

1 HOUSE BILL NO. 107

2 INTRODUCED BY G. HOLLENBAUGH

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE OBLIGATION TO PAY ROYALTIES TO THE
6 STATE UNDER COAL LEASE CONTRACTS; REQUIRING THAT THE PAYMENT OF ROYALTIES ON A COAL
7 LEASE BE OF THE ESSENCE IN A LEASE CONTRACT; REQUIRING THAT INTEREST BE PAID ON
8 DELINQUENT COAL ROYALTY PAYMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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12 **NEW SECTION. Section 1. Obligation to pay royalties under coal lease contract -- interest.** (1) The
13 obligation arising under a coal lease to pay coal royalties to the department, to deliver coal to a purchaser to the
14 credit of the department, or to pay a portion of the proceeds of the sale of the coal to the department is of the
15 essence in the lease contract.

16 (2) If the operator under a coal lease fails to pay coal royalties to the department within 120 days after
17 the initial coal produced under the lease is marketed and within 90 days for all coal produced and marketed
18 thereafter, the unpaid royalties must bear interest at a rate of interest authorized under 31-1-107 from the date
19 due until paid. The operator may remit semiannually to the department the aggregate of 6 months' royalties if the
20 aggregate amount is less than \$50 and annually if the aggregate amount is less than \$10.

21 (3) An action for failure to make payments under the lease or seeking payments under this section must
22 be filed in the district court for the county in which the coal mine is located, and that court has jurisdiction over
23 any actions brought under this section. The prevailing party in a proceeding brought under this section is entitled
24 to recover court costs and reasonable attorney fees.

25 (4) This section does not apply if the department has elected to take the owner's or assignee's
26 proportionate share of production in kind or if there is a dispute as to the title to the minerals or entitlement to
27 royalties, the outcome of which would affect distribution of royalty payments.

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29 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
30 integral part of Title 77, chapter 3, part 3, and the provisions of Title 77, chapter 3, part 3, apply to [section 1].

