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INTRODUCED BY House BILL NO. 512
Hayes Van Vleet

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE USE OF COAL SEVERANCE TAX FUNDS; REVISING THE FUNDING FOR THE TREASURE STATE ENDOWMENT FUND BY RETAINING IN THE TREASURE STATE ENDOWMENT FUND ADDITIONAL MONEY THAT WOULD OTHERWISE BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT FUND; AUTHORIZING THE ISSUANCE OF REVENUE BONDS TO FUND PROJECTS; ENCOURAGING ECONOMIC DEVELOPMENT THROUGH INVESTMENTS IN RESEARCH AND DEVELOPMENT; APPROPRIATING COAL SEVERANCE TAX EARNINGS TO SUPPORT RESEARCH AND DEVELOPMENT CENTERS AND TO BE USED AS MATCHING FUNDS FOR RESEARCH AND DEVELOPMENT PROJECTS; AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR INITIAL FUNDING OF RESEARCH AND DEVELOPMENT PROJECTS; ALLOCATING COAL SEVERANCE TAX FUNDS TO THE RESEARCH AND DEVELOPMENT TECHNOLOGY TRUST FUND THAT WOULD OTHERWISE BE DEPOSITED IN THE COAL SEVERANCE TAX PERMANENT FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 2-15-1818, 2-18-103, 17-5-702, 17-5-703, 17-6-305, 17-6-308, 17-6-503, 17-7-502, 90-3-102, 90-3-519, AND 90-8-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the worldwide economy necessitates the ability of states to participate in new and expanding technologies and markets; and

WHEREAS, Montana's location, which has historically been an impediment to economic development, is now a prime factor in attracting research and development personnel; and

WHEREAS, enhancing Montana's research and development sector of the economy will support the maintenance of traditional economic sectors and traditional ways of life; and

WHEREAS, the development of a strong research and development economic component will provide educational and employment opportunities for Montana's youth.

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

NEW SECTION. **Section 1. Purpose -- definition.** (1) The purpose of the research and development special revenue account established in [section 3] and the research and development

1 technology trust fund established in 17-5-703 is to provide a predictable, long-term source of funding for
2 research and development projects to be conducted in Montana. The state is encouraging a diversified,
3 technology-based economic sector. The investment in research and development projects will assist in
4 diversifying Montana's economy, provide employment opportunities for future generations, and enhance
5 educational opportunities for Montanans.

6 (2) As used in [sections 2 through 4] and this section, "research and development center" means
7 the university of Montana, Montana state university, or a private, nonprofit laboratory or research center.
8

9 **NEW SECTION. Section 2. Research and development technology trust fund.** (1) There is within
10 the coal severance tax trust fund a research and development technology trust fund. The purpose of the
11 trust fund is to establish a permanent source of funding for research and development projects to be
12 conducted at research and development centers.

13 (2) The research and development technology trust fund must be invested by the board of
14 investments. Earnings on the trust fund must be deposited in the research and development special
15 revenue account for distribution pursuant to [section 3(3) and (5)].
16

17 **NEW SECTION. Section 3. Research and development special revenue account -- use.** (1) There
18 is a research and development special revenue account. The account and the interest income and earnings
19 on the account are statutorily appropriated, as provided in 17-7-502, to the board for the purposes provided
20 in this section.

21 (2) The establishment of the research and development special revenue account in this section and
22 the research and development technology trust fund in 17-5-703 are intended to enhance the economic
23 growth opportunities for Montana and constitute a public purpose.

24 (3) The research and development special revenue account may be used only for loans or matching
25 funds for grants, from nonstate sources, that are to be used for research and development projects to be
26 conducted at research and development centers located in Montana. An amount allocated for matching
27 funds must be matched by at least a 1-to-1 ratio.

28 (4) The board shall establish policies, procedures, and criteria for the awarding of grants and loans.
29 The criteria must include:

30 (a) the project's potential to diversify or add value to a basic industry of the state's economy;

1 (b) whether the project shows promise for enhancing technology-based sectors of Montana's
2 economy or promise for commercial development of discoveries;

3 (c) whether the project employs or otherwise takes advantage of existing research and
4 development strengths within the state's public university and private research establishments;

5 (d) whether the project involves a realistic and achievable research project design;

6 (e) whether the project develops or employs an innovative technology;

7 (f) verification that the project activity is located within the state;

8 (g) whether the project's research team possesses sufficient expertise in the appropriate technology
9 area to complete the research objectives of the project; and

10 (h) verification that the project was awarded based on its scientific merit, following review by a
11 recognized federal agency or philanthropic foundation.

12 (5) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated
13 interest and earnings from the research and development special revenue account must be retained in the
14 account. Repayments of loans must be deposited in the account.

15
16 **NEW SECTION. Section 4. Research and development revenue bond debt service account. (1)**

17 There is in the debt service fund a research and development revenue bond debt service account.

18 (2) The board shall transfer each year to the debt service account from the research and
19 development special revenue account the amount necessary for debt service for research and development
20 projects authorized by the board and funded by revenue bonds.

21 (3) No more than the principal and interest on the bonds due in any year may be transferred to the
22 research and development revenue bond debt service account for the payment of bonds. The money
23 pledged and appropriated for the payment of bonds is a first lien and prior charge upon the funds, and the
24 funds must be used for payment of the bonds.

25
26 **Section 5. Section 2-15-1818, MCA, is amended to read:**

27 **"2-15-1818. Montana board of ~~science and technology~~ research and development technology --**
28 **allocation -- composition -- quasi-judicial powers. (1) There is a Montana board of ~~science and technology~~**
29 **research and development technology. The board is allocated to the department of commerce. The**
30 **department shall select, prescribe the duties for, and supervise staff to administer board activities.**

1 (2) The board consists of ~~nine~~ eight members appointed by the governor as prescribed in 2-15-124.

2 (3) In making appointments to the board, the governor shall consider people with extensive interest
3 and experience in ~~science and~~ research and development technology and the application of ~~such~~ the interest
4 and experience to economic development in Montana.

5 (4) The membership of the board must include:

6 (a) ~~at least three~~ two members ~~with knowledge of early stage financing of private businesses who~~
7 are scientists with active research programs under their management;

8 (b) at least one member with expertise in applied technology development; and

9 (c) at least five members from the private sector who are representative of the following:

10 (i) mineral extraction and processing;

11 (ii) forestry and wood processing;

12 (iii) agriculture;

13 (iv) energy resources;

14 (v) biotechnology;

15 (vi) communications and manufacturing processes;

16 (vii) investment and financial services; or

17 (viii) environmental engineering.

18 (5) The board is designated a quasi-judicial board for purposes of 2-15-124."

19

20 **Section 6.** Section 2-18-103, MCA, is amended to read:

21 **"2-18-103. Officers and employees excepted.** (1) Parts 1 and 2 do not apply to the following
22 positions in state government:

23 (a) elected officials;

24 (b) county assessors and their chief deputy;

25 (c) employees of the office of consumer counsel;

26 (d) judges and employees of the judicial branch;

27 (e) members of boards and commissions appointed by the governor, the legislature, or other elected
28 state officials;

29 (f) officers or members of the militia;

30 (g) agency heads appointed by the governor;

1 (h) academic and professional administrative personnel with individual contracts under the authority
2 of the board of regents of higher education;

3 (i) academic and professional administrative personnel and live-in houseparents who have entered
4 into individual contracts with the state school for the deaf and blind under the authority of the state board
5 of public education;

6 (j) teachers under the authority of the department of corrections or the department of public health
7 and human services;

8 (k) investment officer, assistant investment officer, executive director, and three professional staff
9 positions of the board of investments;

10 (l) four professional staff positions under the board of oil and gas conservation;

11 (m) assistant director for security of the Montana state lottery;

12 (n) executive director and senior investment officer of the Montana board of ~~science~~ research and
13 ~~technology~~ development technology;

14 (o) executive director and employees of the state compensation insurance fund;

15 (p) state racing stewards employed by the executive secretary of the Montana board of
16 horseracing;

17 (q) executive director of the Montana wheat and barley committee;

18 (r) commissioner of banking and financial institutions; and

19 (s) training coordinator for county attorneys.

20 (2) Employees of an entity of the legislative branch, other than the office of consumer counsel, are
21 exempt from the application of 2-18-1011 through 2-18-1013. With respect to entities of the legislative
22 branch, other than the office of consumer counsel:

23 (a) as used in parts 1 through 3 of this chapter, references to the "department of administration"
24 or "department" apply to the legislative council established by 5-11-101, which may delegate administrative
25 duties to the legislative services division established by 5-11-111;

26 (b) as used in 2-18-102, the term "governor" applies to the legislature; and

27 (c) as used in 2-18-204, the term "budget director" applies to the "approving authority" as defined
28 in 17-7-102."

29

30 **Section 7.** Section 17-5-702, MCA, is amended to read:

1 **"17-5-702. Purpose and intent.** (1) The purpose of the coal severance tax trust fund bond
 2 provisions of this part is to establish the authority to issue and sell coal severance tax bonds that have been
 3 approved by act of the legislature for financing specific renewable resource projects in the state authorized
 4 by the legislature and to guarantee redemption of the bonds by revenue derived from the receipts from the
 5 coal severance tax imposed by Title 15, chapter 35, part 1, and ~~such~~ other money ~~as~~ that the legislature
 6 may from time to time determine, including money from the treasure state endowment special revenue
 7 account.

8 (2) The legislature intends that projects to be financed by coal severance tax bonds include
 9 renewable resource projects as part of the program established in Title 85, chapter 1, part 6, and
 10 infrastructure projects as provided in 90-6-701. The legislature further intends that the income from
 11 renewable resource projects in excess of the amount required for debt service and operation and
 12 maintenance of those projects and activities be deposited in the renewable resource grant and loan program
 13 state special revenue account established in 85-1-604."

14
 15 **Section 8.** Section 17-5-703, MCA, is amended to read:

16 **"17-5-703. Coal severance tax trust funds.** (1) The trust established under Article IX, section 5,
 17 of the Montana constitution is composed of the following funds:

18 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
 19 severance tax must be deposited;

20 (b) a treasure state endowment fund;

21 (c) a coal severance tax permanent fund;

22 (d) a coal severance tax income fund; ~~and~~

23 (e) a coal severance tax school bond contingency loan fund; and

24 (f) a research and development technology trust fund.

25 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet
 26 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next
 27 12 months and retain that amount in the coal severance tax bond fund.

28 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
 29 (2)(a) must be transferred from that fund as provided in subsections (3) through ~~(5)~~ (6).

30 (3) (a) ~~On January 21, 1992, and continuing as~~ As long as any school district bonds secured by

1 state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in
2 subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond
3 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is
4 specified in subsection (2) to be retained in the fund.

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

9 (4) (a) ~~Beginning July 1, 1993~~ 1997, and ending June 30, ~~2013~~ 1999, the state treasurer shall
10 quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond
11 fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of
12 amounts that are transferred pursuant to subsection (3). Beginning July 1, 1999, and ending June 30,
13 2007, the state treasurer shall quarterly transfer to the treasure state endowment fund 75% of the amount
14 in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be
15 retained in the fund and in excess of amounts that are transferred pursuant to subsection (3). Beginning
16 July 1, 2007, and ending June 30, 2013, the state treasurer shall quarterly transfer to the treasure state
17 endowment fund the amount in the coal severance tax bond fund in excess of the amount that is specified
18 in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to
19 subsection (3).

20 (b) The state treasurer shall monthly transfer from the treasure state endowment fund to the
21 treasure state endowment special revenue account the ~~amount of earnings required to meet the obligations~~
22 ~~of the state that are payable from the account in accordance with 90-6-710~~ on the fund. Earnings not
23 transferred to the treasure state endowment special revenue account must be retained in the treasure state
24 endowment fund.

25 (5) (a) Beginning July 1, 1997, and ending June 30, 1999, the state treasurer shall quarterly
26 transfer to the research and development technology trust fund 50% of the amount in the coal severance
27 tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in
28 excess of amounts that are transferred pursuant to subsections (3) and (4). Beginning July 1, 1999,
29 through June 30, 2007, the state treasurer shall quarterly transfer to the research and development
30 technology trust fund 25% of the amount in the coal severance tax bond fund in excess of the amount that

1 is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred
 2 pursuant to subsections (3) and (4).

3 (b) The state treasurer shall monthly transfer from the research and development technology trust
 4 fund to the research and development special revenue account the earnings on the fund necessary for
 5 funding approved projects or bond payments. Earnings not transferred to the research and development
 6 special revenue account must be retained in the research and development technology trust fund.

7 ~~(5)(6)~~ Any amount in the coal severance tax bond fund in excess of the amount that is specified
 8 in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must
 9 be deposited in the coal severance tax permanent fund."

10
 11 **Section 9.** Section 17-6-305, MCA, is amended to read:

12 **"17-6-305. Investment of up to twenty-five percent of coal tax trust fund in Montana economy**
 13 **-- report by board.** (1) Subject to the provisions of 17-6-201(1), the board shall endeavor to invest up to
 14 25% of the permanent coal tax trust fund established in 17-6-203(6) in the Montana economy, with special
 15 emphasis on investments in new or expanding locally owned enterprises. Investments made pursuant to
 16 this section do not include investments made pursuant to 17-6-309(2). For purposes of calculating the 25%
 17 of the permanent coal tax trust fund, the board shall include all funds listed in 17-5-703(1). The portion of
 18 the permanent coal tax trust fund administered by the Montana board of ~~science and~~ research and
 19 development technology development pursuant to 17-6-308(3) may not be included in the 25% of the trust
 20 fund allocated to the board for in-state investment under this section.

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

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

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

26
 27 **Section 10.** Section 17-6-308, MCA, is amended to read:

28 **"17-6-308. Authorized investments.** (1) Except as provided in subsections (2) and (3) and subject
 29 to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized
 30 by rules adopted by the board.

1 (2) The board may make loans from the permanent coal tax trust fund to the capital reserve
 2 account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The
 3 board may agree in connection with the issuance of bonds or notes secured by the account or fund to make
 4 the loans. Loans must be on terms and conditions determined by the board and must be repaid from
 5 revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and
 6 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

7 (3) The board shall allow the Montana board of ~~science and~~ research and development technology
 8 ~~development~~, provided for in 2-15-1818, to administer ~~\$12.5 million of the permanent coal tax trust fund~~
 9 ~~for seed capital project loans or mezzanine financing loans and \$11.1 million of the permanent coal tax trust~~
 10 the research and development technology trust fund for the purpose of creating funding for research and
 11 development project ~~matching funds for projects at Montana public universities~~ purposes. This authority
 12 ~~does not extend beyond June 30, 1997, for seed capital project loans and beyond June 30, 1997, for~~
 13 ~~research and development projects. Until the Montana board of science and technology development makes~~
 14 ~~a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested~~
 15 ~~by the board pursuant to the provisions of 17-6-201. As seed capital and mezzanine financing loans made~~
 16 ~~pursuant to this subsection are repaid, the Montana board of science and technology development may~~
 17 ~~reinvest the principal in new loans.~~

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

21
 22 **Section 11.** Section 17-6-503, MCA, is amended to read:

23 "**17-6-503. Definitions.** As used in this part, unless the context requires otherwise, the following
 24 definitions apply:

25 (1) "Board" means the Montana board of ~~science and~~ research and development technology
 26 ~~development~~ provided for in 2-15-1818.

27 (2) "Department" means the department of commerce provided for in 2-15-1801.

28 (3) "Loan review committee" means the committee that is established by the department to
 29 consider economic development loan applications for funding by the federal community development block
 30 grant program and that is responsible for reviewing and recommending to the board the approval or denial

1 of job investment loans subject to this part and rules implementing this part.

2 (4) "Qualified business" means a business enterprise that either is or will be located in the state
3 and that produces goods or provides services that will, as a result of receiving a job investment loan, create
4 jobs for Montana workers."

5

6 **Section 12.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

15 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
16 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;
17 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;
18 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;
19 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;
20 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;
21 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;
22 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;
23 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;
24 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;
25 [section 3]; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

26 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
27 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
28 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
29 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
30 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the

1 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
2 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
3 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
4 July 1, 2001.)"

5

6 **Section 13.** Section 90-3-102, MCA, is amended to read:

7 **"90-3-102. Definitions.** As used in this chapter the following definitions apply:

8 (1) "Act" means the Montana science and technology financing act.

9 (2) "Board" means the Montana board of ~~science and~~ research and development technology
10 ~~development~~ provided for in 2-15-1818.

11 (3) "Company" means a firm, partnership, corporation, association, or any other entity authorized
12 to conduct business in Montana.

13 (4) "Convertible debenture" means a debenture convertible into stock under certain conditions by
14 any individual or company. The debenture may not be converted by the board.

15 (5) "Debenture" or "note" means a writing or certificate issued as evidence of debt.

16 (6) "Department" means the department of commerce created in 2-15-1801.

17 (7) "Expansion capital project" means a science and technology development project undertaken
18 to enable a company to expand its manufacturing and marketing activities in order to move its products or
19 services into new markets or to expand existing markets.

20 (8) "Innovative technology" means the involvement of a product or process that embodies the use
21 of implements, machinery, equipment, chemical formulations, resources, materials, methods, or other items
22 in a manner that departs from previous commercial developments, practices, or applications.

23 (9) "Matching funds" means the funds received in cash by the science and technology development
24 project loan recipient from nonstate-appropriated sources and committed by the loan recipient to the project
25 in an amount that is at least equal to the funds loaned to the recipient by the board for use in the science
26 and technology development project.

27 (10) "Medical facility research and development project" means a research and development project
28 designed to advance the development and operation of facilities that concentrate on fields of medical
29 research involving advanced technology applied to national medical concerns through the financing of
30 personnel, equipment, and operating costs with the goal of establishing the facilities as enduring research

1 organizations in Montana.

2 (11) "Portfolio company" means a startup or expansion stage company that has received a seed
3 capital project loan from the board.

4 (12) "Private sector" means any entity or individual, not principally a part of or associated with a
5 governmental unit, that is associated with or involved in commercial activity.

6 (13) "Research and development project" means a science and technology development project that
7 falls into the category of research capability development, applied technology research, or technology
8 transfer and assistance.

9 (14) "Research and development project loan" means a science and technology development project
10 loan entered into between the board and a loan recipient for a research and development project.

11 (15) "Science and technology development project" means either a seed capital project or research
12 and development project designed to discover, develop, transfer, utilize, or commercialize existing or new,
13 innovative technology in order to strengthen and enhance economic development in Montana.

14 (16) "Science and technology development project loan agreement" or "loan" means an agreement
15 entered into between the board and the loan recipient of a seed capital project loan or a research and
16 development project loan that:

- 17 (a) creates a debt relationship between the parties;
18 (b) provides for a financial return to the board;
19 (c) provides economic development potential to the state; and
20 (d) contains the applicable provisions and terms required by this chapter.

21 (17) "Seed capital project" means a startup capital project or expansion capital project.

22 (18) "Seed capital project loan" means a science and technology development project loan entered
23 into between the board and a loan recipient for a seed capital project.

24 (19) "Startup capital project" means a science and technology development project that assists a
25 company in initiating commercial operations.

26 (20) "State" means the state of Montana.

27 (21) "Technology transfer" means a two-way process by which ideas or inventions for processes
28 or products developed in a research program, usually on a laboratory or pilot-plant scale, are converted to
29 commercial use.

30 (22) "Venture capital company" means a partnership, corporation, or other business entity engaged

1 in raising funds from investors and earning a financial return for those investors by making equity or
2 quasi-equity investments in new or expanding business.

3 (23) "Warrant" means an instrument issued by a corporation that gives a holder other than the
4 board the right to purchase stock of a corporation either for a limited time or perpetually."
5

6 **Section 14.** Section 90-3-519, MCA, is amended to read:

7 **"90-3-519. Venture capital companies.** The board may ~~make use~~ use up to \$2 million of ~~its~~ the funds
8 that were available under 17-6-308 before June 30, 1997, for seed capital project loans to venture capital
9 companies in order to further the development of seed capital resources available for investment in
10 technology-oriented business development and expansion activities if the venture capital companies meet
11 the criteria in subsections (1) and (2):

12 (1) Venture capital companies must be selected for loans by the board on the basis of the
13 demonstrated ability of the companies' principals to make sound investments and the principals' business
14 development experience.

15 (2) The company has raised or is in the process of raising its investment capital under the terms
16 of a prospectus or other offering document that gives the board assurance that the company:

17 (a) is in compliance with the United States securities and exchange commission and Montana
18 securities laws and regulations applicable to venture capital companies;

19 (b) will use equity or quasi-equity investment mechanisms for at least three-fourths of its
20 investments and will not use conventional secured debt mechanisms for more than one-fourth of its
21 investments;

22 (c) will otherwise conduct its investment strategy and investment management practices in a
23 manner that conforms to standard venture capital industry practices; and

24 (d) has a management team that will dedicate the equivalent of at least one full-time manager to
25 the operation of the company.

26 (3) The board may adopt rules governing loans to venture capital companies to implement the
27 terms of this section and to ensure that the loans meet the requirements of 90-3-501 through 90-3-504."
28

29 **Section 15.** Section 90-8-201, MCA, is amended to read:

30 **"90-8-201. Certification of Montana capital companies -- certification of a Montana small business**

1 **investment capital company.** (1) The department shall certify one Montana small business investment
2 capital company, and from time to time the department shall certify Montana capital companies. A company
3 seeking to be certified as a Montana capital company or as the Montana small business investment capital
4 company shall make written application to the department on forms provided by the department. The
5 application must contain the information required by 90-8-204 and other information that the department
6 requires. The application and certificate must specify the level of capitalization that the company expects
7 to qualify for the tax credits provided for in 90-8-202.

8 (2) The application must show that the applicant's purpose is to increase the general economic
9 welfare of the state of Montana by:

10 (a) making investment capital available to businesses in Montana; and

11 (b) allowing for investment of up to 25% of its capital base in businesses outside Montana if there
12 is a substantial likelihood that such investment will produce a qualified investment in Montana.

13 (3) Certifiable applicants include but are not limited to local and community development
14 corporations, small business administration 503 corporations, and small business investment companies.

15 (4) Certification is a prerequisite to and must be completed before seeking designation as a qualified
16 capital company or as the qualified Montana small business investment capital company.

17 (5) To be eligible for certification under this section as the Montana small business investment
18 capital company, the applicant shall commit to:

19 (a) utilize the tax credits to accumulate private capital with the intention of being designated a small
20 business investment corporation by the United States small business administration as provided in Title III
21 of the Small Business Investment Act of 1958, as amended, and as implemented under 13 CFR 107;

22 (b) target its investments as a small business investment capital company toward commercialization
23 projects emerging from centers of excellence and entrepreneurship, federal laboratories, the federal small
24 business innovative research program, the federal cooperative research and development agreement
25 program, Montana university system research and development, the Montana board of ~~science~~ research
26 and ~~technology~~ development technology (second stage), small business incubators, community
27 development block grant programs, and projects emerging from economic development programs of
28 Montana certified communities with the objective of providing significant investment opportunities in an
29 area where economic development capital is limited;

30 (c) consider investment opportunities originating in any Montana county; and

1 (d) adopt investment guidelines that ensure that not less than 10% of its available capital is
2 invested in counties with populations of 20,000 or less."

3
4 NEW SECTION. Section 16. Codification instruction. [Sections 1 through 4] are intended to be
5 codified as an integral part of Title 90, chapter 3, and the provisions of Title 90, chapter 3, apply to
6 [sections 1 through 4].

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

9 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0512, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:


An act revising the use of Coal Severance Tax funds; revising the funding for the Treasure State Endowment Fund by retaining in the Treasure State Endowment Fund additional money that would otherwise be deposited in the Coal Severance Tax Permanent Fund; authorizing the issuance of revenue bonds to fund projects; encouraging economic development through investments in research and development; appropriating Coal Severance Tax earnings to support research and development centers and to be used as matching funds for research and development projects; authorizing the issuance of revenue bonds for initial funding of research and development projects; allocating Coal Severance Tax funds to the Research and Development Technology Trust Fund that would otherwise be deposited in the Coal Severance Tax Permanent Fund; providing a statutory appropriation; and providing an effective date.

ASSUMPTIONS:

Department of Commerce

1. HB0512 provides for a long term source of funding for research and development projects to be conducted in Montana by establishing a research and development technology trust (RDTT) sub fund within the permanent coal tax trust. It also generally increases the allocation to the treasure state endowment fund (TSEF) to effectively cap the coal severance tax permanent trust and the interest earnings deposited to the general fund after FY 97.
2. HB0512 replaces the Montana Board of Science and Technology with the Board of Research and Technology. Although HB0512 statutorily appropriates the earnings on the Research and Development Technology Trust sub fund to the new Board, it is assumed for the purposes of this fiscal note, that the administrative costs as detailed in the Governor's 1999 Biennium Executive Request would be incurred by the new program in FY98 and FY99. These funds need not be appropriated in HB 2 should the proposal be approved. TSEF funds would continue to require a temporary appropriations.
3. The proposal authorizes the issuance of revenue bonds for research and development technology and treasure state endowment loans. Interest earnings could be used to subsidize and/or guarantee loan repayments. This provision "leverages" the interest earnings and changes the emphasis of the TSEF from grants to debt service payments. Bonding effects are not included in this fiscal note.
4. Revenue impacts for the 1999 biennium are based on HJR 2 assumptions for coal severance tax collections, interest rates and current revenue accrual procedures. The long-range impact discussion assumes FY 99 assumptions continue. Loans repayments from the existing science and technology loans are assumed to be sufficient to fund the program.

(Continued)

 2-18-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

HAL HARPER, PRIMARY SPONSOR DATE

Fiscal Note for HB0512, as introduced

HB 512

FISCAL IMPACT:

Department of Commerce

Board of Research & Development Technology (Becomes Statutorily Appropriated)

Expenditures:

	<u>FY98</u>	<u>FY99</u>
BD.. Of Research & Development:	<u>Difference</u>	<u>Difference</u>
FTE	5.00	5.00
Personal Services	224,891	225,176
Operating Expenses	119,025	118,335
Debt Service	<u>11,892</u>	<u>15,648</u>
Total	355,808	359,159

Revenues:

RDTT State Special	235,900	1,007,000
General Fund Revenue Reduction	(235,900)	(1,007,000)

LONG-RANGE EFFECTS OF THE PROPOSAL:

The proposal, by capping deposits to the permanent coal severance tax trust through diversions to either the TSEF or RDTT accounts, redistributes earnings on the various sub funds within the larger trust account. Interest earning deposits to the general fund are diverted to the research and treasure state accounts. The amount of diversion will increase to \$3.9 million in the 2001 biennium and \$6.4 million in the 2003 biennium. The amount compounds by approximately \$2.5 million per biennium until FY 2014.