

**SENATE BILL NO. 2310**

Introduced by

Senators Wanzek, Dotzenrod, Laffen

Representatives Dockter, Owens, Pollert

1 A BILL for an Act to amend and reenact subsections 1 and 4 of section 57-38-01.8 of the North  
2 Dakota Century Code, relating to treatment of passthrough entity income tax credits for  
3 geothermal, solar, wind, or biomass energy devices; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subsections 1 and 4 of section 57-38-01.8 of the North Dakota  
6 Century Code are amended and reenacted as follows:

7 1. A taxpayer filing a North Dakota income tax return pursuant to the provisions of this  
8 chapter may claim a credit against the tax liability under section 57-38-30 for the cost  
9 of a geothermal, solar, ~~wind~~, or biomass energy device installed before January 1,  
10 2015, in a building or on property owned or leased by the taxpayer in North Dakota. A  
11 wind energy device on which construction was commenced before January 1, 2015,  
12 and which is installed before January 1, 2017, is eligible for the credit provided in this  
13 section. The credit provided in this section for a device installed before January 1,  
14 2001, must be in an amount equal to five percent per year for three years, and for a  
15 device installed after December 31, 2000, must be in an amount equal to three  
16 percent per year for five years of the actual cost of acquisition and installation of the  
17 geothermal, solar, wind, or biomass energy device and must be subtracted from any  
18 income tax liability of the taxpayer as determined pursuant to the provisions of this  
19 chapter.

20 4. A partnership, subchapter S corporation, limited partnership, limited liability company,  
21 or any other passthrough entity that installs a geothermal, solar, wind, or biomass  
22 energy device in a building or on property owned or leased by the passthrough entity  
23 must be considered to be the taxpayer for purposes of this section, and the amount of  
24 the credit allowed with respect to the entity's investments must be determined at the

1            passthrough entity level. The amount of the total credit determined at the entity level  
2            must be passed through to the ~~corporate~~ partners, shareholders, or members,  
3            including through intermediate passthrough entities, either in proportion to their  
4            respective interests in the passthrough entity or as the partners, shareholders, or  
5            members mutually agree in writing. There is no requirement to demonstrate that the  
6            arrangements involving the credit have substantial economic effect or economic  
7            substance.

8            **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
9            December 31, 2014.