

SENATE BILL NO. 20

INTRODUCED BY C. VINCENT

BY REQUEST OF THE WATER POLICY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REALLOCATING A PORTION OF 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 AND A TERMINATION 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 (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~~ workforce 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;

- 1 (d) attract new industry to the impact area;
- 2 (e) provide cash incentives for expanding the employment base of the area impacted by the changes
3 in mining activity described in subsection (2); or
- 4 (f) provide grants or loans to other local government jurisdictions to assist with impacts caused by the
5 changes in mining activity described in subsection (2).
- 6 (4) Except as provided in subsection (3)(b), money held in the hard-rock mine trust account may not be
7 considered as cash balance for the purpose of reducing mill levies.
- 8 (5) Money in the hard-rock mine trust account must be invested as provided by law. Interest and income
9 from the investment of funds in the account must be credited to the account."

10

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

12 **"7-6-2226. Metal mines license tax account.** (1) The governing body of a county receiving tax
13 collections under ~~15-37-117(1)(e)~~ 15-37-117(1)(f) may establish a metal mines license tax account to be used
14 to hold the collections. The governing body may hold money in the account for any time period considered
15 appropriate by the governing body. Money held in the account may not be considered as cash balance for the
16 purpose of reducing mill levies.

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

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

20

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

22 **"15-37-117. Disposition of metalliferous mines license taxes.** (1) Metalliferous mines license taxes
23 collected under the provisions of this part must, in accordance with the provisions of 17-2-124, be allocated as
24 follows:

25 (a) to the credit of the general fund of the state, ~~57%~~ 10% of total collections each year;

26 (b) to the state special revenue fund to the credit of a the hard-rock mining impact trust account
27 established in 90-6-304(2), 2.5% of total collections each year;

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

30 (d) to the natural resources operations state special revenue account established in 15-38-301, 7% of

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

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

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

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

13 (A) 33 1/3% is allocated to the county for general planning functions or economic development activities
 14 as described in 7-6-2225(3)(c) through (3)(e);

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

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

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

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

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

27 **"20-9-231. Metal mines tax reserve fund.** (1) The governing body of a local school district receiving
 28 tax collections under ~~45-37-117(1)(e)~~ 15-37-117(1)(f) may establish a metal mines tax reserve fund to be used
 29 to hold the collections. The governing body may hold money in the fund for any time period considered
 30 appropriate by the governing body. Money held in the fund may not be considered as fund balance for the

1 purpose of reducing mill levies.

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

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

5 (4) The fund must be financially administered as a nonbudgeted fund under the provisions of this title."
6

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

8 **"75-10-704. Environmental quality protection fund.** (1) Subject to legislative fund transfers, there is
9 in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund
10 by the department. The department is authorized to expend amounts from the fund necessary to carry out the
11 purposes of this part.

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

15 (3) The department shall:

16 (a) except as provided in subsection (7), establish and implement a system, including the preparation
17 of a priority list, for prioritizing sites for remedial action based on potential effects on human health and the
18 environment; and

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

22 (4) There must be deposited in the fund:

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

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

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

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

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

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

1 (g) funds received from settlements pursuant to 75-10-719(7); and
2 (h) funds received from the interest paid pursuant to 75-10-722; and
3 (i) funds received from collections of metalliferous mines license taxes, as provided in 15-37-117. These
4 funds must be dedicated to metal mine reclamation projects at abandoned mine sites, as provided in 82-4-371.
5 This subsection (4)(i) does not apply to exploration or mining work performed after March 9, 1971. Projects
6 funded under this subsection (4)(i) are not subject to the requirements of Title 75, chapter 10, part 7.

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

10 (6) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department
11 may apply to the governor for a grant from the environmental contingency account established pursuant to
12 75-1-1101.

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

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

20 (c) If the balance of the fund created in this subsection (7), as determined by the department pursuant
21 to the requirements of 75-10-721, is not sufficient to remediate the facility within 1 year from the date of the initial
22 contribution, all donated or granted funds, including any interest on those donated or granted funds, must be
23 returned to the grantor.

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

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

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

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

6 (b) A person who donates in-kind services with respect to remediating a specific release at a specific
7 facility is not liable under this part to any person for injuries, costs, damages, expenses, or other liability that
8 results from the release or threatened release, including but not limited to claims for indemnification or
9 contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or
10 economic loss.

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

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

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

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

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23 NEW SECTION. **Section 7. Termination.** [This act] terminates June 30, 2021.

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