

## HOUSE JOINT RESOLUTION NO. 4

INTRODUCED BY J. READ

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE FEDERAL GOVERNMENT TAKE ACTION TO PROTECT INTERSTATE AND FOREIGN COMMERCE AND MONTANA'S RIGHT TO EXPORT COAL.

WHEREAS, coal is a critical source of income to the fiscal health of Montana and for the provision of basic services necessary for the health and well-being of its citizens; and

WHEREAS, it is imperative to ensure that no single state can engage in a pattern of discrimination that results in control over any other state's ability to engage in a lawful activity involving interstate or foreign commerce; and

WHEREAS, the state of Washington is violating the Dormant Foreign and Domestic Commerce Clauses of the United States Constitution and interfering with the free trade of other states, something anathema to the founding principles of our nation; and

WHEREAS, since 2012, Lighthouse Resources, Inc., a vertically integrated coal production, transportation, and export company, has sought to develop the Millennium Bulk Terminal Port Facility in Longview, Washington, on the Columbia River; and

WHEREAS, the state of Washington has denied permits for the project and discriminated against Lighthouse's project because it involves coal, preventing Montana from engaging in foreign and interstate commerce and depriving Lighthouse and its subsidiaries of an economic opportunity and prospective investment; and

WHEREAS, "the Commerce Clause of the United States Constitution, Article I, Section 8, prohibits states from discriminating against interstate commerce, and bars regulations that, although facially nondiscriminatory, unduly burden interstate commerce" according to *National Association for the Advancement of Multijurisdiction Practice v. Berch*, 773 F.3d 1037, 1048 (9th Cir. 2014); and

WHEREAS, no state should force on other states its policy preferences regarding the use of coal as a source of fuel and impede the free flow of commerce.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE

1 STATE OF MONTANA:

2 That the 66th Legislature of the State of Montana urges the federal government to:

3 (1) uphold the Constitution and take action so that the one state does not impede commerce and impact  
4 the economic and fiscal interests of states that seek to export commodities, including coal, to foreign markets;  
5 and

6 (2) protect all states and ensure that no single state can erect barriers to trade and economic activity.

7 BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Speaker  
8 of the United States House of Representatives, the majority leader of the United States Senate, the minority  
9 leader of the United States Senate, the minority leader of the United States House of Representatives, and all  
10 three members of Montana's Congressional Delegation.

11 - END -