

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

186W0461

SENATE BILL NO. 180

Introduced by: Senators Rave, Frerichs, Greenfield (Brock), and Peterson (Jim) and
Representatives Solum, Deutsch, Hawley, Kirschman, and Wiik

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the production tax for
2 wind energy facilities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-35-17 be amended to read as follows:

5 10-35-17. Any company owning or holding under lease, or otherwise, real or personal
6 property used, or intended for use, as a wind farm producing power for the first time on or after
7 July 1, 2007, and prior to July 1, 2015, shall pay the alternative annual taxes provided in §§ 10-
8 35-18 and 10-35-19. A wind farm that produces power for the first time on or after July 1, 2015,
9 shall pay the alternative annual taxes provided in § 10-35-18 and section 3 of this Act. The
10 alternative taxes imposed by §§ 10-35-18~~and~~, 10-35-19, and section 3 of this Act are in lieu of
11 all taxes levied by the state, counties, municipalities, school districts, or other political
12 subdivisions of the state on the personal and real property of the company which is used or
13 intended for use as a wind farm, but are not in lieu of the retail sales and service tax imposed
14 by chapter 10-45, the use tax imposed by chapter 10-46, or any other tax.

15 Section 2. That § 10-35-19 be amended to read as follows:



1 10-35-19. Any company owning or holding under lease, or otherwise, real or personal
2 property used, or intended for use, as a wind farm producing power for the first time on or after
3 July 1, 2007, and prior to July 1, 2015, shall pay an annual tax of two percent of the gross
4 receipts of the wind farm. For purposes of this section, the gross receipts of the wind farm is its
5 production of electricity in kilowatt hours multiplied by the South Dakota electricity base rate
6 of \$0.0475 per kilowatt hour in 2008, with the electricity base rate of \$0.0475 per kilowatt hour
7 increasing by 2.5 percent on an annual basis thereafter, as determined by the secretary. The
8 owner of a wind farm subject to the tax ~~under this section~~ shall file a report with the secretary
9 detailing the amount of electricity in kilowatt-hours that was produced by the wind farm for the
10 previous calendar year. The secretary shall prescribe the form of the report. The tax for the gross
11 receipts generated in a calendar year shall become due and be payable to the secretary on the
12 first day of February of the following year. Except as otherwise provided in §§ 10-35-16 to 10-
13 35-22, inclusive, the provisions of chapter 10-59 apply to the administration of the tax.

14 Section 3. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 Any company owning or holding under lease, or otherwise, real or personal property used,
17 or intended for use, as a wind farm producing power for the first time on or after July 1, 2015,
18 shall pay an annual tax of .00035 dollars per kilowatt-hour of electricity produced by the wind
19 farm. The owner of a wind farm subject to the tax shall file a report with the secretary detailing
20 the amount of electricity in kilowatt-hours that was produced by the wind farm for the previous
21 calendar year. The secretary shall prescribe the form of the report. The tax for the electricity
22 produced in a calendar year shall become due and be payable to the secretary on the first day of
23 February of the following year. Except as otherwise provided in §§ 10-35-16 to 10-35-22,
24 inclusive, the provisions of chapter 10-59 apply to the administration of the tax.

1 Section 4. That § 10-35-22 be amended to read as follows:

2 10-35-22. Any company requiring transmission lines or wind farm collector systems or both
3 in South Dakota for a wind farm or a power generation facility as described in § 10-35-1.3, is
4 eligible for a partial rebate of the tax paid under § 10-35-19 or section 3 of this Act. The
5 company shall apply for the rebate on forms prescribed by the secretary. The total amount of tax
6 rebated shall be no more than fifty percent of the cost of the transmission lines and wind farm
7 collector systems in South Dakota.

8 The maximum rebate any company may receive in one year is ninety percent of the tax paid
9 ~~under~~ pursuant to § 10-35-19 or section 3 of this Act for the first five years and fifty percent of
10 the tax paid ~~under~~ pursuant to § 10-35-19 or section 3 of this Act for the next five years. The
11 secretary shall determine when the wind farm is commercially operational. No wind farm may
12 receive a rebate under this section after this ten year period.

13 The secretary shall rebate the tax from the wind energy tax fund prior to the distribution of
14 any money as provided in § 10-35-21. The secretary may provide a tax credit, in lieu of full
15 payment of the gross receipts tax, of up to eighty percent of the transmission rebate value that
16 has been approved by the secretary. Any revenue in the wind energy tax fund after the rebates
17 are paid shall be deposited in the property tax reduction fund.