SENATE BILL NO. 551

INTRODUCED BY BALES, LAMBERT, GEBHARDT, BLACK, ESSMANN

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN COAL PRODUCTION FROM THE COAL SEVERANCE TAX FOR A TERM OF YEARS IF THE COAL IS USED IN FACILITIES THAT SEQUESTER AT LEAST 75 PERCENT OF THE CARBON DIOXIDE PRODUCED AT THE FACILITY; PROVIDING THAT THE EXEMPTION APPLIES DIFFERENTLY FOR NEW MINES OR NEW COAL PRODUCTION FROM EXISTING MINES AND WHETHER THE USE IS IN OR OUT OF THE STATE; ~~PROVIDING THAT WHEN THE EXEMPTED COAL PRODUCTION BECOMES TAXABLE, THE APPLICABLE COAL SEVERANCE TAX RATE IS TO BE ADJUSTED SO THAT THE NEW RATE PROVIDES SIMILAR REVENUE TO WHEN THE EXEMPTED PRODUCTION WAS NOT TAXED;~~ AMENDING SECTION 15-35-103, MCA; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, there is increasing concern over global warming; and

WHEREAS, the state of California has mandated environmentally friendly electrical generation; and

WHEREAS, integrated gasification combined cycle facilities and carbon sequestration are new to science and engineering; and

WHEREAS, the United States is too dependent on foreign energy; and

WHEREAS, the economy of eastern Montana needs development; and

WHEREAS, coal severance tax rates based upon environmental and new production factors can make Montana the leader in furnishing coal for clean, environmentally friendly electrical generation and fuel production while improving the economy of Montana.

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

Section 1. Section 15-35-103, MCA, is amended to read:

"15-35-103. Severance tax -- rates imposed. (1) A severance tax is imposed on each ton of coal produced in the state<u>.</u> ~~in accordance with the~~ <u>Subject to subsection (4), the rate of the tax is determined according to the</u> following schedule:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining

Under 7,000	10% of value	3% of value
7,000 and over	15% of value	4% of value

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

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

(4) (a) The following production is not subject to taxation:

(i) the first 5 years of production from a new mine if at least 50% OF THE FIRST YEAR'S PRODUCTION of the coal produced by the mine is used in the state in facilities that sequester at least 75% of the carbon dioxide produced at the facility;

(ii) ~~3~~ 5 years of new production of coal produced by an existing mine if the FIRST YEAR'S NEW PRODUCTION OF coal is used in the state in facilities that sequester at least 75% of the carbon dioxide produced at the facility;

(iii) the first ~~3~~ 5 years of production of coal produced from a new mine for coal that is used out of the state in facilities that sequester at least 75% of the carbon dioxide produced at the facility.

~~(b) Each time production that was exempt pursuant to subsection (4)(a) becomes taxable, the department shall adjust the rates in subsection (1). For each year that the production was exempt, the department shall determine a rate that, when applied to the number of taxed tons of coal and the number of tons of coal that were not taxed under the expired exemption, would have resulted in the same tax revenue. In determining the adjusted rate, the department shall adjust the rate for the Btu heating quality and mine type of the coal that was exempt. The department shall then average the rates for each year over the number of years the coal was exempt. The adjusted rate is the new rate under subsection (1) applicable to the Btu heating quality and mine type of the coal that is no longer exempt. The adjusted rate may not be less than one-half of the stated rate in subsection (1).~~

~~(c)~~(B) An exemption under subsection (4)(a) ~~or an adjusted rate under subsection (4)(b)~~ is effective on the first day of the next fiscal quarter.

(C) THE EXEMPTIONS UNDER SUBSECTIONS (4)(A)(I) AND (4)(A)(II) CONTINUE FOR THE FULL 5-YEAR TERM IF THE NUMBER OF TONS OF PRODUCTION NECESSARY TO QUALIFY FOR THE EXEMPTION IN THE FIRST YEAR DOES NOT DECREASE."

NEW SECTION. **Section 2. Applicability.** [This act] applies to new mines or increased coal production on or after October 1, 2007.

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