

HOUSE BILL NO. HB0288

Electrical generation tax and rebate program.

Sponsored by: Representative(s) Stith and Nicholas and  
Senator(s) Case

A BILL

for

1 AN ACT relating to taxation and revenue; imposing an excise  
2 tax on the production of electricity; providing credits for  
3 other taxes paid; providing for administration and  
4 rulemaking authority; providing penalties; providing for  
5 distribution of the tax through a rebate program; and  
6 providing for an effective date.

7

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

9

10 **Section 1.** W.S. 39-24-101 through 39-24-111 are  
11 created to read:

12

13

CHAPTER 24

14

TAX ON ELECTRICAL GENERATION

15

1           **39-24-101. Definitions.**

2

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

5

6           **39-24-102. Administration.**

7

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

12

13           **39-24-103. Imposition.**

14

15   There is levied an excise tax upon the privilege of  
16   producing and selling electricity in this state. The tax  
17   shall be imposed upon the sale of any electricity produced  
18   in Wyoming on or after January 1, 2024, and shall be paid  
19   by the person producing the electricity. The tax shall be  
20   imposed on the annual gross energy earnings from energy  
21   produced in Wyoming.

22

23           **39-24-104. Taxation rate.**

1

2 The tax rate shall be two and three-tenths percent (2.3%)  
3 of the annual gross energy earnings from energy produced in  
4 this state.

5

6 **39-24-105. Exemptions.**

7

8 (a) No tax shall be imposed upon electricity that is  
9 produced from any generating facility owned or operated by  
10 the federal government or the state of Wyoming.

11

12 (b) No tax shall be imposed upon electricity that is  
13 produced for the personal consumption of the producer,  
14 including any excess production of electricity that does  
15 not exceed five hundred (500) kilowatt hours in any  
16 twenty-four (24) hour period.

17

18 **39-24-106. Licensing; permits.**

19

20 There are no specific applicable provisions for licenses  
21 and permits for this chapter.

22

23 **39-24-107. Compliance; collection procedures.**

1

2 (a) Returns and reports. Any person producing  
3 electricity for sale within this state which is subject to  
4 the tax imposed by this chapter shall report the annual  
5 gross energy earnings from energy produced in Wyoming on or  
6 before February 1 of the year immediately following the  
7 year in which the electricity was produced.

8

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

14

15 (c) Timelines. There are no specific applicable  
16 provisions for timelines for this chapter.

17

18 **39-24-108. Enforcement.**

19

20 (a) Audits. There are no specific applicable  
21 provisions for audits for this chapter.

22

1           (b) Interest. Interest at an annual rate equal to  
2 the average prime interest as determined by the state  
3 treasurer during the preceding fiscal year, plus four  
4 percent (4%), shall be added to all delinquent taxes under  
5 this chapter. To determine the average prime interest rate,  
6 the state treasurer shall average the prime interest for at  
7 least seventy-five percent (75%) of the thirty (30) largest  
8 banks in the United States. The interest rate on delinquent  
9 taxes shall be adjusted on January 1 of each year following  
10 the year in which the taxes first became delinquent. In no  
11 instance shall the delinquent interest rate be less than  
12 twelve percent (12%) nor greater than eighteen percent  
13 (18%).

14

15           (c) Penalties. The following shall apply:

16

17           (i) If any person fails to make or file a return  
18 and remit the tax as required by W.S. 39-24-107, the  
19 department shall impose a penalty of five percent (5%) of  
20 the taxes due for each thirty (30) day period, or a  
21 fraction thereof, elapsing between the due date of the  
22 return and the date filed, unless the person for good cause  
23 obtains from the department an extension of time for filing

1 before the due date for filing. In the event of an  
2 extension, the person shall pay the interest due on  
3 delinquent payments set forth in subsection (b) of this  
4 section. In no event shall the total penalty imposed by  
5 this subsection exceed twenty-five percent (25%) of the tax  
6 due. The department, for good cause, may waive a penalty  
7 imposed for failure to file a return for any one (1)  
8 calendar year, provided that:

9  
10 (A) The return was filed within five (5)  
11 business days following the due date, including an approved  
12 extension period; and

13  
14 (B) The taxpayer requests the waiver in  
15 writing within fifteen (15) days after the return was  
16 filed, setting forth the reasons for the late filing.

17  
18 (ii) If any part of a tax deficiency is due to  
19 the negligence or intentional disregard of department rules  
20 there shall be added a penalty of five percent (5%) of the  
21 amount of the deficiency plus interest as provided by  
22 subsection (b) of this section. The taxes, penalty and

1 interest shall be paid by the taxpayer within ten (10) days  
2 after receipt of notice and demand by the department;

3

4 (iii) Taxes due together with interest,  
5 penalties and costs shall be collectible by the department  
6 by appropriate judicial proceedings;

7

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

11

12 (d) Liens. Any delinquent tax is a lien upon the  
13 property of any person owing tax under this chapter from  
14 and after the time the tax is due until the tax is paid.  
15 The tax lien shall have preference over all liens except  
16 any valid mortgage or other liens of record filed or  
17 recorded before the date the tax became due.

18

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

21

22 **39-24-109. Tax remedies.**

23

1           (a) Credits. Each taxpayer is entitled to a credit  
2 against tax liability under this chapter for all excise,  
3 sales, use, severance and ad valorem taxes paid in the tax  
4 year by the same taxpayer to any taxing authority in  
5 Wyoming. If the taxpayer produces electricity in this state  
6 used in the production process of any mineral that has been  
7 taxed under the provisions of W.S. 39-14-101 et seq., the  
8 person producing the electricity shall be entitled to a  
9 credit equal to the amount of the tax paid on the minerals  
10 consumed in the production of the electricity. To qualify  
11 for a credit under this subsection for severance taxes paid  
12 by another person, the person producing the electricity  
13 shall provide documentation that adequately demonstrates,  
14 as determined by department rules, the amount of taxes paid  
15 on the minerals that were consumed in the production of the  
16 electricity. The taxpayer shall report the credit to the  
17 department on the return filed under W.S. 39-23-107. In no  
18 case shall any refund be due or payable if the amount of  
19 the credit claimed under this paragraph exceeds the amount  
20 of tax due under this chapter.

21

22           **39-24-110. Statute of limitations.**

23



1 There are no specific applicable provisions for a statute  
2 of limitations for this chapter.

3

4 **39-24-111. Distribution.**

5

6 (a) The proceeds from the tax imposed by this chapter  
7 shall be distributed as follows:

8

9 (i) Funds shall first be deposited in the  
10 electricity rebate account, which is hereby created. Funds  
11 in the account shall be used to provide an annual rebate to  
12 Wyoming electrical rate payers. The amount of the rebate  
13 shall be equal to the amount paid for electricity by  
14 Wyoming electrical rate payers. The department shall by  
15 rule develop a process for Wyoming electrical rate payers  
16 to apply for a rebate under this paragraph. Rebates shall  
17 be provided not later than June 1 of the year following the  
18 year that the Wyoming electrical rate payer purchased  
19 electricity in Wyoming;

20

21 (ii) Any amount remaining in the electricity  
22 rebate account under paragraph (i) of this subsection at

1 the end of a fiscal year shall be deposited in the general  
2 fund.

3

4 **Section 2.** W.S. 39-11-101(a)(xviii) is amended to  
5 read:

6

7 **39-11-101. Definitions.**

8

9 (a) As used in this act unless otherwise specifically  
10 provided:

11

12 (xviii) "This act" means W.S. 39-11-101 through  
13 ~~39-22-111~~ 39-24-111.

14

15 **Section 3.** This act is effective July 1, 2023.

16

17 (END)