

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

429I0187

## SENATE BILL NO. 161

Introduced by: Senators Symens, Duxbury, Moore, and Vitter and Representatives Hanson, Bartling, Bradford, Burg, Elliott, Engels, Gillespie, Glenski, Hargens, Hundstad, Kroger, Lange, Miles, Nesselhuf, Olson (Mel), Peterson (Jim), Sigdestad, Thompson, and Valandra

1 FOR AN ACT ENTITLED, An Act to impose an excise tax for certain renewable wind power  
2 production facilities and exempt such facilities from property taxes, sales and use taxes, and  
3 contractor's excise taxes.

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

5 Section 1. For the purposes of this Act, a renewable wind power production facility is any  
6 property used for the purpose of generating electricity for public use from a wind turbine. A  
7 company means any person, cooperative, corporation, limited liability company, association,  
8 company, or partnership owning, holding under lease, or otherwise any renewable wind power  
9 production facility for the purpose of furnishing electricity for public use.

10 Section 2. There is hereby imposed a tax of .0015 dollars per KWH as measured by the  
11 amount of electricity produced semi-annually by each renewable wind power production facility.

12 Section 3. By February first and August first of each year, each company that is subject to  
13 the tax imposed by this Act shall file a semi-annual report with the secretary of revenue. The  
14 report shall provide information on the amount of electricity produced by each renewable wind



1 power production facility and the location of each facility. The report shall be sworn to and  
2 verified by an officer of the company.

3 Section 4. By March first and September first of each year, the secretary of revenue shall  
4 compute and determine the amount of tax imposed by this Act to be paid by each company and  
5 certify the amount to the company. The secretary of revenue shall also certify the amount of tax  
6 due by such company in each county pursuant to the location of the renewable wind power  
7 production facility and provide such information to the appropriate counties.

8 Section 5. The tax levied by this Act is due semi-annually and payable to the Department of  
9 Revenue on April first and October first of each year.

10 Section 6. Any renewable wind power production facility taxed pursuant to this Act is  
11 exempt from real and personal property taxes, sales and use taxes, and contractor's excise taxes  
12 levied by the state, counties, municipalities, townships, or other political subdivisions of the state.

13 Section 7. By May first and November first of each year, the Department of Revenue shall  
14 disburse fifty percent of the revenue received from the tax imposed by this Act to each county  
15 based on the location of the renewable wind power production facility. The county shall allocate  
16 and transmit the revenue received to each unit of local government based on its pro rata share  
17 of the total property taxes payable within the county. The secretary of revenue shall deposit the  
18 remaining revenue in the general fund.

19 Section 8. That § 10-59-1 be amended to read as follows:

20 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes  
21 or fees imposed by this Act and chapters 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D, 10-46,  
22 10-46A, 10-46B, 10-46C, 10-47B, 10-52, 10-52A, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9,  
23 32-10, and 34A-13 and §§ 22-25-48, 49-31-51, 50-4-13 to 50-4-17, inclusive, and the provisions  
24 of chapter 10-45B.

1 Section 9. The secretary may promulgate rules, pursuant to chapter 1-26, concerning:

2 (1) The filing of reports and information;

3 (2) Determining the application and allocation of the tax;

4 (3) Taxpayer record-keeping requirements; and

5 (4) Determining auditing methods.