

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

186W0461

SENATE COMMERCE AND ENERGY ENGROSSED NO. **SB 180** - 02/24/2015

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 § 10-35-19 be amended to read as follows:

5 10-35-19. 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, shall pay an annual tax of ~~two percent of the gross receipts of~~ \$.00040 per kilowatt
8 hour of electricity produced by the wind farm. ~~For purposes of this section, the gross receipts~~
9 ~~of the wind farm is its production of electricity in kilowatt hours multiplied by the South Dakota~~
10 ~~electricity base rate of \$0.0475 per kilowatt hour in 2008, with the electricity base rate of~~
11 ~~\$0.0475 per kilowatt hour increasing by 2.5 percent on an annual basis thereafter, as determined~~
12 ~~by the secretary.~~ The owner of a wind farm subject to the tax under this section shall file a report
13 with the secretary detailing the amount of electricity in kilowatt-hours that was produced by the
14 wind farm for the previous calendar year. The secretary shall prescribe the form of the report.



1 The tax for the gross receipts generated in a calendar year shall become due and be payable to
2 the secretary on the first day of February of the following year. Except as otherwise provided
3 in §§ 10-35-16 to 10-35-22, inclusive, the provisions of chapter 10-59 apply to the
4 administration of the tax.

5 Section 2. That § 10-35-22 be repealed.

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

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

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