

ENROLLED ACT NO. 60, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2020 BUDGET SESSION

AN ACT relating to environmental quality and utilities; authorizing permits of small modular nuclear reactors; specifying permit requirements; authorizing the replacement of coal generation capacity with small modular nuclear reactor capacity; making conforming amendments; imposing a tax; requiring rulemaking; and providing for an effective date.

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

Section 1. W.S. 35-11-2101 and 39-23-101 through 39-23-111 are created to read:

ARTICLE 21

SMALL MODULAR NUCLEAR REACTORS

35-11-2101. Permits for small modular nuclear reactors.

(a) After recommendation from the director and consultation with the appropriate advisory boards, the council shall promulgate rules and regulations to authorize the permitting of small modular nuclear reactors for the purpose of generating electricity. Rules promulgated under this subsection shall be subject to the following:

(i) Any public utility or person that currently owns a plant, property or facility for the generation of electricity that currently uses coal or natural gas may apply to replace the coal or natural gas generation with generation using small modular nuclear reactors;

(ii) The small modular nuclear reactors shall have a combined rated capacity not greater than the current rated capacity at the plant, property or facility using

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coal or natural gas proposed to be transitioned to a small modular nuclear reactor provided more than one (1) small modular nuclear reactor may be used to replace the current rated capacity at the plant, property or facility to be transitioned;

(iii) The small modular nuclear reactor shall be located on the same site as the current plant, property or facility that the small modular nuclear reactor would replace;

(iv) A permit shall not be issued under this section until the small modular nuclear reactor has received a license or permit to construct or operate the reactor from the United States Nuclear Regulatory Commission;

(v) Any reports, notifications and violations sent to or from the United States Nuclear Regulatory Commission by or to the proposed operator of the small modular nuclear reactor shall also be submitted to the department.

(b) Any person operating a small modular nuclear reactor in the state of Wyoming shall not store spent nuclear fuel or high-level radioactive waste from the small modular nuclear reactor on the site of the small modular nuclear reactor without first meeting all of the requirements of the United States Nuclear Regulatory Commission.

(c) Nothing in this section shall be deemed to affect the authority of the United States Nuclear Regulatory Commission.

(d) As used in this section:

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(i) "High-level radioactive waste" means as defined in W.S. 35-11-1501(a)(i);

(ii) "Public utility" means as defined in W.S. 37-1-101(a)(vi);

(iii) "Small modular nuclear reactor" means a nuclear reactor that:

(A) Has a rated capacity of not more than three hundred (300) megawatts of electricity;

(B) Can be constructed and operated in combination with other similar reactors at a single site, if additional reactors are necessary; and

(C) Has been licensed by the United States Nuclear Regulatory Commission and is in compliance with all requirements and conditions imposed by the commission.

(iv) "Spent nuclear fuel" means as defined in W.S. 35-11-1501(a)(iv).

(e) The provisions of the Industrial Development Information and Siting Act, W.S. 35-12-101 through 35-12-119, shall apply to the extent that those provisions do not interfere with, contradict or duplicate any requirements of the United States Nuclear Regulatory Commission.

CHAPTER 23

TAX UPON PRODUCTION OF ELECTRICITY FROM NUCLEAR REACTORS

39-23-101. Definitions.

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

39-23-102. Administration.

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

39-23-103. Imposition.

There is levied an excise tax upon the sale of electricity from nuclear reactors in this state. The tax shall be imposed upon the sale of any electricity produced from nuclear reactors on or after January 1, 2021 and shall be paid by the person selling such electricity. The tax shall be imposed on each megawatt hour of electricity that is generated from the nuclear reactor and sold.

39-23-104. Taxation rate.

The tax rate shall be five dollars (\$5.00) on each megawatt hour, or portion thereof, which is sold.

39-23-105. Exemptions.

(a) No tax shall be imposed upon electricity which is produced from any generating facility owned or operated by the federal government, state of Wyoming or by any county or municipality in this state.

(b) No tax shall be imposed upon electricity which is produced for the personal consumption of the producer. For purposes of this subsection, "electricity produced for the

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personal consumption of the producer" shall include any excess production of electricity that does not exceed five hundred (500) kilowatt hours in any twenty-four (24) hour period.

(c) No tax shall be imposed on any test or demonstration small modular nuclear reactor licensed and operated in accordance with W.S. 35-11-2101(b) and 35-11-431 through 35-11-433.

39-23-106. Licensing; permits.

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

39-23-107. Compliance; collection procedures.

(a) Returns and reports. Any person producing electricity from nuclear reactors within this state which is subject to the tax imposed by this chapter shall report the amount of megawatt hours produced in this state on or before the fifteenth day of the month immediately following the month in which the electricity was produced.

(b) Payment. Any person owing a tax under this chapter shall pay the tax once each month on or before the fifteenth day of the month immediately following the month in which the electricity was produced. The tax shall be collected by the department of revenue.

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

39-23-108. Enforcement.

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

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

(c) Penalties. The following shall apply:

(i) If any person fails to make or file a return and remit the tax as required by W.S. 39-23-107, the department shall impose a penalty of five percent (5%) of the taxes due for each thirty (30) day period, or fraction thereof, elapsing between the due date of the return and the date filed, unless the person for good cause obtains from the department an extension of time for filing prior to the due date for filing. In the event of an extension, the person shall pay the interest due on delinquent payments set forth in subsection (b) of this section. In no event shall the total penalty imposed by this subsection exceed twenty-five percent (25%) of the tax due. The department, for good cause, may waive a penalty imposed for failure to file a return for any one (1) calendar year, provided that:

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

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

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

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

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

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

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

39-23-109. Taxpayer remedies.

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(a) Credits. The following shall apply:

(i) The taxpayer is entitled to receive an offsetting credit for any property tax paid in connection with the sale of electricity produced from a nuclear reactor;

(ii) Any credit under this subsection may be carried forward to succeeding reporting periods.

39-23-110. Statute of limitations.

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

39-23-111. Distribution.

One hundred percent (100%) of the proceeds from the tax imposed by this chapter shall be distributed by the department and deposited in the state general fund, with receipt and acknowledgement submitted to the state treasurer.

Section 2. W.S. 35-11-103(a)(xiii) is amended to read:

35-11-103. Definitions.

(a) For the purpose of this act, unless the context otherwise requires:

(xiii) "This act" means W.S. 35-11-101 through 35-11-403, 35-11-405, 35-11-406, 35-11-408 through 35-11-1106, 35-11-1414 through 35-11-1432, 35-11-1601 through 35-11-1613, 35-11-1701, 35-11-1801 through

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35-11-1803, ~~and~~ 35-11-2001 through 35-11-2004 ~~and~~
35-11-2101.

Section 3. The environmental quality council and the department of environmental quality shall promulgate rules regarding the permitting of small modular nuclear reactors in accordance with the provisions of this act.

Section 4. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk