



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

**Bill #** HB0298

**Title:** Reauthorize natural resource damages program

**Primary Sponsor:** Hiner, Cynthia

**Status:** As Introduced

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input type="checkbox"/> Needs to be included in HB 2             | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<b>Expenditures:</b>				
State Special Revenue - NRD	\$200,000	\$200,000	\$0	\$0
<b>Revenue:</b>				
General Fund	(\$11,320)	(\$22,640)	(\$22,640)	(\$22,640)
State Special Revenue - NRD	\$200,000	\$200,000	\$0	\$0
Trust Fund - Coal Trust	(\$200,000)	(\$200,000)	\$0	\$0
<b>Net Impact-General Fund Balance</b>	<u>(\$11,320)</u>	<u>(\$22,640)</u>	<u>(\$22,640)</u>	<u>(\$22,640)</u>

#### Description of Fiscal Impact:

This bill authorizes the re-appropriation of funds associated with a loan from the Coal Tax Severance Permanent Fund to fund the state's natural resource damage litigation against the Atlantic Richfield and other claims of the state.

### FISCAL ANALYSIS

#### Assumptions:

- The bill re-appropriates the remainder at 6/30/2007 of the current biennium's funding from HB160 (2003 session) and HB 201(2005 session) into the next biennium. Funding is through a loan, in the nature of a line of credit, from the Coal Tax Severance Permanent Fund to continue the state's natural resource damage (NRD) litigation against the Atlantic Richfield/British Petroleum Company (ARCO) and to pursue other NRD claims of the state. It is estimated that out of the original \$650,000 line of credit, approximately \$400,000 will be remaining at 6/30/2007. Damages recovered by the state in the

- litigation will be used to reimburse the Coal Tax Fund for this loan, including lost interest on the money, to the extent consistent with state and federal law.
2. The Board of Investments will book the loan as a receivable in the permanent fund. The loan would be repaid from funds recovered through the litigation program. Timing of loan repayment is unknown.
  3. The permanent fund is currently invested in the trust funds bond pool (TFBP), which serves as a mutual fund type investment for the state's major long-term trust funds. The permanent fund's holdings of TFBP shares would be reduced beginning in FY 2008. Interest earnings on the permanent fund are deposited to the state's general fund. The projected interest rate on the TFBP for FY 2008 and FY 2009 is 5.66%. Interest earnings distributed to the general fund would be reduced by \$11,320 in FY 2008 and \$22,640 in FY 2009 (5.66% x \$200,000 and 5.66% x \$400,000) due to this loan.
  4. In FY 1999, 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 fund for all loans previously made to the NRD Program for the years 1985 through 1997. The settlement also resulted in damages paid to the state, which were deposited into a \$130 million Restoration Fund for restoration of natural resources in the Clark Fork River Basin.
  5. Final settlement or adjudication of the case during the 2009 biennium would result in the repayment of funds appropriated pursuant to HB298; however, repayment, while very likely, is not a certainty because the ARCO case has not been finally settled.
  6. 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 eight FTE. When the state received the settlement money in the summer of 1999, it reorganized the program into two components: litigation and restoration.
  7. The litigation component of the program is responsible for continuing to pursue the lawsuit and other NRD claims. This component continues to need funding from legislatively appropriated sources.
  8. The restoration component of the program is responsible for overseeing the Restoration Fund and making recommendations to the Governor on how to spend the damages which have already been recovered from ARCO consistent with the legal requirement that the money be spent to restore natural resources in the Clark Fork Basin. This component of the program is funded completely off budget by the Restoration Fund.
  9. For purposes of this fiscal note, it is estimated that about \$80,000 (1.50 FTE) will be spent each year for personal services out of the litigation component of the program, which is funded by HB 298.
  10. The program has never fully expended the amount authorized. The amounts used for the fiscal impact are the maximum amount the program could spend.

	<b><u>FY 2008</u></b> <b><u>Difference</u></b>	<b><u>FY 2009</u></b> <b><u>Difference</u></b>	<b><u>FY 2010</u></b> <b><u>Difference</u></b>	<b><u>FY 2011</u></b> <b><u>Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
FTE	1.50	1.50	0.00	0.00
<b><u>Expenditures:</u></b>				
Personal Services	\$78,475	\$78,475	\$0	\$0
Operating Expenses	<u>\$121,525</u>	<u>\$121,525</u>	<u>\$0</u>	<u>\$0</u>
<b>TOTAL Expenditures</b>	<b><u><u>\$200,000</u></u></b>	<b><u><u>\$200,000</u></u></b>	<b><u><u>\$0</u></u></b>	<b><u><u>\$0</u></u></b>
<b><u>Funding of Expenditures:</u></b>				
State Special Revenue - NRC	\$200,000	\$200,000	\$0	\$0
<b><u>Revenues:</u></b>				
General Fund (01)	(\$11,320)	(\$22,640)	(\$22,640)	(\$22,640)
State Special Revenue - NRC	\$200,000	\$200,000	\$0	\$0
Trust Fund - Coal Trust	<u>(\$200,000)</u>	<u>(\$200,000)</u>	<u>\$0</u>	<u>\$0</u>
<b>TOTAL Revenues</b>	<b><u><u>\$0</u></u></b>	<b><u><u>\$0</u></u></b>	<b><u><u>\$0</u></u></b>	<b><u><u>\$0</u></u></b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$11,320)	(\$22,640)	(\$22,640)	(\$22,640)
State Special Revenue - NRC	\$0	\$0	\$0	\$0
Trust Fund - Coal Trust	(\$200,000)	(\$200,000)	\$0	\$0

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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