

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1223

Introduced by

Representatives Brandenburg, Devlin, Kretschmar, Severson

Senators Klein, Kroeplin

1 A BILL for an Act to amend and reenact section 57-38-01.8 of the North Dakota Century Code,
2 relating to application of the income tax credit for geothermal, solar, or wind energy devices on
3 leased property; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-38-01.8 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-38-01.8. Income tax credit for installation of geothermal, solar, or wind energy**
8 **devices.**

- 9 1. Any taxpayer filing a North Dakota income tax return pursuant to the provisions of
10 this chapter may claim a credit for the cost of a geothermal, solar, or wind energy
11 device installed before January 1, 2001, in a building or on property owned or
12 leased by the taxpayer in North Dakota. The credit provided in this section must
13 be in an amount equal to ~~five~~ three percent per year for ~~three~~ five years of the
14 actual cost of acquisition and installation of the geothermal, solar, or wind energy
15 device and must be subtracted from any income tax liability of the taxpayer as
16 determined pursuant to the provisions of this chapter.
- 17 2. For the purposes of this section:
- 18 a. "Geothermal energy device" means a system or mechanism or series of
19 mechanisms designed to provide heating or cooling or to produce electrical or
20 mechanical power, or any combination of these, by a method which extracts
21 or converts the energy naturally occurring beneath the earth's surface in rock
22 structures, water, or steam.
- 23 b. "Solar or wind energy device" means a system or mechanism or series of
24 mechanisms designed to provide heating or cooling or to produce electrical or

mechanical power, or any combination of these, or to store any of these, by a method which converts the natural energy of the sun or wind.

3. If a geothermal, solar, or wind energy device is a part of a system which uses other means of energy, only that portion of the total system directly attributable to the cost of the geothermal, solar, or wind energy device may be included in determining the amount of the credit. The costs of installation may not include costs of redesigning, remodeling, or otherwise altering the structure of a building in which a geothermal, solar, or wind energy device is installed.

4. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity that installs a geothermal, solar, or wind energy device in a building or on property owned or leased by the passthrough entity must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed with respect to the entity's investments must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2000.