

HOUSE BILL NO. 276  
INTRODUCED BY LINDEEN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN ECONOMIC DEVELOPMENT FUND IN THE COAL SEVERANCE TAX TRUST FUND; PROVIDING FOR THE DEPOSIT OF COAL SEVERANCE TAXES IN THE ECONOMIC DEVELOPMENT FUND; PROVIDING FOR THE USE OF THE EARNINGS ON THE ECONOMIC DEVELOPMENT FUND TO MAKE ~~GRANTS AND LOANS TO ECONOMIC DEVELOPMENT ORGANIZATIONS;~~ PROVIDING FOR A PROCESS TO RECEIVE APPLICATIONS FOR GRANTS AND LOANS; PROVIDING FOR RECOMMENDATIONS OF GRANTS AND LOANS TO BE MADE TO THE LEGISLATURE; FUNDS AVAILABLE TO CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS; STATUTORILY APPROPRIATING MONEY DEPOSITED IN THE ECONOMIC DEVELOPMENT SPECIAL REVENUE ACCOUNT; AMENDING ~~SECTION~~ SECTIONS 17-5-703 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. (Temporary) 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 treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; and

(f) a coal severance tax school bond contingency loan 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 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.

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

(4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment fund 75% of the 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 and in excess of amounts that are transferred pursuant to subsection (3).

(b) Beginning July 1, 1999, and ending June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment regional water system fund 25% of the 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 and in excess of amounts that are transferred pursuant to subsection (3).

(c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(d) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.

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

**17-5-703. (Effective July 1, 2003) 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 treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; ~~and~~

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

(g) an economic development 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)~~ (6).

(3) (a) 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.

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

(4) (a) ~~Until From July 1, 2003, through UNTIL~~ June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment fund ~~50%~~ 25% ~~50%~~ of the 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 and in excess of amounts that are transferred pursuant to subsection (3).

(b) Until June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment regional water system fund 25% of the 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 and in excess of amounts that are transferred pursuant to subsection (3).

(c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure

state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(d) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.

(5) (a) From July 1, 2003, through June 30, 2016, the state treasurer shall quarterly transfer to the economic development fund 25% of the 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 and in excess of amounts that are transferred pursuant to subsection (3).

(B) FROM JULY 1, 2003, THROUGH JUNE 30, 2005, THE STATE TREASURER SHALL MONTHLY TRANSFER FROM THE ECONOMIC DEVELOPMENT FUND TO THE GENERAL FUND THE AMOUNT OF EARNINGS, EXCLUDING UNREALIZED GAINS AND LOSSES.

(b)(C) The BEGINNING JULY 1, 2005, THE state treasurer shall monthly transfer from the economic development fund to the economic development special revenue account, provided for in [section 6], the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with [section 5]. Earnings not transferred to the economic development special revenue account must be retained in the treasure state endowment fund.

~~(5)(6)~~ Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. (Terminates June 30, 2016--sec. 1, Ch. 70, L. 2001.)

**17-5-703. (Effective July 1, 2016) 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) an economic development 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)~~ (6).

(3) (a) 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.

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

(4) (a) Until June 30, 2013, the state treasurer shall quarterly transfer to the treasure state endowment fund ~~50%-25%~~ 50% of the 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 and in excess of amounts that are transferred pursuant to subsection (3).

(b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(5) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the economic development fund 25% of the 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 and in excess of amounts that are transferred pursuant to subsection (3).

(b) The state treasurer shall monthly transfer from the economic development fund to the economic development special revenue account, provided for in [section 6], the amount of earnings, excluding unrealized gains and losses, that are required to meet the obligations of the state that are payable from the account in

accordance with [section 5]. Earnings not transferred to the economic development special revenue account must be retained in the economic development fund.

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

**SECTION 2. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; [section 6]; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's

unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

**NEW SECTION. Section 3. Montana economic development program -- definitions.** (1) (a) There is a Montana economic development program that consists of:

- (i) the economic development fund established in 17-5-703; and
- (ii) the economic development special revenue account provided for in [section 6].

(b) Interest from the economic development fund may be used to provide financial assistance for qualified economic development organizations under [sections 2 3 through 6].

(2) As used in [sections 2 3 through 6], the following definitions apply:

(A) "CERTIFIED REGIONAL DEVELOPMENT CORPORATION" MEANS A PRIVATE, NONPROFIT CORPORATION THAT HAS BEEN DESIGNATED BY THE DEPARTMENT THROUGH A COMPETITIVE PROCESS TO MANAGE AND ADMINISTER FUNDS AND PROGRAMS FOR THE DEPARTMENT ON A REGIONAL BASIS AS PROVIDED FOR IN 90-1-116.

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

~~(b) "Economic development organization" means:~~

~~(i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);~~

~~(B) an entity certified by the department under 90-1-116; or~~

~~(C) an entity established by a local government; and~~

~~(ii) an entity actively engaged in economic development and business assistance work in the area.~~

**NEW SECTION. Section 4. Purpose.** The purpose of the Montana economic development program is to assist in economic development for Montana that will:

- (1) create good-paying jobs for Montana residents;
- (2) promote long-term, stable economic growth in Montana;
- (3) encourage ~~local economic development organizations~~ CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS;

(4) create a partnership between the state and ~~local economic development organizations~~ CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS that are interested in pursuing these same economic development goals;

and

(5) provide a better life for future generations through greater economic growth and prosperity in Montana.

~~NEW SECTION. Section 4. Types of financial assistance available.~~ The legislature shall provide for and make grants and loans available to qualified economic development organizations under [sections 2 through 6] from the money in the economic development account.

~~NEW SECTION. Section 5. Priorities for funding -- rulemaking.~~ (1) The department shall receive proposals for grants and loans from economic development organizations. The department shall work with an economic development organization in preparing cost estimates for a proposed project. In reviewing proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The department shall prepare and submit a list containing the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (3). The governor shall review the recommendations of the department and shall submit a list of recommended financial assistance to the legislature.

~~(2) In preparing recommendations under subsection (2), preference must be given to economic development organizations that are most compatible with the purposes of the economic development trust fund as provided in [section 3].~~

~~(3) After the review required by subsection (2), the projects must be approved by the legislature.~~

~~(4) The department shall adopt rules necessary to implement the Montana economic development program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment program and other similar state programs. To the extent feasible, the department shall make the rules compatible with those other programs.~~

NEW SECTION. SECTION 5. DISTRIBUTION OF FUNDS. BEGINNING JULY 1, 2005, THE DEPARTMENT SHALL, IN EACH FISCAL YEAR, DISTRIBUTE ALL EARNINGS THAT ARE TRANSFERRED TO THE ECONOMIC DEVELOPMENT SPECIAL REVENUE ACCOUNT IN THAT FISCAL YEAR TO CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS IN THE STATE. THE DEPARTMENT SHALL DISTRIBUTE THE EARNINGS SO THAT EACH CERTIFIED REGIONAL DEVELOPMENT CORPORATION RECEIVES AN EQUAL AMOUNT. THE DEPARTMENT MAY NOT USE ANY OF THE EARNINGS TRANSFERRED TO THE ECONOMIC DEVELOPMENT SPECIAL REVENUE ACCOUNT FOR ADMINISTRATIVE COSTS.



NEW SECTION. Section 6. Economic development special revenue account. There is an economic development state special revenue account. The account receives earnings from the economic development fund as provided in 17-5-703. The money in the account IS STATUTORILY APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, AND may be used only as provided in [section 5].

NEW SECTION. Section 7. Codification instruction. [Sections 2 3 through 6] are intended to be codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to [sections 2 3 through 6].

NEW SECTION. SECTION 8. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 76 IS NOT PASSED AND APPROVED, THEN [THIS ACT] IS VOID.

NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2003.

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