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HOUSE BILL 33

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DEBBIE A. RODELLA

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; EXTENDING THE EXEMPTION FROM THE COAL  
SURTAX IMPOSED ON COAL SOLD PURSUANT TO CERTAIN SALES CONTRACTS.

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

Section 1. 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 amended to read:

"7-26-6.2. COAL SURTAX EXEMPTION-- QUALIFICATION  
REQUIREMENTS. --

A. The following coal is exempt, until July 1, 2009,  
from the surtax imposed on coal under the provisions of Section  
7-26-6 NMSA 1978:

(1) coal sold and delivered pursuant to coal  
sales contracts that are entered into on or after July 1, 1990,  
under which deliveries start after July 1, 1990 and before June

. 113658. 2

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1 30, [~~1997~~] 1999, if the sales contracts are not the result of:

2 (a) a producer and purchaser mutually  
3 rescinding an existing contract and negotiating a revised  
4 contract under substantially similar terms and conditions;

5 (b) a purchaser establishing an  
6 affiliated company to purchase coal on behalf of the purchaser;

7 or

8 (c) a purchaser independently abrogating  
9 a contract that was in effect on July 1, 1990 with a producer  
10 for the purpose of securing the benefits of the exemption  
11 granted by this section; and

12 (2) coal sold and delivered pursuant to a  
13 contract in effect on July 1, 1990 that exceeds the average  
14 calendar year deliveries under the contract during production  
15 years 1987, 1988 and 1989 or the highest contract minimum during  
16 1987, 1988 and 1989, whichever is greater.

17 B. If a contract existing on July 1, 1990 is  
18 renegotiated between a producer and a purchaser prior to June  
19 30, [~~1997~~] 1999 and after May 20, 1992 and if that renegotiated  
20 contract requires the purchaser to take annual coal deliveries  
21 in excess of the greater of the average calendar year deliveries  
22 under the contract during production years 1987, 1988 and 1989  
23 or the highest contract minimum during 1987, 1988 and 1989, the  
24 surtax imposed by Subsection B of Section 7-26-6 NMSA 1978 shall  
25 not apply to such excess deliveries for the remaining term of

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1 the renegotiated contract or until July 1, 2009, whichever  
2 occurs first.

3 C. For coal exempt under the provisions of Paragraph  
4 (2) of Subsection A of this section, if the contract involved  
5 was for a lesser term during the production years specified,  
6 then actual deliveries shall be annualized to establish average  
7 calendar year deliveries, and in the event that coal sold and  
8 delivered in any calendar year after June 30, [1997] 1999 falls  
9 below the average calendar year deliveries during 1987, 1988 and  
10 1989, the exemption shall no longer apply unless the deliveries  
11 are reduced due to causes beyond the reasonable control of  
12 either party to the contract.

13 D. The taxpayer, prior to taking the exemption  
14 provided by this section, shall register any contract for the  
15 sale of coal that qualifies for the exemption from the surtax  
16 under the provisions of this section with the department on  
17 forms provided by the secretary. If upon examination of the  
18 contract or upon audit or inspection of transactions occurring  
19 under the contract the secretary or the secretary's delegate  
20 determines that any person who is a party to the contract has  
21 taken any action to circumvent the intent and purpose of this  
22 section, the exemption shall be disallowed. "

**State of New Mexico  
House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**March 3, 1997**

**Mr. Speaker:**

**Your TAXATION AND REVENUE COMMITTEE, to whom has  
been referred**

**HOUSE BILL 33**

**has had it under consideration and reports same with  
recommendation that it DO PASS.**

**Respectfully submitted,**

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**Jerry W. Sandel, Chairman**

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Gonzales, Lujan, Porter

Absent: None

M \H0033

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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FIRST SESSION, 1997

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March 12, 1997

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10 Mr. President:

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Your WAYS & MEANS COMMITTEE, to whom has been referred

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HOUSE BILL 33

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has had it under consideration and reports same with

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recommendation that it DO PASS, and thence referred to the

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FINANCE COMMITTEE.

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Respectfully submitted,

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Carlos R. Cisneros, Chairman

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**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

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3 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
4 (Chief Clerk) (Chief Clerk)

5

6 Date \_\_\_\_\_

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9 The roll call vote was 6 For 0 Against

10 Yes: 6

11 No: 0

12 Excused: Kidd, Leavell, McSorley

13 Absent: None

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15 **H0033WM1**

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March 15, 1997

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10 Mr. President:

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Your FINANCE COMMITTEE, to whom has been referred

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HOUSE BILL 33

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has had it under consideration and reports same with

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recommendation that it DO PASS.

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Respectfully submitted,

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Ben D. Altamirano, Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

FORTY-THIRD LEGISLATURE  
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(Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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The roll call vote was 6 For 0 Against

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Yes: 6

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No: None

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Excused: Carraro, Ingle, Lyons, McKibben, Romero

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Absent: None

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