

SENATE BILL NO. 316
INTRODUCED BY GRIMES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING ENERGY-RELATED TAX LAWS BY PROVIDING THAT THE DEPARTMENT OF REVENUE MAY REFER CLAIMS FOR DEDUCTIONS OR CREDITS FOR ENERGY CONSERVATION MEASURES TO THE DEPARTMENT OF LABOR AND INDUSTRY RATHER THAN THE DEPARTMENT OF ADMINISTRATION; CLARIFYING THAT THE MINERAL EXPLORATION INCENTIVE CREDIT MAY NOT EXCEED A TOTAL OF \$20 MILLION FOR ALL EXPLORATION ACTIVITIES; AND AMENDING SECTIONS 15-32-106, 15-32-503, AND 15-32-507, MCA."

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

Section 1. Section 15-32-106, MCA, is amended to read:

"15-32-106. Procedure for obtaining benefit of deduction or credit. The department of revenue shall provide forms on which a taxpayer may apply for a tax credit under 15-32-109. The department of revenue shall approve a deduction or credit under 15-32-103 or 15-32-109 that demonstrably promotes energy conservation or uses a recognized nonfossil form of energy generation. The department of revenue may refer a deduction or credit involving energy generation to the department of environmental quality for its advice, and the department of environmental quality shall respond within 60 days. The department of revenue may refer a deduction or credit involving energy conservation to the department of ~~administration~~ labor and industry for its advice, and the department of ~~administration~~ labor and industry shall respond within 60 days. The department of revenue may deny a deduction or credit that it finds to be impractical or ineffective."

Section 2. Section 15-32-503, MCA, is amended to read:

"15-32-503. Exploration incentive credit. (1) The department shall grant to a person a credit against the person's tax liability under Title 15, chapter 30 or 31, for the certified expenditures ~~of each~~ of the following exploration activities that are performed on land in the state for the purpose of determining the existence, location, extent, or quality of a mineral or coal deposit, regardless of land ownership:

- (a) surveying by geophysical or geochemical methods;
- (b) drilling exploration holes;
- (c) conducting underground exploration;

(d) surface trenching and bulk sampling; or

(e) performing other exploratory work, including aerial photographs, geological and geophysical logging, sample analysis, and metallurgical testing.

(2) (a) Except as provided in subsection (3), credit may not be granted under subsection (1) for exploration activity described in subsection (1) that occurs after the construction commencement date of a new mine.

(b) For the purposes of this subsection (2), "construction commencement date of a new mine" means the date no later than which all of the following have occurred:

(i) there has been issued to the owner or an agent of the owner permits, leases, title and other rights in land, and other approvals, permits, licenses, and certificates by federal, state, and local agencies that a reasonable and prudent person would consider adequate to commence construction of a mine in the expectation that all other approvals, permits, licenses, and certificates necessary for the completion of the facilities will be obtained;

(ii) all approvals, permits, licenses, and certificates are in full force and effect and without any modification that might jeopardize the completion or continued construction of the mine; and

(iii) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency enjoining, either temporarily or permanently, the construction or the continuation of construction of the mine is not in effect.

(3) In addition to the grant of a credit for a new mine under subsection (2), a credit may be granted under subsection (1) for exploration activity for a mine that had previously operated, that has ceased to operate, and for which all previous mining approvals, permits, licenses, and certificates that allowed the previous operation are no longer in effect. However, a credit may not be granted under subsection (1) for exploration activity that occurs after the mine reopening date. For the purposes of this subsection (3), "mine reopening date" means the date not later than which all of the following have occurred:

(a) there has been issued to the owner or an agent of the owner permits, leases, title and other rights in land, and other approvals, permits, licenses, and certificates by federal, state, and local agencies that a reasonable and prudent person would consider adequate to commence operation of the former mine in the expectation that all other approvals, permits, licenses, and certificates necessary for the completion of the facilities will be obtained;

(b) all approvals, permits, licenses, and certificates for the reopened mine are in full force and effect and without any modification that might jeopardize the reopening of the former mine; and

(c) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency enjoining, either temporarily or permanently, the reopening of the former mine is not in effect."

Section 3. Section 15-32-507, MCA, is amended to read:

"15-32-507. Credit limitation. A ~~The A~~ credit FOR EACH DISTINCT MINING OPERATION ~~for a specific exploration activity~~ may not exceed a total of \$20 million for all exploration activities under 15-32-503 and accrues at the rate of 50% of the certified expenditures each year. The credit must be applied within 15 tax years after the taking of the credit is approved under 15-32-504. However, the tax year or years in which the credit is applied need not be:

- (1) the tax year in which the person first incurs liability for payment of tax based on the person's activity that is the basis of the claim for the credit; or
- (2) consecutive tax years."

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