

HOUSE BILL NO. HB0159

Monthly payment of ad valorem tax on mineral production.

Sponsored by: Select Committee on Coal/Mineral Bankruptcies

A BILL

for

1 AN ACT relating to ad valorem taxation of mineral
2 production; providing for monthly payment of ad valorem
3 taxes on mineral production commencing January 1, 2021;
4 providing a process for reporting, payment, reconciliation
5 and distribution of the monthly ad valorem tax; providing
6 legislative findings; specifying the payment schedule for
7 the transition period; authorizing a credit; providing for
8 a loan program for counties during the transition period;
9 providing rulemaking authority; providing appropriations;
10 and providing for an effective date.

11

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

13

14 **Section 1.** W.S. 39-13-113 is created to read:

15

1 **39-13-113. Monthly payment of ad valorem tax on gross**
2 **product of mineral production.**

3

4 (a) Commencing with mineral and mine production on
5 January 1, 2021, this section shall govern the payment of
6 all ad valorem taxes on the value of the gross product of
7 minerals and mine products, hereafter referred to as the
8 "ad valorem tax on mineral production". Any provisions of
9 this title related to the ad valorem tax on mineral
10 production that do not conform to the processes and
11 procedures set forth in this section are superseded by this
12 section to the extent the procedures conflict with this
13 section.

14

15 (b) Except as provided in this section, all mineral
16 and mine producers in the state shall report and pay the ad
17 valorem tax on mineral production for each county on a
18 monthly basis.

19

20 (c) Estimated payments. The ad valorem tax on mineral
21 production shall be reported and paid by the taxpayer,
22 subject to review and audit by the department, each year
23 through estimated payments on a monthly basis. Payments

1 shall be due and payable to the department on or before the
2 twenty-fifth day of the second month following the month of
3 production. The department shall establish a rate for each
4 county for each year of production. The rate for each
5 county shall equal lowest total ad valorem mills assessed
6 in the county in the immediately preceding year. Payments
7 under this subsection shall not be less than the amount
8 calculated by the taxpayer by applying the rate established
9 by the department for the applicable production year to the
10 value of the gross product of minerals and mine products
11 produced each month.

12

13 (d) Administration and reconciliation of estimated
14 payments. On June 1 of the calendar year following the year
15 of production, the department shall certify mineral
16 production to the counties as provided in W.S.
17 39-13-102(o)(i). The county treasurer, upon receiving the
18 tax list and warrant from the county assessor, shall notify
19 the state treasurer that the county is seeking distribution
20 of the ad valorem tax on mineral production paid by each
21 taxpayer. Upon receipt of notice from the county treasurer,
22 the state treasurer shall remit the full amount credited to
23 the county for that production year, itemized by taxpayer.

1 The county treasurer shall issue a receipt to the state
2 treasurer for all monies received and shall enter the
3 payments received on the tax list for each taxpayer.
4 Annually, on or before September 20, the county treasurer
5 shall send a written statement to each taxpayer by mail at
6 his last known address or, if offered by the county and
7 upon request of the taxpayer, by electronic transmission,
8 of any tax due or overpayment received after applying the
9 amount the county has received from that taxpayer through
10 monthly payments, itemized as to property description,
11 assessed value and mill levies. Failure to send notice, or
12 to demand payment of taxes, does not invalidate any taxes
13 due. The taxpayer shall reconcile the amount indicated on
14 the notice as follows:

15

16 (i) If the statement provided by the county
17 indicates additional taxes are due, the taxpayer shall pay
18 the additional amount due not later than December 20 of
19 that year;

20

21 (ii) If the statement by the county indicates
22 that the monthly payments resulted in an overpayment of the
23 taxes, the county treasurer shall refund taxes that were

1 overpaid under this section by December 20 of that year.
2 The taxpayer may elect to have the county treasurer retain
3 any overpayment amount and apply that amount towards other
4 ad valorem taxes due.

5
6 (e) Collection and distribution. Monthly and annual
7 payments of the ad valorem tax on mineral production shall
8 be collected by the department on behalf of each county.
9 The department shall properly account for the payments
10 received and distribute the payments promptly in the course
11 of ordinary business to the state treasurer. The department
12 shall notify the county treasurer each month regarding
13 payment amounts received from each taxpayer. The state
14 treasurer shall hold the payments and accrue any investment
15 earnings on behalf of the counties. Upon notification as
16 provided in subsection (d) of this section, the state
17 treasurer shall distribute the entire amount for each
18 county, accounting for the payments made by each taxpayer.
19 The state treasurer shall account for investment earnings
20 on a monthly basis and allocate that amount proportionally
21 to each county based on the amount of taxes due to be paid
22 to each county. Upon distribution of funds to counties
23 under this subsection, including investment earnings, the

1 amount shall be proportionally distributed by the county
2 treasurer to each taxing entity within the county as
3 provided in W.S. 39-13-111. The state treasurer may adopt
4 rules necessary to implement this subsection.

5

6 (f) If a taxpayer's liability for severance tax as
7 imposed under chapter 14 of this title is less than thirty
8 thousand dollars (\$30,000.00) for the preceding calendar
9 year, the monthly payment requirements for the ad valorem
10 tax on mineral production under this chapter are waived and
11 the taxpayer shall report and pay the ad valorem tax on
12 mineral production annually as provided in this subsection.
13 The annual report and payment shall be due and payable on
14 February 25 of the year following the year of production.
15 Annual payments shall be calculated by the taxpayer by
16 applying the mill levy rate established by the county
17 commissioners in the production year, along with any
18 adjustments made in accordance with law and reported by the
19 county to the department by January 15 of the year
20 following the production year, to the value of the gross
21 product of minerals and mine products produced in the
22 applicable year. Annual payments made under this subsection
23 shall be paid to the department and deposited with the

1 state treasurer as provided in subsection (e) of this
2 section and reconciled as provided in subsection (d) of
3 this section.

4

5 (g) Failure to make payments at the time they are due
6 and payable under this section shall subject the taxpayer
7 to the enforcement provisions of W.S. 39-13-108 and shall
8 also be subject to enforcement as follows:

9

10 (i) If the report and payment of tax required
11 under this section is not provided, the department shall
12 value the property from the best information available to
13 determine the fair market value of the property;

14

15 (ii) When a taxpayer producing valuable deposits
16 fails to pay the taxes when due, the purchaser of the
17 produced valuable deposit shall withhold and remit to the
18 department the taxpayer's subsequently accruing taxes on
19 the produced valuable deposit acquired by the purchaser.
20 This provision is subject to the following conditions:

21

22 (A) The department shall notify the
23 purchaser and taxpayer in writing on or before the first

1 day of the production month for which subsequent taxes are
2 due that the purchaser shall begin remitting taxes to the
3 department as provided in this section;

4

5 (B) The department shall notify the
6 purchaser in writing of the proper rates for calculating
7 taxes due and the percentage of the produced valuable
8 deposit subject to taxation by this section;

9

10 (C) The amount of tax paid by a purchaser
11 to the department, as required by this paragraph, shall
12 offset and satisfy all claims for payments for the purchase
13 of produced valuable deposits to the extent of the tax
14 payment;

15

16 (D) This paragraph shall not apply under
17 circumstances where the purchaser is required to continue
18 payments due to legal proceedings;

19

20 (E) This paragraph shall not apply until
21 after the purchaser has been notified in writing that
22 subsequent accruing taxes will be payable by the purchaser.

23

1 (iii) If a taxpayer producing valuable deposits
2 fails to pay the taxes when due, the department shall file
3 a notice of lien on behalf of the applicable county
4 pursuant to W.S. 39-13-108(d)(vi);

5

6 (iv) Taxes due together with interest, penalties
7 and costs shall be collectible by the department or county
8 by appropriate judicial proceedings.

9

10 **Section 2.** W.S. 39-13-107(b)(i)(D), 39-13-108(b)(i),
11 (ii) and (c)(ii)(C), 39-13-111 by creating a new subsection
12 (d), 39-14-107(b)(ii), 39-14-207(b)(ii), 39-14-307(b)(ii),
13 39-14-407(b)(ii), 39-14-507(b)(ii), 39-14-607(b)(ii) and
14 39-14-707(b)(ii) are amended to read:

15

16 **39-13-107. Compliance; collection procedures.**

17

18 (b) The following provisions shall apply to the
19 payment of taxes, distraint of property and deferral:

20

21 (i) The following shall apply to the payment of
22 taxes due:

23

1 (D) Except as otherwise provided in W.S.
2 39-13-113, taxes provided by this act are due and payable
3 at the office of the county treasurer of the county in
4 which the taxes are levied. Fifty percent (50%) of the
5 taxes are due on and after September 1 and payable on and
6 after November 10 in each year and the remaining fifty
7 percent (50%) of the taxes are due on and after March 1 and
8 payable on and after May 10 of the succeeding calendar year
9 except as hereafter provided. If the entire tax is paid on
10 or before December 31, no interest or penalty is
11 chargeable;

12

13 **39-13-108. Enforcement.**

14

15 (b) Interest. The following shall apply:

16

17 (i) Except as otherwise provided in W.S.
18 39-13-113, taxes provided by this act are due and payable
19 at the office of the county treasurer of the county in
20 which the taxes are levied. Fifty percent (50%) of the
21 taxes are due on and after September 1 and payable on and
22 after November 10 in each year and the remaining fifty
23 percent (50%) of the taxes are due on and after March 1 and

1 payable on and after May 10 of the succeeding calendar year
2 except as hereafter provided. If the entire tax is paid on
3 or before December 31, no interest or penalty is
4 chargeable;

5

6 (ii) The balance of any tax not paid as provided
7 by W.S. 39-13-113 or paragraph (i) of this subsection is
8 delinquent after the day on which it is payable and shall
9 bear interest at eighteen percent (18%) per annum until
10 paid or collected;

11

12 (c) Offenses and penalties. The following shall
13 apply:

14

15 (ii) Penalties. The following shall apply:

16

17 (C) If any person fails to file the reports
18 for ad valorem purposes required by W.S. 39-13-113 or
19 chapter 14 of this title by the due date or any extension
20 thereof, the department may impose a penalty equal to a
21 total of one percent (1%) of the taxable value of the
22 production from the well, mine or mining claim but not to
23 exceed five thousand dollars (\$5,000.00) for each calendar

1 month or portion thereof that the report or information is
2 late. If any person fails to file reports and other
3 information required by rule of the department other than
4 those required by chapter 14 of this title, the department
5 may impose a penalty of up to one thousand dollars
6 (\$1,000.00). The department may waive penalties under this
7 subparagraph for good cause. Penalties imposed under this
8 subparagraph may be appealed to the board.

9

10 **39-13-111. Distribution.**

11

12 (d) Taxes and investment earnings collected pursuant
13 to W.S. 39-13-113 shall be distributed as provided in this
14 section following final reconciliation of the taxes under
15 W.S. 39-13-113(d).

16

17 **39-14-107. Compliance; collection procedures.**

18

19 (b) Payment. The following shall apply:

20

21 (ii) Ad valorem taxes provided by this act are
22 due and payable:

23

1 (A) For the 2020 tax year and all preceding
2 tax years, at the office of the county treasurer of the
3 county in which the taxes are levied. Fifty percent (50%)
4 of the taxes are due on and after September 1 and payable
5 on and after November 10 in each year and the remaining
6 fifty percent (50%) of the taxes are due on and after March
7 1 and payable on and after May 10 of the succeeding
8 calendar year except as hereafter provided. If the entire
9 tax is paid on or before December 31, no interest or
10 penalty is chargeable. This subparagraph is repealed
11 effective January 1, 2022;

12

13 (B) Effective January 1, 2021 for tax year
14 2021 and each year thereafter, ad valorem taxes are due as
15 provided in W.S. 39-13-113.

16

17 **39-14-207. Compliance; collection procedures.**

18

19 (b) Payment. The following shall apply:

20

21 (ii) Ad valorem taxes are due and payable:

22

1 (A) For the 2020 tax year and all preceding
2 tax years, at the office of the county treasurer of the
3 county in which the taxes are levied. Fifty percent (50%)
4 of the taxes are due on and after September 1 and payable
5 on and after November 10 in each year and the remaining
6 fifty percent (50%) of the taxes are due on and after March
7 1 and payable on and after May 10 of the succeeding
8 calendar year except as hereafter provided. If the entire
9 tax is paid on or before December 31, no interest or
10 penalty is chargeable. This subparagraph is repealed
11 effective January 1, 2022;

12

13 (B) Effective January 1, 2021 for tax year
14 2021 and each year thereafter, ad valorem taxes are due as
15 provided in W.S. 39-13-113.

16

17 **39-14-307. Compliance; collection procedures.**

18

19 (b) Payment. The following shall apply:

20

21 (ii) Ad valorem taxes provided by this act are
22 due and payable:

23

1 (A) For the 2020 tax year and all preceding
2 tax years, at the office of the county treasurer of the
3 county in which the taxes are levied. Fifty percent (50%)
4 of the taxes are due on and after September 1 and payable
5 on and after November 10 in each year and the remaining
6 fifty percent (50%) of the taxes are due on and after March
7 1 and payable on and after May 10 of the succeeding
8 calendar year except as hereafter provided. If the entire
9 tax is paid on or before December 31, no interest or
10 penalty is chargeable. This subparagraph is repealed
11 effective January 1, 2022;

12

13 (B) Effective January 1, 2021 for tax year
14 2021 and each year thereafter, ad valorem taxes are due as
15 provided in W.S. 39-13-113.

16

17 **39-14-407. Compliance; collection procedures.**

18

19 (b) Payment. The following shall apply:

20

21 (ii) Ad valorem taxes provided by this act are
22 due and payable:

23

1 (A) For the 2020 tax year and all preceding
2 tax years, at the office of the county treasurer of the
3 county in which the taxes are levied. Fifty percent (50%)
4 of the taxes are due on and after September 1 and payable
5 on and after November 10 in each year and the remaining
6 fifty percent (50%) of the taxes are due on and after March
7 1 and payable on and after May 10 of the succeeding
8 calendar year except as hereafter provided. If the entire
9 tax is paid on or before December 31, no interest or
10 penalty is chargeable. This subparagraph is repealed
11 effective January 1, 2022;

12

13 (B) Effective January 1, 2021 for tax year
14 2021 and each year thereafter, ad valorem taxes are due as
15 provided in W.S. 39-13-113.

16

17 **39-14-507. Compliance; collection procedures.**

18

19 (b) Payment. The following shall apply:

20

21 (ii) Ad valorem taxes provided by this act are
22 due and payable:

23

1 (A) For the 2020 tax year and all preceding
2 tax years, at the office of the county treasurer of the
3 county in which the taxes are levied. Fifty percent (50%)
4 of the taxes are due on and after September 1 and payable
5 on and after November 10 in each year and the remaining
6 fifty percent (50%) of the taxes are due on and after March
7 1 and payable on and after May 10 of the succeeding
8 calendar year except as hereafter provided. If the entire
9 tax is paid on or before December 31, no interest or
10 penalty is chargeable. This subparagraph is repealed
11 effective January 1, 2022;

12

13 (B) Effective January 1, 2021 for tax year
14 2021 and each year thereafter, ad valorem taxes are due as
15 provided in W.S. 39-13-113.

16

17 **39-14-607. Compliance; collection procedures.**

18

19 (b) Payment. The following shall apply:

20

21 (ii) Ad valorem taxes provided by this act are
22 due and payable:

23

1 (A) For the 2020 tax year and all preceding
2 tax years, at the office of the county treasurer of the
3 county in which the taxes are levied. Fifty percent (50%)
4 of the taxes are due on and after September 1 and payable
5 on and after November 10 in each year and the remaining
6 fifty percent (50%) of the taxes are due on and after March
7 1 and payable on and after May 10 of the succeeding
8 calendar year except as hereafter provided. If the entire
9 tax is paid on or before December 31, no interest or
10 penalty is chargeable. This subparagraph is repealed
11 effective January 1, 2022;

12

13 (B) Effective January 1, 2021 for tax year
14 2021 and each year thereafter, ad valorem taxes are due as
15 provided in W.S. 39-13-113.

16

17 **39-14-707. Compliance; collection procedures.**

18

19 (b) Payment. The following shall apply:

20

21 (ii) Ad valorem taxes provided by this act are
22 due and payable:

23

1 (A) For the 2020 tax year and all preceding
2 tax years, at the office of the county treasurer of the
3 county in which the taxes are levied. Fifty percent (50%)
4 of the taxes are due on and after September 1 and payable
5 on and after November 10 in each year and the remaining
6 fifty percent (50%) of the taxes are due on and after March
7 1 and payable on and after May 10 of the succeeding
8 calendar year except as hereafter provided. If the entire
9 tax is paid on or before December 31, no interest or
10 penalty is chargeable. This subparagraph is repealed
11 effective January 1, 2022;

12

13 (B) Effective January 1, 2021 for tax year
14 2021 and each year thereafter, ad valorem taxes are due as
15 provided in W.S. 39-13-113.

16

17 **Section 3.**

18

19 (a) The legislature recognizes that there will be a
20 transition in calendar years 2021 and 2022 in which mineral
21 producers will pay the ad valorem tax on mineral production
22 on two (2) different schedules. The legislature finds that
23 this is taxation of two (2) separate and distinct taxable

1 events. For calendar years 2021 and 2022 only, in addition
2 to the monthly payment of ad valorem tax on mineral
3 production as provided in W.S. 39-13-113, the legislature
4 recognizes that mineral producers shall also owe the
5 following pursuant to the processes and procedures in place
6 prior to January 1, 2021 subject to the following options:

7

8 (i) For the ad valorem tax on mineral production
9 from calendar year 2019 of which the second half of the
10 payment is due by May 10, 2021 unless the entire amount was
11 paid by December 31, 2020. If a taxpayer has paid the
12 entire amount by December 31, 2020, the taxpayer shall be
13 entitled to a tax credit equal to seven percent (7%) of the
14 amount paid if the county treasurer certifies to the
15 department that the taxpayer does not have any unpaid
16 delinquent ad valorem tax in the county. The credit under
17 this paragraph may be applied against any liability the
18 taxpayer has for either severance taxes or for two and
19 seventy-six hundredths percent (2.76%) sales and use tax,
20 representing the state's portion of sales and use taxes.
21 The credit under this paragraph shall be used as determined
22 by the taxpayer in a single calendar year within three (3)

1 calendar years following the date the taxpayer qualifies
2 for the credit;

3
4 (ii) Except as provided in paragraph (iii) of
5 this subsection, for the ad valorem tax on mineral
6 production from calendar year 2020 of which the first half
7 of the payment for 2020 production is due by November 10,
8 2021 and the second half of the payment for 2020 production
9 is due by May 10, 2022 unless the entire amount was paid by
10 December 31, 2021. If a taxpayer has paid the entire amount
11 by December 31, 2021, the taxpayer shall be entitled to a
12 tax credit equal to five percent (5%) of the amount paid if
13 the county treasurer certifies to the department that the
14 taxpayer does not have any unpaid delinquent ad valorem tax
15 in the county. The credit under this paragraph may be
16 applied against any liability the taxpayer has for either
17 severance taxes or for two and seventy-six hundredths
18 percent (2.76%) sales and use tax, representing the state's
19 portion of sales and use taxes. The credit under this
20 paragraph shall be used as determined by the taxpayer in a
21 single calendar year within three (3) calendar years
22 following the date the taxpayer qualifies for the credit;

23

1 (iii) In lieu of paragraphs (i) and (ii) of this
2 subsection, a county may agree with a taxpayer to establish
3 a payment schedule for the ad valorem tax on mineral
4 production from calendar years 2019 and 2020, providing for
5 equal monthly payments with the first payment due November
6 10, 2021 and payments extending for a period not to exceed
7 seventy-two (72) months at an interest rate of eight
8 percent (8%) per annum. Any county accepting payments under
9 this paragraph may seek a loan from the state treasurer as
10 provided in subsection (b) of this section;

11

12 (iv) The department shall properly account for
13 any credits that a taxpayer qualifies for under this
14 section and shall apply the credits in the manner selected
15 by the taxpayer. The department may adopt rules necessary
16 to implement this section;

17

18 (v) Failure to pay any tax due pursuant to the
19 procedures in this section shall be subject to penalties
20 and interest as provided by law, with penalties and
21 interest accruing from the date that payment would have
22 been due and payable under the procedures in place prior to
23 the effective date of this act.

1

2 (b) There is appropriated ten million dollars
3 (\$10,000,000.00) from the legislative stabilization reserve
4 account to the state treasurer. This amount shall only be
5 used to make loans to counties that have agreed to accept
6 payments from taxpayers under paragraph (a)(iii) of this
7 section and require a loan to cover funding shortfalls
8 caused by the delay in payment of taxes. Loans shall be
9 repaid by the county on a schedule determined by the state
10 treasurer at an interest rate of eight percent (8%) per
11 annum. Repayments of loans and interest made under this
12 section shall be deposited in the legislative stabilization
13 reserve account.

14

15 (c) There is appropriated to the department of
16 revenue from the general fund amounts necessary to credit
17 taxpayer accounts for any tax credits authorized under
18 paragraphs (a)(i) and (ii) of this section. Funds credited
19 under this subsection shall be distributed as provided by
20 law for the applicable tax revenues. The department shall
21 keep complete records of all monies distributed under this
22 subsection and report the total amount of credits and total
23 distributions from the general fund for the prior fiscal

1 year by September 15 to the state auditor, state treasurer,
2 governor and the legislature.

3

4 **Section 4.** This act is effective July 1, 2020.

5

6

(END)