

Introduced by

Legislative Management

(Energy Development and Transmission Committee)

1 A BILL ~~for an Act to amend and reenact section 57-06-14.1, section 57-33.2-01, section~~
2 ~~57-33.2-04, subsection 1 of section 57-38-01.8, section 57-39.2-04.2, section 57-39.2-04.8, and~~
3 ~~section 57-40.2-04.2 of the North Dakota Century Code, relating to taxable valuation of centrally~~
4 ~~assessed wind turbine electric generators, wind generation taxation, an income tax credit for~~
5 ~~installation of geothermal, solar, wind, or biomass energy devices, a sales tax exemption for~~
6 ~~machinery or equipment used to produce coal from a new mine, and a sales and use tax~~
7 ~~exemption for materials used in the construction or expansion of a wind-powered facility; and to~~
8 ~~provide an effective date for an Act to amend and reenact section 57-06-14.1, and subsection 1~~
9 ~~of section 57-38-01.8 of the North Dakota Century Code, relating to taxation of wind turbine~~
10 ~~electric generation units and an income tax credit for installation of geothermal, solar, wind, or~~
11 ~~biomass energy devices; to provide for a legislative management study; to provide for a report;~~
12 ~~and to provide an effective date.~~

13 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

14 ~~— **SECTION 1. AMENDMENT.** Section 57-06-14.1 of the North Dakota Century Code is~~
15 ~~amended and reenacted as follows:~~
16 ~~— **57-06-14.1. Taxable valuation of centrally assessed wind turbine electric generators.**~~
17 ~~— A centrally assessed wind turbine electric generation unit with a nameplate generation~~
18 ~~capacity of one hundred kilowatts or more on which construction is completed before January 1,~~
19 ~~2015, must be valued at three percent of assessed value to determine taxable valuation of the~~
20 ~~property except:~~
21 ~~— 1. A centrally assessed wind turbine electric generation unit with a nameplate generation~~
22 ~~capacity of one hundred kilowatts or more, for which a purchased power agreement~~
23 ~~was executed after April 30, 2005, and before January 1, 2006, and construction was~~
24 ~~completed after April 30, 2005, and before July 1, 2006, must be valued at one and~~

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

7 ~~3. A centrally assessed wind turbine electric generation unit with a nameplate generation~~
8 ~~capacity of one hundred kilowatts or more, for which an executory purchase power~~
9 ~~agreement was entered or to which an advanced determination of prudence was~~
10 ~~issued by the public service commission and construction was commenced before~~
11 ~~January 1, 2015, and which is placed in service or installed before January 1, 2017,;~~
12 ~~must be valued at three percent of assessed value to determine taxable valuation of~~
13 ~~the property;~~

14 ~~4. A wind turbine electric generation unit with a nameplate generation capacity of one~~
15 ~~hundred kilowatts or more, on which construction was completed after December 31,~~
16 ~~2014, and which is not taxable under this section, must be subject to taxation under~~
17 ~~chapter 57-33.2; and~~

18 ~~5. Wind generators, wind farms, and associated collector systems on which construction~~
19 ~~was completed before January 1, 2015, purchased by a company subject to taxation~~
20 ~~under this chapter after December 31, 2014, must be taxed under subsections 1~~
21 ~~and 2.~~

22 ~~**SECTION 2. AMENDMENT.** Section 57-33.2-01 of the North Dakota Century Code is~~
23 ~~amended and reenacted as follows:~~

24 ~~**57-33.2-01. Definitions.**~~

25 ~~As used in this chapter:~~

26 ~~1. "Collector system" means all property used or constructed to interconnect individual~~
27 ~~wind turbines within a wind farm into a common project, including step-up~~
28 ~~transformers, electrical collection equipment, collector substation transformers, and~~
29 ~~communication systems.~~

30 ~~2. "Commissioner" means the state tax commissioner.~~

1 ~~3.~~ "Company" means an individual, partnership, corporation, limited liability company,
2 limited liability partnership, cooperative, or any other organization or association
3 engaged in generation, distribution, or transmission of electricity. A company subject to
4 taxation under chapter 57-06, is not a "company" for purposes of this chapter unless it
5 files an irrevocable election with the commissioner to be treated as a company under
6 this chapter by October 1, 2013, for taxable periods after December 31, 2013; by
7 October 1, 2014, for taxable periods after December 31, 2014; by October 1, 2015, for
8 taxable periods after December 31, 2015; or by October 1, 2016, for taxable periods
9 after December 31, 2016. Property subject to taxation under this chapter which is
10 owned by a company that is otherwise taxable under chapter 57-06 which files an
11 election under this chapter is exempt from taxation under chapter 57-06.

12 ~~4.~~ "Distribution company" means a company engaged in distribution of electricity for retail
13 sale to consumers in this state through distribution lines. The term does not include a
14 municipal electric utility operated under chapter 40-33 and that utility is not subject to
15 taxes under section 57-33.2-03.

16 ~~5.~~ "Distribution line" means a line to transmit electricity which operates at a voltage of
17 less than forty-one and six-tenths kilovolts.

18 ~~6.~~ "Generation company" means a company engaged in the generation of electrical
19 energy from a wind farm, wind generator, or grid-connected generators that are part of
20 a project with a generation capacity of one hundred kilowatts or more that is not
21 generated from coal.

22 ~~6.7.~~ "Retail sale" means transfer of electricity to the end-use consumer for consideration.
23 The term does not include the sale of electricity to a coal conversion facility that
24 became operational before January 1, 2009, and which is subject to taxation under
25 chapter 57-60.

26 ~~7.8.~~ "Transmission company" means a company engaged in transmission of electricity
27 through transmission lines.

28 ~~8.9.~~ "Transmission line" means a line to transmit electrical energy which operates at a
29 voltage of forty-one and six-tenths kilovolts or more but does not include a line owned
30 or operated by an agency or instrumentality of the United States government.

1 ~~9.10.~~ "Wind farm" means all property used or constructed for the purpose of producing
2 electricity for commercial purposes utilizing the wind as an energy source and with a
3 nameplate capacity of at least two thousand five hundred kilowatts. The term includes
4 the collector system.

5 ~~10.11.~~ "Wind generator" means an individual wind turbine with a generation capacity of one
6 hundred kilowatts or more which is connected to a transmission or distribution system.

7 ~~SECTION 3. AMENDMENT.~~ Section ~~57-33.2-04~~ of the North Dakota Century Code is
8 amended and reenacted as follows:

9 ~~57-33.2-04. Wind generation taxation -- Taxation of generation from sources other than~~
10 ~~coal -- Taxation of coal generation not subject to coal conversion taxes.~~

11 ~~Wind generators, including wind farms and associated collector systems, generators of~~
12 ~~electricity from sources other than coal owned by a company subject to taxation under this~~
13 ~~chapter, Generation companies and generators of electricity from coal which are not subject to~~
14 ~~coal conversion taxes under chapter 57-60 are subject to taxes under this section.~~

15 ~~1.~~ Wind generators, wind farms, and associated collector systems are subject to taxes
16 consisting of the following two components:

17 ~~a.~~ A tax of two dollars and fifty cents per kilowatt times the rated capacity of the
18 wind generator.

19 ~~b.~~ A tax of one half of one mill per kilowatt-hour of electricity generated by the wind
20 generator during the taxable period.

21 ~~2.~~ Wind generators, wind farms, and associated collector systems on which construction
22 was completed before January 1, 2015, purchased by a company subject to taxation
23 under this chapter after December 31, 2014, must be taxed under subsections 1 and 2
24 of section 57-06-14.1.

25 ~~2.3.~~ Grid-connected generators that are part of a project with generation capacity of one
26 hundred kilowatts or more not produced from coal or wind, or produced from coal and
27 not subject to coal conversion taxes under chapter 57-60, are subject to taxes
28 consisting of the following two components:

29 ~~a.~~ Fifty cents per kilowatt times the rated capacity of the generation unit.

30 ~~b.~~ One mill per kilowatt-hour of electricity generated by the production unit during
31 the taxable period.

1 ~~SECTION 4. AMENDMENT.~~ Subsection 1 of section 57-38-01.8 of the North Dakota
2 Century Code is amended and reenacted as follows: ~~_____~~

3 ~~1. A taxpayer filing a North Dakota income tax return pursuant to the provisions of this~~
4 ~~chapter may claim a credit against the tax liability under section 57-38-30 for the cost~~
5 ~~of a geothermal, solar, wind, or biomass energy device installed before January 1,~~
6 ~~2015, in a building or on property owned or leased by the taxpayer in North Dakota. A~~
7 ~~wind energy device on which construction was commenced before January 1, 2015,~~
8 ~~and which is installed before January 1, 2017, is eligible for the credit provided in this~~
9 ~~section. The credit provided in this section for a device installed before January 1,~~
10 ~~2001, must be in an amount equal to five percent per year for three years, and for a~~
11 ~~device installed after December 31, 2000, must be in an amount equal to three~~
12 ~~percent per year for five years of the actual cost of acquisition and installation of the~~
13 ~~geothermal, solar, wind, or biomass energy device and must be subtracted from any~~
14 ~~income tax liability of the taxpayer as determined pursuant to the provisions of this~~
15 ~~chapter.~~

16 ~~SECTION 5. AMENDMENT.~~ Section 57-39.2-04.2 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 ~~57-39.2-04.2. (Effective through June 30, 2017) Sales tax exemption for power plant~~
19 ~~construction, production, environmental upgrade, and repowering equipment and oil~~
20 ~~refinery or gas processing plant environmental upgrade equipment.~~

21 ~~1. As used in this section, unless the context otherwise requires:~~

22 ~~a. (1) "Environmental upgrade" means an investment greater than twenty five~~
23 ~~million dollars or one hundred thousand dollars per megawatt of installed~~
24 ~~nameplate capacity, whichever is less, in machinery, equipment, and related~~
25 ~~facilities for reducing emissions or increasing efficiency at an existing power~~
26 ~~plant.~~

27 ~~(2) "Environmental upgrade" for purposes of a process unit means an~~
28 ~~investment greater than one hundred thousand dollars in machinery,~~
29 ~~equipment, and related facilities for reducing emissions, increasing~~
30 ~~efficiency, or enhancing reliability of the equipment at a new or existing~~
31 ~~process unit.~~

1 ~~_____ b. "Operator" means any person owning, holding, or leasing a power plant or~~
2 ~~process unit.~~

3 ~~_____ c. "Power plant" means:~~

4 ~~_____ (1) An electrical generating plant, and all additions to the plant, which~~
5 ~~processes or converts coal in its natural form or beneficiated coal into~~
6 ~~electrical power and which has at least one single electrical energy~~
7 ~~generation unit with a capacity of fifty thousand kilowatts or more.~~

8 ~~_____ (2) A wind-powered electrical generating facility, on which construction is~~
9 ~~completed before January 1, 2017, and all additions to the facility, which~~
10 ~~provides electrical power through wind generation and which has at least~~
11 ~~one single electrical energy generation unit with a nameplate capacity of~~
12 ~~one hundred kilowatts or more.~~

13 ~~_____ (3) Any other type of electrical power generating facility excluding the types of~~
14 ~~power plants identified in paragraphs 1 and 2 which has a capacity of one~~
15 ~~hundred kilowatts or more and produces electricity for resale or for~~
16 ~~consumption in a business activity.~~

17 ~~_____ d. "Process unit" means an oil refinery or gas processing plant and all adjacent~~
18 ~~units that are utilized in the processing of crude oil or natural gas.~~

19 ~~_____ e. "Production equipment" means machinery and attachment units, other than~~
20 ~~replacement parts, directly and exclusively used in the generation, transmission,~~
21 ~~or distribution of electrical energy for sale by a power plant.~~

22 ~~_____ f. "Repowering" means an investment of more than two hundred million dollars or~~
23 ~~one million dollars per megawatt of installed nameplate capacity, whichever is~~
24 ~~less, in an existing power plant that modifies or replaces the process used for~~
25 ~~converting coal in its natural form or beneficiated coal into electrical power.~~

26 ~~_____ 2. Sales of production or environmental upgrade equipment that is delivered on or after~~
27 ~~January 1, 2007, and used exclusively in power plants or repowering existing power~~
28 ~~plants or in processing units are exempt from the tax imposed by this chapter.~~

29 ~~_____ 3. Sales of tangible personal property, other than production or environmental upgrade~~
30 ~~equipment, which is used in the construction of new power plants or to expand existing~~
31 ~~power plants or to add environmental upgrades to existing power plants or repowering~~

1 existing power plants or to add environmental upgrades to existing process units are
2 exempt from the tax imposed by this chapter.

3 ~~4. To receive the exemption at the time of purchase, the operator must receive from the~~
4 ~~commissioner a certificate that the tangible personal property or production equipment~~
5 ~~the operator intends to purchase qualifies for the exemption. If a certificate is not~~
6 ~~received prior to the purchase, the operator shall pay the applicable tax imposed by~~
7 ~~this chapter and apply to the commissioner for a refund.~~

8 ~~5. If the tangible personal property or production equipment is purchased or installed by~~
9 ~~a contractor subject to the tax imposed by this chapter, the operator may apply for a~~
10 ~~refund of the difference between the amount remitted by the contractor and the~~
11 ~~exemption imposed or allowed by this section.~~

12 ~~(Effective after June 30, 2017) Sales tax exemption for power plant construction,~~
13 ~~production, environmental upgrade, and repowering equipment and oil refinery or gas~~
14 ~~processing plant environmental upgrade equipment.~~

15 ~~1. As used in this section, unless the context otherwise requires:~~

16 ~~a. (1) "Environmental upgrade" means an investment greater than twenty five~~
17 ~~million dollars or one hundred thousand dollars per megawatt of installed~~
18 ~~nameplate capacity, whichever is less, in machinery, equipment, and related~~
19 ~~facilities for reducing emissions or increasing efficiency at an existing power~~
20 ~~plant.~~

21 ~~(2) "Environmental upgrade" for purposes of a process unit means an~~
22 ~~investment greater than one hundred thousand dollars in machinery,~~
23 ~~equipment, and related facilities for reducing emissions, increasing~~
24 ~~efficiency, or enhancing reliability of the equipment at a new or existing~~
25 ~~process unit.~~

26 ~~b. "Operator" means any person owning, holding, or leasing a power plant or~~
27 ~~process unit.~~

28 ~~c. "Power plant" means:~~

29 ~~(1) An electrical generating plant, and all additions to the plant, which~~
30 ~~processes or converts coal from its natural form into electrical power and~~

1 which has at least one single electrical energy generation unit with a
2 capacity of fifty thousand kilowatts or more.

3 ~~————— (2) A wind powered electrical generating facility, on which construction is~~
4 ~~completed before January 1, 2017, and all additions to the facility, which~~
5 ~~provides electrical power through wind generation and which has at least~~
6 ~~one single electrical energy generation unit with a nameplate capacity of~~
7 ~~one hundred kilowatts or more.~~

8 ~~————— (3) Any other type of electrical power generating facility excluding the types of~~
9 ~~power plants identified in paragraphs 1 and 2 which has a capacity of one~~
10 ~~hundred kilowatts or more and produces electricity for resale or for~~
11 ~~consumption in a business activity.~~

12 ~~————— d. "Process unit" means an oil refinery or gas processing plant and all adjacent~~
13 ~~units that are utilized in the processing of crude oil or natural gas.~~

14 ~~————— e. "Production equipment" means machinery and attachment units, other than~~
15 ~~replacement parts, directly and exclusively used in the generation, transmission,~~
16 ~~or distribution of electrical energy for sale by a power plant.~~

17 ~~————— f. "Repowering" means an investment of more than two hundred million dollars or~~
18 ~~one million dollars per megawatt of installed nameplate capacity, whichever is~~
19 ~~less, in an existing power plant that modifies or replaces the process used for~~
20 ~~converting coal from its natural form into electrical power.~~

21 ~~———— 2. Sales of production or environmental upgrade equipment that is delivered on or after~~
22 ~~January 1, 2007, and used exclusively in power plants or repowering existing power~~
23 ~~plants or in processing units are exempt from the tax imposed by this chapter.~~

24 ~~———— 3. Sales of tangible personal property, other than production or environmental upgrade~~
25 ~~equipment, which is used in the construction of new power plants or to expand existing~~
26 ~~power plants or to add environmental upgrades to existing power plants or repowering~~
27 ~~existing power plants or to add environmental upgrades to existing process units are~~
28 ~~exempt from the tax imposed by this chapter.~~

29 ~~———— 4. To receive the exemption at the time of purchase, the operator must receive from the~~
30 ~~commissioner a certificate that the tangible personal property or production equipment~~
31 ~~the operator intends to purchase qualifies for the exemption. If a certificate is not~~

1 received prior to the purchase, the operator shall pay the applicable tax imposed by
2 this chapter and apply to the commissioner for a refund.

3 ~~5. If the tangible personal property or production equipment is purchased or installed by
4 a contractor subject to the tax imposed by this chapter, the operator may apply for a
5 refund of the difference between the amount remitted by the contractor and the
6 exemption imposed or allowed by this section.~~

7 ~~**SECTION 6. AMENDMENT.** Section 57-39.2-04.8 of the North Dakota Century Code is
8 amended and reenacted as follows:~~

9 ~~**57-39.2-04.8. Sales tax exemption for machinery or, equipment, and materials used to
10 produce coal from a new mine.**~~

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

15 ~~2. Purchase of replacement machinery or, equipment, or other tangible personal property
16 is not exempt if the capitalized investment in the new mine exceeds twenty million
17 dollars using the United States generally accepted accounting principles unless the
18 replacement creates an expansion of the mine. Purchases of repair or replacement
19 parts for existing machinery or equipment are not exempt under this section.~~

20 ~~3. The mine operator shall apply to the commissioner for a refund of sales and use taxes
21 paid for which the exemption is claimed under this section. A refund claim may not
22 exceed the limitation in subsection 1. Application for the refund must be made at the
23 time and in the manner directed by the commissioner and must include sufficient
24 information to verify the correctness of the refund claim. To receive the exemption at
25 the time of purchase, the owner of the coal mine must receive from the commissioner
26 a certificate that the machinery, equipment, or other tangible personal property used to
27 produce coal from a new mine which the owner intends to purchase qualifies for the
28 exemption. If a certificate is not received before the purchase, the owner shall pay the
29 applicable tax imposed by this chapter and apply to the commissioner for a refund.~~

30 ~~4. If the machinery, equipment, or tangible personal property is purchased or installed by
31 a contractor subject to the tax imposed by this chapter, the owner of the coal mine~~

~~may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed under this section. Application for a refund must be made at the times and in the manner directed by the commissioner and must include sufficient information to permit the commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.~~

~~4.5. For purposes of this section:~~

~~a. "Machinery or equipment" means machinery or equipment used directly 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 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~~2014~~.~~

~~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 7. AMENDMENT.** Section 57-40.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**57-40.2-04.2. (Effective through June 30, 2015) Use tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.**~~

~~1. As used in this section, unless the context otherwise requires:~~

~~a. (1) "Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.~~

1 ~~————— (2) "Environmental upgrade" for purposes of a process unit means an~~
2 ~~investment greater than one hundred thousand dollars in machinery,~~
3 ~~equipment, and related facilities for reducing emissions, increasing~~
4 ~~efficiency, or enhancing reliability of the equipment at a new or existing~~
5 ~~process unit.~~

6 ~~————— b. "Operator" means any person owning, holding, or leasing a power plant or~~
7 ~~process unit.~~

8 ~~————— c. "Power plant" means:~~

9 ~~————— (1) An electrical generating plant, and all additions to the plant, which~~
10 ~~processes or converts coal in its natural form or beneficiated coal into~~
11 ~~electrical power and which has at least one single electrical energy~~
12 ~~generation unit with a capacity of fifty thousand kilowatts or more.~~

13 ~~————— (2) A wind-powered electrical generating facility, on which construction is~~
14 ~~completed before January 1, 2015, and all additions to the facility, which~~
15 ~~provides electrical power through wind generation and which has at least~~
16 ~~one single electrical energy generation unit with a nameplate capacity of~~
17 ~~one hundred kilowatts or more.~~

18 ~~————— (3) Any other type of electrical power generating facility excluding the types of~~
19 ~~power plants identified in paragraphs 1 and 2 which has a capacity of one~~
20 ~~hundred kilowatts or more and produces electricity for resale or for~~
21 ~~consumption in a business activity.~~

22 ~~————— d. "Process unit" means an oil refinery or gas processing plant and all adjacent~~
23 ~~units that are utilized in the processing of crude oil or natural gas.~~

24 ~~————— e. "Production equipment" means machinery and attachment units, other than~~
25 ~~replacement parts, directly and exclusively used in the generation, transmission,~~
26 ~~or distribution of electrical energy for sale by a power plant.~~

27 ~~————— f. "Repowering" means an investment of more than two hundred million dollars or~~
28 ~~one million dollars per megawatt of installed nameplate capacity, whichever is~~
29 ~~less, in an existing power plant that modifies or replaces the process used for~~
30 ~~converting coal in its natural form or beneficiated coal into electric power.~~

1 ~~2. Sales of production or environmental upgrade equipment that is delivered on or after~~
2 ~~January 1, 2007, and used exclusively in power plants or repowering existing power~~
3 ~~plants or in process units are exempt from the tax imposed by this chapter.~~

4 ~~3. Sales of tangible personal property, other than production or environmental upgrade~~
5 ~~equipment, which is used in the construction of new power plants or to expand existing~~
6 ~~power plants or to add environmental upgrades to existing power plants or repowering~~
7 ~~existing power plants or to add environmental upgrades to existing process units are~~
8 ~~exempt from the tax imposed by this chapter.~~

9 ~~4. To receive the exemption at the time of purchase, the operator must receive from the~~
10 ~~commissioner a certificate that the tangible personal property or production equipment~~
11 ~~the operator intends to purchase qualifies for the reduced rate or exemption. If a~~
12 ~~certificate is not received prior to the purchase, the operator shall pay the applicable~~
13 ~~tax imposed by this chapter and apply to the commissioner for a refund.~~

14 ~~5. If the tangible personal property or production equipment is purchased or installed by~~
15 ~~a contractor subject to the tax imposed by this chapter, the operator may apply for a~~
16 ~~refund of the difference between the amount remitted by the contractor and the~~
17 ~~reduced rate or exemption imposed or allowed by this section.~~

18 ~~**(Effective after June 30, 2015) Use tax exemption for power plant construction,**~~
19 ~~**production, environmental upgrade, and repowering equipment and oil refinery or gas**~~
20 ~~**processing plant environmental upgrade equipment.**~~

21 ~~1. As used in this section, unless the context otherwise requires:~~

22 ~~a. (1) "Environmental upgrade" means an investment greater than twenty five~~
23 ~~million dollars or one hundred thousand dollars per megawatt of installed~~
24 ~~nameplate capacity, whichever is less, in machinery, equipment, and related~~
25 ~~facilities for reducing emissions or increasing efficiency at an existing power~~
26 ~~plant.~~

27 ~~(2) "Environmental upgrade" for purposes of a process unit means an~~
28 ~~investment greater than one hundred thousand dollars in machinery,~~
29 ~~equipment, and related facilities for reducing emissions, increasing~~
30 ~~efficiency, or enhancing reliability of the equipment at a new or existing~~
31 ~~process unit.~~

1 ~~_____ b. "Operator" means any person owning, holding, or leasing a power plant or~~
2 ~~process unit.~~

3 ~~_____ c. "Power plant" means:~~

4 ~~_____ (1) An electrical generating plant, and all additions to the plant, which~~
5 ~~processes or converts coal from its natural form into electrical power and~~
6 ~~which has at least one single electrical energy generation unit with a~~
7 ~~capacity of fifty thousand kilowatts or more.~~

8 ~~_____ (2) A wind-powered electrical generating facility, on which construction is~~
9 ~~completed before January 1, 2015, and all additions to the facility, which~~
10 ~~provides electrical power through wind generation and which has at least~~
11 ~~one single electrical energy generation unit with a nameplate capacity of~~
12 ~~one hundred kilowatts or more.~~

13 ~~_____ (3) Any other type of electrical power generating facility excluding the types of~~
14 ~~power plants identified in paragraphs 1 and 2 which has a capacity of one~~
15 ~~hundred kilowatts or more and produces electricity for resale or for~~
16 ~~consumption in a business activity.~~

17 ~~_____ d. "Process unit" means an oil refinery or gas processing plant and all adjacent~~
18 ~~units that are utilized in the processing of crude oil or natural gas.~~

19 ~~_____ e. "Production equipment" means machinery and attachment units, other than~~
20 ~~replacement parts, directly and exclusively used in the generation, transmission,~~
21 ~~or distribution of electrical energy for sale by a power plant.~~

22 ~~_____ f. "Repowering" means an investment of more than two hundred million dollars or~~
23 ~~one million dollars per megawatt of installed nameplate capacity, whichever is~~
24 ~~less, in an existing power plant that modifies or replaces the process used for~~
25 ~~converting coal from its natural form into electric power.~~

26 ~~_____ 2. Sales of production or environmental upgrade equipment that is delivered on or after~~
27 ~~January 1, 2007, and used exclusively in power plants or repowering existing power~~
28 ~~plants or in process units are exempt from the tax imposed by this chapter.~~

29 ~~_____ 3. Sales of tangible personal property, other than production or environmental upgrade~~
30 ~~equipment, which is used in the construction of new power plants or to expand existing~~
31 ~~power plants or to add environmental upgrades to existing power plants or repowering~~

1 existing power plants or to add environmental upgrades to existing process units are
2 exempt from the tax imposed by this chapter.

3 ~~4. To receive the exemption at the time of purchase, the operator must receive from the~~
4 ~~commissioner a certificate that the tangible personal property or production equipment~~
5 ~~the operator intends to purchase qualifies for the reduced rate or exemption. If a~~
6 ~~certificate is not received prior to the purchase, the operator shall pay the applicable~~
7 ~~tax imposed by this chapter and apply to the commissioner for a refund.~~

8 ~~5. If the tangible personal property or production equipment is purchased or installed by~~
9 ~~a contractor subject to the tax imposed by this chapter, the operator may apply for a~~
10 ~~refund of the difference between the amount remitted by the contractor and the~~
11 ~~reduced rate or exemption imposed or allowed by this section.~~

12 ~~SECTION 8. EFFECTIVE DATE. Sections 1, 2, 3, and 4 of this Act are effective for taxable~~
13 ~~years beginning after December 31, 2014. Sections 5, 6, and 7 of this Act are effective for~~
14 ~~taxable events occurring after June 30, 2015.~~

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

17 **57-06-14.1. Taxable valuation** **Taxation** of centrally assessed wind turbine electric
18 generators.

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

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

30 ~~2.~~ b. A centrally assessed wind turbine electric generation unit with a nameplate
31 generation capacity of one hundred kilowatts or more, on which construction is

1 completed after June 30, 2006, and before January 1, 2015, must be valued at
2 one and one-half percent of assessed value to determine taxable valuation of the
3 property.

4 2. A centrally assessed wind turbine electric generation unit with a nameplate generation
5 capacity of one hundred kilowatts or more, on which construction is completed after
6 December 31, 2014; for which a purchased power agreement is entered or renewed
7 after December 31, 2014; or which is purchased by a company subject to taxation
8 under this chapter after December 31, 2014, is subject to taxes in lieu of property
9 taxes, to be determined as provided in subsection 1 of section 57-33.2-04 and subject
10 to any associated administrative provisions of chapter 57-33.2.

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

13 1. A taxpayer filing a North Dakota income tax return pursuant to the provisions of this
14 chapter may claim a credit against the tax liability under section 57-38-30 for the cost
15 of a geothermal, solar, ~~wind~~, or biomass energy device installed before January 1,
16 2015, in a building or on property owned or leased by the taxpayer in North Dakota. A
17 wind energy device on which construction was commenced before January 1, 2015,
18 and which is installed before January 1, 2017, is eligible for the credit provided in this
19 section. The credit ~~provided in this section~~ for a device installed before January 1,
20 2001, must be in an amount equal to five percent per year for three years, and for a
21 device installed after December 31, 2000, must be in an amount equal to three
22 percent per year for five years of the actual cost of acquisition and installation of the
23 geothermal, solar, wind, or biomass energy device and must be subtracted from any
24 income tax liability of the taxpayer as determined pursuant to the provisions of this
25 chapter.

26 **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - WIND GENERATION TAXATION.**

27 During the 2015-16 interim, the legislative management shall consider studying wind generation
28 taxation, including analysis of property, generation, sales, and income tax application and equity
29 within the industry. The legislative management shall report its findings and recommendations,
30 together with any legislation necessary to implement the recommendations, to the sixty-fifth
31 legislative assembly.

1 **SECTION 4. REPORTS BY PUBLIC SERVICE COMMISSION.** At least once in each year
2 of the 2015-16 interim, the public service commission shall present a report to the interim
3 committee designated by the legislative management on the most current information available
4 on the status of retail sales of electricity in the state meeting or exceeding the state renewable
5 and recycled energy objective established in section 49-02-28 and a comparison of the amount
6 of renewable and recycled energy produced in the state with the amount sold at retail in the
7 state.

8 **SECTION 5. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable years
9 beginning after December 31, 2014.