

HOUSE BILL NO. HB0070

Tax incentive for value added minerals.

Sponsored by: Representative(s) McOmie, Esquibel and
Petersen and Senator(s) Sessions

A BILL

for

1 AN ACT relating to mineral taxation and revenue; providing
2 for an increased severance tax on coal, trona, and crude
3 oil, lease condensate and natural gas; providing a
4 severance tax credit as an incentive to invest in value
5 added projects; creating a committee to certify value added
6 projects; providing definitions, terms and conditions;
7 providing an appropriation; authorizing an additional
8 position; making conforming amendments; and providing for
9 an effective date.

10

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

12

13 **Section 1.** W.S. 39-14-112, 39-14-212 and 39-14-312

14 are created to read:

15

1 **39-14-112. Tax credits for value added coal projects;**
2 **administration; terms and conditions.**

3

4 (a) To promote value added coal products in Wyoming,
5 there is created the value added review committee
6 consisting of the following members:

7

8 (i) The state geologist or his designee;

9

10 (ii) One (1) other member of the oil and gas
11 conservation commission appointed by the governor;

12

13 (iii) Two (2) members of the Wyoming energy
14 commission appointed by the governor;

15

16 (iv) The director of the department of revenue
17 or his designee.

18

19 (b) The department of revenue shall provide
20 administrative support to the committee as necessary.

21

22 (c) The value added review committee shall review
23 applications from taxpayers who have or will have a
24 liability for severance tax on the production of coal under

1 W.S. 39-14-103, for certification of value added projects.
2 If the committee certifies a project, it shall provide a
3 notice of certification to the department.

4

5 (d) The committee may require information from a
6 taxpayer seeking certification of a project as necessary to
7 ensure that the project meets the criteria of this section.
8 The committee shall promulgate rules as necessary to
9 implement its duties under this section. The department
10 may require information from a taxpayer claiming a
11 severance tax credit pursuant to this section and W.S.
12 39-14-105(e) as necessary to ensure that the requirements
13 of those provisions are met. The department shall
14 promulgate rules as necessary to implement its duties under
15 this section.

16

17 (e) The value added review committee shall certify a
18 value added coal project submitted by a taxpayer under this
19 section if the project meets the following:

20

21 (i) The project processes coal into a product
22 that immediately after processing has a fair market value
23 of at least one hundred fifty percent (150%) of the fair

1 market value of the coal as determined under W.S.
2 39-14-103(b);

3

4 (ii) A majority of the total expenditures for
5 the value added project occurs within Wyoming; and

6

7 (iii) The process that adds value to coal occurs
8 within Wyoming.

9

10 (f) All coal produced on or after January 1, 2008,
11 and used to create a value added coal product by a project
12 certified by the committee as complying with the provisions
13 of this section, is eligible for a tax credit equal to the
14 three percent (3%) severance tax imposed under W.S.
15 39-14-103 and 39-14-104(a)(vii) or (b)(iv). The tax credit
16 shall be implemented as provided in W.S. 39-14-105(e).

17

18 (g) On or before September 1, 2008, and annually
19 thereafter, the committee shall report to the joint revenue
20 interim committee on the results of the tax incentive for
21 value added projects under this section. The report shall
22 provide the number and type of value added projects
23 certified, the amount of production involved, the operators

1 of the project and the amount of severance tax credits
2 allowed each taxpayer.

3

4 **39-14-212. Tax credits for value added projects;**
5 **administration; terms and conditions.**

6

7 (a) To promote value added crude oil, lease
8 condensate and natural gas products in Wyoming, there is
9 created the value added review committee consisting of the
10 following members:

11

12 (i) The state geologist or his designee;

13

14 (ii) One (1) other member of the oil and gas
15 conservation commission appointed by the governor;

16

17 (iii) Two (2) members of the Wyoming energy
18 commission appointed by the governor;

19

20 (iv) The director of the department of revenue
21 or his designee.

22

23 (b) The department of revenue shall provide
24 administrative support to the committee as necessary.

1

2 (c) The value added review committee shall review
3 applications from taxpayers who have or will have a
4 liability for severance tax on the production of crude oil,
5 lease condensate or natural gas under W.S. 39-14-203, for
6 certification of value added projects. If the committee
7 certifies a project, it shall provide a notice of
8 certification to the department.

9

10 (d) The committee may require information from a
11 taxpayer seeking certification of a project as necessary to
12 ensure that the project meets the criteria of this section.
13 The committee shall promulgate rules as necessary to
14 implement its duties under this section. The department
15 may require information from a taxpayer claiming a
16 severance tax credit pursuant to this section and W.S.
17 39-14-205(m) as necessary to ensure that the requirements
18 of those provisions are met. The department shall
19 promulgate rules as necessary to implement its duties under
20 this section.

21

22 (e) The value added review committee shall certify a
23 value added crude oil, lease condensate or natural gas

1 project submitted by a taxpayer under this section if the
2 project meets the following:

3

4 (i) The project processes crude oil, lease
5 condensate or natural gas into a product that immediately
6 after processing has a fair market value of at least one
7 hundred fifty percent (150%) of the fair market value of
8 the crude oil, lease condensate or natural gas as
9 determined under W.S. 39-14-203(b);

10

11 (ii) A majority of the total expenditures for
12 the value added project occurs within Wyoming; and

13

14 (iii) The process that adds value to crude oil,
15 lease condensate or natural gas occurs within Wyoming.

16

17 (f) All crude oil, lease condensate and natural gas
18 produced on or after January 1, 2008, and used to create a
19 value added product by a project certified by the committee
20 as complying with the provisions of this section, is
21 eligible for a tax credit equal to the three percent (3%)
22 severance tax imposed under W.S. 39-14-203 and
23 39-14-204(a)(v). The tax credit shall be implemented as
24 provided in W.S. 39-14-205(m).

1

2 (g) On or before September 1, 2008, and annually
3 thereafter, the committee shall report to the joint revenue
4 interim committee on the results of the tax incentive for
5 value added projects under this section. The report shall
6 provide the number and type of value added projects
7 certified, the amount of production involved, the operators
8 of the project and the amount of severance tax credits
9 allowed each taxpayer.

10

11 **39-14-312. Tax credits for value added projects;**
12 **administration; terms and conditions.**

13

14 (a) To promote value added trona products in Wyoming,
15 there is created the value added review committee
16 consisting of the following members:

17

18 (i) The state geologist or his designee;

19

20 (ii) One (1) other member of the oil and gas
21 conservation commission appointed by the governor;

22

23 (iii) Two (2) members of the Wyoming energy
24 commission appointed by the governor;

1

2 (iv) The director of the department of revenue
3 or his designee.

4

5 (b) The department of revenue shall provide
6 administrative support to the committee as necessary.

7

8 (c) The value added review committee shall review
9 applications from taxpayers who have or will have a
10 liability for severance tax on the production of trona
11 under W.S. 39-14-303, for certification of value added
12 projects. If the committee certifies a project, it shall
13 provide a notice of certification to the department.

14

15 (d) The committee may require information from a
16 taxpayer seeking certification of a project as necessary to
17 ensure that the project meets the criteria of this section.
18 The committee shall promulgate rules as necessary to
19 implement its duties under this section. The department
20 may require information from a taxpayer claiming a
21 severance tax credit pursuant to this section and W.S.
22 39-14-305 as necessary to ensure that the requirements of
23 those provisions are met. The department shall promulgate

1 rules as necessary to implement its duties under this
2 section.

3

4 (e) The value added review committee shall certify a
5 value added trona project submitted by a taxpayer under
6 this section if the project meets the following:

7

8 (i) The project processes trona into a product
9 that immediately after processing has a fair market value
10 of at least one hundred fifty percent (150%) of the fair
11 market value of the trona as determined under W.S.
12 39-14-303(b);

13

14 (ii) A majority of the total expenditures for
15 the value added project occurs within Wyoming; and

16

17 (iii) The process that adds value to trona
18 occurs within Wyoming.

19

20 (f) All trona produced on or after January 1, 2008,
21 and used to create a value added trona product by a project
22 certified by the committee as complying with the provisions
23 of this section, is eligible for a tax credit equal to the
24 three percent (3%) severance tax imposed under W.S.

1 39-14-303 and 39-14-304(a)(iii). The tax credit shall be
2 implemented as provided in W.S. 39-14-305.

3

4 (g) On or before September 1, 2008, and annually
5 thereafter, the committee shall report to the joint revenue
6 interim committee on the results of the tax incentive for
7 value added projects under this section. The report shall
8 provide the number and type of value added projects
9 certified, the amount of production involved, the operators
10 of the project and the amount of severance tax credits
11 allowed each taxpayer.

12

13 **Section 2.** W.S. 39-14-101(a) by creating a new
14 paragraph (xvi), 39-14-104(a)(intro), (vi), by creating a
15 new paragraph (vii), (b)(intro), (iii) and by creating a
16 new paragraph (iv), 39-14-105 by creating a new subsection
17 (e), 39-14-111(a), 39-14-201(a) by creating a new paragraph
18 (xxxiii), 39-14-204(a)(intro), (iv) and by creating a new
19 paragraph (v), 39-14-205 by creating a new subsection (m),
20 39-14-211(a), 39-14-301(a) by creating a new paragraph
21 (xiv), 39-14-304(a)(intro), (ii) and by creating a new
22 paragraph (iii), 39-14-305 and 39-14-311(a) are amended to
23 read:

24

1 **39-14-101. Definitions.**

2

3 (a) As used in this article:

4

5 (xvi) "Value added coal project" means a project
6 certified by the value added review committee as complying
7 with the requirements of W.S. 39-14-112.

8

9 **39-14-104. Tax rate.**

10

11 (a) Except as otherwise provided by W.S. 39-14-105,
12 until January 1, 2008, the total severance tax rate for
13 surface coal shall be seven percent (7%). ~~This~~ Except as
14 otherwise provided by W.S. 39-14-105, the total severance
15 tax rate for surface coal on and after January 1, 2008
16 shall be ten percent (10%). The applicable rate comprises
17 one and one-half percent (1.5%) imposed by Wyoming
18 constitution article 15, section 19, and five and one-half
19 percent (5.5%) imposed statutorily until January 1, 2008,
20 and eight and one-half percent (8.5%) thereafter. The tax
21 shall be distributed as provided in W.S. 39-14-111 and is
22 imposed as follows:

23

24 (vi) One-half percent (.5%) ~~;~~ plus

1

2 (vii) Three percent (3%) effective January 1,
3 2008.

4

5 (b) The total severance tax rate for underground coal
6 shall be three and three-quarters percent (3.75%) until
7 January 1, 2008. The total severance tax rate for
8 underground coal on and after January 1, 2008 shall be six
9 and three-quarters percent (6.75%). The tax shall be
10 distributed as provided in W.S. 39-14-111 and is imposed as
11 follows:

12

13 (iii) One percent (1%) ~~;~~ plus

14

15 (iv) Three percent (3%) effective January 1,
16 2008.

17

18 **39-14-105. Exemptions.**

19

20 (e) On and after January 1, 2008, a taxpayer who is
21 liable for payment of taxes under W.S. 39-14-103 is
22 eligible for a tax credit equal to the three percent (3%)
23 severance tax imposed under W.S. 39-14-104(a)(vii) or
24 (b)(iv) for all coal processed at a value added coal

1 project. A taxpayer claiming a credit under this
2 subsection shall make application to the department no
3 later than one (1) year after the tax was paid,
4 establishing that the coal for which a tax credit is
5 claimed was processed at a certified project.

6
7 **39-14-111. Distribution.**

8
9 (a) As provided by W.S. 39-14-104(a), the total
10 severance tax rate for surface coal shall be seven percent
11 (7%) until January 1, 2008, and ten percent (10%) on and
12 after January 1, 2008. As provided by W.S. 39-14-104(b),
13 the total severance tax rate for underground coal shall be
14 three and three-quarters percent (3.75%) until January 1,
15 2008, and six and three-quarters percent (6.75%) on and
16 after January 1, 2008. A one and one-half percent (1.5%)
17 tax imposed by W.S. 39-14-104(a)(i) and a three percent
18 (3%) tax imposed by W.S. 39-14-104(a)(vii) and a one and
19 one-half percent (1.5%) tax imposed by W.S. 39-14-104(b)(i)
20 and a three percent (3%) tax imposed by W.S.
21 39-14-104(b)(iv) shall be deposited into the permanent
22 Wyoming mineral trust fund. All other taxes imposed by
23 W.S. 39-14-104(a) and (b) shall be deposited into the
24 severance tax distribution account.

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2

39-14-201. Definitions.

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4

(a) As used in this article:

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6

(xxxiii) "Value added crude oil, lease condensate or natural gas project" means a project certified by the value added review committee as complying with the requirements of W.S. 39-14-212.

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11

39-14-204. Tax rate.

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(a) Except as otherwise provided by this section and W.S. 39-14-205, the total severance tax on crude oil, lease condensate or natural gas shall be six percent (6%) until January 1, 2008, and nine percent (9%) on and after January 1, 2008, comprising one and one-half percent (1.5%) imposed by the Wyoming constitution article 15, section 19 and the remaining amount imposed by Wyoming statute. The tax shall be distributed as provided in W.S. 39-14-211 and is imposed as follows:

(iv) Two percent (2%), except for the period January 1, 1999 through December 31, 1999, the rate for

1 crude oil production under this paragraph shall be one
2 percent (1%). If the average monthly price received by
3 Wyoming crude oil producers as determined by the department
4 of revenue equals or exceeds twenty dollars (\$20.00) per
5 barrel for three (3) consecutive months, the reduced tax
6 rate of one percent (1%) specified in this paragraph for
7 the period of January 1, 1999 through December 31, 1999
8 shall terminate; plus

9
10 (v) Three percent (3%) effective January 1,
11 2008.

12

13 **39-14-205. Exemptions.**

14

15 (m) On and after January 1, 2008, a taxpayer who is
16 liable for payment of taxes under W.S. 39-14-203 is
17 eligible for a tax credit equal to the three percent (3%)
18 severance tax imposed under W.S. 39-14-204(a)(v) for all
19 crude oil, lease condensate or natural gas processed at a
20 value added crude oil, lease condensate or natural gas
21 project. A taxpayer claiming a credit under this
22 subsection shall make application to the department no
23 later than one (1) year after the tax was paid,
24 establishing that the crude oil, lease condensate or

1 natural gas for which a tax credit is claimed was processed
2 at a certified project.

3

4 **39-14-211. Distribution.**

5

6 (a) The state treasurer shall transfer the revenue
7 collected from the severance tax imposed by W.S.
8 39-14-204(a) (i) and (v) into the permanent Wyoming mineral
9 trust fund. The state treasurer shall transfer the revenue
10 collected from the severance tax imposed by W.S.
11 39-14-204(a) (ii), (iii) and (iv) into the severance tax
12 distribution account.

13

14 **39-14-301. Definitions.**

15

16 (a) As used in this article:

17

18 (xiv) "Value added trona project" means a
19 project certified by the value added review committee as
20 complying with the requirements of W.S. 39-14-312.

21

22 **39-14-304. Tax rate.**

23

1 (a) The total severance tax rate for trona shall be
2 four percent (4%) until January 1, 2008. The total
3 severance tax rate for trona shall be seven percent (7%) on
4 and after January 1, 2008. The tax shall be distributed as
5 provided in W.S. 39-14-311 and is imposed as follows:

6
7 (ii) Two percent (2%) ~~;~~ plus

8
9 (iii) Three percent (3%) effective January 1,
10 2008.

11
12 **39-14-305. Exemptions.**

13
14 Until January 1, 2008, there are no specific applicable
15 provisions for exemptions for this chapter. On and after
16 January 1, 2008, a taxpayer who is liable for payment of
17 taxes under W.S. 39-14-303 is eligible for a tax credit
18 equal to the three percent (3%) severance tax imposed under
19 W.S. 39-14-304(a)(iii) for all trona processed at a value
20 added trona project. A taxpayer claiming a credit under
21 this subsection shall make application to the department no
22 later than one (1) year after the tax was paid,
23 establishing that the trona for which a tax credit is
24 claimed was processed at a certified project.

1

2

39-14-311. Distribution.

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4

(a) As provided by W.S. 39-14-304(a), the total severance tax rate for trona shall be four percent (4%)

6

until January 1, 2008, and on and after January 1, 2008 the rate shall be seven percent (7%). The taxes imposed by

8

W.S. ~~39-14-304(a)~~ 39-14-304(a)(iii) shall be deposited into

9

the permanent Wyoming mineral trust fund. All other taxes

10

shall be deposited into the severance tax distribution

11

account.

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Section 3. There is appropriated from the general

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fund to the department of revenue an amount of one hundred

15

fifty thousand dollars (\$150,000.00) for the purpose of

16

providing administrative support to the value added review

17

committee for the period beginning July 1, 2003 and ending

18

June 30, 2004. The department of revenue is authorized one

19

(1) additional full-time position to provide administrative

20

support for the committee.

21

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Section 4. This act is effective July 1, 2003.

23

24

(END)