

HOUSE BILL 467

Introduced by Fagg, et al.

2/04	Introduced
2/04	Referred to Taxation
2/04	First Reading
2/04	Fiscal Note Requested
2/09	Fiscal Note Received
2/11	Fiscal Note Printed
2/15	Hearing
3/10	Committee Report--Bill Passed as Amended
3/17	2nd Reading Indefinitely Postponed

1 House BILL NO. 467
 2 INTRODUCED BY [Signature] HARP
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 6 TAXATION OF COAL PRODUCED FROM INDIAN LANDS UNDER THE COAL
 7 GROSS PROCEEDS TAX AND THE COAL SEVERANCE TAX AT 40 PERCENT
 8 OF THE TAX RATE AS COAL PRODUCED FROM OTHER LANDS; EXEMPTING
 9 FROM TAXATION CERTAIN ROYALTIES RECEIVED BY AN INDIAN TRIBE
 10 UNDER THE COAL GROSS PROCEEDS TAX AND THE COAL SEVERANCE
 11 TAX; DEFINING "INDIAN LANDS"; AMENDING SECTIONS 15-23-703,
 12 15-23-705, 15-35-102, AND 15-35-103, MCA; REPEALING SECTIONS
 13 15-35-201, 15-35-202, 15-35-203, 15-35-204, AND 15-35-205,
 14 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
 15 APPLICABILITY DATE."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 15-23-703, MCA, is amended to read:

19 "15-23-703. Taxation of gross proceeds -- taxable value
 20 for bonding and guaranteed tax base aid to schools. (1) The
 21 county assessor shall compute from the reported gross
 22 proceeds from coal a tax roll that he the assessor shall
 23 transmit to the county treasurer on or before September 15
 24 each year. The county assessor may not levy or assess any
 25 mills against the reported gross proceeds of coal but shall

1 levy a tax of 2% against the reported gross value of coal
 2 produced from Indian lands, as defined in 15-35-102, and 5%
 3 against the value of the reported gross proceeds from other
 4 lands as provided in 15-23-701~~(1)~~~~(d)~~. The county treasurer
 5 shall ~~proceed--to~~ give full notice to each coal producer of
 6 the taxes due and to collect the taxes as provided in
 7 15-16-101.

8 (2) For bonding, county classification, and all nontax
 9 purposes, the taxable value of the gross proceeds of coal
 10 is:

11 (a) 18% of the contract sales price, as defined in
 12 15-35-102, for coal produced from Indian lands, as defined
 13 in 15-35-102; or

14 (b) 45% of the contract sales price, as defined in
 15 15-35-102(5), for coal produced from other lands.

16 (3) Except as provided in subsection (6), the county
 17 treasurer shall calculate and distribute to the state,
 18 county, and eligible school districts in the county the
 19 amount of the coal gross proceeds tax, determined by
 20 multiplying the unit value calculated in 15-23-705 times the
 21 tons of coal extracted, treated, and sold on which the coal
 22 gross proceeds tax was owed during the preceding calendar
 23 year.

24 (4) Except as provided in subsections (5), (6), and
 25 (8), the county treasurer shall credit the amount determined

1 under subsection (3) and the amounts received under
2 15-23-706:

3 (a) to the state and to the counties that levied mills
4 in fiscal year 1990 against 1988 production in the relative
5 proportions required by the levies for state and county
6 purposes in the same manner as property taxes were
7 distributed in fiscal year 1990 in the taxing jurisdiction;
8 and

9 (b) to school districts in the county that either
10 levied mills in school fiscal year 1990 against 1988
11 production or used nontax revenue, such as Public Law 81-874
12 money, in lieu of levying mills against production, in the
13 same manner that property taxes collected or property taxes
14 that would have been collected would have been distributed
15 in the 1990 school fiscal year in the school district.

16 (5) (a) If the total tax liability in a taxing
17 jurisdiction exceeds the amount determined in subsection
18 (3), the county treasurer shall, immediately following the
19 distribution from taxes paid on May 31 of each year, send
20 the excess revenue, excluding any protested coal gross
21 proceeds tax revenues, to the department for redistribution
22 as provided in 15-23-706.

23 (b) If the total tax liability in a taxing jurisdiction
24 is less than the amount determined in subsection (3), the
25 taxing jurisdiction is entitled to a redistribution as

1 provided by 15-23-706.

2 (6) The board of county commissioners of a county may
3 direct the county treasurer to reallocate the distribution
4 of coal gross proceeds taxes that would have gone to a
5 taxing unit, as provided in subsection (4)(a), to another
6 taxing unit or taxing units, other than an elementary school
7 or high school, within the county under the following
8 conditions:

9 (a) The county treasurer shall first allocate the coal
10 gross proceeds taxes to the taxing units within the county
11 in the same proportion that all other property tax proceeds
12 were distributed in the county in fiscal year 1990.

13 (b) If the allocation in subsection (6)(a) exceeds the
14 total budget for a taxing unit, the commissioners may direct
15 the county treasurer to allocate the excess to any taxing
16 unit within the county.

17 (7) The board of trustees of an elementary or high
18 school district may reallocate the coal gross proceeds taxes
19 distributed to the district by the county treasurer under
20 the following conditions:

21 (a) The district shall first allocate the coal gross
22 proceeds taxes to the budgeted funds of the district in the
23 same proportion that all other property tax proceeds were
24 distributed in the district in fiscal year 1990.

25 (b) If the allocation under subsection (7)(a) exceeds

the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(8) The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, or from coal mines on Indian lands in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

Section 2. Section 15-23-705, MCA, is amended to read:

"15-23-705. Department to calculate unit value. (1) Except as provided in subsection (2), for the purposes of the distribution of coal gross proceeds taxes collected under this part, the department shall determine the unit value of coal for each mine in each taxing unit. The unit value for coal for each mine in each taxing unit is the quotient obtained by dividing the gross proceeds taxes calculated on coal produced in that taxing unit in calendar year 1988 by the number of tons of coal extracted, treated, and sold in that taxing unit during 1988.

(2) The unit value calculation does not apply to coal mines that began production after December 31, 1988, or that are located on Indian lands, as defined in 15-35-102."

Section 3. 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 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 the royalties are calculated. However, royalties received by an Indian tribe for coal production from Indian lands pursuant to a lease entered into under the Indian Mineral Leasing Act of 1938

(25 U.S.C. 396a-396g (1983)) are exempt from taxation. with respect-to-royalties For royalties paid to the government of the United States, or 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) "Indian lands" means land or mineral interests:

(a) held in trust by the United States government for an Indian tribe or a member of an Indian tribe; or

(b) that are owned by an Indian tribe and that are located within the exterior boundaries of the tribe's reservation or that are recognized as being part of that reservation.

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

(10)(11) "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)(12) "Qualified purchaser" means a purchaser whose purchases of Montana coal in any given year exceed his the purchaser's 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.

(12)(13) "Strip mining" is defined in 82-4-203 and

includes "surface mining".

(13)(14) "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.

(14)(15) "Ton" means 2,000 pounds.

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

Section 4. Section 15-35-103, MCA, is amended to read:

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

(a) After June 30, 1987, and before July 1, 1990:		
Heating quality	Surface--	Underground
(Btu-per-pound	Mining--	Mining--
---of-coal):	-	-
Under-7,000	17%-of-value	3%-of-value
7,000-and-over	25%-of-value	4%-of-value

1 ~~{b}--After June 30, 1990 and before July 1, 1991:~~

2 Heating quality	Surface--	Underground
3 {Btu per pound	Mining--	Mining---
4 ---of coal):	-	
5 Under 7,000	13% of value	3% of value
6 7,000 and over	20% of value	4% of value

7 ~~{c}--After June 30, 1991:~~

8 Heating quality	Surface	Underground
9 (Btu per pound	Mining	Mining
10 of coal):		
11 Under 7,000	10% of value	3% of value
12 7,000 and over	15% of value	4% of value

13 (2) A severance tax is imposed on each ton of coal

14 produced in the state from Indian lands in accordance with

15 the following schedule after September 30, 1993:

16 Heating quality	Surface	Underground
17 (Btu per pound	Mining	Mining
18 of coal):		
19 Under 7,000	4% of value	1.2% of value
20 7,000 and over	6% of value	1.6% of value

21 ~~{2}{3}~~ "Value" means the contract sales price.

22 ~~{3}{4}~~ The formula which yields the greater amount of

23 tax in a particular case ~~shall~~ must be used at each point on

24 these schedules.

25 ~~{4}{5}~~ A person is not liable for any severance tax

1 upon 50,000 tons of the coal he the person produces in a

2 calendar year, except that if he ~~produces~~ more than 50,000

3 tons of coal is produced in a calendar year, he the person

4 will be liable for severance tax upon all coal produced in

5 excess of the first 20,000 tons.

6 ~~{5}--A new coal production incentive tax credit may be~~

7 ~~claimed on certain coal as provided in 15-35-202.~~

8 NEW SECTION. Section 5. Repealer. Sections 15-35-201,

9 15-35-202, 15-35-203, 15-35-204, and 15-35-205, MCA, are

10 repealed.

11 NEW SECTION. Section 6. Applicability. [This act]

12 applies to coal produced after September 30, 1993.

13 NEW SECTION. Section 7. Effective date. [This act] is

14 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB467, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

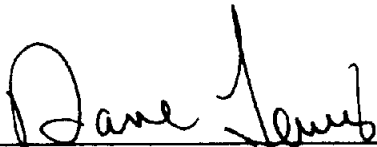
An act providing for the taxation of coal produced from Indian lands under the coal gross proceeds tax and the coal severance tax at 40 percent of the tax rate as coal produced from other lands; exempting from taxation certain royalties received by an Indian tribe under the coal gross proceeds tax and the coal severance tax; defining "Indian lands"; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. There is one producer of coal from "Indian lands" in Montana (MDOR).
2. Total coal production from "Indian lands" is 3,000,000 tons in each year of the biennium (MDOR).
3. The first 20,000 tons of production is tax exempt for severance tax purposes (MDOR).
4. Contract sales price per ton is \$7.85 in FY94 and \$7.97 in FY95 (ROC).
5. The proposed law severance tax rate on coal produced from "Indian lands" is 6.0% of contract sales price (MDOR).
6. The proposed law gross proceeds tax rate on coal produced from "Indian lands" is 2.0% of contract sales price (MDOR).
7. Under current law, coal produced from "Indian lands" is exempt for severance and gross proceeds tax purposes (MDOR).
8. All tribal royalties are tax exempt (MDOR).
9. Total current law coal severance tax collections will be \$40,396,000 in FY94 and \$40,285,000 in FY95 (ROC).
10. The tax year 1992 consolidated mill levy in the applicable levy district is 219.99 mills and is distributed as follows: 95.00 mills to the state foundation program, 6.00 mills to the university system, 62.64 mills to county government, 10.91 mills to countywide education, 43.42 mills to elementary schools, 0.3 mills to high schools, and 1.72 mills to miscellaneous districts (MDOR).
11. The consolidated mill levy for tax years 1993 and 1994 in the applicable levy district will remain unchanged from tax year 1992 (MDOR).
12. Coal production within a fiscal year is distributed evenly over calendar quarters (MDOR).
13. Because of the applicability date of the proposed legislation, three quarters of severance tax production will be affected for FY94 and one quarter of gross proceeds tax production for FY94 (MDOR).

FISCAL IMPACT:

(Over)

 2-8-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-11-93
RUSSELL FAGG, PRIMARY SPONSOR DATE

Fiscal Note for HB0467, as introduced

HB 467

FISCAL IMPACT:

Revenues:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Coal Severance Tax	40,396,000	41,449,000	1,053,000	40,285,000	41,710,000	1,425,000
<u>Fund Distribution</u>						
Permanent Trust	20,198,000	20,725,000	527,000	20,143,000	20,855,000	712,000
Highway Trust	4,848,000	4,974,000	120,000	4,834,000	5,005,000	171,000
Local Impact	2,686,000	2,756,000	70,000	2,679,000	2,774,000	95,000
School Equalization	4,605,000	4,725,000	120,000	4,592,000	4,755,000	163,000
County Planning	154,000	158,000	4,000	153,000	159,000	6,000
Renewable Resources	192,000	197,000	5,000	191,000	198,000	7,000
Parks Trust	512,000	525,000	13,000	510,000	528,000	18,000
State Library	154,000	158,000	4,000	153,000	159,000	6,000
Conservation Districts	77,000	79,000	2,000	77,000	79,000	2,000
Water Development	192,000	197,000	5,000	191,000	198,000	7,000
MT Growth/Ag	307,000	315,000	8,000	306,000	317,000	11,000
Art/Capital Preservation	256,000	263,000	7,000	255,000	264,000	9,000
<u>General Fund</u>	<u>6,215,000</u>	<u>6,377,000</u>	<u>162,000</u>	<u>6,201,000</u>	<u>6,419,000</u>	<u>218,000</u>
Total	40,936,000	41,449,000	1,053,000	40,285,000	41,710,000	1,425,000

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Gross Proceeds Tax on Tribal Coal	0	118,000	118,000	0	478,000	478,000
<u>Fund Distribution</u>						
Foundation Program	0	51,000	51,000	0	206,000	206,000
University System	0	3,000	3,000	0	13,000	13,000
<u>Local Governments</u>	<u>0</u>	<u>64,000</u>	<u>64,000</u>	<u>0</u>	<u>259,000</u>	<u>259,000</u>
Total	0	118,000	118,000	0	478,000	478,000

EFFECT ON LOCAL REVENUE:

(Next Page)

EFFECT ON LOCAL REVENUE:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Gross Proceeds Tax on Tribal Coal	0	64,000	64,000	0	259,000	259,000
County Government	0	34,000	34,000	0	136,000	136,000
Countywide Education	0	6,000	6,000	0	24,000	24,000
Elementary Schools	0	23,000	23,000	0	94,000	94,000
High Schools	0	0*	0*	0	1,000	1,000
<u>Miscellaneous Districts</u>	<u>0</u>	<u>1,000</u>	<u>1,000</u>	<u>0</u>	<u>4,000</u>	<u>4,000</u>
Total Local Governments	0	64,000	64,000	0	259,000	259,000

*Less than \$500.

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 467

INTRODUCED BY FAGG, STANG, HARP

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE TAXATION OF COAL PRODUCED FROM INDIAN LANDS UNDER THE COAL GROSS PROCEEDS TAX AND THE COAL SEVERANCE TAX AT 40 PERCENT OF THE TAX RATE AS COAL PRODUCED FROM OTHER LANDS; EXEMPTING FROM TAXATION CERTAIN ROYALTIES RECEIVED BY AN INDIAN TRIBE UNDER THE COAL GROSS PROCEEDS TAX AND THE COAL SEVERANCE TAX; DEFINING "INDIAN LANDS"; AMENDING SECTIONS 15-23-703, 15-23-705, 15-35-102, AND 15-35-103, MCA; REPEALING SECTIONS 15-35-201, 15-35-202, 15-35-203, 15-35-204, AND 15-35-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-23-703, MCA, is amended to read:

"15-23-703. Taxation of gross proceeds -- taxable value for bonding and guaranteed tax base aid to schools. (1) The county assessor shall compute from the reported gross proceeds from coal a tax roll that he the assessor shall transmit to the county treasurer on or before September 15 each year. The county assessor may not levy or assess any mills against the reported gross proceeds of coal but shall

levy a tax of 2% against the reported gross value of coal produced from Indian lands, as defined in 15-35-102, and 5% against the value of the reported gross proceeds from other lands as provided in 15-23-701~~(1)(d)~~. The county treasurer shall ~~proceed--to~~ give full notice to each coal producer of the taxes due and to collect the taxes as provided in 15-16-101.

(2) For bonding, county classification, and all nontax purposes, the taxable value of the gross proceeds of coal is:

(a) 18% of the contract sales price, as defined in 15-35-102, for coal produced from Indian lands, as defined in 15-35-102; or

(b) 45% of the contract sales price, as defined in 15-35-102~~(5)~~, for coal produced from other lands.

(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.

(4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined

1 under subsection (3) and the amounts received under
2 15-23-706:

3 (a) to the state and to the counties that levied mills
4 in fiscal year 1990 against 1988 production in the relative
5 proportions required by the levies for state and county
6 purposes in the same manner as property taxes were
7 distributed in fiscal year 1990 in the taxing jurisdiction;
8 and

9 (b) to school districts in the county that either
10 levied mills in school fiscal year 1990 against 1988
11 production or used nontax revenue, such as Public Law 81-874
12 money, in lieu of levying mills against production, in the
13 same manner that property taxes collected or property taxes
14 that would have been collected would have been distributed
15 in the 1990 school fiscal year in the school district.

16 (5) (a) If the total tax liability in a taxing
17 jurisdiction exceeds the amount determined in subsection
18 (3), the county treasurer shall, immediately following the
19 distribution from taxes paid on May 31 of each year, send
20 the excess revenue, excluding any protested coal gross
21 proceeds tax revenues, to the department for redistribution
22 as provided in 15-23-706.

23 (b) If the total tax liability in a taxing jurisdiction
24 is less than the amount determined in subsection (3), the
25 taxing jurisdiction is entitled to a redistribution as

1 provided by 15-23-706.

2 (6) The board of county commissioners of a county may
3 direct the county treasurer to reallocate the distribution
4 of coal gross proceeds taxes that would have gone to a
5 taxing unit, as provided in subsection (4)(a), to another
6 taxing unit or taxing units, other than an elementary school
7 or high school, within the county under the following
8 conditions:

9 (a) The county treasurer shall first allocate the coal
10 gross proceeds taxes to the taxing units within the county
11 in the same proportion that all other property tax proceeds
12 were distributed in the county in fiscal year 1990.

13 (b) If the allocation in subsection (6)(a) exceeds the
14 total budget for a taxing unit, the commissioners may direct
15 the county treasurer to allocate the excess to any taxing
16 unit within the county.

17 (7) The board of trustees of an elementary or high
18 school district may reallocate the coal gross proceeds taxes
19 distributed to the district by the county treasurer under
20 the following conditions:

21 (a) The district shall first allocate the coal gross
22 proceeds taxes to the budgeted funds of the district in the
23 same proportion that all other property tax proceeds were
24 distributed in the district in fiscal year 1990.

25 (b) If the allocation under subsection (7)(a) exceeds

the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(8) The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, or from coal mines on Indian lands in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

Section 2. Section 15-23-705, MCA, is amended to read:

"15-23-705. Department to calculate unit value. (1) Except as provided in subsection (2), for the purposes of the distribution of coal gross proceeds taxes collected under this part, the department shall determine the unit value of coal for each mine in each taxing unit. The unit value for coal for each mine in each taxing unit is the quotient obtained by dividing the gross proceeds taxes calculated on coal produced in that taxing unit in calendar year 1988 by the number of tons of coal extracted, treated, and sold in that taxing unit during 1988.

(2) The unit value calculation does not apply to coal mines that began production after December 31, 1988, or that are located on Indian lands, as defined in 15-35-102."

Section 3. 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 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 the royalties are calculated. However, royalties received by an Indian tribe for coal production from Indian lands pursuant to a lease entered into under the Indian Mineral Leasing Act of 1938

(25 U.S.C. 396a-396g (1983)) OR THE INDIAN MINERAL DEVELOPMENT ACT OF 1982 (25 U.S.C. 2101 THROUGH 2108 (1983)) are exempt from taxation. with--respect-to-royalties For royalties paid to the government of the United States, or 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) "Indian lands" means land or mineral interests:

~~(a) held in trust by the United States government for an Indian tribe or a member of an Indian tribe; or~~

~~(b) that are owned by an Indian tribe and that are located within the exterior boundaries of the tribe's reservation or that are recognized as being part of that~~
THAT ARE OWNED BY AN INDIAN TRIBE OR TRIBAL MEMBER OR HELD IN TRUST FOR AN INDIAN TRIBE OR TRIBAL MEMBER BY THE UNITED STATES AND THAT ARE LOCATED WITHIN THE TRIBE'S OR TRIBAL MEMBER'S RESERVATION OR OTHERWISE CONSIDERED PART OF THE reservation.

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

(10)(11) "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)(12) "Qualified purchaser" means a purchaser whose purchases of Montana coal in any given year exceed his the

purchaser's 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.

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

(13)(14) "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.

(14)(15) "Ton" means 2,000 pounds.

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

Section 4. Section 15-35-103, MCA, is amended to read:

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

~~(a) After June 30, 1987, and before July 1, 1990:~~

1	Heating-quality	Surface--	Underground
2	(Btu-per-pound	Mining--	Mining---
3	---of-coal):	-	
4	Under-7,000	17%-of-value	3%-of-value
5	7,000-and-over	25%-of-value	4%-of-value
6	(b)--After-June-30, 1990, and before July 1, 1991:		
7	Heating-quality	Surface--	Underground
8	(Btu-per-pound	Mining--	Mining---
9	---of-coal):	-	
10	Under-7,000	13%-of-value	3%-of-value
11	7,000-and-over	20%-of-value	4%-of-value
12	(c)--After-June-30, 1991:		
13	Heating quality	Surface	Underground
14	(Btu per pound	Mining	Mining
15	of coal):		
16	Under 7,000	10% of value	3% of value
17	7,000 and over	15% of value	4% of value
18	(2) A severance tax is imposed on each ton of coal		
19	produced in the state from Indian lands in accordance with		
20	the following schedule after September 30, 1993:		
21	Heating quality	Surface	Underground
22	(Btu per pound	Mining	Mining
23	of coal):	-	
24	Under 7,000	4% of value	1.2% of value
25	7,000 and over	6% of value	1.6% of value

1 (2)(3) "Value" means the contract sales price.

2 (3)(4) The formula which yields the greater amount of

3 tax in a particular case shall must be used at each point on

4 these schedules.

5 (4)(5) A person is not liable for any severance tax

6 upon 50,000 tons of the coal he the person produces in a

7 calendar year, except that if he produces more than 50,000

8 tons of coal is produced in a calendar year, he the person

9 will be liable for severance tax upon all coal produced in

10 excess of the first 20,000 tons.

11 (5)--A new coal production incentive tax credit may be

12 claimed on certain coal as provided in 15-35-202."

13 NEW SECTION. Section 5. Repealer. Sections 15-35-201,

14 15-35-202, 15-35-203, 15-35-204, and 15-35-205, MCA, are

15 repealed.

16 NEW SECTION. Section 6. Applicability. [This act]

17 applies to coal produced after September 30, 1993.

18 NEW SECTION. Section 7. Effective date. [This act] is

19 effective on passage and approval.

-End-