

State of New Mexico
House of Representatives

FIFTY-THIRD LEGISLATURE
SECOND SESSION

February 14, 2018

HOUSE FLOOR AMENDMENT number _____ to SENATE BILL 79, as amended

Amendment sponsored by Representative James R.J. Strickler

1. On page 1, line 13, before the period, insert "; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR THE SALE OR PROCESSING OF COAL UNTIL 2031; REDUCING THE RATE OF THE RESOURCES TAX, PROCESSORS TAX, SEVERANCE TAX AND OIL AND GAS CONSERVATION TAX ON COAL UNTIL 2031; PROVIDING A DELAYED REPEAL".

2. On page 5, between lines 22 and 23, insert the following new sections:

"SECTION 2. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--SALE OR PROCESSING OF COAL.--

A. Receipts from the sale or processing of coal, the severance of which is subject to the severance tax, may be deducted from gross receipts as follows:

(1) prior to July 1, 2019, twenty-five percent of receipts;

(2) beginning July 1, 2019 and prior to July 1, 2020, fifty percent of receipts; and

(3) beginning July 1, 2020 and prior to July 1, 2031, seventy-five percent of receipts.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

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C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost and benefit to the state of the deduction."

SECTION 3. Section 7-25-4 NMSA 1978 (being Laws 1999, Chapter 177, Section 2) is amended to read:

"7-25-4. RATE AND MEASURE OF TAX--DENOMINATION AS "RESOURCES TAX".--

A. For the privilege of severing natural resources, there is imposed on ~~[any]~~ a severer of natural resources in New Mexico an excise tax at the following rates on the taxable value of the natural resources:

(1) all natural resources except potash, ~~[and]~~ molybdenum ~~[three-fourths of one]~~ and coal, three-fourths percent;

(2) potash, ~~[one-half of one]~~ one-half percent; ~~[and]~~

(3) molybdenum, ~~[one-eighth of one]~~ one-eighth percent; and

(4) coal:

(a) prior to July 1, 2019, five thousand six hundred twenty-five ten-thousandths percent;

(b) beginning July 1, 2019 and prior to July 1, 2020, three thousand seven hundred fifty ten-thousandths percent;

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(c) beginning July 1, 2020 and prior to July 1, 2031, one thousand eight hundred seventy-five ten-thousandths percent; and

(d) on and after July 1, 2031, three-fourths percent.

B. The tax imposed by this section shall be referred to as the "resources tax".

SECTION 4. Section 7-25-5 NMSA 1978 (being Laws 1999, Chapter 177, Section 4) is amended to read:

"7-25-5. RATE AND MEASURE OF TAX--DENOMINATION AS "PROCESSORS TAX".--

A. For the privilege of processing natural resources, there is imposed on ~~[any]~~ a processor of natural resources in New Mexico an excise tax at the following rates on the taxable value of the natural resources:

(1) all natural resources except timber, potash, ~~[and]~~ molybdenum and coal, three-fourths ~~[of one]~~ percent;

(2) timber, three-eighths ~~[of one]~~ percent;

(3) potash, one-eighth ~~[of one]~~ percent; ~~[and]~~

(4) molybdenum, one-eighth ~~[of one]~~ percent; and

(5) coal:

(a) prior to July 1, 2019, five thousand six hundred twenty-five ten-thousandths percent;

(b) beginning July 1, 2019 and prior to July 1,

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2020, three thousand seven hundred fifty ten-thousandths percent;

(c) beginning July 1, 2020 and prior to July 1, 2031, one thousand eight hundred seventy-five ten-thousandths percent; and

(d) on and after July 1, 2031, three-fourths percent.

B. The tax imposed by this section shall be referred to as the "processors tax".

SECTION 5. Section 7-26-6 NMSA 1978 (being Laws 1982, Chapter 77, Section 1, as amended) is amended to read:

"7-26-6. SEVERANCE TAX ON COAL--SURTAX.--

A. The severance tax on coal is measured by the quantity of coal severed and saved. The taxable event is sale, transportation out of New Mexico or consumption of the coal, whichever first occurs. Upon each short ton (two thousand pounds) of coal severed and saved, there shall be imposed on the severer a severance tax. For the period commencing on July 1, 1982, the severance tax rate shall be:

(1) surface coal:

(a) prior to July 1, 2019, forty-two and ninety-five hundredths cents (\$.4295);

(b) beginning July 1, 2019 and prior to July 1, 2020, twenty-eight and one-half cents (\$.285);

(c) beginning July 1, 2020 and prior to July 1, 2031, fourteen and one-fourth cents (\$.1425); and

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(d) on and after July 1, 2031, fifty-seven cents (\$.57); and

(2) underground coal:

(a) prior to July 1, 2019, forty-one and one-fourth cents (\$.4125);

(b) beginning July 1, 2019 and prior to July 1, 2020, twenty-seven and one-half cents (\$.275);

(c) beginning July 1, 2020 and prior to July 1, 2031, thirteen and three-fourths cents (\$.1375); and

(d) on and after July 1, 2031, fifty-five cents (\$.55).

B. The severance tax on coal shall be increased by a surtax, hereby imposed. The surtax shall be imposed on the unit of quantity of such product or natural resource at the following rates:

(1) surface coal, sixty cents (\$.60); and

(2) underground coal, fifty-eight cents (\$.58).

C. The surtax rate on coal shall be increased on July 1, 1994 and on July 1 of each succeeding year by an amount equal to the product of the dollar amount of the severance tax imposed on each ton of coal by a percentage equal to the percentage rise in the producer price index for coal from the calendar year 1992 to the calendar year just prior to the year in which the surtax rates are computed, but in no case shall the surtax rate be decreased. The rates so computed shall be computed by the department in April of 1994 and in April of each year thereafter and published on or before May 1, 1994 and on or before May 1 of each year thereafter.

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D. If the producer price index for coal is substantially revised or if the base year used as an index of one hundred is changed, the department shall make an adjustment in the percentage used to compute the surtax rates that would produce results equivalent, as nearly as possible, to those that would have been obtained if the producer price index for coal had not been so revised or if the base year had not been changed. If this index ceases to become available, then a comparable index based upon changes in the price of coal shall be adopted by the department by regulation.

[~~D.~~] E. As used in this section:

(1) "producer price index for coal" means the commodity code 05-1 as reported annually by the bureau of labor statistics at the United States department of labor in [~~their~~] its annual producer price indexes data;

(2) "surface coal" means coal that is severed using surface mining methods;

(3) "surface mining" means the extraction of coal from the earth by removing the material overlying a coal seam and then removing the coal by common methods, including [~~but not limited to~~] contour mining, strip mining, mountain top removal mining, box cut mining, open pit mining and area mining; and

(4) "underground coal" means all coal that is not surface coal."

SECTION 6. Section 7-30-4 NMSA 1978 (being Laws 1959, Chapter 53, Section 4, as amended) is amended to read:

"7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE-- INDIAN LIABILITY.--

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A. There is levied and shall be collected by the department a tax on all products that are severed and sold. The measure and rate of the tax shall be:

(1) nineteen-hundredths percent of the taxable value of sold products, except coal; and

(2) the following percentages of the taxable value of sold coal:

(a) prior to July 1, 2019, one thousand four hundred twenty-five ten-thousandths percent;

(b) beginning July 1, 2019 and prior to July 1, 2020, nine hundred fifty ten-thousandths percent;

(c) beginning July 1, 2020 and prior to July 1, 2031, four hundred seventy-five ten-thousandths percent; and

(d) on and after July 1, 2031, nineteen-hundredths percent.

B. Every interest owner shall be liable for ~~[this]~~ the tax to the extent of the owner's interest in the value of the products or to the extent of the owner's interest as may be measured by the value of the products. An Indian tribe, Indian pueblo or Indian shall be liable for this tax to the extent authorized or permitted by law.

~~[B.]~~ C. When the average price of west Texas intermediate crude in the previous quarter exceeds seventy dollars (\$70.00) per barrel, an additional tax to that provided pursuant to Subsection A of this section is levied and shall be collected by the department on oil that is severed and sold in the ensuing quarter. The measure and rate of the total tax on oil shall be twenty-four hundredths percent of the taxable value of the sold product. Every interest

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owner shall be liable for this tax to the extent of the owner's interest in the value of the products or to the extent of the owner's interest as may be measured by the value of the products. An Indian tribe, Indian pueblo or Indian shall be liable for this tax to the extent authorized or permitted by law."".

3. On page 6, between lines 14 and 15, insert the following new section:

"SECTION 8. DELAYED REPEAL.--Section 2 of this act is repealed effective July 1, 2031.".

4. On page 6, between lines 16 and 17, insert the following new section:

"SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of Sections 2 through 6 and 8 of this act is July 1, 2018.".

5. Renumber sections in accordance with these amendments.

James R.J. Strickler

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____