

## HOUSE BILL NO. 390

INTRODUCED BY D. JONES, R. COOK, J. ESSMANN, T. GAUTHIER, L. JONES, B. TSCHIDA, P. WEBB

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING EDUCATION FUNDING LAWS; REQUIRING THAT LOCAL PROPERTY TAXES ARE REDUCED IN THE FOLLOWING YEAR WHEN AN ANTICIPATED ENROLLMENT INCREASE DOES NOT MATERIALIZE; TEMPORARILY REDIRECTING AND STATUTORILY APPROPRIATING TECHNOLOGY FUNDING TO E-RATE BROADBAND MATCHING FUNDS; AMENDING SECTIONS 20-9-314 AND 20-9-534, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

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

**Section 1.** Section 20-9-314, MCA, is amended to read:

**"20-9-314. Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(1)(d), may increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an anticipated unusual enrollment increase by elementary or high school level to the superintendent of public instruction. The application must include:

(a) the enrollment for the current school fiscal year;

(b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;

(c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB entitlement for the ensuing school fiscal year;

(d) the anticipated enrollment, including the factual information on which the estimate is based, as provided in subsection (1); and

(e) any other information or data that may be requested by the superintendent of public instruction.

- 1 (3) The superintendent of public instruction shall immediately review all the factors of the application and  
2 shall approve or disapprove the application or adjust the enrollment used to calculate the budgeted average  
3 number belonging for the ensuing school fiscal year. After approving an estimate, with or without adjustment, the  
4 superintendent of public instruction shall:
- 5 (a) determine the percentage by which the adjusted enrollment exceeds the enrollment used for the  
6 budgeted average number belonging; and
- 7 (b) approve an increase of the average number belonging used to establish the ensuing year's basic  
8 entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a)  
9 is at least 4% or 40 students, whichever is less.
- 10 (4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday  
11 in June.
- 12 (5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction,  
13 the maximum allowable increase to the average number belonging is equal to the adjusted enrollment as  
14 determined by the superintendent of public instruction in subsection (3) minus the sum of:
- 15 (a) the enrollment used to calculate the budgeted average number belonging for the ensuing school  
16 fiscal year; and
- 17 (b) the lesser of 40 students or 4% of the enrollment used to calculate the budgeted average number  
18 belonging for the ensuing school fiscal year.
- 19 (6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end  
20 of the ensuing school fiscal year.
- 21 (b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the  
22 superintendent of public instruction shall ~~revise the total per-ANB entitlement and basic entitlement calculations~~  
23 recalculate the district's BASE budget and maximum budget limitations and BASE aid using the actual enrollment  
24 in place of the adjusted enrollment. ~~All and:~~
- 25 ~~(i) total per-ANB entitlements received by the district in excess of the revised entitlements are~~  
26 ~~overpayments~~ any BASE aid received by the district in excess of the amount recalculated is an overpayment  
27 subject to the refund provisions of 20-9-344(4); and
- 28 (ii) any revenue received by the district from BASE budget and over-BASE budget levies increased by  
29 the difference between the adjusted enrollment and the actual enrollment is an overpayment and must be used  
30 for reducing BASE budget and over-BASE budget levies in the ensuing school fiscal year."

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2 **Section 2.** Section 20-9-534, MCA, is amended to read:

3 **"20-9-534. Statutory appropriation for school technology purposes.** ~~(4)~~ The amount of \$1 million  
4 a year is statutorily appropriated, as provided in 17-7-502, from the school facility and technology account  
5 established in 20-9-516 for grants for school technology purposes to the department of commerce for providing  
6 funds for schools to use as state matching funds for special construction under the federal e-rate broadband  
7 program pursuant to 47 CFR 54.505, provided that none of the state matching funds may be used by schools for  
8 self-construction of their own or portions of their own networks.

9 ~~(2) By the third Friday in July, the superintendent of public instruction shall allocate the annual statutory~~  
10 ~~appropriation for school technology purposes to each district based on the ratio that each district's BASE budget~~  
11 ~~bears to the statewide BASE budget amount for all school districts multiplied by the amount of money provided~~  
12 ~~in 20-9-343 for the purposes of 20-9-533."~~

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14 COORDINATION SECTION. SECTION 3. COORDINATION INSTRUCTION. (1) IF [THIS ACT], SENATE BILL NO.  
15 260, AND SENATE BILL NO. 307 ARE PASSED AND APPROVED, [SECTION 1] OF SENATE BILL NO. 260 MUST BE REPLACED  
16 WITH THE FOLLOWING LANGUAGE:

17 **"Section 1. School facilities fund -- school major maintenance aid special revenue account. (1)**  
18 There is a school facilities fund administered by the department of administration. Pursuant to 17-5-703, a  
19 percentage of coal severance taxes received by the state are deposited into this fund. Earnings not transferred  
20 to the school major maintenance aid account as provided in subsection (2) must be retained in the school facilities  
21 fund.

22 (2) The school major maintenance aid account established in [section 8 of Senate Bill No. 307] receives  
23 earnings from the school facilities fund as provided in 17-5-703.

24 (3) A school district that receives funds from the school major maintenance aid account shall, within 30  
25 days of receiving the funds, file with the office of the superintendent of public instruction a document  
26 acknowledging it has received funds from the coal severance tax trust fund."

27 (2) IF [THIS ACT], SENATE BILL NO. 260, AND SENATE BILL NO. 307 ARE PASSED AND APPROVED, THE SECTION  
28 IN SENATE BILL NO. 260 AMENDING 17-5-703 IS VOID AND 17-5-703 MUST BE AMENDED AS FOLLOWS:

29 **"17-5-703. (Temporary) Coal severance tax trust funds. (1)** The trust established under Article IX,  
30 section 5, of the Montana constitution is composed of the following funds:

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

3 (b) a treasure state endowment fund;

4 (c) a treasure state endowment regional water system fund;

5 (d) a coal severance tax permanent fund;

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

7 (f) a big sky economic development fund; and

8 (g) a school facilities fund.

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

12 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection  
13 (2)(a) must be transferred from that fund as provided in subsections ~~(3) and (4)~~ (4) and (5).

14 (3) ~~(a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment  
15 fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in  
16 subsection (2) to be retained in the fund.~~

17 ~~—— (b) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment  
18 regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that  
19 is specified in subsection (2) to be retained in the fund.~~

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

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

1           (4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund  
 2 provided for in [section 1(1) of Senate Bill 260] 75% of the amount in the coal severance tax bond fund in excess  
 3 of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the  
 4 state treasurer when the balance of the school facilities fund is \$200 million. Beginning with the quarter following  
 5 this certification, the state treasurer shall instead transfer to the coal severance permanent fund 75% of the  
 6 amount in the coal severance tax bond fund that exceeds the amount that is specified pursuant to subsection (2)  
 7 to be retained in the fund.

8           (b) The state treasurer shall monthly transfer from the school facilities fund to the account established  
 9 in [section 8 of Senate Bill No. 307] the amount of earnings, excluding unrealized gains and losses, required to  
 10 meet the obligations of the state that are payable from the account. Earnings not transferred to the account  
 11 established in [section 8 of Senate Bill No. 307] must be retained by the school facilities fund.

12           ~~(4)~~(5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the  
 13 big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the  
 14 amount that is specified in subsection (2) to be retained in the fund.

15           (b) The state treasurer shall monthly transfer from the big sky economic development fund to the  
 16 economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding  
 17 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in  
 18 accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must  
 19 be retained in the big sky economic development fund.

20           ~~(5)~~(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
 21 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be  
 22 deposited in the coal severance tax permanent fund. (Terminates June 30, 2031--secs. 1 through 3, Ch. 305, L.  
 23 2015.)

24           **17-5-703. (Effective July 1, 2031) Coal severance tax trust funds.** (1) The trust established under  
 25 Article IX, section 5, of the Montana constitution is composed of the following funds:

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

28           (b) a treasure state endowment fund;

29           (c) a coal severance tax permanent fund;

30           (d) a coal severance tax income fund; and

1 (e) a big sky economic development fund; and

2 (f) a school facilities fund.

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

6 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection  
7 (2)(a) must be transferred from that fund as provided in subsections ~~(3) and (4)~~ (4) and (5).

8 ~~(3) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment~~  
9 ~~fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in~~  
10 ~~subsection (2) to be retained in the fund.~~

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

16 (4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund  
17 provided for in [section 1(1) of Senate Bill No. 260] 75% of the amount in the coal severance tax bond fund in  
18 excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify  
19 to the state treasurer when the balance of the school facilities fund is \$200 million. Beginning with the quarter  
20 following this certification, the state treasurer shall instead transfer to the coal severance permanent fund 75%  
21 of the amount in the coal severance tax bond fund that exceeds the amount that is specified pursuant to  
22 subsection (2) to be retained in the fund.

23 (b) The state treasurer shall monthly transfer from the school facilities fund to the account established  
24 in [section 8 of Senate Bill No. 307] the amount of earnings, excluding unrealized gains and losses, required to  
25 meet the obligations of the state that are payable from the account. Earnings not transferred to the account  
26 established in [section 8 of Senate Bill No. 307] must be retained by the school facilities fund.

27 ~~(4)(5)~~ (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the  
28 big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the  
29 amount that is specified in subsection (2) to be retained in the fund.

30 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the

1 economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding  
2 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in  
3 accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must  
4 be retained in the big sky economic development fund.

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

8 (3) IF [THIS ACT], SENATE BILL NO. 260, AND SENATE BILL NO. 307 ARE PASSED AND APPROVED, THEN UP TO  
9 \$2 MILLION OF THE EARNINGS TRANSFERRED FROM THE SCHOOL FACILITIES FUND PROVIDED FOR IN [SECTION 1(1) OF  
10 SENATE BILL NO. 260] TO THE ACCOUNT ESTABLISHED IN [SECTION 8 OF SENATE BILL NO. 307] IS APPROPRIATED IN  
11 FISCAL YEAR 2019 TO THE OFFICE OF PUBLIC INSTRUCTION FOR THE USES DESCRIBED IN [SECTION 8 OF SENATE BILL NO.  
12 307].

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14 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2017.

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16 NEW SECTION. Section 5. Applicability. [This act] applies to school fiscal years beginning on or after  
17 July 1, 2017.

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19 NEW SECTION. Section 6. Termination. [Section 2] terminates June 30, 2019.

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