

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 419**

Introduced by Hadley, 37.

Read first time January 22, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-6203, Revised Statutes Cumulative Supplement, 2012; to  
3 change provisions relating to the nameplate capacity tax;  
4 and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-6203, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3           77-6203 (1) The owner of a wind energy generation  
4 facility annually shall pay a nameplate capacity tax equal to the  
5 total nameplate capacity of ~~the~~ each commissioned wind turbine of the  
6 wind energy generation facility multiplied by a tax rate of three  
7 thousand five hundred eighteen dollars per megawatt of installed  
8 capacity.

9           (2) No tax shall be imposed on a wind energy generation  
10 facility:

11           (a) Owned or operated by the federal government, the  
12 State of Nebraska, a public power district, a public power and  
13 irrigation district, an individual municipality, a registered group  
14 of municipalities, an electric membership association, or a  
15 cooperative; or

16           (b) That is a customer-generator as defined in section  
17 70-2002.

18           (3) No tax levied pursuant to this section shall be  
19 construed to constitute restricted funds as defined in section 13-518  
20 for the first five years after the wind energy generation facility is  
21 commissioned.

22           (4) The presence of one or more wind energy generation  
23 facilities or supporting infrastructure shall not be a factor in the  
24 assessment, determination of actual value, or classification under  
25 section 77-201 of the real property underlying or adjacent to such

1 facilities or infrastructure.

2 (5)(a) The Department of Revenue shall collect the tax  
3 due under this section.

4 (b) The tax shall be imposed beginning the first calendar  
5 year the wind turbine is commissioned. A wind energy generation  
6 facility commissioned prior to July 15, 2010, shall be subject to the  
7 tax levied pursuant to sections 77-6201 to 77-6204 on and after  
8 January 1, 2010. The amount of property tax on depreciable tangible  
9 personal property previously paid on a wind energy generation  
10 facility commissioned prior to July 15, 2010, which is greater than  
11 the amount that would have been paid pursuant to sections 77-6201 to  
12 77-6204 from the date of commissioning until January 1, 2010, shall  
13 be credited against ~~any~~the tax due under ~~Chapter 77, sections~~  
14 77-6201 to 77-6204, and any amount so credited that is unused in any  
15 tax year shall be carried over to subsequent tax years until fully  
16 utilized.

17 (c)(i) The tax for the first calendar year shall be  
18 prorated based upon the number of days remaining in the calendar year  
19 after the wind turbine is commissioned.

20 (ii) In the first year in which a wind energy generation  
21 facility is taxed or in any year in which additional commissioned  
22 nameplate capacity is added to a wind energy generation facility, the  
23 taxes on the initial or additional nameplate capacity shall be  
24 prorated for the number of days remaining in the calendar year.

25 (iii) When a wind turbine is decommissioned or made

1 nonoperational by a change in law or decertification from its status  
2 as a certified renewable export facility during a tax year, the taxes  
3 shall be prorated for the number of days during which the wind  
4 turbine was not decommissioned or was operational.

5 (iv) When the capacity of a wind turbine to produce  
6 electricity is reduced but the wind turbine is not decommissioned,  
7 the nameplate capacity of the wind turbine is deemed to be unchanged.

8 (6)(a) On March 1 of each year, the owner of a wind  
9 energy generation facility shall file with the Department of Revenue  
10 a report on the nameplate capacity of the facility for the previous  
11 year from January 1 through December 31. All taxes shall be due on  
12 April 1 and shall be delinquent if not paid on a quarterly basis on  
13 April 1 and each quarter thereafter. Delinquent quarterly payments  
14 shall draw interest at the rate provided for in section 45-104.02, as  
15 such rate may from time to time be adjusted.

16 (b) The owner of a wind energy generation facility is  
17 liable for the taxes under this section with respect to the facility,  
18 whether or not the owner of the facility is the owner of the land on  
19 which the facility is situated.

20 (7) Failure to file a report required by subsection (6)  
21 of this section, filing such report late, failure to pay taxes due,  
22 or underpayment of such taxes shall result in a penalty of five  
23 percent of the amount due being imposed for each quarter the report  
24 is overdue or the payment is delinquent, except that the penalty  
25 shall not exceed ten thousand dollars.

1                   (8) The Department of Revenue shall enforce the  
2 provisions of this section. The department shall adopt and promulgate  
3 rules and regulations necessary for the implementation and  
4 enforcement of this section.

5                   (9) The Department of Revenue shall separately identify  
6 the proceeds from the tax imposed by this section and shall pay all  
7 such proceeds over to the county treasurer of the county where the  
8 wind energy generation facility is located within thirty days after  
9 receipt of such proceeds.

10                   Sec. 2. Original section 77-6203, Revised Statutes  
11 Cumulative Supplement, 2012, is repealed.