

SENATE BILL NO. 159

INTRODUCED BY D. EMRICH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING STATE FINANCE LAWS RELATED TO THE COAL SEVERANCE TAX TRUST FUND AND EDUCATIONAL TAX CREDITS; ESTABLISHING AN EDUCATIONAL OPPORTUNITY FUND WITHIN THE COAL SEVERANCE TAX TRUST FUND AND UTILIZING A PORTION OF THE EARNINGS FROM THE FUND TO INCREASE THE AGGREGATE LIMITS FOR EDUCATIONAL TAX CREDITS; PROVIDING FOR A FUNDS TRANSFER; REMOVING THE SUNSET FROM THE EDUCATIONAL TAX CREDIT PROGRAMS; AMENDING SECTIONS 15-30-3110, 15-30-3111, AND 17-5-703, MCA; AMENDING SECTION 24, CHAPTER 480, LAWS OF 2021, AND SECTION 7, CHAPTER 558, LAWS OF 2023; REPEALING SECTION 33, CHAPTER 457, LAWS OF 2015, SECTION 20, CHAPTER 480, LAWS OF 2021, AND SECTION 12, CHAPTER 558, LAWS OF 2023; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-30-3110, MCA, is amended to read:

"15-30-3110. ~~(Temporary)~~ Credit for providing supplemental funding to public schools -- innovative educational program. (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a school district for the purpose of providing supplemental funding to the school district for innovative educational programs. The amount of the credit allowed is equal to the amount of the donation, not to exceed \$200,000.

(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for Montana income tax purposes.

(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$2 million per year in tax year 2023 and \$5 million per year in tax year 2024 and subsequent tax years except as provided in this subsection (4)(a).

(ii) Beginning in 2024, by December 31 of each year, the department shall determine if 80% of the aggregate limit provided for in subsection (4)(a)(iii) in donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed for succeeding tax years must be increased by 20% ~~for the succeeding tax years~~ plus an amount equal to 50% of the earnings transferred to the general fund from the educational opportunity fund within the coal severance tax trust pursuant to 17-5-703.

(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of subsection (4)(a)(ii).

(b) The aggregate limit under this subsection (4) applies to the year in which a donation is made regardless of whether the full credit is claimed in that tax year or carried forward.

(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

(a) claiming a credit under this section instead of a deduction; or

(b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

(6) (a) On receiving a donation under this part, a school district shall seek preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the aggregate limit under subsection (4).

(b) On preapproval by the department, a school district shall issue a receipt, in a form prescribed by the department, to each contributing taxpayer indicating the value of the donation received and preapproval of the tax credit.

1 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit.

2 (7) (a) A school district may not retain donations under this section that exceed either:

3 (i) the greater of \$50,000 or 15% of the school district's maximum general fund budget; or

4 (ii) 20% of the total aggregate amount provided for in subsection (4).

5 (b) If a school district receives donations that exceed the amounts provided for in subsection

6 (7)(a), the school district shall remit the excess funds within 30 days to the superintendent of public instruction

7 for deposit in the account provided for in 20-9-250.

8 (c) The superintendent of public instruction shall distribute funds received under subsection (7)(b)

9 to school districts as described in 20-9-250. A school district shall deposit funds received under this subsection

10 (7)(c) into the school district flexibility fund and use them for out-of-pocket pupil costs provided for in 20-7-

11 1506(5)(a).

12 (8) A school district shall deposit retained donations into the school district's miscellaneous

13 programs fund and shall limit the expenditure of the donation to expenditures for innovative educational

14 programs of the school district. (~~Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L.~~

15 ~~2023, sec. 12, Ch. 558, L. 2023.~~)"

16

17 **Section 2.** Section 15-30-3111, MCA, is amended to read:

18 **"15-30-3111. (Temporary) Qualified education tax credit for donations to student scholarship**

19 **organizations.** (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit against the tax

20 imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not

21 direct or designate donations to a parent, legal guardian, or specific qualified education provider. The amount of

22 the credit allowed is equal to the amount of the donation, not to exceed \$200,000.

23 (2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-

24 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the

25 same proportion as used to report the entity's income or loss.

26 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust

27 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the

28 beneficiary's income from the estate or trust for Montana income tax purposes.

(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year

(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$2 million per year in tax year 2023 and \$5 million per year in tax year 2024 and subsequent tax years except as provided in this subsection (4)(a).

(ii) Beginning in 2024, by December 31 of each year, the department shall determine if 80% of the aggregate limit provided for in subsection (4)(a)(iii) in tax credits was preapproved by the department. If this condition is satisfied, the aggregate limit of tax credits allowed for succeeding tax years must be increased by 20% ~~for the succeeding tax years plus an amount equal to 50% of the earnings transferred to the general fund from the educational opportunity fund within the coal severance tax trust pursuant to 17-5-703.~~

(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of subsection (4)(a)(ii).

(b) The aggregate limit under this subsection (4) applies to the year in which a donation is made regardless of whether the full credit is claimed in that tax year or carried forward.

(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

(a) claiming a credit under this section instead of a deduction; or

(b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

(6) (a) On receiving a donation under this part, a student scholarship organization shall seek preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the aggregate limit under subsection (4).

(b) On preapproval by the department, a student scholarship organization shall issue a receipt, in a form prescribed by the department, to each contributing taxpayer indicating the value of the donation received and preapproval of the tax credit.

(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. ~~(Terminates December 31, 2029—sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023, sec. 12, Ch. 558, L. 2023.)~~"

Section 3. 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 Montana coal endowment fund;

(c) a Montana coal endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund;

(f) a big sky economic development fund;

(g) a school facilities fund;

(h) a conservation district fund; ~~and~~

(i) a coal board fund; and

(j) an educational opportunity 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 (4) through (6).

(3) (a) The state treasurer shall monthly transfer from the Montana coal endowment fund to the Montana coal 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 Montana coal endowment special revenue account must be retained in the Montana coal endowment fund.

(b) The state treasurer shall monthly transfer from the Montana coal endowment regional water

1 system fund to the Montana coal endowment regional water system special revenue account the amount of
2 earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable
3 from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the
4 Montana coal endowment regional water system special revenue account must be retained in the Montana coal
5 endowment regional water system fund.

6 (4) (a) Starting July 1, 2023, the state treasurer shall quarterly transfer to the school facilities fund
7 provided for in 20-9-380(1) 10% of the amount in the coal severance tax bond fund in excess of the amount that
8 is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer
9 when the balance of the school facilities fund is \$300 million. Beginning with the quarter following this
10 certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 10% of the
11 amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be
12 retained in the fund.

13 (b) The state treasurer shall monthly transfer from the school facilities fund to the account
14 established in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the
15 obligations of the state that are payable from the account. Earnings not transferred to the account established
16 in 20-9-525 must be retained in the school facilities fund.

17 (5) (a) Starting July 1, 2023, the state treasurer shall quarterly transfer to the conservation district
18 fund provided for in 76-15-108 65% of the amount in the coal severance tax bond fund in excess of the amount
19 that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state
20 treasurer when the balance of the conservation district fund is \$100 million. Beginning with the quarter following
21 this certification, the state treasurer shall instead transfer to the coal board fund 65% of the amount in the coal
22 severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.
23 The budget director shall certify to the state treasurer when the balance of the coal board fund reaches \$150
24 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the
25 Montana coal endowment fund 65% of the amount in the coal severance tax bond fund that exceeds the
26 amount that is specified in subsection (2) to be retained in the fund.

27 (b) The state treasurer shall monthly transfer from the conservation district fund to the account
28 established in 76-15-106 the amount of earnings, excluding unrealized gains and losses, required to meet the

obligations of the state that are payable from the account. Earnings not transferred to the account established in 76-15-106 must be retained in the conservation district fund.

(c) The state treasurer shall monthly transfer from the coal board fund to the account established in 90-6-1001(2) the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 90-6-1001(2) must be retained in the coal board fund.

(6) (a) From July 1, 2005, through June 30, 2035, the state treasurer shall quarterly transfer to the big sky 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.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, 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 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(7) 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.

(8) On the first Monday of December, the state treasurer shall annually transfer from the educational opportunity fund to the state general fund 50% of the earnings, excluding unrealized gains and losses, from the fund. Earnings not transferred to the general fund must be retained in the educational opportunity fund. (Terminates June 30, 2031--secs. 1 through 3, Ch. 305, L. 2015.)

17-5-703. (Effective July 1, 2031) 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 Montana coal endowment fund;

(c) a coal severance tax permanent fund;

(d) a coal severance tax income fund;

1 (e) a big sky economic development fund;

2 (f) a school facilities fund;

3 (g) a conservation district fund; ~~and~~

4 (h) a coal board fund; and

5 (i) an educational opportunity fund.

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

9 (b) The amount in the coal severance tax bond fund in excess of the amount required in
10 subsection (2)(a) must be transferred from that fund as provided in subsections (4) through (6).

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

16 (4) (a) Starting July 1, 2023, the state treasurer shall quarterly transfer to the school facilities fund
17 provided for in 20-9-380(1) 10% of the amount in the coal severance tax bond fund in excess of the amount that
18 is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer
19 when the balance of the school facilities fund is \$300 million. Beginning with the quarter following this
20 certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 10% of the
21 amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be
22 retained in the fund.

23 (b) The state treasurer shall monthly transfer from the school facilities fund to the account
24 established in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the
25 obligations of the state that are payable from the account. Earnings not transferred to the account established
26 in 20-9-525 must be retained in the school facilities fund.

27 (5) (a) Starting July 1, 2023, the state treasurer shall quarterly transfer to the conservation district
28 fund provided for in 76-15-108 65% of the amount in the coal severance tax bond fund in excess of the amount

1 that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state
2 treasurer when the balance of the conservation district fund is \$100 million. Beginning with the quarter following
3 this certification, the state treasurer shall instead transfer to the coal board fund 65% of the amount in the coal
4 severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.
5 The budget director shall certify to the state treasurer when the balance of the coal board fund reaches \$150
6 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the
7 Montana coal endowment fund 65% of the amount in the coal severance tax bond fund that exceeds the
8 amount that is specified in subsection (2) to be retained in the fund.

9 (b) The state treasurer shall monthly transfer from the conservation district fund to the account
10 established in 76-15-106 the amount of earnings, excluding unrealized gains and losses, required to meet the
11 obligations of the state that are payable from the account. Earnings not transferred to the account established
12 in 76-15-106 must be retained in the conservation district fund.

13 (c) The state treasurer shall monthly transfer from the coal board fund to the account established
14 in 90-6-1001(2) the amount of earnings, excluding unrealized gains and losses, required to meet the obligations
15 of the state that are payable from the account. Earnings not transferred to the account established in 90-6-
16 1001(2) must be retained in the coal board fund.

17 (6) (a) From July 1, 2005, through June 30, 2035, the state treasurer shall quarterly transfer to the
18 big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the
19 amount that is specified in subsection (2) to be retained in the fund.

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

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

28 (8) On the first Monday of December, the state treasurer shall annually transfer from the

1 educational opportunity fund to the state general fund 50% of the earnings, excluding unrealized gains and
 2 losses, from the fund. Earnings not transferred to the general fund must be retained in the educational
 3 opportunity fund."

4
 5 **Section 4.** Section 24, Chapter 480, Laws of 2021, is amended to read:

6 **"Section 24. Termination.** (1) [Sections 7 and 13] terminate December 31, 2022.

7 (2) [Sections 8 and 14] terminate December 31, 2023.

8 (3) [Sections 9 and 15] terminate December 31, 2024.

9 (4) [Sections 10 and 16] terminate December 31, 2025.

10 (5) [Section 25] terminates January 1, 2025.

11 (6) ~~— [Sections 1 through 6 and 11, 12, 17, and 18] terminate December 31, 2029."~~

12
 13 **Section 5.** Section 7, Chapter 558, Laws of 2023, is amended to read:

14 **"Section 7.** Section 24, Chapter 480, Laws of 2021, is amended to read:

15 **"Section 24. Termination.** (1) [Sections 7 and 13] terminate December 31, 2022.

16 (2) ~~— [Sections 8 and 14] terminate December 31, 2023.~~

17 (3) ~~— [Sections 9 and 15] terminate December 31, 2024.~~

18 (4) ~~— [Sections 10 and 16] terminate December 31, 2025.~~

19 (5) ~~— [Section 25] terminates January 1, 2025.~~

20 (6)(2) ~~— [Sections 1 through 6 and 11, 12, 17, and 18] terminate December 31, 2029.""~~

21
 22 **NEW SECTION. Section 6. Repealer.** Section 33, Chapter 457, Laws of 2015, section 20, Chapter
 23 480, Laws of 2021, and section 12, Chapter 558, Laws of 2023, are repealed.

24
 25 **NEW SECTION. Section 7. Transfer of funds.** No later than August 15, 2025, there is transferred
 26 \$100 million from the general fund to the educational opportunity fund within the coal severance tax trust
 27 established in 17-5-703.

2 - END -