



March 15, 2019

The Honorable Secretary of State, Ed Buchanan
Secretary of State's Office
2020 Carey Avenue, 6th Floor
Cheyenne, Wyoming 82002

RE: Veto of HB0120/ HEA No. 0105 Energy production inventory exemption

Dear Secretary Buchanan,

House Bill 120 offers an innovative approach to promoting economic development and perhaps setting a better climate in Wyoming for storing certain new, unused equipment related to energy production by exempting it from taxation. HB 120 is an example of an idea that could help capture additional revenue for our state that might otherwise be flowing elsewhere. While I recognize the point of the bill, I am not sure the bill's potential unintended consequences have been fully explored or understood clearly enough in its implementation. This bill has consequences the dimensions of which we cannot fully calibrate and which may in time present unforeseen economic repercussions.

HB 120 narrowly targets an exemption for energy production equipment, but does not define or explain what is meant by energy production equipment. Additionally, in a time when the state is struggling to find revenue for funding education and other essential services of state government, it seems unwarranted to grant a tax exemption that could well scramble the equitable distribution of sales and property tax revenues between counties. The windfall some counties might experience could well result in deficits for others obliging the state to support those less fortunate to an unknown extent.

Nonetheless, the original purpose of the exemption was for economic development and to attract the storage of wind turbine equipment to a yard in Natrona County. Subsequently, other energy production equipment was added to gather support for the bill. However, much of the latter category of equipment already comes into the state on a "just-in-time" basis where it is currently stored and taxed. Thus, this exemption for non-wind related equipment would be of marginal value in promoting additional economic development.

The exemption might well encourage more storage of not-yet-used wind generating equipment in Wyoming, but herein lies the challenge outlined above: Since the exemption for the property tax would apply to the equipment in a "laydown yard," the sales tax would be due in that county regardless of where the equipment might ultimately be deployed. Thus, the sales and use tax that might have been anticipated in the county where the turbines are ultimately erected would instead be paid to the county where that equipment was stored. Towers erected in Carbon County, for example, might have paid taxes in Natrona County depriving the Carbon County of revenues needed to offset the impacts of the development.

Finally, since there is no reliable estimate of the fiscal implications to taxing authorities that depend on these property tax dollars, I believe, that while maybe meritorious, this act is not yet ready. A bill which potentially reduces a revenue resource heavily dedicated to funding education represents a gamble we cannot afford to take at this time. Nevertheless, understanding the intent of this bill is to discourage the out-of-state storage of equipment destined for Wyoming and acknowledging the value of this proposition, I encourage the legislature to continue to refine this bill in the interim.

I have allowed other bills that I considered partially flawed to proceed into law. In doing so, I have offered suggestions on ways an act might be improved. In this case, recognizing that tax exemptions have a tendency to become indelible components of our tax code regardless of merit, I would submit that any exemption should be fully vetted and corrected before being implemented. The legislative history of HB 120 is unsettled enough to recommend more consideration before placing this exemption into our tax code. Thus, I have vetoed HB 120.

Because I believe this bill deserves attention, I would like to reiterate my desire to see the legislature review this bill in the interim with an eye to better understanding ways to mitigate against the potentially undesirable and unforeseen consequences of this proposed tax exemption. Ultimately, I want to express my deep appreciation to the 65th Legislature's commitment to finding better ways to encourage economic activity in Wyoming.

Sincerely,



Mark Gordon
Governor

cc: The Honorable Steve Harshman, Speaker of the House
The Honorable Drew Perkins, President of the Senate
Chief Clerk, Wyoming House of Representatives
Chief Clerk, Wyoming Senate