

AN ACT

ENTITLED, An Act to revise certain provisions regarding the production tax for wind energy facilities and to declare an emergency.

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

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

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

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

10-35-19. Any company owning or holding under lease, or otherwise, real or personal property used, or intended for use, as a wind farm producing power for the first time on or after July 1, 2007, and prior to April 1, 2015, shall pay an annual tax of \$.00065 per kilowatt hour of electricity produced by the wind farm. The owner of a wind farm subject to tax shall file a report with the secretary detailing the amount of electricity in kilowatt-hours that was produced by the wind farm for the previous calendar year. The secretary shall prescribe the form of the report. The tax for the electricity produced in a calendar year shall become due and be payable to the secretary on the first day of February of the following year. Except as otherwise provided in §§ 10-35-16 to 10-35-22,

inclusive, the provisions of chapter 10-59 apply to the administration of the tax.

Section 3. Any company owning or holding under lease, or otherwise, real or personal property used, or intended for use, as a wind farm producing power for the first time on or after April 1, 2015, shall pay an annual tax of \$.00045 per kilowatt hour of electricity produced by the wind farm. The owner of a wind farm subject to the tax shall file a report with the secretary detailing the amount of electricity in kilowatt-hours that was produced by the wind farm for the previous calendar year. The secretary shall prescribe the form of the report. The tax for the electricity produced in a calendar year shall become due and be payable to the secretary on the first day of February of the following year. Except as otherwise provided in §§ 10-35-16 to 10-35-22, inclusive, the provisions of chapter 10-59 apply to the administration of the tax.

Section 4. That § 10-35-22 be repealed.

Section 5. This Act is effective on April 1, 2015. For wind farms that produced electricity before April 1, 2015, one-fourth of the electricity that was produced in calendar year 2015 shall be taxed and treated pursuant to the provisions in place prior to April 1, 2015, and three-fourths of the electricity that was produced in calendar year 2015 shall be taxed and treated pursuant to the provisions of this Act.

Section 6. That § 10-35-20 be amended to read as follows:

10-35-20. The secretary shall deposit the tax imposed by §§ 10-35-18, 10-35-19, and section 3 of this Act into the wind energy tax fund. There is created in the state treasury the wind energy tax fund.

Section 7. That § 10-35-21 be amended to read as follows:

10-35-21. The secretary shall distribute all of the tax deposited in the wind energy tax fund pursuant to § 10-35-18 and twenty percent of the tax deposited in the wind energy tax fund pursuant to § 10-35-19 and section 3 of this Act to the county treasurer where the wind farm is located. If a

wind farm is located in more than one county, each county shall receive the same percentage of the tax as the percentage of wind towers in the wind farm located in the county. Upon receipt of the taxes, the county auditor shall apportion the tax among the school districts, the county, and the organized townships where a wind tower is located. The tax shall be apportioned by the county auditor by allocating fifty percent of the tax to the school district where each wind tower is located, fifteen percent to the organized township where each wind tower is located, and thirty-five percent to the county. If a wind tower is located in a township that is not organized, the unorganized township's share of the tax for that wind tower is allocated to the county. The secretary shall distribute the money to the counties on or before the first day of May. Any remaining revenue in the wind energy tax fund shall be deposited in the state general fund.

Section 8. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to revise certain provisions regarding the production tax for wind energy facilities and to declare an emergency.

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I certify that the attached Act originated in the

SENATE as Bill No. 180

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 180  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State