 contract must provide that loan repayments must be deposited in the coal severance tax permanent fund.  
15 To the extent possible, the board shall make the loan from the portion of the coal severance tax permanent  
16 fund invested in the short-term pool. The loans authorized in [section 1] may not be made until the revised  
17 contract required by this section has become effective.

18

19 **NEW SECTION. Section 5. Three-fourths vote.** Because [section 1] appropriates money from the  
20 coal severance tax permanent fund, Article IX, section 5, of the Montana constitution requires a vote of  
21 three-fourths of the members of each house of the legislature for passage.

22

23 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

24

-END-

HOUSE BILL NO. 110

INTRODUCED BY SWANSON, MCGEE, HALLIGAN, GROSFIELD, KNOX, QUILICI, BECK  
BY REQUEST OF THE GOVERNOR AND THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "~~AN ACT AUTHORIZING THE ISSUANCE OF LOANS APPROPRIATING~~  
~~COAL SEVERANCE TAX TRUST FUNDS~~ TO THE DEPARTMENT OF JUSTICE ~~TO BE APPROPRIATED~~ FOR  
TECHNICAL, LEGAL, AND ADMINISTRATIVE ACTIVITIES FOR THE STATE OF MONTANA NATURAL  
RESOURCE DAMAGE LITIGATION IN THE CLARK FORK RIVER BASIN, ~~INCLUDING A SUPPLEMENTAL~~  
~~LOAN FOR THE 1997 BIENNIUM~~; EXTENDING REPAYMENT AND PROVIDING FOR INTEREST ON  
PREVIOUS LOANS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Natural resource damage program loan supplementation, authorization,**  
**and appropriation.** ~~(1) There is authorized~~ APPROPRIATED to the department of justice from the coal  
severance tax permanent fund ~~a supplemental loan in the amount of \$675,000, the proceeds of which are~~  
~~appropriated for the biennium ending June 30, 1997, for the purpose of conducting the litigation and~~  
~~pursuing the state of Montana's natural resource damage claims against the atlantic richfield company~~  
~~through the natural resource damage litigation program.~~

~~(2) There is authorized to the department of justice from the coal severance tax permanent fund~~  
~~for fiscal years 1998 and 1999 a loan in the amount of \$1,492,000, the proceeds of which are~~  
~~appropriated~~ \$5 MILLION FOR THE REMAINDER OF THE CURRENT FISCAL YEAR AND for the biennium  
ending June 30, 1999, for the purpose of conducting the litigation and pursuing the state of Montana's  
natural resource damage claims, and any appeals, against the atlantic richfield company through the natural  
resource damage litigation program.

~~(3) Repayment of principal and interest on the loans authorized in subsections (1) and (2) is~~  
~~extended through the end of the 1999 biennium in accordance with 17-2-107(8).~~ ANY RECOVERY IN THE  
LITIGATION UP TO THE AMOUNT APPROPRIATED IN THIS SECTION PLUS THE AMOUNT OF THE LOANS  
EXTENDED IN [SECTION 2] MUST BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT FUND.

1           **NEW SECTION. Section 2. Extension of previous loans.** Repayment of principal and interest on  
2 all loans authorized from the coal severance tax permanent fund under Chapter 354, Laws of 1993, and  
3 Chapter 411, Laws of 1995, is extended through the end of the 1999 biennium in accordance with  
4 17-2-107(8).

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6           **NEW SECTION. Section 3. Rate of interest.** The interest to be paid on ~~the loans authorized under~~  
7 ~~{section 1}~~ and the previous loans extended under [section 2] must be the highest rates allowable for  
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9 investments of the hazardous substance superfund established under 26 U.S.C. 9507. The interest is  
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11 permanent fund.

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13           **NEW SECTION. Section 4. Loan contract.** In order ~~to make the loans authorized in {section 1}~~ and  
14 to extend the previous loans authorized in Chapter 354, Laws of 1993, and Chapter 411, Laws of 1995,  
15 the board of investments shall enter into a revised contract with the department of justice, pledging the  
16 amount recovered in the litigation to the repayment of the loans to the full extent allowable under law. The  
17 contract must provide that loan repayments must be deposited in the coal severance tax permanent fund.  
18 To the extent possible, the board shall make the loan from the portion of the coal severance tax permanent  
19 fund invested in the short-term pool. ~~The loans authorized in {section 1} may not be made until the revised~~  
20 ~~contract required by this section has become effective.~~

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22           **NEW SECTION. Section 5. Three-fourths vote.** Because [section 1] appropriates money from the  
23 coal severance tax permanent fund, Article IX, section 5, of the Montana constitution requires a vote of  
24 three-fourths of the members of each house of the legislature for passage.

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 6 ~~COAL SEVERANCE TAX TRUST FUNDS~~ MONEY TO THE DEPARTMENT OF JUSTICE TO BE  
 7 ~~APPROPRIATED~~ FOR TECHNICAL, LEGAL, AND ADMINISTRATIVE ACTIVITIES FOR THE STATE OF  
 8 MONTANA NATURAL RESOURCE DAMAGE LITIGATION IN THE CLARK FORK RIVER BASIN, ~~INCLUDING~~  
 9 ~~A SUPPLEMENTAL LOAN FOR THE 1997 BIENNIUM~~; EXTENDING REPAYMENT AND PROVIDING FOR  
 10 INTEREST ON PREVIOUS LOANS; REQUIRING A CONTRACT BETWEEN THE DEPARTMENT AND THE  
 11 STATE TREASURER IN ORDER TO EFFECTUATE THE APPROPRIATION; TRANSFERRING THE FUND  
 12 BALANCE IN CERTAIN FEDERAL SPECIAL REVENUE ACCOUNTS TO THE STATE SPECIAL REVENUE  
 13 FUND; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16  
 17 NEW SECTION. Section 1. Natural resource damage program loan supplementation, authorization,  
 18 and appropriation. ~~(1) There~~ SUBJECT TO [SECTION 4(2)], THERE is authorized APPROPRIATED to the  
 19 department of justice from the ~~coal severance tax permanent~~ STATE SPECIAL REVENUE fund a  
 20 supplemental loan in the amount of ~~\$675,000, the proceeds of which are appropriated for the biennium~~  
 21 ~~ending June 30, 1997, for the purpose of conducting the litigation and pursuing the state of Montana's~~  
 22 ~~natural resource damage claims against the atlantic richfield company through the natural resource damage~~  
 23 ~~litigation program.~~

24 ~~(2) There is authorized to the department of justice from the coal severance tax permanent fund~~  
 25 ~~for fiscal years 1998 and 1999 a loan in the amount of \$1,492,000, the proceeds of which are~~  
 26 ~~appropriated~~ \$5 \$2.5 MILLION FOR THE REMAINDER OF THE CURRENT FISCAL YEAR AND for the  
 27 biennium ending June 30, 1999, for the purpose of conducting the litigation and pursuing the state of  
 28 Montana's natural resource damage claims, and any appeals, against the atlantic richfield company through  
 29 the natural resource damage litigation program.

30 ~~(3) Repayment of principal and interest on the loans authorized in subsections (1) and (2) is~~

1 ~~extended through the end of the 1999 biennium in accordance with 17-2-107(8). ANY RECOVERY IN THE~~  
 2 LITIGATION UP TO THE AMOUNT APPROPRIATED IN THIS SECTION PLUS THE AMOUNT OF THE LOANS  
 3 EXTENDED IN [SECTION 2] MUST BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT FUND.  
 4 ANY ADDITIONAL AMOUNT RECOVERED IN THE LITIGATION UP TO THE AMOUNT APPROPRIATED IN  
 5 THIS SECTION MUST BE DEPOSITED IN THE GENERAL FUND.

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 7 NEW SECTION. Section 2. Extension of previous loans. Repayment of principal and interest on  
 8 all loans authorized from the coal severance tax permanent fund under Chapter 354, Laws of 1993, and  
 9 Chapter 411, Laws of 1995, is extended through the end of the 1999 biennium in accordance with  
 10 17-2-107(8).

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 12 NEW SECTION. Section 3. Rate of interest. The interest to be paid on ~~the loans authorized under~~  
 13 ~~[section 1]~~ and the previous loans extended under [section 2] must be the highest rates allowable for  
 14 interest recoverable under 42 U.S.C. 9607(a), which are based on the rates specified for interest on  
 15 investments of the hazardous substance superfund established under 26 U.S.C. 9507. The interest is  
 16 payable as of the date on which the loan proceeds were or are transferred from the coal severance tax  
 17 permanent fund.

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 19 NEW SECTION. Section 4. ~~Loan contract~~ CONTRACTS. (1) ~~In order to make the loans authorized~~  
 20 ~~in [section 1] and to extend the previous loans authorized in Chapter 354, Laws of 1993, and Chapter 411,~~  
 21 ~~Laws of 1995, the board of investments shall enter into a revised contract with the department of justice,~~  
 22 ~~pledging the amount recovered in the litigation to the repayment of the loans to the full extent allowable~~  
 23 ~~under law. The contract must provide that loan repayments must be deposited in the coal severance tax~~  
 24 ~~permanent fund. To the extent possible, the board shall make the loan from the portion of the coal~~  
 25 ~~severance tax permanent fund invested in the short-term pool. ~~The loans authorized in [section 1] may not~~~~  
 26 ~~be made until the revised contract required by this section has become effective.~~

27 (2) THE APPROPRIATION IN [SECTION 1] IS NOT EFFECTIVE UNTIL THE DEPARTMENT OF  
 28 JUSTICE ENTERS INTO A CONTRACT WITH THE STATE TREASURER IMPLEMENTING THE REDEPOSIT  
 29 PROVISIONS OF [SECTION 1].

1       ~~NEW SECTION. Section 5. Three fourths vote. Because [section 1] appropriates money from the~~  
2 ~~coal severance tax permanent fund, Article IX, section 5, of the Montana constitution requires a vote of~~  
3 ~~three fourths of the members of each house of the legislature for passage.~~

4  
5       **NEW SECTION. SECTION 5. FUND BALANCE TRANSFER -- RECONCILIATION. THERE IS**  
6 **TRANSFERRED FROM THE SOCIAL SERVICES BLOCK GRANT ACCOUNT \$680,000 AND FROM THE**  
7 **PUBLIC WELFARE ACCOUNT \$1,820,000 TO THE STATE SPECIAL REVENUE FUND TO THE CREDIT OF**  
8 **THE DEPARTMENT OF JUSTICE. THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAY**  
9 **USE ANY OF ITS GENERAL FUND APPROPRIATION TO PAY FEDERAL CLAIMS ATTRIBUTABLE TO THE**  
10 **FUNDS TRANSFERRED FROM THESE ACCOUNTS THAT ARE RELATED TO ACTIVITY PRIOR TO FISCAL**  
11 **YEAR 1996.**

12  
13       **NEW SECTION. SECTION 6. USE OF RECOVERED FUNDS. ANY FUNDS RECOVERED BY THE**  
14 **STATE ON THE NATURAL RESOURCE DAMAGE CLAIMS AGAINST THE ATLANTIC RICHFIELD COMPANY**  
15 **AND ANY INTEREST THAT ACCUMULATES ON THE FUNDS AFTER THEIR RECEIPT BY THE STATE MUST**  
16 **BE USED, TO THE EXTENT CONSISTENT WITH STATE AND FEDERAL LAW, TO RECOUP THE EXPENSES**  
17 **OF THE NATURAL RESOURCE DAMAGE ASSESSMENT AND THE COSTS OF LITIGATING THE STATE'S**  
18 **CLAIM AND TO RESTORE, REPLACE, REHABILITATE, OR ACQUIRE THE EQUIVALENT OF THE DAMAGED**  
19 **NATURAL RESOURCES THAT ARE THE SUBJECT OF THE LITIGATION.**

20  
21       **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

22                               -END-

## 1 HOUSE BILL NO. 110

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

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17 NEW SECTION. Section 1. Natural resource damage program loan supplementation, authorization,  
18 and appropriation. (1) There SUBJECT TO [SECTION 4(2)], THERE is authorized APPROPRIATED to the  
19 department of justice from the ~~coal severance tax permanent~~ STATE SPECIAL REVENUE fund a  
20 ~~supplemental loan in the amount of \$675,000, the proceeds of which are appropriated for the biennium~~  
21 ~~ending June 30, 1997, for the purpose of conducting the litigation and pursuing the state of Montana's~~  
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30 ~~(3) Repayment of principal and interest on the loans authorized in subsections (1) and (2) is~~



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 2 ~~LITIGATION UP TO THE AMOUNT APPROPRIATED IN THIS SECTION PLUS THE AMOUNT OF THE LOANS~~  
 3 ~~EXTENDED IN [SECTION 2] MUST BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT FUND.~~  
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 8 all loans authorized from the coal severance tax permanent fund under Chapter 354, Laws of 1993, and  
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27 (2) THE APPROPRIATION IN [SECTION 1] IS NOT EFFECTIVE UNTIL THE DEPARTMENT OF  
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7 NEW SECTION. Section 2. Extension of previous loans. Repayment of principal and interest on  
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27 (2) THE APPROPRIATION IN [SECTION 1] IS NOT EFFECTIVE UNTIL THE DEPARTMENT OF  
 28 JUSTICE ENTERS INTO A CONTRACT WITH THE STATE TREASURER IMPLEMENTING THE REDEPOSIT  
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30

