

1 SENATE BILL NO. 266

2 INTRODUCED BY A. OLSON, T. BERRY

3
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; AMENDING SECTIONS 15-23-703 AND
7 15-23-715, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

10
11 **Section 1.** Section 15-23-703, MCA, is amended to read:
12 **"15-23-703. Taxation of gross proceeds -- taxable value for county classification and nontax**
13 **purposes.** (1) (a) The department shall compute from the reported value of coal gross proceeds a tax roll that
14 must be transmitted to the county treasurer on or before September 15 of each year. The department may not
15 levy or assess any mills against coal gross proceeds but shall, subject to subsection (1)(b), levy a tax of 5%
16 against the value of coal as provided in 15-23-701(4). The county treasurer shall give full notice to each coal
17 producer of the taxes due and shall collect the taxes.

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

23 (2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is
24 45% of the contract sales price as defined in 15-35-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (7) Except as provided in subsections (8) and (9), the county treasurer shall credit all taxes collected

1 under this part from coal mines that began production after December 31, 1988, in the relative proportions
2 required by the levies for state, county, and school district purposes in the same manner as property taxes were
3 distributed in the previous fiscal year.

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

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

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

11 **"15-23-715. New or expanding underground mines -- tax abatement.** (1) A county may abate taxation
12 under this chapter for production from a new or expanding underground coal mine by 50% or less for 5 or 10
13 years by directing the department to levy the tax at a lower tax rate as provided in 15-23-703(1)(b).

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

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

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

29 (b) Production from an expanding underground mine is that portion of the mine's production that exceeds
30 the average production for the previous 3 years. To qualify for the abatement, the total of the prior average

1 production and the new production may not decrease during the time of the abatement."

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3 NEW SECTION. **Section 3. Applicability.** [This act] applies to tax years beginning after December 31,

4 2011.

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