

FISCAL NOTE

Bill #: HB 444

Title: Reauthorize natural resource damage program

Primary Sponsor: Roger Somerville

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	FY2002 Difference	FY2003 Difference
Expenditures:		
State Special Revenue	\$495,000	\$495,000
Revenue:		
General Fund	\$(17,573)	\$(52,718)
Net Impact on General Fund Balance:	\$(17,573)	\$(52,718)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached	X		Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

Department of Revenue

1. This bill authorizes the Department of Justice to borrow \$990,000 from the coal severance tax permanent fund to finance natural resource damage assessment and litigation. The loan is to be repaid from funds recovered from the litigation. Terms of the loan are to be spelled out in a contract between the Department of Justice and the Board of Investments.
2. The Department of Justice plans to borrow funds as needed, and to spend the total evenly over the biennium. This would reduce the average trust fund balance by \$247,500 in FY02 and \$742,500 in FY03.
3. The rate of return on the coal severance tax permanent fund is projected to be 7.1% in both fiscal 2002 and fiscal 2003. All interest earned by the trust fund is deposited in the general fund.
4. The loan would be repaid once funds are recovered from the litigation. If the loan is not repaid within the biennium, interest earnings for the general fund would be reduced by \$17,573 in fiscal 2002 and \$52,718 in fiscal 2003.

(continued)

5. This bill will not have any administrative impacts on the Department of Revenue.

Department of Justice

1. The bill provides funding, through a loan from the Coal Tax Severance Permanent Fund, to continue the state's natural resource damage litigation against the Atlantic Richfield/British Petroleum Company (ARCO). Damages recovered by the state in the litigation will be used to reimburse Coal Tax Fund for this loan, including lost interest on this money, to the extent consistent with state and federal law.
2. In FY1999, the state settled a major portion of this lawsuit against ARCO and repaid approximately \$14.9 million, including \$3 million in interest, to the Coal Tax and general funds for all loans previously made to the Program for the years 1985 through 1997.
3. Final settlement or adjudication of the case during the 2003 biennium would likely result in the repayment of funds appropriated pursuant to HB444; however, a specific repayment amount cannot be estimated with certainty because the case is still in litigation.
4. Section 1 contains a biennial appropriation. It is estimated that about 50% of the appropriation will be spent in each year of the biennium. Also, about 50% of the Program's budget is for contracted services (expert witness and other outside litigation costs).
5. The NRD program has been responsible for performing the necessary natural resource damage assessments and pursuing the lawsuit against ARCO since 1991. The Program has nine FTEs. When the State received the settlement money in the summer of 1999, it reorganized the Program into two components:
6. Litigation component responsible for continuing to pursue the lawsuit. This component continues to require funding from legislatively appropriated sources.
7. Restoration planning component responsible for overseeing the Restoration Fund and making recommendations to the Governor on how to spend the damages consistent with the legal requirement that the money be spent to restore natural resources in the Upper Clark Fork Basin. This component of the Program is completely funded by the Restoration Fund.
8. The litigation component of the Program utilizes 4 of the Program's 9 FTEs.

FISCAL IMPACT:

	FY2002 <u>Difference</u>	FY2003 <u>Difference</u>
FTE	9.00	9.00

Expenditures:

Personal Services	\$186,000	\$186,000
Operating Expenses	<u>309,000</u>	<u>309,000</u>
TOTAL	\$495,000	\$495,000

Funding:

State Special Revenue (02)	\$495,000	\$495,000
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Revenues:

General Fund (01)	\$(17,573)	\$(52,718)
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Net Impact to Fund Balance (Revenue minus Expenditure):

General Fund (01)	\$(17,573)	\$(52,718)
State Special Revenue (02)	(\$495,000)	(\$495,000)

LONG-RANGE IMPACTS:

1. Coal severance tax permanent fund interest earnings for the general fund will be reduced \$5858 per month until the loan is repaid ($\$990,000 \times 7.1\% / 12$). When the loan is repaid, general fund revenue will be increased by the amount of interest specified by the contract in Section 2. If the interest rate on the loan is 6.5%, this will be approximately \$64,350 at the start of the next biennium and will increase approximately \$5400 per month.
2. The state already has settled a major portion of this litigation for \$215 million, most of which will be used to restore lost or damaged resources in the Clark Fork Basin and to clean up the Silver Bow Creek area south of Butte. Continuation of the litigation and settlement negotiations will provide an additional long-term economic benefit to the state and to the restoration of natural resources in the affected areas.

TECHNICAL NOTES:

1. Section 1 omits several aspects of the loan to be spelled out in the contract required by Section 2. For example, the bill does not explicitly state whether this is an interest-paying loan, and does not make explicit provision for depositing any interest from the loan. Section 1 also calls for repayment of “the amount *expended* pursuant to this section” but does not equate the amount of the loan to the amount expended.