HOUSE BILL NO. 847

2/15 Introduced
2/15 Referred to Taxation
2/15 Fiscal Note Requested
2/21 Fiscal Note Received
Died in Committee

HOUSE BILL NO. 847

INTRODUCED BY Gordon Hammond Kolstad Hammond Story Farrell Hagen Harding Swift

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A LIMIT OF 17.5 PERCENT OF VALUE ON THE SEVERANCE TAX ON COAL PRODUCED UNDER CONTRACTS ENTERED INTO AFTER JUNE 30, 1985, AND PROVIDING FOR APPROPRIATION OF A PORTION OF THE PROCEEDS OF SEVERANCE TAX PURSUANT TO SUCH CONTRACTS FOR INFRASTRUCTURE NEEDS; AMENDING SECTIONS 15-35-103 AND 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE."

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 -- exemptions -- limit of tax on new contracts. (1) ~~A~~ Except as provided in subsection (4), a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 20% of value	5 cents or 3% of value
7,000-8,000	22 cents or 30% of value	8 cents or 4% of value
8,000-9,000	34 cents or 30% of value	10 cents or 4% of value
Over 9,000	40 cents or 30% of value	12 cents or 4% of value

"Value" means the contract sales price.

(2) The formula which yields the greater amount of tax in a particular case shall be used at each point on this schedule.

(3) A person is not liable for any severance tax upon 50,000 tons of the coal he produces in a calendar year, except that if he produces more than 50,000 tons of coal in a calendar year, he will be liable for severance tax upon all coal produced in excess of the first 20,000 tons.

(4) The provisions of subsection (1) notwithstanding, the severance tax may not exceed 17.5% of value on each ton of coal produced in the state under the terms of a contract entered into after June 30, 1985, that results in additional production of coal in the state. This subsection does not apply to any coal that would have been produced under any contract in effect before July 1, 1985, if this subsection were not in effect."

Section 2. Section 15-35-108, MCA, is amended to read:

"15-35-108. Disposal of severance taxes. Severance taxes collected under the provisions of this chapter are allocated as follows:

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(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 25% of total collections a year. After December 31, 1979, 50% of coal severance tax collections are allocated to this trust fund. The trust fund moneys shall be deposited in the fund established under 17-6-203(5) and invested by the board of investments as provided by law.

(2) ~~Starting~~ Except for coal severance taxes collected pursuant to 15-35-103(4), starting July 1, 1986, and ending June 30, 1987, 6% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund~~.--Starting~~; and starting July 1, 1987, and ending June 30, 1993, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) The balance of the collections of the coal severance tax pursuant to 15-35-103(4) remaining after the allocation provided by subsection (1) are subject to appropriation by the legislature to protect, preserve, or replace the public infrastructure, including water and sewer systems, public transportation, roads and streets, bridges, buildings, and any other public facilities of this state intended for the public convenience, safety, or welfare.

~~(3)~~(4) Coal severance tax collections remaining after

the allocations provided by subsections (1) and (2), and except those taxes collected pursuant to 15-35-103(4), are allocated in the following percentages of the remaining balance:

(a) to the county in which coal is mined, 2% of the severance tax paid on the coal mined in that county until January 1, 1980, for such purposes as the governing body of the county may determine;

(b) 2 1/2% until December 31, 1979, and thereafter 4 1/2% to the state special revenue fund to the credit of the alternative energy research development and demonstration account;

(c) 26 1/2% until July 1, 1979, and thereafter 37 1/2% to the state special revenue fund to the credit of the local impact and education trust fund account;

(d) for each of the 2 fiscal years following June 30, 1977, 13% to the state special revenue fund to the credit of the coal area highway improvement account;

(e) 10% to the state special revenue fund for state equalization aid to public schools of the state;

(f) 1% to the state special revenue fund to the credit of the county land planning account;

(g) 1 1/4% to the credit of the renewable resource development bond fund;

(h) 5% to a nonexpendable trust fund for the purpose of parks acquisition or management, protection of works of art in the state capitol, and other cultural and aesthetic projects. Income from this trust fund shall be appropriated as follows:

(i) 1/3 for protection of works of art in the state capitol and other cultural and aesthetic projects; and

(ii) 2/3 for the acquisition of sites and areas described in 23-1-102 and the operation and maintenance of sites so acquired;

(i) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(j) 1/2 of 1% to the state special revenue fund for conservation districts;

(k) 1 1/4% to the debt service fund type to the credit of the water development debt service fund;

(l) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state."

NEW SECTION. Section 3. Effective date. This act is effective July 1, 1985.

-End-

STATE OF MONTANA

REQUEST NO. FNN448-85

F I S C A L   N O T E

Form BD-15

In compliance with a written request received February 16 19 85 , there is hereby submitted a Fiscal Note for H.B. 847 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:
An act establishing a limit of 17.5 percent of value on the severance tax on coal produced under contracts entered into after June 30, 1985, and providing for appropriation of a portion of the proceeds of severance tax pursuant to such contracts for infrastructure needs; and providing an effective date.

ASSUMPTIONS:
1. OBPP revenue estimates are based on present and future coal production from current contracts.
2. Approximately 40% of current coal production is covered under existing contracts that expire by 1995. (Guide to Coal Contracts, 1983 edition)
3. All expiring contracts that are renewed will be under the proposed rates.

FISCAL IMPACT:
The proposed legislation does not effect revenue estimates for the current biennium. Coal production currently contracted remains at the present tax rate. Any additional production due to the incentive tax credit would increase coal severance tax revenues during the FY86-87 biennium. If the average coal severance tax per ton is $3.00 (at the 30% rate), additional production due to the incentive would add $1.75 per ton to coal severance tax revenues ($10.00 x .175). Additional coal production would also increase revenues during the FY86-87 biennium to the resource indemnity trust tax and the coal gross proceeds property tax (university levy and school foundation program).

LONG-RANGE EFFECTS:
As existing contracts expire the tax rate for renewed contracts will drop from 30% of contract sales price to 17.5%. By 1995, approximately 40% of current coal production (33 million tons in CY1984) would qualify for the lower tax rate. This would constitute a loss of $16,500,000 annually on current contracted production. (.4 x 33,000,000 tons x $1.75) versus (.4 x 33,000,000 tons x $3.00).

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 21, 1985

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TECHNICAL OR MECHANICAL DEFECTS:

The proposed legislation does not define the terms "contract" or "additional production". The administration and interpretation of the act without such definitions may make it extremely difficult for the Department of Revenue to prevent coal switching and manipulation of confidential contracts. In addition it may be necessary to extend rule making authority to the Department of Revenue for the proper administration of the proposed legislation.