

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.**

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

4

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

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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.

11

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 on or after January 1, 2012, and shall be paid by the
19 person producing such electricity. The tax shall be
20 imposed on each megawatt hour of electricity produced from
21 wind resources at the point of interconnection with an
22 electric transmission line.

23

24 **39-22-104. Taxation rate.**

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2 The tax rate shall be one dollar (\$1.00) on each megawatt
3 hour, or portion thereof, which is produced in this state.

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

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

15

16 (b) Electricity produced from a wind turbine shall
17 not be subject to the tax imposed under this chapter until
18 the date three (3) years after the turbine first produced
19 electricity for sale. After such date the production shall
20 be subject to the tax, as provided by W.S. 39-22-103,
21 regardless of whether production first commenced prior to
22 or after January 1, 2012.

23

24 **39-22-106. Licensing; permits.**

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

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5 **39-22-107. Compliance; collection procedures.**

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7 (a) Returns and reports. Any person producing
8 electricity from wind resources within this state which is
9 subject to the tax imposed by this chapter shall report the
10 amount of megawatt hours produced in this state on or
11 before February 1 of the year immediately following the
12 year in which the electricity was produced.

13

14 (b) Payment. Any person owing a tax under this
15 chapter shall pay the tax once each year on or before
16 February 1 of the year immediately following the year in
17 which the electricity was produced. The tax shall be
18 collected by the department of revenue.

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

22

23 **39-22-108. Enforcement.**

24

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

3

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

17

18 (c) Penalties. The following shall apply:

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

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

11

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

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

19

20 (ii) If any part of a tax deficiency is due to
21 the negligence or intentional disregard of rules and
22 regulations there shall be added a penalty of five percent
23 (5%) of the amount of the deficiency plus interest as
24 provided by subsection (b) of this section. The taxes,

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

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

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

12

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

19

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

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23 **39-22-109. Taxpayer remedies.**

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1 There are no specific applicable provisions for taxpayer
2 remedies for this chapter.

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4 **39-22-110. Statute of limitations.**

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

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9 **39-22-111. Distribution.**

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11 (a) The proceeds from the tax imposed by this chapter
12 shall be transferred to the state treasurer to be
13 distributed as follows:

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15 (i) Sixty percent (60%) shall be distributed to
16 the counties in this state where the generating facility is
17 located. The amount shall be proportionately distributed
18 to each county based upon the percentage of the assessed
19 value of the generating facilities located within the
20 county as compared to the total assessed value of
21 generating facilities located within the state;

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23 (ii) Forty percent (40%) shall be deposited in
24 the state general fund.

1 **Section 2.** This act is effective January 1, 2011.

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(END)