

# Policies and Incentives

## SD ETHANOL INCENTIVES

- Ethanol Production Incentive Payment of 20 cents per gallon is available to ethanol producers for ethyl alcohol which is fully distilled and produced in South Dakota (for plants in production before 2007).
- The ethanol must be distilled from cereal grains.
- Eligible facilities must have been in production by December 31, 2006.
- Tax Refund for New Agricultural Processing Facilities
- 100% Contractors Excise Tax Refund for Construction of New or Expanding Agricultural Processing Facilities.
- These refunds equaled \$ 18.9 million as of December 31, 2007.
- \$10,370,206 in road infrastructure and rail line improvement grants and loans.
- **State Fuel Excise Tax Rates**
- **Executive Orders**
- **First state to allow blender pumps**

## BIODIESEL

- New or expanding Biodiesel facilities qualify for the same excise, sales and use tax exemptions as ethanol.
- The 2008 SD Legislature provided a 2 cent tax incentive for blends of biodiesel of 5% or higher to encourage growth of a biodiesel industry in South Dakota and to further use of biodiesel blended fuel at the pump. (SB 148)
- Gov. Rounds ordered the state DOT to stock and use a minimum of 2% biodiesel blends in 2006 based on a favorable DOT biodiesel study.

## South Dakota Biofuels Incentives and Programs

### **Ethanol and Biodiesel Production Facility Tax Refund**

A tax refund is available for contractors' excise taxes and sales or use taxes paid for the construction of a new agricultural processing facility, which includes an expansion to an existing ethanol processing or soybean processing facility if the expansion will be used for the production of biofuels. The project cost must exceed \$4.5 million in order to qualify for the refund. (Reference [South Dakota Statutes](#) 10-45B)

### **Ethanol and Methanol Tax Report Credit**

A tax report credit for gasoline blended with ethanol or methanol to create E85 or M85 is available to licensed blenders. The tax report credit is granted on a per gallon basis, in the

amount that the rate for motor fuel exceeds the rate for E85 or M85. The credit is used to offset any tax liability resulting from the blending of previously untaxed ethanol or methanol. E85 and M85 are taxed at a rate of \$0.10 per gallon, and other ethanol blends are taxed at a rate of \$0.20 per gallon. (Reference [South Dakota Statutes](#) 10-47B-4 and 10-47B-136)

### **Large Power Production Facilities CET and Sales Tax Rebate Program (10-45B) - Includes all forms of renewable energy.**

10-45B-2.1. Refund or credit for sales or use tax and contractors' excise tax on project costs for new business facility. As provided in this chapter, any person holding a permit issued pursuant to § 10-45B-6 may apply for and obtain a refund or credit for sales or use tax imposed and paid by such person under the provisions of chapter 10-45 or 10-46 and contractors' excise taxes imposed and paid under the provisions of chapter 10-46A or 10-46B on the project costs for a new business facility.

10-45B-1.1. New business facility defined. For the purposes of this chapter, the term, new business facility, means a new building or structure or the expansion of an existing building or structure, including a power generation facility, the construction of which is subject to the contractor's excise tax pursuant to chapter 10-46A or 10-46B. A new business facility does not include any building or structure:

(1) Used predominantly for the sale of products at retail, other than the sale of electricity at retail, to individual consumers;

(2) Used predominantly for residential housing or transient lodging;

(3) Used predominantly to provide health care services; or

(4) That is not subject to ad valorem real property taxation or equivalent taxes measured by gross receipts.

10-45B-4.1. Requirements for refunds for new business facility. The refund of taxes pursuant to § 10-45B-2.1 pertains only to project costs incurred and paid after February 1, 2005, up to and including thirty-six months from the construction date if the project costs are sixty million dollars or less and after February 1, 2005, up to and including seventy-two months from the construction date if the project costs are more than sixty million dollars. There is no refund if the person applying for the refund does not obtain a permit from the secretary as set forth in § 10-45B-6.

Upon a showing of good cause, the time limits prescribed by this section may be extended by the secretary for a period not to exceed twenty-four months.

10-45B-5.1. Calculation of refund for new business facility. The amount of the tax refund for a new business facility shall be a percentage of the taxes paid, as follows:

(1) For project costs of less than ten million dollars, there shall be no refund;

(2) For project costs of ten or more million dollars but less than fifteen million dollars there shall be a refund of twenty-five percent of the taxes paid;

(3) For project costs of fifteen or more million dollars but less than twenty million dollars there shall be a refund of thirty-three percent of the taxes paid;

(4) For project costs of twenty or more million dollars but less than forty million dollars there shall be a refund of fifty percent of the taxes paid;

(5) For project costs of forty or more million dollars but less than sixty million dollars there shall be a refund of sixty-seven percent of the taxes paid;

(6) For project costs of sixty million dollars or more but less than six hundred million dollars there shall be a refund of seventy-five percent of the taxes paid; and

(7) For project costs of six hundred million dollars and greater there shall be a refund of ninety percent of the taxes paid.

### ***New and Expanded Business and Power Generation Facilities***

**Who's eligible:** New and expanded business facilities with the exception of retail, housing, and health care facilities, and any facility that is exempt from property tax. Project costs must be greater than \$10 million and include any expenditure directly related to the project.

**Refund amounts:**

Refund of the contractors' excise tax, sales, and use tax on project costs based on the following scale:

- \$0 to \$10 million = 0
- \$10 to \$15 million = 25%
- \$15 to \$20 million = 33%
- \$20 to \$40 million = 50%
- \$40 to \$60 million = 67%
- \$60 to \$600 million = 75%
- \$600 million and up = 90%

**Refund window:** 36 months if the cost is under \$60 million, 72 months if the cost is over \$60 million. A one-time extension of 24 months is available in either cost bracket if there is good cause for extension. The State of South Dakota holds a 5% retainer.

Refunds are paid monthly.

## **Traditional Energy Technologies Incentives**

### **Large Energy Production Facilities CET and Sales Tax Rebate Program (10-45B) - Includes all forms of renewable energy.**

10-45B-2.1. Refund or credit for sales or use tax and contractors' excise tax on project costs for new business facility. As provided in this chapter, any person holding a permit issued pursuant to § 10-45B-6 may apply for and obtain a refund or credit for sales or use tax imposed and paid by such person under the provisions of chapter 10-45 or 10-46 and contractors' excise taxes imposed and paid under the provisions of chapter 10-46A or 10-46B on the project costs for a new business facility.

10-45B-1.1. New business facility defined. For the purposes of this chapter, the term, new business facility, means a new building or structure or the expansion of an existing building or structure, including a power generation facility, the construction of which is subject to the contractor's excise tax pursuant to chapter 10-46A or 10-46B. A new business facility does not

include any building or structure:

- (1) Used predominantly for the sale of products at retail, other than the sale of electricity at retail, to individual consumers;
- (2) Used predominantly for residential housing or transient lodging;
- (3) Used predominantly to provide health care services; or
- (4) That is not subject to ad valorem real property taxation or equivalent taxes measured by gross receipts.

### **Partial exemption for power generation facility**

10-35-1.5. Partial exemption for power generation facility--Allocation of exemption. The full and true value of real and personal property used, or intended for use, as a power generation facility is exempt from ad valorem taxation to the extent the value is in excess of the amount of five hundred dollars multiplied by the nameplate capacity of the power generation facility. This exemption shall be allocated proportionately based upon percentage ownership of the power generation facility.

10-35-1.3. Definitions. Terms as used in §§ 10-35-1.3 to 10-35-1.6, inclusive, mean:

- (1) "Commercial operation date," the first date that a power generation facility is producing electricity on a continuous basis and is delivering electricity to customers;
- (2) "Construction date," is the first date earth is excavated for the purpose of constructing the power generation facility;
- (3) "Construction period," the time period between the construction date and the commercial operation date;
- (4) "Nameplate capacity," the number of kilowatts a power generation facility can produce, as assigned to the power unit by the manufacturer and determined by the secretary;
- (5) "**Power generation facility**," a facility with **one power unit that generates electricity, with a nameplate capacity of no less than five hundred megawatts** or a facility that generates at least five hundred megawatts of electricity by converting coal to synthesis gas which is used to fuel a combined-cycle power unit that generates electricity from one or more combustion turbines and one or more steam turbines;
- (6) "Secretary," the secretary of the Department of Revenue and Regulation.

## **Utility Incentive**

South Dakota offers competitive electric rates to large, new projects. There is a wide variety of utility providers in the state ranging from Investor Owned to Rural Electric Coop's to Municipal Utilities. This results in competitive pricing for new and expanding business. Large projects, defined as 2MW or higher, also have the option of requesting bids from electric utilities outside their project's service area. (SDCL 49-34A-56)

## **Wind Energy Incentives and Supportive Public Policy**

### **Incentives:**

**Large Commercial Wind Exemption and Alternative Taxes** – (HB 1320 – passed by the SD legislature in 2008 and became law on July 1, 2008) Waives all state and local property taxes for wind energy facilities with a minimum capacity of 5 MW. Eligible facilities pay alternative annual taxes of \$3/kW of capacity and 2% on wind farm gross receipts. A partial tax rebate is available for up to half the cost of underground distribution lines, substations, and transmission lines built to support the facility. Maximum rebate is 90% of taxes paid for first 5 years and 50% of taxes paid for next 5 years. No rebates issued after 10-year period<sup>1</sup>.

**Small Commercial Wind Energy Property Tax Assessment (projects < 5 MW) – Partial Property Tax Exemption** - Assesses the property value of commercial wind facilities with an aggregate capacity of less than 5 MW. The property value assessment does not include the wind turbine or blades and only takes the base, foundation, tower, and substations into account. Wind energy companies are also not subject to discretionary tax formulas<sup>2</sup>.

**Renewable Energy Systems Property Tax Exemption** –Provides property tax exemption for renewable energy systems (solar, wind, geothermal, or wind) on residential and commercial property. Exemption applies to 50% of installed cost of commercial system and 100% of installed cost of residential system. The exemption cannot be transferred when property is sold. Full exemption may be claimed for 3 years after installation with the exemption being reduced in subsequent three years.

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<sup>1</sup> SDCL 10-4-36 thru 38

<sup>2</sup> SDCL 10-4-36 thru 38

Anaerobic digester projects that sell electricity are eligible to qualify for the commercial property tax exemption<sup>3</sup>.

**Small Renewable Electricity Generation Facility - Contractor's Excise Tax Rebate** - New and expanded renewable electricity generation facilities (generate electricity from sun, wind, geothermal, or biomass) that have a nameplate capacity to produce 10 megawatts of electricity or less with costs greater than \$500,000 are eligible for a 100% rebate of the projects contractor's excise tax<sup>4</sup>.

<sup>1</sup> SDCL 10-4-36 thru 38

<sup>1</sup> SDCL 10-4-36 thru 38

<sup>1</sup> SDCL 10-6-35

<sup>1</sup> SDCL 49-34A

**Large Renewable Electricity Generation Facility- Contractor's Excise Tax Rate Reduction** - New and expanded renewable electricity generation facilities (generate electricity from sun, wind, geothermal, or biomass) that produce more than 10 megawatts of electricity are eligible for a reduced contractor's excise tax rate of 1% instead of 2%. Payment of the excise tax may be delayed into four equal annual payments<sup>5</sup>.

### **Resources Available:**

**South Dakota Energy Infrastructure Authority** - The South Dakota Energy Infrastructure Authority (SDEIA) was created by the South Dakota legislature in 2005 to "...diversify and expand the state's economy by developing in this state the energy production facilities and the energy transmission facilities necessary to produce and transport energy to markets within the state and outside the state."<sup>6</sup> In its initial efforts, the SDEIA elected to limit the scope of "energy production and transmission" to mean electricity production and transmission. The Authority has one billion dollars in revenue bonding authorization and eminent domain authority to use in cooperation with the private sector for transmission development<sup>7</sup>.

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<sup>3</sup> SDCL 10-6-35

<sup>4</sup> SDCL 49-34A

<sup>5</sup> SDCL 10-46C

<sup>6</sup> SDCL 1-16I, Section 2.

<sup>7</sup> SDCL 1-16I or at the SDEIA website: [www.sdeia.com](http://www.sdeia.com)

**South Dakota Wind Power Report<sup>8</sup>** - The SDEIA in December of 2007 published a report on the current status of wind power development in South Dakota and the key issues that effect that development. The report covers the following topics:

- a brief description of how wind power works;
- a discussion of the wind resource in South Dakota, including the economics of wind production and a discussion of who benefits from a wind development;
- a summary of existing and proposed South Dakota wind power developments;
- a summary of recent wind development/integration studies;
- A discussion of issues facing wind power development including permitting of wind developments, identifying potential markets and the transmission grid issues involved in moving the electricity to those markets.

<sup>1</sup> SDCL 10-46C

<sup>1</sup> SDCL 1-16I, Section 2.

<sup>1</sup> SDCL 1-16I or at the SDEIA website: [www.sdeia.com](http://www.sdeia.com)

<sup>1</sup> <http://www.sdeia.com/PDF/2007WindEnergyReport.pdf>

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**SD Wind Resource Assessment Network (WRAN)** – The SD WRAN project currently has 11 different wind resource assessment stations across the State of South Dakota to verify the state’s tremendous wind resource. The WRAN project has proven the incredible potential for wind energy that the State of South Dakota has spread out across the entire state<sup>9</sup>. The SD WRAN website can be found at: <http://www.sdwind.com/>

### **Favorable Regulatory Environment:**

**Expedited Project Siting** – The South Dakota Public Utilities Commission will render a decision within six months of receiving an initial application for the construction of a wind energy facility, substation, or transmission line of less than two hundred fifty kilovolts. (SDCL 49-41B-25)

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<sup>8</sup> <http://www.sdeia.com/PDF/2007WindEnergyReport.pdf>

<sup>9</sup> <http://www.sdwind.com/>

**Expedited Cost Recovery for Transmission** – The South Dakota Public Utilities Commission may approve a tariff mechanism that allows for the expedited cost recovery of a new or upgraded electrical transmission facility. Eligible project costs include the jurisdictional costs of new or modified transmission facilities, including transmission lines, substations, and transformers, with a design capacity of thirty-four and one-half kilovolts or more and which are more than five miles in length. (SDCL 49-34A-25.1)

**Renewable Energy Credits for Electricity Tracking and Verification (MRETS)** – Midwest Renewable Energy Tracking System - The South Dakota PUC participates and is an active member in the Midwest Renewable Energy Tracking System. The Midwest Renewable Energy Tracking System (M-RETS) tracks renewable energy generation in participating states and provinces and assists in verifying compliance with individual state/provincial or voluntary Renewable Portfolio Standards (RPS) and objectives. M-RETS is an important tool to keep track of all relevant information about renewable energy produced and delivered in the region.

Currently, several states and provinces participate in M-RETS: Iowa, Manitoba, Minnesota, Montana, North Dakota, South Dakota, and Wisconsin have policies in place requiring or strongly encouraging utility development of renewable resources. (SDCL 49-34A-94 thru 96)

**Renewable Energy Objective** – South Dakota did pass a Renewable Energy Objective just this past year in the South Dakota 2008 Legislative Session. The Renewable Energy Objective became law in South Dakota on July 1, 2008. The “Renewable Energy Objective” sets the goal that 10% of SD electricity consumed will come from renewable or recycled resources by 2015. The new law also calls for renewable electricity reporting requirements. You can find the text of the legislation at this link: <http://legis.state.sd.us/sessions/2008/Bills/HB1123ENR.pdf>

***South Dakota’s Efforts to lower our energy footprint: “Mitigate Greenhouse Gas Emissions”***

**Leader in Biofuels:**

**Favorable Regulation of Blender Pumps**

- Blender pumps are allowed by the State of South Dakota

- South Dakota was the first state in the nation to provide a supportive regulatory inspection policy for blender pumps.

### **Ethanol and Biodiesel Blended Fuel Tax Break at the Pump**

- E85 blended fuel is taxed at a rate of \$0.10 per gallon, whereas 100% gasoline fuel is taxed at \$0.22 per gallon.
- Additionally, E10-E75 blended gasoline is taxed at a rate of \$0.20 cents per gallon, which is 2 cents lower per gallon than gasoline, so it provides a 2 cent tax incentive for consumers to purchase E10 or higher blended fuels.

### **State Government Leadership**

- Governor Rounds implemented a Flex-Fuel Vehicle purchasing policy has purchased 1037 FFV's or about 45% of the state fleet. SD is committed to purchasing more as the Flex-Fuel option becomes available in a larger variety of vehicle models. Our goal is to have 100% of the state fleet as FFV.

### **Numerous Other Production Incentives –**

- Production payments
- Infrastructure grants

### **Research –** SD is working on developing the next generation of biofuels

- **State of South Dakota 2010 Bioprocessing Research Center** is doing research on the next generation of alternative fuels, including cellulosic ethanol. The 2010 Bioprocessing Center has been funded with \$1 million in state funding with an additional commitment of \$1 million in state funding.

### **Electricity –**

**SD adopted legislation that requires LEEDS (Leadership in Energy and Environmental Design) Silver rating standard** for all new construction and remodeled state facilities, including Board of Regents facilities (Public Universities and Technical Schools). Becomes law on July 1, but it is already being applied to current projects.

**Energy Efficiency Upgrades** - State is in the process of replacing every light bulb (and when needed light fixture) with much more modern energy efficient models on the Pierre campus.

**Energy Efficiency Stakeholder Meetings** - Numerous stakeholder meetings to discuss expanding energy efficient practices in South Dakota. Those meetings were held across the state with members from the engineering, construction, and real estate industries.

### **Green Power Purchasing**

- State of South Dakota will purchase green power from a 50 MW wind energy project. The project is under construction and expected to be providing electricity this fall. This will make the two largest South Dakota Universities, SDSU and USD, more green friendly campuses when it comes to electricity usage.

### **Renewable Energy Objective –**

- South Dakota did pass a Renewable Energy Objective just this past year in the South Dakota 2008 Legislative Session. The Renewable Energy Objective will become law in South Dakota on July 1, 2008. The “Renewable Energy Objective” sets the goal that 10% of SD electricity consumed will come from renewable or recycled resources by 2015. The new law also calls for renewable electricity reporting requirements.

### **Research –**

- **Photo Voltaic Solar Research at SDSU –**
  - **State of South Dakota 2010 Light Activated Materials Research Center** is doing research on photovoltaic solar energy. The 2010 Light Activated Materials Research Center has been funded with over \$2 million in state funding with an additional commitment of \$1 million in state funding.
  - **Wind Resource Assessment Network (WRAN)** – Provided funds for 11 different wind resource assessment stations across to State of South Dakota to verify the state’s tremendous wind resource. The WRAN project has proven the tremendous potential for wind energy that the State of South Dakota has spread out across the entire state.

**State of SD Energy Loan Fund:** SD is using over \$8 million dollars of funds to provide no-interest loans to State of South Dakota projects. The loan repayment is based on energy costs savings.

**South Dakota Energy Smart** - a state-wide initiative coordinated by the South Dakota Public Utilities Commission. The initiative is designed to foster the development, implementation and promotion of energy efficiency programs in South Dakota. All of the SD Electricity Providers and the State of South Dakota are partners in SD Energy Smart.

## ***FEDERAL POLICY and ECONOMIC IMPLICATIONS***

- we need policy that is realistic and is driven by innovation and technology,
- We need to spend **Billions** of \$\$ in research, development, and deployment today, to save **Trillions** of \$\$ in future costs for the citizens and businesses of our states
  - We need policy that drives innovation towards sustainable low emission technologies
  - But low greenhouse gas policies can't outpace what is technologically realistic
  - We need to protect our economy by driving innovation in the energy industry.
  - Technology investment is key
    - SD has spent millions of \$\$ investing in research in photovoltaic solar technology and advanced biofuels
      - 2010 Light Activated Materials
      - 2010 Bioprocessing Center
  - Any greenhouse gas policies that outpace new technologies will hurt America's already weakened economy.
  - We can't get the cart before the horse - greenhouse gas policy that is not based on technology that can be deployed near term is just a new tax
  - We don't need a massive new tax regime to address climate change, we need major greenhouse gases Technology investment is key
  - We need to invest in advanced technologies for renewable energy and traditional resources. That way we can
    - anything else is just a new tax

In government, in our businesses and in our homes, we can become more efficient and we can save money at the same time.

But, in addition to that, on the larger scale,

- our state and our nation need to stabilize and hopefully decrease the price of gasoline and other transportation fuels, and
- We also need stable supplies of those transportation fuels for our farmers, ranchers, businesses, ourselves and for the tourists who want to visit our state.

That means becoming much more **energy independent** from the Middle-east and Venezuelan oil supplies.

We do **NOT** want to see a future that includes higher transportation and home-heating fuel prices.

Our families in South Dakota have better things to spend their money on than higher and higher energy charges.

To begin with, for **Energy Independence**, we need to produce more fuels and more electricity from **renewable** sources.

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