

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. \_\_\_\_\_

Electricity production-taxation.

Sponsored by: Representative(s) Miller

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 an exemption;  
4 providing rulemaking authority; providing a penalty; and  
5 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 AND SALE OF ELECTRICITY

14

1           **39-22-101. Definitions.**

2

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

5

6           **39-22-102. Administration.**

7

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

12

13           **39-22-103. Imposition.**

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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 production and sale of any  
18   electricity generated for sale or trade.

19

20           **39-22-104. Taxation rate.**

21

1 The tax rate shall be ten one-hundredths of one cent  
2 (\$.0010) upon each kilowatt hour, or portion thereof,  
3 produced and sold in this state.

4

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

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7 No tax shall be imposed upon electricity which is produced  
8 for the personal consumption of the producer, including any  
9 excess production of electricity that does not exceed five  
10 hundred (500) kilowatt hours in any twenty-four (24) hour  
11 period.

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13 **39-22-106. Licensing; permits.**

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

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18 **39-22-107. Compliance; collection procedures.**

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20 (a) Returns and reports. Any person producing and  
21 selling electricity in this state shall report the amount  
22 of kilowatt hours produced and sold in this state on or

1 before February 1 of the year immediately following the  
2 year in which the electricity was produced and sold.

3

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

9

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

12

13 **39-22-108. Enforcement.**

14

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

17

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

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

8

9 (c) Penalties. The following shall apply:

10

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

23

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

4

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

8

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

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

21

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.

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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.**

16

17           (a) Credits. Any person producing and selling  
18 electricity in this state using in the production process  
19 any mineral which has been taxed under the provisions of  
20 W.S. 39-14-101 et seq. shall be entitled to a credit equal  
21 to the amount of the tax paid on the minerals consumed in  
22 the production of the electricity. In order to qualify for  
23 the credit, any person producing and selling electricity in

1 this state shall adequately demonstrate to the department  
2 of revenue that he will expend an amount not less than:

3

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

8

9 (ii) Ten percent (10%) of the qualifying credit  
10 to be paid to the state treasurer for deposit into the low  
11 income energy assistance program (LIEAP) as provided by  
12 W.S. 42-2-501.

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14 **39-22-110. Statute of limitations.**

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

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19 **39-22-111. Distribution.**

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

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

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(END)