Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2037
(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to amend and reenact section 57-06-14.1, subsection 1 of section 57-38-01.8, and section 57-39.2-04.8 of the North Dakota Century Code, relating to taxation of wind turbine electric generation units, an income tax credit for installation of geothermal, solar, wind, or biomass energy devices, and a sales tax exemption for machinery or equipment used to produce coal from a new mine; to provide for a legislative management study; to provide for a report; to provide an effective date; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-06-14.1 of the North Dakota Century Code is amended and reenacted as follows:

57-06-14.1. ~~Taxable valuation~~Taxation of centrally assessed wind turbine electric generators.

1. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more on which construction is completed before January 1, 2015, must be valued at three percent of assessed value to determine taxable valuation of the property except:

~~1.~~ a. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, for which a purchased power agreement was executed after April 30, 2005, and before January 1, 2006, and construction was completed after April 30, 2005, and before July 1, 2006, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property~~ for the duration of the initial purchased power agreement for the generation unit~~; and

~~2.~~ b. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after June 30, 2006, and before January 1, 2015, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property.

2. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after December 31, 2014, or which is twenty years or more from the date of first assessment, is subject to taxes in lieu of property taxes, to be determined as provided in subsection 1 of section 57-33.2-04 and subject to any associated administrative provisions of chapter 57-33.2.

SECTION 2. AMENDMENT. Subsection 1 of section 57-38-01.8 of the North Dakota Century Code is amended and reenacted as follows:

1. A taxpayer filing a North Dakota income tax return pursuant to the provisions of this chapter may claim a credit against the tax liability under section 57-38-30 for the cost of a geothermal, solar~~, wind~~, or biomass energy device installed before January 1, 2015, in a building or on property owned or leased by the taxpayer in North Dakota. A wind energy device on which construction was commenced before January 1, 2015, and which is installed before January 1, 2017, is eligible for the credit provided in this section. The credit ~~provided in this section~~ for a device installed before January 1, 2001, must be in an amount equal to five percent per year for three years, and for a device installed after December 31, 2000, must be in an amount equal to three percent per year for five years of the actual cost of acquisition and installation of the geothermal, solar, wind, or biomass energy device and must be subtracted

from any income tax liability of the taxpayer as determined pursuant to the provisions of this chapter.

SECTION 3. AMENDMENT. Section 57-39.2-04.8 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.8. Sales tax exemption for machinery or equipment used to produce coal from a new mine.

1. Gross receipts from sales of machinery or equipment used to produce coal from a new mine located in this state are exempt from the tax imposed by this chapter. The exemption for each new mine under this section is limited to the first five million dollars of sales and use tax paid.

2. Purchase of replacement machinery or equipment is exempt if the capitalized investment in the new mine exceeds twenty million dollars using the United States generally accepted accounting principles. Purchases of repair or replacement parts for existing machinery or equipment are not exempt under this section.

3. The mine operator shall apply to the commissioner for a refund of sales and use taxes paid for which the exemption is claimed under this section. A refund claim may not exceed the limitation in subsection 1. If the machinery or equipment is used directly or indirectly to produce coal, the interest provisions of section 57-39.2-25 do not apply to purchases made before July 1, 2015. Application for the refund must be made at the time and in the manner directed by the commissioner and must include sufficient information to verify the correctness of the refund claim.

4. For purposes of this section:

   a. "Machinery or equipment" means machinery or equipment purchased after December 31, 2010, and used directly or indirectly to uncover, sever, crush, handle, or transport coal removed from the earth. "Machinery or equipment" includes draglines, excavators, rolling stock, conveyor equipment, reclamation equipment, ~~and~~ equipment to pulverize coal, water trucks, fuel trucks, low-boys, cranes, lubrication trucks, motor graders, service trucks, light plants, and dewatering equipment, but does not include rail spurs, office buildings, workshops, or any component not used directly to uncover, sever, crush, handle, or transport coal removed from the earth.

   b. "New mine" means an area permitted under chapter 38-14.1 by the public service commission after December 31, 2010.

   c. "Produce coal" means mining operations to uncover, sever, crush, handle, or transport coal from its natural location under the earth's surface to the mouth of the mine and all activities necessary and incidental to the reclamation of that location.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - WIND GENERATION TAXATION. During the 2015-16 interim, the legislative management shall consider studying wind generation taxation, including analysis of property, generation, sales, and income tax application and equity within the industry. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 5. REPORTS BY PUBLIC SERVICE COMMISSION. At least once in each year of the 2015-16 interim, the public service commission shall present a report to the interim committee designated by the legislative management on the most current information available on the status of retail sales of electricity in the state meeting or exceeding the state renewable and recycled energy objective established in section 49-02-28 and a comparison of the amount of renewable and recycled energy produced in the state with the amount sold at retail in the state.

SECTION 6. EFFECTIVE DATE. Sections 1 and 2 of this Act are effective for taxable years beginning after December 31, 2014.

SECTION 7. RETROACTIVE APPLICATION. Section 3 of this Act applies retroactively to purchases of machinery or equipment made after December 31, 2010.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2037.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 89	Nays 2	Absent 3

Secretary of the Senate

Received by the Governor at 4:40 P.M. on April 6, 2015.

Approved at 10:40 A.M. on April 8, 2015.

Governor

Filed in this office this 8th day of April, 2015,

at 3:36 o'clock P M.

Secretary of State