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AN ACT

RELATING TO TAXATION; PHASING OUT THE COAL SURTAX; PROVIDING
FOR A DELAYED REPEAL OF THE COAL SURTAX EXEMPTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-26-6 NMSA 1978 (being Laws 1982,
Chapter 77, Section 1, as amended) is amended to read:

"7-26-6. SEVERANCE TAX ON COAL.--

A. The severance tax on coal is measured by the
quantity of coal severed and saved. The taxable event is
sale, transportation out of New Mexico or consumption of the
coal, whichever first occurs. Upon each short ton (two
thousand pounds) of coal severed and saved, there shall be
imposed on the severer a severance tax. The severance tax
rate shall be for surface coal, fifty-seven cents (\$.57); and
for underground coal, fifty-five cents (\$.55).

B. Until June 30, 2007, the severance tax on coal
shall be increased by a surtax, hereby imposed. The surtax
shall be imposed on the unit of quantity of such product or
natural resource at the following rates:

- (1) surface coal, sixty cents (\$.60); and
- (2) underground coal, fifty-eight cents
(\$.58).

C. The surtax rate on coal imposed pursuant to
Subsection B of this section shall be increased on

1 July 1, 1994 and on July 1 of each succeeding year by an
2 amount equal to the product of the dollar amount of the
3 severance tax imposed on each ton of coal by a percentage
4 equal to the percentage rise in the producer price index for
5 coal from the calendar year 1992 to the calendar year just
6 prior to the year in which the surtax rates are computed, but
7 in no case shall the surtax rate be decreased. The rates so
8 computed shall be computed by the department in April of 1994
9 and in April of each year thereafter and published on or
10 before May 1, 1994 and on or before May 1 of each year
11 thereafter.

12 If the producer price index for coal is substantially
13 revised or if the base year used as an index of one hundred
14 is changed, the department shall make an adjustment in the
15 percentage used to compute the surtax rates that would
16 produce results equivalent, as nearly as possible, to those
17 that would have been obtained if the producer price index for
18 coal had not been so revised or if the base year had not been
19 changed. If this index ceases to become available, then a
20 comparable index based upon changes in the price of coal
21 shall be adopted by the department by regulation.

22 D. From July 1, 2007 until June 30, 2008, the
23 severance tax on coal shall be increased by a surtax, hereby
24 imposed. The surtax shall be imposed on the unit of quantity
25 of such product or natural resource at the following rates:

- 1 (1) surface coal, forty-eight cents (\$.48);
2 and
3 (2) underground coal, forty-seven cents
4 (\$.47).

5 E. From July 1, 2008 until June 30, 2009, the
6 severance tax on coal shall be increased by a surtax, hereby
7 imposed. The surtax shall be imposed on the unit of quantity
8 of such product or natural resource at the following rates:

- 9 (1) surface coal, twenty-four cents (\$.24);
10 and
11 (2) underground coal, twenty-three cents
12 (\$.23).

13 F. As used in this section:

14 (1) "producer price index for coal" means
15 the commodity code 05-1 as reported annually by the bureau of
16 labor statistics at the United States department of labor in
17 their annual producer price indexes data;

18 (2) "surface coal" means coal that is
19 severed using surface mining methods;

20 (3) "surface mining" means the extraction of
21 coal from the earth by removing the material overlying a coal
22 seam and then removing the coal by common methods, including,
23 but not limited to, contour mining, strip mining, mountain
24 top removal mining, box cut mining, open pit mining and area
25 mining; and

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(4) "underground coal" means all coal that is not surface coal."

Section 2. DELAYED REPEAL.--Section 7-26-6.2 NMSA 1978 (being Laws 1990, Chapter 83, Section 1 and also Laws 1990, Chapter 84, Section 1, as amended) is repealed effective July 1, 2009.

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.