

HOUSE BILL NO. HB0270

Electricity production-taxation.

Sponsored by: Representative(s) Miller, Anderson, R., Harshman and Pedersen

A BILL

for

1 AN ACT relating to taxation and revenue; imposing an excise
2 tax upon the production and sale of electricity as
3 specified; providing a rate; providing rulemaking
4 authority; providing a penalty; and providing for an
5 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 AND SALE OF ELECTRICITY

14

15 **39-22-101. Definitions.**

16

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

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4 **39-22-102. Administration.**

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

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11 **39-22-103. Imposition.**

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13 There is levied an excise tax upon the privilege of
14 producing and selling electricity in this state. The tax
15 shall be imposed upon the production and sale of any
16 electricity generated for sale or trade.

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18 **39-22-104. Taxation rate.**

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20 The tax rate shall be ten one-hundredths of one cent
21 (\$.0010) upon each kilowatt hour, or portion thereof,
22 produced and sold in this state.

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24 **39-22-105. Exemptions.**

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2 No tax shall be imposed upon electricity which is produced
3 for the personal consumption of the producer.

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5 **39-22-106. Licensing; permits.**

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

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10 **39-22-107. Compliance; collection procedures.**

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12 (a) Returns and reports. Any person producing and
13 selling electricity in this state shall report the amount
14 of kilowatt hours produced and sold in this state on or
15 before February 1 of the year immediately following the
16 year in which the electricity was produced and sold.

17

18 (b) Payment. Any person owing a tax under this
19 chapter shall pay the tax once each year on or before
20 February 1 of the year immediately following the year in
21 which the electricity was produced and sold. The tax shall
22 be collected by the department of revenue.

23

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

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4 **39-22-108. Enforcement.**

5

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

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

22

23 (c) Penalties. The following shall apply:

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1 (i) If any person fails to make or file a return
2 and remit the tax as required by W.S. 39-22-107 the
3 department shall impose a penalty of five percent (5%) of
4 the taxes due for each thirty (30) day period, or fraction
5 thereof, elapsing between the due date of the return and
6 the date filed, unless the person for good cause obtains
7 from the department an extension of time for filing prior
8 to the due date for filing. In no event shall the total
9 penalty imposed by this subsection exceed twenty-five
10 percent (25%) of the tax due. The department, for good
11 cause, may waive a penalty imposed for failure to file a
12 return for any one (1) calendar year, provided that:

13

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

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

21

22 (ii) If any part of a tax deficiency is due to
23 negligence or intentional disregard of rules and
24 regulations there shall be added a penalty of five percent

1 (5%) of the amount of the deficiency plus interest as
2 provided by subsection (b) of this section. The taxes,
3 penalty and interest shall be paid by the taxpayer within
4 ten (10) days after receipt of notice and demand by the
5 department;

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

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

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

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

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1 **39-22-109. Taxpayer remedies.**

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3 (a) Credits. Any person producing and selling
4 electricity in this state using in the production process
5 any mineral which has been taxed under the provisions of
6 W.S. 39-14-101 et seq. shall be entitled to a credit equal
7 to the amount of the tax paid on the minerals consumed in
8 the production of the electricity. In order to qualify for
9 the credit, any person producing and selling electricity in
10 this state shall adequately demonstrate to the department
11 of revenue that he will expend an amount not less than:

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13 (i) Ninety percent (90%) of the qualifying
14 credit on construction of new projects for the generation
15 of electricity powered by any natural resource including
16 minerals or new power lines to conduct electricity; and

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18 (ii) Ten percent (10%) of the qualifying credit
19 to be transferred to the state treasurer for deposit into
20 the low income energy assistance program (LIEAP) as
21 provided by W.S. 42-2-501.

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23 **39-22-110. Statute of limitations.**

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

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4 **39-22-111. Distribution.**

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6 The proceeds from the tax imposed by this chapter shall be
7 deposited in the general fund.

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9 **Section 2.** This act is effective January 1, 2010.

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(END)