

HOUSE BILL NO. HB0043

Natural gas valuation.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

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

5

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

7

8 **Section 1.** W.S. 39-14-201(a) by creating new  
9 paragraphs (xxxiii) through (xxxvi) and  
10 39-14-203(b)(vi)(intro), (C) and by creating new  
11 subparagraphs (E) and (F) are amended to read:

12

13 **39-14-201. Definitions.**

14

15 (a) As used in this article:

16

1           (xxxiii) For the purposes of W.S.  
2 39-14-203(b)(vi)(E), "rate of return" means the rate of ten  
3 and twenty-five hundredths percent (10.25%) per annum;

4  
5           (xxxiv) For the purposes of W.S.  
6 39-14-203(b)(vi)(E), "return on investment" means the  
7 product of the rate of return multiplied by the gross  
8 capital investment relating to the processing facility on  
9 the financial records of the taxpayer;

10

11           (xxxv) For the purposes of W.S.  
12 39-14-203(b)(vi)(E), "total direct processing costs" means  
13 costs incurred within the processing facility. The costs  
14 include salaries and benefits; contract labor; repairs and  
15 maintenance including processing facility turnarounds;  
16 fuel, power and utilities; chemicals; processing facility  
17 premise lease costs to nonaffiliated parties; waste water  
18 treatment; disposal of byproduct and waste products;  
19 safety; costs of environmental permitting and monitoring,  
20 federal and state environmental compliance fees, and  
21 remediation of environmental accidents; laboratory;  
22 distributive control system; and ad valorem taxes on real  
23 and tangible personal property excluding the gross products  
24 tax. The producer-processor shall be entitled to its

1 proportionate share of the total direct processing costs as  
2 measured by its percentage of inlet volumes;

3  
4 (xxxvi) For the purposes of W.S.  
5 39-14-203(b)(vi)(E), "gross capital investment" means the  
6 total gross capitalized investment in the processing  
7 facility and shall be determined in accordance with  
8 generally accepted accounting principles. The gross  
9 capital investment shall be calculated based on the  
10 company's books and records as of January 1 plus December  
11 31 of the production year, divided by two (2). For  
12 purposes of this paragraph, gross capital investment shall  
13 not include any investment that is not utilized as a  
14 functional component of the facility. However, gross  
15 capital investment shall include nonfunctioning items which  
16 are under repair but are required and currently functioning  
17 items that are not in continuous operation because they are  
18 redundant components required for emergency or auxiliary  
19 purposes.

20  
21 **39-14-203. Imposition.**

22  
23 (b) Basis of tax. The following shall apply:

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

15

16           (C) Netback - The fair market value is the  
17 sales price minus expenses incurred by the producer for  
18 transporting produced minerals to the point of sale and  
19 third party processing fees<sup>i</sup>. ~~The netback method shall not~~  
20 ~~be utilized in determining the taxable value of natural gas~~  
21 ~~which is processed by the producer of the natural gas;~~

22

23           (E) Netback - Producer/processor: the fair  
24 market value of natural gas which is processed in a

1 processing facility owned in part or in total by the  
2 producer of the natural gas being processed shall be:

3

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

9

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

14

15 (III) A minimum fair market value  
16 shall be established for each production year. The minimum  
17 fair market value shall be the producer's variable direct  
18 costs of producing the natural gas, which shall mean all  
19 direct expenditures incurred prior to the point of  
20 valuation that are specifically attributable to producing  
21 the natural gas which was produced during the production  
22 year. Variable direct costs of producing include labor  
23 costs for field and production personnel directly  
24 responsible for extracting the minerals; the costs of all

1 materials, equipment and supplies used for and during  
2 production; repairs and maintenance on the wells; cost of  
3 fuel, power and other utilities used for production and  
4 maintenance; and gathering and transportation expenses to  
5 the point of valuation. As used in this subdivision,  
6 "variable direct costs of producing" shall not include any  
7 costs which the producer has expended or committed to  
8 expend prior to the production year or which are not  
9 specifically related to physically producing the natural  
10 gas during the production year, including preparation of  
11 the well site; tangible and intangible drilling costs; dry  
12 hole expense; depreciation, depletion and amortization of  
13 wells and well equipment; ad valorem property taxes;  
14 royalties or any production taxes.

15

16 (F) Effective January 1, 2006, the  
17 department shall apply the netback method as provided in  
18 subparagraph (E) of this paragraph to any producer-  
19 processor not otherwise qualifying for the comparable value  
20 method as provided by subparagraph (B) of this paragraph.

21

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

24

1           **Section 3.** The department shall report to the  
2 governor and the joint revenue interim committee on the  
3 operation of the netback method, the taxable values  
4 generated by the netback method and compare the taxable  
5 values generated by the netback method with those that  
6 would have been generated by use of the comparable value  
7 method and proportionate profits method. The report shall  
8 be submitted not later than October 1, 2008.

9

10           **Section 4.** This act shall apply to all production on  
11 and after January 1, 2006.

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13           **Section 5.** This act is effective January 1, 2006.

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(END)