

HOUSE BILL NO. 252

INTRODUCED BY HANSON, GALT, BOYLAN, BISHOP, POFF,
HIRSCH, THAYER, SWIFT, O'CONNELL, MCCORMICK, KEATING

IN THE HOUSE

JANUARY 16, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FEBRUARY 13, 1987 COMMITTEE RECOMMEND BILL
DO PASS. . REPORT ADOPTED.

FEBRUARY 14, 1987 PRINTING REPORT.

FEBRUARY 17, 1987 ON MOTION, CONSIDERATION PASSED
UNTIL THE 49TH LEGISLATIVE DAY.

MARCH 5, 1987 SECOND READING, DO PASS AS AMENDED.

MARCH 6, 1987 ENGROSSING REPORT.

MARCH 7, 1987 THIRD READING, PASSED.
AYES, 65; NOES, 33.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 9, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

MARCH 25, 1987 ON MOTION, TAKEN FROM COMMITTEE ON
TAXATION AND PLACED ON SECOND
READING THIS DAY.

 SECOND READING, CONCURRED IN.

MARCH 26, 1987 ON MOTION, CONSIDERATION PASSED.
FOR THE DAY.

MARCH 27, 1987 THIRD READING, CONCURRED IN.
AYES, 30; NOES, 20.

 RETURNED TO HOUSE.

IN THE HOUSE

MARCH 28, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

MARCH 31, 1987

ENROLLING REPORT.

APRIL 1, 1987

SIGNED BY SPEAKER.

IN THE SENATE

APRIL 1, 1987

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 1, 1987

DELIVERED TO GOVERNOR.

APRIL 6, 1987

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 17, 1987

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS NOT CONCURRED IN.

TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 20, 1987

ON MOTION, PLACED ON SECOND
READING THIS DAY.

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

ON MOTION, RULES SUSPENDED TO PLACE
BILL ON THIRD READING THIS DAY.

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 20, 1987

RECEIVED FROM SENATE.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1987

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 21, 1987

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 22, 1987

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 22, 1987

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1987

SENT TO ENROLLING.

1 House BILL NO. 352 *Bishop, Thi*
 2 INTRODUCED BY *M. Hanson* *Boyle* *Off*
 3 *O'Connell* *McConnell* *Keating*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT LOWERING COAL SEVERANCE
 5 TAX RATES; REVISING LEGISLATIVE FINDINGS AND DECLARATIONS OF
 6 PURPOSE; AMENDING SECTIONS 15-35-101 THROUGH 15-35-104 AND
 7 15-35-202 THROUGH 15-35-204, MCA; AND PROVIDING AN EFFECTIVE
 8 DATE AND A RETROACTIVE APPLICABILITY DATE."
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 15-35-101, MCA, is amended to read:
 12 "15-35-101. Legislative findings and declarations of
 13 purpose. (1) The legislature finds that while coal is
 14 extracted from the earth like metal minerals, there are
 15 differences between coal and metal minerals such that they
 16 should be classified in different categories for taxation
 17 purposes. The legislature finds that while coal can be
 18 utilized like petroleum products, there are differences
 19 between coal and petroleum such that they should be
 20 classified in different categories for taxation purposes.
 21 The legislature further finds that:
 22 (a) coal is the only mineral which can supply energy
 23 while being easily found in abundance in Montana;
 24 (b) coal is the only mineral which is so often
 25 marketed through sales contracts of many years' duration;

1 (c) coal, unlike most minerals, varies widely in
 2 composition and consequent value when marketed;
 3 (d) coal in Montana is subject to regional and
 4 national demands for development which could affect the
 5 economy and environment of a larger portion of the state
 6 than any other mineral development has done;
 7 (e) subbituminous coal and lignite coal in Montana
 8 ~~when subbituminous and recoverable by strip mining, is in~~
 9 ~~sufficient demand that at least one third of the price it~~
 10 ~~commands at the mine may go to the economic rents of~~
 11 ~~royalties and production taxes~~ sufficiently different
 12 markets and value and therefore require different production
 13 taxes;
 14 (f) ~~coal in the lignite form is in less demand and~~
 15 ~~producers of lignite are able to pay lesser amounts of~~
 16 ~~royalty and production tax than producers of subbituminous~~
 17 ~~can pay;~~
 18 (g) ~~(f)~~ coal produced in underground mines has higher
 19 production costs and underground producers are able to pay
 20 lesser amounts of royalty and production tax than strip-mine
 21 producers can pay; and
 22 (h) ~~(g)~~ coal production in Montana has been subject to
 23 an uncoordinated array of taxes which overlap one another
 24 and yield revenue in an inconsistent and unpredictable
 25 manner.

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

3 (a) allow the severance taxes on coal production to
4 remain a constant percentage of the price of coal;

5 (b) stabilize the flow of tax revenue from coal mines
6 to local governments through the property taxation system;

7 (c) simplify the structure of coal taxation in
8 Montana, reducing tax overlap and improving the
9 predictability of tax projections; and

10 (d) accomplish the foregoing purposes by establishing
11 categories of taxation which recognize the unique character
12 of coal as well as the variations found within the coal
13 industry."

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

15 "15-35-102. Definitions. As used in this chapter, the
16 following definitions apply:

17 (1) "Agreement" means a signed contract that is valid
18 under Montana law between a coal mine operator and a
19 purchaser or broker for the sale of coal that is produced in
20 Montana.

21 (2) "Base consumption level" for a purchaser means the
22 greater lesser of:

23 (a) the arithmetic-average volume of coal purchased
24 during calendar years ~~1983~~ and ~~1984~~ year 1986 from all
25 Montana coal mine operators; or

1 (b) the greater of:

2 (i) the arithmetic average volume of coal purchased
3 during calendar years 1983 and 1984 from all Montana coal
4 mine operators; or

5 (ii) 90% of the maximum tonnage provided for in any
6 agreement executed prior to January 1, 1985, for which the
7 highest scheduled minimum quantity of coal stipulated by the
8 terms of the agreement as they existed on January 1, 1985,
9 has not been purchased at any time during the term of the
10 agreement, plus the arithmetic average volume of coal
11 purchased during calendar years 1983 and 1984 from all
12 Montana coal mine operators under all other agreements.

13 (3) "Base production level" for a coal mine operator
14 means the lesser of:

15 (a) the arithmetic average volume of coal produced in
16 Montana and sold to a purchaser in calendar years 1983 and
17 1984; or

18 (b) the volume of coal produced in Montana and sold to
19 a purchaser in 1986.

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

22 (5) "Contract sales price" means either the price of
23 coal extracted and prepared for shipment f.o.b. mine,
24 excluding that amount charged by the seller to pay taxes
25 paid on production, or a price imputed by the department

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

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

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

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

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

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

25 (7) "Energy conversion process" includes any process

1 by which coal in the solid state is transformed into slurry,
 2 gas, electric energy, or any other form of energy.

3 (8) "Incremental production" means that quantity of
 4 coal produced annually by a coal mine operator and sold to a
 5 qualified purchaser that exceeds the base production level
 6 of the coal mine operator for that purchaser, but only to
 7 the extent the quantity of coal exceeds that purchaser's
 8 base consumption level from all Montana producers.

9 (9) "Lignite" means coal with a heating quality of
 10 7,000 Btu's per pound or less.

11 ~~(9)~~(10) "Produced" means severed from the earth.

12 ~~(10)~~(11) "Purchaser" means a person who purchases or
 13 contracts to purchase Montana coal directly from a coal mine
 14 operator or indirectly from a broker and who utilizes that
 15 coal in any industrial, commercial, or energy conversion
 16 process. A coal broker or any other third party intermediary
 17 is not a purchaser under the provisions of this chapter.

18 ~~(11)~~(12) "Qualified purchaser" means a purchaser whose
 19 purchases of Montana coal in any given year exceed his base
 20 consumption level. A purchaser of Montana coal who enters
 21 into a coal agreement with another purchaser or a broker
 22 that causes a reduction in the base consumption level of a
 23 purchaser is not a qualified purchaser.

24 ~~(12)~~(13) "Strip mining" or "surface mining" is defined
 25 in 82-4-203.

1 (14) "Subbituminous" means coal with a heating quality
2 of more than 7,000 Btu's per pound.

3 (13)(15) "Taxes paid on production" includes any tax
4 paid to the federal, state, or local governments upon the
5 quantity of coal produced as a function of either the volume
6 or the value of production and does not include any tax upon
7 the value of mining equipment, machinery, or buildings and
8 lands, any tax upon a person's net income derived in whole
9 or in part from the sale of coal, or any license fee.

10 (14)(16) "Ton" means 2,000 pounds.

11 (15)(17) "Underground mining" means a coal mining
12 method utilizing shafts and tunnels and as further defined
13 in 82-4-203."

14 Section 3. Section 15-35-103, MCA, is amended to read:

15 "15-35-103. Severance tax -- rates imposed --
16 exemptions. (1) A severance tax is imposed on each ton of
17 coal produced in the state in accordance with the following
18 schedule:

Heating-quality	Surface--	Underground
(Btu-per-pound	Mining--	Mining---
---of-coal):	--	
Under-7,000	12-cents-or	5-cents-or
--	20%-of-value	3%-of-value
7,000-07,000	22-cents-or	8-cents-or
--	30%-of-value	4%-of-value

1 07,000-97,000	34-cents-or	10-cents-or
2 --	30%-of-value	4%-of-value
3 Over-97,000	40-cents-or	12-cents-or
4 --	30%-of-value	4%-of-value

5 (a) On surface-mined subbituminous coal:

(i) In Fiscal	On Base
Year Beginning:	Consumption:
7 July 1, 1987	30% of value
9 July 1, 1988	25% of value
10 July 1, 1989	20% of value
11 July 1, 1990	20% of value
12 After June 30, 1991	15% of value

13 (ii) On incremental production after January 1, 1987,
14 the tax rate is 15% of value.

15 (b) On surface-mined lignite coal:

(i) In Fiscal	On Base
Year Beginning:	Consumption:
18 July 1, 1987	20% of value
19 July 1, 1988	17% of value
20 July 1, 1989	13% of value
21 July 1, 1990	13% of value
22 After June 30, 1991	10% of value

23 (ii) On incremental production after January 1, 1987,
24 the tax rate is 10% of value.

25 (c) On underground-mined coal:

1 lignite, 3% of value

2 subbituminous, 4% of value

3 "Value" means the contract sales price.

4 ~~{2}--The formula which yields the greater amount of tax~~
5 ~~in a particular case shall be used at each point on this~~
6 ~~schedule.~~

7 ~~{3}~~(2) A person is not liable for any severance tax
8 upon 50,000 tons of the coal he produces in a calendar year,
9 except that if he produces more than 50,000 tons of coal in
10 a calendar year, he will be liable for severance tax upon
11 all coal produced in excess of the first 20,000 tons.

12 ~~{4}~~(3) A new coal production incentive tax credit may
13 be claimed on certain coal as provided in 15-35-202."

14 Section 4. Section 15-35-104, MCA, is amended to read:

15 "15-35-104. Quarterly statement and payment of tax.

16 Each coal mine operator shall compute the severance tax due
17 on each quarter-year's worth of production on forms
18 prescribed by the department. The statement shall indicate
19 the tonnage produced, the average Btu value of the
20 production, the contract sales price received for the
21 production, and such other information as the department may
22 require. Each coal mine operator shall provide a statement
23 of the tons of coal sold to each purchaser for the quarter.

24 The completed form in duplicate, with the tax payment, shall
25 be delivered to the department not later than 30 days

1 following the close of the quarter. The form shall be signed
2 by the operator if the operator is an individual or by an
3 officer of the coal mine operator if the operator is a
4 business entity. A person operating more than one coal mine
5 in this state may include all of his mines in one statement.
6 The department may grant a reasonable extension of time for
7 filing statements and payment of taxes due upon good cause
8 shown therefor."

9 Section 5. Section 15-35-202, MCA, is amended to read:

10 "15-35-202. New coal production incentive tax credit
11 allowed -- application limited. (1) A coal mine operator is
12 entitled to a new coal production incentive tax credit of
13 33 1/3% of the tax imposed under 15-35-103 on any
14 incremental production produced and sold during calendar
15 years 1985 and 1986.

16 (2) A coal mine operator is entitled to a new coal
17 production incentive tax credit of 33 1/3% of the tax
18 imposed under 15-35-103 on incremental production ~~for the~~
19 ~~entire term of an agreement~~, except as provided in
20 subsection (3), if the incremental production resulted from
21 coal purchases under:

22 (a) an existing agreement which was extended between
23 January 1, 1985, and June 30, 1987, for at least a 5-year
24 period; or

25 (b) a new agreement that was executed between January

1 1, 1985, and June 30, 1987.

2 (3) No credit may be claimed for coal produced prior
3 to January 1, 1985, or after December 31, 1986."

4 Section 6. Section 15-35-203, MCA, is amended to read:

5 "15-35-203. Calculation and application of credit. (1)
6 The amount of new coal production incentive tax credit that
7 a coal mine operator may claim against the tax imposed in
8 15-35-103 is calculated by:

9 (a) determining the incremental production for each of
10 his qualified purchasers that was produced during a calendar
11 year;

12 (b) determining the arithmetic average severance tax
13 per ton calculated prior to application of the credit on
14 coal sold to each qualified purchaser during the calendar
15 year;

16 (c) multiplying the incremental production for a
17 calendar year for a purchaser by the average severance tax
18 per ton for that purchaser and multiplying the total by
19 $33 \frac{1}{3}\%$; and

20 (d) totaling the amount so calculated for all
21 qualified purchasers.

22 (2) When filing the quarterly statement required in
23 15-35-104, a coal mine operator may claim against the coal
24 severance tax calculated for that quarter an amount equal to
25 25% of the new coal production incentive tax credit allowed

1 on incremental production that occurred during the previous
2 calendar year. Credits earned prior to January 1, 1987, may
3 be claimed in accordance with this subsection.

4 (3) If in any calendar year a purchaser exceeds his
5 base consumption level and he has purchased from more than
6 one Montana coal mine operator during the year, the credit
7 on the incremental production must be divided among the
8 operators on a pro rata basis. To determine each coal mine
9 operator's pro rata share of the tax credit, each operator
10 shall divide his incremental production by the sum of all
11 coal mine operators' incremental production for that
12 purchaser and multiply the quotient by the purchases in
13 excess of the base consumption level for that purchaser.

14 (4) Neither a coal mine operator nor a purchaser is
15 entitled to a direct payment for the credit allowed in
16 15-35-202. A credit terminates if not taken during the year
17 following the year in which the incremental production
18 occurred.

19 (5) Each coal mine operator must reduce the delivered
20 price of coal sold to each qualified purchaser by an amount
21 equal to the credit received on incremental production sold
22 to that purchaser."

23 Section 7. Section 15-35-204, MCA, is amended to read:

24 "15-35-204. Reporting requirements for credit -- duty
25 of department. (1) Every Montana coal mine operator must

1 provide to the department:

2 (a) on or before April 30, ~~1985~~ 1987, a list showing
3 the amount of coal produced and sold in calendar years 1983,
4 and 1984, and 1986 to every purchaser, including purchasers
5 who obtained coal from the coal mine operator through a
6 broker; and

7 (b) with the quarterly statement required by
8 15-35-104, a list of the number of tons produced and sold to
9 every purchaser during the quarter and the severance tax
10 calculated prior to the application of the credit on these
11 tons.

12 (2) To be eligible for the tax credit provided for in
13 15-35-202, a coal mine operator must furnish to the
14 department:

15 (a) on or before April 30, 1985, copies of all
16 existing coal sales agreements;

17 (b) with the quarterly statement required by
18 15-35-104, a copy of any new coal sales agreements or
19 extensions of existing agreements executed during the
20 quarter;

21 (c) on or before January 31 of each year:

22 (i) a list of incremental production for all qualified
23 purchasers during the previous calendar year;

24 (ii) a written statement from each qualified purchaser
25 verifying the volume of coal purchased in that year from all

1 Montana coal mine operators; and

2 (iii) the necessary information on incremental
3 production purchased through a broker to verify that such
4 incremental production did not cause a reduction in the base
5 consumption level of any other purchaser of Montana coal;
6 and

7 (d) any other data, reports, evidence, or production
8 data that may be necessary for the department to determine
9 whether a purchaser is a qualified purchaser and the base
10 consumption level for each purchaser.

11 (3) By July 1, ~~1985~~ 1987, the department shall prepare
12 and publish for informational purposes only an unaudited
13 compilation of the base production level for each coal mine
14 operator and a compilation of the base consumption level for
15 each purchaser.

16 (4) Any coal mine operator or purchaser may, for the
17 purpose of determining the eligibility of coal production
18 for the new production incentive tax credit, file with the
19 department a petition for a declaratory ruling as provided
20 in 2-4-501. The department shall issue a ruling on the
21 petition within 90 days of the date the petition was filed
22 with the department."

23 NEW SECTION. Section 8. Extension of authority. Any
24 existing authority of the department of revenue to make
25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.

2 NEW SECTION. Section 9. Applicability. The amendments
3 to 15-35-103 in section 3 that provide for tax rates on
4 incremental production after January 1, 1987, apply
5 retroactively, within the meaning of 1-2-109.

6 NEW SECTION. Section 10. Effective date. This act is
7 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

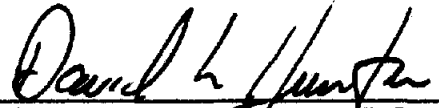
In compliance with a written request, there is hereby submitted a Fiscal Note for HB252, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act lowering coal severance tax rates; revising legislative findings and declarations of purpose; and providing an effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's coal severance tax estimates provide the basis of comparison.
2. Coal severance tax collections under current law will be \$78,663,000 in FY88, and \$81,856,000 in FY89.
3. Coal severance tax collections under the proposed law will be \$77,900,000 in FY88, and \$67,300,000 in FY89 (based on REAC assumptions of incremental production).
4. Coal severance tax collections will be decreased \$170,000 in FY87 (the proposed law impacts one quarter of collections in FY87).
5. The proposal will have no effect on the amount of coal produced in the biennium.

 DATE 1/23/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE _____
MARIAN HANSON, PRIMARY SPONSOR
Fiscal Note for HB252, as introduced.

FISCAL IMPACT:

Revenues:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Coal Severance Tax	\$78,663,000	\$77,900,000	(\$763,000)	\$81,856,000	\$67,300,000	(\$14,556,000)

Fund Information:

<u>Fund</u>	FY88			FY89		
	<u>Revenue Under Current Law</u>	<u>Revenue Under Proposed Law</u>	<u>Difference</u>	<u>Revenue Under Current Law</u>	<u>Revenue Under Proposed Law</u>	<u>Difference</u>
Coal Tax Trust Fund	\$39,331,500	\$38,950,000	(\$381,500)	\$40,928,000	\$33,650,000	(\$ 7,278,000)
Alternative Energy	1,345,137	1,332,090	(13,047)	1,399,738	1,150,830	(248,908)
Local Impact	5,231,090	5,180,350	(50,740)	5,443,424	4,475,450	(967,974)
Education Trust	5,978,388	5,920,400	(57,988)	6,221,056	5,114,800	(1,106,256)
School Equalization	2,989,194	2,960,200	(28,994)	3,110,528	2,557,400	(553,128)
County Land Planning	298,919	296,020	(2,899)	311,053	255,740	(55,313)
Renewable Resource	377,582	373,920	(3,662)	392,909	323,040	(69,869)
Parks Acquis. & Maint.	0	0	0	0	0	0
State Library Comm.	298,919	296,020	(2,899)	311,053	255,740	(55,313)
State General Fund	12,845,668	12,721,070	(124,598)	13,367,085	10,990,090	(2,376,995)
Water Development	377,582	373,920	(3,662)	392,909	323,040	(69,869)
Conservation Districts	149,460	148,010	(1,450)	155,526	127,870	(27,656)
Highway Fund	9,439,560	9,348,000	(91,560)	9,822,720	8,076,000	(1,746,720)
TOTAL	\$78,663,000	\$77,900,000	(\$763,000)	\$81,856,000	\$67,300,000	(\$14,556,000)

Trust Fund Interest Earnings Impact (Revenue Decrease)

	<u>FY88</u>	<u>FY89</u>	<u>FY90</u>	<u>FY91</u>
Education Trust				
Adult Basic Education/Vo-Tech	\$ 686	\$ 5,871	\$ 19,753	\$ 38,359
Foundation Program	4,629	39,628	133,331	258,923
Board of Regents	1,543	13,209	44,443	86,308
TOTAL	\$ 6,858	\$ 58,708	\$197,527	\$383,590
Permanent Trust				
General Fund	\$44,235	\$359,935	\$1,161,292	\$2,204,129
Permanent Fund	7,806	63,518	204,933	388,964
TOTAL	\$52,041	\$423,453	\$1,366,225	\$2,593,093

HB-252

Fiscal Note Request, HB252, as introduced.

Form BD-15

Page 3

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Coal severance tax revenues would be \$54.5 million in FY90 and \$55.3 million in FY91 under the proposal.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Montana Economic Development Board financing would be reduced by \$1.9 million in FY89, \$3.6 million in FY90 and \$4.1 million in FY91.

APPROVED BY COMMITTEE
ON TAXATION

1 House BILL NO. 352 *Bishop, this*
 2 INTRODUCED BY *M. Hanson* *Bill* *Boylan* *off*
 3 *Shelby* *off* *O'Connell* *McConnell* *Leating*

4 A BILL FOR AN ACT ENTITLED: "AN ACT LOWERING COAL SEVERANCE
 5 TAX RATES; REVISING LEGISLATIVE FINDINGS AND DECLARATIONS OF
 6 PURPOSE; AMENDING SECTIONS 15-35-101 THROUGH 15-35-104 AND
 7 15-35-202 THROUGH 15-35-204, MCA; AND PROVIDING AN EFFECTIVE
 8 DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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 16 should be classified in different categories for taxation
 17 purposes. The legislature finds that while coal can be
 18 utilized like petroleum products, there are differences
 19 between coal and petroleum such that they should be
 20 classified in different categories for taxation purposes.

21 The legislature further finds that:

22 (a) coal is the only mineral which can supply energy
23 while being easily found in abundance in Montana;

24 (b) coal is the only mineral which is so often
25 marketed through sales contracts of many years' duration;

1 (c) coal, unlike most minerals, varies widely in
2 composition and consequent value when marketed;

3 (d) coal in Montana is subject to regional and
4 national demands for development which could affect the
5 economy and environment of a larger portion of the state
6 than any other mineral development has done;

7 (e) subbituminous coal and lignite coal in Montana,
8 ~~when--subbituminous--and--recoverable--by--strip--mining,--is--in~~
9 ~~sufficient--demand--that--at--least--one--third--of--the--price--it~~
10 ~~commands--at--the--mine--may--go--to--the--economic--rents--of~~
11 ~~royalties--and--production--taxes~~ have sufficiently different
12 markets and value and therefore require different production
13 taxes;

14 ~~(f)--coal--in--the--lignite--form--is--in--less--demand--and~~
15 ~~producers--of--lignite--are--able--to--pay--lesser--amounts--of~~
16 ~~royalty--and--production--tax--than--producers--of--subbituminous~~
17 ~~can--pay;~~

18 ~~(g)(f)~~ coal produced in underground mines has higher
19 production costs and underground producers are able to pay
20 lesser amounts of royalty and production tax than strip-mine
21 producers can pay; and

22 ~~(h)(g)~~ coal production in Montana has been subject to
23 an uncoordinated array of taxes which overlap one another
24 and yield revenue in an inconsistent and unpredictable
25 manner.

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

3 (a) allow the severance taxes on coal production to
4 remain a constant percentage of the price of coal;

5 (b) stabilize the flow of tax revenue from coal mines
6 to local governments through the property taxation system;

7 (c) simplify the structure of coal taxation in
8 Montana, reducing tax overlap and improving the
9 predictability of tax projections; and

10 (d) accomplish the foregoing purposes by establishing
11 categories of taxation which recognize the unique character
12 of coal as well as the variations found within the coal
13 industry."

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

15 "15-35-102. Definitions. As used in this chapter, the
16 following definitions apply:

17 (1) "Agreement" means a signed contract that is valid
18 under Montana law between a coal mine operator and a
19 purchaser or broker for the sale of coal that is produced in
20 Montana.

21 (2) "Base consumption level" for a purchaser means the
22 greater lesser of:

23 (a) the arithmetic-average volume of coal purchased
24 during calendar ~~years--1983--and--1984~~ year 1986 from all
25 Montana coal mine operators; or

1 (b) the greater of:

2 (i) the arithmetic average volume of coal purchased
3 during calendar years 1983 and 1984 from all Montana coal
4 mine operators; or

5 (ii) 90% of the maximum tonnage provided for in any
6 agreement executed prior to January 1, 1985, for which the
7 highest scheduled minimum quantity of coal stipulated by the
8 terms of the agreement as they existed on January 1, 1985,
9 has not been purchased at any time during the term of the
10 agreement, plus the arithmetic average volume of coal
11 purchased during calendar years 1983 and 1984 from all
12 Montana coal mine operators under all other agreements.

13 (3) "Base production level" for a coal mine operator
14 means the lesser of:

15 (a) the arithmetic average volume of coal produced in
16 Montana and sold to a purchaser in calendar years 1983 and
17 1984; or

18 (b) the volume of coal produced in Montana and sold to
19 a purchaser in 1986.

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

22 (5) "Contract sales price" means either the price of
23 coal extracted and prepared for shipment f.o.b. mine,
24 excluding that amount charged by the seller to pay taxes
25 paid on production, or a price imputed by the department

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

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

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

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

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

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

25 (7) "Energy conversion process" includes any process

1 by which coal in the solid state is transformed into slurry,
2 gas, electric energy, or any other form of energy.

3 (8) "Incremental production" means that quantity of
4 coal produced annually by a coal mine operator and sold to a
5 qualified purchaser that exceeds the base production level
6 of the coal mine operator for that purchaser, but only to
7 the extent the quantity of coal exceeds that purchaser's
8 base consumption level from all Montana producers.

9 (9) "Lignite" means coal with a heating quality of
10 7,000 Btu's per pound or less.

11 ~~(9)~~(10) "Produced" means severed from the earth.

12 ~~(10)~~(11) "Purchaser" means a person who purchases or
13 contracts to purchase Montana coal directly from a coal mine
14 operator or indirectly from a broker and who utilizes that
15 coal in any industrial, commercial, or energy conversion
16 process. A coal broker or any other third party intermediary
17 is not a purchaser under the provisions of this chapter.

18 ~~(11)~~(12) "Qualified purchaser" means a purchaser whose
19 purchases of Montana coal in any given year exceed his base
20 consumption level. A purchaser of Montana coal who enters
21 into a coal agreement with another purchaser or a broker
22 that causes a reduction in the base consumption level of a
23 purchaser is not a qualified purchaser.

24 ~~(12)~~(13) "Strip mining" or "surface mining" is defined
25 in 82-4-203.

1 (14) "Subbituminous" means coal with a heating quality
2 of more than 7,000 Btu's per pound.

3 (13)(15) "Taxes paid on production" includes any tax
4 paid to the federal, state, or local governments upon the
5 quantity of coal produced as a function of either the volume
6 or the value of production and does not include any tax upon
7 the value of mining equipment, machinery, or buildings and
8 lands, any tax upon a person's net income derived in whole
9 or in part from the sale of coal, or any license fee.

10 (14)(16) "Ton" means 2,000 pounds.

11 (15)(17) "Underground mining" means a coal mining
12 method utilizing shafts and tunnels and as further defined
13 in 82-4-203."

14 Section 3. Section 15-35-103, MCA, is amended to read:

15 "15-35-103. Severance tax -- rates imposed --
16 exemptions. (1) A severance tax is imposed on each ton of
17 coal produced in the state in accordance with the following
18 schedule:

19 Heating-quality	Surface--	Underground
20 †Btu-per-pound	Mining--	Mining--
21 ---of-coal†:	--	--
22 Under-7,000	12-cents-or	5-cents-or
23 --	20%-of-value	3%-of-value
24 7,000-8,000	22-cents-or	8-cents-or
25 --	30%-of-value	4%-of-value

1 8,000-9,000	34-cents-or	10-cents-or
2 --	30%-of-value	4%-of-value
3 Over-9,000	40-cents-or	12-cents-or
4 --	30%-of-value	4%-of-value

5 (a) On surface-mined subbituminous coal:

6 (i) In Fiscal	On Base
7 Year Beginning:	Consumption:
8 July 1, 1987	30% of value
9 July 1, 1988	25% of value
10 July 1, 1989	20% of value
11 July 1, 1990	20% of value
12 After June 30, 1991	15% of value

13 (ii) On incremental production after January 1, 1987,
14 the tax rate is 15% of value.

15 (b) On surface-mined lignite coal:

16 (i) In Fiscal	On Base
17 Year Beginning:	Consumption:
18 July 1, 1987	20% of value
19 July 1, 1988	17% of value
20 July 1, 1989	13% of value
21 July 1, 1990	13% of value
22 After June 30, 1991	10% of value

23 (ii) On incremental production after January 1, 1987,
24 the tax rate is 10% of value.

25 (c) On underground-mined coal:

1 lignite, 3% of value

2 subbituminous, 4% of value

3 "Value" means the contract sales price.

4 ~~†2) -- The formula which yields the greater amount of tax~~
 5 ~~in a particular case shall be used at each point on this~~
 6 ~~schedule.~~

7 ~~†3) (2)~~ A person is not liable for any severance tax
 8 upon 50,000 tons of the coal he produces in a calendar year,
 9 except that if he produces more than 50,000 tons of coal in
 10 a calendar year, he will be liable for severance tax upon
 11 all coal produced in excess of the first 20,000 tons.

12 ~~†4) (3)~~ A new coal production incentive tax credit may
 13 be claimed on certain coal as provided in 15-35-202."

14 Section 4. Section 15-35-104, MCA, is amended to read:

15 "15-35-104. Quarterly statement and payment of tax.

16 Each coal mine operator shall compute the severance tax due
 17 on each quarter-year's worth of production on forms
 18 prescribed by the department. The statement shall indicate
 19 the tonnage produced, the average Btu value of the
 20 production, the contract sales price received for the
 21 production, and such other information as the department may
 22 require. Each coal mine operator shall provide a statement
 23 of the tons of coal sold to each purchaser for the quarter.

24 The completed form in duplicate, with the tax payment, shall
 25 be delivered to the department not later than 30 days

1 following the close of the quarter. The form shall be signed
 2 by the operator if the operator is an individual or by an
 3 officer of the coal mine operator if the operator is a
 4 business entity. A person operating more than one coal mine
 5 in this state may include all of his mines in one statement.
 6 The department may grant a reasonable extension of time for
 7 filing statements and payment of taxes due upon good cause
 8 shown therefor."

9 Section 5. Section 15-35-202, MCA, is amended to read:

10 "15-35-202. New coal production incentive tax credit
 11 allowed -- application limited. (1) A coal mine operator is
 12 entitled to a new coal production incentive tax credit of
 13 33 1/3% of the tax imposed under 15-35-103 on any
 14 incremental production produced and sold during calendar
 15 years 1985 and 1986.

16 (2) A coal mine operator is entitled to a new coal
 17 production incentive tax credit of 33 1/3% of the tax
 18 imposed under 15-35-103 on incremental production ~~for the~~
 19 ~~entire term of an agreement~~, except as provided in
 20 subsection (3), if the incremental production resulted from
 21 coal purchases under:

22 (a) an existing agreement which was extended between
 23 January 1, 1985, and June 30, 1987, for at least a 5-year
 24 period; or

25 (b) a new agreement that was executed between January

1 1, 1985, and June 30, 1987.

2 (3) No credit may be claimed for coal produced prior
3 to January 1, 1985, or after December 31, 1986."

4 Section 6. Section 15-35-203, MCA, is amended to read:

5 "15-35-203. Calculation and application of credit. (1)
6 The amount of new coal production incentive tax credit that
7 a coal mine operator may claim against the tax imposed in
8 15-35-103 is calculated by:

9 (a) determining the incremental production for each of
10 his qualified purchasers that was produced during a calendar
11 year;

12 (b) determining the arithmetic average severance tax
13 per ton calculated prior to application of the credit on
14 coal sold to each qualified purchaser during the calendar
15 year;

16 (c) multiplying the incremental production for a
17 calendar year for a purchaser by the average severance tax
18 per ton for that purchaser and multiplying the total by
19 33 1/3%; and

20 (d) totaling the amount so calculated for all
21 qualified purchasers.

22 (2) When filing the quarterly statement required in
23 15-35-104, a coal mine operator may claim against the coal
24 severance tax calculated for that quarter an amount equal to
25 25% of the new coal production incentive tax credit allowed

1 on incremental production that occurred during the previous
2 calendar year. Credits earned prior to January 1, 1987, may
3 be claimed in accordance with this subsection.

4 (3) If in any calendar year a purchaser exceeds his
5 base consumption level and he has purchased from more than
6 one Montana coal mine operator during the year, the credit
7 on the incremental production must be divided among the
8 operators on a pro rata basis. To determine each coal mine
9 operator's pro rata share of the tax credit, each operator
10 shall divide his incremental production by the sum of all
11 coal mine operators' incremental production for that
12 purchaser and multiply the quotient by the purchases in
13 excess of the base consumption level for that purchaser.

14 (4) Neither a coal mine operator nor a purchaser is
15 entitled to a direct payment for the credit allowed in
16 15-35-202. A credit terminates if not taken during the year
17 following the year in which the incremental production
18 occurred.

19 (5) Each coal mine operator must reduce the delivered
20 price of coal sold to each qualified purchaser by an amount
21 equal to the credit received on incremental production sold
22 to that purchaser."

23 Section 7. Section 15-35-204, MCA, is amended to read:

24 "15-35-204. Reporting requirements for credit -- duty
25 of department. (1) Every Montana coal mine operator must

1 provide to the department:

2 (a) on or before April 30, 1985 1987, a list showing
3 the amount of coal produced and sold in calendar years 1983,
4 and 1984, and 1986 to every purchaser, including purchasers
5 who obtained coal from the coal mine operator through a
6 broker; and

7 (b) with the quarterly statement required by
8 15-35-104, a list of the number of tons produced and sold to
9 every purchaser during the quarter and the severance tax
10 calculated prior to the application of the credit on these
11 tons.

12 (2) To be eligible for the tax credit provided for in
13 15-35-202, a coal mine operator must furnish to the
14 department:

15 (a) on or before April 30, 1985, copies of all
16 existing coal sales agreements;

17 (b) with the quarterly statement required by
18 15-35-104, a copy of any new coal sales agreements or
19 extensions of existing agreements executed during the
20 quarter;

21 (c) on or before January 31 of each year:

22 (i) a list of incremental production for all qualified
23 purchasers during the previous calendar year;

24 (ii) a written statement from each qualified purchaser
25 verifying the volume of coal purchased in that year from all

1 Montana coal mine operators; and

2 (iii) the necessary information on incremental
3 production purchased through a broker to verify that such
4 incremental production did not cause a reduction in the base
5 consumption level of any other purchaser of Montana coal;
6 and

7 (d) any other data, reports, evidence, or production
8 data that may be necessary for the department to determine
9 whether a purchaser is a qualified purchaser and the base
10 consumption level for each purchaser.

11 (3) By July 1, 1985 1987, the department shall prepare
12 and publish for informational purposes only an unaudited
13 compilation of the base production level for each coal mine
14 operator and a compilation of the base consumption level for
15 each purchaser.

16 (4) Any coal mine operator or purchaser may, for the
17 purpose of determining the eligibility of coal production
18 for the new production incentive tax credit, file with the
19 department a petition for a declaratory ruling as provided
20 in 2-4-501. The department shall issue a ruling on the
21 petition within 90 days of the date the petition was filed
22 with the department."

23 NEW SECTION. Section 8. Extension of authority. Any
24 existing authority of the department or revenue to make
25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.

2 NEW SECTION. Section 9. Applicability. The amendments
3 to 15-35-103 in section 3 that provide for tax rates on
4 incremental production after January 1, 1987, apply
5 retroactively, within the meaning of 1-2-109.

6 NEW SECTION. Section 10. Effective date. This act is
7 effective July 1, 1987.

-End-

1 HOUSE BILL NO. 252

2 INTRODUCED BY HANSON, GALT, BOYLAN, BISHOP, POFF,
3 HIRSCH, THAYER, SWIFT, O'CONNELL, MCCORMICK, KEATING
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT LOWERING COAL SEVERANCE
6 TAX RATES; IMPOSING IN 1991 A SLIDING SCALE RATE SCHEDULE
7 FOR SURFACE-MINED SUBBITUMINOUS COAL BASED ON THE AMOUNT OF
8 COAL PURCHASED; REVISING LEGISLATIVE FINDINGS AND
9 DECLARATIONS OF PURPOSE; AMENDING SECTIONS 15-35-101 THROUGH
10 15-35-104 AND 15-35-202 THROUGH 15-35-204, MCA; AND
11 PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
12 DATE."
13

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

15 Section 1. Section 15-35-101, MCA, is amended to read:

16 "15-35-101. Legislative findings and declarations of
17 purpose. (1) The legislature finds that while coal is
18 extracted from the earth like metal minerals, there are
19 differences between coal and metal minerals such that they
20 should be classified in different categories for taxation
21 purposes. The legislature finds that while coal can be
22 utilized like petroleum products, there are differences
23 between coal and petroleum such that they should be
24 classified in different categories for taxation purposes.
25 The legislature further finds that:

1 (a) coal is the only mineral which can supply energy
2 while being easily found in abundance in Montana;

3 (b) coal is the only mineral which is so often
4 marketed through sales contracts of many years' duration;

5 (c) coal, unlike most minerals, varies widely in
6 composition and consequent value when marketed;

7 (d) coal in Montana is subject to regional and
8 national demands for development which could affect the
9 economy and environment of a larger portion of the state
10 than any other mineral development has done;

11 (e) subbituminous coal and lignite coal in Montana,
12 when--subbituminous--and--recoverable-by-strip-mining, is in
13 sufficient-demand-that-at-least-one-third-of--the--price--it
14 commands--at--the--mine--may--go--to--the--economic-rents-of
15 royalties-and-production-taxes have sufficiently different
16 markets and value and therefore require different production
17 taxes;

18 ~~(f) coal in the lignite form is in less demand and~~
19 ~~producers of lignite are able to pay lesser amounts of~~
20 ~~royalty and production tax than producers of subbituminous~~
21 ~~can pay;~~

22 ~~(g)~~(f) coal produced in underground mines has higher
23 production costs and underground producers are able to pay
24 lesser amounts of royalty and production tax than strip-mine
25 producers can pay; and

1 (b)(g) coal production in Montana has been subject to
 2 an uncoordinated array of taxes which overlap one another
 3 and yield revenue in an inconsistent and unpredictable
 4 manner.

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

7 (a) allow the severance taxes on coal production to
 8 remain a constant percentage of the price of coal;

9 (b) stabilize the flow of tax revenue from coal mines
 10 to local governments through the property taxation system;

11 (c) simplify the structure of coal taxation in
 12 Montana, reducing tax overlap and improving the
 13 predictability of tax projections; and

14 (d) accomplish the foregoing purposes by establishing
 15 categories of taxation which recognize the unique character
 16 of coal as well as the variations found within the coal
 17 industry."

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

19 "15-35-102. Definitions. As used in this chapter, the
 20 following definitions apply:

21 (1) "Agreement" means a signed contract that is valid
 22 under Montana law between a coal mine operator and a
 23 purchaser or broker for the sale of coal that is produced in
 24 Montana.

25 (2) "Base consumption level" for a purchaser means the

1 greater lesser of:

2 (a) the arithmetic-average volume of coal purchased
 3 during calendar years--1983--and--1984 year 1986 from all
 4 Montana coal mine operators; or

5 (b) the greater of:

6 (i) the arithmetic average volume of coal purchased
 7 during calendar years 1983 and 1984 from all Montana coal
 8 mine operators; or

9 (ii) 90% of the maximum tonnage provided for in any
 10 agreement executed prior to January 1, 1985, for which the
 11 highest scheduled minimum quantity of coal stipulated by the
 12 terms of the agreement as they existed on January 1, 1985,
 13 has not been purchased at any time during the term of the
 14 agreement, plus the arithmetic average volume of coal
 15 purchased during calendar years 1983 and 1984 from all
 16 Montana coal mine operators under all other agreements.

17 (3) "Base production level" for a coal mine operator
 18 means the lesser of:

19 (a) the arithmetic average volume of coal produced in
 20 Montana and sold to a purchaser in calendar years 1983 and
 21 1984; or

22 (b) the volume of coal produced in Montana and sold to
 23 a purchaser in 1986.

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

1 (5) "Contract sales price" means either the price of
 2 coal extracted and prepared for shipment f.o.b. mine,
 3 excluding that amount charged by the seller to pay taxes
 4 paid on production, or a price imputed by the department
 5 under 15-35-107. Contract sales price includes all royalties
 6 paid on production, no matter how such royalties are
 7 calculated. However, with respect to royalties paid to the
 8 government of the United States, the state of Montana, or a
 9 federally recognized Indian tribe, the contract sales price
 10 includes only:

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

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

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

1 (d) for quarterly periods ending on and after
 2 September 30, 1987, 15 cents per ton.

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

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

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

13 (9) "Lignite" means coal with a heating quality of
 14 7,000 Btu's per pound or less.

15 ~~(9)~~(10) "Produced" means severed from the earth.

16 ~~(10)~~(11) "Purchaser" means a person who purchases or
 17 contracts to purchase Montana coal directly from a coal mine
 18 operator or indirectly from a broker and who utilizes that
 19 coal in any industrial, commercial, or energy conversion
 20 process. A coal broker or any other third party intermediary
 21 is not a purchaser under the provisions of this chapter.

22 ~~(11)~~(12) "Qualified purchaser" means a purchaser whose
 23 purchases of Montana coal in any given year exceed his base
 24 consumption level. A purchaser of Montana coal who enters
 25 into a coal agreement with another purchaser or a broker

1 that causes a reduction in the base consumption level of a
 2 purchaser is not a qualified purchaser.

3 ~~(12)~~(13) "Strip mining" or "surface mining" is defined
 4 in 82-4-203.

5 (14) "Subbituminous" means coal with a heating quality
 6 of more than 7,000 Btu's per pound.

7 ~~(13)~~(15) "Taxes paid on production" includes any tax
 8 paid to the federal, state, or local governments upon the
 9 quantity of coal produced as a function of either the volume
 10 or the value of production and does not include any tax upon
 11 the value of mining equipment, machinery, or buildings and
 12 lands, any tax upon a person's net income derived in whole
 13 or in part from the sale of coal, or any license fee.

14 ~~(14)~~(16) "Ton" means 2,000 pounds.

15 ~~(15)~~(17) "Underground mining" means a coal mining
 16 method utilizing shafts and tunnels and as further defined
 17 in 82-4-203."

18 Section 3. Section 15-35-103, MCA, is amended to read:

19 "15-35-103. Severance tax -- rates imposed --
 20 exemptions. (1) A EXCEPT AS PROVIDED IN [SECTION 4], A
 21 severance tax is imposed on each ton of coal produced in the
 22 state in accordance with the following schedule:

23 Heating-quality	Surface--	Underground
24 (Btu-per-pound	Mining--	Mining---
25 ---of-coal):	--	

1 Under-7,000	12-cents-or	5-cents-or
2 --	20%-of-value	3%-of-value
3 7,000-8,000	22-cents-or	8-cents-or
4 --	30%-of-value	4%-of-value
5 8,000-9,000	34-cents-or	10-cents-or
6 --	30%-of-value	4%-of-value
7 Over-9,000	40-cents-or	12-cents-or
8 --	30%-of-value	4%-of-value

9 (a) On surface-mined subbituminous coal:
 10 (i) In Fiscal On Base
 11 Year Beginning: Consumption:
 12 July 1, 1987 30% of value
 13 July 1, 1988 25% of value
 14 July 1, 1989 20% of value
 15 July 1, 1990 20% of value
 16 After June 30, 1991 15% of value
 17 (ii) On incremental production after January 1, 1987,
 18 the tax rate is 15% 5% of value. AFTER JULY 1, 1988, THE TAX
 19 RATE IS 10% OF VALUE. AFTER JULY 1, 1989, THE TAX RATE IS
 20 15% OF VALUE.

21 (b) On surface-mined lignite coal:
 22 (i) In Fiscal On Base
 23 Year Beginning: Consumption:
 24 July 1, 1987 20% of value
 25 July 1, 1988 17% of value

1 July 1, 1989 13% of value
 2 July 1, 1990 13% of value
 3 After June 30, 1991 10% of value
 4 (ii) On incremental production after January 1, 1987,
 5 the tax rate is 10% of value.
 6 (c) On underground-mined coal:
 7 lignite, 3% of value
 8 subbituminous, 4% of value
 9 "Value" means the contract sales price.
 10 ~~{2}--The formula which yields the greater amount of tax~~
 11 ~~in a particular case shall be used at each point on this~~
 12 ~~schedule.~~
 13 {3}{2} A person is not liable for any severance tax
 14 upon 50,000 tons of the coal he produces in a calendar year,
 15 except that if he produces more than 50,000 tons of coal in
 16 a calendar year, he will be liable for severance tax upon
 17 all coal produced in excess of the first 20,000 tons.
 18 {4}{3} A new coal production incentive tax credit may
 19 be claimed on certain coal as provided in 15-35-202."
 20 NEW SECTION. SECTION 4. INCENTIVE TAX RATE TO COAL
 21 PRODUCER BASED ON TONNAGE PURCHASED BY PURCHASERS. AFTER
 22 JUNE 30, 1991, A SEVERANCE TAX IS IMPOSED ON EACH TON OF
 23 SUBBITUMINOUS COAL PRODUCED AND SOLD TO PURCHASERS IN
 24 ACCORDANCE WITH THE FOLLOWING SCHEDULE:
 25 (1) 15.0% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO

1 A PURCHASER WHO PURCHASES LESS THAN 3 MILLION TONS OF
 2 SUBBITUMINOUS COAL FROM ALL MONTANA PRODUCERS DURING A
 3 FISCAL YEAR;
 4 (2) 14.5% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO
 5 A PURCHASER WHO PURCHASES 3 MILLION TONS OF SUBBITUMINOUS
 6 COAL OR MORE BUT LESS THAN 6 MILLION TONS OF SUBBITUMINOUS
 7 COAL FROM ALL MONTANA PRODUCERS DURING A FISCAL YEAR;
 8 (3) 14.0% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO A
 9 PURCHASER WHO PURCHASES 6 MILLION TONS OF SUBBITUMINOUS COAL
 10 OR MORE BUT LESS THAN 8 MILLION TONS OF SUBBITUMINOUS COAL
 11 FROM ALL MONTANA PRODUCERS DURING A FISCAL YEAR;
 12 (4) 13.5% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO
 13 A PURCHASER WHO PURCHASES 8 MILLION TONS OF SUBBITUMINOUS
 14 COAL BUT LESS THAN 10 MILLION TONS OF SUBBITUMINOUS COAL
 15 FROM ALL MONTANA PRODUCERS DURING A FISCAL YEAR;
 16 (5) 13.0% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO
 17 A PURCHASER WHO PURCHASES MORE THAN 10 MILLION TONS OF
 18 SUBBITUMINOUS COAL FROM ALL MONTANA PRODUCERS DURING
 19 FISCAL YEAR.
 20 Section 5. Section 15-35-104, MCA, is amended to read
 21 "15-35-104. Quarterly statement and payment of tax
 22 Each coal mine operator shall compute the severance tax due
 23 on each quarter-year's worth of production on form
 24 prescribed by the department. The statement shall indicate
 25 the tonnage produced, the average Btu value of the

1 production, the contract sales price received for the
 2 production, and such other information as the department may
 3 require. Each coal mine operator shall provide a statement
 4 of the tons of coal sold to each purchaser for the quarter.
 5 The completed form in duplicate, with the tax payment, shall
 6 be delivered to the department not later than 30 days
 7 following the close of the quarter. The form shall be signed
 8 by the operator if the operator is an individual or by an
 9 officer of the coal mine operator if the operator is a
 10 business entity. A person operating more than one coal mine
 11 in this state may include all of his mines in one statement.
 12 The department may grant a reasonable extension of time for
 13 filing statements and payment of taxes due upon good cause
 14 shown therefor."

15 Section 6. Section 15-35-202, MCA, is amended to read:

16 "15-35-202. New coal production incentive tax credit
 17 allowed -- application limited. (1) A coal mine operator is
 18 entitled to a new coal production incentive tax credit of
 19 33 1/3% of the tax imposed under 15-35-103 on any
 20 incremental production produced and sold during calendar
 21 years 1985 and 1986.

22 (2) A coal mine operator is entitled to a new coal
 23 production incentive tax credit of 33 1/3% of the tax
 24 imposed under 15-35-103 on incremental production for the
 25 entire term of an agreement, except as provided in

1 subsection (3), if the incremental production resulted from
 2 coal purchases under:

3 (a) an existing agreement which was extended between
 4 January 1, 1985, and June 30, 1987, for at least a 5-year
 5 period; or

6 (b) a new agreement that was executed between January
 7 1, 1985, and June 30, 1987.

8 (3) No credit may be claimed for coal produced prior
 9 to January 1, 1985, or after December 31, 1986."

10 Section 7. Section 15-35-203, MCA, is amended to read:

11 "15-35-203. Calculation and application of credit. (1)
 12 The amount of new coal production incentive tax credit that
 13 a coal mine operator may claim against the tax imposed in
 14 15-35-103 is calculated by:

15 (a) determining the incremental production for each of
 16 his qualified purchasers that was produced during a calendar
 17 year;

18 (b) determining the arithmetic average severance tax
 19 per ton calculated prior to application of the credit on
 20 coal sold to each qualified purchaser during the calendar
 21 year;

22 (c) multiplying the incremental production for a
 23 calendar year for a purchaser by the average severance tax
 24 per ton for that purchaser and multiplying the total by
 25 33 1/3%; and

1 (d) totaling the amount so calculated for all
2 qualified purchasers.

3 (2) When filing the quarterly statement required in
4 15-35-104, a coal mine operator may claim against the coal
5 severance tax calculated for that quarter an amount equal to
6 25% of the new coal production incentive tax credit allowed
7 on incremental production that occurred during the previous
8 calendar year. Credits earned prior to January 1, 1987, may
9 be claimed in accordance with this subsection.

10 (3) If in any calendar year a purchaser exceeds his
11 base consumption level and he has purchased from more than
12 one Montana coal mine operator during the year, the credit
13 on the incremental production must be divided among the
14 operators on a pro rata basis. To determine each coal mine
15 operator's pro rata share of the tax credit, each operator
16 shall divide his incremental production by the sum of all
17 coal mine operators' incremental production for that
18 purchaser and multiply the quotient by the purchases in
19 excess of the base consumption level for that purchaser.

20 (4) Neither a coal mine operator nor a purchaser is
21 entitled to a direct payment for the credit allowed in
22 15-35-202. A credit terminates if not taken during the year
23 following the year in which the incremental production
24 occurred.

25 (5) Each coal mine operator must reduce the delivered

1 price of coal sold to each qualified purchaser by an amount
2 equal to the credit received on incremental production sold
3 to that purchaser."

4 Section 8. Section 15-35-204, MCA, is amended to read:
5 "15-35-204. Reporting requirements for credit -- duty
6 of department. (1) Every Montana coal mine operator must
7 provide to the department:

8 (a) on or before April 30, ~~1985~~ 1987, a list showing
9 the amount of coal produced and sold in calendar years 1983,
10 and 1984, and 1986 to every purchaser, including purchasers
11 who obtained coal from the coal mine operator through a
12 broker; and

13 (b) with the quarterly statement required by
14 15-35-104, a list of the number of tons produced and sold to
15 every purchaser during the quarter and the severance tax
16 calculated prior to the application of the credit on these
17 tons.

18 (2) To be eligible for the tax credit provided for in
19 15-35-202, a coal mine operator must furnish to the
20 department:

21 (a) on or before April 30, 1985, copies of all
22 existing coal sales agreements;

23 (b) with the quarterly statement required by
24 15-35-104, a copy of any new coal sales agreements or
25 extensions of existing agreements executed during the

1 quarter;

2 (c) on or before January 31 of each year:

3 (i) a list of incremental production for all qualified
4 purchasers during the previous calendar year;

5 (ii) a written statement from each qualified purchaser
6 verifying the volume of coal purchased in that year from all
7 Montana coal mine operators; and

8 (iii) the necessary information on incremental
9 production purchased through a broker to verify that such
10 incremental production did not cause a reduction in the base
11 consumption level of any other purchaser of Montana coal;
12 and

13 (d) any other data, reports, evidence, or production
14 data that may be necessary for the department to determine
15 whether a purchaser is a qualified purchaser and the base
16 consumption level for each purchaser.

17 (3) By July 1, ~~1985~~ 1987, the department shall prepare
18 and publish for informational purposes only an unaudited
19 compilation of the base production level for each coal mine
20 operator and a compilation of the base consumption level for
21 each purchaser.

22 (4) Any coal mine operator or purchaser may, for the
23 purpose of determining the eligibility of coal production
24 for the new production incentive tax credit, file with the
25 department a petition for a declaratory ruling as provided

1 in 2-4-501. The department shall issue a ruling on the
2 petition within 90 days of the date the petition was filed
3 with the department."

4 NEW SECTION. Section 9. Extension of authority. Any
5 existing authority of the department of revenue to make
6 rules on the subject of the provisions of this act is
7 extended to the provisions of this act.

8 NEW SECTION. Section 10. Applicability. The
9 amendments to 15-35-103 in section 3 that provide for tax
10 rates on incremental production after January 1, 1987, apply
11 retroactively, within the meaning of 1-2-109.

12 NEW SECTION. Section 11. Effective date. This act is
13 effective July 1, 1987.

-End-

1 HOUSE BILL NO. 252

2 INTRODUCED BY HANSON, GALT, BOYLAN, BISHOP, POFF,
3 HIRSCH, THAYER, SWIFT, O'CONNELL, MCCORMICK, KEATING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT LOWERING COAL SEVERANCE
6 TAX RATES; IMPOSING IN 1991 A SLIDING SCALE RATE SCHEDULE
7 FOR SURFACE-MINED SUBBITUMINOUS COAL BASED ON THE AMOUNT OF
8 COAL PURCHASED; REVISING LEGISLATIVE FINDINGS AND
9 DECLARATIONS OF PURPOSE; AMENDING SECTIONS 15-35-101 THROUGH
10 15-35-104 AND 15-35-202 THROUGH 15-35-204, MCA; AND
11 PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
12 DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 15-35-101, MCA, is amended to read:

16 "15-35-101. Legislative findings and declarations of
17 purpose. (1) The legislature finds that while coal is
18 extracted from the earth like metal minerals, there are
19 differences between coal and metal minerals such that they
20 should be classified in different categories for taxation
21 purposes. The legislature finds that while coal can be
22 utilized like petroleum products, there are differences
23 between coal and petroleum such that they should be
24 classified in different categories for taxation purposes.
25 The legislature further finds that:

1 (a) coal is the only mineral which can supply energy
2 while being easily found in abundance in Montana;

3 (b) coal is the only mineral which is so often
4 marketed through sales contracts of many years' duration;

5 (c) coal, unlike most minerals, varies widely in
6 composition and consequent value when marketed;

7 (d) coal in Montana is subject to regional and
8 national demands for development which could affect the
9 economy and environment of a larger portion of the state
10 than any other mineral development has done;

11 (e) subbituminous coal and lignite coal in Montana,
12 when--subbituminous--and--recoverable--by--strip--mining--is--in
13 sufficient--demand--that--at--least--one--third--of--the--price--it
14 commands--at--the--mine--may--go--to--the--economic--rents--of
15 royalties--and--production--taxes have sufficiently different
16 markets and value and therefore require different production
17 taxes;

18 (f) coal--in--the--lignite--form--is--in--less--demand--and
19 producers--of--lignite--are--able--to--pay--lesser--amounts--of
20 royalty--and--production--tax--than--producers--of--subbituminous
21 can--pay;

22 (g) (f) coal produced in underground mines has higher
23 production costs and underground producers are able to pay
24 lesser amounts of royalty and production tax than strip-mine
25 producers can pay; and

1 ~~(h)~~(g) coal production in Montana has been subject to
 2 an uncoordinated array of taxes which overlap one another
 3 and yield revenue in an inconsistent and unpredictable
 4 manner.

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

7 (a) allow the severance taxes on coal production to
 8 remain a constant percentage of the price of coal;

9 (b) stabilize the flow of tax revenue from coal mines
 10 to local governments through the property taxation system;

11 (c) simplify the structure of coal taxation in
 12 Montana, reducing tax overlap and improving the
 13 predictability of tax projections; and

14 (d) accomplish the foregoing purposes by establishing
 15 categories of taxation which recognize the unique character
 16 of coal as well as the variations found within the coal
 17 industry."

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

19 "15-35-102. Definitions. As used in this chapter, the
 20 following definitions apply:

21 (1) "Agreement" means a signed contract that is valid
 22 under Montana law between a coal mine operator and a
 23 purchaser or broker for the sale of coal that is produced in
 24 Montana.

25 (2) "Base consumption level" for a purchaser means the

1 ~~greater~~ lesser of:

2 (a) the arithmetic-average volume of coal purchased
 3 during calendar years--~~1983--and--1984~~ year 1986 from all
 4 Montana coal mine operators; or

5 (b) the greater of:

6 (i) the arithmetic average volume of coal purchased
 7 during calendar years 1983 and 1984 from all Montana coal
 8 mine operators; or

9 (ii) 90% of the maximum tonnage provided for in any
 10 agreement executed prior to January 1, 1985, for which the
 11 highest scheduled minimum quantity of coal stipulated by the
 12 terms of the agreement as they existed on January 1, 1985,
 13 has not been purchased at any time during the term of the
 14 agreement, plus the arithmetic average volume of coal
 15 purchased during calendar years 1983 and 1984 from all
 16 Montana coal mine operators under all other agreements.

17 (3) "Base production level" for a coal mine operator
 18 means the lesser of:

19 (a) the arithmetic average volume of coal produced in
 20 Montana and sold to a purchaser in calendar years 1983 and
 21 1984; or

22 (b) the volume of coal produced in Montana and sold to
 23 a purchaser in 1986.

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

1 (5) "Contract sales price" means either the price of
 2 coal extracted and prepared for shipment f.o.b. mine,
 3 excluding that amount charged by the seller to pay taxes
 4 paid on production, or a price imputed by the department
 5 under 15-35-107. Contract sales price includes all royalties
 6 paid on production, no matter how such royalties are
 7 calculated. However, with respect to royalties paid to the
 8 government of the United States, the state of Montana, or a
 9 federally recognized Indian tribe, the contract sales price
 10 includes only:

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

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

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

1 (d) for quarterly periods ending on and after
 2 September 30, 1987, 15 cents per ton.

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

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

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

13 (9) "Lignite" means coal with a heating quality of
 14 7,000 Btu's per pound or less.

15 ~~(9)~~(10) "Produced" means severed from the earth.

16 ~~(10)~~(11) "Purchaser" means a person who purchases or
 17 contracts to purchase Montana coal directly from a coal mine
 18 operator or indirectly from a broker and who utilizes that
 19 coal in any industrial, commercial, or energy conversion
 20 process. A coal broker or any other third party intermediary
 21 is not a purchaser under the provisions of this chapter.

22 ~~(11)~~(12) "Qualified purchaser" means a purchaser whose
 23 purchases of Montana coal in any given year exceed his base
 24 consumption level. A purchaser of Montana coal who enters
 25 into a coal agreement with another purchaser or a broker

1 that causes a reduction in the base consumption level of a
2 purchaser is not a qualified purchaser.

3 {12}{13} "Strip mining" or "surface mining" is defined
4 in 82-4-203.

5 {14} "Subbituminous" means coal with a heating quality
6 of more than 7,000 Btu's per pound.

7 {13}{15} "Taxes paid on production" includes any tax
8 paid to the federal, state, or local governments upon the
9 quantity of coal produced as a function of either the volume
10 or the value of production and does not include any tax upon
11 the value of mining equipment, machinery, or buildings and
12 lands, any tax upon a person's net income derived in whole
13 or in part from the sale of coal, or any license fee.

14 {14}{16} "Ton" means 2,000 pounds.

15 {15}{17} "Underground mining" means a coal mining
16 method utilizing shafts and tunnels and as further defined
17 in 82-4-203."

18 Section 3. Section 15-35-103, MCA, is amended to read:

19 "15-35-103. Severance tax -- rates imposed --
20 exemptions. (1) A EXCEPT AS PROVIDED IN [SECTION 4], A
21 severance tax is imposed on each ton of coal produced in the
22 state in accordance with the following schedule:

23 Heating-quality	Surface--	Underground
24 {Btu-per-pound	Mining--	Mining---
25 ---of-coal}:-	--	

1 Under-7,000	12-cents-or	5-cents-or
2 --	20%-of-value	3%-of-value
3 7,000-8,700	22-cents-or	8-cents-or
4 --	30%-of-value	4%-of-value
5 8,700-9,700	34-cents-or	10-cents-or
6 --	30%-of-value	4%-of-value
7 Over-9,700	40-cents-or	12-cents-or
8 --	30%-of-value	4%-of-value

9 (a) On surface-mined subbituminous coal:

10 (i) In Fiscal	On Base
11 Year Beginning:	Consumption:
12 July 1, 1987	30% of value
13 July 1, 1988	25% of value
14 July 1, 1989	20% of value
15 July 1, 1990	20% of value
16 After June 30, 1991	15% of value

17 (ii) On incremental production after January 1, 1987,
18 the tax rate is 15% 5% of value. AFTER JULY 1, 1988, THE TAX
19 RATE IS 10% OF VALUE. AFTER JULY 1, 1989, THE TAX RATE IS
20 15% OF VALUE.

21 (b) On surface-mined lignite coal:

22 (i) In Fiscal	On Base
23 Year Beginning:	Consumption:
24 July 1, 1987	20% of value
25 July 1, 1988	17% of value

1	<u>July 1, 1989</u>	<u>13% of value</u>
2	<u>July 1, 1990</u>	<u>13% of value</u>
3	<u>After June 30, 1991</u>	<u>10% of value</u>

4 (ii) On incremental production after January 1, 1987,
 5 the tax rate is 10% of value.

6 (c) On underground-mined coal:

7 lignite, 3% of value

8 subbituminous, 4% of value

9 "Value" means the contract sales price.

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

13 ~~(3)(2)~~ A person is not liable for any severance tax
 14 upon 50,000 tons of the coal he produces in a calendar year,
 15 except that if he produces more than 50,000 tons of coal in
 16 a calendar year, he will be liable for severance tax upon
 17 all coal produced in excess of the first 20,000 tons.

18 ~~(4)(3)~~ A new coal production incentive tax credit may
 19 be claimed on certain coal as provided in 15-35-202."

20 NEW SECTION. SECTION 4. INCENTIVE TAX RATE TO COAL
 21 PRODUCER BASED ON TONNAGE PURCHASED BY PURCHASERS. AFTER
 22 JUNE 30, 1991, A SEVERANCE TAX IS IMPOSED ON EACH TON OF
 23 SUBBITUMINOUS COAL PRODUCED AND SOLD TO PURCHASERS IN
 24 ACCORDANCE WITH THE FOLLOWING SCHEDULE:

25 (1) 15.0% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO

1 A PURCHASER WHO PURCHASES LESS THAN 3 MILLION TONS OF
 2 SUBBITUMINOUS COAL FROM ALL MONTANA PRODUCERS DURING A
 3 FISCAL YEAR;

4 (2) 14.5% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO

5 A PURCHASER WHO PURCHASES 3 MILLION TONS OF SUBBITUMINOUS
 6 COAL OR MORE BUT LESS THAN 6 MILLION TONS OF SUBBITUMINOUS
 7 COAL FROM ALL MONTANA PRODUCERS DURING A FISCAL YEAR;

8 (3) 14.0% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO A

9 PURCHASER WHO PURCHASES 6 MILLION TONS OF SUBBITUMINOUS COAL
 10 OR MORE BUT LESS THAN 8 MILLION TONS OF SUBBITUMINOUS COAL
 11 FROM ALL MONTANA PRODUCERS DURING A FISCAL YEAR;

12 (4) 13.5% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO

13 A PURCHASER WHO PURCHASES 8 MILLION TONS OF SUBBITUMINOUS
 14 COAL BUT LESS THAN 10 MILLION TONS OF SUBBITUMINOUS COAL
 15 FROM ALL MONTANA PRODUCERS DURING A FISCAL YEAR;

16 (5) 13.0% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO

17 A PURCHASER WHO PURCHASES MORE THAN 10 MILLION TONS OF
 18 SUBBITUMINOUS COAL FROM ALL MONTANA PRODUCERS DURING A
 19 FISCAL YEAR.

20 Section 5. Section 15-35-104, MCA, is amended to read:

21 "15-35-104. Quarterly statement and payment of tax.

22 Each coal mine operator shall compute the severance tax due
 23 on each quarter-year's worth of production on forms
 24 prescribed by the department. The statement shall indicate
 25 the tonnage produced, the average Btu value of the

1 production, the contract sales price received for the
 2 production, and such other information as the department may
 3 require. Each coal mine operator shall provide a statement
 4 of the tons of coal sold to each purchaser for the quarter.
 5 The completed form in duplicate, with the tax payment, shall
 6 be delivered to the department not later than 30 days
 7 following the close of the quarter. The form shall be signed
 8 by the operator if the operator is an individual or by an
 9 officer of the coal mine operator if the operator is a
 10 business entity. A person operating more than one coal mine
 11 in this state may include all of his mines in one statement.
 12 The department may grant a reasonable extension of time for
 13 filing statements and payment of taxes due upon good cause
 14 shown therefor."

15 Section 6. Section 15-35-202, MCA, is amended to read:

16 "15-35-202. New coal production incentive tax credit
 17 allowed -- application limited. (1) A coal mine operator is
 18 entitled to a new coal production incentive tax credit of
 19 33 1/3% of the tax imposed under 15-35-103 on any
 20 incremental production produced and sold during calendar
 21 years 1985 and 1986.

22 (2) A coal mine operator is entitled to a new coal
 23 production incentive tax credit of 33 1/3% of the tax
 24 imposed under 15-35-103 on incremental production ~~for the~~
 25 ~~entire term of an agreement~~, except as provided in

1 subsection (3), if the incremental production resulted from
 2 coal purchases under:

3 (a) an existing agreement which was extended between
 4 January 1, 1985, and June 30, 1987, for at least a 5-year
 5 period; or

6 (b) a new agreement that was executed between January
 7 1, 1985, and June 30, 1987.

8 (3) No credit may be claimed for coal produced prior
 9 to January 1, 1985, or after December 31, 1986."

10 Section 7. Section 15-35-203, MCA, is amended to read:

11 "15-35-203. Calculation and application of credit. (1)
 12 The amount of new coal production incentive tax credit that
 13 a coal mine operator may claim against the tax imposed in
 14 15-35-103 is calculated by:

15 (a) determining the incremental production for each of
 16 his qualified purchasers that was produced during a calendar
 17 year;

18 (b) determining the arithmetic average severance tax
 19 per ton calculated prior to application of the credit on
 20 coal sold to each qualified purchaser during the calendar
 21 year;

22 (c) multiplying the incremental production for a
 23 calendar year for a purchaser by the average severance tax
 24 per ton for that purchaser and multiplying the total by
 25 33 1/3%; and

1 (d) totaling the amount so calculated for all
2 qualified purchasers.

3 (2) When filing the quarterly statement required in
4 15-35-104, a coal mine operator may claim against the coal
5 severance tax calculated for that quarter an amount equal to
6 25% of the new coal production incentive tax credit allowed
7 on incremental production that occurred during the previous
8 calendar year. Credits earned prior to January 1, 1987, may
9 be claimed in accordance with this subsection.

10 (3) If in any calendar year a purchaser exceeds his
11 base consumption level and he has purchased from more than
12 one Montana coal mine operator during the year, the credit
13 on the incremental production must be divided among the
14 operators on a pro rata basis. To determine each coal mine
15 operator's pro rata share of the tax credit, each operator
16 shall divide his incremental production by the sum of all
17 coal mine operators' incremental production for that
18 purchaser and multiply the quotient by the purchases in
19 excess of the base consumption level for that purchaser.

20 (4) Neither a coal mine operator nor a purchaser is
21 entitled to a direct payment for the credit allowed in
22 15-35-202. A credit terminates if not taken during the year
23 following the year in which the incremental production
24 occurred.

25 (5) Each coal mine operator must reduce the delivered

1 price of coal sold to each qualified purchaser by an amount
2 equal to the credit received on incremental production sold
3 to that purchaser."

4 Section 8. Section 15-35-204, MCA, is amended to read:
5 "15-35-204. Reporting requirements for credit -- duty
6 of department. (1) Every Montana coal mine operator must
7 provide to the department:

8 (a) on or before April 30, ~~1985~~ 1987, a list showing
9 the amount of coal produced and sold in calendar years 1983,
10 and 1984, and 1986 to every purchaser, including purchasers
11 who obtained coal from the coal mine operator through a
12 broker; and

13 (b) with the quarterly statement required by
14 15-35-104, a list of the number of tons produced and sold to
15 every purchaser during the quarter and the severance tax
16 calculated prior to the application of the credit on these
17 tons.

18 (2) To be eligible for the tax credit provided for in
19 15-35-202, a coal mine operator must furnish to the
20 department:

21 (a) on or before April 30, 1985, copies of all
22 existing coal sales agreements;

23 (b) with the quarterly statement required by
24 15-35-104, a copy of any new coal sales agreements or
25 extensions of existing agreements executed during the

1 quarter;

2 (c) on or before January 31 of each year:

3 (i) a list of incremental production for all qualified
4 purchasers during the previous calendar year;

5 (ii) a written statement from each qualified purchaser
6 verifying the volume of coal purchased in that year from all
7 Montana coal mine operators; and

8 (iii) the necessary information on incremental
9 production purchased through a broker to verify that such
10 incremental production did not cause a reduction in the base
11 consumption level of any other purchaser of Montana coal;
12 and

13 (d) any other data, reports, evidence, or production
14 data that may be necessary for the department to determine
15 whether a purchaser is a qualified purchaser and the base
16 consumption level for each purchaser.

17 (3) By July 1, ~~1985~~ 1987, the department shall prepare
18 and publish for informational purposes only an unaudited
19 compilation of the base production level for each coal mine
20 operator and a compilation of the base consumption level for
21 each purchaser.

22 (4) Any coal mine operator or purchaser may, for the
23 purpose of determining the eligibility of coal production
24 for the new production incentive tax credit, file with the
25 department a petition for a declaratory ruling as provided

1 in 2-4-501. The department shall issue a ruling on the
2 petition within 90 days of the date the petition was filed
3 with the department."

4 NEW SECTION. Section 9. Extension of authority. Any
5 existing authority of the department of revenue to make
6 rules on the subject of the provisions of this act is
7 extended to the provisions of this act.

8 NEW SECTION. Section 10. Applicability. The
9 amendments to 15-35-103 in section 3 that provide for tax
10 rates on incremental production after January 1, 1987, apply
11 retroactively, within the meaning of 1-2-109.

12 NEW SECTION. Section 11. Effective date. This act is
13 effective July 1, 1987.

-End-

GOVERNOR'S AMENDMENTS
TO HOUSE BILL NO. 252
(Reference Copy)
(April 6, 1987)

1. Title, lines 6 through 8.
Following "RATES;" on line 6
Strike: remainder of line 6 through "PURCHASED;" on
line 8
Insert: "PROVIDING A CONTINGENT PERMANENT
REDUCTION; EXTENDING THE NEW PRODUCTION
CREDIT"
2. Title, line 10.
Following: "5-35-104"
Strike: "AND"
Insert: ", "
Following: "15-35-202"
Strike: "THROUGH 15-35-204"
Insert: ", AND 15-35-203"
3. Page 3, line 25.
Following: "purchaser"
Insert: ", except as provided in (b),"
4. Page 3, line 25.
Following: "MEANS"
Insert: ": (a)"
5. Page 4, line 2.
Following: line 1
Strike: "(a)"
Insert: "(i)"
6. Page 4, line 5.
Following: line 4
Strike: "(b)"
Insert: "(ii)"
7. Page 4, line 6.
Following: line 5
Strike: "(i)"
Insert: "(A)"
8. Page 4, line 9.
Following: line 8
Strike: "(ii)"
Insert: "(B)"
9. Page 4, line 17.
Following: line 16

Insert: "(b) If the volume calculated in subsection (a) (i) is less than one-third of the volume calculated in subsection (a) (ii), the base consumption level is the volume calculated in (a) (ii)."

10. Page 4, line 18.
Following: line 17
Insert: "Except as provided in (b)"
11. Page 4, line 19.
Following: line 18
Strike: "(a)"
Insert: "(i)"
12. Page 4, line 22.
Following: "line 21"
Strike: "(b)"
Insert: "(ii)"
13. Page 4, line 24.
Following: line 23
Insert: "(b) If the amount calculated in subsection (a)(ii) is less than one-third of the amount calculated in (a)(i), the base consumption level is the amount calculated in subsection (a)(i)"
14. Page 6, lines 13 and 14.
Following: line 12
Strike: subsection (9) in its entirety
Renumber: subsequent subsections
15. Page 7, lines 5 and 6.
Following: line 4
Strike: subsection 14 in its entirety
Renumber: subsequent subsections
16. Page 7, line 18 through page 9, line 19.
Strike: section 3 in its entirety
Insert: "Section 3. Section 15-35-103, MCA, is amended to read:

-4-

"15-35-103. Severance tax -- rates imposed -- exemptions. (1)
A Except as provided in subsection (2), a severance tax is
imposed on each ton of coal produced in the state in accordance
with the following schedule:

(a) Fiscal Year 1988 and 1989:

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	30% of value	4% of value

(b) Fiscal Year 1990:

<u>Heating quality</u> <u>(Btu per pound</u> <u>of coal):</u>	<u>Surface</u> <u>Mining</u>	<u>Underground</u> <u>Mining</u>
<u>Under 7,000</u>	<u>12 cents or</u> <u>13% of value</u>	<u>5 cents or</u> <u>3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or</u> <u>25 % of value</u>	<u>8 cents or</u> <u>4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or</u> <u>25% of value</u>	<u>10 cents or</u> <u>4% of value</u>
<u>Over 9,000</u>	<u>40 cents or</u> <u>25% of value</u>	<u>12 cents or</u> <u>4% of value</u>

(c) Fiscal Year 1991 and thereafter:

<u>Heating quality</u> <u>(Btu per pound</u> <u>of coal):</u>	<u>Surface</u> <u>Mining</u>	<u>Underground</u> <u>Mining</u>
<u>Under 7,000</u>	<u>12 cents or</u> <u>13% of value</u>	<u>5 cents or</u> <u>3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or</u> <u>20% of value</u>	<u>8 cents or</u> <u>4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or</u> <u>20% of value</u>	<u>10 cents or</u> <u>4% of value</u>
<u>Over 9,000</u>	<u>40 cents or</u> <u>20% of value</u>	<u>12 cents or</u> <u>4% of value</u>

(2)(a)(i) On or before October 1, 1988, the department shall determine the total number of tons of coal produced in Montana and sold from July 1, 1987 through June 30, 1987. If the department finds that these sales exceed 32.2 million tons (which is the average total yearly coal sales for calendar years 1983, 1984, 1985 and 1986), the rate of the coal severance tax is as set forth in subsections (2)(b) and (2)(c).

(11) If any facility that burned Montana coal at any time from July 1987 to June 30, 1988 does not operate during a portion of that period due to mechanical failure, the department shall determine the average monthly sales of Montana coal to the facility during its operation and multiply this figure by 12. The department shall include the product of this calculation making its determination of coal produced in Montana and sold from July 1, 1987 through June 30, 1988.

(b) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state from July 1, 1988, through June 30, 1990 is:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 17% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 25% of value</u>	<u>8 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 25% of value</u>	<u>12 cents or 4% of value</u>

(c) The severance tax imposed pursuant to subsection (2) (a) on each ton of coal produced in the state from July 1, 1990 until June 30, 1991 is:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 13% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 20% of value</u>	<u>8 cents or 4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or 20% of value</u>	<u>10 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 20% of value</u>	<u>12 cents or 4% of value</u>

(d) The severance tax imposed pursuant to subsection (2) (a) on ton of coal produced in the state after June 30, 1991, is:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 13% of value	5 cents or 3% of value
7,000-8,000	22 cents or 15% of value	8 cents 4% of value
8,000-9,000	34 cents or 15% of value	10 cents 4% of value
Over 9,000	15% of value	4% of value

(3) "Value" means the contract sales price.

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

(5) 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.

(6) A new coal production incentive tax credit may be claimed on certain coal as provided in 15-35-202."

17. Page 9, line 20 through page 10, line 19.
Strike: section 4 in its entirety

18. Page 11, line 15 through page 12, line 9.
Strike: section 6 in its entirety
Insert: "Section 6. Section 15-35-202, MCA, is amended to read:

15-35-202. New coal production incentive tax credit allowed — application limited. (1) A coal mine operator is entitled to a coal production incentive tax credit ~~of 33% of~~ against the tax imposed under 15-35-103 of:

(a) 33 1/3% for incremental production sold during calendar years 1985 and 1986;

(b) 50% for incremental production sold from January 1, 1987 until June 30, 1988; and

(c) 40% for incremental production sold from July 1, 1988 until June 30, 1990; provided, however, that if the production quota established in 15-35-103 (2)(a)(i) is not met, the tax credit for this period is 50% for fiscal year 1989 and 40% for fiscal year 1990..

(2)(a) A coal mine operator is entitled to a new coal production incentive tax credit ~~of 33-1/3%~~ against the tax imposed under 15-35-103 on incremental production for the entire term of an agreement, except as provided in subsection (3) if the incremental production resulted from coal purchases under:

(i) an existing agreement which was extended between January 1, 1985, and ~~June 30, 1987~~ December 31, 1988, for at least a 5 year period; or

(ii) a new agreement that was executed between January 1, 1985, and December 31, 1988.

(b) The rate of credit allowed under (2)(a) is:

(i) 33 1/3% for incremented production sold from January 1, 1985 until December 31, 1987;

(i) 50% for any incremental production sold from January 1, 1985 until June 30, 1988;

(ii) 40% for any incremental production sold from July 1, 1988 until June 30, 1990. However, established in 15-35-103 (2)(a)(i) is not met, the tax credit for this period is 59%; and

(iii) 25% for any incremental production sold

from July 1, 1990 til June 30, 1991.

(iv) 25% after June 30, 1991 if the production quota in 15-35-103 (2)(a)(1) has not been met.

(3) No credit may be claimed for coal produced prior to January 1, 1985.

19. Following: line 17
Insert: (b) distributing the incremental production for each quarter among the quarters in the calendar year in the same proportion as the total volume of coal sold each quarter to each respective purchaser and summing the amounts for all purchasers to determine the purchase incremental production for each quarter.

20. Page 12, line 20.
Following: "purchaser"
Insert: "each quarter"
Remember subsequent sections
21. Page 12, line 23.
Following: line 22
Strike: "calendar year"
Insert: "quarter"

22. Page 12, line 25.
Following: line 24
Strike: "33 1/3 %"
Insert: "the appropriate percentage on provided in 15-35-202 for each quarter"

23. Page 13, line 2.
Following: "purchasers"
Insert: "for all four quarters of the calendar year"

24. Page 13, lines 8 and 9.
Following: "year." on line 8

Strike: remainder of line 8 through "subsection." on line 9

26. Page 14, line 4.

Strike: section 8 in its entirety

Renumber: subsequent sections

⁷
27. Page 16, lines 8 through 11.

Strike: section 10 in its entirety

Insert: "Section 10. Applicability. This act applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1986.

-END-

legisl/HB 252

State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

TED SCHWINDEN
GOVERNOR

April 6, 1987

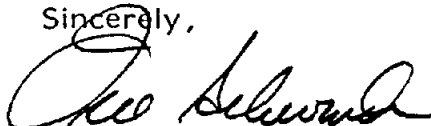
The Honorable Robert Marks
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable William J. Norman
President of the Senate
State Capitol
Helena, MT 59620

Dear Representative Marks and Senator Norman:

Proofreading of the amendments to House Bill No. 252 that I sent to you earlier today revealed several typographical errors. The attached amendments have been changed to correct those errors. Please substitute these amendments for those enclosed in my earlier letter.

Sincerely,



TED SCHWINDEN
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL NO. 252
(Reference Copy)
(April 6, 1987)

1. Title, lines 6 through 8.
Following "RATES;" on line 6
Strike: remainder of line 6 through "PURCHASED;" on
line 8
Insert: "PROVIDING A CONTINGENT PERMANENT
REDUCTION; EXTENDING THE NEW PRODUCTION
CREDIT"
2. Title, line 10.
Following: "15-35-104"
Strike: "AND"
Insert: ", "
Following: "15-35-202"
Strike: "THROUGH 15-35-204"
Insert: ", AND 15-35-203"
3. Page 3, line 25.
Following: "purchaser"
Insert: ", except as provided in (b),"
4. Page 3, line 25.
Following: "MEANS"
Insert: ": (a)"
5. Page 4, line 2.
Following: line 1
Strike: "(a)"
Insert: "(i)"
6. Page 4, line 5.
Following: line 4
Strike: "(b)"
Insert: "(ii)"
7. Page 4, line 6.
Following: line 5
Strike: "(i)"
Insert: "(A)"
8. Page 4, line 9.
Following: line 8
Strike: "(ii)"
Insert: "(B)"
9. Page 4, line 17.
Following: line 16

CORRECTED
SECOND PRINTING

Insert: "(b) If the volume calculated in subsection (a) (i) is less than one-third of the volume calculated in subsection (a) (ii), the base consumption level is the volume calculated in (a) (ii)."

10. Page 4, line 18.

Following: line 17

Insert: "except as provided in (b)"

Following: "means"

Insert: "(a)"

11. Page 4, line 19.

Following: line 18

Strike: "(a)"

Insert: "(i)"

12. Page 4, line 22.

Following: "line 21"

Strike: "(b)"

Insert: "(ii)"

13. Page 4, line 24.

Following: line 23

Insert: "(b) If the amount calculated in subsection (a)(ii) is less than one-third of the amount calculated in (a)(i), the base consumption level is the amount calculated in subsection (a)(i)"

14. Page 6, lines 13 and 14.

Following: line 12

Strike: subsection (9) in its entirety

Re-number: subsequent subsections

15. Page 7, lines 5 and 6.

Following: line 4

Strike: subsection (14) in its entirety

Re-number: subsequent subsections

16. Page 7, line 18 through page 9, line 19.

Strike: section 3 in its entirety

Insert: "Section 3. Section 15-35-103, MCA, is amended to read:

"15-35-103. Severance tax -- rates imposed -- exemptions. (1)
A Except as provided in subsection (2), a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

(a) Fiscal Year 1988 and 1989:

<u>Heating quality</u> <u>(Btu per pound</u> <u>of coal):</u>	<u>Surface</u> <u>Mining</u>	<u>Underground</u> <u>Mining</u>
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 40 cents or .12 cents or	10 cents or 4% of value
Over 9,000	30% of value	4% of value

(b) Fiscal Year 1990:

<u>Heating quality</u> <u>(Btu per pound</u> <u>of coal):</u>	<u>Surface</u> <u>Mining</u>	<u>Underground</u> <u>Mining</u>
<u>Under 7,000</u>	<u>12 cents or</u> <u>13% of value</u>	<u>5 cents or</u> <u>3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or</u> <u>25 % of value</u>	<u>8 cents or</u> <u>4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or</u> <u>25% of value</u>	<u>10 cents or</u> <u>4% of value</u>
<u>Over 9,000</u>	<u>40 cents or</u> <u>25% of value</u>	<u>12 cents or</u> <u>4% of value</u>

(c) Fiscal Year 1991 and thereafter:

<u>Heating quality</u> <u>(Btu per pound</u> <u>of coal):</u>	<u>Surface</u> <u>Mining</u>	<u>Underground</u> <u>Mining</u>
<u>Under 7,000</u>	<u>12 cents or</u> <u>13% of value</u>	<u>5 cents or</u> <u>3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or</u> <u>20% of value</u>	<u>8 cents or</u> <u>4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or</u> <u>20% of value</u>	<u>10 cents or</u> <u>4% of value</u>
<u>Over 9,000</u>	<u>40 cents or</u> <u>20% of value</u>	<u>12 cents or</u> <u>4% of value</u>

(2)(a)(i) On or before October 1, 1988, the department shall determine the total number of tons of coal produced in Montana and sold from July 1, 1987 through June 30, 1988. If the department finds that these sales exceed 32.2 million tons (which is the average total yearly coal sales for calendar years 1983, 1984, 1985 and 1986), the rate of the coal severance tax is as set forth in subsections (2)(b) and (2)(c).

(ii) If any facility that burned Montana coal at any time from July 1, 1987 to June 30, 1988 does not operate during a portion of that period due to mechanical failure, the department shall determine the average monthly sales of Montana coal to the facility during its operation and multiply this figure by 12. The department shall include the product of this calculation making its determination of coal produced in Montana and sold from July 1, 1987 through June 30, 1988.

(b) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state from July 1, 1988, through June 30, 1990 is:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 17% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 25% of value</u>	<u>8 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 25% of value</u>	<u>12 cents or 4% of value</u>

(c) The severance tax imposed pursuant to subsection (2) (a) on each ton of coal produced in the state from July 1, 1990 until June 30, 1991 is:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 13% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 20% of value</u>	<u>8 cents or 4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or 20% of value</u>	<u>10 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 20% of value</u>	<u>12 cents or 4% of value</u>

(d) The severance tax imposed pursuant to subsection (2) (a) on each ton of coal produced in the state after June 30, 1991, is:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 13% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 15% of value</u>	<u>8 cents 4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or 15% of value</u>	<u>10 cents 4% of value</u>
<u>Over 9,000</u>	<u>15% of value</u>	<u>4% of value</u>

(3) "Value" means the contract sales price.

~~(2)~~(4) The formula which yields the greater amount of tax in a particular case shall be used at each point on this schedule.

~~(3)~~(5) 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)~~(6) A new coal production incentive tax credit may be claimed on certain coal as provided in 15-35-202."

17. Page 9, line 20 through page 10, line 19.

Strike: section 4 in its entirety
Re-number subsequent subsections

18. Page 11, line 15 through page 12, line 9.

Strike: section 6 in its entirety
Insert: "Section 6. Section 15-35-202, MCA, is amended to read:

15-35-202. New coal production incentive tax credit allowed — application limited. (1) A coal mine operator is entitled to a new coal production incentive tax credit ~~of 33% of~~ against the tax imposed under 15-35-103 of:

(a) 33 1/3% for incremental production sold during calendar years 1985 and 1986;

(b) 50% for incremental production sold from January 1, 1987 until June 30, 1988; and

(c) 40% for incremental production sold from July 1, 1988 until June 30, 1990; provided, however, that if the production quota established in 15-35-103 (2)(a)(i) is not met, the tax credit for this period is 50% for fiscal year 1989 and 40% for fiscal year 1990.

(2)(a) A coal mine operator is entitled to a new coal production incentive tax credit ~~of 33-1/3%~~ against the tax imposed under 15-35-103 on incremental production for the entire term of an agreement, except as provided in subsection (3) if the incremental production resulted from coal purchases under:

(i) an existing agreement which was extended between January 1, 1985, and ~~June 30, 1987~~ December 31, 1988, for at least a 5 year period; or

(ii) a new agreement that was executed between January 1, 1985, and ~~June 30, 1987~~ December 31, 1988.

(b) The rate of credit allowed under (2)(a) is:

(i) 33 1/3% for incremented production sold from January 1, 1985 until December 31, 1986;

(ii) 50% for any incremental production sold from January 1, 1987 until June 30, 1988;

(iii) 40% for any incremental production sold from July 1, 1988 until June 30, 1990. However, if the production quota established in 15-35-103 (2)(a)(i) is not met, the tax credit for this period is 50% for fiscal year 1989 and 40% for fiscal year 1990; and

(iv) 25% for any incremental production sold from July 1, 1990 til June 30, 1991.

(v) 25% after June 30, 1991 if the production quota in 15-35-103 (2)(a)(1) has not been met.

(3) No credit may be claimed for coal produced prior to January 1, 1985.

19. Following: line 17

Insert: (b) distributing the incremental production for each quarter among the quarters in the calendar year in the same proportion as the total volume of coal sold each quarter to each respective purchaser and summing the amounts for all purchasers to determine the purchaser's incremental production for each quarter.

RENUMBER SUBSEQUENT SUBSECTIONS

20. Page 12, line 20.

Following: "purchaser"

Insert: "each quarter"

21. Page 12, line 23.

Following: line 22

Strike: "calendar year"

Insert: "quarter"

22. Page 12, line 25.

Following: line 24

Strike: "33 1/3 %"

Insert: "the appropriate percentage on provided in 15-35-202 for each quarter"

23. Page 13, line 2.

Following: "purchasers"

Insert: "for all four quarters of the calendar year"

24. Page 13, lines 8 and 9.

Following: "year." on line 8

Strike: remainder of line 8 through "subsection." on line 9

25. Page 14, line 4.

Strike: section 8 in its entirety

Renumber: subsequent sections

26. Page 16, lines 8 through 11.

Strike: section 10 in its entirety

Insert: "Section 10. Applicability. This act applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1986.

-END-

legis1/HB 252

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB252, as amended by Governor.

DESCRIPTION OF PROPOSED LEGISLATION:

An act lowering coal severance tax rates; revising legislative findings and declarations of purpose; and providing an effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The House Joint Resolution 41 coal severance tax assumptions provide the basis of comparison.
2. Coal severance tax collections under current law will be \$56,148,000 in FY88, and \$61,020,000 in FY89.
3. This fiscal note has been prepared based on three different assumptions of total coal production.

Option I: Total production is assumed not to change from the levels established in HJR41.

Option II: Fiscal year 88 production is assumed to reach 31.9 million tons, slightly below the trigger level of 32.2 million tons contained in the Governor's amendments to HB252.

Option III: Fiscal year 88 production is assumed to reach 32.7 million tons, slightly above the trigger level of 32.2 million tons contained in the Governor's amendments to HB252.

David L. Hunter DATE 4/14/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Marian W. Hanson DATE 4/16/87
MARIAN HANSON, PRIMARY SPONSOR

Fiscal Note for HB252, as amended by Governor.

HB 252
42

FISCAL IMPACT OF HB 252 (WITH GOVERNOR'S AMENDMENTS)

PRODUCTION
(MILLIONS OF TONS)

	CURRENT LAW (HJR 41 ASSUMPTIONS)			GOVERNOR'S HB 252 (NO TRIGGER)			GOVERNOR'S HB 252 (TRIGGER)			CONTRACT SALES PRICE (HJR 41 ASSUMPTIONS)		
	CY 87	CY 88	CY 89	CY 87	CY 88	CY 89	CY 87	CY 88	CY 89	CY 87	CY 88	CY 89
DECKER	9.900	9.900	9.900	9.900	9.900	9.900	9.900	9.900	9.900	\$10.75	\$10.75	\$10.75
KNIFE RIVER	0.200	0.200	0.200	0.200	0.200	0.200	0.200	0.200	0.200	\$9.61	\$9.93	\$9.93
PEABODY	2.780	2.780	2.780	3.380	3.380	3.380	3.380	3.380	3.380	\$6.25	\$6.50	\$6.75
SPRING CREEK	3.080	3.080	3.080	4.080	4.080	4.080	4.080	4.080	4.080	\$5.00	\$5.00	\$5.00
WESTERN ENERGY	9.300	10.500	10.500	10.900	13.100	13.100	11.900	13.100	13.100	\$5.34	\$5.54	\$5.66
WESTMORELAND	1.680	2.580	2.580	2.680	3.580	3.580	2.680	3.580	3.580	\$5.46	\$5.69	\$5.79
TOTAL	26.940	29.040	29.040	31.140	34.240	34.240	32.140	34.240	34.240			

INCREMENTAL PRODUCTION
(MILLIONS OF TONS)

	CURRENT LAW *			HB 252 NO CHANGE IN PRODUCTION			HB 252 (NO TRIGGER) FY88 PRODUCTION - 31.9M TONS			HB 252 (TRIGGER) FY88 PRODUCTION - 32.7M TONS		
	CY 87	CY 88	CY 89	CY 87	CY 88	CY 89	CY 87	CY 88	CY 89	CY 87	CY 88	CY 89
DECKER	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
KNIFE RIVER	0.000	0.000	0.000	0.015	0.015	0.015	0.015	0.015	0.015	0.015	0.015	0.015
PEABODY	0.000	0.000	0.000	0.185	0.185	0.185	0.785	0.785	0.785	0.785	0.785	0.785
SPRING CREEK	0.383	0.383	0.383	0.482	0.482	0.482	1.482	1.482	1.482	1.482	1.482	1.482
WESTERN ENERGY	0.000	0.257	0.257	0.032	0.289	0.289	0.632	1.889	1.889	1.632	1.889	1.889
WESTMORELAND	0.180	1.080	1.080	0.180	1.080	1.080	1.180	2.080	2.080	1.180	2.080	2.080
TOTAL	0.563	1.720	1.720	0.894	2.051	2.051	4.094	6.251	6.251	5.094	6.251	6.251

HB252
#2

FISCAL IMPACT OF HB 252 (WITH GOVERNOR'S AMENDMENTS)

REVENUE ESTIMATES
(MILLIONS OF DOLLARS)

	FY88			FY89			FY 88-89		
	CURRENT LAW	PROPOSED LAW	DIFFERENCE	CURRENT LAW	PROPOSED LAW	DIFFERENCE	CURRENT LAW	PROPOSED LAW	DIFFERENCE
NO CHANGE IN PRODUCTION									
REGULAR COAL TAX	\$58.631	\$58.631	\$0.000	\$61.318	\$61.318	\$0.000	\$119.949	\$119.949	\$0.000
WINDOW CREDIT	(\$2.483)	(\$2.583)	(\$0.100)	(\$0.298)	(\$0.737)	(\$0.439)	(\$2.781)	(\$3.320)	(\$0.539)
TOTAL COAL TAX	\$56.148	\$56.048	(\$0.100)	\$61.020	\$60.581	(\$0.439)	\$117.168	\$116.629	(\$0.539)
NO TRIGGER - FY88 PRODUCTION @ 31.9M TONS									
REGULAR COAL TAX	\$58.631	\$66.029	\$7.398	\$61.318	\$68.870	\$7.552	\$119.949	\$134.899	\$14.950
WINDOW CREDIT	(\$2.483)	(\$3.094)	(\$0.611)	(\$0.298)	(\$3.003)	(\$2.705)	(\$2.781)	(\$6.097)	(\$3.316)
TOTAL COAL TAX	\$56.148	\$62.935	\$6.787	\$61.020	\$65.867	\$4.847	\$117.168	\$128.802	\$11.634
TRIGGER - FY88 PRODUCTION @ 32.7M TONS									
REGULAR COAL TAX	\$58.631	\$67.630	\$8.999	\$61.318	\$60.186	(\$1.132)	\$119.949	\$127.816	\$7.867
WINDOW CREDIT	(\$2.483)	(\$3.294)	(\$0.811)	(\$0.298)	(\$3.437)	(\$3.139)	(\$2.781)	(\$6.731)	(\$3.950)
TOTAL COAL TAX	\$56.148	\$64.336	\$8.188	\$61.020	\$56.749	(\$4.271)	\$117.168	\$121.085	\$3.917

* INCREMENTAL PRODUCTION UNDER CURRENT LAW IS DIFFERENT THAN REPORTED IN HJR 41 BECAUSE OF MORE CURRENT INFORMATION SUPPLIED BY THE MONTANA COAL COUNCIL.

HB 252
2

FUND DISTRIBUTION

HB 252 - NO CHANGE IN PRODUCTION ===== FY '88 ===== FY '89 =====

Fund	Revenue Under Current Law	Revenue Under Proposed Law	Difference	Revenue Under Current Law	Revenue Under Proposed Law	Difference
State General Fund	9,174,583	9,158,243	(16,340)	9,970,668	9,898,935	(71,733)
School Equalization	2,133,624	2,129,824	(3,800)	2,318,760	2,302,078	(16,682)
Local Impact	3,733,842	3,727,192	(6,650)	4,057,830	4,028,637	(29,193)
Education Trust	4,267,248	4,259,648	(7,600)	4,637,520	4,604,156	(33,364)
Other	36,838,703	36,773,093	(65,610)	40,035,222	39,747,194	(288,028)
TOTAL	56,148,000	56,048,000	(100,000)	61,020,000	60,581,000	(439,000)

HB 252 - NO TRIGGER ===== FY '88 ===== FY '89 =====
 FY 88 PRODUCTION @ 31.9 M TONS

Fund	Revenue Under Current Law	Revenue Under Proposed Law	Difference	Revenue Under Current Law	Revenue Under Proposed Law	Difference
State General Fund	9,174,583	10,283,579	1,108,996	9,970,668	10,762,668	792,000
School Equalization	2,133,624	2,391,530	257,906	2,318,760	2,502,946	184,186
Local Impact	3,733,842	4,185,178	451,336	4,057,830	4,380,156	322,326
Education Trust	4,267,248	4,783,060	515,812	4,637,520	5,005,892	368,372
Other	36,838,703	41,291,654	4,452,951	40,035,222	43,215,339	3,180,117
TOTAL	56,148,000	62,935,000	6,787,000	61,020,000	65,867,000	4,847,000

HB 252 - TRIGGER ===== FY '88 ===== FY '89 =====
 FY 88 PRODUCTION @ 32.7 M TONS

Fund	Revenue Under Current Law	Revenue Under Proposed Law	Difference	Revenue Under Current Law	Revenue Under Proposed Law	Difference
State General Fund	9,174,583	10,512,502	1,337,919	9,970,668	9,272,787	(697,881)
School Equalization	2,133,624	2,444,768	311,144	2,318,760	2,156,462	(162,298)
Local Impact	3,733,842	4,278,344	544,502	4,057,830	3,773,809	(284,021)
Education Trust	4,267,248	4,889,536	622,288	4,637,520	4,312,924	(324,596)
Other	36,838,703	42,210,850	5,372,147	40,035,222	37,233,019	(2,802,203)
TOTAL	56,148,000	64,336,000	8,188,000	61,020,000	56,749,000	(4,271,000)

HB 252
#2

CONFERENCE COMMITTEE REPORT

Report No. ...one.....

April 21 19 87

MR. PRESIDENT

We, your _____ Free _____ Conference Committee on

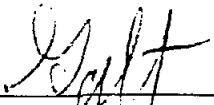
House Bill No. 252

met and considered ~~the Governor's amendments to House Bill No. 252~~

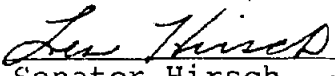
We recommend as follows: That the Governor's amendments on the attached pages be adopted.

And that this Conference Committee report be adopted.

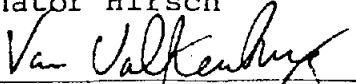
FOR THE SENATE



Senator Galt, Chairman

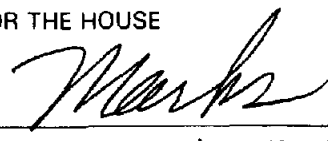


Senator Hirsch



Senator Van Valkenburg

FOR THE HOUSE



Representative Marks, Chairman



Representative Hanson

Representative D. Brown

1. Title, lines 6 through 8.
Following "RATES;" on line 6
Strike: remainder of line 6 through "PURCHASED;" on
line 8
Insert: "PROVIDING A CONTINGENT PERMANENT
REDUCTION; EXTENDING THE NEW PRODUCTION
CREDIT;"
2. Title, line 10.
Following: "15-35-104"
Strike: "AND"
Insert: ", "
Following: "15-35-202"
Strike: "THROUGH 15-35-204"
Insert: ", AND 15-35-203"
3. Page 3, line 25.
Following: "(2)"
Insert: "(a)"
Following: "purchaser"
Insert: ", except as provided in subsection (2)(b),"
4. Page 4, line 2.
Following: line 1
Strike: "(a)"
Insert: "(1)"
5. Page 4, line 5.
Following: line 4
Strike: "(b)"
Insert: "(11)"
6. Page 4, line 6.
Following: line 5
Strike: "(i)"
Insert: "(A)"
7. Page 4, line 9.
Following: line 8
Strike: "(ii)"
Insert: "(B)"
8. Page 4, line 17.
Following: line 16
Insert: "(b) If the volume calculated in subsection (2)
(a)(i) is less than one-third of the volume
calculated in subsection (2)(a)(11), the base
consumption level is the volume calculated in
subsection (2)(a)(11)."

9. Page 4, line 17.
 Following: "(3)"APRIL 21, 1987..... 19.....
 Insert: "(a)" PAGE 3
 Strike: ""Base"
 Insert: "Except as provided in subsection (3)(b), "base"
10. Page 4, line 19.
 Following: line 18
 Strike: "(a)"
 Insert: "(1)"
11. Page 4, line 22.
 Following: "line 21"
 Strike: "(b)"
 Insert: "(11)"
12. Page 4, line 24.
 Following: line 23
 Insert: "(b) If the amount calculated in subsection (3)(a)(11) is less than one-third of the amount calculated in subsection (3)(a)(1), the base production level is the amount calculated in subsection (3)(a)(1)."
13. Page 6, lines 13 and 14.
 Following: line 12
 Strike: subsection (9) in its entirety
 Renumber: subsequent subsections
14. Page 7, lines 5 and 6.
 Following: line 4
 Strike: subsection (14) in its entirety
 Renumber: subsequent subsections
15. Page 7, line 18 through page 9, line 19.
 Strike: section 3 in its entirety
 Insert: "Section 3. Section 15-35-103, MCA, is amended to read:

"15-35-103. Severance tax -- rates imposed -- exemptions. (1) A Except as provided in subsection (2), a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

(a) Fiscal Years 1988 and 1989:

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

(b) Fiscal Year 1990:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 13% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 25 % of value</u>	<u>8 cents or 4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or 25% of value</u>	<u>10 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 25% of value</u>	<u>12 cents or 4% of value</u>

(c) Fiscal Year 1991 and Thereafter:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 13% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 20% of value</u>	<u>8 cents or 4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or 20% of value</u>	<u>10 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 20% of value</u>	<u>12 cents or 4% of value</u>

(2)(a)(1) On or before October 1, 1988, the department shall determine the total number of tons of coal produced in Montana and sold from July 1, 1987, through June 30, 1988. If the department finds that these sales exceed 32.2 million tons (which is the average total yearly coal sales for calendar years 1983, 1984, 1985, and 1986), the rate of the coal severance tax is as set forth in subsections (2)(b) through (2)(d).

(11) If any facility that burned Montana coal at any time from July 1, 1987, to June 30, 1988, does not operate during a portion of that period due to mechanical failure or catastrophic act of God, the department shall determine the average monthly sales of Montana coal to the facility during its operation and multiply this figure by 12. The department shall include the product of this calculation in making its determination of coal produced in Montana and sold from July 1, 1987, through June 30, 1988.

(b) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state from July 1, 1988, through June 30, 1990, is:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 17% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 25% of value</u>	<u>8 cents or 4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or 25% of value</u>	<u>10 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 25% of value</u>	<u>12 cents or 4% of value</u>

(c) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state from July 1, 1990, through June 30, 1991, is:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 13% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 20% of value</u>	<u>8 cents or 4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or 20% of value</u>	<u>10 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 20% of value</u>	<u>12 cents or 4% of value</u>

(d) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state after June 30, 1991, is:

<u>Heating quality (Btu per pound of coal):</u>	<u>Surface Mining</u>	<u>Underground Mining</u>
<u>Under 7,000</u>	<u>12 cents or 13% of value</u>	<u>5 cents or 3% of value</u>
<u>7,000-8,000</u>	<u>22 cents or 15% of value</u>	<u>8 cents or 4% of value</u>
<u>8,000-9,000</u>	<u>34 cents or 15% of value</u>	<u>10 cents or 4% of value</u>
<u>Over 9,000</u>	<u>40 cents or 15% of value</u>	<u>12 cents or 4% of value</u>

(3) "Value" means the contract sales price.

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

~~(3)~~(5) 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)~~(6) A new coal production incentive tax credit may be claimed on certain coal as provided in 15-35-202."

16. Page 9, line 20 through page 10, line 19.
Strike: section 4 in its entirety
Renumber subsequent sections

17. Page 11, line 15 through page 12, line 9.
Strike: section 6 in its entirety
Insert: "Section 5. Section 15-35-202, MCA, is amended to read:

~~#~~15-35-202. New coal production incentive tax credit allowed -- application limited. (1) A coal mine operator is entitled to a new coal production incentive tax credit ~~of 33-1/3% of~~ against the tax imposed under 15-35-103 ~~on any of~~:

~~(a)~~ 33 1/3% for incremental production produced and sold during calendar years 1985 and 1986;

(b) 50% for incremental production sold from January 1, 1987, until June 30, 1988; and

(c) 40% for incremental production sold from July 1, 1988, until June 30, 1990; provided, however, that if the production quota established in 15-35-103 (2)(a)(i) is not met, the tax credit for this period is 50% for fiscal year 1989 and 40% for fiscal year 1990.

(2)(a) A coal mine operator is entitled to a new coal production incentive tax credit ~~of 33-1/3% of~~ against the tax imposed under 15-35-103 on incremental production for the entire term of an agreement, except as provided in subsection (3), if the incremental production resulted from coal purchases under:

~~(a)~~(i) an existing agreement which was extended between January 1, 1985, and ~~June 30, 1987~~ December 31, 1988, for at least a 5-year period; or

~~(b)~~(ii) a new agreement that was executed between January 1, 1985, and ~~June 30, 1987~~ December 31, 1988.

..... 19.....
(b) The rate of credit allowed under subsection (2)(a)
is:

(i) 33 1/3% for incremental production sold from
January 1, 1985, until December 31, 1986;

(ii) 50% for any incremental production sold from
January 1, 1987, until June 30, 1988;

(iii) 40% for any incremental production sold
from July 1, 1988, until June 30, 1990. However,
if the production quota established in 15-35-103
(2)(a)(i) is not met, the tax credit for this
period is 50% for fiscal year 1989 and 40% for
fiscal year 1990.

(iv) 25% for any incremental production sold from
July 1, 1990, until June 30, 1991; and

(v) 25% after June 30, 1991, if the production
quota in 15-35-103 (2)(a)(i) has not been met.

(3) No credit may be claimed for coal produced prior
to January 1, 1985.""

18. Page 12

Following: line 17

Insert: "(b) distributing the incremental production
among the quarters in the calendar year in the same
proportion as the total volume of coal sold each
quarter to each respective purchaser and summing the
amounts for all purchasers to determine the coal mine
operator's incremental production for each quarter;"

Renumber: subsequent subsections

19. Page 12, line 20.

Following: "purchaser"

Insert: "each quarter"

20. Page 12, line 23.

Following: line 22

Strike: "calendar year"

Insert: "quarter"

21. Page 12, line 25.

Following: line 24

Strike: "33 1/3 %"

Insert: "the appropriate percentage as provided in
15-35-202 for each quarter"

22. Page 13, line 2.

Following: "purchasers"

Insert: "for all four quarters of the calendar year"

.....

23. Page 13, lines 8 and 9.
Following: "year." on line 8
Strike: remainder of line 8 through "subsection." on
line 9
24. Page 14, line 4.
Strike: section 8 in its entirety
Renumber: subsequent sections
25. Page 16, line 8
Following: "Applicability."
Strike: remainder of section 10 in its entirety
Insert: "Sections 2 and 5 apply retroactively,
within the meaning of 1-2-109, to tax
periods beginning after December 31, 1986.

-END-

legls1/HB 252

1 HOUSE BILL NO. 252

2 INTRODUCED BY HANSON, GALT, BOYLAN, BISHOP, POFF,
3 HIRSCH, THAYER, SWIFT, O'CONNELL, MCCORMICK, KEATING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT LOWERING COAL SEVERANCE
6 TAX RATES; ~~IMPOSING IN 1991 A SLIDING SCALE RATE SCHEDULE~~
7 ~~FOR SURFACE-MINED SUBBITUMINOUS COAL BASED ON THE AMOUNT OF~~
8 ~~COAL PURCHASED~~; PROVIDING A CONTINGENT PERMANENT REDUCTION;
9 EXTENDING THE NEW PRODUCTION CREDIT; REVISING LEGISLATIVE
10 FINDINGS AND DECLARATIONS OF PURPOSE; AMENDING SECTIONS
11 15-35-101 THROUGH 15-35-104 AND 15-35-202 THROUGH
12 ~~15-35-204~~, AND 15-35-203, MCA; AND PROVIDING AN EFFECTIVE
13 DATE AND A RETROACTIVE APPLICABILITY DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 15-35-101, MCA, is amended to read:

17 "15-35-101. Legislative findings and declarations of
18 purpose. (1) The legislature finds that while coal is
19 extracted from the earth like metal minerals, there are
20 differences between coal and metal minerals such that they
21 should be classified in different categories for taxation
22 purposes. The legislature finds that while coal can be
23 utilized like petroleum products, there are differences
24 between coal and petroleum such that they should be
25 classified in different categories for taxation purposes.

1 The legislature further finds that:

2 (a) coal is the only mineral which can supply energy
3 while being easily found in abundance in Montana;

4 (b) coal is the only mineral which is so often
5 marketed through sales contracts of many years' duration;

6 (c) coal, unlike most minerals, varies widely in
7 composition and consequent value when marketed;

8 (d) coal in Montana is subject to regional and
9 national demands for development which could affect the
10 economy and environment of a larger portion of the state
11 than any other mineral development has done;

12 (e) subbituminous coal and lignite coal in Montana,
13 ~~when subbituminous and recoverable by strip mining, is in~~
14 ~~sufficient demand that at least one third of the price it~~
15 ~~commands at the mine may go to the economic rents of~~
16 ~~royalties and production taxes have sufficiently different~~
17 ~~markets and value and therefore require different production~~
18 ~~taxes;~~

19 ~~(f) coal in the lignite form is in less demand and~~
20 ~~producers of lignite are able to pay lesser amounts of~~
21 ~~royalty and production tax than producers of subbituminous~~
22 ~~can pay;~~

23 (g)(f) coal produced in underground mines has higher
24 production costs and underground producers are able to pay
25 lesser amounts of royalty and production tax than strip-mine

1 producers can pay; and
 2 ~~(h)~~(g) coal production in Montana has been subject to
 3 an uncoordinated array of taxes which overlap one another
 4 and yield revenue in an inconsistent and unpredictable
 5 manner.

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

8 (a) allow the severance taxes on coal production to
 9 remain a constant percentage of the price of coal;

10 (b) stabilize the flow of tax revenue from coal mines
 11 to local governments through the property taxation system;

12 (c) simplify the structure of coal taxation in
 13 Montana, reducing tax overlap and improving the
 14 predictability of tax projections; and

15 (d) accomplish the foregoing purposes by establishing
 16 categories of taxation which recognize the unique character
 17 of coal as well as the variations found within the coal
 18 industry."

19 Section 2. Section 15-35-102, MCA, is amended to read:
 20 "15-35-102. Definitions. As used in this chapter, the
 21 following definitions apply:

22 (1) "Agreement" means a signed contract that is valid
 23 under Montana law between a coal mine operator and a
 24 purchaser or broker for the sale of coal that is produced in
 25 Montana.

1 (2) (A) "Base consumption level" for a purchaser,
 2 EXCEPT AS PROVIDED IN SUBSECTION (2)(B), means the greater
 3 lesser of:

4 ~~(a)~~(I) the arithmetic-average volume of coal purchased
 5 during calendar years ~~1983--and--1984~~ year 1986 from all
 6 Montana coal mine operators; or

7 ~~(b)~~(II) the greater of:

8 ~~(i)~~(A) the arithmetic average volume of coal purchased
 9 during calendar years 1983 and 1984 from all Montana coal
 10 mine operators; or

11 ~~(ii)~~(B) 90% of the maximum tonnage provided for in any
 12 agreement executed prior to January 1, 1985, for which the
 13 highest scheduled minimum quantity of coal stipulated by the
 14 terms of the agreement as they existed on January 1, 1985,
 15 has not been purchased at any time during the term of the
 16 agreement, plus the arithmetic average volume of coal
 17 purchased during calendar years 1983 and 1984 from all
 18 Montana coal mine operators under all other agreements.

19 (B) IF THE VOLUME CALCULATED IN SUBSECTION (2)(A)(I)
 20 IS LESS THAN ONE-THIRD OF THE VOLUME CALCULATED IN
 21 SUBSECTION (2)(A)(II), THE BASE CONSUMPTION LEVEL IS THE
 22 VOLUME CALCULATED IN SUBSECTION (2)(A)(II).

23 (3) (A) "Base EXCEPT AS PROVIDED IN SUBSECTION (3)(B),
 24 "BASE production level" for a coal mine operator means the
 25 lesser of:

1 ~~(a)~~(I) the arithmetic average volume of coal produced
2 in Montana and sold to a purchaser in calendar years 1983
3 and 1984; or

4 ~~(b)~~(II) the volume of coal produced in Montana and sold
5 to a purchaser in 1986.

6 (B) IF THE AMOUNT CALCULATED IN SUBSECTION (3)(A)(II)
7 IS LESS THAN ONE-THIRD OF THE AMOUNT CALCULATED IN
8 SUBSECTION (3)(A)(I), THE BASE PRODUCTION LEVEL IS THE
9 AMOUNT CALCULATED IN SUBSECTION (3)(A)(I).

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

12 (5) "Contract sales price" means either the price of
13 coal extracted and prepared for shipment f.o.b. mine,
14 excluding that amount charged by the seller to pay taxes
15 paid on production, or a price imputed by the department
16 under 15-35-107. Contract sales price includes all royalties
17 paid on production, no matter how such royalties are
18 calculated. However, with respect to royalties paid to the
19 government of the United States, the state of Montana, or a
20 federally recognized Indian tribe, the contract sales price
21 includes only:

22 (a) for quarterly periods ending on and after
23 September 30, 1984, 15 cents per ton plus 75% of the
24 difference between 15 cents per ton and the amount of such
25 federal, state, and tribal government royalties actually

1 paid;

2 (b) for quarterly periods ending on and after
3 September 30, 1985, 15 cents per ton plus 50% of the
4 difference between 15 cents per ton and the amount of such
5 federal, state, and tribal government royalties actually
6 paid;

7 (c) for quarterly periods ending on and after
8 September 30, 1986, 15 cents per ton plus 25% of the
9 difference between 15 cents per ton and the amount of such
10 federal, state, and tribal government royalties actually
11 paid; and

12 (d) for quarterly periods ending on and after
13 September 30, 1987, 15 cents per ton.

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

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

18 (8) "Incremental production" means that quantity of
19 coal produced annually by a coal mine operator and sold to a
20 qualified purchaser that exceeds the base production level
21 of the coal mine operator for that purchaser, but only to
22 the extent the quantity of coal exceeds that purchaser's
23 base consumption level from all Montana producers.

24 ~~(9) "Lignite" means coal with a heating quality of~~
25 ~~77000-Btu's-per-pound-or-less.~~

1 ~~(9)~~~~(10)~~(9) "Produced" means severed from the earth.

2 ~~(10)~~~~(11)~~(10) "Purchaser" means a person who purchases
3 or contracts to purchase Montana coal directly from a coal
4 mine operator or indirectly from a broker and who utilizes
5 that coal in any industrial, commercial, or energy
6 conversion process. A coal broker or any other third party
7 intermediary is not a purchaser under the provisions of this
8 chapter.

9 ~~(11)~~~~(12)~~(11) "Qualified purchaser" means a purchaser
10 whose purchases of Montana coal in any given year exceed his
11 base consumption level. A purchaser of Montana coal who
12 enters into a coal agreement with another purchaser or a
13 broker that causes a reduction in the base consumption level
14 of a purchaser is not a qualified purchaser.

15 ~~(12)~~~~(13)~~(12) "Strip mining" or "surface mining" is
16 defined in 82-4-203.

17 ~~(14)~~"Subbituminous" means coal with a heating quality
18 of more than 7,000-Btu's-per-pound.

19 ~~(13)~~~~(15)~~(13) "Taxes paid on production" includes any
20 tax paid to the federal, state, or local governments upon
21 the quantity of coal produced as a function of either the
22 volume or the value of production and does not include any
23 tax upon the value of mining equipment, machinery, or
24 buildings and lands, any tax upon a person's net income
25 derived in whole or in part from the sale of coal, or any

1 license fee.

2 ~~(14)~~~~(16)~~(14) "Ton" means 2,000 pounds.

3 ~~(15)~~~~(17)~~(15) "Underground mining" means a coal mining
4 method utilizing shafts and tunnels and as further defined
5 in 82-4-203."

6 Section 37--Section 15-35-1037-MCA, is amended to read:
7 "15-35-103--Severance--tax-----rates----imposed-----
8 exemptions;---(1)--A--EXCEPT--AS--PROVIDED--IN--(SECTION 4)--A
9 severance-tax-is-imposed-on-each-ton-of-coal-produced-in-the
10 state-in-accordance-with-the-following-schedule:

11 Heating-quality	12 Surface--	13 Underground
14 (Btu-per-pound	15 Mining--	16 Mining---
17 ---of-coal):	18 --	19 --
20 Under-7,000	21 12-cents-or	22 5-cents-or
23 --	24 20%-of-value	25 3%-of-value
26 7,000-8,000	27 22-cents-or	28 8-cents-or
29 --	30 30%-of-value	31 4%-of-value
32 8,000-9,000	33 34-cents-or	34 10-cents-or
35 --	36 30%-of-value	37 4%-of-value
38 Over-9,000	39 40-cents-or	40 12-cents-or
41 --	42 30%-of-value	43 4%-of-value

44 ~~(a)~~--On-surface-mined-subbituminous-coal:
45 ~~(1)~~--in-Fiscal On-Base
Year-Beginning: Consumption:
July-17-1987 30%-of-value

1 July-17-1988 25% of value
2 July-17-1989 20% of value
3 July-17-1990 20% of value
4 After-June-307-1991 15% of value
5 (ii) On incremental production after January--17--19877
6 the tax rate is 15% 5% of value, AFTER JULY-17-19887, THE TAX
7 RATE IS 10% OF VALUE, AFTER JULY-17-19897, THE TAX RATE IS
8 15% OF VALUE.
9 (b) On surface-mined lignite coal:
10 (i) In Fiscal On-Base
11 Year-Beginning Consumption:
12 July-17-1987 20% of value
13 July-17-1988 17% of value
14 July-17-1989 13% of value
15 July-17-1990 13% of value
16 After-June-307-1991 10% of value
17 (ii) On incremental production after January--17--19877
18 the tax rate is 10% of value.
19 (c) On underground-mined coal:
20 lignite7-3% of value
21 subbituminous7-4% of value
22 "Value" means the contract sales price.
23 (2) The formula which yields the greater amount of tax
24 in a particular case shall be used at each point on this
25 schedule.

1 (3)(2) A person is not liable for any severance tax
2 upon 50,000 tons of the coal he produces in a calendar year,
3 except that if he produces more than 50,000 tons of coal in
4 a calendar year, he will be liable for severance tax upon
5 all coal produced in excess of the first 20,000 tons.
6 (4)(3) A new coal production incentive tax credit may
7 be claimed on certain coal as provided in 15-35-202.
8 SECTION 3. SECTION 15-35-103, MCA, IS AMENDED TO READ:
9 "15-35-103. Severance tax -- rates imposed --
10 exemptions. (1) A Except as provided in subsection (2), a
11 severance tax is imposed on each ton of coal produced in the
12 state in accordance with the following schedule:
13 (a) Fiscal Years 1988 and 1989:
14 Heating quality Surface Underground
15 (Btu per pound Mining Mining
16 of coal):
17 Under 7,000 12 cents or 5 cents or
18 20% of value 3% of value
19 7,000-8,000 22 cents or 8 cents or
20 30% of value 4% of value
21 8,000-9,000 34 cents or 10 cents or
22 30% of value 4% of value
23 Over 9,000 40 cents or 12 cents or
24 30% of value 4% of value
25 (b) Fiscal Year 1990:

1	<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
2	<u>(Btu per pound</u>	<u>Mining</u>	<u>Mining</u>
3	<u>of coal):</u>		
4	<u>Under 7,000</u>	<u>12 cents or</u>	<u>5 cents or</u>
5		<u>13% of value</u>	<u>3% of value</u>
6	<u>7,000-8,000</u>	<u>22 cents or</u>	<u>8 cents or</u>
7		<u>25% of value</u>	<u>4% of value</u>
8	<u>8,000-9,000</u>	<u>34 cents or</u>	<u>10 cents or</u>
9		<u>25% of value</u>	<u>4% of value</u>
10	<u>Over 9,000</u>	<u>40 cents or</u>	<u>12 cents or</u>
11		<u>25% of value</u>	<u>4% of value</u>

(c) Fiscal Year 1991 and Thereafter:

13	<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
14	<u>(Btu per pound</u>	<u>Mining</u>	<u>Mining</u>
15	<u>of coal):</u>		
16	<u>Under 7,000</u>	<u>12 cents or</u>	<u>5 cents or</u>
17		<u>13% of value</u>	<u>3% of value</u>
18	<u>7,000-8,000</u>	<u>22 cents or</u>	<u>8 cents or</u>
19		<u>20% of value</u>	<u>4% of value</u>
20	<u>8,000-9,000</u>	<u>34 cents or</u>	<u>10 cents or</u>
21		<u>20% of value</u>	<u>4% of value</u>
22	<u>Over 9,000</u>	<u>40 cents or</u>	<u>12 cents or</u>
23		<u>20% of value</u>	<u>4% of value</u>

24 (2) (a) (i) On or before October 1, 1988, the
 25 department shall determine the total number of tons of coal

1 produced in Montana and sold from July 1, 1987, through June
 2 30, 1988. If the department finds that these sales exceed
 3 32.2 million tons (which is the average total yearly coal
 4 sales for calendar years 1983, 1984, 1985, and 1986), the
 5 rate of the coal severance tax is as set forth in
 6 subsections (2)(b) through (2)(d).

7 (ii) If any facility that burned Montana coal at any
 8 time from July 1, 1987, to June 30, 1988, does not operate
 9 during a portion of that period due to mechanical failure or
 10 catastrophic act of God, the department shall determine the
 11 average monthly sales of Montana coal to the facility during
 12 its operation and multiply this figure by 12. The department
 13 shall include the product of this calculation in making its
 14 determination of coal produced in Montana and sold from July
 15 1, 1987, through June 30, 1988.

16 (b) The severance tax imposed pursuant to subsection
 17 (2)(a) on each ton of coal produced in the state from July
 18 1, 1988, through June 30, 1990, is:

19	<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
20	<u>(Btu per pound</u>	<u>Mining</u>	<u>Mining</u>
21	<u>of coal):</u>		
22	<u>Under 7,000</u>	<u>12 cents or</u>	<u>5 cents or</u>
23		<u>17% of value</u>	<u>3% of value</u>
24	<u>7,000-8,000</u>	<u>22 cents or</u>	<u>8 cents or</u>
25		<u>25% of value</u>	<u>4% of value</u>

1	<u>8,000-9,000</u>	<u>34 cents or</u>	<u>10 cents or</u>
2		<u>25% of value</u>	<u>4% of value</u>
3	<u>Over 9,000</u>	<u>40 cents or</u>	<u>12 cents or</u>
4		<u>25% of value</u>	<u>4% of value</u>

(c) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state from July 1, 1990, through June 30, 1991, is:

8	<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
9	<u>(Btu per pound</u>	<u>Mining</u>	<u>Mining</u>
10	<u>of coal):</u>		
11	<u>Under 7,000</u>	<u>12 cents or</u>	<u>5 cents or</u>
12		<u>13% of value</u>	<u>3% of value</u>
13	<u>7,000-8,000</u>	<u>22 cents or</u>	<u>8 cents or</u>
14		<u>20% of value</u>	<u>4% of value</u>
15	<u>8,000-9,000</u>	<u>34 cents or</u>	<u>10 cents or</u>
16		<u>20% of value</u>	<u>4% of value</u>
17	<u>Over 9,000</u>	<u>40 cents or</u>	<u>12 cents or</u>
18		<u>20% of value</u>	<u>4% of value</u>

(d) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state after June 30, 1991, is:

22	<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
23	<u>(Btu per pound</u>	<u>Mining</u>	<u>Mining</u>
24	<u>of coal):</u>		
25	<u>Under 7,000</u>	<u>12 cents or</u>	<u>5 cents or</u>

1		<u>13% of value</u>	<u>3% of value</u>
2	<u>7,000-8,000</u>	<u>22 cents or</u>	<u>8 cents or</u>
3		<u>15% of value</u>	<u>4% of value</u>
4	<u>8,000-9,000</u>	<u>34 cents or</u>	<u>10 cents or</u>
5		<u>15% of value</u>	<u>4% of value</u>
6	<u>Over 9,000</u>	<u>40 cents or</u>	<u>12 cents or</u>
7		<u>15% of value</u>	<u>4% of value</u>

(3) "Value" means the contract sales price.

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

(5) 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.

(6) A new coal production incentive tax credit may be claimed on certain coal as provided in 15-35-202."

~~NEW SECTION--SECTION 4--INCENTIVE TAX RATE TO COAL PRODUCER BASED ON TONNAGE PURCHASED BY PURCHASERS--AFTER JUNE 30, 1991, A SEVERANCE TAX IS IMPOSED ON EACH TON OF SUBBITUMINOUS COAL PRODUCED AND SOLD TO PURCHASERS IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:~~

~~(1) 15.0% OF VALUE FOR ALL SUBBITUMINOUS COAL SOLD TO A PURCHASER WHO PURCHASES LESS THAN 3 MILLION TONS OF~~

1 SUBBITUMINOUS--COAL--FROM--ALL--MONTANA--PRODUCERS--DURING-A
 2 FISCAL-YEAR;

3 {2}--14.5%--OF--VALUE--FOR--ALL--SUBBITUMINOUS--COAL--SOLD--TO
 4 A--PURCHASER--WHO--PURCHASES--3--MILLION--TONS--OF--SUBBITUMINOUS
 5 COAL--OR--MORE--BUT--LESS--THAN--6--MILLION--TONS--OF--SUBBITUMINOUS
 6 COAL--FROM--ALL--MONTANA--PRODUCERS--DURING--A--FISCAL--YEAR;

7 {3}--14.0%--OF--VALUE--FOR--ALL--SUBBITUMINOUS--COAL--SOLD--TO--A
 8 PURCHASER--WHO--PURCHASES--6--MILLION--TONS--OF--SUBBITUMINOUS--COAL
 9 OR--MORE--BUT--LESS--THAN--8--MILLION--TONS--OF--SUBBITUMINOUS--COAL
 10 FROM--ALL--MONTANA--PRODUCERS--DURING--A--FISCAL--YEAR;

11 {4}--13.5%--OF--VALUE--FOR--ALL--SUBBITUMINOUS--COAL--SOLD--TO
 12 A--PURCHASER--WHO--PURCHASES--8--MILLION--TONS--OF--SUBBITUMINOUS
 13 COAL--BUT--LESS--THAN--10--MILLION--TONS--OF--SUBBITUMINOUS--COAL
 14 FROM--ALL--MONTANA--PRODUCERS--DURING--A--FISCAL--YEAR;

15 {5}--13.0%--OF--VALUE--FOR--ALL--SUBBITUMINOUS--COAL--SOLD--TO
 16 A--PURCHASER--WHO--PURCHASES--MORE--THAN--10--MILLION--TONS--OF
 17 SUBBITUMINOUS--COAL--FROM--ALL--MONTANA--PRODUCERS--DURING--A
 18 FISCAL--YEAR;

19 Section 4. Section 15-35-104, MCA, is amended to read:
 20 "15-35-104. Quarterly statement and payment of tax.
 21 Each coal mine operator shall compute the severance tax due
 22 on each quarter-year's worth of production on forms
 23 prescribed by the department. The statement shall indicate
 24 the tonnage produced, the average Btu value of the
 25 production, the contract sales price received for the

1 production, and such other information as the department may
 2 require. Each coal mine operator shall provide a statement
 3 of the tons of coal sold to each purchaser for the quarter.
 4 The completed form in duplicate, with the tax payment, shall
 5 be delivered to the department not later than 30 days
 6 following the close of the quarter. The form shall be signed
 7 by the operator if the operator is an individual or by an
 8 officer of the coal mine operator if the operator is a
 9 business entity. A person operating more than one coal mine
 10 in this state may include all of his mines in one statement.
 11 The department may grant a reasonable extension of time for
 12 filing statements and payment of taxes due upon good cause
 13 shown therefor."

14 Section 6. Section 15-35-202, MCA, is amended to read:
 15 "15-35-202. New coal production incentive tax credit
 16 allowed--application limited--(1) A coal mine operator is
 17 entitled to a new coal production incentive tax credit of
 18 33-1/3% of the tax imposed under 15-35-103 on any
 19 incremental production produced and sold during calendar
 20 years 1985 and 1986.

21 {2} A coal mine operator is entitled to a new coal
 22 production incentive tax credit of 33-1/3% of the tax
 23 imposed under 15-35-103 on incremental production for the
 24 entire term of an agreement, except as provided in
 25 subsection (3), if the incremental production resulted from

1 coal-purchases-under:
 2 (a)--an--existing--agreement--which--was--extended--between
 3 January-17-1985-and-June-30-1987-for-at-least-a-5-year
 4 period-or
 5 (b)--a--new--agreement--that--was--executed--between--January
 6 17-1985-and-June-30-1987;
 7 (3)--No-credit-may-be-claimed-for-coal--produced--prior
 8 to-January-17-1985-or-after-December-31-1986."

9 SECTION 5. SECTION 15-35-202, MCA, IS AMENDED TO READ:

10 "15-35-202. New coal production incentive tax credit
 11 allowed -- application limited. (1) A coal mine operator is
 12 entitled to a new coal production incentive tax credit of
 13 33-1/3%-of against the tax imposed under 15-35-103 on--any
 14 of:

15 (a) 33 1/3% for incremental production produced-and
 16 sold during calendar years 1985 and 1986;

17 (b) 50% for incremental production sold from January
 18 1, 1987, until June 30, 1988; and

19 (c) 40% for incremental production sold from July 1,
 20 1988, until June 30, 1990; provided, however, that if the
 21 production quota established in 15-35-103(2)(a)(i) is not
 22 met, the tax credit for this period is 50% for fiscal year
 23 1989 and 40% for fiscal year 1990.

24 (2) (a) A coal mine operator is entitled to a new coal
 25 production incentive tax credit of-33-1/3%-of against the

1 tax imposed under 15-35-103 on incremental production for
 2 the entire term of an agreement, except as provided in
 3 subsection (3), if the incremental production resulted from
 4 coal purchases under:

5 (a)(i) an existing agreement which was extended
 6 between January 1, 1985, and June--30--1987 December 31,
 7 1988, for at least a 5-year period; or

8 (b)(ii) a new agreement that was executed between
 9 January 1, 1985, and June-30-1987 December 31, 1988.

10 (b) The rate of credit allowed under subsection (2)(a)
 11 is:

12 (i) 33 1/3% for incremental production sold from
 13 January 1, 1985, until December 31, 1986;

14 (ii) 50% for any incremental production sold from
 15 January 1, 1987, until June 30, 1988;

16 (iii) 40% for any incremental production sold from July
 17 1, 1988, until June 30, 1990. However, if the production
 18 quota established in 15-35-103(2)(a)(i) is not met, the tax
 19 credit for this period is 50% for fiscal year 1989 and 40%
 20 for fiscal year 1990.

21 (iv) 25% for any incremental production sold from July
 22 1, 1990, until June 30, 1991; and

23 (v) 25% after June 30, 1991, if the production quota
 24 in 15-35-103(2)(a)(i) has not been met.

25 (3) No credit may be claimed for coal produced prior

1 to January 1, 1985."

2 Section 6. Section 15-35-203, MCA, is amended to read:

3 "15-35-203. Calculation and application of credit. (1)
4 The amount of new coal production incentive tax credit that
5 a coal mine operator may claim against the tax imposed in
6 15-35-103 is calculated by:

7 (a) determining the incremental production for each of
8 his qualified purchasers that was produced during a calendar
9 year;

10 (B) DISTRIBUTING THE INCREMENTAL PRODUCTION AMONG THE
11 QUARTERS IN THE CALENDAR YEAR IN THE SAME PROPORTION AS THE
12 TOTAL VOLUME OF COAL SOLD EACH QUARTER TO EACH RESPECTIVE
13 PURCHASER AND SUMMING THE AMOUNTS FOR ALL PURCHASERS TO
14 DETERMINE THE COAL MINE OPERATOR'S INCREMENTAL PRODUCTION
15 FOR EACH QUARTER;

16 (b)(C) determining the arithmetic average severance
17 tax per ton calculated prior to application of the credit on
18 coal sold to each qualified purchaser EACH QUARTER during
19 the calendar year;

20 (c)(D) multiplying the incremental production for a
21 ~~calendar--year~~ QUARTER for a purchaser by the average
22 severance tax per ton for that purchaser and multiplying the
23 total by ~~33-1/3%~~ THE APPROPRIATE PERCENTAGE AS PROVIDED IN
24 15-35-202 FOR EACH QUARTER; and

25 (d)(E) totaling the amount so calculated for all

1 qualified purchasers FOR ALL FOUR QUARTERS OF THE CALENDAR
2 YEAR.

3 (2) When filing the quarterly statement required in
4 15-35-104, a coal mine operator may claim against the coal
5 severance tax calculated for that quarter an amount equal to
6 25% of the new coal production incentive tax credit allowed
7 on incremental production that occurred during the previous
8 calendar year. ~~Credits earned prior to January 17, 1987, may~~
9 ~~be claimed in accordance with this subsection;~~

10 (3) If in any calendar year a purchaser exceeds his
11 base consumption level and he has purchased from more than
12 one Montana coal mine operator during the year, the credit
13 on the incremental production must be divided among the
14 operators on a pro rata basis. To determine each coal mine
15 operator's pro rata share of the tax credit, each operator
16 shall divide his incremental production by the sum of all
17 coal mine operators' incremental production for that
18 purchaser and multiply the quotient by the purchases in
19 excess of the base consumption level for that purchaser.

20 (4) Neither a coal mine operator nor a purchaser is
21 entitled to a direct payment for the credit allowed in
22 15-35-202. A credit terminates if not taken during the year
23 following the year in which the incremental production
24 occurred.

25 (5) Each coal mine operator must reduce the delivered

1 price of coal sold to each qualified purchaser by an amount
 2 equal to the credit received on incremental production sold
 3 to that purchaser."

4 ~~Section 87--Section 15-35-2047-MCA7-is amended to read:~~
 5 ~~"15-35-2047--Reporting requirements for credit----duty~~
 6 ~~of--department:---(1)--Every Montana coal mine operator must~~
 7 ~~provide to the department:~~

8 ~~(a)--on or before April 307, 1985-19877, a list--showing~~
 9 ~~the amount of coal produced and sold in calendar years 19837~~
 10 ~~and--19847 and 1986--to every purchaser7 including purchasers~~
 11 ~~who obtained coal from the--coal--mine--operator--through--a~~
 12 ~~broker7 and~~

13 ~~(b)--with--the--quarterly--statement--required--by~~
 14 ~~15-35-1047 a list of the number of tons produced and sold to~~
 15 ~~every purchaser during the quarter--and--the--severance--tax~~
 16 ~~calculated--prior--to the application of the credit on these~~
 17 ~~tons:~~

18 ~~(2)--To be eligible for the tax credit provided for--in~~
 19 ~~15-35-2027,--a--coal--mine--operator--must--furnish--to--the~~
 20 ~~department:~~

21 ~~(a)--on or before April 307, 19857, copies--of--all~~
 22 ~~existing coal sales agreements;~~

23 ~~(b)--with--the--quarterly--statement--required--by~~
 24 ~~15-35-1047, a copy--of--any--new--coal--sales--agreements--or~~
 25 ~~extensions--of--existing--agreements--executed--during--the~~

1 quarter;

2 ~~(c)--on or before January 31 of each year:~~

3 ~~(i)--a list of incremental production for all qualified~~
 4 ~~purchasers during the previous calendar year;~~

5 ~~(ii)--a written statement from each qualified--purchaser~~
 6 ~~verifying the volume of coal purchased in that year from all~~
 7 ~~Montana coal mine operators7 and~~

8 ~~(iii)--the--necessary--information--on--incremental~~
 9 ~~production purchased through a broker to--verify--that--such~~
 10 ~~incremental production did not cause a reduction in the base~~
 11 ~~consumption--level--of--any other purchaser of Montana coal7~~
 12 ~~and~~

13 ~~(d)--any other data7 reports7 evidence7--or--production~~
 14 ~~data--that--may be necessary for the department to determine~~
 15 ~~whether a purchaser is a qualified purchaser--and--the--base~~
 16 ~~consumption level for each purchaser:~~

17 ~~(3)--By July 17, 1985-19877, the department shall prepare~~
 18 ~~and--publish--for--informational--purposes--only--an--unaudited~~
 19 ~~compilation of the base production level for each coal--mine~~
 20 ~~operator and a compilation of the base consumption level for~~
 21 ~~each purchaser:~~

22 ~~(4)--Any coal--mine operator or purchaser may7 for the~~
 23 ~~purpose of determining the eligibility--of--coal--production~~
 24 ~~for--the--new production incentive tax credit7 file with the~~
 25 ~~department a petition for a declaratory ruling--as--provided~~

1 in--2-4-501;--The--department--shall--issue--a--ruling--on--the
2 petition--within--90--days--of--the--date--the--petition--was--filed
3 with--the--department--."

4 NEW SECTION. Section 7. Extension of authority. Any
5 existing authority of the department of revenue to make
6 rules on the subject of the provisions of this act is
7 extended to the provisions of this act.

8 NEW SECTION. Section 8. Applicability. The
9 amendments--to--15-35-103--in--section--3--that--provide--for--tax
10 rates--on--incremental--production--after--January--17--1987--apply
11 retroactively,--within--the--meaning--of--1-2-109; SECTIONS 2 AND
12 5 APPLY RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO TAX
13 PERIODS BEGINNING AFTER DECEMBER 31, 1986.

14 NEW SECTION. Section 9. Effective date. This act is
15 effective July 1, 1987.

-End-