15.0241.03000

FISCAL NOTE
Requested by Legislative Council
03/24/2015

Amendment to: Engrossed SB 2037

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).*

Engrossed SB 2037 with House Amendments deals with the wind turbine taxation, and provides a retroactive sales tax exemption for equipment used to produce coal from a new mine.

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.*

Section 1 provides that new wind turbine electric generation units and those over 20 years old are both subject to payment in lieu of property taxes. Section 2 authorizes an income tax credit equal to 3% of installation costs each year for five years, for qualifying wind energy devices. Section 3 expands a sales tax exemption for equipment used directly or indirectly to produce coal from a new mine. This sales tax exemption is retroactive to January 1, 2011.

The fiscal impact of all of these provisions is unknown.

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.*

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
Date Prepared: 03/25/2015

15.0241.02000

FISCAL NOTE
Requested by Legislative Council
02/19/2015

Amendment to: SB 2037

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).*

Engrossed SB 2037 changes the taxation of wind turbines for property tax purposes, and modifies the income tax credits for installation of wind projects.

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.*

Sections 1 of the bill make changes to the taxation of centrally assessed wind turbines. Section 2 of the bill changes the income tax law relative to the tax credit allowed for installing a wind energy device which is installed before January 1, 2017. Section 3 authorizes an interim study of wind generation taxation.

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, the fiscal impact of engrossed SB 2037 will depend on the number and size of wind turbines installed in North Dakota during the 2015-17 biennium, which are unknown.

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
Date Prepared: 02/20/2015

15.0241.01000

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Bill/Resolution No.: SB 2037

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 2037 changes the taxation of wind turbines for property tax purposes, extends the sunsets for income tax credits for installation of wind projects, and sales tax exemptions for machinery used in new coal mines and in the construction of wind-powered facilities.

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.*

Sections 1, 2, and 3 of the bill make changes to the taxation of centrally assessed wind turbines and the taxation of wind turbine generation. Section 4 of the bill changes the income tax law governing the tax credit allowed for installing a biomass, geothermal, solar, or wind energy device to extend the sunset date by two years to January 1, 2017, but only for wind devices for which the construction began before January 1, 2015. Section 5 of the bill changes the sales tax exemption for wind turbines to remove the sunset date of January 1, 2017. Section 6 of the bill changes the sales tax exemption for coal mining machinery and equipment for new mines permitted after December 31, 2014, to include other tangible property, to remove the $5 million cap on the tax exempted per mine, and to allow the exemption for replacement property creating an expansion of a mine. Section 7 of the bill changes the sales tax exemption for wind turbines to remove the sunset date of January 1, 2015.

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, the fiscal impact of SB 2037 will depend on the number and size of wind turbines installed in North Dakota during the 2015-17 biennium, which are unknown. Assuming that a 100 megawatt wind project would come online in the next two years, it could have the following potential fiscal impacts: The sales and use tax exemption changes could reduce revenues between $20 and $30 million. The income tax credit change could generate up to $3 million of income tax credits per year for 5 years. The amount of the tax credit actually claimed will depend on the tax liability of the taxpayers. The property and production taxes could generate new revenues for the county or counties in which the project is installed, the amount of which cannot be determined without knowing the number and size of the wind turbines.

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 whethe 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

Date Prepared: 01/31/2015

2015 SENATE FINANCE AND TAXATION

SB 2037

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2037
2/2/2015
Recording job number 22944

☐ Subcommittee ☐ Conference Committee

Committee Clerk Signature	Doris E Perez

Explanation or reason for introduction of bill/resolution:
Relating to taxable valuation of centrally assessed wind turbine electric generators, wind generation taxation, an income tax credit for installation of geothermal, solar, wind, or biomass energy devices, a sales tax exemption for machinery or equipment used to produce coal from a new mine, and a sales and use tax exemption for materials used in the construction or expansion of a wind-powered facility; and to provide an effective date.

Minutes:

Attachments 1,2,3,4,5,6

Chairman Cook opened the hearing on SB 2037, all committee members present.

Tim Dawson, Legislative Council, neither for nor against the bill, here to explain it. The bill increases the factor used to determine taxable valuation for property tax purposes for wind generation units commenced before January 1, 2015 and completed before January 1, 2017, from 1.5% to 3 %. It provides a grace period before the income tax credit relating to those wind towers and removes the sunset on sales tax exemption for wind-powered electrical generation facilities. It also removes the $5M cap on the sales and use tax exemption for new coal mines used in the state. (2:25- 3:43)

Alan Anderson, Commissioner North Dakota Department of Commerce, Chairman of EmPower North Dakota Commission, attachment #1 Sections 5, 6 and 7 of the bill align the energy related sales tax exemption, it removes the sunset clause from the sales tax exemption and the use tax exemption; section 6 removes cap existing on the new coal mines. These changes provide consistency in the sales tax exemption amongst all the energy related sales tax exemptions. These changes help promote tax fairness among the energy industries, while providing the right incentives to move these industries forward. (4:07- 7:56)

Senator Triplett: you said it was very difficult to get consensus on this bill, why? Why did you put two separate energy types into one bill (8:01- 8:46).) (10:14-) Last question: we have to be consistent in the sales tax arena when that is only one of a variety of tax issues and incentives, if you can't get everybody on the same page on sales tax but may benefit one sector at the expense of another. Is this agreeable for everybody or is it opening a different discussion? (10:56 - 11:55)

Alan Anderson, you bought EmPower together to minimize the different players coming in and asking for incentives. This is a negotiated deal amongst all the EmPower members, The commission is made up of representatives from all the state's energy industries and is a model of how differing interests can come together for the good of an industry. (8:48 - 10:12) This is doubling it so that the counties still get some additional money but not going the whole way. (10:48- 10:54) today this is getting us as close as we can to that level playing field on the fairness side, how it goes in the future is very difficult to say, in part because federal programs come into play sometimes with incentives and make it unfair even at state level(11:58- 12:25)

Senator Oehlke: last paragraph on the first page regarding wind turbine electric generation units, "3.0% of the assessed value" is not accurate, shouldn't it be: "3% of the assessed value to determine taxable valuation"? You are paying based on the valuation of the property and the taxes based on that valuation 3%. (12:29- 13:26)

Alan Anderson: I believe that is correct I am not an expert I might push that one off a little bit. (13:28- 13:38)

Senator Bekkedahl: on that same paragraph it says "as long as the project was initiated prior to 1/01/15 and an executory purchase power agreement.... It could be in construction not operational, not selling power, but by these documents being executed they could be considered for the purpose of taxation as being completed. What is the timeframe for project completion? What is an executory agreement? (13:41-14:23) there could be agreements in place to purchase the power and not a lot of construction commenced, are we looking at a two year timeframe to reassess this? (15:31- 16:00)

Alan Anderson: The intent of what we are trying to get to is that the coal industry has included wind projects that are already done identified, they have some form of an agreement already, they were hoping to complete under the current tax structure by the end of last year. That may or may not have happened in all cases , not all of it due to the wind generators or wind developers fault, so this is more of a grace period to try to expand it a little to capture projects that have already being identified, already planned for and with firm agreements already in place. It is not intended for brand new ones to start now. (14:25-15:30) The idea is that an agreement is in place, either the purchase power agreement or the advanced determination that some construction has already taken place and they have to be installed and completed by 01/2017.(16:01-16:26)

Mark Nisbet, in support of this bill on behalf of Xcel Energy and as the wind representative of the EmPower Commission, see attachment #2 (16:36-20:10)

Senator Cook: it appears that Xcel is one of the companies that has a wind project already started $600M, when will it be completed? (20:12- 20:19)

Mark Nisbet: We have two projects, we will own the Borders Wind Project, a turnkey project we are not building, and we will take ownership when it is completed (by 2015). The Courtenay Wind Project, Jamestown, will be wind purchased by us from Geronimo, they will tell you what the expected completion dates is. There is at least one other project that was trying to get there (20:20-21:40)

Betsy Engelking, Vice President, Geronimo Energy, in support of this bill, attachment #3 Without the limited extension of the tax features available in 2014 , it is unlikely that Geronimo can build an economic project at Courtenay (21:55-25:34) the total project cost is about $280M. **Senator Bekkedahl**: The difference between the 4.1/2% and the 3% valuation rate ends up being about $1M on a net present value basis over the twenty years. With the valuation tax, you start paying a higher tax, ...declining value. The 20 yr. total nominal difference is $17.3M

Ryan Kelly, ALLETE, Inc. , introduced Jamie Jago , Manager - Taxes at ALLETE, Inc.; we support this bill on behalf of the entire EmPower Commission. We have windfarms in ND (28:00- 29:23)

Jason Utton, Director of Midwest Wind Development for Nextera Energy Resources see attachment #4 in support of this bill. (29:40- 32:52)

David Straley, representing North American Coal in support of this bill, we are in this for section 6, the coal portion, to **Senator Bekkedahl** regarding the projects in terms of EmPower, what we went through in the negotiations , this is our best sale as far as making an equal playing field. We wanted to make sure those that had been signed prior to Sept had a project that was firm, that they had dealt on a tax break that they thought was firm, that is why we came to the concluding language on page 2 line 6 where it says "issued by the public service commission and construction was commenced" this language is very specific that there was dirt moved before the year-end and additional power agreements weren't out to be sold. To **Senator Triplett's** question of why: we are not always experts on what the other industries get, as far as incentives from the state and the federal level. This is in here specifically to address the concern that we were getting a larger break than anyone else. I assured the other commission members that that was not true which is why you see section 6 in front of you. It is to get us to the place we feel other industries are at in code, it is a big exemption I can assure you we have two coal mines that qualify under the existing incentives that were in place. Our intent is not to go back and open up those code sections for those two mines that qualify with the $5M cap. I think the tax department will be bringing in some amendments. We want to clarify a couple of things of what is/isn't equipment, that is completely for the committee to decide and I will be happy to work with you on those issues as they go forward. To go forward opening up a complete exemption on sales tax for coal mines is a big one, we do support it because it puts us on the even playing field we need.

Senator Triplett: on page 2 line 6, what do you think "and construction was commenced" means, it is not defined here. By putting this requirement you are telling us what to do.

David Straley: we debated at EmPower what it meant, that is in terms of what we thought was fair for all industries, we are not setting you up for something. (39:13-42:00)

Senator Cook: We find in the fiscal note, for the record, who some of the companies we are talking about are. We will find out what they have done as far as "commencing construction"

Robert Harms lobbyist for Tradewind Energy, see attachment #5 (5.1 cover letter, 5.2 Lindahl Wind Project map, and 5.3, the 10/23/2012 Industrial Commission of North Dakota news release) Dallas Lalim and Tim Sundhagen, Tioga landowners are with me, to lend support to this bill . Included amendments dealing with the income tax credits , attachment #6 , which would allow Tradewind and this project to qualify for the income tax credit , Offered two alternative amendments.(42:46 - 47:51) **Senator Triplett** the EmPower Commission represents interests within different parts of our energy sector but not necessarily everyone who has a project that is underway. Amongst the people at the table they negotiated the bill you have in front of you.

Dallas Lalim: gave background history of the Lindahl Wind Project in Tioga, attachment #5.2, supports this bill (49:50- 54:39)

Tim Sundhagen, Tioga farmer provided background f on his involvement in the Lindahl Wind Project, attachment # 5.2, favors the proposed amendment, attachment #6. (54:51-57:16)

Dale Niezwaag, representing Basin Electric Power Cooperative, in support of the bill as presented I am part of the EmPower group. **Senator Triplett**, yes we are in the process of building a 200 mile transmission line from the Antelope Valley Station thru Williston over to Tioga. We anticipate we will have the power supply to meet the power needs in northwest ND area by the end of 2016 (57:30 -59:08)

No additional testimony in support, opposition or neutral

Senator Dotzenrod: there is an issue regarding this bill, in section 4, a provision of law that provides a tax credit that will die, there is a sunset clause that will not be extended. The rest of the bill seems to want to extend and make more permanent some of the provisions of sale tax exemptions. Why did they choose that route? (59:02- 1:02:10)

Mark Nisbet: Within EmPower Commissioner Anderson mentioned we had to come to a consensus, there is a belief that to keep a leveled playing field between the different energy sources that there might be a ratcheting down of incentives available.

Senator Cook: closed the hearing on SB 2037

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2037
2/2/2015
Job #22991

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Alice Grove

Explanation or reason for introduction of bill/resolution:

Minutes:

Committee work on SB2037

Chairman Cook opened the committee work on the bill.
I can't help but think we could get the companies that are going to be affected by 2037 written into the fiscal note. I will find out for sure if we can do that. Is there any other information that we need on 2037 that we need to start getting?

Senator Unruh -- I can't think of anything specific other than what you just requested. I think it is very important for us to make a decision. We got a lot of information this morning.

Senator Cook -- We've had 46 bills introduced this session. We have 33 before us and there's 15,16,17 that have to go to appropriations if we pass them. So we've got a lot of work to do. This one did not have a fiscal note, did it?

Senator Bekkedahl -- This is the one that had the stuff about sales and use tax for machinery and equipment, didn't it? And what I was trying to figure out is, it talked about for use in new mines. Is that, again, correct?

Senator Dotzenrod-- If you look on page 9.

Senator Bekkedahl -- Yeah, that's where I'm at.

Senator Dotzenrod --
Following along with Senator Bekkedahl's, I'm not sure if he and I are on the same wavelength, but it's that section there where we're taking out the $5 million cap and I was curious to know how that is going because we put this new mine section in 2 sessions ago, I am curious to know what's happened during this period of time and are we using that up. It's difficult to meet the new rules and try to get everything done right. I assume that since

we are taking that cap off we must have consumed some of that money in the last 4 years and maybe quite a bit of it.

Chairman Cook -- We've got a miner on the table so let's see what the miner has to say.

Senator Unruh -- To Senator Dotzenrod's questions, yes. This exemption is currently being utilized. There's a new coal mine in my district and I am not aware if they have hit the cap yet but I'm almost certain that they will. That doesn't mean that I necessarily think we need to remove the cap. But it is being utilized. It has been good for the industry and has allowed them to have a new operation in the time when that is very, very difficult for coal mining to do, even here in North Dakota where it is supported. I see there is some clarification of the language to include tangible personal property. The way that the code is currently written now, it is very difficult for the tax department to determine what qualifies for the exemption and what doesn't and I would imagine that this expands a little bit of what would qualify as well.

Chairman Cook -- That is good information to find out. Maybe you could do that.

Senator Unruh -- I would like to do that. Also, I would like to look back into legislative history a little bit to see how the discussion went the first time around with this and how that $5 million cap was reached.

Chairman Cook -- I can tell you how that happened. It happened right here. It's more or less a compromise to get the bill passed, if I remember right. We put a $5 million cap on it.

Senator Bekkedahl -- The way that I'm looking at this, it is designed that if you open up a new mine, which probably doesn't happen very often, so that when you buy equipment to open up a new mine, you get the sales and use tax exemption. I'm assuming that when you do this mining, you sometimes move equipment from one mine to another, so if you move it to a new mine, are you exempt again for any purchases related to that?

Senator Unruh -- The new coal mine that opened up in my district was the first new coal mine in the state of North Dakota since early 1980's. And, no, it is not a common practice to move equipment from one mine to another. We've got brand new and some used equipment that comes from out-of-state but it hasn't been transferred back and forth between the mines here in North Dakota.

Senator Bekkedahl -- So theres purchases of used equipment that would qualify under this, it's just brought from someplace else into this mine?

Senator Unruh -- Correct.

Senator Triplett -- One of my concerns was in listening to the testimony from commissioner Al Anderson about level playing field that just the idea of making something exactly the same between 2 different energy industries under one tax doesn't really answer the question of whether the playing field is completely level and because different things have different federal incentives or we've given other full or partial incentives in different areas, I'm wondering if we have in the tax department or elsewhere a current summary of the level playing field theory. We requested that about 4 years ago but I don't know if it was updated or not.

Chairman Cook -- Cole, can you get that information?

Senator Dotzenrod -- Back on the coal thing, lines 7 and 11, there's reference to other tangible personal property and I recall that 2 sessions ago there was a desire to limit this to just the machines that would be brought in to do the mining. By putting this other tangible, I think what they are asking for here is that other vehicles, other things that they need that weren't covered by that original bill, they are asking for that. I'm not sure if there's any estimate or a list of what that envisions to include.

Dee Wald, General Counsel, Office of State Tax Commissioner
I understand you are working on SB2037. We have been in contact with Mr. Streyle and we are working on amendments to that bill to address the issue you have been talking about to further refine other tangible personal property means. We are going to limit the scope of that. We need Mr. Streyle to identify to us exactly what he wants included, instead of this broad scope, other tangible personal property.

Senator Oehlke -- A question and maybe Senator Unruh can answer this as well: I am a big, giant coal company. I'm going to build a new mine. Do I have a subsidiary that does that?

Senator Unruh -- It really does depend on the individual company. Many of them are structured as subsidiaries under corporations. For the company that I work for, it's a subsidiary of North American Coal Corporation, which is a subsidiary of NACO Industries, all of which are headquartered elsewhere throughout the United States. Other coal mines in my district are structured similarly.

Senator Oehlke -- I'm sure it never happens but might there be a tax advantage for some little company over here that has the same parent corporation owns the equipment and then they sell it to the other company. There really isn't any substantial difference to how the money changes hands but they made 5% on a tax deal or something. Does that ever happen?

Dee Wald -- Our concern is that we want to impose a sales tax once on property that is used in this state. If there is a transfer between the companies on a piece of tangible property, basically there won't be another tax imposed on that transfer. There are other reasons that a company may transfer equipment between two different subsidiaries.

Chairman Cook -- Bottom line: if it's used equipment, there's no sales tax on it.

Dee Wald -- It's been used. The sales tax has been paid once and that's really all we want.

Chairman Cook -- Senator Triplett was looking for some complete tax information on the various different energy companies that we have in North Dakota. Please explain your question.

Senator Triplett -- It occurs to me that I'm remembering about 4 years ago, that someone prepared a spreadsheet of all the different types of energy companies that we have in this state and the different types of tax advantages in an effort for us to be able to see whether or not we had them on a level playing field. It also incorporated federal tax incentives. I am wondering if that has ever been updated or if you know what I'm talking about.

Dee Wald -- I do not know what you are talking about and I don't recall the document. If it items on that list dealing with federal tax treatment, I'm 99% sure we did not put that together.

Chairman Cook -- How can we find out all of the different tax incentives that available to the wind energy, the coal industry, etc., in the state?

Dee Wald -- We can put that together. Are you looking for federal and state?

Chairman Cook -- Yes

Senator Laffen -- The Geronimo Wind Farm in Courtney needed 2 things. The two things that they needed were an extension and being able to distribute the tax credits. Did this bill take care of the extension?

Chairman Cook -- They are identical.

Chairman Cook closed the committee's work on SB2037.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2037
2/10/2015
Job #23546

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Attachment #1

Chairman Cook opened the committee work on SB2037.
Tax department is here with amendments. Myles, are you the chosen one?

Myles Vosberg, Director, Tax Administration Division, Office of Tax Commissioner (Attachment #1) Proposed Amendments to SB2037. Myles does a walk-through of the amendments, line by line.

Chairman Cook -- So you are trying to go back to mines that were completed prior to 2014? And expand the exemption that they got?

Myles Vosberg -- Correct, and by changing the new mine definition the way it was done, it actually eliminated all of the new mines that were already permitted because when this bill becomes effective on July 1, in this section, the new mine definition changes to one that has been permitted after 2014. It essentially eliminated the exemption for the existing mines that qualified for exemption.
(Myles continues going through the proposed amendments.)
In summary, what it does is it creates, instead of just defining a new mine, it creates two groups. If you want to call it the old new mines and the new newer mines and then treats them a little differently, with the major expansion and the major changes beginning after 2014.

Chairman Cook -- We have 1 mine that's stated since 2010.

Myles Vosberg -- Yes, just one.

Senator Oehlke -- We've got the limit now, that was put back in at $5 million back on page 1 of the amendment on line 10, limited to the first $5 million of sales and use tax paid, right?

Myles Vosberg -- That applies to the 1 mine that was already permitted before 2015.

Senator Oehlke -- Does the fiscal note stay basically the same then?

Myles Vosberg -- The fiscal note does and the fiscal note was basically cannot determine.

Senator Triplett -- Why would we not be able to determine if we are talking about a mine that is already in existence, at least for the old new mine?

Myles Vosberg -- The exemption was limited to $5 million for the 1 mine that was already permitted. How much of that has already been taken, I am not sure. It would be a maximum of $5 million and then on the new mines that are permitted beginning in 2015, we don't know how many mines there will be.

Senator Dotzenrod -- I see where you have the definition of new mine that was in the bill out. If you look on the original bill, page 10, line 11, there is a term there, definition for a new mine, on your Christmas tree amendments, that's gone. That's not in there. Is the new mine definition covered then with these dates that are in this at the beginning?

Myles Vosberg -- That's correct.

Senator Dotzenrod -- What does the blue mean on the Christmas tree amendment?

Myles Vosberg -- The blue is what was added back in. The original bill, if you compare, the blue language was struck out in the original bill and now it is added back in here. For that 1 existing mine, basically everything went back to the way it was before, with the exception of a slight expansion for some of these trucks and items that we've added into the definition of machinery and equipment. The real changes take place for the mines that start after 2014.

Senator Triplett -- The fact that someone in here is asking that we expand the exemption for the 1 old new mine implies that they didn't use up the $5 million because if they had used up the $5 million exemption they wouldn't be back here asking for more, or they would be back asking for the cap to be removed. Is that information that you could get for us?

Myles Vosberg -- We can try to get that, but also notice that there is some additional types of equipment that's in there.

Chairman Cook -- We will leave this bill down here. There is another set of amendments that are being worked on. I visited with Mr. Walstad. We will continue those conversations but if you look at the bottom of page 2, of the original bill, that bottom sentence on the bottom of page 2, that goes on to the top of page 3, and it ends there with after December 31, 2016, that's an opt-in clause that we put in place in 2009. It's been used twice. It allows an IOU to opt in to the tax policy established for REC's. It's only been used twice by 2 wind companies. That really confuses the whole bill, in my mind, and it sets us up for a lot of dates and a lot of different definitions in this bill that I don't think would have to be there. So I'm working on amendments just to get that off and will continue through that process with the effected parties. When we get them down here, maybe tomorrow, we will finish our work on this bill.

Sara Meier, Property Tax Specialist, Office of Tax Commissioner
I was asked by Mr. Walstad about that opting clause, and from my perspective, I would prefer that it be left in because we do have other generation companies that have opted in to that form of taxation. We do have the wind farm. There is a transmission line, Moorhead Public Service opted in. They were a small transmission line that is in Cass County, and then we also have a couple of generation facilities that opted in to that form of taxation.

Chairman Cook -- We do?

Sara Meier -- Yes. That technology is a heat recovery facility. There are 3 of them that opted in to that tax.

Chairman Cook -- Can you get me the names of these companies? Do you expect more?

Sara Meier -- There's just a changing field in electric generation and I think if they have an opportunity to opt into that form of taxation, they will. Xcell Energy has expressed interest in opting in, but with their natural gas it's kind of a complicated situation for them to opt in just on their electric side and not the natural gas. There may be a possibility that they can form a subsidiary and opt into this form of taxation.

Chairman Cook -- It's always nice to know what the tax department thinks.

Chairman Cook closed the meeting on SB2037.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2037
2/17/2015
Job #23958

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Attachment #1, #2,

Chairman Cook opened the committee meeting on SC2037.
This is the EmPower bill. I get more confused every time I read it. I forwarded you all an e-mail with some questions that I had sent to PSC Commissioner Randy Christmann. **(Attachment #1**) He forwarded them on to Jerry Lein and that's where the answers came from. My question that I had was this is an incentive bill to encourage the development of wind turbines in the state. I'd been lead to believe that we have set a voluntary goal, I believe, of 10%. I've been lead to believe, and you can see this from the e-mail response I got back showing that the wind energy numbers that we have, 16%, that this voluntary objective is in 49-22-08. I have read 49-22-08. I can't find it. So if anybody knows where we have that in code what is our objective for wind energy, our goal, I'd like to know it. We should have some sort of objective for what our wind is but, again, I've always been lead to believe that it's 10%. But you can see from this chart right here that the last time that the PSC has actually done the research to determine what percent of our retail sales is coming from renewable energies was 2011 and it was at 16.17%. There has been more capacity built since then. From what I understand the research to come up with this number is not easy research but the PSC is going to try to go through it again and give us a number. The other chart you see **(Attachment #2)** shows all the wind capacity that's built. We are at 991 turbines right now. Capacity of 1876 megawatt hours. You can see the projected capacity for those other plants that are projected to be built or have requested permits. That takes us up to 8138 megawatt hours.

Senator Oehlke -- I did have one thing that I noticed in Commissioner Christmann's correspondence. He mentioned in that larger paragraph toward the bottom of his correspondence in talking about how many more megawatts we have and how the percentage should be significantly higher but no where in this does he mention that we also are using more energy in total across the state. I would guess that with all the added activity, particularly since 2011, our general energy uses from coal plants and everywhere else we get energy is probably gone up significantly. We probably still need to have an effort to keep on the bandwagon for wind energy if we are going to maintain our magic 10% into the future.

Senator Unruh -- I understand what Senator Oehlke is trying to say but something else to keep in mind is that the peaking on wind towers requires production on coal plants to cut back at times. While we are using more energy in the state, I do think that the commissioner does make a good point in his last paragraph. I think he is right. The production from wind is certainly higher than that 16% in this e-mail, and I don't think any of us have an idea of how much higher, but I'd venture to say we could very well be over 20%.

Chairman Cook -- It would be nice if we could find out what that number is. I don't know if we can, in the time we have, before we have to send this bill out.

Senator Triplett -- I recall, early in my legislative career, that we talked about this at some length and we talked about the notion of including hydropower, and the notion of renewable energy because we wanted to get to the goal sooner. (meter7:40-8:01)

Chairman Cook -- I believe the definition is renewable and recyclable. Whether hydropower is included in that, I don't have an idea. In code 49-02? Then the other question I have, with this bill, is you can start with section1 which is the property tax section, 1 & 2, 49-02-28 (meter 8:55-9:57). Thank you, Mr. Traynor.

Senator Laffen -- The idea of this bill, obviously, is to give a tax credit to keep incentivizing wind power. How do we know if the tax credit is working?

Senator Triplett -- I think we would look at Minnesota and know that they had a 20% less than voluntary objective and our utilities, which provide power to Minnesota, worked really, really hard to meet the 20% requirement of Minnesota. (meter11:05-11:17).

Chairman Cook -- So, the question becomes do we have a lower tax rate for wind generation to send green electrons to Minnesota? The other question: we have a factor adjusts its assessed value to taxable value. (meter11:43-12:20). If we did not pass this bill, for example, where would they go? What would the rate be? Anybody know? I believe it goes to 10. We have, for retail sales, a generation capacity that has a definition of generation capacity. The way it is explained to me, is that it equates to about 41/2% but you will find nothing in code that says it's at 41/2%. The question that we need to ask is, what should that factor be? I would hope that one thing we can agree on is that whatever it is that we decide it should be the property tax factor to move assessed value to taxable value is the same for all wind turbines. We have tax credits in the bill. I see there is a bill that we will be getting from our friends across the aisle that takes one of the tax credits that we've given in the past for plants that were built during a certain time period (14:20-15:00). There's part of me that would just like to put this to rest and give it a do not pass, but there are other things that would be left unfinished if we did that. (meter15:12-15:36)

Senator Dotzenrod -- On my notes on page 1, you've got reference to the 3% on line 15 and there is a 11/2% down at 20 & 21 so one of the first things that I made note of in the bill is just what you mentioned. (meter15:56-16:40).

Chairman Cook -- Last weekend I read through a lot of code. If you want to see tax credits that vary based on the date that they were established to the timeframe that you can use the tax credit, it's even worse than what we have here for property tax. You are right. It is all based on dates. We seem to be doing this wind policy 2 years at a time. That's another problem that I think we need to move away from.

Senator Triplett -- My overview of the history of wind policy in this country, federal and state, is that it was heavily promoted at a time that we were heavily depend upon oil from foreign sources. (meter18:01-20:05).

Chairman Cook -- That's where I'm at. I think there is always a desire to have cleaner energy but there's also a desire, that I have, to have sustainable energy. That's where the real balance comes.

Senator Triplett -- We have had some natural gas generation built by the folks in the northwestern part of our state while they are waiting for the big power line to get in place. In a gross sense, that does kind of balance off against wind; in an easier way than coal balances off. (meter21:00-21:43).

Senator Bekkedahl -- If I read this right, there currently is and would be continuing property tax credit, an income tax credit and a sales and use tax exemption for putting in place wind farms. Is that what we currently have and is that what this seeks to continue? Are they all 3 necessary to incentivize the industry? Is that what the federals do? Is there one that should be more weighted higher than the others?

Senator Laffen -- All of that seems like a lot bigger discussion than we would be able to figure out in a day, in this committee. I am wondering how much study actually went into this bill by EmPower. I'm guessing energy development and transmission really didn't do anything but pass it along. So the study for this came from EmPower. How much real study, in terms of overall tax policy and incentive, did they do? Do we know that at all? I hate to suggest we turn a lot of stuff into studies because we don't know what to do with them, but, in this case, it almost seems like the questions you guys are asking, really do need to be studied.

Chairman Cook -- And decisions need to be made this session, too. We have a bill before us with consequences if it fails and consequences if it passes.

Senator Triplett -- Since we do have 3 new members on this committee, I'm wondering if it might be worthwhile to see if one or two of the staff members, maybe Jerry Lein and Illona Jeffcoat-Sacco could sit with the committee and just do a little half-hour briefing. Would that be a useful thing?

Chairman Cook -- Yes, have them at the podium.

Senator Bekkedahl -- The other part about this is in the current legislation I noticed, upon reading, that some of the tax policy we have in here is by dates, again, and talks about the valuations remaining constant for the duration of the initial purchase power agreement for the generation units. Some of these things cannot be changed under this current legislation because of that. This is technically really, really difficult. To make everything a blanket statement at this point.

Senator Triplett -- The other thing in answer to Senator Laffen's, probably everything that we do is peanuts compared to the federal tax credits which are production tax credits rather than construction, installation kind of tax credits. (meter24:55-25:09).

Senator Laffen -- Just to continue on that, we have a blade company in Grand Forks makes the big wind turbine blades, and when the federal credits were up for renewal and they were really debating that, that company shut down completely. It's obvious that that business is completely dependent on those federal credits.

Chairman Cook -- Senator Bekkedahl, back to your comment about the language on line 22, duration of the initial purchase power agreement, that's something that a former legislature put in code. The ability of that to really mean anything: I think the 64th Legislature can do what they feel is necessary to do. It gets to be another interesting conversation that we have quite often with our friends, wind developers, they signed a purchase agreement to sell their power. It's a long term agreement, and, of course, when they look at that they look at their costs and a big part of their costs is the tax they are going to pay. (meter26:34-27:18).

Senator Dotzenrod -- Just a clarification on what the bill does: it makes permanent the sales tax exemption. Those right now, under current law, have dates; on page 5, you have a date there in the title that says, effective through June 30. It crosses that date off. The sales tax provision that had some dates in them becomes permanent. It also looks like, on section 4, it brings to an end the income tax credit. It actually crosses off wind on line 30 so that wind is no longer eligible but then it provides a 2 year extension at the top of page 5. It looks like we are saying that wind income tax credits are coming to an end, except for this exception that we provided at the top of page 5. It sets the stage for an end 2 years from now for these income tax credits to stop. It does make permanent the sales tax credit. I want to make sure that we all understand what this bill does in regard to those two.

Chairman Cook -- It's been a while since I read that income tax credit but I didn't think it brought it to an end.

Senator Dotzenrod -- It strikes out, on line 30, the word wind.

Chairman Cook -- But it's got new language, wind energy device and which was installed before January 1, 2017. It is trying to narrow who gets that wind credit. And, trust me, in 2017 we will have this issue before us again.

Senator Dotzenrod, committee members, you will see at the end there is a change in the sales tax exemption for coal mines and I can't help but think that is a kind of "me too".

Senator Triplett, who did you suggest that we get down here from the PSC?

Senator Triplett -- Jerry Lein and Illona Jeffcoat-Sacco who is their counsel.

Chairman Cook -- Let's do that. Let's see when we can get them down. We've got today. We've got tomorrow. Next week we will have from 9:30 to 12:00 on Monday. We will have 10 to 12 on Tuesday. We've got a few other bills here. It's not going to take a lot of work to get them out.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2037
2/17/2015
Job #23971 from meter 00 to 16:25

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes: Attachment #1, #2

Chairman Cook opened the committee work on SB2037.
We will continue our conversation on 2037. For students from Enderlin, this is a bill that deals with tax incentives to encourage wind turbines to be built in the state. And Mr. Walstad, do you want to start by coming to the podium so I can ask you a question. If this bill doesn't pass, what happens to property tax?

John Walstad, **Legislative Council** -- For wind generation, coming online after 2014, the assessment would fall into the commercial property classification, which is 10% of true and full value, rather than the 3 or the 11/2 that exists now for existing wind generators.

Chairman Cook -- But that is not for all of them?

John Walstad -- No, it would not take those 11/2 & 3% assessment ratios and kick those to 10. They would remain.

Chairman Cook -- You printed out 57-33.2-04 **(Attachment #1**) Would you explain what this chapter means? And who it applies to.

John Walstad -- It applies to other than centrally assessed wind generators or centrally assessed who have opted in into treatment under that chapter. That chapter was substantially rewritten not long ago and it allows an opt-in for centrally assessed energy producers to opt in to treatment under that chapter rather than under the chapter that is addressed primarily in 20-37. Now, as to explaining those rates and how that is calculated, I'm not very proficient, but what I do understand is that someone has made a calculation that being taxed under that optional method would equate to about a 4.5% property tax ratio for those properties.

Chairman Cook -- And then subsection 2 of that chapter, talks about grid-connected generators that are part of a project with generation capacity of 100 kilowatts or more not produced from coal or wind. What does that include? Gas?

John Walstad -- My guess is that it was put there for natural gas, primarily, but it could apply to hydro, biomass.

Chairman Cook -- Questions for John? Jolene, please step up. Can you explain this chapter to us?

Jolene Vidal, Property Tax Specialist with Office of State Tax Commissioner -- Yes, I can. We are still on 57-33.2-04? How it is currently written is that a company, which would be assessed under 57-06, centrally assessed public utility, can opt in to 57-33.2 and it's an irrevocable opt-in. We have 1 wind company who has opted into it, Elite, and then we have 2 turbines with Minn-Kota Power that opted into it; and then under the second portion of that we have a company, Ormat that opted into that and they are heat recovery; and then we also have natural gas turbines that are producing electricity that are being taxed under that as well. Those are some of the difference ones that are currently being taxed under 57-33.2-04. Most of the wind companies are assessed under 57-06. There are 19 of them currently.

Chairman Cook -- Nineteen wind companies assessed under 57-06?

Jolene Vidal -- And I did bring some statistics down for you, if you would like **(Attachment #2)** This is just some simple information and I know that it is kind of hard to read because I have a lot on there. (meter6:00-7:57)

Senator Dotzenrod -- Which column has the percentage that they would have been, the tax that would have been imposed if they had been on the other chapter? Which column?

Jolene Vidal -- I don't have a percentage. I just show the estimate total taxes. Far right column of the big box.

Senator Bekkedahl -- Going back to 57-33.2-04, under the first provision there, I thought that I heard that it equates to about a 41/2% property tax, those two components. What about section 2, what do those 2 components equate to in approximate property tax?

Jolene Vidal -- No, I do not know. The projects being assessed under there are just based on a generation capacity so we don't have the information to create a valuation to do a comparison.

Senator Triplett -- Do you have any brief information that you can provide for us, either from your recollection or from your records, in terms of when particular changes happened at the federal level in terms of production tax credits expiring and being reimposed?

Jolene Vidal -- Not off the top of my head.

Senator Bekkedahl -- Just so I am clear on the ad valorem section, the 3 that are listed with zero dollars, is that because they pay zero dollars or you just couldn't find the information?

Jolene Vidal -- It wasn't on their annual reports and that's where I pulled that information. I could call the counties and probably find that.

Senator Bekkedahl -- As far as you know, they are paying something?

Jolene Vidal -- Correct.

Chairman Cook -- These ad valorem payers, under 57-06, what rate are they all at? 3%? Which ones are at 11/2?

Jolene Vidal -- All the way to the right.

Chairman Cook -- If the generation and capacity tax is to equate to 41/2%, and I look at what a company is paying under the ad valorem tax at 11/2%, I would think I would take this taxes paid times 3.

Jolene Vidal -- It's hard to look at that comparison that way just adjusting it by a direct percentage. The taxable valuation of these 19 wind companies, the 11/2% and the 3% are on the turbine portion of the assessment only, which really is about 90% of the valuation. Everything else that's a part of the valuation is at 10% and so we have a portion of the value at 11/2% and a portion of the value at 10%. The 2 added together is that total taxable value. And so, just taking those taxes and adjusting them by a certain percentage may not give you what you are looking for, but it could.

Jerry Lein, could you just step to the podium and introduce yourself? Senator Triplett, did you have some questions that you wanted to ask Mr. Lein?

Senator Triplett -- Not specifically. Just as part of our previous conversation it seemed as though there was general confusion around the table about what was going on so I suggested Mr. Lein as being a source of information. Maybe Ms. Vidal has answered everyone's questions by bringing down the information that she has presented to us. Do you recall, as generally as you can, the sort of federal taxation history on wind power, in terms of when those tax credits started, when they were first scheduled to expire? How they evolved over time and what their current status is?

Jerry Lein, PSC staff -- I don't recall when they started. They've been in effect several years now. I'd guess 10 or more. They have expired or been up for expiration several times and then, at the last minute, they somehow or other tacked something onto a bill federally and end up extending them for another year. They were extended this last time, as I recall, to where they now had to start construction at some point during this year, in order to have them going forward.

Senator Triplett -- In general, though, they've been around for a decade or thereabouts. They've been fairly consistent, except that there have been fears that they were leaving along the way but now it feels more like they are going away. Is that a fair concensus?

Jerry Lein -- Yes, I believe that is a pretty fair concensus.

Senator Triplett -- My recollection is that some of what we have done in this committee has been kind of in anticipation of federal credits going away or maybe trying in a little way to augment federal credits.

Chairman Cook -- One of the questions that I had for Commissioner Christmann, that you answered, showed that in 2011 was the last time the PSC did the research necessary to determine what percent generation sold at retail was from renewable sources. And the chart that you sent, that we all received, showed it at a little over 16%. Do you recall what I'm talking about?

Jerry Lein, Yes, and I did prepare that chart.

Chairman Cook -- How difficult is to tell us what percent we're at today? Or in 2014?

Jerry Lein -- It's not too difficult. We have fillings that we would just go through and extend that chart out to -- the latest we could give you is 2013, from our existing data.

Chairman Cook -- How soon could you give us that?

Jerry Lein -- Today or tomorrow.

Chairman Cook -- Can you do that? It would be very much appreciated. Is that fairly accurate? Are you comfortable with that number?

Jerry Lein -- It's what is reported to us by the utilities.

Chairman Cook -- Committee, anything more that you would like to have?

Chairman Cook closed the committee for today.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2037
2/17/2015
Job #23975

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Chairman Cook opened the committee work on SB2037

Senator Dotzenrod --Percent taxable value percentage of turbine. (This was attachment #2, Job #23971 from meter 00-16:25 of 2-17-15). And if you go over to the far left, that's the Velva Wind Farm, it has taxable value of $152,000 and total taxes are $29,000. Well, 3% of taxable value would be about $4,500.00, but the total taxes are $29,000, so what accounts for the difference?

Jolene Vidal, Property Tax Specialist, Office of State Tax Commissioner -- The taxable value is $152,120. That number came from the portion of the 3% and the portion of the 10% added together and then that $152,100 times the mill levies would equal those tax dollars.

Senator Dotzenrod -- So the taxes they pay are not just a 3% or a 10% of their taxable value. They are having the mill levy and the taxing district applied against their taxable value. So the 3%, I'm not sure how...

Chairman Cook -- That's the factor that takes the assessed value down to the taxable value.

Jolene Vidal -- You can't work backwards on this one because you have one at 3% and one at 10% so you are starting at 100% market value and then we take that and 50% and then we have our assessed value and then we do a percentage of the cost of the turbines and a cost of the total other property and do a split between the 2 assessed values. So we have an assessed value for all the turbine portion and an assessed value for all the other property. We take the turbine portion assessment times 3%, the rest of it times 10%, add the 2 together. That's our total taxable value.

Chairman Cook -- But you could forget about the 10%, just to do some simple math to get some ideas.

Jolene Vidal -- I have all kinds of information if you want something specific I can work on something for you. And, also, I know that these are the 2013 taxable values. I don't have their 2014 tax dollars paid but just for informational purposes, the 2014 taxable values, or the assessments, were about 10% lower than 2013.

Chairman Cook -- The only thing that confuses me is that I get all these data, this comes from the PSC and it lists all of the project names and the owner; this comes from the tax department and it lists the name of the companies and why can't I just match them up? Can't we have one common name that everybody uses out there?

Jolene Vidal -- Eleven of them are NextEra's and I believe I have those to the right of the first part of the name to help you with that, who the parent company is.

Chairman Cook -- When you get done I want you to look at this.

Jolene Vidal -- There are 4 wind projects that started construction in 2014 so those are not on this informational sheet.

Chairman Cook -- Started it before January 1, 2015, which is the intent of the bill.

Chairman Cook recessed the committee meeting.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2037
2/18/2015
Job #24051

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Attachment #1

Chairman Cook opened the committee work on SB2037.
Dale, you are going to explain the production capacity formula, and Alan or Justin, is to brief on the bill again. Jerry Lein hasn't gotten back to me. Dale, let's start with you.

Dale Niezwaag, Basin Electric Power Cooperative and also member of EmPower Commission -- Several things I wanted to walk through this morning. First of all, just to bring everyone up to speed on what we are doing with the tax rates that are out there now. For right now, what we are looking at, what's currently in law, are what started out in the early 2000's was a valuation method. So they took the value of the turbine's and what you end up with is a high tax at the beginning of the project and then, over time, as the value decreased the tax decreases, but there is a floor on that and you get to it about 14 years at 35%. Once you get to 35% it does decreased anymore for the life. **(Attachment #1)** Dale walks through the Comparison of Various Tax Rates and Scenarios chart. (meter 5:20-14:14)

Senator Bekkedahl -- In the yearly change column, the 3rd column from the right, where they do vary so much, even by year, is the largest single factor in those changes the increases attributable to the local mill rate values or why would a newer project at 11/2%, that hasn't had the level of depreciation have that kind of increase compared to one from 2006? Is it the mill rates?

Dale Niezwaag -- Yes. It would be the mill rate.

Senator Triplett -- That's a choice that the developers make when they decide where to locate one of these, right? I assume that they look at the county taxes and the county tax structure and what the mill rates traditionally have been when they choose to locate.

Dale Niezwaag -- Some wind folks in here would be able to answer this differently. In my opinion, the biggest factor going in is wind resource. Where can you get the best wind? I think the tax portion would be a portion of your decision but the major part of your decision is, where do I have the best wind resource to put the towers.

Senator Bekkedahl -- To follow up, isn't one of the factors where the grid capacity was when it could take on the power and ship it out as well. (meter 15:50-16:01).

Dale Niezwaag -- You've got to have the wind resource and how far are you away from an existing transmission line to do that. Then your transmission capacity is up there, and then your financial imput of taxes.

Senator Dotzenrod -- On the first page columns, D,E & F, where it is shaded in at the top (Meter16:37-16:53).

Dale Niezwaag -- The mix is the percentage going to the capacity rate and the percentage going to the production rate. We were trying to find a normal level. It varies. (meter17:10-17:18).

Senator Dotzenrod -- Because there is quite a difference between D & F on what the mix is there (meter 17:28-17:42).

Senator Laffen -- Do we have any idea how much of this current wind generation is actually used at retail level in North Dakota as opposed to going to, say, Minnesota? Is most of this going out of our state or is it used here?

Dale Niezwaag -- I don't have a percentage, off the top of my head. (meter 18:06-18:16).

Alan Anderson, Department of Commerce -- I think Dale did a great job of explaining how challenging this was for us as a group and how complex it is. It took a long time for us addressing a lot of these issues to even get up near the speed where we felt we had a good understanding. SB2037, the bill itself, if you step back a minute, it addresses 3 types of tax incentives for wind. (meter 19:20-22:47)

Chairman Cook -- I commend you for what you have accomplished, the part of contention is, why the 4? What part of the law did they not understand when it says, on which construction is completed before January 1, 2015, must be valued at 11/2%. That's pretty clear that if it's not completed by January 1, 2015, that that's not the tax policy. Why the special treatment for the 4?

Alan Anderson -- In reality it is a grace period. There's no way about that. It was just a short window to help companies transition. (meter 23:40-24:29).

Senator Triplett -- Both you and Mr. Niezwaag have talked about how long this took and that you only just got it together at the end. I'm just wondering when these documents were produced that have been presented to us this morning.

Dale Niezwaag -- Those were last summer. We put the basic documents together to give the comparison to the committee.

Senator Triplett -- But I don't think you ever did give it to the committee, did you?

Dale Niezwaag -- To this committee? No, these were internal documents that we used with the EmPower group to come up with that. But, no, we did not share those with any of groups and the testimony to this point.

Senator Triplett -- I don't mean this morning. You didn't give it to the energy transmission and development committee as an interim committee, you didn't give it to this committee when we first heard the hearing. You just come with your conclusions and say, this is the result, pass it. I just have to say that this would have been a much smoother process had you shared some of this data with the interim committee or even shared it with us at the beginning. I'm glad to know that you didn't just put this together last night but that it actually formed the basis for your decision making and it is useful information and I think it will help us.

Dale Niezwaag -- I agree. (meter 25:58-26:00).
Mr. Chairman, to your question on why the 4 exemptions, there were a couple of them. A couple of them delayed on turbines. Some were delayed and didn't get in. They others were permitting and they got delayed.

Senator Bekkedahl -- In hearing what Dale just said, it struck a question with me: am I to assume then that these projects, without their delays, would have been in production capacity before the 2015 deadline. Is that what you are saying?

Dale Niezwaag -- The anticipation was that they would have been in to get under the 11/2% rate and because of delays, due to permitting or equipment situations, they got pushed out and into the 4 production capacity rate.

Chairman Cook -- Thank you, Dale, and thank you, Alan. We will wait to hear from Jerry Lein, if we can. Justin printed out this for us.Mr. Dever, will you explain where this came from and explain that this is really not a reflection of retail sales in North Dakota, like it is we are supposed to measure for our wind power goals.

Justin Dever -- The information that was provided actually came from the Energy Information Administration, part of the federal government. It states that in 2013, 79% of North Dakota's net electricity generation came from coal, almost 16% came from wind energy, and about 5% came from conventional hydroelectric power sources. You are correct, Mr. Chairman, that this does not represent retail sales in the state. This just represents production. Of all of the electricity produced in the state, this is how it is broken down.

Senator Laffen -- Is it even possible to break down retail sales and know where the power comes from?

Justin Dever -- I believe that's the information that the public service commission is working on. In addition to the 10% voluntary goal that is in statute, the legislature also adopted the 25x25 initiative. That's in chapter 17-01 of the century code and that is in support of the national goal of 25% renewable by 2025. That was adopted in 2007.

Chairman Cook -- We will set this one aside.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2037
2/17/2015
Job #24101
☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes: Attachment #1, #2

Chairman Cook opened the committee work on SB2037.
All of you should have this little packet that came from Jerry Lein. **(Attachment #1)** It basically takes us through 2012 and 2013 and he has an individual graph for each year where he breaks it out by utility company. So that shows where we are at as far as renewable energy as a percent of retail sales. These are some amendments that I would like you to consider. John, do you have a copy of the amendments for 2037?

Senator Unruh -- In front of the committee, we've amendments to SB2037. **(Attachment #2)** (meter 3:09-3:35). There were a couple of different goals, the first one was to address the taxation regarding property taxes for wind turbine electric generators. The second goal was to also put on production capacity any future wind projects moving forward from this point.

John Walstad, Legislative Council -- Not for or against. The amendment, is a hog house amendment, considerably shorter than the document you've been examining. Not necessarily less complicated. The first section is the section that you have been examining and struggling with on wind generators and the various time frames and assessment ratios that apply to those kinds of properties. The newly underscored subsection 2 takes a different approach going forward. And that is that those units, hundred kilowatts or more, construction completed after 2014, or purchase power agreement entered or renewed after 2014, or purchased by a company subject to central assessment after 2014. All 3 of those things trigger a different method of tax and that method is determined as provided in subsection 1 of 57-33.02-04. I hate using numbers because then you have to go find some other thing to read, but that is the method you were discussing about the 2 factor generation capacity tax that applies to non-centrally assessed properties. And any associated administrative provisions that are in that chapter. I spent some time talking with the tax department experts and they revenue collected under this method would be allocated among political subdivisions, basically in the same manner as the assessed property tax under the first part of this section for existing generation.

Chairman Cook -- Why do you make that point? Is there another way it could be done?

John Walstad -- No, I just wanted to make sure that by making a reference to that other chapter I was not changing where the money goes that comes from those units. The second section, legislative management study, and then the third section, reports by the PSC of the information that Jerry Lein provided on the state objective for sales of energy in the state from recycled or renewable sources and then a comparison in addition to that information that Mr. Lein provided to indicate how much of that sort of energy is produced in North Dakota, which could be compared to the number sold at retail to determine how much of that renewable electricity is leaving the state.

Senator Unruh -- I feel like it would be appropriate just to point out a couple of things that the amendments do not do. They do look at the property tax methodology of wind generators, but sections that would remain the same in the bill, the sales tax exemption would still be effective through June 30 of 2017 and that code would remain the same because anything beyond section 5 of the bill in its original form has been removed. Section 4 of the original bill is also removed. I saw these amendments as some middle ground here. If we didn't pass this bill, some of the things that are staying the same would have stayed the same but the big thing would be the reverting some of these projects to the 10% rate which I didn't think was fair.

Senator Bekkedahl -- Mr. Walstad, can you just walk me through, under section 1, number 1, and how that is different from section 1b, other than the date of after June 30, 2006. (meter 12:33-12:34)

John Walstad -- The thing that is now designated as b is an exception to that above statement (meter 13:09)

Chairman Cook -- I wanted you to take sections 1, 2 & 3 and make it simpler and you've done that.

John Walstad -- And it also doesn't matter if you choose to opt-in to 33.2 or not.

Chairman Cook -- And the opt-in clause is still going to be allowed to expire December 31, 2016.

Senator Dotzenrod -- If we adopt these amendments, these hog house amendments (meter14:30-15:54)

Chairman Cook -- We needed that definition because of the opt-in condition in the bill that they were trying to get. I don't believe that we need it now.

Senator Dotzenrod -- Section 4 of the bill. (meter16:08-16:34)

Senator Oehlke -- I know Senator Unruh mentioned that they sales tax exemption is still there but this looks like the complete new bill. It looks like this can just go away.

Senator Unruh -- The reason that the sales tax exemptions stay in place is because section 5 of the original bill simply just struck out the sunset clause for that. If we pass the hog house amendments, that sunset clause would stay in place but that sunset doesn't go into effect until June 30, 2017. They would be allowed those sales tax exemptions through, basically, after next session.

Chairman Cook -- Senator Dotzenrod -- Your question, the tax credit sunsets January 1, 2015. Section 4 was in there to give that tax credit for 2 year extension for the 4 companies that were trying to be grandfathered in here.

Senator Dotzenrod -- My impression was that these 4 companies that we've been talking about had made some commitments and had started the process. (meter18:52-19:14)

Chairman Cook - Senator Dotzenrod, that's the big difference right here, right now. Current laws in place, those completed before 2015 get this rate and those after, get the other rate. That's the whole question is the 4.

Senator Dotzenrod -- If it's reasonable to be talking about those 4, I think that they responded to the signals that we were sending and they were looking at the law and feeling that they could make these dates and then there were some circumstances they couldn't control (19:00-20:30).

Chairman Cook -- But they will get the sales tax.

Senator Oehlke -- We can probably just look at the 2 columns, either the 11/2 or 3, and that's our numbers then on this sheet here. Does that make sense?

Chairman Cook -- No. For which one are you talking about? Section 2 of the bill puts them all going forward into 57-33.2-04. That's column D. Do you want some time to study the amendments?

Senator Laffen -- I need a little more clarification on the 4 wind generation projects that we were talking about in this amendment. Are they being allowed the old rule or are we imposing a larger tax now on them?

Chairman Cook -- Senator Laffen, that is what this is all about, how they want to get handled. If you look at current law, some would go to 10% and some would go to the production capacity, which is roughly 41/2.

Senator Laffen -- I was thinking that was much broader than that, so this is just for these 4?

Chairman Cook -- That's what the bill is for.

Senator Unruh -- For everything moving forward. Those 4 that are under construction and everything moving forward.

Senator Triplett -- If I'm reading it correctly, for even existing ones, if they enter into a new agreement in the future or if sold from one party to another. The idea is that as time rolls on, we will eventually get to a place where they are all being taxed the same.

Chairman Cook -- If you are all comfortable, we can take this up. If you are not, we can sit it aside until Monday morning.

Senator Dotzenrod -- Can I ask for more clarification? I'm trying to understand, section 5, those are the sales tax provisions and they have dates in them right now that the bill would have struck out. The intention of the bill was that these would become permanent. (meter 24:17-24:35).

Chairman Cook -- And everything in the bill for the coal is gone. And hopefully we can pass this out and send it over to the House and everybody will have another shot at it.

Senator Bekkedahl -- To follow up, on page 7, then the sales tax exemption for power plant construction and repowering equipment and oil refinery and gas processing plant, that's all gone, or stays?

Chairman Cook -- Current law stays.

Senator Dotzenrod -- The only issue that I see left is section 4. (meter 25:43-25:58).

Chairman Cook -- And what is your issue?

Senator Dotzenrod -- Isn't this very similar to the bill we had on the floor, that Wanzek bill. (meter 26:05-26:27).

Chairman Cook -- I think this was in that bill but there was something else in the bill and that's what he wanted to get passed.

Senator Dotzenrod -- I know there was another feature of the bill that had something to do with the way that the distribution to the investors of the credits went.

Chairman Cook -- That's what it was.

Senator Unruh -- I would move amendments 15.0241.01003 to SB2037.

Seconded by Senator Bekkedahl.

Chairman Cook -- Are you comfortable? Discussion?

Voice vote on SB2037, to adopt amendment. Motion passed.

We have before us SB2037, as amended.

Senator Dotzenrod -- Would a motion to further amend be in order?

Chairman Cook -- Do you have the amendments?

Senator Dotzenrod -- I don't have the amendments prepared.

Chairman Cook -- What do you want to do?

Senator Dotzenrod -- I would like to add section 4 back to the bill.

Senator Triplett seconded.

Chairman Cook -- We have a motion and a second to add section 4 back into the bill.

Senator Dotzenrod -- My motivation here is that I think we, as a legislature and the policies we have, we entice people to feel that they could invest and have this law that they could meet these deadlines and one thing or another happens and they didn't. I thought that we, as a matter of good faith with those people that made those commitments, ought to make some attempt if we could make it work for them. (meter 28:53-29:18).

Voice vote on a further amendment to put section 4 back in the bill. Motion passed.

We have before us SB2037

Senator Unruh moves a do pass on SB2037, as amended, as amended.

Seconded by Senator Laffen.

Roll call on do pass, as amended, SB2037. 7-0.

Carrier: Senator Unruh.

15.0241.01003
Title.

Prepared by the Legislative Council staff for
Senate Finance and Taxation Committee
February 18, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2037

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-06-14.1 of the North Dakota Century Code, relating to taxation of wind turbine electric generation units; to provide for a legislative management study; to provide for a report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-06-14.1 of the North Dakota Century Code is amended and reenacted as follows:

57-06-14.1. ~~Taxable valuation~~Taxation of centrally assessed wind turbine electric generators.

1. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more on which construction is completed before January 1, 2015, must be valued at three percent of assessed value to determine taxable valuation of the property except:

~~1.~~ a. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, for which a purchased power agreement was executed after April 30, 2005, and before January 1, 2006, and construction was completed after April 30, 2005, and before July 1, 2006, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property for the duration of the initial purchased power agreement for the generation unit; and

~~2.~~ b. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after June 30, 2006, and before January 1, 2015, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property.

2. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after December 31, 2014; for which a purchased power agreement is entered or renewed after December 31, 2014; or which is purchased by a company subject to taxation under this chapter after December 31, 2014, is subject to taxes in lieu of property taxes, to be determined as provided in subsection 1 of section 57-33.2-04 and subject to any associated administrative provisions of chapter 57-33.2.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - WIND GENERATION TAXATION. During the 2015-16 interim, the legislative management shall consider studying wind generation taxation, including analysis of property, generation, sales, and income tax application and equity within the industry. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 3. REPORTS BY PUBLIC SERVICE COMMISSION. At least once in each year of the 2015-16 interim, the public service commission shall present a report to the interim committee designated by the legislative management on the most current information available on the status of retail sales of electricity in the state meeting or exceeding the state renewable and recycled energy objective established in section 49-02-28 and a comparison of the amount of renewable and recycled energy produced in the state with the amount sold at retail in the state.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2014."

Renumber accordingly

1 of 2
TJ
2/19/15

15.0241.01004
Title.02000

Adopted by the Finance and Taxation Committee
February 18, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2037

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-06-14.1, and subsection 1 of section 57-38-01.8 of the North Dakota Century Code, relating to taxation of wind turbine electric generation units and an income tax credit for installation of geothermal, solar, wind, or biomass energy devices; to provide for a legislative management study; to provide for a report; and to provide an effective date.

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~~2.~~ b. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after June 30, 2006, and before January 1, 2015, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property.

2. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after December 31, 2014; for which a purchased power agreement is entered or renewed after December 31, 2014; or which is purchased by a company subject to taxation under this chapter after December 31, 2014, is subject to taxes in lieu of property taxes, to be determined as provided in subsection 1 of section 57-33.2-04 and subject to any associated administrative provisions of chapter 57-33.2.

SECTION 2. AMENDMENT. Subsection 1 of section 57-38-01.8 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - WIND GENERATION TAXATION. During the 2015-16 interim, the legislative management shall consider studying wind generation taxation, including analysis of property, generation, sales, and income tax application and equity within the industry. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 4. REPORTS BY PUBLIC SERVICE COMMISSION. At least once in each year of the 2015-16 interim, the public service commission shall present a report to the interim committee designated by the legislative management on the most current information available on the status of retail sales of electricity in the state meeting or exceeding the state renewable and recycled energy objective established in section 49-02-28 and a comparison of the amount of renewable and recycled energy produced in the state with the amount sold at retail in the state.

SECTION 5. EFFECTIVE DATE. Sections 1 and 2 of this Act are effective for taxable years beginning after December 31, 2014."

Renumber accordingly

Date: 2-17-15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2037

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.0241.01003

Recommendation: ☑ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Sen. Unruh Seconded By Sen. Bekkedahl

voice vote

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Lonnie Laffen			Senator Connie Triplett		
Senator Brad Bekkedahl					
Senator Dave Oehlke			Motion passed		
Senator Jessica Unruh					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

Date: 2.17.15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2037

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: to add section 4 to bill

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ ______

Motion Made By Sen. Dotzenrod Seconded By Sen. Triplett

voice vote

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Lonnie Laffen			Senator Connie Triplett		
Senator Brad Bekkedahl					
Senator Dave Oehlke			Motion passed		
Senator Jessica Unruh					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

Date: 2.17.15

Roll Call Vote #: 3

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2037

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.0241.01004 Title .02000

Recommendation:
☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ ____________

Motion Made By Sen. Unruh Seconded By Sen. Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
				✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett		
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Unruh

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2037: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2037 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-06-14.1, and subsection 1 of section 57-38-01.8 of the North Dakota Century Code, relating to taxation of wind turbine electric generation units and an income tax credit for installation of geothermal, solar, wind, or biomass energy devices; to provide for a legislative management study; to provide for a report; and to provide an effective date.

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~~2.~~ b. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after June 30, 2006, and before January 1, 2015, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property.

2. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after December 31, 2014; for which a purchased power agreement is entered or renewed after December 31, 2014; or which is purchased by a company subject to taxation under this chapter after December 31, 2014, is subject to taxes in lieu of property taxes, to be determined as provided in subsection 1 of section 57-33.2-04 and subject to any associated administrative provisions of chapter 57-33.2.

SECTION 2. AMENDMENT. Subsection 1 of section 57-38-01.8 of the North Dakota Century Code is amended and reenacted as follows:

1. A taxpayer filing a North Dakota income tax return pursuant to the provisions of this chapter may claim a credit against the tax liability under section 57-38-30 for the cost of a geothermal, solar~~, wind~~, or biomass energy device installed before January 1, 2015, in a building or on property owned or leased by the taxpayer in North Dakota. A wind energy device on which construction was commenced before January 1, 2015,

and which is installed before January 1, 2017, is eligible for the credit provided in this section. The credit ~~provided in this section~~ for a device installed before January 1, 2001, must be in an amount equal to five percent per year for three years, and for a device installed after December 31, 2000, must be in an amount equal to three percent per year for five years of the actual cost of acquisition and installation of the geothermal, solar, wind, or biomass energy device and must be subtracted from any income tax liability of the taxpayer as determined pursuant to the provisions of this chapter.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - WIND GENERATION TAXATION. During the 2015-16 interim, the legislative management shall consider studying wind generation taxation, including analysis of property, generation, sales, and income tax application and equity within the industry. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 4. REPORTS BY PUBLIC SERVICE COMMISSION. At least once in each year of the 2015-16 interim, the public service commission shall present a report to the interim committee designated by the legislative management on the most current information available on the status of retail sales of electricity in the state meeting or exceeding the state renewable and recycled energy objective established in section 49-02-28 and a comparison of the amount of renewable and recycled energy produced in the state with the amount sold at retail in the state.

SECTION 5. EFFECTIVE DATE. Sections 1 and 2 of this Act are effective for taxable years beginning after December 31, 2014."

Renumber accordingly

2015 HOUSE FINANCE AND TAXATION

SB 2037

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2037
3/16/2015
24869

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to taxation of wind turbine electric generation units and an income tax credit for installation of geothermal, solar, wind, or biomass energy devices.

Minutes: Attachment #1, 2, 3, 4, 5, 6, 7

Chairman Headland: Opened hearing.

Emily Thompson, Legislative Council: Introduced bill. This bill was brought forth during the interim by the Empower Commission. As originally introduced SB 2037 contained sections providing for an increase in property tax valuation on wind generation units commenced before January 1, 2015 and completed before January 1, 2017 from 1.5% to 3%. A grace period for the income tax credit relating to those wind towers provisions to remove the sunset on the sales tax exemption for wind powered electrical generation facilities and provisions to remove the $5 million cap on the sales and use tax exemption for new coal mines located in the state. Following review from the senate finance and taxation committee the senate amended the bill as introduced into the bill you see before you today. The engrossed version of 2037 in section one it relates to the taxation of centrally assessed wind turbine electric generators. They are generally valued at 3% of assessed value to determine taxable value except for the two instances when it would be valued at 1.5% assessed value. There was additional language added in the bill noting that a centrally assessed wind turbine electric generation unit with a nameplate generation capacity of 100 kilowatts or more on which construction is completed after December 31, 2014 and for which a purchase power agreement is entered into or renewed after December 31, 2014 or which is purchased by a company subject to tax under this chapter after December 31, 2014 subject to tax in lieu of property taxes to be determined as provided in subsection one of section 57.33.2-04 and is also subject to any of the administration provisions provided for in that chapter.

Chairman Headland: Could you explain what that tax is?

Emily Thompson: That tax is on the actual distribution rather than the in lieu property tax. It would be placing those items to be taxed in that chapter.

Chairman Headland: What is the rate of that tax?

Emily Thompson: The general calculation was determined to be roughly an equivalent of 4.5% tax when compared to how it was taxed previously but it is not technically a rate of 4.5% in statute. Section two of the bill extends the income tax credit available for installing wind energy devices. Under current law to receive the credit the wind energy device must have been installed prior to January 1, 2015. The bill as introduced extended this to be available for a wind energy device on which construction was commenced before January 1, 2015 and is installed before January 1, 2017. That language was not amended. Section three of the bill pertains to a legislative management study of wind generation taxation. It instructs that during the 2015-16 interim legislative management shall consider studying wind generation taxation and this is to include analysis of property, generation, sales, and income tax application and equity within that industry. Section four provides for presentation of a report by the public service commission to an interim committee that is designated by legislative management. The report must be presented at least once each year of the 2015-16 interim. It must contain the most current information available on the status of retail sales of electricity in the state that are meeting or exceeding the state renewable and recycled energy objectives. The report must also include a comparison of the amount of renewable and recycled energy produced in the state along with the amount sold at retail in the state.

Chairman Headland: Are you familiar with the bill that the house passed in the first half over to the senate for a tax credit for geothermal, solar, and wind?

Emily Thompson: I don't have that bill in front of me.

Representative Kading: Is there a reason you chose 100 kilowatts?

Emily Thompson: It is currently in statute. I don't recall why that number was chosen or why that threshold exists.

Chairman Headland: We will take support.

Alan Anderson, Commissioner for North Dakota Department of Commerce: Distributed testimony. See attachment #1. Mr. Anderson also distributed proposed amendments. See attachment #2.

Chairman Headland: Can you provide the committee with information that would show us the time from the first purchase power agreement to the last purchase power agreement so we can see the extent of what 20 years would mean to us?

Alan Anderson: I believe Mr. Boehm has that information for you and he will be testifying soon.

Representative Steiner: How did you get the 4.5%?

Alan Anderson: When you compare against the other industries the 4.5% is level playing field and so anything you do better than that is truly an incentive to the industry.

Chairman Headland: Further testimony in support?

Don Boehm, Basin Electric Power Cooperative: Distributed testimony. See attachment #3. The first sheet dated March 13, 2015 is a comparison of the various tax rates currently in effect today. The comparison involves a 150 megawatt wind project with a capital cost of $2 million per megawatts and generating in a capacity of 45% placed into service as of January 1, 2015. A life of 25 years was used to determine the total property taxes paid over the life of the wind project. The 2013 Ward County mill rate of 171 mills was also used in the comparison. At the top of each column you see a letter which is used to reference each column and the tax rate used to determine the total taxes paid. Columns a-c are the taxes associated with the determination of the fair market value using a 10%, 3%, and 1.5% taxable value as noted under chapter 5706. Ten percent is the taxable value percentage applied to all industrial and commercial property in the state. The three percent and one and a half percent are the taxable value percentages applied to all existing wind projects in the state. Column d is the existing production capacity tax method under chapter 5733.2. This method is applied to all wind projects owned by cooperatives and those entities subject to taxation under 5706 that have opted in to be taxed under 5733.2. Column e is the same methodologies as column a-c with the exception of utilizing a 4.5% taxable value. As you can see the total tax paid under column d and e are relatively close. Columns f and g used the same capacity and production rates that are applied to non-coal, non-wind projects and coal conversion facilities respectively. The total tax paid by a non-coal and non-wind facility is close to the total tax paid under column d. A coal conversion facility has a greater megawatt capacity and production percentage is generally in the 85-90% range thus resulting in much higher taxes paid. Columns h-j are comparisons with the neighboring states of South Dakota, Minnesota, and Montana. South Dakota is the reason for this comparison sheet to be updated March 13, 2015. SB 180 was signed by the South Dakota governor last Friday and the bill reduced the existing capacity production rates to be more competitive with North Dakota and Minnesota. The second page is a listing of all existing wind projects within the state of North Dakota. It is arranged by the year in which each wind project was put into service. The yellow highlighted sections compare the tax paid by the project in 2013 versus the tax if they opt in rate under 5733.2 also used for new projects under column f on the previous page. The tax paid under the opt in rates would increase for each project from a low of 4% to a high of 209 percent.

Julie Voeck, Director of Legislative and Regulatory Affairs with NextEra Energy Resources: Distributed testimony. See attachment #4. (Ended testimony at 30:24)

Chairman Headland: I understand where the 20 years comes from but I think there is some feeling of extending the tax out to 2031 for one of your last projects. This is a little bit longer than some are willing to go. Is there something less than 20 years that would be workable?

Julie Voeck: We are advocating the 20 years. Under the current rules which provide the current rates for the initial term of the power purchase agreements, that is now 20-25 years; by shortening that time period the tax increase would hit us earlier. We have projected what our revenues and expenses would be and we pledge to the lenders to repay the dollars that we finance so that would impact our ability to meet the requirements in those agreements with our lenders.

Representative Steiner: When the projects were first developed in 2006 what was the incentive promised at? Was there a five year sunset on that?

Julie Voeck: I'm not sure. I wasn't involved in that.

Representative Steiner: When you went into this project you knew it was 20 years but what was the incentive promised by the state?

Julie Voeck: The projects that we have here were on the tax rate of 1.5% valuation and that was part of all the things we look at when we develop a project. We look at what are the overall costs for the project. When we finance the project we used that as a basis of our financing.

Representative Schneider: You listed the entities that support this approach. Are there any entities that are opposing it? Did the senate have the benefit of your testimony and recommendations for changes?

Julie Voeck: I'm not aware of any companies that are opposing this. I believe we listed the companies with wind interests. When this bill was on the senate side it didn't exist in this form and this proposal was not out there so this testimony was not presented on the senate side.

Chairman Headland: Does NextEra have any projects on the drawing board that would be starting at the 4.5 percent?

Julie Voeck: We recently signed a purchase power agreement with Basin Electric to build a wind project in Dickinson County and we expect that it will be on the new 4.5% rate. It's not eligible for any of the other rates so that project will be under this rate.

Chairman Headland: The 4.5% is a fair and is not going to preclude the projects going forward?

Julie Voeck: In this case right now the economics work for us. It's hard to predict going forward how the markets will change but I believe the information that Don Boehm presented is North Dakota is still competitive with the neighboring states.

Representative Strinden: Are you presenting this alternative because this is ideally what the industry wants or is it a compromise to the bill that you don't like in this form now?

Julie Voeck: We are presenting this testimony in response to the senate bill that is before us. It has been developed very quickly over the last couple of weeks based on the changes that took place in the senate. We believe that additional time to relook at the bigger picture down the road could be beneficial. Based on the time frame and what we had before us we thought this was a good compromise.

Representative Strinden: If you had to choose between the law as it stands now without this bill or this plan, which one would you prefer?

Julie Voeck: That is a question that will take some pondering. At this stage where we're at it's certainly an improvement over what's proposed and given the direction that the state is going NextEra wants to be a company that...

Chairman Headland: We set the tax policy and we don't rely on industry to come in and set it. That was kind of a loaded question.

Representative Strinden: I didn't mean it to be a loaded question. My question is that sometimes we get into so many amendments that we get away from the original intent and the bill isn't solving the problem it meant to solve in the first place. I just wanted to make sure we weren't going down that road.

David Streyle, North American Coal: With or without this amendment the $5 million cap for opening a new coal mine that was debated two sessions ago is still in place. We don't intend to remove that cap as the bill is in place right now and this amendment would not change that. Mr. Streyle referred to the proposed amendments that were previously distributed. The reason these amendments are being proposed is to define producing coal. Through our process of opening a new coal mine we found that producing coal included all the necessary incidental reclamation of that location which is listed on the back of the bill in section 4a. We've addressed the concerns with the tax department and have come up with this as a compromise. I made a small error on the bottom of page 1 section 3 subsection 3, so if you would remove the words "directly or". We are not trying to take advantage of any interest that is due back to us; we don't want to open that can of worms and it wasn't our intent.

Mark Nisbet, Xcel Energy: We were looking to move towards the projects that were taxed differently depending on things such as the company that owns them and the years they were put into service. This will eventually move everybody to that 4.5% equivalency rate. I believe this bill is an important step in maintaining an all of the above energy strategy. Utilities depend on generation from the mix of traditional fossil fuels and renewable sources. Diversity and energy generation is important to protect consumers from resource market fluctuations and other constraints. Xcel Energy has contracts and work started on projects that will invest over $600 million in energy projects in North Dakota because of these incentives that were in place. Industries coming together to propose a bill that would be good for the whole rather than fighting to protect our separate interests is a much better thing. I urge consideration of these amendments and a do pass on SB 2037.

Representative Trottier: Does raising it from 1.5% to 4.5% affect the cost?

Mark Nisbet: Yes it affects the cost. We are a regulated utility. A tax incentive would be good for our customers for the business but at 4.5% that equivalency is still competitive as we're seeing with South Dakota and Minnesota.

Chairman Headland: One and half percent is a property tax and 4.5% is a production tax in lieu of property tax.

Betsy Engelking, Vice President of Geronimo Energy: Distributed testimony. See attachment #5. (Ended testimony at 49:00)

Chairman Headland: You've got some interesting aspects of your project wherein you share profits with landowners even though they don't host a turbine. Do the ones that host the turbine receive an annual payment?

Betsy Engelking: Yes, we have both turbine payments and per acre payments. If you host a turbine you'll get a turbine payment and a per acre payment. If you don't host a turbine you get your per acre payment.

Carlee McLeod, Utilities Shareholders North Dakota: If you passed nothing regarding this tax the percentage rate for wind property tax will not exist for investor owned utilities. 5706 is the chapter that has the property tax rate in for wind for public utilities. It is set at 3% right now but that would go away. The 4.5% rate stays in a different chapter of law but all the other projects under the investor owned utilities chapter would be taxed as general commercial property which would be at a 10% rate. There would be a large imbalance between the investor owned utilities and the cooperatives and all other winds generators in the state. I would hope you will not let that imbalance happen.

Jeff Mitchell, wind farm owner in Stutsman County: I am invested and have land in it. Turbines are expected to be put on some of our property. Its farmer friendly, landowner friendly, and everybody in the footprint gets something; nobody is left out. It's another way to earn some income on my farm.

Robert Harms, Tradewind Energy: Distributed testimony. See attachment #6. Mr. Harms also distributed proposed amendments. See attachment #7. (Ended testimony at 57:35)

Chairman Headland: There's been a purchase power agreement signed. If you knew you were going to be building a plant why wouldn't you have been active in the Empower Commission?

Robert Harms: The purchase agreement signed between the land developers and Tradewind was executed last fall well after the Empower process had been completed. The project was bought by Tradewind only last fall then they signed a power purchase agreement with Basin sometime after that.

Chairman Headland: Is there further testimony in support? Is there any opposition?

Representative Froseth: With these amendments the fiscal note would change considerably. Do we need a new fiscal note?

Chairman Headland: If the amendments are adopted we will be provided with one.

Representative Froseth: Is it possible to get a new fiscal note before we act on the amendments?

Chairman Headland: I don't know that we can get an official one but we can get the information certainly. Are there any questions for the tax department? We will close the hearing on SB 2037.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2037
3/17/2015
25014

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to taxation of wind turbine electric generation units and an income tax credit for installation of geothermal, solar, wind, or biomass energy devices.

Minutes:

Attachment amendment #1

Chairman Headland: Distributed proposed amendments. See attachment #1. This is the amendment that commerce brought so I just had Legislative Council redraft it. Does everybody understand what they are doing here?

Representative Klein: Are we looking at the ones dated March 17?

Chairman Headland: Yes. It's the 02001 version. If we have technical questions the tax department is here. It's going to give them 20 years of their current tax structure for property tax before they switch to the in lieu; the 4.5 percent.

Representative Klein: After 20 years they will all be on the same basis and that's what we're trying to work with?

Chairman Headland: That is correct. Twenty years from the time they were first assessed. One of the early wind farms will come off and switch to the production tax sooner than one of the last ones. The last one will be moving to the production tax in 2031.

Representative Klein: Are we picking up the amendments from both the groups that were in here including the ones that came in later?

Chairman Headland: We'll address those separately.

Representative Hatlestad: Made a motion to adopt the amendments 15.0241.02001.

Representative Dockter: Seconded.

Representative Strinden: Could somebody explain what we are adding back in for the coal industry?

Chairman Headland: We currently allow for the sales tax exemption. The tax department limited it to anything that had to do with the production of coal. The industry is asking us to allow it for other equipment that isn't directly dealing with the production of coal but also indirectly so they can use it for motor graders or things of that sort. We have someone here from the tax department if you would like clarification from them.

Charles Dendy, Tax Department: That's correct. We were including equipment used indirectly to produce coal. There were a few things that were added; water trucks, fuel trucks, low boys, cranes, lubrication trucks, motor graders, service trucks, light plants, and dewatering equipment.

Chairman Headland: However the $5 million cap is still in place.

Charles Dendy: Correct.

Representative Haak: I have in my notes that the coal industry wanted the words "directly or" removed.

Chairman Headland: They did but in talking with legislative council it was determined that we couldn't because that would change the intent of what they were asking for.

Voice vote: Motion carried to adopt the amendment.

Chairman Headland: There's been another amendment that was offered but I don't see them here. They've asked if we could give them some time to discuss it and we graciously agreed to do that. We will set this bill aside for now.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2037
3/23/2015
25254

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to taxation of wind turbine electric generation units and an income tax credit for installation of geothermal, solar, wind, or biomass energy devices.

Minutes: | No attachments |

Chairman Headland: We already amended this bill. We held it for discussion with Mr. Harms. We have amended bill 2037 before us.

Representative Dockter: Made a motion for a do pass as amended.

Vice Chairman Owens: Seconded.

Representative Steiner: We were asked for an amendment on page 2 line 17 switching the word "and" to "or" so we could also include a new wind project that came in after Empower already set their agenda in September. Has that been taken care of in these amendments? Is there a reason why it wasn't taken care of? If it's not in the amendment I'm going to resist the amendment because I think it should be in there.

Chairman Headland: The amendment is on so you'd have to further amend. I'm going to resist the amendment. It's almost a bit disingenuous by the representatives of that project who are trying to get in now. Their project was being put together in plenty of time for the Empower Commission. They could have participated but for whatever reason they decided not to and now to come to the table at the last minute to try and extend the amendment so it will include them I don't see the need to do it. There's a time when we have to end the subsidy of wind. The Empower Commission had worked through the whole interim to come up with language. Tradewind decided not to participate. I'm not in agreement that we should allow them in now. It's not just them; there will be three or four other projects that if we change this will all qualify for the credit as well.

Representative Steiner: I don't think there is anything in statute that said only Empower projects can be approved by the legislature. I missed that point.

Chairman Headland: If that's the way you perceive what I was saying then maybe I misstated.

Representative Klein: Just this past week the senate defeated an amendment to continue this for another 20 years. The discussion went on to say that sooner or later this thing has to stand on its own. If they didn't come to the table at the right time then I agree with you.

Chairman Headland: This moves from the 3% property tax to 4.5% production tax and allows for 20 years from the first assessment to make that change. There's also some amended language for coal.

Representative Hatlestad: Were there other projects that didn't meet the deadline that were denied?

Chairman Headland: There were three other projects and they are not asking to be put in the bill. They are building their business model on 4.5% production tax. I think there is no reason why the project in Tioga can't do the same.

Roll call vote: 11 yes 2 no 1 absent

Motion carries for a do pass as amended.

Representative Klein will carry this bill.

15.0241.02001
Title.03000

Prepared by the Legislative Council staff for
House Finance and Taxation Committee
March 17, 2015

SB
3/23/15
1/8

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

Page 1, line 1, remove the second "and"

Page 1, line 2, after "57-38-01.8" insert ", and section 57-39.2-04.8"

Page 1, line 3, replace "and" with a comma

Page 1, line 4, after "devices" insert "and a sales tax exemption for machinery or equipment used to produce coal from a new mine"

Page 1, line 4, remove "and"

Page 1, line 5, after "date" insert "; and to provide for retroactive application"

Page 1, line 20, overstrike "for the duration of the initial purchased power"

Page 1, line 21, overstrike "agreement for the generation unit"

Page 2, line 5, remove "; for which a purchased power agreement is entered or renewed"

Page 2, remove line 6

Page 2, line 7, replace "under this chapter after December 31, 2014" with ", or which is twenty years or more from the date of first assessment"

Page 2, after line 24, insert:

"**SECTION 3. AMENDMENT.** Section 57-39.2-04.8 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.8. Sales tax exemption for machinery or equipment used to produce coal from a new mine.

1. Gross receipts from sales of machinery or equipment used to produce coal from a new mine located in this state are exempt from the tax imposed by this chapter. The exemption for each new mine under this section is limited to the first five million dollars of sales and use tax paid.

2. Purchase of replacement machinery or equipment is exempt if the capitalized investment in the new mine exceeds twenty million dollars using the United States generally accepted accounting principles. Purchases of repair or replacement parts for existing machinery or equipment are not exempt under this section.

3. The mine operator shall apply to the commissioner for a refund of sales and use taxes paid for which the exemption is claimed under this section. A refund claim may not exceed the limitation in subsection 1. If the machinery or equipment is used directly or indirectly to produce coal, the interest provisions of section 57-39.2-25 do not apply to purchases made before July 1, 2015. Application for the refund must be made at the time and in the manner directed by the commissioner and must include sufficient information to verify the correctness of the refund claim.

4. For purposes of this section:

   a. "Machinery or equipment" means machinery or equipment purchased after December 31, 2010, and used directly or indirectly to uncover, sever, crush, handle, or transport coal removed from the earth. "Machinery or equipment" includes draglines, excavators, rolling stock, conveyor equipment, reclamation equipment, ~~and~~ equipment to pulverize coal, water trucks, fuel trucks, low-boys, cranes, lubrication trucks, motor graders, service trucks, light plants, and dewatering equipment, but does not include rail spurs, office buildings, workshops, or any component not used directly to uncover, sever, crush, handle, or transport coal removed from the earth.

   b. "New mine" means an area permitted under chapter 38-14.1 by the public service commission after December 31, 2010.

   c. "Produce coal" means mining operations to uncover, sever, crush, handle, or transport coal from its natural location under the earth's surface to the mouth of the mine and all activities necessary and incidental to the reclamation of that location."

Page 3, after line 9, insert:

"**SECTION 7. RETROACTIVE APPLICATION.** Section 3 of this Act applies retroactively to purchases of machinery or equipment made after December 31, 2010."

Renumber accordingly

Date: 3-17-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2037

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.0241.02001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ ____________

Motion Made By Rep. Hatlestad Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND			REP HAAK		
VICE CHAIRMAN OWENS			REP STRINDEN		
REP DOCKTER			REP MITSKOG		
REP TOMAN			REP SCHNEIDER		
REP FROSETH					
REP STEINER					
REP HATLESTAD					
REP KLEIN					
REP KADING					
REP TROTTIER					

Total (Yes) ____________ No ____________

Absent ____________

Floor Assignment ____________

If the vote is on an amendment, briefly indicate intent:

Voice vote = Motion carried.

Date: 3-23-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2037

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: ______

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ ______

Motion Made By Rep. Dockter Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	AB	
REP DOCKTER	✓		REP MITSKOG	✓	
REP TOMAN	✓		REP SCHNEIDER	✓	
REP FROSETH	✓				
REP STEINER		✓			
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING		✓			
REP TROTTIER	✓				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2037, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2037 was placed on the Sixth order on the calendar.

Page 1, line 1, remove the second "and"

Page 1, line 2, after "57-38-01.8" insert ", and section 57-39.2-04.8"

Page 1, line 3, replace "and" with a comma

Page 1, line 4, after "devices" insert "and a sales tax exemption for machinery or equipment used to produce coal from a new mine"

Page 1, line 4, remove "and"

Page 1, line 5, after "date" insert "; and to provide for retroactive application"

Page 1, line 20, overstrike "for the duration of the initial purchased power"

Page 1, line 21, overstrike "agreement for the generation unit"

Page 2, line 5, remove "; for which a purchased power agreement is entered or renewed"

Page 2, remove line 6

Page 2, line 7, replace "under this chapter after December 31, 2014" with ", or which is twenty years or more from the date of first assessment"

Page 2, after line 24, insert:

"**SECTION 3. AMENDMENT.** Section 57-39.2-04.8 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.8. Sales tax exemption for machinery or equipment used to produce coal from a new mine.

1. Gross receipts from sales of machinery or equipment used to produce coal from a new mine located in this state are exempt from the tax imposed by this chapter. The exemption for each new mine under this section is limited to the first five million dollars of sales and use tax paid.

2. Purchase of replacement machinery or equipment is exempt if the capitalized investment in the new mine exceeds twenty million dollars using the United States generally accepted accounting principles. Purchases of repair or replacement parts for existing machinery or equipment are not exempt under this section.

3. The mine operator shall apply to the commissioner for a refund of sales and use taxes paid for which the exemption is claimed under this section. A refund claim may not exceed the limitation in subsection 1. If the machinery or equipment is used directly or indirectly to produce coal, the interest provisions of section 57-39.2-25 do not apply to purchases made before July 1, 2015. Application for the refund must be made at the time and in the manner directed by the commissioner and must include sufficient information to verify the correctness of the refund claim.

4. For purposes of this section:

a. "Machinery or equipment" means machinery or equipment purchased after December 31, 2010, and used directly or indirectly to uncover, sever, crush, handle, or transport coal removed from the earth. "Machinery or equipment" includes draglines, excavators, rolling stock, conveyor equipment, reclamation equipment, ~~and~~ equipment to pulverize coal, water trucks, fuel trucks, low-boys, cranes, lubrication trucks, motor graders, service trucks, light plants, and dewatering equipment, but does not include rail spurs, office buildings, workshops, or any component not used directly to uncover, sever, crush, handle, or transport coal removed from the earth.

b. "New mine" means an area permitted under chapter 38-14.1 by the public service commission after December 31, 2010.

c. "Produce coal" means mining operations to uncover, sever, crush, handle, or transport coal from its natural location under the earth's surface to the mouth of the mine and all activities necessary and incidental to the reclamation of that location."

Page 3, after line 9, insert:

"**SECTION 7. RETROACTIVE APPLICATION.** Section 3 of this Act applies retroactively to purchases of machinery or equipment made after December 31, 2010."

Renumber accordingly

2015 TESTIMONY

SB 2037

North Dakota
LEGENDARY

1.
SB2037
2-2-15

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2037
FEBRUARY 2, 2015, 9:00 A.M.
SENATE FINANCE AND TAXATION COMMITTEE
SENATOR DWIGHT COOK, CHAIRMAN

ALAN ANDERSON – COMMISSION, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Alan Anderson and I serve as the Commissioner for the North Dakota Department of Commerce, as well as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2037. This is a bill that was recommended by the Commission and approved by the interim Energy Development and Transmission committee. A complete list of bills recommended and supported by the Commission is below:

- Senate Bill No. 2032 – Oil and Gas Development Strategic Planning Authority.
- Senate Bill No. 2033 – Oil & Gas Tax Trigger Mechanism.
- Senate Bill No. 2034 – Oil Gathering Pipelines Sales Tax Exemption.
- Senate Bill No. 2035 – Value-Added Energy Facility Sales Tax Exemption.
- Senate Bill No. 2036 – Coal Beneficiation.
- Senate Bill No. 2037 – Wind Energy Incentives & New Coal Mine Sales Tax Exemption.

Any bill recommended or endorsed by the EmPower ND Commission is done so with unanimous support of the Commission. This is not always a simple task, given the interests of the various energy industries represented on the Commission. Of all of the bills that EmPower ND Commission endorsed this session, this bill required the most deliberation to reach a consensus. That being said, I believe the EmPower ND Commission came up with a good bill that all of the Commission members support and one that I hope you will support, too.

Senate Bill 2037 relates primarily to tax incentives for wind energy production, specifically the expiration of the incentives, and also includes changes to sales tax exemption for machinery or equipment used to produce coal from a new mine.

Section 1 of the bill relates to the property taxes paid by wind turbine electric generation units. Units constructed through 2014 pay property taxes based upon 1.5% of the assessed value. Section 1 would allow wind turbine electric generation units to pay 3.0% of the assessed value, as long as the project was initiated prior to January 1, 2015, and an executory purchase power agreement was entered or an advanced determination of prudence was issued by the PSC and construction was commenced. The Commission supports allowing projects already underway to pay a reduced amount, although still double what they would have paid had the project been completed before the end of the year.

12
SB2037
2.2.15

Section 1 also has any future wind projects being taxed under NDCC chapter 57-33.2, which has taxes paid based upon the rated capacity and the amount of electricity generated by the unit. Finally, it makes it clear that existing wind projects are to be taxed under the method they are currently taxed. Section 3 makes a corresponding change to NDCC § 57-33.2-04.

Section 2 has the effect of allowing a company that is engaged in wind energy production to be taxed under NDCC chapter 57-33.2 for the purposes of the wind projects without subjecting all of the company's property to be taxed in this manner.

Section 4 provides a grace period for the wind energy tax credit for projects in which construction commences prior to January 1, 2015, and which the wind turbines are installed prior to January 1, 2017.

Section 5 removes the sunset clause on the sales tax exemption wind-powered electrical generating facilities, in order to align with other energy-related sales tax exemptions. Section 7 does the same thing for the related use tax exemption.

Section 6 makes changes to the sales tax exemption related to new coal mines, including the removal of a $5 million cap. With these changes, this sales tax exemption would be consistent with other energy-related sales tax exemptions.

I believe the changes in the bill help promote tax fairness among the energy industries, while providing the right incentives to move these industries forward.

Mr. Chairman and members of the Finance and Taxation Committee, I respectfully request your favorable consideration of Senate Bill 2037. That concludes my testimony and I am happy to entertain any questions.

SB 2037, Testimony in Support
Senate Finance and Tax, 2-2-15
Mark Nisbet, Xcel Energy

Chairman Cook, members of the committee, I am Mark Nisbet, testifying in support of SB 2037 on behalf of Xcel Energy and as the wind representative to the EmPower Commission. There are a number of wind proponents in attendance to support this bill, and they are ready to answer any questions the committee might have. With respect to the committee's full agenda and limited time, I will keep my remarks brief.

SB 2037 is the product of the EmPower Commission's effort to tax energy sources equitably and ensure tax certainty for industry. North Dakota's tax law contains various property tax rates for wind projects, depending on the time each project was completed. Additionally, wind projects are taxed differently depending on the type of company owning them. This bill puts new projects on the same level based on generation and capacity, and that level is equivalent to the tax rate paid by other energy sources.

The bill also allows a few projects, which would have been completed but for certain unforeseen circumstances, to fall under an incentive rate higher than the tax rate they would have qualified for without those delays, but still an acknowledgement of the commitment made to proceed in North Dakota. The commission was very careful to limit that extension to known projects already dedicated to serving a utility through a purchased power agreement if the generation was being sold to a utility or an advanced determination of prudence by the Public Service Commission if the generation was owned by a utility. That specification was important so as not to displace planned generation by other energy sources. These few projects had already been accounted for in future generation needs, and the commission agreed that the tax rate proposed in this bill while higher than the rate planned for would recognize that substantial steps toward completion were taken. Major changes in tax rates could halt their progress, stranding assets and disrupting planned energy

2.2
2-2-15
SB2031

supply. In that spirit, the bill allows the limited extension of those rates, after which new projects are taxed at a higher rate commensurate with other generation sources.

We believe this bill is an important step in maintaining an "all of the above" energy strategy. Utilities and their customers depend on generation from a mix of traditional fossil fuels and renewable sources. Diversity in energy generation is important to protect consumers from resource market fluctuations and environmental constraints. Xcel energy has contracts and work started on projects that will invest over $600 million dollars in energy projects in North Dakota because of these energy incentives. With a service area spanning 8 states, those projects could have been placed in other locations. Because of North Dakota's smart, "all of the above" approach, the state has reaped the economic benefit of these projects.

I am proud of Xcel Energy's diverse portfolio with nuclear power, highly efficient coal and natural gas plants and wind to meet our states goal to provide clean, efficient, reliable and cost competitive energy for North Dakota consumers. Wind is a valuable component of North Dakota's energy mix and provides income for those who host the towers and those who make a career in the wind industry.

Chairman Cook, this bill is important to the energy industry. This bill was the result of much analysis and compromise. Ultimately, industry came together to propose a bill that would be good for the whole rather than fighting to protect our separate interests. I urge a do pass recommendation, and I'll stand for any questions.

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GERONIMO ENERGY

Geronimo Energy
Testimony on SB 2037
February 2, 2015

Good morning, Mr. Chair and Members of the Committee. My name is Betsy Engelking, and I am a Vice President at Geronimo Energy. I am here today to testify in support of SB 2037. Geronimo Energy develops wind and solar projects throughout the Upper Midwest. Our Courtenay Wind Farm is a 200 MW development spread over 21,000 acres near Jamestown, North Dakota. In 2013, Geronimo signed a purchased power agreement with Xcel Energy to purchase the energy from the Courtenay wind farm, and obtained a site permit from the North Dakota PSC. The project was slated for completion prior to the end of 2014. Unfortunately, delays in obtaining an agreement from the regional transmission authority to connect the project to the transmission system placed construction on hold and 2014 completion was not possible. SB 2037 seeks to extend tax policies that were available to the project in 2014, and is necessary to ensure the construction of this beneficial project.

The Courtenay Wind Farm has a number of unique features that will benefit the local area. First, the project will compensate all signed landowners within the project footprint, instead of just those who host turbines on their property. Not all landowners can host turbines, but they provide other valuable features such as buffers, setbacks, underground collection lines and crane paths that permit the project to maximize output and control costs. Geronimo believes that all landowners who participate in a project should receive compensation, and divides a portion of the project revenues among all landowners as a dollar per acre payment.

Second, in addition to the $17 Million in local tax benefits that will accrue to the counties, townships and school district in the area over 20 years, Geronimo has also committed to contribute $40,000 per year to a locally-controlled community fund, dollars that can be used to support community expenditures that aren't covered by local government budgets. Some examples of things the community fund could purchase include playground equipment, sports fields and equipment, assistance to a volunteer fire department and many other options. Finally, the Courtenay Wind Farm has local investors. Several of our landowners have invested in the development of the project and will participate in the project returns along with the payments they will receive for turbines and land in the project. Our landowners have been great supporters of this project, and several of them are present today to support the passage of this bill.

Despite all of the progress that we have made on the Courtenay Wind Farm, including excavation work and installation of a concrete batch plant yard that occurred in late 2014, the failure to achieve a 2014 completion through circumstances out of our control now puts this project in jeopardy. Without the limited extension of the tax features available in 2014, it is unlikely that Geronimo can build an economic project at Courtenay. The price Xcel Energy

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2-2-15

GERONIMO ENERGY

will pay us for the power has been locked in since 2013, and assumed the benefits offered by the now-expired tax structures.

The Courtenay Wind Farm is projected to provide 200 temporary construction jobs, 15 well-paying full time jobs, over $800,000/year in local tax revenue and $1.3 million/year in local landowner payments to the Jamestown, Courtenay and Wimbledon communities. Additionally, the project will deliver very low cost, clean energy to Xcel Energy's customers in North Dakota. Passage of SB 2037 will help Geronimo and Xcel cement these benefits and complete construction on the Courtenay project. I urge the Committee to give SB 2037 a "do pass" recommendation.

7650 EDINBOROUGH WAY, STE 725, EDINA, MN 55435| P 952.988.9000 | F 952.988.9001
www.geronimoenergy.com

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February 2, 2015

Senate Finance and Taxation Committee, Sen. Dwight Cook, Chairman

SB 2037 – Hearing

Testimony From:

NextEra Energy Resources, LLC

Jason Utton, NextEra Energy Resources Director Development

Chairman Cook and members of the committee:

My name is Jason Utton. I am Director of Development for NextEra Energy Resources. I am responsible for NextEra Energy Resources development of wind generation projects in the Midwest.

Today, I would like to accomplish three things:

1. Provide information about NextEra Energy Resources investments in North Dakota
2. Provide support for making the exemption of sales and use tax permanent for future wind projects
3. Express support for the EmPower process

NextEra Energy Resources

NextEra Energy Resources is one of the primary subsidiaries of NextEra Energy, Inc. a leading clean energy company with consolidated revenues of approximately $17.0 billion, approximately 44,900 megawatts of generating capacity, and approximately 13,800 employees in 27 states and Canada as of year-end 2014. In addition to NextEra Energy Resources, NextEra Energy's other principal subsidiary is Florida Power & Light Company, which serves approximately 4.7 million customer accounts in Florida and is one of the largest rate-regulated electric utilities in the United States.

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NextEra Energy Resources owns, develops, constructs, manages and operates electric generating facilities in wholesale energy markets primarily in the United States, as well as in Canada and Spain. NextEra Energy Resources is one of the largest wholesale generators of electric power in the country, with approximately 19,777 MW of generating capacity across 25 states, 4 Canadian provinces and 1 Spanish province as of December 31, 2014.

NextEra Energy has often been recognized by third parties for its efforts in sustainability, corporate responsibility, ethics and compliance, and diversity, and has been named No. 1 overall among electric and gas utilities on Fortune's list of "World's Most Admired Companies" for eight consecutive years, which is an unprecedented achievement in its industry.

NextEra Energy Resources owns and operates 11 wind farms in North Dakota, totaling approximately 850 MWs and representing a capital investment of approximately $1.4 billion. Since 2012, we have expanded our portfolio in North Dakota, consisting of investments of approximately $400 million in gas gathering and transportation pipelines. Our newest gas pipeline, the Flicktertail pipeline in Divide and Williams Counties, aids in eliminating flaring from our drilling projects in the area. Our Wheatland oil pipeline reduces trucking and road congestion in McKenzie County. Our investments in the State do not stop after we build an asset. With roughly 75 full-time employees in North Dakota, we spend approximately $6 million annually in payroll, $2.2 million annually in property taxes and $5 million annually in lease payments to local landowners.

NextEra is a diversified energy company and we value our partnership with the State of North Dakota and hope to continue to invest in the State. We are currently targeting to invest an additional $700 million in future projects in North Dakota, including a 150 MW wind project in

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NEXTera ENERGY RESOURCES

Dickinson through a power purchase agreement with Basin Electric and additional oil and gas investment opportunities.

Elimination of Sales and Use Tax Exemption Expiration Date

SB 2037 proposes to eliminate the expiration date on the sales and use tax exemption on equipment for new wind generators. The change also ensures that wind projects will be treated in the same manner as all other new generators that already receive a permanent exemption on sales and use tax for new equipment. A permanent exemption on sales and use tax for new equipment will provide future wind projects more certainty regarding future development costs. By providing additional certainty for wind project development, NextEra can offer more competitive electric power pricing from its wind projects, which ultimately leads to lower energy prices for electric consumers.

EmPower Process

NextEra is pleased to be a member of EmPower and to participate in the EmPower process. EmPower is a collaborative process unique to North Dakota that focuses on developing state-wide policies to ensure the energy needs and interests of North Dakota are considered. NextEra participates in the development of energy policy throughout the United States and has yet to see a state with such a unique and inclusive approach to the development of energy policy. By including all interests in the process, EmPower is able to consider many viewpoints to recommend policies that meet the interests and future plans for the state. NextEra appreciates being able to be part of the EmPower process.

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HB 2037

THE
HARMS GROUP

February 2, 2015

SB 2027
Senate Finance and Tax Committee

Chairman Cook and Members of the Committee:

My name is Robert Harms, I am the lobbyist for Tradewind Energy, a wind-developer from Kansas that has been in business since 2003 and is developing a windfarm north of Tioga.

Tradewind supports SB 2037, but would like to offer some brief amendments to the bill.

<u>THE PROJECT</u>: Lindahl Wind Project—developed by local landowners themselves (See attached map)

- -Tradewind bought this project in 2014.
- -150 MW project
- -18,000 acre foot print; approximately 75 towers
- -28 landowners (who developed their own land lease)
- -$250 million investment
- -100 construction jobs
- -12 permanent jobs after construction
- -Low-cost power available to the <u>local market</u> that is in dire need of additional power.
  - -little/no new transmission required.
  - -Need for power is well documented (see attached NDIC press release)
- -25 year power purchase agreement signed with Basin Electric-executed November, 2014.
- -Begin construction and have in service by December, 2016

<u>AMENDMENT:</u>

The current bill disqualifies from the income tax credits, any wind company not represented in the Empower process last summer, including Tradewind. Our amendment propose two alternatives that would allow any company that either began construction or had a signed power purchase agreement by January 1, 2015, <u>OR</u> had the project in service by January 1, 2017 to qualify for the income tax credits contemplated by the bill.

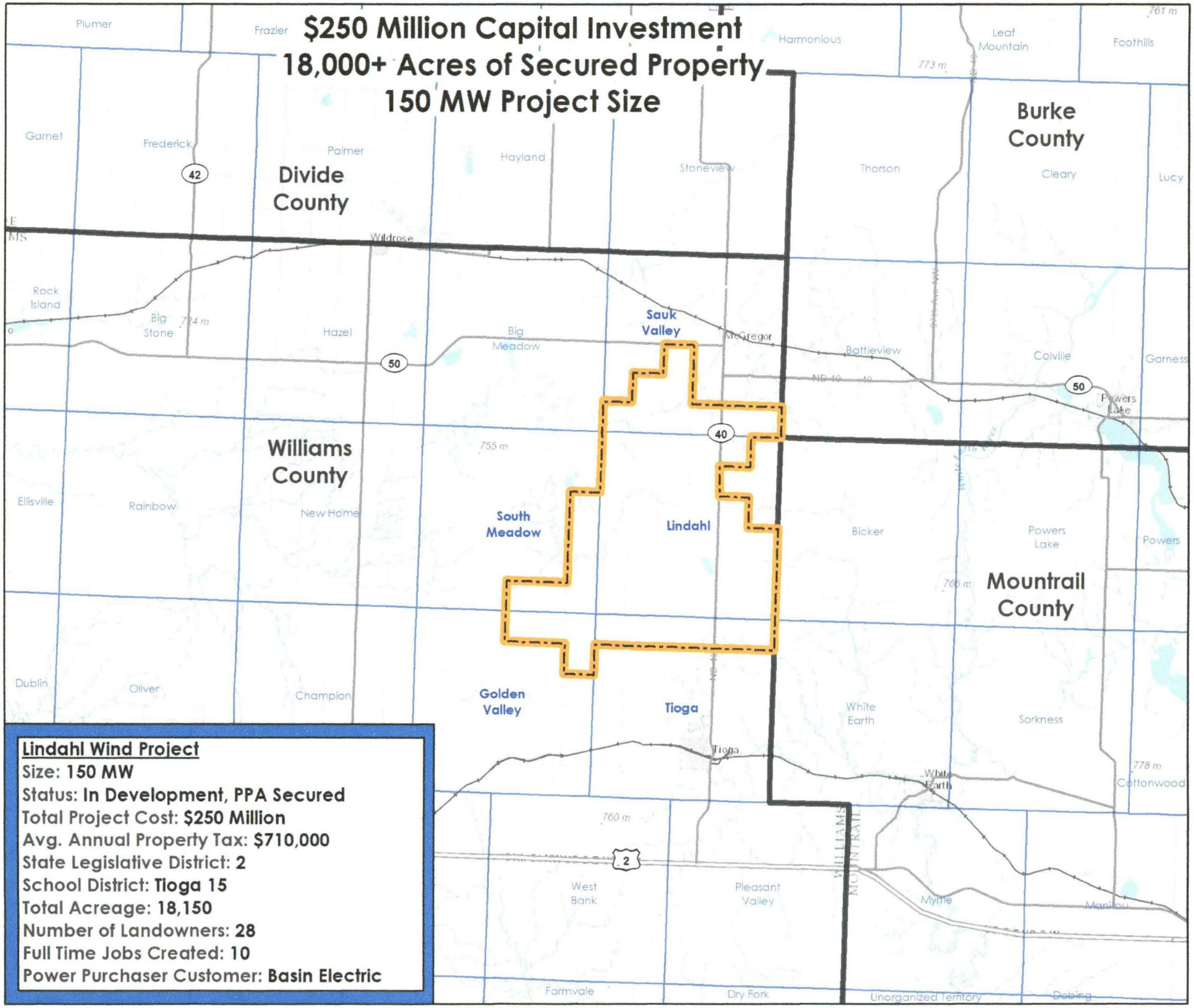
<u>POLICY:</u>

The amendments allow the Legislature to set public policy that encourages investment in wind resources in North Dakota, further diversifies our economy, but in this instance will provide power to NW ND where it is vitally needed. We ask you to consider either of the proposed amendments and to support the bill as it would be amended, which will make Lindahl more likely to be built.

Robert W. Harms, JD
The Harms Group

Lindahl Wind Project

tradewind energy



Lindahl Wind Project
Size: 150 MW
Status: In Development, PPA Secured
Total Project Cost: $250 Million
Avg. Annual Property Tax: $710,000
State Legislative District: 2
School District: Tioga 15
Total Acreage: 18,150
Number of Landowners: 28
Full Time Jobs Created: 10
Power Purchaser Customer: Basin Electric

Le[redacted]
- Lindahl Project Boundary
- County
- Townships
- Interstate
- Highway
- Major Road
- Railroad Track

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5.2

The following companies and organizations provided data that contributed to the production of this map.
U.S. Geological Survey (USGS)
Environmental Systems Research Institute (ESRI)
U.S. Department of Agriculture (USDA)
U.S. Federal Aviation Administration (FAA)
WhiteStar Corporation
Ventyx Inc.
Analyst: dmann   Date: 1/20/2015

N 0 0.75 1.5 3 Miles
Scale: 1:278,253
Coordinate System:
NAD 1983 StatePlane North Dakota North FIPS 3301 Feet

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INDUSTRIAL COMMISSION OF NORTH DAKOTA

Jack Dalrymple
Governor

Wayne Stenehjem
Attorney General

Doug Goehring
Agriculture Commissioner

NEWS — October 23, 2012

Electrical demand expected to nearly triple in the 22 North Dakota counties according to results discovered in Electrical Load Growth Study

BISMARCK – The North Dakota Industrial Commission, acting as the North Dakota Transmission Authority, today received the results of an Electrical Load Growth Study which showed the need for nearly three times the current electric load over the next 20 years—from 971 MW to 3030 MW in 2032. Gov. Jack Dalrymple, Attorney General Wayne Stenehjem and Agriculture Commissioner Doug Goehring, along with other state and industry leaders, outlined the study's key findings during a news conference held in conjunction with the Commission's meeting this afternoon.

"Oil development in western North Dakota continues to grow at a strong pace, increasing the demand for electricity to power homes, businesses, and oil and gas production in the Williston Basin," said the Industrial Commission members in a joint statement. "The results of this study will provide us with valuable information as we address our state's rapid growth and plan for the future power demand and infrastructure needs of the region."

Earlier this year the North Dakota Transmission Authority (NDTA) commissioned KLJ, an employee-owned, firm that delivers multi-disciplinary planning and engineering-based solutions, to develop the *Williston Basin Oil and Gas Related Electrical Load Growth Forecast (PF 12)*.

This extensive study contains expected electrical demand over the next 20 years related to 43 counties within the Williston Basin and specifically 22 key oil-producing counties in the western and north central regions of North Dakota. Additionally, the study incorporates forecasts related to employment, population growth and housing demand correlated to the study area.

Montana-Dakota Utilities Co. (MDU) and Basin Electric Power Cooperative (Basin Electric) partnered with NDTA to effectively plan, collaborate and validate industry research and requirements associated with power demand in the Williston Basin region. Both MDU and Basin Electric will utilize the information obtained in the study to adequately plan for critical infrastructure needs and development within the study area.

"We were happy to participate in this study, because it's critical for us to understand the magnitude of challenges we face in northwest North Dakota for providing power supply to the area," says Andrew M. Serri, Basin Electric CEO and General Manager. "This is a collaborative effort between the utilities, the state and the private sector that confirms what our internal studies have shown. All this information is now in a single study that incorporates all aspects of the growth."

"We appreciate the opportunity to participate in this important study," said David Goodin, President and CEO of MDU. "We continually conduct internal studies and update our electric forecasts, but this provides us with another tool to help plan to meet the rapidly growing demand of the Bakken region."

Karlene K. Fine, Executive Director and Secretary
State Capitol, 14th Floor - 600 E Boulevard Ave Dept 405 - Bismarck, ND 58505-0840
E-Mail: kfine@nd.gov
Phone: (701) 328-3722 FAX: (701) 328-2820
"Your Gateway to North Dakota": www.nd.gov

#6

THE HARMS GROUP

February 2, 2015

SB 2037

PROPOSED AMENDMENT

Alternative 1:

P. 5 line 1, insert after commenced, “or a power purchase agreement was signed for the project”

Alternative 2:

P. 5 line 2, remove “and” and insert “or”

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SB2037

15.0241.01000

Prepared for the
Senate Finance and
Taxation Committee
February 10, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2037

Page 9, line 7, overstrike "Gross" and insert immediately thereafter "For mines permitted under chapter 38-14.1 after December 31, 2010, and before January 1, 2015, gross"

Page 9, line 7, remove the overstrike over the first "~~or~~"

Page 9, line 7, remove the first ","

Page 9, line 7, remove ", or other tangible personal"

Page 9, line 8, remove "property"

Page 9, line 8, overstrike "new"

Page 9, line 9, remove the overstrike over "~~The exemption for each~~"

Page 9, line 9, remove the overstrike over "~~mine under this~~"

Page 9, line 9, after "~~section~~" insert "subsection"

Page 9, remove the overstrike over line 10

Page 9, line 11, overstrike "2." and insert immediately thereafter "a."

Page 9, line 11, remove the overstrike over "~~or~~"

Page 9, line 11, remove the first ","

Page 9, line 11, remove ", or other tangible personal property"

Page 9, line 12, remove "not"

Page 9, line 12, remove the overstrike over "~~if the capitalized investment in the~~"

Page 9, line 12, remove the overstrike over "~~mine exceeds twenty million~~"

Page 9, line 13, remove the overstrike over "~~dollars using the United States generally accepted accounting principles~~"

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Page 9, line 13, remove "unless the"

Page 9, line 14, remove "replacement creates an expansion of the mine"

Page 9, line 15, overstrike "section" and insert immediately thereafter "subsection"

Page 9, line 16, overstrike "3." and insert immediately thereafter "b."

Page 9, line 16, remove the overstrike over "~~The mine operator shall apply to the commissioner for a refund of sales and use taxes~~"

Page 9, line 17, remove the overstrike over "~~paid for which the exemption is claimed under this~~"

Page 9, line 17, after "~~section~~" insert "subsection"

Page 9, line 17, remove the overstrike over "~~. A refund claim may not~~"

Page 9, remove the overstrike over lines 18 and 19

Page 9, line 20, remove the overstrike over "~~information to verify the correctness of the refund claim.~~"

Page 9, line 20, remove "To receive the exemption at"

Page 9, remove lines 21 through 30

Page 10, remove lines 1 and 2

Page 10, line 3, replace "5." with "c."

Page 10, line 3, overstrike "section" and insert immediately thereafter "subsection"

Page 10, line 4, overstrike "a." and insert immediately thereafter "(1)"

Page 10, line 4, after "directly" insert "or indirectly"

Page 10, line 7, overstrike "and"

Page 10, line 7, after "coal" insert ", water trucks, fuel trucks, low-boys, cranes, lubrication trucks, motor graders, service trucks, light plants, and de-watering equipment"

Page 10, line 9, after "directly" insert "or indirectly"

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Page 10, overstrike lines 11 and 12

Page 10, line 13, overstrike "c." and insert immediately thereafter "(2)"

Page 10, after line 16 insert:

"2. For mines permitted under chapter 38-14.1 after December 31, 2014, gross receipts from sales of machinery or equipment, used to produce coal from a mine located in this state, and other tangible personal property located at the mine, are exempt from the tax imposed by this chapter.

a. Purchase of replacement machinery, equipment, or other tangible personal property is not exempt under this subsection unless the replacement creates an expansion of the mine. Purchases of repair or replacement parts for existing machinery or equipment are not exempt under this subsection except when used to disassemble, reassemble, rebuild, or relocate a dragline.

b. To receive the exemption at the time of purchase, the owner of the coal mine must receive from the commissioner a certificate that the machinery, equipment, or other tangible personal property the owner intends to purchase qualifies for the exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.

c. If the machinery, equipment, or tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner of the coal mine may apply for a refund of the tax paid. An application for a refund under this subsection must be made at the time and in the manner directed by the commissioner and must include sufficient information to permit the commissioner to verify the sales or use tax paid and the exempt status of the sale or use.

d. For purposes of this subsection:

(1) "Machinery or equipment" means machinery or equipment used directly or indirectly to uncover, sever, crush, handle, or transport coal removed from the earth.

(2) "Produce coal" means mining and support operations to uncover, sever, crush, handle, or transport coal from its natural location under the earth's surface to the mouth of the mine and all activities necessary and incidental to the reclamation of that location."

Page 14, line 11, remove "for"

Page 14, line 12, remove "taxable events occurring"

Renumber accordingly

#1
2.17.15

Cook, Dwight C.

From: Christmann, Randel D.
Sent: Sunday, February 15, 2015 8:35 PM
To: Cook, Dwight C.
Subject: RE: SB 2037

Senator Cook,

A number of wind farm projects have been approved by the PSC but are not yet built. Some were approved before I was on the Commission so I am not real sure of their status.

The attached spreadsheet shows about 32 projects totaling 1876.82 MW that are in service. (Bison 4 is listed as "Under Construction" but I think it has been put into service by now)

Below that are 21 projects that are not completed. I believe the five that are in bold print are approved by the PSC and under construction. They are Border Winds, Thunder Spirit, Courtenay, Sunflower, and Antelope Hills.
Together they would be about 782 MW. The others that are not in bold print are not under construction as far as I know and since some of them applied a long time ago they may not be viable.

I do not know the statistics on electricity PRODUCED in the state, but the Commission did keep track of the percentage of renewable electricity SOLD at retail in the state for compliance with NDCC 49-22-08.

In 2008, renewable and recycled energy made up 4% of the electricity sold at retail in ND. By 2011, that had risen to 16.17%. I believe the Commission quit monitoring it since it was far in excess of the 10% objective.
I would point out though that since 2011 we have gone from about 1379 MW of wind to about 1877 today, so the percentage should be significantly higher than 16.17% by now.
When the five projects under construction are complete, we will have almost doubled our generation of wind energy since 2011.

Randy Christmann
NDPSC

-----Original Message-----
From: Cook, Dwight C.
Sent: Friday, February 13, 2015 3:00 PM
To: Christmann, Randel D.
Subject: SB 2037

Randy
I am looking for some info that might shed some light on some concerns I have with above bill.
Can you answer any of the following questions.

What wind farms have current siting approval from the PSC and have begun construction for purposes of federal production tax credits?

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SB 2037

What is the MW size of each one?

What percent of electricity produced in the state is from renewable or recycled energy sources?

I would appreciate your answer Monday if at all possible. Please let me know if you need more time.
Thanks
Dwight

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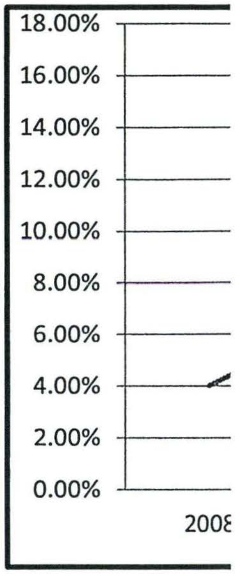
SB2037
2.17.15

North Dakota Renewable Energ

NDCC 49-22-08 provides a voluntary objectiv
sold at retail within North Dakota by the year
and recycled energy sources.

Year	Total MWH sold	Renewable MWH Sold	Percent Renewable
2008	10577905	424513.05	4.01%
2009	11820533	845628.85	7.15%
2010	12375345	1568759.4	12.68%
2011	13386806	2163995	**16.17%**



North Dakota Active Wind Projects

Updated 2/5/2015

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Project Name	Owner	Location	Turbines	Capacity (MW)	Manufacturer	Notes
Minot Wind Project	BEPC - PrairieWinds	S. of Minot	2	2.6	Nordex N60	In Service Jan 2002
Edgeley/Kulm Wind Project	FPLE / BEPC	Edgeley	27	40	GE 1.5 MW	In Service Oct 2003
Edgeley/Kulm Wind Project	FPLE / Otter Tail	Edgeley	14	21	GE 1.5 MW	In Service Oct 2003
Valley City Wind Project	Minnkota Power Cooperative	Valley City	1	0.9	NEG Micon NM52/900	In Service Jan 2002
Petersberg Wind Project	Minnkota Power Cooperative	Petersberg	1	0.9	NEG Micon NM52/901	In Service July 2002
	Sacred Heart Monastary	Richardton	2	0.13	Silver Eagle	In Service
Fort Totten Wind Project	Spirit Lake Sioux Nation	Fort Totten	1	0.1	Micon 108	In Service
Belcourt Wind Project	Turtle Mountain Chippewa Tribe	Belcourt	1	0.1	Micon 108	In Service
	North Valley Carreer and Technology C	Grafton	1	0.065		In Service
	3 Affiliated Tribes	New Town	1	0.065		In Service
Velva Wind Project	Acciona/ Xcel Energy	Velva	18	12	Vestas V80	In Service 2005
	Turtle Mountain Community College	Belcourt	1	0.66	Vestas V47	In Service
	FPL Burleigh County Wind LLC	Wilton	33	49.5	GE 1.5 MW	In Service Jan 2006
Wilton II	FPL Burleigh County Wind LLC	Wilton	33	49.5	GE 1.5 MW	In Service Nov 09
Oliver County Wind	FPL - Oliver County Wind LLC	Center	22	50.6	2.3 MW Turbines	In Service Dec 06
Oliver County Wind II	FPL - Oliver County Wind LLC	Center	32	48	GE 1.5 MW	In Service DEC 07
Langdon Project	FPL- Langdon Wind, LLC	Cavalier County	79	118.5	GE 1.5 MW	In Service Dec 07
Langdon Project	Otter Tail Corporation	Cavalier County	27	40.5	GE 1.5 MW	In Service Dec 07
Langdon Expansion	FPL- Langdon Wind, LLC	Cavalier County	26	40	GE 1.5 MW	In Service Sept 08
	Tatanka Wind Power, LLC	Dickey/McIntosh County	60	90	Acciona AW 1500	In Service 2008
Ashtabula Wind Project	FPL - Ashtabula Wind, LLC	Barnes County	133	200	GE 1.5 MW	In Service Dec 2008
Prairie Winds Project	BEPC - PrairieWinds ND 1, Inc.	Ward County	77	115.5	GE 1.5 MW	In Service Dec 2009
Luverne Wind Farm	Ashtabula Wind II, LLC/Otter Tail	Griggs/Steele Counties	105	157	GE 1.5 MW	In Service Oct 2009
Rugby Wind Farm	Iberdrola, Inc. f/k/a PPM Energy	Rugby	71	149.1	Suzlon 2.1 MW S88	In Service Dec 2009
Montana-Dakota Utilities	Cedar Hills Project	Rhame	13	19.5	GE 1.5 MW	In Service June 2010
Baldwin Wind Energy Center	NextEra Energy Resources, LLC	Burleigh County	64	102.4	GE 1.6 MW	In Service Nov 2010
Ashtabula III	Ashtabula Wind III, LLC	Barnes County	43	70.0	GE 1.6 MW	In Service Dec 2010
Bison 1 Wind Project	Allete, Inc. (MN Power)	Oliver @ Morton Counties	33	81.8	Siemons 2.3/3.0 MW	In Service July 2012
Bison 2 Wind Project	Allete, Inc. (MN Power)	Oliver/Morton Counties	35	105.0	Simons 3.0MW	In Service Jan 2013
Bison 3 Wind Project	Allete, Inc. (MN Power)	Oliver/Morton Counties	35	105.0	Simons 3.0MW	In Service Jan 2013
Bison 4 Wind Project	Allete, Inc. (MN Power)	Oliver/Morton/Mercer	64	204.8	Simons 3.0MW	Permit isued Sept 2013, Under Construction
	Lake Region State College	Ramsey County	1	1.6	GE 1.6 MW	In Service Jan 2013
Total in Service			**991**	**1876.82**		**Total In Service = 1672.02**
	CROWNBUTTE WIND POWER LLC	Adams/Bowman Counties	133	200	GE 1.5 MW	Letter of Intent Filed February 2008
	Just Wind, LLC	Logan County	160	368	Mitsubishi 2.4 MW	Permit Issued 4/29/09
Dickey County Wind Farm	Rough Rider Wind 1, LLC	15 miles NW of Ellendale	100	150	GE 1.5 MW	Permit Issued 8/12/09
Oliver County Expansion	FPL Energy, LLC	6 miles NW of Center	667	1,000		Letter of Intent Filed June 2008
Border Winds	**Border Winds Energy, LLC**	**Rolette and Towner Ctys**	**66**	**150**		**Permit Issued 5/5/2011, Under construction**
Hartland Wind Farm	Hartland Wind Farm, LLC	Ward, Burke, Mountrail Ctys		2,000		Letter of Intent Filed July 2008
Allete, Inc. (MN Power)	Bison Wind Project	Oliver County		125		Letter of Intent Filed October, 2008
Merricourt Project	EDF Renewable Development, Inc.	McIntosh/Dickey ctys		150		Permit Isssued June 2011, Amendment Hearin
	Just Wind, LLC	Emmons County		900		Letter of Intent Filed Dec 2008
Ashley Wind Power Project	CPV Ashley Renewable Energy Compan	McIntosh County				Project Cancelled
Radiance Wind Farm	North Dakota Winds, LLC	Burleigh County		99.0		Request Jurisdictional Determination Oct 09
Oliver Wind III	Oliver Wind III, LLC	Oliver County		51.0		Permit Issued March 2012, Amended Nov 2012
M-Power One, LLC	Luverne North Field Extension	Steele County		75.2		Letter of Intent Filed 11/2010, Amended 3/2013
New Frontier Project	Meadowlark Wind 1, LLC	McHenry County		99.0		Permit Issued April 2012
Thunder Spirit Project	**Thunder Spirit Wind, LLC**	**Adams County**		**150.0**		**Permit Issued 10/9/2013 Under Construction**
Wilton Wind IV	Wilton Wind IV, LLC	Burleigh County		112.0		Permit Issued Feb 2012, Amended Nov 2012
Clean Energy #1	ALLETE Clean Energy	Mercer & Morton Counties		100.0	To be determined	Permit Issued August 2012
Rolette Wind Project	Rolette Power Development, LLC	Rolette County		50.0		LOI Filed Feb 2013 Awaiting Application
Courtenay Wind Farm	**Courtenay Wind Farm, LLC**	**Stutsman County**		**200.5**	**To be determined**	**Permit issued Nov 2013. Under Constructic**
Sunflower Wind Project	**SunflowerWindProjectLLC (Infinity)**	**Stark/Morton**		**110.0**	**To be determined**	**Permit issued June 2014, Under Constructio**
Antelope Hills Project	**Antelope Hills Wind Project, LLC (Infin**	**Mercer County**		**172.0**	**To be determined**	**Permit Issued Dec 2014, Under Constructior**
	Total (Proposed and In Service)			**8,138.52**		

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2.17.15
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Job #23971

6. A transmission line initially placed in service after January 1, 2009, is exempt from transmission line taxes under this section for the first taxable year after the line is initially placed in service, and transmission line taxes under this section must be reduced by:
   a. Seventy-five percent for the second taxable year of operation of the transmission line.
   b. Fifty percent for the third taxable year of operation of the transmission line.
   c. Twenty-five percent for the fourth taxable year of operation of the transmission line.

   After the fourth taxable year of operation, such transmission lines are subject to the standard transmission line taxes under this section.

57-33.2-03. Distribution taxes.

A distribution company is subject to a tax at the rate of eighty cents per megawatt-hour for retail sale of electricity delivered to a consumer in this state during the calendar year. Distribution taxes under this section do not apply to the sale of electricity to any coal conversion facility that became operational before January 1, 2009, and which is subject to taxation under chapter 57-60.

57-33.2-04. Wind generation taxation - Taxation of generation from sources other than coal - Taxation of coal generation not subject to coal conversion taxes.

Wind generators, including wind farms and associated collector systems, generators of electricity from sources other than coal owned by a company subject to taxation under this chapter, and generators of electricity from coal which are not subject to coal conversion taxes under chapter 57-60 are subject to taxes under this section.

1. Wind generators, wind farms, and associated collector systems are subject to taxes consisting of the following two components:
   a. A tax of two dollars and fifty cents per kilowatt times the rated capacity of the wind generator.
   b. A tax of one-half of one mill per kilowatt-hour of electricity generated by the wind generator during the taxable period.
2. Grid-connected generators that are part of a project with generation capacity of one hundred kilowatts or more not produced from coal or wind, or produced from coal and not subject to coal conversion taxes under chapter 57-60, are subject to taxes consisting of the following two components:
   a. Fifty cents per kilowatt times the rated capacity of the generation unit.
   b. One mill per kilowatt-hour of electricity generated by the production unit during the taxable period.

57-33.2-05. Taxes in lieu of property taxes.

Taxes imposed by the state board of equalization under this chapter are taxes upon the privilege of doing business in this state and are in lieu of all real or personal property taxes levied by the state or any of its political subdivisions upon real or personal property to the extent the property is owned and used by a company in the operation and conduct of the business of generation or delivery of electricity through distribution or transmission lines. Taxes under this chapter are not in lieu of property taxes on the following:

1. Property taxes on land on which generation, transmission, or distribution buildings, structures, or improvements are located, including buildings, structures, or improvements used for administrative purposes relating to generation, transmission, or distribution of electricity.
2. City franchise fees on public utilities.

This chapter does not abridge the power of a governing board of a city to franchise the construction and operation of a public utility.

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	Ad Valorem under 57-06-14.1		Estimated Generation and Capacity Tax							
Name of Company	Taxable Value 2013	Total Taxes** 2013	Megawatts	Rated Capacity	Capacity Tax Rated Capacity times $2.50 per kilowatt	Kilowatt Hours Generated During Previous Calendar Year 2013	Generation Tax Kilowatt hour times $0.0005/kWh	Total Tax Capacity Tax plus Generation Tax 2014	First year assessed	Taxable Value Percent of Trubine
Ashtabula Wind I, LLC (NextEra)	2,306,760	$412,402	148.50	148,500	$371,250.00	467,569,000	$233,784.50	$605,034.50	2009	1.5%
Ashtabula Wind II, LLC (NextEra)	2,023,280	$354,668	120.00	120,000	$300,000.00	379,852,000	$189,926.00	$489,926.00	2010	1.5%
Ashtabula Wind III, LLC (NextEra)	1,304,870	$245,718	62.40	62,400	$156,000.00	206,417,000	$103,208.50	$259,208.50	2011	1.5%
Baldwin Wind, LLC (NextEra)	1,442,920	$208,323	102.40	102,400	$256,000.00	353,730,000	$176,865.00	$432,865.00	2011	1.5%
Cedar Hills Wind Project (MDU)	426,170	$0	19.50	19,500	$48,750.00	54,805,180	$27,402.59	$76,152.59	2010	1.5%
Langdon Wind I, LLC (NextEra)	1,573,290	$289,814	118.50	118,500	$296,250.00	418,052,000	$209,026.00	$505,276.00	2008	1.5%
Langdon Wind II, LLC (NextEra)	661,620	$121,876	40.50	40,500	$101,250.00	135,757,000	$67,878.50	$169,128.50	2009	1.5%
North Dakota Wind, LLC (NextEra)	689,910	$109,496	61.50	61,500	$153,750.00	134,989,000	$67,494.50	$221,244.50	2004	3%
Oliver Wind I, LLC (NextEra)	704,490	$123,271	50.60	50,600	$126,500.00	155,192,000	$77,596.00	$204,096.00	2007	1.5%
Oliver Wind II, LLC (NextEra)	750,830	$131,572	48.00	48,000	$120,000.00	152,404,000	$76,202.00	$196,202.00	2008	1.5%
Otter Tail Ashtabula Wind	1,189,460	$0	48.00	48,000	$120,000.00	147,319,000	$73,659.50	$193,659.50	2009	1.5%
Otter Tail Langdon Wind	858,600	$0	40.50	40,500	$101,250.00	136,020,000	$68,010.00	$169,260.00	2008	1.5%
Otter Tail Luverne Wind	821,580	$199,619	49.50	49,500	$123,750.00	169,217,000	$84,608.50	$208,358.50	2010	1.5%
Prairie Winds ND 1 (Basin)	1,688,700	$266,098	122.60	122,600	$306,500.00	440,704,000	$220,352.00	$526,852.00	2010	1.5%
Rugby Wind Farm, Inc (Iberdrola)	1,705,140	$389,606	149.10	149,100	$372,750.00	383,784,550	$191,892.28	$564,642.28	2010	1.5%
Tatanka Wind* (Acciona)	1,685,770	$309,319	137.25	137,250	$343,125.00	504,012,500	$252,006.25	$595,131.25	2008	1.5%
Velva Windfarm, LLC (Acciona)	152,120	$29,568	11.88	11,880	$29,700.00	29,039,000	$14,519.50	$44,219.50	2006	3%
Burleigh County Wind, LLC (NextEra)	454,120	$66,019	49.50	49,500	$123,750.00	160,182,000	$80,091.00	$203,841.00	2006	1.5%
Wilton Wind II, LLC (NextEra)	829,170	$119,568	49.50	49,500	$123,750.00	189,966,000	$94,983.00	$218,733.00	2010	1.5%
Total	21,268,800	$3,376,938	1429.73	1,429,730	$3,574,325	4,619,011,230	$2,309,506	$5,883,830.62		

*Tatanka has 42.75MW of the 180MW in SD. Generation is estimated from the total of 661,000,000 kWh times 76.25%

** From Company Annual Reports, MDU & Otter Tail tax dollars not available at the time of report

Genaeration and Capacity Tax under 57-33.2-04	Megawatts	2013 Generation (kWh)	2014 Tax
Allete, Inc	291.80	780,799,000	$1,119,899.50
Minnkota Power Coop	1.8	5,069,887	$7,034.95

Transmission Line Mile Tax Exemption under 57-06-17.3	Miles	Operating voltage	Year placed into service	Tax Dollars
Rugby Wind	10.2352	230 kV	2010	$3,070.56
Tatanka	12.7929	230 kV	2008	$3,837.87
Ashtabula Wind I	9.2	230 kV	2008	$2,760.00
Ashtabula Wind II	12.03	230 kV	2009	$3,609.00

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COMPARISON OF VARIOUS TAX RATES AND SCENARIOS
FOR ALL NORTH DAKOTA WIND PROJECTS COMPLETED AFTER DECEMBER 31, 2014
BASIS: 150 MW PROJECT, CAPITAL COST $2 M PER MW, 45% CAPACITY, WARD COUNTY 2013 MILL LEVY
February 17, 2015

	A	B	C	D	E	F	G	H	I	J
	Effective 2015	SB 2037 Proposed	Current thru 2014	Current Law	Estimated	Current Law	Current Law	South Dakota Current Law	Minnesota Current Law	Montana Current Law
	57-06 at 10%	57-06 at 3.0%	57-06 at 1.5%	57-33.2 - Wind Opt in	57-06 at 4.5%	57-33.2 - Non Coal/Wind	57-60 -Coal Conversion	3,000/mw & rate/mwh	0/mw & $1.20 /mwh	Class 14 Property
	2013 Avg, millage 171	2013 Avg, millage 171	2013 Avg, millage 171	2,500/mw & .5/mwh	2013 Avg, millage 171	500/mw & 1/mwh	.65/mw & .25/mwh	Includes Incentives	N/A	2013 Mill levy 462.89
	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax
Year	Mix N/A	Mix N/A	Mix N/A	Mix 56%/44%	Mix N/A	Mix 11%/89%	Mix 1%/99%	Mix 39%/61%	Mix 0%/100%	N/A
Year 1 - 2015	$ 1,923,750	$ 711,788	$ 452,081	$ 670,650	$ 971,494	$ 666,300	$ 147,923	$ 516,817	$ 709,560	$ 4,166,010
Year 2 - 2016	$ 2,436,750	$ 901,598	$ 572,636	$ 670,650	$ 1,230,559	$ 666,300	$ 147,923	$ 518,487	$ 709,560	$ 3,957,710
Year 3 - 2017	$ 2,308,500	$ 854,145	$ 542,498	$ 670,650	$ 1,165,793	$ 666,300	$ 147,923	$ 520,200	$ 709,560	$ 3,749,409
Year 4 - 2018	$ 2,180,250	$ 806,693	$ 512,359	$ 670,650	$ 1,101,026	$ 666,300	$ 147,923	$ 521,954	$ 709,560	$ 3,541,109
Year 5 - 2019	$ 2,052,000	$ 759,240	$ 482,220	$ 670,650	$ 1,036,260	$ 666,300	$ 147,923	$ 523,753	$ 709,560	$ 3,332,808
Year 6 - 2020	$ 1,923,750	$ 711,788	$ 452,081	$ 670,650	$ 971,494	$ 666,300	$ 147,923	$ 827,986	$ 709,560	$ 3,124,508
Year 7 - 2021	$ 1,795,500	$ 664,335	$ 421,943	$ 670,650	$ 906,728	$ 666,300	$ 147,923	$ 837,436	$ 709,560	$ 2,916,207
Year 8 - 2022	$ 1,667,250	$ 616,883	$ 391,804	$ 670,650	$ 841,961	$ 666,300	$ 147,923	$ 847,121	$ 709,560	$ 2,707,907
Year 9 - 2023	$ 1,539,000	$ 569,430	$ 361,665	$ 670,650	$ 777,195	$ 666,300	$ 147,923	$ 857,050	$ 709,560	$ 2,499,606
Year 10 - 2024	$ 1,410,750	$ 521,978	$ 331,526	$ 670,650	$ 712,429	$ 666,300	$ 147,923	$ 867,226	$ 709,560	$ 2,291,306
Year 11 - 2025	$ 1,282,500	$ 474,525	$ 301,388	$ 670,650	$ 647,663	$ 666,300	$ 147,923	$ 1,305,313	$ 709,560	$ 2,083,005
Year 12 - 2026	$ 1,154,250	$ 427,073	$ 271,249	$ 670,650	$ 582,896	$ 666,300	$ 147,923	$ 1,326,696	$ 709,560	$ 1,874,705
Year 13 - 2027	$ 1,026,000	$ 379,620	$ 241,110	$ 670,650	$ 518,130	$ 666,300	$ 147,923	$ 1,348,613	$ 709,560	$ 1,666,404
Year 14 - 2028	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,371,078	$ 709,560	$ 1,458,104
Year 15 - 2029	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,394,105	$ 709,560	$ 1,458,104
Year 16 - 2030	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,417,708	$ 709,560	$ 1,458,104
Year 17 - 2031	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,441,901	$ 709,560	$ 1,458,104
Year 18 - 2032	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,466,698	$ 709,560	$ 1,458,104
Year 19 - 2033	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,492,116	$ 709,560	$ 1,458,104
Year 20 - 2034	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,518,168	$ 709,560	$ 1,458,104
Year 21 - 2035	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,544,873	$ 709,560	$ 1,458,104
Year 22 - 2036	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,572,245	$ 709,560	$ 1,458,104
Year 23 - 2037	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,600,301	$ 709,560	$ 1,458,104
Year 24 - 2038	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,629,058	$ 709,560	$ 1,458,104
Year 25 - 2039	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,658,535	$ 709,560	$ 1,458,104
Sum	$ 33,473,250	$ 12,385,103	$ 7,866,214	$ 16,766,250	$ 16,903,991	$ 16,657,500	$ 3,698,063	$ 28,925,436	$ 17,739,000	$ 55,407,933

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Ad Valorem under 57-06-14.1			Estimated Generation and Capacity Tax Rates under 57-33.02									
Name of Company	Taxable Value 2013	Total Taxes** 2013	Megawatts	Rated Capacity	Rated Capacity times $2.50 per kilowatt	Kilowatt Hours Generated During Previous Calendar Year 2013	Kilowatt hour times $0.0005/kWh	Total Tax Capacity Tax plus Generation Tax $2.50 / $.0005	% chng	Yrly $ Change	First year assessed	Taxable Value Percent of Trubine
North Dakota Wind, LLC (NextEra)	689,910	$109,496	61.50	61,500	$153,750.00	134,989,000	$67,494.50	$221,244.50	102%	$111,749	2004	3%
Velva Windfarm, LLC (Acciona)	152,120	$29,568	11.88	11,880	$29,700.00	29,039,000	$14,519.50	$44,219.50	50%	$14,651	2006	3%
Burleigh County Wind, LLC (NextEra)	454,120	$66,019	49.50	49,500	$123,750.00	160,182,000	$80,091.00	$203,841.00	209%	$137,822	2006	1.5%
Oliver Wind I, LLC (NextEra)	704,490	$123,271	50.60	50,600	$126,500.00	155,192,000	$77,596.00	$204,096.00	66%	$80,825	2007	1.5%
Langdon Wind I, LLC (NextEra)	1,573,290	$289,814	118.50	118,500	$296,250.00	418,052,000	$209,026.00	$505,276.00	74%	$215,462	2008	1.5%
Oliver Wind II, LLC (NextEra)	750,830	$131,572	48.00	48,000	$120,000.00	152,404,000	$76,202.00	$196,202.00	49%	$64,630	2008	1.5%
Otter Tail Langdon Wind	858,600	$0	40.50	40,500	$101,250.00	136,020,000	$68,010.00	$169,260.00	######		2008	1.5%
Tatanka Wind* (Acciona)	1,685,770	$309,319	137.25	137,250	$343,125.00	504,012,500	$252,006.25	$595,131.25	92%	$285,812	2008	1.5%
Ashtabula Wind I, LLC (NextEra)	2,306,760	$412,402	148.50	148,500	$371,250.00	467,569,000	$233,784.50	$605,034.50	47%	$192,633	2009	1.5%
Langdon Wind II, LLC (NextEra)	661,620	$121,876	40.50	40,500	$101,250.00	135,757,000	$67,878.50	$169,128.50	39%	$47,253	2009	1.5%
Otter Tail Ashtabula Wind	1,189,460	$0	48.00	48,000	$120,000.00	147,319,000	$73,659.50	$193,659.50	######		2009	1.5%
Ashtabula Wind II, LLC (NextEra)	2,023,280	$354,668	120.00	120,000	$300,000.00	379,852,000	$189,926.00	$489,926.00	38%	$135,258	2010	1.5%
Cedar Hills Wind Project (MDU)	426,170	$0	19.50	19,500	$48,750.00	54,805,180	$27,402.59	$76,152.59	######		2010	1.5%
Otter Tail Luverne Wind	821,580	$199,619	49.50	49,500	$123,750.00	169,217,000	$84,608.50	$208,358.50	4%	$8,740	2010	1.5%
Prairie Winds ND 1 (Basin)	1,688,700	$266,098	122.60	122,600	$306,500.00	440,704,000	$220,352.00	$526,852.00	98%	$260,754	2010	1.5%
Rugby Wind Farm, Inc (Iberdrola)	1,705,140	$389,606	149.10	149,100	$372,750.00	383,784,550	$191,892.28	$564,642.28	45%	$175,036	2010	1.5%
Wilton Wind II, LLC (NextEra)	829,170	$119,568	49.50	49,500	$123,750.00	189,966,000	$94,983.00	$218,733.00	83%	$99,165	2010	1.5%
Ashtabula Wind III, LLC (NextEra)	1,304,870	$245,718	62.40	62,400	$156,000.00	206,417,000	$103,208.50	$259,208.50	5%	$13,491	2011	1.5%
Baldwin Wind, LLC (NextEra)	1,442,920	$208,323	102.40	102,400	$256,000.00	353,730,000	$176,865.00	$432,865.00	108%	$224,542	2011	1.5%
Total	21,268,800	3,376,938	1,429.73	1,429,730.00	3,574,325.00	4,619,011,230.00	2,309,505.62	5,883,830.62				

*Tatanka has 42.75MW of the 180MW in SD. Generation is estimated from the total of 661,000,000 kWh times 76.25%

** From Company Annual Reports, MDU & Otter Tail tax dollars not available at the time of report

Genaeration and Capacity Tax under 57-33.2-04	Megawatts	2013 Generation (kWh)	2014 Tax
Allete, Inc	291.80	780,799,000	$1,119,899.50
Minnkota Power Coop	1.8	5,069,887	$7,034.95

Transmission Line Mile Tax Exemption under 57-06-17.3	Miles	Operating voltage	Year placed into service	Tax Dollars
Rugby Wind	10.2352	230 kV	2010	$3,070.56
Tatanka	12.7929	230 kV	2008	$3,837.87
Ashtabula Wind I	9.2	230 kV	2008	$2,760.00
Ashtabula Wind II	12.03	230 kV	2009	$3,609.00

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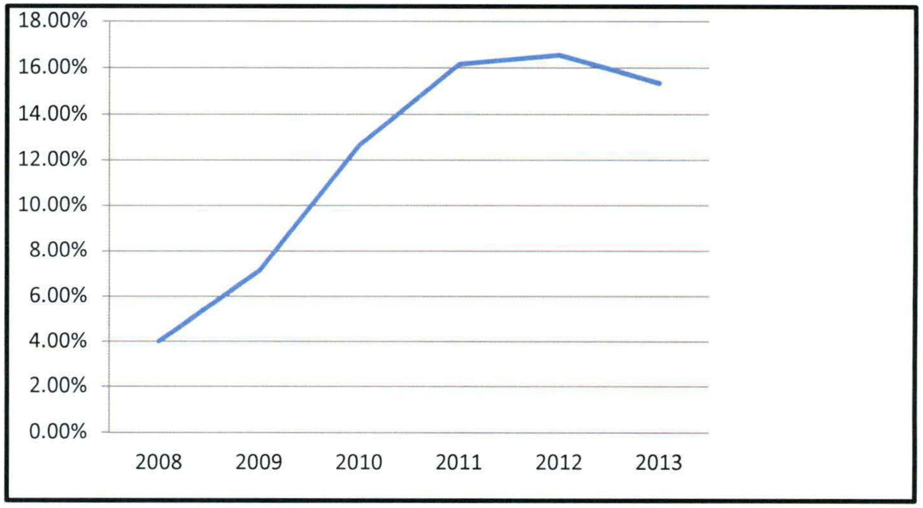
North Dakota Renewable Energy Goal Progress Report

NDCC 49-22-08 provides a voluntary objective that ten percent of all electricity sold at retail within North Dakota by the year 2015 be obtained from renewable and recycled energy sources.

Year	Total MWH sold	Renewable MWH Sold	Percent Renewable
2008	10,577,905	424,513	4.01%
2009	11,820,533	845,629	7.15%
2010	12,375,345	1,568,759	12.68%
2011	13,386,806	2,163,995	16.17%
2012	12,706,413	2,105,501	16.57%
2013	14,328,872	2,200,118	15.35%



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North Dakota Renewable Energy Goal Progress Report **Calendar Year 2008**

NDCC 49-22-08 provides a voluntary objective that ten percent of all electricity sold at retail within North Dakota by the year 2015 be obtained from renewable and recycled energy sources.

Producer	Total MWH sold	Renewable MWH Sold	Percent Renewable
Northern States Power Co. dba Excel Energy	2,170,565	221,172	10.19
Montana-Dakota Utilities Co.	1,553,712	36,697	2.36
Otter Tail Power Company	1,509,538	109,172	7.23
Missouri River Energy Services	71,356	0	0.00
Basin Electric Power Cooperative	4,427,342	55,342	1.25
Cass County Electric Cooperative	845,392	2,130	0.26
Minnkota Power Cooperative	943917	113270	12.00
Total North Dakota	10,577,905	424,513	4.01%

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North Dakota Renewable Energy Goal Progress Report **Calendar Year 2009**

NDCC 49-22-08 provides a voluntary objective that ten percent of all electricity sold at retail within North Dakota by the year 2015 be obtained from renewable and recycled energy sources.

Producer	Total MWH sold	Renewable MWH Sold	Percent Renewable
Northern States Power Co. dba Excel Energy	2,217,371	163,325	7.37
Montana-Dakota Utilities Co.	1,565,304	51,373	3.28
Otter Tail Power Company	1,596,457	206,111	12.91
Missouri River Energy Services	70,482	705	1.00
Basin Electric Power Cooperative	4,544,665	181,787	4.00
Cass County Electric Cooperative	865,540	2,150	0.25
Minnkota Power Cooperative	960,714	240,179	25.00
Total North Dakota	11,820,533	845,629	7.15%

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North Dakota Renewable Energy Goal Progress Report **Calendar Year 2010**

NDCC 49-22-08 provides a voluntary objective that ten percent of all electricity sold at retail within North Dakota by the year 2015 be obtained from renewable and recycled energy sources.

Producer	Total MWH sold	Renewable MWH Sold	Percent Renewable
Northern States Power Co. dba Excel Energy	2,155,980	194,318	9.01
Montana-Dakota Utilities Co.	1,608,983	88,022	5.50
Otter Tail Power Company	1,694,944	235,252	13.88
Missouri River Energy Services	68,638	1,373	2.00
Basin Electric Power Cooperative	5,036,795	758,200	9.90
Minnkota Power Cooperative	964,948	289,484	30.00
Cass County Electric Cooperative Inc.	845,057	2,110	0.25
Total North Dakota	12,375,345	1,568,759	12.68%

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North Dakota Renewable Energy Goal Progress Report

Calendar Year 2011

NDCC 49-22-08 provides a voluntary objective that ten percent of all electricity sold at retail within North Dakota by the year 2015 be obtained from renewable and recycled energy sources.

Producer	Total MWH sold	Renewable MWH Sold	Percent Renewable
Northern States Power Co. dba Excel Energy	2,193,779	290,453	13.24
Montana-Dakota Utilities Co.	1,718,125	117,715	6.85
Otter Tail Power Company	1,779,669	272,413	15.31
Missouri River Energy Services	70,183	2,106	3.00
Basin Electric Power Cooperative	5,521,962	850,382	15.40
Minnkota Power Cooperative	2,103,088	630,926	30.00
Total North Dakota	13,386,806	2,163,995	16.17%

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North Dakota Renewable Energy Goal Progress Report

Calendar Year 2012

NDCC 49-22-08 provides a voluntary objective that ten percent of all electricity sold at retail within North Dakota by the year 2015 be obtained from renewable and recycled energy sources.

Producer	Total MWH sold	Renewable MWH Sold	Percent Renewable
Northern States Power Co. dba Excel Energy	2,173,578	304,792	14.02
Montana-Dakota Utilities Co.	1,774,593	126,509	7.13
Otter Tail Power Company	1,716,213	249,379	14.53
Missouri River Energy Services	66,351	2,655	4.00
Minnkota Power Cooperative	2,116,708	635,012	30.00
Central Power Electric Cooperative (CPEC)	1,873,294	303,474	16.20
Upper Missouri G&T Electric Cooperative	2,985,676	483,680	16.20
Total North Dakota	12,706,413	2,105,501	16.57%

Notes:

For 2012 Basin Electric reported it would no longer aggragate reporting for its member cooperatives:

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North Dakota Renewable Energy Goal Progress Report

Calendar Year 2013

NDCC 49-22-08 provides a voluntary objective that ten percent of all electricity sold at retail within North Dakota by the year 2015 be obtained from renewable and recycled energy sources.

Producer	Total MWH sold	Renewable MWH Sold	Percent Renewable
Northern States Power Co. dba Excel Energy	2,253,827	264,973	11.76
Montana-Dakota Utilities Co.	1,918,869	123,406	6.43
Otter Tail Power Company	1,848,818	270,730	14.64
Missouri River Energy Services (projected)	78,074	4,685	6.00
Minnkota Power Cooperative	2,327,633	698,290	30.00
Central Power Electric Cooperative (CPEC)	2,013,321	285,892	14.20
Upper Missouri G&T Electric Cooperative	3,888,330	552,143	14.20
Total North Dakota	14,328,872	2,200,118	**15.35%**

Prepared by the Legislative Council staff for
Senate Finance and Taxation Committee
February 18, 2015

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2037

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-06-14.1 of the North Dakota Century Code, relating to taxation of wind turbine electric generation units; to provide for a legislative management study; to provide for a report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-06-14.1 of the North Dakota Century Code is amended and reenacted as follows:

57-06-14.1. ~~Taxable valuation~~Taxation of centrally assessed wind turbine electric generators.

1. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more on which construction is completed before January 1, 2015, must be valued at three percent of assessed value to determine taxable valuation of the property except:

~~1.~~ a. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, for which a purchased power agreement was executed after April 30, 2005, and before January 1, 2006, and construction was completed after April 30, 2005, and before July 1, 2006, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property for the duration of the initial purchased power agreement for the generation unit; and

~~2.~~ b. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after June 30, 2006, and before January 1, 2015, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property.

2. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after December 31, 2014; for which a purchased power agreement is entered or renewed after December 31, 2014; or which is purchased by a company subject to taxation under this chapter after December 31, 2014, is subject to taxes in lieu of property taxes, to be determined as provided in subsection 1 of section 57-33.2-04 and subject to any associated administrative provisions of chapter 57-33.2.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - WIND GENERATION TAXATION. During the 2015-16 interim, the legislative management shall consider studying wind generation taxation, including analysis of property, generation, sales, and income tax application and equity within the industry. The legislative management shall

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report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 3. REPORTS BY PUBLIC SERVICE COMMISSION. At least once in each year of the 2015-16 interim, the public service commission shall present a report to the interim committee designated by the legislative management on the most current information available on the status of retail sales of electricity in the state meeting or exceeding the state renewable and recycled energy objective established in section 49-02-28 and a comparison of the amount of renewable and recycled energy produced in the state with the amount sold at retail in the state.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2014."

Renumber accordingly

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North Dakota
LEGENDARY

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2037
MARCH 16, 2015, 9:00 A.M.
HOUSE FINANCE AND TAXATION COMMITTEE
REPRESENTATIVE CRAIG HEADLAND, CHAIRMAN

ALAN ANDERSON – COMMISSION, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Alan Anderson and I serve as the Commissioner for the North Dakota Department of Commerce, as well as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2037. This is a bill that was recommended by the Commission and approved by the interim Energy Development and Transmission committee. A list of the bills the House of Representatives will be seeing that has been recommended and supported by the Commission is below:

- Senate Bill No. 2034 – Oil Gathering Pipelines Sales Tax Exemption.
- Senate Bill No. 2035 – Value-Added Energy Facility Sales Tax Exemption.
- Senate Bill No. 2036 – Coal Beneficiation.
- Senate Bill No. 2037 – Wind Energy Incentives.
- Senate Bill No. 2318 – Carbon Dioxide Capture Equipment Used for Enhanced Oil Recovery.

Any bill recommended or endorsed by the EmPower ND Commission is done so with unanimous support of the Commission. This is not always a simple task, given the interests of the various energy industries represented on the Commission. Of all of the bills that EmPower ND Commission endorsed this session, this bill required the most deliberation to reach a consensus. That being said, I believe the EmPower ND Commission came up with a good bill that all of the Commission members support.

Senate Bill 2037 relates primarily to tax incentives for wind energy production, specifically the expiration of the incentives, and as introduced, also included changes to sales tax exemption for machinery or equipment used to produce coal from a new mine. SB 2037 was intended to achieve some level of parity among energy industries with incentives, by phasing out some incentives and making changes to others. While this has been altered with the changes made by the Senate, SB 2037 is still a very much needed bill and one that the EmPower ND Commission supports with a few recommended changes.

Section 1 of the bill relates to the property taxes paid for centrally assessed wind turbine electric generation units. In most cases, units constructed through 2014 pay property taxes based upon 1.5% of the assessed value. This incentive rate is set to expire for new units in which construction is completed after December 31, 2014. SB 2037 would have these new units be taxed under the production and capacity method under NDCC chapter 57-33.2, which compares to approximately a 4.5% valuation. Don Boehm with Basin Electric Power Cooperative will be providing information on how this taxation method compares to the current method. The language the Senate approved is different; however the Commission recommended this change in the original SB 2037. I should clarify that the taxation is based upon the wind turbines themselves, not the wind farm in which the turbines are location.

One change that the EmPower ND Commission does not support in section 1 is the requirement that triggers a transfer of existing wind turbines to the production & capacity taxation method if the purchased power agreement is renewed or if it is sold. We believe that this requirement would pose administrative difficulties, such as determining what constitutes a sale with projects that involve multiple entities. We also disagree with tying a tax change to a private contractual agreement. We are proposing an alternative of transferring wind turbines to the production & capacity taxation method after twenty years.

Section 2 provides a grace period for the wind energy tax credit for projects in which construction commences prior to January 1, 2015, and which the wind turbines are installed prior to January 1, 2017. This is important for those wind projects that are currently under construction, but were not able to be completed prior to the end of last year. New projects that have not yet started construction would not be eligible to receive tax credits.

Section 3 and 4 were added by the Senate. Section 3 is a Legislative Management study of wind generation taxation and section 4 requires reports by the Public Service Commission on the status of the retail sales of electricity in the state.

The original SB 2037 also included removing the sunset clause on the sales tax exemption for wind-powered electrical generating facilities, as well as expanding the sales tax exemption related to new coal mines. With these changes, the sales tax exemptions would be consistent with other energy-related sales tax exemptions. The Senate did not agree with these changes and we are not asking for them to be restored. However, we do feel there is a need to better clarify the definition of "machinery or equipment" exempted under the new coal mine sales tax exemption and will be offering an amendment to do so.

Mr. Chairman and members of the Finance and Taxation Committee, I respectfully request your favorable consideration of Senate Bill 2037. That concludes my testimony and I am happy to entertain any questions.

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PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

Page 1, line 1, remove the second "and"

Page 1, line 2, after "57-38-01.8" insert ", and section 57-39.2-04.8"

Page 1, line 3, replace "and" with a comma

Page 1, line 4, after "devices", insert ", and a sales tax exemption for machinery or equipment used to produce coal from a new mine"

Page 1, line 20, overstrike "for the duration of the initial purchased power"

Page 1, line 21, overstrike "agreement for the generation unit"

Page 2, line 5, replace "; for which a purchased power agreement is entered or renewed" with "or which is twenty years or more from the date of first assessment"

Page 2, remove line 6

Page 2, line 7, remove "under this chapter after December 31, 2014"

Page 2, after line 24, insert:

"**SECTION 3. AMENDMENT.** Section 57-39.2-04.8 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.8. Sales tax exemption for machinery or equipment used to produce coal from a new mine.

1. Gross receipts from sales of machinery or equipment used to produce coal from a new mine located in this state are exempt from the tax imposed by this chapter. The exemption for each new mine under this section is limited to the first five million dollars of sales and use tax paid.
2. Purchase of replacement machinery or equipment is exempt if the capitalized investment in the new mine exceeds twenty million dollars using the United States generally accepted accounting principles. Purchases of repair or replacement parts for existing machinery or equipment are not exempt under this section.
3. The mine operator shall apply to the commissioner for a refund of sales and use taxes paid for which the exemption is claimed under this section. A refund claim may not exceed the limitation in subsection 1. If the machinery or equipment is used directly or indirectly to produce coal, the interest provisions of section 57-39.2-25 do not apply to purchases made prior to July 1, 2015. Application for the refund must be

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made at the time and in the manner directed by the commissioner and must include sufficient information to verify the correctness of the refund claim.

4. For purposes of this section:
   a. "Machinery or equipment" means machinery or equipment purchased after December 31, 2010, and used directly or indirectly to uncover, sever, crush, handle, or transport coal removed from the earth. "Machinery or equipment" includes draglines, excavators, rolling stock, conveyor equipment, reclamation equipment, ~~and~~ equipment to pulverize coal, water trucks, fuel trucks, low-boys, cranes, lubrication trucks, motor graders, service trucks, light plants, and de-watering equipment, but does not include rail spurs, office buildings, workshops, or any component not used directly to uncover, sever, crush, handle, or transport coal removed from the earth.
   b. "New mine" means an area permitted under chapter 38-14.1 by the public service commission after December 31, 2010.
   c. "Produce coal" means mining operations to uncover, sever, crush, handle, or transport coal from its natural location under the earth's surface to the mouth of the mine and all activities necessary and incidental to the reclamation of that location."

Renumber accordingly

House Finance & Taxation Committee
Don Boehm Talking Points
Senate Bill 2037
March 16, 2015

- Chairman Headland and members of the committee, my name is Don Boehm. I am the Manager of Multistate Tax for Basin Electric Power Cooperative.
- The documents that are being distributed contain some updated information from what you may have already received and reviewed.
- The first sheet, dated March 13, 2015, is a comparison of various tax rates currently in effect today. The comparison involves a 150 MW wind project with a capital cost of $2M per MW and generating at a capacity of 45% placed into service on January 1, 2015.
- A life of 25 years was used to determine the total property taxes paid over the life of the wind project. The 2013 Ward County mill rate of 171 mills was also used in the comparison.
- At the top of each column is a letter (see "A" through "J"). This letter is used to easily reference each column and the tax rate used to determine the total taxes paid.
- Columns "A" through "C" are the taxes associated with the determination of fair market value using at 10%, 3% and 1½% taxable value under Chapter 57-06. 10% is the taxable value percentage applied to all industrial and commercial property in the state. The 3% and 1½% are the taxable value percentages applied to all existing wind projects in the state.
- Column "D" is the existing production/capacity tax method under Chapter 57-33.2. This method is applied to all wind projects owned by cooperatives and those entities subject to taxation under Chapter 57-06 that opt to be taxed 57-33.2.
- Column "E" is the same methodology as Columns "A" through "C" with the exception of utilizing a 4½% taxable value. As you can see, the total tax paid under Column "D" and Column "E" are relatively close.

- Columns “F” and “G” use the same capacity and production rates that are applied to Non Coal/Non Wind projects and coal conversion facilities respectively. The total tax paid by a Non Coal/Non Wind facility is close to the total tax paid under Column “D”. A coal conversion facility has a greater MW capacity and production percentage is generally in the 85 – 90 percent range thus resulting in higher taxes paid.
- Columns “H”, “I” and “J” are comparisons with the neighboring states of South Dakota, Minnesota and Montana. South Dakota is the reason for this comparison sheet to be updated. Senate Bill 180 was signed by the Governor last Friday March 13, 2015. The bill reduced the existing capacity/production rates to be more competitive with North Dakota and Minnesota.
- The second page has not changed. It is a listing of all existing wind projects within the state of North Dakota. It is arranged by the year each wind project was put into service.
- The yellow highlighted sections compare the tax paid by the project in 2013 versus the tax if the opt in rate under 57-33.2 (also used for new projects under column “F” on the previous page). As it is shown, the tax paid under the opt in rates would increase for each project from a low of 4% to a high of 209%.
- Thank you for your time. I would be glad to answer any questions.

COMPARISON OF VARIOUS TAX RATES AND SCENARIOS
FOR ALL NORTH DAKOTA WIND PROJECTS COMPLETED AFTER DECEMBER 31, 2014
BASIS: 150 MW PROJECT, CAPITAL COST $2 M PER MW, 45% CAPACITY, WARD COUNTY 2013 MILL LEVY
February 17, 2015

	A	B	C	D	E	F	G	H	I	J
	Effective 2015	SB 2037 Proposed	Current thru 2014	Current Law	Estimated	Current Law	Current Law	South Dakota Current Law	Minnesota Current Law	Montana Current Law
	57-06 at 10%	57-06 at 3.0%	57-06 at 1.5%	57-33.2 - Wind Opt in	57-06 at 4.5%	57-33.2 - Non Coal/Wind	57-60 -Coal Conversion	3,000/mw & rate/mwh	0/mw & $1.20 /mwh	Class 14 Property
	2013 Avg, millage 171	2013 Avg, millage 171	2013 Avg, millage 171	2,500/mw & .5/mwh	2013 Avg, millage 171	500/mw & 1/mwh	.65/mw & .25/mwh	Includes Incentives	N/A	2013 Mill levy 462.89
	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax
Year	Mix N/A	Mix N/A	Mix N/A	Mix 56%/44%	Mix N/A	Mix 11%/89%	Mix 1%/99%	Mix 39%/61%	Mix 0%/100%	N/A
Year 1 - 2015	$ 1,923,750	$ 711,788	$ 452,081	$ 670,650	$ 971,494	$ 666,300	$ 147,923	$ 516,817	$ 709,560	$ 4,166,010
Year 2 - 2016	$ 2,436,750	$ 901,598	$ 572,636	$ 670,650	$ 1,230,559	$ 666,300	$ 147,923	$ 518,487	$ 709,560	$ 3,957,710
Year 3 - 2017	$ 2,308,500	$ 854,145	$ 542,498	$ 670,650	$ 1,165,793	$ 666,300	$ 147,923	$ 520,200	$ 709,560	$ 3,749,409
Year 4 - 2018	$ 2,180,250	$ 806,693	$ 512,359	$ 670,650	$ 1,101,026	$ 666,300	$ 147,923	$ 521,954	$ 709,560	$ 3,541,109
Year 5 - 2019	$ 2,052,000	$ 759,240	$ 482,220	$ 670,650	$ 1,036,260	$ 666,300	$ 147,923	$ 523,753	$ 709,560	$ 3,332,808
Year 6 - 2020	$ 1,923,750	$ 711,788	$ 452,081	$ 670,650	$ 971,494	$ 666,300	$ 147,923	$ 827,986	$ 709,560	$ 3,124,508
Year 7 - 2021	$ 1,795,500	$ 664,335	$ 421,943	$ 670,650	$ 906,728	$ 666,300	$ 147,923	$ 837,436	$ 709,560	$ 2,916,207
Year 8 - 2022	$ 1,667,250	$ 616,883	$ 391,804	$ 670,650	$ 841,961	$ 666,300	$ 147,923	$ 847,121	$ 709,560	$ 2,707,907
Year 9 - 2023	$ 1,539,000	$ 569,430	$ 361,665	$ 670,650	$ 777,195	$ 666,300	$ 147,923	$ 857,050	$ 709,560	$ 2,499,606
Year 10 - 2024	$ 1,410,750	$ 521,978	$ 331,526	$ 670,650	$ 712,429	$ 666,300	$ 147,923	$ 867,226	$ 709,560	$ 2,291,306
Year 11 - 2025	$ 1,282,500	$ 474,525	$ 301,388	$ 670,650	$ 647,663	$ 666,300	$ 147,923	$ 1,305,313	$ 709,560	$ 2,083,005
Year 12 - 2026	$ 1,154,250	$ 427,073	$ 271,249	$ 670,650	$ 582,896	$ 666,300	$ 147,923	$ 1,326,696	$ 709,560	$ 1,874,705
Year 13 - 2027	$ 1,026,000	$ 379,620	$ 241,110	$ 670,650	$ 518,130	$ 666,300	$ 147,923	$ 1,348,613	$ 709,560	$ 1,666,404
Year 14 - 2028	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,371,078	$ 709,560	$ 1,458,104
Year 15 - 2029	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,394,105	$ 709,560	$ 1,458,104
Year 16 - 2030	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,417,708	$ 709,560	$ 1,458,104
Year 17 - 2031	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,441,901	$ 709,560	$ 1,458,104
Year 18 - 2032	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,466,698	$ 709,560	$ 1,458,104
Year 19 - 2033	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,492,116	$ 709,560	$ 1,458,104
Year 20 - 2034	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,518,168	$ 709,560	$ 1,458,104
Year 21 - 2035	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,544,873	$ 709,560	$ 1,458,104
Year 22 - 2036	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,572,245	$ 709,560	$ 1,458,104
Year 23 - 2037	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,600,301	$ 709,560	$ 1,458,104
Year 24 - 2038	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,629,058	$ 709,560	$ 1,458,104
Year 25 - 2039	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 1,658,535	$ 709,560	$ 1,458,104
Sum	$ 33,473,250	$ 12,385,103	$ 7,866,214	$ 16,766,250	$ 16,903,991	$ 16,657,500	$ 3,698,063	$ 28,925,436	$ 17,739,000	$ 55,407,933

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Ad Valorem under 57-06-14.1			Estimated Generation and Capacity Tax Rates under 57-33.02									
Name of Company	Taxable Value 2013	Total Taxes** 2013	Megawatts	Rated Capacity	Rated Capacity times $2.50 per kilowatt	Kilowatt Hours Generated During Previous Calendar Year 2013	Kilowatt hour times $0.0005/kWh	Total Tax Capacity Tax plus Generation Tax $2.50 / $.0005	% chng	Yrly $ Change	First year assessed	Taxable Value Percent of Trubine
North Dakota Wind, LLC (NextEra)	689,910	$109,496	61.50	61,500	$153,750.00	134,989,000	$67,494.50	$221,244.50	102%	$111,749	2004	3%
Velva Windfarm, LLC (Acciona)	152,120	$29,568	11.88	11,880	$29,700.00	29,039,000	$14,519.50	$44,219.50	50%	$14,651	2006	3%
Burleigh County Wind, LLC (NextEra)	454,120	$66,019	49.50	49,500	$123,750.00	160,182,000	$80,091.00	$203,841.00	209%	$137,822	2006	1.5%
Oliver Wind I, LLC (NextEra)	704,490	$123,271	50.60	50,600	$126,500.00	155,192,000	$77,596.00	$204,096.00	66%	$80,825	2007	1.5%
Langdon Wind I, LLC (NextEra)	1,573,290	$289,814	118.50	118,500	$296,250.00	418,052,000	$209,026.00	$505,276.00	74%	$215,462	2008	1.5%
Oliver Wind II, LLC (NextEra)	750,830	$131,572	48.00	48,000	$120,000.00	152,404,000	$76,202.00	$196,202.00	49%	$64,630	2008	1.5%
Otter Tail Langdon Wind	858,600	$0	40.50	40,500	$101,250.00	136,020,000	$68,010.00	$169,260.00	#DIV/0!		2008	1.5%
Tatanka Wind* (Acciona)	1,685,770	$309,319	137.25	137,250	$343,125.00	504,012,500	$252,006.25	$595,131.25	92%	$285,812	2008	1.5%
Ashtabula Wind I, LLC (NextEra)	2,306,760	$412,402	148.50	148,500	$371,250.00	467,569,000	$233,784.50	$605,034.50	47%	$192,633	2009	1.5%
Langdon Wind II, LLC (NextEra)	661,620	$121,876	40.50	40,500	$101,250.00	135,757,000	$67,878.50	$169,128.50	39%	$47,253	2009	1.5%
Otter Tail Ashtabula Wind	1,189,460	$0	48.00	48,000	$120,000.00	147,319,000	$73,659.50	$193,659.50	#DIV/0!		2009	1.5%
Ashtabula Wind II, LLC (NextEra)	2,023,280	$354,668	120.00	120,000	$300,000.00	379,852,000	$189,926.00	$489,926.00	38%	$135,258	2010	1.5%
Cedar Hills Wind Project (MDU)	426,170	$0	19.50	19,500	$48,750.00	54,805,180	$27,402.59	$76,152.59	#DIV/0!		2010	1.5%
Otter Tail Luverne Wind	821,580	$199,619	49.50	49,500	$123,750.00	169,217,000	$84,608.50	$208,358.50	4%	$8,740	2010	1.5%
Prairie Winds ND 1 (Basin)	1,688,700	$266,098	122.60	122,600	$306,500.00	440,704,000	$220,352.00	$526,852.00	98%	$260,754	2010	1.5%
Rugby Wind Farm, Inc (Iberdrola)	1,705,140	$389,606	149.10	149,100	$372,750.00	383,784,550	$191,892.28	$564,642.28	45%	$175,036	2010	1.5%
Wilton Wind II, LLC (NextEra)	829,170	$119,568	49.50	49,500	$123,750.00	189,966,000	$94,983.00	$218,733.00	83%	$99,165	2010	1.5%
Ashtabula Wind III, LLC (NextEra)	1,304,870	$245,718	62.40	62,400	$156,000.00	206,417,000	$103,208.50	$259,208.50	5%	$13,491	2011	1.5%
Baldwin Wind, LLC (NextEra)	1,442,920	$208,323	102.40	102,400	$256,000.00	353,730,000	$176,865.00	$432,865.00	108%	$224,542	2011	1.5%
Total	21,268,800	3,376,938	1,429.73	1,429,730.00	3,574,325.00	4,619,011,230.00	2,309,505.62	5,883,830.62				

*Tatanka has 42.75MW of the 180MW in SD. Generation is estimated from the total of 661,000,000 kWh times 76.25%

** From Company Annual Reports, MDU & Otter Tail tax dollars not available at the time of report

Genaeration and Capacity Tax under 57-33.2-04	Megawatts	2013 Generation (kWh)	2014 Tax
Allete, Inc	291.80	780,799,000	$1,119,899.50
Minnkota Power Coop	1.8	5,069,887	$7,034.95

Transmission Line Mile Tax Exemption under 57-06-17.3	Miles	Operating voltage	Year placed into service	Tax Dollars
Rugby Wind	10.2352	230 kV	2010	$3,070.56
Tatanka	12.7929	230 kV	2008	$3,837.87
Ashtabula Wind I	9.2	230 kV	2008	$2,760.00
Ashtabula Wind II	12.03	230 kV	2009	$3,609.00

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COMPARISON OF VARIOUS TAX RATES AND SCENARIOS
FOR ALL NORTH DAKOTA WIND PROJECTS COMPLETED AFTER DECEMBER 31, 2014
BASIS: 150 MW PROJECT, CAPITAL COST $2 M PER MW, 45% CAPACITY, WARD COUNTY 2013 MILL LEVY
March 13, 2015

	A	B	C	D	E	F	G	H	I	J
	Effective 2015	SB 2037 Proposed	Current thru 2014	Current Law	Estimated	Current Law	Current Law	South Dakota April 1, 2015	Minnesota Current Law	Montana Current Law
	57-06 at 10%	57-06 at 3.0%	57-06 at 1.5%	57-33.2 - Wind Opt in	57-06 at 4.5%	57-33.2 - Non Coal/Wind	57-60 -Coal Conversion	$3,000/mw & $.45/mwh	0/mw & $1.20 /mwh	Class 14 Property
	2013 Avg, millage 171	2013 Avg, millage 171	2013 Avg, millage 171	$2,500/mw & $.5/mwh	2013 Avg, millage 171	$500/mw & $1/mwh	$.65/mw & $.25/mwh	No Incentives	N/A	2013 Mill levy 462.89
	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax	Annual Tax
Year	Mix N/A	Mix N/A	Mix N/A	Mix 56%/44%	Mix N/A	Mix 11%/89%	Mix 1%/99%	Mix 63%/37%	Mix 0%/100%	N/A
Year 1 - 2015	$ 1,923,750	$ 711,788	$ 452,081	$ 670,650	$ 971,494	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 4,166,010
Year 2 - 2016	$ 2,436,750	$ 901,598	$ 572,636	$ 670,650	$ 1,230,559	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 3,957,710
Year 3 - 2017	$ 2,308,500	$ 854,145	$ 542,498	$ 670,650	$ 1,165,793	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 3,749,409
Year 4 - 2018	$ 2,180,250	$ 806,693	$ 512,359	$ 670,650	$ 1,101,026	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 3,541,109
Year 5 - 2019	$ 2,052,000	$ 759,240	$ 482,220	$ 670,650	$ 1,036,260	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 3,332,808
Year 6 - 2020	$ 1,923,750	$ 711,788	$ 452,081	$ 670,650	$ 971,494	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 3,124,508
Year 7 - 2021	$ 1,795,500	$ 664,335	$ 421,943	$ 670,650	$ 906,728	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 2,916,207
Year 8 - 2022	$ 1,667,250	$ 616,883	$ 391,804	$ 670,650	$ 841,961	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 2,707,907
Year 9 - 2023	$ 1,539,000	$ 569,430	$ 361,665	$ 670,650	$ 777,195	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 2,499,606
Year 10 - 2024	$ 1,410,750	$ 521,978	$ 331,526	$ 670,650	$ 712,429	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 2,291,306
Year 11 - 2025	$ 1,282,500	$ 474,525	$ 301,388	$ 670,650	$ 647,663	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 2,083,005
Year 12 - 2026	$ 1,154,250	$ 427,073	$ 271,249	$ 670,650	$ 582,896	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,874,705
Year 13 - 2027	$ 1,026,000	$ 379,620	$ 241,110	$ 670,650	$ 518,130	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,666,404
Year 14 - 2028	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 15 - 2029	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 16 - 2030	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 17 - 2031	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 18 - 2032	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 19 - 2033	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 20 - 2034	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 21 - 2035	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 22 - 2036	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 23 - 2037	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 24 - 2038	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Year 25 - 2039	$ 897,750	$ 332,168	$ 210,971	$ 670,650	$ 453,364	$ 666,300	$ 147,923	$ 716,085	$ 709,560	$ 1,458,104
Sum	$ 33,473,250	$ 12,385,103	$ 7,866,214	$ 16,766,250	$ 16,903,991	$ 16,657,500	$ 3,698,063	$ 17,902,125	$ 17,739,000	$ 55,407,933

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Ad Valorem under 57-06-14.1			Estimated Generation and Capacity Tax Rates under 57-33.02									
Name of Company	Taxable Value 2013	Total Taxes** 2013	Megawatts	Rated Capacity	Rated Capacity times $2.50 per kilowatt	Kilowatt Hours Generated During Previous Calendar Year 2013	Kilowatt hour times $0.0005/kWh	Total Tax Capacity Tax plus Generation Tax $2.50 / $.0005	% chng	Yrly $ Change	First year assessed	Taxable Value Percent of Trubine
North Dakota Wind, LLC (NextEra)	689,910	$109,496	61.50	61,500	$153,750.00	134,989,000	$67,494.50	$221,244.50	102%	$111,749	2004	3%
Velva Windfarm, LLC (Acciona)	152,120	$29,568	11.88	11,880	$29,700.00	29,039,000	$14,519.50	$44,219.50	50%	$14,651	2006	3%
Burleigh County Wind, LLC (NextEra)	454,120	$66,019	49.50	49,500	$123,750.00	160,182,000	$80,091.00	$203,841.00	209%	$137,822	2006	1.5%
Oliver Wind I, LLC (NextEra)	704,490	$123,271	50.60	50,600	$126,500.00	155,192,000	$77,596.00	$204,096.00	66%	$80,825	2007	1.5%
Langdon Wind I, LLC (NextEra)	1,573,290	$289,814	118.50	118,500	$296,250.00	418,052,000	$209,026.00	$505,276.00	74%	$215,462	2008	1.5%
Oliver Wind II, LLC (NextEra)	750,830	$131,572	48.00	48,000	$120,000.00	152,404,000	$76,202.00	$196,202.00	49%	$64,630	2008	1.5%
Otter Tail Langdon Wind	858,600	$0	40.50	40,500	$101,250.00	136,020,000	$68,010.00	$169,260.00	######		2008	1.5%
Tatanka Wind* (Acciona)	1,685,770	$309,319	137.25	137,250	$343,125.00	504,012,500	$252,006.25	$595,131.25	92%	$285,812	2008	1.5%
Ashtabula Wind I, LLC (NextEra)	2,306,760	$412,402	148.50	148,500	$371,250.00	467,569,000	$233,784.50	$605,034.50	47%	$192,633	2009	1.5%
Langdon Wind II, LLC (NextEra)	661,620	$121,876	40.50	40,500	$101,250.00	135,757,000	$67,878.50	$169,128.50	39%	$47,253	2009	1.5%
Otter Tail Ashtabula Wind	1,189,460	$0	48.00	48,000	$120,000.00	147,319,000	$73,659.50	$193,659.50	######		2009	1.5%
Ashtabula Wind II, LLC (NextEra)	2,023,280	$354,668	120.00	120,000	$300,000.00	379,852,000	$189,926.00	$489,926.00	38%	$135,258	2010	1.5%
Cedar Hills Wind Project (MDU)	426,170	$0	19.50	19,500	$48,750.00	54,805,180	$27,402.59	$76,152.59	######		2010	1.5%
Otter Tail Luverne Wind	821,580	$199,619	49.50	49,500	$123,750.00	169,217,000	$84,608.50	$208,358.50	4%	$8,740	2010	1.5%
Prairie Winds ND 1 (Basin)	1,688,700	$266,098	122.60	122,600	$306,500.00	440,704,000	$220,352.00	$526,852.00	98%	$260,754	2010	1.5%
Rugby Wind Farm, Inc (Iberdrola)	1,705,140	$389,606	149.10	149,100	$372,750.00	383,784,550	$191,892.28	$564,642.28	45%	$175,036	2010	1.5%
Wilton Wind II, LLC (NextEra)	829,170	$119,568	49.50	49,500	$123,750.00	189,966,000	$94,983.00	$218,733.00	83%	$99,165	2010	1.5%
Ashtabula Wind III, LLC (NextEra)	1,304,870	$245,718	62.40	62,400	$156,000.00	206,417,000	$103,208.50	$259,208.50	5%	$13,491	2011	1.5%
Baldwin Wind, LLC (NextEra)	1,442,920	$208,323	102.40	102,400	$256,000.00	353,730,000	$176,865.00	$432,865.00	108%	$224,542	2011	1.5%
Total	21,268,800	3,376,938	1,429.73	1,429,730.00	3,574,325.00	4,619,011,230.00	2,309,505.62	5,883,830.62				

*Tatanka has 42.75MW of the 180MW in SD. Generation is estimated from the total of 661,000,000 kWh times 76.25%

** From Company Annual Reports, MDU & Otter Tail tax dollars not available at the time of report

Genaeration and Capacity Tax under 57-33.2-04	Megawatts	2013 Generation (kWh)	2014 Tax
Allete, Inc	291.80	780,799,000	$1,119,899.50
Minnkota Power Coop	1.8	5,069,887	$7,034.95

Transmission Line Mile Tax Exemption under 57-06-17.3	Miles	Operating voltage	Year placed into service	Tax Dollars
Rugby Wind	10.2352	230 kV	2010	$3,070.56
Tatanka	12.7929	230 kV	2008	$3,837.87
Ashtabula Wind I	9.2	230 kV	2008	$2,760.00
Ashtabula Wind II	12.03	230 kV	2009	$3,609.00

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House Finance and Tax Committee
Chairman Craig Headland and Committee Members
Testimony from Julie Voeck, Director of Regulatory Affairs, NextEra Energy Resources
Amendments to SB 2037
March 16, 2015

- Chairman Headland and committee members my name is Julie Voeck. I am Director of Legislative and Regulatory Affairs, with NextEra Energy Resources
- NextEra Energy Resources is one of the primary subsidiaries of NextEra Energy, one of the largest diversified energy companies in the country.
- The partnership between North Dakota and NextEra has been an important one for our company.
- NextEra Energy Resources has invested approximately $1.4 billion dollars in 11 wind projects and $400 million in oil and gas gathering investments including the Flicktertail pipeline in Divide and Williams counties and the Wheatland pipeline in McKenzie County.
- Thank you for the opportunity to speak to you and the committee today about SB 2037 and how NextEra, and the other energy companies with wind interests, are negatively impacted by SB 2037 in its current form and how we would like to see the bill improved.
- You have already heard from Al Anderson, the Commission of Commerce and Chair of the EmPower North Dakota Commission, about the origins and evolution of SB 2037.
- As you heard from Commissioner Anderson a lot of time, energy, and compromise went into SB 2037 in its original/introduced form.
- And, you've heard from Don Boehm from Basin Electric about how our wind coalition arrived at and came to agreement on a higher 4.5% equivalent tax rate based on generation for new wind projects going forward and the significant tax increases that would result.
- The various energy companies with wind interests understand and fully appreciate that there is a strong interest this legislative session in migrating all wind projects, existing and future, to one tax rate that is comparable to the tax rates applied to other energy sources.
- We believe there is a far better way to do that, which is far more fair, reasonable, and defensible, than the method currently found in SB 2037, which would result in significant tax increases to existing projects by forcing them to the higher tax rate following the sale of a project or a renewal of a PPA (Power Purchase Agreements), which are simply contracts between companies.
- Using NextEra as an example, we are concerned that without any additional clarity in the current language, many of the minor adjustments we make to our existing PPAs or anytime we transfer ownership of one of our projects to another affiliated company within the NextEra family, could trigger a tax increase from the existing 1.5% property tax rate based on valuation to the new 4.5% tax rate based on generation.
- That's a tax increase of triple the current rate.
- For some of NextEra's older existing projects, this arbitrary migration would result in a tax increase of nearly 210%.

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Julie Voeck, NextEra Energy Resources
SB 2037
March 16, 2015

- Understanding and fully appreciating that there is strong interest this legislative session in migrating all wind projects, existing and future, to one tax rate, we have developed an alternative solution for the committee to consider that has the support of the various energy companies with wind interests.
- The companies supporting this approach include:
    - NextEra;
    - MDU;
    - Xcel Energy;
    - Ottertail Power;
    - Basin Electric; and
    - Geronimo Wind.
- The alternative solution would be to retain the current language in SB 2037 that establishes the tax rate for all new projects constructed after December 31, 2014 at the 4.5% equivalent tax rate.
- This means all new wind projects that begin operation after December 31, 2014 will be on the same tax rate.
- The proposal would have all existing wind projects retain the original tax rate for 20 years. These projects would then migrate to the 4.5% equivalent tax rate beginning with the date the project was initially assessed..
- This means, for example, one of our early NextEra projects that is assessed at 1.5% based on valuation that was first assessed in 2006, would transition to the new 4.5% equivalent tax rate after 2026.
- Once a wind project has been in operation for 20 years, it would automatically migrate to the new 4.5% equivalent tax rate.
- Let me address why 20 years is a better alternative than what is currently included in the bill.
    - 20 years ties directly to the financing period for most of the projects.
    - Most of the PPAs are in the range of 20 to 25 years.
- Migrating to the new tax rate should be based on the first assessment date rather than an arbitrary date. This approach is more equitable. It ensures that all projects will be able to benefit from the initial lower tax rate for the same initial period of time. It also helps project owners meet their forecasted expenses included in financing agreements with lenders. In closing, the energy companies with wind interests believe this alternative is more equitable, reasonable, and defensible, than the method currently found in SB 2037, to achieving the legislature's interest to use a consistent rate for all energy sources
- The amendments we are offering, which have been developed with the help of the Tax Department, aim to accomplish this.
- Thank you for your time and attention and I'd be glad to answer any questions that you have.

GERONIMO ENERGY

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Geronimo Energy
Testimony on SB 2037
March 16, 2015

Good morning, Mr. Chair and Members of the Committee. My name is Betsy Engelking, and I am a Vice President at Geronimo Energy. I am here today to testify in support of SB 2037. Geronimo Energy develops wind and solar projects throughout the Upper Midwest. Our Courtenay Wind Farm is a 200 MW development spread over 21,000 acres near Jamestown, North Dakota. In 2013, Geronimo signed a purchased power agreement with Xcel Energy to purchase the energy from the Courtenay wind farm, and obtained a site permit from the North Dakota PSC. The project was slated for completion prior to the end of 2014. Unfortunately, delays in obtaining an agreement from the regional transmission authority to connect the project to the transmission system placed construction on hold and 2014 completion was not possible. SB 2037 seeks to extend tax policies that were available to the project in 2014, and is necessary to ensure the construction of this beneficial project.

The Courtenay Wind Farm has a number of unique features that will benefit the local area. First, the project will compensate all signed landowners within the project footprint, instead of just those who host turbines on their property. Not all landowners can host turbines, but they provide other valuable features such as buffers, setbacks, underground collection lines and crane paths that permit the project to maximize output and control costs. Geronimo believes that all landowners who participate in a project should receive compensation, and divides a portion of the project revenues among all landowners as a dollar per acre payment.

Second, in addition to the $17 Million in local tax benefits that will accrue to the counties, townships and school district in the area over 20 years, Geronimo has also committed to contribute $40,000 per year to a locally-controlled community fund, dollars that can be used to support community expenditures that aren't covered by local government budgets. Some examples of things the community fund could purchase include playground equipment, sports fields and equipment, assistance to a volunteer fire department and many other options. Finally, the Courtenay Wind Farm has local investors. Several of our landowners have invested in the development of the project and will participate in the project returns along with the payments they will receive for turbines and land in the project. Our landowners have been great supporters of this project, and several of them are present today to support the passage of this bill.

Despite all of the progress that we have made on the Courtenay Wind Farm, including excavation work and installation of a concrete batch plant yard that occurred in late 2014, the failure to achieve a 2014 completion through circumstances out of our control now puts this project in jeopardy. Without the limited extension of the income tax credit available for

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projects that started construction in 2014, it is unlikely that Geronimo can build an economic project at Courtenay. The price Xcel Energy will pay us for the power has been locked in since 2013, and assumed the benefits offered by the now-expired tax credit.

While Courtenay can be constructed with SB 2037 as it was passed by the Senate, we also support the amendments that are being proposed by the Empower Commission. We believe these amendments meet the spirit of the original Empower legislation, and we support their passage.

The Courtenay Wind Farm is projected to provide 200 temporary construction jobs, 15 well-paying full time jobs, over $800,000/year in local tax revenue and $1.3 million/year in local landowner payments to the Jamestown, Courtenay and Wimbledon communities. Additionally, the project will deliver very low cost, clean energy to Xcel Energy's customers in North Dakota. Passage of SB 2037 will help Geronimo and Xcel cement these benefits and complete construction on the Courtenay project. I urge the Committee to give SB 2037 a "do pass" recommendation.

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THE HARMS GROUP

March 15, 2015
SB 2037

House Finance and Tax Committee

Chairman Headland and Members of the Committee:

My name is Robert Harms, I am the lobbyist for Tradewind Energy, a wind-developer from Kansas that has been in business since 2003 and is developing a windfarm north of Tioga.

Tradewind supports SB 2037, but would like to offer some brief amendments to the bill.

THE PROJECT: Lindahl Wind Project—developed by local landowners themselves (See attached map)

-Tradewind bought this project in 2014.
-150 MW project
-18,000 acre foot print; approximately 75 towers
-28 landowners (who developed their own land lease)
-$250 million investment
-100 construction jobs
-12 permanent jobs after construction
-Low-cost power available to the local market that is in dire need of additional power.
  -little/no new transmission required.
  -Need for power is well documented (see attached NDIC press release)
-25 year power purchase agreement signed with Basin Electric-executed November, 2014.
-Begin construction and have in service by December, 2016

AMENDMENTS: The current bill disqualifies from income tax credits, wind projects not represented in the Empower process last summer, including Tradewind. Our amendment proposes two alternatives that would allow a company that either began construction or signed power purchase agreement by January 1, 2015, OR had the project in service by January 1, 2017 to qualify for the income tax credits contemplated by the bill.

Secondly, we want to confirm the bill does not disqualify Lindahl for favorable property tax treatment afforded other projects. We understand that amendments being proposed will provide for a 4.5% property tax treatment for all new wind projects. We embrace that policy and want to confirm the proposed amendments include Lindahl for similar treatment.

POLICY: Our amendments allow the Legislature to set public policy that encourages investment in wind resources in North Dakota, further diversifies our economy, and in this instance provides power to NW ND where it is vitally needed. We ask you to consider either of the proposed amendments and to support the bill as it would be amended, which will make Lindahl more likely to be built.

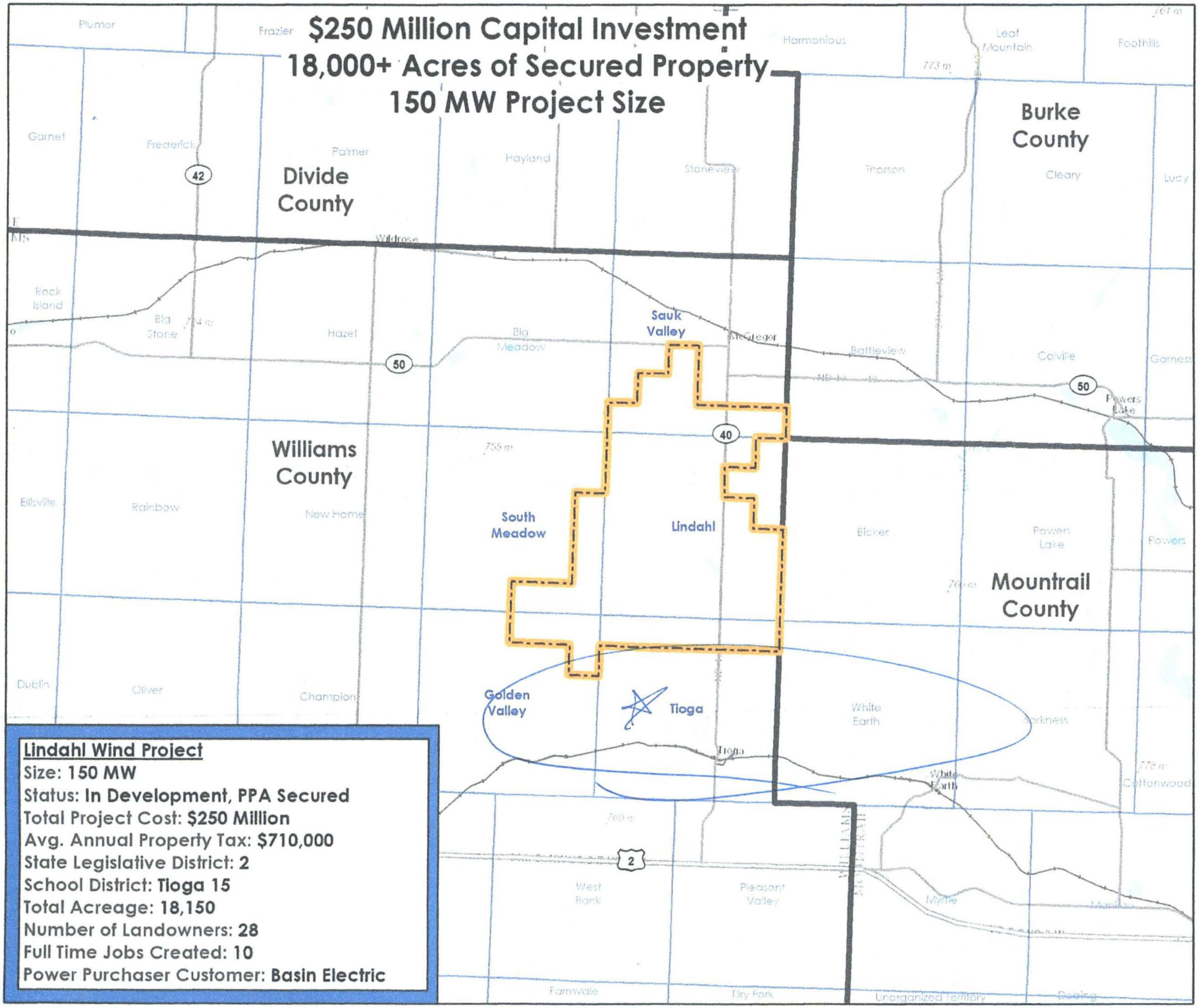
Robert W. Harms

Robert W. Harms, JD
The Harms Group

Lindahl Wind Project

tradewind energy

$250 Million Capital Investment
18,000+ Acres of Secured Property
150 MW Project Size



Lindahl Wind Project
Size: **150 MW**
Status: **In Development, PPA Secured**
Total Project Cost: **$250 Million**
Avg. Annual Property Tax: **$710,000**
State Legislative District: **2**
School District: **Tioga 15**
Total Acreage: **18,150**
Number of Landowners: **28**
Full Time Jobs Created: **10**
Power Purchaser Customer: **Basin Electric**

Legend
- Lindahl Project Boundary
- County
- Townships
- Interstate
- Highway
- Major Road
- Railroad Track

The following companies and organizations provided data that contributed to the production of this map
U.S. Geological Survey (USGS)
Environmental Systems Research Institute (ESRI)
U.S. Department of Agriculture (USDA)
U.S. Federal Aviation Administration (FAA)
WhiteStar Corporation
Ventyx Inc

Analyst: dmann   Date: 1/20/2015

N
0 0.75 1.5 3 Miles
Scale: 1:278,253
Coordinate System:
NAD 1983 StatePlane North Dakota North FIPS 3301 Feet

#6.d

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INDUSTRIAL COMMISSION OF NORTH DAKOTA

Jack Dalrymple Governor	Wayne Stenehjem Attorney General	Doug Goehring Agriculture Commissioner

NEWS October 23, 2012

Electrical demand expected to nearly triple in the 22 North Dakota counties according to results discovered in Electrical Load Growth Study

BISMARCK – The North Dakota Industrial Commission, acting as the North Dakota Transmission Authority, today received the results of an Electrical Load Growth Study which showed the need for nearly three times the current electric load over the next 20 years—from 971 MW to 3030 MW in 2032. Gov. Jack Dalrymple, Attorney General Wayne Stenehjem and Agriculture Commissioner Doug Goehring, along with other state and industry leaders, outlined the study's key findings during a news conference held in conjunction with the Commission's meeting this afternoon.

"Oil development in western North Dakota continues to grow at a strong pace, increasing the demand for electricity to power homes, businesses, and oil and gas production in the Williston Basin," said the Industrial Commission members in a joint statement. "The results of this study will provide us with valuable information as we address our state's rapid growth and plan for the future power demand and infrastructure needs of the region."

Earlier this year the North Dakota Transmission Authority (NDTA) commissioned KLJ, an employee-owned, firm that delivers multi-disciplinary planning and engineering-based solutions, to develop the *Williston Basin Oil and Gas Related Electrical Load Growth Forecast (PF 12)*.

This extensive study contains expected electrical demand over the next 20 years related to 43 counties within the Williston Basin and specifically 22 key oil-producing counties in the western and north central regions of North Dakota. Additionally, the study incorporates forecasts related to employment, population growth and housing demand correlated to the study area.

Montana-Dakota Utilities Co. (MDU) and Basin Electric Power Cooperative (Basin Electric) partnered with NDTA to effectively plan, collaborate and validate industry research and requirements associated with power demand in the Williston Basin region. Both MDU and Basin Electric will utilize the information obtained in the study to adequately plan for critical infrastructure needs and development within the study area.

"We were happy to participate in this study, because it's critical for us to understand the magnitude of challenges we face in northwest North Dakota for providing power supply to the area," says Andrew M. Serri, Basin Electric CEO and General Manager. "This is a collaborative effort between the utilities, the state and the private sector that confirms what our internal studies have shown. All this information is now in a single study that incorporates all aspects of the growth."

"We appreciate the opportunity to participate in this important study," said David Goodin, President and CEO of MDU. "We continually conduct internal studies and update our electric forecasts, but this provides us with another tool to help plan to meet the rapidly growing demand of the Bakken region."

Karlene K. Fine, Executive Director and Secretary
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THE HARMS GROUP

March 15, 2015

House Finance and Tax Committee

Engrossed SB 2037

PROPOSED AMENDMENT

Alternative 1:

P. 2 line 16, insert after commenced, "or a power purchase agreement was signed for the project"

Alternative 2:

P. 2 line 17, remove "and" and insert "or"

SB 2037
3-17-15
#1

15.0241.02001
Title.

Prepared by the Legislative Council staff for
House Finance and Taxation Committee
March 17, 2015

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

Page 1, line 1, remove the second "and"

Page 1, line 2, after "57-38-01.8" insert ", and section 57-39.2-04.8"

Page 1, line 3, replace "and" with a comma

Page 1, line 4, after "devices" insert "and a sales tax exemption for machinery or equipment used to produce coal from a new mine"

Page 1, line 4, remove "and"

Page 1, line 5, after "date" insert "; and to provide for retroactive application"

Page 1, line 20, overstrike "for the duration of the initial purchased power"

Page 1, line 21, overstrike "agreement for the generation unit"

Page 2, line 5, remove "; for which a purchased power agreement is entered or renewed"

Page 2, remove line 6

Page 2, line 7, replace "under this chapter after December 31, 2014" with ", or which is twenty years or more from the date of first assessment"

Page 2, after line 24, insert:

"**SECTION 3. AMENDMENT.** Section 57-39.2-04.8 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.8. Sales tax exemption for machinery or equipment used to produce coal from a new mine.

1. Gross receipts from sales of machinery or equipment used to produce coal from a new mine located in this state are exempt from the tax imposed by this chapter. The exemption for each new mine under this section is limited to the first five million dollars of sales and use tax paid.

2. Purchase of replacement machinery or equipment is exempt if the capitalized investment in the new mine exceeds twenty million dollars using the United States generally accepted accounting principles. Purchases of repair or replacement parts for existing machinery or equipment are not exempt under this section.

3. The mine operator shall apply to the commissioner for a refund of sales and use taxes paid for which the exemption is claimed under this section. A refund claim may not exceed the limitation in subsection 1. If the machinery or equipment is used directly or indirectly to produce coal, the interest provisions of section 57-39.2-25 do not apply to purchases made before July 1, 2015. Application for the refund must be made at the time and in the manner directed by the commissioner and must include sufficient information to verify the correctness of the refund claim.

4. For purposes of this section:

   a. "Machinery or equipment" means machinery or equipment purchased after December 31, 2010, and used directly or indirectly to uncover, sever, crush, handle, or transport coal removed from the earth. "Machinery or equipment" includes draglines, excavators, rolling stock, conveyor equipment, reclamation equipment, ~~and~~ equipment to pulverize coal, water trucks, fuel trucks, low-boys, cranes, lubrication trucks, motor graders, service trucks, light plants, and dewatering equipment, but does not include rail spurs, office buildings, workshops, or any component not used directly to uncover, sever, crush, handle, or transport coal removed from the earth.

   b. "New mine" means an area permitted under chapter 38-14.1 by the public service commission after December 31, 2010.

   c. "Produce coal" means mining operations to uncover, sever, crush, handle, or transport coal from its natural location under the earth's surface to the mouth of the mine and all activities necessary and incidental to the reclamation of that location."

Page 3, after line 9, insert:

"**SECTION 7. RETROACTIVE APPLICATION.** Section 3 of this Act applies retroactively to purchases of machinery or equipment made after December 31, 2010."

Renumber accordingly