

Sixtieth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1514

Introduced by

Representatives Monson, Nelson

Senator Olafson

1 A BILL for an Act to create and enact a new subsection to section 57-38-30.3 of the North  
2 Dakota Century Code, relating to an income tax credit for installation of geothermal, solar, wind,  
3 or biomass energy devices; to amend and reenact section 57-38-01.8 of the North Dakota  
4 Century Code, relating to an income tax credit for geothermal, solar, wind, or biomass energy  
5 devices; and to provide an effective date.

### 6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

9 **57-38-01.8. Income tax credit for installation of geothermal, solar, ~~or~~ wind, or**  
10 **biomass energy devices.**

- 11 1. Any taxpayer filing a North Dakota income tax return pursuant to the provisions of  
12 this chapter may claim a credit for the cost of a geothermal, solar, ~~or~~ wind, or  
13 biomass energy device installed before January 1, 2011, in a building or on  
14 property owned or leased by the taxpayer in North Dakota. The credit provided in  
15 this section for a device installed before January 1, 2001, must be in an amount  
16 equal to five percent per year for three years, and for a device installed after  
17 December 31, 2000, must be in an amount equal to three percent per year for five  
18 years of the actual cost of acquisition and installation of the geothermal, solar, ~~or~~  
19 wind, or biomass energy device and must be subtracted from any income tax  
20 liability of the taxpayer as determined pursuant to the provisions of this chapter.
- 21 2. For the purposes of this section:
- 22 a. "Biomass energy device" means a system using agricultural crops, wastes, or  
23 residues; wood or wood wastes or residues; animal wastes; landfill gas; or  
24 other biological sources to produce fuel or electricity.

- 1            b. "Geothermal energy device" means a system or mechanism or series of  
2            mechanisms designed to provide heating or cooling or to produce electrical or  
3            mechanical power, or any combination of these, by a method which extracts  
4            or converts the energy naturally occurring beneath the earth's surface in rock  
5            structures, water, or steam.
- 6            ~~b.~~ c. "Solar or wind energy device" means a system or mechanism or series of  
7            mechanisms designed to provide heating or cooling or to produce electrical or  
8            mechanical power, or any combination of these, or to store any of these, by a  
9            method which converts the natural energy of the sun or wind.
- 10          3. If a geothermal, solar, ~~or wind,~~ or biomass energy device is a part of a system  
11          which uses other means of energy, only that portion of the total system directly  
12          attributable to the cost of the geothermal, solar, ~~or wind,~~ or biomass energy device  
13          may be included in determining the amount of the credit. The costs of installation  
14          may not include costs of redesigning, remodeling, or otherwise altering the  
15          structure of a building in which a geothermal, solar, ~~or wind,~~ or biomass energy  
16          device is installed.
- 17          4. A partnership, subchapter S corporation, limited partnership, limited liability  
18          company, or any other passthrough entity that installs a geothermal, solar, ~~or wind,~~  
19          or biomass energy device in a building or on property owned or leased by the  
20          passthrough entity must be considered to be the taxpayer for purposes of this  
21          section, and the amount of the credit allowed with respect to the entity's  
22          investments must be determined at the passthrough entity level. The amount of  
23          the total credit determined at the entity level must be passed through to the  
24          partners, shareholders, or members in proportion to their respective interests in the  
25          passthrough entity.
- 26          5. If a taxpayer entitled to the credit provided by this section is a member of a group  
27          of corporations filing a North Dakota consolidated tax return using the combined  
28          reporting method, the credit may be claimed against the aggregate North Dakota  
29          tax liability of all of the corporations included in the North Dakota consolidated  
30          return.

1           6.    The credit allowed under this section may not exceed the liability for tax under this  
2                   chapter. If the amount of credit determined under this section exceeds the liability  
3                   for tax under this chapter, the excess may be used as a credit carryover to each of  
4                   the five succeeding taxable years.

5           **SECTION 2.** A new subsection to section 57-38-30.3 of the North Dakota Century Code  
6 is created and enacted as follows:

7                   A taxpayer filing a return under this section is entitled to the credit for installation of  
8                   a geothermal, solar, wind, or biomass energy device provided under section  
9                   57-38-01.8.

10          **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
11 December 31, 2006.