

**** Bill No. ****

Introduced By *****

By Request of the Governor, the Legislative Finance Committee, and the State Administration and Veterans' Affairs Interim Committee

A Bill for an Act entitled: "An Act requiring that a portion of the expendable portion of coal severance tax collections be deposited to the public employees' defined benefit retirement plan trust fund; increasing employee and employer contributions to the public employees' retirement system defined benefit plan; requiring an additional supplemental contribution from local government and school district employers with employees covered under the public employees' retirement system defined benefit plan; amending sections 15-35-108, 19-3-315, 19-3-316, and 90-6-1001, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-35-108 , MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes.

Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

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

Comment [1]: <eff>

Comment [2]: </eff>

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investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other

cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9) (b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) \$1.275 million to the research and commercialization state special revenue account created in 90-3-1002, of which \$375,000 per year is appropriated for fiscal years 2012 and 2013 to the department of commerce for the small business state matching grant program authorized in 90-1-117 to provide matching grants for small

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business innovation research and small business technology transfer, \$125,000 per year is appropriated for fiscal years 2012 and 2013 to the high-performance supercomputing program in the department of commerce, and \$300,000 per year is appropriated for fiscal years 2012 and 2013 to the board of regents for the development of energy and natural resources doctoral programs at Montana tech of the university of Montana;

(iv) to the department of commerce:

- (A) \$125,000 for a small business development center;
- (B) \$50,000 for a small business innovative research program;
- (C) \$425,000 for certified regional development corporations;
- (D) \$200,000 for the Montana manufacturing extension center at

Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement. ~~(Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)~~

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15-35-108. ~~(Effective July 1, 2013) Disposal of severance~~

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taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

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

(2) ~~The Beginning July 1, 2015:~~

~~(a) the dollar amount of equal to 12% of coal severance tax collections in fiscal year 2015~~ is allocated to the long-range

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building program account established in 17-7-205-;

~~(3)~~(b) The dollar amount of equal to 5.46% of the coal severance tax collections in fiscal year 2015 must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

~~(4)~~(c) The the dollar amount of equal to 1.27% of the coal severance tax collections in fiscal year 2015 must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

~~(5)~~(d) The the dollar amount of equal to 0.95% of the coal severance tax collections in fiscal year 2015 must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund-;

~~(6)~~(e) The the dollar amount of equal to 0.63% of the coal severance tax collections in fiscal year 2015 must be allocated to

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a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

~~(7)(f) The the dollar amount of equal to 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% of the coal severance tax collections in fiscal year 2015 must be credited to the coal natural resource account established in 90-6-1001(2) and~~

~~(8)(g) After after the allocations are made under subsections (2)(a) through (7)(2)(f), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.~~

(3) (a) Except as provided in subsection (3) (b), the separate dollar amounts calculated pursuant to subsections (2) (a) through (2) (g) must be increased or decreased each year by the change in the consumer price index, as defined in 15-30-2101, for the preceding year.

(b) (i) Except as provided in subsection (3) (b) (ii), if the amount of revenue collected in any fiscal year pursuant to this chapter is less than the amount collected in fiscal year 2015, the amounts to be credited pursuant to subsections (2) (a) through

(2) (g) revert to the amounts credited in fiscal year 2015 but reduced by the percentage by which the amount of revenue collected under this chapter in the current fiscal year differs from the amount

of revenue collected in fiscal year 2015.

(ii) If any of the revenue allocated under subsections (2) (a) through (2) (g) is dedicated to the payment of principal and interest on bonds, the amount dedicated to the payment of the principal and interest may not be reduced but must be paid from the account or fund specified for the payment. If the account or fund from which the principal and interest are required to be paid does not have sufficient funds to fully pay the principal and interest, the amount remaining to be paid must be reallocated from the other accounts and funds by proportionately reducing the amounts credited to the other accounts and funds pursuant to subsections (2) (a) through (2) (g).

~~(9)(4)~~ (a) Subject to ~~subsection (9) (b)~~ subsections (4) (b) and (5), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the ~~general fund of the state~~ public employees' retirement system defined benefit plan provided for in 19-3-103.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

- (i) \$65,000 to the cooperative development center;
- (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;
- (iii) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002;
- (iv) to the department of commerce:

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- (A) \$125,000 for a small business development center;
- (B) \$50,000 for a small business innovative research program;
- (C) \$425,000 for certified regional development corporations;
- (D) \$200,000 for the Montana manufacturing extension center at

Montana state university-Bozeman; and

- (E) \$300,000 for export trade enhancement.

(5) If the amount of coal severance tax revenue credited to the public employees' retirement system defined benefit plan trust fund under subsection (4) (a) exceeds the amount needed to fund the plan on an actuarially sound basis, as defined in 19-2-402, the excess amount must be credited to the state general fund. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

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15-35-108. (Effective July 1, 2019) Disposal of severance

taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

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

- (2) ~~The~~ Beginning July 1, 2015:

(a) the dollar amount of equal to 12% of coal severance tax collections in fiscal year 2015 is allocated to the long-range building program account established in 17-7-205*;*

~~(3)(b)~~ The the dollar amount of equal to 5.46% of the coal severance tax collections in fiscal year 2015 must be credited to an

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account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

~~(4)(c)~~ The the dollar amount of equal to 1.27% of the coal severance tax collections in fiscal year 2015 must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

~~(5)(d)~~ The the dollar amount of equal to 0.95% of the coal severance tax collections in fiscal year 2015 must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund;

~~(6)(e)~~ The the dollar amount of equal to 0.63% of the coal severance tax collections in fiscal year 2015 must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must

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be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

~~(7)(f)~~ The the dollar amount of equal to 2.9% of the coal severance tax collections in fiscal year 2015 must be credited to the coal natural resource account established in 90-6-1001(2).

~~(9)(g)~~ After after the allocations are made under subsections (2)(a) through (7)(2)(f), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(3)(a) Except as provided in subsection (3)(b), the separate dollar amounts calculated pursuant to subsections (2)(a) through (2)(g) must be increased or decreased each year by the change in the consumer price index, as defined in 15-30-2101, for the preceding year.

(b)(i) Except as provided in subsection (3)(b)(ii), if the amount of revenue collected in any fiscal year pursuant to this chapter is less than the amount collected in fiscal year 2015, the amounts to be credited pursuant to subsections (2)(a) through

(2)(g) revert to the amounts credited in fiscal year 2015 but reduced by the percentage by which the amount of revenue collected under this chapter in the current fiscal year differs from the amount of revenue collected in fiscal year 2015.

(ii) If any of the revenue allocated under subsections (2)(a) through (2)(g) is dedicated to the payment of principal and interest on bonds, the amount dedicated to the payment of the principal and interest may not be reduced but must be paid from the account or fund

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specified for the payment. If the account or fund from which the principal and interest are required to be paid does not have sufficient funds to fully pay the principal and interest, the amount remaining to be paid must be reallocated from the other accounts and funds by proportionately reducing the amounts credited to the other accounts and funds pursuant to subsections (2) (a) through (2) (g).

~~(9)(4)~~ All Subject to subsection (5), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state the public employees' retirement system defined benefit plan trust fund.

(5) If the amount of coal severance tax revenue credited to the public employees' retirement system defined benefit plan trust fund under subsection (4) exceeds the amount needed to fund the plan on an actuarially sound basis, as defined in 19-2-402, the excess amount must be credited to the state general fund."

{ Internal References to 15-35-108:

2-17-805	17-7-205	17-7-502	17-7-502
22-2-301	22-2-304	22-2-321	23-1-108
76-15-530	82-4-244	90-6-1001	}

Section 2. Section 19-3-315 , MCA, is amended to read:

"19-3-315. Member's contribution to be deducted. (1) (a) Each member's contribution is:

(i) for a member hired prior to July 1, 2011, ~~6.9%~~ 7.9% of the member's compensation; and

(ii) for a member hired on or after July 1, 2011, ~~7.9%~~ 8.9% of the member's compensation.

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(b) For members hired on or after July 1, 2011, the board shall periodically review the required contributions and recommend future adjustments to the legislature as needed to maintain the amortization schedule set by the board for the payment of the system's unfunded liability.

(2) Payment of salaries or wages less the contribution is full and complete discharge and acquittance of all claims and demands for the service rendered by members during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this chapter.

(3) Each employer, pursuant to section 414(h) (2) of the federal Internal Revenue Code, 26 U.S.C. 414(h) (2), shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(4) (a) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system.

(b) In the case of a member of the defined benefit plan, these contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(c) In the case of a member of the defined contribution plan, these contributions must be allocated as provided in 19-3-2117.

(5) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the

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member and must be included in the member's wages, as defined in 19-1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

{*Internal References to 19-3-315:*

19-2-1004 19-3-511 19-3-2117 19-21-214 }

Section 3. Section 19-3-316 , MCA, is amended to read:

"19-3-316. Employer contribution rates. (1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions ~~6.9%~~ 7.9% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.

(3) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to 0.27% of the compensation paid to all of the employer's employees, except for

those employees properly excluded from membership.

(4) (a) The board shall periodically review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on July 1 following the board's receipt of the system's actuarial valuation if:

(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation, is less than 25 years; and

(ii) terminating the additional employer contribution would not cause the amortization period as of the most recent actuarial valuation to exceed 25 years."

{Internal References to 19-3-316:
19-3-108 19-3-112 19-3-319 19-3-511
19-3-2117 19-3-2117 19-21-214 19-21-214
20-9-501 }

NEW SECTION. **Section 4. Local employer supplemental contributions.** On July 1 of each year beginning July 1, 2015, in addition to the employer contribution required under 19-3-316, each local governmental entity and school district employer shall contribute an amount certified by the board to be that employer's share of \$23.2 million allocated to each employer based on the number

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of active members employed by the employer on January 1 of that year.

Section 5. Section 90-6-1001 , MCA, is amended to read:

"90-6-1001. Oil, gas, and coal natural resource accounts. (1)

There is an oil and gas natural resource distribution account in the state special revenue fund. The collections allocated to the account from 15-36-304(7) (b) must be deposited in the account to be used as provided in 15-36-332(7) and (8).

(2) There is a coal natural resource account in the state special revenue fund. The collections allocated to the account from ~~15-35-108(7)~~ pursuant to 15-35-108(2)(f) must be deposited in the account. The money in the account is allocated to the coal board provided for in 2-15-1821 and may be used only for local impact grants provided for in 90-6-205 through 90-6-207 and costs related to the administration of the grant awards."

{Internal References to 90-6-1001:

15-35-108 15-35-108 15-35-108 15-36-304

15-36-331 }

NEW SECTION. **Section 6. {standard} Codification instruction.**

[Section 4] is intended to be codified as an integral part of Title 19, chapter 3, part 3, and the provisions of Title 19, chapter 3, part 3, apply to [section 4].

NEW SECTION. **Section 7. {standard} Effective date.** [This act]

is effective July 1, 2013.

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{Name : Sheri S. Scurr
Title : Research Analyst
Agency : Legislative Services Division
Phone : (406) 444-3596
E-Mail : sscurr@mt.gov }