

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 Report--Bill Passed
1/27	2nd Reading Passed
2/30	3rd Reading Passed

Transmitted to House

2/21	Referred to Taxation
2/29	Hearing
	Died in Committee

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
25 during calendar years 1983 and 1984 from all Montana coal

1 mine operators; or
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)
23 is less than one-third of the amount calculated in
24 subsection (3)(a)(i), the base production level is the
25 amount calculated in subsection (3)(a)(i).

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 (i) that amount charged by the seller to pay taxes
7 paid on production; and

8 (ii) that amount charged by the seller in excess of 15
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 ~~However,--with--respect--to--royalties--paid--to--the--government--of~~
15 ~~the--United--States,--the--state--of--Montana,--or--a--federally~~
16 ~~recognized--Indian--tribe,--the--contract--sales--price--includes~~
17 ~~only;~~

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

23 (b) ~~--for--quarterly--periods--ending--on--and--after~~
24 ~~September--30,--1985,--15--cents--per--ton--plus--50%--of--the~~
25 ~~difference--between--15--cents--per--ton--and--the--amount--of--such~~

1 ~~federal,--state,--and--tribal--government--royalties--actually~~
2 ~~paid;~~

3 (c) ~~--for--quarterly--periods--ending--on--and--after~~
4 ~~September--30,--1986,--15--cents--per--ton--plus--25%--of--the~~
5 ~~difference--between--15--cents--per--ton--and--the--amount--of--such~~
6 ~~federal,--state,--and--tribal--government--royalties--actually~~
7 ~~paid;--and~~

8 (d) ~~--for--quarterly--periods--ending--on--and--after~~
9 ~~September--30,--1987,--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,
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.

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

21 (10) "Purchaser" means a person who purchases or
22 contracts to purchase Montana coal directly from a coal mine
23 operator or indirectly from a broker and who utilizes that
24 coal in any industrial, commercial, or energy conversion
25 process. A coal broker or any other third party intermediary

1 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."

21 **Section 2. Saving clause.** [This act] does not affect
22 rights and duties that matured, penalties that were
23 incurred, or proceedings that were begun before [the
24 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.

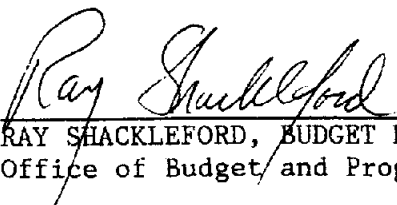
FISCAL IMPACT:

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.

 DATE 1/6/89
RAY SHACKLEFORD, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 1-16-89
JOHN H. ANDERSON JR., PRIMARY SPONSOR

Fiscal Note for SB001, as introduced

SB 1

APPROVED BY COMMITTEE
ON TAXATION

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3 BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE
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12 "15-35-102. Definitions. As used in this chapter, the
13 following definitions apply:
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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

1 mine operators; or
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
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23 is less than one-third of the amount calculated in
24 subsection (3)(a)(i), the base production level is the
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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:

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7 paid on production; and

8 (ii) that amount charged by the seller in excess of 15
9 cents a ton to pay royalties paid on coal produced and sold;
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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 However--with--respect--to--royalties--paid--to--the--government--of
15 the--United--States--the--state--of--Montana--or--a--federally
16 recognized--Indian--tribe--the--contract--sales--price--includes
17 only:

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8 (d)--for--quarterly--periods--ending--on--and--after
9 September--30--1987--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,
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
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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.

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13 or the value of production and does not include any tax upon
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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
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21 **Section 2. Saving clause.** [This act] does not affect
22 rights and duties that matured, penalties that were
23 incurred, or proceedings that were begun before [the
24 applicability date of this act].

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