

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SPECIAL SESSION

**LEGISLATIVE BILL 35**

Introduced by Brewer, 43; Halloran, 33; Murman, 38.

Read first time July 26, 2024

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-6203, Revised Statutes Cumulative Supplement, 2022; to adjust the
- 3 nameplate capacity tax for inflation as prescribed; and to repeal
- 4 the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-6203, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3 77-6203 (1) The owner of a renewable energy generation facility  
4 annually shall pay a nameplate capacity tax equal to the total nameplate  
5 capacity of the commissioned renewable energy generation facility  
6 multiplied by a tax rate of three thousand five hundred eighteen dollars  
7 per megawatt. On January 1, 2025, and on each January 1 thereafter, the  
8 Department of Revenue shall adjust the tax rate by the percentage change  
9 in the Consumer Price Index for All Urban Consumers, as prepared by the  
10 United States Department of Labor, Bureau of Labor Statistics, for the  
11 twelve-month period ending on August 31 of the previous calendar year. If  
12 the adjusted tax rate is not a whole dollar amount, it shall be rounded  
13 to the nearest whole dollar amount.

14 (2) No tax shall be imposed on a renewable energy generation  
15 facility:

16 (a) Owned or operated by the federal government, the State of  
17 Nebraska, a public power district, a public power and irrigation  
18 district, an individual municipality, a registered group of  
19 municipalities, an electric membership association, or a cooperative; or

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

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

25 (4) The presence of one or more renewable energy generation  
26 facilities or supporting infrastructure shall not be a factor in the  
27 assessment, determination of actual value, or classification under  
28 section 77-201 of the real property underlying or adjacent to such  
29 facilities or infrastructure.

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

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

14 (c)(i) The tax for the first calendar year shall be prorated based  
15 upon the number of days remaining in the calendar year after the  
16 renewable energy generation facility is commissioned.

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

22 (iii) When a renewable energy generation facility is decommissioned  
23 or made nonoperational by a change in law during a tax year, the taxes  
24 shall be prorated for the number of days during which the renewable  
25 energy generation facility was not decommissioned or was operational.

26 (iv) When the capacity of a renewable energy generation facility to  
27 produce electricity is reduced but the renewable energy generation  
28 facility is not decommissioned, the nameplate capacity of the renewable  
29 energy generation facility is deemed to be unchanged.

30 (6)(a) On March 1 of each year, the owner of a renewable energy  
31 generation facility shall file with the Department of Revenue a report on

1 the nameplate capacity of the facility for the previous year from January  
2 1 through December 31. All taxes shall be due on April 1 and shall be  
3 delinquent if not paid on a quarterly basis on April 1 and each quarter  
4 thereafter. Delinquent quarterly payments shall draw interest at the rate  
5 provided for in section 45-104.02, as such rate may from time to time be  
6 adjusted.

7 (b) The owner of a renewable energy generation facility is liable  
8 for the taxes under this section with respect to the facility, whether or  
9 not the owner of the facility is the owner of the land on which the  
10 facility is situated.

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

17 (8) The Department of Revenue shall enforce the provisions of this  
18 section. The department may adopt and promulgate rules and regulations  
19 necessary for the implementation and enforcement of this section.

20 (9) The Department of Revenue shall separately identify the proceeds  
21 from the tax imposed by this section and shall pay all such proceeds over  
22 to the county treasurer of the county where the renewable energy  
23 generation facility is located within thirty days after receipt of such  
24 proceeds.

25 Sec. 2. Original section 77-6203, Revised Statutes Cumulative  
26 Supplement, 2022, is repealed.