

FISCAL NOTE

The fiscal impact, in the form of decreased revenues to the General Fund and Budget Reserve Account, is indeterminable.

This bill would entitle Wyoming surface coal producers to an offsetting credit toward future severance tax liability for coal subject to a federal mineral royalty (FMR) rate greater than 12.5%. The severance tax credit would be equal to the amount the state of Wyoming receives as its net share of FMRs in excess of the amount the state would have received under a 12.5% royalty rate, on the coal mined by the taxpayer in the previous calendar year. The credit shall not exceed the severance tax liability of the taxpayer in the successive calendar year, and shall not extend beyond the calendar year in which it is issued. The credit shall not reduce the portion of the taxpayer's severance tax liability remitted to the Permanent Mineral Trust Fund by law.

The federal royalty rate on surface coal produced from federal lands is currently established in federal law at 12.5%. This bill would have no fiscal impact until this federal law was changed to increase the federal royalty rate. The potential fiscal impact of this bill cannot be estimated until the controlling Code of Federal Regulations (CFR's) governing the federal royalty rate is changed. Congressional hearings took place on Tuesday December 8, 2015 to discuss potential changes to valuing natural resources including coal. During the hearings, the possibility of changing the royalty rate on coal production was discussed.

In the event that the federal royalty rate on surface coal produced was increased above the current 12.5% royalty rate, Wyoming surface coal producers would be entitled to this proposed severance tax credit. It is assumed that the proposed severance tax credit would be approximately 49% of the additional FMRs collected over the current 12.5% rate, as the state of Wyoming currently receives 50% of FMRs collected, with a 2% deduction from Wyoming's share for administration. It is also assumed that this credit would reduce severance taxes distributed above the \$155 million severance tax distribution cap, which are distributed one-third to the General Fund and two-thirds to the Budget Reserve Account. While this credit would be equal to the additional FMRs collected, it is assumed that those additional FMRs would be distributed above the FMR distribution cap; distributed one-third to the School Foundation Program Account and two-thirds to the Budget Reserve Account.

As severance taxes are a dollar-for-dollar component of the assessed value of Wyoming coal production, this proposed severance tax credit could also reduce the assessed value of Wyoming coal production by the total amount of severance tax credits granted, thereby reducing state severance taxes and county gross products taxes by 7% and an estimated 6% of the credits granted, respectively.

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