

HOUSE BILL NO. 4

INTRODUCED BY HANSON

BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE

IN THE HOUSE

| | |
|-------------------|---|
| DECEMBER 30, 1988 | INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION. |
| JANUARY 2, 1989 | FIRST READING. |
| JANUARY 20, 1989 | COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. |
| JANUARY 21, 1989 | PRINTING REPORT. |
| JANUARY 23, 1989 | SECOND READING, DO PASS. |
| JANUARY 24, 1989 | ENGROSSING REPORT. |
| JANUARY 25, 1989 | THIRD READING, PASSED. AYES, 71; NOES, 26. |
| | TRANSMITTED TO SENATE. |

IN THE SENATE

| | |
|------------------|--|
| JANUARY 26, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION. |
| FEBRUARY 3, 1989 | COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED. |
| FEBRUARY 7, 1989 | SECOND READING, CONCURRED IN. |
| FEBRUARY 9, 1989 | THIRD READING, CONCURRED IN. AYES, 48; NOES, 2. |
| | RETURNED TO HOUSE. |

IN THE HOUSE

FEBRUARY 10, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 4
2 INTRODUCED BY D. BROWN
3 BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE RATE OF
6 SEVERANCE TAX ON CERTAIN COAL; AMENDING SECTIONS 15-35-102,
7 15-35-103, AND 15-35-202, MCA; AND PROVIDING AN EFFECTIVE
8 DATE AND AN APPLICABILITY DATE."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 **Section 1.** Section 15-35-102, MCA, is amended to read:
12 "15-35-102. Definitions. As used in this chapter, the
13 following definitions apply:
14 (1) "Agreement" means a signed contract that is valid
15 under Montana law between a coal mine operator and a
16 purchaser or broker for the sale of coal that is produced in
17 Montana.
18 (2) (a) "Base consumption level" for a purchaser,
19 except as provided in subsection (2)(b), applies only for
20 the term of an agreement in effect as of December 31, 1984,
21 and means the lesser of:
22 (i) the volume of coal purchased during calendar year
23 1986 from all Montana coal mine operators; or
24 (ii) the greater of:
25 (A) the arithmetic average volume of coal purchased

1 during calendar years 1983 and 1984 from all Montana coal
2 mine operators; or
3 (B) 90% of the maximum tonnage provided for in any
4 agreement executed prior to January 1, 1985, for which the
5 highest scheduled minimum quantity of coal stipulated by the
6 terms of the agreement as they existed on January 1, 1985,
7 has not been purchased at any time during the term of the
8 agreement, plus the arithmetic average volume of coal
9 purchased during calendar years 1983 and 1984 from all
10 Montana coal mine operators under all other agreements.
11 (b) If the volume calculated in subsection (2)(a)(i)
12 is less than one-third of the volume calculated in
13 subsection (2)(a)(ii), the base consumption level is the
14 volume calculated in subsection (2)(a)(ii).
15 (3) (a) Except as provided in subsection (3)(b), "base
16 production level" for a coal mine operator applies only for
17 the term of an agreement in effect as of December 31, 1984,
18 and means the lesser of:
19 (i) the arithmetic average volume of coal produced in
20 Montana and sold to a purchaser in calendar years 1983 and
21 1984; or
22 (ii) the volume of coal produced in Montana and sold to
23 a purchaser in 1986.
24 (b) If the amount calculated in subsection (3)(a)(ii)
25 is less than one-third of the amount calculated in

subsection (3)(a)(i), the base production level is the amount calculated in subsection (3)(a)(i).

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

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

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

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

(c) for quarterly periods ending on and after

September 30, 1986, 15 cents per ton plus 25% of the difference between 15 cents per ton and the amount of such federal, state, and tribal government royalties actually paid; and

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

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

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

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

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

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

(11) "Qualified purchaser" means a purchaser whose purchases of Montana coal in any given year exceed his base

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

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

7 (13) "Taxes paid on production" includes any tax paid
8 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) "Ton" means 2,000 pounds.

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

18 **Section 2.** Section 15-35-103, MCA, is amended to read:

19 "15-35-103. Severance tax -- rates imposed --
20 exemptions. (1) Except as provided in subsection (2) Subject
21 to the provisions of 15-35-202 allowing a new coal
22 production incentive tax credit, a severance tax is imposed
23 on each ton of coal produced in the state in accordance with
24 the following schedule:

25 (a)--Fiscal Years 1988 and 1989:

| | | | |
|----|-----------------|--------------|-------------|
| 1 | Heating-quality | Surface-- | Underground |
| 2 | {Btu-per-pound | Mining-- | Mining--- |
| 3 | ---of-coal}: | -- | |
| 4 | Under-7,000 | 12-cents-or | 5-cents-or |
| 5 | -- | 20%-of-value | 3%-of-value |
| 6 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 7 | -- | 30%-of-value | 4%-of-value |
| 8 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 9 | -- | 30%-of-value | 4%-of-value |
| 10 | Over-9,000 | 40-cents-or | 12-cents-or |
| 11 | -- | 30%-of-value | 4%-of-value |

12 (b)--Fiscal Year 1990:

| | | | |
|----|-----------------|--------------|-------------|
| 13 | Heating-quality | Surface-- | Underground |
| 14 | {Btu-per-pound | Mining-- | Mining--- |
| 15 | ---of-coal}: | -- | |
| 16 | Under-7,000 | 12-cents-or | 5-cents-or |
| 17 | | 13%-of-value | 3%-of-value |
| 18 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 19 | | 25%-of-value | 4%-of-value |
| 20 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 21 | | 25%-of-value | 4%-of-value |
| 22 | Over-9,000 | 40-cents-or | 12-cents-or |
| 23 | | 25%-of-value | 4%-of-value |

24 (c)--Fiscal Year 1991 and Thereafter:

| | | | |
|----|-----------------|-----------|-------------|
| 25 | Heating quality | Surface-- | Underground |
|----|-----------------|-----------|-------------|

1 {Btu-per-pound Mining-- Mining---
 2 ---of-coal}: -
 3 Under-7,000 12-cents-or 5-cents-or
 4 13%-of-value 3%-of-value
 5 7,000-8,000 22-cents-or 8-cents-or
 6 20%-of-value 4%-of-value
 7 8,000-9,000 34-cents-or 10-cents-or
 8 20%-of-value 4%-of-value
 9 Over-9,000 40-cents-or 12-cents-or
 10 20%-of-value 4%-of-value
 11 {2}--(a)--(i)--On--or--before--October---17---1987---the
 12 department--shall--determine--the--total--number--of--tons--of--coal
 13 produced--in--Montana--and--sold--from--July-17-1987--through--June
 14 30,1988--If--the--department--finds--that--these--sales--exceed
 15 32.2--million--tons--(which--is--the--average--total--yearly--coal
 16 sales--for--calendar--years--1983,1984,1985,--and--1986),--the
 17 rate---of---the---coal---severance---tax---is---as---set---forth---in
 18 subsections--(2)(b)--through--(2)(d);
 19 (i)--If--any--facility--that--burned--Montana--coal--at--any
 20 time--from--July-17-1987--to--June-30,1988,--does--not--operate
 21 during--a--portion--of--that--period--due--to--mechanical--failure--or
 22 catastrophic--act--of--God,--the--department--shall--determine--the
 23 average--monthly--sales--of--Montana--coal--to--the--facility--during
 24 its--operation--and--multiply--this--figure--by--12--The--department
 25 shall--include--the--product--of--this--calculation--in--making--its

1 determination-of-coal-produced-in-Montana-and-sold-from-July
 2 17-1987,through-June-30,1988;
 3 (b)--The-severance-tax-imposed-pursuant--to--subsection
 4 (2)(a)--on--each-ton-of-coal-produced-in-the-state-from-July
 5 17-1988,through-June-30,1990,--is:
 6 (a) After June 30, 1988, and before July 1, 1990:
 7 Heating quality Surface Underground
 8 (Btu per pound Mining Mining
 9 of coal):
 10 Under 7,000 12-cents-or 5-cents-or
 11 17% of value 3% of value
 12 7,000-8,000 22-cents-or 8-cents-or
 13 and over 25% of value 4% of value
 14 8,000-9,000 34-cents-or 10-cents-or
 15 25%-of-value 4%-of-value
 16 Over-9,000 40-cents-or 12-cents-or
 17 25%-of-value 4%-of-value
 18 (c)--The-severance-tax-imposed-pursuant--to--subsection
 19 (2)(a)--on--each-ton-of-coal-produced-in-the-state-from-July
 20 17-1990,through-June-30,1991,--is:
 21 (b) After June 30, 1990, and before July 1, 1991:
 22 Heating quality Surface Underground
 23 (Btu per pound Mining Mining
 24 of coal):
 25 Under 7,000 12-cents-or 5-cents-or

| | | | |
|----|--|------------------|-------------|
| 1 | | 13% of value | 3% of value |
| 2 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 3 | and over | 20% of value | 4% of value |
| 4 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 5 | | 20%-of-value | 4%-of-value |
| 6 | Over-9,000 | 40-cents-or | 12-cents-or |
| 7 | | 20%-of-value | 4%-of-value |
| 8 | {d}--The severance tax imposed pursuant--to--subsection | | |
| 9 | {2}{a}--on each ton of coal produced in the state after June | | |
| 10 | 30, 1991--is: | | |
| 11 | (c) After June 30, 1991: | | |
| 12 | Heating quality | Surface | Underground |
| 13 | (Btu per pound | Mining | Mining |
| 14 | of coal): | | |
| 15 | Under 7,000 | 12-cents-or | 5-cents-or |
| 16 | | 13% 10% of value | 3% of value |
| 17 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 18 | and over | 15% of value | 4% of value |
| 19 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 20 | | 15%-of-value | 4%-of-value |
| 21 | Over-9,000 | 40-cents-or | 12-cents-or |
| 22 | | 15%-of-value | 4%-of-value |
| 23 | {3}{2} "Value" means the contract sales price. | | |
| 24 | {4}{3} The formula which yields the greater amount of | | |
| 25 | tax in a particular case shall be used at each point on | | |

1 these schedules.

2 {5}{4} A person is not liable for any severance tax
3 upon 50,000 tons of the coal he produces in a calendar year,
4 except that if he produces more than 50,000 tons of coal in
5 a calendar year, he will be liable for severance tax upon
6 all coal produced in excess of the first 20,000 tons.

7 {6}{5} A new coal production incentive tax credit may
8 be claimed on certain coal as provided in 15-35-202."

9 **Section 3.** 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
13 against the tax imposed under 15-35-103 of:

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

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

18 (c) 40% for incremental production sold from July 1,
19 1988, until June 30 after June 30, 1988, and before July 1,
20 1990; and provided,--however,--that--if--the--production--quota
21 established--in--15-35-183{2}{a}{i}--is--not--met,--the--tax--credit
22 for--this--period--is--50%--for--fiscal--year--1989--and--40%--for
23 fiscal-year-1990.

24 (b) 25% for incremental production sold after June 30,
25 1990, and before July 1, 1991.

(2) (a) A coal mine operator is entitled to a new coal production incentive tax credit against the tax imposed under 15-35-103 on incremental production for the entire term of an agreement, except as provided in subsection (3), and is entitled to adjustment of the base consumption level and the base production level, as defined in 15-35-102, if the incremental production resulted from coal purchases under:

(i)(a) an existing agreement which was extended between January 1, 1985, and December 31, 1988 after December 31, 1984, and before July 1, 1990, for at least a 5-year period; or

(i)(b) a new agreement that was executed between January 1, 1985, and December 31, 1988 after December 31, 1984, and before July 1, 1990.

(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."

Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 6. Effective date -- applicability. [This act] is effective July 1, 1989, and applies to payments of severance tax that are due and payable after June 30, 1989, on coal mined after March 31, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB004, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the rate of severance tax on certain coal; amending sections 15-35-102, 15-35-103, and 15-35-202 and providing an effective date and an applicability date.

Amending 15-35-103 reduces the tax rate on coal with a BTU rating of less than 7,000 from 13% to 10% for all such coal produced after June 30, 1991.

Amending 15-35-202 eliminates the base level for all existing purchasers whose sales agreements expired after December 31, 1984 and were renewed prior to July 1, 1990, making all tonnage purchased under the new contract subject to the incentive tax credit. This amendment also extends the credit for all incremental production one year to June 30, 1991.

ASSUMPTIONS:

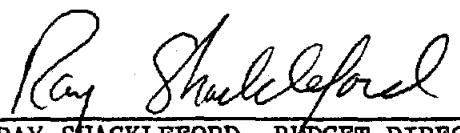
1. Allowing expired contracts to be renewed at the 15% incentive rate during Dec. 31, 1988 to July 1, 1991 would affect only one(known) producer. The revenue loss is estimated to be \$52,500 in FY90, \$122,500 in FY91, \$105,000 in FY92, and \$35,000 in FY93, based on this one known contract. (DOR)
2. Extending the new production incentive extension to FY91 will reduce tax revenue by \$300,000 in FY91, \$600,000 in FY92, and \$300,000 in FY93, based on 1987 production. (DOR)
3. Reduction of the tax rate on lignite production from 13% to 10% will impact only one coal mine. This provision applies beginning in FY92, and has no impact in the current biennium. The revenue loss is estimated to be \$59,000 in both FY92 and FY93. (REAC)
4. No impact on expenditures.

FISCAL IMPACT:

(See attached page)

Long-Range Impact:

Coal severance tax revenues would be decreased \$764,000 in FY92, and \$394,000 in FY93.


RAY SHACKLEFORD, BUDGET DIRECTOR
Office of Budget and Program Planning

1/10/89
DATE


MARIAN W. HANSON, PRIMARY SPONSOR

1/10/89
DATE

Fiscal Note for HB004, as introduced

Fiscal Note attachment for HB4, Version: Introduced

A. Effect on Revenue by Source:

| | ===== FY '90 ===== | | | ===== FY '91 ===== | | |
|-----------------------------------|------------------------------|-------------------------------|------------|------------------------------|-------------------------------|-------------|
| Fund | Revenue Under Current Law | Revenue Under Proposed Law | Difference | Revenue Under Current Law | Revenue Under Proposed Law | Difference |
| ===== | ===== | ===== | ===== | ===== | ===== | ===== |
| Coal Tax Trust Fund | \$26,442,000 | \$26,415,750 | (\$26,250) | \$22,841,500 | \$22,780,250 | (\$61,250) |
| Alternative Energy Research | 904,316 | 903,419 | (898) | 781,179 | 779,085 | (2,095) |
| Local Impact | 3,516,786 | 3,513,295 | (3,491) | 3,037,920 | 3,029,773 | (8,146) |
| Education Trust | 4,019,184 | 4,015,194 | (3,990) | 3,471,908 | 3,462,598 | (9,310) |
| School Equalization | 2,009,592 | 2,007,597 | (1,995) | 1,735,954 | 1,731,299 | (4,655) |
| County Land Planning | 200,959 | 200,760 | (200) | 173,595 | 173,130 | (466) |
| Renewable Resource Development | 251,199 | 250,950 | (249) | 216,994 | 216,412 | (582) |
| Parks Acquisition and Maintenance | 1,004,796 | 1,003,799 | (998) | 867,977 | 865,650 | (2,328) |
| State Library Commission | 200,959 | 200,760 | (200) | 173,595 | 173,130 | (466) |
| State General Fund | 7,234,531 | 7,227,349 | (7,182) | 6,249,434 | 6,232,676 | (16,758) |
| Water Development | 251,199 | 250,950 | (249) | 216,994 | 216,412 | (582) |
| Conservation District Operations | 100,480 | 100,380 | (100) | 86,798 | 86,565 | (233) |
| Highway Fund | 6,346,080 | 6,339,780 | (6,300) | 5,481,960 | 5,467,260 | (14,700) |
| Agricultural Act | 401,918 | 401,519 | (399) | 347,191 | 346,260 | (931) |
| ===== | ===== | ===== | ===== | ===== | ===== | ===== |
| TOTAL | \$52,884,000 | \$52,831,500 | (\$52,500) | \$45,683,000 | \$45,560,500 | (\$122,500) |

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 4

INTRODUCED BY D. BROWN

BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE RATE OF SEVERANCE TAX ON CERTAIN COAL; AMENDING SECTIONS 15-35-102, 15-35-103, AND 15-35-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-35-102, MCA, is amended to read:

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

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

(2) (a) "Base consumption level" for a purchaser, except as provided in subsection (2)(b), applies only for the term of an agreement in effect as of December 31, 1984, and means the lesser of:

(i) the volume of coal purchased during calendar year 1986 from all Montana coal mine operators; or

(ii) the greater of:

(A) the arithmetic average volume of coal purchased

during calendar years 1983 and 1984 from all Montana coal mine operators; or

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

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

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

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

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

(b) If the amount calculated in subsection (3)(a)(ii) is less than one-third of the amount calculated in

1 subsection (3)(a)(i), the base production level is the
2 amount calculated in subsection (3)(a)(i).

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4 coal.

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6 coal extracted and prepared for shipment f.o.b. mine,
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11 calculated. However, with respect to royalties paid to the
12 government of the United States, the state of Montana, or a
13 federally recognized Indian tribe, the contract sales price
14 includes only:

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

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

25 (c) for quarterly periods ending on and after

1 September 30, 1986, 15 cents per ton plus 25% of the
2 difference between 15 cents per ton and the amount of such
3 federal, state, and tribal government royalties actually
4 paid; and

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

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9 by which coal in the solid state is transformed into slurry,
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12 coal produced annually by a coal mine operator and sold to a
13 qualified purchaser that exceeds the base production level
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15 the extent the quantity of coal exceeds that purchaser's
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3 that causes a reduction in the base consumption level of a
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6 "surface mining".

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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) "Ton" means 2,000 pounds.

15 (15) "Underground mining" means a coal mining method
16 utilizing shafts and tunnels and as further defined in
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18 **Section 2.** Section 15-35-103, MCA, is amended to read:

19 "15-35-103. Severance tax -- rates imposed --
20 ~~exemptions. (1) Except-as-provided-in-subsection-(2) Subject~~
21 ~~to the provisions of 15-35-202 allowing a new coal~~
22 ~~production incentive tax credit,~~ a severance tax is imposed
23 on each ton of coal produced in the state in accordance with
24 the following schedule:

25 ~~(a)--Fiscal-Years-1988-and-1989:~~

| | | | |
|----|---------------------------------------|--------------|-------------|
| 1 | Heating-quality | Surface-- | Underground |
| 2 | {Btu-per-pound | Mining-- | Mining--- |
| 3 | ---of-coal}: | -- | |
| 4 | Under-7,000 | 12-cents-or | 5-cents-or |
| 5 | -- | 20%-of-value | 3%-of-value |
| 6 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 7 | -- | 30%-of-value | 4%-of-value |
| 8 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 9 | -- | 30%-of-value | 4%-of-value |
| 10 | Over-9,000 | 40-cents-or | 12-cents-or |
| 11 | -- | 30%-of-value | 4%-of-value |
| 12 | {b)--Fiscal-Year-1990: | | |
| 13 | Heating-quality | Surface-- | Underground |
| 14 | {Btu-per-pound | Mining-- | Mining--- |
| 15 | ---of-coal}: | -- | |
| 16 | Under-7,000 | 12-cents-or | 5-cents-or |
| 17 | | 13%-of-value | 3%-of-value |
| 18 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 19 | | 25%-of-value | 4%-of-value |
| 20 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 21 | | 25%-of-value | 4%-of-value |
| 22 | Over-9,000 | 40-cents-or | 12-cents-or |
| 23 | | 25%-of-value | 4%-of-value |
| 24 | {c)--Fiscal-Year-1991-and-Thereafter: | | |
| 25 | Heating-quality | Surface-- | Underground |

1 {Btu-per-pound Mining-- Mining---
 2 ---of-coal}: -
 3 Under-7,000 12-cents-or 5-cents-or
 4 13%-of-value 3%-of-value
 5 7,000-8,000 22-cents-or 8-cents-or
 6 20%-of-value 4%-of-value
 7 8,000-9,000 34-cents-or 10-cents-or
 8 20%-of-value 4%-of-value
 9 Over-9,000 40-cents-or 12-cents-or
 10 20%-of-value 4%-of-value
 11 {2}--(a)--(i)--On--or--before--October--17--1987--the
 12 department--shall--determine--the--total--number--of--tons--of--coal
 13 produced--in--Montana--and--sold--from--July--17--1987--through--June
 14 30--1988--if--the--department--finds--that--these--sales--exceed
 15 32.2--million--tons--(which--is--the--average--total--yearly--coal
 16 sales--for--calendar--years--1983--1984--1985--and--1986)--the
 17 rate--of--the--coal--severance--tax--is--as--set--forth--in
 18 subsections--(2)(b)--through--(2)(d):
 19 (i)--If--any--facility--that--burned--Montana--coal--at--any
 20 time--from--July--17--1987--to--June--30--1988--does--not--operate
 21 during--a--portion--of--that--period--due--to--mechanical--failure--or
 22 catastrophic--act--of--God--the--department--shall--determine--the
 23 average--monthly--sales--of--Montana--coal--to--the--facility--during
 24 its--operation--and--multiply--this--figure--by--12--The--department
 25 shall--include--the--product--of--this--calculation--in--making--its

1 determination-of-coal-produced-in-Montana-and-sold-from-July
 2 17-1987-through-June-30-1988:
 3 (b)--The-severance-tax-imposed-pursuant--to--subsection
 4 (2)(a)--on--each-ton-of-coal-produced-in-the-state-from-July
 5 17-1988-through-June-30-1990--is:
 6 (a) After June 30, 1988, and before July 1, 1990:
 7 Heating quality Surface Underground
 8 (Btu per pound Mining Mining
 9 of coal):
 10 Under 7,000 12-cents-or 5-cents-or
 11 17% of value 3% of value
 12 7,000-8,000 22-cents-or 8-cents-or
 13 and over 25% of value 4% of value
 14 8,000-9,000 34-cents-or 10-cents-or
 15 25%-of-value 4%-of-value
 16 Over-9,000 40-cents-or 12-cents-or
 17 25%-of-value 4%-of-value
 18 (c)--The-severance-tax-imposed-pursuant--to--subsection
 19 (2)(a)--on--each-ton-of-coal-produced-in-the-state-from-July
 20 17-1990-through-June-30-1991--is:
 21 (b) After June 30, 1990, and before July 1, 1991:
 22 Heating quality Surface Underground
 23 (Btu per pound Mining Mining
 24 of coal):
 25 Under 7,000 12-cents-or 5-cents-or

| | | | |
|---|-------------|--------------|-------------|
| 1 | | 13% of value | 3% of value |
| 2 | 7,000-87000 | 22-cents-or | 8-cents-or |
| 3 | and over | 20% of value | 4% of value |
| 4 | 87000-97000 | 34-cents-or | 10-cents-or |
| 5 | | 20%-of-value | 4%-of-value |
| 6 | Over-97000 | 40-cents-or | 12-cents-or |
| 7 | | 20%-of-value | 4%-of-value |

8 (d) -- The severance tax imposed pursuant to subsection
 9 (2)(a) -- on each ton of coal produced in the state after June
 10 30, 1991, is:

11 (c) After June 30, 1991:

| | | | |
|----|-----------------|------------------|-------------|
| 12 | Heating quality | Surface | Underground |
| 13 | (Btu per pound | Mining | Mining |
| 14 | of coal): | | |
| 15 | Under 7,000 | 12-cents-or | 5-cents-or |
| 16 | | 13% 10% of value | 3% of value |
| 17 | 7,000-87000 | 22-cents-or | 8-cents-or |
| 18 | and over | 15% of value | 4% of value |
| 19 | 87000-97000 | 34-cents-or | 10-cents-or |
| 20 | | 15%-of-value | 4%-of-value |
| 21 | Over-97000 | 40-cents-or | 12-cents-or |
| 22 | | 15%-of-value | 4%-of-value |

23 (3)(2) "Value" means the contract sales price.

24 (4)(3) The formula which yields the greater amount of
 25 tax in a particular case shall be used at each point on

1 these schedules.

2 (5)(4) A person is not liable for any severance tax
 3 upon 50,000 tons of the coal he produces in a calendar year,
 4 except that if he produces more than 50,000 tons of coal in
 5 a calendar year, he will be liable for severance tax upon
 6 all coal produced in excess of the first 20,000 tons.

7 (6)(5) A new coal production incentive tax credit may
 8 be claimed on certain coal as provided in 15-35-202."

9 **Section 3.** 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
 13 against the tax imposed under 15-35-103 of:

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

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

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

24 (b) 25% for incremental production sold after June 30,
 25 1990, and before July 1, 1991.

(2) ~~(a)~~ A coal mine operator is entitled to a new coal production incentive tax credit against the tax imposed under 15-35-103 on incremental production for the entire term of an agreement, except as provided in subsection (3), and is entitled to adjustment of the base consumption level and the base production level, as defined in 15-35-102, if the incremental production resulted from coal purchases under:

~~(i)(a)~~ an existing agreement which was extended between January 1, 1985, and December 31, 1988 after December 31, 1984, and before July 1, 1990 1991, for at least a 5-year period; or

~~(i)(b)~~ a new agreement that was executed between January 1, 1985, and December 31, 1988 after December 31, 1984, and before July 1, 1990 1991.

~~(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."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 6. Effective date -- applicability. (1) [This act] is effective July 1, 1989, ON PASSAGE AND APPROVAL and applies to payments of severance tax that are due and payable after June 30, 1989, on coal mined after March 31, 1989 RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO JANUARY 1, 1989.

(2) [THIS ACT] APPLIES TO ALL COAL SEVERANCE TAX REVENUE RECORDED ON OR AFTER JANUARY 1, 1989, REGARDLESS OF WHEN THE TAX OBLIGATION ACCRUED.

-End-

HOUSE BILL NO. 4

INTRODUCED BY HANSON

BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE RATE OF SEVERANCE TAX ON CERTAIN COAL; AMENDING SECTIONS 15-35-102, 15-35-103, AND 15-35-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-35-102, MCA, is amended to read:

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

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

(2) (a) "Base consumption level" for a purchaser, except as provided in subsection (2)(b), applies only for the term of an agreement in effect as of December 31, 1984, and means the lesser of:

(i) the volume of coal purchased during calendar year 1986 from all Montana coal mine operators; or

(ii) the greater of:

(A) the arithmetic average volume of coal purchased

during calendar years 1983 and 1984 from all Montana coal mine operators; or

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

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

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

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

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

(b) If the amount calculated in subsection (3)(a)(ii) is less than one-third of the amount calculated in

1 subsection (3)(a)(i), the base production level is the
2 amount calculated in subsection (3)(a)(i).

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

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

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

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

25 (c) for quarterly periods ending on and after

1 September 30, 1986, 15 cents per ton plus 25% of the
2 difference between 15 cents per ton and the amount of such
3 federal, state, and tribal government royalties actually
4 paid; and

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

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

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

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

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

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

24 (11) "Qualified purchaser" means a purchaser whose
25 purchases of Montana coal in any given year exceed his base

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

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

7 (13) "Taxes paid on production" includes any tax paid
8 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) "Ton" means 2,000 pounds.

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

18 **Section 2.** Section 15-35-103, MCA, is amended to read:

19 "15-35-103. Severance tax -- rates imposed --
20 exemptions. (1) Except as provided in subsection (2) Subject
21 to the provisions of 15-35-202 allowing a new coal
22 production incentive tax credit, a severance tax is imposed
23 on each ton of coal produced in the state in accordance with
24 the following schedule:

25 (a)--Fiscal Years 1988 and 1989:

| | | | |
|----|-----------------|--------------|-------------|
| 1 | Heating-quality | Surface-- | Underground |
| 2 | {Btu-per-pound | Mining-- | Mining--- |
| 3 | ---of-coal}: | -- | |
| 4 | Under-7,000 | 12-cents-or | 5-cents-or |
| 5 | -- | 20%-of-value | 3%-of-value |
| 6 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 7 | -- | 30%-of-value | 4%-of-value |
| 8 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 9 | -- | 30%-of-value | 4%-of-value |
| 10 | Over-9,000 | 40-cents-or | 12-cents-or |
| 11 | -- | 30%-of-value | 4%-of-value |

12 (b)--Fiscal Year 1990:

| | | | |
|----|-----------------|--------------|-------------|
| 13 | Heating-quality | Surface-- | Underground |
| 14 | {Btu-per-pound | Mining-- | Mining--- |
| 15 | ---of-coal}: | -- | |
| 16 | Under-7,000 | 12-cents-or | 5-cents-or |
| 17 | | 13%-of-value | 3%-of-value |
| 18 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 19 | | 25%-of-value | 4%-of-value |
| 20 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 21 | | 25%-of-value | 4%-of-value |
| 22 | Over-9,000 | 40-cents-or | 12-cents-or |
| 23 | | 25%-of-value | 4%-of-value |

24 (c)--Fiscal Year 1991 and Thereafter:

| | | | |
|----|-----------------|-----------|-------------|
| 25 | Heating-quality | Surface-- | Underground |
|----|-----------------|-----------|-------------|

1 {Btu-per-pound Mining-- Mining---
 2 ---of-coal}: -
 3 Under-7,000 12-cents-or 5-cents-or
 4 13%-of-value 3%-of-value
 5 7,000-8,000 22-cents-or 8-cents-or
 6 20%-of-value 4%-of-value
 7 8,000-9,000 34-cents-or 10-cents-or
 8 20%-of-value 4%-of-value
 9 Over-9,000 40-cents-or 12-cents-or
 10 20%-of-value 4%-of-value
 11 {2}{a}{i}-On--or--before--October---1,---1987---the
 12 department--shall-determine-the-total-number-of-tons-of-coal
 13 produced-in-Montana-and-sold-from-July-1,1987,through-June
 14 30,1988--If-the-department-finds-that--these--sales--exceed
 15 32.2-million--tons--(which-is-the-average-total-yearly-coal
 16 sales-for-calendar-years-1983,1984,1985,--and--1986),--the
 17 rate--of--the--coal--severance--tax--is--as--set--forth--in
 18 subsections-{2}{b}-through-{2}{d};
 19 {ii}-If-any-facility-that-burned-Montana--coal--at--any
 20 time--from--July-1,1987,--to--June-30,1988,--does-not-operate
 21 during-a-portion-of-that-period-due-to-mechanical-failure-or
 22 catastrophic-act-of-God,--the-department-shall-determine--the
 23 average-monthly-sales-of-Montana-coal-to-the-facility-during
 24 its-operation-and-multiply-this-figure-by-12--The-department
 25 shall--include-the-product-of-this-calculation-in-making-its

1 determination-of-coal-produced-in-Montana-and-sold-from-July
 2 1,1987,through-June-30,1988;
 3 {b}--The-severance-tax-imposed-pursuant--to--subsection
 4 {2}{a}--on--each-ton-of-coal-produced-in-the-state-from-July
 5 1,1987,through-June-30,1990,--is:
 6 (a) After June 30, 1988, and before July 1, 1990:
 7 Heating quality Surface Underground
 8 (Btu per pound Mining Mining
 9 of coal):
 10 Under 7,000 12-cents-or 5-cents-or
 11 17% of value 3% of value
 12 7,000-8,000 22-cents-or 8-cents-or
 13 and over 25% of value 4% of value
 14 8,000-9,000 34-cents-or 10-cents-or
 15 25%-of-value 4%-of-value
 16 Over-9,000 40-cents-or 12-cents-or
 17 25%-of-value 4%-of-value
 18 {c}--The-severance-tax-imposed-pursuant--to--subsection
 19 {2}{a}--on--each-ton-of-coal-produced-in-the-state-from-July
 20 1,1990,through-June-30,1991,--is:
 21 (b) After June 30, 1990, and before July 1, 1991:
 22 Heating quality Surface Underground
 23 (Btu per pound Mining Mining
 24 of coal):
 25 Under 7,000 12-cents-or 5-cents-or

| | | | |
|---|-----------------|--------------|-------------|
| 1 | | 13% of value | 3% of value |
| 2 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 3 | <u>and over</u> | 20% of value | 4% of value |
| 4 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 5 | | 20%-of-value | 4%-of-value |
| 6 | Over-9,000 | 40-cents-or | 12-cents-or |
| 7 | | 20%-of-value | 4%-of-value |

8 ~~{d}--The-severance-tax-imposed-pursuant--to--subsection~~
 9 ~~{2}{a}--on-each-ton-of-coal-produced-in-the-state-after-June~~
 10 ~~30,1991--is:~~

11 {c} After June 30, 1991:

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

23 {3}{2} "Value" means the contract sales price.

24 {4}{3} The formula which yields the greater amount of
 25 tax in a particular case shall be used at each point on

1 these schedules.

2 {5}{4} A person is not liable for any severance tax
 3 upon 50,000 tons of the coal he produces in a calendar year,
 4 except that if he produces more than 50,000 tons of coal in
 5 a calendar year, he will be liable for severance tax upon
 6 all coal produced in excess of the first 20,000 tons.

7 {6}{5} A new coal production incentive tax credit may
 8 be claimed on certain coal as provided in 15-35-202."

9 **Section 3.** 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
 13 against the tax imposed under 15-35-103 of:

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

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

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

24 (b) 25% for incremental production sold after June 30,
 25 1990, and before July 1, 1991.

(2) (a) A coal mine operator is entitled to a new coal production incentive tax credit against the tax imposed under 15-35-103 on incremental production for the entire term of an agreement, except as provided in subsection (3), and is entitled to adjustment of the base consumption level and the base production level, as defined in 15-35-102, if the incremental production resulted from coal purchases under:

(i)(a) an existing agreement which was extended between--January--17--1985--and--December--31--1988 after December 31, 1984, and before July 1, 1990 1991, for at least a 5-year period; or

(i)(b) a new agreement that was executed between January--17--1985--and--December--31--1988 after December 31, 1984, and before July 1, 1990 1991.

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

(i)--33-1/3%--for--incremental--production--sold--from January 17, 1985, until December 31, 1986;

(ii)--50%--for--any--incremental--production--sold--from January 17, 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 17, 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."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 6. Effective date -- applicability. (1) [This act] is effective July 1, 1989, ON PASSAGE AND APPROVAL and applies to--payments--of--severance tax--that--are--due--and--payable--after--June--30,--1989,--on--coal mined--after--March--31,--1989 RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO JANUARY 1, 1989.

(2) [THIS ACT] APPLIES TO ALL COAL SEVERANCE TAX REVENUE RECORDED ON OR AFTER JANUARY 1, 1989, REGARDLESS OF WHEN THE TAX OBLIGATION ACCRUED.

-End-

HOUSE BILL NO. 4

INTRODUCED BY HANSON

BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE RATE OF SEVERANCE TAX ON CERTAIN COAL; AMENDING SECTIONS 15-35-102, 15-35-103, AND 15-35-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-35-102, MCA, is amended to read:

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

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

(2) (a) "Base consumption level" for a purchaser, except as provided in subsection (2)(b), applies only for the term of an agreement in effect as of December 31, 1984, and means the lesser of:

(i) the volume of coal purchased during calendar year 1986 from all Montana coal mine operators; or

(ii) the greater of:

(A) the arithmetic average volume of coal purchased

during calendar years 1983 and 1984 from all Montana coal mine operators; or

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

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

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

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

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

(b) If the amount calculated in subsection (3)(a)(ii) is less than one-third of the amount calculated in

1 subsection (3)(a)(i), the base production level is the
2 amount calculated in subsection (3)(a)(i).

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

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

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

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

25 (c) for quarterly periods ending on and after

1 September 30, 1986, 15 cents per ton plus 25% of the
2 difference between 15 cents per ton and the amount of such
3 federal, state, and tribal government royalties actually
4 paid; and

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

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

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

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

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

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

24 (11) "Qualified purchaser" means a purchaser whose
25 purchases of Montana coal in any given year exceed his base

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

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

7 (13) "Taxes paid on production" includes any tax paid
8 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) "Ton" means 2,000 pounds.

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

18 **Section 2.** Section 15-35-103, MCA, is amended to read:

19 "15-35-103. Severance tax -- rates imposed --
20 exemptions. (1) Except-as-provided-in-subsection-(2) Subject
21 to the provisions of 15-35-202 allowing a new coal
22 production incentive tax credit, a severance tax is imposed
23 on each ton of coal produced in the state in accordance with
24 the following schedule:

25 (a)--Fiscal-Years-1988-and-1989:

| | | | |
|----|-----------------|--------------|-------------|
| 1 | Heating-quality | Surface-- | Underground |
| 2 | (Btu-per-pound | Mining-- | Mining--- |
| 3 | ---of-coal): | -- | |
| 4 | Under-7,000 | 12-cents-or | 5-cents-or |
| 5 | -- | 20%-of-value | 3%-of-value |
| 6 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 7 | -- | 30%-of-value | 4%-of-value |
| 8 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 9 | -- | 30%-of-value | 4%-of-value |
| 10 | Over-9,000 | 40-cents-or | 12-cents-or |
| 11 | -- | 30%-of-value | 4%-of-value |

12 (b)--Fiscal-Year-1990:

| | | | |
|----|-----------------|--------------|-------------|
| 13 | Heating-quality | Surface-- | Underground |
| 14 | (Btu-per-pound | Mining-- | Mining--- |
| 15 | ---of-coal): | -- | |
| 16 | Under-7,000 | 12-cents-or | 5-cents-or |
| 17 | -- | 13%-of-value | 3%-of-value |
| 18 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 19 | -- | 25%-of-value | 4%-of-value |
| 20 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 21 | -- | 25%-of-value | 4%-of-value |
| 22 | Over-9,000 | 40-cents-or | 12-cents-or |
| 23 | -- | 25%-of-value | 4%-of-value |

24 (c)--Fiscal-Year-1991-and-Thereafter:

| | | | |
|----|-----------------|-----------|-------------|
| 25 | Heating-quality | Surface-- | Underground |
|----|-----------------|-----------|-------------|

1 {Btu-per-pound Mining-- Mining---
 2 ---of-coal}: -
 3 Under-7,000 12-cents-or 5-cents-or
 4 13%-of-value 3%-of-value
 5 7,000-8,000 22-cents-or 8-cents-or
 6 20%-of-value 4%-of-value
 7 8,000-9,000 34-cents-or 10-cents-or
 8 20%-of-value 4%-of-value
 9 Over-9,000 40-cents-or 12-cents-or
 10 20%-of-value 4%-of-value
 11 {2}--{a}--{i}--On--or--before--October---17---1988,---the
 12 department--shall--determine--the--total--number--of--tons--of--coal
 13 produced--in--Montana--and--sold--from--July--17--1987,--through--June
 14 30,--1988,--if--the--department--finds--that--these--sales--exceed
 15 32.2--million--tons--(which--is--the--average--total--yearly--coal
 16 sales--for--calendar--years--1983,--1984,--1985,--and--1986),--the
 17 rate--of--the--coal--severance--tax--is--as--set--forth--in
 18 subsections--{2}{b}--through--{2}{d};
 19 {ii}--If--any--facility--that--burned--Montana--coal--at--any
 20 time--from--July--17--1987,--to--June--30,--1988,--does--not--operate
 21 during--a--portion--of--that--period--due--to--mechanical--failure--or
 22 catastrophic--act--of--God,--the--department--shall--determine--the
 23 average--monthly--sales--of--Montana--coal--to--the--facility--during
 24 its--operation--and--multiply--this--figure--by--12. The department
 25 shall--include--the--product--of--this--calculation--in--making--its

1 determination-of-coal-produced-in-Montana-and-sold-from-July
 2 17-1987,--through--June--30,--1988:
 3 {b}--The--severance--tax--imposed--pursuant--to--subsection
 4 {2}{a}--on--each--ton--of--coal--produced--in--the--state--from--July
 5 17-1988,--through--June--30,--1990,--is:
 6 (a) After June 30, 1988, and before July 1, 1990:
 7 Heating quality Surface Underground
 8 (Btu per pound Mining Mining
 9 of coal):
 10 Under 7,000 12-cents-or 5-cents-or
 11 17% of value 3% of value
 12 7,000-8,000 22-cents-or 8-cents-or
 13 and over 25% of value 4% of value
 14 8,000-9,000 34-cents-or 10-cents-or
 15 25%-of-value 4%-of-value
 16 Over-9,000 40-cents-or 12-cents-or
 17 25%-of-value 4%-of-value
 18 {c}--The--severance--tax--imposed--pursuant--to--subsection
 19 {2}{a}--on--each--ton--of--coal--produced--in--the--state--from--July
 20 17-1990,--through--June--30,--1991,--is:
 21 (b) After June 30, 1990, and before July 1, 1991:
 22 Heating quality Surface Underground
 23 (Btu per pound Mining Mining
 24 of coal):
 25 Under 7,000 12-cents-or 5-cents-or

| | | | |
|---|-------------|--------------|-------------|
| 1 | | 13% of value | 3% of value |
| 2 | 7,000-8,000 | 22-cents-or | 8-cents-or |
| 3 | and over | 20% of value | 4% of value |
| 4 | 8,000-9,000 | 34-cents-or | 10-cents-or |
| 5 | | 20%-of-value | 4%-of-value |
| 6 | Over-9,000 | 40-cents-or | 12-cents-or |
| 7 | | 20%-of-value | 4%-of-value |

8 ~~{d}--The severance tax imposed pursuant to subsection~~
 9 ~~{2}{a}--on each ton of coal produced in the state after June~~
 10 ~~30, 1991--is:~~

11 {c} After June 30, 1991:

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

23 ~~{3}{2}~~ "Value" means the contract sales price.
 24 ~~{4}{3}~~ The formula which yields the greater amount of
 25 tax in a particular case shall be used at each point on

1 these schedules.

2 ~~{5}{4}~~ A person is not liable for any severance tax
 3 upon 50,000 tons of the coal he produces in a calendar year,
 4 except that if he produces more than 50,000 tons of coal in
 5 a calendar year, he will be liable for severance tax upon
 6 all coal produced in excess of the first 20,000 tons.

7 ~~{6}{5}~~ A new coal production incentive tax credit may
 8 be claimed on certain coal as provided in 15-35-202."

9 **Section 3.** 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
 13 against the tax imposed under 15-35-103 of:

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

16 ~~{b}--50%--for--incremental--production--sold--from--January~~
 17 ~~17-1987--until--June-30-1987--and~~

18 ~~{c}~~ 40% for incremental production sold from July 1,
 19 1987, until June 30 after June 30, 1988, and before July 1,
 20 1990; and provided, however, that if the production quota
 21 established in 15-35-103 ~~{2}{a}{i}~~ is not met, the tax credit
 22 for this period is 50% for fiscal year 1989 and 40% for
 23 fiscal year 1990.

24 ~~{b}~~ 25% for incremental production sold after June 30,
 25 1990, and before July 1, 1991.

1 (2) ~~(a)~~ A coal mine operator is entitled to a new coal
 2 production incentive tax credit against the tax imposed
 3 under 15-35-103 on incremental production for the entire
 4 term of an agreement, except as provided in subsection (3),
 5 and is entitled to adjustment of the base consumption level
 6 and the base production level, as defined in 15-35-102, if
 7 the incremental production resulted from coal purchases
 8 under:

9 ~~(i)(a)~~ an existing agreement which was extended
 10 between--January--17--1985--and--December--31--1988 after
 11 December 31, 1984, and before July 1, 1990 1991, for at
 12 least a 5-year period; or

13 ~~(ii)(b)~~ a new agreement that was executed between
 14 January--17--1985--and--December--31--1988 after December 31,
 15 1984, and before July 1, 1990 1991.

16 ~~(b)--The rate of credit allowed under subsection (2)(a)~~
 17 ~~is:~~

18 ~~(i)--33-1/3%--for--incremental--production--sold--from~~
 19 ~~January 17-1985, until December 31, 1986;~~

20 ~~(ii)--50%--for--any--incremental--production--sold--from~~
 21 ~~January 17-1987, until June 30, 1988;~~

22 ~~(iii)--40%--for--any--incremental--production--sold--from--July~~
 23 ~~17-1988, until June 30, 1990.--However,--if--the--production~~
 24 ~~quota--established in 15-35-103(2)(a)(i)--is--not--met,--the--tax~~
 25 ~~credit--for--this--period--is--50%--for--fiscal--year--1989--and--40%~~

1 ~~for--fiscal--year--1990--~~

2 ~~(iv)--25%--for--any--incremental--production--sold--from--July~~
 3 ~~17-1990, until June 30, 1991,--and~~

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

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

8 NEW SECTION. Section 4. Extension of authority. Any
 9 existing authority to make rules on the subject of the
 10 provisions of [this act] is extended to the provisions of
 11 [this act].

12 NEW SECTION. Section 5. Saving clause. [This act]
 13 does not affect rights and duties that matured, penalties
 14 that were incurred, or proceedings that were begun before
 15 [the effective date of this act].

16 NEW SECTION. Section 6. Effective date --
 17 applicability. (1) [This act] is effective July 1, 1989, ON
 18 PASSAGE AND APPROVAL and applies to--payments--of--severance
 19 tax--that--are--due--and--payable--after--June--30, 1989, on coal
 20 mined after March 31, 1989 RETROACTIVELY, WITHIN THE MEANING
 21 OF 1-2-109, TO JANUARY 1, 1989.

22 (2) [THIS ACT] APPLIES TO ALL COAL SEVERANCE TAX
 23 REVENUE RECORDED ON OR AFTER JANUARY 1, 1989, REGARDLESS OF
 24 WHEN THE TAX OBLIGATION ACCRUED.

-End-

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CODE COMMISSIONER REPORT

1988

1989 CODE COMMISSIONER BILL SUMMARY

Section 1. 1-11-301. In subsection (4) clarifies that sets of the Montana Code Annotated may be purchased for cost only by in-state local governmental agencies.

Section 2. 2-4-704. Reoutlines subsection (2) in order to make former subsection (2)(g) grammatically and logically correct.

Section 3. 2-15-122. In subsection (4) corrects erroneous internal reference to 2-15-102 created by Chapter 592, L. 1987.

Section 4. 2-15-1858. Deletes subsection (4)(a) because its efficacy has expired. It dealt only with initial appointments to the board.

Section 5. 2-18-501. In subsection (3) substitutes "commissions" for "commissioners" in order to parallel subsections (1) and (2).

Section 6. 7-6-4304. Near the end of subsection (1) substitutes "municipality" for "city" to conform with remainder of the section.

Section 7. 15-6-214. In subsection (1) substitutes "operation" for "production" to reflect the proper nature of railroad property and to conform with the definition contained in subsection (3). Inserts "operation by" before "a railroad" in subsection (1)(b) for the same reasons.

Section 8. 15-17-317. Deletes references to repealed sections and makes permanent the bracketed references inserted by the code commissioner to indicate the corresponding sections.

Section 9. 15-17-318. See number 8 above.

Section 10. 15-18-212. In subsection (7) clarifies that proof of notice must be filed "within" 30 days.

Section 11. 15-23-605. In subsection (1) substitutes a reference to "15-23-602(1)(e)(iv)" for a reference to "15-23-602(8)" to reflect outlining changes made by Chapter 695, L. 1985.

Section 12. 15-24-1203. Near the end of the section substitutes

"or" for "and" to clarify that either track or right-of-way is used as reflected earlier in the sentence.

Section 13. 15-25-122. In subsection (2) substitutes "department of family services" for "department of institutions" to reflect executive assignment of functions pursuant to section 117, Chapter 609, L. 1987.

Section 14. 15-25-123. Throughout the section substitutes references to "account" for "fund" to reflect the treasury structure as provided in Title 17, chapter 2, part 1.

Section 15. 15-30-117. In subsection (1)(a)(i) substitutes a reference to the motor vehicle tax for a reference to the motor vehicle fee to reflect Chapter 611, L. 1987.

Section 16. 15-32-102. Reoutlines subsection (6) for clarity and readability.

Section 17. 15-35-108. In subsections (3)(b), (3)(c), and (3)(f) deletes obsolete language and in (3)(b) reflects splitting of the local impact and education trust fund account into separate accounts by Chapter 662, L. 1987.

Section 18. 15-65-121. In subsection (2) clarifies that funds are allocated to regional tourism corporations rather than to tourism regions.

Section 19. 16-1-409. In subsection (1) removes a reference to 16-1-407, which is repealed, and generally rewrites section for clarity and conformity to code style.

Section 20. 16-1-410. Near the beginning of the section removes a reference to 16-1-407, which is repealed, and near the end substitutes "may not receive" for "shall cease to receive" to conform to code style.

Section 21. 16-4-501. In subsection (2) inserts "shall the fee" before "be less than" for grammatical and readability purposes.

Section 22. 16-6-314. In subsection (3) substitutes a reference to "16-3-301(4)" for a reference to "16-3-301((3))" to reflect the addition of subsection (2) to that section by Chapter 61, L. 1987.

Section 23. 17-5-704. Deletes subsection (2), which was temporary in nature.

Section 24. 18-2-122. Near the beginning of the section substitutes "may not" for "shall not" for conformity to code style and near the end of the section inserts "professional" before "land surveyor" to reflect name change made by Chapter 553, L. 1985.

Section 25. 19-4-706. In subsection (1) substitutes "withdrawal" for "refund" to reflect the terminology actually

used in 19-4-603.

Section 26. 20-4-111. In subsection (2) revises the fees for emergency authorization of employment to reflect the fee changes in 20-4-109 made by Chapter 465, L. 1987.

Section 27. 20-4-133. In subsection (1)(f) substitutes "teacher, administrator, and specialist" for "teaching" to reflect the certification contained in subsections (1)(a) through (1)(c).

Section 28. 20-4-401. In subsection (3) substitutes "20-3-362" for "20-3-361" to correct an erroneous reference to the authority for jointly employing a superintendent.

Section 29. 20-5-307. In subsection (3) substitutes "20-5-306" for "20-5-305" to correct an erroneous reference to the notification provisions.

Section 30. 20-9-352. At the end of subsection (1) and in (3) deletes a reference to the permissive account, which no longer exists.

Section 31. 20-25-229. In the catchline and in subsection (1) deleted "grain and" from the name of the seed laboratory to reflect the name change contained in Chapter 373, L. 1987.

Section 32. 23-2-502. In subsection (13) makes "lienholder" one word to reflect the usage in subsection (8).

Section 33. 23-2-507. Near the end of the section substitutes "special revenue fund" for "earmarked fund" to reflect the treasury structure as contained in Title 17, chapter 2, part 1.

Section 34. 23-2-513. In subsections (4) and (5) substitutes a reference to 23-2-512(9) for a reference to 23-2-512(10) to reflect the deletion of former subsection (2) of that section by Chapter 649, L. 1987.

Section 35. 23-2-807. In subsection (2) substitutes a reference to the special revenue fund for a reference to the earmarked revenue fund to reflect the treasury structure contained in Title 17, chapter 2, part 1.

Section 36. 23-5-601. Revises the short title to reflect the insertion of regulation of keno machines into the law by Chapter 603, L. 1987.

Section 37. 25-13-613. Deletes the reference to 25-13-611, which is repealed, and makes permanent the bracketed reference inserted by the code commissioner to the corresponding section.

Section 38. 27-2-205. Near the end of subsection (1) substituted "the plaintiff" for "him" to clarify the party being referred to.

Section 39. 33-22-111. Near the middle of subsection (1) substituted "podiatrist" for "chiropodist" to reflect the name change contained in Chapter 288, L. 1987.

Section 40. 33-23-201. Revises subsections (1) and (4) for grammatical purposes and to eliminate the triple negative.

Section 41. 33-23-212. Revises subsections (1) and (4) for grammatical purposes and to conform to existing code style.

Section 42. 37-1-101. In subsection (7) inserts "professional" before "land surveyors" to reflect the name change contained in Chapter 533, L. 1985.

Section 43. 37-2-101. In subsection (1) eliminates the reference to chiropody to reflect the elimination of that term by Chapter 288, L. 1987, and removes the parentheses from the term "podiatry".

Section 44. 37-4-321. At the end of subsection (2) substitutes a reference to the special revenue account for a reference to the earmarked revenue account to reflect the treasury structure contained in Title 17, chapter 2, part 1.

Section 45. 37-6-311. In subsections (4) and (5) makes permanent the bracketed references to 37-6-310 inserted by the code commissioner to correct an apparently erroneous reference contained in Chapter 288, L. 1987.

Section 46. 37-14-102. See number 43 above.

Section 47. 37-14-301. See number 43 above.

Section 48. 37-25-102. Deletes subsection (4) defining "department" and subsection (11) defining "registered dietitian" because neither defined term is used in chapter 25.

Section 49. 37-29-306. In subsection (1) substitutes "state denturist licensing board" for "state denturist board" to reflect the situation in Montana where there is no independent denturist board.

Section 50. 37-60-101. In subsection (17) substitutes "resident manager" for "resident agent" to reflect the usage of the term in 37-60-302.

Section 51. 37-60-308. Deletes the qualifying phrase "in accordance with 37-60-301 or 37-60-304", relating to obtaining identification cards, because neither section set forth the procedure for obtaining a card.

Section 52. 37-66-105. See number 42 above.

Section 53. 37-66-308. See number 42 above.

Section 54. 37-72-101. In subsection (2)(d) substitutes the

reference to the definition of explosives contained in 61-1-506 for the reference to 50-38-101, which is repealed, and deletes subsection (2)(e), defining "magazine", because the term is not used in the chapter and the section referred to is repealed.

Section 55. 39-51-1219. Near the middle of subsection (2)(a) substitutes "bear" for "bears" for grammatical reasons and revises subsection (3)(b) to eliminate the triple negative.

Section 56. 39-51-3206. In the last sentence substitutes "the laws of this state or another state" for "this state or another state law" for clarity and readability.

Section 57. 39-71-2501. Deletes subsection (1) defining "board" because the term is not used in the part.

Section 58. 41-5-808. See number 13 above.

Section 59. 46-18-235. In subsection (2) substitutes "account" for "fund" to conform to 44-12-206 and the existing treasury structure.

Section 60. 50-60-102. In subsection (2) substitutes "buildings referred to in subsection (1)" for "aforementioned buildings" for clarity and style and deletes the last sentence, which is redundant with the first sentence.

Section 61. 52-1-103. In subsection (6) substitutes "severely disabled persons" for "physically disabled persons" to conform to the change in definition made by Chapter 514, L. 1987.

Section 62. 53-2-303. Substitutes "county or department of family services" for "county department" to clarify the county attorney's role and to conform the section to the interpretation contained in 42 A.G. Op. 45.

Section 63. 53-5-513. Inserts "department of family services" to reflect executive assignment of functions pursuant to section 117, Chapter 609, L. 1987.

Section 64. 53-5-702. Substitutes "department of family services" for "department of social and rehabilitation services" to reflect executive assignment of functions pursuant to section 117, Chapter 609, L. 1987.

Section 65. 53-5-803. See number 64 above.

Section 66. 60-11-1103. In subsection (1) deletes "of highways" following "department" to reflect that the department of commerce is the agency that issues the bonds.

Section 67. 60-11-1203. See number 66 above.

Section 68. 61-5-214. Deletes references to "chauffeur" to reflect Chapter 443, L. 1987, and deletes reference to chapter 12, part 6, which is repealed.

Section 69. 61-5-216. Deletes references to "chauffeur" to reflect Chapter 443, L. 1987.

Section 70. 61-7-109. At the end of subsection (4) substitutes "chapter 6 of this title" for "this part" to reflect the proper citation to the mandatory insurance and deposit statutes.

Section 71. 61-9-512. In subsection (2) inserts "a violation of" for clarification that conviction is not for a standard, but rather for a violation of a standard.

Section 72. 69-14-708. Near the end of subsection (1) substitutes "written demand provided for in 69-14-709" for "affidavit hereinafter provided for" for purposes of clarity and style.

Section 73. 70-22-103. See number 42 above.

Section 74. 71-3-206. At the end of subsection (1) substitutes a reference to "30-9-403(13)" for "30-9-403(12)" to reflect the amendment to that section made by Chapter 619, L. 1987.

Section 75. 75-10-627. Substitutes "75-10-626" for "section 2" to reflect the codification of Chapter 435, L. 1987.

Section 76. 80-7-814. In subsection (3)(f) substitutes "council" for "committee" to reflect the creation of the entity in 80-7-805.

Section 77. 81-9-228. In subsection (2) substitutes "offer" for "offered" for grammatical reasons.

Section 78. 82-11-123. In subsection (3) substitutes "strata" for "stratum" and "cave-ins" for "cavings" to correct an apparent grammatical or typographical error.

Section 79. 85-7-1612. In subsection (6) substitutes "or" for "and" to reflect the disjunctive rather than conjunctive authority contained in the section and substitutes "license" for "licenses" to reflect that change.

Section 80. 87-2-106. In subsection (4) substitutes "or" for "and" to clarify that a person need not purchase all enumerated licenses.

Section 81. 90-3-101. Deletes subsection (2) because its efficacy has terminated.

Section 82. 90-8-102. In subsection (4) substitutes a reference to "17-6-306" for "17-6-305" to properly reflect the section that establishes the fund.

Section 83. Code commissioner instruction. Section 1-11-101(2)(g)(ii) provides that recodification includes, without changing the meaning, effect, or intent of any law, correcting

inaccurate or obsolete references to other code sections, such as those that have been repealed or repealed and replaced, when given authority by another statute. Section 84 constitutes authority for the code commissioner to correct such references without the necessity of legislative action. This authority should result in fewer erroneous references in the published code and in shorter code commissioner bills.