

1 HOUSE BILL 220

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 James R.J. Strickler and Eliseo Lee Alcon and Harry Garcia

5
6
7
8
9
10 AN ACT

11 RELATING TO TAXATION; PROVIDING A DEDUCTION FROM GROSS RECEIPTS
12 FOR THE SALE OR PROCESSING OF COAL UNTIL 2031; REDUCING THE
13 RATE OF THE RESOURCES TAX, PROCESSORS TAX, SEVERANCE TAX AND
14 OIL AND GAS CONSERVATION TAX ON COAL UNTIL 2031; PROVIDING A
15 DELAYED REPEAL.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of the Gross Receipts and
19 Compensating Tax Act is enacted to read:

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

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

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

.209048.3

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

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

3 (3) beginning July 1, 2020 and prior to July
4 1, 2031, seventy-five percent of receipts.

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

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

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

19 "7-25-4. RATE AND MEASURE OF TAX--DENOMINATION AS
20 "RESOURCES TAX".--

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

25 (1) all natural resources except potash, ~~and~~

.209048.3

underscored material = new
[bracketed material] = delete

1 molybdenum [~~three fourths of one~~] and coal, three-fourths
2 percent;

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

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

7 (4) coal:

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

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

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

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

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

20 SECTION 3. Section 7-25-5 NMSA 1978 (being Laws 1999,
21 Chapter 177, Section 4) is amended to read:

22 "7-25-5. RATE AND MEASURE OF TAX--DENOMINATION AS
23 "PROCESSORS TAX".--

24 A. For the privilege of processing natural
25 resources, there is imposed on [~~any~~] a processor of natural

.209048.3

underscored material = new
[bracketed material] = delete

1 resources in New Mexico an excise tax at the following rates on
2 the taxable value of the natural resources:

- 3 (1) all natural resources except timber,
4 potash, ~~[and]~~ molybdenum and coal, three-fourths ~~[of one]~~
5 percent;
- 6 (2) timber, three-eighths ~~[of one]~~ percent;
- 7 (3) potash, one-eighth ~~[of one]~~ percent; ~~[and]~~
- 8 (4) molybdenum, one-eighth ~~[of one]~~ percent;

9 and

- 10 (5) coal:
 - 11 (a) prior to July 1, 2019, five thousand
12 six hundred twenty-five ten-thousandths percent;
 - 13 (b) beginning July 1, 2019 and prior to
14 July 1, 2020, three thousand seven hundred fifty ten-
15 thousandths percent;
 - 16 (c) beginning July 1, 2020 and prior to
17 July 1, 2031, one thousand eight hundred seventy-five ten-
18 thousandths percent; and
 - 19 (d) on and after July 1, 2031, three-
20 fourths percent.

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

23 SECTION 4. Section 7-26-6 NMSA 1978 (being Laws 1982,
24 Chapter 77, Section 1, as amended) is amended to read:

25 "7-26-6. SEVERANCE TAX ON COAL--SURTAX.--

underscored material = new
[bracketed material] = delete

1 A. The severance tax on coal is measured by the
2 quantity of coal severed and saved. The taxable event is sale,
3 transportation out of New Mexico or consumption of the coal,
4 whichever first occurs. Upon each short ton (two thousand
5 pounds) of coal severed and saved, there shall be imposed on
6 the severer a severance tax. For the period commencing on July
7 1, 1982, the severance tax rate shall be:

8 (1) surface coal:

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

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

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

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

17 (2) underground coal:

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

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

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

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

.209048.3

underscored material = new
[bracketed material] = delete

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

- 5 (1) surface coal, sixty cents (\$.60); and
6 (2) underground coal, fifty-eight cents
7 (\$.58).

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

19 D. If the producer price index for coal is
20 substantially revised or if the base year used as an index of
21 one hundred is changed, the department shall make an adjustment
22 in the percentage used to compute the surtax rates that would
23 produce results equivalent, as nearly as possible, to those
24 that would have been obtained if the producer price index for
25 coal had not been so revised or if the base year had not been

.209048.3

underscored material = new
[bracketed material] = delete

1 changed. If this index ceases to become available, then a
2 comparable index based upon changes in the price of coal shall
3 be adopted by the department by regulation.

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

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

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

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

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

19 **SECTION 5.** Section 7-30-4 NMSA 1978 (being Laws 1959,
20 Chapter 53, Section 4, as amended) is amended to read:

21 "7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED
22 BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--
23 INDIAN LIABILITY.--

24 A. There is levied and shall be collected by the
25 department a tax on all products that are severed and sold.

.209048.3

underscored material = new
[bracketed material] = delete

1 The measure and rate of the tax shall be:

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

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

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

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

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

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

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

21 [~~B.~~] C. When the average price of west Texas
22 intermediate crude in the previous quarter exceeds seventy
23 dollars (\$70.00) per barrel, an additional tax to that provided
24 pursuant to Subsection A of this section is levied and shall be
25 collected by the department on oil that is severed and sold in

.209048.3

underscoring material = new
~~[bracketed material] = delete~~

1 the ensuing quarter. The measure and rate of the total tax on
2 oil shall be twenty-four hundredths percent of the taxable
3 value of the sold product. Every interest owner shall be
4 liable for this tax to the extent of the owner's interest in
5 the value of the products or to the extent of the owner's
6 interest as may be measured by the value of the products. An
7 Indian tribe, Indian pueblo or Indian shall be liable for this
8 tax to the extent authorized or permitted by law."

9 SECTION 6. DELAYED REPEAL.--Section 1 of this act is
10 repealed effective July 1, 2031.

11 SECTION 7. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2018.

