

SENATE BILL NO. 510

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROPERTY TAX INCENTIVES FOR ALTERNATIVE FUEL PRODUCTION; PROVIDING A PROPERTY TAX ABATEMENT FOR RENEWABLE DIESEL AND SUSTAINABLE AVIATION FUEL PRODUCTION FACILITIES; REVISING CLASS FOURTEEN PROPERTY TO INCLUDE TAXATION OF RENEWABLE DIESEL AND SUSTAINABLE AVIATION FUEL PRODUCTION FACILITIES; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-6-157, 15-6-158, 15-24-3102, AND 15-24-3111, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** Section 15-6-157, MCA, is amended to read:

**"15-6-157. Class fourteen property -- description -- taxable percentage.** (1) Class fourteen property includes:

- (a) wind generation facilities of a centrally assessed electric power company;
- (b) wind generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;
- (c) noncentrally assessed wind generation facilities owned or operated by any electrical energy producer;
- (d) wind generation facilities owned or operated by cooperative rural electric associations described under 15-6-137;
- (e) biomass generation facilities up to 25 megawatts in nameplate capacity of a centrally assessed electric power company;
- (f) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;
- (g) noncentrally assessed biomass generation facilities up to 25 megawatts in nameplate capacity

# Amendment - 1st Reading-white - Requested by: Steve Fitzpatrick - (S) Taxation

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

SB0510.001.001

owned or operated by any electrical energy producer;

(h) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by cooperative rural electric associations described under 15-6-137;

(i) energy storage facilities of a centrally assessed electric power company;

(j) energy storage facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

(k) noncentrally assessed energy storage facilities owned or operated by any electrical energy producer;

(l) energy storage facilities owned or operated by cooperative rural electrical associations described under 15-6-137;

(m) battery energy storage systems that comply with federal standards on the manufacture and installation of the systems that are owned and operated by an electrical energy storage producer, electrical energy producer, or energy trading entity or by the owner or operator of an electrical vehicle charging site;

(n) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(o) all property of a biogas production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(p) all property of a biomass gasification facility, as defined in 15-24-3102;

(q) all property of a coal gasification facility, as defined in 15-24-3102, except for property in subsection (1)(t) of this section, that sequesters carbon dioxide;

(r) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(s) all property of a geothermal facility, as defined in 15-24-3102;

(t) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that sequesters carbon dioxide, as required by 15-24-3111(4)(c);

(u) all property or a portion of the property of a renewable energy manufacturing facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(v) all property of a natural gas combined cycle facility;

(w) equipment that is used to capture and to prepare for transport carbon dioxide that will be sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that commence construction after December 31, 2007;

(x) high-voltage direct-current transmission lines and associated equipment and structures, including converter stations and interconnections, other than property classified under 15-6-159, that:

(i) originate in Montana with a converter station located in Montana east of the continental divide and that are constructed after July 1, 2007;

(ii) are certified under the Montana Major Facility Siting Act; and

(iii) provide access to energy markets for Montana electrical generation facilities listed in this section that commenced construction after June 1, 2007;

(y) all property of electric transmission lines, including substations, that originate at facilities specified in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this subsection (1) and terminating at an existing transmission line or substation that has commenced construction after June 1, 2007;

(z) the qualified portion of an alternating current transmission line and its associated equipment and structures, including interconnections, that has commenced construction after June 1, 2007;

(aa) all property of a renewable diesel production facility, as defined in 15-24-3102, that has commenced construction after December 31, 2020; and

(bb) all property of a sustainable aviation fuel production facility, as defined in 15-24-3102, that has commenced construction after December 31, 2020.

(2) (a) The qualified portion of an alternating current transmission line in subsection (1)(z) is that percentage, as determined by the department of environmental quality, of rated transmission capacity of the line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in subsection (1) that are located in Montana.

(b) The department of revenue shall classify the total value of an alternating current transmission line in accordance with the determination made by the department of environmental quality pursuant to subsection (2)(a).

(c) The owner of property described under this subsection (2) shall disclose the location of the generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm contract for transmission capacity available throughout the year. For purposes of the initial qualification, the owner is not required to disclose financial terms and conditions of contracts beyond that needed for classification.

(3) Class fourteen property does not include facilities:

(a) at which the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, was not paid during the construction phase; or

(b) that are exempt under 15-6-225.

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

(a) "Biomass generation facilities" means any combination of boilers, generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from the burning of organic material other than coal, petroleum, natural gas, or any products derived from coal, petroleum, or natural gas, with the use of natural gas or other fuels allowed for ignition and to stabilize boiler operations.

(b) (i) "Compressed air energy storage" means the conversion of electrical energy to compressed air by using an electrically powered turbocompressor for storage in vessels designed for that purpose and in the earth, including but not limited to deep saline formations, basalt formations, aquifers, depleted oil or gas reservoirs, abandoned mines, and mined rock cavities.

(ii) The term includes the conversion of compressed air into electrical energy by using turboexpander equipment and electrical generation equipment.

(c) (i) "Energy storage facilities" means hydroelectric pumped storage property, compressed air energy storage property, regenerative fuel cells, batteries, flywheel storage property, or any combination of energy storage facilities directly connected to the electrical power grid and associated property, appurtenant land and improvements, and personal property that are designed to:

(A) receive and store electrical energy as potential energy; and

(B) convert the stored energy into electrical energy for sale as an energy commodity or as electricity services to balance energy flow on the electrical power grid in order to maintain a stable transmission

1 grid, including but not limited to frequency regulation ancillary services and frequency control.

2 (ii) The term includes only property that in the aggregate can store at least 0.25 megawatt hour  
3 and has a power rating of at least 1 megawatt for a period of at least 0.25 hour.

4 (iii) The term does not include property, including associated property and appurtenant land and  
5 improvements, that is used to hold water in ponds, reservoirs, or impoundments related to hydroelectric  
6 pumped storage as defined in subsection (4)(e).

7 (d) "Flywheel storage" means a process that stores energy kinetically in the form of a rotating  
8 flywheel. Energy stored by the rotating flywheel can be converted to electrical energy through the flywheel's  
9 integrated electric generator.

10 (e) "Hydroelectric pumped storage" means a process that converts electrical energy to potential  
11 energy by pumping water to a higher elevation, where it can be stored indefinitely and then released to pass  
12 through hydraulic turbines and generate electrical energy.

13 (f) (i) "Regenerative fuel cell" means a device that produces hydrogen and oxygen from electricity  
14 and water and alternately produces electrical energy and water from stored hydrogen and oxygen.

15 (ii) The term does not include a green hydrogen facility, green hydrogen pipeline, or green  
16 hydrogen storage system as defined in 15-6-163.

17 (g) "Wind generation facilities" means any combination of a physically connected wind turbine or  
18 turbines, associated prime movers, and other associated property, including appurtenant land and  
19 improvements and personal property, that are normally operated together to produce electric power from wind.

20 (5) (a) The department of environmental quality shall determine whether to certify that a  
21 transmission line meets the criteria of subsection (1)(x), (1)(y), or (1)(z), as applicable, based on an application  
22 provided for in 15-24-3112. The department of environmental quality shall review the certification 10 years after  
23 the line is operational, and if the property no longer meets the requirements of subsection (1)(x), (1)(y), or  
24 (1)(z), the certification must be revoked.

25 (b) If the department of revenue finds that a certification previously granted was based on an  
26 application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-  
27 6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest  
28 from the time that the certification was in effect.

1 (6) Class fourteen property is taxed at 3% of its market value."

2

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

4 **"15-6-158. Class fifteen property -- description -- taxable percentage.** (1) Class fifteen property  
5 includes:

6 (a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112  
7 for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil  
8 recovery operations;

9 (b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

10 (c) carbon sequestration equipment;

11 (d) equipment used in closed-loop enhanced oil recovery operations; and

12 (e) all property of pipelines, including pumping and compression equipment, carrying products  
13 other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product  
14 carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or  
15 facility.

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

17 (a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or  
18 facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop  
19 enhanced oil recovery operation.

20 (b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide  
21 pipeline in geologic formations, including but not limited to deep saline formations, basalt or oil shale  
22 formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery  
23 operations.

24 (c) "Carbon sequestration equipment" means the equipment used for carbon sequestration,  
25 including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to  
26 retain carbon dioxide in the sequestration location.

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

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

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

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

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

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

(b) Carbon sequestration equipment placed in service after January 1, 2014, that is certified as provided in subsection (5) and that has a current granted tax abatement under 15-24-3111 is taxed at 1.5% of its reduced market value during the qualifying period provided for in 15-24-3111(7).

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

(b) The board of oil and gas conservation shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify carbon sequestration equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of carbon sequestration equipment. The board of oil and gas conservation shall identify and track compliance in

the use of carbon sequestration equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(c) A person may appeal the certification, classification, and valuation of the property to the Montana tax appeal board. Appeals on the property certification must name the board of oil and gas conservation as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent."

**Section 3.** Section 15-24-3102, MCA, is amended to read:

**"15-24-3102. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Biodiesel" has the meaning provided in 15-70-401.

(2) "Biodiesel production facility" means improvements and personal property used for the production and onsite storage of biodiesel.

(3) "Biogas" means methane gas produced through controlled biochemical processes in which bacteria digest animal, municipal, or other organic wastes in an oxygen-free environment. The term includes naturally occurring methane gas formed underground in landfills.

(4) "Biogas production facility" means improvements and personal property used for the production of biogas and the generation of electricity at the facility.

(5) "Biomass" means any renewable organic matter, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, aquatic plants, animal wastes, municipal wastes, and other organic waste materials.

(6) "Biomass gasification" means a technology that uses a thermochemical process to convert biomass into a low-Btu or medium-Btu gas for the purpose of producing electricity, methane gas, transportation fuels, or chemicals. The technology includes the pretreatment of biomass feedstock involving drying, pulverizing, and screening.

(7) "Biomass gasification facility" means improvements and personal property used for the production of fuel or chemicals and the generation of electricity from biomass at the facility.



(8) "Carbon sequestration" means the long-term storage of carbon dioxide from a plant or facility that produces or captures carbon dioxide, as defined in 15-6-158, in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(9) "Clean advanced coal research and development equipment" means equipment used primarily for research and development of emerging methods for pollution control, carbon capture, and carbon sequestration. The term includes equipment used for research and development of effective and efficient removal of various pollutants and the capture, storage, transportation, compression, and injection of carbon dioxide from coal combustion utility and industrial facilities and advanced coal conversion facilities.

(10) "Coal gasification" means a process that converts coal into a synthesis gas composed of carbon monoxide, hydrogen, and other gases. The coal gasification process includes the reaction of coal feedstock, prepared in either a dry or slurried form, with steam and oxygen at high temperature and pressure in a reducing atmosphere. The synthesis gas is then used to produce electricity, liquid fuels, methane gas, or chemicals.

(11) "Coal gasification facility" means improvements and personal property used for coal gasification that are used for the production of fuel or chemicals, the generation of electricity, or any combination of those things at the facility. The term includes a coal-to-liquid facility or an integrated gasification combined cycle facility.

(12) "Coal-to-liquid facility" means improvements and personal property used for the production of synthetic liquid fuels from coal. The term includes a facility that uses the Fischer-Tropsch process or other processes to convert synthesis gas produced by coal gasification into liquid fuel.

(13) "Commencement of construction" means initiation of onsite fabrication, erection, or installation of, but not limited to, the following:

- (a) building supports or foundations;
- (b) laying of underground pipework; or
- (c) construction of storage structures.

(14) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27 CFR, parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

(15) "Ethanol production facility" means improvements and personal property used for the production and onsite storage of ethanol made from cellulose or other nonfoodstuff materials.

(16) "Geothermal facility" means improvements and personal property used for the production of electricity from geothermal sources.

(17) "Integrated gasification combined cycle facility" means improvements and personal property of an electrical generation facility that uses a coal gasification process and routes synthesis gas to a combustion turbine to generate electricity and captures the heat from the combustion to drive a steam turbine to produce more electricity. The facility may also use incidental amounts of natural gas or other fuels in the combustion turbine.

(18) "Renewable diesel" means a biomass-derived fuel that is suitable for use in diesel engines that is hydrocarbon produced by hydrotreating and also through gasification, pyrolysis, or other biochemical and thermochemical technology, or any combination of these technologies. The term includes renewable diesel fuel that meets the ASTM D975 specification for petroleum diesel in the United States.

(19) "Renewable diesel production facility" means improvements and personal property used for the production and onsite storage of renewable diesel.

~~(18)~~(20) "Renewable energy" includes the following:

- (a) solar energy;
- (b) wind energy;
- (c) geothermal energy;
- (d) energy from the conversion of biomass;
- (e) energy from biogas;
- (f) energy from fuel cells that do not require a petroleum-based fuel;
- (g) energy from waste heat; and
- (h) cellulosic ethanol.

~~(19)~~(21) (a) "Renewable energy manufacturing facility" means improvements and personal property used by a facility with its principal business being the manufacturing of material, component parts, systems, or similar equipment for use in facilities that convert renewable energy into forms of energy useful to people, including electricity. The term includes facilities for manufacturing of electric motor vehicles or hybrid electric

1 motor vehicles.

2 (b) For purposes of subsection ~~(19)(a)~~ (21)(a), "principal business" means a renewable energy  
3 manufacturing facility with at least 50%, by value, of its annual production suitable for sale as renewable energy  
4 material, component parts, systems, or similar equipment.

5 ~~(20)(22)~~ "Renewable energy research and development equipment" means equipment used primarily  
6 for research and development of the efficient use of renewable energy sources. The term includes equipment  
7 used for research and development of electric motor vehicles or hybrid electric motor vehicles.

8 (23) "Sustainable aviation fuel" means an aviation fuel derived from renewable resources that  
9 enables a reduction in net life cycle carbon dioxide emissions compared to conventional fuels. The term  
10 includes fuel that meets the ASTM D7566 specification for nonpetroleum synthesized jet fuel in the United  
11 States.

12 (24) "Sustainable aviation fuel production facility" means improvements and personal property used  
13 for the production and onsite storage of sustainable aviation fuel."  
14

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

16 **"15-24-3111. Energy production or development -- tax abatement -- eligibility.** (1) A facility listed  
17 in subsection (3), clean advanced coal research and development equipment, and renewable energy research  
18 and development equipment may qualify for an abatement of property tax liability pursuant to this part.

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

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

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

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

28 (a) biodiesel production facilities;

- 1 (b) biogas production facilities;
- 2 (c) biomass gasification facilities;
- 3 (d) coal gasification facilities for which carbon dioxide from the coal gasification process is
- 4 sequestered;
- 5 (e) ethanol production facilities;
- 6 (f) geothermal facilities;
- 7 (g) renewable diesel production facilities;
- 8 ~~(g)~~(h) renewable energy manufacturing facilities;
- 9 ~~(h)~~(i) clean advanced coal research and development equipment and renewable energy research
- 10 and development equipment;
- 11 ~~(i)~~(j) a natural gas combined cycle facility that offsets a portion of the carbon dioxide produced
- 12 through carbon credit offsets;
- 13 ~~(j)~~(k) transmission lines and associated equipment and structures classified in 15-6-157;
- 14 ~~(k)~~(l) converter stations classified under 15-6-159;
- 15 ~~(l)~~(m) carbon sequestration equipment as defined in 15-6-158; ~~and~~
- 16 ~~(m)~~(n) pipelines classified under 15-6-158; and
- 17 (o) sustainable aviation fuel production facilities.
- 18 (4) (a) In order to qualify for the abatement under this part, a facility listed in subsection (3) must
- 19 meet the following requirements:
- 20 (i) commencement of construction of the facility must occur after June 1, 2007; and
- 21 (ii) the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, must be
- 22 paid during the construction phase of the facility.
- 23 (b) In order to qualify for the abatement under this part, clean advanced coal research and
- 24 development equipment and renewable energy research and development equipment must be placed into
- 25 service after June 30, 2007.
- 26 (c) For the facility to qualify under subsection (3)(d), the carbon dioxide produced from the
- 27 gasification process must be sequestered at a rate that is practically obtainable but may not be less than 65%.
- 28 (d) Integrated gasification combined cycle facilities for which a permit under Title 75, chapter 2, is

**Amendment - 1st Reading-white - Requested by: Steve Fitzpatrick - (S) Taxation**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

SB0510.001.001

1 applied for after December 31, 2014, do not qualify under subsection (3)(d).

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

4 (5) To qualify for an abatement, the facility or clean advanced coal research and development  
5 equipment and renewable energy research and development equipment must be certified as provided in 15-24-  
6 3112.

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

9 (7) For the purposes of this section, "qualifying period" means the construction period and the first  
10 15 years after the facility commences operation or the clean advanced coal research and development  
11 equipment or renewable energy research and development equipment is purchased. The total time of the  
12 qualifying period may not exceed 19 years."

13  
14 NEW SECTION. **Section 5. Applicability.** [This act] applies to a renewable diesel production facility  
15 or a sustainable aviation fuel production facility that commences construction after December 31, 2020, and the  
16 abatement provided by [this act] applies to property tax years beginning after December 31, 2023.

17 - END -