

SENATE BILL NO. 129

INTRODUCED BY D. BERRY

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

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A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE TOBACCO SETTLEMENT TRUST FUND AUTHORIZED BY ARTICLE XII, SECTION 4, OF THE MONTANA CONSTITUTION; PROVIDING CRITERIA TO GOVERN THE PURPOSES FOR WHICH THE INTEREST, INCOME, AND PRINCIPAL OF THE TRUST FUND MAY BE APPROPRIATED; PROVIDING FOR THE MANAGEMENT OF THE TRUST FUND; AMENDING SECTION 17-6-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Establishment -- purpose.** A Montana tobacco settlement trust fund, as provided for in Article XII, section 4, of the Montana constitution, is established to provide a permanent source of revenue to fund the costs that the state incurs in:

- (1) programs for tobacco disease prevention; and
- (2) providing benefits, services, or coverage of health care needs.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Benefits, services, or coverage of health care needs" means the provision of health care to persons by the state through any program of benefits, services, or coverage, INCLUDING INCOME TAX INCENTIVES.

(2) "Health care" ~~means:~~ HAS THE MEANING PROVIDED IN 50-16-504.

~~(a) care that is medically necessary to cure or ameliorate the physical ailments of an individual;~~

~~———— (b) support provided to an individual for maintaining physical mobility, personal hygiene, transportation, and other necessary features of daily existence;~~

~~———— (c) prevention services to educate individuals about significant health risks and the measures that reduce health risks;~~



1 ~~—— (d) services to protect individuals from circumstances that place them at risk of health~~
 2 ~~deterioration, exploitation, neglect, or abuse;~~

3 ~~—— (e) meals and other services that maintain an individual's well-being; and~~

4 ~~—— (f) other services or projects to maintain or improve the health of individuals.~~

5 (3) "Programs for tobacco disease prevention" means programs of services administered by the
 6 state for the purposes of informing individuals of the health risks of tobacco use and exposure, assisting
 7 persons in the avoidance of tobacco products use, ~~limiting environmental exposure of persons to tobacco~~
 8 ~~byproducts~~, and assisting individuals in cessation of tobacco use.

9 ~~—— (4) "Tobacco byproducts" means chemical byproducts produced in the use of tobacco products~~
 10 ~~that enter the environment and that expose one or more individuals to those chemicals.~~

11 ~~(5)~~(4) "Tobacco products" means a substance intended for human use that contains tobacco and
 12 includes but is not limited to cigarettes, cigars, smoking tobacco, and tobacco intended for use in an oral
 13 or nasal cavity.

14 ~~(6)~~(5) "Trust fund" means the Montana tobacco settlement trust fund authorized by Article XII,
 15 section 4, of the Montana constitution and implemented through [sections 1 through 3].

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17 **NEW SECTION. Section 3. Montana tobacco settlement trust fund -- state special revenue fund**
 18 **account.** (1) Nine-tenths of the interest and income derived from the trust fund on or after January 1,
 19 2001, must be deposited in an account in the state special revenue fund and is subject to appropriation
 20 in accordance with subsection (3). One-tenth of the interest and income derived from the trust fund must
 21 remain in the trust fund.

22 (2) In addition to the money required to be deposited in the trust fund as principal, the legislature
 23 may deposit additional money in the trust fund as principal.

24 (3) The legislature shall appropriate money from the state special revenue fund account provided
 25 for in subsection (1) for programs for tobacco disease prevention and for state programs that provide
 26 benefits, services, or coverage of health care needs.

27 (4) The money appropriated under this section may not be used to replace state or federal money
 28 used to fund programs for tobacco disease prevention or state programs in existence on December 31,
 29 1999, that provide benefits, services, or coverage of health care needs.

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1 **Section 4.** Section 17-6-203, MCA, is amended to read:

2 "**17-6-203. Separate investment funds.** Separate investment funds ~~shall~~ must be maintained as
3 follows:

4 (1) the nonexpendable trust funds, including all public school funds and funds of the Montana
5 university system and other state institutions of learning referred to in ~~sections 2 and 10,~~ Article X,
6 sections 2 and 10, of the ~~1972~~ Montana constitution. The principal and any part ~~thereof~~ of each ~~and every~~
7 fund constituting the Montana nonexpendable trust fund type ~~shall be~~ are subject to payment at any time
8 when due under the statutory provisions applicable ~~thereto~~ to the nonexpendable trust fund and according
9 to the provisions of the gift, donation, grant, legacy, bequest, or devise through or from which the
10 particular fund arises.

11 (2) a separate investment fund, which may not be held jointly with other funds, for money
12 pertaining to each retirement or insurance system ~~now or hereafter~~ maintained by the state, including
13 those now maintained under the following statutes:

- 14 (a) the highway patrol officers' retirement system described in Title 19, chapter 6;
15 (b) the public employees' retirement system described in Title 19, chapter 3;
16 (c) the game wardens' and peace officers' retirement system described in Title 19, chapter 8;
17 (d) the teachers' retirement system described in Title 19, chapter 20; and
18 (e) the industrial accident insurance program described in Title 39, chapter 71, part 23;

19 (3) a pooled investment fund, including all other accounts within the treasury fund structure
20 established by 17-2-102;

21 (4) the fish and wildlife mitigation trust fund established by 87-1-611;

22 (5) a fund consisting of gifts, donations, grants, legacies, bequests, devises, and other
23 contributions made or given for a specific purpose or under conditions expressed in the gift, donation,
24 grant, legacy, bequest, devise, or contribution on the part of the state of Montana to be observed. If ~~such~~
25 a gift, donation, grant, legacy, bequest, devise, or contribution permits investment and is not otherwise
26 restricted by its terms, it may be treated jointly with other ~~such~~ gifts, donations, grants, legacies,
27 bequests, devises, or contributions.

28 (6) a fund consisting of coal severance taxes allocated ~~thereto~~ to the coal tax severance trust fund
29 under ~~section 5,~~ Article IX, section 5, of the Montana constitution; ~~the.~~ The principal of this trust fund
30 ~~shall be~~ is permanent; ~~in.~~ However, in the event that the legislature appropriates any part of the principal

1 of this fund by a vote of three-fourths of the members of each house, ~~such~~ the liquidation may create a
2 gain or loss in the principal; ~~and~~.

3 (7) a Montana tobacco settlement trust fund established in accordance with Article XII, section
4 4, of the Montana constitution and [sections 1 through 3]; and

5 ~~(7)(8) such~~ additional investment funds ~~as may be~~ that are expressly required by law or may be
6 determined by the board of investments to be necessary to fulfill fiduciary responsibilities of the state with
7 respect to funds from a particular source."

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9 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 3] are intended to be
10 codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to
11 [sections 1 through 3].

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

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15 NEW SECTION. Section 7. Retroactive applicability. [This act] applies retroactively, within the
16 meaning of 1-2-109, to proceeds from the tobacco settlement occurring on or after January 1, 2001.

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