

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; PROVIDING FOR AN AUDIT, AFTER NOTICE, OF COAL
9 ROYALTIES PAID TO THE STATE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

17 (2) If the operator under a coal lease fails to pay coal royalties to the department within 120 days after
18 the initial coal produced under the lease is marketed and within 90 days for all coal produced and marketed
19 thereafter, the unpaid royalties must bear interest at a THE LEGAL rate of interest authorized under ~~31-1-107~~
20 31-1-106 from the date due until paid. The operator may remit semiannually to the department the aggregate of
21 6 months' royalties if the aggregate amount is less than \$50 and annually if the aggregate amount is less than
22 \$10.

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

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

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