

HJ 6: COAL SEVERANCE TAX OVERVIEW

COAL SEVERANCE TAX RATE

The coal severance tax, provided for in [15-35-103](#), MCA, is imposed on each ton of coal produced in the state. The tax is a percentage of the contract sales price and varies based on the heating quality of the coal and how the coal is mined.

COAL SEVERANCE TAX RATES

Heating Quality (BTU/lb)	Surface Mining	Augur Mining ¹	Underground Mining
Under 7,000	10% of value	3.75% of value	3% of value
7,000 and over	15% of value	5% of value	4% of value

Production of 50,000 tons or less in a calendar year is not subject to the coal severance tax. However, if production exceeds 50,000 tons, the severance tax is levied on all production in excess of 20,000 tons.

DISPOSITION OF COAL SEVERANCE TAX REVENUE

[Article IX, Section 5](#) of the Montana Constitution requires the Legislature to dedicate 50% of coal severance tax revenue to a trust fund. The Legislature may appropriate the interest earned on the trust fund, but the principal may only be appropriated with a three-quarters vote of the Legislature.

¹ The tax rate for augur mining applies only to coal that would be uneconomical to recover using conventional strip-mining methods.

The 1975 Legislature both enacted the coal severance tax (to replace the coal license tax) and passed legislation to place the constitutional amendment creating the coal severance tax trust fund on the ballot.² The constitutional amendment passed in 1976 with 63% of votes in support.

COAL SEVERANCE TAX TRUST FUND DISTRIBUTIONS

Section [17-5-703](#), MCA, provides additional details about the deposit of the 50% of coal severance tax revenue distributed to the trust fund. Six subtrusts make up the coal severance tax trust fund.

The revenue first goes to the Coal Tax Bond Fund to pay principal and interest on coal severance tax bonds used for renewable resource projects. The remaining revenue is split: 75% to the School Facilities Fund and 25% to the Big Sky Economic Development Fund.

Three other funds do not currently receive revenue, but interest earned on the fund balances is designated for various projects. Those funds are: the Treasure State Endowment Fund, the Treasure State Endowment Regional Water System Fund, and the Permanent Fund.

The Legislative Fiscal Division maintains a detailed [Coal Severance Tax Trust Fund](#) brochure showing dollars distributed to each fund and how the funds are spent.

Montana's Constitution requires the deposit of 50% of coal severance tax revenue in the coal severance tax trust fund.

OTHER DISTRIBUTIONS

Section [15-35-108](#), MCA, provides for the distribution of the 50% of the revenue that is not dedicated to the coal severance tax trust fund. The funds are allocated as follows:

- 12% to the major repair long-range building program account;
- 5.8% to the coal natural resource account (reduced to 2.9% beginning July 1, 2023);
- 3.71% to the conservation district account;
- 1.27% to the permanent fund account for parks acquisition and management;
- 0.95% for renewable resource loan debt service;
- 0.93% to the basic library services account;
- 0.82% to the growth through agriculture account;
- 0.63% to a trust fund, the interest of which is used for protection of art and cultural and aesthetic project in the capitol;

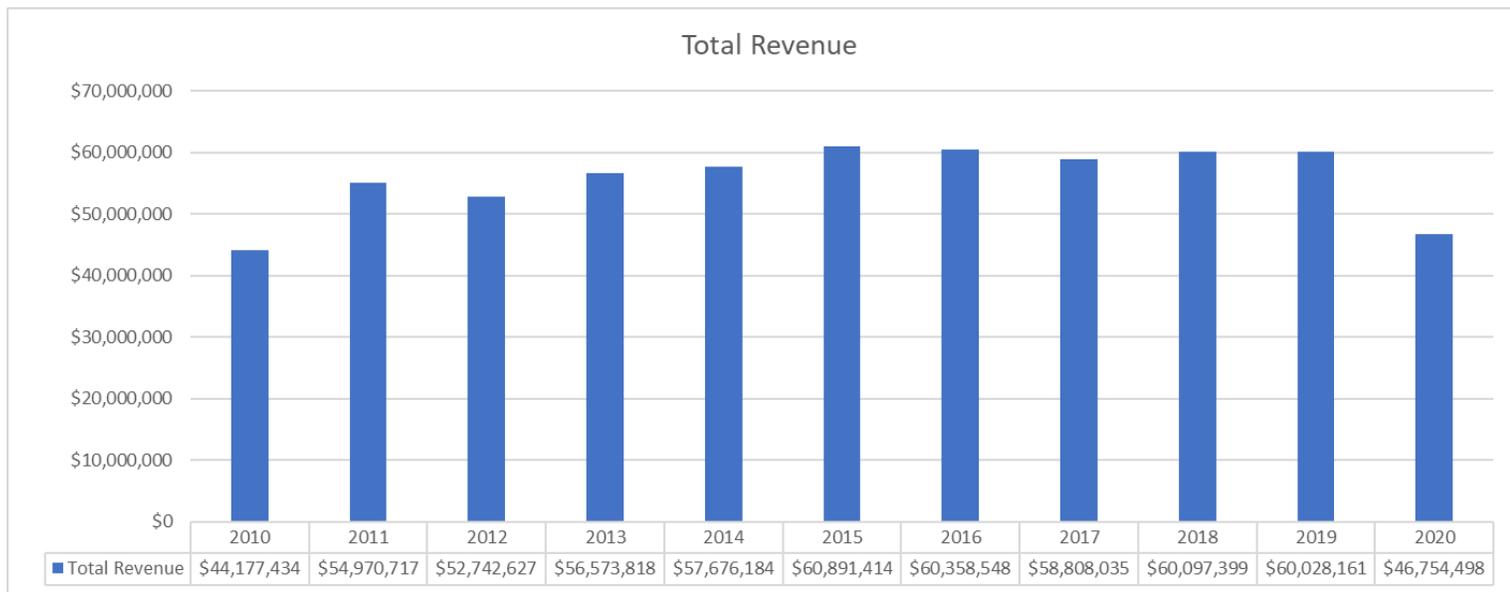
² Ch. 525, L. 1975 and Ch. 499, L. 1975, respectively.

- \$250,000 to the coal and uranium mine permitting and reclamation program account; and
- the remainder to the general fund.

Detailed information on the uses of the funds and the amounts distributed is also found in the Legislative Fiscal Division's coal severance tax trust fund [brochure](#).

COAL SEVERANCE TAX HISTORICAL COLLECTIONS

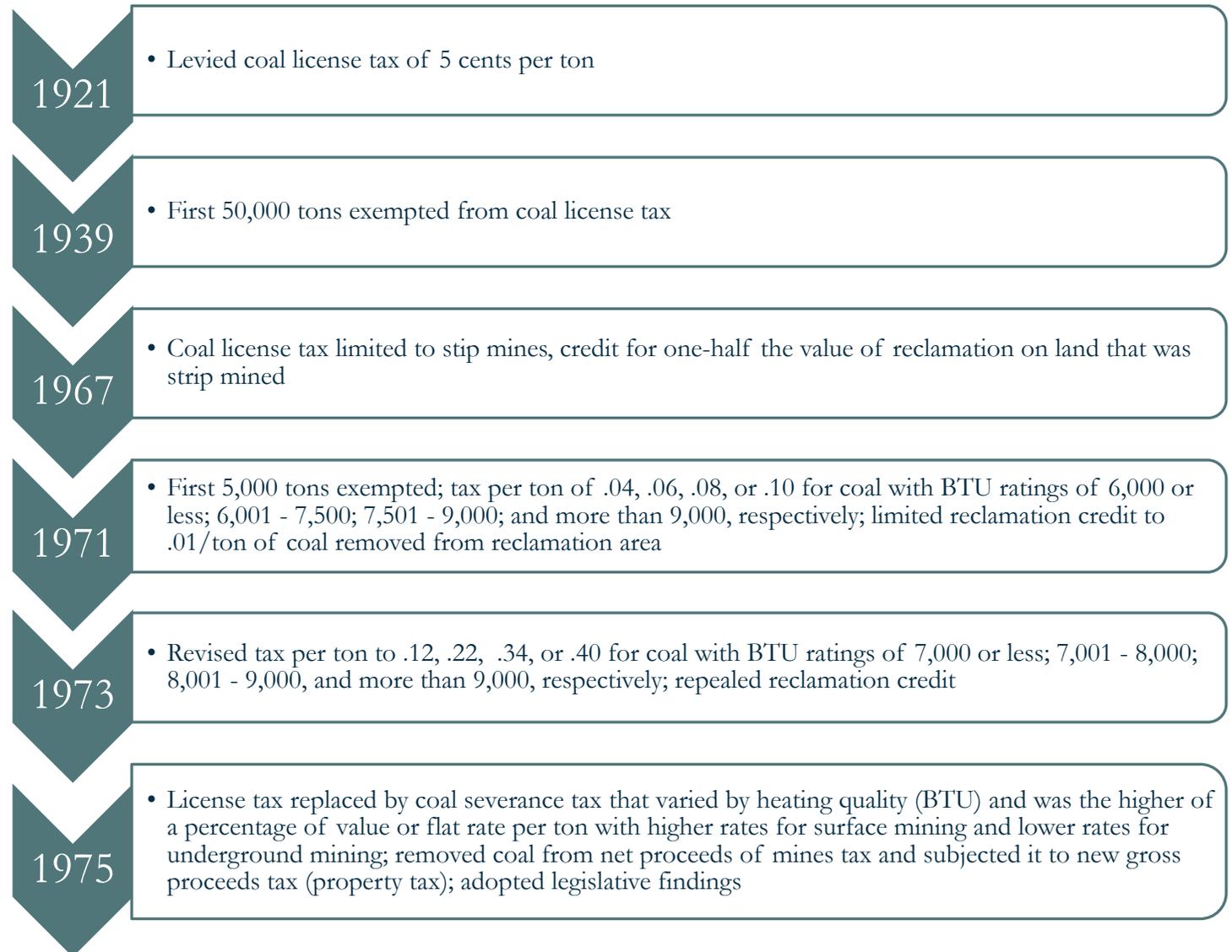
The following chart shows total coal severance tax revenue collections from 2010 to 2020.³



³ Data from [Montana Department of Revenue Biennial Report July 1, 2018-June 30, 2020](#), p. 137.

SELECT HISTORY OF COAL SEVERANCE TAX LAWS

The following is a select legislative history of coal taxation.⁴ The Legislature enacted the coal severance tax in 1975. Before then, coal was subject to a coal license tax.



⁴ Information adapted from [Montana Department of Revenue Biennial Report July 1, 2018-June 30, 2020](#), p. 144-145, and supplemented with additional staff research.



FINDINGS AND DECLARATION OF PURPOSE

Upon enacting the coal severance tax in 1975, the Legislature also included detailed findings and purpose statements in section [15-35-101](#), MCA. The section (reproduced below in full) is quite useful in identifying the Legislature's reasons for the design of the coal severance tax. The two main findings that account for the design of the coal severance tax are:

- Coal differs from metal mines and petroleum and should be classified and taxed differently.
- Type of coal (heating quality or BTU) and mining methods (production costs) vary and this should be reflected in the coal severance tax rates.

15-35-101. Legislative findings and declarations of purpose. (1) The legislature finds that although coal is extracted from the earth like metal minerals, there are differences between coal and metal minerals so that they should be classified in different categories for taxation purposes. The legislature finds that although coal can be used like petroleum products, there are differences between coal and petroleum so that they should be classified in different categories for taxation purposes. The legislature further finds that:

- (a) coal is the only mineral that can supply energy while being easily found in abundance in Montana;
- (b) coal is the only mineral that is so often marketed through sales contracts of many years' duration;
- (c) coal, unlike most minerals, varies widely in composition and consequent value when marketed;
- (d) coal in Montana is subject to regional and national demands for development that could affect the economy and environment of a larger portion of the state than any other mineral development has done;
- (e) subbituminous coal and lignite coal in Montana have sufficiently different markets and value and therefore require different production taxes;
- (f) coal produced in underground mines has higher production costs and underground producers are able to pay lesser amounts of royalty and production tax than strip-mine producers can pay;
- (g) coal production in Montana has been subject to an uncoordinated array of taxes that overlap one another and yield revenue in an inconsistent and unpredictable manner; and
- (h) coal used for the production of electricity near the coal mine by modern generating plants has significant statewide and nationwide economic, transportation, and environmental advantages that allow different production taxes.

(2) The legislature declares that the purposes of this chapter are to:

- (a) allow the severance taxes on coal production to remain a constant percentage of the price of coal;
- (b) stabilize the flow of tax revenue from coal mines to local governments through the property taxation system;
- (c) simplify the structure of coal taxation in Montana, reducing tax overlap and improving the predictability of tax projections;
- (d) recognize the economic, transportation, and environmental advantages of electrical generation by modern electrical generation plants near coal mines; and
- (e) accomplish the purposes of this subsection (2) by establishing categories of taxation that recognize the unique character of coal, as well as the variations found within the coal industry, and by encouraging the use of coal to produce electricity in modern generating plants near the coal mine.

NEXT STEPS FOR HJ 6 STUDY

The next meeting's agenda items for the HJ 6 study will focus on interest rates and investment strategies for the trust fund and market and export opportunities for coal.

Next spring, the committee will consider whether to revisit the current allocations and uses of the coal severance tax. The committee may wish to discuss first impressions of the coal severance tax distributions so that staff can provide additional research on the distributions and remind the committee of its specific areas of interest next spring.

Additionally, the Environmental Quality Council (EQC) is undertaking [the House Joint Resolution No. 7](#) study of conservation districts. EQC may make recommendations to RIC about the conservation district funding provided through coal severance tax revenue (\$1.6 million in FY21).