

HOUSE BILL NO. 688

INTRODUCED BY GRINDE, GILBERT

IN THE HOUSE

MARCH 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 26, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 27, 1993	PRINTING REPORT.
MARCH 29, 1993	SECOND READING, DO PASS.
	ENGROSSING REPORT.
MARCH 30, 1993	THIRD READING, PASSED. AYES, 65; NOES, 33.
MARCH 31, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 13, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 14, 1993	SECOND READING, CONCURRED IN.
APRIL 15, 1993	THIRD READING, CONCURRED IN. AYES, 45; NOES, 3.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 17, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 20, 1993	THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 688
2 INTRODUCED BY LARRY HAL CRINOE Dillart
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING THE EXTENDED
5 DEPTH AUGER METHOD OF MINING COAL AS A TYPE OF UNDERGROUND
6 MINING FOR PURPOSES OF TAXATION; DEFINING THE EXTENDED DEPTH
7 AUGER METHOD OF MINING FOR TAXATION PURPOSES; AMENDING
8 SECTION 15-35-102, MCA; AND PROVIDING AN EFFECTIVE 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) is
12 less than one-third of the volume calculated in subsection
13 (2)(a)(ii), the base consumption level is the volume
14 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

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 coal.

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

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

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

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

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

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

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

7 (8) "Extended depth auger method" means a method of
8 mining that penetrates a coal deposit and removes the coal
9 through a series of circular openings with bored shafts
10 averaging at least 300 feet in depth.

11 ~~(8)~~(9) "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)~~(10) "Produced" means severed from the earth.

18 ~~(10)~~(11) "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)~~(12) "Qualified purchaser" means a purchaser whose
25 purchases of Montana coal in any given year exceed his the

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

5 ~~(12)~~(13) "Strip mining" is defined in 82-4-203 and
6 includes "surface mining" but does not include the extended
7 depth auger method of mining.

8 ~~(13)~~(14) "Taxes paid on production" includes any tax
9 paid to the federal, state, or local governments upon the
10 quantity of coal produced as a function of either the volume
11 or the value of production and does not include any tax upon
12 the value of mining equipment, machinery, or buildings and
13 lands, any tax upon a person's net income derived in whole
14 or in part from the sale of coal, or any license fee.

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

16 ~~(15)~~(16) "Underground mining" means a coal mining method
17 utilizing shafts and tunnels and as further defined in
18 82-4-203. The term includes the extended depth auger method
19 of mining."

20 NEW SECTION. Section 2. Effective date. [This act] is
21 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0688, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act including the extended depth auger method of mining coal as a type of underground mining for purposes of taxation; defining the extended depth auger method of mining for taxation purposes; and providing an effective date.

ASSUMPTIONS:

1. No coal mine operators in Montana will use the extended depth auger method of mining coal during the biennium (MDOR).
2. If coal is mined by this method, it would be coal that would be uneconomical to strip mine.

FISCAL IMPACT:

There is no impact to state revenues or expenditures under the proposed legislation during the biennium.

TECHNICAL NOTES:

The proposed legislation would permit different areas of a single coal mining site to be classified as both an underground mine and a strip mine for taxation purposes. Such a dual classification would make the monitoring of coal production for taxation purposes extremely difficult and costly, as the department would have no means of determining the share of total production coming from the two different mining methods.

David Lewis 3-24-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

5-24-93
LARRY HAL GRINDE, PRIMARY SPONSOR DATE

Fiscal Note for HB0688, as introduced

HB 688

APPROVED BY COMMITTEE
ON TAXATION

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2 INTRODUCED BY Larry Hue George Dillhart
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17 Montana.
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23 1986 from all Montana coal mine operators; or
24 (ii) the greater of:
25 (A) the arithmetic average volume of coal purchased

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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
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10 Montana coal mine operators under all other agreements.
11 (b) If the volume calculated in subsection (2)(a)(i) is
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4 (5) "Contract sales price" means either the price of
5 coal extracted and prepared for shipment f.o.b. mine,
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7 paid on production, or a price imputed by the department
8 under 15-35-107. Contract sales price includes all royalties
9 paid on production, no matter how such royalties are
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8 mining that penetrates a coal deposit and removes the coal
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7 depth auger method of mining.

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20 NEW SECTION. **Section 2.** Effective date. [This act] is
21 effective July 1, 1993.

-End-

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21 effective July 1, 1993.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 13, 1993

Page 2 of 2
April 13, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 688 (third reading copy -- blue), respectfully report that House Bill No. 688 be amended as follows and as so amended be concurred in.

Signed: 
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 4.

Strike: "INCLUDING"

Insert: "PROVIDING THAT"

2. Title, line 5.

Strike: "AS"

Insert: "IS"

Strike: "TYPE"

Insert: "DISTINCT METHOD"

Strike: "UNDERGROUND"

3. Title, line 7.

Following: "PURPOSES;"

Insert: "ESTABLISHING SEVERANCE TAX RATES FOR EXTENDED DEPTH AUGER MINING;"

4. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-35-102"

Insert: "AND 15-35-103"

Following: "DATE"

Insert: "AND A TERMINATION DATE"

5. Page 5, lines 18 and 19.

Following: "82-4-203." on line 18

Strike: the remainder of line 18 through "mining." on line 19

6. Page 5.

Following: line 19

Insert: "Section 2. 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, a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

(a) After June 30, 1988, and before July 1, 1990:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	17% of value	3% of value
7,000 and over	25% of value	4% of value

HOUSE BILL NO. 688

INTRODUCED BY GRINDE, GILBERT

A BILL FOR AN ACT ENTITLED: "AN ACT ~~INCLUDING~~ PROVIDING THAT THE EXTENDED DEPTH AUGER METHOD OF MINING COAL AS IS A ~~TYPE DISTINCT METHOD~~ OF UNDERGROUND MINING FOR PURPOSES OF TAXATION; DEFINING THE EXTENDED DEPTH AUGER METHOD OF MINING FOR TAXATION PURPOSES; ESTABLISHING SEVERANCE TAX RATES FOR EXTENDED DEPTH AUGER MINING; AMENDING ~~SECTION~~ SECTIONS 15-35-102 AND 15-35-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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9 includes "surface mining" but does not include the extended
10 depth auger method of mining.

11 ~~{13}~~(14) "Taxes paid on production" includes any tax
12 paid to the federal, state, or local governments upon the
13 quantity of coal produced as a function of either the volume
14 or the value of production and does not include any tax upon
15 the value of mining equipment, machinery, or buildings and
16 lands, any tax upon a person's net income derived in whole
17 or in part from the sale of coal, or any license fee.

18 ~~{14}~~(15) "Ton" means 2,000 pounds.

19 ~~{15}~~(16) "Underground mining" means a coal mining method
20 utilizing shafts and tunnels and as further defined in
21 82-4-203. ~~The term includes the extended depth auger method~~
22 ~~of mining.~~

23 **SECTION 2. SECTION 15-35-103, MCA, IS AMENDED TO READ:**

24 "15-35-103. Severance tax -- rates imposed. (1) Subject
25 to the provisions of 15-35-202 allowing a new coal

1 production incentive tax credit, a severance tax is imposed
2 on each ton of coal produced in the state in accordance with
3 the following schedule:

4 (a) After June 30, 1988, 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

10 (b) After June 30, 1990, and before July 1, 1991:

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

16 (c) After June 30, 1991:

Heating quality	Surface	Underground	<u>Extended Depth</u>
(Btu per pound	Mining	Mining	<u>Auger Mining</u>
of coal):			
Under 7,000	10% of value	3% of value	<u>7.5% of value</u>
7,000 and over	15% of value	4% of value	<u>7.5% of value</u>

22 (2) "Value" means the contract sales price.

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

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

6 (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 3. Effective date. [This act] is
9 effective July 1, 1993.

10 NEW SECTION. SECTION 4. TERMINATION. [THIS ACT]
11 TERMINATES JUNE 30, 1997.

-End-