

SENATE BILL NO. 266

INTRODUCED BY A. OLSON, T. BERRY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LOCAL ABATEMENT OF THE COAL GROSS
5 PROCEEDS TAX ON COAL PRODUCED BY A NEW OR EXPANDING UNDERGROUND COAL MINE;
6 PROVIDING THAT THE TAX ABATEMENT MAY BE 50% OR LESS FOR AN UNDERGROUND MINE TAXED
7 AT 5% OF THE VALUE OF COAL; PROVIDING AN INITIAL COAL GROSS PROCEEDS TAX OF 2.5% ON COAL
8 PRODUCED FROM A NEW OR EXISTING UNDERGROUND MINE FOR AN INITIAL 10-YEAR PERIOD;
9 AMENDING SECTIONS 15-23-703 AND 15-23-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
10 AND A RETROACTIVE APPLICABILITY DATE."

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

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14 **Section 1.** Section 15-23-703, MCA, is amended to read:
15 **"15-23-703. Taxation of gross proceeds -- taxable value for county classification and nontax**
16 **purposes.** (1) (a) The department shall compute from the reported value of coal gross proceeds a tax roll that
17 must be transmitted to the county treasurer on or before September 15 of each year. The department may not
18 levy or assess any mills against coal gross proceeds but shall, subject to subsection (1)(b) AND EXCEPT AS
19 PROVIDED IN SUBSECTION (1)(C), levy a tax of 5% against the value of coal as provided in 15-23-701(4). The county
20 treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

21 (b) If the county grants a tax abatement for production from a new or expanding underground mine as
22 provided in 15-23-715, the department shall levy a tax at a rate that would, after providing for payment to the state
23 of the amount attributable to all applicable state mill levies as if the tax rate were 5%, reduce the tax received by
24 county taxing jurisdictions and any school district on the new or expanded production by 50% the percentage
25 amount of the tax abated by the county under 15-23-715.

26 (c) (i) FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2011, THE INITIAL TAX ON COAL MINED FROM A NEW
27 UNDERGROUND COAL MINE IS 2.5% AGAINST THE VALUE OF COAL AS PROVIDED IN 15-23-701(4) FOR THE FIRST 10 YEARS
28 OF COAL PRODUCTION. AFTER 10 YEARS, COAL PRODUCTION FROM THE MINE IS TAXED AS PROVIDED IN SUBSECTION
29 (1)(A).

30 (ii) FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2011, AND ENDING DECEMBER 31, 2020, THE INITIAL

1 TAX RATE UNDER SUBSECTION (1)(C)(I) APPLIES TO COAL MINED FROM AN EXISTING UNDERGROUND COAL MINE
2 PRODUCING COAL FROM THE MINE AS OF DECEMBER 31, 2010. FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2020,
3 COAL PRODUCTION IS TAXED AS PROVIDED IN SUBSECTION (1)(A).

4 (2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is
5 45% of the contract sales price as defined in 15-35-102.

6 (3) (a) Except as provided in subsections (4) and (7) and subject to subsection (3)(b), coal gross
7 proceeds taxes must be allocated to the state, county, and school districts in the same relative proportions as
8 the taxes were distributed in fiscal year 1990.

9 (b) The county treasurer shall multiply the coal gross proceeds taxes collected in the county under this
10 part by the relative proportions determined for the state, county, and school districts under subsection (3)(a).
11 Those amounts must be distributed as follows:

12 (i) the state share must be distributed in the relative proportions required by levies for state purposes
13 in the same manner as property taxes were distributed in fiscal year 1990;

14 (ii) except as provided in subsection (5), the county share must be distributed in the relative proportions
15 required by levies for county purposes, other than an elementary school or high school, in the same manner as
16 property taxes were distributed in the previous fiscal year;

17 (iii) except as provided in subsection (6), the school districts' share must be distributed in the relative
18 proportions required by levies for school district purposes in the same manner as property taxes were distributed
19 in the previous fiscal year.

20 (4) If there is a distribution of coal gross proceeds from a new or expanding underground mine with a
21 tax abatement as provided under 15-23-715, the county treasurer shall distribute:

22 (a) the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative
23 proportion required by the appropriate levies for state purposes; and

24 (b) the county's share and any school district's share of the coal gross proceeds determined under
25 subsection (1)(b) as provided in this section.

26 (5) The board of county commissioners of a county may direct the county treasurer to reallocate the
27 distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (3)(b)(i),
28 to another taxing unit or taxing units, other than an elementary school or high school, within the county under the
29 following conditions:

30 (a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the

1 county in the same proportion that all other property tax proceeds were distributed in the county in the previous
2 fiscal year.

3 (b) If the allocation in subsection (5)(a) exceeds the total budget of a taxing unit, the commissioners may
4 direct the county treasurer to reallocate the excess to any taxing unit within the county.

5 (6) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds
6 taxes distributed to the district by the county treasurer under the following conditions:

7 (a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in
8 the same proportion that all other property tax proceeds were distributed in the district in the previous fiscal year.

9 (b) If the allocation under subsection (6)(a) exceeds the total budget for a fund, the trustees may
10 reallocate the excess to any budgeted fund of the school district.

11 (7) Except as provided in subsections (8) and (9), the county treasurer shall credit all taxes collected
12 under this part from coal mines that began production after December 31, 1988, in the relative proportions
13 required by the levies for state, county, and school district purposes in the same manner as property taxes were
14 distributed in the previous fiscal year.

15 (8) The board of county commissioners of a county may direct the county treasurer to reallocate the
16 distribution of coal gross proceeds under subsection (7) in the same manner as provided in subsection (5).

17 (9) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds
18 taxes distributed to the district by the county treasurer under subsection (7) in the same manner as provided in
19 subsection (6)."

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21 **Section 2.** Section 15-23-715, MCA, is amended to read:

22 **"15-23-715. New or expanding underground mines -- tax abatement.** (1) A county may abate taxation
23 under this chapter for production from a new or expanding underground coal mine THAT IS TAXED AT THE RATE
24 PROVIDED IN 15-23-703(1)(A) by 50% or less for 5 or 10 years by directing the department to levy the tax at a lower
25 tax rate as provided in 15-23-703(1)(b).

26 (2) An abatement must be authorized by the governing body of a county. Before an abatement
27 authorization is effective, the school boards of all affected school districts must be notified of the abatement. The
28 authorization must be made by a resolution of the county governing body after a public hearing. The county
29 governing body shall publish notice of the hearing in a newspaper that meets the requirements of 7-1-2121. The
30 notice must be published twice, with at least 6 days separating publications. The first publication may be no more

1 than 30 days prior to the hearing and the last publication must be at least 3 days prior to the hearing.

2 (3) An abatement authorization may be made for a 5-tax-year period, and upon expiration of that period,
3 it may be authorized for one more 5-tax-year period. The abatement of taxation for the second 5-tax-year period
4 may be 50% or less. An abatement authorization must be made prior to the beginning of the property tax year
5 in which abatement is in effect. The department must be notified of each abatement authorization prior to the
6 beginning of the tax year.

7 (4) (a) Production from a new underground mine is all production from a mine that in the year prior to
8 the tax year in which the first abatement will apply had production of less than 500,000 tons of coal and the
9 production during the course of the abatement period is estimated to be and actually amounts to at least five
10 times the preabatement production amount.

11 (b) Production from an expanding underground mine is that portion of the mine's production that exceeds
12 the average production for the previous 3 years. To qualify for the abatement, the total of the prior average
13 production and the new production may not decrease during the time of the abatement."
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15 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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17 NEW SECTION. Section 4. ~~Applicability~~ **RETROACTIVE APPLICABILITY.** [This act] applies RETROACTIVELY,
18 WITHIN THE MEANING OF 1-2-109, to tax years beginning after December 31, ~~2011~~ 2010.

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