HOUSE BILL NO. HB0049

Natural gas valuation.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

AN ACT relating to taxation and revenue; providing for the valuation of certain natural gas for taxation purposes; providing definitions; specifying applicability; requiring application and a report; and providing for an effective date.

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

**Section 1.** W.S. 39-14-201(a) by creating new paragraphs (xxxiii) through (xxxvii) and 39-14-203(b)(vi)(intro), (C) and by creating a new subparagraph (E) are amended to read:

**39-14-201. Definitions.**

(a) As used in this article:

(xxxiii) For the purposes of W.S. 39-14-203(b)(vi)(E), "processing facility" means a facility where any activity occurs which changes the well stream's physical or chemical characteristics, enhances the marketability of the stream or enhances the value of the separate components of the stream. Processing in the facility includes any activity included in the definition of processing provided by paragraph (xviii) of this subsection;

(xxxiv) For the purposes of W.S. 39-14-203(b)(vi)(E), "rate of return" means the industrial rate associated with the Standard and Poor's "B" rating for ten (10) year bonds, and shall be the monthly average rate as published in Standard and Poor's Bond Guide for the first month of the production year;

(xxxv) For the purposes of W.S. 39-14-203(b)(vi)(E), "return on investment" means the product of the rate of return multiplied by the gross capital investment relating to the processing facility on the financial records of the taxpayer. The gross capital investment shall be calculated as the balances on January 1 plus December 31 of the production year, divided by two (2);

(xxxvi) For the purposes of W.S. 39-14-203(b)(vi)(E), "total direct processing costs" means costs incurred within the processing facility attributable to processing the natural gas stream. The costs include salaries and benefits; contract labor; repairs and maintenance including processing facility turnarounds; fuel, power and utilities; chemicals; processing facility premise lease costs to nonaffiliated parties; waste water treatment; disposal of byproduct and waste products; safety; costs of environmental permitting and monitoring, federal and state environmental compliance fees, and remediation of environmental accidents; laboratory; distributive control system; and ad valorem taxes on real and tangible personal property excluding the gross products tax;

(xxxvii) For the purposes of W.S. 39-14-203(b)(vi)(E), "gross capital investment" means the total gross capitalized investment of a processing facility as defined in paragraph (xxxiii) of this subsection. The gross capital investment shall be determined in accordance with generally accepted accounting practices.

**39-14-203. Imposition.**

(b) Basis of tax. The following shall apply:

(vi) Except as otherwise provided in subparagraph (E) of this paragraph and paragraph (vii) of this subsection, in the event the crude oil, lease condensate or natural gas production as provided by paragraphs (iii) and (iv) of this subsection is not sold at or prior to the point of valuation by bona fide arms-length sale, or, except as otherwise provided, if the production is used without sale, the department shall identify the method it intends to apply under this paragraph to determine the fair market value and notify the taxpayer of that method on or before September 1 of the year preceding the year for which the method shall be employed. The department shall determine the fair market value by application of one (1) of the following methods:

(C) Netback - The fair market value of crude oil, lease condensate or natural gas which is processed in a processing facility not owned in part or in total by the producer is the sales price minus expenses incurred by the producer for transporting produced minerals to the point of sale and third party processing fees;~~. The netback method shall not be utilized in determining the taxable value of natural gas which is processed by the producer of the natural gas;~~

(E) Netback - Producer/processor: the fair market value of natural gas which is processed in a processing facility owned in part or in total by the producer of the natural gas being processed shall be:

(I) The total amount received from the sale of the natural gas minus the total direct processing costs, return on investment and transportation expenses incurred by the producer-processor from the point of valuation to the point of sale;

(II) There shall be one (1) point of valuation for all interest owners of the processing facility in accordance with paragraph (iv) of this subsection;

(III) A minimum fair market value shall be established for each production year. The minimum fair market value shall be the producer's variable direct costs of producing the natural gas, which shall mean all direct expenditures incurred prior to the point of valuation that are specifically attributable to producing the natural gas which was produced during the production year. Variable direct costs of producing include labor costs for field and production personnel directly responsible for extracting the minerals; the costs of all materials, equipment and supplies used for and during production; repairs and maintenance on the wells; cost of fuel, power and other utilities used for production and maintenance; and gathering and transportation expenses to the point of valuation. As used in this subdivision, "variable direct costs of producing" shall not include any costs which the producer has expended or committed to expend prior to the production year or which are not specifically related to physically producing the natural gas during the production year, including preparation of the well site; tangible and intangible drilling costs; dry hole expense; depreciation, depletion and amortization of wells and well equipment; ad valorem property taxes; royalties or any production taxes.

**Section 2.** W.S. 39-14-203(b)(vi)(D) and (ix) is repealed.

**Section 3.** This act shall apply to all production on and after January 1, 2005.

**Section 4.**

(a) Effective January 1, 2005, the department shall apply the netback valuation methodology to any producer otherwise qualifying for that method as provided by this act. The methodology shall be applied for three (3) consecutive years.

(b) The department shall report to the governor and the joint revenue interim committee on the application of the methodology on or before September 1, 2007.

**Section 5.** This act is effective January 1, 2005.

(END)