

HOUSE BILL NO. HB0101

Electricity generated from wind-taxation.

Sponsored by: Representative(s) Anderson, R., Brown, Madden, Miller and Steward and Senator(s) Hastert, Larson, Martin, Schiffer and Sessions

A BILL

for

1 AN ACT relating to taxation and revenue; imposing a tax
2 upon the production of electricity from wind resources as
3 specified; providing for administration, imposition,
4 enforcement and distribution as specified; providing
5 applicability; and providing for an effective date.

6

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

8

9 **Section 1.** W.S. 39-22-101 through 39-22-111 are
10 created to read:

11

12

CHAPTER 22

13

TAX UPON PRODUCTION OF ELECTRICITY FROM WIND RESOURCES

14

15

39-22-101. Definitions.

1

2 There are no specific applicable provisions for definitions
3 for this chapter.

4

5 **39-22-102. Administration.**

6

7 The department of revenue shall enforce the provisions of
8 this chapter. The department shall promulgate rules and
9 regulations necessary for the implementation and
10 enforcement of this chapter.

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12 **39-22-103. Imposition.**

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14 There is levied an excise tax upon the privilege of
15 producing electricity from wind resources in this state.
16 The tax shall be imposed upon the production of any
17 electricity produced from wind resources for sale or trade,
18 and shall be paid by the person producing such electricity.
19 The tax shall be imposed on each megawatt hour of
20 electricity produced from wind resources at the point of
21 interconnection with an electric transmission line.

22

23 **39-22-104. Taxation rate.**

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1 The tax rate shall be three dollars (\$3.00) on each
2 megawatt hour, or portion thereof, which is produced in
3 this state.

4

5 **39-22-105. Exemptions.**

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7 No tax shall be imposed upon electricity which is produced
8 from any generating facility owned or operated by the
9 federal government, state of Wyoming or by any county or
10 municipality in this state. No tax shall be imposed upon
11 electricity which is produced for the personal consumption
12 of the producer, including any excess production of
13 electricity that does not exceed five hundred (500)
14 kilowatt hours in any twenty-four (24) hour period.

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16 **39-22-106. Licensing; permits.**

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18 There are no specific applicable provisions for licenses
19 and permits for this chapter.

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21 **39-22-107. Compliance; collection procedures.**

22

23 (a) Returns and reports. Any person producing
24 electricity from wind resources within this state which is

1 subject to the tax imposed by this chapter shall report the
2 amount of megawatt hours produced in this state on or
3 before February 1 of the year immediately following the
4 year in which the electricity was produced.

5

6 (b) Payment. Any person owing a tax under this
7 chapter shall pay the tax once each year on or before
8 February 1 of the year immediately following the year in
9 which the electricity was produced. The tax shall be
10 collected by the department of revenue.

11

12 (c) Timelines. There are no specific applicable
13 provisions for timelines for this chapter.

14

15 **39-22-108. Enforcement.**

16

17 (a) Audits. There are no specific applicable
18 provisions for audits for this chapter.

19

20 (b) Interest. Interest at an annual rate equal to
21 the average prime interest as determined by the state
22 treasurer during the preceding fiscal year, plus four
23 percent (4%), shall be added to all delinquent taxes under
24 this chapter. To determine the average prime interest

1 rate, the state treasurer shall average the prime interest
2 for at least seventy-five percent (75%) of the thirty (30)
3 largest banks in the United States. The interest rate on
4 delinquent taxes shall be adjusted on January 1 of each
5 year following the year in which the taxes first became
6 delinquent. In no instance shall the delinquent interest
7 rate be less than twelve percent (12%) nor greater than
8 eighteen percent (18%).

9

10 (c) Penalties. The following shall apply:

11

12 (i) If any person fails to make or file a return
13 and remit the tax as required by W.S. 39-22-107, the
14 department shall impose a penalty of five percent (5%) of
15 the taxes due for each thirty (30) day period, or fraction
16 thereof, elapsing between the due date of the return and
17 the date filed, unless the person for good cause obtains
18 from the department an extension of time for filing prior
19 to the due date for filing. In the event of an extension,
20 the person shall pay the interest due on delinquent
21 payments set forth in subsection (b) of this section. In
22 no event shall the total penalty imposed by this subsection
23 exceed twenty-five percent (25%) of the tax due. The
24 department, for good cause, may waive a penalty imposed for

1 failure to file a return for any one (1) calendar year,
2 provided that:

3

4 (A) The return was filed within five (5)
5 business days following the due date, including an approved
6 extension period; and

7

8 (B) The taxpayer requests the waiver in
9 writing within fifteen (15) days after the return was
10 filed, setting forth the reasons for the late filing.

11

12 (ii) If any part of a tax deficiency is due to
13 the negligence or intentional disregard of rules and
14 regulations there shall be added a penalty of five percent
15 (5%) of the amount of the deficiency plus interest as
16 provided by subsection (b) of this section. The taxes,
17 penalty and interest shall be paid by the taxpayer within
18 ten (10) days after receipt of notice and demand by the
19 department;

20

21 (iii) Taxes due together with interest,
22 penalties and costs shall be collectible by the department
23 by appropriate judicial proceedings;

24

1 (iv) The department may credit or waive
2 penalties imposed by this section as part of a settlement
3 or for any other good cause.

4

5 (d) Liens. Any delinquent tax is a lien upon the
6 property of any owner from and after the time the tax is
7 due until the tax is paid. The tax lien shall have
8 preference over all liens except any valid mortgage or
9 other liens of record filed or recorded prior to the date
10 the tax became due.

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12 (e) Tax sales. There are no specific applicable
13 provisions for tax sales for this chapter.

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15 **39-22-109. Taxpayer remedies.**

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17 There are no specific applicable provisions for taxpayer
18 remedies for this chapter.

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20 **39-22-110. Statute of limitations.**

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22 There are no specific applicable provisions for a statute
23 of limitations for this chapter.

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1 **39-22-111. Distribution.**

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3 (a) The proceeds from the tax imposed by this chapter
4 shall be transferred to the state treasurer to be
5 distributed as follows:

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7 (i) Forty percent (40%) shall be distributed to
8 the counties in this state where the generating facility is
9 located. The amount shall be proportionately distributed
10 to each county based upon the percentage of the assessed
11 value of the generating facilities located within the
12 county as compared to the total assessed value of
13 generating facilities located within the state;

14

15 (ii) Sixty percent (60%) shall be deposited in
16 the state general fund.

17

18 **Section 2.** This act shall apply to electricity
19 produced from wind resources on or after January 1, 2011.

20

21 **Section 3.** This act is effective January 1, 2011.

22

23

(END)