

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, 15-10-420, 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

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 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

- 1 (i) annexation of real property and improvements into a taxing unit;
- 2 (ii) construction, expansion, or remodeling of improvements;
- 3 (iii) transfer of property into a taxing unit;
- 4 (iv) subdivision of real property; and
- 5 (v) transfer of property from tax-exempt to taxable status.
- 6 (b) Newly taxable property does not include an increase in value:
- 7 (i) that arises because of an increase in the incremental value within a tax increment financing
- 8 district; or
- 9 (ii) caused by the termination of an exemption that occurs due to the American Rescue Plan Act,
- 10 Public Law 117-2, and section 14, Chapter 506, Laws of 2021.
- 11 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
- 12 release of taxable value from the incremental taxable value of a tax increment financing district because of:
- 13 (i) a change in the boundary of a tax increment financing district;
- 14 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- 15 (iii) the termination of a tax increment financing district.
- 16 (b) If a tax increment financing district terminates prior to the certification of taxable values as
- 17 required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax
- 18 increment financing district terminates. If a tax increment financing district terminates after the certification of
- 19 taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the
- 20 following tax year.
- 21 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
- 22 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
- 23 year market value of that property less the previous year market value of that property.
- 24 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale
- 25 of real property that results in the property being taxable as class four property under 15-6-134 or as
- 26 nonqualified agricultural land as described in 15-6-133(1)(c).
- 27 (5) Subject to subsection (8), subsection (1)(a) does not apply to:
- 28 (a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) except as provided in subsection (7)(c), may increase the number of mills to account for a decrease in reimbursements; ~~and~~

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7); and

(c) may not increase the number of mills to account for a loss in 50% of the tax base that was eliminated because of [this act].

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary;

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b); or

(ix) a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past.

The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit. (Subsection (3)(b)(ii) terminates December 31, 2025--sec. 13(5), Ch. 506, L. 2021.)"

Section 4. 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