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Energy and Telecommunications Interim Committee

63rd Montana Legislature

March 7, 2014

TO: Energy and Telecommunications Interim Committee (ETIC) members
FR: ETIC staff
RE: Alternative Energy and Conservation Tax Incentives

When the ETIC adopted its 2013-2014 work plan, the committee also agreed to a number of potential agenda items to be discussed at future meetings. One of those agenda items was an overview of alternative energy and conservation tax incentives available in Montana.

The information included below was provided by the Department of Environmental Quality (DEQ) and the Department of Revenue (DOR). It offers a snapshot of tax incentives and the use of those incentives. It is focused on residential and commercial opportunities on a small scale and does not include information about larger projects. Both the DEQ and the DOR will be attending the March meeting to further address questions the committee has about tax incentives related to alternative energy and energy conservation and their usage by Montana residents. The Montana Renewable Energy Association also has been invited to attend the meeting and share perspectives from entities that have utilized the incentives. A complete overview of the incentives prepared by the DEQ's Energy and Pollution Prevention Bureau is also attached to this document.

15-6-224, MCA
Tax exemption for investment in nonfossil form of generation
A property tax exemption is available for buildings using renewable energy. Certain amounts of residential and non-residential structures are exempt for 10 years from property tax increases resulting from the installation of a renewable energy system, based on an investment of $20,000 for single family and $100,000 for multi-family and non-residential structures. The DOR calculated the estimated tax revenue for state and local governments for affected properties if this tax incentive had not been in place using the average statewide mills in given tax years.
2013: $1,101
2012: $1,098
2011: $1,085

15-6-225, MCA
Tax exemption for renewable generators less than 1 megawatt.
New electricity generating facilities less than 1 megawatt that use an alternative energy source are exempt from property taxes for five years after the system's installation. The DOR calculated the estimated tax revenue for state and local governments for affected properties if this tax

incentive had not been in place using the average statewide mills in given tax years.
2013: $4,046
2012: $24,709
2011: $32,318

15-32-109, MCA
Energy conservation tax credit
Resident individual taxpayers can receive a credit for 25% of the cost of qualified conservation improvements up to a maximum of $500. This credit is utilized more than many of the alternative energy incentives. The amount of this credit taken included:
2012: $4.6 million
2011: $5.7 million
2010: $10.4 million

15-32-201, MCA
Income tax credit for installation of renewable generation.
Residential taxpayers who install renewable energy generation systems on their property are eligible for a tax credit equal to the investment and installation cost, up to $500 per individual. The credit is for an alternative energy heating system, not just one that produces electricity and then uses the electricity to create heat. In 2012, the DOR modified the forms to track credits for wood and biomass systems and credits for other systems. The amount of this credit taken included:
2012: $300,266 (wood and biomass systems)
2012: $353,822 (other systems)
2011: $833,803
2010: $1.4 million

15-32-401, MCA
Tax credit for investment of $5,000 or more for commercial or net metering system.
Commercial and net metering alternative energy investments of $5,000 or more are eligible for a personal or corporate tax credit of up to 35% against taxes on income generated by the investment. This includes investments in renewable energy equipment, manufacturing plants, and business facilities that supply basic energy needed from alternative energy generators on a direct contract sales basis. Unused credit may be carried over for seven years.

The credit was the subject of an information request in 2010. Language included in the law had raised questions because the law states that a new or expanding business facility is eligible for the credit, but another part of the statute implies that the business facility is a direct contract sales customer. It is unclear whether a business facility has to purchase alternative energy from itself or a related entity. It is also not clear what constitutes a new or expanding business. The information request and analysis are also attached.

The amount of this credit taken included:
2012: $11,734

2011: $7,290
2010: $11,360

75-25-101 through 75-25-103, MCA
Alternative Energy Revolving Loan Program
The low-interest loan program provides loans for the installation of renewable energy systems for on-site use for residences, businesses, non-profits, and government entities. It provides a financing option to install alternative energy systems. The program is administered by the DEQ. Interest rates are 1% to 2% below conventional home equity loans. The 2014 fixed interest rate was set at 3.25% annually with a maximum loan term of 10 years, and a maximum loan amount of $40,000.

Since the program started in 2004, about $6.6 has been loaned. In fiscal year 2013, the DEQ received 40 applications and closed 46 loans. The program has been used primarily by individuals, but in 2013 loans were provided to a church, motel, and general store. Of the projects, 27 were for solar photovoltaic electricity and 16 were for ground-source heat pumps. Others were for biomass and energy conservation measures.

Loan losses in the program are 1.08%. Statute requires those losses be kept below 5%. Since the program began, six loans have defaulted. Three of those loans have been recorded as losses, and three loans are still in active collection proceedings.
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Energy Incentives in Montana and at the Federal Level

Montana Department of Environmental Quality, Energy & Pollution Prevention Bureau
February 1, 2013

The state of Montana and the U.S. federal government offer a broad variety of incentives to the various energy sectors. In general, most are structured to encourage energy production. Some are designed to stimulate broader allocation or distribution of energy. Others encourage research and innovation. Still others address market conditions for energy commodities, and some encourage energy efficiency and other environmental goals. This report examines state and federal incentives as they pertain to both fossil-derived energy sources and renewable energy sources. Summary tables are provided throughout the report for both state and federal-level incentives given in recent years.

State Energy Incentives

This section looks at energy incentives in the state of Montana. Many of these incentives are tax related, including tax holidays (a temporary reduction or elimination of a tax) and tax credits. Some state-level incentives involve the availability of low-interest loans to individuals and businesses. Two state policies that require the development of renewable energy resources and fund energy conservation are also included. A Table of Montana's Tax-Related Energy Incentives is included at the end of this section on pages 8 and 9, and includes the cost of the incentives to the State of Montana for fiscal years 2011 and 2012 (tax years 2010 and 2011).

The following explanations of specific Montana fossil-fuel energy incentives are taken from the *Montana Department of Revenue Biennial Report, July 1, 2010 to June 30, 2012* found at http://revenue.mt.gov/content/publications/biennial_reports/2010-2012/Biennial-Report-2010-2012.pdf and from staff analysis.

Generally, natural resource taxes in Montana (including those related to energy) may be categorized as either severance/license taxes, or some form of ad valorem (property) taxes. Taxes are assessed in several ways including dollars per ton (e.g., non-metal minerals), percentage of gross proceeds or gross value of production (e.g., coal, metal mines, oil and gas), and percentage of net proceeds (e.g., limestone). Tax expenditure is a special treatment of revenue by the state that results in reduced tax revenue. Tax expenditures may be offered to individuals or corporations, but a level of revenue is foregone by state and/or local governments. Tax exemptions, on the other hand, are mostly allowed on property taxes and property taxes are based on local and county budgets and number of mills leveed. Therefore, tax exemptions usually suggest raising taxes on other taxpayers to make up for the exemptions through higher mills elsewhere within the local jurisdiction. Tax abatements are similar to tax exemptions in the sense that they are assessed on property taxes, which means that an abatement is lowering the tax rate for one tax payer while other tax payers make up part or all the difference.

Specific Incentives for Coal in Montana[1]

[1] Montana Department of Revenue, Biennial Report-July 1, 2010 to June 30, 2012, page 93

Surface mined coal is taxed at 15 percent of value if rated 7,000 British thermal units (BTU) per pound and over, and taxed at 10 percent of value if rated less than 7,000 BTU per pound. Coal mined underground is taxed at 4 percent if rated 7,000 BTU per pound and over, and is taxed at 3 percent if rated less than 7,000 BTU per pound. Coal mined using auger technology is taxed at 3.75 percent of value if rated under 7,000 BTU, and at five percent of value if rated at or above 7,000 BTU. No numbers are available for money saved by coal companies (and revenue lost by the state) from the lower tax rates.

Specific Incentives for Oil and Gas in Montana[2]

Oil and gas tax incentives result in millions of dollars in lower taxes to energy developers, producers, investors, and royalty holders (see Table 1). The incentives are generally divided into categories according to type of product (e.g., oil or gas), age of the well, type of technology (i.e., vertical or horizontal bore), and mode of extraction (primary, secondary, etc.). In FY 2012, these tax breaks resulted in an estimated $28.5 million in reduced total tax revenue for new oil wells, and $1.2 million in reduced taxes for new natural gas well (See the table at the end of this paper). Oil or gas produced from a well that qualifies as "new" production is taxed at a reduced rate of 0.76 percent. This reduced rate applies for the first 12 months of production from a conventional well and the first 18 months of production from a well completed using horizontal drilling technology. Most new oil wells in Montana today are horizontally drilled. New production embraces production from both new wells and from wells that had not produced oil or gas during the previous 60 months. This reduced rate provides an incentive for the exploration, development, and production of oil and gas and to encourage further production from depleted or even abandoned wells. The first 18 months of incremental production from a horizontally recompleted well is taxed at 5.76 percent. After this period the tax rate reverts to 9.26 percent for post-1999 wells or 12.76 percent for pre-1999 wells.

Montana tax code also allows for reduced rates for incremental oil production from enhanced recovery projects. In any quarter when the average price of West Texas Intermediate (WTI) crude oil is less than $30 per barrel, incremental production from secondary recovery projects is taxed at 8.76 percent, and incremental production from tertiary recovery projects is taxed at 6.06 percent. Incremental production is the measured amount produced from enhanced technologies, such as horizontal drilling of an existing well, against the production that would have resulted from primary methods. In quarters when the average price of WTI is at least $30 per barrel, these wells are taxed at 9.26 percent for post-1999 wells and 12.76 percent for pre-1999 wells. The reduced rates provide incentives for the use of enhanced recovery technologies when prices are low. The state does not currently forgo any revenue as a result of this tax expenditure, as the average quarterly WTI price has not been below $30 per barrel since the 4th quarter of FY 2003.

Montana tax code allows for reduced rates for oil (and gas) wells known as "stripper" and "super stripper." A stripper well is one that produced between three and fifteen barrels per day in the previous calendar year; a super stripper is one that produced less than three barrels per day. The reduced tax rates on these low-volume wells are designed to keep them in production. The tax expenditure from reduced rates for stripper wells was $1,281,565 in FY 2011 and $1,431,909 in FY 2012. In any quarter, if the average price of WTI crude oil is less than $38 per barrel, oil

[2] Montana Department of Revenue, Biennial Report-July 1, 2010 to June 30, 2012, page 321

from super stripper wells is taxed at 0.76 percent. If the price of WTI is equal to or greater than $38 per barrel, this oil is taxed at 6.26 percent. In quarters when the average price of WTI is at least $30 per barrel, stripper oil is taxed at 9.26 percent for post-1999 and 12.76 percent for pre-1999 wells. The state does not currently forgo any revenue as a result of the super stripper expenditure, as the average quarterly WTI price has not been below $38 per barrel since the third quarter of FY 2004. Natural gas wells that were completed before January 1, 1999 and produce less than 60 mcf per day are taxed at 11.26 percent (instead of 15.06 percent). Once again, the reduced rate provides an incentive to keep low-volume wells in production, and resulted in about $1.3 million less in taxes paid for FY 2012 (see the table at the end of this section).

Resource Indemnity and Ground Water Assessment Tax[3]

The Resource Indemnity and Ground Water Assessment Tax (RIGWAT) was created to indemnify the citizens of Montana for the loss of long-term value resulting from the depletion of natural resource bases, and for environmental damage caused by mineral development. The amount collected in FY2012 was $2,343,678. The tax is placed in a trust fund, which is managed by the state Board of Investments (15-38-101, MCA). Exemptions (for which there are no estimates) include the following:

- Metal production subject to the metal mines license tax is exempt from RIGWAT.
- The 2003 Legislature changed the distribution of oil and gas tax revenue to include the Orphan Share Account — a special revenue fund to reimburse remedial actions — and made oil and gas production that is subject severance tax exempt from RIGWAT.
- Royalties received by an Indian Tribe, by the U.S. government as trustee for individual Indians, by the U.S. government, by the state of Montana, or by a county or municipality are exempt from RIGWAT.

Wholesale Energy Tax[4]

The wholesale energy transaction tax is levied at a rate of 0.015 of a cent per kilowatt hour (15 cents per megawatt) on all electricity transmitted by a transmission service provider within the state or into the state. The amount collected in FY2012 was $3,427,411. There is a five percent exemption for electricity produced in the state and delivered out of state. The following are exempt from this tax:

- Electricity transmitted through the state that is not produced or delivered in the state.
- Electricity produced in the state by an agency of the United States government or electricity produced from an electric energy generation facility, constructed after May 1, 2001, that is within the exterior boundaries of a Montana Indian reservation for delivery outside the state.
- Electricity produced by wind turbines erected on state land for which annual lease payments are made to the permanent school trust fund.
- Electricity delivered to a distribution services provider that is a municipal utility or a rural electric cooperative.

[3] Montana Department of Revenue, Biennial Report-July 1, 2010 to June 30, 2012, page 107

[4] Montana Department of Revenue, Biennial Report-July 1, 2010 to June 30, 2012, page 138 and Montana MCA 15-72-104

Property Tax Incentives to Encourage Energy Projects with Less Environmental Impact[5]

Montana has property tax incentives to encourage a wide variety of energy projects with less environmental impact than conventional facilities. These so-called "Clean and Green" incentives come in three forms. First, certain facilities and equipment (i.e., those associated with renewable energy) can be classified as either Class 14 or Class 15 Property (15-6-157 and 15-6-158, MCA). These classes are taxed at 3 percent of market value, rather than at the normal higher rates (such as 12 percent for electrical transmission). Second, high-voltage direct-current converter stations that are constructed in a location and manner so that the station can direct power to two different regional power grids can be classified as Class 16 property, which is taxed at 2.25 percent of market value. Third, a subset of Class 14, 15, and 16 properties is eligible for a property tax abatement of 50 percent for up to 19 years (15-24-3101 et seq., MCA). This abatement applies to all mills levied against the qualifying facility or equipment. The Department of Environmental Quality (DEQ) must certify that certain transmission lines, carbon dioxide pipelines, and liquid fuel pipelines qualify as Class 14 or 15 property.

Personal Income and Corporate Income Tax Incentives[6]

Montana's Energy Conservation Tax Credit (15-32-109, MCA) allows a resident individual taxpayer a credit for 25 percent of the cost of qualified conservation improvements up to a maximum of $500. More than $10 million in credits were taken in 2010, and over $5 million in 2011 (see the table at the end of this paper).

An alternative fuel credit (15-30-2320, MCA) allows taxpayers a credit against individual income tax or corporate license tax up to 50 percent of the cost of converting a motor vehicle to operate on natural gas, liquefied petroleum gas (LPG or propane), liquefied natural gas, hydrogen, electricity, or a fuel of at least 85 percent alcohol, or ether. The credit is limited to $500 for conversion of a motor vehicle with gross weight of 10,000 pounds or less or $1,000 for conversion of a vehicle weighing more than 10,000 pounds. For businesses, $14,000 was claimed in 2010 for the The Alternative Fuel Motor Vehicle Conversion credit. The alternative fuel credit portion for individuals was $25,281 claimed in 2010 and $27,322 claimed in 2011.

The Oilseed Crushing and Biodiesel Production Facility Credit (15-32-701, MCA) allows taxpayers a credit against individual income tax or corporation tax of 15 percent of the cost of investments in depreciable property in Montana that is used primarily for crushing oilseeds to produce biodiesel or lubricants, or for the production of biodiesel or bio-lubricants. No credit was taken in recent years by corporations, and $8,537 was taken in 2011 by individuals.

Taxpayers who are biodiesel blenders may qualify for a tax credit of up to 15 percent of the cost of equipment used to store or blend biodiesel fuel (produced in the state) with petroleum diesel fuel offered for sale under 15-32-703, MCA. Montana residents claimed $46,755 in credit in 2011. Residents who install a geothermal heating or cooling system can claim a tax credit based on the installation cost of the system up to $1,500 under 15-32-115, MCA. Credit of $532,086 was taken in 2010 and $327,275 was taken in 2011. No credit was taken against corporate income tax for this credit in recent years.

[5] Much of this text taken from the Energize Montana website at http://deq.mt.gov/energy/default.mcpx
[6] Montana Department of Revenue, Biennial Report-July 1, 2010 to June 30, 2012

For the Alternative Energy Systems Credit, under 15-32-201 MCA, residential taxpayers who install renewable energy systems on their property are eligible for a tax credit equal to the investment and installation cost, up to $500 per individual. The amount of this credit taken in 2010 was $1,404,734 and in 2011 was $833,803. For the Alternative Energy Production Credit, under 15-32-401, MCA, commercial and net metering alternative energy investments of $5,000 or more are eligible for a personal or corporate tax credit of up to 35 percent, against taxes on income generated by the investment. This includes investments in renewable energy equipment, manufacturing plants, and business facilities that supply basic energy needed from alternative energy generators on a direct contract sales basis. Unused credit may be carried over for seven years. The amounts taken in 2010 and 2011 were $11,360 and $7,290 respectively.

Ethanol producers may qualify for a tax incentive of 20 cents per gallon of ethanol, produced by in-state agricultural products when available under 15-70-522, MCA. No ethanol is currently produced in Montana. Businesses and individuals may qualify for a tax credit of up to 15 percent of the cost to construct or equip a facility for biodiesel production under 15-32-702, MCA. Various property tax rate abatements are available for qualified biofuels production facilities. No data is available on the biodiesel credit.[7]

The State of Montana offers tax exemptions for certain types of energy investments. These amounts are not estimated by the Montana Department of Revenue because they are made up elsewhere in local mills. There is a property tax exemption for buildings using renewable energy under 15-6-224, MCA. Certain amounts of residential and non-residential structures are exempt for ten years from property tax increases resulting from the installation of a renewable energy system, based on an investment of $20,000 for single family and $100,000 for multi-family and non-residential structures. Investigation by the Montana DOR revealed that likely few taxpayers have used this exemption in recent years.[8]

Under 15-6-225, new electricity generating facilities under 1 MW and using an alternative energy source are exempt from property taxes for five years after the system's installation. Under 15-24-1401, MCA, new or expanded energy generation facilities over 1 MW using an alternative energy source are eligible for a 50 percent property tax reduction for five years. The reduction in taxable value then declines in each year thereafter, until there is no reduction in the tenth year. Under 15-24-3101, new production, manufacturing, and research and development facilities qualify for a 50 percent property tax abatement.[9]

A more detailed list of all the incentives that Montana law offers for renewable energy development is found at http://deq.mt.gov/Energy/renewable/taxincentrenew.mcpx#tax. Some are just for individuals; some are just for businesses; many are for both. These incentives generally apply to most kinds of renewable energy.

[7] Energize Montana website (http://deq.mt.gov/Energy/Renewable/TaxIncentRenew.mcpx) and Montana Biennial Report.

[8] The personal contact was with Eric Dale and Steve Cleverdon of the Montana Department of Revenue — Jan, 2013.

[9] Energize Montana website (http://deq.mt.gov/Energy/Renewable/TaxIncentRenew.mcpx)

Montana Energy Production or Development Tax Abatement[10]

The energy production or development tax abatement in section 15-24-3111, MCA provides a 50 percent rate reduction on qualified energy production or development facility and equipment. This applies to a wide variety of different types of generation including biodiesel, biomass, coal gasification, ethanol, geothermal and certain types of equipment that reduce air emissions. The tax rate reduction may be in effect during the construction period and the first 15 years after the facility commences operation, not to exceed a total of 19 years. Currently, property utilizing this abatement is entirely Class 14, which is normally taxed at three percent. This program adjusts the tax rate to 1.5 percent for these properties. In 2012, approximately $64,884,968 in market value was reported in this program, providing for an abatement of approximately $562,431 in taxes. Approximately $98,466 of this amount is a reduction in state revenue; the remaining $463,965 was shifted to other tax payers. Currently, this abatement is claimed by one taxpayer and abates property in four counties.

Montana Electrical Generation and Transmission Facility Exemption[11]

The electrical generation and transmission facility exemption in section 15-24-3001, MCA provides a 10-year exemption from taxation for certain qualified property that was constructed in the state of Montana between May 5, 2001 and January 1, 2006. In 2012, approximately $198,719,006 in market value was reported in this program, providing for an exemption of approximately $7,492,987 in annual taxes. Approximately $1,204,237 of this amount is a reduction in state revenue; the remaining $6,288,740 was shifted to other taxpayers. This exemption is claimed by one taxpayer and exempts property in one county (15-24-3005, MCA).

Energy Incentive Policies[12]:

Some energy incentives have less to do with tax incentives and more to do with policies set in law.

Net Metering and Interconnection: Net metering is a benefit provided to small energy users that generate power from renewable energy systems. Net metering is a special measuring that allows surplus electricity generated by small renewable energy installations (usually small wind and/or solar) to go back on the utility's grid. The customer receives "credit" at retail rates for the electricity put back onto the system. A net meter is bidirectional: it measures electricity used by the customer from the utility in a conventional fashion, but it runs backward to record electricity the customer's system puts back onto the grid. Net metering is required by statute (69-08-602, MCA) on public systems — NorthWestern Energy (NWE) and Montana-Dakota Utilities (MDU). Renewable installations of less than 50 kW capacity are eligible for net metering on these systems. Only systems generating electricity that utilize solar, wind, or small hydropower resources are eligible. Net metering is not mandated by state law for rural electric cooperatives, although all offer some accommodations.

[10] Montana Department of Revenue, Biennial Report-July 1, 2010 to June 30, 2012, page 319
[11] Ibid.
[12] Much of this section taken From "Renewable Energy in the 50 States", American Council on Renewable Energy, 2012 Edition and from the Energize Montana website.

Certain interconnection rules apply to the customers of utilities under the Montana Public Service Commission with systems up to 10 MW. These rules ensure that developers of small systems will be able to put their energy on the grid so that it can be sold. This is a much broader benefit than those who benefit from net metering.

Low Interest Loans: The Alternative Energy Revolving Loan Program (75-25-101 through 103, MCA) provides loans for the installation of renewable energy systems for on-site use for residences, businesses, non-profits, and government entities. Its purpose is to provide a financing option for Montanans to install alternative energy systems. The program is administered by the Department of Environmental Quality. Interest rates have historically run 1 percent to 2 percent below conventional home equity loans. The 2013 fixed interest rate is set at 3.75 percent annually with a maximum loan term of 10 years, and a maximum loan amount of $40,000.

Renewable Portfolio Standard (RPS): Montana's RPS was enacted by the 2005 Legislature and requires investor-owned utilities (IOUs) and competitive electricity suppliers to acquire 15 percent of their retail electricity sales from renewable energy by 2015. These facilities must have begun operation after January 1, 2005, and must either be located in Montana or in a state that delivers electricity to Montana. Utilities and competitive suppliers can meet the standard by purchasing electricity bundled with renewable energy credits (RECs), purchasing the RECs separately, or a combination of both. A later provision to the RPS is designed to stimulate rural economic development by requiring utilities to purchase electricity and RECs from "community renewable energy projects" — sometimes called CREPs. This type of renewable project is defined as not more than 25 MW capacity nameplate, is locally owned, with the facility located in Montana or in a state that delivers electricity to Montana. The full spectrum of renewable energy generation is eligible, including wind, solar, hydro, geothermal, and biomass. The CREP provision calls for 50 MW of eligible generation statewide through 2014, with a total of 75 MW after 2015.

Public Benefit Fund: Montana's Universal System Benefits (USB) program was established to ensure continued funding of and new expenditures for energy conservation, renewable resource projects, and low-income energy assistance. The Universal System Benefits program supports renewable energy and energy efficiency programs in the state, including research and development programs, market transformation programs, and renewable energy projects and applications. All electric utilities are required to contribute revenue from a surcharge on customers' electricity use, and a minimum amount of this must be used to support low-income customers. The current budget is around $9 million annually.

Renewable Fuel Mandate: After the state is able to produce 40 million gallons of ethanol annually, all gasoline sold in the state for use in motor vehicles operating on public roads must be blended with 10 percent ethanol. There is currently no ethanol produced in Montana.

Table of Montana Energy Incentives

The following table from the Montana Department of Revenue offers a list of specific Montana fossil fuel and other energy tax-related incentives. Those figures which are not credits are

estimates. Note that Table 1 on this page lists incentive amounts by fiscal year, and that the continuation of Table 1 on the next page lists the incentive amounts by calendar year. This is how they are reported in the Biennial Report. An "NA" designation means that Department of Revenue was not able to calculate a value for a particular incentive, either because the calculation was difficult or because the incentive does not lend itself to a set value. This is usually the case for items like tax exemptions, and lower tax rates (especially for corporations) that would take more involved analysis to calculate, or that simply shift tax burdens around. Corporations generally did not take most of the credits and deductions offered to them in the past two years of available data.

Table: Montana Energy Tax-Related Incentives[13]:

Tax	Note	Fiscal Year 2011	Fiscal Year 2012
Coal Gross Proceeds	Lower tax rate for some Mines (SB 266, 2011 Leg)	NA	NA
Coal Severance Tax	Different Tax Rates for Different Heating Quality	NA	NA
	Different Tax Rates for Surface and Underground Mines	NA	NA
	First 20,000 Tons are exempt	NA	NA
	Producers producing less than 50,000 ton are exempt	NA	NA
Oil and Gas	Tax Holiday for "New Wells"--Natural Gas	$1,970,220	$1,162,646
	Tax Holiday--Natural Gas Drilled Before 1999 and Average Less Than 60 MCF/Day in Prior Calendar Year	$1,640,493	$1,276,640
	Tax Holiday for "New Wells"--Oil	$19,210,587	$28,463,659
	Horizontally recompleted oil wells	$0	$10,296
	Stripper and Super Stripper Production'	$1,281,565	$1,431,909
	Price Triggers for some lower rates	NA	NA
	Secondary and Tertiary Production	NA	NA
	Royalty interest Vs. working interest taxes rates	NA	NA
Resrouce Indemnity and Ground Water Assessment Tax	Some deductions for initial production (Diff. for diff. minerals)	NA	NA
RIGWAT	Oil and Gas "exemption" (Severance tax increased instead)	NA	NA
Wholesale Energy Transaction Tax	5% line loss reduction for out of state delivery	NA	NA
	Wind energy produced on School Trust Land is exempt	NA	NA
	Rural electric cooperatives are exempt	NA	NA

continued on next page

[13] Provided by Eric Dale of Tax Policy and Research, Montana Department of Revenue who used the following extensively: *Montana Department of Revenue, Biennial Report-July 1, 2010 to June 30, 2012*, located at http://revenue.mt.gov/content/publications/biennial_reports/2010-2012/Biennial-Report-2010-2012.pdf

Tax	Note	Calender year 2010	Calender year 2011
Property tax	Class 5-3% tax rate for pollution control, Independent and Rural Electric Cooperatives, electric Reduction Facilities, and Gasohol Production Property	NA	NA
	Class 9-12% pipelines, transmission lines, and non-electric generating equipment	NA	NA
	Class 13- 6%Telecomubnication and Electric Generation Property of Electric Utilities	NA	NA
	Class 14- 3% Renewable Energy production and Transmission Property	NA	NA
	Class 15- 3% Carbon Dioxide and liquid Pipeline Property	NA	NA
	Class 16- 2.25% High Voltage Dc Converter Property	NA	NA
Personal Income Tax	Energy Conservation Credit	$10,357,791	$5,652,500
	Alternative Fuel Credit	$25,281	$27,322
	Oilseed Crushing and Biodiesel Production Facility Credit	$0	$8,537
	Biodiesel Blending and Storage Tank Credit	$907	$46,755
	Geothermal Heating System Credit	$532,086	$327,275
	Alternative Energy Systems Credit	$1,404,734	$833,803
	Alternative Energy Production Credit	$11,360	$7,290
Corporate Tax Expenditures	Energy-Conservation Investment Deduction	NA	NA
	Deduction for Donation of Exploration Information	NA	NA
	Alternate Fuel Motor Vehicle Conversion Credit	$14,000	NA
	Oilseed Crushing and Biodiesel Production Facility Credit	$0	NA
	Biodiesel Blending and Storage Tank Credit	$0	NA
	Geothermal Heating Credit	$0	NA
	Alternative Energy Production Credit	$100	NA
	Federal Deduction to income that will be passive expenditures--Expensing of exploration and development costs, fuels	$46,299	$60,851

Federal Energy Incentives[14]

Federal energy subsidies and interventions discussed in a recent U.S. Department of Energy – Energy Information Administration (EIA) report are divided into five separate program categories:

Direct Expenditures to Producers or Consumers. These are federal programs that involve direct cash outlays which provide a financial benefit to producers or consumers of energy.

Tax Expenditures. These are provisions in the federal tax code that reduce the tax liability of firms or individuals who take specified actions that affect energy production, consumption, or

[14] All text from here on is taken directly from From EIA, 'Direct Federal Financial Interventions and Subsidies in Energy in Fiscal Year 2010', July 2011 (http://www.eia.gov/analysis/requests/subsidy/pdf/subsidy.pdf) until otherwise specified.

conservation. Energy tax expenditures are broadly defined as provisions in the Internal Revenue Code (IRC) that provide beneficial tax treatment to taxpayers who produce, consume, or economize on energy in ways that are deemed to be in the public interest.

Research and Development (R&D). These are federal expenditures aimed at a variety of goals, such as increasing U.S. energy supplies or improving the efficiency of various energy consumption, production, transformation, and end-use technologies. Research and Development expenditures generally do not directly affect current energy consumption, production, and prices, but — if successful — could affect future consumption, production, and prices.

Loans and Loan Guarantees. These involve federal financial support for certain energy technologies. The U.S. Department of Energy (DOE) is authorized to provide financial support for "innovative clean energy technologies" that are typically unable to obtain conventional private financing due to their "high technology risks." In addition, eligible technologies must "avoid, reduce, or sequester air pollutants or anthropogenic [human-caused] emissions of greenhouse gases." DOE's initial loan guarantee program was authorized by the Energy Policy Act of 2005 (EPAct2005) and the first guarantee was issued in the fall of 2009. As of the end of calendar year 2010, DOE has issued more than $25 billion in loan guarantees. The estimated subsidy from all of DOE's loans ranges from about $1 billion to $3 billion.

Electricity programs serving targeted categories of electricity consumers in several geographic regions of the country. The federal government provides federal utilities and electric utilities participating in the Rural Utilities Service (RUS) electric program access to capital at reduced interest rates. Federal utilities also receive support by pricing power with rates of return that are lower than possible for a competitive company. Through the Tennessee Valley Authority (TVA) and the Power Marketing Administrations (PMAs), which include the Bonneville Power Administration (BPA) and three smaller PMAs, the federal government brings to market large amounts of electricity, stipulating that "preference in the sale of such power and energy shall be given to public bodies and cooperatives." The federal government also indirectly supports portions of the electricity industry through loans and loan guarantees made by the U.S. Department of Agriculture's Rural Utilities Service at interest rates generally below those available to investor-owned utilities. In 2010, the total value of support (subsidy) provided federal utilities and RUS borrowers varies using different benchmark interest rates. The value is estimated at $119 million (Table 24) at the AAA benchmark rate, $351 million at the AA rate, $549 million at the A rate, and, $987 million at the BAA rate.

Key Findings by the Energy Information Administration (for the U.S.)

The value of direct federal financial interventions and subsidies in U.S. energy markets doubled between 2007 and 2010, growing from $17.9 billion to $37.2 billion. In broad categories, the largest increase was for conservation and end-use subsidies, followed to a lesser degree by increases in electricity-related subsidies and subsidies for fuels used outside the electricity sector (Table ES1). Some of these incentives affected ratepayers in the form of their energy rates, some affected businesses, and some affected research facilities.

Table ES1. Value of Federal Energy Subsidies by Major Use, FY 2007 and FY 2010 (million 2010 dollars) Subsidy and Support

	FY 2007	FY 2010
Category		
Electricity-Related	**7,663**	**11,873**
Fuels and Technologies Used for Electricity Production	6,582	10,902
Transmission and Distribution	1,081	971
Fuels Used Outside the Electricity Sector	**6,246**	**10,448**
Conservation, End Use and LIHEAP	**3,987**	**14,838**
Conservation	369	6,597
End-Use/Other	1,342	3,241
LIHEAP	2,276	5,000
Total	**17,895**	**37,160**

Table ES2. Quantified energy-specific subsidies and support by type, FY 2010 and FY 2007 (million 2010 dollars)

Beneficiary	Direct Ex-penditures	Tax Ex-penditures	Research & Develop-ment	DOE Loan guarantee Program	Federal & RUS Electricity	Total	ARRA Related
							2010
Coal	42	561	663	0	91	1,358	97
Refined Coal	0	0	0	0	0	0	0
Natural Gas/ Petroleum Liquids	4	2,690	70	0	56	2,820	0
Nuclear	0	908	1,169	265	157	2,499	147
Renewables	4,696	8,168	1,409	269	133	14,674	6,193
Biomass	57	523	537	0	0	1,117	10
Geothermal	160	1	100	12	0	273	228
Hydro	17	17	52	0	130	216	16
Solar	496	120	348	173	0	1,134	788
Wind	3,556	1,178	166	85	1	4,986	4,852
Other	95	0	205	0	1	302	130
Biofuels	314	6,330	0	0	0	6,644	169
Electricity - Smart Grid & Transmission	461	58	222	20	211	971	495
Conservation	3,387	3,206	0	4	0	6,597	6,305
End-Use	5,705	693	832	1,011	0	8,241	1,549
LIHEAP	5,000	0	0	0	0	5,000	0
Other	705	693	832	1,011	0	3,241	1,549
Total	**14,295**	**16,284**	**4,365**	**1,570**	**648**	**37,160**	**14,786**

A key factor in the increased support for conservation programs, end-use technologies, and renewables was the passage of several pieces of legislation responding to the recent financial crisis and subsequent economic downturn, particularly the American Recovery and Reinvestment Act of 2009 (ARRA) and the Energy Improvement and Extension Act (EIEA). Conservation and end-use subsidies experienced rapid growth in both absolute and percentage terms, more than tripling in real terms between FY2007 and FY2010. The growth in energy-specific subsidies and support between FY2007 and FY2010 does not closely correspond to changes in energy consumption and production over the same time period.

Electricity-related subsidies and support are estimated at $11.9 billion in FY2010, up from $7.7 billion in FY2007 (Table ES1). Among the specific fuels and technologies, wind plants received the largest share of direct federal subsidies and support in FY2010, accounting for 42 percent of total electricity-related subsidies. Direct expenditures accounted for 39 percent of total electricity-related subsidies in FY2010 (Table ES4). These expenditures were mostly the result of the ARRA Section 1603 grant program, 84 percent of which went to wind generation. Renewables accounted for 40 percent of all electricity-related tax expenditures in FY 2010, mostly due to the production and investment tax credits which predominantly went to wind facilities. A nuclear decommissioning–related tax credit accounted for $908 million in tax expenditures.

Research and development accounted for 22 percent of the total subsidies and support to the electric power sector. Nuclear accounted for the highest level of R&D expenditures at $1,169 million, followed by renewables at $632 million, and coal at $575 million. Federal electricity support to federal utilities and participants in the Rural Utilities Service loan programs in the form of explicit and implicit loan guarantees are estimated at approximately $648 million in FY2010.

Until recently, energy-related direct expenditures were dominated by funding for the Low Income Home Energy Assistance Program (LIHEAP). Expenditures for these programs have increased in recent years reflecting increased spending to assist low income consumers with rising energy costs. In the wake of the credit crisis and a sharp economic downturn, the federal government launched several new energy-specific direct expenditure programs that are largely directed at renewables and energy conservation.

The federal Renewable Energy Production Incentive (REPI) provides incentive payments for electricity produced and sold by new qualifying renewable energy facilities.[15] Qualifying systems are eligible for annual incentive payments of 1.5 cents per kilowatt-hour (in 1993 dollars and indexed for inflation) for the first 10-year period of operation, subject to the availability of annual appropriations in each federal fiscal year of operation. Commercial, industrial, and utility entities are eligible for a corporate tax credit for wind, solar, and other renewable energy systems.

[15]Database of State Incentives for Renewables and Efficiency — located at **http://www.dsireusa.org/incentives/index.cfm?state=us**

The federal renewable electricity production tax credit (PTC) is a per-kilowatt-hour credit for electricity generated by qualified energy resources and sold by the taxpayer to an unrelated person during the taxable year. Originally enacted in 1992, the PTC has been renewed and expanded numerous times, most recently by the American Recovery and Reinvestment Act of February 2009, and the American Taxpayer Relief Act of 2012 (H.R. 6, Sec. 407) in January 2013. It is 2.2 cents per kWh for wind, geothermal, closed-loop biomass and 1.1 cent per kWh for other eligible technologies. This credit generally applies to the first 10 years of operation and includes landfill gas, wind, biomass, hydro, geothermal electric, municipal solid waste, dydrokinetic power (i.e., flowing water), and anaerobic digestion. The Repowering Assistance Program provides payments to eligible biorefineries to replace fossil fuels used to produce heat or power to operate the biorefineries with renewable biomass.

Biofuels receive most of the subsidies and support for fuels used outside the electricity sector. Based on the subsidy categories used in the Energy Information Administration (EIA) report, subsidies and support for fuels used outside the electricity sector, at $10.4 billion, accounted for 28 percent of total energy subsidies. Natural gas and petroleum liquids also received significant subsidies and support for fuels used outside the electricity sector. They accounted for 20.7 percent of the fuel-specific subsidies and support and, together with biofuels, accounted for nearly 94 percent of the subsidies and support going to fuels not supporting electricity.

Table ES4. Fiscal year 2010 electricity production subsidies and support (million 2010 dollars)

	Direct Expenditures	Tax Expenditures	Research & Development	Federal & RUS Electricity Support	Loan Guarantee	Total	Share of Total Subsidies and Support
Coal	37	486	575	91	0	**1,189**	**10.00%**
Natural Gas and Petroleum Liquids	1	583	15	56	0	**654**	**5.50%**
Nuclear	0	908	1,169	157	265	**2,499**	**21.00%**
Renewables	4,178	1,347	632	133	269	**6,560**	**55.30%**
Biomass	6	54	55	0	0	114	1.00%
Geothermal	115	1	72	0	12	200	1.70%
Hydropower	17	17	51	130	0	215	1.80%
Solar	409	99	287	0	173	968	8.20%
Wind	3,556	1,178	166	1	85	4,986	42.00%
Unallocated Renewables	75	0	0	0	0	75	0.60%
Transmission and Distribution	461	58	222	211	20	**971**	**8.20%**
Total	**4,677**	**3,382**	**2,613**	**648**	**555**	**11,873**	**100%**

Federal Applied R&D[16]

Since 2008, applied R&D funding authorizations for renewable technologies, end use and

[16] All of this is taken directly from From EIA, 'Direct Federal Financial Interventions and Subsidies in Energy in Fiscal Year 2010', July 2011 (http://www.eia.gov/analysis/requests/subsidy/pdf/subsidy.pdf) until otherwise specified

electricity delivery and energy reliability (EDER) energy has grown considerably. Funding for renewable R&D rose 97 percent between 2007 and 2010, while expenditures on end use and EDER rose 62 percent (Table 12 and Figure 3). Renewables have seen their share rise from 24 percent of total spending in 2007 to 32 percent of total spending in 2010. In 2010, nuclear, at 27 percent of total spending, declined from 2007 when nuclear power's share equaled 34 percent. Over the same period, coal related R&D declined — from 19 percent of total spending to 15 percent.

Table 12. Applied Federal energy R&D expenditures by type and function, 2007 and 2010 (million 2010 dollars)

Applied R & D	**FY 2007**	**FY2010**
Coal	582	663
Natural Gas and Petroleum Liquids	43	70
Nuclear Power	1,017	1,169
Renewable Technologies	717	1,409
End Use and Electricity Delivery and Energy Reliability	652	1,053
Total	**3,010**	**4,365**

Further Reflection on Federal Subsidies[17]

The federal government provides numerous subsidies (both direct and indirect) to the fossil fuel industry. In certain cases, quantifying these subsidies is fairly simple. Appropriations and grants, for example, tend to have assigned monetary amounts. In other cases, establishing an amount associated with these subsidies is more challenging. It often can be difficult to reach consensus on whether a policy is truly a subsidy, and if so, whether the policy specifically and intentionally supports the fossil fuel industries. Thus, these subsidies are not estimated here.

Indirect fossil fuel subsidies occur in the following categories:
☐***Directed Tax Subsidies****: Special provisions in the U.S. tax code specifically to support and reward domestic fossil fuel-related production.*
☐***Other Tax Benefits****: Special provisions in the U.S. tax code that were extended to domestic fossil fuel-related production.*
☐***Abnormal Accounting****: Special accounting treatments that are applied to reduce the tax burden on fossil fuel related production.*
☐***Royalty Relief:*** *Special dispensation given to fossil fuel-related production to use taxpayer-owned land at submarket rates.*

To gain a wider picture of federal energy incentives, it is useful to look at federal energy subsidies over time, rather than just looking at a snapshot in time. In the past, fossil fuels have received the vast majority of federal energy subsidies, versus today where

[17] Environmental and Energy Study Institute, Fossil Fuel Subsidies: A Closer Look at Tax Breaks, Special Accounting, and Societal Costs June 2011, http://files.eesi.org/fossil_fuel_subsidies_062311a.pdf and other sources where noted.

renewables are receiving a larger share. This is likely due to a federal policy of giving new industries incentives to better be able to compete in the market place. That said, fossil fuels still continue to benefit from various incentives. According to compiled federal budget data, total direct federal subsidies to coal between 2002 and 2008 was about $16 billion.[18]

The federal government has a long history of providing financial support to oil and gas development and production. One report by Double Bottom Line Investors (DBL) compiles information on federal energy subsidies since 1918. The report found that:

1) The U.S. government has invested an average of $4.86 billion dollars annually in oil and gas subsidies since 1918.[19]
2) During the first 15 years of oil and gas subsidies' life, they accounted for more than half a percentage of the total federal budget. This is more than *five times* the federal government's commitment to renewable subsidies during their first 15 years.

The majority of federal tax incentives specifically for wind, solar, and geothermal have been in place since the Energy Policy Act passed in 1992. According to the compiled Congressional Budget data:

1) Renewable energy (excluding biofuels) has received an average of $370 million in annual subsidies between 1994 and 2009. [20]
2) During the first 15 years of renewable subsidies' life they accounted for only 1/10th of one percent of the total federal budget.[21]
3) The PTC is the primary incentive for wind development and provides a 2.2 cent/kilowatt-hour tax credit to wind producers.

More recently, there have been several recent estimates of the level of federal financial support for renewable energy[22]:

☐As discussed above, the Energy Information Administration (EIA) estimated total federal subsidies for renewable sources in fiscal year 2010 to be approximately $14.7 billion represented a substantial increase from its estimate for FY2007 of $5.1 billion going to renewable sources. Much of this increase was due to the Recovery Act, which provided an estimated $6.2 billion of the $14.7 billion in fiscal year 2010 subsidies.17

☐ The Congressional Research Service estimated FY2010 federal revenue losses and outlays associated with renewable energy-related tax provisions to be approximately $13 billion, including Recovery Act funding of approximately $4.2 billion for Treasury payments for energy projects, primarily renewable energy projects.18

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[18] Environmental Law Institute. 2009. Estimating U.S. Government Subsidies to Energy Subsidies 2002-2008.
[19] Double Bottom Line Venture Capital. Pfund, Nancy and Healey, Ben. *The Historical Role of Energy Subsidies in Shaping America's Energy Future*. September 2011.
[20] Pfund and Healey
[21] Pfund and Healey
[22] GAO February 2012-"Report to the Committee on Homeland Security and Governmental Affairs, U.S. Senate RENEWABLE ENERGY--Federal Agencies Implement Hundreds of Initiatives", http://www.gao.gov/assets/590/588876.pdf

☐ The Environmental Law Institute estimated total federal subsidies for renewable sources over the seven-year period from fiscal years 2002 through 2008 to be approximately $29 billion.

A comprehensive list of federal incentives for renewables and efficiency are found at: http://www.dsireusa.org/incentives/index.cfm?state=us

Conclusion

This report has set out to give the most accurate facts available on energy incentives both within Montana and the U.S. as a whole. The aim is to lay out these facts to policymakers in an objective manner and to the authors' best abilities. The information largely pertains to recent years, and takes a high-level look at incentives, especially at the federal level. A more in-depth study of each incentive is beyond the scope of this paper. While this report leads to no particular conclusions, it is clear that energy incentives have increased in number and dollar amount over time, especially in recent years with ARRA funding. It is also clear that both fossil fuel and renewable energy sources enjoy a number of incentives. While incentives to renewable energy have arguably been higher in the past five years than to fossil fuels, fossil fuels have received the vast majority of total incentives over time.

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Montana Legislative Services Division

Office of Research and Policy Analysis

March 9, 2010

TO: Rep. Dick Barrett and Rep. Franke Wilmer

FROM: Jeff Martin, Legislative Research Analyst

SUBJECT: Alternative Energy Generation Tax Credit

I am writing in response to your request for information on the alternative tax generation tax credit.

The credit was originally enacted as part of House Bill No. 755 (Chapter 648, Laws 1983). The legislation provided a tax credit for commercial systems that generate electricity by means of wind power. In 2001, Senate Bill No. 506 (Chapter 591, Laws 2001) was enacted to revise laws relating to alternative energy. Among other things, the legislation revised the credit contained in 15-32-402, MCA, to include generation from alternative energy sources and net metering systems. The legislation also clarified the policy statement under 15-32-401, MCA by substituting "alternative energy" for "wind energy". Those sections now read as follows:

> 15-32-401. **Purpose and statement of policy**. The purpose of this part is to encourage the development of the alternative energy industry in Montana without adversely affecting tax revenue received from existing economic activity in the state. Because of the alternative energy potential within the state, it is desirable to encourage alternative energy generation for the purpose of attracting alternative energy manufacturing industries to the state. It is also desirable for new or expanded industry to secure alternatively generated electricity on a direct contract sales basis without adversely affecting rates charged to other electricity users. (Emphasis added) Sound fiscal policy requires that encouragement be given to an alternative energy industry without subtracting from existing sources of revenue to the state.
>
> 15-32-402. **Commercial or net metering system investment credit -- alternative energy systems.** (1) An individual, corporation, partnership, or small business corporation as defined in 15-30-3301 that makes an investment of $5,000 or more in property that is depreciable under the Internal Revenue Code for a commercial system or a net metering system, as defined in 69-8-103,[1] that is located in Montana and that generates energy by means of an alternative renewable energy source, as defined in

[1]A net metering system is a facility for the production of electrical energy that: uses as its fuel solar, wind, or hydropower; has a generating capacity of not more than 50 kilowatts; is located on the customer-generator's premises; operates in parallel with the utility's distribution facilities; and is intended primarily to offset part or all of the customer-generator's requirements for electricity.

15-6-225,[2] is entitled to a tax credit against taxes imposed by 15-30-2103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income (Emphasis added) produced by one of the following:

(a) manufacturing plants located in Montana that produce alternative energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the alternative energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the alternative energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those expenditures that are associated with the purchase, installation, or upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.

Under subsection 15-32-402 (1)(a), a business entity that manufactures alternative energy equipment would be allowed the credit for investment in a commercial alternative energy system that is used in the manufacture of the alternative energy equipment. The credit is applied to net taxable income derived from the sale of the alternative energy equipment.

The language under subsection 15-32-402 (1)(b) is unclear. The lead-in to subsections (1)(a) through (1)(c) is "a credit only against taxes due as a consequence of taxable or net income produced by one of the following:". This means that a new or expanding business facility is eligible for the credit. However, the rest of the language in subsection (1)(b) implies that the business facility is a direct contract sales customer. I do not know whether that means that the business facility would have to purchase alternative energy from itself or related entity.

It is also unclear what constitutes a new or expanding business. The definition section under 15-31-124, MCA, for the new or expanded industry credit provides that "expanding" means to expand or diversify a present operation to increase total full-time jobs by 30% or more. The section also provides that a "new corporation" means a corporation engaging in manufacturing for the first time in this state. Those limitations do not appear to apply to a business entity under subsection (1)(b). It may be that a business facility that adds one employee could qualify for the credit.

[2]As provided in 15-6-225, MCA, alternative renewable energy includes but is not limited to solar energy, wind energy, geothermal energy, conversion of biomass, fuel cells that do not require hydrocarbon fuel, hydroelectric generators producing less than 1 megawatt, or methane from solid waste.

The language under subsection 15-32-402(1)(c) also seems a bit unclear. According to the Department of Revenue, the credit may be claimed by a business entity that invests in a commercial alternative energy system against taxable income attributable to the sale of the energy into the electric grid. However, the reference to 15-6-124, MCA, (see below) in the exclusion from other tax incentives under 15-32-405, MCA, implies that the alternative energy system used in a taxpayer's business would qualify for the credit. This subsection may also apply to a net metering system, however neither the statutes nor Department of Revenue rules specify how taxable net income from a net metering system is determined.

The maximum allowable alternative energy credit energy is 35% of eligible costs (see 15-32-402(2)). The amount of the credit is equal to the amount of income tax of the business entity attributable to alternative energy production provided that credit does not exceed the maximum allowable amount. For example, if a corporation invested $10,000 ($3,500 allowable credit) in alternative energy equipment, had taxable income of $100,000, and $46,000 of the taxable income amount was attributable to alternative energy production the amount of the credit for the tax year would be $3,105 ([$100,000 * 0.675 (corporation tax rate)] * 46%). The balance of the allowable credit is available for carryforward.

The amount of taxable income attributable to alternative energy production is determined by a three-factor formula similar to the three-factor formula contained in 15-31-305, MCA, as follows:

> ((Alternative energy property/total business property) + (alternative energy payroll/total business payroll) + (alternative energy sales/total business sales))/3

In general, the tax credit may be carried forward for 7 years. The credit may be carried forward for 15 years for a commercial system located within a Montana Indian reservation (see 15-32-404, MCA).

Section 15-32-405, MCA, provides that a taxpayer may not claim any other state energy or investment credit, including the new or expanded industry credit under 15-31-124 and 15-31-125, MCA. The property tax reduction allowed by 15-6-224, MCA, (see below) may not be applied to a facility for which a credit is claimed under Title 15, chapter 32, part 4, MCA.

Department of Revenue rules under ARM Title 42, chapter 4, subchapter 4 (ARM 42.4.4102 through 42.4.4104), provide general guidance for qualifying for electrical generation and transmission facilities for a property tax exemption, reduced tax rate, or credit (including the credit under 15-32-402, MCA). But is difficult to ascertain in all cases precisely who qualifies for the credit either under statute or administrative rule.

The alternative energy generation is apparently little used. It may be, as Rep. Dick Barrett points out, that the credit provisions are too vague. Or the credit may provide insufficient incentive for investment in alternative energy generation property, particularly if the alternative energy factors of property, payroll, and sales make up small percentages of the total factors. Or taxpayers are

using other alternative energy production incentives (see below for two property tax exemptions).

Given the uncertainties about the credit, legislation may be needed to clarify the provisions.

Property Tax Exemptions for Alternative Energy Production
A business entity may qualify for the property tax exemption under 15-6-224, MCA, of up to $100,000 of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low-emission wood or biomass combustion devices, as defined in 15-32-102, MCA. The exemption applies to a multifamily residential building or a nonresidential structure.

A business may qualify for the alternative renewable energy generation facilities exemption under 15-6-225, MCA. The exemption is for 5 years for a facility that has a nameplate capacity of less than 1 megawatt.[3]

I hope this information is useful. If you need more information, please contact me.

[3]In 2001, House Bill No. 600 (Chapter 579, Laws 2001) established a property tax exemption for electrical generation machinery and equipment owned or leased by the taxpayer for use in the taxpayer's business. The legislation provided for a sunset of the exemption on December 31, 2004.