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House BILL NO. *504*
INTRODUCED BY *Doherty* *Wilson* *Swanson*

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BIOMEDICAL RESEARCH ENDOWMENT FUND WITHIN THE COAL SEVERANCE TAX TRUST FUND; FUNDING BIOMEDICAL RESEARCH GRANTS FROM THE EARNINGS ON THE TRUST FUND; STATUTORILY APPROPRIATING THE EARNINGS; AMENDING SECTIONS 17-5-703, 17-6-305, 17-6-308, AND 17-7-502, MCA; AND PROVIDING AN 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 is composed of the following funds:

- (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;
- (b) a treasure state endowment fund;
- (c) a coal severance tax permanent fund;
- (d) a coal severance tax income fund; ~~and~~
- (e) a coal severance tax school bond contingency loan fund; and
- (f) a biomedical research endowment 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 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 (5).

(3) (a) ~~On January 21, 1992, and continuing as~~ 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.

1 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless
2 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as
3 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next
4 following 12 months.

5 (4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly
6 transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in
7 excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts
8 that are transferred pursuant to subsection (3).

9 (b) The state treasurer shall monthly transfer from the treasure state endowment fund to the
10 treasure state endowment special revenue account the amount of earnings required to meet the obligations
11 of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to
12 the treasure state endowment special revenue account must be retained in the treasure state endowment
13 fund.

14 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in
15 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be
16 deposited in the coal severance tax permanent fund."
17

18 **Section 2.** Section 17-6-305, MCA, is amended to read:

19 **"17-6-305. Investment of up to twenty-five percent of coal tax trust fund in Montana economy**
20 **-- report by board.** (1) Subject to the provisions of 17-6-201(1), the board shall endeavor to invest up to
21 25% of the permanent coal tax trust fund established in 17-6-203(6) in the Montana economy, with special
22 emphasis on investments in new or expanding locally owned enterprises. Investments made pursuant to
23 this section do not include investments made pursuant to 17-6-309(2). For purposes of calculating the 25%
24 of the permanent coal tax trust fund, the board shall include all funds listed in 17-5-703(1). ~~The portion of~~
25 ~~the permanent coal tax~~ biomedical research endowment trust fund administered by the Montana board of
26 science and technology development pursuant to 17-6-308(3) may not be included in the 25% of the trust
27 fund allocated to the board for in-state investment under this section.

28 (2) In determining the probable income to be derived from investment of this revenue, the long-term
29 benefit to the Montana economy must be considered.

30 (3) The legislature may provide additional procedures to implement this section.

1 (4) The board shall include a report on the investments made under this section as a part of the
2 information required by 17-7-111."

3
4 **Section 3.** Section 17-6-308, MCA, is amended to read:

5 "**17-6-308. Authorized investments.** (1) Except as provided in subsections (2) and (3) and subject
6 to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized
7 by rules adopted by the board.

8 (2) The board may make loans from the permanent coal tax trust fund to the capital reserve
9 account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The
10 board may agree in connection with the issuance of bonds or notes secured by the account or fund to make
11 the loans. Loans must be on terms and conditions determined by the board and must be repaid from
12 revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and
13 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

14 (3) The board shall ~~allow the Montana board of science and technology development, provided for~~
15 ~~in 2-15-1818, to administer \$12.5 million of the permanent coal tax trust fund for seed capital project loans~~
16 ~~or mezzanine financing loans and \$11.1 million of the permanent coal tax trust fund for research and~~
17 ~~development project matching funds for projects at Montana public universities. This authority does not~~
18 ~~extend beyond June 30, 1997, for seed capital project loans and beyond June 30, 1997, for research and~~
19 ~~development projects~~ transfer \$23.5 million from the coal severance tax permanent trust fund to the
20 biomedical research endowment fund. Until the Montana board of science and technology development
21 makes a ~~loan~~ grant pursuant to the provisions of ~~Title 90, chapter 3 [section 4],~~ the funds under its
22 administration must be invested by the board pursuant to the provisions of 17-6-201. ~~As seed capital and~~
23 ~~mezzanine financing loans made pursuant to this subsection are repaid, the Montana board of science and~~
24 ~~technology development may reinvest the principal in new loans.~~

25 (4) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance.
26 The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit
27 corporations."

28
29 **NEW SECTION. Section 4. Biomedical research account -- grants.** (1) There is a biomedical
30 research account in the state special revenue fund. All earnings of the biomedical research endowment

1 fund must be deposited in the account. The account must be used to fund biomedical research grants and
 2 for administrative expenses associated with the grants. The account is statutorily appropriated, as provided
 3 in 17-7-502, to the board.

4 (2) The board may accept applications for grants from all nonprofit entities located in Montana that
 5 engage in biomedical research. The board shall refer grant applications to external peer review groups.
 6 The board shall compile a list of persons willing to serve on peer review groups for purposes of this section.
 7 The peer review group shall review the application and make a recommendation to the board as to whether
 8 the application for a grant should be approved.

9 (3) The board shall review the recommendation of the peer review group and either approve or
 10 deny a grant application. If the board approves a grant application, the board shall enter into an agreement
 11 with the grant recipient. The agreement must provide that if the grant results in the receipt of royalties,
 12 the grant recipient shall return 5% of the royalties to the board for deposit in the biomedical research
 13 endowment fund.

14
 15 **Section 5.** Section 17-7-502, MCA, is amended to read:

16 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 17 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
 18 without the need for a biennial legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
 20 with both of the following provisions:

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

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

24 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
 25 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
 26 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
 27 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
 28 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
 29 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
 30 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;

1 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
2 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
3 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;
4 [section 4]; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

5 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
6 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
7 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
8 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
9 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
10 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
11 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
12 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
13 July 1, 2001.)"

14
15 NEW SECTION. **Section 6. Codification instruction.** [Section 4] is intended to be codified as an
16 integral part of Title 90, chapter 3, and the provisions of Title 90, chapter 3, apply to [section 4].

17
18 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1997.

19 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0504, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating an additional subfund within the "Coal Severance Tax Trust Fund" ("Trust") to serve as an endowment fund for biomedical research. On July 1, 1997, \$23.5 million would be transferred from the coal severance tax permanent trust fund to create the endowment. Endowment earnings are statutorily appropriated to the Montana Science and Technology Alliance (MSTA) for grants and administrative expenses.

ASSUMPTIONS:

Department of Commerce

1. The Trust is currently comprised of five subfunds: 1) the severance tax bond fund; 2) the permanent fund; 3) the school bond contingency loan fund; the treasure state endowment fund; and 5) the income fund. Except for the treasure state endowment fund, all earnings from the subfunds are deposited in the state general fund. Treasure state endowment earnings are deposited in a state special revenue account from which the legislature appropriates grants to local governments. Except for \$23.6 million in the permanent fund available for investment by the MSTA, the Board of Investments (BOI) invests all funds in the Trust.
2. On July 1, 1997, \$23.5 million would be transferred from the permanent fund to a newly created subfund and beginning on that date all interest earnings on this \$23.5 million would be deposited in a state special revenue account and statutorily appropriated to and administered by the MSTA. These funds are currently invested in the Trust Funds Bond Pool (TFBP) where they earn approximately 7.5 percent annually for the state general fund. Principal in the account, which would remain at the transferred level, would be part of the Trust and could only be appropriated with a three-fourths vote of each house.

FISCAL IMPACT:

Department of Commerce:

Revenues:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
General Fund (01)	(1,762,500)	(1,762,500)
Biomedical Endowment Fund (02)	<u>1,762,500</u>	<u>1,762,500</u>
Total	0	0

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Passage of HB0504 will permanently reduce state general fund interest income, but will not change the amount of principal in the Trust.

(Continued)

Dave Lewis 2-14-97

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

 HAL HARPER, PRIMARY SPONSOR DATE

Fiscal Note for HB0504, as introduced
HB 504

TECHNICAL NOTES:

Department of Commerce:

This bill may inadvertently change the amount of funds the BOI has available to invest under the Instate Investment Program. Language in current law clarifies that the \$23.6 million of the Trust allocated to the MSTA for loans is not included in the 25 percent of the Trust allocated to the BOI for instate loans. This bill strikes that language but leaves intact the MSTA portfolio created under existing law. The effect of this change would require that the MSTA portfolio be included as part of BOI's 25 percent allocation.

Current law requires that the BOI continue investing monies in the Trust allocated to MSTA for loans until such time as the MSTA makes a loan. This bill leaves this language intact but strikes the word "loan" and replaces it with "grants", which may imply that the MSTA is using the same funding source for "grants" that it currently uses for "loans". The \$23.5 million transferred from the permanent fund to the newly created endowment fund will continue to be invested by the BOI as it is under current law and the MSTA will not have access to these funds for grants or loans. Grants will be made from income which under Section 4 of the bill is deposited in a state special revenue account and statutorily appropriated to the MSTA for administrative costs and biomedical research grants.