

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, 2023;
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, 2023, 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11 procedures set forth in this section are superseded by this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 on behalf of the
15 counties. Upon notification as provided in subsection (d)
16 of this section, the state treasurer shall distribute the
17 entire amount for each county, accounting for the payments
18 made by each taxpayer. The state treasurer shall account
19 for investment earnings on a monthly basis and shall
20 deposit the investment earnings in the school foundation
21 program account. Upon distribution of funds to counties
22 under this subsection the amount shall be proportionally
23 distributed by the county treasurer to each taxing entity

1 within the county as provided in W.S. 39-13-111. The state
2 treasurer may adopt rules necessary to implement this
3 subsection.

4

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

1 section and reconciled as provided in subsection (d) of
2 this section.

3

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

8

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

13

14 (ii) If a taxpayer producing valuable deposits
15 fails to pay the taxes when due, the department shall file
16 a notice of lien on behalf of the applicable county
17 pursuant to W.S. 39-13-108(d)(vi);

18

19 (iii) Taxes due together with interest,
20 penalties and costs shall be collectible by the department
21 or county by appropriate judicial proceedings.

22

1 (h) Notwithstanding subsection (a) of this section or
2 any other provision of law, a taxpayer may elect to
3 initiate the payment of ad valorem taxes under this section
4 beginning January 1, 2021 or January 1, 2022 by notifying
5 the department prior to February 1 of the year of election.
6 If a taxpayer makes an election under this subsection, the
7 taxpayer shall be subject to the requirements of this
8 section for the ad valorem tax on mineral production for
9 the year of election and each year thereafter.

10

11 (j) Notwithstanding subsection (a) of this section or
12 any other provision of law, upon receiving an application
13 from a taxpayer a county may enter into an agreement with
14 the taxpayer to accept payments for the ad valorem tax on
15 mineral production under the processes and procedures in
16 place prior to the effective date of this section, subject
17 to the following:

18

19 (i) Prior to entering into any agreement under
20 this subsection, the county shall:

21

22 (A) Establish uniform eligibility criteria
23 and an application process;

1

2 (B) Conduct at least one (1) public meeting
3 related to the proposed agreement. The county shall notify
4 all taxing authorities that receive any taxes that may be
5 impacted by the agreement of the meeting at least fourteen
6 (14) days prior to the meeting.

7

8 (ii) Upon entering into any agreement under this
9 subsection, the county shall notify the department. The
10 notification under this subsection shall be provided no
11 later than February 1, 2022 for all taxpayers;

12

13 (iii) Upon receipt of notice from a county under
14 this subsection, the department shall exempt the taxpayer
15 from the provisions of this section and the taxpayer shall
16 be subject to all processes, procedures and requirements in
17 place prior to the effective date of this section;

18

19 (iv) No taxpayer shall be eligible for an
20 agreement under this subsection for mineral production from
21 any property acquired on or after the effective date of
22 this section.

23

1 **Section 2.** W.S. 39-13-107(b)(i)(D), 39-13-108(b)(i),
2 (ii) and (c)(ii)(C), 39-13-111 by creating a new subsection
3 (d), 39-14-107(b)(ii), 39-14-207(b)(ii), 39-14-307(b)(ii),
4 39-14-407(b)(ii), 39-14-507(b)(ii), 39-14-607(b)(ii) and
5 39-14-707(b)(ii) are amended to read:

6

7 **39-13-107. Compliance; collection procedures.**

8

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

11

12 (i) The following shall apply to the payment of
13 taxes due:

14

15 (D) Except as otherwise provided in W.S.
16 39-13-113, taxes provided by this act are due and payable
17 at the office of the county treasurer of the county in
18 which the taxes are levied. Fifty percent (50%) of the
19 taxes are due on and after September 1 and payable on and
20 after November 10 in each year and the remaining fifty
21 percent (50%) of the taxes are due on and after March 1 and
22 payable on and after May 10 of the succeeding calendar year
23 except as hereafter provided. If the entire tax is paid on

1 or before December 31, no interest or penalty is
2 chargeable;

3

4 **39-13-108. Enforcement.**

5

6 (b) Interest. The following shall apply:

7

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

19

20 (ii) The balance of any tax not paid as provided
21 by W.S. 39-13-113 or paragraph (i) of this subsection is
22 delinquent after the day on which it is payable and shall

1 bear interest at eighteen percent (18%) per annum until
2 paid or collected;

3

4 (c) Offenses and penalties. The following shall
5 apply:

6

7 (ii) Penalties. The following shall apply:

8

9 (C) If any person fails to file the reports
10 for ad valorem purposes required by W.S. 39-13-113 or
11 chapter 14 of this title by the due date or any extension
12 thereof, the department may impose a penalty equal to a
13 total of one percent (1%) of the taxable value of the
14 production from the well, mine or mining claim but not to
15 exceed five thousand dollars (\$5,000.00) for each calendar
16 month or portion thereof that the report or information is
17 late. If any person fails to file reports and other
18 information required by rule of the department other than
19 those required by chapter 14 of this title, the department
20 may impose a penalty of up to one thousand dollars
21 (\$1,000.00). The department may waive penalties under this
22 subparagraph for good cause. Penalties imposed under this
23 subparagraph may be appealed to the board.

1

2 **39-13-111. Distribution.**

3

4 (d) Taxes collected pursuant to W.S. 39-13-113 shall
5 be distributed as provided in this section following final
6 reconciliation of the taxes under W.S. 39-13-113(d).

7

8 **39-14-107. Compliance; collection procedures.**

9

10 (b) Payment. The following shall apply:

11

12 (ii) Ad valorem taxes provided by this act are
13 due and payable:

14

15 (A) For the 2022 tax year and all preceding
16 tax years, at the office of the county treasurer of the
17 county in which the taxes are levied. Fifty percent (50%)
18 of the taxes are due on and after September 1 and payable
19 on and after November 10 in each year and the remaining
20 fifty percent (50%) of the taxes are due on and after March
21 1 and payable on and after May 10 of the succeeding
22 calendar year except as hereafter provided. If the entire
23 tax is paid on or before December 31, no interest or

1 penalty is chargeable. This subparagraph is repealed
2 effective January 1, 2024;

3

4 (B) Effective January 1, 2023 for tax year
5 2023 and each year thereafter, ad valorem taxes are due as
6 provided in W.S. 39-13-113.

7

8 **39-14-207. Compliance; collection procedures.**

9

10 (b) Payment. The following shall apply:

11

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

13

14 (A) For the 2022 tax year and all preceding
15 tax years, at the office of the county treasurer of the
16 county in which the taxes are levied. Fifty percent (50%)
17 of the taxes are due on and after September 1 and payable
18 on and after November 10 in each year and the remaining
19 fifty percent (50%) of the taxes are due on and after March
20 1 and payable on and after May 10 of the succeeding
21 calendar year except as hereafter provided. If the entire
22 tax is paid on or before December 31, no interest or

1 penalty is chargeable. This subparagraph is repealed
2 effective January 1, 2024;

3

4 (B) Effective January 1, 2023 for tax year
5 2023 and each year thereafter, ad valorem taxes are due as
6 provided in W.S. 39-13-113.

7

8 **39-14-307. Compliance; collection procedures.**

9

10 (b) Payment. The following shall apply:

11

12 (ii) Ad valorem taxes provided by this act are
13 due and payable:

14

15 (A) For the 2022 tax year and all preceding
16 tax years, at the office of the county treasurer of the
17 county in which the taxes are levied. Fifty percent (50%)
18 of the taxes are due on and after September 1 and payable
19 on and after November 10 in each year and the remaining
20 fifty percent (50%) of the taxes are due on and after March
21 1 and payable on and after May 10 of the succeeding
22 calendar year except as hereafter provided. If the entire
23 tax is paid on or before December 31, no interest or

1 penalty is chargeable. This subparagraph is repealed
2 effective January 1, 2024;

3

4 (B) Effective January 1, 2023 for tax year
5 2023 and each year thereafter, ad valorem taxes are due as
6 provided in W.S. 39-13-113.

7

8 **39-14-407. Compliance; collection procedures.**

9

10 (b) Payment. The following shall apply:

11

12 (ii) Ad valorem taxes provided by this act are
13 due and payable:

14

15 (A) For the 2022 tax year and all preceding
16 tax years, at the office of the county treasurer of the
17 county in which the taxes are levied. Fifty percent (50%)
18 of the taxes are due on and after September 1 and payable
19 on and after November 10 in each year and the remaining
20 fifty percent (50%) of the taxes are due on and after March
21 1 and payable on and after May 10 of the succeeding
22 calendar year except as hereafter provided. If the entire
23 tax is paid on or before December 31, no interest or

1 penalty is chargeable. This subparagraph is repealed
2 effective January 1, 2024;

3

4 (B) Effective January 1, 2023 for tax year
5 2023 and each year thereafter, ad valorem taxes are due as
6 provided in W.S. 39-13-113.

7

8 **39-14-507. Compliance; collection procedures.**

9

10 (b) Payment. The following shall apply:

11

12 (ii) Ad valorem taxes provided by this act are
13 due and payable:

14

15 (A) For the 2022 tax year and all preceding
16 tax years, at the office of the county treasurer of the
17 county in which the taxes are levied. Fifty percent (50%)
18 of the taxes are due on and after September 1 and payable
19 on and after November 10 in each year and the remaining
20 fifty percent (50%) of the taxes are due on and after March
21 1 and payable on and after May 10 of the succeeding
22 calendar year except as hereafter provided. If the entire
23 tax is paid on or before December 31, no interest or

1 penalty is chargeable. This subparagraph is repealed
2 effective January 1, 2024;

3

4 (B) Effective January 1, 2023 for tax year
5 2023 and each year thereafter, ad valorem taxes are due as
6 provided in W.S. 39-13-113.

7

8 **39-14-607. Compliance; collection procedures.**

9

10 (b) Payment. The following shall apply:

11

12 (ii) Ad valorem taxes provided by this act are
13 due and payable:

14

15 (A) For the 2022 tax year and all preceding
16 tax years, at the office of the county treasurer of the
17 county in which the taxes are levied. Fifty percent (50%)
18 of the taxes are due on and after September 1 and payable
19 on and after November 10 in each year and the remaining
20 fifty percent (50%) of the taxes are due on and after March
21 1 and payable on and after May 10 of the succeeding
22 calendar year except as hereafter provided. If the entire
23 tax is paid on or before December 31, no interest or

1 penalty is chargeable. This subparagraph is repealed
2 effective January 1, 2024;

3

4 (B) Effective January 1, 2023 for tax year
5 2023 and each year thereafter, ad valorem taxes are due as
6 provided in W.S. 39-13-113.

7

8 **39-14-707. Compliance; collection procedures.**

9

10 (b) Payment. The following shall apply:

11

12 (ii) Ad valorem taxes provided by this act are
13 due and payable:

14

15 (A) For the 2022 tax year and all preceding
16 tax years, at the office of the county treasurer of the
17 county in which the taxes are levied. Fifty percent (50%)
18 of the taxes are due on and after September 1 and payable
19 on and after November 10 in each year and the remaining
20 fifty percent (50%) of the taxes are due on and after March
21 1 and payable on and after May 10 of the succeeding
22 calendar year except as hereafter provided. If the entire
23 tax is paid on or before December 31, no interest or

1 penalty is chargeable. This subparagraph is repealed
2 effective January 1, 2024;

3

4 (B) Effective January 1, 2023 for tax year
5 2023 and each year thereafter, ad valorem taxes are due as
6 provided in W.S. 39-13-113.

7

8 **Section 3.**

9

10 (a) The legislature recognizes that there will be a
11 transition period in which mineral producers will pay the
12 ad valorem tax on mineral production on two (2) different
13 schedules. The legislature finds that this is taxation of
14 two (2) separate and distinct taxable events. Except as
15 otherwise provided in this subsection, for calendar years
16 2023 and 2024 only, in addition to the monthly payment of
17 ad valorem tax on mineral production as provided in W.S.
18 39-13-113, the legislature recognizes that mineral
19 producers shall also owe the following pursuant to the
20 processes and procedures in place prior to January 1, 2023
21 subject to the following options:

22

1 (i) If a taxpayer makes an election as provided
2 for in W.S. 39-13-113(h), as created by section 1 of this
3 act, commencing in 2022, for the ad valorem tax on mineral
4 production from calendar year 2020 of which the second half
5 of the payment is due by May 10, 2022, the taxpayer shall
6 be entitled to a tax credit equal to five percent (5%) of
7 the amount paid if the county treasurer certifies to the
8 department that the taxpayer does not have any unpaid
9 delinquent ad valorem tax in the county. The credit under
10 this paragraph may be applied against any liability the
11 taxpayer has for either severance taxes or for two and
12 seventy-six hundredths percent (2.76%) sales and use tax,
13 representing the state's portion of sales and use taxes.
14 The credit under this paragraph shall be used as determined
15 by the taxpayer in a single calendar year within three (3)
16 calendar years following the date the taxpayer qualifies
17 for the credit;

18

19 (ii) Except as provided in paragraph (iii) of
20 this subsection and for a taxpayer who makes an election as
21 provided for in W.S. 39-13-113(h) commencing in 2022, for
22 the ad valorem tax on mineral production from calendar year
23 2021 of which the first half of the payment is due by

1 November 10, 2022 and the second half of the payment is due
2 by May 10, 2023, the taxpayer shall be entitled to a tax
3 credit equal to five percent (5%) of the amount paid if the
4 county treasurer certifies to the department that the
5 taxpayer does not have any unpaid delinquent ad valorem tax
6 in the county. The credit under this paragraph may be
7 applied against any liability the taxpayer has for either
8 severance taxes or for two and seventy-six hundredths
9 percent (2.76%) sales and use tax, representing the state's
10 portion of sales and use taxes. The credit under this
11 paragraph shall be used as determined by the taxpayer in a
12 single calendar year within three (3) calendar years
13 following the date the taxpayer qualifies for the credit;

14

15 (iii) In lieu of paragraphs (i), (ii), (iv) and
16 (v) of this subsection, a county may agree with a taxpayer
17 to establish a payment schedule for each or any combination
18 of the ad valorem tax payments on mineral tax production
19 that would otherwise be due including the second half of
20 the payment for 2020 mineral production that would
21 otherwise be due May 10, 2022, the first half of the
22 payment for 2021 mineral production that would otherwise be
23 due November 10, 2022 and the second half of 2021 mineral

1 production that would otherwise be due May 10, 2023. The
2 agreement under this paragraph shall provide for equal
3 monthly payments with the first payment due December 20,
4 2022 and payments extending for a period not to exceed one
5 hundred twenty (120) months. The interest rate charged on
6 payments under this subsection shall be:

7

8 (A) Zero percent (0%) if the payment plan
9 is for forty-eight (48) months or less;

10

11 (B) Three percent (3%) if the payment plan
12 is for more than forty-eight (48) months not to exceed
13 seventy-two (72) months;

14

15 (C) Four percent (4%) if the payment plan
16 is more than seventy-two (72) months not to exceed one
17 hundred twenty (120) months.

18

19 (iv) If a taxpayer makes an election as provided
20 for in W.S. 39-13-113(h), as created by section 1 of this
21 act, commencing in 2021 the taxpayer shall be entitled to a
22 tax credit equal to ten percent (10%) of the amount paid
23 for the ad valorem tax on mineral production from calendar

1 year 2019 of which the second half of the payment is due by
2 May 10, 2021 if the county treasurer certifies to the
3 department that the taxpayer does not have any unpaid
4 delinquent ad valorem tax in the county. The credit under
5 this paragraph may be applied against any liability the
6 taxpayer has for either severance taxes or for two and
7 seventy-six hundredths percent (2.76%) sales and use tax,
8 representing the state's portion of sales and use taxes.
9 The credit under this paragraph shall be used as determined
10 by the taxpayer in a single calendar year within three (3)
11 calendar years following the date the taxpayer qualifies
12 for the credit;

13

14 (v) If a taxpayer makes an election as provided
15 for in W.S. 39-13-113(h) commencing in 2021, the taxpayer
16 shall be entitled to a tax credit equal to ten percent
17 (10%) of the amount paid for the ad valorem tax on mineral
18 production from calendar year 2020 of which the first half
19 of the payment for 2020 production is due by November 10,
20 2021 and the second half of the payment for 2020 production
21 is due by May 10, 2022 if the county treasurer certifies to
22 the department that the taxpayer does not have any unpaid
23 delinquent ad valorem tax in the county. The credit under

1 this paragraph may be applied against any liability the
2 taxpayer has for either severance taxes or for two and
3 seventy-six hundredths percent (2.76%) sales and use tax,
4 representing the state's portion of sales and use taxes.
5 The credit under this paragraph shall be used as determined
6 by the taxpayer in a single calendar year within three (3)
7 calendar years following the date the taxpayer qualifies
8 for the credit;

9

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

15

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

22

1 (b) There is appropriated ten million dollars
2 (\$10,000,000.00) from the legislative stabilization reserve
3 account to the state treasurer. This amount shall only be
4 used to make loans to counties that have agreed to accept
5 payments from taxpayers under paragraph (a)(iii) of this
6 section and require a loan to cover funding shortfalls
7 caused by the delay in payment of taxes on a first-come
8 first-served basis. No county shall be eligible for a loan
9 under this subsection for any agreement made with a
10 taxpayer pursuant to W.S. 39-13-113(j), as created by
11 section 1 of this act. Loans shall be repaid by the county
12 on a schedule determined by the state treasurer at an
13 interest rate of zero percent (0%) per annum. Repayments of
14 loans and interest made under this section shall be
15 deposited in the legislative stabilization reserve account.

16

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

1 report the total amount of credits and total distributions
2 from the general fund for the prior fiscal year by
3 September 15 to the state auditor, state treasurer,
4 governor and the legislature.

5

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

7

8

(END)