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HOUSE BILL 536

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Jerry Sandel

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE SEVERANCE TAX
ACT RELATING TO THE COAL SURTAX EXEMPTION.

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

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1 ~~before June 30, 1999~~], if the sales contracts are not the
2 result of:

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

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

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

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

18 B. If a contract existing on July 1, 1990 is
19 renegotiated between a producer and a purchaser [~~prior to June~~
20 ~~30, 1999 and~~] after May 20, 1992 and if that renegotiated
21 contract requires the purchaser to take annual coal deliveries
22 in excess of the greater of the average calendar year
23 deliveries under the contract during production years 1987,
24 1988 and 1989 or the highest contract minimum during 1987,
25 1988 and 1989, the surtax imposed by Subsection B of Section

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1 7-26-6 NMSA 1978 shall not apply to such excess deliveries for
2 the remaining term of the renegotiated contract [~~or until July~~
3 ~~1, 2009, whichever occurs first~~].

4 C. For coal exempt under the provisions of
5 Paragraph (2) of Subsection A of this section, if the contract
6 involved was for a lesser term during the production years
7 specified, then actual deliveries shall be annualized to
8 establish average calendar year deliveries, and in the event
9 that coal sold and delivered in [~~any~~] a calendar year after
10 June 30, [~~1999~~] 2009 falls below the average calendar year
11 deliveries during 1987, 1988 and 1989, the exemption shall no
12 longer apply unless the deliveries are reduced due to causes
13 beyond the reasonable control of either party to the contract.

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

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 3, 1999
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8 Mr. Speaker:
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10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred
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13 HOUSE BILL 536
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS.

17 Respectfully submitted,
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21 _____
22 Jerry W. Sandel, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 11 For 0 Against

11 Yes: 11

12 Excused: Lujan, Russell, Silva, Stell

13 Absent: None

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FIRST SESSION, 1999

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FIRST SESSION, 1999

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March 10, 1999

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Mr. President:

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Your WAYS & MEANS COMMITTEE, to whom has been referred

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HOUSE BILL 536

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has had it under consideration and reports same with

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recommendation that it DO PASS, and further recommends that it

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now be referred to the FINANCE COMMITTEE.

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Respectfully submitted,

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Carlos R. Cisneros, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 5 For 0 Against

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Yes: 5

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No: 0

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Excused: Carraro, Duran, Jennings, Kidd

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Absent: None

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FIRST SESSION, 1999

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March 13, 1999

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Mr. President:

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Your FINANCE COMMITTEE, to whom has been referred

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has had it under consideration and reports same with
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

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 7 For 0 Against

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Yes: 7

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No: 0

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Excused: Gri ego, Ingle, Lyons, McKi bben, Rodri guez, Tsosi e

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Absent: None

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