



Hundredth Legislature - Second Session - 2008
Introducer's Statement of Intent
LB 1137

Chairperson: Ray Janssen
Committee: Revenue
Date of Hearing: February 7, 2008

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 1137 is a clean-up bill to last year's legislation to allow C-BED projects a sales tax exemption on materials used to construct, repair, replace or manufacture a device such as a wind turbine. Throughout the interim my office and others have worked with the Nebraska Department of Revenue as they drafted their Ruling to implement this legislation. During this process it became clear that several provisions need further clarification in order to assure that the exemption is applied as intended. Since the definitions and provisions in last year's bill tracked the language in LB 629 – which also passed, it is necessary to amend those provisions as well. LB 1137 includes the following provisions:

1. Clarifies that no single individual owner of a C-BED project may directly or indirectly own more than 15% of the project and that at least 33% of the gross power purchase agreement payments must flow to the local qualified owner/s or local community;
2. Adds clarifying language that payments to local community include, but are not limited to,
 - a. lease payments to property owners where a turbine is located;
 - b. wind energy easement payments, and
 - c. personal property tax receipts from the C-BED project
3. Clarifies that the sales tax exemption applies to any tangible personal property used to manufacture, install, construct, repair or replace a device such as a wind turbine to convert wind energy to electrical energy;
4. Adds a clarifying provision that the power purchase agreement payments are the total amount of payments during the life of the agreement.
5. Adds a new provision which requires the Tax Commissioner and the C-BED project developer to notify the utility which has the power purchase agreement with the C-BED project, if there is a change of ownership in the project which makes the project ineligible to receive the exemption;
6. Clarifies that utilities must post on their web sites by March 1 of each year a statement regarding the C-BED activities in the previous year;
7. Adds language regarding the Department of Revenue's authority to examine and recover exempted sales tax:
 - a. May examine actual payments and distribution of payments to determine if the project distributions were met;
 - b. If distribution payments were not met, may recover sales tax not paid by the project any time until the end of 3 years after the end of the power purchase agreement;
 - c. Any time prior to the end of the power purchase agreement, the project may voluntarily surrender the exemption granted and pay the amount it would have otherwise paid;
 - d. Any payment of tax due under these provisions shall include interest from the date otherwise due.
8. Clarifies that a C-BED project developer must provide in writing an opportunity to become a qualified owner in the C-BED project to each property owner on whose property a turbine is located.

Principal Introducer:

Senator Don Preister
