

## HOUSE BILL NO. HB0224

Severance and sales and use taxes.

Sponsored by: Representative(s) Harshman

A BILL

for

1 AN ACT relating to taxation; modifying various severance  
2 tax rates; specifying requirements for establishing values  
3 for tax rates; providing for the imposition of an  
4 additional sale and use tax; specifying requirements for  
5 imposition of the additional tax; providing for  
6 distribution of funds; making conforming amendments and  
7 amending obsolete provisions relating to sales and use tax  
8 rates; and providing for an effective date.

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

11

12 **Section 1.** W.S. 39-14-204(a)(intro), by creating new  
13 paragraphs (v) and (vi) and by creating a new subsection  
14 (b), 39-14-205(a), (h) and (n), 39-14-211(a),  
15 39-14-801(b)(intro), 39-15-104(h)(intro) and by creating a  
16 new subsection (j), 39-15-211(b)(intro) and by creating a

1 new subsection (r), 39-15-303(b)(iii), 39-15-306(b)(i) and  
2 (v), 39-16-104 by creating a new subsection (g),  
3 39-16-107(a)(vi), 39-16-111 by creating a new subsection  
4 (p), 39-16-303(b)(iii) and 39-16-306(b)(i) and (v) are  
5 amended to read:

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7 **39-14-204. Tax rate.**

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9 (a) Except as otherwise provided by this section and  
10 W.S. 39-14-205, the total severance tax on crude oil, lease  
11 condensate or natural gas shall be ~~six percent (6%),~~  
12 ~~comprising one and one half percent (1.5%) imposed by the~~  
13 ~~Wyoming constitution article 15, section 19 and the~~  
14 ~~remaining amount~~ the amounts imposed by ~~Wyoming statute~~  
15 this section. The tax shall be distributed as provided in  
16 W.S. 39-14-211 and is imposed as follows:

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18 (v) For crude oil and lease condensate when the  
19 index value of the product extracted is:

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21 (A) Less than thirty-five dollars (\$35.00)  
22 per barrel the tax shall be two percent (2%) of the value  
23 of the gross product;

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(B) At least thirty-five dollars (\$35.00) per barrel and less than forty dollars (\$40.00) per barrel the tax shall be three percent (3%) of the value of the gross product;

(C) At least forty dollars (\$40.00) per barrel and less than forty-five dollars (\$45.00) per barrel the tax shall be four percent (4%) of the value of the gross product;

(D) At least forty-five dollars (\$45.00) per barrel and less than fifty dollars (\$50.00) per barrel the tax shall be five percent (5%) of the value of the gross product;

(E) At least fifty dollars (\$50.00) per barrel and less than fifty-five dollars (\$55.00) per barrel the tax shall be six percent (6%) of the value of the gross product;

(F) At least fifty-five dollars (\$55.00) per barrel and less than sixty dollars (\$60.00) per barrel

1 the tax shall be seven percent (7%) of the value of the  
2 gross product;

3

4 (G) At least sixty dollars (\$60.00) per  
5 barrel and less than seventy dollars (\$70.00) per barrel  
6 the tax shall be seven and one-half percent (7.5%) of the  
7 value of the gross product;

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9 (H) At least seventy dollars (\$70.00) per  
10 barrel and less than eighty dollars (\$80.00) per barrel the  
11 tax shall be eight percent (8%) of the value of the gross  
12 product;

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14 (J) Eighty dollars (\$80.00) or more per  
15 barrel the tax shall be nine percent (9%) of the value of  
16 the gross product.

17

18 (vi) For natural gas when the index value of the  
19 product extracted is:

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21 (A) Less than two dollars and twenty-five  
22 cents (\$2.25) per MCF the tax shall be two percent (2%) of  
23 the value of the gross product;

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(B) At least two dollars and twenty-five cents (\$2.25) per MCF and less than two dollars and fifty cents (\$2.50) per MCF the tax shall be three and one-half percent (3.5%) of the value of the gross product;

(C) At least two dollars and fifty cents (\$2.50) per MCF and less than two dollars and ninety-five cents (\$2.95) per MCF the tax shall be five percent (5%) of the value of the gross product;

(D) At least two dollars and ninety-five cents (\$2.95) per MCF and less than three dollars and twenty-five cents (\$3.25) per MCF the tax shall be six percent (6%) of the value of the gross product;

(E) At least three dollars and twenty-five cents (\$3.25) per MCF and less than three dollars and fifty cents (\$3.50) per MCF the tax shall be seven percent (7%) of the value of the gross product;

(F) At least three dollars and fifty cents (\$3.50) per MCF and less than four dollars (\$4.00) per MCF

1 the tax shall be eight percent (8%) of the value of the  
2 gross product;

3

4 (G) Four dollars (\$4.00) or more per MCF  
5 the tax shall be nine percent (9%) of the value of the  
6 gross product.

7

8 (b) In determining the index values under subsection  
9 (a) of this section, the department shall use the preceding  
10 three (3) month rolling average based on the monthly  
11 average of daily spot prices for West Texas Intermediate  
12 (WTI) per barrel of oil and the monthly average of daily  
13 spot prices for Henry hub per thousand cubic feet of  
14 natural gas for the three (3) month period immediately  
15 preceding the month of production from the well. The  
16 department shall post the most recent monthly average and  
17 the three (3) month rolling average for the calculated  
18 prices on its website. The method of determining index  
19 values shall be established by rule of the department.

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21 **39-14-205. Exemptions.**

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1 (a) Stripper production is exempt from ~~the one-third~~  
2 (1/3) of the severance taxes imposed by W.S.  
3 ~~39-14-204(a)(iii)~~ 39-14-204(a)(v)(B) through (H).

4  
5 (h) Crude oil produced from previously shut-in wells  
6 is exempt from ~~the all~~ severance taxes imposed by W.S.  
7 ~~39-14-204(a)(ii), (iii) and (iv)~~ 39-14-204(a) except one  
8 and one-half percent (1.5%) of value for the first sixty  
9 (60) months of renewed production or until the average  
10 price received by the producer for the renewed production  
11 is equal to or exceeds twenty-five dollars (\$25.00) per  
12 barrel of oil for the preceding six (6) months, whichever  
13 sooner occurs.

14  
15 (n) Crude oil and natural gas production resulting  
16 from any well that is drilled on or after July 1, 2020 and  
17 prior to December 31, 2025 as certified, by the oil and gas  
18 conservation commission, ~~is exempt from the severance taxes~~  
19 shall be taxed at the lower of the rates imposed by W.S.  
20 ~~39-14-204(a)(iv) as provided in this subsection~~  
21 39-14-204(a)(v) and (vi) or the alternative rates provided  
22 in this subsection. Subject to subsection (o) of this  
23 section, the ~~exemption~~ alternative rates under this

1 subsection shall not apply to natural gas production when  
2 the ~~twelve (12)~~ three (3) month rolling average of the  
3 Henry hub spot price for natural gas is two dollars and  
4 ninety-five cents (\$2.95) or more per thousand cubic feet  
5 at the time of first production from the well and shall not  
6 apply to the production of crude oil when the ~~twelve (12)~~  
7 three (3) month rolling average of the West Texas  
8 Intermediate (WTI) spot price of sweet crude oil is fifty  
9 dollars (\$50.00) or more per barrel at the time of first  
10 production from the well. If the ~~exemption~~ alternative rate  
11 under this subsection is applicable to a new well based  
12 upon the oil or gas price at the time of first production,  
13 the ~~exemption rate~~ shall be ~~an exemption of the full two~~  
14 ~~percent (2%) tax rate under W.S. 39-14-204(a)(iv)~~ four  
15 percent (4%) of value for the first six (6) months of  
16 production and ~~shall reduce the rate under W.S.~~  
17 ~~39-14-204(a)(iv) to one percent (1%)~~ five percent (5%) of  
18 value for the next six (6) months of production.

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20 **39-14-211. Distribution.**

21

22 (a) The state treasurer shall transfer the revenue  
23 collected from the severance tax imposed by W.S.



1 ~~39-14-204(a)(i)~~39-14-204(a)(v) and 39-14-204(a)(vi) equal  
2 to a one and one-half percent (1.5%) severance tax into the  
3 permanent Wyoming mineral trust fund. The state treasurer  
4 shall transfer ~~the~~all other revenue collected from the  
5 severance tax imposed by W.S. ~~39-14-204(a)(ii), (iii) and~~  
6 ~~(iv)~~39-14-204(a) into the severance tax distribution  
7 account.

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9 **39-14-801. Severance tax distributions; distribution**  
10 **account created; formula.**

11

12 (b) Before making distributions from the severance  
13 tax distribution account under subsections (c) through (e)  
14 of this section, an amount equal to two-thirds (2/3) of the  
15 amount of tax collected under W.S. 39-14-104(a)(i) and  
16 (b)(i) and ~~39-14-204(a)(i)~~an amount equal to a one percent  
17 (1%) tax rate under W.S. 39-14-204(a) for the same period  
18 shall be deposited into the permanent Wyoming mineral trust  
19 fund, except for the period from March 15, 2016 through  
20 June 30, 2022 these funds shall be deposited as follows:

21

22 **39-15-104. Taxation rate.**

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1           (h) In addition to ~~the~~other sales tax under  
2 ~~subsections (a) and (b) of~~ this section there is imposed an  
3 assessment upon the sale of lodging services of five  
4 percent (5%) as follows:

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6           (j) In addition to other sales tax under this section  
7 there is imposed an additional sales tax of up to one  
8 percent (1%) which shall be administered as if the sales  
9 tax rate under subsections (a) and (b) of this section were  
10 increased from four percent (4%) to four percent (4%) plus  
11 the amount imposed pursuant to this subsection. The tax  
12 under this subsection shall be imposed on a calendar year  
13 basis and shall only be imposed if the governor determines  
14 that the total amount of all severance taxes collected  
15 pursuant to chapter 14 of title 39 of the Wyoming statutes  
16 in the immediately preceding fiscal year was less than the  
17 total amount of all such taxes collected for the fiscal  
18 year ending 2020. If the governor so determines, he shall  
19 certify to the department his determination of the  
20 difference. The department shall estimate the amount of  
21 sales and use tax imposed under this subsection and W.S.  
22 39-16-104(g) necessary to generate revenue equal to the  
23 difference and order the imposition of that amount of

1 sales and use tax under this subsection and W.S.  
2 39-16-104(g) to generate that amount. The tax shall be  
3 imposed in increments of not less than one-quarter percent  
4 (1/4%) as necessary to produce, but not exceed, the  
5 difference. In no event shall the tax imposed pursuant to  
6 this subsection exceed an additional sales tax of one  
7 percent (1%). The governor shall make any certification  
8 under this subsection not later than October 1 of each  
9 year. If the governor makes a certification under this  
10 subsection the department shall order the tax imposed under  
11 this subsection to be effective the following January 1 and  
12 ending on December 31 of that same year.

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14 **39-15-111. Distribution.**

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16 (b) Revenues earned under W.S. 39-15-104 during each  
17 fiscal year shall be recognized as revenue during that  
18 fiscal year for accounting purposes. Except as otherwise  
19 provided in ~~subsection~~subsections (p) and (r) of this  
20 section, for all revenue collected by the department under  
21 W.S. 39-15-104 the department shall:

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1       (r) All revenue collected by the department under  
2 W.S. 39-15-104(j) shall be distributed:

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4       (i) One-third (1/3) to the school foundation  
5 program reserve account; and

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7       (ii) Two-thirds (2/3) to the budget reserve  
8 account.

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10       **39-15-303. Imposition.**

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12       (b) Taxpayer. The following shall apply:

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14           (iii) To secure payment of sales taxes by  
15 nonresident prime contractors, each nonresident contractor  
16 shall file with the department of revenue a surety bond or  
17 legal security equal to ~~three percent (3%)~~ four percent  
18 (4%), plus the increased rate under W.S. ~~39-15-104(b)~~  
19 39-15-104(j) if the tax under that ~~section-subsection~~ is in  
20 effect, of the payments due under the contract or an amount  
21 determined by the department. The bond shall be conditioned  
22 upon the payment of all sales taxes which become due and  
23 payable to this state under the contract or in the real

1 property development. This bond requirement does not apply  
2 for a nonresident contractor who has furnished a surety  
3 bond as provided by W.S. 39-15-306(b)(v);

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5 **39-15-306. Licenses; permits; bonding.**

6

7 (b) Bonding. The following shall apply:

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9 (i) To secure payment of sales taxes by  
10 nonresident prime contractors, each nonresident contractor  
11 shall file with the department of revenue a surety bond or  
12 legal security equal to ~~three percent (3%)~~ four percent  
13 (4%), plus the increased rate under W.S. ~~39-15-104(b)~~  
14 39-15-104(j) if the tax under that ~~section~~ subsection is in  
15 effect, of the payments due under the contract or an amount  
16 determined by the department. The bond shall be conditioned  
17 upon the payment of all sales taxes which become due and  
18 payable to this state under the contract or in the real  
19 property development. This bond requirement does not apply  
20 for a nonresident contractor who has furnished a surety  
21 bond as provided by paragraph (v) of this subsection;

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1           (v) Whenever a nonresident general or prime  
2 contractor or nonresident subcontractor furnishes a surety  
3 bond for the faithful performance of his contract or  
4 subcontract there is imposed an additional obligation upon  
5 the surety company to the state of Wyoming and the  
6 department as its agent that the nonresident contractor  
7 shall pay all sales taxes which become due in the  
8 performance of the contract. In the case of a nonresident  
9 general or prime contractor this additional obligation  
10 includes liability to pay the department all sales taxes  
11 which have not been paid to a licensed vendor or the  
12 department by the nonresident contractor. The nonresident  
13 general or prime contractor or his surety company is  
14 authorized to recover from the nonresident subcontractor  
15 the amount of sales taxes accruing with respect to  
16 purchases made by the nonresident subcontractor which were  
17 paid to the department by the nonresident contractor or the  
18 surety company, or an amount equal to the sales taxes so  
19 paid by the nonresident contractor may be withheld from  
20 payments made under the contract. The liability of the  
21 surety company under this section is limited to ~~three~~  
22 ~~percent (3%)~~ four percent (4%), plus the increased rate

1 under W.S. ~~39-16-104(b)~~39-16-104(g) if the tax under that  
2 ~~section~~subsection is in effect, of the contract price;

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4 **39-16-104. Taxation rate.**

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6 (g) In addition to other use tax under this section  
7 there is imposed an additional use tax of up to one percent  
8 (1%) which shall be administered as if the use tax rate  
9 under subsections (a) and (b) of this section were  
10 increased from four percent (4%) to four percent (4%) plus  
11 the amount imposed pursuant to this subsection. The tax  
12 under this subsection shall be imposed on a calendar year  
13 basis and shall only be imposed if the governor determines  
14 that the total amount of all severance taxes collected  
15 pursuant to chapter 14 of title 39 of the Wyoming statutes  
16 in the immediately preceding fiscal year was less than the  
17 total amount of all such taxes collected for the fiscal  
18 year ending 2020. If the governor so determines, he shall  
19 certify to the department his determination of the  
20 difference. The department shall estimate the amount of  
21 sales and use tax imposed under this section and W.S.  
22 39-15-104(j) necessary to generate revenue equal to the  
23 difference and order the imposition of that amount of

1 sales and use tax under this subsection and W.S.  
2 39-15-104(j) to generate that amount. The tax shall be  
3 imposed in increments of not less than one-quarter percent  
4 (1/4%) as necessary to produce, but not exceed, the  
5 difference. In no event shall the tax imposed pursuant to  
6 this subsection exceed an additional use tax of one percent  
7 (1%). The governor shall make any certification under this  
8 subsection not later than October 1 of each year. If the  
9 governor makes a certification under this subsection the  
10 department shall order the tax imposed under this  
11 subsection to be effective the following January 1 and  
12 ending on December 31 of that same year.

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14 **39-16-107. Compliance; collection procedures.**

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16 (a) Returns, reports and preservation of records.

17 The following shall apply:

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19 (vi) Any out-of-state vendor not otherwise  
20 subject to this article may voluntarily register with the  
21 department and if registered, shall collect and remit the  
22 state use tax imposed by W.S. ~~39-16-104(a)~~ 39-16-104.

23



1           **39-16-111. Distribution.**

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3           (p) All revenue collected by the department under  
4 W.S. 39-16-104(g) shall be distributed:

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6           (i) One-third (1/3) to the school foundation  
7 program reserve account; and

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9           (ii) Two-thirds (2/3) to the budget reserve  
10 account.

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12           **39-16-303. Imposition.**

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14           (b) Taxpayer. The following shall apply:

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16           (iii) To secure payment of use taxes by  
17 nonresident prime contractors, each nonresident contractor  
18 shall file with the department of revenue a surety bond or  
19 legal security equal to ~~three percent (3%)~~ four percent  
20 (4%), plus the increased rate under W.S. ~~39-16-104(b)~~  
21 39-16-104(g) if the tax under that ~~section-subsection~~ is in  
22 effect, of the payments due under the contract or an amount  
23 determined by the department. The bond shall be conditioned

1 upon the payment of all use taxes which become due and  
2 payable to this state under the contract or in the real  
3 property development. This bond requirement does not apply  
4 for a nonresident contractor who has furnished a surety  
5 bond as provided by W.S. 39-16-306(b)(v);

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7 **39-16-306. Licenses; permits; bonding.**

8

9 (b) Bonding. The following shall apply:

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11 (i) To secure payment of use taxes by  
12 nonresident prime contractors, each nonresident contractor  
13 shall file with the department of revenue a surety bond or  
14 legal security equal to ~~three percent (3%)~~ four percent  
15 (4%), plus the increased rate under W.S. ~~39-16-104(b)~~  
16 39-16-104(g) if the tax under that ~~section~~ subsection is in  
17 effect, of the payments due under the contract or an amount  
18 determined by the department. The bond shall be conditioned  
19 upon the payment of all use taxes which become due and  
20 payable to this state under the contract or in the real  
21 property development. This bond requirement does not apply  
22 for a nonresident contractor who has furnished a surety  
23 bond as provided by paragraph (v) of this subsection;

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(v) Whenever a nonresident general or prime contractor or nonresident subcontractor furnishes a surety bond for the faithful performance of his contract or subcontract there is imposed an additional obligation upon the surety company to the state of Wyoming and the department as its agent that the nonresident contractor shall pay all use taxes which become due in the performance of the contract. In the case of a nonresident general or prime contractor this additional obligation includes liability to pay the department all use taxes which have not been paid to a licensed vendor or the department by the nonresident contractor. The nonresident general or prime contractor or his surety company is authorized to recover from the nonresident subcontractor the amount of use taxes accruing with respect to purchases made by the nonresident subcontractor which were paid to the department by the nonresident contractor or the surety company, or an amount equal to the use taxes so paid by the nonresident contractor may be withheld from payments made under the contract. The liability of the surety company under this section is limited to ~~three percent (3%)~~ four percent (4%), plus the increased rate under W.S. ~~39-16-104(b)~~

1 39-16-104(g) if the tax under that ~~section~~-subsection is in  
2 effect, of the contract price;

3

4 **Section 2.** W.S. 39-14-204(a)(i) through (iv) is  
5 repealed.

6

7 **Section 3.** This act is effective July 1, 2021.

8

9

(END)