

February 3, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2033

Page 1, line 1, remove "subsections 1, 6, and 7 of"

Page 1, line 5, replace "Subsections 1, 6, and 7 of section" with "Section"

Page 1, line 6, replace "are" with "is"

Page 1, after line 6, insert:

"57-38-01.8. Income tax credit for installation of geothermal, solar, wind, or biomass energy devices."

Page 1, after line 16, insert:

- "2. For the purposes of this section:
 - a. "Biomass energy device" means a system using agricultural crops, wastes, or residues; wood or wood wastes or residues; animal wastes; landfill gas; or other biological sources to produce fuel or electricity.
 - b. "Geothermal energy device" means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, by a method which extracts or converts the energy naturally occurring beneath the earth's surface in rock structures, water, or steam.
 - c. "Solar or wind energy device" means a system or mechanism or series of 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, wind, or biomass 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, wind, or biomass 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, wind, or biomass 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, wind, or biomass 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.
5. If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using

the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all of the corporations included in the North Dakota consolidated return."

Page 1, line 17, after "6." insert "a."

Page 1, line 20, replace "For tax credits for energy devices installed after" with:

- "b. Any excess tax credits earned for wind energy devices installed after September 30, 2008, and before August 1, 2011, may be used as a credit carryover to each of the twenty succeeding taxable years.
- c. For any tax credits for geothermal, solar, or biomass energy devices installed after"

Page 1, line 21, after the second underscored comma insert "and wind energy devices installed after July 31, 2011,"

Page 1, line 23, overstrike "All or part of the unused credit allowed under this section may be sold, assigned, or"

Page 1, overstrike line 24

Page 2, overstrike lines 1 through 31

Page 3, overstrike lines 1 through 31

Page 4, overstrike lines 1 through 5

Page 4, replace line 6 with:

- "~~8.~~ For geothermal, solar, wind, or biomass energy devices installed after December 31, 2006, if ownership of a device is transferred at the time installation is complete and the device is fully operational, the purchaser of the device is eligible for the tax credit under this section. Subsequent purchasers of the device are not eligible for the tax credit."

Renumber accordingly