



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **HB0326: Establish a tax on electrical energy not produced by coal to match coal severance tax rate**

Primary Sponsor: Gary Parry Status: As Introduced

☐ Included in the Executive Budget ☒ Needs to be included in HB 2 ☐ Significant Local Gov Impact
☐ Significant Long-Term Impacts ☒ Technical Concerns ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
Expenditures				
General Fund (01)	\$572,604	\$98,038	\$101,322	\$102,629
State Special Revenue (02)	\$73,800	\$147,600	\$147,600	\$147,600
Other	\$0	\$0	\$0	\$0
Revenues				
General Fund (01)	(\$2,204,000)	(\$3,772,000)	(\$3,625,000)	(\$3,484,000)
State Special Revenue (02)	\$0	\$0	\$0	\$0
Coal Severance Tax Recipients	(\$671,000)	(\$1,778,000)	(\$1,708,000)	(\$1,642,000)
Coal Trust Fund Beneficiaries	(\$163,000)	(\$498,000)	(\$853,000)	(\$1,114,000)
MT Coal Endowment Account	\$25,198,462	\$52,566,634	\$56,600,480	\$60,125,109
Other	\$0	\$0	\$0	\$0
Capital Projects (05)	(\$982,000)	(\$1,895,000)	(\$1,821,000)	(\$1,750,000)
Coal Tax Trust Fund (09)	(\$4,090,000)	(\$7,895,000)	(\$7,586,000)	(\$7,291,000)
Debt Service (04)	(\$78,000)	(\$150,000)	(\$144,000)	(\$139,000)
Energy Resource Trust (09)	\$24,118,554	\$49,163,419	\$50,626,836	\$51,353,243
Other Permanent Fund (09)	(\$155,000)	(\$300,000)	(\$288,000)	(\$277,000)
Net Impact	<u>(\$2,776,604)</u>	<u>(\$3,870,038)</u>	<u>(\$3,726,322)</u>	<u>(\$3,586,629)</u>
General Fund Balance				

Description of fiscal impact

HB 326 revises the taxation of electrical energy and coal production in Montana. There is a new tax, referred to as an energy severance tax, assessed on electrical energy production in the state. The tax rate is equal to 10% of the gross sale price of electricity, measured at the place of production. Electrical generation sourced from coal is exempt from the tax, as is generation from facilities used for noncommercial or agricultural purposes. The 15% severance tax rate assessed on surface-mined coal with a heating value of at least 7,000 Btu/pound is reduced to 10%. Tax revenue from the energy severance tax is to be distributed 50% to a newly created energy resources trust fund and 50% to the Montana coal endowment state special revenue account. The lower tax rate on surface-mined, high-heating value coal will reduce revenue to the capital projects fund, permanent fund, state special revenue fund, and the general fund.

FISCAL ANALYSIS**Assumptions****Department of Revenue****Energy Severance Tax**

1. Data on retail sales and the average retail price of electricity sold in Montana are sourced from the U.S. Energy Information Administration (EIA) and are used to estimate the fiscal impact of the 10% energy severance tax.
2. Montana retail sales of electricity, in kilowatt hours (kWh), for CY 2022 (15,584 million kWh) and CY 2023 (15,505 million kWh) are averaged to produce a retail sales figure of 15,545 kWh for FY 2023.
3. Using forecasts from the HJ 2 revenue estimate, electrical energy license tax revenue growth estimates are used to project Montana retail sales of electricity through FY 2029.
4. Retail sales of electricity from coal-fired sources and from facilities that produce power strictly for noncommercial or agricultural use are exempt from the energy severance tax. The latter two exclusions are not assumed to have a material effect on the amount of electrical production subject to the energy severance tax.
5. Coal-fired power accounted for 45% of Montana's generation in 2023. This share is assumed to stay constant through the forecast period.
6. With the exclusion of coal-fired power, 55% of total electricity generated and sold in Montana will be assessed the energy severance tax.
7. The energy severance tax is equal to 10% of the gross sale price as measured at the place of production (see technical note #1).
8. The EIA also has data on retail prices of electricity for Montana. The all-sector average is used for this analysis. Again, CY 2022 (\$0.0997 cents/kWh) and CY 2023 (\$0.1097/kWh) are averaged to come up with an average price for FY 2023 of \$0.1047/kWh. The 10-year compound annual growth rate of Montana's average retail price from 2013 – 2023 (2.5%) is employed to project prices through FY 2029.
9. Multiplying the estimated price by estimated non-coal-fired electricity produced gives total taxable sales revenue upon which the 10% energy severance tax rate will be assessed.
10. The table below shows the fiscal impact calculations for determining energy severance tax revenue. Total revenue from the tax is \$48.237 million in FY 2026 (January 1, 2026, effective date is halfway though FY 2026), \$98.326 million in FY 2027, \$101.253 million in FY 2028, and \$102.706 million in FY 2029.

HB 326 - Fiscal Impact of Energy Severance Tax				
	FY 2026	FY 2027	FY 2028	FY 2029
Total Retail Sales (kWh)	7,780,856,613	15,475,216,294	15,548,695,066	15,388,615,297
Exempt Sales from Coal (kWh)	3,501,385,476	6,963,847,333	6,996,912,780	6,924,876,884
Taxable Retail Sales (kWh)	4,279,471,137	8,511,368,962	8,551,782,286	8,463,738,413
Avg Retail Price (\$/kWh)	\$0.1127	\$0.1155	\$0.1184	\$0.1213
Taxable Sales Revenue	\$482,371,080	\$983,268,376	\$1,012,536,723	\$1,027,064,865
Tax Rate	10%	10%	10%	10%
Tax Revenue	\$48,237,108	\$98,326,838	\$101,253,672	\$102,706,487
<i>Distribution of Revenue</i>				
Energy Trust Revenue	\$24,118,554	\$49,163,419	\$50,626,836	\$51,353,243
MT Coal Endowment Revenue	\$24,118,554	\$49,163,419	\$50,626,836	\$51,353,243

11. Energy severance tax revenue will get distributed equally between two accounts, the new state energy resources trust account established in section 13 of the bill and the existing Montana coal endowment special revenue account (see technical note #2).
12. The state energy resources trust account will be in the permanent fund type and will earn interest for the benefit of the Montana coal endowment special revenue account. The trust balance grows from \$24.119

million in FY 2026 to \$175.262 million in FY 2029. Interest earnings from the trust are projected to be \$1.079 million in FY 2026, \$3.403 million in FY 2027, \$5.974 million in FY 2028, and \$8.772 million in FY 2029.

Coal Severance Tax

13. Section 17 of the bill amends 15-35-103, MCA, by reducing the severance tax rate for surface-mined coal with a heating value of 7,000 Btu/pound and above from 15% to 10%.
14. Forecasts of severance tax revenue from coal production that qualifies for this lower tax rate are obtained from the HJ 2 revenue estimate. Current law HJ 2 projections are compared to the proposed law scenario with the 10% tax rate to arrive at the estimated reduction in coal severance tax revenue.
15. Under HB 326, total coal severance tax revenue declines by \$8.1 million in FY 2026 (January 1, 2026, effective date is halfway through FY 2026), \$15.8 million in FY 2027, \$15.2 million in FY 2028, and \$14.6 million in FY 2029.
16. Coal severance tax is distributed among numerous accounts within various fund types. The impact to these distributions from reduced coal severance tax revenue is outlined in the table below.

HB 326 Fiscal Impact to Coal Severance Tax Revenue					
(\$ millions)					
		FY 2026	FY 2027	FY 2028	FY 2029
Total Revenue		-\$8.181	-\$15.790	-\$15.172	-\$14.583
Distribution of Total Revenue					
Recipient	Allocation				
Coal Tax Trust Fund (50%)	50.00%	-\$4.090	-\$7.895	-\$7.586	-\$7.291
Long Range Building Program Account	12.00%	-\$0.982	-\$1.895	-\$1.821	-\$1.750
Basic Library Services	0.93%	-\$0.076	-\$0.147	-\$0.141	-\$0.136
Conservation Districts	3.71%	-\$0.304	-\$0.586	-\$0.563	-\$0.541
Growth Through Agriculture Act	0.82%	-\$0.067	-\$0.129	-\$0.124	-\$0.120
Coal Board	5.80%	-\$0.474	-\$0.916	-\$0.880	-\$0.846
Parks Trust Fund	1.27%	-\$0.104	-\$0.201	-\$0.193	-\$0.185
Renewable Resource Loan Debt Service Fund	0.95%	-\$0.078	-\$0.150	-\$0.144	-\$0.139
Capitol Art Protection Trust Fund	0.63%	-\$0.052	-\$0.099	-\$0.096	-\$0.092
DEQ Mine Permitting and Restoration	\$250,000	\$0.250	\$0.000	\$0.000	\$0.000
General Fund	Remainder	-\$2.204	-\$3.772	-\$3.625	-\$3.484

17. Fifty percent of coal severance tax revenue is deposited into the coal severance tax trust fund. This amount, net of the amount needed to pay debt service on coal severance tax bonds, is distributed 65% to the conservation district trust fund, 25% to the big sky economic development trust fund, and 10% to the school facilities trust fund. The reduction in coal severance tax revenue deposited into the trust fund will result in lower balances for these trust funds. Lower balances will lead to less interest earnings generated by the trust funds and, subsequently, less income for the associated state special revenue accounts. The fiscal impact to the coal tax trust fund and its state special revenue fund beneficiaries is outlined in the following table. The changes in trust fund balances are relative to projections in the HJ 2 revenue estimate. Investment yields for each trust fund are also obtained from the HJ 2 revenue estimate.

HB 326 Fiscal Impact to Conservation District Trust Fund (\$ millions)				
	FY 2026	FY 2027	FY 2028	FY 2029
Change in Balance	-\$2.659	-\$7.791	-\$12.721	-\$17.461
Estimated Total Yield	4.00%	4.18%	4.38%	4.17%
Change in Interest Income	-\$0.11	-\$0.33	-\$0.56	-\$0.73

HB 326 Fiscal Impact to Big Sky Economic Development Trust Fund (\$ millions)				
	FY 2026	FY 2027	FY 2028	FY 2029
Change in Balance	-\$1.023	-\$2.996	-\$4.893	-\$6.716
Estimated Total Yield	3.99%	4.11%	4.29%	4.08%
Change in Interest Income	-\$0.04	-\$0.12	-\$0.21	-\$0.27

HB 326 Fiscal Impact to School Facilities Trust Fund (\$ millions)				
	FY 2026	FY 2027	FY 2028	FY 2029
Change in Balance	-\$0.409	-\$1.199	-\$1.957	-\$2.686
Estimated Total Yield	4.00%	4.17%	4.36%	4.15%
Change in Interest Income	-\$0.02	-\$0.05	-\$0.09	-\$0.11

18. It is anticipated that implementing the energy severance tax will cost the Department of Revenue a total of \$874,593 over fiscal years 2026 to 2029. These costs would come from the Technology Services Division and Business and Income Tax Division. Technology Services Division will incur a one-time cost of \$475,000 to contract a servicer to implement the energy severance tax, which includes registration, payments, penalty and interests, and revenue accounting. The Business and Income Tax Division will require \$399,593 during fiscal years 2026 to 2029 for a new full-time employee to administer the tax.

Department of Natural Resources and Conservation

19. The Water Resources Division (WRD) receives revenue from the hydro-power facility to fund the operations and maintenance of the facility, and the remaining revenue is used for repairs and rehabilitation on other state-owned water projects.
20. The current annual revenue from the sale of electricity from the Broadwater Power Project is around \$1.4 million, based on the monthly average of \$123,000 from July 2024 through December 2024.
21. The 10% tax on the sale of electricity will start January 1, 2026, and is projected to total \$73,800 (\$123,000 x 6 months x 10%) for FY 2026 and \$147,600 (123,000 x 12 x 10%) for FY 2027 and beyond, contingent upon the finalized power purchase agreement currently in negotiations.
22. This tax will be paid to the Montana Department of Revenue. Additional state special revenue appropriation will be needed to pay for this tax.
23. HB 326 reduces the severance tax imposed on each ton of surface coal produced in the state from 15% to 10%.
24. The reduction in coal severance tax revenue will result in less funding to the Conservation and Resource Development Division (CARDD) for operations and grants to Montana conservation districts. This funding reduction comes by way of less revenue into the conservation district state special revenue account from its coal severance tax distribution and the interest earnings it receives from the conservation district sub-trust fund within the coal severance tax trust fund. Conservation district funding is expected to decline by \$410,000 in FY 2026, \$911,000 in FY 2027, \$1,120,000 in FY 2028, and \$1,270,000 in FY 2029.
25. CARDD estimates the maturation of the conservation district trust fund will be extended by approximately 1 year.
26. The renewable resource loan debt service fund receives 0.95% of total coal severance tax revenue. Less revenue to this fund will decrease the general obligation bonds issued to fund renewable resource projects that are appropriated in HB 8 by the legislature.

Department of Commerce

27. New revenue to the Montana coal endowment special revenue account will be appropriated by the legislature in HB 11 to be given out as grants for local infrastructure projects, administered by the Department of Commerce.

Fiscal Analysis Table

Department of Natural Resources and Conservation

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
<u>Fiscal Impact</u>				
<u>Expenditures</u>				
Operating Expenses	\$73,800	\$147,600	\$147,600	\$147,600
TOTAL Expenditures	\$73,800	\$147,600	\$147,600	\$147,600
<u>Funding of Expenditures</u>				
State Special Revenue (02)	\$73,800	\$147,600	\$147,600	\$147,600
TOTAL Funding of Expenditures	\$73,800	\$147,600	\$147,600	\$147,600
<u>Revenues</u>				
State Special Revenue (02)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u>				
State Special Revenue (02)	(\$73,800)	(\$147,600)	(\$147,600)	(\$147,600)
Other	\$0	\$0	\$0	\$0

Department of Revenue

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
<u>Fiscal Impact</u>				
FTE	1.00	1.00	1.00	1.00
TOTAL Fiscal Impact	1.00	1.00	1.00	1.00
<u>Expenditures</u>				
Personal Services	\$85,493	\$86,585	\$87,693	\$88,819
Operating Expenses	\$484,153	\$11,453	\$13,629	\$13,810
Equipment	\$2,958	\$0	\$0	\$0
TOTAL Expenditures	\$572,604	\$98,038	\$101,322	\$102,629
<u>Funding of Expenditures</u>				
General Fund (01)	\$572,604	\$98,038	\$101,322	\$102,629
TOTAL Funding of Expenditures	\$572,604	\$98,038	\$101,322	\$102,629
<u>Revenues</u>				
General Fund (01)	(\$2,204,000)	(\$3,772,000)	(\$3,625,000)	(\$3,484,000)
State Special Revenue (02)	\$0	\$0	\$0	\$0
MT Coal Endowment Account	\$25,198,462	\$52,566,634	\$56,600,480	\$60,125,109
Coal Severance Tax Recipients	(\$671,000)	(\$1,778,000)	(\$1,708,000)	(\$1,642,000)
Coal Trust Fund Beneficiaries	(\$163,000)	(\$498,000)	(\$853,000)	(\$1,114,000)
Other	\$0	\$0	\$0	\$0
Debt Service (04)	(\$78,000)	(\$150,000)	(\$144,000)	(\$139,000)
Capital Projects (05)	(\$982,000)	(\$1,895,000)	(\$1,821,000)	(\$1,750,000)
Coal Tax Trust Fund (09)	(\$4,090,000)	(\$7,895,000)	(\$7,586,000)	(\$7,291,000)
Energy Resource Trust (09)	\$24,118,554	\$49,163,419	\$50,626,836	\$51,353,243
Other Permanent Fund (09)	(\$155,000)	(\$300,000)	(\$288,000)	(\$277,000)
TOTAL Revenues	\$40,974,016	\$85,442,053	\$91,202,316	\$95,781,352

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

General Fund (01)	(\$2,776,604)	(\$3,870,038)	(\$3,726,322)	(\$3,586,629)
State Special Revenue (02)	\$0	\$0	\$0	\$0
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STATEWIDE SUMMARY

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Fiscal Impact				
FTE	1.00	1.00	1.00	1.00
TOTAL Fiscal Impact	1.00	1.00	1.00	1.00

Expenditures

Personal Services	\$85,493	\$86,585	\$87,693	\$88,819
Operating Expenses	\$557,953	\$159,053	\$161,229	\$161,410
Equipment	\$2,958	\$0	\$0	\$0
TOTAL Expenditures	\$646,404	\$245,638	\$248,922	\$250,229

Funding of Expenditures

General Fund (01)	\$572,604	\$98,038	\$101,322	\$102,629
State Special Revenue (02)	\$73,800	\$147,600	\$147,600	\$147,600
TOTAL Funding of Expenditures	\$646,404	\$245,638	\$248,922	\$250,229

Revenues

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TOTAL Revenues	\$40,974,016	\$85,442,053	\$91,202,316	\$95,781,352

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Fiscal Note Request - As Introduced*(continued)*

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Other Permanent Fund (09)	<u>(\$155,000)</u>	<u>(\$300,000)</u>	<u>(\$288,000)</u>	<u>(\$277,000)</u>

Technical Concerns

1. There is some ambiguity of the wording used in the definition of "sales price" in section 2(2). The definition states the "Sale Price" means the gross sale price without any deduction measured at the place of production. However, electricity generated in the state of Montana is not sold at the place of production, rather it is transmitted inside and outside of the state and ultimately sold to the end user. It can be bought/sold/traded as a commodity between producers, transmitters, and utilities. Additional clarification may be needed to administer this tax at the place of production.
2. Section 12(b) of the bill instructs 50% of the revenue from the energy severance tax to be deposited in the Montana coal endowment regional special revenue account. Section 13(2) directs interest earnings from the state energy resources trust fund to the regional special revenue account. It is assumed that both sections are referring to the same account, but it is not clear if that account is the Montana coal endowment regional water system special revenue account or the Montana coal endowment special revenue account. Section 13(2) references 90-6-710, MCA, which is the Montana coal endowment program and is the statute referenced in 17-5-703(3)(a), MCA, which is the statute that directs interest earnings from the Montana coal endowment trust fund to the Montana coal endowment state special revenue account. It is assumed the bill intended the special revenue account referenced in sections 12(b) and 13(2) to be the Montana coal endowment special revenue account; however, clarity is needed.
3. Sections 14 – 16 of the bill are effective contingent on the establishment of a state energy authority by the Department of Commerce, i.e. if HB 314 is passed and approved. If this happens, section 12 is terminated and the revenue from the energy severance tax is distributed 50% to the state energy trust account, 40% to the Montana energy authority operations account (section 15), and 10% to the Montana energy authority resource trust account (section 16).



Sponsor's Initials



Date



Budget Director's Initials

2/4/2025

Date