

WORKING DRAFT

HOUSE BILL NO. _____

Coal valuation-intercompany/affiliate sales.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; modifying basis
2 for determining the value of certain coal; and providing
3 for an effective date.

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5 *Be It Enacted by the Legislature of the State of Wyoming:*

6
7 **Section 1.** W.S. 39-14-103(b) (viii) is amended to
8 read:

9
10 **39-14-103. Imposition.**

11
12 (b) Basis of tax (valuation). The following shall
13 apply:

14

1 (viii) For coal used without sale, or coal not
2 sold pursuant to a bona fide arms-length agreement, the
3 sales value for the purposes of paragraph (vii) of this
4 subsection shall be the fair market value of comparable
5 coal ~~which is comparable in the quality, quantity, terms~~
6 ~~and conditions under which the coal is being used or sold,~~
7 ~~both in the spot market and through long-term agreements~~
8 ~~negotiated within the previous twelve (12) months,~~
9 ~~multiplied by the respective number of tons used or sold~~
10 ~~for each reporting period;~~ as determined by:

11
12 (A) The arms-length price of comparable
13 coal produced from the same mine and sold or used under
14 comparable terms; or

15
16 (B) If a price for comparable coal is not
17 available from the same mine, the arms-length price of
18 comparable coal produced from other mines in the area and
19 sold or used under comparable terms.

20
21 **Section 2.** This act is effective January 1, 2004 and
22 applies to all coal produced on and after January 1, 2004.

23

24

(END)

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2 Staff comments: The value of coal is the fair market value
3 of the coal at the mouth of the mine. The fair market
4 value is determined by the price established by a bona fide
5 arms-length sale of the coal. When coal is used without
6 sale and when coal is not sold pursuant to a bona fide
7 arms-length agreement, the sales price is the fair market
8 value of comparable coal. The current language used to
9 determine the value of comparable coal has been subject to
10 various interpretation by taxpayers and litigation. Given
11 all of the parameters, i.e. conditions for comparison and
12 the twelve month limitation on long-term contracts, the
13 current language is difficult to administer. The draft
14 provides that the fair market value of comparable coal is
15 determined by the arms-length price of the coal produced
16 from the same mine or other mines in the area, sold or used
17 under comparable terms.

DRAFT