## SENATE BILL 1

# Introduced by Anderson, Jr.

1/02	Introduced
1/02	Referred to Taxation
1/03	Fiscal Note Requested
1/09	Fiscal Note Received
1/10	Fiscal Note Printed
1/12	Hearing
1/25	Committee ReportBill Passed
1/27	2nd Reading Passed
2/30	3rd Reading Passed

## Transmitted to House

2/21	Refer	red	to	Taxation
2/29	Heari	.ng		
	Died	in	Comm	nittee

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1	SENATE BILL NO. 1
2	INTRODUCED BY ANDERSON
3	BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR UNIFORM
6	TAXATION OF ALL COAL ROYALTIES; AMENDING SECTION 15-35-102,
7	MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN
8	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), means the lesser
20	of:
21	(i) the volume of coal purchased during calendar year
22	1986 from all Montana coal mine operators; or
23	(ii) the greater of:
24	(A) the arithmetic average volume of coal purchased

during calendar years 1983 and 1984 from all Montana coal

1	mine operators; or
2	(B) 90% of th
3	agreement executed pr
4	highest scheduled mir
5	terms of the agreem
6	has not been purchase
7	agreement, plus the
8	purchased during cale
9	Montana coal mine ope
10	(b) If the ve
11	is less than one-
12	subsection (2)(a)(i
13	volume calculated in
14	(3) (a) Except
15	production level" fo
16	of:
17	(i) the arith
18	Montana and sold to
19	1984; or
20	(ii) the volume
21	a purchaser in 1986.
22	(b) If the am

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eement executed prior to January 1, 1985, for which the nest scheduled minimum quantity of coal stipulated by the ms of the agreement as they existed on January 1, 1985, not been purchased at any time during the term of the eement, plus the arithmetic average volume of coal chased during calendar years 1983 and 1984 from all tana coal mine operators under all other agreements. (b) If the volume calculated in subsection (2)(a)(i) less than one-third of the volume calculated in section (2)(a)(ii), the base consumption level is the ume calculated in subsection (2)(a)(ii). (3) (a) Except as provided in subsection (3)(b), "base duction level" for a coal mine operator means the lesser (i) the arithmetic average volume of coal produced in tana and sold to a purchaser in calendar years 1983 and

(ii) the volume of coal produced in Montana and sold to

(b) If the amount calculated in subsection (3)(a)(ii) 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).

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

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1 (4) "Broker" means any person who resells Montana 2 coal. 3 (5) "Contract sales price" means either: (a) the price of coal extracted and prepared for 5 shipment f.o.b. mine, excluding: 6 (i) that amount charged by the seller to pay taxes 7 paid on production; and (ii) that amount charged by the seller in excess of 15 8 9 cents a ton to pay royalties paid on coal produced and sold; 10 Or 11 (b) a price imputed by the department under 15-35-107. 12 Contract--sales--price--includes--all--royalties---paid---on 13 production; -- no -- matter -- how -- such -- royalties -- are -- calculated; 14 Howevery-with-respect-to-royalties-paid-to-the-government-of 15 the-United-Statesy-the-state--of--Montanay--or--a--federally 16 recognized--Indian--tribe;-the-contract-sales-price-includes 17 only: 18 ta)--for--quarterly--periods--ending---on---and---after 19 September--30;--1984;--15--cents--per--ton--plus--75%-of-the difference-between-15-cents-per-ton-and-the-amount--of--such 20 21 federaly--state;--and--tribal--qovernment-royalties-actually 22 paid; 23 (b)--for--quarterly--periods--ending---on---and---after 24 September--307--19857--15--cents--per--ton--plus--50%-of-the

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      federal, -- state, -- and -- tribal -- government - royalties - actually
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      paid;
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           tc)--for--quarterly--periods--ending---on---and---after
 4
      September--307--19867--15--cents--per--ton--plus--25%-of-the
 5
      difference-between-15-cents-per-ton-and-the-amount--of--such
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      federal, -- state, -- and -- tribal -- government - royalties - actually
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      paid:-and
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           td)--for--quarterly--periods--ending---on---and---after
 9
      September-307-19877-15-cents-per-ton-
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           (6) "Department" means the department of revenue.
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           (7) "Energy conversion process" includes any process
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(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.

by which coal in the solid state is transformed into slurry,

gas, electric energy, or any other form of energy.

- (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

difference-between-15-cents-per-ton-and-the-amount--of--such

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- is not a purchaser under the provisions of this chapter.
- 2 (11) "Qualified purchaser" means a purchaser whose
  3 purchases of Montana coal in any given year exceed his base
  4 consumption level. A purchaser of Montana coal who enters
  5 into a coal agreement with another purchaser or a broker
  6 that causes a reduction in the base consumption level of a
  7 purchaser is not a qualified purchaser.
- 8 (12) "Strip mining" is defined in 82-4-203 and includes
  9 "surface mining".
- 10 (13) "Taxes paid on production" includes any tax paid
  11 to the federal, state, or local governments upon the
  12 quantity of coal produced as a function of either the volume
  13 or the value of production and does not include any tax upon
  14 the value of mining equipment, machinery, or buildings and
  15 lands, any tax upon a person's net income derived in whole
  16 or in part from the sale of coal, or any license fee.
- 17 (14) "Ton" means 2,000 pounds.
- 18 (15) "Underground mining" means a coal mining method

  19 utilizing shafts and tunnels and as further defined in

  20 82-4-203."
- Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the applicability date of this act].
- 25 Section 3. Effective date -- applicability. [This act]

- 1 is effective July 1, 1991, and applies to coal produced and
- 2 sold after March 31, 1991.

-End-

### STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB001, as introduced.

#### DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for uniform taxation of all coal royalties; and providing a delayed effective date and an applicability date.

#### FISCAL IMPACT:

The effective date of the bill is for coal produced after March 31, 1991. The tax receipts for this period would not be received until FY92; consequently, there are no revenue or expenditure impacts in the 1990-91 biennium.

#### LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Only \$0.15 per ton of coal royalties received by owners other than the United States, the State of Montana or Indian Tribes, would be taxed. Currently all royalties received by these private owners is taxed.

FY92 and subsequent years coal tax revenues would be reduced \$1,600,000 each year.

RAY SHACKLEFORD, BUDGET DIRECTOR

Office of Budget/and Program Planning

JOHN H. ANDERSON JR., PRIMARY SPONSOR

Fiscal Note for SB001, as introduced

Montana Legislative Council

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mine operators; or

# APPROVED BY COMMITTEE ON TAXATION

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5	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR UNIFORM
6	TAXATION OF ALL COAL ROYALTIES; AMENDING SECTION 15-35-102,
7	MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN
8	APPLICABILITY DATE."
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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), means the lesser
20	of:
21	(i) the volume of coal purchased during calendar year
22	1986 from all Montana coal mine operators; or
23	(ii) the greater of:
24	(A) the arithmetic average volume of coal purchased
25	during calendar years 1983 and 1984 from all Montana coal

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

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).

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

(5) "Contract sales price" means either:

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- (a) the price of coal extracted and prepared for shipment f.o.b. mine, excluding:
- (i) that amount charged by the seller to pay taxes paid on production; and
- (ii) that amount charged by the seller in excess of 15 cents a ton to pay royalties paid on coal produced and sold; or
- (b) 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:
- ta) -- for -- quarterly -- periods -- ending -- on -- and -- after September -- 307 -- 19847 -- 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;
- fb}--for--quarterly--periods--ending---on---and---after
  September--307--19857--15--cents--per--ton--plus--50%-of-the
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  paid;
- - {d}--for--quarterly--periods--ending---on---and---after
    September-307-19877-15-cents-per-ton-
    - (6) "Department" means the department of revenue.
- 11 (7) "Energy conversion process" includes any process
  12 by which coal in the solid state is transformed into slurry,
  13 gas, electric energy, or any other form of energy.
- 14 (8) "Incremental production" means that quantity of
  15 coal produced annually by a coal mine operator and sold to a
  16 qualified purchaser that exceeds the base production level
  17 of the coal mine operator for that purchaser, but only to
  18 the extent the quantity of coal exceeds that purchaser's
  19 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

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- 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 consumption level. A purchaser of Montana coal who enters into a coal agreement with another purchaser or a broker that causes a reduction in the base consumption level of a purchaser is not a qualified purchaser.
- 8 (12) "Strip mining" is defined in 82-4-203 and includes
  9 "surface mining".
  - (13) "Taxes paid on production" includes any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production and does not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee.
- 17 (14) "Ton" means 2,000 pounds.

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- 18 (15) "Underground mining" means a coal mining method

  19 utilizing shafts and tunnels and as further defined in

  20 82-4-203."
- Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the applicability date of this act].
- 25 Section 3. Effective date -- applicability. [This act]

- is effective July 1, 1991, and applies to coal produced and
- 2 sold after March 31, 1991.

-End-

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24	(A) the arithmetic average volume of coal purchased

during calendar years 1983 and 1984 from all Montana coal

2	(B) 90% of the maximum tonnage provided for in
3	agreement executed prior to January 1, 1985, for which
4	highest scheduled minimum quantity of coal stipulated by
5	terms of the agreement as they existed on January 1, 1
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22	(b) If the amount calculated in subsection (3)(a
23	is less than one-third of the amount calculated

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mine operators; or (B) 90% of the maximum tonnage provided for in any mement executed prior to January 1, 1985, for which the hest scheduled minimum quantity of coal stipulated by the ms of the agreement as they existed on January 1, 1985, not been purchased at any time during the term of the eement, plus the arithmetic average volume of coal chased during calendar years 1983 and 1984 from all tana coal mine operators under all other agreements. (b) If the volume calculated in subsection (2)(a)(i) less than one-third of the volume calculated section (2)(a)(ii), the base consumption level is the ume calculated in subsection (2)(a)(ii). (3) (a) Except as provided in subsection (3)(b), "base duction level" for a coal mine operator means the lesser (i) the arithmetic average volume of coal produced in ntana and sold to a purchaser in calendar years 1983 and 34; or

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amount calculated in subsection (3)(a)(i).

THIRD READING

1	(4) "Broker" means any person who resells Montana
2	coal.
3	(5) "Contract sales price" means either:
4	(a) the price of coal extracted and prepared for
5	shipment f.o.b. mine, excluding:
6	$\underline{(i)}$ that amount charged by the seller to pay taxes
7	paid on production; and
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9	cents a ton to pay royalties paid on coal produced and sold;
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12	Contractsalespriceincludesallroyaltiespaidon
13	production;nomatterhowsuch-royalties-are-calculated;
14	However,-with-respect-to-royalties-paid-to-the-government-of
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17	only:
18	<pre>(a)forquarterlyperiodsendingonandafter</pre>
19	September3071984715centspertonplus75%-of-the
20	difference-between-15-cents-per-ton-and-the-amountofsuch
21	federal,state,andtribalgovernment-royalties-actually
22	paid;
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24	September30;1985;15centspertonplus50%-of-the

1	federal; state; and tribal government royalties -actually
2	paid;
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6	federal; state; and tribal government - royalties - actually
7	paid;-and
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9	September-307-19877-15-cents-per-ton-
10	(6) "Department" means the department of revenue.
11	(7) "Energy conversion process" includes any process
12	by which coal in the solid state is transformed into slurry,
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14	(8) "Incremental production" means that quantity of
15	coal produced annually by a coal mine operator and sold to a
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contracts to purchase Montana coal directly from a coal mine

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- 18 (15) "Underground mining" means a coal mining method

  19 utilizing shafts and tunnels and as further defined in

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-End-