

HOUSE BILL NO. 1372

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.