



## 2022 South Dakota Legislature

# Senate Bill 36

SENATE COMMERCE AND ENERGY ENGROSSED

*Introduced by: The Committee on Commerce and Energy at the request of the South Dakota Public Utilities Commission*

1 **An Act to require financial security for the decommissioning of solar facilities.**

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

3 **Section 1. That § 49-41B-39 be AMENDED:**

4 **49-41B-39.** All right and title in any financial security required by the commission  
 5 for the decommissioning of wind turbines ~~shall~~ or solar energy facilities must be controlled  
 6 by the commission, in accordance with the terms of the financial security agreement or  
 7 instrument, until the commission by order releases the security. The financial security of  
 8 the person required to provide it may not be cancelled, assigned, revoked, disbursed,  
 9 replaced, or allowed to terminate without commission approval.

10 The commission may require, accept, hold, or enter into any agreement or  
 11 instrument for the provision of financial security, including any funds reserved or held by  
 12 any person to satisfy or guarantee the obligation of an owner of wind turbines or solar  
 13 energy facilities permitted under this chapter, to decommission and remove the wind  
 14 turbines or solar energy facilities. The form, term, and conditions of the financial security  
 15 are subject to the approval of the commission. The commission shall determine any claim  
 16 upon the financial security made by any landowner for decommissioning and removal of  
 17 turbines or solar energy facilities.

18 Any financial security provided under this chapter may not be pledged or used as  
 19 security for any other obligation of the wind turbine or solar energy facilities owner, and  
 20 is exempt from attachment or mesne process, from levy or sale on execution, and from  
 21 any other final process issued from any court on behalf of third-party creditors of the  
 22 owner of the wind turbines or solar energy facilities. Any commission decision based on  
 23 any claim made by the owner of the wind turbines or solar energy facilities for refund or  
 24 return of the financial security, or for actual expenses of decommissioning, or any related  
 25 agreements, may be appealed.

1           In any case, the commission may appear in court and defend the integrity and  
2           viability of the financial security for purposes of decommissioning and removal of wind  
3           turbines or solar energy facilities. The commission may not require any financial security  
4           from an owner of wind turbines or solar energy facilities who is also a public utility as  
5           defined in ~~subdivision 49-34A-1(12)~~ § 49-34A-1.