

Introduced by

Representatives Streyle, D. Anderson, Owens

Senators O. Larsen, Unruh

1 A BILL for an Act to amend and reenact sections 57-06-14.1, 57-33.2-04, 57-33.2-18, and  
2 57-33.2-19 of the North Dakota Century Code, relating to a supplemental wind generation tax;  
3 and to provide an effective date.

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

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

7 **57-06-14.1. Taxation of centrally assessed wind turbine electric generators.**

- 8 1. A centrally assessed wind turbine electric generation unit with a nameplate generation  
9 capacity of one hundred kilowatts or more on which construction is completed before  
10 January 1, 2015, is subject to tax as provided in subdivisions c and d of subsection 1  
11 of section 57-33.2-04 and must be valued at three percent of assessed value to  
12 determine taxable valuation of the property except:
- 13 a. A centrally assessed wind turbine electric generation unit with a nameplate  
14 generation capacity of one hundred kilowatts or more, for which a purchased  
15 power agreement was executed after April 30, 2005, and before January 1, 2006,  
16 and construction was completed after April 30, 2005, and before July 1, 2006,  
17 must be valued at one and one-half percent of assessed value to determine  
18 taxable valuation of the property; and
- 19 b. A centrally assessed wind turbine electric generation unit with a nameplate  
20 generation capacity of one hundred kilowatts or more, on which construction is  
21 completed after June 30, 2006, and before January 1, 2015, must be valued at  
22 one and one-half percent of assessed value to determine taxable valuation of the  
23 property.

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

7           **SECTION 2. 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, and generators of electricity from coal which are not subject to coal conversion taxes  
14          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~~four 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               c. A tax of one dollar and fifty cents per megawatt-hour of electricity, or portion  
22               thereof, which is generated by the wind generator, measured before the point of  
23               interconnection, during the taxable period.
- 24               d. A tax equal to ten percent of the production tax credit received under section 45  
25               of the Internal Revenue Code [26 U.S.C. 45] resulting from the production of  
26               electricity from wind resources within this state.
- 27          2. Grid-connected generators that are part of a project with generation capacity of one  
28          hundred kilowatts or more not produced from coal or wind, or produced from coal and  
29          not subject to coal conversion taxes under chapter 57-60, are subject to taxes  
30          consisting of the following two components:
- 31               a. Fifty cents per kilowatt times the rated capacity of the generation unit.

- 1           b. One mill per kilowatt-hour of electricity generated by the production unit during  
2           the taxable period.

3           **SECTION 3. AMENDMENT.** Section 57-33.2-18 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **57-33.2-18. Deposit of revenue - Report to treasurer.**

6           The commissioner shall transfer revenue collected under this chapter to the state treasurer  
7 ~~for~~ . The state treasurer shall deposit forty percent of the revenue collected under subdivision c  
8 of subsection 1 of section 57-33.2-04 and all revenue collected under subdivision d of  
9 subsection 1 of section 57-33.2-04 in the general fund. The state treasurer shall deposit all  
10 other revenue collected under this chapter in the electric generation, transmission, and  
11 distribution tax fund. With each transfer under this section, the commissioner shall provide a  
12 report showing the amount of revenue collected for deposit in the general fund and information  
13 necessary for the state treasurer to allocate the revenue under section 57-33.2-19.

14           **SECTION 4. AMENDMENT.** Section 57-33.2-19 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16           **57-33.2-19. Allocation - Continuing appropriation.**

17           The electric generation, transmission, and distribution tax fund is appropriated as a  
18 continuing appropriation to the state treasurer for allocation and distribution to counties by April  
19 first of each year as provided in this section. The commissioner shall make the necessary  
20 allocations to the counties. The county auditors shall make the necessary allocations to the  
21 taxing districts.

- 22           1. Revenue from the tax on transmission lines under section 57-33.2-02 must be  
23 allocated among counties based on the mileage of transmission lines and the rates of  
24 tax on those lines within each county. Revenue received by a county for each size of  
25 transmission line under this subsection must be allocated one-third to the county and  
26 two-thirds among the county and other taxing districts in the county based on the  
27 mileage of that transmission line and the rates of tax that apply where that line is  
28 located within each taxing district. Revenue from that portion of a transmission line  
29 located in more than one taxing district must be allocated among those taxing districts  
30 in proportion to their respective most recent property tax mill rates that apply where  
31 the transmission line is located.

- 1           2.   Revenue from the distribution company tax under section 57-33.2-03 must be  
2           allocated fifty percent to the county in which the retail sale to which the tax applied  
3           was made and fifty percent among counties based on the mileage of the distribution  
4           company's distribution lines and the rate of tax on those lines within each county.  
5           Revenue received by the county under this subsection based on the location of retail  
6           sales must be allocated among taxing districts in the county based on the location of  
7           the retail sale and the most recent respective property tax levies in dollars within the  
8           taxing districts in which the retail sales occurred. Revenue received by a county under  
9           this subsection based on mileage of distribution lines must be allocated among the  
10          county and other taxing districts in the county based on the mileage of that distribution  
11          line and the rates of tax that apply to the land on which that line is located within each  
12          taxing district. Revenue from that portion of a distribution line located in more than one  
13          taxing district must be allocated among those taxing districts in proportion to their  
14          respective most recent property tax mill rates that apply to the land on which the  
15          distribution line is located.
- 16          3.   a.   Revenue from the generation taxes under section 57-33.2-04 must be allocated  
17              to the county in which a generator is located. Revenue received by the county  
18              under this subsection must be allocated among taxing districts in which the  
19              generator is located in proportion to their respective most recent property tax mill  
20              rates that apply to the land on which the generator is located.
- 21          b.   Revenue from the generation taxes under subdivisions a and b of subsection 1 of  
22              section 57-33.2-04 from wind farms must be allocated to the county and among  
23              taxing districts in which the wind farm is located in proportion to their respective  
24              most recent property tax mill rates that apply to the land on which the wind farm  
25              is located. For purposes of revenue allocation when generation turbines are  
26              located in more than one county or other taxing district, the capacity tax in  
27              subdivision a of subsection 1 of section 57-33.2-04 must be based on the  
28              capacity of the turbines within each county or taxing district. The electricity output  
29              for the kilowatt-hour tax in subdivision b of subsection 1 of section 57-33.2-04  
30              must be allocated according to the proportionate share of wind generation  
31              capacity within each county or other taxing district in relation to the total capacity

1                   of the wind farm. Revenue from the generation tax under subdivision c of  
2                   subsection 1 of section 57-33.2-04 from wind farms must be allocated to the  
3                   county in which the wind farm is located or allocated according to the  
4                   proportionate share of wind generation capacity within each county in relation to  
5                   the total capacity of the wind farm if the wind farm is located in more than one  
6                   county.

7           4. For purposes of this section, "taxing district" means the state, county, and that portion  
8           of any political subdivision with authority to levy property taxes which is located within  
9           the county.

10           **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
11           December 31, 2016.