



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2025 Biennium

**Bill information:**

HB0454 - Provide for a renewable resource electrical production tax (Parry, Gary )

**Status:** As Introduced

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

### FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$1,678,520	\$1,653,819	\$1,698,340
<b>Revenue:</b>				
General Fund	\$649,351	\$636,116	\$659,971	\$654,063
State Special Revenue	\$2,707,689	\$2,671,522	\$2,736,709	\$2,720,566
<b>Net Impact-General Fund Balance:</b>	<u>\$649,351</u>	<u>\$636,116</u>	<u>\$659,971</u>	<u>\$654,063</u>

**Description of fiscal impact:** HB 454 creates a new renewable resource electrical production tax of \$0.001 per kilowatt-hour of electrical energy generated from qualifying renewable energy producers. The bill also creates a new state special revenue fund known as the county renewable resource electrical production impacts account. Half of the revenue generated by the renewable resource electrical production tax is distributed to the county renewable resource electrical production impacts account and half is distributed as coal severance tax revenue, pursuant to 15-35-108, MCA, excluding distribution to the coal severance tax trust fund. Money allocated to the county renewable resource electrical production impacts account is to be distributed to counties based on their ratio of collections and will be used to address impacts from renewable resource electrical production.

### FISCAL ANALYSIS

**Assumptions:**

**Department of Revenue**

1. HB 454 establishes a tax on eligible renewable resource electrical production of \$0.001 per kilowatt-hour in addition to the existing electrical energy producer's license tax of \$0.0002 per kilowatt hour.
2. Renewable electrical energy producers who have a total nameplate capacity across all production facilities that is equal to 25 megawatts or less are exempt from the tax.

3. Eligible renewable energy producers consist primarily of Montana’s large scale wind facilities (see technical note #1 regarding the inclusion of certain Montana dams that may qualify under 90-4-1005(5)(d)(iii), MCA).
4. Renewable energy generation data is sourced from the U.S. Energy Information Administration (EIA).
5. Monthly net generation from the producers eligible for the renewable energy production tax is summed to arrive at a FY 2021 total for renewable electricity production subject to the new renewable energy production tax (EIA data is not current enough to calculate the FY 2022 total).
6. Projections of taxable renewable energy production through FY 2027 are made by assuming that taxable renewable energy production grows at the same rate as total taxable energy production in Montana.
7. Total taxable energy production in Montana for FY 2022 is known; estimates of total taxable energy production for FY 2023 – FY 2027 are sourced from the HJ 2 forecast.
8. Table 1 contains the renewable energy production and expected tax revenue based on HJ 2 forecasts of taxable kilowatt-hours produced and assuming no short-term changes in energy sources.

Table 1.

<b>HB 454 Renewable Energy Tax Revenue</b>				
	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
HJ 2 Total Taxable KWh	18,758,422,536	18,482,374,777	18,979,919,965	18,856,707,321
Taxable Renewable KWh	3,357,040,233	3,307,638,242	3,396,679,802	3,374,629,451
Tax Rate	\$0.001	\$0.001	\$0.001	\$0.001
Tax Revenue	\$3,357,040	\$3,307,638	\$3,396,680	\$3,374,629

9. Half of the revenue generated by the renewable resource electrical production tax is distributed to the new county renewable resource electrical energy production impacts account. The other half is distributed as coal severance tax revenue according to 15-35-108, MCA, excluding distribution to the coal severance tax fund. Remaining revenue after distribution to several special revenue accounts is allocated to the general fund.
10. Table 2 details the tax revenue distribution by fiscal year.

Table 2.

<b>HB 454 Distribution of Renewable Energy Tax Revenue</b>					
<b>Recipient Account</b>	<b>Allocation %</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
County Renewable Resource Electrical Production Impacts Account	50.00%	\$1,678,520	\$1,653,819	\$1,698,340	\$1,687,315
Long Range Building	12.00%	\$402,845	\$396,917	\$407,602	\$404,956
Library Services	0.93%	\$31,220	\$30,761	\$31,589	\$31,384
Conservation Districts	3.71%	\$124,546	\$122,713	\$126,017	\$125,199
Growth through Agriculture	0.82%	\$27,528	\$27,123	\$27,853	\$27,672
Park Acquisition Trust	1.27%	\$42,634	\$42,007	\$43,138	\$42,858
Renewable Resource Debt Service	0.95%	\$31,892	\$31,423	\$32,268	\$32,059
Cultural Aesthetic Projects	0.63%	\$21,149	\$20,838	\$21,399	\$21,260
Coal Board	2.90%	\$97,354	\$95,922	\$98,504	\$97,864
Coal and Uranium Program	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000
General Fund	Remainder	\$649,351	\$636,116	\$659,971	\$654,063
<b>Total</b>		<b>\$3,357,040</b>	<b>\$3,307,638</b>	<b>\$3,396,680</b>	<b>\$3,374,629</b>

11. It is assumed that tax revenue attributable to a fiscal year and deposited into the county renewable resource electrical energy production account will be distributed to counties in the following fiscal year. So, FY 2024 revenue will be distributed to counties in FY 2025, and so on (see technical note #2).
12. Administrative costs will be absorbed by the Department of Revenue.
13. HB 454 is effective July 1, 2023.
14. Tax revenue deposited into the county renewable resource electrical energy production account is statutorily appropriated to the department and is to be distributed annually to counties based on their share of tax revenue collections.
15. 17-1-508, MCA, requires analysis of the statutory appropriation relative to the guidance in 17-1-508(3), MCA, to be published in the fiscal note. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. Answer yes or no to each of the following guidelines regarding the statutory appropriation:

	<u>YES</u>	<u>NO</u>
a. The money is from a continuing, reliable, and estimable source.	X	
b. The use of the appropriation or the expenditure occurrence is predictable and reliable.	X	
c. The authority exists elsewhere.		X
d. An alternative appropriation method is available, practical, or effective.		X
e. It appropriates state general fund money for purposes other than paying for emergency services.		X
f. The money is used for general purposes.		X
g. The legislature wishes to review expenditure and appropriation levels each biennium.	X	
h. An expenditure cap and sunset date are excluded.		X

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0	\$0
Transfers	\$0	\$1,678,520	\$1,653,819	\$1,698,340
<b>TOTAL Expenditures</b>	<b>\$0</b>	<b>\$1,678,520</b>	<b>\$1,653,819</b>	<b>\$1,698,340</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$1,678,520	\$1,653,819	\$1,698,340
<b>TOTAL Funding of Exp.</b>	<b>\$0</b>	<b>\$1,678,520</b>	<b>\$1,653,819</b>	<b>\$1,698,340</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$649,351	\$636,116	\$659,971	\$654,063
State Special Revenue (02)	\$2,707,689	\$2,671,522	\$2,736,709	\$2,720,566
<b>TOTAL Revenues</b>	<b>\$3,357,040</b>	<b>\$3,307,638</b>	<b>\$3,396,680</b>	<b>\$3,374,629</b>

**Net Impact to Fund Balance (Revenue minus Funding of Expenditures):**

General Fund (01)	\$649,351	\$636,116	\$659,971	\$654,063
State Special Revenue (02)	\$2,707,689	\$993,002	\$1,082,890	\$1,022,226

**Effect on County or Other Local Revenues or Expenditures:**

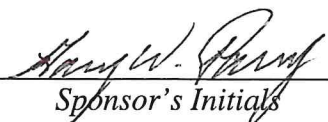
1. Revenue allocated to the county renewable resource electrical production impacts account is distributed to counties according to the share of renewable resource electrical production tax revenue generated in each county. The money is to be used to address impacts from renewable resource electrical production, such as road construction, maintenance, and other infrastructure.

**Technical Notes:**

1. Many of Montana’s hydroelectric facilities have undergone, are undergoing, or have plans for powerhouse upgrades. This work is predominantly taking the form of replacement or refurbishment of individual generating unit equipment, which often results in increased power output and thus higher generation capacity of the facility. It’s unclear if such upgrades to certain hydroelectric facilities qualify as a hydroelectric project expansion under 90-4-1005(5)(iii), MCA. If powerhouse upgrades at a hydroelectric facility do qualify as an eligible renewable resource, it is not apparent if the full amount of generation from the facility or just the increment attributable to the improvements is subject to the renewable energy tax. Further, powerhouse upgrades are usually completed in stages, unit by unit, and without data on electrical generation by unit it could be a challenge to properly assess the tax on only the output from a subset of upgraded generating units at a hydroelectric facility that may qualify as an eligible source of renewable energy.
2. Section 1 requires that money in the county renewable resource electrical production impacts account be distributed to counties annually, but it does not define when during the year the payments should be made.
3. Current law 15-35-108(9), MCA, provides for the termination of the 5.8% allocation of coal severance tax revenue to the coal board on June 30, 2023, whereafter the distribution moves to 2.9%. The fiscal analysis for HB 454 assumes current law, and thus assumes a 2.9% distribution to the coal board from the revenue generated by the new renewable energy tax. HB 188, which is currently moving through the legislative

process, extends the 5.8% distribution to June 30, 2031. If this bill is passed and approved, the fiscal impact of HB 454 will change by moving 2.9% of the renewable energy tax revenue from the general fund to the coal board, resulting in a lower estimate for general fund revenue and a higher estimate for state special fund revenue.

- 4. HB 454 directs 50% of revenue from the renewable resource electrical production tax to be distributed as coal severance tax revenue, pursuant to 15-35-108, MCA, excluding distribution to the coal severance tax trust fund. The distribution consists of several state special revenue accounts and the general fund. Most of the accounts receive a percentage of coal severance tax revenue, with the remainder sent to the general fund. However, the coal and uranium mine permitting and reclamation program account is allocated a fixed \$250,000, regardless of the amount of revenue collected. It is unclear if the intention is to contribute another \$250,000 to the coal and uranium fund from the renewable resource electrical production tax. As drafted, the revenue is to be distributed according to 15-35-108, MCA, which allocates \$250,000 to the coal and uranium program and the assumption of an additional \$250,000 is reflected in this fiscal note.

  
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 Sponsor's Initials

2/16/23  
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 Budget Director's Initials

2/5/23  
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 Date



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## Dedication of Revenue 2025 Biennium

### 17-1-507, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay?**  
Yes, certain entities that receive a portion of the renewable energy tax from the amount directed to be distributed through 15-35-108, MCA.
- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**  
Funds are allocated for a specific purpose and/or directed to be received by certain entities.
- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended?**  
Yes.
- d) **Does the need for this state special revenue provision still exist?  Yes  No**  
It is a newly created provision that benefits counties with renewable energy production impacts.
- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending?**  
No. The direction and intended use of the new revenue is clear.
- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need?**  
Yes, indemnification of entities with local impacts.
- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency?**  
The direction and intended use of the new revenue is clear.

**17-1-507. Principles of revenue dedication.** (1) It is the policy of the legislature that a revenue source not be dedicated for a specific purpose unless one or more of the following conditions are met:

(a) The person or entity paying the tax, fee, or assessment is the direct beneficiary of the specific activity that is funded by the tax, fee, or assessment; the entire cost of the activity is paid by the beneficiary; and the tax, fee, or assessment paid is commensurate with the cost of the activity, including reasonable administrative costs.

(b) There is an expectation that funds donated by a person or entity will be used for a specified purpose. Grants from private or public entities are considered donations under this subsection.

(c) There is a legal basis for the revenue dedication. A legal basis is a constitutional mandate, federal mandate, or statutory requirement in which a source of funds is designated for a specific purpose.

(d) There is a recognized need for accountability through a separation of funding from the general fund consistent with generally accepted accounting principles.

(2) The total funding for a program is a legislative budget and policy issue for which a dedicated revenue provision may not be justified if:

(a) a general fund appropriation is needed to supplement the dedicated revenue support for the program or activity; or

(b) dedicating a revenue source or portion of a revenue source diverts funds that could be considered a general revenue source.

(3) In the consideration of the general appropriations act for each biennium, the legislature shall determine the appropriateness of dedicating revenue to a program or activity under conditions described in subsection (2). The office of budget and program planning shall describe the occurrence in its presentation of the executive budget, and the legislative fiscal analyst shall highlight the issue in the budget analysis and for the appropriations subcommittee considering the revenue dedication.