

FISCAL NOTE
Requested by Legislative Council
01/20/2015

Bill/Resolution No.: SB 2310

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2310 expands the law governing the income tax credit for installing a biomass, geothermal, solar, or wind energy device in North Dakota.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Current law contains a sunset date of January 1, 2015. Therefore, the tax credit is not available for devices installed on or after that date. For wind devices only, generally consisting of wind turbines, this bill extends the sunset date to January 1, 2017, if construction of the wind turbine began before January 1, 2015, and its installation is completed before January 1, 2017.

Current law provides that if an energy device tax credit is earned by a passthrough entity, such as a partnership or S corporation, the allowable credit must be passed through to its owners, limited to regular corporations, based on their respective interests in the passthrough entity. This bill expands the law in two ways: First, it will allow a passthrough entity to pass the credit to any type of owner, including another passthrough entity. Second, it will allow the credit to be allocated to the owners in whatever proportion they agree to in writing, regardless of whether the credit allocation arrangement has any substantial economic effect or substance.

(Note: Unless changes are made to the law governing the allowance of an energy device credit for individual income tax purposes, the change that would allow a passthrough entity to pass the credit through to any type of owner is not sufficient to allow an owner who is an individual to claim the credit.)

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2310 may result in a reduction in state general fund revenues for the 2015-17 biennium. The amount of the reduction, if any, cannot be determined because the number and size of any wind turbines meeting the conditions of the extended sunset date are unknown. Assuming one or more 100 megawatt wind projects were to

meet the conditions in the bill, each could potentially generate up to \$3 million of income tax credits per year for 5 years, of which the amount claimed for income tax purposes will depend on the tax liability of the taxpayer (or taxpayers) receiving the credit.

In the case of a passthrough entity that earns or receives the credit, the change that would allow the credit to be allocated to the owners in any manner they agree to will make it easier to allocate the credit to an owner best able to use the credit, increasing the potential fiscal impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

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