

HOUSE BILL NO. 156

INTRODUCED BY M. MILLER

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN AIR AND WATER POLLUTION CONTROL EQUIPMENT AND CARBON CAPTURE, TRANSPORTATION, AND SEQUESTRATION EQUIPMENT FROM PROPERTY TAXES; PROVIDING FOR THE CERTIFICATION OF EXEMPT CARBON SEQUESTRATION EQUIPMENT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-135, 15-6-158, 15-6-219, AND 15-24-3111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, MONTANA INDUSTRIES ARE REQUIRED TO INSTALL CERTAIN AIR AND WATER POLLUTION CONTROL EQUIPMENT TO COMPLY WITH STATE AND FEDERAL STANDARDS AS A RESULT OF RECENT REGULATORY ACTION, INCLUDING BUT NOT LIMITED TO:

- (1) THE CLEAN AIR MERCURY RULE;
- (2) THE REVISED OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS REGIONAL HAZE RULE;
- (3) THE CLEAN AIR INTERSTATE RULE;
- (4) THE NITROGEN OXIDE PRIMARY NATIONAL AMBIENT AIR QUALITY STANDARDS;
- (5) THE SULFUR DIOXIDE PRIMARY NATIONAL AMBIENT AIR QUALITY STANDARDS;
- (6) COAL COMBUSTION BYPRODUCTS MANAGEMENT;
- (7) THE COOLING WATER INTAKES 316(B) RULE;
- (8) THE HAZARDOUS AIR POLLUTANTS MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY RULE;
- (9) THE PARTICULATE MATTER 2.5 NATIONAL AMBIENT AIR QUALITY STANDARDS;
- (10) THE EFFLUENT GUIDELINES FOR COAL-FIRED ELECTRICAL GENERATING UNITS;
- (11) THE SULFUR DIOXIDE/NITROGEN OXIDE SECONDARY NATIONAL AMBIENT AIR QUALITY STANDARDS;
- (12) THE PARTICULATE MATTER 2.5 NATIONAL AMBIENT AIR QUALITY STANDARDS DESIGNATIONS;
- (13) THE RESOURCE CONSERVATION AND RECOVERY ACT STANDARDS FOR MANAGEMENT OF COAL COMBUSTION

RESIDUALS:

- (14) THE MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY STANDARDS FOR INDUSTRIAL BOILERS;
- (15) THE NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR LARGE MUNICIPAL WASTE

COMBUSTORS;



1           (16) THE STANDARDS OF PERFORMANCE FOR GRAIN ELEVATORS NATIONAL EMISSION STANDARDS FOR  
2 HAZARDOUS AIR POLLUTANTS: PRIMARY ALUMINUM REDUCTION PLANTS;

3           (17) THE OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS REVISION FINAL COAL COMBUSTION  
4 BYPRODUCTS RULE;

5           (18) THE CLEAN AIR INTERSTATE REPLACEMENT RULE;

6           (19) THE STATIONARY COMPRESSION IGNITION ENGINE NEW SOURCE PERFORMANCE STANDARDS;

7           (20) THE CLEAN POWER RULE;

8           (21) THE COOLING WATER INTAKES 316(B) COMPLIANCE;

9           (22) THE NUMERIC NUTRIENT CRITERIA;

10          (23) THE HAZARDOUS AIR POLLUTANTS MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY COMPLIANCE;

11          (24) CLEAN AIR INTERSTATE RULE PHASE II FOR SULFUR DIOXIDE AND NITROGEN OXIDE;

12          (25) THE NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR THE PORTLAND CEMENT  
13 MANUFACTURING INDUSTRY RENEWABLE FUELS STANDARDS;

14          (26) THE TIER 3 VEHICLE EMISSION AND FUEL STANDARDS;

15          (27) THE OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS TO 65 PARTS PER BILLION;

16          (28) THE PLANNED ENVIRONMENTAL PROTECTION AGENCY REGULATION OF METHANE EMISSIONS FOR OIL AND  
17 NATURAL GAS INDUSTRY;

18          (29) TOTAL MAXIMUM DAILY LOADS; AND

19          (30) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM, INCLUDING STORMWATER DISCHARGE.

20          WHEREAS, COMPLIANCE WITH THESE REGULATIONS REQUIRES INVESTMENTS OF HUNDREDS OF MILLIONS OF  
21 DOLLARS AND ULTIMATELY IMPACTS CONSUMERS; AND

22          WHEREAS, TECHNOLOGIES TO COMPLY WITH THESE REGULATIONS ARE OFTEN UNPROVEN OR NOT  
23 COMMERCIALY OR ECONOMICALLY AVAILABLE; AND

24          WHEREAS, MANY OF THESE REGULATIONS ADDRESS IMPORTANT PROTECTIONS FOR PUBLIC HEALTH, YET  
25 OTHERS, SUCH AS THE REGIONAL HAZE RULE, ADDRESS ISSUES SUCH AS VISIBILITY; AND

26          WHEREAS, MANY OF THESE REGULATIONS REQUIRE INSTALLATION OF POLLUTION CONTROL TECHNOLOGIES  
27 THAT DECREASE THE EFFICIENCY OF EXISTING EQUIPMENT AT INDUSTRIAL FACILITIES; AND

28          WHEREAS, REDUCED TAX RATES FOR POLLUTION CONTROL EQUIPMENT WILL IMPROVE PUBLIC HEALTH BY  
29 PROVIDING AN INCENTIVE FOR EARLY COMPLIANCE WHEN POSSIBLE AND ULTIMATELY MAKING REGULATORY COMPLIANCE  
30 MORE AFFORDABLE; AND

1           WHEREAS, THE LEGISLATURE OF THE STATE OF MONTANA FINDS THAT IT IS APPROPRIATE TO EXEMPT CERTAIN  
2 AIR AND WATER POLLUTION CONTROL EQUIPMENT AND CARBON SEQUESTRATION EQUIPMENT FROM PROPERTY TAXES.

3

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

5

6           **Section 1.** Section 15-6-135, MCA, is amended to read:

7           **"15-6-135. Class five property -- description -- taxable percentage.** (1) Class five property includes:

8           (a) all property used and owned by cooperative rural electrical and cooperative rural telephone  
9 associations organized under the laws of Montana, except property owned by cooperative organizations  
10 described in 15-6-137(1)(a);

11           (b) air and water pollution control equipment as defined in this section;

12           (c) new industrial property as defined in this section;

13           (d) any personal or real property used primarily in the production of ethanol-blended gasoline during  
14 construction and for the first 3 years of its operation;

15           (e) all land and improvements and all personal property owned by a research and development firm,  
16 provided that the property is actively devoted to research and development;

17           (f) machinery and equipment used in electrolytic reduction facilities;

18           (g) all property used and owned by persons, firms, corporations, or other organizations that are engaged  
19 in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities  
20 and towns of 1,200 permanent residents or less.

21           (2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities,  
22 machinery, devices, or equipment certified as provided in subsections (2)(b) and (2)(c) and designed,  
23 constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying,  
24 neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except  
25 for the use of the item, would be released to the environment. Reduction in pollutants obtained through  
26 operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification  
27 under this section.

28           (b) Requests for certification must be made on forms available from the department of revenue.  
29 Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws,  
30 orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

1 (c) The department of environmental quality shall promulgate rules specifying procedures, including  
2 timeframes for certification application, and definitions necessary to identify air and water pollution control  
3 equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the  
4 valuation of qualifying air and water pollution control equipment. The department of environmental quality shall  
5 identify and track compliance in the use of certified air and water pollution control equipment and report  
6 continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated  
7 incidents of noncompliance at a facility do not affect certification.

8 (d) A person may appeal the certification, classification, and valuation of the property to the state tax  
9 appeal board. Appeals on the property certification must name the department of environmental quality as the  
10 respondent, and appeals on the classification or valuation of the equipment must name the department of  
11 revenue as the respondent.

12 (3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery,  
13 and fixtures, used by new industries during the first 3 years of their operation. The property may not have been  
14 assessed within the state of Montana prior to July 1, 1961.

15 (b) New industrial property does not include:

16 (i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades,  
17 or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

18 (ii) a plant that will create adverse impact on existing state, county, or municipal services; or

19 (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years  
20 or longer.

21 (4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that  
22 establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere  
23 expansion, reorganization, or merger of an existing industry.

24 (b) New industry includes only those industries that:

25 (i) manufacture, mill, mine, produce, process, or fabricate materials;

26 (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state  
27 are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial  
28 products or materials;

29 (iii) engage in the mechanical or chemical transformation of materials or substances into new products  
30 in the manner defined as manufacturing in the North American Industry Classification System Manual prepared

- 1 by the United States office of management and budget;
- 2 (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50%
- 3 or more of an industry's gross sales or receipts are earned from outside the state; or
- 4 (v) earn 50% or more of their annual gross income from out-of-state sales.
- 5 (5) ~~Class (a) Except as provided in subsection (5)(b), class~~ five property is taxed at 3% of its market
- 6 value.
- 7 ~~(b) Air and water pollution control equipment placed in service after December 31~~ JANUARY 1, 2014, is
- 8 exempt from taxation."

9

10 **Section 2.** Section 15-6-158, MCA, is amended to read:

11 **"15-6-158. Class fifteen property -- description -- taxable percentage.** (1) Class fifteen property

12 includes:

- 13 (a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for
- 14 the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil
- 15 recovery operations;
- 16 (b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;
- 17 (c) carbon sequestration equipment;
- 18 (d) equipment used in closed-loop enhanced oil recovery operations; and
- 19 (e) all property of pipelines, including pumping and compression equipment, carrying products other than
- 20 carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the
- 21 pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

22 (2) For the purposes of this section, the following definitions apply:

- 23 (a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that
- 24 produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil
- 25 recovery operation.
- 26 (b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline
- 27 in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted
- 28 oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.
- 29 (c) "Carbon sequestration equipment" means the equipment used for carbon CAPTURE, TRANSPORTATION,
- 30 AND sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and

1 equipment used to retain carbon dioxide in the sequestration location.

2 (d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for  
3 sequestration.

4 (e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in  
5 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and  
6 testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon  
7 dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected  
8 carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic  
9 or unforeseen occurrences.

10 (f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for  
11 transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production  
12 facility, or ethanol production facility.

13 (g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of  
14 carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not  
15 include wells from which the primary product is carbon dioxide.

16 (3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop  
17 enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy  
18 construction, as provided in 18-2-414, were not paid during the construction phase.

19 (4) ~~Class (a)~~ Except as provided in subsection (4)(b), class fifteen property is taxed at 3% of its market  
20 value.

21 (b) Carbon sequestration equipment placed in service after ~~December 31~~ JANUARY 1, 2014, is exempt  
22 from taxation IF CERTIFIED AS PROVIDED IN SUBSECTION (5).

23 (5) (A) REQUESTS FOR CERTIFICATION MUST BE MADE ON FORMS AVAILABLE FROM THE DEPARTMENT OF  
24 REVENUE. CERTIFICATION MAY NOT BE GRANTED UNLESS THE APPLICANT IS IN SUBSTANTIAL COMPLIANCE WITH ALL  
25 APPLICABLE RULES, LAWS, ORDERS, OR PERMIT CONDITIONS. CERTIFICATION REMAINS IN EFFECT ONLY AS LONG AS  
26 SUBSTANTIAL COMPLIANCE CONTINUES.

27 (B) THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL PROMULGATE RULES SPECIFYING PROCEDURES,  
28 INCLUDING TIMEFRAMES FOR CERTIFICATION APPLICATION, AND DEFINITIONS NECESSARY TO IDENTIFY CARBON  
29 SEQUESTRATION EQUIPMENT FOR CERTIFICATION AND COMPLIANCE. THE DEPARTMENT OF REVENUE SHALL PROMULGATE  
30 RULES PERTAINING TO THE VALUATION OF CARBON SEQUESTRATION EQUIPMENT. THE DEPARTMENT OF ENVIRONMENTAL

1 QUALITY SHALL IDENTIFY AND TRACK COMPLIANCE IN THE USE OF CARBON SEQUESTRATION EQUIPMENT AND REPORT  
 2 CONTINUOUS ACTS OR PATTERNS OF NONCOMPLIANCE AT A FACILITY TO THE DEPARTMENT OF REVENUE. CASUAL OR  
 3 ISOLATED INCIDENTS OF NONCOMPLIANCE AT A FACILITY DO NOT AFFECT CERTIFICATION.

4 (C) A PERSON MAY APPEAL THE CERTIFICATION, CLASSIFICATION, AND VALUATION OF THE PROPERTY TO THE  
 5 STATE TAX APPEAL BOARD. APPEALS ON THE PROPERTY CERTIFICATION MUST NAME THE DEPARTMENT OF  
 6 ENVIRONMENTAL QUALITY AS THE RESPONDENT, AND APPEALS ON THE CLASSIFICATION OR VALUATION OF THE EQUIPMENT  
 7 MUST NAME THE DEPARTMENT OF REVENUE AS THE RESPONDENT."

8

9 **Section 3.** Section 15-6-219, MCA, is amended to read:

10 **"15-6-219. Personal and other property exemptions.** The following categories of property are exempt  
 11 from taxation:

12 (1) harness, saddlery, and other tack equipment;

13 (2) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily  
 14 hand-held and that are used to:

15 (a) construct, repair, and maintain improvements to real property; or

16 (b) repair and maintain machinery, equipment, appliances, or other personal property;

17 (3) all household goods and furniture, including but not limited to clocks, musical instruments, sewing  
 18 machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes  
 19 or for furnishing or equipping the family residence;

20 (4) a bicycle, as defined in 61-8-102, used by the owner for personal transportation purposes;

21 (5) items of personal property intended for rent or lease in the ordinary course of business if each item  
 22 of personal property satisfies all of the following:

23 (a) the acquired cost of the personal property is less than \$15,000;

24 (b) the personal property is owned by a business whose primary business income is from rental or lease  
 25 of personal property to individuals and no one customer of the business accounts for more than 10% of the total  
 26 rentals or leases during a calendar year; and

27 (c) the lease of the personal property is generally on an hourly, daily, weekly, semimonthly, or monthly  
 28 basis;

29 (6) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,  
 30 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and

1 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that  
 2 are directly used for space vehicle design, manufacture, launch, repair, and maintenance; and

3 (7) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in  
 4 33-25-105;

5 (8) air and water pollution control equipment, as defined in 15-6-135, placed in service after December  
 6 31 JANUARY 1, 2014; and

7 (9) carbon sequestration equipment, as defined in 15-6-158, placed in service after December 31  
 8 JANUARY 1, 2014."

9

10 **Section 4.** Section 15-24-3111, MCA, is amended to read:

11 **"15-24-3111. Energy production or development -- tax abatement -- eligibility.** (1) A facility listed  
 12 in subsection (3), clean advanced coal research and development equipment, and renewable energy research  
 13 and development equipment may qualify for an abatement of property tax liability pursuant to this part.

14 (2) (a) If the abatement is granted for a facility listed in subsection (3), the qualifying facility must be  
 15 assessed at 50% of its taxable value for the qualifying period.

16 (b) If the abatement is granted for clean advanced coal research and development equipment or  
 17 renewable energy research and development equipment, the qualifying equipment, up to the first \$1 million of  
 18 the value of equipment at a facility, must be assessed at 50% of its taxable value for the qualifying period. There  
 19 is no abatement for any portion of the value of equipment at a facility in excess of \$1 million.

20 (c) The abatement applies to all mills levied against the qualifying facility or equipment.

21 (3) Subject to subsections (4) and (5), the following facilities or property may qualify for the abatement  
 22 allowed under this part:

23 (a) biodiesel production facilities;

24 (b) biogas production facilities;

25 (c) biomass gasification facilities;

26 (d) coal gasification facilities for which carbon dioxide from the coal gasification process is sequestered;

27 (e) ethanol production facilities;

28 (f) geothermal facilities;

29 (g) renewable energy manufacturing facilities;

30 (h) clean advanced coal research and development equipment and renewable energy research and

1 development equipment;

2 (i) a natural gas combined cycle facility that offsets a portion of the carbon dioxide produced through  
3 carbon credit offsets;

4 (j) transmission lines and associated equipment and structures classified in 15-6-157;

5 (k) converter stations classified under 15-6-159;

6 (l) carbon sequestration equipment, as defined in 15-6-158, placed in service ON OR before January 1,  
7 2015 2014; and

8 (m) pipelines classified under 15-6-158.

9 (4) (a) In order to qualify for the abatement under this part, a facility listed in subsection (3) must meet  
10 the following requirements:

11 (i) commencement of construction of the facility must occur after June 1, 2007; and

12 (ii) the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, must be paid  
13 during the construction phase of the facility.

14 (b) In order to qualify for the abatement under this part, clean advanced coal research and development  
15 equipment and renewable energy research and development equipment must be placed into service after June  
16 30, 2007.

17 (c) For the facility to qualify under subsection (3)(d), the carbon dioxide produced from the gasification  
18 process must be sequestered at a rate that is practically obtainable but may not be less than 65%.

19 (d) Integrated gasification combined cycle facilities for which a permit under Title 75, chapter 2, is applied  
20 for after December 31, 2014, do not qualify under subsection (3)(d).

21 (e) To qualify under subsection (3)(i), the facility shall offset carbon dioxide emissions by the percentage  
22 determined in 15-24-3116.

23 (5) To qualify for an abatement, the facility or clean advanced coal research and development equipment  
24 and renewable energy research and development equipment must be certified as provided in 15-24-3112.

25 (6) Upon termination of the qualifying period, the abatement ceases and the property for which the  
26 abatement had been granted must be assessed at 100% of its taxable value.

27 (7) For the purposes of this section, "qualifying period" means the construction period and the first 15  
28 years after the facility commences operation or the clean advanced coal research and development equipment  
29 or renewable energy research and development equipment is purchased. The total time of the qualifying period  
30 may not exceed 19 years."

