

SENATE TAXATION
EXHIBIT NO. 1
DATE 4.12.11
BILL NO. SB 427

SENATE BILL NO. 427
INTRODUCED BY J. PRIEST

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INITIAL COAL GROSS PROCEEDS TAX RATE OF 2.5% ON THE FIRST 500,000 TONS OF COAL PRODUCED FROM AN A NEW OR EXISTING UNDERGROUND MINE FOR THE AN INITIAL 10-YEAR PERIOD; ELIMINATING REVISING THE COUNTY TAX ABATEMENT FOR PRODUCTION FROM A NEW OR EXPANDING UNDERGROUND MINE; AMENDING SECTION SECTIONS 15-23-703 AND 15-23-715, MCA; REPEALING SECTION 15-23-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-23-703, MCA, is amended to read:

"15-23-703. Taxation of gross proceeds -- taxable value for county classification and nontax purposes. (1) (a) The department shall compute from the reported value of coal gross proceeds a tax roll that must be transmitted to the county treasurer on or before September 15 of each year. The department may not levy or assess any mills against coal gross proceeds but shall, subject to ~~except as provided in~~ subject to subsection (1)(b) and except as provided in subsection (1)(c), levy a tax of 5% against the value of coal as provided in 15-23-701(4). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

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

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

(b) (iii) (c) (i) Subject to subsection (1)(b)(ii) subsections (1)(c)(i) and (1)(c)(ii), the initial tax on coal mined from an underground coal mine is levied on 2.5% against the value of coal as provided in

15-23-701(4). at the following rates:

<u>Tons of Coal</u>	<u>Rate of Tax</u>
<u>Produced</u>	<u>(percentage of value)</u>
<u>the first 500,000 tons</u>	<u>2.5%</u>
<u>more than 500,000 tons</u>	<u>5% of the increment</u>

(ii) The initial tax rate on the first 500,000 tons of coal produced under subsection (1)(c)(i) applies to the first 10 years of coal production from the a new underground mine for tax years beginning after December 31, 2010. After 10 years, coal production is taxed as provided in subsection (1)(a).

(iii) For tax years beginning on or after January 1, 2011, and ending on December 31, 2020, the initial tax rate under subsection (1)(c)(i) applies to an existing underground coal mine producing coal from the mine as of December 31, 2010. For tax years beginning after December 31, 2020, coal production is taxed as provided in subsection (1)(a).

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

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

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

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

(ii) except as provided in subsection ~~(5)~~ (4) ~~(5)~~, the county share must be distributed in the relative proportions required by levies for county purposes, other than an elementary school or high school, in the same manner as property taxes were distributed in the previous fiscal year;

(iii) except as provided in subsection ~~(6)~~ (5) ~~(6)~~, the school districts' share must be distributed in the relative proportions required by levies for school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

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

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

~~(b) the county's share and any school district's share of the coal gross proceeds determined~~

~~under subsection (1)(b) as provided in this section.~~

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

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

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

~~(5)~~ (4) ~~(5)~~ The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection ~~(3)(b)(i)-(3)(b)(ii))~~, to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in the previous fiscal year.

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

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

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

(b) If the allocation under subsection ~~(6)(a)~~ ~~(5)(a)~~ ~~(6)(a)~~ exceeds the total budget for a fund, the trustees may reallocate the excess to any budgeted fund of the school district.

~~(7)~~ ~~(6)~~ ~~(7)~~ Except as provided in subsections ~~(8)-(7)~~ ~~(8)~~ and ~~(9)-(8)~~ ~~(9)~~, the county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

~~(8)~~ ~~(7)~~ ~~(8)~~ The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds under subsection ~~(7)~~ ~~(6)~~ ~~(7)~~ in the same manner as provided in subsection ~~(5)~~ ~~(4)~~ ~~(5)~~.

~~(9)~~ ~~(8)~~ ~~(9)~~ The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under subsection ~~(7)~~ ~~(6)~~ ~~(7)~~ in the

same manner as provided in subsection ~~(6)~~ (5) ~~(6)~~.”

NEW SECTION. Section 2. Repealer. The following section of the Montana Code Annotated is repealed:

~~15-23-715. New or expanding underground mines tax abatement.~~

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

"15-23-715. New or expanding underground mines -- tax abatement. (1) A county may abate taxation under this chapter for production from a ~~new or AN~~ expanding underground coal mine SUBJECT TO TAX UNDER 15-23-703(1)(A) by 50% for 5 or 10 years by directing the department to levy the tax at a lower tax rate as provided in 15-23-703(1)(b).

1 (2) An abatement must be authorized by the governing body of a county. Before an abatement
2 authorization is effective, the school boards of all affected school districts must be notified of the abatement.
3 The authorization must be made by a resolution of the county governing body after a public hearing. The
4 county governing body shall publish notice of the hearing in a newspaper that meets the requirements of
5 7-1-2121. The notice must be published twice, with at least 6 days separating publications. The first
6 publication may be no more than 30 days prior to the hearing and the last publication must be at least 3 days
7 prior to the hearing.

8 (3) An abatement authorization may be made for a 5-tax-year period, and upon expiration of that
9 period, it may be authorized for one more 5-tax-year period. An abatement authorization must be made prior
10 to the beginning of the property tax year in which abatement is in effect. The department must be notified of
11 each abatement authorization prior to the beginning of the tax year.

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

16 (b) Production from an expanding underground mine is that portion of the mine's production that
17 exceeds the average production for the previous 3 years. To qualify for the abatement, the total of the prior
18 average production and the new production may not decrease during the time of the abatement.

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20 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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22 NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the

1 meaning of 1-2-109, to coal produced and sold from an underground coal mine after December 31, 2010.

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