

1 HOUSE BILL NO. 128

2 INTRODUCED BY L. REKSTEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A RENEWABLE ENERGY TRUST FUND TO
5 REPLACE DECLINING COAL SEVERANCE COLLECTIONS; PROVIDING THE TRUST BE INVESTED BY
6 THE BOARD OF INVESTMENTS; REQUIRING A TWO-THIRDS VOTE BY THE LEGISLATURE TO
7 APPROPRIATE THE PRINCIPAL OF THE TRUST; PROVIDING FOR THE DISBURSEMENT OF INTEREST
8 AND INCOME FROM THE TRUST TO COAL SEVERANCE ACCOUNTS; AMENDING SECTIONS 15-35-108,
9 15-51-103, 15-72-106, 17-7-221, AND 17-7-222, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. Renewable energy trust fund.** (1) (a) There is a renewable energy trust
14 fund. The renewable energy trust is a fund of the permanent fund type as provided in 17-2-102.

15 (b) The trust is composed of any tax collected by the state, including but not limited to the electrical
16 energy production tax and wholesale energy transaction tax, on the production of renewable energy, but not
17 including any tax based on the value of the renewable energy property and collected by the counties.

18 (2) The fund must be invested by the board of investments pursuant to Title 17, chapter 6, part 2, and
19 the earnings from the investment must be disbursed in accordance with 15-35-108.

20 (3) For the purposes of this section, "renewable energy" means a facility located either within the state
21 or delivering electricity from another state into the state that produces electricity from one or more of the
22 following sources:

- 23 (a) wind;
24 (b) solar;
25 (c) geothermal;
26 (d) water power;
27 (e) landfill or farm-based methane gas;
28 (f) gas produced during the treatment of wastewater;

- 1 (g) low-emission, nontoxic biomass;
- 2 (h) hydrogen for use in fuel cells; and
- 3 (i) the renewable energy fraction from:
- 4 (i) the sources identified in this subsection (3) of electricity production from a multiple-fuel process
- 5 with fossil fuels;
- 6 (ii) flywheel storage;
- 7 (iii) hydroelectric pumped storage;
- 8 (iv) batteries; and
- 9 (v) compressed air derived from any of the sources in this subsection (3) that is forced into an
- 10 underground storage reservoir and later released, heated, and passed through a turbine generator.
- 11 (4) The principal of the fund must remain inviolate unless appropriated by a vote of two-thirds of the
- 12 members of each house of the legislature.

- 13
- 14 **Section 2.** Section 15-35-108, MCA, is amended to read:
- 15 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this
- 16 chapter and earnings collected in accordance with [section 1(2)] must, in accordance with the provisions of 17-
- 17 2-124, be allocated as follows:
- 18 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article
- 19 IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established
- 20 under 17-6-203(6) and invested by the board of investments as provided by law.
- 21 (2) The amount of 12% of coal severance tax collections and earnings collected in accordance with
- 22 [section 1(2)] is allocated to the major repair long-range building program account established in 17-7-221.
- 23 (3) The amount of 0.90% in fiscal year 2020₁, ~~and 0.93% in fiscal year 2021₁~~, and 0.93% of coal
- 24 severance tax collections and earnings collected in accordance with [section 1(2)] in each fiscal year thereafter
- 25 must be allocated for provision of basic library services for the residents of all counties through library
- 26 federations and for payment of the costs of participating in regional and national networking and must be
- 27 deposited in the basic library services account established in 22-1-202.
- 28 (4) The amount of 3.77% in fiscal year 2020₁, ~~and 3.71% in fiscal year 2021₁~~, and 3.71% of coal

1 severance tax collections and earnings collected in accordance with [section 1(2)] in each fiscal year thereafter
2 must be allocated to the department of natural resources and conservation for conservation districts and
3 deposited in the conservation district account established in 76-15-106.

4 (5) The amount of 0.79% in fiscal year 2020, ~~and 0.82% in fiscal year 2021,~~ and 0.82% of coal
5 severance tax collections and earnings collected in accordance with [section 1(2)] in each fiscal year thereafter
6 must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through
7 agriculture account established in 90-9-104.

8 (6) The amount of 1.27% of coal severance tax collections and earnings collected in accordance with
9 [section 1(2)] must be allocated to a permanent fund account for the purpose of parks acquisition or
10 management. Income from this permanent fund account, excluding unrealized gains and losses, must be
11 appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in
12 23-1-102.

13 (7) The amount of 0.95% of coal severance tax collections and earnings collected in accordance with
14 [section 1(2)] must be allocated to the debt service fund type to the credit of the renewable resource loan debt
15 service fund.

16 (8) The amount of 0.63% of coal severance tax collections and earnings collected in accordance with
17 [section 1(2)] must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for
18 other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and
19 losses, must be appropriated for protection of works of art in the state capitol and for other cultural and
20 aesthetic projects.

21 (9) The amount of 5.8% through June 30, 2023, and beginning July 1, 2023, the amount of 2.9% must
22 be credited to the coal natural resource account established in 90-6-1001(2).

23 (10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must
24 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

25 (11) (a) Subject to subsection (11)(b), all other revenue from severance taxes collected under the
26 provisions of this chapter must be credited to the general fund of the state.

27 (b) The interest income of the coal severance tax permanent fund that is deposited in the general
28 fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

1 (i) to the department of agriculture:

2 (A) \$65,000 for the cooperative development center;

3 (B) \$900,000 for the growth through agriculture program provided for in Title 90, chapter 9;

4 (C) \$600,000 for the Montana food and agricultural development program provided for in Title 80,
5 chapter 11;

6 (ii) to the department of commerce:

7 (A) \$325,000 for a small business development center;

8 (B) \$50,000 for a small business innovative research program;

9 (C) \$625,000 for certified regional development corporations;

10 (D) \$500,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

11 and

12 (E) \$300,000 for export trade enhancement. (Terminates June 30, 2027--secs. 13, 15, 18, Ch. 343, L.
13 2019.)

14 **15-35-108. (Effective July 1, 2027) Disposal of severance taxes.** Severance taxes collected under
15 this chapter and earnings collected in accordance with [section 1(2)] must, in accordance with the provisions of
16 17-2-124, be allocated as follows:

17 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article
18 IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established
19 under 17-6-203(6) and invested by the board of investments as provided by law.

20 (2) The amount of 12% of coal severance tax collections and earnings collected in accordance with
21 [section 1(2)] is allocated to the major repair long-range building program account established in 17-7-221.

22 (3) The amount of 0.90% in fiscal year 2020, ~~and 0.93% in fiscal year 2021,~~ and 0.93% of coal
23 severance tax collections and earnings collected in accordance with [section 1(2)] in each fiscal year thereafter
24 must be allocated for provision of basic library services for the residents of all counties through library
25 federations and for payment of the costs of participating in regional and national networking and must be
26 deposited in the basic library services account established in 22-1-202.

27 (4) The amount of 3.77% in fiscal year 2020, ~~and 3.71% in fiscal year 2021,~~ and 3.71% of coal
28 severance tax collections and earnings collected in accordance with [section 1(2)] in each fiscal year thereafter

1 must be allocated to the department of natural resources and conservation for conservation districts and
2 deposited in the conservation district account established in 76-15-106.

3 (5) The amount of 0.79% in fiscal year 2020, ~~and 0.82% in fiscal year 2021,~~ and 0.82% of coal
4 severance tax collections and earnings collected in accordance with [section 1(2)] in each fiscal year thereafter
5 must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through
6 agriculture account established in 90-9-104.

7 (6) The amount of 1.27% of coal severance tax collections and earnings collected in accordance with
8 [section 1(2)] must be allocated to a permanent fund account for the purpose of parks acquisition or
9 management. Income from this permanent fund account, excluding unrealized gains and losses, must be
10 appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in
11 23-1-102.

12 (7) The amount of 0.95% of coal severance tax collections and earnings collected in accordance with
13 [section 1(2)] must be allocated to the debt service fund type to the credit of the renewable resource loan debt
14 service fund.

15 (8) The amount of 0.63% of coal severance tax collections and earnings collected in accordance with
16 [section 1(2)] must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for
17 other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and
18 losses, must be appropriated for protection of works of art in the state capitol and for other cultural and
19 aesthetic projects.

20 (9) The amount of 2.9% of coal severance tax collections and earnings collected in accordance with
21 [section 1(2)] must be credited to the coal natural resource account established in 90-6-1001(2).

22 (10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must
23 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

24 (11) All other revenue from severance taxes collected under the provisions of this chapter must be
25 credited to the general fund of the state."
26

27 **Section 3.** Section 15-51-103, MCA, is amended to read:

28 **"15-51-103. Disposition of revenue -- penalty and interest on delinquency.** ~~The~~ Except as

1 provided in [section 1], the department shall, in accordance with the provisions of 17-2-124, promptly remit the
2 collected taxes to the state treasurer. Taxes not paid on the due date are delinquent, and penalty and interest
3 must be added to the delinquent taxes as provided in 15-1-216."
4

5 **Section 4.** Section 15-72-106, MCA, is amended to read:

6 **"15-72-106. Collection of wholesale energy transaction tax -- disposition of revenue.** (1) A
7 transmission services provider shall collect the tax imposed under 15-72-104 from the taxpayer and pay the tax
8 collected to the department. If the transmission services provider collects a tax in excess of the tax imposed by
9 15-72-104, both the tax and the excess must be remitted to the department.

10 (2) A self-assessing distribution services provider is subject to the provisions of this part.

11 (3) ~~The~~ Except as provided in [section 1], the wholesale energy transaction tax collected under this
12 part must, in accordance with the provisions of 17-2-124, be deposited in the general fund."
13

14 **Section 5.** Section 17-7-221, MCA, is amended to read:

15 **"17-7-221. Major repair long-range building program account.** (1) There is a major repair long-
16 range building program account in the capital projects fund type to fund major repair projects.

17 (2) Cigarette tax revenue is deposited in the account pursuant to 16-11-119.

18 (3) Coal severance taxes and earnings collected in accordance with [section 1(2)] are allocated to
19 and deposited in the account under 15-35-108.

20 (4) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must
21 be retained in the account."
22

23 **Section 6.** Section 17-7-222, MCA, is amended to read:

24 **"17-7-222. Minimum funding for major repair -- restriction of capital developments -- transfer to**
25 **satisfy minimum as present law base.** (1) The minimum level of funding for major repair projects is 0.6% of
26 the replacement cost of existing long-range building program-eligible buildings for each fiscal year.

27 (2) The legislature may not fund the design or construction of any new capital development projects,
28 except to complete the funding of projects for which partial funding has been previously provided, until the

1 legislature has estimated and appropriated the amount referred to in subsection (1) to fund major repair
2 projects for long-range building program-eligible buildings from the account established in 17-7-221 for each
3 fiscal year.

4 (3) Sources for funding the amount referred to in subsection (1) are:

5 (a) revenue allocations into the account established in 17-7-221 of cigarette tax revenue allocated
6 pursuant to 16-11-119 and coal severance taxes and earnings collected in accordance with [section 1(2)]
7 allocated pursuant to 15-35-108, as projected in the official revenue estimate provided in 5-5-227; and

8 (b) an appropriated transfer into the account from the general fund in the general appropriations act.

9 (4) The appropriated transfer in subsection (3)(b) to the account established in 17-7-221 to fund major
10 repair projects is part of the present law base for purposes of Title 17, chapter 7, part 1, and must be sufficient
11 to fund the amount referred to in subsection (1) when added to the account's revenue allocations in subsection
12 (3)(a)."

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14 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an
15 integral part of Title 15, and the provisions of Title 15, apply to [section 1].

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17 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 2021.

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