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As of: October 28, 2014 (2:41pm)

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\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the Water Policy Committee

A Bill for an Act entitled: "An Act to reallocate metalliferous mines license tax collections to the environmental quality protection fund; amending sections 7-6-2225, 7-6-2226, 15-37-117, 20-9-231, and 75-10-704, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 7-6-2225, MCA, is amended to read:

**"7-6-2225. County hard-rock mine trust account -- expenditure restrictions.** (1) The governing body of a county receiving an allocation under ~~15-37-117(1)(e)~~ 15-37-117(1)(f) shall establish a county hard-rock mine trust account.

(2) Money received by a county pursuant to 15-37-117 or 90-6-331 must remain in the hard-rock mine trust account and may not be appropriated by the governing body until:

(a) a mining operation has permanently ceased all mining-related activity; or

(b) the number of persons employed full-time in mining activities by the mining operation is less than one-half of the average number of persons employed full-time in mining activities by the mining operation during the immediately preceding 5-year period.

(3) If the circumstances described in subsection (2)(a) or

**Unofficial Draft Copy**

As of: October 28, 2014 (2:41pm)

LCwpcC

(2)(b) occur, the governing body of the county shall allocate at least one-third of the funds proportionally to affected high school districts and elementary school districts in the county and may use the remaining funds in the hard-rock mine trust account to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the end of mining activity or the reduction in the mining work force described in subsection (2)(b);

(b) decrease property tax mill levies that are directly caused by the cessation or reduction of mining activity;

(c) promote diversification and development of the economic base within the jurisdiction of a local government unit through assistance to existing business for retention and expansion or to assist new business;

(d) attract new industry to the impact area;

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in mining activity described in subsection (2); or

(f) provide grants or loans to other local government jurisdictions to assist with impacts caused by the changes in mining activity described in subsection (2).

(4) Except as provided in subsection (3)(b), money held in the hard-rock mine trust account may not be considered as cash balance for the purpose of reducing mill levies.

(5) Money in the hard-rock mine trust account must be invested as provided by law. Interest and income from the

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As of: October 28, 2014 (2:41pm)

LCwpcC

investment of funds in the account must be credited to the account."

{*Internal References to 7-6-2225:*

7-6-2226x            15-37-117x            15-37-117x            90-6-331x  
90-6-331x }

**Section 2.** Section 7-6-2226, MCA, is amended to read:

**"7-6-2226. Metal mines license tax account.** (1) The governing body of a county receiving tax collections under ~~15-37-117(1)(e)~~ 15-37-117(1)(f) may establish a metal mines license tax account to be used to hold the collections. The governing body may hold money in the account for any time period considered appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account as provided in 7-6-2225.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the metal mines license tax account must be credited to the account."

{*Internal References to 7-6-2226: None.*}

**Section 3.** Section 15-37-117, MCA, is amended to read:

**"15-37-117. Disposition of metalliferous mines license taxes.** (1) Metalliferous mines license taxes collected under the provisions of this part must, in accordance with the provisions of 17-2-124, be allocated as follows:

(a) to the credit of the general fund of the state, 57% 10%

**Unofficial Draft Copy**

As of: October 28, 2014 (2:41pm)

LCwpcC

of total collections each year;

(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, 2.5% of total collections each year;

(c) to the hard-rock mining reclamation debt service fund established in 82-4-312, 8.5% of total collections each year;

(d) to the natural resources operations state special revenue account established in 15-38-301, 7% of total collections each year; ~~and~~

(e) to the environmental quality protection state special revenue fund established in 75-10-704, 47% percent of total collections each year; and

~~(e)~~(f) within 60 days of the date the tax is payable pursuant to 15-37-105, to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if an impact plan has not been prepared, to the county in which the mine is located, 25% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 37.5% to the county hard-rock mine trust account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(e)(i) to be further allocated as follows:

(A) 33 1/3% is allocated to the county for general planning

**Unofficial Draft Copy**

As of: October 28, 2014 (2:41pm)

LCwpcC

functions or economic development activities as described in 7-6-2225(3)(c) through (3)(e);

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine;

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection ~~(1)(e)~~ (1)(f) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection ~~(1)(e)~~ (1)(f). The allocation to the county described by subsection ~~(1)(e)~~ (1)(f) is a statutory appropriation pursuant to 17-7-502."

{*Internal References to 15-37-117:*

x7-6-2225	x7-6-2225	x7-6-2226	x15-38-301
x17-7-502	x20-9-231	x82-4-312	x90-6-304
x90-6-304	x90-6-304	x90-6-304	}

**Section 4.** Section 20-9-231, MCA, is amended to read:

**"20-9-231. Metal mines tax reserve fund.** (1) The governing body of a local school district receiving tax collections under ~~15-37-117(1)(e)~~ 15-37-117(1)(f) may establish a metal mines tax

reserve fund to be used to hold the collections. The governing body may hold money in the fund for any time period considered appropriate by the governing body. Money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose provided by law.

(3) Money in the fund must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve fund must be credited to the fund.

(4) The fund must be financially administered as a nonbudgeted fund under the provisions of this title."

{*Internal References to 20-9-231: None.*}

**Section 5.** Section 75-10-704, MCA, is amended to read:

**"75-10-704. Environmental quality protection fund.** (1) Subject to legislative fund transfers, there is in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund by the department. The department is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

(2) The fund may be used by the department only to carry out the provisions of this part and for remedial actions taken by the department pursuant to this part in response to a release of hazardous or deleterious substances.

(3) The department shall:

(a) except as provided in subsection (7), establish and

**Unofficial Draft Copy**

As of: October 28, 2014 (2:41pm)

LCwpcC

implement a system, including the preparation of a priority list, for prioritizing sites for remedial action based on potential effects on human health and the environment; and

(b) investigate, negotiate, and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(4) There must be deposited in the fund:

(a) all penalties, forfeited financial assurance, natural resource damages, and remedial action costs recovered pursuant to 75-10-715;

(b) all administrative penalties assessed pursuant to 75-10-714 and all civil penalties assessed pursuant to 75-10-711(5);

(c) funds allocated to the fund by the legislature;

(d) proceeds from the resource indemnity and ground water assessment tax as authorized by 15-38-106;

(e) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

(f) funds received from the interest income of the fund;

(g) funds received from settlements pursuant to 75-10-719(7); ~~and~~

(h) funds received from the interest paid pursuant to 75-10-722; and

(i) funding received from collections of metalliferous mines license taxes, as provided in 15-37-117. This funding must be

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As of: October 28, 2014 (2:41pm)

LCwpcC

dedicated toward metal mine reclamation projects, as provided in 82-4-371. This subsection is not applicable to any exploration or mining work performed after March 9, 1971. Projects funded under this subsection are not subject to the requirements of Title 75, chapter 10, part 7.

(5) Whenever a legislative appropriation is insufficient to carry out the provisions of this part and additional money remains in the fund, the department shall seek additional authority to spend money from the fund through the budget amendment process provided for in Title 17, chapter 7, part 4.

(6) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department may apply to the governor for a grant from the environmental contingency account established pursuant to 75-1-1101.

(7) (a) There is established a state special revenue account for all funds donated or granted from private parties to remediate a specific release at a specific facility. There must be deposited into the account the interest income earned on the account. A person is not liable under 75-10-715 solely as a result of contributing to this account.

(b) Funds donated or granted for a specific project pursuant to this subsection (7) must be accumulated in the fund until the balance of the donated or granted funds is sufficient, as determined by the department, to remediate the facility pursuant to the requirements of 75-10-721 for which the funds are donated.

(c) If the balance of the fund created in this subsection

(7), as determined by the department pursuant to the requirements of 75-10-721, is not sufficient to remediate the facility within 1 year from the date of the initial contribution, all donated or granted funds, including any interest on those donated or granted funds, must be returned to the grantor.

(d) If the balance for a specific project is determined by the department to be sufficient to remediate the facility pursuant to the requirements of 75-10-721, the department shall give that site high priority for remedial action, using the funds donated under this subsection (7).

(e) This subsection (7) is not intended to delay, to interfere with, or to diminish the authority or actions of the department to investigate, negotiate, and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(f) The department shall expend the funds in a manner that maximizes the application of the funds to physically remediating the specific release.

(8) (a) A person may donate in-kind services to remediate a specific release at a specific facility pursuant to subsection (7). A person who donates in-kind services is not liable under 75-10-715 solely as a result of the contribution of in-kind services.

(b) A person who donates in-kind services with respect to remediating a specific release at a specific facility is not

**Unofficial Draft Copy**

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LCwpcC

liable under this part to any person for injuries, costs, damages, expenses, or other liability that results from the release or threatened release, including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss.

(c) Immunity from liability, pursuant to subsection (8)(b), does not apply in the case of a release that is caused by conduct of the entity providing in-kind services that is negligent or grossly negligent or that constitutes intentional misconduct.

(d) When a person is liable under 75-10-715 for costs or damages incurred as a result of a release or threatened release of a hazardous or deleterious substance, the person may not avoid that liability or responsibility under 75-10-711 by subsequent donations of money or in-kind services under the provisions of subsection (7) and this subsection (8).

(e) Any donated in-kind services that are employed as part of a remedial action pursuant to this subsection (8) must be approved by the department as appropriate remedial action."

{*Internal References to 75-10-704:*

<i>x15-38-106</i>	<i>x15-38-202</i>	<i>x75-1-1101</i>	<i>x75-10-701</i>
<i>x75-10-702</i>	<i>x75-10-702</i>	<i>x75-10-711</i>	<i>x75-10-714</i>
<i>x75-10-719</i>	<i>x75-10-720</i>	<i>x75-10-722</i>	<i>x77-2-302</i> }

NEW SECTION. **Section 6.** {standard} **Effective date.** [This act] is effective July 1, 2015.

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