

SENATE BILL 470

Introduced by Towe

3/26	Introduced
3/26	First Reading
3/26	Referred to Taxation
4/02	Hearing
4/05	Tabled in Committee

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Senate BILL NO. 470
INTRODUCED BY *Edwards*

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA COAL TAX REFORM ACT; SETTING THE COAL SEVERANCE TAX AT 13.5 PERCENT OF THE F.O.B. MINE PRICE; IMPOSING A TAX ON THE EXCESS PROFITS OF COAL PRODUCERS; TAXING COAL AS MINERALS IN PLACE WITH A VALUE IN EXCESS OF \$1 MILLION; DEFINING MINERALS IN PLACE; PROVIDING AN ALTERNATIVE TAX TO THE TAX ON COAL AS MINERALS IN PLACE; REIMPOSING THE TAXES ON COAL GROSS PROCEEDS THAT WERE IN EFFECT PRIOR TO THE PASSAGE OF CHAPTER 11, SPECIAL LAWS OF 1989; AMENDING SECTIONS 15-1-101, 15-6-132, 15-6-201, 15-6-208, 15-8-111, 15-23-101, 15-23-106, 15-23-701, 15-23-703, 15-31-114, 15-35-102, 15-35-103, 20-9-141, 20-9-331, 20-9-333, 20-9-366, 20-9-501, 20-10-144, AND 90-6-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 13 and 16] require the department of revenue to adopt rules necessary to implement the taxation of excess profits of coal producers and the taxation of coal that is minerals in place.

It is the intent of the legislature that the rules to be

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- adopted by the department include but not be limited to:
 - (1) a process for determining the amount of income and profit subject to the excess profits tax on coal producers;
 - (2) procedures to determine the number of tons of coal under ownership or lease of coal producers;
 - (3) forms that may be necessary to implement the taxation of excess profits and of coal that is minerals in place;
 - (4) procedures, including forms, for coal producers to elect to not pay the tax on coal that is minerals in place;
 - (5) a process for determining the f.o.b. mine price of coal when the coal is sold under a contract with escalation provisions, including an escalation for state taxes on production; and
 - (6) other rules as may be necessary to implement the taxation of the excess profits of coal producers and the taxation of coal that is minerals in place.

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

Section 1. Section 15-35-103, MCA, is amended to read:

"15-35-103. Severance tax -- rates imposed. (1) Subject to the provisions of 15-35-202 allowing a new coal production incentive tax credit, a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:



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1 (a) After June 30, 1988, and before July 1, 1990:

2 Heating quality	Surface	Underground
3 (Btu per pound	Mining	Mining
4 of coal):		
5 Under 7,000	17% of value	3% of value
6 7,000 and over	25% of value	4% of value

7 (b) After June 30, 1990, and before July 1, 1991:

8 Heating quality	Surface	Underground
9 (Btu per pound	Mining	Mining
10 of coal):		
11 Under 7,000	13% of value	3% of value
12 7,000 and over	20% of value	4% of value

13 (c) After June 30, 1991:

14 Heating quality	Surface	Underground
15 (Btu per pound	Mining	Mining
16 of coal):		
17 Under 7,000	10% <u>8 1/3%</u> of value	3% of value
18 7,000 and over	15% <u>13.5%</u> of value	4% of value

19 (2) "Value" means the contract sales price.

20 (3) The formula which yields the greater amount of tax

21 in a particular case shall be used at each point on these

22 schedules.

23 (4) A person is not liable for any severance tax upon

24 50,000 tons of the coal he produces in a calendar year,

25 except that if he produces more than 50,000 tons of coal in

1 a calendar year, he will be liable for severance tax upon

2 all coal produced in excess of the first 20,000 tons.

3 (5) A new coal production incentive tax credit may be

4 claimed on certain coal as provided in 15-35-202."

5 **Section 2.** Section 15-35-102, MCA, is amended to read:

6 **"15-35-102. Definitions.** As used in this chapter, the

7 following definitions apply:

8 (1) "Agreement" means a signed contract that is valid

9 under Montana law between a coal mine operator and a

10 purchaser or broker for the sale of coal that is produced in

11 Montana.

12 (2) (a) "Base consumption level" for a purchaser,

13 except as provided in subsection (2)(b), applies only for

14 the term of an agreement in effect as of December 31, 1984,

15 and means the lesser of:

16 (i) the volume of coal purchased during calendar year

17 1986 from all Montana coal mine operators; or

18 (ii) the greater of:

19 (A) the arithmetic average volume of coal purchased

20 during calendar years 1983 and 1984 from all Montana coal

21 mine operators; or

22 (B) 90% of the maximum tonnage provided for in any

23 agreement executed prior to January 1, 1985, for which the

24 highest scheduled minimum quantity of coal stipulated by the

25 terms of the agreement as they existed on January 1, 1985,

1 has not been purchased at any time during the term of the
2 agreement, plus the arithmetic average volume of coal
3 purchased during calendar years 1983 and 1984 from all
4 Montana coal mine operators under all other agreements.

5 (b) If the volume calculated in subsection (2)(a)(i) is
6 less than one-third of the volume calculated in subsection
7 (2)(a)(ii), the base consumption level is the volume
8 calculated in subsection (2)(a)(ii).

9 (3) (a) Except as provided in subsection (3)(b), "base
10 production level" for a coal mine operator applies only for
11 the term of an agreement in effect as of December 31, 1984,
12 and means the lesser of:

13 (i) the arithmetic average volume of coal produced in
14 Montana and sold to a purchaser in calendar years 1983 and
15 1984; or

16 (ii) the volume of coal produced in Montana and sold to
17 a purchaser in 1986.

18 (b) If the amount calculated in subsection (3)(a)(ii)
19 is less than one-third of the amount calculated in
20 subsection (3)(a)(i), the base production level is the
21 amount calculated in subsection (3)(a)(i).

22 (4) "Broker" means any person who resells Montana coal.

23 (5) (a) Prior to January 1, 1991, "contract contract
24 sales price" means either the price of coal extracted and
25 prepared for shipment f.o.b. mine, excluding that amount

1 charged by the seller to pay taxes paid on production, or a
2 price imputed by the department under 15-35-107. Contract
3 sales price includes all royalties paid on production, no
4 matter how such royalties are calculated. However, with
5 respect to royalties paid to the government of the United
6 States, the state of Montana, or a federally recognized
7 Indian tribe, the contract sales price includes only:

8 ~~(a)~~(i) for quarterly periods ending on and after
9 September 30, 1984, 15 cents per ton plus 75% of the
10 difference between 15 cents per ton and the amount of such
11 federal, state, and tribal government royalties actually
12 paid;

13 ~~(b)~~(ii) for quarterly periods ending on and after
14 September 30, 1985, 15 cents per ton plus 50% of the
15 difference between 15 cents per ton and the amount of such
16 federal, state, and tribal government royalties actually
17 paid;

18 ~~(c)~~(iii) for quarterly periods ending on and after
19 September 30, 1986, 15 cents per ton plus 25% of the
20 difference between 15 cents per ton and the amount of such
21 federal, state, and tribal government royalties actually
22 paid; and

23 ~~(d)~~(iv) for quarterly periods ending on and after
24 September 30, 1987, 15 cents per ton.

25 (b) After December 31, 1991, "contract sales price"

1 means either the price of coal extracted and prepared for
 2 shipment f.o.b. mine or a price imputed by the department
 3 under 15-35-107. Contract sales price includes all royalties
 4 paid on production, no matter how the royalties are
 5 calculated.

6 (6) "Department" means the department of revenue.

7 (7) "Energy conversion process" includes any process by
 8 which coal in the solid state is transformed into slurry,
 9 gas, electric energy, or any other form of energy.

10 (8) "Incremental production" means that quantity of
 11 coal produced annually by a coal mine operator and sold to a
 12 qualified purchaser that exceeds the base production level
 13 of the coal mine operator for that purchaser, but only to
 14 the extent the quantity of coal exceeds that purchaser's
 15 base consumption level from all Montana producers.

16 (9) "Produced" means severed from the earth.

17 (10) "Purchaser" means a person who purchases or
 18 contracts to purchase Montana coal directly from a coal mine
 19 operator or indirectly from a broker and who utilizes that
 20 coal in any industrial, commercial, or energy conversion
 21 process. A coal broker or any other third party intermediary
 22 is not a purchaser under the provisions of this chapter.

23 (11) "Qualified purchaser" means a purchaser whose
 24 purchases of Montana coal in any given year exceed his base
 25 consumption level. A purchaser of Montana coal who enters

1 into a coal agreement with another purchaser or a broker
 2 that causes a reduction in the base consumption level of a
 3 purchaser is not a qualified purchaser.

4 (12) "Strip mining" is defined in 82-4-203 and includes
 5 "surface mining".

6 (13) "Taxes paid on production" includes any tax paid to
 7 the federal, state, or local governments upon the quantity
 8 of coal produced as a function of either the volume or the
 9 value of production and does not include any tax upon the
 10 value of mining equipment, machinery, or buildings and
 11 lands, any tax upon a person's net income derived in whole
 12 or in part from the sale of coal, or any license fee.

13 (14) "Ton" means 2,000 pounds.

14 (15) "Underground mining" means a coal mining method
 15 utilizing shafts and tunnels and as further defined in
 16 82-4-203."

17 NEW SECTION. Section 3. Excess profits tax imposed on
 18 coal producers -- definition. (1) There is a tax on the
 19 excess profits that coal producers earn from their Montana
 20 operations, calculated as provided in subsection (3).

21 (2) For the purposes of this section, "coal producer"
 22 means a coal mine operator required to file a statement
 23 under 15-35-104.

24 (3) Every coal producer shall pay to the state
 25 treasurer the tax as prescribed in [sections 3 through 13].

1 The tax on excess profits of coal producers is calculated by
2 using the formula $EPT = 0.5(EP)$, where:

3 (a) EPT is the amount of tax to be paid on excess
4 profits; and

5 (b) EP is calculated by using the formula: $EP = NP -$
6 $(0.2(GI))$, where:

7 (i) EP is excess profits;

8 (ii) NP is net profits and is defined for the purposes
9 of this section as net income of a coal producer operating
10 as a corporation, individual, or partnership. Net income is
11 calculated as follows:

12 (A) For a coal producer operating as a corporation, net
13 income is as defined in 15-31-113, but subtracting all taxes
14 listed in 15-31-114(5)(a)(i) through (5)(a)(iv) and (5)(b),
15 whether or not the taxes are deductible for corporation
16 license tax purposes. A coal producer operating as a
17 corporation both within and outside of the state, shall
18 determine net profits according to the allocation and
19 apportionment provisions set forth in Title 15, chapter 31,
20 part 3.

21 (B) For a coal producer operating as an individual, net
22 income is the income from the production of coal in Montana
23 as reported on the individual's federal return and included
24 in Montana income under 15-30-111. A coal producer operating
25 as an individual, both within and outside of the state,

1 shall determine net profits according to the allocation and
2 apportionment provisions set forth in 15-1-601.

3 (C) For a coal producer operating as a partnership, net
4 income is the income from the production of coal in Montana
5 as reported on the federal partnership return. A coal
6 producer operating as a partnership both within and outside
7 of the state, shall determine net profits according to the
8 allocation and apportionment provisions set forth in
9 15-1-601.

10 (iii) GI is gross income of a coal producer operating as
11 a corporation, individual, or partnership. Gross income is
12 calculated as follows:

13 (A) For a coal producer operating as a corporation,
14 gross income is as defined in 15-31-113(1)(a), but including
15 the exclusion allowed in 15-31-113(1)(b). A coal producer
16 operating as a corporation both within and outside of the
17 state, shall compute gross income under the provisions of
18 15-31-311.

19 (B) For a coal producer operating as an individual,
20 gross income is the gross income from the production of coal
21 in Montana as reported on the individual's federal return. A
22 coal producer operating as an individual, both within and
23 outside of the state, shall compute gross income under the
24 provisions of the Multistate Tax Compact, Article IV(16),
25 15-1-601.

1 (C) For a coal producer operating as a partnership,
 2 gross income is the gross income from the production of coal
 3 in Montana as reported on the federal partnership return. A
 4 coal producer operating as a partnership, both within and
 5 outside of the state, shall compute gross income under the
 6 provisions of the Multistate Tax Compact, Article IV(16),
 7 15-1-601.

8 (4) (a) If the amount of tax on excess profits
 9 calculated under subsection (3) is equal to or less than
 10 zero, the amount of tax to be paid on excess profits is
 11 zero.

12 (b) A calculation under subsection (3) that results in
 13 a negative amount of excess profits tax may not be used to
 14 reduce the amount of corporation license tax or corporation
 15 income tax due nor may a negative amount of excess profits
 16 tax be carried forward or carried back against corporation
 17 license tax or corporation income tax liability in a past or
 18 future year.

19 NEW SECTION. **Section 4.** Tax return to be filed -- time
 20 for filing -- estimated tax on failure to file. (1) A coal
 21 producer subject to the tax imposed under [sections 3
 22 through 13] shall file a true and accurate tax return in the
 23 manner and form prescribed by the department of revenue
 24 reporting its excess profits.

25 (2) The return must be filed with the department on or

1 before the 15th day of the 5th month following the close of
 2 the coal producer's tax year for reporting income tax.

3 (3) The department may grant an extension of time for
 4 the filing of the return whenever in its judgment good cause
 5 exists.

6 (4) A coal producer shall retain for 5 years from the
 7 date the return is filed all records necessary for the
 8 calculation of the tax and any other information the
 9 department may require.

10 (5) If a coal producer fails to file the return as
 11 required by this section, the department may estimate the
 12 tax due from the coal producer from any information in its
 13 possession.

14 NEW SECTION. **Section 5.** Payment of tax. A coal
 15 producer shall compute the amount of tax payable under
 16 [sections 3 through 13] and shall pay that amount to the
 17 department of revenue on or before the 15th day of the 5th
 18 month following the close of the coal producer's tax year
 19 for reporting income tax.

20 NEW SECTION. **Section 6.** Statute of limitations. (1)
 21 Except as otherwise provided in this section, a deficiency
 22 may not be assessed or collected with respect to the tax
 23 year for which a return is filed unless the notice of
 24 additional tax proposed to be assessed is mailed within 5
 25 years from the date the return was filed. For the purposes

1 of this section, a return filed before the last day
 2 prescribed for filing is considered to be filed on the last
 3 day. If, before the expiration of the period allowed for
 4 issuing an assessment, the coal producer consents in writing
 5 to an assessment after the time allowed by this section, the
 6 tax may be assessed at any time prior to the expiration of
 7 the period agreed upon.

8 (2) A refund or credit may not be allowed or paid with
 9 respect to the year for which a return is filed after 5
 10 years from the last day prescribed for filing the return or
 11 after 1 year from the date of the overpayment, whichever
 12 period expires later, unless before the expiration of the
 13 period the coal producer files a claim or the department of
 14 revenue has determined the existence of the overpayment and
 15 has approved the refund or credit. If the coal producer has
 16 agreed in writing under the provisions of subsection (1) to
 17 extend the time within which the department may propose an
 18 additional assessment, the period within which a claim for
 19 refund or credit may be filed or a credit or refund allowed
 20 in the event a claim is not filed must be automatically
 21 extended.

22 NEW SECTION. Section 7. Interest and penalties. (1) If
 23 the tax return due from a coal producer is not filed when
 24 due as provided in [section 4], there is assessed a penalty
 25 of 10% of the amount of the tax due, unless it is shown that

1 the failure was due to reasonable cause and not neglect.

2 (2) (a) If the excess profits tax due from a coal
 3 producer is not paid when due as provided in [section 5],
 4 there is assessed a penalty of 10% of the amount of the tax
 5 due, unless it is shown that the failure was due to
 6 reasonable cause and not neglect.

7 (b) If any tax due under [section 5] is not paid when
 8 due, interest is added to the tax due at the rate of 1% a
 9 month or fraction of a month, from the due date until the
 10 tax due and interest are paid.

11 NEW SECTION. Section 8. Deficiency assessment --
 12 hearing. (1) (a) The department of revenue may audit the
 13 books and records of all coal producers doing business in
 14 Montana.

15 (b) If the department determines that the amount of
 16 taxes due is greater than the amount disclosed by the
 17 return, it shall mail to the coal producer a notice of the
 18 additional taxes proposed to be assessed.

19 (c) Within 30 days after the mailing of the notice, the
 20 coal producer may file with the department a written protest
 21 against the proposed additional taxes, setting forth the
 22 grounds upon which the protest is based, and may request in
 23 its protest an oral hearing or an opportunity to present
 24 additional evidence relating to its tax liability.

25 (d) If a protest is not filed, the amount of the

1 additional taxes proposed to be assessed becomes final upon
2 the expiration of the 30-day period.

3 (e) If a protest is filed, the department shall
4 reconsider the proposed assessment and, if the coal producer
5 has so requested, grant the coal producer an oral hearing.

6 (f) After consideration of the protest and the evidence
7 presented in the event of an oral hearing, the department's
8 action on the protest is final when it mails notice of its
9 action to the coal producer.

10 (2) (a) If a deficiency is determined and the taxes
11 become final, the department shall mail notice and demand
12 for payment to the coal producer, and the taxes are due and
13 payable at the expiration of 10 days from the date of the
14 notice and demand.

15 (b) Interest on a deficiency assessment bears interest
16 from the date specified in [section 5] for payment of the
17 tax.

18 (3) A certificate by the department of the mailing of
19 the notices specified in this section is prima facie
20 evidence of the computation and levy of the deficiency in
21 the taxes and of the giving of notice.

22 NEW SECTION. Section 9. Credit for overpayment --
23 interest on overpayment. (1) If the department of revenue
24 determines that the amount of taxes, penalty, or interest
25 due for a tax year is less than the amount paid, the amount

1 of the overpayment must be credited against any taxes,
2 penalty, or interest then due from the coal producer, and
3 the balance must be refunded to the coal producer or its
4 successor.

5 (2) Except as provided in subsections (2)(a) and
6 (2)(b), interest is allowed on overpayments at the same rate
7 as is charged on delinquent taxes due. Interest on an
8 overpayment accrues from the due date of the return or from
9 the date of overpayment, whichever date is later, to the
10 date the department approves refunding or crediting of the
11 overpayment. Interest does not accrue during any period
12 during which the processing of a claim for refund is delayed
13 for more than 30 days by reason of failure of the coal
14 producer to furnish information requested by the department
15 for the purpose of verifying the amount of the overpayment.
16 Interest is not allowed if:

17 (a) the overpayment is refunded within 6 months from
18 the date the return is due or from the date the return is
19 filed, whichever is later; or

20 (b) the amount of accrued interest is less than \$1.

21 (3) A payment not made incident to a bona fide and
22 orderly discharge of an actual tax liability or a tax
23 liability reasonably assumed to be imposed by [sections 3
24 through 13] is not considered an overpayment with respect to
25 which interest is allowable.

1 **NEW SECTION. Section 10. Application for refund --**
 2 **appeal from denial.** Within the time allowed by [section
 3 6(2)], a coal producer may file a claim for refund of any
 4 tax paid pursuant to [sections 3 through 13]. If the
 5 department of revenue disallows a claim for a refund, it
 6 shall notify the coal producer of the decision to disallow
 7 the claim. At the expiration of 30 days from the mailing of
 8 the notice, the department's action becomes final, unless
 9 within the 30-day period the coal producer appeals in
 10 writing from the action of the department to the state tax
 11 appeal board. If an appeal is made, the board shall grant
 12 the coal producer an oral hearing. After consideration of
 13 the appeal and evidence presented, the board shall mail
 14 notice of its determination to the coal producer. The
 15 board's determination is final when it mails notice of its
 16 action to the coal producer.

17 **NEW SECTION. Section 11. Warrant for distraint.** If any
 18 tax or any portion of tax imposed by [sections 3 through 13]
 19 is not paid when due, the department of revenue may issue a
 20 warrant for distraint as provided in Title 15, chapter 1,
 21 part 7.

22 **NEW SECTION. Section 12. Closing agreements.** (1) The
 23 director of the department of revenue or any person
 24 authorized in writing by him may enter into an agreement
 25 with a coal producer relating to the tax liability imposed

1 by [sections 3 through 13].

2 (2) An agreement is final and conclusive, and except
 3 upon a showing of fraud or malfeasance or misrepresentation
 4 of a material fact:

5 (a) the case may not be reopened as to matters agreed
 6 upon and the agreement may not be modified by any officer,
 7 employee, or agent of this state; and

8 (b) in any suit, action, or proceeding under an
 9 agreement or any determination, assessment, collection,
 10 payment, abatement, refund, or credit made in accordance
 11 with an agreement, the agreement may not be annulled,
 12 modified, set aside, or otherwise disregarded.

13 **NEW SECTION. Section 13. Rulemaking authority.** The
 14 department of revenue may adopt rules necessary to carry out
 15 the provisions of [sections 3 through 13].

16 **NEW SECTION. Section 14. Valuation of coal as minerals**
 17 **in place.** (1) The department of revenue shall determine the
 18 market value of coal as minerals in place, subject to
 19 taxation under 15-6-132(1)(d), from the information provided
 20 under 15-23-701 and any other information available to the
 21 department.

22 (2) For each producer, the market value of coal as
 23 minerals in place may not be less than the number of tons of
 24 reserves as reported under 15-23-701, multiplied by the
 25 average contract sales price per ton of coal reported under

1 15-23-701 or imputed, but subtracting from the contract
2 sales price all reasonable costs of producing the coal,
3 including the amount charged by the seller to pay taxes paid
4 on production. No reduction to contract sales price may be
5 made for the cost of transporting the coal from the mine.

6 NEW SECTION. **Section 15.** Optional tax on gross
7 proceeds of coal. (1) As provided in subsection (2), a coal
8 producer subject to taxation under 15-6-132(1)(d) may elect
9 to not pay the tax imposed in 15-6-132(1)(d).

10 (2) A coal producer electing to not pay the tax imposed
11 in 15-6-132(1)(d) must notify the department of revenue of
12 his intention to not pay the tax imposed in 15-6-132(1)(d).
13 Instead, he must pay an additional tax on gross proceeds
14 under subsection (3).

15 (3) After receiving the notification required in
16 subsection (2), the department shall increase the value of
17 gross proceeds reported by the coal producer under 15-23-701
18 by 45% of the value of the gross proceeds. The increased
19 value calculated under this subsection must be added to the
20 value of gross proceeds reported to the county assessor
21 under 15-23-702.

22 NEW SECTION. **Section 16.** Rulemaking authority. The
23 department of revenue shall adopt rules necessary to
24 implement the taxation of coal that is minerals in place.

25 **Section 17.** Section 15-1-101, MCA, is amended to read:

1 **"15-1-101. Definitions.** (1) Except as otherwise
2 specifically provided, when terms mentioned in this section
3 are used in connection with taxation, they are defined in
4 the following manner:

5 (a) The term "agricultural" refers to the raising of
6 livestock, poultry, bees, and other species of domestic
7 animals and wildlife in domestication or a captive
8 environment, and the raising of field crops, fruit, and
9 other animal and vegetable matter for food or fiber.

10 (b) The term "assessed value" means the value of
11 property as defined in 15-8-111.

12 (c) The term "average wholesale value" means the value
13 to a dealer prior to reconditioning and profit margin shown
14 in national appraisal guides and manuals or the valuation
15 schedules of the department of revenue.

16 (d) (i) The term "commercial", when used to describe
17 property, means any property used or owned by a business, a
18 trade, or a nonprofit corporation as defined in 35-2-102 or
19 used for the production of income, except that property
20 described in subsection (ii).

21 (ii) The following types of property are not commercial:

22 (A) agricultural lands;

23 (B) timberlands;

24 (C) single-family residences and ancillary improvements
25 and improvements necessary to the function of a bona fide

1 farm, ranch, or stock operation;

2 (D) mobile homes used exclusively as a residence except
3 when held by a distributor or dealer of trailers or mobile
4 homes as his stock in trade;

5 (E) all property described in 15-6-135; and

6 (F) all property described in 15-6-136.

7 (e) The term "comparable property" means property that
8 has similar use, function, and utility; that is influenced
9 by the same set of economic trends and physical,
10 governmental, and social factors; and that has the potential
11 of a similar highest and best use.

12 (f) The term "credit" means solvent debts, secured or
13 unsecured, owing to a person.

14 (g) The term "improvements" includes all buildings,
15 structures, fences, and improvements situated upon, erected
16 upon, or affixed to land. When the department of revenue or
17 its agent determines that the permanency of location of a
18 mobile home or housetrailer has been established, the mobile
19 home or housetrailer is presumed to be an improvement to
20 real property. A mobile home or housetrailer may be
21 determined to be permanently located only when it is
22 attached to a foundation which cannot feasibly be relocated
23 and only when the wheels are removed.

24 (h) The term "leasehold improvements" means
25 improvements to mobile homes and mobile homes located on

1 land owned by another person. This property is assessed
2 under the appropriate classification and the taxes are due
3 and payable in two payments as provided in 15-24-202.
4 Delinquent taxes on such leasehold improvements are a lien
5 only on such leasehold improvements.

6 (i) The term "livestock" means cattle, sheep, swine,
7 goats, horses, mules, and asses.

8 (j) The term "minerals in place" means valuable mineral
9 deposits in place and unsevered from the ground containing
10 or bearing coal in commercially producible quantities.

11 (k) The term "mobile home" means forms of housing
12 known as "trailers", "housetrailers", or "trailer coaches"
13 exceeding 8 feet in width or 45 feet in length, designed to
14 be moved from one place to another by an independent power
15 connected to them, or any "trailer", "housetrailer", or
16 "trailer coach" up to 8 feet in width or 45 feet in length
17 used as a principal residence.

18 (l) The term "personal property" includes everything
19 that is the subject of ownership but that is not included
20 within the meaning of the terms "real estate" and
21 "improvements".

22 (m) The term "poultry" includes all chickens,
23 turkeys, geese, ducks, and other birds raised in
24 domestication to produce food or feathers.

25 (n) The term "property" includes ~~moneys~~ money,

1 credits, bonds, stocks, franchises, minerals in place, and
 2 all other matters and things, real, personal, and mixed,
 3 capable of private ownership. This definition must not be
 4 construed to authorize the taxation of the stocks of any
 5 company or corporation when the property of such company or
 6 corporation represented by the stocks is within the state
 7 and has been taxed.

8 ~~(n)~~(o) The term "real estate" includes:

9 (i) the possession of, claim to, ownership of, or right
 10 to the possession of land;

11 (ii) all mines, minerals, and quarries in and under the
 12 land subject to the provisions of 15-23-501 and Title 15,
 13 chapter 23, part 8; all timber belonging to individuals or
 14 corporations growing or being on the lands of the United
 15 States; and all rights and privileges appertaining thereto.

16 ~~(o)~~(p) "Research and development firm" means an entity
 17 incorporated under the laws of this state or a foreign
 18 corporation authorized to do business in this state whose
 19 principal purpose is to engage in theoretical analysis,
 20 exploration, and experimentation and the extension of
 21 investigative findings and theories of a scientific and
 22 technical nature into practical application for experimental
 23 and demonstration purposes, including the experimental
 24 production and testing of models, devices, equipment,
 25 materials, and processes.

1 ~~(p)~~(q) The term "taxable value" means the percentage of
 2 market or assessed value as provided for in Title 15,
 3 chapter 6, part 1.

4 ~~(q)~~(r) The term "weighted mean assessment ratio" means
 5 the total of the assessed values divided by the total of the
 6 selling prices of all area sales in the stratum.

7 (2) The phrase "municipal corporation" or
 8 "municipality" or "taxing unit" shall be deemed to include a
 9 county, city, incorporated town, township, school district,
 10 irrigation district, drainage district, or any person,
 11 persons, or organized body authorized by law to establish
 12 tax levies for the purpose of raising public revenue.

13 (3) The term "state board" or "board" when used without
 14 other qualification shall mean the state tax appeal board."

15 **Section 18.** Section 15-6-132, MCA, is amended to read:

16 "**15-6-132. Class two property -- description -- taxable**
 17 **percentage.** (1) Class two property includes:

18 (a) the annual gross proceeds of metal mines;

19 (b) the annual gross proceeds of underground coal
 20 mines;

21 (c) the annual gross proceeds of coal mines using the
 22 strip-mining method; and

23 (d) except as provided in [section 15], the annual
 24 value of coal that is minerals in place as defined in
 25 15-1-101.

(2) Class two property is taxed as follows:

(a) Property described in subsection (1)(a) is taxed at 3% of its annual gross proceeds, as defined in 15-23-801.

(b) Property described in subsection (1)(b) is taxed at 33 1/3% of its annual gross proceeds.

(c) Property described in subsection (1)(c) is taxed at 45% of its annual gross proceeds.

(d) Property described in subsection (1)(d) is taxed at 3.86% of its market value."

Section 19. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-6-208(4), the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(ii) irrigation districts organized under the laws of Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record

1 upon real or personal property in the state of Montana;

2 (g) public art galleries and public observatories not
3 used or held for private or corporate profit;

4 (h) all household goods and furniture, including but
5 not limited to clocks, musical instruments, sewing machines,
6 and wearing apparel of members of the family, used by the
7 owner for personal and domestic purposes or for furnishing
8 or equipping the family residence;

9 (i) a truck canopy cover or topper weighing less than
10 300 pounds and having no accommodations attached. This
11 property is also exempt from taxation under 61-3-504(2) and
12 61-3-537.

13 (j) a bicycle, as defined in 61-1-123, used by the
14 owner for personal transportation purposes;

15 (k) motor homes, travel trailers, and campers;

16 (l) all watercraft;

17 (m) land, fixtures, buildings, and improvements owned
18 by a cooperative association or nonprofit corporation
19 organized to furnish potable water to its members or
20 customers for uses other than the irrigation of agricultural
21 land;

22 (n) the right of entry that is a property right
23 reserved in land or received by mesne conveyance (exclusive
24 of leasehold interests), devise, or succession to enter land
25 whose surface title is held by another to explore, prospect,

1 or dig for oil, gas, coal, or minerals;

2 (o) property owned and used by a corporation or
3 association organized and operated exclusively for the care
4 of the developmentally disabled, mentally ill, or
5 vocationally handicapped as defined in 18-5-101, which is
6 not operated for gain or profit;

7 (p) all farm buildings with a market value of less than
8 \$500 and all agricultural implements and machinery with a
9 market value of less than \$100;

10 (q) property owned by a nonprofit corporation organized
11 to provide facilities primarily for training and practice
12 for or competition in international sports and athletic
13 events and not held or used for private or corporate gain or
14 profit. For purposes of this subsection (q), "nonprofit
15 corporation" means an organization exempt from taxation
16 under section 501(c) of the Internal Revenue Code and
17 incorporated and admitted under the Montana Nonprofit
18 Corporation Act.

19 (r) provided the tools are owned by the taxpayer, the
20 first \$15,000 or less of market value of tools that are
21 customarily hand-held and that are used to:

22 (i) construct, repair, and maintain improvements to
23 real property; or

24 (ii) repair and maintain machinery, equipment,
25 appliances, or other personal property;

(s) harness, saddlery, and other tack equipment; and

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 20. Section 15-6-208, MCA, is amended to read:

"15-6-208. Mineral exemptions. (1) One-half of the contract sales price of coal sold by a coal producer who extracts less than 50,000 tons of coal in a calendar year is

exempt from taxation.

(2) Metal mines producing less than 20,000 tons of ore in a taxable year shall be exempt from property taxation on one-half of the merchantable value.

(3) New production, as defined in 15-23-601, is exempt from taxation for the first 12 months of production as provided in 15-23-612.

(4) (a) Coal that is minerals in place having an estimated value determined by the department of revenue of less than \$1 million is exempt from taxation. For coal that is minerals in place having an estimated value determined by the department of more than \$1 million, the first \$1 million of value is exempt from taxation.

(b) All coal that is minerals in place of a coal producer electing to not pay the tax on coal as minerals in place under [section 15] is exempt from taxation as coal as minerals in place.

(c) Coal that is minerals in place is not exempt from taxation under 15-6-201(1) or under this section if it is owned by an entity included in 15-6-201(1)(a) but under lease to an entity or person not included in 15-6-201(1)(a)."

Section 21. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at

1 100% of its market value except as otherwise provided.

2 (2) (a) Market value is the value at which property
3 would change hands between a willing buyer and a willing
4 seller, neither being under any compulsion to buy or to sell
5 and both having reasonable knowledge of relevant facts.

6 (b) If the department uses construction cost as one
7 approximation of market value, the department shall fully
8 consider reduction in value caused by depreciation, whether
9 through physical depreciation, functional obsolescence, or
10 economic obsolescence.

11 (c) Except as provided in subsection (3), the market
12 value of all motor trucks; agricultural tools, implements,
13 and machinery; and vehicles of all kinds, including but not
14 limited to boats and all watercraft, is the average
15 wholesale value shown in national appraisal guides and
16 manuals or the value of the vehicle before reconditioning
17 and profit margin. The department of revenue shall prepare
18 valuation schedules showing the average wholesale value when
19 no national appraisal guide exists.

20 (3) The department of revenue or its agents may not
21 adopt a lower or different standard of value from market
22 value in making the official assessment and appraisal of the
23 value of property, except:

24 (a) the wholesale value for agricultural implements and
25 machinery is the loan value as shown in the Official Guide,

1 Tractor and Farm Equipment, published by the national farm
2 and power equipment dealers association, St. Louis,
3 Missouri;

4 (b) for agricultural implements and machinery not
5 listed in the official guide, the department shall prepare a
6 supplemental manual where the values reflect the same
7 depreciation as those found in the official guide; and

8 (c) as otherwise authorized in Title 15 and Title 61.

9 (4) For purposes of taxation, assessed value is the
10 same as appraised value.

11 (5) The taxable value for all property is the
12 percentage of market or assessed value established for each
13 class of property.

14 (6) The assessed value of properties in 15-6-131
15 through 15-6-133 is as follows:

16 (a) Properties in 15-6-131, under class one, are
17 assessed at 100% of the annual net proceeds after deducting
18 the expenses specified and allowed by 15-23-503 or, if
19 applicable, as provided in 15-23-515.

20 (b) (i) Properties in 15-6-132(1)(a) through (1)(c),
21 under class two, are assessed at 100% of the annual gross
22 proceeds.

23 (ii) Properties in 15-6-132(1)(d), under class two, are
24 assessed at 100% of the market value of coal as minerals in
25 place.

1 (c) Properties in 15-6-133, under class three, are
2 assessed at 100% of the productive capacity of the lands
3 when valued for agricultural purposes. All lands that meet
4 the qualifications of 15-7-202 are valued as agricultural
5 lands for tax purposes.

6 (d) Properties in 15-6-143, under class thirteen, are
7 assessed at 100% of the combined appraised value of the
8 standing timber and grazing productivity of the land when
9 valued as timberland.

10 (7) Land and the improvements thereon are separately
11 assessed when any of the following conditions occur:

12 (a) ownership of the improvements is different from
13 ownership of the land;

14 (b) the taxpayer makes a written request; or

15 (c) the land is outside an incorporated city or town.

16 (Subsection (6)(d) terminates January 1, 1991--sec. 10, Ch.
17 681, L. 1985.)"

18 **Section 22.** Section 15-23-101, MCA, is amended to read:

19 "15-23-101. Properties centrally assessed. The
20 department of revenue shall centrally assess each year:

21 (1) the franchise, roadway, roadbeds, rails, rolling
22 stock, and all other operating property of railroads
23 operating in more than one county in the state or more than
24 one state;

25 (2) property owned by a corporation or other person

1 operating a single and continuous property operated in more
2 than one county or more than one state, including telegraph,
3 telephone, microwave, electric power or transmission lines;
4 natural gas or oil pipelines; canals, ditches, flumes, or
5 like properties and including, if congress passes
6 legislation that allows the state to tax property owned by
7 an agency created by congress to transmit or distribute
8 electrical energy, property constructed, owned, or operated
9 by a public agency created by the congress to transmit or
10 distribute electric energy produced at privately owned
11 generating facilities (not including rural electric
12 cooperatives);

13 (3) all property of scheduled airlines;

14 (4) the net proceeds of mines and of oil and gas wells;

15 (5) the gross proceeds of coal mines;

16 (6) the value of coal described as minerals in place
17 under 15-1-101; and

18 ~~(6)(7)~~ property described in subsections (1) and (2)
19 which is subject to the provisions of Title 15, chapter 24,
20 part 12."

21 **Section 23.** Section 15-23-106, MCA, is amended to read:

22 "15-23-106. Transmission to the counties. (1) On or
23 before July 1, the department shall transmit to its agent in
24 each county a statement listing:

25 (a) the assessed value of railroad property, as

1 determined under 15-23-202, apportioned to the county,
2 including the length or other description of such property;

3 (b) the assessed value of utility property, as
4 determined under 15-23-303, apportioned to the county,
5 including the length or other description of such property;

6 (c) the assessed value of property of airline
7 companies, as determined under 15-23-403, apportioned to the
8 county; 90% of the value of the property of airline
9 companies apportioned to any county by reason of a state
10 airport being located in the county shall be stated
11 separately from the remaining assessed value of the property
12 of airline companies apportioned to the county;

13 (d) the assessed value of the net proceeds and
14 royalties from mines and oil and gas wells in the county, as
15 determined under 15-23-503, 15-23-505, 15-23-515, 15-23-603,
16 and 15-23-605; and

17 (e) the assessed value of the gross proceeds from coal
18 mines, as described in 15-23-701, including the optional
19 amounts under [section 15]; and

20 (f) the assessed value of coal that is minerals in
21 place under [section 14].

22 (2) The agent of the department shall enter the
23 assessed values so transmitted in the assessment book in a
24 manner prescribed by the department."

25 **Section 24.** Section 15-23-701, MCA, is amended to read:

1 **"15-23-701. Reporting gross yield from coal --**
2 **reserves.** (1) Each person engaged in mining coal must, on or
3 before March 31 each year, file with the department of
4 revenue a statement of the gross yield from each coal mine
5 owned or worked by such person in the preceding calendar
6 year and the value thereof. The statement shall be in the
7 form prescribed by the department, which may be coordinated
8 with the form used under 15-35-104 and must be verified by
9 an officer of the firm. The statement shall include:

10 (a) the name and address of the owner or lessee or
11 operator of the mine;

12 (b) the location of the mine;

13 (c) the tons of coal extracted, treated, and sold from
14 the mine during the taxable period;

15 (d) the gross yield or value in dollars and cents
16 derived from the contract sales price as defined in
17 15-35-102;

18 (e) the estimated total number of tons of coal
19 described as minerals in place under 15-1-101 owned or under
20 lease by the producer but not mined during the reporting
21 period;

22 (f) the average per-ton contract sales price received
23 on coal sold in arm's-length transactions during the
24 reporting period, but subtracting from the contract sales
25 price all reasonable costs of producing the coal, including

1 the amount charged by the seller to pay taxes paid on
 2 production. No reduction to contract sales price may be made
 3 for the cost of transporting the coal from the mine.

4 (g) the estimated value of coal meeting the definition
 5 of minerals in place under 15-1-101 that was owned or under
 6 lease by the producer during the reporting period.

7 (2) Whenever value is imputed under 15-35-107(1)(b),
 8 that value shall be used for purposes of reporting the value
 9 of the gross yield of coal under this section."

10 **Section 25.** Section 15-23-703, MCA, is amended to read:

11 "15-23-703. Taxation of gross proceeds -- taxable value
 12 for--bonding--and-guaranteed-tax-base-aid-to-schools coal as
 13 minerals in place. (1) The county assessor shall compute
 14 from the reported gross proceeds from coal and the reported
 15 value of coal as minerals in place subject to taxation under
 16 [section 14] a tax roll that he shall transmit to the county
 17 treasurer on or before September 15 each year. The--county
 18 assessor--may--not--levy--or--assess--any--mills--against--the
 19 reported-gross-proceeds-of-coal-but-shall-levy-a-tax--of--5%
 20 against-the-value-of-the-reported-gross-proceeds-as-provided
 21 in--15-23-701(1)(d). The county treasurer shall proceed to
 22 give full notice to each coal producer of the taxes due and
 23 to collect the taxes as provided in 15-16-101.

24 (2)--For--bonding, county classification, and all nontax
 25 purposes, the taxable value of the gross proceeds of coal is

1 45% of the contract sales price as defined in 15-35-102(5);
 2 (3)--The taxable value of gross proceeds for the purpose
 3 of computing guaranteed tax base aid for schools is the
 4 amount of tax received by a district in the previous year
 5 divided by the number of mills levied by the district in the
 6 previous year, multiplied by 1,000. This amount must be
 7 added to the district, county, and statewide taxable value
 8 when computing guaranteed tax base aid under 20-9-360.

9 (4)--The county treasurer shall credit all taxes
 10 collected under this part:

11 (a)--to the state and to the counties that levied mills
 12 against production in the relative proportions required by
 13 the levies for state and county purposes in the same manner
 14 as property taxes were distributed in the year 1989 in the
 15 taxing jurisdiction, and

16 (b)--to school districts in the county that either
 17 levied mills against production or used nontax revenue, such
 18 as Public Law 81-874 money, in lieu of levying mills against
 19 production, in the same manner that property taxes collected
 20 or property taxes that would have been collected would have
 21 been distributed in 1989 in the school district."

22 **Section 26.** Section 15-31-114, MCA, is amended to read:

23 "15-31-114. Deductions allowed in computing income. In
 24 computing the net income, the following deductions shall be
 25 allowed from the gross income received by such corporation

1 within the year from all sources:

2 (1) All the ordinary and necessary expenses paid or
3 incurred during the taxable year in the maintenance and
4 operation of its business and properties, including
5 reasonable allowance for salaries for personal services
6 actually rendered, subject to the limitation hereinafter
7 contained, rentals or other payments required to be made as
8 a condition to the continued use or possession of property
9 to which the corporation has not taken or is not taking
10 title or in which it has no equity. No deduction shall be
11 allowed for salaries paid upon which the recipient thereof
12 has not paid Montana state income tax; provided, however,
13 that where domestic corporations are taxed on income derived
14 from without the state, salaries of officers paid in
15 connection with securing such income shall be deductible.

16 (2) (a) All losses actually sustained and charged off
17 within the year and not compensated by insurance or
18 otherwise, including a reasonable allowance for the wear and
19 tear and obsolescence of property used in the trade or
20 business, such allowance to be determined according to the
21 provisions of section 167 of the Internal Revenue Code in
22 effect with respect to the taxable year. All elections for
23 depreciation shall be the same as the elections made for
24 federal income tax purposes. No deduction shall be allowed
25 for any amount paid out for any buildings, permanent

1 improvements, or betterments made to increase the value of
2 any property or estate, and no deduction shall be made for
3 any amount of expense of restoring property or making good
4 the exhaustion thereof for which an allowance is or has been
5 made. No depreciation or amortization deduction shall be
6 allowed on a title plant as defined in 33-25-105(15).

7 (b) There shall be allowed as a deduction for the
8 taxable period a net operating loss deduction determined
9 according to the provisions of 15-31-119.

10 (3) In the case of mines, other natural deposits, oil
11 and gas wells, and timber, a reasonable allowance for
12 depletion and for depreciation of improvements; such
13 reasonable allowance to be determined according to the
14 provisions of the Internal Revenue Code in effect for the
15 taxable year. All elections made under the Internal Revenue
16 Code with respect to capitalizing or expensing exploration
17 and development costs and intangible drilling expenses for
18 corporation license tax purposes shall be the same as the
19 elections made for federal income tax purposes.

20 (4) The amount of interest paid within the year on its
21 indebtedness incurred in the operation of the business from
22 which its income is derived; but no interest shall be
23 allowed as a deduction if paid on an indebtedness created
24 for the purchase, maintenance, or improvement of property or
25 for the conduct of business unless the income from such

1 property or business would be taxable under this part.

2 (5) (a) Taxes paid within the year, except the
3 following:

4 (i) Taxes imposed by this part.

5 (ii) Taxes assessed against local benefits of a kind
6 tending to increase the value of the property assessed.

7 (iii) Taxes on or according to or measured by net income
8 or profits imposed by authority of the government of the
9 United States.

10 (iv) Taxes imposed by any other state or country upon or
11 measured by net income or profits.

12 (v) Taxes imposed on the excess profits of coal
13 producers as provided in [section 3].

14 (b) Taxes deductible under this part shall be construed
15 to include taxes imposed by any county, school district, or
16 municipality of this state.

17 (6) That portion of an energy-related investment
18 allowed as a deduction under 15-32-103.

19 (7) (a) Except as provided in subsection (b),
20 charitable contributions and gifts that qualify for
21 deduction under section 170 of the Internal Revenue Code, as
22 amended.

23 (b) The public service commission shall not allow in
24 the rate base of a regulated corporation the inclusion of
25 contributions made under this subsection.

1 (8) In lieu of the deduction allowed under subsection
2 (7), the taxpayer may deduct the fair market value, not to
3 exceed 30% of the taxpayer's net income, of a computer or
4 other sophisticated technological equipment or apparatus
5 intended for use with the computer donated to an elementary,
6 secondary, or accredited postsecondary school located in
7 Montana if:

8 (a) the contribution is made no later than 5 years
9 after the manufacture of the donated property is
10 substantially completed;

11 (b) the property is not transferred by the donee in
12 exchange for money, other property, or services; and

13 (c) the taxpayer receives a written statement from the
14 donee in which the donee agrees to accept the property and
15 representing that the use and disposition of the property
16 will be in accordance with the provisions of (b) of this
17 subsection (8)."

18 **Section 27.** Section 20-9-141, MCA, is amended to read:
19 "20-9-141. Computation of general fund net levy
20 requirement by county superintendent. (1) The county
21 superintendent shall compute the levy requirement for each
22 district's general fund on the basis of the following
23 procedure:

24 (a) Determine the funding required for the district's
25 final general fund budget less the amount established by the

1 schedules in 20-9-316 through 20-9-321 by totaling:

2 (i) the district's nonisolated school foundation
3 program requirement to be met by a district levy as provided
4 in 20-9-303; and

5 (ii) any additional general fund budget amount adopted
6 by the trustees of the district under the provisions of
7 20-9-353, including any additional levies authorized by the
8 electors of the district.

9 (b) Determine the money available for the reduction of
10 the property tax on the district for the general fund by
11 totaling:

12 (i) anticipated federal money received under the
13 provisions of Title I of Public Law 81-874 or other
14 anticipated federal money received in lieu of that federal
15 act;

16 (ii) anticipated tuition payments for out-of-district
17 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,
18 and 20-5-313;

19 (iii) general fund cash reappropriated, as established
20 under the provisions of 20-9-104;

21 (iv) anticipated or reappropriated state impact aid
22 received under the provisions of 20-9-304;

23 (v) anticipated or reappropriated revenue from property
24 taxes and fees imposed under 23-2-517, 23-2-803,
25 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

1 (vi) anticipated net proceeds taxes for interim
2 production and new production, as defined in 15-23-601;

3 (vii) anticipated revenue from local government
4 severance taxes as provided in 15-36-112;

5 ~~(viii) anticipated revenue from coal gross proceeds~~
6 ~~under 15-23-703;~~

7 ~~(*)~~(viii) anticipated interest to be earned or
8 reappropriated interest earned by the investment of general
9 fund cash in accordance with the provisions of 20-9-213(4);

10 ~~(*)~~(ix) anticipated revenue from corporation license
11 taxes collected from financial institutions under the
12 provisions of 15-31-702; and

13 ~~(*)~~(x) any other revenue anticipated by the trustees to
14 be received during the ensuing school fiscal year which may
15 be used to finance the general fund.

16 (c) Subtract the money available to reduce the property
17 tax required to finance the general fund that has been
18 determined in subsection (1)(b) from the total requirement
19 determined in subsection (1)(a).

20 (2) The net general fund levy requirement determined in
21 subsection (1)(c) must be reported to the county
22 commissioners on the second Monday of August by the county
23 superintendent as the general fund levy requirement for the
24 district, and a levy must be made by the county
25 commissioners in accordance with 20-9-142."

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1 **Section 28.** Section 20-9-331, MCA, is amended to read:

2 "20-9-331. Basic county tax and other revenues for
3 county equalization of the elementary district foundation
4 program. (1) The county commissioners of each county shall
5 levy an annual basic tax of 33 mills on the dollar of the
6 taxable value of all taxable property within the county,
7 except for property subject to a tax or fee under 23-2-517,
8 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
9 the purposes of local and state foundation program support.
10 The revenue collected from this levy must be apportioned to
11 the support of the foundation programs of the elementary
12 school districts in the county and to the state special
13 revenue fund, state equalization aid account, in the
14 following manner:

15 (a) In order to determine the amount of revenue raised
16 by this levy which is retained by the county, the sum of the
17 estimated revenue identified in subsection (2) must be
18 subtracted from the total of the foundation programs of all
19 elementary districts of the county.

20 (b) If the basic levy prescribed by this section
21 produces more revenue than is required to finance the
22 difference determined in subsection (1)(a), the county
23 treasurer shall remit the surplus funds to the state
24 treasurer for deposit to the state special revenue fund,
25 state equalization aid account, immediately upon occurrence

1 of a surplus balance and each subsequent month thereafter,
2 with any final remittance due no later than June 20 of the
3 fiscal year for which the levy has been set.

4 (c) If revenue from the basic levy prescribed by this
5 section when combined with the other revenue from subsection
6 (2) is insufficient to fully fund the percentage determined
7 in 20-9-347(1)(b) and the county is eligible for an
8 apportionment of state equalization aid under the provisions
9 of 20-9-347(1)(c), the county superintendent shall notify
10 the superintendent of public instruction of the deficiency.
11 The superintendent of public instruction shall increase the
12 state equalization aid payments to the districts in the
13 affected county to offset the deficiency. A payment may not
14 be made under this subsection (c) that allows a district to
15 receive foundation program funding in excess of the
16 foundation program amount of the district.

17 (2) The revenue realized from the county's portion of
18 the levy prescribed by this section and the revenue from the
19 following sources must be used for the equalization of the
20 elementary district foundation programs of the county as
21 prescribed in 20-9-334, and a separate accounting must be
22 kept of the revenue by the county treasurer in accordance
23 with 20-9-212(1):

24 (a) the portion of the federal Taylor Grazing Act funds
25 distributed to a county and designated for the common school

1 fund under the provisions of 17-3-222;

2 (b) the portion of the federal flood control act funds
3 distributed to a county and designated for expenditure for
4 the benefit of the county common schools under the
5 provisions of 17-3-232;

6 (c) all money paid into the county treasury as a result
7 of fines for violations of law, except money paid to a
8 justice's court, and the use of which is not otherwise
9 specified by law;

10 (d) any money remaining at the end of the immediately
11 preceding school fiscal year in the county treasurer's
12 accounts for the various sources of revenue established or
13 referred to in this section;

14 (e) any federal or state money distributed to the
15 county as payment in lieu of property taxation, including
16 federal forest reserve funds allocated under the provisions
17 of 17-3-213;

18 (f) ~~gross proceeds taxes from coal under 15-23-703;~~

19 (g) net proceeds taxes for interim production and new
20 production, as defined in 15-23-601, and local government
21 severance taxes on any other production occurring after
22 December 31, 1988; and

23 (h)(g) anticipated revenue from property taxes and fees
24 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
25 61-3-537, and 67-3-204."

1 **Section 29.** Section 20-9-333, MCA, is amended to read:

2 **"20-9-333. Basic special levy and other revenues for**
3 **county equalization of high school district foundation**
4 **program.** (1) The county commissioners of each county shall
5 levy an annual basic special tax for high schools of 22
6 mills on the dollar of the taxable value of all taxable
7 property within the county, except for property subject to a
8 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
9 61-3-537, and 67-3-204, for the purposes of local and state
10 foundation program support. The revenue collected from this
11 levy must be apportioned to the support of the foundation
12 programs of high school districts in the county and to the
13 state special revenue fund, state equalization aid account,
14 in the following manner:

15 (a) In order to determine the amount of revenue raised
16 by this levy which is retained by the county, the sum of the
17 estimated revenue identified in subsection (2) must be
18 subtracted from the sum of the county's high school tuition
19 obligation and the total of the foundation programs of all
20 high school districts of the county.

21 (b) If the basic levy prescribed by this section
22 produces more revenue than is required to finance the
23 difference determined in subsection (1)(a), the county
24 treasurer shall remit the surplus funds to the state
25 treasurer for deposit to the state special revenue fund,

1 state equalization aid account, immediately upon occurrence
2 of a surplus balance and each subsequent month thereafter,
3 with any final remittance due no later than June 20 of the
4 fiscal year for which the levy has been set.

5 (c) If revenue from the basic levy prescribed by this
6 section when combined with the other revenue from subsection
7 (2) is insufficient to fully fund the percentage determined
8 in 20-9-347(1)(b) and the county is eligible for an
9 apportionment of state equalization aid under the provisions
10 of 20-9-347(1)(c), the county superintendent shall notify
11 the superintendent of public instruction of the deficiency.
12 The superintendent of public instruction shall increase the
13 state equalization aid payments to the districts in the
14 affected county to offset the deficiency. A payment may not
15 be made under this subsection (c) that allows a district to
16 receive foundation program funding in excess of the
17 foundation program amount of the district.

18 (2) The revenue realized from the county's portion of
19 the levy prescribed in this section and the revenue from the
20 following sources must be used for the equalization of the
21 high school district foundation programs of the county as
22 prescribed in 20-9-334, and a separate accounting must be
23 kept of the revenue by the county treasurer in accordance
24 with 20-9-212(1):

25 (a) any money remaining at the end of the immediately

1 preceding school fiscal year in the county treasurer's
2 accounts for the various sources of revenue established in
3 this section;

4 (b) any federal or state money distributed to the
5 county as payment in lieu of property taxation, including
6 federal forest reserve funds allocated under the provisions
7 of 17-3-213;

8 ~~(c) gross-proceeds-taxes-from-coal-under-15-23-703;~~
9 ~~(d) net proceeds taxes for interim production and new~~
10 ~~production, as defined in 15-23-601, and local government~~
11 ~~severance taxes on any other production occurring after~~
12 ~~December 31, 1988; and~~

13 ~~(e)(d) anticipated revenue from property taxes and fees~~
14 ~~imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,~~
15 ~~61-3-537, and 67-3-204."~~

16 **Section 30.** Section 20-9-366, MCA, is amended to read:
17 "20-9-366. **Definitions.** As used in 20-9-366 through
18 20-9-369, the following definitions apply:

19 (1) "County mill value per elementary ANB" or "county
20 mill value per high school ANB" means the sum of the current
21 taxable valuation of all property in the county plus the
22 taxable value of oil and gas net proceeds determined under
23 15-23-607(4) for production occurring after March 31, 1990,
24 ~~plus--the--taxable--value--of--coal--gross--proceeds--determined~~
25 ~~under-15-23-703(3) plus all the taxable value of nonlevy~~

1 revenue for the support of schools, other than Public Law
 2 81-874 funds, divided by 1,000, with the quotient divided by
 3 the total county elementary ANB count or the total county
 4 high school ANB count used to calculate the elementary
 5 school districts' and high school districts' current year
 6 foundation program amounts. The taxable value of nonlevy
 7 revenue for the purpose of computing guaranteed tax base aid
 8 for schools is the amount of nonlevy revenue received by a
 9 district in the previous year, including for fiscal year
 10 1991 the revenue received in fiscal year 1990 from the net
 11 proceeds taxation of oil and natural gas and including for
 12 fiscal year 1992 and thereafter the local government
 13 severance tax, divided by the number of mills levied by the
 14 district in the previous year, multiplied by 1,000.

15 (2) "District mill value per ANB" means the current
 16 taxable valuation of all property in the district plus the
 17 taxable value of oil and gas net proceeds determined under
 18 15-23-607(4) for production occurring after March 31, 1990,
 19 ~~plus the taxable value of coal gross proceeds determined~~
 20 ~~under 15-23-703(3)~~ plus all the taxable value of nonlevy
 21 revenue for the support of schools, other than Public Law
 22 81-874 funds, divided by 1,000, with the quotient divided by
 23 the ANB count of the district used to calculate the
 24 district's current year foundation program schedule amount.
 25 The taxable value of nonlevy revenue for the purpose of

1 computing guaranteed tax base aid for schools is the amount
 2 of nonlevy revenue received by a district in the previous
 3 year, including for fiscal year 1991 the revenue received in
 4 fiscal year 1990 from the net proceeds taxation of oil and
 5 natural gas and including for fiscal year 1992 and
 6 thereafter the local government severance tax, divided by
 7 the number of mills levied by the district in the previous
 8 year, multiplied by 1,000.

9 (3) "Guaranteed overschedule general fund budget" means
 10 that portion of a district's general fund budget in excess
 11 of the foundation program amount for the district, as
 12 provided in 20-9-316 through 20-9-321, but not exceeding
 13 135% of the district's foundation program amount, and which
 14 excess is authorized under the provisions of 20-9-145 and
 15 20-9-353.

16 (4) "Statewide mill value per elementary ANB" or
 17 "statewide mill value per high school ANB" means the sum of
 18 the current taxable valuation of all property in the state
 19 plus the taxable value of oil and gas net proceeds
 20 determined under 15-23-607(4) for production occurring after
 21 March 31, 1990, ~~plus the taxable value of coal gross~~
 22 ~~proceeds determined under 15-23-703(3)~~ plus all the taxable
 23 value of nonlevy revenue for the support of schools, other
 24 than Public Law 81-874 funds, divided by 1,000, with the
 25 quotient divided by the total state elementary ANB count or

1 the total state high school ANB count used to calculate the
 2 elementary school districts' and high school districts'
 3 current year foundation program amounts. The taxable value
 4 of nonlevy revenue for the purpose of computing guaranteed
 5 tax base aid for schools is the amount of nonlevy revenue
 6 received by a district in the previous year, including for
 7 fiscal year 1991 the revenue received in fiscal year 1990
 8 from the net proceeds taxation of oil and natural gas and
 9 including for fiscal year 1992 and thereafter the local
 10 government severance tax, divided by the number of mills
 11 levied by the district in the previous year, multiplied by
 12 1,000."

13 **Section 31.** Section 20-9-501, MCA, is amended to read:

14 **"20-9-501. Retirement fund.** (1) The trustees of any
 15 district employing personnel who are members of the
 16 teachers' retirement system or the public employees'
 17 retirement system or who are covered by unemployment
 18 insurance or who are covered by any federal social security
 19 system requiring employer contributions shall establish a
 20 retirement fund for the purposes of budgeting and paying the
 21 employer's contributions to such systems. The district's
 22 contribution for each employee who is a member of the
 23 teachers' retirement system must be calculated in accordance
 24 with Title 19, chapter 4, part 6. The district's
 25 contribution for each employee who is a member of the public

1 employees' retirement system must be calculated in
 2 accordance with 19-3-801. The district's contributions for
 3 each employee covered by any federal social security system
 4 must be paid in accordance with federal law and regulation.
 5 The district's contribution for each employee who is covered
 6 by unemployment insurance must be paid in accordance with
 7 Title 39, chapter 51, part 11.

8 (2) The trustees of any district required to make a
 9 contribution to any system referred to in subsection (1)
 10 shall include in the retirement fund of the preliminary
 11 budget the estimated amount of the employer's contribution.
 12 After the final retirement fund budget has been adopted, the
 13 trustees shall pay the employer contributions to such
 14 systems in accordance with the financial administration
 15 provisions of this title.

16 (3) When the final retirement fund budget has been
 17 adopted, the county superintendent shall establish the levy
 18 requirement by:

19 (a) determining the sum of the money available to
 20 reduce the retirement fund levy requirement by adding:

21 (i) any anticipated money that may be realized in the
 22 retirement fund during the ensuing school fiscal year,
 23 including anticipated revenue from property taxes and fees
 24 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
 25 61-3-537, and 67-3-204;

1 (ii) anticipated guaranteed tax base aid in support of
2 retirement;

3 (iii) net proceeds taxes and local government severance
4 taxes on any other oil and gas production occurring after
5 December 31, 1988; and

6 ~~(iv) coal-gross-proceeds-taxes-under-15-23-703; and~~
7 ~~(v) any cash available for reappropriation as~~
8 ~~determined by subtracting the amount of the end-of-the-year~~
9 ~~cash balance earmarked as the retirement fund cash reserve~~
10 ~~for the ensuing school fiscal year by the trustees from the~~
11 ~~end-of-the-year cash balance in the retirement fund. The~~
12 ~~retirement fund cash reserve may not be more than 35% of the~~
13 ~~final retirement fund budget for the ensuing school fiscal~~
14 ~~year and must be used for the purpose of paying retirement~~
15 ~~fund warrants issued by the district under the final~~
16 ~~retirement fund budget.~~

17 (b) subtracting the money available for reduction of
18 the levy requirement, as determined in subsection (3)(a),
19 from the budgeted amount for expenditures in the final
20 retirement fund budget.

21 (4) The county superintendent shall:

22 (a) total the net retirement fund levy requirements
23 separately for all elementary school districts, all high
24 school districts, and all community college districts of the
25 county, including any prorated joint district or special

1 education cooperative agreement levy requirements; and

2 (b) report each levy requirement to the county
3 commissioners on the second Monday of August as the
4 respective county levy requirements for elementary district,
5 high school district, and community college district
6 retirement funds.

7 (5) The county commissioners shall fix and set the
8 county levy in accordance with 20-9-142.

9 (6) The net retirement fund levy requirement for a
10 joint elementary district or a joint high school district
11 must be prorated to each county in which a part of the
12 district is located in the same proportion as the district
13 ANB of the joint district is distributed by pupil residence
14 in each county. The county superintendents of the counties
15 affected shall jointly determine the net retirement fund
16 levy requirement for each county as provided in 20-9-151.

17 (7) The net retirement fund levy requirement for
18 districts that are members of special education cooperative
19 agreements must be prorated to each county in which the
20 district is located in the same proportion as the budget for
21 the special education cooperative agreement of the district
22 bears to the total budget of the cooperative. The county
23 superintendents of the counties affected shall jointly
24 determine the net retirement fund levy requirement for each
25 county in the same manner as provided in 20-9-151 and fix

1 and levy the net retirement fund levy for each county in the
2 same manner as provided in 20-9-152."

3 **Section 32.** Section 20-10-144, MCA, is amended to read:

4 "20-10-144. Computation of revenues and net tax levy
5 requirements for the transportation fund budget. Before the
6 fourth Monday of July and in accordance with 20-9-123, the
7 county superintendent shall compute the revenue available to
8 finance the transportation fund budget of each district. The
9 county superintendent shall compute the revenue for each
10 district on the following basis:

11 (1) The "schedule amount" of the preliminary budget
12 expenditures that is derived from the rate schedules in
13 20-10-141 and 20-10-142 must be determined by adding the
14 following amounts:

15 (a) the sum of the maximum reimbursable expenditures
16 for all approved school bus routes maintained by the
17 district (to determine the maximum reimbursable expenditure,
18 multiply the applicable rate per bus mile by the total
19 number of miles to be traveled during the ensuing school
20 fiscal year on each bus route approved by the county
21 transportation committee and maintained by such district);
22 plus

23 (b) the total of all individual transportation per diem
24 reimbursement rates for the district as determined from the
25 contracts submitted by the district multiplied by the number

1 of pupil-instruction days scheduled for the ensuing school
2 attendance year; plus

3 (c) any estimated costs for supervised home study or
4 supervised correspondence study for the ensuing school
5 fiscal year; plus

6 (d) the amount budgeted on the preliminary budget for
7 the contingency amount permitted in 20-10-143, except if the
8 amount exceeds 10% of the total of subsections (1)(a),
9 (1)(b), and (1)(c) or \$100, whichever is larger, the
10 contingency amount on the preliminary budget must be reduced
11 to the limitation amount and used in this determination of
12 the schedule amount.

13 (2) The schedule amount determined in subsection (1) or
14 the total preliminary transportation fund budget, whichever
15 is smaller, is divided by 3 and the resulting one-third
16 amount is used to determine the available state and county
17 revenue to be budgeted on the following basis:

18 (a) the resulting one-third amount is the budgeted
19 state transportation reimbursement, except that the state
20 transportation reimbursement for the transportation of
21 special education pupils under the provisions of 20-7-442
22 must be two-thirds of the schedule amount attributed to the
23 transportation of special education pupils;

24 (b) the resulting one-third amount, except as provided
25 for joint elementary districts in subsection (2)(e), is the

1 budgeted county transportation reimbursement for elementary
2 districts and must be financed by the basic county tax under
3 the provisions of 20-9-334;

4 (c) the resulting one-third amount multiplied by 2 is
5 the budgeted county transportation reimbursement amount for
6 high school districts financed under the provisions of
7 subsection (5), except as provided for joint high school
8 districts in subsection (2)(e), and except that the county
9 transportation reimbursement for the transportation of
10 special education pupils under the provisions of 20-7-442
11 must be one-third of the schedule amount attributed to the
12 transportation of special education pupils;

13 (d) when the district has a sufficient amount of cash
14 for reappropriation and other sources of district revenue,
15 as determined in subsection (3), to reduce the total
16 district obligation for financing to zero, any remaining
17 amount of district revenue and cash reappropriated must be
18 used to reduce the county financing obligation in subsection
19 (2)(b) or (2)(c) and, if the county financing obligations
20 are reduced to zero, to reduce the state financial
21 obligation in subsection (2)(a); and

22 (e) the county revenue requirement for a joint
23 district, after the application of any district money under
24 subsection (2)(d), must be prorated to each county
25 incorporated by the joint district in the same proportion as

1 the ANB of the joint district is distributed by pupil
2 residence in each county.

3 (3) The total of the money available for the reduction
4 of property tax on the district for the transportation fund
5 must be determined by totaling:

6 (a) anticipated federal money received under the
7 provisions of Title I of Public Law 81-874 or other
8 anticipated federal money received in lieu of that federal
9 act; plus

10 (b) anticipated payments from other districts for
11 providing school bus transportation services for the
12 district; plus

13 (c) anticipated payments from a parent or guardian for
14 providing school bus transportation services for his child;
15 plus

16 (d) anticipated or reappropriated interest to be earned
17 by the investment of transportation fund cash in accordance
18 with the provisions of 20-9-213(4); plus

19 (e) anticipated or reappropriated revenue from property
20 taxes and fees imposed under 23-2-517, 23-2-803,
21 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus

22 (f) ~~gross--proceeds--taxes--from--coal--under--15-23-703,~~
23 plus

24 (g) net proceeds taxes for interim production and new
25 production, as defined in 15-23-601, and local government

1 severance taxes on any other production occurring after
2 December 31, 1988; plus

3 (h)(g) any other revenue anticipated by the trustees to
4 be earned during the ensuing school fiscal year which may be
5 used to finance the transportation fund; plus

6 (i)(h) any cash available for reappropriation as
7 determined by subtracting the amount of the end-of-the-year
8 cash balance earmarked as the transportation fund cash
9 reserve for the ensuing school fiscal year by the trustees
10 from the end-of-the-year cash balance in the transportation
11 fund. The cash reserve may not be more than 20% of the final
12 transportation fund budget for the ensuing school fiscal
13 year and is for the purpose of paying transportation fund
14 warrants issued by the district under the final
15 transportation fund budget.

16 (4) The district levy requirement for each district's
17 transportation fund must be computed by:

18 (a) subtracting the schedule amount calculated in
19 subsection (1) from the total preliminary transportation
20 budget amount and, for an elementary district, adding the
21 difference to the district obligation to finance one-third
22 of the schedule amount as determined in subsection (2); and

23 (b) subtracting the amount of money available to reduce
24 the property tax on the district, as determined in
25 subsection (3), from the amount determined in subsection

1 (4)(a).

2 (5) The county levy requirement for the financing of
3 the county transportation reimbursement to high school
4 districts is computed by adding all requirements for all the
5 high school districts of the county, including the county's
6 obligation for reimbursements in joint high school
7 districts.

8 (6) The transportation fund levy requirements
9 determined in subsection (4) for each district and in
10 subsection (5) for the county must be reported to the county
11 commissioners on the second Monday of August by the county
12 superintendent as the transportation fund levy requirements
13 for the district and for the county, and the levies must be
14 made by the county commissioners in accordance with
15 20-9-142."

16 **Section 33.** Section 90-6-402, MCA, is amended to read:

17 **"90-6-402. Definitions.** As used in this part, the
18 following definitions apply:

19 (1) "Affected local government unit" means a local
20 government unit that will experience a need to increase
21 services or facilities as a result of the commencement of
22 large-scale mineral development or within which a
23 large-scale mineral development is located in accordance
24 with an impact plan adopted pursuant to 90-6-307.

25 (2) "Board" means the hard-rock mining impact board

1 established in 2-15-1822.

2 (3) "Mineral development employee" means a person who
3 resides within the jurisdiction of an affected local
4 government unit as a result of employment with a large-scale
5 mineral development or its contractors or subcontractors.

6 (4) "Mineral development student" means a student whose
7 parent or guardian resides within the jurisdiction of an
8 affected local government unit as a result of employment
9 with a large-scale mineral development or its contractors or
10 subcontractors.

11 (5) "Jurisdictional revenue disparity" means property
12 tax revenues resulting from a large-scale hard-rock mineral
13 development that are inequitably distributed among affected
14 local government units as finally determined by the board in
15 an approved impact plan.

16 (6) "Large-scale mineral development", for the purposes
17 of this part, is defined in 90-6-302.

18 (7) "Local government unit", for the purposes of this
19 part, means a county, municipality, or school district.

20 (8) "Taxable valuation" of a mineral development means
21 the total of the gross proceeds taxable percentage specified
22 in 15-6-132(2)(a) when added to the taxable percentages of
23 real property, improvements, machinery, equipment, and other
24 property classified under Title 15, chapter 6, part 1."

25 NEW SECTION. Section 34. Saving clause. [This act]

1 does not affect rights and duties that matured, penalties
2 that were incurred, or proceedings that were begun before
3 [the effective date of this act].

4 NEW SECTION. Section 35. Codification instruction. (1)
5 [Sections 3 through 13] are intended to be codified as an
6 integral part of Title 15, chapter 31, and the provisions of
7 Title 15, chapter 31, apply to [sections 3 through 13].

8 (2) [Sections 14 through 16] are intended to be
9 codified as an integral part of Title 15, chapter 23, and
10 the provisions of Title 15, chapter 23, apply to [sections
11 14 through 16].

12 NEW SECTION. Section 36. Effective date. [This act] is
13 effective on passage and approval.

14 NEW SECTION. Section 37. Retroactive applicability.
15 [This act] applies retroactively, within the meaning of
16 1-2-109, to all coal produced and all coal that is minerals
17 in place, as defined in 15-1-101, after December 31, 1990.

-End-