

# TAXATION

## CHAPTER 432

### HOUSE BILL NO. 1133

(Finance and Taxation Committee)  
(At the request of the Tax Commissioner)

AN ACT to create and enact a new section to chapter 57-01, a new subsection to section 57-01-02.1, a new subsection to section 57-38-30.5, and a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to minimum tax payments and refunds, offsets of overpaid local option taxes from future distributions, the effect of the expiration of the federal research tax credit on the state income tax credit for research and experimental expenditures, and exemptions from motor vehicle excise tax; to amend and reenact sections 5-03-05, 40-57.1-04.4, and 40-57.3-04, subsection 4 of section 57-02-27.2, subsection 2 of section 57-38-62, section 57-40.2-11, and subsection 1 of section 57-43.2-02 of the North Dakota Century Code, relating to authority of the tax commissioner to adopt rules, the tax lien of record clearance requirement for the new and expanding business income tax exemption, offsets of restaurant, restaurant and lodging, and city motor vehicle rental taxes from future distributions, removal of obsolete language from provisions relating to the valuation and assessment of agricultural lands, estimated income tax requirements for corporations, articles taxed in other states or political subdivisions of other states, and establishing energy per volume equivalent of liquefied natural gas for special fuels tax purposes; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 5-03-05 of the North Dakota Century Code is amended and reenacted as follows:

##### **5-03-05. Tax commissioner to adopt rules - Appeal.**

The state tax commissioner, pursuant to ~~under~~ chapter 28-32, shall adopt rules governing retailers, ~~wholesalers~~ licensees, direct shippers, and manufacturers necessary to carry out the provisions of this title and to ensure efficient collection of beer and liquor taxes. All decisions of the state tax commissioner are subject to court review.

**SECTION 2. AMENDMENT.** Section 40-57.1-04.4 of the North Dakota Century Code is amended and reenacted as follows:

##### **40-57.1-04.4. Tax lien of record clearance Clearance of tax obligations and tax liens of record.**

1. A project operator is not eligible for the income tax exemption under section 40-57.1-04 until a showing is made that the project operator has satisfied all state ~~and~~ local tax obligations and tax liens of record for delinquent property,

income, income withholding, sales, or use taxes owed to the state or a political subdivision.

2. A certificate from the tax commissioner to the state board of equalization satisfies the requirement of subsection 1.
3. If the project operator is a corporation or a ~~limited liability company~~ passthrough entity defined in section 57-38-01, any of its officers, governors, or managers charged with the responsibility for making either property, income, income withholding, sales, or use tax returns and payments are subject to the provisions of subsections 1 and 2 with respect to all state or local tax obligations and tax liens of record for delinquent property, income, income withholding, sales, or use taxes for which the individual is personally liable. If the project operator is a partnership, each general partner is subject to the provisions of subsections 1 and 2 with respect to all state or local tax obligations or tax liens of record for delinquent property, income, income withholding, sales, or use taxes for which the individual is personally liable.

**SECTION 3. AMENDMENT.** Section 40-57.3-04 of the North Dakota Century Code is amended and reenacted as follows:

**40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative expenses allowed - Rules.**

The taxes imposed under this chapter are due and payable at the same time the taxpayer is required to file a return under chapter 57-39.2 and must be collected and administered by the state tax commissioner in accordance with the relevant provisions of chapter 57-39.2. The taxpayer shall add the taxes imposed under this chapter to the sales, lease, or rental price and shall collect the tax from the consumer. A retailer may not advertise or hold out or state to the public, or to any consumer, directly or indirectly, that the taxes or any part of the taxes imposed under this chapter shall be assumed, absorbed, or refunded by the taxpayer. The amount the tax commissioner remits monthly to each city as taxes collected for that city's visitors' promotion fund and visitors' promotion capital construction fund must be reduced by three percent as an administrative fee necessary to defray the cost of collecting the taxes and the expenses incident to collection. The administrative fee must be deposited in the general fund in the state treasury. The tax commissioner shall adopt rules necessary for the administration of this chapter. The penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1 specifically apply to the filing of returns and administration of the taxes imposed under this chapter. The taxes imposed under this chapter are not taxes subject to chapter 57-39.4. The tax commissioner may offset future distributions of a tax imposed and collected under this chapter if there was a previous overpayment of the tax distributed to the city. The tax commissioner, after consulting the appropriate local political subdivision, may determine the offset amount and time period for recovery of the overpayment of the tax distribution.

**SECTION 4.** A new section to chapter 57-01 of the North Dakota Century Code is created and enacted as follows:

**Minimum refunds and collections.**

1. Except as otherwise provided in this title, a refund may not be made by the tax commissioner to any taxpayer unless the amount to be refunded, including interest, is at least five dollars. The tax commissioner shall transfer any amount that is not refunded to a taxpayer under this subsection to the state

treasurer for deposit in the same manner as other revenue relating to the tax being administered.

2. A remittance of tax need not be made and any assessment or collection of tax may not be made unless the amount is at least five dollars, including penalties and interest.

**SECTION 5.** A new subsection to section 57-01-02.1 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner may offset future distributions of a city's or county's tax imposed and collected under chapters 40-05.1 or 11-09.1 if there was a previous overpayment of the tax distributed to that city or county. The tax commissioner, after consulting the appropriate local political subdivision, may determine the offset amount and time period for recovery of the overpayment of the tax distribution.

**SECTION 6. AMENDMENT.** Subsection 4 of section 57-02-27.2 of the North Dakota Century Code is amended and reenacted as follows:

4. To find the "capitalized average annual gross return", the average annual gross return must be capitalized by a rate that is a ten-year average of the gross agribank mortgage rate of interest for North Dakota, ~~but the rate used for capitalization under this section may not be less than eight percent for taxable year 2009, seven and seven-tenths percent for taxable year 2010, and seven and four-tenths percent for taxable year 2011.~~ The ten-year average must be computed from the twelve years ending with the most recent year used under subdivision a of subsection 3, discarding the highest and lowest years, and the gross agribank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in section 20.2032A-4(e)(2).

**SECTION 7.** A new subsection to section 57-38-30.5 of the North Dakota Century Code is created and enacted as follows:

For any taxable year in which the federal research tax credit provisions of section 41 of the Internal Revenue Code are ineffective, the provisions of section 41 of the Internal Revenue Code [26 U.S.C. 41] referenced in this section have the same meaning and application as provided in section 41 of the Internal Revenue Code, as amended through the most recent taxable year in which the provisions were in effect.

**SECTION 8. AMENDMENT.** Subsection 2 of section 57-38-62 of the North Dakota Century Code is amended and reenacted as follows:

2. A corporation shall, at the time prescribed in this chapter, pay estimated tax for the current taxable year if the corporation's estimated tax can reasonably be expected to exceed five thousand dollars and if the corporation's net tax liability for the immediately preceding taxable year exceeded five thousand dollars. If payment of estimated tax is required, the corporation shall, at the time prescribed in this chapter, pay the lesser of the following:

- a. ~~Ninety~~An amount which, when added to the corporation's withholding, equals ninety percent of the corporation's current taxable year's net tax liability.
- b. ~~One~~An amount which, when added to the corporation's withholding, equals one hundred percent of the corporation's net tax liability for the immediately preceding taxable year.

**SECTION 9. AMENDMENT.** Section 57-40.2-11 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.2-11. ~~Articles taxed~~Tax paid on articles in other states or political subdivisions of other states.**

~~If tax has been paid on any article or tangible personal property has been subjected already to a tax by~~in any other state or political subdivision thereof in respect to its sale or use in an amount less than the tax imposed by this chapter, the provisions of this chapter apply, but at a rate measured by~~in an amount equal to the difference only between the rate fixed in~~tax imposed by this chapter and the rate by which the previous tax upon the sale or use was computed~~tax paid in the other state or political subdivision thereof. If the tax imposed~~paid in such~~the other state or political subdivision thereof~~ is the same or more, then no tax is due on such article. The provisions of this section apply only if such other state or political subdivision thereof allows a tax credit with respect to the retail sales and use taxes imposed by this state which is substantially similar in effect to the credit allowed by this section. The tax commissioner may require the taxpayer to provide written proof from the other state or political subdivision that the tax was legally due and paid.

<sup>195</sup> **SECTION 10.** A new subsection to section 57-40.3-04 of the North Dakota Century Code is created and enacted as follows:

Any damaged motor vehicle transferred to an insurance company in the settlement of an insurance claim.

**SECTION 11. AMENDMENT.** Subsection 1 of section 57-43.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in this chapter, an excise tax of twenty-three cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used in this state. For the purpose of determining the tax upon compressed natural gas and liquefied natural gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of compressed natural gas, and one and seven-tenths gallons [6.44 liters] of liquefied natural gas is equal to one gallon [3.79 liters] of other special fuel.

**SECTION 12. EFFECTIVE DATE.** Section 2 of this Act is effective for applications filed after June 30, 2015. Sections 7 and 8 of this Act are effective for taxable years beginning after December 31, 2014. Sections 9 and 10 of this Act are effective for taxable periods beginning after June 30, 2015. Sections 1, 3, 4, 5, and 11 of this Act become effective on July 1, 2015.

Approved April 9, 2015  
Filed April 9, 2015

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<sup>195</sup> Section 57-40.3-04 was also amended by section 1 of House Bill No. 1130, chapter 460, and section 1 of Senate Bill No. 2363, chapter 461.

## CHAPTER 433

### HOUSE BILL NO. 1059

(Legislative Management)

(Taxation Committee and Advisory Commission on Intergovernmental Relations)

AN ACT to create and enact section 57-02-01.1 of the North Dakota Century Code, relating to training and certification of assessors; to amend and reenact sections 11-10.1-01, 11-10.1-05, 18-10-07, and 57-01-05, subsection 1 of section 57-02-08.1, and sections 57-02-33, 57-06-17.3, 57-20-07.2, and 57-33.2-02 of the North Dakota Century Code, relating to training and certification of assessors, the homestead tax credit, rural fire protection district increased levy approval, a new transmission line property tax exemption, a state-paid property tax relief credit, and the transmission line mile tax rate; to provide for transition; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 11-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **11-10.1-01. County director of tax equalization.**

1. The board of county commissioners of each county in this state shall appoint a county director of tax equalization who must be qualified and experienced in property appraisals, familiar with assessment and equalization procedures and techniques, and who is the holder of holds a current certificate certification as a class I assessor issued by the state supervisor of assessments. The state supervisor of assessments shall confer with representatives of the county commissioners, city governing bodies, state township officers association, and personnel at North Dakota state university to establish or revise the minimum requirements for attaining the certificate. Any person who is denied such certificate may appeal to the state tax commissioner for a hearing under the provisions of chapter 28-32.
2. The board of county commissioners may, in its discretion, appoint a person county director of tax equalization on a probationary basis who does not hold a current certificate as provided for in subsection 1 certification as a class I assessor, if the board deems such person the individual qualified to act as county director of tax equalization by virtue of education, training, and experience, and willingness to obtain certification as a class I assessor. The appointment must be for a term of not more than threetwo years. Any person receiving a probationary appointment who does not obtain a certificate certification as a class I assessor within threetwo years from the appointment is not eligible for reappointment.
3. The county director of tax equalization shall serve at the pleasure of the board of county commissioners and may be employed on a full-time or part-time basis. Vacancies in the office of county director of tax equalization must be filled in the same manner as the original appointment.

**SECTION 2. AMENDMENT.** Section 11-10.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**11-10.1-05. Powers and duties of county director of tax equalization - Qualifications of assessors.**

1. The county director of tax equalization shall ~~have~~has the power, duty, and responsibility to call upon and confer with ~~township and city~~ assessors in the county and to ~~instruct~~assist them in the preparation and proper use of land maps and property record cards, ~~the preparation of assessment books, the changes in assessment laws and regulations~~rules, the determination of proper standards of value, ~~the use of proper classifications of property, determination of what property qualifies as exempt from property taxes,~~ and the authority to require attendance at meetings, ~~to the end that a promote~~ uniform assessment of all real property in the county ~~will prevail~~.
2. Any city with a population of under five thousand or township may, by resolution of its governing body, retain an assessor who is certified or eligible to be certified as a class II assessor who shall retain the powers, duties, and responsibilities of the office. Any city with a population of five thousand or greater may, by resolution of its governing body, retain an assessor who is certified or eligible to be certified as a class I assessor who shall retain the powers, duties, and responsibilities of the office. A person may not serve as an assessor for longer than twenty-four months before being certified by the state supervisor of assessments as having met the minimum requirements. The expenses of the city or township assessors must be paid by the city or township exercising this option.
- ~~2.3. On January 1, 1981, the~~The county director of tax equalization shall ~~succeed to all the powers and duties of assessors of townships, cities with a population of under five thousand, and unorganized districts~~supervise all individuals performing assessor services in the county and arrange for the assessment of property within the county, except that any city with a population of under five thousand or township may, at its option by resolution of its governing body, employ an assessor who shall retain the powers, duties, and responsibilities of the office. The resolution within the jurisdiction of a city or township in which the governing body to employ an ~~retains a certified class I or class II assessor continues in force until rescinded by the governing body. Notwithstanding any other provision of law to the contrary, the state supervisor of assessments shall confer with representatives of the county commissioners, city governing bodies, state township officers association, and personnel at North Dakota state university to establish minimum requirements for all city and township assessors. The standards shall reflect their limited jurisdiction and need not be equal to those minimum requirements set for county directors of tax equalization. Any courses of instruction included in those minimum requirements for assessors of townships or cities with a population under five thousand must be conducted by the county director of tax equalization who may cooperate with other county directors of tax equalization in holding joint classes. The county director of tax equalization may call upon the state supervisor of assessments for any necessary materials and assistance. No person may serve as an assessor of a township or a city with a population under five thousand for longer than twelve months before being certified by the state supervisor of assessments as having met the minimum requirements. No person may serve as an assessor of a city with a population of five thousand or more for longer than three years before being certified by the state supervisor of assessments as having met the minimum~~

requirements. The expenses and salaries of city and township assessors must be paid by the city or township exercising this option.

- ~~3-4.~~ Any city or township ~~which that~~ does not employ its own ~~retain a certified class I or class II~~ assessor shall utilize the certified assessor of the county in which the city or township is located. The county commission may require the city or township to reimburse the county for the expenses incurred in assessing the property of that city or township.
- ~~4-5.~~ Any assessment made by an assessor who is not currently certified as ~~qualified for that assessment jurisdiction~~ must be reviewed and approved by a ~~certified county director of tax equalization, or a certified city assessor of a city with a population of five thousand or more~~ assessor, prior to the township or city board of equalization annual meeting. The cost of the assessment review must be paid by the township or city having jurisdiction over the assessment at the same rate as paid to a special assessor in section 57-14-08.

<sup>196</sup> **SECTION 3. AMENDMENT.** Section 18-10-07 of the North Dakota Century Code as amended in section 1 of House Bill No. 1056, as approved by the sixty-fourth legislative assembly, is amended and reenacted as follows:

#### **18-10-07. Fire protection policy to be determined - Tax levy.**

The board of directors shall determine a general fire protection policy for the district and shall annually estimate the probable expense for carrying out the contemplated program. The annual estimate of probable expense may include an amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within the district for the maintenance of the fire protection district for the fiscal year as provided by law. The tax may not exceed a tax rate of five mills per dollar of the taxable valuation of property in the district except upon resolution adopted by the board of directors and approval by a majority of the qualified electors voting on the question at an annual or special meeting of electors called by the board of directors, the levy may be made in an amount not exceeding thirteen mills. If an election to approve or reauthorize an excess levy will be held at an annual or special meeting of electors of the district called by the board of directors, notice of the meeting and the proposed excess levy election must be provided by at least one publication in the official newspaper of each county in which the district is located at least seven days, but not more than fourteen days, before the date of the public meeting. The published notice must include the amount of the proposed tax rate increase in mills and the duration for which elector approval of the increase is sought and must include the location where, and hours during which, ballots may be cast.

Votes to approve or disapprove the levy increase must be cast on the date of the meeting. The polling place must remain open for at least six hours on the date of the meeting. The secretary-treasurer of the district shall prepare and distribute to qualified electors at the polling place paper ballots to conduct the election on the question of increased levy authority. Three election judges to receive and count the ballots, who are qualified electors of the district but not members of the board, must be selected at

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<sup>196</sup> Section 18-10-07 was also amended by section 1 of House Bill No. 1056, chapter 166, section 21 of Senate Bill No. 2144, chapter 439, and section 12 of Senate Bill No. 2217, chapter 92.

least seven days before the meeting by approval of a majority of the members of the board. A marked ballot must be delivered to one of the judges, folded to conceal its contents, the judge shall deposit it in the ballot box, and another judge shall enter the name of the elector who cast the ballot in the poll book. When the election is closed, the judges shall count the ballots and announce the result. Results of the election must be certified by the secretary-treasurer of the district and each of the election judges to the tax commissioner and to the county auditor of each county in which the district is located within ten days after the election. The certificate must include a statement of the question as it appeared on the ballot, together with the total number of votes cast in favor, and the number of votes cast against, authorizing the excess levy.

After July 31, 2015, approval or reauthorization by electors of increased levy authority under this section may not be effective for more than ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, whichever expires later. Additional levy authority authorized by the board of directors after petition of electors before August 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding five ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, whichever expires later. The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars.
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank, except amounts to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles may be invested to earn the maximum return available.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year and including any amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles.

**SECTION 4. AMENDMENT.** Section 57-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**57-01-05. State supervisor of assessments.**

The state tax commissioner shall appoint a state supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. The state supervisor of assessments serves at the pleasure of the state tax commissioner and office space must be furnished to the state supervisor of assessments by the commissioner.

The state supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. The state supervisor of assessments shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a promote uniform assessment of all real and personal property in this state will be attained.
2. The state supervisor of assessments shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. The state supervisor of assessments may require the attendance of groups of assessors at meetings called by the state supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.
4. The state supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of to properly advise the various assessors and directors of tax equalization in the state and for the purpose of recommending to recommend to the tax commissioner changes to be made by the state board of equalization in the performance of their equalization powers and duties prescribed for it by section 57-13-04. In any sales, market, and productivity study made according to section 57-01-06, the county directors of tax equalization or city assessors, as the case may be, are responsible for compiling shall compile a record of sales of property made in the county or city, and in conjunction with the board of county commissioners shall analyze the sales for the purpose of advising the state supervisor of assessments as to the value of using the sales in any such study. The compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or that person's assistants shall make appraisals of properties in order to determine the market value.
5. The state supervisor of assessments shall cooperate with North Dakota state university in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. The state supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. Whenever an investigation by the state supervisor of assessments shows there is probable cause to believe the holder of a certificate issued by the state supervisor of assessments under chapter 11-10-1 section 57-02-01.1 has failed to comply with any of the provisions of this title law pertaining to

assessments, or any rules ~~prescribed~~adopted by the tax commissioner, the state supervisor of assessments may petition the tax commissioner for a hearing to show cause why the certificate should be suspended or revoked.

- a. The state supervisor of assessments must provide the certificate holder at least ten days' notice of the time and place of the hearing.
  - b. If cause to suspend or revoke the certificate is shown, the tax commissioner may suspend or revoke the certificate.
  - c. The tax commissioner may restore a certificate after suspension or revocation.
  - d. An individual whose certificate has been suspended or revoked in the manner provided in this section may appeal that determination to the district court as provided in section 28-32-42.
8. If a certificate holder's certificate is suspended or revoked under this section, the governing body of the county in which the certificate holder performs duties shall ensure the continued administration of assessments within that county by a person authorized under section 11-10.1-05 and be responsible for any expenses associated with the fulfillment of this responsibility. Expenses incurred by a county to fulfill the duties of a township or city assessment official whose certificate has been suspended or revoked must be charged to the political subdivision in which the certificate holder is employed and must either be paid directly to the county by the political subdivision or deducted by the county treasurer from funds coming into the treasurer's control which are apportionable to the subdivision.
9. The state supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner directs.
10. The tax commissioner may ~~prescribe~~adopt rules under chapter 28-32 necessary for the ~~detailed and efficient~~ administration of this section.

**SECTION 5.** Section 57-02-01.1 of the North Dakota Century Code is created and enacted as follows:

**57-02-01.1. Certification of assessors.**

The state supervisor of assessments shall certify assessors as provided in this section.

1. To be certified as a class I assessor, an individual must:
  - a. Have a high school diploma or its equivalent.
  - b. Successfully complete one hundred eighty hours of assessment and appraisal instruction approved by the state supervisor of assessments. The number of hours of instruction determined necessary by the state supervisor of assessments for each of the following topics is required:
    - (1) Tax administration.
    - (2) Principles and theory of value.

- (3) Residential property appraisal.
  - (4) Commercial property appraisal.
  - (5) Agricultural property valuation.
2. To be certified as a class II assessor, an individual must:
  - a. Have a high school diploma or its equivalent.
  - b. Successfully complete eighty hours of assessment and appraisal instruction approved by the state supervisor of assessments. The number of hours of instruction determined necessary by the state supervisor of assessments for each of the following topics is required:
    - (1) Tax administration.
    - (2) Principles and theory of value.
    - (3) Residential property appraisal.
    - (4) Commercial property appraisal.
    - (5) Agricultural property valuation.
3. The state supervisor of assessments may allow credit against required instruction in any topic under subdivision b of subsection 1 and subdivision b of subsection 2 upon receipt of documented training in this state or another state in the topic.
4. An individual appointed as an assessor must hold the required assessor certificate at the time of appointment or obtain that certificate within two years after initial appointment or by July 31, 2017, whichever is later. An assessor who does not obtain the required certificate within two years after initial appointment or by July 31, 2017, whichever is later, or who does not maintain that certificate in good standing is not eligible for reappointment.
5. An assessor certificate is valid for a term of two years from the first day of the calendar year for which it becomes effective.
6. A class I assessor certificate may be renewed if the holder has completed twenty hours of approved classroom instruction or seminars during the term of the certificate. For purposes of this subsection, an assessor certificate holder is entitled to one and one-half hours of credit for each hour spent as an instructor of approved classroom instruction or seminars during the term of the certificate.
7. A class II assessor certificate may be renewed if the holder has completed ten hours of approved classroom instruction or seminars during the term of the certificate.
8. The state supervisor of assessments shall notify the holder of an assessor certificate of the time for application for renewal of the individual's certificate. The state supervisor of assessments shall notify the governing body of the

taxing district employing an assessor whose certificate is not renewed or whose certificate is suspended or revoked.

9. Any person who is denied a certificate under this section may appeal to the tax commissioner for a hearing under chapter 28-32.
10. The tax commissioner may adopt rules under chapter 28-32 for the administration of this section.

**SECTION 6. AMENDMENT.** Subsection 1 of section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.
- b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.
- c. The exemption must be determined according to the following schedule:
  - (1) If the person's income is not in excess of twenty-two thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~four~~five thousand ~~five~~six hundred ~~twenty~~five dollars of taxable valuation.
  - (2) If the person's income is in excess of twenty-two thousand dollars and not in excess of twenty-six thousand dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~three~~four thousand ~~six~~five hundred dollars of taxable valuation.
  - (3) If the person's income is in excess of twenty-six thousand dollars and not in excess of thirty thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~two~~three thousand ~~seven~~three hundred ~~seventy~~five dollars of taxable valuation.
  - (4) If the person's income is in excess of thirty thousand dollars and not in excess of thirty-four thousand dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~one~~two thousand ~~eight~~two hundred ~~fifty~~ dollars of taxable valuation.
  - (5) If the person's income is in excess of thirty-four thousand dollars and not in excess of thirty-eight thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~nine~~one thousand ~~one~~ hundred ~~twenty~~five dollars of taxable valuation.

- (6) If the person's income is in excess of thirty-eight thousand dollars and not in excess of forty-two thousand dollars, a reduction of ten percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~four~~five hundred ~~fiftysixty-three~~ dollars of taxable valuation.
- d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are co-owners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.
  - e. This subsection does not reduce the liability of any person for special assessments levied upon any property.
  - f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility.
  - g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person exceeds five hundred thousand dollars, including the value of any assets divested within the last three years.
  - h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.
  - i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.

**SECTION 7. AMENDMENT.** Section 57-02-33 of the North Dakota Century Code is amended and reenacted as follows:

**57-02-33. Assessor districtsservices for unorganized territory.**

~~All counties or parts of counties in this state not organized into civil townships~~Any area not within an organized township or city must be divided into assessor districts, which must be designated by the board of county commissioners~~assessed by a certified assessor under the supervision and direction of the county director of tax equalization. The board of county commissioners shall appoint the district assessors to a four-year term of office, the first term commencing on January 1, 1974. In case of vacancy in the office of district assessor in any of such districts, such vacancies must be filled by the board of county commissioners for the balance of the term. In making the appointment of a district assessor, the~~assessor under the supervision and direction of the county director of tax equalization. The board of county commissioners shall appoint the district assessors to a four-year term of office, the first term commencing on January 1, 1974. In case of vacancy in the office of district assessor in any of such districts, such vacancies must be filled by the board of county commissioners for the balance of the term. In making the appointment of a district assessor, the~~The county director of tax equalization for such county is eligible for appointment to a district assessor position~~may serve as an assessor of property under this section. Every individual performing assessor of territory not organized into civil townships shall receive asservices under this section is entitled to compensation for services a sum and mileage and travel expenses determined by the board of county commissioners for the time actually and necessarily employed in making and completing the assessment of the district property. The compensation and expenses must be paid from the treasury of the county in which such districtthe assessed property is located only upon submission of an itemized statement setting forth the actual time spent in the work of the assessor and mileage traveled, approved by the board of county commissioners. In addition, the district assessor must be paid such mileage as is required to perform the duties of the office. The board of county commissioners has the authority to

appoint a deputy assessor if needed, to be compensated in the same manner as the district assessor.

**SECTION 8. AMENDMENT.** Section 57-06-17.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-17.3. New transmission line property tax exemption.**

A transmission line of two hundred thirty kilovolts or larger, and its associated transmission substations, which is not taxable under chapter 57-33.2 and is initially placed in service on or after October 1, 2002, is subject to a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction of a mile. A transmission line subject to taxation under this section is exempt from property taxes for the first taxable year after the line is initially placed in service, and the taxable valuation as otherwise determined by law on the transmission line and its associated transmission substation taxes under this section must be reduced by:

1. Seventy-five percent for the second taxable year of operation of the transmission line.
2. Fifty percent for the third taxable year of operation of the transmission line.
3. Twenty-five percent for the fourth taxable year of operation of the transmission line.

After the fourth taxable year of operation of the transmission line, the transmission line and its associated transmission substations are exempt from property taxes and are subject to a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction thereof of the line located in this state. The per mile tax imposed by this section applies to the transmission line and its associated transmission substations and is subject to allocation among counties in the proportion that the miles of that transmission line in the county bears to the miles of that transmission line in the state.

For purposes of this section, "initially placed in service" includes both new construction and substantial expansion of the carrying capacity of a preexisting line, and "substantial expansion" means an increase in carrying capacity of fifty percent or more.

<sup>197</sup> **SECTION 9. AMENDMENT.** Section 57-20-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**~~57-20-07.2. (Effective for the first two taxable years beginning after December 31, 2012) State-paid property tax relief credit.~~**

1. The owner of taxable property is entitled to a credit against property taxes levied against the total amount of property or mobile home taxes in dollars levied against the taxable value of the property. The credit is equal to twelve percent of property or mobile home taxes levied in dollars against that property.
2. The owner, operator, or lessee of railroad property assessed by the state board of equalization under chapter 57-05 or public utility operative property assessed by the state board of equalization under chapter 57-06 is entitled to a credit against property taxes levied within each county against that property

<sup>197</sup> Section 57-20-07.2 was also amended by section 5 of Senate Bill No. 2005, chapter 39.

in the amount provided in subsection 1 against property taxes levied in dollars against that property in that county.

3. The owner, operator, or lessee of transmission lines assessed by the state board of equalization under section 57-06-17.3 is entitled to a credit against taxes per mile in the amount provided in subsection 1. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the electric generation, transmission, and distribution tax fund. The credit for each transmission company must be allocated and distributed to counties in the same manner as the tax collected from that company is allocated.
4. The owner, operator, or lessee of electric transmission or distribution property assessed by the state board of equalization under section 57-33.2-02 or 57-33.2-03 is entitled to a credit against the transmission or distribution tax in the amount provided in subsection 1. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the electric generation, transmission, and distribution tax fund. The credit for each transmission or distribution company must be allocated and distributed to counties in the same manner as the tax collected from that company is allocated.
5. The owner, operator, or lessee of operative property of an air carrier transportation company assessed and taxed under chapter 57-32 is entitled to a credit in the amount provided in subsection 1 against property taxes in dollars levied against that property. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the air transportation fund. The credit for each air transportation company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings, in the same manner as the tax collected from that company is allocated.
- 4-6. The tax commissioner shall estimate the amount necessary to provide each county advance payment of seventy-five percent of the amount the county and the taxing districts in the county will ultimately receive for a taxable year under this section and certify the estimated amounts to the state treasurer by March fifteenth for transfer by April first to the county treasurer and distribution to the county and taxing districts in the county as provided in subsection 57.
- 5-7. The tax commissioner shall determine the total amount of credits under this section for each county from the abstract of the tax list filed by the county auditor under section 57-20-04, as audited and corrected by the tax commissioner. The tax commissioner shall certify to the state treasurer for payment, by June first following receipt of the abstract of the tax list, the amount determined for each county under this subsection. No penalty or interest applies to any state payment under this section, regardless of when the payment is made. The tax commissioner shall reduce the June certification of payments to reflect the April estimated payments previously made to counties under subsection 46.
- 6-8. Upon receipt of the payment from the state treasurer under subsections 46 and 57, the county treasurer shall apportion and distribute it to the county and the taxing districts in the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

- ~~7-9.~~ After payments to counties under subsection ~~57~~ have been made, the tax commissioner shall certify to the state treasurer as necessary any supplemental amounts payable to counties or the air transportation fund or any amounts that must be returned by counties or returned from the air transportation fund for deposit in the state general fund to correct any errors in payments or reflect any abatement or compromise of taxes, court-ordered tax reduction or increase, or levy of taxes against omitted property. The county auditor shall provide any supplemental information requested by the tax commissioner after submission of the abstract of the tax list. The county treasurer shall apply to the tax commissioner for any supplemental payments to which the county treasurer believes the county is entitled.
- ~~8-10.~~ Notwithstanding any other provision of law, for any property other than mobile homes, the property tax credit under this section does not apply to any property subject to payments or taxes that are stated by law to be in lieu of personal or real property taxes.

**SECTION 10. AMENDMENT.** Section 57-33.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-33.2-02. Transmission line mile tax - Exemption.**

Transmission lines are subject to annual taxes per mile [1.61 kilometers] or fraction of a mile based on their nominal operating voltages on January first of each year, as follows:

1. For transmission lines that operate at a nominal operating voltage of less than fifty kilovolts, a tax of fifty dollars.
2. For transmission lines that operate at a nominal operating voltage of fifty kilovolts or more, but less than one hundred kilovolts, a tax of one hundred dollars.
3. For transmission lines that operate at a nominal operating voltage of one hundred kilovolts or more, but less than two hundred kilovolts, a tax of two hundred dollars.
4. For transmission lines that operate at a nominal operating voltage of two hundred kilovolts or more, but less than three hundred kilovolts, a tax of four hundred dollars.
5. For transmission lines that operate at a nominal operating voltage of three hundred kilovolts or more, a tax of six hundred dollars.
6. A transmission line initially placed in service after January 1, 2009, and before December 31, 2013, 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.

- d. After the fourth taxable year of operation, such transmission lines are subject to the standard transmission line taxes under this section.
7. A transmission line of two hundred thirty kilovolts or larger initially placed in service after January 1, 2009, is subject to a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction of a mile. A transmission line subject to tax under this subsection is exempt for the first taxable year after the line is initially placed in service, and transmission line taxes under this subsection 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.
    - d. After the fourth taxable year of taxable operation, such transmission lines are subject to the standard transmission line taxes under this subsection.
  8. For purposes of this section, "initially placed in service" includes both new construction and substantial expansion of the carrying capacity of a preexisting line, and "substantial expansion" means an increase in carrying capacity of fifty percent or more.

**SECTION 11. TRANSITION.** The state supervisor of assessments shall recertify assessors at the end of the term of any certification that expires after July 31, 2017, upon application and submission by the certificate holder of evidence of completion of required educational sessions under North Dakota Administrative Code chapter 81-02.1-02 or under section 57-02-01.1 or rules adopted to administer that section, subject to the following additional requirements:

1. The holder of a township assessor or class II city assessor certification may be recertified as a certified class II assessor upon completion of the instruction required for class II assessor certification, with credit allowed by the state supervisor of assessments for any instruction previously received by the applicant for certification as a township assessor.
2. The holder of a class I city assessor or county director of tax equalization certification may be recertified as a certified class I assessor upon submission of evidence of completion of required education sessions during the term of the class I city assessor or county director of tax equalization certification.

**SECTION 12. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2014, except section 6, which is effective for taxable years beginning after December 31, 2015.

Approved April 29, 2015  
Filed April 30, 2015

## CHAPTER 434

### SENATE BILL NO. 2115

(Finance and Taxation Committee)  
(At the request of the Tax Commissioner)

AN ACT to amend and reenact section 57-01-11, subsection 5 of section 57-39.2-12.1, and subsection 5 of section 57-40.2-07.1 of the North Dakota Century Code, relating to the assessment of taxes and compensation allowance to retailers for administrative expenses.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-01-11 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-01-11. Assessment of or determination of additional tax liability by tax commissioner - Hearing - Appeal.**

1. In any case in which the provisions of any tax law are administered by the tax commissioner and the tax is collected by the tax commissioner or the amount thereof is certified by the tax commissioner to any other official for collection and the law providing for such tax authorizes the tax commissioner to assess or determine a tax liability that is in addition to that reported by the taxpayer, the taxpayer has a right to a hearing before the tax commissioner on such assessment or determination and has a right to appeal to the courts from the decision of the tax commissioner on such hearing and all of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the courts from the decision of the tax commissioner in such a proceeding, are applicable to and govern the notice of hearing, the hearing, and the right of appeal from the tax commissioner's decision thereon. Notwithstanding the provisions of any other law heretofore or hereafter enacted, it is the intent and purpose of this section to provide that in those circumstances hereinbefore described every taxpayer shall have both the right to a hearing before the tax commissioner and the right to appeal to the courts from the tax commissioner's decision on such hearing in accordance with the provisions of chapter 28-32 unless the provisions of any such law expressly provide that the decision of the tax commissioner is final or expressly provide that the provisions of chapter 28-32 are not applicable.
2. If a tax administered by the tax commissioner is assessed under any provision of law that expressly provides the assessed tax is final and nonreviewable and the assessed tax has not been paid, the tax commissioner may accept for legal settlement purposes, a reduced amount of tax if information is received from the taxpayer that the tax as assessed exceeds the actual amount due. If the tax commissioner receives information that the tax was under-assessed, the additional amount of tax that is determined to be due may be assessed by the tax commissioner, notwithstanding the fact that the assessment made by the tax commissioner is final and nonreviewable.

**SECTION 2. AMENDMENT.** Subsection 5 of section 57-39.2-12.1 of the North Dakota Century Code is amended and reenacted as follows:

5. Compensation may not be deducted and retained under this section unless the tax due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or chapter 57-39.4. If a retailer fails to timely file a return or pay the tax due, the tax commissioner may, for good cause shown, allow the retailer to deduct and retain the compensation under this section.

**SECTION 3. AMENDMENT.** Subsection 5 of section 57-40.2-07.1 of the North Dakota Century Code is amended and reenacted as follows:

5. Compensation may not be deducted and retained under this section unless the tax due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or chapter 57-39.4. If a retailer fails to timely file a return or pay the tax due, the tax commissioner may, for good cause shown, allow the retailer to deduct and retain the compensation under this section.

Approved March 12, 2015  
Filed March 12, 2015

## CHAPTER 435

### HOUSE BILL NO. 1082

(Representative Keiser)

AN ACT to amend and reenact subsection 38 of section 57-02-08 and subsection 1 of 57-02-26 of the North Dakota Century Code, relating to application of property taxes to the value or the leasehold interest in state lands leased for pasture or grazing purposes; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 38 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

38. ~~The leasehold interest in property~~Property owned by the state which has been leased for pasture or grazing purposes or upon which payments in lieu of property taxes are made by the state.

**SECTION 2. AMENDMENT.** Subsection 1 of section 57-02-26 of the North Dakota Century Code is amended and reenacted as follows:

1. Property held under a lease for a term of years, or under a contract for the purchase thereof, belonging to the United States or to the state or a political subdivision thereof, except such lands ~~as have been leased for pasture or grazing purposes or~~ upon which the state makes payments in lieu of property taxes, or to any religious, scientific, or benevolent society or institution, whether incorporated or unincorporated, or to any railroad corporation whose property is not taxed in the same manner as other property, must be considered, for all purposes of taxation, as the property of the person so holding the same.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2014.

Approved April 8, 2015  
Filed April 8, 2015

## CHAPTER 436

### SENATE BILL NO. 2113

(Finance and Taxation Committee)  
(At the request of the Tax Commissioner)

AN ACT to amend and reenact section 57-02-08.8 of the North Dakota Century Code, relating to the property tax credit for disabled veterans and extension of the disabled veterans' property tax credit to the disabled veteran's surviving spouse; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-02-08.8 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-02-08.8. Property tax credit for disabled veterans - Certification - Distribution.**

1. A disabled veteran of the United States armed forces with an armed forces service-connected disability of fifty percent or greater or a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, who was discharged under honorable conditions or who has been retired from the armed forces of the United States, or the unremarried surviving spouse if the disabled veteran is deceased, is eligible for a credit applied against the first six thousand seven hundred fifty dollars of taxable valuation of the fixtures, buildings, and improvements of the homestead owned and occupied by the disabled veteran or unremarried surviving spouse equal to the percentage of the disabled veteran's disability compensation rating for service-connected disabilities as certified by the department of veterans' affairs for the purpose of applying for a property tax exemption credit. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation receives a one hundred percent exemption credit as described in this subsection.
2. If two disabled veterans are married to each other and living together, their combined credits may not exceed one hundred percent of six thousand seven hundred fifty dollars of taxable valuation of the fixtures, buildings, and improvements of the homestead. If a disabled veteran co-owns the homestead property with someone other than the disabled veteran's spouse, the credit is limited to that disabled veteran's interest in the fixtures, buildings, and improvements of the homestead, to a maximum amount calculated by multiplying six thousand seven hundred fifty dollars of taxable valuation by the disabled veteran's percentage of interest in the homestead property and multiplying the result by the applicant's certified disability percentage.
3. A disabled veteran or unremarried surviving spouse claiming a credit under this section for the first time shall file with the county auditor an affidavit showing the facts herein required, a description of the property, and a certificate from the United States department of veterans' affairs, or its

successor, certifying to the amount of the disability. The affidavit and certificate must be open for public inspection. A person shall thereafter furnish to the assessor or other assessment officials, when requested to do so, any information which is believed will support the claim for credit for any subsequent year.

4. For purposes of this section, and except as otherwise provided in this section, "homestead" has the meaning provided in section 47-18-01 except that it also applies to a person who otherwise qualifies under the provisions of this section whether the person is the head of the family.
5. This section does not reduce the liability of a person for special assessments levied upon property.
6. A credit under this section terminates at the end of the taxable year of the death of the applicant.
7. The board of county commissioners may cancel the portion of unpaid taxes that represents the credit calculated in accordance with this section for any year in which the qualifying owner has held title to the homestead property. Cancellation of taxes for any year before enactment of this section must be based on the law that was in effect for that tax year.
- ~~7-8.~~ Before the first of March of each year, the county auditor of each county shall certify to the tax commissioner on forms prescribed by the tax commissioner the name and address of each person for whom the property tax credit for homesteads of disabled veterans was allowed for the preceding year, the amount of credit allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in the taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.
- ~~8-9.~~ On or before the first of June of each year, the tax commissioner shall audit the certifications, make the required corrections, and certify to the state treasurer for payment to each county the sum of the amounts computed by multiplying the credit allowed for each homestead of a disabled veteran in the county by the total of the tax mill rates, exclusive of any state mill rates that were applied to other real estate in the taxing districts for the preceding year.
- ~~9-10.~~ The county treasurer upon receipt of the payment from the state treasurer shall apportion and distribute the payment without delay to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.
- ~~10-11.~~ On or before the first day of June of each year, the tax commissioner shall certify to the state treasurer the amount computed by multiplying the property tax credit allowed under this section for homesteads of disabled veterans in the state for the preceding year by one mill for deposit in the state medical center fund.
- ~~11-12.~~ Supplemental certifications by the county auditor and by the tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make such corrections as may be necessary because of errors or because of approval of an application for

abatement filed by a person because the credit provided for the homestead of a disabled veteran was not allowed in whole or in part.

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

Approved April 20, 2015  
Filed April 20, 2015

## CHAPTER 437

### HOUSE BILL NO. 1057

(Legislative Management)  
(Taxation Committee)

AN ACT to create and enact section 57-02-53 of the North Dakota Century Code, relating to notice to a property owner of an assessment increase; to amend and reenact sections 57-09-04, 57-11-03, and 57-12-06 and subsection 2 of section 57-15-02.1 of the North Dakota Century Code, relating to notice to a property owner of an assessment increase; to repeal section 57-12-09 of the North Dakota Century Code, relating to notice to a property owner of an assessment increase; to provide for a legislative management study; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Section 57-02-53 of the North Dakota Century Code is created and enacted as follows:

**57-02-53. Assessment increase notice to property owner.**

1.
  - a. When any assessor has increased the true and full valuation of any lot or tract of land and improvements to an amount that is an increase of three thousand dollars or more and ten percent or more from the amount of the previous year's assessment, the assessor shall deliver written notice of the amount of increase and the amount of the previous year's assessment to the property owner at the expense of the assessment district for which the assessor is employed. Delivery of written notice to a property owner under this subdivision must be completed at least fifteen days before the meeting of the local board of equalization.
  - b. If written notice by the assessor was not required under subdivision a and action by the township, city, or county board of equalization or order of the state board of equalization has increased the true and full valuation of any lot or tract of land and improvements to an amount that results in a cumulative increase of three thousand dollars or more and ten percent or more from the amount of the previous year's assessment, written notice of the amount of increase and the amount of the previous year's assessment must be delivered to the property owner. The written notice under this subdivision must be mailed or delivered at the expense of the township, city, or county that made the assessment increase or at the expense of the township, city, or county that was ordered to make the increase by the state board of equalization. Delivery of written notice to a property owner under this subdivision must be completed within fifteen days after the meeting of the township, city, or county board of equalization that made or ordered the assessment increase and within thirty days after the meeting of the state board of equalization, if the state board of equalization ordered the assessment increase.
  - c. The tax commissioner shall prescribe suitable forms for written notices under this subsection. The written notice under subdivision a must show the true and full value of the property, including improvements, that the

- assessor determined for the current year and for the previous year and must also show the date prescribed by law for the meeting of the local board of equalization of the assessment district in which the property is located and the meeting date of the county board of equalization.
- d. Delivery of written notice under this section must be by personal delivery to the property owner, mail addressed to the property owner at the property owner's last-known address, or electronic mail to the property owner directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice.
  2. The form of notice prescribed by the tax commissioner must require a statement to inform the taxpayer that an assessment increase does not mean property taxes on the parcel will increase. The notice must state that each taxing district must provide mailed notice of public hearing to the property owner if a greater property tax levy is being proposed than a zero increase number of mills. The notice may not contain an estimate of a tax increase resulting from the assessment increase.
  3. The assessor shall provide an electronic or printed list including the name and address of the addressee of each assessment increase notice required under subdivision a of subsection 1 and the officer responsible for providing notice under subdivision b of subsection 1 shall provide an electronic or printed list including the name and address of the addressee of each assessment increase notice required under subdivision b of subsection 1 to each city, county, school district, or city park district in which the subject property is located, but a copy does not have to be provided to any such taxing district that levied a property tax levy of less than one hundred thousand dollars for the prior year.

**SECTION 2. AMENDMENT.** Section 57-09-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-09-04. Duties of board - Limitation on increase - Notice.**

The township board of equalization shall ascertain whether all taxable property in its township has been properly placed upon the assessment list and duly valued by the assessor. In case any real property has been omitted by inadvertence or otherwise, the board shall place the same upon the list with the true value thereof. The board shall proceed to correct the assessment so that each tract or lot of real property is entered on the assessment list at the true value thereof. The assessment of the property of any person may not be raised until such person has been notified of the intent of the board to raise the same. The board may not increase the valuation returned by the assessor to an amount that results in a cumulative increase of more than fifteen percent from the amount of the previous year's assessment without giving the owner or the owner's agent reasonable notice and opportunity to be heard regarding the intention of the board to increase it. All complaints and grievances of residents of the township must be heard and decided by the board and it may make corrections as appear to be just. Complaints by nonresidents with reference to the assessment of any real property and complaints by others with reference to any assessment made after the meeting of the township board of equalization must be heard and determined by the county board of equalization. The board must comply with any requirement for notice of an assessment increase under section 57-02-53.

**SECTION 3. AMENDMENT.** Section 57-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-11-03. Duties of board - Limitation on increase - Notice.**

At its meeting, the board of equalization shall proceed to equalize and correct the assessment roll. It may change the valuation and assessment of any real property upon the roll by increasing or diminishing the assessed true and full valuation thereof as is reasonable and just to render taxation uniform, except that the board may not increase the valuation of any property returned by the assessor may not be increased to an amount that results in a cumulative increase of more than twenty-five fifteen percent from the amount of the previous year's assessment without first giving the owner or the owner's agent reasonable notice and opportunity to be heard regarding the intention of the board to increase it. The notice must state the time when the board will be in session to act upon the matter and must be given by personal notice served upon the owner or the owner's agent or by leaving a copy at the owner's last known place of residence. All complaints and grievances of residents of the city must be heard and decided by the board and it may make corrections as appear to be just. Complaints by nonresidents with reference to the assessment of any real property and complaints by others with reference to any assessment made after the meeting of the city board of equalization must be heard and determined by the county board of equalization. The board shall comply with any requirement for notice of an assessment increase under section 57-02-53.

**SECTION 4. AMENDMENT.** Section 57-12-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-12-06. Requirements to be followed in equalizing County board of equalization - Equalizing between assessment districts and in equalizing between property owners between properties - Limitation on increase - Notice.**

1. The rules prescribed in section 57-12-05 apply when the board of county commissioners is equalizing assessments between the several assessment and taxing districts in the county provided that in such case, except as otherwise provided in subsection 2, the board may raise or lower the valuation of classes of property only so as to equalize the assessments as between districts. If the board orders an increase under this subsection, the board must comply with any requirement for notice of an assessment increase under section 57-02-53.
2. Notwithstanding any other provision of this section:
  - a. The county board of equalization after notice to the local board of equalization may reduce the assessment on any separate piece or parcel of real estate even though such property was assessed in a city or township having a local board of equalization; provided, that the The county board of equalization does not have authority to may not reduce any such assessment unless the owner of the property or the person to whom it was assessed first appeals to the county board of equalization, either by appearing personally or by a representative before the board or by mail or other communication to the board, in which the owner's reasons for asking for the reduction are made known to the board. The proceedings of the board shall show the manner in which the appeal was made known to the board and the reasons for granting any reduction in any such assessment.

- b. The county board of equalization after notice to the local board of equalization may increase the assessment on any separate piece or parcel of real property even though such property was assessed in a city or township having a local board of equalization; ~~provided, that the~~ The county board of equalization does may not have authority to increase any such assessment unless it first gives the valuation returned by the assessor or the local board of equalization to an amount that results in a cumulative increase of more than fifteen percent from the amount of the previous year's assessment without giving the owner or the owner's agent notice by mail to the owner of the property that such person may appear before the board on the date designated in the notice, which date must be at least five days after the mailing of the notice. The county auditor as clerk of the board shall send such notice to the person or persons concerned. If the board orders an increase under this subdivision, the board must comply with any requirement for notice of an assessment increase under section 57-02-53.
- c. If the county board of equalization during the course of its equalization sessions determines that any property of any person has been listed and assessed in the wrong classification, it shall direct the county auditor to correct the listing so as to include such assessment in the correct classification.
3. The owner of any separate piece or parcel of real estate that has been assessed may appeal the assessment thereon to the state board of equalization as provided in section 57-13-04; provided, however, that such owner has first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed. Notwithstanding this requirement, an owner of property which has been subjected to a new assessment authorized under section 57-14-08 may appeal the new assessment to the state board of equalization in the manner provided for in section 57-14-08.

**SECTION 5. AMENDMENT.** Subsection 2 of section 57-15-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. At least seven days before a public hearing on its property tax levy under this section, the governing body shall cause notice of the information required under subsection 1 to be mailed to each property owner who received notice of an assessment increase for the taxable year under section ~~57-12-09~~57-02-53.

**SECTION 6. REPEAL.** Section 57-12-09 of the North Dakota Century Code is repealed.

**SECTION 7. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX INFORMATION.** During the 2015-16 interim, the legislative management shall consider studying delivery and contents of property tax information to taxpayers when the property assessment has been determined by the assessor, when the budget hearing will be held for each taxing district in which the property is located, and when the property tax statement for the taxable year is delivered. The study must consider the feasibility and desirability of changes to the timing of events scheduled by law for the taxable year and must consider improvements to the transparency, administration, and understanding of the property tax system. 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 8. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2015.

Approved April 22, 2015  
Filed April 22, 2015

## CHAPTER 438

### SENATE BILL NO. 2037

(Legislative Management)  
(Energy Development and Transmission Committee)

AN ACT to amend and reenact section 57-06-14.1, subsection 1 of section 57-38-01.8, and section 57-39.2-04.8 of the North Dakota Century Code, relating to taxation of wind turbine electric generation units, an income tax credit for installation of geothermal, solar, wind, or biomass energy devices, and a sales tax exemption for machinery or equipment used to produce coal from a new mine; to provide for a legislative management study; to provide for a report; to provide an effective date; and to provide for retroactive application.

#### 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:
  - 4- 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, or which is twenty years or more from the date of first assessment, 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.

<sup>198</sup> **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. 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

<sup>198</sup> Section 57-38-01.8 was also amended by section 1 of House Bill No. 1228, chapter 443.

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.

**SECTION 4. 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 5. 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 6. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable years beginning after December 31, 2014.

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

Approved April 8, 2015  
Filed April 8, 2015

## CHAPTER 439

### SENATE BILL NO. 2144

(Senators Unruh, Cook, Dotzenrod)  
(Representatives Belter, Headland, Kelsh)

AN ACT to create and enact six new subsections to section 11-11-14 and subsection 4 of section 11-11.1-01 of the North Dakota Century Code, relating to consolidation and revision of provisions governing property tax levy authority; to amend and reenact section 2-02-07, subsection 9 of section 2-06-01, section 2-06-07, sections 4-02-26, 4-02-27.3, and 4-08-15, subsection 17 of section 4-22-26, sections 4-33-11, 4.1-47-14, 4.1-47-16, 4.1-47-25, 11-11-53, 11-11-65, 11-11.1-04, 11-28-06, 11-28.3-03, 11-28.3-09, 18-06-10, 18-10-07, and 18-11-10, subsection 1 of section 21-03-06, subsections 3, 5, and 6 of section 21-03-07, sections 23-06-30, 23-18-01, 23-30-01, 23-30-07, 24-05-01, 24-05-02, 24-05-05, 24-05-16, 24-08-07, 32-12.1-08, 32-12.1-11, 40-05-09.2, 40-05-19, 40-05-20, 40-26-08, 40-28-05, 40-29-14, 40-31-08, and 40-37-03, subsections 1 and 3 of section 40-38-02, sections 40-38.1-02, 40-43-01, 40-45-01, 40-45-27, 40-46-02, 40-46-25, 40-46-26, 40-48-07, 40-49-22, 40-55-08, 40-55-09, 40-57.2-04, and 40-57.4-04, subsection 8 of section 40-58-07, subsection 2 of section 40-58-15, section 40-59-01, subsection 2 of section 40-60-02, subsection 3 of section 40-61-03.1, sections 40-61-10, 50-03-01, 50-03-06, 50-06.2-05, 57-15-01.1, 57-15-06, 57-15-06.4, 57-15-06.6, 57-15-06.7, 57-15-08, 57-15-10, 57-15-10.1, 57-15-12, 57-15-12.1, 57-15-12.3, 57-15-19.4, 57-15-19.5, 57-15-19.6, 57-15-20, 57-15-20.2, 57-15-22.2, 57-15-27.1, 57-15-28, 57-15-28.1, 57-15-30.1, 57-15-38, 57-15-42, 57-15-48, 57-15-50, 57-15-51, 57-15-51.1, 57-15-53, and 57-15-55, subsection 1 of section 57-15-56, sections 57-20-23 and 57-47-04, subsection 16 of section 58-03-07, and sections 58-17-02, 61-04.1-26, and 61-24-02 of the North Dakota Century Code, relating to consolidation and revision of provisions governing property tax levy authority of counties, cities, park districts, soil conservation districts, and various boards and commissions; to repeal sections 4-02-27, 4-02-27.1, 4-02-27.2, 4-02-35, 4-02-37, and 4-08-15.1, chapter 4-16, sections 11-11-18, 11-11-20, 11-11-21, 11-11-22, 11-11-23, 11-11-24, 11-11-25, 11-11-45, 11-11-46, 11-11-47, 11-11-59, 11-11-60, 11-11-61, 11-11.1-06, 11-28-12, 11-28-13, 11-28-14, 11-28-15, 11-28-16, 11-28-17, 11-28-18, 11-28-19, 11-28-20, 11-28-21, and 11-28-22, chapters 11-36 and 11-37, sections 18-06-11, 18-07-01, and 18-10-14, chapters 23-18, 23-18.1, and 23-18.2, sections 32-12.1-12, 32-12.1-14, 40-05-09.1, 40-43-02, 40-43-03, 40-43-04, 40-45-02, 40-57-19, and 40-57-19.1, chapters 49-17.2 and 52-09, sections 57-15-06.3, 57-15-06.5, 57-15-06.8, 57-15-06.9, 57-15-06.10, 57-15-12.2, 57-15-20.3, 57-15-20.4, 57-15-26.3, 57-15-26.5, 57-15-27.2, 57-15-36, 57-15-37.1, 57-15-43, 57-15-44, 57-15-54, 57-15-55.1, 57-15-57, 57-15-59, 57-15-60, and 57-15-62, chapter 57-17, section 58-02-30, and chapter 58-15 of the North Dakota Century Code, relating to consolidation, revision, and elimination of obsolete provisions relating to property tax levy authority of counties, cities, park districts, soil conservation districts, and various boards and commissions; to provide for a transition; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 2-02-07 of the North Dakota Century Code is amended and reenacted as follows:

**2-02-07. Authority to raise money by taxation and use airport income.**

The local public authorities having power to appropriate moneys within the political subdivisions acquiring, establishing, developing, operating, maintaining, or controlling airports ~~or landing fields~~ under the provisions of this chapter may appropriate and cause to be raised by taxation under section 2-06-15 or ~~otherwise from revenue derived from general fund levy authority~~ in such political subdivisions, moneys sufficient to carry out therein the provisions of this chapter, and also may use for such purpose or purposes moneys derived from said airports ~~or landing fields~~.

**SECTION 2. AMENDMENT.** Subsection 9 of section 2-06-01 of the North Dakota Century Code is amended and reenacted as follows:

9. "Municipality" means any county, city, ~~town, park district, or public~~  
~~body~~township of this state.

**SECTION 3. AMENDMENT.** Section 2-06-07 of the North Dakota Century Code is amended and reenacted as follows:

**2-06-07. General powers of an authority.**

An authority has all the powers necessary or convenient to carry out the purposes of this chapter including the power to certify, annually to the governing bodies creating it, the amount of the proposed tax to be levied by said governing bodies for airport purposes within the limitations in section 2-06-15, including the power:

1. To sue and be sued, to have a seal, and to have perpetual succession.
2. To execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this chapter.
3. To plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities, within this state and within any adjoining state, including the acquisition, construction, installation, equipment, maintenance, and operation at such airports or buildings and other facilities for the servicing of aircraft or for comfort and accommodation of air travelers, and the purchase and sale of supplies, goods, and commodities as are incident to the operation of its airport properties. For such purposes an authority may by purchase, gift, devise, lease, eminent domain proceedings, or otherwise acquire property, real or personal, or any interest therein, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards or to prevent the establishment of airport hazards.
4. To establish comprehensive airport zoning regulations in accordance with the laws of this state. For the purpose of this chapter, a regional airport authority has the same powers as all other political subdivisions in the adoption and enforcement of comprehensive airport zoning regulations as provided for by the laws of this state.
5. To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, existing airports and air navigation facilities; provided, however, an

authority may not acquire or take over any airport or air navigation facility owned or controlled by another authority, a municipality, or public agency of this or any other state without the consent of such authority, municipality, or public agency.

6. To establish or acquire and maintain airports in, over, and upon any public waters of this state, any submerged lands under such public waters; and to construct and maintain terminal buildings, landing floats, causeways, roadways, and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof.
7. To establish toll access roadways leading to air carrier terminal buildings. The toll access charge may not exceed one dollar per vehicle.

**SECTION 4. AMENDMENT.** Section 4-02-26 of the North Dakota Century Code is amended and reenacted as follows:

**4-02-26. County fairs - Association - Aiding County funding.**

A county fair association may be organized in any county having taxable property of a taxable valuation of not less than seven hundred fifty thousand dollars. The executive officers and directors must be residents of the county. The association may apply make written application to the board of county commissioners of the county for a grant to aid in the erection of suitable buildings and other improvements to accommodate its patrons and exhibits; and to pay premiums and expenses that may be awarded on such fair exhibits at any fair. An application for the grant must be in writing and must state the incorporation of the association, the names and places of residence of all its executive officers, and the ownership of real property in the county sufficient in area for the purpose of its fair and of the value of at least two thousand five hundred dollars. If the board of county commissioners is satisfied that the statements in the application are true and that the association intends in good faith to hold a fair within the county annually for the exhibition of agricultural, horticultural, mechanical, and manufactured products of the county, and of such articles as are usually exhibited at fairs, it may levy for the first year's grant of aid a tax not exceeding the limitation in section 57-15-06.7 which must be collected as other taxes are collected provide funding from revenues derived from the county general fund levy authority. If the tax funding is levied approved, the board of county commissioner treasurer shall pay to the secretary of the association, not later than by the following July thirty-first thereafter, the amount of the tax levied funding approved and shall take the receipt of the association therefor for the payment.

Any amount received by the county fair association must be deposited by the secretary of the association in a fund to be known as the "county fair fund". To promote holding a county fair, the board of county commissioners may purchase or lease in the name of the county not to exceed two hundred forty acres [97.12 hectares] of real estate and construct buildings and improvements for the conduct of a county fair. The board of county commissioners may issue bonds in the name of the county if approved by electors of the county in accordance with sections 21-03-06 and 21-03-07 to purchase not to exceed two hundred forty acres [97.12 hectares] of real estate and construct buildings and improvements for the conduct of a county fair.

The board of county commissioners may continue the levy to provide funding under this section after the first year's grant of aid upon the board's own motion.

The authority of this section may be used by a county to join in formation and funding of a multicounty fair association under terms of an agreement with one or more other counties.

**SECTION 5. AMENDMENT.** Section 4-02-27.3 of the North Dakota Century Code is amended and reenacted as follows:

**4-02-27.3. Disposition of property.**

Any property used for county fair purposes may be sold by the board of county commissioners upon such terms and conditions as the board shall determine, and the proceeds of such sale shall be placed in the county fair fund and used exclusively for county fair purposes, ~~provided that if~~ If the county fails to hold a fair within the county for two successive years, any property on hand may be sold and the proceeds of such sale, together with any other unexpended balance in the county fair fund, at the discretion of the board of county commissioners, may be transferred to the county general fund. The board of county commissioners of any county in which a county fair has not been held for five consecutive years shall transfer any funds in the county fair fund or funds budgeted for county fairs to the county general fund to be used for general county purposes. The levy of the taxfunding from revenues derived from the county general fund levy authority authorized by section 4-02-27.24-02-26, expenditures of ~~the~~those proceeds thereof, and the conduct of the fair shall be governed by sections 4-02-07 through 4-02-31 to the extent such sections are consistent with section ~~4-02-27.24-02-26~~ and this section.

**SECTION 6. AMENDMENT.** Section 4-08-15 of the North Dakota Century Code is amended and reenacted as follows:

**4-08-15. TaxExtension work levy - Appropriation from county general fund - Both authorizedand funding - Additional levy with voter approval.**

~~The board of county commissioners of any county of this state in whichIf a levy for extension work has been voted on and approved by the people as provided for inunder sections 4-08-01 and 4-08-03, the board of county commissioners may levy not to exceed an amount necessary for such purpose, as provided in section 4-08-09, for extension work in an amount not exceeding the limitation in subsection 42 of section 57-15-06.7. The statutory mill levy limitation in effect during any biennium, and not the limitation in effect at the time of a county's vote for extension work or the number of mills that may have been stated in the ballot for such a vote, is the applicable limitation. If it determines that the amount derived from the levy will not be sufficient for such purpose, the~~

The board of county commissioners may submit to the electors at a primary or general election the question of approval of voter-approved levy authority for extension work for a period not exceeding ten years and if approved by a majority of the electors voting on the question the board of county commissioners may levy an additional tax not exceeding the limitation in subsection 2 of section 57-15-06.7. Voter-approved levy authority authorized by electors of a county before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first. After January 1, 2015, approval or re-authorization by electors of voter-approved levy authority under this section may not be effective for more than ten taxable years.

The board of county commissioners may appropriate additional funds out of the county general fund to cover ~~the~~any unanticipated deficiency in funding for extension work.

**SECTION 7. AMENDMENT.** Subsection 17 of section 4-22-26 of the North Dakota Century Code is amended and reenacted as follows:

17. To levy taxes as follows:

- a. The supervisors may make a general fund tax levy, not exceeding two and one-half mills, for the payment of the expenses of the district, including mileage and other expenses of the supervisors, and technical, administrative, clerical, and other operating expenses.
- b. Immediately after the completion of the district budget and the adoption of the annual tax levy by the district supervisors, but not later than July first, the supervisors shall send one certified copy of the levy as adopted to the county auditor of each county in the district.
- c. The county auditor of each county in the district shall extend the levy upon the tax list of the county for the current year against each description of real property lying both within the county and the district in the same manner and with the same effect as other taxes are extended.
- d. The treasurer of each county in the district shall collect all district taxes together with interest and penalty thereon in the same manner as the general taxes are collected, and shall pay over to the soil conservation district by the tenth working day of each month, all taxes so collected during the preceding month, with interest and penalties collected thereon and shall immediately send notification of such payment to the treasurer of the soil conservation district.
- e. ~~Whenever the supervisors of a soil conservation district deem it advisable to raise funds by taxation in excess of the levy provided by this section, for any purpose for which the supervisors of a district are authorized to expend moneys raised by taxes, the supervisors of the district shall submit to the qualified electors of the district at the next general election the question of increasing the levy by a certain number of mills. Notice of the question must be filed with the county auditor fifty-five days before the election. When authorized by a majority of qualified electors of the soil conservation district voting on the question at an election in which the question has been submitted, the supervisors may increase the levy in the amount so authorized.~~ Voter-approved levy authority authorized by electors of a district under the provisions of this section before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first.

No provisions with respect to the acquisition, operation, or disposition of property by other public bodies are applicable to a district unless the same specifically are made applicable by law.

**SECTION 8. AMENDMENT.** Section 4-33-11 of the North Dakota Century Code is amended and reenacted as follows:

**4-33-11. Authority for financing local control programs - County pest coordinator.**

1. ~~The governing body of any political subdivision~~ board of county commissioners may appropriate money for the control of pests under this chapter. If state funds are involved, the money must be expended according to control plans

~~approved by the commissioner. The governing body of a political subdivision board of county commissioners shall determine the portion, if any, of control program costs to be paid by the political subdivision county. Costs of the control program may be paid by moneys in the emergency fund. If the emergency fund is not sufficient to carry out the program, the governing body may expend money from the general fund and in this event the governing body, except the governing body of a park district, upon approval of sixty percent of those voting in any special election or the next regularly scheduled primary or general election, may levy a tax during the following year upon all taxable property in the political subdivision to fully reimburse the general fund for the amount expended except that the levy may not exceed the limitation in subsection 1 of section 57-15-28.1 from revenues derived from general fund levy authority of the county or from the county levy authority under section 4.1-47-14.~~

2. The board of county commissioners for any county shall designate an individual to serve as county pest coordinator. The county weed control officer may serve in that capacity if approved by the board of county commissioners. The county pest coordinator shall administer local and private funds in cooperation with state and federal pest control programs. When state funds are involved, the county pest coordinator shall submit county and township control plans to the agriculture commissioner for approval.

<sup>199</sup> **SECTION 9. AMENDMENT.** Section 4.1-47-14 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-47-14. County noxious weed control program - Payment of expenses - Mill levy authorization.**

1. The board of county commissioners may pay the expenses of a county noxious weed control program authorized under this chapter from the county general fund, the noxious weed control fund, or both. In addition to the other program expenditures authorized in this chapter, the board of county commissioners may expend funds from the levy authorized under subsection 11 of section 57-15-06.7 to control noxious weeds or undesirable vegetation along county or township roads in the county.
2. a. The county weed board may annually certify ~~to request from~~ the board of county commissioners the levy of a tax, not to exceed two mills on the taxable valuation of all property in the county, other than that which ~~the levy limitation in subsection 11 of section 57-15-06.7, but any tax levied under this section does not apply to property that~~ lies within the boundaries of a city having a noxious weed control program under this chapter.
- b. ~~In addition to the levy authorized in subdivision a, the board of county commissioners may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under this chapter.~~
- e. The board of county commissioners shall may levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is may be used to pay

<sup>199</sup> Section 4.1-47-14 was also amended by section 5 of Senate Bill No. 2056, chapter 88, and section 3 of Senate Bill No. 2217, chapter 92.

~~the expenses of a county noxious weed control program authorized under this section.~~

- d. ~~The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.~~
3. For purposes of this section, the expenses of a county noxious weed control program include compensation for and the reimbursement of expenses incurred by the county weed board, the county weed control officer, and other employees of the board, and expenses incurred ~~in the provision of noxious weed control~~, as authorized by this chapter.

**SECTION 10. AMENDMENT.** Section 4.1-47-16 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-47-16. State appropriations for noxious weed control - Landowner assistance program.**

1. The commissioner shall consult with representatives of county and city weed boards and develop a formula for the distribution to eligible county weed boards and eligible city weed boards of all moneys appropriated by the state for the landowner assistance program.
2. a. The formula must require that county officials budget, from revenues derived from county sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control; ~~provided, however, that this amount does not apply to property that lies against taxable property in the county which does not lie~~ within the boundaries of a city having a noxious weed control program under this chapter.
- b. The formula must require that city officials budget, from city sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control.
3. a. The formula must require that the landowner contribute an amount equal to at least twenty percent of the cost to be expended on behalf of the landowner.
- b. The nature and type of the landowner's contribution must be determined by the weed board having jurisdiction over the area in which the landowner's property is located.

<sup>200</sup> **SECTION 11. AMENDMENT.** Section 4.1-47-25 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-47-25. City noxious weed control program - Payment of expenses - ~~Mill levy authorization.~~**

1. The governing body of a city may ~~pay the expenses of~~ provide funding for a city noxious weed control program authorized under this chapter ~~from the city general fund, the noxious weed control fund, or both from revenues derived from its general fund levy authority.~~

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<sup>200</sup> Section 4.1-47-25 was also amended by section 6 of Senate Bill No. 2056, chapter 88, and section 4 of Senate Bill No. 2217, chapter 92.

- 2.a. ~~The city weed board may annually certify to request the governing body of a city a tax, not to exceed two mills on the taxable valuation of all property in the city to provide funds derived from its general fund levy authority in the amount necessary for the city noxious weed control program.~~
- b. ~~In addition to the levy authorized in subdivision a, the governing body of a city may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the city.~~
- c. ~~The governing body of a city shall levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a city noxious weed control program.~~
- d. ~~The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.~~
3. For purposes of this section, the expenses of a city noxious weed control program include compensation for and the reimbursement of expenses incurred by the city weed board, the city weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by this chapter.

<sup>201</sup> **SECTION 12.** Five new subsections to section 11-11-14 of the North Dakota Century Code is created and enacted as follows:

To expend county funds for eradication of gophers, prairie dogs, rabbits, crows, or magpies.

To expend county funds to enhance communications infrastructure for countywide benefit.

To provide for the planning, design, acquisition, development, operation, maintenance, and support of automation and telecommunications resources.

To provide for firebreaks and other fire protection and suppression measures.

To construct, equip, operate, and maintain county buildings, including court facilities, correction centers, jails, and other law enforcement facilities.

To require that all financial records, including all revenues, expenditures, fund balances, and complete budgets be submitted to the board of county commissioners at a time and in a format requested by the board of county commissioners by all boards, authorities, committees, and commissions appointed by the board of county commissioners before consideration by the board of county commissioners of the budget and levy request.

<sup>201</sup> Section 11-11-14 was also amended by section 1 of House Bill No. 1376, chapter 89, and section 8 of Senate Bill No. 2056, chapter 88.

<sup>202</sup> **SECTION 13. AMENDMENT.** Section 11-11-53 of the North Dakota Century Code is amended and reenacted as follows:

**11-11-53. Appropriation for historical works - Authorization of tax levy - Approval of state historical society and attorney general.**

1. The board of county commissioners of any county may appropriate out of the general fund of the county a sum, not exceeding five thousand dollars annually, to be paid to the historical society of the county and used for the promotion of historical work within the borders of the county, including the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in the county.
2. The board of county commissioners may levy a tax, not exceeding the limitation in subsection 83 of section 57-15-06.7, for the promotion of historical works within the borders of the county and in general defray the expense of carrying on historical work in the county, including the maintenance of any historical room or building, and furthering the work of the historical society of the county. The levy is in addition to any moneys appropriated from the general fund of the county for historical work as provided in subsection 1.

The board of county commissioners may, by resolution, submit the question of ~~an additional voter-approved~~ tax levy to the qualified electors of the county at the next countywide general, primary, or special election. If sixty percent of the qualified electors voting on the question approve, a tax ~~must~~may be levied not exceeding the limitation in subsection 83 of section 57-15-06.7, which tax may be expended as provided in this section. Voter-approved levy authority under this section authorized by electors of a county before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first. After January 1, 2015, approval or reauthorization by electors of voter-approved levy authority under this section may not be effective for more than ten taxable years.

3. The appropriation and levy authorized by this section may not be used to defray any expenses of a county historical society until it is incorporated under the laws of this state as a nonprofit corporation, is affiliated with and has its articles of incorporation and bylaws approved by the state historical society and the attorney general, and has contracted with the board of county commissioners in regard to the manner in which the funds received will be expended and the services to be provided. Historical societies that qualified for county funds under subsection 1 before July 1, 1965, are not required to have articles of incorporation and bylaws approved by the attorney general to receive funds under subsection 1.

**SECTION 14. AMENDMENT.** Section 11-11-65 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>202</sup> Section 11-11-53 was also amended by section 9 of Senate Bill No. 2056, chapter 88.

### **11-11-65. Programs and activities for handicapped persons - Expenditure of funds.**

The board of county commissioners may establish or maintain programs and activities for handicapped persons, including recreational and other leisure-time activities and informational, health, welfare, transportation, counseling, and referral services. The board may expend funds received from state, federal, or private sources or provide funding from revenues derived from its general fund levy authority for the public purposes provided for in this section. No expenditure may be made to defray any expenses of any organization or agency until the organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board in regard to the manner in which the funds will be expended and the services will be provided. An organization or agency that receives the funds must be reviewed or approved annually by the board to determine its eligibility to receive funds under this section.

**SECTION 15.** Subsection 4 to section 11-11.1-01 of the North Dakota Century Code is created and enacted as follows:

4. The board of county commissioners in a county where an active industrial development organization exists may enter a contract with the industrial development organization for performance of the functions of a job development authority or joint job development authority as provided in this chapter and may use the proceeds of the levy authority under section 11-11.1-04 for that purpose.

<sup>203</sup> **SECTION 16. AMENDMENT.** Section 11-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **11-11.1-04. Tax levy for job development authorities.**

The board of county commissioners of a county which has a job development authority or joint job development authority shall establish a job development authority fund and may levy a tax not exceeding the limitations in subsection 29 of section 57-15-06.7. The county treasurer shall keep the job development authority fund separate from other money of the county. ~~If directed by the board of county commissioners, the county treasurer shall keep a separate fund for the job development authority for the proceeds of any designated portion of the levy for promotion of tourism by the job development authority.~~ The county treasurer shall transmit all funds received pursuant to this section within thirty days to the board of directors of the authority. The funds when paid to the authority must be deposited in a special account, or special accounts if the authority chooses to maintain a separate account for promotion of tourism, in which other revenues of the authority are deposited. Moneys received by the job development authority from any other source must also be deposited in the special accounts. The moneys in the special accounts may be expended by the authority as provided in sections 11-11.1-02 and 11-11.1-03.

<sup>204</sup> **SECTION 17. AMENDMENT.** Section 11-28-06 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>203</sup> Section 11-11.1-04 was also amended by section 10 of Senate Bill No. 2056, chapter 88, and section 5 of Senate Bill No. 2217, chapter 92.

<sup>204</sup> Section 11-28-06 was also amended by section 11 of Senate Bill No. 2056, chapter 88, and section 7 of Senate Bill No. 2217, chapter 92.

**11-28-06. Tax levy County parks and recreation areas funding and county parks and recreation areas capital projects levy by board of county commissioners.**

At the time of levying county general fund taxes for other county purposes, the board of county commissioners shall consider the certificate and budget statement and levy request of the board of county park commissioners and shall levy each year upon all taxable property in the county a tax sufficient in amount may fund from revenues derived from county general fund levy authority an amount to pay the actual necessary expenses of the county park and recreational areas and activities program of the board of county park commissioners, including construction, improvement, repair, and operation, and maintenance of the park and recreational areas and their facilities under its control and those recreational activities of benefit to the general populace of the county which are under the control of a city or a city park district within the county, not exceeding the limitation in subsection 10 of section 57-15-06.7. No levy in excess of this limitation shall be made without approval of the eligible voters in the county at a special or general election. The county auditor shall credit the proceeds of such tax funding authorized by the board of county commissioners to the separate fund of the board of county park commissioners. This levy shall not apply to cities that already have a park levy unless the governing body of the city by resolution consents to the levy.

The board of county commissioners shall consider the certificate and budget statement of the board of county park commissioners and may levy taxes annually as provided in section 57-15-06.6 for county park capital projects; acquiring real estate as a site for public parks; and construction, equipping, and maintaining structural and mechanical components of parks and recreational facilities. The question of whether the levy for county park capital projects for county parks and recreational facilities is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent of the qualified electors voting in the last regular county election, if the petition is filed not less than sixty days before the election. A levy may not be discontinued or reduced if it is dedicated to the payment of bonds issued pursuant to subsection 6 of section 21-03-07. If the majority of the qualified electors vote to discontinue the levy for county park capital projects for county parks and recreational facilities, it may not again be levied without a majority vote of the qualified electors at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board. The levy for county park capital projects for county parks and recreational facilities does not apply to any property located in a city in which park district taxes are levied, unless the governing body of the city in which the property is located consents, by resolution, to the levy.

**SECTION 18. AMENDMENT.** Section 11-28.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**11-28.3-03. Notice of election.**

In addition to the usual requirements of notices of election, the notice for an election at which the question provided for in this chapter will be voted upon shall include a statement describing the boundaries of the proposed rural ambulance service district, expressed, wherever possible, in terms of the government survey, a statement setting forth a specified mill levy for the proposed district, which levy shall not exceed the limitation in section 57-15-26.5 ~~11-28.3-09~~. The notice of election shall also state the voting areas in which the question provided by this chapter will be on the ballot.

<sup>205</sup> **SECTION 19. AMENDMENT.** Section 11-28.3-09 of the North Dakota Century Code is amended and reenacted as follows:

**11-28.3-09. Emergency medical service policy to be determined- Levy.**

The board of directors shall establish a general emergency medical service policy for the district and shall annually estimate the probable expense for carrying out that policy. The estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. ~~The auditor or auditors shall board or boards of county commissioners may~~ levy a tax not to exceed the mill rate approved by the electors of the district under section 11-28.3-04, and in no event exceeding a mill rate of ten mills upon the taxable property within the district for the maintenance of the rural ambulance service district for the fiscal year as provided by law. A rural ambulance service district may be dissolved by approval of electors of the district as provided in section 11-28.3-13.

The tax levied for a rural ambulance service district shall be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural ambulance service district, who shall be bonded in the amount of at least five thousand dollars.
3. Deposited by the secretary-treasurer in a state or national bank in a district account.
4. Paid out upon warrants drawn upon the district account by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president.

In no case shall the amount of the tax levy exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year. The district may include in its operating budget no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated emergency medical services sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent emergency medical services sinking fund may be in addition to the actual annual operating budget, but the total of the annual operating budget and the annual ten percent emergency medical services sinking fund shall not exceed the approved amount of revenue that would be generated by application of the maximum mill levy approved by the electors.

**SECTION 20. AMENDMENT.** Section 18-06-10 of the North Dakota Century Code is amended and reenacted as follows:

**18-06-10. Township may contract for prevention and extinguishment of fires.**

The electors of each township at the annual township meeting may authorize and empower the board of township supervisors to ~~levy, not exceeding the limitation in subsection 1 of section 57-15-20.2, and fund from revenues derived from the general fund levy authority of the township and provide by contract or otherwise for the prevention of, protection from, and extinguishment of fires within the townships in such manner as the board of supervisors deems advisable to~~ township.

<sup>205</sup> Section 11-28.3-09 was also amended by section 9 of Senate Bill No. 2217, chapter 92.

When so authorized, the supervisors may enter into a five-year contract and levy, ~~not exceeding the limitation in subsection 1 of section 57-15-20.2,~~ for the payment of the services obtained under ~~such~~the contract. ~~Such~~The contract may be renewed or renegotiated for another five-year period upon authorization by the electors of the township at the annual meeting.

A voter-approved levy under this section authorized by electors of a township before January 1, 2015, remains in effect under the provisions of this section at the time the levy was authorized but not exceeding ten taxable years. Upon expiration of any mill levy under this section authorized by electors of a township before January 1, 2015, the governing body of the township or county may, by resolution, transfer any unobligated balance in the fund in which the levy proceeds were deposited to the general fund of the township.

<sup>206</sup> **SECTION 21. AMENDMENT.** Section 18-10-07 of the North Dakota Century Code is amended and reenacted as follows:

**18-10-07. Fire protection policy to be determined - Tax levy limit - Voter-approved levy authority.**

The board of directors shall determine a general fire protection policy for the district and shall annually estimate the probable expense for carrying out the contemplated program. The annual estimate of probable expense may include an amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within the district for the maintenance of the fire protection district for the fiscal year as provided by law. The tax may not exceed the ~~limitation in section 57-15-26.3. No signature on the petition may be considered valid if made more than ninety days prior to receipt of the petition~~ a tax rate of five mills per dollar of the taxable valuation of property in the district. Voter-approved levy authority authorized by the board of directors and the electors, before January 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, the tax may be increased to a tax rate not exceeding thirteen mills per dollar of the taxable valuation of property in the district for a period not exceeding ten taxable years.

The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars.
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank, except amounts to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles may be invested to earn the maximum return available.

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<sup>206</sup> Section 18-10-07 was also amended by section 1 of House Bill No. 1056, chapter 166, section 3 of House Bill No. 1059, chapter 433, and section 12 of Senate Bill No. 2217, chapter 92.

4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year and including any amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles.

**SECTION 22. AMENDMENT.** Section 18-11-10 of the North Dakota Century Code is amended and reenacted as follows:

**18-11-10. Additional city levy firefighters relief fund contributions.**

~~At the time the tax levies for the support of the city are made the governing body of any~~A city that has adopted a plan under this chapter shall also levy a tax on all taxable property within the city fund from revenues derived from its general fund levy authority a sufficient in amount for firefighters relief association contributions to equal a minimum of eight percent of the current annual salary of a first-class firefighter as last determined and approved by the governing body of the city, for each active member of the fire department relief association at the time the levy is made. This tax must be levied notwithstanding the city maximum annual tax levy for all purposes as limited by statute. This tax is in addition to the tax levy as so limited.

**SECTION 23. AMENDMENT.** Subsection 1 of section 21-03-06 of the North Dakota Century Code is amended and reenacted as follows:

1. By any county:
  - a. To provide county buildings and to acquire land for county purposes, but all outstanding unpaid bonds for this purpose may not exceed in amount at any one time five percent of the value of taxable property in such county.
  - b. To construct, enlarge, or repair, or aid in the construction, enlargement, or repair, of bridges within or without the county, but all outstanding unpaid bonds for this purpose may not exceed in amount at any one time one percent of the value of taxable property in the county.
  - c. To provide funds for the original construction and for the improvement and maintenance of highways, but all outstanding unpaid bonds for these purposes may not exceed in amount at any one time four percent of the value of taxable property in such county.
  - d. To provide funds for the construction of solid waste disposal facilities, for the acquisition of real estate for that purpose, for facilities and equipment for the collection of solid wastes, and for facilities and equipment to dispose of waste products.
  - e. To provide money for the payment of any deficiency in the fund of any special improvement district whenever the special assessment or taxes levied and collected for the specific improvements are insufficient to pay the principal or interest of any special improvement warrants or bonds issued for the improvement and due and unpaid, but only to the extent of that deficiency.

- f. To provide funds for the acquiring, laying out, equipping, and improving parks and recreational facilities and to acquire land for these purposes.
- g. To provide funds to purchase not to exceed two hundred forty acres [97.12 hectares] of real estate and construct buildings and improvements for the conduct of a county fair.

**SECTION 24. AMENDMENT.** Subsections 3, 5, and 6 of section 21-03-07 of the North Dakota Century Code are amended and reenacted as follows:

3. The governing body of any municipality may issue bonds of the municipality for the purpose of providing funds to meet its share of the cost of any federal-aid highway project undertaken under an agreement entered into by the governing body with the United States government, the director of the department of transportation, the board of county commissioners, or any of them, including the cost of any construction, improvement, financing, planning, and acquisition of right of way of a bridge eligible for federal matching funds, federal-aid highway routed through the municipality and of any bridges and controlled access facilities thereon and any necessary additional width or capacity of the bridge or roadway thereof greater than that required for federal or state bridge or highway purposes, and of any necessary relaying of utility mains and conduits, curbs and gutters, and the installation of utility service connections and streetlights. The portion of the total cost of the project to be paid by the municipality under the agreement, including all items of cost incurred directly by the municipality and all amounts to be paid by it for work done or contracted for by other parties to the agreement, may not exceed a sum equal to thirty percent of the total cost, including engineering and other incidental costs, of all construction and reconstruction work to be done plus fifty percent of the total cost of all right of way to be acquired in connection therewith. The initial resolution authorizing issuance of bonds under this subsection must be published in the official newspaper of the municipality. Within sixty days after publication, an owner of taxable property within the municipality may file with the auditor or chief fiscal officer of the municipality a written protest against adoption of the resolution. A protest must describe the property that is the subject of the protest. If the governing body finds protests have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property in the municipality, as most recently finally equalized, all further proceedings under the initial resolution are barred. Nothing herein may be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments, or utility revenues any work incidental to any such project, in the manner and to the extent otherwise permitted by law, and the cost of any work so financed may not be included in computing the portion of the project cost payable by the municipality, within the meaning of this subsection, unless the work is actually called for by the agreement between the municipality and the other governmental agencies involved.
5. The governing body of any city may also by resolution adopted by a two-thirds vote dedicate the mill levies ~~as~~ levy authorized by ~~sections~~ section 57-15-42 ~~and 57-15-44~~ and may authorize and issue general obligation bonds to be paid by ~~these~~ the dedicated levies levy for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public buildings or fire stations; provided, that the initial resolution authorizing the mill levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the city may, within sixty days after

publication, file with the city auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

6. The governing body of any county may also by resolution adopted by a two-thirds vote dedicate the tax levies ~~as~~ levy authorized by ~~sections~~ section ~~57-15-06.6 and 57-15-06.9~~ and may authorize and issue general obligation bonds to be paid by ~~these~~ the dedicated ~~levies~~ levy for the purpose of providing funds for the purchase, construction, reconstruction, or repair of regional or county correction centers, or parks and recreational facilities; provided, that the initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the county may, within sixty days after publication, file with the county auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the county, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

**SECTION 25. AMENDMENT.** Section 23-06-30 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-30. Abandoned cemeteries to be maintained by counties.**

The board of county commissioners of each county may provide for the identification, cataloguing, recording, and shall provide for the general maintenance and upkeep of each abandoned cemetery located within such county using revenues derived from its general fund levy authority. The board shall, at least once each year, proceed to have the weeds and grass cut, restore gravestones to their original placement, and perform any other general maintenance necessary to maintain the dignity and appearance of the grounds. For the purposes of this section, a cemetery means any tract of land used as a burial plot and which is filed with the recorder of the county as a public burying place. The board of county commissioners of each county shall provide for the registration, with the state department of health, of each abandoned cemetery within such county unless such cemetery has been previously registered. Such registration must take place within one year of notification being made to the board, by any interested party of the existence of such abandoned cemetery. ~~Expenditures may not exceed levy limitations as provided in section 57-15-27-2.~~

**SECTION 26. AMENDMENT.** Section 23-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**23-18-01. Hospital associations authorized - County tax levy in aid - Election.**

A county or community hospital association may be established in any county in this state. The executive officers and directors must be residents of the county. The association may apply to the board of county commissioners of the county for a grant to aid in the erection or operation of a nonsectarian county hospital. The application

for the grant must be in writing and must state the incorporation of the association, the names and places of residence of all of its executive officers, and the assets of the association, and must specify the mill rate of levy applied for, which ~~may not be in excess of~~must be within the limitation in subsection 424 of section 57-15-06.7. If the board of county commissioners is satisfied that the statements in the applications are true and that the association intends in good faith to establish or aid in the operation of a nonsectarian county or community hospital, it ~~shall~~may submit to the electors of the county the question of levying a tax in aid of such nonsectarian county or community hospital, not exceeding the limitation in subsection 424 of section 57-15-06.7. The county auditor shall give notice of such election within the time and in the manner prescribed by law for the holding of county elections.

Voter-approved levy authority under this section authorized by electors of a county before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first. After January 1, 2015, re-authorization by electors of voter-approved levy authority under this section is allowable only for hospital associations in existence prior to January 1, 2015, and may not be effective for more than ten taxable years.

A hospital association under this chapter shall transition to a hospital district under chapter 23-30 by July 1, 2017, and is not required to obtain approval of electors under section 23-30-02 to make the transition.

**SECTION 27. AMENDMENT.** Section 23-30-01 of the North Dakota Century Code is amended and reenacted as follows:

### **23-30-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Hospital" means an institution with an organized medical staff, permanent facilities including inpatient beds, medical services including physician services and continuous nursing services, to provide diagnosis and treatment for medical conditions, both surgical and nonsurgical, and services including rehabilitation services.
2. "Hospital district" means a district organized pursuant to section 23-30-02 for the purpose of supporting one or more of the following types of institutions: a hospital, an intermediate health care facility, ~~and~~ a nursing home, or a clinic.
3. "Intermediate health care facility" means a health-related institution planned, organized, operated, and maintained to supply supportive, restorative, and preventive health care with related social care, to individuals who, because of their physical or mental condition, or both, require less than twenty-four-hour nursing care in an institutional environment, but who do not have an injury, illness, or disability for which regular medical care and twenty-four-hour nursing services are required.
4. "Nursing home" means an institution in which nursing care is rendered for compensation to two or more persons not related to the operator by blood or marriage, serving persons suffering from a prolonged physical or mental illness or defect, or persons recovering from some injury or disease. Care provided must include: administration of medicines, preparation of special diets, giving of bedside care, application of dressings and bandages, and carrying out treatments prescribed by duly licensed practitioners of the healing arts.

<sup>207</sup> **SECTION 28. AMENDMENT.** Section 23-30-07 of the North Dakota Century Code is amended and reenacted as follows:

**23-30-07. Tax levy authorized.**

The board of directors shall annually estimate the probable expense for operating the hospital district. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. The auditor or auditors shall levy a tax not exceeding the limitation in section 57-15-26.4 for the maintenance of the district for the fiscal year as provided by law. The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the district, who must have a surety bond set by the board of directors in the amount of at least five thousand dollars.
3. Placed to the credit of the district authorizing it by its secretary-treasurer in a state or national bank qualifying as a public depository.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the district.

The amount of the tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

Voter-approved levy authority under this section or section 23-18-01 authorized by electors of a county before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first. After January 1, 2015, approval or re-authorization by electors of voter-approved levy authority under this section may not be effective for more than ten taxable years.

**SECTION 29. AMENDMENT.** Section 24-05-01 of the North Dakota Century Code is amended and reenacted as follows:

**24-05-01. County road system and construction plan - County road and bridge tax levy - Allocation and use of funds.**

In each county having a population of two thousand or more, there must be levied and collected a property tax of not less than one-fourth of one mill, nor more than the maximum rate permitted by section 57-15-06, on each. The board of county commissioners of any county shall periodically prepare a proposed county construction program of roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction.

1. The board of county commissioners may levy a tax not exceeding a tax rate of ten mills per dollar of the taxable valuation of all taxable property in the county for the improvement of highways, county roads and bridges.

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<sup>207</sup> Section 23-30-07 was also amended by section 15 of Senate Bill No. 2217, chapter 92.

2. When authorized by sixty percent a majority of the qualified electors voting upon the question at a regular or special election in the county, the county commissioners may levy and collect a property an additional tax for county road and bridge purposes not exceeding the limitation in subsection 14 of section 57-15-06.7a tax rate of ten mills per dollar of the taxable valuation of property in the county. The levy pursuant to such an election may be discontinued at the discretion of by the board of county commissioners; or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy must be submitted to the qualified electors of the county at any regular or special election and, upon a favorable vote to discontinue the levy of sixty percent a majority of the qualified electors voting, such levy must be discontinued.

Of the proceeds of the tax collected under levy authority under this subsection on account of property situated within any city, by the county treasurer of the county in which the city is located, twenty percent must be turned over by the treasurer to the auditor of the city, in the manner provided in section 11-13-06 to be expended under the direction of the governing body of the city in the improvement of its streets and highways.

3. When a county requires levy authority for county road and bridge purposes in excess of the limitations under subsections 1 and 2 and the county is authorized by a majority of the qualified electors voting upon the question at a regular or special election in the county, the board of county commissioners may levy and collect an additional tax not exceeding a tax rate of ten mills per dollar of the taxable valuation of property in the county. The levy pursuant to an election under this subsection may be discontinued by the board of county commissioners or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy must be submitted to the qualified electors of the county at any regular or special election and, upon a favorable vote to discontinue the levy of a majority of the qualified electors voting, such levy must be discontinued.
4. Additional levy authority authorized by electors of a county under this section or section 57-15-06.3 before January 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding ten taxable years, unless discontinued earlier by the board of county commissioners or the electors of the county. After January 1, 2015, approval or re-authorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.
5. The county treasurer shall retain and deposit in a fund known as the county road and bridge fund the county share of the tax under this section and any proceeds of this tax totaling less than twenty dollars in a taxable year which is collected on account of property situated within any city. Proceeds of the county share of the tax not turned over to cities pursuant to this section must be kept in the county road fund and under this section must be expended in the improvement of highways as provided in this chapter under the direction of the board of county commissioners. The provisions of this section in regard to allocation apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road and bridge fund or for expenditure for road and bridge purposes. No allocation pursuant to this section may include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor may any allocation under

this section include moneys received from the state as the result of any other intergovernmental transfer.

Any unobligated balance in the county special road fund and reserve road and bridge fund on August 1, 2015, must be transferred to the county road and bridge fund and the county special road fund and reserve road and bridge fund must be closed out.

**SECTION 30. AMENDMENT.** Section 24-05-02 of the North Dakota Century Code is amended and reenacted as follows:

**24-05-02. Fund - How expended.**

~~The county road and bridge fund created by section 24-05-01 may be expended only for road machinery and for grading, ditching, and surfacing, in proper form and condition for public travel, such highways or parts of highways, howsoever established, as constitute the principal thoroughfares of the county, communicating with shipping points and marketplaces resorted to by inhabitants of the county, for which the means otherwise provided, in the opinion of the board of county commissioners, are not sufficient and implementation of the proposed county construction program of roads on the county road system.~~

**SECTION 31. AMENDMENT.** Section 24-05-05 of the North Dakota Century Code is amended and reenacted as follows:

**24-05-05. County auditor to issue warrants.**

Upon the filing of the surveyor's certificate as provided in section 24-05-03, the county auditor shall issue warrants accordingly on the county treasurer in favor of the contractor, payable out of the county road and bridge fund appropriated thereto, and the same must be paid by the treasurer.

**SECTION 32. AMENDMENT.** Section 24-05-16 of the North Dakota Century Code is amended and reenacted as follows:

**24-05-16. County road system - Designation.**

~~The county road system may not exceed twenty-two thousand five hundred miles [36210.24 kilometers]. This system must remain substantially unchanged until such system has been improved.~~

The county road system must be the roads designated and selected by the boards of county commissioners. The director must be informed of the system so designated. Any changes of the original designation which can be justified and based on new developments must be made by the board of county commissioners and the director must be notified of such changes. In designating and selecting roads on the county road system, the boards of county commissioners of the several counties shall take into account such factors as the actual or potential traffic volumes, the conservation and development of the county's natural resources, the general economy of the communities, and the desirability of integrating such county roads into the general scheme of the statewide network of county roads.

~~The original designation and selection of twenty-two thousand five hundred miles [36210.24 kilometers] of the county road system as hereinabove provided must be allocated as near as possible to the several counties of the state in the following proportions:~~

County	Percent of Total 22,500
Adams	1.34
Barnes	2.56
Benson	1.97
Billings	0.62
Bottineau	2.55
Bowman	1.42
Burke	1.39
Burleigh	2.98
Cass	3.21
Cavalier	2.12
Dickey	1.96
Divide	1.94
Dunn	1.98
Eddy	1.03
Emmons	2.19
Foster	1.05
Golden Valley	0.80
Grand Forks	2.25
Grant	1.94
Griggs	1.09
Hettinger	1.63
Kidder	2.39
LaMoure	1.77
Logan	1.26
McHenry	2.84
McIntosh	1.65
McKenzie	1.64
McLean	3.22
Mercer	1.74
Morton	2.98
Mountrail	1.95
Nelson	1.37
Oliver	1.31
Pembina	1.46
Pierce	1.58
Ramsey	1.64
Ransom	1.81
Renville	1.37
Richland	2.39
Rolette	1.29
Sargent	1.45
Sheridan	1.71
Sioux	0.74
Slope	1.41
Stark	1.83
Steele	1.30
Stutsman	3.63
Towner	1.70
Traill	1.66
Walsh	2.08
Ward	3.29
Wells	1.93
Williams	3.59
Total	100.00

When, in the opinion of the board of county commissioners, the finances of the county permit, the county road system of such county may be extended beyond the limits herein fixed.

**SECTION 33. AMENDMENT.** Section 24-08-07 of the North Dakota Century Code is amended and reenacted as follows:

**24-08-07. Issuance of bonds to meet expenses of construction of bridge.**

When one-half, or such other proportion as may be provided, of the cost of a bridge to be constructed as provided in section 24-08-05 is provided by any municipality within this state, it may issue bonds for this purpose in accordance with chapter 21-03. In case the limit of indebtedness of such municipality would be exceeded thereby, then it is lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same is completed and accepted, the share of the cost thereof to be borne by such municipality must be paid out of the general fund by orders drawn in the usual form and manner provide funding from revenues derived from its general fund levy authority.

**SECTION 34. AMENDMENT.** Section 32-12.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.1-08. Political subdivision insurance reserve fund – Tax levy risk funding.**

1. A political subdivision, ~~other than a school district or park district, may establish and maintain an insurance reserve fund for insurance purposes, and all political subdivisions, including school districts and park districts, may include in the annual~~ may provide funding from revenue derived from its general fund tax levy of the political subdivision such amounts as are determined by the governing body to be necessary for the purposes and uses of the insurance reserve fund risk financing purposes. The tax levy authorized by this section may not exceed the limitation in section 57-15-28.1, except a levy by a school district or park district must be within the general fund levy authority of the school district or park district. ~~If a political subdivision has no annual tax levy, the political subdivision may appropriate from any unexpended balance in its general fund such amounts as the governing body of the political subdivision determines necessary for the purposes and uses of the insurance reserve fund.~~
2. ~~Except in the case of a school district or park district, the fund established pursuant to this section must be kept separate and apart from all other funds and~~ Any unobligated balance in a political subdivision insurance reserve fund must be transferred to the political subdivision's general fund and the insurance reserve fund must be closed out by December 31, 2015. The general fund of the political subdivision may be used only for risk financing purposes and the payment of claims against the political subdivision which have been settled or compromised, judgments rendered against the political subdivision for injuries arising out of risks established by this chapter, or costs incurred in the defense of claims. ~~Payments by a school district or park district for the same purposes must be made out of the political subdivision's general fund.~~

**SECTION 35. AMENDMENT.** Section 32-12.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.1-11. Judgment against political subdivision - Levy authority - Additional tax levy for insured subdivisions.**

If a final judgment is obtained or a settlement is agreed for a claim against any political subdivision, except a school district, the governing body of the political subdivision may by resolution provide for the levy and collection of an annual tax not exceeding the limitation in section 57-15-28.1 upon all the taxable valuation of property within the political subdivision for the payment of such judgment. The amount levied under this section for the payment of a judgment against a political subdivision shall not exceed the limitation set forth in section 57-15-28.1 This section also applies to a judgment obtained or a settlement agreed for a claim against the political subdivision by the state or any agency or instrumentality of the state.

**SECTION 36. AMENDMENT.** Section 40-05-09.2 of the North Dakota Century Code is amended and reenacted as follows:

**40-05-09.2. Contracting for fire protection service - ~~Providing for the financing thereof.~~**

Any city may, ~~upon resolution of its governing body, execute a contract with a nonprofit corporation for the provision of fire protection and firefighting services. Such contracts may be executed only with nonprofit corporations which have if the nonprofit corporation has~~ been in existence and ~~have~~has provided fire protection and firefighting services to the contracting municipalitycity for a period of not less than twenty years.

~~Upon approval of sixty percent of the electors voting thereon at any regular election or special election called for such purpose, the~~The governing body of anythe city may levy taxes annually, ~~not exceeding the limitation in subsection 9 of section 57-15-10 for the purpose of paying~~provide funding from revenues derived from its general fund levy authority for contracted fire protection services and may also expend moneys otherwise available for the provision of such service.

**SECTION 37. AMENDMENT.** Section 40-05-19 of the North Dakota Century Code is amended and reenacted as follows:

**40-05-19. City tax levy funding for animal shelters - Sterilization of animals.**

The governing body of the city, ~~when authorized by a vote of at least sixty percent of the electors voting on the question, may levy a tax not exceeding the limitation in subsection 27 of section 57-15-10~~ may provide funding from revenues derived from its general fund levy authority for the construction, operation, or maintenance of animal shelters. ~~The proceeds of the tax must be kept in a separate fund and used exclusively for the purposes provided in this section~~ Voter-approved levy authority authorized by electors of a city under this section before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first.

The levy authorized by this section may be used to defray expenses of any organization or agency incorporated under the laws of this state as a nonprofit corporation that has contracted with the governing body of the city in regard to the manner in which the funds will be expended and the services will be provided. No unclaimed dog or cat may be released for adoption by an animal shelter that receives funds from the levy under this section without being first sterilized, or without a written agreement and deposit from the adopter guaranteeing that the animal will be sterilized.

**SECTION 38. AMENDMENT.** Section 40-05-20 of the North Dakota Century Code is amended and reenacted as follows:

**40-05-20. Programs and activities for handicapped persons - Expenditure of funds.**

The governing body of any city or park district may establish or maintain programs and activities for handicapped persons, including recreational and other leisure-time activities and informational, health, welfare, transportation, counseling, and referral services. The governing body may provide funding from revenues derived from its general fund levy authority and may expend funds received from state, federal, or private sources for the public purposes provided for in this section. No expenditure may be made to defray any expenses of any organization or agency until the organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the governing body in regard to the manner in which the funds will be expended and the services will be provided. An organization or agency that receives the funds must be reviewed or approved annually by the governing body to determine its eligibility to receive funds under this section.

**SECTION 39. AMENDMENT.** Section 40-26-08 of the North Dakota Century Code is amended and reenacted as follows:

**40-26-08. Municipality liable generally for deficiencies in special improvement fund.**

Whenever all special assessments and all utility revenues and taxes, if any, appropriated and theretofore collected for a special improvement, made under authority of any law authorizing the payment of the cost thereof in whole or in part from special assessments, are insufficient to pay principal or interest then due on the special improvement warrants issued against such improvement, the governing body shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency. If at any time a deficiency is likely to occur within one year in such special improvement fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. This section applies to any deficiency in a special improvement fund, including a sewer and water connections assessment fund under chapter 40-28, sidewalk special fund under chapter 40-29, curbing special fund under chapter 40-31, and boulevard special fund under chapter 40-32. In case a balance remains unexpended in such a special improvement fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

**SECTION 40. AMENDMENT.** Section 40-28-05 of the North Dakota Century Code is amended and reenacted as follows:

**40-28-05. Sewer and water connections assessment fund - Warrants - Payment.**

All money collected from assessments for laying and constructing sewer, water, and other service connections provided for in this chapter shall be kept in a fund called "sewer and water connections assessment fund", and warrants shall be drawn on such fund for the payment of the cost of such connections. All sewer and water connections assessment warrants shall be payable as specified and in such amount as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than seven percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the

purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used to make payment on contracts for making the connections or may be sold for cash at not less than par value thereof and the proceeds credited to the special fund and used to pay for such connections. Except as otherwise provided in this section ~~40-26-08~~, a municipality shall not be liable generally on any contracts for the making of such connections and shall not be required to pay funds raised by general taxation upon any such contract. ~~Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.~~

**SECTION 41. AMENDMENT.** Section 40-29-14 of the North Dakota Century Code is amended and reenacted as follows:

**40-29-14. Sidewalk special fund - Warrants drawn upon - Levy.**

All moneys received by a municipality from assessments for the construction, rebuilding, or repairing of sidewalks shall be kept in a separate fund designated as "sidewalk special fund". Warrants shall be drawn on such fund for the payment of the cost of constructing, rebuilding, and repairing sidewalks. ~~Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.~~Except as otherwise provided in section 40-26-08, a municipality is not liable generally on any contracts for the cost of constructing, rebuilding, and repairing sidewalks and may not be required to pay funds raised by general taxation upon any such contract.

**SECTION 42. AMENDMENT.** Section 40-31-08 of the North Dakota Century Code is amended and reenacted as follows:

**40-31-08. Curbing special fund - Warrants drawn upon - Levy.**

All moneys received by a city from assessments for building or repairing curbing shall be kept in a separate fund designated as the curbing special fund. Warrants shall be drawn upon such fund for the payment of the cost of building and repairing curbing in the municipality. ~~Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency. However, if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in~~

~~the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid or transferred to the general fund of the municipality. Except as otherwise provided in section 40-26-08, a municipality is not liable generally on any contracts for the cost of building and repairing sidewalks and may not be required to pay funds raised by general taxation upon any such contract.~~

**SECTION 43. AMENDMENT.** Section 40-37-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-37-03. Votes required to authorize levy -- Limitations on tax levy**City band funding.

~~The levy for municipal band purposes shall be authorized if sixty percent of the votes cast at the election are in favor of the proposition. The governing body of the municipality thereupon may include in its budget an appropriation~~provide funding from revenues derived from its general fund levy authority for the maintenance or employment of a band for municipal purposes and may levy a tax to cover the appropriation in its annual general fund tax levy. The amount of the levy to cover such appropriation, together with the aggregate amount levied for general purposes, shall be within the limitations prescribed in chapter 57-15. The amount appropriated for the maintenance or employment of a band for municipal purposes shall not exceed the amount which will be raised by a levy of one mill on the taxable valuation of the taxable property in the municipality.

<sup>208</sup> **SECTION 44. AMENDMENT.** Subsections 1 and 3 of section 40-38-02 of the North Dakota Century Code are amended and reenacted as follows:

1. For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund. The library fund shall consist of annually levying and causing to be collected as other taxes are collected a municipal or county tax not exceeding the limitations in subsection 45~~6~~ of section 57-15-06.7 and subsection 5~~4~~ of section 57-15-10 and any other moneys received for library purposes from federal, state, county, municipal, or private sources.
3. ~~Whenever a tax for~~if a county levies for county library service is levied, ~~anyand a city already levying~~levies a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the county board of the county, be exempted from the county tax levy to the extent that the city making the application levies taxes for a library fund during the year for which the tax levy is made, the county tax levy within that city must be reduced so the total levy in that city does not exceed four mills. If the city has been totally exempted from participation in any prospective county library programservice levy under this section, the phrase "not less than fifty-one percent of the qualified electors of the city or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in the county less the total number of votes cast at the last general election in the city. If an election on the question is held, the qualified electors of any city so exempted from the county library

<sup>208</sup> Section 40-38-02 was also amended by section 18 of Senate Bill No. 2056, chapter 88, and section 17 of Senate Bill No. 2217, chapter 92.

tax shall not be entitled to vote on the establishment or discontinuance of the county library service.

**SECTION 45. AMENDMENT.** Section 40-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**40-38.1-02. Municipal arts fund - Levy - Collection - Kept separate.**

For the purpose of establishing and maintaining the municipal arts council, the governing body of a city authorizing the same shall establish a municipal arts fund. The fund shall consist of revenues from any city property tax authorized by this section, which levy may be made by the city at the direction of the municipal arts council in any amount, but not exceeding the limitation in subsection 76 of section 57-15-10 and any other moneys received from federal, state, county, city, or private sources. The city auditor shall keep the municipal arts fund separate and apart from the other money of the city, and it shall not revert to or be considered funds on hand by the governing body at the end of any fiscal year. The municipal arts fund shall be used exclusively for the establishment and maintenance of the municipal arts council and for grants by the council to appropriate arts organizations in the city. Upon motion of the governing body or upon petition of not less than twenty-five percent of the qualified electors voting in the last general election of the city, filed not less than sixty days before the next regular election, the governing body shall submit to the qualified electors at the next regular election the question of whether such governing body shall annually levy a specified amount not to exceed five mills for the municipal arts council.

**SECTION 46. AMENDMENT.** Section 40-43-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-43-01. Judgment or a settlement of a claim against municipality - Additional tax levied.**

If a final judgment is obtained or a settlement is made of a claim against any municipality in this state, the governing body of the municipality, by resolution, may provide for the levy and collection of an annual tax upon all the taxable property within the municipality for the payment of such judgment or a settlement of a claim. The amount levied under this section for the payment of a judgment or a settlement of a claim against a municipality shall not exceed the limitation in subsection 4 of section 57-15-1057-15-28.1.

**SECTION 47. AMENDMENT.** Section 40-45-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-45-01. Tax levy Funding for police pension fund authorized – Limitations.**

Any city having a population in excess of five thousand inhabitants according to the last official federal census and having an organized and paid police department may levy an annual tax not exceeding the limitation in subsection 10 of section 57-15-10 provide funding for the purpose of creating and maintaining a police pension fund from revenues derived from its general fund levy authority.

Any city having established by law a police retirement system based upon actuarial tables may provide funding for the police pension fund from revenues derived from its general fund levy authority.

**SECTION 48. AMENDMENT.** Section 40-45-27 of the North Dakota Century Code is amended and reenacted as follows:

**40-45-27. Procedure upon discontinuance of police pension plan.**

~~If the governing body of the city shall determine by a two-thirds vote as provided in section 40-45-26 that the police pension plan shall be discontinued, the plan shall be discontinued in such city and the governing body shall proceed to liquidate the pension fund created under such plan. Liquidation shall be accomplished by returning to each employee still in the employ of the city ten days after the date of the adoption of the resolution provided for in section 40-45-26 the entire amount which has been deducted from the employee's salary as an assessment or membership fee and then by payment of pension claims theretofore allowed in the same amounts as are then in effect until the death or disqualification of the pension claimant, and thereafter continuing such payments as would have accrued to survivors of such pension claimants under the local pension provisions if the plan had been continued. If the fund is insufficient to return the amount to which each employee is entitled as provided herein and to pay such pension claims in full, the governing body shall make an annual tax levy, which shall be in addition to any other tax levies authorized by law, in an amount sufficient to assure the payment in full of the pension claims theretofore allowed. If the fund exceeds the amount required to satisfy such returns and such claims, such excess shall be placed in the general fund of the city as provided in section 40-46-25.~~

**SECTION 49. AMENDMENT.** Section 40-46-02 of the North Dakota Century Code is amended and reenacted as follows:

**40-46-02. Tax levy for city employees' pension fund authorized - Limitations.**

~~Any city may levy an annual tax not exceeding the limitation in subsection 12 of section 57-15-10 provide funding from revenues derived from its general fund levy authority for the purpose of creating and maintaining a city employees' pension fund. A city may make payment from a city employees' pension fund to any pension plan or retirement program for city employees provided the receiving plan or program that is approved by the internal revenue service. Any pension system shall must be based on actuarial tables and actuarial valuation shall must be performed at intervals of not more than five years.~~

**SECTION 50. AMENDMENT.** Section 40-46-25 of the North Dakota Century Code is amended and reenacted as follows:

**40-46-25. Procedure upon discontinuance of employees' pension or police pension plan.**

If the governing body of the city shall determine by a two-thirds vote as provided in section 40-46-23 that the employees' pension or police pension plan be discontinued, the plan shall be discontinued in such city and the governing body shall proceed to liquidate the pension fund created under such plan. Liquidation shall be accomplished by returning to each employee still in the employ of the city ten days after the date of the adoption of the resolution, provided for in section 40-46-23, the entire amount which has been deducted from the employee's salary as an assessment or membership fee and then by payment of pension claims theretofore allowed in the same amounts as are then in effect until the death or disqualification of the pension claimant, and thereafter continuing such payments as would have accrued to survivors of such pension claimant under the local pension provisions if the plan had been continued. If the fund is insufficient to return the amount to which each employee is entitled as provided herein and to pay such claims in full, the governing body shall make an annual tax levy, which shall be in addition to any other tax levies authorized by law, in an amount sufficient to assure the payment in full of

the pension claims theretofore allowed. If the fund exceeds the amount required to satisfy such returns and such claims, such excess shall be placed in the general fund of the city.

**SECTION 51. AMENDMENT.** Section 40-46-26 of the North Dakota Century Code is amended and reenacted as follows:

**40-46-26. Tax levy for city having provided its employees with the City provision of employee federal social security plan.**

~~In addition to any other levies authorized by law for general purposes, any city having provided~~From revenues derived from its general fund levy authority, a city may provide its employees with the federal social security plan ~~may levy such annual tax upon its taxable valuation as will be necessary to and~~ pay such city's share as employer of the cost of providing its employees with the federal social security plan.

**SECTION 52. AMENDMENT.** Section 40-48-07 of the North Dakota Century Code is amended and reenacted as follows:

**40-48-07. Limitations on expenditures of commission - Tax levy authorized.**

The expenditures of the planning commission, exclusive of gifts, ~~shall~~must be within the amounts appropriated for that purpose ~~by funding provided from revenues derived from the general fund levy authority of~~ the governing body of the municipality. The governing body shall provide the funds, equipment, and accommodations ~~it deems~~ necessary for the commission's work. ~~Each municipality which has established a planning commission, in making its annual tax levy, may also levy and collect a tax not exceeding the limitation in subsection 14 of section 57-15-10 in any fiscal year for the purpose of defraying the lawful expenses incurred by the planning commission in carrying out the purposes of this chapter.~~

**SECTION 53. AMENDMENT.** Section 40-49-22 of the North Dakota Century Code is amended and reenacted as follows:

**40-49-22. Tax levy for park district employees' pension fund.**

A park district adopting the provisions of section 40-49-21 ~~may levy a tax not exceeding the limitation in subsection 1 of section 57-15-12.2. The proceeds of the tax levy must be placed in the~~provide funding from revenues derived from its general fund levy authority for the benefit of its employees' pension fund.

<sup>209</sup> **SECTION 54. AMENDMENT.** Section 40-55-08 of the North Dakota Century Code is amended and reenacted as follows:

**40-55-08. (Effective for the first two taxable years beginning after December 31, 2012) Election to determine desirability of establishing establish recreation system - How called Funding.**

The governing body of any ~~municipality~~city, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the ~~municipality~~city, school district, or park district, shall submit to the qualified electors the question of the establishment, maintenance, and conduct of a public recreation system; ~~and except in the case of a school district, the~~

<sup>209</sup> Section 40-55-08 was also amended by section 18 of Senate Bill No. 2031, chapter 137.

~~levying of an annual tax for the conduct and maintenance thereof of not more than two and five-tenths mills on each dollar of taxable valuation of all taxable property within the corporate limits or boundaries of such municipality or park district, to be voted upon at the next general election or special municipal election; provided, however, that such questions may not be voted upon at the next general election unless such action of the governing body shall be taken, or such petition to submit such if the question shall be placed on the ballot is filed thirty days prior to the date of such election.~~

If the electors of the city have approved a public recreation system, the governing body of the city may provide funding for the recreation system from revenues derived from its general fund levy authority in an amount not exceeding the revenue derived from a levy of two and five-tenths mills per dollar of taxable valuation of property within the city.

A school district or park district may provide funding from revenues derived from its general fund levy authority for the establishment, maintenance, and conduct of a public recreation system using the proceeds of levies, as permitted by section 57-15-14.2.

**(Effective after the first two taxable years beginning after December 31, 2012) Election to determine desirability of establishing establish recreation system - How called Funding.** The governing body of any municipality, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the municipality, school district, or park district, shall submit to the qualified electors the question of the establishment, maintenance, and conduct of a public recreation system, ~~and except in the case of a school district, the levying of an annual tax for the conduct and maintenance thereof of not more than two and five tenths mills on each dollar of taxable valuation of all taxable property within the corporate limits or boundaries of such municipality or park district, to be voted upon at the next general election or special municipal election; provided, however, that such questions may not be voted upon at the next general election unless such action of the governing body shall be taken, or such petition to submit such if the question shall be placed on the ballot is filed thirty days prior to the date of such election.~~

If the electors of the city have approved a public recreation system, the governing body of the city may provide funding for the recreation system from revenues derived from its general fund levy authority in an amount not exceeding the revenue derived from a levy of two and five-tenths mills per dollar of taxable valuation of property within the city.

A school district or park district may levy a tax provide funding from revenues derived from its general fund levy authority for the establishment, maintenance, and conduct of a public recreation system pursuant to subdivision q of subsection 1 of section 57-15-14.2.

**210 SECTION 55. AMENDMENT.** Section 40-55-09 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>210</sup> Section 40-55-09 was also amended by section 19 of Senate Bill No. 2031, chapter 137.

**~~40-55-09. (Effective for the first two taxable years beginning after December 31, 2012) Favorable vote at election – Procedure.~~**

~~Except in the case of a school district or park district, upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if authorized as provided by this section, on each dollar of the taxable valuation of all taxable property within the corporate limits or boundaries of the municipality. This tax is in addition to the maximum of taxes permitted to be levied in such municipality. The mill levy authorized by this section may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of the municipality shall continue to levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. This chapter does not limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center, or character-building facility. A park district may levy a tax annually within the general fund levy authority of section 57-15-12 for the conduct and maintenance of a public recreation system.~~

**~~(Effective after the first two taxable years beginning after December 31, 2012) Favorable vote at election – Procedure~~Voter-approved levy authority for city public recreation system.**

~~Except in the case of a school district or park district, upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if authorized as provided by this section, on each dollar of the taxable valuation of all taxable property within the corporate limits or boundaries of the municipality. This tax is in addition to the maximum of taxes permitted to be levied in such municipality. The mill levy authorized by this section may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system.~~The governing body of a city may, and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the city shall, submit to the qualified electors the question of approval or disapproval of voter-approved levy authority for establishment, maintenance, and conduct of a public recreation system at the next general election or special municipal election if the question to be placed on the ballot is filed thirty days prior to the date of the election. The ballot measure question to approve a levy under this section must be stated to ask if the elector approves a voter-approved tax by the city for a public recreation system in a stated number of mills, not exceeding six mills. If approved by a majority of city electors voting on the question, the city may levy an additional tax within the limitation of subsection 13 of section 57-15-10. After January 1, 2015, approval or re-authorization by electors of voter-approved levy authority under this section may not be effective for

~~more than ten taxable years. Any voter-approved levy under this section or section 40-55-08 approved by the electors of a city before January 1, 2015, remains effective for ten taxable years or the period of time for which it was approved by the electors after it was approved, whichever is less, under the provisions of law in effect at the time it was approved. The governing body of the municipality shall continue to city shall discontinue the levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. This chapter does not limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center, or character-building facility. A school district may levy a tax annually for the conduct and maintenance of a public recreation system pursuant to subdivision q of subsection 1 of section 57-15-14.2. A park district may levy a tax annually within the general fund levy authority of section 57-15-12 for the conduct and maintenance of a public recreation system.~~

**SECTION 56. AMENDMENT.** Section 40-57.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**40-57.2-04. City or county may make tax levy provide funding.**

~~Any city or county, after resolution by its governing body that the question be submitted to its electors shall upon approval of the question at a regular or special election by sixty percent of the qualified electors of the city or county voting in the election may levy a tax not exceeding the limitations in subsection 16 of section 57-15-06.7 and subsection 15 of section 57-15-10 for the purpose of providing funds may provide funding from revenues derived from its general fund levy authority for career and technical education and on-the-job training services and surveys and otherwise implementing this chapter. No levy for a specific year shall be made if the balance in the fund remaining from levies in prior years is in excess of ten thousand dollars.~~

<sup>211</sup> **SECTION 57. AMENDMENT.** Section 40-57.4-04 of the North Dakota Century Code is amended and reenacted as follows:

**40-57.4-04. Tax levy for city job development authorities or industrial development organizations.**

~~The governing body of a city which has a city job development authority shall establish a city job development authority fund and levy a tax not exceeding the limitation in subsection 2812 of section 57-15-10. The city auditor shall keep the fund separate from other money of the city and transmit all funds received under this section within thirty days to the board of directors of the city job development authority. The funds when paid to the city job development authority must be deposited in a special account in which other revenues of the city job development authority are deposited and may be expended by the city job development authority as provided in sections 40-57.4-02 and 40-57.4-03.~~

~~In lieu of establishing a job development authority, the governing body of a city where an active industrial development organization exists may levy a tax not exceeding the limitation in subsection 2812 of section 57-15-10. The and use those~~

<sup>211</sup> Section 40-57.4-04 was also amended by section 20 of Senate Bill No. 2056, chapter 88, and section 18 of Senate Bill No. 2217, chapter 92.

funds from the alternative levy may be used to enter into a contract with the industrial development organization for performance of the functions of a city job development authority.

**SECTION 58. AMENDMENT.** Subsection 8 of section 40-58-07 of the North Dakota Century Code is amended and reenacted as follows:

8. To appropriate funds and make expenditures that are necessary to carry out the purposes of this chapter, and to levy taxes within the limitations of the capital improvements fund under section 57-15-38 and to levy assessments for those purposes; to close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places; to plan or replan or zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements with a housing authority or an urban renewal agency vested with urban renewal project powers under section 40-58-15, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by the municipality pursuant to any of the powers granted by this chapter.

**SECTION 59. AMENDMENT.** Subsection 2 of section 40-58-15 of the North Dakota Century Code is amended and reenacted as follows:

2. As used in this section, the term "urban renewal project powers" includes the rights, powers, functions, and duties of a municipality under this chapter, except the following:
  - a. The power to determine an area to be industrial or commercial property or a slum or blighted area or combination thereof and to designate the property or area as appropriate for a development or renewal project;
  - b. The power to approve and amend development or renewal plans and to hold any public hearings required with respect to those plans;
  - c. The power to establish a general plan for the locality as a whole;
  - d. The power to formulate a workable program under section 40-58-04;
  - e. The powers, duties, and functions referred to in section 40-58-18;
  - f. The power to make the determinations and findings provided for in sections 40-58-03 and 40-58-05 and subsection 4 of section 40-58-06;
  - g. The power to issue general obligation bonds; and
  - h. The power to appropriate funds, to levy taxes within the limitations of the capital improvements fund under section 57-15-38 and to levy assessments, and to exercise other powers provided for in subsection 8 of section 40-58-07.

**SECTION 60. AMENDMENT.** Section 40-59-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-59-01. Armory or memorial levy funding.**

The governing body of any municipality maintaining an armory annually may levy a tax not exceeding the limitation in subsection 16 of section 57-15-10 provide funding

from revenues derived from its general fund levy authority for armory or memorial hall maintenance, repair, alteration, and reconstruction.

~~A municipality may not levy such tax, unless the governing body of the municipality shall have submitted to the voters of the municipality according to the procedure set forth in this chapter, the question of levying a tax for the purposes authorized by this statute. If the majority of the electors voting on the question approved such levy, there shall be levied, spread, and collected such tax as other taxes are collected in and for such municipality.~~

**SECTION 61. AMENDMENT.** Subsection 2 of section 40-60-02 of the North Dakota Century Code is amended and reenacted as follows:

2. To provide funds for this purpose by the budgeting of current funds from revenues derived from its general fund levy authority, the levy of ~~taxes or~~ special assessments, or the issuance of bonds or other obligations, or by any combination of these means, pursuant to and in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, and 40-57, and of all other applicable laws now in force or hereafter enacted.

**SECTION 62. AMENDMENT.** Subsection 3 of section 40-61-03.1 of the North Dakota Century Code is amended and reenacted as follows:

3. In cooperation with cities whereby cities may agree to assist in financing projects and facilities through the issuance of municipal bonds or other obligations, budgeting of current funds from revenues derived from its general fund levy authority, the levy of ~~taxes or~~ special assessments, or by any combination of these means pursuant to or in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, and 40-57 and all other applicable laws now in force or hereafter enacted.

**SECTION 63. AMENDMENT.** Section 40-61-10 of the North Dakota Century Code is amended and reenacted as follows:

**40-61-10. Debt guarantee.**

Prior to the issuance of any bonds authorized by this chapter, except revenue bonds authorized in subsection 8 of section 40-61-08, the authority shall require that the payment of not less than ten percent of the principal and interest of the bonds issued for any project be guaranteed through the use of one or more of the following methods:

1. A contract of personal guarantee entered into between the authority, the bondholders, and at least three benefited property owners.
2. The guarantee of said payments by the municipality through the issuance of municipal bonds or other obligations, budgeting of current funds from revenues derived from its general fund levy authority, the levy of ~~taxes or~~ special assessments or by any combination of these pursuant to and in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, and 40-57 and of all other applicable laws now in force or hereinafter enacted.

**SECTION 64. AMENDMENT.** Section 50-03-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-03-01. Board of county commissioners may levy human services taxfunding.**

The board of county commissioners, if it deems it expedient, annually at its session at which the county tax is ordered to be levied and assessed, may levy and assess a human services tax for the support of needy persons in its county may levy a tax for support of human services programs in the county as provided in section 50-06.2-05.

**SECTION 65. AMENDMENT.** Section 50-03-06 of the North Dakota Century Code is amended and reenacted as follows:

**50-03-06. Expenditure of total county appropriation -- How appropriation following year determinedCounty human services program levy insufficiency due to extraordinary impact - Application for state assistance.**

~~If the board of county commissioners of any county, due to an emergency, expends in any one year such an amount for human services purposes that the total county appropriations for that year are exceeded, the appropriations for the following year, to make up the deficit caused by such expenditures, shall not be included within the appropriations subject to the tax levy limitation for general county purposes provided by law~~The board of county commissioners may apply to the department of human services for a grant if that county has expended revenue exceeding the amount generated by a levy of twenty mills for support of human services programs in the county as provided in section 50-06.2-05 for the current or immediately preceding budget year due to extraordinary human services program impact. If it is shown to the satisfaction of the department of human services that the county has experienced extraordinary human services program impact from meeting human services needs resulting from proximity to an Indian reservation or proximity to the state hospital, the department may provide a grant, from funds available to the department for that purpose, of up to the excess amount expended.

<sup>212</sup> **SECTION 66. AMENDMENT.** Section 50-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

**50-06.2-05. Appropriation of county fundsCounty human services program funding - Tax levy authority.**

The board of county commissioners of each county shall annually appropriate and make available to the human services fund an amount sufficient to pay the local expenses of administration and provision of the human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies under the provisions of this title. For purposes of this section, the board of county commissioners may levy an annual tax for human services purposes not exceeding the limitation in subsection ~~3415~~ of section 57-15-06.7, ~~and if this amount is not sufficient, may levy for deficiency purposes under chapter 50-03.~~

<sup>213</sup> **SECTION 67. AMENDMENT.** Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>212</sup> Section 50-06.2-05 was also amended by section 19 of Senate Bill No. 2217, chapter 92.

<sup>213</sup> Section 57-15-01.1 was also amended by section 20 of Senate Bill No. 2031, chapter 137, and section 9 of Senate Bill No. 2206, chapter 329.

**57-15-01.1. (Effective for the first two taxable years beginning after December 31, 2012) Protection of taxpayers and taxing districts.**

Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
  - a. ~~"Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;~~
  - b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
  - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
  - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
  - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
  - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget

year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.

- c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
- d. If the base year is a taxable year before 2013, reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of:
  - (1) The base year mill rate of the school district minus sixty mills; or
  - (2) Fifty mills.
4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
  - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
  - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

**(Effective after the first two taxable years beginning after December 31, 2012) Protection of taxpayers and taxing districts.** Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
  - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. ~~For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;~~
  - b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
  - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
  - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
  - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
  - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.

- c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
  - d. Increased, for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the base year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.
  - e. Reduced for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the budget year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the base year.
4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
  5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
    - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
    - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
  6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
  7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

**SECTION 68. AMENDMENT.** Section 57-15-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-06. Limitations on county tax leviesCounty general fund levy.**

County tax levies are limited as follows:

4. ~~The board of county commissioners may not levy any property taxes for county general or special county fund purposes which will exceed the amount produced by a levy of twenty-three at a tax rate not exceeding sixty mills on the per dollar of the taxable valuation of property in the county.~~

A county that levied more than sixty mills for taxable year 2015 for the combined number of mills levied for general fund purposes plus the number of mills levied for purposes consolidated into the general fund levy by this Act may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2017 sixty mills plus seventy-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2018 sixty mills plus fifty percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2019 sixty mills plus twenty-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015.

2. ~~The board of county commissioners annually shall levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes may not exceed the amount produced by a levy rate of one and one-quarter mills on the dollar of taxable valuation. Such levy must be within the amount produced by the twenty-three mill rate, and is a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies; provided, that any funds now on hand or hereinafter levied for the purpose of this subsection shall not, in the discretion of the board of county commissioners, be included in the budget of the county.~~
3. ~~The twenty-three mill~~Unless a specific exception is provided by statute, the county general fund levy limitation under this section applies to all tax levies which property taxes the board of county commissioners is authorized to levy for general and special county purposes, including taxes levied for road and bridge purposes. Any unexpended balance in the county road fund at the end of the fiscal year may be transferred to a special road fund, except that such special fund may never exceed the amount a ten mill levy on the taxable valuation of the county would yield, and the balance in said fund may not be considered in determining the budget or the amount that may be levied. Such mill limitation does not apply to the levies in section 57-15-06.7.

**SECTION 69. AMENDMENT.** Section 57-15-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-06.4. Levy authorized for county veterans' service officer's salary, traveling, and office expenses.**

The county commissioners of each county may levy annually a tax not exceeding the limitation in subsection 487 of section 57-15-06.7 to provide a fund for the payment of the salary, traveling, and office expenses of the county veterans' service officer authorized to be appointed by section 37-14-18.

**SECTION 70. AMENDMENT.** Section 57-15-06.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-06.6. Levy authorized for regional or county corrections centersCounty capital projects levy.**

The board of county commissioners of each county may levy an annual tax not exceeding the limitationten mills plus any voter-approved additional levy as provided in subsection 49-18 of section 57-15-06.7 for the purpose of constructingthe following capital projects:

1. Constructing and equipping, operating, and maintaining structural and mechanical components of regional or county corrections centers andor for the purpose of contracting servicesfor corrections center space capacity from another public or private entity.
2. Acquiring real estate as a site for public parks and construction and equipping and maintaining structural and mechanical components of recreational facilities under section 11-28-06.
3. Acquiring real estate as a site for county buildings and operations and constructing and equipping and maintaining structural and mechanical components of county buildings and property.
4. Acquiring real estate as a site for county fair buildings and operations and constructing and equipping and maintaining structural and mechanical components of county fair buildings and property as provided in section 4-02-26.
5. Expenditures for the cost of leasing as an alternative means of financing for any of the purposes for which expenditures are authorized under subsections 1 through 4.

Any voter-approved levy for the purposes specified in this section approved by the electors before January 1, 2015, remains effective through 2024 or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval or re-authorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.

<sup>214</sup> **SECTION 71. AMENDMENT.** Section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-06.7. Additional levies - Exceptions to tax levy limitations in counties.**

The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

1. CountiesA county supporting airportsan airport or airport authoritiesauthority may levy a tax not exceeding four mills in accordance with section 2-06-15.
2. Counties levying an additional tax as provided in section 4-02-27.2 may levy a tax not exceeding two mills for a period of not to exceed ten years.
3. Repealed by S.L. 1995, ch. 61, § 14.

<sup>214</sup> Section 57-15-06.7 was also amended by section 10 of Senate Bill No. 2206, chapter 329.

4. Counties~~A county~~ levying a tax for extension work as provided in section 4-08-15 may levy a tax not exceeding two mills and if a majority of the electors of the county have approved additional levy authority under section 4-08-15, the county may levy a voter-approved tax not exceeding an additional tax of two mills.
5. ~~Counties levying a tax for extension work as provided for in section 4-08-15.1 may levy a tax not exceeding two mills.~~
6. ~~Counties levying a tax for gopher, rabbit, and crow destruction as provided in section 4-16-02 may levy a tax not exceeding one-half of one mill.~~
7. ~~Counties levying a tax for payment of a judgment obtained by the state or a state agency against the county in accordance with section 11-11-46 may levy a tax not exceeding one mill.~~
- 8-3. Counties~~A county~~ levying a tax for historical works in accordance with section 11-11-53 may levy a tax not exceeding one-quarter of one mill, except that if sixty percent of the qualified electors voting on the question of an increase~~increase~~ levy limit increase as provided in section 11-11-53 shall approve, the tax levy limitation may be levied not exceeding three-quarters~~increased to not exceeding three-quarters~~ of one mill.
9. ~~A county levying a tax for a booster station in accordance with section 11-11-60 may levy a tax not exceeding two mills.~~
10. ~~A county levying a tax to pay expenses of the board of county park commissioners in accordance with section 11-28-06 may levy a tax not exceeding one mill.~~
11. ~~Repealed by S.L. 1999, ch. 154, § 2.~~
- 12-4. ~~A county levying a tax for a county or community hospital association as provided in section 23-18-01 may levy a tax for not more than five years not exceeding eight mills in any one year or, in the alternative, for not more than fifteen~~ten years at a mill rate not exceeding five mills.
13. ~~A county levying a tax for a nursing home authority in accordance with section 23-18.2-12 may levy a tax not exceeding five mills.~~
- 14-5. ~~A county levying a tax for county roads and bridges as provided in section 24-05-01 may levy a tax at a tax rate not exceeding five~~ten mills if approved as provided in that section. When authorized by a majority of the qualified electors voting upon the question at a primary or general election in the county, the county commissioners may levy and collect an additional tax for road and bridge purposes as provided in section 24-05-01, not exceeding a combined additional tax rate of twenty mills.
- 14-6. ~~A county levying a tax to establish and maintain a public library service as provided in section 40-38-02 may levy a tax not exceeding four mills.~~
16. ~~A county levying a tax to provide for career and technical education and on-the-job training services as provided in section 40-57.2-04 may levy a tax not exceeding one mill.~~

17. A county levying a tax for farm-to-market and federal-aid roads as provided in section 57-15-06.3 may levy a tax not exceeding the levy established by the ballot approved by the electors as provided in that section.
- 18.7. A county levying a tax for a county veterans' service officer's salary, traveling, and office expenses in accordance with section 57-15-06.4 may levy a tax not exceeding two mills.
19. A county levying a tax for planning purposes as provided in section 57-15-06.5 may levy a tax not exceeding three mills.
- 19.1.8. A county levying a tax for regional or county corrections centers according to capital projects under section 57-15-06.6 may levy a tax not exceeding ten mills. When authorized by a majority of the qualified electors voting upon the question of a specific capital project or projects at a primary or general election in the county, the county commissioners may levy and collect an additional voter-approved tax for capital projects under section 57-15-06.6 not exceeding a tax rate of ten mills per dollar of the taxable valuation of property in the county. After January 1, 2015, approval or re-authorization by electors of increased levy authority under this subsection may not be effective for more than ten taxable years. Any voter-approved levy in excess of ten mills for the purposes specified in section 57-15-06.6 approved by the electors before January 1, 2015, remains effective through 2024 or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved.
20. A county levying a tax for advertising purposes as provided in section 57-15-10.1 may levy a tax not exceeding one-half mill.
21. A county levying a tax for abandoned cemetery maintenance as provided in section 57-15-27.2 may levy a tax not exceeding one-tenth of one mill.
- 22.9. A county levying a tax for emergency purposes as provided in section 57-15-28 may levy a tax not exceeding two mills in a county with a population of thirty thousand or more, four mills in a county with a population under thirty thousand but more than five thousand, or six mills in a county with a population of five thousand or fewer.
- 23.10. A county levying a tax for county emergency medical service according to section 57-15-50 may levy a tax not exceeding ten mills.
- 24.11. A county levying a tax for ~~destruction of weeds along highways~~ weed control as provided in section 57-15-~~544.1-47-14~~ 47-14 may levy a tax not exceeding ~~two~~ four mills.
- 25.12. A county levying a tax for programs and activities for senior citizens according to section 57-15-56 may levy a tax not exceeding two mills.
26. A county levying a tax for county welfare in accordance with section 57-15-57 may levy a tax not exceeding two mills.
27. A county levying a tax to repay a loan according to section 57-47-04 may levy a tax not to exceed three mills.

- ~~28-13.~~ Tax levies made for paying the principal and interest on any obligations of the county evidenced by the issuance of bonds.
- ~~29-14.~~ A county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a tax not exceeding four mills on the taxable valuation of property within the county. Upon approval by a majority of electors voting on the question at a regular or special county election, a county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a separate and additional tax for promotion of tourism in an amount not exceeding one mill on the taxable valuation of property within the county. However, if any city within the county is levying a tax for support of a job development authority or for support of an industrial development organization and the total of the county and city levies exceeds ~~five~~four mills, the county tax levy within the city levying under subsection 28 of section 57-15-10 must be reduced so the total levy in the city does not exceed ~~five~~four mills.
- ~~30.~~ Counties levying a tax for county fairs according to section 4-02-26 may levy a tax not exceeding one mill.
- ~~31.~~ Counties levying a tax according to section 4-02-27 for a county fair association may levy a tax not exceeding one and one-half mills.
- ~~32.~~ Counties levying a tax in accordance with section 4-02-27.1 for a county fair association may levy a tax not exceeding one-half mill.
- ~~33.~~ A county levying a tax for programs and activities for handicapped persons according to section 11-11-65 may levy a tax not exceeding one-half mill.
- ~~34-15.~~ CountiesA county levying an annual tax for human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding the lesser of twenty mills or the limitation as determined under section 11-23-01.
- ~~35.~~ A county levying a tax for county parks and recreational facilities in accordance with section 57-15-06.9 may levy a tax not exceeding three mills.
- ~~36.~~ A county levying a tax for old-age and survivors' insurance or comprehensive health care insurance employee benefit programs according to section 52-09-08, for social security, for an employee retirement program established by the governing body, for county automation and telecommunications under section 57-15-62, or for any combination of those purposes, may levy a tax not exceeding thirty mills. The portion of the levy under this subsection for county automation and telecommunications under section 57-15-62 may not exceed five mills. The portion of the levy under this subsection for comprehensive health care insurance employee benefit programs under section 52-09-08 may not exceed four mills.
- ~~37.~~ Counties supporting ports or port authorities may levy a tax not exceeding four mills in accordance with section 11-36-15.
- ~~38.~~ Counties supporting commerce authorities may levy a tax not exceeding four mills in accordance with section 11-37-14.

16. A levy for an extraordinary expenditure under section 11-11-24 approved by the electors of the county before January 1, 2015, may continue to be levied and collected under provisions of law in effect when the levy was approved, and for the term it was approved by the electors. When the levy authority for an extraordinary expenditure ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund.
17. Levies dedicated under section 57-15-59 before January 1, 2015, for lease payments may be continued to be levied and collected for the duration of the lease. When the levy authority for lease payments ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund. A lease for county facilities effective after December 31, 2014, is subject to the capital projects levy limitations of section 57-15-06.6.

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

**SECTION 72. AMENDMENT.** Section 57-15-08 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-08. General fund levy limitations in cities.**

The aggregate amount levied for general city general fund purposes may not exceed an amount produced by a levy of ~~thirty-eight~~one hundred five mills on the taxable valuation of property in the city. ~~Cities with a population of over five thousand may levy an additional one-half of one mill for each additional one thousand population in excess of five thousand, up to a maximum levy for general city purposes of forty mills.~~ A city, when authorized by a majority vote of the electors of the city voting on the question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of the city, may increase the maximum mill levy for general city purposes by not more than ten mills.

A city that levied more than one hundred five mills for taxable year 2015 in the combined number of mills levied for general fund purposes plus the number of mills levied for purposes consolidated into the general fund levy by this Act may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2017 one hundred five mills plus seventy-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2018 one hundred five mills plus fifty percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2019 one hundred five mills plus twenty-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015.

**SECTION 73. AMENDMENT.** Section 57-15-10 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-10. Exceptions to tax levy limitations in cities.**

The tax levy limitations specified in section 57-15-08 do not apply to the following tax levies:

1. Taxes levied pursuant to law for a proportion of the cost of a special improvement project by general taxation.
2. Taxes levied pursuant to law for the purpose of paying a deficiency in connection with a special improvement project.
3. Taxes levied to pay interest on a bonded debt, or the principal of such debt, at maturity.
4. ~~Taxes levied for the purpose of paying any final judgment or judgments obtained against any city, if the aggregate amount levied for the purpose of paying any final judgment or judgments does not exceed such amount as will be produced by a levy of five mills on the taxable valuation of the property in the city. This section may not be deemed or construed to modify, qualify, or limit the authority of any city to issue bonds pursuant to law in case the governing body of any such city does not deem it advisable to pay such judgment or judgments out of current revenues.~~
5. Taxes, not exceeding four mills, levied for the purpose of establishing and maintaining a library fund for public library services in accordance with section 40-38-02.
- 6-5. Taxes levied on property of an agricultural fair association, a nonprofit club or like organization, or an organization of college students located within a municipality and otherwise exempt under subsection 10 or 11 of section 57-02-08, to pay such property's proportionate share of the cost of fire protection services maintained by the municipal corporation.
- 7-6. Taxes, not exceeding five mills, levied for the purpose of establishing and maintaining a municipal arts council in accordance with section 40-38.1-02.
8. ~~Taxes levied for fire department stations in accordance with section 40-05-09.1 may be levied in an amount not exceeding five mills.~~
9. ~~Taxes levied for the purpose of fire protection service in accordance with section 40-05-09.2 may be levied in an amount not exceeding fifteen mills.~~
10. ~~Taxes levied for a policemen's pension fund in accordance with section 40-45-01 may be levied in an amount not exceeding one mill.~~
11. ~~Taxes levied for a police retirement system based upon actuarial tables in accordance with section 40-45-02 may be levied in an amount not exceeding three mills.~~
12. ~~Taxes levied for a city employees' pension fund in accordance with section 40-46-02 may be levied in an amount not exceeding five mills.~~
13. Repealed by S.L. 1985, ch. 82, § 162; ch. 604, § 22.
14. ~~Taxes levied for expenditures of the planning commission in accordance with section 40-48-07 may be levied in an amount not to exceed one mill. Provided, that any municipality, in order to obtain the funds necessary to initiate or undertake a comprehensive study of the planning requirements of the municipality, may, without regard to any tax limitation provided by law, levy~~

~~a tax, for a period of not to exceed five successive years, of not more than one mill to raise funds required for comprehensive study.~~

- ~~15. Taxes levied for the purpose of career and technical education and on the job training services in accordance with section 40-57.2-04 may be levied in an amount not exceeding one mill.~~
- ~~16. Taxes levied for the purpose of an armory or memorial levy in accordance with section 40-59-01 may be levied in an amount not exceeding two mills.~~
- ~~17. Taxes levied for advertising purposes in accordance with section 57-15-10.1 may be levied in an amount not exceeding one mill.~~
- ~~18.7. Taxes levied for airport purposes in accordance with section 57-15-362-06-15 may be levied in an amount not exceeding four mills.~~
- ~~19.8. Taxes levied for a construction capital improvements fund approved by a majority of the electors of the city in accordance with section 57-15-38 may be levied in an amount not exceeding five ten mills. Taxes levied for a capital improvements fund approved by sixty percent or more of the electors of the city in accordance with section 57-15-38 may be levied in an amount not exceeding an additional ten mills.~~
- ~~20. Taxes levied for a city fire department reserve fund pursuant to section 57-15-42 may be levied in an amount not exceeding five mills.~~
- ~~21. Taxes levied for an organized firefighters relief association in accordance with section 57-15-43 may be levied in an amount not exceeding one-half of one mill.~~
- ~~22. Taxes levied for acquiring real estate for a public building or other purposes as provided in section 57-15-44 may be levied in an amount not exceeding five mills.~~
- ~~23.9. Taxes levied for emergency purposes pursuant to section 57-15-48 may be levied in an amount not exceeding two and one-half mills.~~
- ~~24. Taxes levied for police department stations according to section 57-15-53 may be levied in an amount not exceeding two mills.~~
- ~~25.10. Taxes levied for public transportation in accordance with section 57-15-55 may be levied in an amount not exceeding five mills.~~
- ~~25.1. Taxes levied for transportation of public school students in accordance with section 57-15-55.1.~~
- ~~26.11. Taxes levied for programs and activities for senior citizens in accordance with section 57-15-56 may be levied in an amount not exceeding two mills.~~
- ~~27. Taxes levied for construction, operation, and maintenance of animal shelters in accordance with section 40-05-19 may be levied in an amount not exceeding one-half mill.~~

- ~~28-12. Taxes levied for a city job development authority or industrial development organization as provided in section 40-57.4-04 may be levied in an amount not exceeding four mills.~~
- ~~29. Taxes levied for programs and activities for handicapped persons in accordance with section 57-15-60 may be levied in an amount not exceeding one-half mill.~~
- ~~30. Taxes levied for support of a city band may be levied in an amount not exceeding one mill.~~
- ~~31. Taxes levied for port purposes in accordance with section 57-15-10.2 may be levied in an amount not exceeding four mills.~~
- ~~32. Taxes levied for commerce authority purposes may be levied in an amount not exceeding four mills.~~
13. Taxes levied for a city public recreation system approved by electors as provided in section 40-55-09 may be levied in the amount approved by the electors, not exceeding six mills.
14. Taxes levied for maintenance and improvement of cemeteries owned by the city under section 57-15-27.1 may be levied in an amount not exceeding two mills.
15. Taxes levied for retirement of bonds issued before January 1, 2015, under section 40-57-19 or 40-57-19.1 may be levied in the amount required for annual payments until the bonds are retired.
16. Levies dedicated under section 57-15-59 before January 1, 2015, for lease payments may be continued to be levied and collected for the duration of the lease. When the levy authority for lease payments ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund.

**SECTION 74. AMENDMENT.** Section 57-15-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-10.1. Counties and cities may levy for certain advertising purposes.**

The board of county commissioners of any county or the governing body of any city may ~~annually levy a tax~~provide funding for the purpose of advertising the resources and opportunities in the county or city and promoting industrial development ~~from revenues derived from the county or city general fund levy authority.~~ The tax may not exceed the limitations in subsection 20 of section 57-15-06.7 and subsection 17 of section 57-15-10.

When any county or city makes the levy provided for by this section, the expenditure of the fund must be under the direction of the governing ~~boards~~board of the county or city.

**SECTION 75. AMENDMENT.** Section 57-15-12 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-12. General fund levy limitations in park districts.**

The aggregate amount levied for park district general fund purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, and levies to pay the principal and interest on special assessments assessed and levied against park board properties by other municipalities, may not exceed the sum of the number of mills levied by the park district in taxable year 2000 for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60.

1. A park district may levy for general fund purposes up to thirty-eight mills on the taxable valuation of property in the district, subject to the higher of the number of mills determined under the following limitations:
  - a. The general fund mill levy determined based upon the highest amount in dollars the park district levied for general fund purposes for the three taxable years immediately preceding the current year, plus twelve percent; or
  - b. The general fund mill levy determined by combining the highest number of mills the park district levied for general fund purposes plus the number of mills levied for employee pension contributions under section 40-49-22, old-age and survivors' insurance under section 52-09-08, an employee retirement program established by the governing body, and for forestry purposes for any one of the three taxable years immediately preceding the current year.
2. For taxable years after 2014, the highest amount in dollars the park district levied for general fund purposes for the three immediately preceding taxable years for purposes of subdivision a of subsection 1, must be adjusted by adding the highest amount in dollars the park district levied in any one of the three immediately preceding taxable years for the combined levies for employee pension contributions under section 40-49-22, old-age and survivors' insurance under section 52-09-08, an employee retirement program established by the governing body, and for forestry purposes under section 57-15-12.1.
3. Notwithstanding the limitation in subsection 1, a park district that levied more than thirty-eight mills for the 2014 taxable year in the combined number of mills levied for general fund purposes plus the number of mills levied for the additional purposes of employee pension contributions under section 40-49-22, old-age and survivors' insurance under section 52-09-08, an employee retirement program established by the governing body, and for forestry purposes may levy for general fund purposes for taxable year 2015 the number of combined mills determined for the 2014 taxable year. A park district may levy for general fund purposes for taxable year 2016 thirty-eight mills plus seventy-five percent of the number of mills levied for the additional purposes listed in this subsection for the 2014 taxable year. A park district may levy for general fund purposes for taxable year 2017 thirty-eight mills plus fifty percent of the number of mills levied for the additional purposes listed in this subsection for the 2014 taxable year. A park district may levy for general fund

purposes for taxable year 2018 thirty-eight mills plus twenty-five percent of the number of mills levied for the additional purposes listed in this subsection for the 2014 taxable year.

4. A park district may increase its general fund levy under this section to any number of mills approved by a majority of the electors of the park district voting on the question at a regular or special park district election, up to a maximum levy under this section of ~~thirty-five~~thirty-eight mills on the dollar of the taxable valuation of the district for the current year. After January 1, 2015, approval or re-authorization by electors of voter-approved levy authority under this section may not be effective for more than ten taxable years.

**SECTION 76. AMENDMENT.** Section 57-15-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-12.1. City or park district tax levy ~~or service charge~~ funding for forestry ~~purposes~~ activities.**

1. ~~The governing body of a city or park district may levy annually a tax to provide funds provide funding from revenues derived from its general fund levy authority for the establishment, operation, and maintenance of forestry activities within the city or park district. A tax levied by a city governing body under this section may not exceed two mills per dollar of taxable valuation of property within the city. A tax levied by a park district under this section must be within the general fund levy authority of the park district. The governing board of a city or park district, upon approval by a majority vote of the qualified electors voting on the question at any citywide or districtwide election, may also levy annually an additional tax not in excess of three mills on the taxable valuation of property within the city or park district for the purpose of providing funds for forestry activities within the city or park district. Any park district levy approved by the electors and any city levy under this section is in addition to and not restricted by any mill levy limit prescribed by law. The proceeds of any levy funding under this section may be used for forestry activities, including prevention or control of Dutch elm disease or other diseases which may affect trees, shrubs, and other vegetation; purchasing, planting, or removal of trees, shrubs, and other vegetation; pruning and maintenance of trees, shrubs, and other vegetation; purchasing of necessary equipment; hiring of personnel; contracting for services; public information and technical assistance; and other items related to forestry activities which may be necessary to provide for proper care, maintenance, propagation, and improvement of forestry resources within the city or park district.~~
2. ~~In lieu of a levy as specified funding from revenues derived from general fund levy authority as described~~ in subsection 1, a city or park district may propose a service charge as an alternative form of financing. Such alternative form of financing must be approved by a majority vote of the qualified electors voting on the question at any general ~~or special~~ citywide or districtwide election. The proceeds of any service charge may be used for forestry activities, as specified in subsection 1.

**SECTION 77. AMENDMENT.** Section 57-15-12.3 of the North Dakota Century Code is amended and reenacted as follows:

**~~57-15-12.3. Tax levy for parks and~~ Park district levy for land acquisition and development of recreational facilities.**

~~An addition to its general fund levy authority, a board of park commissioners established pursuant to chapter 40-49 may levy taxes annually not exceeding the limitation in subsection 3 of section 57-15-12.2~~ five mills per dollar of taxable valuation in the district for a fund for the purpose of acquiring real estate as a site for public parks, construction of recreational facilities, renovation and repair of recreational facilities, and the furnishing of recreational facilities. The tax is to be levied, spread, and collected in the same manner as are other taxes in the park district. The question of whether the levy is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent or more of the qualified electors voting in the last regular park district election, if the petition is filed not less than sixty days before the election. If the majority of the qualified electors voting on the question vote to discontinue the levy, it may not again be levied without a majority vote of the qualified electors voting on the question at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board.

**SECTION 78. AMENDMENT.** Section 57-15-19.4 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-19.4. Township levy for roads.**

1. The electors of each township at the annual meeting may levy a tax not to exceed the limitation in subsection 3 of section 57-15-20.2 for the purpose of cooperating with the county in constructing and maintaining federal-aid farm-to-market roads and bridges that are part of the county road system and located within the township. This tax levy may be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01. A township levy for roads approved by qualified electors of a township under this section before January 1, 2015, may continue to be imposed for five taxable years or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval by electors of increased levy authority under this section may not be effective for more than five taxable years.
2. ~~If no federal-aid farm-to-market roads are built within ten years of the date the first mill levy pursuant to funds from a levy under subsection 1 was made~~ are not expended for purposes of cooperating with the county in constructing and maintaining roads and bridges that are part of the county road system and located within the township, the board of township supervisors may by resolution authorize the expenditure of all such funds collected and accumulated and the earnings thereon for the construction, improvement, or maintenance of other roads or for any other township purpose.

**SECTION 79. AMENDMENT.** Section 57-15-19.5 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-19.5. Township ~~levy~~ funding for law enforcement - Authorization - Cooperation with other political subdivisions.**

~~The electors of an organized township may authorize the levy of an amount not exceeding the limitation in subsection 4 of section 57-15-20.2~~ township to provide funding from revenues derived from its general fund levy authority for the purpose of

~~hiring law enforcement personnel. Such authorization must be granted upon a favorable vote of sixty percent of the electors present and voting on the question at the general election immediately succeeding the annual township meeting, provided the question has been included in the annual meeting notice issued by the township clerk pursuant to section 58-04-04. In providing for law enforcement services, the board of supervisors may cooperate with one or more additional townships, with a city, or with the county in accordance with the provisions of section 54-40-08chapter 54-40.~~

**SECTION 80. AMENDMENT.** Section 57-15-19.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-19.6. Township levyfunding for mowing or snow removal.**

~~The electorsbudget of each township approved at the annual meeting may levy not exceeding the limitation in subsection 5 of section 57-15-20.2include provision of funding from revenues derived from the general fund levy authority of the township for the purpose of mowing or snow removal. This tax levy may be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01.~~

**SECTION 81. AMENDMENT.** Section 57-15-20 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-20. Tax levy limitations in townshipsTownship general fund levy - Approval of increased general fund levy authority.**

~~The total amount of the annual taxgeneral fund levy in a civil township, exclusive of levies to pay interest on any bonded debt and to provide a sinking fund to pay and discharge the principal thereof bonded debt at maturity, may not exceed suchthe amount as will be produced by a levy of eighteen mills on the dollar of the taxable valuation thereofof property in the township.~~

~~Upon approval of a majority of electors of the township voting on the question, a civil township general fund levy may be increased by an additional amount not to exceed the amount produced by a levy of eighteen mills on the dollar of the taxable valuation of property in the township. The increased levy under this section may be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01. An excess levy approved by electors of a township under chapter 57-17 before January 1, 2015, may continue to be imposed for five taxable years or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval by electors of increased levy authority under this section may not be effective for more than five taxable years.~~

**SECTION 82. AMENDMENT.** Section 57-15-20.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-20.2. Exceptions to tax levy limitations in townships.**

The tax levy limitations specified in section 57-15-20 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the township:

- ~~1. A township levying a tax for prevention and extinguishment of fires in accordance with section 18-06-10 may levy a tax not exceeding one mill.~~

2. A township levying a tax to establish a recreation system according to section 40-55-08 may levy a tax not exceeding two and five-tenths mills, except that a township may levy an amount not exceeding eight and five-tenths mills if the provisions of section 40-55-09 are met.
3. A township levying a tax for the purpose of cooperating with the county in constructing and maintaining federal-aid farm-to-market roads and bridges that are part of the county road system and located within the township in accordance with section 57-15-19.4 may levy a tax not exceeding five mills.
4. ~~A township levying a tax for law enforcement in accordance with section 57-15-19.5 may levy a tax not exceeding five mills.~~
5. ~~A township levying a tax for mowing or snow removal in accordance with section 57-15-19.6 may levy a tax not exceeding three mills.~~
- 5.1. ~~A township levying a tax for a legal contingency fund in accordance with section 57-15-22.2 may levy a tax not exceeding ten mills for not to exceed five years.~~
- 6.2. A township levying a tax for airport purposes in accordance with section 57-15-37.12-06-15 may levy a tax not exceeding four mills.
7. ~~A township levying a tax for emergency medical service in accordance with section 57-15-51.1 may levy a tax not exceeding ten mills.~~
8. ~~A township levying a tax for park purposes in accordance with section 58-17-02 may levy a tax not exceeding two mills.~~
- 9.3. A township levying a tax for special assessment districts in accordance with chapter 58-18.
10. ~~A township levying a tax for port purposes in accordance with section 57-15-20.3 may levy a tax not exceeding four mills.~~
11. ~~A township levying a tax for commerce authority purposes may levy a tax not exceeding four mills.~~

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

**SECTION 83. AMENDMENT.** Section 57-15-22.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-22.2. ~~Levy of taxes for township~~ Township legal contingency fundfunding.**

~~Upon presentation of a petition signed by twenty-five percent of the qualified electors in an organized or unorganized township voting in the last gubernatorial election, the governing body~~The board of township supervisors of an organized township or the board of county commissioners; for an unorganized townships, may call a special election for the purpose of voting on the question of authorizing an ~~exces~~township, may provide funding from revenue derived from the general fund levy authority for the township levy on property within the township for the ~~current~~ year and not to exceed four succeeding years, or may submit the question to the

qualified electors at the next regular township election, for organized townships, or at the next regular election, for unorganized townships. If a special election is called, the election must be held not later than September first of the year in which the tax is to be levied, and the election must be conducted as other elections of the political subdivision are conducted. The levy permitted by this section may not exceed the limitation in subsection 5.1 of section 57-15-20.2. Revenues from the levy must be deposited in a special fund in the township or county treasury known as the legal contingency fund. Revenue in the fund Funding authorized under this section may be used only for purposes of expenses of legal actions authorized or entered into by the governing body of the township or the county, on behalf of unorganized townships. If sixty percent of all votes cast on the question of authorizing the excess levy of taxes for the legal contingency fund are in favor of the excess levy, it is authorized and the county auditor shall extend such excess levy upon the tax list with other taxes. A levy under this section authorized by electors of an organized or unorganized township before January 1, 2015, remains effective for five taxable years or the period of time for which it was approved by the electors, whichever is less. Upon expiration of any mill levy authorized by electors of an organized or unorganized township before January 1, 2015, under this section, the governing body of the township or county may, by resolution, transfer any unobligated balance in the legal contingency fund to the general fund of the township or county.

**SECTION 84. AMENDMENT.** Section 57-15-27.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-27.1. Cemetery tax levies.**

Organized townships and cities are hereby authorized to A city may levy a tax, not exceeding two mills on the dollar of the taxable valuations of the organized townships or cities, in addition to all levies now authorized by law, for the purpose and the limitation in subsection 14 of section 57-15-10 to be used exclusively for the care, maintenance, and improvement of established cemeteries, owned and maintained by such organized townships or cities the city. In addition to all levies now authorized by law, organized townships An organized township may levy a tax not exceeding one-fourth of one mill on the dollar of taxable valuation of property in the township provide funding from revenues derived from its general fund levy authority for the care, maintenance, and improvement of established cemeteries maintained but not owned by the township.

**SECTION 85. AMENDMENT.** Section 57-15-28 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-28. Emergency fund - County.**

The governing body of any county may levy a tax for emergency purposes not exceeding the limitation in subsection 229 of section 57-15-06.7. The emergency fund may not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes but must be shown in the budget as an "emergency fund" and may not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, must be deposited in the emergency fund, and must be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county; or emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund may not be used for the purchase of road equipment. The emergency fund may not be used for any road construction or maintenance, except for repair of roads

damaged by nature within sixty days preceding the determination to expend emergency funds; however, the emergency fund may be used to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than sixty days preceding the determination. Any unexpended balance remaining in the emergency fund at the end of any fiscal year must be kept in the fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, equals the amount produced by a levy of five mills on the taxable valuation of property in a county with a population of thirty thousand or more, ten mills on the taxable valuation of property in a county with a population of less than thirty thousand but more than five thousand, or fifteen mills on the taxable valuation of property in a county with a population of five thousand or fewer, the levy authorized by this section must be discontinued, and no further levy may be made until required to replenish the emergency fund.

**SECTION 86. AMENDMENT.** Section 57-15-28.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-28.1. Exceptions to taxJudgment or claim payment levy limitations in political subdivisions.**

A political subdivision, except a school district, levying a tax for the payment of a judgment or a settlement of a claim in accordance with section 32-12.1-11 may levy a tax not exceeding five mills. If the political subdivision held a liability insurance policy or insurance contract, purchased by a political subdivision or a government self-insurance pool in which the political subdivision participates pursuant to chapter 32-12.1, which provides coverage to at least the liability limits under section 32-12.1-03 and that coverage was in force at the time of the occurrence that gave rise to the claim of relief, the political subdivision may levy a tax not exceeding a total of ten mills for the payment of a judgment or a settlement of a claim in accordance with section 32-12.1-11. The tax levy limitations specified by law do not apply to the following mill levies under this section, expressed in mills per dollar of taxable valuation of property in the political subdivision. For purposes of this section, "political subdivision" has the same meaning as in section 32-12.1-02.

- ~~1. A political subdivision, except a park district, levying a tax for the control of pests in accordance with section 4-33-11 may levy a tax not exceeding one mill.~~
- ~~2. A political subdivision, except a school district or park district, levying a tax for an insurance reserve fund according to section 32-12.1-08 may levy a tax not exceeding five mills. A political subdivision, except a school district or park district, may use all or part of the levy under this subsection and the insurance reserve fund for payment of workforce safety and insurance contributions, premiums, judgments, and claims of the political subdivision.~~
- ~~3. A political subdivision, except a school district, levying a tax for the payment of a judgment in accordance with section 32-12.1-11 may levy a tax not exceeding five mills.~~
- ~~4. A political subdivision levying a tax for railroad purposes in accordance with section 49-17.2-21 may levy a tax not exceeding four mills.~~
- ~~5. A political subdivision, except a school district or county, levying a tax for old-age and survivors' insurance according to section 52-09-08, for social security, or for an employee retirement program established by the governing~~

body, or for any combination of these purposes, may levy a tax not exceeding thirty mills:

6. ~~A county levying a tax for comprehensive health care insurance employee benefit programs in accordance with section 52-09-08 may levy a tax not exceeding eight mills and the limitation in subsection 36 of section 57-15-06.7.~~

**SECTION 87. AMENDMENT.** Section 57-15-30.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-30.1. Tax levy for township debt or debt existing upon dissolution - Duty of county auditor - Duty of county treasurer.**

1. Whenever any township is indebted to the county in which such township is located and such debt is more than one year past due, the county auditor, upon resolution of the board of county commissioners, shall levy a tax on the property within the township in an amount sufficient to pay the indebtedness, but in no case may the amount of the levy cause the total levy for such township to exceed the maximum levy limitations, including excess levy limitations, provided by law. The county treasurer shall place the taxes collected to the credit of the county in payment or partial payment of the township's indebtedness.
2. Upon the dissolution of a civil township, the board of county commissioners of the county in which the township lies shall attach the territory embraced within such township to such assessment district of the county as the board may deem advisable for the purpose of assessment and taxation. In addition to the other levies provided by law, the board shall levy on the taxable property in the township a sum sufficient to discharge all debts and liabilities of the township. The county auditor shall enter the levy on the county tax list to be collected by the county treasurer as other county taxes are collected. The county treasurer shall credit the money derived from such levy to a special fund to be used to pay the dissolved township's debts and liabilities. Any balance remaining in the special fund after the payment of the debts and liabilities must be transferred for use for road and bridge purposes within the assessment district to which the territory is attached.

**SECTION 88. AMENDMENT.** Section 57-15-38 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-38. Tax levy for construction fund in cities City capital improvements fund levy.**

The governing body of any city may levy annually ~~for a period not to exceed ten successive years, for a construction fund,~~ a tax for a capital improvements fund not exceeding the limitation in subsection 19 ~~often mills under section 57-15-10,~~ when authorized to do so by ~~sixty percent~~ a majority of the electors voting upon the question at a regular ~~primary or special~~ general election in any city which, at the time of making the annual levy, has no outstanding unpaid certificates of indebtedness, and in which the limitation of levy has not been increased from the basic mill rate.

When authorized by sixty percent or more of the qualified electors voting upon the question at a regular or special election in the city, the governing body of the city may levy and collect an additional tax of ten mills for capital improvements fund purposes under section 57-15-10.

Any excess levy for capital improvements under this section approved by the electors of a city before July 1, 2015, remains effective for ten taxable years or the period of time for which it was approved by the electors, whichever is less, after it was approved, under the provisions of law in effect at the time it was approved. After June 30, 2015, approval or reauthorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.

The construction capital improvements fund must be used for paying all or part of the construction of waterworks systems, sewage systems, public buildings, or any other public improvements for which cities are authorized by law to pay for from general tax levies, and the; acquiring real estate as a site for public buildings, maintaining structural and mechanical components of public buildings, and furnishing of public buildings; a city's participating share in urban renewal programs; capital improvements and equipment acquisition and maintaining structural and mechanical components for fire department stations; and capital improvements and equipment acquisition and maintaining structural and mechanical components for stations for police protection services and correctional facilities. The governing body of any city, when submitting to the electors of the city; the question of authorizing the tax levy, shall specify the purposes for which the construction capital improvements fund is to be used. The governing body of the city may create the building capital improvements fund by appropriating and setting up in its budget, for which may be accumulated in an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of the appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law.

**SECTION 89. AMENDMENT.** Section 57-15-42 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-42. City fire department reserve fund levy capital improvements and equipment acquisition funding.**

The governing body of any city, when authorized by sixty percent of the electors voting on the question in a regular or special election called by the governing body, may levy taxes annually, not exceeding the limitation in subsection 20 of section 57-15-10 may provide funding from revenues derived from the capital improvements fund levy under section 57-15-38 for a fire department building or equipment reserve fund capital improvements and equipment acquisition and maintaining structural and mechanical components for fire department stations. The proceeds of the levy must be placed in a separate fund known as the fire department reserve fund and must be used exclusively for the purchase of necessary firefighting equipment or fire department building. No levy may be made under this section during any period in which the moneys in the fund equal or exceed an amount equal to the sum that would be produced by a levy of thirty mills upon the taxable valuation of the city. Any levy under this section approved by the electors of a city before January 1, 2015, remains effective for ten taxable years or the period of time for which it was approved by the voters, whichever is less, under the provisions of this section in effect at the time it was approved. When the authority to levy under this section expires in a city, any unobligated balance in the fire department reserve fund must be transferred to the city capital improvements fund.

**SECTION 90. AMENDMENT.** Section 57-15-48 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-48. TaxCity levy for emergency purposes.**

The governing body of any city by a two-thirds vote may levy a tax annually for snow removal, natural disaster, or other emergency conditions not exceeding the limitation in subsection 239 of section 57-15-10. No city may make this levy after the amount of the unexpended funds raised by this levy plus the amount of money due the fund from outstanding taxes equals the amount produced by a levy of five mills on the taxable valuation of property within the city or five dollars per capita, whichever is greater.

**SECTION 91. AMENDMENT.** Section 57-15-50 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-50. Levy authorized for countyCounty emergency medical service levy.**

Upon petition of ten percent of the number of qualified electors of the county voting in the last election for governor or upon its own motion, the board of county commissioners of each county shall levy annually a tax not exceeding the limitation in subsection 2310 of section 57-15-06.7, for the purpose of subsidizing county emergency medical services; provided, that this tax must be approved by a majority of the qualified electors of the county voting on the question at a regular or special countywide election. The county may budget, in addition to its annual operating budget for subsidizing emergency medical service, no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated emergency medical services sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent emergency medical services sinking fund must be in addition to the annual operating budget for subsidization, but the total of the annual operating budget and the annual ten percent emergency medical services sinking fund may not exceed the approved mill levy. If the county contains a rural ambulance service district or rural fire protection district that levies for and provides emergency medical service, the property within that district is exempt from the county tax levy under this section upon notice from the governing body of the district to the board of county commissioners of the existence of the district.

**SECTION 92. AMENDMENT.** Section 57-15-51 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-51. Levy authorized for cityCity emergency medical service funding.**

~~Upon petition of ten percent of the number of qualified electors of the city voting in the last election for governor or upon its own motion, the~~The governing body of a city shall levy annually a tax of not to exceed ten mills upon its taxable valuation; ~~may provide funding from revenues derived from its general fund levy authority for the purpose of subsidizing city emergency medical services; provided, that such tax must be approved by a majority of the qualified electors of the city voting on the question at a regular or special city election.~~ Whenever a tax for county emergency medical services is levied by a county, any city ~~levying a tax for, or subsidizing city emergency medical services, shall upon written application to the county board of such county be exempted from such county tax levy. The city may set aside, as a depreciation expense, up to ten percent of its annual emergency medical service operating or subsidization budget in a dedicated emergency medical services sinking fund, deposited with the auditor for replacement of equipment and ambulances. The ten percent emergency medical services sinking fund may be in addition to the actual annual emergency medical services budget but the total of the annual emergency~~

medical services budget and the annual ten percent emergency medical services fund may not exceed the approved mill levy.

**SECTION 93. AMENDMENT.** Section 57-15-51.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-51.1. Levy authorized Funding for township emergency medical service.**

Pursuant to a vote of sixty percent of the ~~The~~ qualified electors voting at the annual township meeting, or at a special election called for that purpose upon petition of fifty percent of the number of qualified electors of the township voting in the last election for governor, the board of township supervisors shall levy annually a tax approved by the qualified electors not exceeding the limitation in subsection 7 of section 57-15-20-2 of an organized township may authorize the township to provide funding from revenues derived from its general fund levy authority for the purpose of subsidizing township emergency medical service. In providing for emergency medical service, the board of supervisors may cooperate with one or more additional townships or with a city, county, or rural ambulance service district in accordance with chapter 54-40.

**SECTION 94. AMENDMENT.** Section 57-15-53 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-53. Tax levy for police Police department stations and correctional facilities capital improvements funding.**

Upon approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, ~~The~~ governing body of any city may levy taxes annually, not exceeding the limitation in subsection 24 of section 57-15-10, provide funding from revenues derived from the capital improvements fund levy authority under section 57-15-38 for the purpose of providing additional funds to meet the operational, maintenance, and construction costs and costs of maintaining structural and mechanical components of establishing stations for police protection services and correctional facilities. The proceeds of this levy must be placed in a separate fund known as the police station and correctional facility fund. No levy may be made under this section during any period in which the moneys to the fund equal or exceed an amount equal to the sum that would be produced by a levy of ten mills upon the taxable valuation of the city making the levy Any levy under this section approved by the electors of a city before January 1, 2015, remains effective for ten taxable years or for the period of time for which it was approved by the voters, whichever is less, under the provisions of this section in effect at the time it was approved. When the authority to levy under this section expires in a city, any unobligated balance in the police station and correctional facility fund must be transferred to the city capital improvements fund.

**SECTION 95. AMENDMENT.** Section 57-15-55 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-55. Tax levy for public transportation.**

The governing body of any city, upon approval by a majority vote of the qualified electors of the city voting on the question at any citywide election, may annually levy a tax not exceeding the limitation in subsection 2510 of section 57-15-10 to provide funds for the provision and operation of a public transportation system within the city under a contract approved by the governing body with a private contractor, or by the city itself.

<sup>215</sup> **SECTION 96. AMENDMENT.** Subsection 1 of section 57-15-56 of the North Dakota Century Code is amended and reenacted as follows:

1. The board of county commissioners of any county is hereby authorized to levy a tax, or if no levy is made by the board of county commissioners, the governing body of any city in the county is authorized to levy a tax, in addition to all levies now authorized by law, for the purpose of establishing or maintaining services and programs for senior citizens including the maintenance of existing senior citizen centers which will provide informational, health, welfare, counseling, and referral services for senior citizens, and assisting such persons in providing volunteer community or civic services. If the tax authorized by this section is levied by the board of county commissioners, any existing levy under this section by a city in the county becomes void for subsequent taxable years. The removal of the levy is not subject to the requirements of subsection 3. This tax may not exceed the limitation in subsection ~~2512~~ of section 57-15-06.7 or subsection ~~2611~~ of section 57-15-10. The proceeds of the tax must be kept in a separate fund and used exclusively for the public purposes provided for in this section. This levy must be in addition to any moneys expended by the board of county commissioners pursuant to section 11-11-58 or by the governing body of any city pursuant to section 40-05-16.

**SECTION 97. AMENDMENT.** Section 57-20-23 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-23. County responsible for collecting and transmitting state taxes.**

Each county is responsible to the state for the full amount of the taxes levied for state purposes, except such amounts or taxes as have been canceled as uncollectible, or canceled or abated, as provided by law. If any county treasurer proves to be a defaulter, to any amount, of state revenue, ~~such amount must be made up to the state within the ensuing three years by additional levies in such manner in annual amounts as the board of county commissioners may direct. In such case the county shall make up the deficiency from revenues derived from the county's general fund levy authority over a period of three years, without interest, and the county can have recourse to the official bond of the county treasurer for indemnity.~~

**SECTION 98. AMENDMENT.** Section 57-47-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-47-04. ~~Levy of tax to repay~~Funding for loan repayment - Limitation.**

~~Upon the issuance of the evidence of indebtedness, the board of county commissioners shall levy away provide funding from revenues derived from its general tax from year to year upon all of the general taxable property of the county, not exceeding the limitation in subsection 27 of section 57-15-06.7, for the purpose of providing funds sufficient fund levy authority to repay the amount of the loan, with interest, at the time of maturity a loan under this chapter and under the terms established with the lender. The tax may not exceed three mills for any one year regardless of the number of loans outstanding under this chapter. County revenue from any other source that is not dedicated or obligated may be used to repay, or serve as collateral for, a loan under this chapter. If a county has issued evidence of indebtedness for acquisition of road machinery or equipment, the board of county~~

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<sup>215</sup> Section 57-15-56 was also amended by section 1 of Senate Bill No. 2143, chapter 441.

commissioners may authorize use of funds derived from the county levy under section 24-05-01 to repay the loan, in addition to any other funding for loan repayment available to the county.

**SECTION 99. AMENDMENT.** Subsection 16 of section 58-03-07 of the North Dakota Century Code is amended and reenacted as follows:

16. To establish a fund authorize the expenditure of funds for the eradication of gophers, prairie dogs, crows, and magpies.

**SECTION 100. AMENDMENT.** Section 58-17-02 of the North Dakota Century Code is amended and reenacted as follows:

**58-17-02. Townships - Parks - ~~Tax levy~~Funding for park purposes.**

~~In townships supporting parks, a levy not exceeding the limitation in subsection 8 of section 57-15-20-2 may be made~~ funding may be provided from revenues derived from the general fund levy authority of the township for such park purposes, but such levies do not apply to property in any city or park district which levies for park district purposes.

<sup>216</sup> **SECTION 101. AMENDMENT.** Section 61-04.1-26 of the North Dakota Century Code is amended and reenacted as follows:

~~61-04.1-26. Tax may be certified by~~ Funding for support of weather modification authority.

The weather modification authority may ~~certify~~ request annually ~~to that~~ the board of county commissioners a tax of not to exceed seven mills upon the taxable valuation of the property in the county for a weather modification fund. If weather modification services are not provided to the entire county, the weather modification authority may certify annually to the board of county commissioners a tax for a weather modification fund of not to exceed seven mills upon the taxable valuation of the property in the county ~~designated to receive~~ provide funding from revenues derived from its general fund levy for support of the authority and to provide weather modification services. The tax shall be levied funding under this section approved by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. ~~They must be deposited in the~~ weather modification fund and shall be used only for weather modification activities in conjunction with the state of North Dakota. The tax certified by the weather modification authority is limited to the period of existence of the weather modification authority as provided for in this chapter.

<sup>217</sup> **SECTION 102. AMENDMENT.** Section 61-24-02 of the North Dakota Century Code is amended and reenacted as follows:

**61-24-02. Garrison Diversion Conservancy District created.**

The "Garrison Diversion Conservancy District", hereinafter referred to as the "district" consists of that part of the state that is included within the boundaries of the following counties: Barnes, Benson, Bottineau, Burleigh, Cass, Dickey, Eddy, Foster,

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<sup>216</sup> Section 61-04.1-26 was also amended by section 21 of Senate Bill No. 2056, chapter 88, and section 22 of Senate Bill No. 2217, chapter 92.

<sup>217</sup> Section 61-24-02 was also amended by section 17 of Senate Bill No. 2053, chapter 62.

Grand Forks, Griggs, LaMoure, McHenry, McLean, Nelson, Pierce, Ramsey, Ransom, Renville, Richland, Sargent, Sheridan, Steele, Stutsman, Traill, Ward, and Wells.

The district is a governmental agency, body politic and corporate with the authority to exercise the powers specified in this chapter, or which may be reasonably implied.

Any county may join the district upon application of its board of county commissioners and the approval of the application by the board of directors of the district. ~~Such county is authorized to levy taxes as may be necessary to carry out its part of the agreement for becoming a part of the district, which levy is in addition to the amount that may otherwise be legally levied for county purposes.~~

**SECTION 103. TRANSITION.** The treasurer of each county, city, township, or other political subdivision maintaining a special fund for which levy authority is eliminated by this Act, by the end of the fiscal year for which deposit of revenue from levy authority is terminated by this Act, shall satisfy any obligations of that fund, transfer the remaining balance to the general fund of the political subdivision, and close out the special fund.

<sup>218</sup> **SECTION 104. REPEAL.** Sections 4-02-27, 4-02-27.1, 4-02-27.2, 4-02-35, 4-02-37, 4-08-15.1, chapter 4-16, sections 11-11-18, 11-11-20, 11-11-21, 11-11-22, 11-11-23, 11-11-24, 11-11-25, 11-11-45, 11-11-46, 11-11-47, 11-11-59, 11-11-60, 11-11-61, 11-11.1-06, 11-28-12, 11-28-13, 11-28-14, 11-28-15, 11-28-16, 11-28-17, 11-28-18, 11-28-19, 11-28-20, 11-28-21, and 11-28-22, chapters 11-36 and 11-37, sections 18-06-11, 18-07-01, and 18-10-14, chapters 23-18.1 and 23-18.2, sections 32-12.1-12, 32-12.1-14, 40-05-09.1, 40-43-02, 40-43-03, 40-43-04, 40-45-02, 40-57-19, and 40-57-19.1, chapters 49-17.2 and 52-09, sections 57-15-06.3, 57-15-06.5, 57-15-06.8, 57-15-06.9, 57-15-06.10, 57-15-12.2, 57-15-20.3, 57-15-20.4, 57-15-26.3, 57-15-26.5, 57-15-27.2, 57-15-36, 57-15-37.1, 57-15-43, 57-15-44, 57-15-54, 57-15-55.1, 57-15-57, 57-15-59, 57-15-60, and 57-15-62, chapter 57-17, section 58-02-30, and chapter 58-15 of the North Dakota Century Code are repealed.

**SECTION 105. REPEAL.** Chapter 23-18 of the North Dakota Century Code is repealed.

**SECTION 106. EFFECTIVE DATE.** Sections 1 through 104 of this Act are effective for taxable years beginning after December 31, 2014. Section 105 of this Act is effective July 1, 2017.

Approved April 22, 2015  
Filed April 22, 2015

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<sup>218</sup> Section 4-02-27 was amended by section 4 of Senate Bill No. 2056, chapter 88, and section 2 of Senate Bill No. 2217, chapter 92; section 11-11-18 was amended by section 1 of House Bill No. 1194, chapter 184; section 11-11.1-06 was amended by section 6 of Senate Bill No. 2217, chapter 92; section 11-28-17 was amended by section 12 of Senate Bill No. 2056, chapter 88, and section 8 of Senate Bill No. 2217, chapter 92; section 57-15-26.3 was amended by section 20 of Senate Bill No. 2217, chapter 92, and was also repealed by section 2 of House Bill No. 1056, chapter 166.

## CHAPTER 440

### SENATE BILL NO. 2195

(Senators Oehlke, Bekkedahl, Dotzenrod)  
(Representatives Hatlestad, Trottier, Weisz)

AN ACT to amend and reenact section 57-15-19.2 of the North Dakota Century Code, relating to the township special road fund.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-15-19.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-15-19.2. Township supervisors authority to transfer funds into special road fund - Limitations - Use.**

The board of supervisors, at the time of the annual township meeting, upon resolution, may transfer or set aside a part or all of any funds into a special road fund, which fund must be separate and distinct from all other funds. The special road fund may not exceed the sum of thirtyone hundred thousand dollars for any one congressional township. The special road fund may be expended, at the option of the board of supervisors, for the purpose of road construction, graveling, snow removal, or surfacing.

Approved March 20, 2015  
Filed March 20, 2015

## CHAPTER 441

### SENATE BILL NO. 2143

(Senators Oehlke, Erbele, Robinson)  
(Representatives Froseth, Kreidt, Trottier)

AN ACT to amend and reenact subsection 5 of section 57-15-56 and section 57-39.2-26.2 of the North Dakota Century Code, relating to matching grants to counties for senior citizen services and programs; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>219</sup> **SECTION 1. AMENDMENT.** Subsection 5 of section 57-15-56 of the North Dakota Century Code is amended and reenacted as follows:

5. The state treasurer shall provide matching funds as provided in this subsection for counties for senior citizen services and programs funded as required by this section. The grants must be made on or before March first of each year to each eligible county. A county receiving a grant under this section which has not levied a tax under this section shall transfer the amount received to a city within the county which has levied a tax under this section. A grant may not be made to any county that has not filed with the state treasurer a written report verifying that grant funds received in the previous year under this subsection have been budgeted for the same purposes permitted for the expenditure of proceeds of a tax levied under this section. The written report must be received by the state treasurer on or before February first of each year following a year in which the reporting county received grant funds under this subsection. A matching fund grant must be provided from the senior citizen services and programs fund to each eligible county equal to ~~eighty-five~~eighty-seven and one-half percent of the amount levied ~~appropriated~~ in dollars in the county under this section for the taxable year, but the matching fund grant applies only to an amount equal to a levy of up to one mill under this section.

**SECTION 2. AMENDMENT.** Section 57-39.2-26.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-39.2-26.2. Allocation of revenues to senior citizen services and programs matching fund - Continuing appropriation.**

Notwithstanding any other provision of law, a portion of sales, use, and motor vehicle excise tax collections equal to the amount of revenue that would have been generated by a levy of ~~eighty-five~~eighty-seven and one-half percent of one mill on the taxable valuation of all property in the state subject to a levy under section 57-15-56 in the previous taxable year must be deposited by the state treasurer in the senior citizen services and programs fund during the period from July first through December thirty-first of each year. The state tax commissioner shall certify to the state treasurer the portion of sales, use, and motor vehicle excise tax revenues which

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<sup>219</sup> Section 57-15-56 was also amended by section 96 of Senate Bill No. 2144, chapter 439.

must be deposited in the fund as determined under this section. Revenues deposited in the senior citizen services and programs fund are provided as a standing and continuing appropriation for allocation as provided in subsection 5 of section 57-15-56. Any unexpended and unobligated amount in the senior citizen services and programs fund at the end of any biennium must be transferred by the state treasurer to the state general fund.

**SECTION 3. EFFECTIVE DATE.** Section 1 of this Act is effective for taxable years beginning after December 31, 2014. Section 2 of this Act is effective for taxable events occurring after June 30, 2015.

Approved April 28, 2015  
Filed April 28, 2015

## CHAPTER 442

### SENATE BILL NO. 2055

(Legislative Management)

(Taxation Committee and Advisory Commission on Intergovernmental Relations)

AN ACT to amend and reenact sections 57-33.2-06 and 57-33.2-20 of the North Dakota Century Code, relating to reports by electric transmission, distribution, and generation companies for tax purposes; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-33.2-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-33.2-06. Transmission and distribution line and electric generation property location reports to county auditors.**

By April fifteenth of each year, each ~~transmission or distribution~~ company subject to taxation under this chapter shall file, with the county auditor of each county in which any of its electric generation, transmission, or distribution line property is located, the following information:

1. Each transmission or distribution company shall file a report showing the length and nominal operating voltage of its transmission and distribution line within the county and within each taxing district within the county. Reports under this ~~section~~subsection must be based upon nominal operating voltage, ownership, and location of transmission and distribution lines as of January first of each year. Reports under this ~~section~~subsection must be prepared to distinguish transmission lines from distribution lines.
2. Each electric generation company shall file a report showing the location and rated capacity of each wind generator or grid-connected generator within the county and each taxing district in the county. Reports under this subsection must be based upon the rated capacity, ownership, and location as of January first of each year.

By February first of each year, the county auditor shall provide each ~~transmission or distribution~~ company having a transmission or distribution line in the county subject to taxation under this chapter with an accurate map of the county showing the boundaries of each taxing district in the county.

**SECTION 2. AMENDMENT.** Section 57-33.2-20 of the North Dakota Century Code is amended and reenacted as follows:

**57-33.2-20. Penalty.**

If any company refuses or neglects to make the reports required by this chapter, or refuses or neglects to furnish any information requested, the commissioner shall use the best facts and estimates available to determine the tax due. The tax must be imposed upon the basis of that information. If any company fails to make the report required under this chapter on or before the first day of ~~May~~June of any year, the

state board of equalization shall add a penalty of ten percent of the tax due for failure to make the required report which must be collected as a part of the tax, but the commissioner, upon application, may grant extensions of time within which the returns must be filed. For good cause shown, the commissioner may waive all or any part of the penalty that attached under this section.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for reports due after December 31, 2015.

Approved March 13, 2015  
Filed March 13, 2015

## CHAPTER 443

### HOUSE BILL NO. 1228

(Representatives Owens, Brandenburg, Delmore, Dockter)  
(Senators Dotzenrod, Oehlke, Wanzek)

AN ACT to amend and reenact subsection 6 of section 57-38-01.8 of the North Dakota Century Code, relating to the carryforward period for excess geothermal, solar, wind, or biomass energy device income tax credits; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>220</sup> **SECTION 1. AMENDMENT.** Subsection 6 of section 57-38-01.8 of the North Dakota Century Code is amended and reenacted as follows:

6. a. The credit allowed under this section may not exceed the liability for tax under this chapter. If the amount of credit determined under this section exceeds the liability for tax under this chapter, the excess may be used as a credit carryover to each of the five succeeding taxable years.
- b. Any excess tax credits earned for wind energy devices installed after September 30, 2008, and before January 1, 2012, may be used as a credit carryover to each of the ~~twenty~~thirty succeeding taxable years.
- c. For any tax credits for geothermal, solar, or biomass energy devices installed after September 30, 2008, and wind energy devices installed after December 31, 2011, the excess may be used as a credit carryover to each of the ten succeeding taxable years.

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

Approved April 2, 2015  
Filed April 2, 2015

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<sup>220</sup> Section 57-38-01.8 was also amended by section 2 of Senate Bill No. 2037, chapter 438.

## CHAPTER 444

### SENATE BILL NO. 2286

(Senators Luick, Dotzenrod)  
(Representatives Amerman, Kelsh, Mitskog, J. Nelson)

AN ACT to amend and reenact section 57-38-01.21 of the North Dakota Century Code, relating to a charitable gifts and qualified endowments income tax credit for charitable gifts to a border city hospital, nursing home, or medical center foundation; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-38-01.21 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-38-01.21. Charitable gifts, planned gifts, and qualified endowments credit - Definitions.**

1. For purposes of this section:

- a. "Permanent, irrevocable fund" means a fund comprising cash, securities, mutual funds, or other investment assets established for a specific charitable, religious, educational, or eleemosynary purpose and invested for the production or growth of income, or both, which may either be added to principal or expended.
- b. "Planned gift" means an irrevocable charitable gift to a North Dakota qualified nonprofit organization or qualified endowment held by or for a North Dakota qualified nonprofit organization, when the charitable gift uses any of the following techniques that are authorized under the Internal Revenue Code:
  - (1) Charitable remainder unitrusts, as defined by 26 U.S.C. 664;
  - (2) Charitable remainder annuity trusts, as defined by 26 U.S.C. 664;
  - (3) Pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);
  - (4) Charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);
  - (5) Charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);
  - (6) Charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
  - (7) Deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
  - (8) Charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B); or

(9) Paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.

"Planned gift" does not include a charitable gift using a charitable remainder unitrust or charitable remainder annuity trust unless the agreement provides that the trust may not terminate and beneficiaries' interest in the trust may not be assigned or contributed to the qualified nonprofit organization or qualified endowment sooner than the earlier of the date of death of the beneficiaries or five years from the date of the planned gift.

"Planned gift" does not include a deferred charitable gift annuity unless the payment of the annuity is required to begin within the life expectancy of the annuitant or of the joint life expectancies of the annuitants, if more than one annuitant, as determined using the actuarial tables used by the internal revenue service in determining federal charitable income tax deductions on the date of the planned gift.

"Planned gift" does not include a charitable gift annuity or deferred charitable gift annuity unless the annuity agreement provides that the interest of the annuitant or annuitants in the gift annuity may not be assigned to the qualified nonprofit organization or qualified endowment sooner than the earlier of the date of death of the annuitant or annuitants or five years after the date of the planned gift.

"Planned gift" does not include a charitable gift annuity or deferred charitable gift annuity unless the annuity is a qualified charitable gift annuity for federal income tax purposes.

c. "Qualified endowment" means a permanent, irrevocable fund held by a:

(1) A North Dakota incorporated or established organization that is:

(1)(a) A qualified nonprofit organization; or

(1)(b) A bank or trust company holding the fund on behalf of a qualified nonprofit organization; or

(2) An organization incorporated or established in a state bordering North Dakota that is:

(a) A tax-exempt organization under 26 U.S.C. 501(c) to which contributions qualify for federal charitable income tax deductions which was incorporated or established for the support and benefit of a hospital, nursing home, or medical center, or a facility providing any combination of those services, which is located outside North Dakota but within five miles of a North Dakota city of five thousand or more population in which there is no hospital; or

(b) A bank or trust company holding the fund on behalf of an organization that meets the conditions of subparagraph a.

d. "Qualified nonprofit organization" means a North Dakota incorporated or established tax-exempt organization under 26 U.S.C. 501(c) to which

contributions qualify for federal charitable income tax deductions with an established business presence or situs in North Dakota.

2. a. An individual is allowed a tax credit against the tax imposed by section 57-38-30.3 in an amount equal to forty percent of the present value of the aggregate amount of the charitable gift portion of planned gifts made by the taxpayer during the taxable year to a qualified nonprofit organization or qualified endowment. The maximum credit that may be claimed under this subsection for planned gifts made in a taxable year is ten thousand dollars for an individual, or twenty thousand dollars for married individuals filing a joint return. The credit allowed under this section may not exceed the taxpayer's income tax liability.
  - b. An individual is allowed a tax credit against the tax imposed by section 57-38-30.3 for making a charitable gift to a qualified endowment. The credit is equal to forty percent of the charitable gift. If an individual makes a single charitable gift to a qualified endowment, the charitable gift must be five thousand dollars or more to qualify for the credit. If an individual makes more than one charitable gift to the same qualified endowment, the aggregate amount of the charitable gifts made to that qualified endowment must be five thousand dollars or more to qualify for the credit. The maximum credit that may be claimed under this subsection for charitable gifts made in a taxable year is ten thousand dollars for an individual or twenty thousand dollars for married individuals filing a joint return. The tax credit allowed under this section may not exceed the taxpayer's income tax liability.
3. A corporation is allowed a tax credit against the tax imposed by section 57-38-30 in an amount equal to forty percent of a charitable gift to a qualified endowment. The maximum credit that may be claimed by a corporation under this subsection for charitable gifts made in a taxable year is ten thousand dollars. The credit allowed under this section may not exceed the corporate taxpayer's income tax liability.
4. An estate or trust is allowed a tax credit in an amount equal to forty percent of a charitable gift to a qualified endowment. The maximum credit that may be claimed under this subsection for charitable gifts made in a taxable year is ten thousand dollars. The allowable credit must be apportioned to the estate or trust and to its beneficiaries on the basis of the income of the estate or trust allocable to each, and the beneficiaries may claim their share of the credit against the tax imposed by section 57-38-30 or 57-38-30.3. A beneficiary may claim the credit only in the beneficiary's taxable year in which the taxable year of the estate or trust ends. Subsections 6 and 7 apply to the estate or trust and its beneficiaries with respect to their respective shares of the apportioned credit.
5. A passthrough entity is entitled to a credit in an amount equal to forty percent of a charitable gift to a qualified endowment by the entity during the taxable year. The maximum credit that may be claimed by the entity under this subsection for charitable gifts made in a taxable year is ten thousand dollars. The credit determined at the entity level must be passed through to the partners, shareholders, or members in the same proportion that the charitable contributions attributable to the charitable gifts under this section are distributed to the partners, shareholders, or members. The partner, shareholder, or member may claim the credit only in the partner's,

shareholder's, or member's taxable year in which the taxable year of the passthrough entity ends. Subsections 6 and 7 apply to the partner, shareholder, or member.

6. The amount of the charitable gift upon which an allowable credit is computed must be added to federal taxable income in computing North Dakota taxable income in any taxable year in which the charitable gift reduces federal taxable income, but only to the extent that the charitable gift reduced federal taxable income.
7. The unused portion of a credit under this section may be carried forward for up to three taxable years.
8. If a charitable gift for which a credit was claimed is recovered by the taxpayer, an amount equal to the credit claimed in all taxable years must be added to the tax due on the income tax return filed for the taxable year in which the recovery occurs. For purposes of subsection 4, this subsection applies if the estate or trust recovers the charitable gift and the estate or trust and its beneficiaries are liable for the additional tax due with respect to their respective shares of the apportioned credit. For purposes of subsection 5, this subsection applies if the partnership, subchapter S corporation, or limited liability company recovers the charitable gift, and the partner, shareholder, or member is liable for the additional tax due.
9. A charitable gift used as the basis for a credit claimed under this section may not be used as the basis for the claim of a credit under any other provision of this chapter.

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

Approved March 18, 2015

Filed March 18, 2015

## CHAPTER 445

### SENATE BILL NO. 2340

(Senators Campbell, Robinson, Sorvaag)  
(Representatives Keiser, Mock, Steiner)

AN ACT to amend and reenact section 57-38-01.33 and subdivision r of subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for purchases of manufacturing machinery and equipment for automating manufacturing processes; to provide a statement of legislative intent; to provide an effective date; and to provide an expiration date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-38-01.33 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.33. (Effective for the first three taxable years beginning after December 31, 20122014) Income tax credit for purchases of manufacturing machinery and equipment for the purpose of automating manufacturing processes.**

1. A taxpayer that is a primary sector business is allowed a nonrefundable credit against the tax imposed under section 57-38-30 or 57-38-30.3 for purchases of manufacturing machinery and equipment for the purpose of automating manufacturing processes in this state. The amount of the credit under this section is twenty percent of the ~~costs incurred in the taxable year to purchase~~cost of the manufacturing machinery and equipment for the purpose of automating manufacturing processes ~~purchased in the taxable year.~~ Qualified expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed ~~by law~~under this chapter.
2. For purposes of this section:
  - a. "Manufacturing machinery and equipment for the purpose of automating manufacturing processes" means new or used automation and robotic equipment.
  - b. "Primary sector business" means a business certified by the department of commerce which, through the employment of knowledge or labor, adds value to a product, process, or service that results in the creation of new wealth.
  - c. "Purchase" includes manufacturing machinery and equipment acquired under a capital lease only for the taxable year in which the lease is executed. A capital lease is a lease which meets generally accepted accounting principles. The qualifying costs of the equipment acquired under a capital lease is the fair market value of the equipment at the inception of the lease.
3. The taxpayer shall claim the total credit amount for the taxable year in which the manufacturing machinery and equipment are purchased. The credit under

this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.
5. ~~For the 2015 calendar year, the aggregate amount of credits allowed under this section may not exceed two million dollars in any calendar year. Credits subject to this limitation must be determined based upon the date of the qualified purchase.~~ For the 2016 and 2017 calendar years, the aggregate amount of credits allowed each calendar year may not exceed five hundred thousand dollars. However, if the maximum amount of allowed credits are not claimed in any calendar year, any remaining unclaimed credits may be carried forward and made available in the next succeeding calendar year. If the aggregate amount of credits claimed under this section exceeds the amount available in a calendar year, the tax commissioner shall prorate the credits among the claimants.
6. If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all the corporations included in the North Dakota consolidated return.
7. A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.
8. The department of commerce shall provide the tax commissioner the name, address, and federal identification number or social security number of the taxpayer approved as qualifying for the credit under this section, and a list of those items that were approved as a qualified expenditure by the department. The taxpayer claiming the credit shall file with the taxpayer's return, on forms prescribed by the tax commissioner, the following information:
  - a. The name, address, and federal identification number or social security number of the taxpayer who made the purchase; and
  - b. An itemization of:
    - (1) Each item of machinery or equipment purchased for automation;
    - (2) The amount paid for each item of machinery or equipment if the amount paid for the machinery or equipment is being used as a basis for calculating the credit; and
    - (3) The date on which payment for the purchase was made.

9. Notwithstanding the time limitations contained in section 57-38-38, this section does not prohibit the tax commissioner from conducting an examination of the credit claimed and assessing additional tax due under section 57-38-38.

<sup>221</sup> **SECTION 2. AMENDMENT.** Subdivision r of subsection 7 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- r. Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first ~~three~~five taxable years beginning after December 31, 2012).

**SECTION 3. LEGISLATIVE INTENT REGARDING AUTOMATING MANUFACTURING PROCESSES CREDIT.** It is the intent of the sixty-fourth legislative assembly that the income tax credit for purchases of manufacturing machinery and equipment for automating manufacturing processes be one of the economic development tax incentives selected for analysis during the 2015-16 interim by the legislative management interim committee assigned the study responsibility under subsection 3 of section 1 of Senate Bill No. 2057, as approved by the sixty-fourth legislative assembly.

**SECTION 4. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for the first three taxable years after December 31, 2014, and is thereafter ineffective.

Approved April 28, 2015  
Filed April 28, 2015

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<sup>221</sup> Section 57-38-30.3 was also amended by section 2 of House Bill No. 1462, chapter 448, and section 2 of Senate Bill No. 2349, chapter 447.

## CHAPTER 446

### SENATE BILL NO. 2292

(Senator Cook)

AN ACT to amend and reenact subsection 5 of section 57-38-04 and sections 57-38.1-09, 57-59-01, 57-59-05, 57-59-06, and 57-59-08 of the North Dakota Century Code, relating to apportionment of business income and the multistate tax compact; to repeal section 57-59-02 of the North Dakota Century Code, relating to the optional computation provision of the multistate tax compact; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 5 of section 57-38-04 of the North Dakota Century Code is amended and reenacted as follows:

5. Whenever business activity is carried on partly within and partly without this state by a nonresident of this state as a sole proprietorship, or through a partnership, subchapter S corporation, or other passthrough entity, the entire income therefrom must be allocated to this state and to other states, according to the provisions of chapter 57-38.1 but only according to the apportionment method provided under subsection 1 of section 57-38.1-09, providing for allocation and apportionment of income of corporations doing business within and without this state.

**SECTION 2. AMENDMENT.** Section 57-38.1-09 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-38.1-09. Business income.**

1. ~~All~~Except as permitted under subsections 2 through 4, all business income must be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.
2. For the first two taxable years beginning after December 31, 2015, a taxpayer that is not a passthrough entity may elect to apportion business income to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two times the sales factor, and the denominator of which is four.
  - a. The election must be made on the return as originally and timely filed in the form and manner prescribed by the tax commissioner.
  - b. The election is applicable for all companies in a unitary group and for all companies filing a consolidated North Dakota return.
  - c. The election is binding for five consecutive taxable years after making the election, at which time the election lapses. The election under this subsection also includes the election to use the sales factor under subsections 3 and 4 for the taxable years those subsections apply.

- d. Unless a taxpayer makes another election under subsection 4 in the taxable year immediately following the final year of the binding effect of the election under this subsection, the taxpayer must file under subsection 1 for a period of three taxable years before it may make a new election under subsection 4.
3. For the first taxable year beginning after December 31, 2017, a taxpayer that is not a passthrough entity may elect to apportion business income to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus six times the sales factor, and the denominator of which is eight.
  - a. The election must be made on the return as originally and timely filed in the form and manner prescribed by the tax commissioner.
  - b. The election is applicable for all companies in a unitary group and for all companies filing a consolidated North Dakota return.
  - c. The election is binding for five consecutive taxable years after making the election, at which time the election lapses. The election under this subsection also includes the election to use the sales factor under subsection 4 for the taxable years that subsection applies.
  - d. Unless a taxpayer makes another election under subsection 4 in the taxable year immediately following the final year of the binding effect of the election under this subsection, the taxpayer must file under subsection 1 for a period of three taxable years before it may make a new election under subsection 4.
4. For taxable years beginning after December 31, 2018, a taxpayer that is not a passthrough entity may elect to apportion business income to this state by multiplying the income by the sales factor. A taxpayer electing to file using a single sales factor must comply with the following:
  - a. The election must be made on the return as originally and timely filed in the form and manner prescribed by the tax commissioner.
  - b. The election is applicable for all companies in a unitary group and for all companies filing a consolidated North Dakota return.
  - c. The election is binding for five consecutive taxable years after making the election, at which time the election lapses.
  - d. Unless a taxpayer makes another election under this subsection in the taxable year immediately following the final year of a prior single sales factor election, the taxpayer must file under subsection 1 for a period of three taxable years before it may make a new single sales factor election.

**SECTION 3. AMENDMENT.** Section 57-59-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-59-01. Multistate tax compact.**

The multistate tax compact is hereby entered into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

## MULTISTATE TAX COMPACT

### ARTICLE I - PURPOSES

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

### ARTICLE II - DEFINITIONS

As used in this compact:

1. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.
2. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.
3. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
4. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.
5. "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.
6. "Subdivision" means any governmental unit or special district of a state.
7. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of ~~articles III, IV, and V~~ article III, IV, and V of this compact shall apply only to the taxes specifically designated therein and ~~the provisions of article IX of this compact shall apply only in respect to determinations pursuant to article IV.~~

8. "Taxpayer" means any corporation, partnership, firm, association, governmental unit, or agency or person acting as a business entity in more than one state.
9. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property, and (b) is complementary to a sales tax.

## **ARTICLE III - ELEMENTS OF INCOME TAX LAWS**

### **Taxpayer Option, State and Local Taxes**

1. ~~Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate the taxpayer's income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this subsection, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.~~

### **Taxpayer Option, Short Form**

2. ~~Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of one hundred thousand dollars may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The multistate tax commission, not more than once in five years, may adjust the one hundred thousand dollar figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the one hundred thousand dollar figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this subsection.~~

### **Coverage**

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

**ARTICLE IV – DIVISION OF INCOME**

1. As used in this article, unless the context otherwise requires:
  - (a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.
  - (b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.
  - (c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.
  - (d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.
  - (e) "Nonbusiness income" means all income other than business income.
  - (f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water, or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state, or local government or governmental agency.
  - (g) "Sales" means all gross receipts of the taxpayer not allocated under subsections of this article.
  - (h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.
  - (i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.
2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion that taxpayer's net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of the taxpayer's income from activities subject to this article, the taxpayer may elect to allocate and apportion the taxpayer's entire net income as provided in this article.
3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (a) in that state the taxpayer is subject to

a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. ~~Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections 5 through 8 of this article.~~
5. (a) ~~Net rents and royalties from real property located in this state are allocable to this state.~~
  - (b) ~~Net rents and royalties from tangible personal property are allocable to this state: (1) if and to the extent that the property is utilized in this state, or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.~~
  - (c) ~~The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.~~
6. (a) ~~Capital gains and losses from sales of real property located in this state are allocable to this state.~~
  - (b) ~~Capital gains and losses from sales of tangible personal property are allocable to this state if (1) the property had a situs in this state at the time of the sale, or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.~~
  - (c) ~~Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.~~
7. ~~Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.~~
8. (a) ~~Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the payer in this state, or (2) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.~~
  - (b) ~~A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the~~

- accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.
- (c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.
9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.
10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.
11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.
12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.
13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.
14. Compensation is paid in this state if:
- (a) The individual's service is performed entirely within the state;
  - (b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
  - (c) Some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.
15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.
16. Sales of tangible personal property are in this state if:

- (a) ~~The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or~~
  - (b) ~~The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government, or (2) the taxpayer is not taxable in the state of the purchaser.~~
17. ~~Sales, other than sales of tangible personal property, are in this state if:~~
- (a) ~~The income-producing activity is performed in this state; or~~
  - (b) ~~The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.~~
18. ~~If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:~~
- (a) ~~Separate accounting;~~
  - (b) ~~The exclusion of any one or more of the factors;~~
  - (c) ~~The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or~~
  - (d) ~~The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.~~

## **ARTICLE V - ELEMENTS OF SALES AND USE TAX LAWS**

### **Tax Credit**

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by the purchaser with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

### **Exemption Certificates, Vendors May Rely**

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

## **ARTICLE VIIV - THE COMMISSION**

## Organization and Management

1. (a) The multistate tax commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or the attorney general's designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under subdivision e of subsection 1 of this article.
- (b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.
- (c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.
- (d) The commission shall adopt an official seal to be used as it may provide.
- (e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular, and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.
- (f) The commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix the executive director's duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.
- (g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.
- (h) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.
- (i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials, and

services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

- (j) The commission may establish one or more offices for the transacting of its business.
- (k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.
- (l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

### **Committees**

- 2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice chairman, treasurer, and four other members elected annually by the commission. The executive committee subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.
- (b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.
- (c) The commission may establish such additional committees as its bylaws may provide.

### **Powers**

- 3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:
  - (a) Study state and local tax systems and particular types of state and local taxes.
  - (b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.
  - (c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

- (d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

### **Finance**

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.
- (b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, and sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this subsection.
- (c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under subdivision i of subsection 1 of this article; provided, that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under subdivision i of subsection 1, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.
- (d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.
- (e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.
- (f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

### **ARTICLE VIII - UNIFORM REGULATIONS AND FORMS**

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, the commission may adopt uniform regulations for any phase of the administration of such law,

including assertion of jurisdiction to tax, or prescribing uniform tax forms. ~~The commission may also act with respect to the provisions of article IV of this compact.~~

2. Prior to the adoption of any regulation, the commission shall:
  - (a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.
  - (b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.
3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

#### **ARTICLE VIII - INTERSTATE AUDITS**

1. This article shall be in force only in those party states that specifically provide therefor by statute.
2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.
3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property, or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, the person may be required to attend for such purpose at any time and place fixed by the commission within the state of which the person is a resident; provided, that such state has adopted this article.
4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in

which the object of the order being sought is situated. The provisions of this subsection apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.
6. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.
7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.
8. In no event shall the commission make any charge against a taxpayer for an audit.
9. As used in this article, "tax", in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

### **ARTICLE IX – ARBITRATION**

- ~~1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.~~
- ~~2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.~~
- ~~3. Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if the taxpayer is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject the taxpayer to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.~~

4. ~~The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this subsection shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if that member is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this subsection.~~
5. ~~The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence, or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.~~
6. ~~The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.~~
7. ~~The board shall have power to administer oaths, take testimony, subpoena, and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this subsection apply only in states that have adopted this article.~~
8. ~~Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless that person is required on account of that person's service to forego the regular compensation attaching to that person's public employment, but any such board member shall be entitled to expenses.~~
9. ~~The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.~~
10. ~~The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.~~

- ~~11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.~~
- ~~12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.~~
- ~~13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.~~

#### **ARTICLE ~~XVII~~ - ENTRY INTO FORCE AND WITHDRAWAL**

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.
2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.
- ~~3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.~~

#### **ARTICLE ~~XVIII~~ - EFFECT ON OTHER LAWS AND JURISDICTION**

Nothing in this compact shall be construed to:

1. Affect the power of any state or subdivision thereof to fix rates of taxation, ~~except that a party state shall be obligated to implement subsection 2 of article III of this compact.~~
2. Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided, that the definition of "tax" in subsection 9 of article ~~VI~~ may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to subsection 3 of article ~~VI~~ may apply.
3. Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, ~~limited liability company~~, or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.
4. Supersede or limit the jurisdiction of any court of the United States.

#### **ARTICLE ~~XIX~~ - CONSTRUCTION AND SEVERABILITY**

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government,

agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

**SECTION 4. AMENDMENT.** Section 57-59-05 of the North Dakota Century Code is amended and reenacted as follows:

**57-59-05. Legal counsel.**

The chief counsel of the state tax department or the chief counsel's designee shall attend the meetings of the multistate tax commission as the legal counsel representing the state of North Dakota as provided for by subdivision a of subsection 1 of article VI of section 57-59-01.

**SECTION 5. AMENDMENT.** Section 57-59-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-59-06. Selection of representatives to meet with commission member.**

The state tax commissioner shall appoint two persons who are representatives of subdivisions affected or likely to be affected by the multistate tax compact from among persons nominated by the association of counties and league of cities. The state tax commissioner, and any alternate designated by the state tax commissioner, shall consult with these appointees, in accordance with subdivision b of subsection 1 of article VI of section 57-59-01. The state tax commissioner shall also consult regularly with the chairman and ranking minority party member of the finance and taxation committees of the senate and house of representatives as provided for in subdivision b of subsection 2 of article VI of section 57-59-01.

**SECTION 6. AMENDMENT.** Section 57-59-08 of the North Dakota Century Code is amended and reenacted as follows:

**57-59-08. Interaudits.**

Article VII of the multistate tax compact relating to interaudits shall be in force in and with respect to the state of North Dakota.

**SECTION 7. REPEAL.** Section 57-59-02 of the North Dakota Century Code is repealed.

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

Approved April 20, 2015  
Filed April 20, 2015

## CHAPTER 447

### SENATE BILL NO. 2349

(Senators Laffen, Bekkedahl, Murphy, Poolman)  
(Representatives Rich S. Becker, Strinden)

AN ACT to amend and reenact section 57-38-30 and subsection 1 of section 57-38-30.3; of the North Dakota Century Code, relating to reduction of the individual and corporation income tax rates; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

##### **57-38-30. Imposition and rate of tax on corporations.**

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~forty-eight~~forty-one hundredths percent.
2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of three and ~~seventy-three~~fifty-five hundredths percent.
3. On all taxable income exceeding fifty thousand dollars, at the rate of four and ~~fifty-three~~thirty-one hundredths percent.

<sup>222</sup> **SECTION 2. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

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<sup>222</sup> Section 57-38-30.3 was also amended by section 2 of House Bill No. 1462, chapter 448, and section 2 of Senate Bill No. 2340, chapter 445.

## a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$36,250	1.22%	\$0
\$36,250	\$87,850	\$442.25 + 2.27%	\$36,250
\$87,850	\$183,250	\$1,613.57 + 2.52%	\$87,850
\$183,250	\$398,350	\$4,017.65 + 2.93%	\$183,250
\$398,350		\$10,320.08 + 3.22%	\$398,350
\$0	\$37,450	1.10%	\$0
\$37,450	\$90,750	\$411.95 + 2.04%	\$37,450
\$90,750	\$189,300	\$1,499.27 + 2.27%	\$90,750
\$189,300	\$411,500	\$3,736.36 + 2.64%	\$189,300
\$411,500		\$9,602.44 + 2.90%	\$411,500

## b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$60,650	1.22%	\$0
\$60,650	\$146,400	\$739.93 + 2.27%	\$60,650
\$146,400	\$223,050	\$2,686.46 + 2.52%	\$146,400
\$223,050	\$398,350	\$4,618.04 + 2.93%	\$223,050
\$398,350		\$9,754.33 + 3.22%	\$398,350
\$0	\$62,600	1.10%	\$0
\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600
\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200
\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450
\$411,500		\$9,074.74 + 2.90%	\$411,500

## c. Married filing separately.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$30,325	1.22%	\$0
\$30,325	\$73,200	\$369.97 + 2.27%	\$30,325
\$73,200	\$111,525	\$1,343.23 + 2.52%	\$73,200
\$111,525	\$199,175	\$2,309.02 + 2.93%	\$111,525
\$199,175		\$4,877.17 + 3.22%	\$199,175
\$0	\$31,300	1.10%	\$0
\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300
\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600
\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225
\$205,750		\$4,537.37 + 2.90%	\$205,750

## d. Head of household.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$48,600	1.22%	\$0
\$48,600	\$125,450	\$592.92 + 2.27%	\$48,600
\$125,450	\$203,150	\$2,337.42 + 2.52%	\$125,450
\$203,150	\$398,350	\$4,295.46 + 2.93%	\$203,150
\$398,350		\$10,014.82 + 3.22%	\$398,350
\$0	\$50,200	1.10%	\$0
\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200

<u>\$129,600</u>	<u>\$209,850</u>	<u>\$2,171.96 + 2.27%</u>	<u>\$129,600</u>
<u>\$209,850</u>	<u>\$411,500</u>	<u>\$3,993.64 + 2.64%</u>	<u>\$209,850</u>
<u>\$411,500</u>		<u>\$9,317.20 + 2.90%</u>	<u>\$411,500</u>

e. Estates and trusts.

If North Dakota taxable income is:			
Over	Not over	The tax is equal to	Of amount over
\$0	\$2,450	1.22%	\$0
\$2,450	\$5,700	\$29.89 plus 2.27%	\$2,450
\$5,700	\$8,750	\$103.67 plus 2.52%	\$5,700
\$8,750	\$11,950	\$180.53 plus 2.93%	\$8,750
\$11,950		\$274.29 plus 3.22%	\$11,950
\$0	\$2,500	1.10%	\$0
<u>\$2,500</u>	<u>\$5,900</u>	<u>\$27.50 + 2.04%</u>	<u>\$2,500</u>
<u>\$5,900</u>	<u>\$9,050</u>	<u>\$96.86 + 2.27%</u>	<u>\$5,900</u>
<u>\$9,050</u>	<u>\$12,300</u>	<u>\$168.37 + 2.64%</u>	<u>\$9,050</u>
<u>\$12,300</u>		<u>\$254.17 + 2.90%</u>	<u>\$12,300</u>

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2014.

Approved April 23, 2015

Filed April 23, 2015

## CHAPTER 448

### HOUSE BILL NO. 1462

(Representative Dosch)

AN ACT to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>223</sup> **SECTION 1. AMENDMENT.** Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

##### **57-38-01.7. Income tax credit for charitable contributions - Limitation.**

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the ~~corporation's~~taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the ~~corporation's~~taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
3. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable

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<sup>223</sup> Section 57-38-01.7 was also amended by section 31 of Senate Bill No. 2015, chapter 49.

contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state.

4. A passthrough entity entitled to a credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
5. For purposes of this section, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades. The term "nonprofit private institution of primary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in kindergarten through eighth grade.
- 4-6. For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

<sup>224</sup> **SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Income tax credit for passthrough entity contributions to private education institutions under section 1 of this Act.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2014.

Approved April 9, 2015  
Filed April 9, 2015

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<sup>224</sup> Section 57-38-30.3 was also amended by section 2 of Senate Bill No. 2340, chapter 445, and section 2 of Senate Bill No. 2349, chapter 447.

## CHAPTER 449

### SENATE BILL NO. 2069

(Finance and Taxation Committee)  
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 2 of section 57-38-59.4 of the North Dakota Century Code, relating to the tax base and rate of withholding for recipients of oil and gas royalty payments; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 57-38-59.4 of the North Dakota Century Code is amended and reenacted as follows:

2. Except as provided in subsection 3, each remitter shall deduct and withhold from the ~~net~~gross amount of the royalty payment made to each nonresident individual or business entity that does not have its commercial domicile in this state at the highest marginal rate provided in ~~sections 57-38-30 and section 57-38-30.3~~ minus three-fourths of one percent. Sections 57-38-59 and 57-38-60 apply to the filing of the returns and payment of the tax under this subsection.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2015.

Approved March 19, 2015  
Filed March 19, 2015

## CHAPTER 450

### SENATE BILL NO. 2096

(Senators Cook, Armstrong, Flakoll)  
(Representatives Louser, Streytle, Headland)

AN ACT to amend and reenact subsections 21, 22, and 23 of section 57-39.2-01 and subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code, relating to elimination of sales taxes on sale of internet access services; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsections 21, 22, and 23 of section 57-39.2-01 of the North Dakota Century Code are amended and reenacted as follows:

21. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrental. "Retail sale" or "sale at retail" includes the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, and communication service, excluding internet access service, to retail consumers or users; the sale of vulcanizing, recapping, and retreading services for tires; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property, including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property must be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated in another state may not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection, the word "consumer" includes any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a person under a finance leasing agreement over the term of which the property will be substantially consumed must be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

22. "Retailer" or "seller" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, and communication services, excluding internet access service, or tickets or admissions to places of amusement, entertainment, and athletic events, or magazines or other periodicals; and includes any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.
23. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatever, for a consideration, and includes the furnishing or service of steam, gas, or communication, excluding internet access service, the furnishing of hotel, motel, or tourist court accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event, or place of entertainment, and sales of magazines and other periodicals. Provided, the words "magazines and other periodicals" as used in this subsection do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

**SECTION 2. AMENDMENT.** Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
  - a. Tangible personal property, consisting of goods, wares, or merchandise, and bundled transactions consisting entirely of tangible personal property.
  - b. The furnishing or service of communication services, excluding internet access service but including one-way and two-way telecommunications services or steam other than steam used for processing agricultural products.

- c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity.
- d. Magazines and other periodicals.
- e. The leasing or renting of a hotel or motel room or tourist court accommodations.
- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
- g. Sale, lease, or rental of a computer and prewritten computer software, including prewritten computer software delivered electronically or by load and leave. For purposes of this subdivision:
  - (1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
  - (2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
  - (3) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.
  - (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
  - (5) "Load and leave" means delivery to the purchaser by use of a tangible storage media when the tangible storage media is not physically transferred to the purchaser.
  - (6) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances "computer software" of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, if such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software". However, if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software".

- h. A mandatory computer software maintenance contract for prewritten computer software.
- i. An optional computer software maintenance contract for prewritten computer software that provides only software upgrades or updates or an optional computer software maintenance contract for prewritten computer software that is a bundled transaction and provides software upgrades or updates and support services.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2017.

Approved April 1, 2015  
Filed April 1, 2015

## CHAPTER 451

### HOUSE BILL NO. 1319

(Representatives Beadle, Dockter, Hawken, Owens, Sanford, Thoreson)  
(Senators Holmberg, Krebsbach)

AN ACT to amend and reenact subsection 4 of section 57-39.2-04 of the North Dakota Century Code, relating to the sales tax exemption for purchases of tickets or admissions to athletic, musical, or dramatic events of institutions of higher education; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>225</sup> **SECTION 1. AMENDMENT.** Subsection 4 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs.
- b. Gross receipts from educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes. The exemption specified in this subsection subdivision does not apply to:
  - (1) Gross receipts from taxable sales in excess of ten thousand dollars perfor an event if the activities are held in a publicly owned facility which is not an event otherwise exempt under subdivision c, d, or e; or
  - (2) Gross receipts from activities if the seller competes with retailers by maintaining inventory, conducting retail sales on a regular basis from a permanent or seasonal location, or soliciting sales from a website prepared for or maintained by the seller.
- c. Gross receipts derived by an institution of higher education located in this state from tickets or admissions to athletic, musical, dramatic, or scholastic events held, sponsored, hosted, or controlled by the institution of higher education, in which the primary performers or participants consist of students of an institution of higher education.
- d. Gross receipts derived by any public school district if such receipts are expended in accordance with section 15.1-07-10 or 15.1-07-11.
- ~~d.e.~~ Gross receipts of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2015.

Approved April 9, 2015  
Filed April 9, 2015

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<sup>225</sup> Section 57-39.2-04 was also amended by section 1 of House Bill No. 1110, chapter 452, and section 1 of Senate Bill No. 2036, chapter 453.

## CHAPTER 452

### HOUSE BILL NO. 1110

(Finance and Taxation Committee)  
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 28 of section 57-39.2-04 and subsection 14 of section 57-40.2-04 of the North Dakota Century Code, relating to statements when tax has been paid on a transaction; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>226</sup> **SECTION 1. AMENDMENT.** Subsection 28 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable and the retailer has separately indicated on an invoice, contract, lease agreement, or other supporting sale document that the retailer paid sales or use tax on the retailer's purchase of the tangible personal property.

**SECTION 2. AMENDMENT.** Subsection 14 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

14. The leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid ~~pursuant to~~under the election of the purchaser ~~pursuant to~~under subsection 21 of section 57-39.2-01 or subsection 5 of section 57-40.2-01 and the retailer has separately indicated on an invoice, contract, lease agreement, or other supporting sale document that the retailer paid sales or use tax on the retailer's purchase of the tangible personal property.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2015.

Approved March 26, 2015

Filed March 26, 2015

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<sup>226</sup> Section 57-39.2-04 was also amended by section 1 of House Bill No. 1319, chapter 451, and section 1 of Senate Bill No. 2036, chapter 453.

## CHAPTER 453

### SENATE BILL NO. 2036

(Legislative Management)  
(Energy Development and Transmission Committee)

AN ACT to amend and reenact sections 57-39.2-04, 57-39.2-04.2, 57-40.2-04.2, 57-60-02, and 57-61-01.4 of the North Dakota Century Code, relating to the sales and use tax exemption for beneficiated coal and equipment for certain power plants, an exemption from the coal conversion facility privilege tax for beneficiated coal produced for use within a coal conversion facility, and the severance and sales and use tax exemption for coal used in certain plants; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>227</sup> **SECTION 1. AMENDMENT.** Section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-39.2-04. (~~Effective through June 30, 2015~~) Exemptions.**

There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of North Dakota.
2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier.
3. Repealed by S.L. 1971, ch. 567, § 1.
4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs.  
b. Gross receipts from educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes. The exemption specified in this subsection does not apply to:
  - (1) Gross receipts from taxable sales in excess of ten thousand dollars per event if the activities are held in a publicly owned facility; or
  - (2) Gross receipts from activities if the seller competes with retailers by maintaining inventory, conducting retail sales on a regular basis from a permanent or seasonal location, or soliciting sales from a website prepared for or maintained by the seller.

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<sup>227</sup> Section 57-39.2-04 was also amended by section 1 of House Bill No. 1110, chapter 452, and section 1 of House Bill No. 1319, chapter 451.

- c. Gross receipts derived by any public school district if such receipts are expended in accordance with section 15.1-07-10 or 15.1-07-11.
  - d. Gross receipts of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.
5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school, or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.
  6. Gross receipts from all sales otherwise taxable under this chapter made to the United States, an Indian tribe, or to any state, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions of any state. A political subdivision of another state is exempt under this subsection only if a sale to a North Dakota political subdivision is treated as an exempt sale in that state. The governmental units exempted by this subsection must be issued a certificate of exemption by the commissioner and the certificate must be presented to each retailer whenever this exemption is claimed. For purposes of this subsection, an Indian tribe means a tribal government agency, instrumentality, or political subdivision that performs essential government functions and does not include business entities or agencies the primary purpose of which is to operate a business enterprise.
  7. Gross receipts from the sale of drugs sold under a doctor's prescription.
  8. Gross receipts from sales of adjuvants, agrichemical tank cleaners and foam markers, commercial fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides, and insecticides to agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.
  9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for the person's own use for medical purposes.
  10. Gross receipts from the sale of motor vehicles, farm machinery, alcoholic beverages, gasoline, insurance premiums, gaming tickets, or any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.
  11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" includes drugs used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.

12. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state which does not impose or levy a retail sales tax, under the following conditions:
  - a. The person is in the state of North Dakota for the express purpose of making a purchase.
  - b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.
  - c. The sale is fifty dollars or more.
13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota. However, gross receipts from the rental of any motor vehicle for fewer than thirty days are not exempt but taxes imposed under home rule authority do not apply to such rentals.
14. Repealed by S.L. 1969, ch. 528, § 24.
15. Gross receipts from sales in which a contractor furnishes to the retailer a certificate which includes the contractor's license number assigned to the contractor under the provisions of chapter 43-07. Such certificate shall be in the form prescribed by the commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer. Any contractor furnishing such certificate must report and remit the tax to the commissioner on purchases taxable under this chapter made by the contractor in the same manner as retailers remit such tax under this chapter.
16. Gross receipts from the sale of newsprint and ink used in the publication of a newspaper.
17. Gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, basic care facility, or similar institution to any patient or occupant.
18. Repealed by S.L. 1973, ch. 480, § 6.
19. Repealed by S.L. 1971, ch. 555, § 3.
20. Gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in this state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.
21. Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by this chapter.

22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or tourist court accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days.
23. Food purchased by a student under a boarding contract with a college, university, fraternity, or sorority.
24. Gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. For the purposes of this subsection:
  - a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, or basic care facility licensed by the state department of health, or any assisted living facility licensed by the department of human services; and
  - b. "Emergency medical services provider" means an emergency medical services operation licensed by the state department of health under chapter 23-27.
25. Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.
26. Gross receipts from sales of prosthetic devices, durable medical equipment, mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction. For purposes of this subsection:
  - a. "Durable medical equipment" means equipment, not including mobility-enhancing equipment, for home use, including repair and replacement parts for such equipment, which:
    - (1) Can withstand repeated use;
    - (2) Is primarily and customarily used to serve a medical purpose;
    - (3) Generally is not useful to a person in the absence of illness or injury; and
    - (4) Is not worn in or on the body."Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction. An exemption certificate is not required to obtain exemption. Repair and replacement parts as used in this definition include all components or attachments used in conjunction with the durable medical equipment. Repair and replacement parts do not include items which are for single patient use only.
  - b. "Mobility-enhancing equipment" means equipment, not including durable medical equipment sold under a doctor's written prescription, including repair and replacement parts for mobility-enhancing equipment, which:

- (1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;
- (2) Is not generally used by persons with normal mobility; and
- (3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

- c. "Prosthetic device" means a replacement, corrective, or supportive device sold under a doctor's written prescription, including repair and replacement parts for such a device, worn on or in the body to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct a physical deformity or malfunction; or
- (3) Support a weak or deformed portion of the body.

"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.

- d. "Supplies for ostomy care or bladder dysfunction" includes:

- (1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
- (2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.

27. Gross receipts from the sale of electricity.

28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable.
29. Gross receipts from all sales otherwise taxable under this chapter when made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including senior citizens and disabled persons, for consumption by such shut-ins in their homes.
30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers.
31. Gross receipts from the sale of money, including all legal tender coins and currency, and from the sale of precious metal bullion that has been refined to a purity of not less than nine hundred ninety-nine parts per one thousand and is in such form or condition that its value depends upon its precious metal content and not its form.
32. Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service, and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.
33. Repealed by S.L. 2005, ch. 580, § 19.
34. Gross receipts from the sale of byproducts, arising from the processing of agricultural products, for use in the manufacture or generation of steam or electricity.
35. Gross receipts from the sale of a manufactured home that has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.
36. Gross receipts from all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.

37. Gross receipts from the sale of any aircraft taxable under the provisions of chapter 57-40.5.
38. Gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.
39. Gross receipts from sales of tangible personal property consisting of flight simulators or mechanical or electronic equipment for use in association with a flight simulator.
40. Gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility. For purposes of this subsection, "annual" means occurring not more than once in any calendar year.
41. Gross receipts from the initial sale of beneficiated coal.
42. Gross receipts from electronic gaming devices licensed by the attorney general under chapter 53-06.1.
43. Gross receipts from all sales made to a nonprofit medical research institute. For purposes of this subsection, "nonprofit medical research institute" means an institute that is a member of the association of independent research institutes, which is not a private foundation, and which is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3).
44. Gross receipts from all sales of coal that is exempt from the coal severance tax.
45. Gross receipts from the sale or lease of farm machinery, farm machinery repair parts, irrigation equipment, or irrigation equipment repair parts used exclusively for agricultural purposes.
46. Gross receipts from sales of tangible personal property purchased by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if the winner of the tangible personal property will be subject to sales or use taxes upon receiving the property.
47. Gross receipts from the sale of lottery tickets under chapter 53-12.1.
48. Gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, otherwise taxable under this chapter, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The commissioner shall issue a certificate of exemption to a political subdivision exempted by this subsection, and the political subdivision shall present the certificate of exemption to each retailer whenever the exemption is claimed.
49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas.

50. Gross receipts from the sale at retail of hydrogen to power an internal combustion engine or fuel cell and equipment used directly and exclusively in production and storage of the hydrogen by a hydrogen generation facility in this state. For purposes of this subsection, "storage" means stationary and portable hydrogen containers or pressure vessels, piping, tubing, fittings, gaskets, controls, valves, gauges, pressure regulators, safety relief devices, and other accessories intended for hydrogen storage containers or pressure vessels.
51. Gross receipts from the sale of equipment to a facility, licensed under section 57-43.2-05, to enable the facility to sell diesel fuel containing at least two percent biodiesel or green diesel fuel as defined under section 57-43.2-01 by volume.
52. Gross receipts from sales within the boundaries of any reservation in this state to an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe.
53. Gross receipts from sales of natural gas or sales of fuels used for heating purposes.
54. Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:
  - a. "Specified digital products" means:
    - (1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;
    - (2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and
    - (3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.
  - b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.
  - c. For purposes of the definition of "digital audio work", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.
  - d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.
55. Gross receipts from memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and operated solely by nonsalaried officers and staff.
56. Gross receipts from the sale of any potash or byproducts taxable under chapter 57-65.

57. Gross receipts from coin-operated amusement or entertainment machines.
58. **(Contingent effective date - See note)** Gross receipts from sales of liquefied natural gas used for agricultural, industrial, or railroad purposes as defined in section 57-43.2-01.

~~**(Effective after June 30, 2015) Exemptions.** There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:~~

- ~~1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of North Dakota.~~
- ~~2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier.~~
- ~~3. Repealed by S.L. 1971, ch. 567, § 1.~~
- ~~4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs.~~
  - ~~b. Gross receipts from educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes. The exemption specified in this subsection does not apply to:
 
    - ~~(1) Gross receipts from taxable sales in excess of ten thousand dollars per event if the activities are held in a publicly owned facility; or~~
    - ~~(2) Gross receipts from activities if the seller competes with retailers by maintaining inventory, conducting retail sales on a regular basis from a permanent or seasonal location, or soliciting sales from a website prepared for or maintained by the seller.~~~~
  - ~~c. Gross receipts derived by any public school district if such receipts are expended in accordance with section 15.1-07-10 or 15.1-07-11.~~
  - ~~d. Gross receipts of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.~~
- ~~5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school, or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.~~
- ~~6. Gross receipts from all sales otherwise taxable under this chapter made to the United States, an Indian tribe, or to any state, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions of any state. A political subdivision of another state is exempt under this subsection only if a sale to a North Dakota political subdivision is treated as an exempt sale in that state. The governmental units exempted by this~~

subsection must be issued a certificate of exemption by the commissioner and the certificate must be presented to each retailer whenever this exemption is claimed. For purposes of this subsection, an Indian tribe means a tribal government agency, instrumentality, or political subdivision that performs essential government functions and does not include business entities or agencies the primary purpose of which is to operate a business enterprise.

7. Gross receipts from the sale of drugs sold under a doctor's prescription.
8. Gross receipts from sales of adjuvants, agrichemical tank cleaners and foam markers, commercial fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides, and insecticides to agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.
9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for the person's own use for medical purposes.
10. Gross receipts from the sale of motor vehicles, farm machinery, alcoholic beverages, gasoline, insurance premiums, gaming tickets, or any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.
11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" includes drugs used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.
12. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state which does not impose or levy a retail sales tax, under the following conditions:
  - a. The person is in the state of North Dakota for the express purpose of making a purchase.
  - b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.
  - c. The sale is fifty dollars or more.
13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota. However, gross receipts

from the rental of any motor vehicle for fewer than thirty days are not exempt but taxes imposed under home rule authority do not apply to such rentals.

14. Repealed by S.L. 1969, ch. 528, § 24.
15. ~~Gross receipts from sales in which a contractor furnishes to the retailer a certificate which includes the contractor's license number assigned to the contractor under the provisions of chapter 43-07. Such certificate shall be in the form prescribed by the commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer. Any contractor furnishing such certificate must report and remit the tax to the commissioner on purchases taxable under this chapter made by the contractor in the same manner as retailers remit such tax under this chapter.~~
16. ~~Gross receipts from the sale of newsprint and ink used in the publication of a newspaper.~~
17. ~~Gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, basic care facility, or similar institution to any patient or occupant.~~
18. Repealed by S.L. 1973, ch. 480, § 6.
19. Repealed by S.L. 1971, ch. 555, § 3.
20. ~~Gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in this state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.~~
21. ~~Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by this chapter.~~
22. ~~Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or tourist court accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days.~~
23. ~~Food purchased by a student under a boarding contract with a college, university, fraternity, or sorority.~~
24. ~~Gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. For the purposes of this subsection:
  - a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, or basic care facility licensed by the state department of~~

health, or any assisted living facility licensed by the department of human services; and

b. ~~"Emergency medical services provider" means an emergency medical services operation licensed by the state department of health under chapter 23-27.~~

25. ~~Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.~~

26. ~~Gross receipts from sales of prosthetic devices, durable medical equipment, mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction. For purposes of this subsection:~~

a. ~~"Durable medical equipment" means equipment, not including mobility-enhancing equipment, for home use, including repair and replacement parts for such equipment, which:~~

~~(1) Can withstand repeated use;~~

~~(2) Is primarily and customarily used to serve a medical purpose;~~

~~(3) Generally is not useful to a person in the absence of illness or injury; and~~

~~(4) Is not worn in or on the body.~~

~~"Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction. An exemption certificate is not required to obtain exemption. Repair and replacement parts as used in this definition include all components or attachments used in conjunction with the durable medical equipment. Repair and replacement parts do not include items which are for single patient use only.~~

b. ~~"Mobility-enhancing equipment" means equipment, not including durable medical equipment sold under a doctor's written prescription, including repair and replacement parts for mobility-enhancing equipment, which:~~

~~(1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;~~

~~(2) Is not generally used by persons with normal mobility; and~~

~~(3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.~~

~~"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by~~

~~a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.~~

~~e. "Prosthetic device" means a replacement, corrective, or supportive device sold under a doctor's written prescription, including repair and replacement parts for such a device, worn on or in the body to:~~

~~(1) Artificially replace a missing portion of the body;~~

~~(2) Prevent or correct a physical deformity or malfunction; or~~

~~(3) Support a weak or deformed portion of the body.~~

~~"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.~~

~~d. "Supplies for ostomy care or bladder dysfunction" includes:~~

~~(1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.~~

~~(2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.~~

27. Gross receipts from the sale of electricity.

28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable.

29. Gross receipts from all sales otherwise taxable under this chapter when made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including senior citizens and disabled persons, for consumption by such shut-ins in their homes.

30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers.

31. ~~Gross receipts from the sale of money, including all legal tender coins and currency, and from the sale of precious metal bullion that has been refined to a purity of not less than nine hundred ninety-nine parts per one thousand and is in such form or condition that its value depends upon its precious metal content and not its form.~~
32. ~~Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service, and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.~~
33. ~~Repealed by S.L. 2005, ch. 580, § 19.~~
34. ~~Gross receipts from the sale of byproducts, arising from the processing of agricultural products, for use in the manufacture or generation of steam or electricity.~~
35. ~~Gross receipts from the sale of a manufactured home that has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.~~
36. ~~Gross receipts from all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.~~
37. ~~Gross receipts from the sale of any aircraft taxable under the provisions of chapter 57-40.5.~~
38. ~~Gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.~~
39. ~~Gross receipts from sales of tangible personal property consisting of flight simulators or mechanical or electronic equipment for use in association with a flight simulator.~~
40. ~~Gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility. For purposes~~

- of this subsection, "annual" means occurring not more than once in any calendar year.
41. Gross receipts from the initial sale of beneficiated coal taxed under chapter 57-60.
  42. Gross receipts from electronic gaming devices licensed by the attorney general under chapter 53-06.1.
  43. Gross receipts from all sales made to a nonprofit medical research institute. For purposes of this subsection, "nonprofit medical research institute" means an institute that is a member of the association of independent research institutes, which is not a private foundation, and which is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3).
  44. Gross receipts from all sales of coal that is exempt from the coal severance tax.
  45. Gross receipts from the sale or lease of farm machinery, farm machinery repair parts, irrigation equipment, or irrigation equipment repair parts used exclusively for agricultural purposes.
  46. Gross receipts from sales of tangible personal property purchased by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if the winner of the tangible personal property will be subject to sales or use taxes upon receiving the property.
  47. Gross receipts from the sale of lottery tickets under chapter 53-12.1.
  48. Gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, otherwise taxable under this chapter, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The commissioner shall issue a certificate of exemption to a political subdivision exempted by this subsection, and the political subdivision shall present the certificate of exemption to each retailer whenever the exemption is claimed.
  49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas.
  50. Gross receipts from the sale at retail of hydrogen to power an internal combustion engine or fuel cell and equipment used directly and exclusively in production and storage of the hydrogen by a hydrogen generation facility in this state. For purposes of this subsection, "storage" means stationary and portable hydrogen containers or pressure vessels, piping, tubing, fittings, gaskets, controls, valves, gauges, pressure regulators, safety relief devices, and other accessories intended for hydrogen storage containers or pressure vessels.
  51. Gross receipts from the sale of equipment to a facility, licensed under section 57-43.2-05, to enable the facility to sell diesel fuel containing at least two percent biodiesel or green diesel fuel as defined under section 57-43.2-01 by volume.

- ~~52. Gross receipts from sales within the boundaries of any reservation in this state to an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe.~~
- ~~53. Gross receipts from sales of natural gas or sales of fuels used for heating purposes.~~
- ~~54. Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:~~
- ~~a. "Specified digital products" means:~~
- ~~(1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;~~
- ~~(2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and~~
- ~~(3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.~~
- ~~b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.~~
- ~~c. For purposes of the definition of "digital audio work", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.~~
- ~~d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.~~
- ~~55. Gross receipts from memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and operated solely by nonsalaried officers and staff.~~
- ~~56. Gross receipts from the sale of any potash or byproducts taxable under chapter 57-65.~~
- ~~57. Gross receipts from coin-operated amusement or entertainment machines.~~
- ~~58. **(Contingent effective date – See note)** Gross receipts from sales of liquefied natural gas used for agricultural, industrial, or railroad purposes as defined in section 57-43.2-01.~~

**SECTION 2. AMENDMENT.** Section 57-39.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-04.2. (Effective through June 30, 2017) Sales tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.**

1. As used in this section, unless the context otherwise requires:
    - a. (1) "Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.
    - (2) "Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.
  - b. "Operator" means any person owning, holding, or leasing a power plant or process unit.
  - c. "Power plant" means:
    - (1) An electrical generating plant, and all additions to the plant, which processes or converts coal in its natural form or beneficiated coal into electrical power and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.
    - (2) A wind-powered electrical generating facility, on which construction is completed before January 1, 2017, and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.
    - (3) Any other type of electrical power generating facility excluding the types of power plants identified in paragraphs 1 and 2 which has a capacity of one hundred kilowatts or more and produces electricity for resale or for consumption in a business activity.
  - d. "Process unit" means an oil refinery or gas processing plant and all adjacent units that are utilized in the processing of crude oil or natural gas.
  - e. "Production equipment" means machinery and attachment units, other than replacement parts, directly and exclusively used in the generation, transmission, or distribution of electrical energy for sale by a power plant.
  - f. "Repowering" means an investment of more than two hundred million dollars or one million dollars per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting coal in its natural form or beneficiated coal into electrical power.
2. Sales of production or environmental upgrade equipment that is delivered on or after January 1, 2007, and used exclusively in power plants or repowering

existing power plants or in processing units are exempt from the tax imposed by this chapter.

3. Sales of tangible personal property, other than production or environmental upgrade equipment, which is used in the construction of new power plants or to expand existing power plants or to add environmental upgrades to existing power plants or repowering existing power plants or to add environmental upgrades to existing process units are exempt from the tax imposed by this chapter.
4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the operator intends to purchase qualifies for the exemption. If a certificate is not received prior to the purchase, the operator shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.
5. If the tangible personal property or production equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the operator may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section.

**~~(Effective after June 30, 2017) Sales tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.~~**

1. As used in this section, unless the context otherwise requires:
  - a. (1) ~~"Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.~~
  - (2) ~~"Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.~~
- b. ~~"Operator" means any person owning, holding, or leasing a power plant or process unit.~~
- c. ~~"Power plant" means:~~
  - (1) ~~An electrical generating plant, and all additions to the plant, which processes or converts coal from its natural form into electrical power and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.~~
  - (2) ~~A wind-powered electrical generating facility, on which construction is completed before January 1, 2017, and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.~~

- ~~(3) Any other type of electrical power generating facility excluding the types of power plants identified in paragraphs 1 and 2 which has a capacity of one hundred kilowatts or more and produces electricity for resale or for consumption in a business activity:~~
- ~~d. "Process unit" means an oil refinery or gas processing plant and all adjacent units that are utilized in the processing of crude oil or natural gas.~~
  - ~~e. "Production equipment" means machinery and attachment units, other than replacement parts, directly and exclusively used in the generation, transmission, or distribution of electrical energy for sale by a power plant.~~
  - ~~f. "Repowering" means an investment of more than two hundred million dollars or one million dollars per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting coal from its natural form into electrical power.~~
- ~~2. Sales of production or environmental upgrade equipment that is delivered on or after January 1, 2007, and used exclusively in power plants or repowering existing power plants or in processing units are exempt from the tax imposed by this chapter.~~
  - ~~3. Sales of tangible personal property, other than production or environmental upgrade equipment, which is used in the construction of new power plants or to expand existing power plants or to add environmental upgrades to existing power plants or repowering existing power plants or to add environmental upgrades to existing process units are exempt from the tax imposed by this chapter.~~
  - ~~4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the operator intends to purchase qualifies for the exemption. If a certificate is not received prior to the purchase, the operator shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.~~
  - ~~5. If the tangible personal property or production equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the operator may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section.~~

**SECTION 3. AMENDMENT.** Section 57-40.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.2-04.2. (Effective through June 30, 2015) Use tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.**

1. As used in this section, unless the context otherwise requires:
  - a. (1) "Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.

- (2) "Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.
  - b. "Operator" means any person owning, holding, or leasing a power plant or process unit.
  - c. "Power plant" means:
    - (1) An electrical generating plant, and all additions to the plant, which processes or converts coal in its natural form or beneficiated coal into electrical power and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.
    - (2) A wind-powered electrical generating facility, on which construction is completed before January 1, 2015, and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.
    - (3) Any other type of electrical power generating facility excluding the types of power plants identified in paragraphs 1 and 2 which has a capacity of one hundred kilowatts or more and produces electricity for resale or for consumption in a business activity.
  - d. "Process unit" means an oil refinery or gas processing plant and all adjacent units that are utilized in the processing of crude oil or natural gas.
  - e. "Production equipment" means machinery and attachment units, other than replacement parts, directly and exclusively used in the generation, transmission, or distribution of electrical energy for sale by a power plant.
  - f. "Repowering" means an investment of more than two hundred million dollars or one million dollars per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting coal in its natural form or beneficiated coal into electric power.
2. Sales of production or environmental upgrade equipment that is delivered on or after January 1, 2007, and used exclusively in power plants or repowering existing power plants or in process units are exempt from the tax imposed by this chapter.
  3. Sales of tangible personal property, other than production or environmental upgrade equipment, which is used in the construction of new power plants or to expand existing power plants or to add environmental upgrades to existing power plants or repowering existing power plants or to add environmental upgrades to existing process units are exempt from the tax imposed by this chapter.
  4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the operator intends to purchase qualifies for the

reduced rate or exemption. If a certificate is not received prior to the purchase, the operator shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.

5. If the tangible personal property or production equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the operator may apply for a refund of the difference between the amount remitted by the contractor and the reduced rate or exemption imposed or allowed by this section.

**~~(Effective after June 30, 2015) Use tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.~~**

1. As used in this section, unless the context otherwise requires:
  - a. ~~(1) "Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.~~
    - ~~(2) "Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.~~
  - b. "Operator" means any person owning, holding, or leasing a power plant or process unit.
  - c. "Power plant" means:
    - ~~(1) An electrical generating plant, and all additions to the plant, which processes or converts coal from its natural form into electrical power and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.~~
    - ~~(2) A wind-powered electrical generating facility, on which construction is completed before January 1, 2015, and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.~~
    - ~~(3) Any other type of electrical power generating facility excluding the types of power plants identified in paragraphs 1 and 2 which has a capacity of one hundred kilowatts or more and produces electricity for resale or for consumption in a business activity.~~
  - d. "Process unit" means an oil refinery or gas processing plant and all adjacent units that are utilized in the processing of crude oil or natural gas.
  - e. "Production equipment" means machinery and attachment units, other than replacement parts, directly and exclusively used in the generation, transmission, or distribution of electrical energy for sale by a power plant.

- f. "Repowering" means an investment of more than two hundred million dollars or one million dollars per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting coal from its natural form into electric power.
2. Sales of production or environmental upgrade equipment that is delivered on or after January 1, 2007, and used exclusively in power plants or repowering existing power plants or in process units are exempt from the tax imposed by this chapter.
  3. Sales of tangible personal property, other than production or environmental upgrade equipment, which is used in the construction of new power plants or to expand existing power plants or to add environmental upgrades to existing power plants or repowering existing power plants or to add environmental upgrades to existing process units are exempt from the tax imposed by this chapter.
  4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the operator intends to purchase qualifies for the reduced rate or exemption. If a certificate is not received prior to the purchase, the operator shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.
  5. If the tangible personal property or production equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the operator may apply for a refund of the difference between the amount remitted by the contractor and the reduced rate or exemption imposed or allowed by this section.

**SECTION 4. AMENDMENT.** Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-60-02. Imposition of taxes.**

There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from such facility for the preceding month and is in the amount of four and one-tenth percent of such gross receipts. For purposes of this subsection, "gross receipts" of a coal gasification plant do not include any amount that is received by the operator of the plant for production of synthetic natural gas in excess of one hundred ten million cubic feet per day. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant

located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.
4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.
5.
  - a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.
  - b. The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.
6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.

**SECTION 5. AMENDMENT.** Section 57-61-01.4 of the North Dakota Century Code is amended and reenacted as follows:

**57-61-01.4. ~~(Effective through June 30, 2015)~~ Severance and sales and use tax exemptions for coal used in certain plants.**

No state severance tax may be imposed on coal used in, or coal used to produce steam that is used in, agricultural commodity processing facilities as defined in subsection 4 of section 57-39.2-04.4 located within North Dakota or adjacent states or any facility owned by the state or a political subdivision of the state. No state severance tax may be imposed on coal purchased for improvement through the process of coal beneficiation defined in ~~subsection 2 of~~ section 57-60-01 which is subsequently used in, or used to produce steam that is used in, agricultural commodity processing facilities located within North Dakota or adjacent states or any facility owned by the state or a political subdivision of the state. The coal mine owner or operator shall require the person purchasing the coal to certify that amount of coal purchased for use in agricultural commodity processing facilities or for beneficiation and subsequent use in agricultural commodity processing facilities or any facility owned by the state or a political subdivision of the state or to produce steam that is used in any of those facilities.

~~**(Effective after June 30, 2015) Severance and sales and use tax exemptions for coal used in certain plants.** No state severance tax may be imposed on coal used in agricultural processing or sugar beet refining plants located within North Dakota or adjacent states. The coal mine owner or operator shall require the person purchasing the coal to certify that amount of coal purchased for agricultural processing or sugar beet refining purposes. Coal exempted from the severance tax by this section is not subject to sales and use taxes.~~

**SECTION 6. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2015.

Approved March 12, 2015  
Filed March 12, 2015

## CHAPTER 454

### SENATE BILL NO. 2094

(Senators Sorvaag, Burckhard, Laffen)  
(Representatives Guggisberg, Kading, Schmidt)

AN ACT to amend and reenact section 57-39.2-04.3 of the North Dakota Century Code, relating to a sales tax exemption for molds used in manufacturing; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-39.2-04.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-04.3. Sales tax exemption for manufacturing or recycling machinery and equipment and primary sector business computer and telecommunications equipment.**

1. Gross receipts from sales of machinery or equipment used directly in manufacturing of tangible personal property for wholesale, retail, or lease are exempt from taxes under this chapter. To be exempt, the machinery or equipment must be used in a new manufacturing plant or in a physical or economic expansion of an existing manufacturing plant. Purchase of replacement machinery or equipment is not exempt unless it results in a physical or economic expansion of the plant.
2. Gross receipts from sales of machinery or equipment used directly in recycling of tangible personal property are exempt from taxes under this chapter. To be exempt, the machinery or equipment must be used in a new recycling facility or in physical or economic expansion of an existing recycling facility. Purchase of replacement machinery or equipment is not exempt unless it results in a physical or economic expansion of the facility.
3. Gross receipts from sales of computer and telecommunications equipment that is an integral part of a new primary sector business or a physical or economic expansion of a primary sector business are exempt from taxes under this chapter. Purchase of replacement equipment is not exempt under this subsection.
4. To qualify for exemption at the time of purchase, the customer, manufacturer, recycler, or primary sector business must receive from the commissioner a certificate stating that the machinery or equipment qualifies for the exemption. If a certificate is not received before the purchase, the customer, manufacturer, recycler, or primary sector business must pay the tax and apply to the commissioner for a refund.
5. If the machinery or equipment is purchased or installed by a contractor subject to tax under this chapter, the manufacturer, recycler, or primary sector business must apply for a refund of the amount remitted by the contractor.
6. For purposes of this section, the following definitions apply:

- a. "Economic expansion" means an increase in production volume, employment, or the types of products that can be manufactured or recycled.
- b. "Equipment":
  - (1) For purposes of a customer, means a mold purchased by a customer and used directly by a manufacturer in the manufacturing process;
  - (2) For purposes of a manufacturer or recycler, means any tangible personal property other than machinery used directly in the manufacturing or recycling process; and
  - (2)(3) For purposes of a primary sector business other than manufacturing or recycling, means telecommunications equipment and computer equipment, printers, and software that are an integral part of the operations of the primary sector business.
- c. "Machinery" means mechanical devices purchased or constructed by the manufacturer or recycler, or its agent, and used directly in manufacturing or recycling operations at any time from the initial stage where the raw material is first received at the plant site through the completion of the product, including packaging and all processes prior to transportation of the product from the site. The term includes electrical, mechanical, and electronic components that are part of machinery and necessary for a machine to produce its effect or result and environmental control equipment required to maintain certain levels of humidity or temperature in a special and limited area of the manufacturing facility where the regulation is essential for production to occur. The term includes computer equipment that controls or monitors the functions of machinery used directly in the manufacturing operations.
- d. "Machinery" and "equipment":
  - (1) For purposes of a manufacturer or recycler, do not include handtools, buildings, or transportation equipment not used directly in manufacturing or recycling; machines and equipment used primarily in administrative, accounting, sales, or other nonmanufacturing segments of the business; any property that becomes a part of the manufactured or recycled product; or any other equipment or machinery not used directly in manufacturing or recycling; and
  - (2) For purposes of a primary sector business other than manufacturing or recycling, do not include equipment that is not an integral part of the operations of the primary sector business.
- e. "Manufacturing", in addition to the meaning ordinarily ascribed to it, means the processing of agricultural products, including registered and certified seed, but does not include mining, refining, extracting oil and gas, or the generation of electricity.
- f. "Primarily" means more than fifty percent of the time the machinery or equipment is used.

- g. "Primary sector business" means an individual, corporation, limited liability company, partnership, or association that through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth and which has been certified by the department of commerce division of economic development and finance to be qualified under this subdivision.
- h. "Recycling" means collecting or recovering material that would otherwise be solid waste and performing all or part of the process in which the material becomes a raw material for manufacturing or becomes a product for sale at retail or wholesale.
- i. "Used directly" with respect to manufacturing means used primarily in the actual production, processing, fabrication, or assembly of raw materials, or partially finished materials, into the form in which the product is finalized, packaged, and ready for market. The term also means:
- (1) To effect a direct physical change upon the tangible personal property.
  - (2) To guide or measure a direct physical change upon the property when the function is an integral and essential part of tuning, verifying, or aligning the component parts of the tangible personal property.
  - (3) To test or measure the property on the production line or at a site in the location of production.
  - (4) To transport, convey, or handle the tangible personal property during the manufacturing.
  - (5) To package the product for sale and shipment.
  - (6) To conduct research and development and design activities related to the manufacturing process of the plant.

"Used directly" with respect to recycling means used solely in processing, compacting, altering, transporting, or otherwise affecting material as a part of the recycling process.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2015.

Approved March 19, 2015  
Filed March 19, 2015

## CHAPTER 455

### HOUSE BILL NO. 1067

(Representatives Delzer, Carlson, Kempenich, Steiner)  
(Senator Burckhard)

AN ACT to create and enact subsection 3 to section 57-39.2-26.1 of the North Dakota Century Code, relating to allocation of revenues among political subdivisions; to provide an effective date; to provide an expiration date; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Subsection 3 to section 57-39.2-26.1 of the North Dakota Century Code is created and enacted as follows:

3. The state treasurer, for the purpose of making revenue allocations to counties and cities for each quarterly period of the fiscal year under this section, shall determine the population of counties and cities before the first day of the fiscal year using the most recent actual or estimated census data published by the United States census bureau.

**SECTION 2. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for tax collections received by the tax commissioner after June 30, 2015, and before July 1, 2021, and is thereafter ineffective.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 22, 2015  
Filed April 22, 2015

## CHAPTER 456

### HOUSE BILL NO. 1089

(Representatives Owens, Sanford, Streyle, Nathe)  
(Senators Laffen, Campbell)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center; to provide for a retroactive effective date; and to provide an expiration date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

#### **Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center.**

1. Gross receipts from sales of enterprise information technology equipment and computer software purchased for use by a qualifying business in a qualified data center are exempt from the tax imposed by this chapter. To qualify for the exemption, the enterprise information technology equipment or computer software must be incorporated into or physically located within the qualified data center. Purchases of upgraded or replacement enterprise information technology equipment and computer software for use in a qualified data center are also exempt.
2. The future owner of a proposed data center must apply to the tax commissioner to be certified as a qualified data center. The exemption provided in this section is limited to the first four facilities approved by the tax commissioner as qualified data centers. Applications must be processed in the order received by the tax commissioner. An applicant must respond to a request for additional information from the tax commissioner within thirty days of the request or the application may no longer be considered.
3. To receive the exemption at the time of purchase, the qualified business must receive from the tax commissioner a certificate that the enterprise information technology equipment or computer software which the qualified business intends to purchase qualifies for the exemption. If a certificate is not received before the purchase, the qualified business must pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
4. If the enterprise information technology equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the qualified business may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

5. For purposes of this section:

- a. "Computer software" includes software used or loaded at a qualified data center, software maintenance, software licensing, and software customization.
- b. "Data center" means a centralized repository for the storage, management, and dissemination of electronic data and information organized around a particular body or bodies of knowledge.
- c. "Enterprise information technology equipment" includes:
  - (1) Computer hardware, servers, routers, cooling systems, and cooling towers.
  - (2) Temperature control infrastructure and power infrastructure used for transformation, distribution, or management of electricity used for the maintenance and operation of a qualified data center.
  - (3) Exterior dedicated business-owned substations, backup power generation systems, battery systems, or other related infrastructure.
  - (4) Racking systems, raised flooring, cabling, or trays necessary for the maintenance and operation of a qualified data center.
- d. "Qualified business" means the owner, operator, or tenants of a qualified data center.
- e. "Qualified data center" means a newly constructed or substantially refurbished facility located in this state:
  - (1) Comprised of one or more buildings, the primary purpose of which is to contain a data center, consisting of an aggregate amount of sixteen thousand square feet [1486 square meters] or more;
  - (2) Located on a single parcel or on contiguous parcels;
  - (3) On which construction is completed or which is substantially refurbished after December 31, 2014;
  - (4) Having the following attributes:
    - (a) Uninterrupted power supplies, generator backup, or both;
    - (b) Sophisticated fire suppression and prevention systems;
    - (c) Enhanced security with security features including permanent security guards; video camera surveillance; an electronic system requiring pass codes, key cards, or biometric scans such as hand scans or retinal or fingerprint recognition to restrict access to selected personnel; or other similar security features; and
  - (5) Certified by the tax commissioner as a qualified data center.
- f. "Substantially refurbished" means a data center used to house enterprise information technology equipment in which sixteen thousand square feet

[1486 square meters] or more has been rebuilt, modified, or improved through methods including energy efficiency improvements, building improvements, and the installation of enterprise information technology equipment, environmental controls, and computer software.

6. In determining the total square footage of a qualified data center, the square footage of office space, meeting space, mechanical space, and other support facility spaces shall be included if those spaces are used to support the operation of enterprise information technology equipment.
7. Qualified data center owners who intend to collocate operators or tenants within the center shall provide the operators or tenants with documentation from the tax commissioner that the center meets the definition of a qualified data center under this section. Operators or tenants shall obtain and submit a copy of the documentation with all applications for sales tax exemption on information technology equipment and computer software purchased for use in the qualified data center.

**SECTION 2. EFFECTIVE DATE - RETROACTIVE APPLICATION.** This Act is retroactively effective, and applies to taxable events occurring after December 31, 2014.

**SECTION 3. EXPIRATION DATE.** This Act is effective through December 31, 2020, and after that date is ineffective.

Approved April 9, 2015  
Filed April 9, 2015

## CHAPTER 457

### SENATE BILL NO. 2035

(Legislative Management)  
(Energy Development and Transmission Committee)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales tax exemption for tangible personal property used to construct a fertilizer or chemical processing facility; to amend and reenact section 40-57.1-03 and subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to requirements of a city or county granting a property tax exemption and a use tax exemption for tangible personal property used to construct a fertilizer or chemical processing facility; to provide for studies by the legislative management and industrial commission; and to provide for a retroactive effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**~~40-57.1-03. (Effective for the first taxable year beginning after December 31, 2013) Municipality's authority to grant or revoke tax exemption or payments in lieu of taxes – Notice to competitors – Limitations.~~**

- ~~1. After negotiation with a potential project operator, a municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations. A municipality may also grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities for all or part of the sixth year through the tenth year from the date of commencement of project operations.~~
- ~~2. In addition to, or in lieu of, a property tax exemption granted under this section, a municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used in the operation of a project. The governing body of the municipality shall designate the amount of the payments for each year and the beginning year and the concluding year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this section may not extend beyond the twentieth year from the date of commencement of project operations. To establish the amount of payments in lieu of taxes, the governing body of the municipality may use actual or estimated levels of assessment and taxation or may establish payment amounts based on other factors. The governing body of the municipality may designate different amounts of payments in lieu of taxes in different years to recognize future project expansion plans or other considerations.~~

3. ~~By November first of each year, the municipality that granted the option to make payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of taxes due under this section in the following year. After receiving the statement from the municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer for collection at the time when, and in the manner in which, ad valorem taxes must be certified. Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this section, the county treasurer shall apportion and distribute that amount to taxing districts on the basis on which the general real estate tax levy is apportioned and distributed. The municipality may enter into a written agreement with the local school district and any other local taxing districts that wish to enter the agreement for an alternate method of apportionment and distribution. If such an agreement is entered into, the county treasurer shall apportion and distribute the money according to the written agreement. All provisions of law relating to enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem taxes apply to payments in lieu of taxes under this section. However, the discount for early payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this section. The buildings, structures, fixtures, and improvements comprising a project for which payments in lieu of taxes are allowed under this section must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.~~
4. ~~Negotiations with potential project operators for tax exemption or payments in lieu of taxes must be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if the project is proposed to be located outside the corporate limits of any city. A partial exemption must be stated as a percentage of the total ad valorem taxes assessed against the property. Unless the governing body of the municipality determines that there is no existing business within the municipality for which the potential project would be a competitor, the potential project operator shall publish two notices to competitors, the form of which must be prescribed by the tax commissioner, of the application for tax exemption or payments in lieu of taxes in the official newspaper of the municipality at least one week apart. The publications must be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider the application. The municipality shall determine whether the granting of the exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if it so determines, shall give its approval.~~
5. ~~By motion approved by the governing body of the municipality before the beginning of a taxable year for which a property tax exemption or the option to make payments in lieu of taxes under this section previously has been approved by the governing body, a property tax exemption may be revoked or reduced and payments in lieu of taxes may be revoked or increased for that taxable year for reasons specified in a negotiated agreement or if the governing body finds that:~~
  - a. ~~Information provided by the project operator during the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes has proven to be inaccurate or untrue;~~

- b. ~~Use of the property by the project operator does not comply with the reasonable expectations of the governing body at the time the property tax exemption or the option to make payments in lieu of taxes was approved;~~
  - c. ~~The property has been improved to a substantially greater extent than the governing body reasonably anticipated at the time the property tax exemption or the option to make payments in lieu of taxes was approved;~~  
~~or~~
  - d. ~~There has been a change of ownership of the property since the property tax exemption or the option to make payments in lieu of taxes was approved.~~
6. ~~During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action.~~

~~(Effective for taxable years beginning after December 31, 2014)~~  
**Municipality's authority to grant or revoke tax exemption or payments in lieu of taxes - Notice to competitors - Limitations.**

1. After negotiation with a potential project operator, a municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations. A municipality may also grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities for all or part of the sixth year through the tenth year from the date of commencement of project operations. Before a municipality may grant a partial or complete exemption from ad valorem taxation under this section:
  - a. The governing body of the municipality must have received the certification of the department of commerce division of economic development and finance that the project is a primary sector business, as defined in subsection 3 of section 40-57.1-02; or
  - b. The city council or commission, if the project is proposed to be located within the boundaries of a city of fewer than forty thousand population, or the board of county commissioners, of a county of fewer than forty thousand population and if the project is proposed to be located in the county but outside the corporate limits of any city, may grant a partial or complete exemption from ad valorem taxation for a project operating in the retail sector if that governing body has obtained the approval of exemption of property under this subdivision from a majority of the qualified electors of the city or county voting on the question at a city or county election held in conjunction with a statewide general election and if that governing body has established by resolution or ordinance the criteria that will be applied by the governing body to determine whether it is appropriate to grant a partial or complete exemption from ad valorem taxation under this section for a project operating in the retail sector. The ballot for elector approval of

exemption of property under this subdivision must present the question at the election for a yes or no vote on the question:

Shall the governing body of [name of county or city] be empowered to grant property tax exemptions upon application of new or expanding retail sector businesses?

Only a governing body of a city or county that meets the requirements of this subdivision may grant a partial or complete exemption from ad valorem taxation under this section for a project operating in the retail sector. Criteria established by the governing body under this subdivision, at a minimum, must be intended to require:

- (1) Evaluation of the potential positive or adverse consequences for existing retail sector businesses in the municipality from granting the exemption;
  - (2) Evaluation of the short-term and long-term effects for other property taxpayers in the municipality from granting the exemption;
  - (3) A written agreement with the project operator, including performance requirements for which the exemption may be terminated by the governing body of the municipality if those requirements are not met; and
  - (4) Evaluation of whether the project operator would locate the project within the municipality without the exemption.
2. In addition to, or in lieu of, a property tax exemption granted under this section, a municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used in the operation of a project. The governing body of the municipality shall designate the amount of the payments for each year and the beginning year and the concluding year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this section may not extend beyond the twentieth year from the date of commencement of project operations. To establish the amount of payments in lieu of taxes, the governing body of the municipality may use actual or estimated levels of assessment and taxation or may establish payment amounts based on other factors. The governing body of the municipality may designate different amounts of payments in lieu of taxes in different years to recognize future project expansion plans or other considerations.
3. Before a governing body may grant a partial or complete exemption from ad valorem taxation or the option to make payments in lieu of ad valorem taxes under this chapter, the governing body shall consult with the department of commerce. If the department of commerce determines that the total project costs are estimated to exceed one billion dollars, the department of commerce shall conduct a public hearing and notice of that hearing must be provided to each affected taxing district and any existing business within the municipality for which the potential project would be a competitor.
4. By November first of each year, the municipality that granted the option to make payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of taxes due under this section in the following year. After

receiving the statement from the municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer for collection at the time when, and in the manner in which, ad valorem taxes must be certified. Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this section, the county treasurer shall apportion and distribute that amount to taxing districts on the basis on which the general real estate tax levy is apportioned and distributed. The municipality may enter into a written agreement with the local school district and any other local taxing districts that wish to enter the agreement for an alternate method of apportionment and distribution. If such an agreement is entered into, the county treasurer shall apportion and distribute the money according to the written agreement. All provisions of law relating to enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem taxes apply to payments in lieu of taxes under this section. However, the discount for early payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this section. The buildings, structures, fixtures, and improvements comprising a project for which payments in lieu of taxes are allowed under this section must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.

- 4-5. Negotiations with potential project operators for tax exemption or payments in lieu of taxes must be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if the project is proposed to be located outside the corporate limits of any city. A partial exemption must be stated as a percentage of the total ad valorem taxes assessed against the property. Unless the governing body of the municipality determines that there is no existing business within the municipality for which the potential project would be a competitor, the potential project operator shall publish two notices to competitors, the form of which must be prescribed by the tax commissioner, of the application for tax exemption or payments in lieu of taxes in the official newspaper of the municipality at least one week apart. The publications must be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider the application. The municipality shall determine whether the granting of the exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if it so determines, shall give its approval.
- 5-6. By motion approved by the governing body of the municipality before the beginning of a taxable year for which a property tax exemption or the option to make payments in lieu of taxes under this section previously has been approved by the governing body, a property tax exemption may be revoked or reduced and payments in lieu of taxes may be revoked or increased for that taxable year for reasons specified in a negotiated agreement or if the governing body finds that:
- a. Information provided by the project operator during the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes has proven to be inaccurate or untrue;
  - b. Use of the property by the project operator does not comply with the reasonable expectations of the governing body at the time the property tax exemption or the option to make payments in lieu of taxes was approved;

- c. The property has been improved to a substantially greater extent than the governing body reasonably anticipated at the time the property tax exemption or the option to make payments in lieu of taxes was approved; or
  - d. There has been a change of ownership of the property since the property tax exemption or the option to make payments in lieu of taxes was approved.
- 6-7. During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action.
- 7-8. A city or county may not supersede or expand the provisions of this section under home rule authority.

**SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

**Sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.**

1. Gross receipts from sales of tangible personal property used to construct a fertilizer or chemical processing facility in this state, and any component integral to the fertilizer or chemical processing plant, are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated in the structure of the facility or used in the construction process to the point of having no residual economic value. The exemption provided in this section applies to all phases of construction under the permit or application for permit required by subsection 2. An integral component to the fertilizer or chemical processing plant:
  - a. May be owned directly or indirectly by the fertilizer or chemical processing facility, or by an unrelated third party;
  - b. Must be located at the facility site; and
  - c. Must be necessary for the plant's processing of fertilizer or chemicals.
2. On or before June 30, 2019, the owner of the fertilizer or chemical processing plant must receive from the state department of health an air quality permit or a notice that the air quality permit application is complete. The owner shall provide this documentation to the tax commissioner to qualify for the exemption under this section. Denial, expiration, or revocation of a permit terminates the exemption under this section.
3. To receive the exemption under this section at the time of purchase, the owner of the processing facility must receive from the tax commissioner a certificate that the tangible personal property used to construct the processing facility which the owner intends to purchase qualifies for 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 tax commissioner for a refund.

4. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
5. For purposes of this section, a fertilizer or chemical processing facility means a processing plant that produces for retail or wholesale a fertilizer, chemical, or chemical derivative from natural gas, natural gas liquids, or crude oil components.

228 **SECTION 3. AMENDMENT.** Subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The tax imposed by this section does not apply to:
  - a. Production equipment or tangible personal property as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.2;
  - b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
  - c. Tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas-processing facility in this state as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.5;
  - d. Tangible personal property used to construct or expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6;
  - e. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.10;
  - f. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.11; or
  - g. Telecommunications infrastructure that is capable of providing telecommunications service as authorized or approved for exemption by the commissioner under chapter 57-39.2; or
  - h. Tangible personal property used to construct a qualifying fertilizer or chemical processing facility as authorized or approved for exemption by the tax commissioner under section 2 of this Act.

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228 Section 57-40.2-03.3 was also amended by section 2 of Senate Bill No. 2318, chapter 458.

**SECTION 4. LEGISLATIVE MANAGEMENT STUDY - ECONOMIC DEVELOPMENT IMPACT.** During the 2015-16 interim, the legislative management shall consider studying the impact of large economic development projects on political subdivisions. The study may include a review of the current process for seeking out input from political subdivisions potentially impacted by a large economic development project and any mechanisms in place to address the potential impact. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

**SECTION 5. OIL AND GAS RESEARCH - NATURAL GAS PRODUCTION STUDY.** The industrial commission may use the sum of one hundred thousand dollars or so much of the sum as necessary from the oil and gas research fund, or so much of the amount as may be necessary, pursuant to its continuing appropriation under section 57-51.1-07.3 for the purpose of contracting for an independent, nonmatching natural gas production study.

**SECTION 6. EFFECTIVE DATE - RETROACTIVE APPLICATION.** Section 1 of this Act is effective for taxable years beginning after December 31, 2014. Sections 2 and 3 of this Act are retroactively effective, and apply to taxable events occurring after December 31, 2014.

Approved April 22, 2015  
Filed April 22, 2015

## CHAPTER 458

### SENATE BILL NO. 2318

(Senator Cook)

AN ACT to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales and use tax exemption for carbon dioxide capture equipment used for enhanced oil recovery; to amend and reenact section 57-60-06 of the North Dakota Century Code, relating to ad valorem property tax exemption for carbon dioxide capture equipment used for enhanced oil recovery; to provide for a legislative management study; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

**Sales and use tax exemption for materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas.**

1. Gross receipts from sales of tangible personal property used to construct or expand a system used to compress, gather, collect, store, transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas in this state are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated into a system used to compress, gather, collect, store, transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas. Tangible personal property used to replace an existing system to compress, gather, collect, store, transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas does not qualify for exemption under this section unless the replacement creates an expansion of the system.
2. To receive the exemption under this section at the time of purchase, the owner of the gas compressing, gathering, collecting, storing, transporting, or injecting system must receive from the tax commissioner a certificate that the tangible personal property used to construct or expand a system used to compress, gather, collect, store, transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas 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 tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner of the gas compressing, gathering, collecting, storing, transporting, or injecting system may apply to the tax commissioner for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the time and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

4. This chapter and chapter 57-40.2 apply to the exemption under this section.

<sup>229</sup> **SECTION 2.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas as provided in section 1 of this Act.

**SECTION 3. AMENDMENT.** Section 57-60-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-60-06. Property classified and exempted from ad valorem taxes - In lieu of certain other taxes - Credit for certain other taxes.**

Each coal conversion facility and any carbon dioxide capture system located at the coal conversion facility, and any equipment directly used for enhanced recovery of oil or natural gas must be classified as personal property and is exempt from all ad valorem taxes except for taxes on the land on which ~~such~~the facility, capture system, or equipment is located. The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under section 57-06-17.1. The taxes imposed by this chapter are in lieu of ad valorem taxes on the property so classified as personal property.

**SECTION 4. LEGISLATIVE MANAGEMENT STUDY - OIL EXTRACTION TAX EXEMPTION FOR CARBON DIOXIDE RECOVERY PROJECTS.** During the 2015-16 interim, the legislative management shall study the oil extraction tax exemption available for incremental production from a tertiary recovery project that uses carbon dioxide. The study must include consideration of the potential benefits and costs to industry, the state, and the environment of using carbon dioxide enhanced recovery methods. The legislative management shall secure assistance from the energy and environmental research center to analyze potential future usage of carbon dioxide in oil recovery operations in the Bakken and Three Forks formations, the potential production and environmental benefits of that usage for energy industries in this state, the economic conditions in which that usage is feasible for oil producers, and the estimated fiscal effect of that usage for the state and political subdivisions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

**SECTION 5. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for tax periods beginning after June 30, 2015. Section 3 of this Act is effective for taxable years beginning after December 31, 2014.

Approved April 16, 2015  
Filed April 16, 2015

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<sup>229</sup> Section 57-40.2-03.3 was also amended by section 3 of Senate Bill No. 2035, chapter 457.

## CHAPTER 459

### HOUSE BILL NO. 1406

(Representatives Schmidt, Boe, Brandenburg, D. Johnson, Onstad)  
(Senators Heckaman, Oehlke, Schaible)

AN ACT to create and enact section 57-39.4-33.4 and chapter 57-39.8 of the North Dakota Century Code, relating to administration of the streamlined sales and use tax agreement and to authorizing entry of state-tribal agreements for administration and collection of state and tribal sales, use, and gross receipts taxes imposed and collected within the exterior boundaries of the Standing Rock Indian Reservation within this state; and to amend and reenact subsection 2 of section 57-39.2-04.1, sections 57-39.4-29 and 57-39.4-31, and subsection 2 of section 57-40.2-04.1 of the North Dakota Century Code, relating to the definition of prepared food for sales tax purposes, the taxability matrix to be used for administration of the sales and use tax agreement, the streamlined sales tax governing board and advisory council and the definition of prepared food for use tax purposes.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 57-39.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

2. For purposes of this section:
  - a. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.
  - b. "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavoring in the form of bars, drops, or pieces. Candy does not include any preparation containing flour and does not require refrigeration.
  - c. "Dietary supplement" means any product, other than tobacco, intended to supplement the diet which contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; an oral concentrate, metabolite, constitute, extract, or combination of any dietary ingredients described in this sentence and which is intended for ingestion in tablet, capsule, powder, soft gel, gel cap, or liquid form, or if not represented for use as a sole item of a meal or of a diet; and is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 CFR section 101.36.
  - d. "Prepared food" means:
    - (1) Food sold in a heated state or heated by the seller;

- (2) Two or more food ingredients mixed or combined by the seller for sale as a single item; or
- (3) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.
- e. "Prepared food" does not mean:
- (1) Food that is only cut, repackaged, or pasteurized by the seller.
- (2) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the food and drug administration in chapter 3, part 401.11, of its food code so as to prevent foodborne illness.
- (3) If sold without eating utensils provided by the seller:
- (a) Food sold by a seller whose proper primary North American industry classification system classification is manufacturing in sector 311, except subsector 3118, bakeries.
- (b) Food sold in an unheated state by weight or volume as a single item.
- (c) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.
- (d) Food sold that ordinarily requires additional cooking, as opposed to just reheating, by the consumer prior to consumption.
- f. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.
- g. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

**SECTION 2. AMENDMENT.** Section 57-39.4-29 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.4-29. (328) Taxability matrix.**

1. a. To ensure uniform application of terms defined in part II and part III(B) of the library of definitions as adopted by the governing board under section 57-39.4-28, each member state shall complete a, to the best of its ability, section 1 of the taxability matrix-adopted by the governing board.
- b. To inform the general public of its practices regarding certain products, procedures, services, or transactions adopted by the governing board under section 57-39.4-33.4, each member state shall complete, to the best of its ability, section 2 of the taxability matrix.

2. The member state's entries in the matrix shall be provided and maintained in a database that is in a downloadable format approved by the governing board. A member state shall provide notice of changes in the taxability of the products or services listed in the taxability matrix as required by the governing board.
- ~~2-3.~~ A member state shall relieve sellers and certified service providers from liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state in the taxability matrix. If a member state amends an existing provision of its taxability matrix, the member state shall, to the extent possible, relieve sellers and certified service providers from liability to the member state and its local jurisdictions until the first day of the calendar month that is at least thirty days after notice of change to a member state's taxability matrix is submitted to the governing board, provided the seller or certified service provider relied on the prior version of the taxability matrix.
- ~~3-4.~~ If a state levies sales and use tax on a specified digital product and provides an exemption for an item within the definition of such specified digital product under subsection 8 of section 57-39.4-33.1, such exemption must be noted in the taxability matrix.
- ~~4-5.~~ Each state that provides for a sales tax holiday under section 57-39.4-23 shall, in a format approved by the governing board, give notice in the taxability matrix of the products for which a tax exemption is provided.

**SECTION 3. AMENDMENT.** Section 57-39.4-31 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.4-31. Membership of streamlined sales tax governing board and state and local advisory council.**

1. Two members of the house of representatives and two members of the senate, to be appointed by the chairman of the legislative management, shall represent ~~the~~the state of North Dakota on the streamlined sales tax governing board.
- ~~2. One member of the house of representatives and one member of the senate, to be appointed by the chairman of the legislative management, shall represent the state of North Dakota on the streamlined sales tax state and local advisory council.~~
3. The tax commissioner shall designate a member of the tax commissioner's staff to accompany and advise the members appointed under this section with regard to multistate discussions to review or revise the agreement or to conduct such other business as comes before the board ~~or council.~~

**SECTION 4.** Section 57-39.4-33.4 of the North Dakota Century Code is created and enacted as follows:

**57-39.4-33.4. Best practices.**

1. For purposes of this section, "best practices" means those practices adopted by the governing board as the best practices in administration of the sales and use taxes in the member states regarding certain identified products, procedures, services, or transactions.

2. A majority vote of the entire governing board is required to approve a motion to adopt a best practices standard. The governing board shall provide public notice and opportunity for comment prior to voting on a motion to adopt a best practice.
3. Best practices adopted by the governing board must be maintained in an appendix to the agreement.
4. Conformance by a member state to best practices adopted by the governing board is voluntary and a state may not be found to be out of compliance with the agreement because the effect of the state's laws, rules, regulations, and policies do not follow each of the best practices adopted by the governing board.
5. A state shall complete the best practice matrix by the first day of the calendar month that is at least thirty days after the date the governing board approves a best practice and submits it to the executive director for posting on the governing board's website. For subsequent best practices approved by the governing board, a state shall update its best practice matrix by the first day of the calendar month that is at least thirty days after the date the governing board approves a new best practice and submits it to the executive director for posting on the governing board's website.

**SECTION 5.** Chapter 57-39.8 of the North Dakota Century Code is created and enacted as follows:

**57-39.8-01. Authority to enter state-tribal sales, use, and gross receipts tax agreements.**

The governor may enter an agreement on behalf of the state with the governing body of the Standing Rock Sioux Tribe which complies with the provisions of this chapter relating to administration and allocation of state and tribal sales, use, and gross receipts taxes imposed and collected within the exterior boundaries of the Standing Rock Indian Reservation within this state.

**57-39.8-02. Agreement requirements.**

Any agreement under this chapter is subject to the following:

1. The only taxes subject to agreement are state and tribal sales, use, and gross receipts taxes for taxable transactions and activities within the exterior boundaries of the Standing Rock Indian Reservation within this state.
2. If the Standing Rock Sioux Tribe governing body chooses to impose sales, use, and gross receipts taxes on persons subject to the tribe's taxing powers and enter an agreement under this chapter, the tribal tax code provisions:
  - a. Must impose a tribal tax of equal rate, except as provided in subdivision b, and conform in all respects with regard to the taxable or exempt status of transactions and activities under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 but must be applied to only those taxable transactions and activities that are exempt from state taxes because they occur within the tribe's jurisdiction.
  - b. Must also impose a separate and additional tribal sales, use, and gross receipts tax at a rate of one-fourth of one percent which conforms in all

- respects with regard to the taxable or exempt status of transactions and activities under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2. However, taxable transactions and activities exempt from state taxes because they occur within the tribe's jurisdiction must also be subject to the tax under this subdivision by the tribe. The entire tax revenue from the tax imposed under this subdivision must be transferred to the state treasurer and paid to the Standing Rock Sioux Tribe.
- c. May not be newly imposed except to be effective on the first day of a calendar quarter beginning at least ninety days after the imposition is approved by the governing body and notice is provided to the tax commissioner.
  - d. The provisions of chapter 57-39.2 pertaining to administration of the retail sales tax, including provisions for refunds, credits, retailer compensation, adoption of rules, and allocation and deposit of the state share of revenues, not in conflict with this chapter or federal law, must govern the administration of any tax subject to an agreement under this chapter.
  3. The agreement must provide for an amount equal to three percent of the total amount collected, from the tribal taxes imposed under subdivisions a and b of subsection 2, to be allowed to the tax commissioner for collection and administration services to the Standing Rock Sioux Tribe government under this chapter. Any sums collected for services must be paid to the state treasurer for deposit in the general fund.
  4. The tax revenue from taxable transactions and activities within the exterior boundaries of the Standing Rock Indian Reservation within this state and subject to taxes imposed by the state or the tax imposed under subdivision a of subsection 2 is to be allocated eighty percent to the Standing Rock Sioux Tribe and twenty percent to this state. The tribal share of the tax allocated under this subdivision must be transferred to the state treasurer and paid to the Standing Rock Sioux Tribe. However, the tribal share paid to the Standing Rock Sioux Tribe under the agreement is limited to two million dollars during a state biennium and any amount exceeding that limitation must be deposited by the state treasurer in the state general fund.
  5. The governing body of the Standing Rock Sioux Tribe must agree not to impose any other taxes or any fee on transactions and activities subject to a sales, use, and gross receipts tax administered by the tax commissioner.
  6. The agreement must allow the tax commissioner to offset future distributions to the tribe if there was a previous overpayment of the tax distributed to the tribe.
  7. The tax commissioner must be given authority to administer and enforce within the exterior boundaries of the Standing Rock Indian Reservation state and tribal taxes that are subject to an agreement authorized by this chapter.
  8. The federal district court for the western division of North Dakota is the venue for any dispute arising from an agreement under this chapter.
  9. The agreement must require that the governing body of the Standing Rock Sioux Tribe report annually to the budget section of the legislative management and that the report identify projects totaling investment in

essential infrastructure of at least ten percent of tribal receipts under the agreement for that year.

10. Taxes imposed under chapters 11-09.1 and 40-05.1 are not subject to allocation under any agreement entered under the provisions of this chapter.

**57-39.8-03. Inapplicability of chapter 54-40.2.**

Chapter 54-40.2 does not apply to any agreement entered under this chapter.

**SECTION 6. AMENDMENT.** Subsection 2 of section 57-40.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

2. For purposes of this section:

- a. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.
- b. "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavoring in the form of bars, drops, or pieces. Candy does not include any preparation containing flour and that does not require refrigeration.
- c. "Dietary supplement" means any product, other than tobacco, intended to supplement the diet which contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; an oral concentrate, metabolite, constitute, extract, or combination of any dietary ingredients described in this subdivision and which is intended for ingestion in tablet, capsule, powder, soft gel cap, or liquid form, or if not represented for use as a sole item of a meal or of a diet; and is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 CFR 101.36.
- d. "Prepared food" means:
  - (1) Food sold in a heated state or heated by the seller;
  - (2) Two or more food ingredients mixed or combined by the seller for sale as a single item; or
  - (3) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.
- e. "Prepared food" does not mean:
  - (1) Food that is only cut, repackaged, or pasteurized by the seller.
  - (2) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the food and drug administration in chapter 3, part 401.11, of its food code so as to prevent foodborne illness.

(3) If sold without eating utensils provided by the seller:

- (a) Food sold by a seller whose proper primary North American industry classification system classification is manufacturing in sector 311, except subsector 3118, bakeries.
  - (b) Food sold in an unheated state by weight or volume as a single item.
  - (c) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.
  - (d) Food sold that ordinarily requires additional cooking, as opposed to just reheating, by the consumer prior to consumption.
- f. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.
- g. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

Approved April 23, 2015  
Filed April 23, 2015

## CHAPTER 460

### HOUSE BILL NO. 1130

(Representative Keiser)  
(Senator Poolman)

AN ACT to create and enact a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to a motor vehicle excise tax exemption for donations of motor vehicles to a nonprofit organization that donates motor vehicles to individuals with demonstrated need of a motor vehicle to enable them to become self-sufficient members of the workforce; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>230</sup> **SECTION 1.** A new subsection to section 57-40.3-04 of the North Dakota Century Code is created and enacted as follows:

A motor vehicle donated to a qualified nonprofit organization that is exempt from federal taxation under Internal Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] if that organization is organized or incorporated in this state, has its certificate of incorporation or certificate of authority in good standing with the secretary of state, and has an established program with the primary purpose of receiving donations of motor vehicles that it then donates to individuals with demonstrated need of a motor vehicle necessary to the individual's effort to become a self-sufficient member of the workforce.

- a. An exemption under this subsection is rescinded if the organization has not transferred title to a donated motor vehicle and donated that motor vehicle to an individual with demonstrated need of a motor vehicle necessary to the individual's effort to become a self-sufficient member of the workforce within ninety days after taking possession or ownership of the motor vehicle, in which case the organization shall pay the tax based on the retail value of the motor vehicle, as determined by the national automobile dealers association official used car guide, at the time it took possession or ownership.
- b. An exemption under this subsection is rescinded if the organization sells a donated motor vehicle for more than five hundred dollars after taking possession or ownership of the motor vehicle, in which case the organization shall pay the tax based on the retail value of the motor vehicle, as determined by the national automobile dealers association official used car guide, at the time it took possession or ownership.
- c. The commissioner shall issue a certificate of exemption to a qualified nonprofit organization exempted by this subsection. The qualified nonprofit organization shall present the certificate of exemption to the registrar whenever the exemption under this subsection is claimed.

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<sup>230</sup> Section 57-40.3-04 was also amended by section 10 of House Bill No. 1133, chapter 432, and section 1 of Senate Bill No. 2363, chapter 461.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2015.

Approved March 25, 2015

Filed March 25, 2015

## CHAPTER 461

### SENATE BILL NO. 2363

(Senator Dotzenrod)

AN ACT to amend and reenact subsection 5 of section 57-40.3-04 of the North Dakota Century Code, relating to a motor vehicle excise tax exemption for transfer of a motor vehicle without consideration from grandparent to grandchild; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>231</sup> **SECTION 1. AMENDMENT.** Subsection 5 of section 57-40.3-04 of the North Dakota Century Code is amended and reenacted as follows:

5. a. A motor vehicle acquired by inheritance from, by bequest of, or operation of a trust created by a decedent who owned it;
- b. The transfer of a motor vehicle that was previously titled or licensed in the name of an individual or in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more joint tenants, including a transfer into a trust in which one or more of the joint tenants is beneficiary or trustee;
- c. The transfer of a motor vehicle by way of gift between a husband and wife, parent and child, grandparent and grandchild, or brothers and sisters, including a transfer into a trust in which the trustor and beneficiary occupy one of these relationships;
- d. The transfer of a motor vehicle without monetary consideration into a trust in which the beneficiary is the person in whose name the motor vehicle was previously titled or licensed;
- e. The transfer of a motor vehicle to reflect a new name of the owner caused by a business reorganization in which the ownership of the reorganized business remains in the same person or persons as before the reorganization, if the title transfer is completed within one hundred eighty days from the effective date of the reorganization;
- f. The transfer of a motor vehicle previously transferred under subdivision e which returns ownership to the previous owner; and
- g. The transfer of a motor vehicle without monetary consideration from a revocable living trust to the trustor or to the spouse, child, or sibling of the trustor.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2015.

Approved March 30, 2015  
Filed March 31, 2015

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<sup>231</sup> Section 57-40.3-04 was also amended by section 1 of House Bill No. 1130, chapter 460, and section 10 of House Bill No. 1133, chapter 432.

## CHAPTER 462

### SENATE BILL NO. 2101

(Senators Oehlke, Wanzek)  
(Representatives Sukut, Porter)

AN ACT to amend and reenact section 57-40.6-01, subsection 5 of section 57-40.6-02, section 57-40.6-03.1, and subsection 4 of section 57-40.6-10 of the North Dakota Century Code, relating to emergency services communications systems.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-40.6-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **57-40.6-01. Definitions.**

In this chapter, unless the context otherwise requires:

1. "911 system" means a set of networks, software applications, databases, call answering components, and operations and management procedures required to provide 911 services.
2. "Assessed communications service" means a software service, communication connection, cable or broadband transport facilities, or a combination of these facilities, between a billed retail end user and a service provider's network that provides the end user, upon dialing 911, access to a public safety answering point through a permissible interconnection to the dedicated 911 network. The term includes telephone exchange access service, wireless service, and voice over internet protocol service.
- 2-3. "Automated notification system" means that portion of a telecommunications system that provides rapid notice of emergency situations to the public.
- 3-4. "Commissioner" means the state tax commissioner.
- 4-5. "Communication connection" means a telephone access line, wireless access line, unique voice over internet protocol service connection, or functional equivalent uniquely identifiable by a number, internet address, or other designation.
- 5-6. "Consumer" means a person who purchases prepaid wireless service in a retail transaction.
- 6-7. "Emergency services communication system" means a ~~comprehensive statewide, or countywide, or citywide radio system, land lines communication network, wireless service network, or enhanced 911 (E911) telephone system,~~ which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for law enforcement, fire, medical, or other emergency services public safety services. The system includes a 911 system or radio system.

- 7-8. "FCC order" means federal communications commission order 94-102 [961 Federal Register 40348] and any other FCC order that affects the provision of wireless enhanced 911 service.
- 8-9. "Prepaid wireless emergency 911 fee" means the fee that is required to be collected by a seller from a consumer in the amount established under section 57-40.6-14.
- 9-10. "Prepaid wireless service" means any telecommunications service that provides the right to use a mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance and sold in predetermined units or dollars which decline with use in a known amount.
- 40-11. "Prepaid wireless service provider" means any person that provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission.
- 44-12. "Public safety answering point" or "PSAP" means a communications facility or combination of facilities ~~operated on a twenty-four-hour basis~~ which first receives 911 calls from persons in a 911 service area and which, as appropriate, may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies.
- 42-13. "Public safety answering point service area" means the geographic area for which a public safety answering point has dispatch and emergency communications responsibility.
14. "Public safety services" means personnel, equipment, and facilities used by law enforcement, fire, medical, or other supporting services used in providing a public safety response to an incident.
- 43-15. "Public safety telecommunicator" means an individual whose primary full-time or part-time duties are receiving, processing, and transmitting public safety information received through an emergency services communication system.
16. "Radio system" means a set of networks, software applications, databases, radio components and infrastructure, and operations and management procedures required to provide communication services.
- 44-17. "Retail transaction" means the purchase of prepaid wireless service from a seller for any purpose other than resale.
- 45-18. "Seller" means a person who sells prepaid wireless services to a consumer.
- 46-19. "Subscriber service address" means, for purposes of wire line subscribers, the address where the telephone subscriber's wire line telephone device is used and, for purposes of wireless subscribers, the place of primary use, as that term is defined in section 57-34.1-02.
- 47-20. "Telephone access line" means the principal access to the telephone company's switched network, including an outward dialed trunk or access register.

- ~~18-21.~~ "Telephone exchange access service" means service to any wire line telephone access line identified by a unique telephone number that provides local wire line access to the telecommunications network to a service subscriber and which enables the subscriber to access the emergency services communications system by dialing the digits 9-1-1 on the subscriber's telephone device.
- ~~19-22.~~ "Unpublished" means information that is not published or available from directory assistance.
- ~~20-23.~~ "Voice over internet protocol service" means a service that enables real-time two-way voice communications; requires a broadband connection from the user's location; requires internet protocol-compatible customer premises equipment; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.
- ~~21-24.~~ "Wireless access line" means each active wireless and prepaid wireless telephone number assigned to a commercial mobile radio service subscriber, including end users of resellers.
- ~~22-25.~~ "Wireless enhanced 911 service" means the service required to be provided by wireless service providers pursuant to the FCC order.
- ~~23-26.~~ "Wireless service" means commercial mobile radio service as defined in 47 U.S.C. 332(d)(1) and includes:
- a. Services commonly referred to as wireless; and
  - b. Services provided by any wireless real-time two-way voice communication device, including radio-telephone communications used in:
    - (1) Cellular telephone service;
    - (2) Personal communications service; or
    - (3) The functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, personal communications service, or a network radio access line.
- ~~24-27.~~ "Wireless service provider" means any entity authorized by the federal communications commission to provide wireless service within this state.

**SECTION 2. AMENDMENT.** Subsection 5 of section 57-40.6-02 of the North Dakota Century Code is amended and reenacted as follows:

5. In the interest of public safety, where the subscriber's telephone exchange access service boundary and the boundary of the political subdivision imposing the fee do not coincide, and where all of the political subdivisions within the subscriber's telephone exchange access service boundary have not complied with subsection 1, and where a majority of the E911 subscribers within the subscriber's telephone exchange access service boundary have voted for the fee, a telephone exchange access service subscriber whose subscriber service address is outside the political subdivision may receive ~~E911~~E911 services by signing a contract agreement with the political subdivision providing the emergency services communication system. The

telephone exchange access service provider may collect an additional fee, equal in amount to the basic fee on those subscribers within the exchange boundary. The additional fee amounts collected must be remitted as provided in this chapter.

**SECTION 3. AMENDMENT.** Section 57-40.6-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.6-03.1. Enhanced 911 database management charges.**

Any telephone exchange access service provider charges for enhanced 911 database management must be on a per telephone exchange access service basis.

**SECTION 4. AMENDMENT.** Subsection 4 of section 57-40.6-10 of the North Dakota Century Code is amended and reenacted as follows:

4. A public safety answering point must:
  - a. Be operational twenty-four hours a day seven days a week or be capable of transferring emergency calls to another public safety answering point meeting the requirements of this section during times of nonoperation.
  - b. Be staffed continuously with at least one public safety telecommunicator who is on duty at all times of operation and who has primary responsibility for handling the communications of the public safety answering point.
  - c. Have the capability to dispatch ~~law enforcement, fire, and medical responders~~public safety services to calls for service in the public safety answering point's service area.
  - d. Have two-way communication with all ~~law enforcement, fire, and medical responder units and operational incident or unified commands~~public safety services in the public safety answering point's service area.
  - e. As authorized by the governing committee, access and dispatch poison control, suicide prevention, emergency management, and other public or private services but may not accept one-way private call-in alarms or devices as 911 calls.
  - f. Dispatch the emergency medical service that has been determined to be the quickest to arrive to the scene of medical emergencies regardless of city, county, or district boundaries. The state department of health shall provide public safety answering points with the physical locations of the emergency medical services necessary for the implementation of this subdivision.
  - g. Be capable of providing emergency medical dispatch prearrival instructions on all emergency medical calls. Prearrival instructions must be offered by a public safety telecommunicator who has completed an emergency medical dispatch course approved by the division of emergency health services. Prearrival medical instructions may be given through a mutual aid agreement.
  - h. Have security measures in place to prevent direct physical public access to on-duty public safety telecommunicators and to prevent direct physical

public access to any room or location where public safety answering point equipment and systems are located.

- i. Have an alternative source of electrical power that is sufficient to ensure at least six hours of continued operation of emergency communication equipment in the event of a commercial power failure. A public safety answering point also must have equipment to protect critical equipment and systems from irregular power conditions, such as power spikes, lightning, and brownouts. Documented testing of backup equipment must be performed each quarter under load.
- j. Maintain a written policy for computer system security and preservation of data.
- k. Have the capability of recording and immediate playback of recorded emergency calls and radio traffic.
- l. Employ a mechanism to differentiate emergency calls from other calls.
- m. Provide assistance for investigating false or prank calls.
- n. Have an alternative method of answering inbound emergency calls at the public safety answering point when its primary emergency services communication system equipment is inoperable.
- o. No later than July 1, 2015, have a written policy, appropriate agreements, and the capability to directly answer emergency calls and dispatch responders from a separate, independent location other than the main public safety answering point or another public safety answering point meeting the requirements of this section, within sixty minutes of an event that renders the main public safety answering point inoperative. This alternative location must have independent access to the public safety answering point's land line database. The capability of transferring emergency calls to this alternative location must be tested and documented annually.
- p. Remain responsible for all emergency calls received, even if a transfer of the call is made to a second public safety answering point. The initial public safety answering point may not disconnect from the three-way call unless mutually agreed by the two public safety telecommunicators. Upon this agreement, the secondary public safety answering point becomes responsible for the call.
- q. Employ the necessary telecommunications network and electronic equipment consistent with the minimum technical standards recommended by the national emergency number association to securely receive and respond to emergency communications.
- r. After July 1, 2015, maintain current, up-to-date mapping of its service area and have the ability to use longitude and latitude to direct responders.
- s. Secure two sets of fingerprints from a law enforcement agency or any other agency authorized to take fingerprints and all other information necessary to obtain state criminal history record information and a

- nationwide background check under federal law for all public safety telecommunicators.
- t. Have policies to ensure that all public safety telecommunicators:
- (1) Do not have felony convictions;
  - (2) Complete preemployment screening for illegal substance use and hearing;
  - (3) Complete training through an association of public safety communications officials course or equivalent course;
  - (4) Can prioritize appropriately all calls for service; and
  - (5) Can determine the appropriate resources to be used in response to all calls for public safety services.
- u. Have written policies establishing procedures for recording and documenting relevant information of every request for service, including:
- (1) Date and time of request for service;
  - (2) Name and address of requester, if available;
  - (3) Type of incident reported;
  - (4) Location of incident reported;
  - (5) Description of resources assigned, if any;
  - (6) Time of dispatch;
  - (7) Time of resource arrival; and
  - (8) Time of incident conclusion.
- v. Have written policies establishing dispatch procedures and provide periodic training of public safety telecommunicators on those procedures, including procedures for:
- (1) Standardized call taking and dispatch procedures;
  - (2) The prompt handling and appropriate routing of misdirected emergency calls;
  - (3) The handling of hang-up emergency calls;
  - (4) The handling of calls from non-English speaking callers; and
  - (5) The handling of calls from callers with hearing or speech impairments.

## CHAPTER 463

### HOUSE BILL NO. 1176

(Representatives Kempenich, Brandenburg, Dockter, Hatlestad, Owens, Streyle,  
Toman, Trottier)  
(Senators Bowman, O'Connell, Oehlke, Unruh)

AN ACT to amend and reenact sections 15-08.1-08, 57-51-01, and 57-51-15 of the North Dakota Century Code, relating to the unobligated balance of the strategic investment and improvements fund and oil and gas gross production tax definitions and allocations; to provide appropriations; to provide exemptions; to provide for reports to the budget section; to provide for a legislative management study; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>232</sup> **SECTION 1. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-08.1-08. Income - Expenses - Reimbursement - Creation of strategic investment and improvements fund - Legislative intent - Contingent transfer to legacy fund.**

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the strategic investment and improvements fund. The corpus and interest of such trust may be expended as the legislative assembly may provide for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized. ~~If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases.~~

**SECTION 2. AMENDMENT.** Section 57-51-01 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>232</sup> Section 15-08.1-08 was also amended by section 1 of House Bill No. 1377, chapter 467.

**57-51-01. (Effective for taxable events occurring through June 30, 2015) Definitions.**

As used in this chapter:

1. "Barrel of oil" means forty-two United States gallons of two hundred thirty-one cubic inches per gallon computed at a temperature of sixty degrees Fahrenheit [158.99 liters computed at a temperature of 15.56 degrees Celsius].
2. "Commissioner" means the state tax commissioner.
3. "Field" means the geographic area underlaid by one or more pools, as defined by the industrial commission.
4. "Gas" means natural gas and casinghead gas.
5. "Hub city" means, for the period beginning September 1, 2015, and ending August 31, 2017, a city with a population of twelve thousand five hundred or more, according to the last official decennial federal census, which has more than one percent of its private covered employment engaged in the mining industry oil and gas-related employment, according to annual data compiled by job service North Dakota. "Hub city" means, after August 31, 2017, a city with a population of twelve thousand five hundred or more, according to the last official decennial federal census, which has more than one percent of its private covered employment engaged in the mining industry, according to annual data compiled by job service North Dakota.
6. "Hub city school district" means the school district with the highest student enrollment within the city limits of a hub city.
7. "Oil" means petroleum, crude oil, mineral oil, and casinghead gasoline.
8. "Person" includes partnership, corporation, limited liability company, association, fiduciary, trustee, and any combination of individuals.
9. "Posted price" means the price specified in publicly available posted price bulletins or other public notices, net of any adjustments for quality and location.
10. "Shallow gas" means gas produced from a gas well completed in or producing from a shallow gas zone, as certified to the tax commissioner by the industrial commission.
11. "Shallow gas zone" means a strata or formation, including lignite or coal strata or seam, located above the depth of five thousand feet [1524 meters] below the surface, or located more than five thousand feet [1524 meters] below the surface but above the top of the Rierdon formation, from which gas is or may be produced.
12. "Transportation costs" means the costs incurred for transporting oil established in accordance with the first applicable of the following methods:
  - a. Actual costs incurred under the arm's-length contract between the producer and the transporter of oil.

- b. An applicable common carrier rate established and filed with the North Dakota public service commission, or the appropriate federal jurisdictional agency.
- c. When no common carrier rate would be applicable, the transportation costs are those reasonable costs associated with the actual operating and maintenance expenses, overhead costs directly attributable and allocable to the operation and maintenance, and either depreciation and a return on undepreciated capital investment, or a cost equal to a return on the investment in the transportation system, as determined by the commissioner.

~~(Effective for taxable events occurring after June 30, 2015) Definitions. As used in this chapter:~~

- ~~1. "Barrel of oil" means forty-two United States gallons of two hundred thirty-one cubic inches per gallon computed at a temperature of sixty degrees Fahrenheit [158.99 liters computed at a temperature of 15.56 degrees Celsius].~~
- ~~2. "Commissioner" means the state tax commissioner.~~
- ~~3. "Field" means the geographic area underlaid by one or more pools, as defined by the industrial commission.~~
- ~~4. "Gas" means natural gas and casinghead gas.~~
- ~~5. "Oil" means petroleum, crude oil, mineral oil, and casinghead gasoline.~~
- ~~6. "Person" includes partnership, corporation, limited liability company, association, fiduciary, trustee, and any combination of individuals.~~
- ~~7. "Posted price" means the price specified in publicly available posted price bulletins or other public notices, net of any adjustments for quality and location.~~
- ~~8. "Shallow gas" means gas produced from a gas well completed in or producing from a shallow gas zone, as certified to the tax commissioner by the industrial commission.~~
- ~~9. "Shallow gas zone" means a strata or formation, including lignite or coal strata or seam, located above the depth of five thousand feet [1524 meters] below the surface, or located more than five thousand feet [1524 meters] below the surface but above the top of the Rierdon formation, from which gas is or may be produced.~~
- ~~10. "Transportation costs" means the costs incurred for transporting oil established in accordance with the first applicable of the following methods:~~
  - ~~a. Actual costs incurred under the arm's-length contract between the producer and the transporter of oil.~~
  - ~~b. An applicable common carrier rate established and filed with the North Dakota public service commission, or the appropriate federal jurisdictional agency.~~

- e. ~~When no common carrier rate would be applicable, the transportation costs are those reasonable costs associated with the actual operating and maintenance expenses, overhead costs directly attributable and allocable to the operation and maintenance, and either depreciation and a return on undepreciated capital investment, or a cost equal to a return on the investment in the transportation system, as determined by the commissioner.~~

<sup>233</sup> **SECTION 3. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

**~~57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross production tax allocation.~~**

The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
  - a. ~~Allocate, for the period beginning September 1, 2015, and ending August 31, 2017, to each hub city, which is located in a county that received an allocation under subsection 2, a monthly amount that will provide a total allocation of three hundred seventy-five thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industryoil and gas-related employment, according to annual data compiled by job service North Dakota and after August 31, 2017, allocate to each hub city, which is located in a county that received an allocation under subsection 2, a monthly amount that will provide a total allocation of three hundred seventy-five thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industry, according to annual data compiled by job service North Dakota;~~
  - b. ~~Allocate, for the period beginning September 1, 2015, and ending August 31, 2017, to each hub city, which is located in a county that did not receive an allocation under subsection 2, a monthly amount that will provide a total allocation of two hundred fifty thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in oil and gas-related employment, according to annual data compiled by job service North Dakota and after August 31, 2017, allocate to each hub city, which is located in a county that did not receive an allocation under subsection 2, a monthly amount that will provide a total allocation of two hundred fifty thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industry, according to annual data compiled by job service North Dakota;~~
  - c. ~~Allocate, for the period beginning September 1, 2015, and ending August 31, 2017, to each hub city school district, which is located in a county that received an allocation under subsection 2, a monthly amount that will provide a total allocation of one hundred twenty-five thousand~~

<sup>233</sup> Section 57-51-15 was also amended by section 1 of House Bill No. 1032, chapter 465, and section 4 of House Bill No. 1409, chapter 379.

dollars per fiscal year for each full or partial percentage point of the hub city's private covered employment engaged in the ~~mining industry~~oil and gas-related employment, according to annual data compiled by job service North Dakota ~~and after August 31, 2017,~~ allocate to each hub city school district, which is located in a county that received an allocation under subsection 2, a monthly amount that will provide a total allocation of one hundred twenty-five thousand dollars per fiscal year for each full or partial percentage point of the hub city's private covered employment engaged in the mining industry, according to annual data compiled by job service North Dakota, provided that hub city school districts, which are located in a county that did not receive an allocation under subsection 2, must be excluded from the allocations under this subdivision;

- d. Allocate to each county that received more than five million dollars but less than thirty million dollars of total allocations under subsection 2 in state fiscal year 2014 a monthly amount that will provide a total allocation of one million five hundred thousand dollars per fiscal year to be added by the state treasurer to the allocations to school districts under subdivision b of subsection 5;
  - e-e. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding ~~two~~one hundred forty million dollars per biennium ~~for the 2015-17 biennium, and not in an amount exceeding one hundred million dollars per biennium thereafter;~~
  - d-f. Credit ~~four~~eight percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding ~~fifteen~~twenty million dollars in a state fiscal year and not in an amount exceeding ~~thirty~~forty million dollars per biennium;
  - e-g. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding five million dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than seventy-five million dollars; and
  - f-h. Allocate the remaining revenues under subsection 3.
2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
    - a. The first five million dollars is allocated to the county.
    - b. Of all annual revenue exceeding five million dollars, ~~twenty-five~~thirty percent is allocated to the county.
  3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the

amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.

4. For a county that received less than five million dollars of allocations under subsection 2 in the most recently completed state fiscal year 2014, revenues allocated to that county must be distributed at least quarterly by the state treasurer as follows:
  - a. Forty-five percent must be distributed to the county treasurer and credited to the county general fund. However, the ~~allocation distribution~~ to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
  - b. ~~Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the state treasurer no less than quarterly distributed~~ to school districts within the county, ~~excluding consideration of and allocation to any hub city school district in the county, on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from distributions under this subdivision.~~
  - c. Twenty percent must be ~~apportioned no less than quarterly by the state treasurer distributed~~ to the incorporated cities of the county. A hub city must be omitted from ~~apportionment distributions~~ under this subdivision. ~~Apportionment Distributions~~ among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
5. For a county that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year 2014, revenues allocated to that county must be distributed at least quarterly by the state treasurer as follows:
  - a. Sixty percent must be distributed to the county treasurer and credited to the county general fund. However, the ~~allocation distribution~~ to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
  - b. Five percent must be ~~apportioned by the state treasurer no less than quarterly distributed~~ to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from ~~consideration and apportionment distributions~~ under this subdivision.

- c. ~~Twenty percent must be apportioned no less than quarterly by the state treasurer distributed to the incorporated cities of the county. A hub city must be omitted from apportionment distributions under this subdivision. Apportionment Distributions among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.~~
  - d. ~~Three percent must be apportioned no less than quarterly by the state treasurer allocated among the organized and unorganized townships of the county. The state treasurer shall apportion allocate the funds available under this subdivision among townships in the proportion that township to each township's road miles in the township bear relative to the total township road miles in the county. The amount apportioned allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.~~
  - e. ~~Three percent must be allocated by the state treasurer among the organized and unorganized townships in all the counties that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year. The amount available under this subdivision must be allocated no less than quarterly by the state treasurer in an equal amount to each eligible organized and unorganized township. The amount allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.~~
  - f. ~~Nine percent must be allocated by the state treasurer distributed among hub cities. The amount available for allocation under this subdivision must be apportioned by the state treasurer no less than quarterly among hub cities. Sixty percent of funds available under this subdivision must be distributed to the hub city receiving the greatest highest percentage of allocations to hub cities under subdivision a of subsection 1 for the quarterly period, thirty percent of funds available under this subdivision must be distributed to the hub city receiving the second greatest highest percentage of such allocations, and ten percent of funds available under this subdivision must be distributed to the hub city receiving the third greatest highest percentage of such allocations.~~
6. Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:
    - a. The county's statement of revenues and expenditures; and
    - b. ~~The amount allocated to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school~~

~~district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year. The county's ending fund balances;~~

- ~~c. The amounts allocated under this section to the county's general fund, the amounts expended from these allocations, and the purposes of the expenditures; and~~
- ~~d. The amounts allocated under this section to or for the benefit of townships within the county, the amounts expended from these allocations, and the purposes of the expenditures.~~

~~Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

- ~~7. Within thirty days after the end of each fiscal year ended June thirtieth, each school district that has received an allocation under this section shall file a report for the fiscal year ended June thirtieth with the commissioner, in a format prescribed by the commissioner, including:~~
  - ~~a. The school district's statement of revenue and expenditures;~~
  - ~~b. The school district's ending fund balances; and~~
  - ~~c. The amounts allocated under this section to the school district, the amounts expended from these allocations, and the purposes of the expenditures.~~

~~Within fifteen days after the time when reports under this subsection are due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

~~**(Effective for taxable events occurring after June 30, 2015) Gross production tax allocation.** The gross production tax must be allocated monthly as follows:~~

- ~~1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:~~
  - ~~a. Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;~~
  - ~~b. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding one hundred million dollars per biennium;~~

- ~~e. Credit four percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding fifteen million dollars in a state fiscal year and not in an amount exceeding thirty million dollars per biennium;~~
    - ~~d. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding five million dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than seventy-five million dollars; and~~
    - ~~e. Allocate the remaining revenues under subsection 3.~~
  - ~~2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:~~
    - ~~a. The first two million dollars is allocated to the county.~~
    - ~~b. Of the next one million dollars, seventy-five percent is allocated to the county.~~
    - ~~c. Of the next one million dollars, fifty percent is allocated to the county.~~
    - ~~d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.~~
    - ~~e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated to the county.~~
- ~~3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.~~
- ~~4. The amount to which each county is entitled under subsection 2 must be allocated within the county so the first five million three hundred fifty thousand dollars is allocated under subsection 5 for each fiscal year and any amount received by a county exceeding five million three hundred fifty thousand dollars is credited by the county treasurer to the county infrastructure fund and allocated under subsection 6.~~
- ~~5. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.~~

- b. ~~Thirty five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.~~

~~The countywide allocation to school districts under this subdivision is subject to the following:~~

- ~~(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.~~
- ~~(2) The next three hundred fifty thousand dollars is apportioned seventy five percent among school districts in the county and twenty five percent to the county infrastructure fund.~~
- ~~(3) The next two hundred sixty two thousand five hundred dollars is apportioned two thirds among school districts in the county and one third to the county infrastructure fund.~~
- ~~(4) The next one hundred seventy five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.~~
- ~~(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:~~
  - ~~(a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.~~
  - ~~(b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.~~

- (c) Seven hundred thirty five thousand dollars, for counties having a population of six thousand or more.
- e. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.
6. a. Forty five percent of all revenues allocated to a county infrastructure fund under subsections 4 and 5 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
- b. Thirty five percent of all revenues allocated to the county infrastructure fund under subsections 4 and 5 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development impacted roads. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads or other infrastructure needs in those townships. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.
- c. Twenty percent of all revenues allocated to any county infrastructure fund under subsections 4 and 5 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

7. ~~Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:~~
- a. ~~The county's statement of revenues and expenditures; and~~
  - b. ~~The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.~~

~~Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

**SECTION 4. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - NON-OIL-PRODUCING COUNTIES - EXEMPTION - REPORT TO BUDGET SECTION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$112,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of distributions to non-oil-producing counties, for the biennium beginning July 1, 2015, and ending June 30, 2017. One-half of the distributions must be based on county major collector roadway miles as defined by the department of transportation. The distribution to each non-oil-producing county based on county major collector roadway miles must be proportional to each non-oil-producing county's total county major collector roadway miles relative to the combined total of county major collector roadway miles of all the eligible non-oil-producing counties under this section. One-half of the distributions must be based on the most recent data compiled by the upper great plains transportation institute regarding North Dakota's county, township, and tribal road and bridge infrastructure needs. The distribution to each non-oil-producing county based on total estimated road and bridge investment needs must be proportional to each non-oil-producing county's total estimated road and bridge investment needs for the years 2015 to 2034 identified by the upper great plains transportation institute relative to the combined total estimated road and bridge investment needs for the years 2015 to 2034 identified by the upper great plains transportation institute of all the eligible non-oil-producing counties under this subsection. For purposes of this section, "non-oil-producing counties" means the forty-three counties that received no allocation of funding or a total allocation under subsection 2 of section 57-51-15 of less than \$5,000,000 for the period beginning September 1, 2013, and ending August 31, 2014. The amounts available under this section must be distributed on or after February 1, 2016.

1. a. Each county requesting funding under this section for county road and bridge projects shall submit the request in accordance with criteria developed by the department of transportation. The request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads and bridges within the county which are needed to support economic activity in the state or which improve traffic safety. The plan must meet the following criteria:

- (1) Roadways and bridges must provide at least one of the following:
    - (a) Continuity and connectivity to efficiently integrate and improve major paved and unpaved corridors within the county and across county borders;
    - (b) Connectivity to significant traffic generators; or
    - (c) Direct improvement in traffic safety.
  - (2) Projects must be consistent with the upper great plains transportation institute's estimated road and bridge investment needs for the years 2015 to 2034 and other planning studies.
  - (3) Upon completion of a major roadway construction or reconstruction project, the roadway segment must be posted at a legal load limit of 105,500 pounds [47853.995 kilograms].
  - (4) Design speed on the roadway must be at least 55 miles per hour [88.51 kilometers per hour], unless the department of transportation provides an exemption.
  - (5) Projects must comply with the American association of state highway transportation officials pavement design procedures and standards developed by the department of transportation in conjunction with the local jurisdiction.
  - (6) Bridges must be designed to meet an HL 93 loading.
- b. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding for county and township rehabilitation and reconstruction projects. Counties shall report to the department of transportation upon awarding of each contract and upon completion of each project in a manner prescribed by the department.
  - c. Funding provided under this section may be used for construction, engineering, and plan development costs, but may not be used for routine maintenance. Funding provided under this section may be applied to engineering and design costs incurred on related projects as of July 1, 2015, and may be applied to construction costs incurred on related projects as of January 1, 2016. Section 54-44.1-11 does not apply to funding under this section. Any funds not spent by June 30, 2017, must be continued into the biennium beginning July 1, 2017, and ending June 30, 2019, and may be expended only for the purposes authorized by this section. The funding provided in this section is considered a one-time funding item.
2. The department of transportation shall report to the budget section and to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding, including the amounts distributed to each county, the

amounts spent to date, and the amounts anticipated to be continued into the 2017-19 biennium.

**SECTION 5. APPROPRIATION - OIL AND GAS IMPACT GRANT FUND - GRANT RECOMMENDATIONS - EXEMPTION - REPORT TO BUDGET SECTION.**

There is appropriated out of any moneys in the oil and gas impact grant fund in the state treasury, not otherwise appropriated, the sum of \$139,300,000, or so much of the sum as may be necessary, to the board of university and school lands for the purpose of oil and gas impact grants, for the biennium beginning July 1, 2015, and ending June 30, 2017. Grants awarded under this section are not subject to section 54-44.1-11. The commissioner of the board of university and school lands shall report to the budget section and to the appropriations committees of the sixty-fifth legislative assembly on the use of the funding provided in this section, including the amounts awarded, the amounts spent to date, and the amounts anticipated to be continued into the 2017-2019 biennium. During the biennium beginning July 1, 2015, and ending June 30, 2017, the energy infrastructure and impact office director shall include in recommendations to the board of university and school lands on grants to eligible entities in oil and gas development impact areas:

1. \$48,000,000, or so much of the sum as may be necessary, for grants to airports impacted by oil and gas development. The director of the energy infrastructure and impact office, in consultation with the aeronautics commission, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection, which must include cost-share requirements. Cost-share requirements must consider the availability of local funds to support the project. Grant funds must be distributed giving priority to projects that have been awarded or are eligible to receive federal funding.
2. \$30,000,000, or so much of the sum as may be necessary, for grants to school districts impacted by oil and gas development. Grant funds may be used only for purposes relating to renovation and improvement projects and must be distributed based on oil and gas gross production tax distribution payments to school districts. The distribution to each school district must be proportional to each school district's total distribution payments under subdivision c of subsection 1, subdivision b of subsection 4, or subdivision b of subsection 5 of section 57-51-15, for the period beginning September 1, 2013, and ending August 31, 2014, relative to the combined total of all distribution payments to school districts under subdivision c of subsection 1, subdivision b of subsection 4, and subdivision b of subsection 5 of section 57-51-15, for the period beginning September 1, 2013, and ending August 31, 2014.
3. \$10,000,000, or so much of the sum as may be necessary, for grants to law enforcement agencies impacted by oil and gas development. The director of the energy infrastructure and impact office, in consultation with the drug and violent crime policy board of the attorney general's office, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. The grants must be distributed to law enforcement agencies in oil-impacted counties where crime-related activities have increased or in other counties if the crime-related activities in oil-impacted counties originated in any of those counties.
4. Notwithstanding chapter 57-62, \$10,000,000, or so much of the sum as may be necessary, for grants to critical access hospitals in oil-producing counties and in counties contiguous to an oil-producing county to address the effects of oil and gas-related economic development activities. The director of the

energy infrastructure and impact office, in consultation with the department of human services, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. One-half of the grant funding must be distributed in January of each year of the biennium.

5. Notwithstanding chapter 57-62, \$8,000,000, or so much of the sum as may be necessary, for grants to certain eligible counties. The grants must be distributed in equal amounts to each eligible county. For purposes of this subsection, "eligible counties" means the two counties that received the fifth and sixth highest amount of total allocations under subsection 2 of section 57-51-15, for the period beginning September 1, 2013, and ending August 31, 2014.
6. Notwithstanding chapter 57-62, \$6,000,000, or so much of the sum as may be necessary, for grants to emergency medical services providers for expenditures that would mitigate negative effects of oil and gas-related development affecting emergency medical services providers providing services in oil-producing counties, including the need for increased emergency medical services providers services, staff, equipment, coverage, and personnel training. The director of the energy infrastructure and impact office may develop grant procedures and requirements necessary for the distribution of grants under this subsection.
7. \$5,000,000, or so much of the sum as may be necessary, for grants to eligible political subdivisions. For purposes of this subsection, "eligible political subdivisions" means counties, cities, organized townships, or other taxing districts in the seven counties that individually received total allocations of less than \$5,000,000 under subsection 2 of section 57-51-15, for the period beginning September 1, 2013, and ending August 31, 2014.
8. Notwithstanding chapter 57-62, \$4,000,000, or so much of the sum as may be necessary, for grants to nursing homes, basic care facilities, and providers of home health services and hospice programs in oil-producing counties to address the effects of oil and gas and related development activities. The director of the energy infrastructure and impact office, in consultation with key stakeholders, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. Of the \$4,000,000, up to \$500,000 must be distributed to home health services and hospice programs in the two hub cities as defined under section 57-51-01 that received the two highest total allocations under subsection 1 of section 57-51-15 for the period beginning September 1, 2013, and ending August 31, 2014. The remaining amount must be distributed to nursing homes and basic care facilities.
9. \$3,000,000, or so much of the sum as may be necessary, for grants to fire protection districts for expenditures that would mitigate negative effects of oil and gas-related development affecting fire protection districts providing services in oil-producing counties, including the need for increased fire protection district services, staff, equipment, coverage, and personnel training. The director of the energy infrastructure and impact office may develop grant procedures and requirements necessary for the distribution of grants under this subsection.
10. Notwithstanding chapter 57-62, \$2,000,000, or so much of the sum as may be necessary, for grants to providers that serve individuals with developmental disabilities located in oil-producing counties to address the effects of oil and

gas-related development activities. The director of the energy infrastructure and impact office, in consultation with the department of human services, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. The grants must be distributed in January of each year of the biennium, based on the number of full-time equivalent positions of each provider as determined by the department of human services. When setting rates for the entities receiving grants under this section, the department of human services shall exclude grant income received under this section as an offset to costs.

11. Notwithstanding chapter 57-62, \$2,000,000, or so much of the sum as may be necessary, for grants to domestic violence sexual assault organizations as defined in section 14-07.1-01 that are located in oil-producing counties to address the effects of oil and gas-related development activities. The director of the energy infrastructure and impact office, in consultation with the department of commerce, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. The requirements must include required local matching funds of at least two dollars of nonstate funds for each dollar of grant funds.
12. \$2,000,000, or so much of the sum as may be necessary, for grants to local district health units that are located in oil-producing counties to address the effects of oil and gas-related development activities. The director of the energy infrastructure and impact office, in consultation with the state department of health, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection.
13. \$1,700,000, or so much of the sum as may be necessary, to each eligible city. For purposes of this subsection, an "eligible city" means a city in an area impacted by oil and gas development with a population of more than 1,453, but fewer than 1,603 according to the last official decennial federal census.
14. \$500,000, or so much of the sum as may be necessary, to each eligible city. For purposes of this subsection, an "eligible city" means a city in an area impacted by oil and gas development with a population of more than 1,084, but fewer than 1,097 according to the last official decennial federal census.
15. \$200,000, or so much of the sum as may be necessary, to each eligible city. For purposes of this subsection, an "eligible city" means a city in an area impacted by oil and gas development with a population of more than 445, but fewer than 475 according to the last official decennial federal census.
16. \$100,000, or so much of the sum as may be necessary, to each eligible city. For purposes of this subsection, an "eligible city" means a city in an area impacted by oil and gas development with a population of more than 1,019, but fewer than 1,070 according to the last official decennial federal census.

**SECTION 6. LEGISLATIVE MANAGEMENT STUDY - OIL AND GAS TAX REVENUE ALLOCATION FORMULAS.** During the 2015-16 interim, the legislative management shall consider studying the oil and gas tax revenue allocation formulas. The study must include consideration of current and historical allocations to political subdivisions and the appropriate level of oil and gas tax revenue allocations to political subdivisions based on infrastructure and other needs. The legislative management shall report its findings and recommendations, together with any

legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

**SECTION 7. EFFECTIVE DATE.** Section 1 of this Act is effective for tax collections received by the tax commissioner and for royalty, bonus, and other revenues received for deposit into the strategic investment and improvements fund after June 30, 2015. Sections 2 and 3 of this Act are effective for taxable events occurring after June 30, 2015.

Approved April 27, 2015  
Filed April 27, 2015

## CHAPTER 464

### SENATE BILL NO. 2172

(Senators Bekkedahl, Dotzenrod)  
(Representatives Frantsvog, Glassheim, Steiner)

AN ACT to amend and reenact sections 57-51-14 and 57-51.1-06 of the North Dakota Century Code, relating to allocation and distribution of the oil and gas gross production tax and the oil extraction tax pursuant to the distribution rules in place when revenue is received; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 57-51-14 of the North Dakota Century Code is amended and reenacted as follows:

##### **57-51-14. Duties of commissioner and state treasurer.**

It is the duty of the commissioner to deposit with the state treasurer all moneys collected by the commissioner under this chapter and to accompany each remittance, when possible, with a certificate showing the county where produced. The state treasurer, no less than quarterly, shall pay over to the county treasurers and city auditors of the several counties the moneys to which they are entitled hereunder. For purposes of distributions and allocations made by the state treasurer under this chapter and chapters 57-51.1 and 57-51.2, all revenue collected by the commissioner under this chapter must be considered revenue collections for the period in which the revenue was received by the commissioner.

**SECTION 2. AMENDMENT.** Section 57-51.1-06 of the North Dakota Century Code is amended and reenacted as follows:

##### **57-51.1-06. Oil extraction tax development fund established.**

The tax imposed by section 57-51.1-02 must be paid to the state treasurer when collected by the state tax commissioner and must be credited to a special fund in the state treasury, to be known as the oil extraction tax development fund. The moneys accumulated in such fund must be allocated as provided in this chapter and the legislative assembly shall make any appropriation of money that may be necessary to accomplish the purposes of this chapter. For purposes of distributions and allocations made by the state treasurer under this chapter and chapters 57-51 and 57-51.2, all revenue collected by the commissioner under this chapter must be considered revenue collections for the period in which the revenue was received by the commissioner.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for revenues collected after July 31, 2015.

Approved March 27, 2015  
Filed March 27, 2015

## CHAPTER 465

### HOUSE BILL NO. 1032

(Legislative Management)  
(Energy Development and Transmission Committee)

AN ACT to amend and reenact section 57-51-15 of the North Dakota Century Code, relating to the abandoned oil and gas well plugging and site reclamation fund; and to provide a contingent effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>234</sup> **SECTION 1. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross production tax allocation.**

The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
  - a. Allocate to each hub city a monthly amount that will provide a total allocation of three hundred seventy-five thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
  - b. Allocate to each hub city school district a monthly amount that will provide a total allocation of one hundred twenty-five thousand dollars per fiscal year for each full or partial percentage point of the hub city's private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
  - c. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding two hundred forty million dollars per biennium;
  - d. Credit four percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding fifteen million dollars in a state fiscal year and not in an amount exceeding thirty million dollars per biennium;
  - e. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding ~~five~~seven million ~~five hundred thousand~~ dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than ~~seventy-five~~one hundred million dollars; and

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<sup>234</sup> Section 57-51-15 was also amended by section 3 of House Bill No. 1176, chapter 463, and section 4 of House Bill No. 1409, chapter 379.

- f. Allocate the remaining revenues under subsection 3.
2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
  - a. The first five million dollars is allocated to the county.
  - b. Of all annual revenue exceeding five million dollars, twenty-five percent is allocated to the county.
3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.
4. For a county that received less than five million dollars of allocations under subsection 2 in the most recently completed state fiscal year, revenues allocated to that county must be distributed by the state treasurer as follows:
  - a. Forty-five percent must be distributed to the county treasurer and credited to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
  - b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the state treasurer no less than quarterly to school districts within the county, excluding consideration of and allocation to any hub city school district in the county, on the average daily attendance distribution basis, as certified to the state treasurer by the county superintendent of schools.
  - c. Twenty percent must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. A hub city must be omitted from apportionment under this subdivision. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
5. For a county that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year, revenues allocated to that county must be distributed by the state treasurer as follows:
  - a. Sixty percent must be distributed to the county treasurer and credited to the county general fund. However, the allocation to a county under this

- subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
- b. Five percent must be apportioned by the state treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from consideration and apportionment under this subdivision.
  - c. Twenty percent must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. A hub city must be omitted from apportionment under this subdivision. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
  - d. Three percent must be apportioned no less than quarterly by the state treasurer among the organized and unorganized townships of the county. The state treasurer shall apportion the funds available under this subdivision among townships in the proportion that township road miles in the township bear to the total township road miles in the county. The amount apportioned to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.
  - e. Three percent must be allocated by the state treasurer among the organized and unorganized townships in all the counties that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year. The amount available under this subdivision must be allocated no less than quarterly by the state treasurer in an equal amount to each eligible organized and unorganized township. The amount allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.
  - f. Nine percent must be allocated by the state treasurer among hub cities. The amount available for allocation under this subdivision must be apportioned by the state treasurer no less than quarterly among hub cities. Sixty percent of funds available under this subdivision must be distributed to the hub city receiving the greatest percentage of allocations to hub cities under subdivision a of subsection 1 for the quarterly period, thirty percent of funds available under this subdivision must be distributed to the hub city receiving the second greatest percentage of such allocations, and

ten percent of funds available under this subdivision must be distributed to the hub city receiving the third greatest percentage of such allocations.

6. Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:
  - a. The county's statement of revenues and expenditures; and
  - b. The amount allocated to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.

**(Effective for taxable events occurring after June 30, 2015) Gross production tax allocation.** The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
  - a. Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
  - b. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding one hundred million dollars per biennium;
  - c. Credit four percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding fifteen million dollars in a state fiscal year and not in an amount exceeding thirty million dollars per biennium;
  - d. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding ~~five~~seven million ~~five hundred thousand~~ dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than ~~seventy-five~~one hundred million dollars; and
  - e. Allocate the remaining revenues under subsection 3.

2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
  - a. The first two million dollars is allocated to the county.
  - b. Of the next one million dollars, seventy-five percent is allocated to the county.
  - c. Of the next one million dollars, fifty percent is allocated to the county.
  - d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.
  - e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated to the county.
3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.
4. The amount to which each county is entitled under subsection 2 must be allocated within the county so the first five million three hundred fifty thousand dollars is allocated under subsection 5 for each fiscal year and any amount received by a county exceeding five million three hundred fifty thousand dollars is credited by the county treasurer to the county infrastructure fund and allocated under subsection 6.
5.
  - a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
  - b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of

students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

The countywide allocation to school districts under this subdivision is subject to the following:

- (1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.
  - (2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.
  - (3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.
  - (4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.
  - (5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:
    - (a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.
    - (b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.
    - (c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.
- c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this

subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

6.
  - a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 4 and 5 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
  - b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsections 4 and 5 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads or other infrastructure needs in those townships. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.
  - c. Twenty percent of all revenues allocated to any county infrastructure fund under subsections 4 and 5 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.
7. Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:
  - a. The county's statement of revenues and expenditures; and
  - b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the

amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.

**SECTION 2. CONTINGENT EFFECTIVE DATE.** This Act is effective for taxable events after December 31, 2015, only if the exemption under subsection 3 of section 57-51.1-03 is ineffective for the completion of any new horizontal well during the period beginning July 1, 2015, and ending December 31, 2015.

Approved March 31, 2015  
Filed March 31, 2015

## CHAPTER 466

### HOUSE BILL NO. 1476

(Representatives Carlson, Belter, Headland)  
(Senators Cook, Wardner)  
(Approved by the Delayed Bills Committee)

AN ACT to amend and reenact subsection 4 of section 38-08-04 and sections 57-51.1-01, and 57-51.1-02, subsection 3 of section 57-51.1-03, and section 57-51.1-03 of the North Dakota Century Code, relating to oil extraction tax rates and exemptions; to provide for an exception; to provide for a legislative management study; to provide an effective date; and to provide an expiration date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>235</sup> **SECTION 1. AMENDMENT.** Subsection 4 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

4. To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter, to classify and determine the status and depth of wells that are stripper well property as defined in ~~subsection 8 of section 57-51.1-01~~, to certify to the tax commissioner which wells are stripper wells as defined in section 57-51.1-01 and the depth of those wells, ~~to recertify stripper wells that are reentered and recompleted as horizontal wells~~, and to certify to the tax commissioner which wells involve secondary or tertiary recovery operations under as defined in section 57-51.1-01, and the date of qualification for the ~~reduced rate of oil extraction tax~~ exemption for secondary and tertiary recovery operations.

**SECTION 2. AMENDMENT.** Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-51.1-01. Definitions for oil extraction tax.**

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
2. "Average price" of a barrel of crude oil means the monthly average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as

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<sup>235</sup> Section 38-08-04 was also amended by section 1 of House Bill No. 1068, chapter 256, section 3 of House Bill No. 1358, chapter 254, section 4 of House Bill No. 1358, chapter 254, and section 5 of House Bill No. 1358, chapter 254.

~~these prices appear in the Wall Street Journal, midwest edition, minus two dollars and fifty cents. When computing the monthly average price, the most recent previous daily closing price must be considered the daily closing price for the days on which the market is closed.~~

- ~~3.~~ "Horizontal reentry well" means a well that was not initially drilled and completed as a horizontal well, including any well initially plugged and abandoned as a dry hole, which is reentered and recompleted as a horizontal well.
4. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].
- ~~5-3.~~ "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.
- ~~6-4.~~ "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.
- ~~7-5.~~ "Qualifying secondary recovery project" means a project employing water flooding. ~~To be eligible for the tax reduction provided under section 57-51.1-02, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have achieved for six consecutive months an average production level of at least twenty-five percent above the level that would have been recovered under normal recovery operations. To be eligible for the tax exemption provided under section 57-51.1-03 and subsequent thereto the rate reduction provided under section 57-51.1-02, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 53 of section 57-51.1-03.~~
- ~~8-6.~~ "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:
  - a. Miscible fluid displacement.
  - b. Steam drive injection.
  - c. Microemulsion.
  - d. In situ combustion.
  - e. Polymer augmented water flooding.
  - f. Cyclic steam injection.

- g. Alkaline flooding.
- h. Carbonated water flooding.
- i. Immiscible carbon dioxide displacement.
- j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. ~~To be eligible for the tax reduction provided under section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have achieved for at least one month a production level of at least fifteen percent above the level that would have been recovered under normal recovery operations. To be eligible for the tax exemption provided under section 57-51.1-03 and subsequent thereto the rate reduction provided under section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 53 of section 57-51.1-03.~~

- 9-7. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.
- 10-8. "Stripper well" means a well drilled and completed, or reentered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.
- 11-9. "Stripper well property" means wells drilled and completed, or a well reentered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.
12. ~~"Trigger price" means thirty-five dollars and fifty cents, as indexed for inflation. By December thirty-first of each year, the tax commissioner shall compute an~~

indexed trigger price by applying to the current trigger price the rate of change of the producer price index for industrial commodities as calculated and published by the United States department of labor, bureau of labor statistics, for the twelve months ending June thirtieth of that year and the indexed trigger price so determined is the trigger price for the following calendar year.

13. "Two-year inactive well" means any well certified by the industrial commission that did not produce oil in more than one month in any consecutive twenty-four-month period before being recompleted or otherwise returned to production after July 31, 1995. A well that has never produced oil, a dry hole, and a plugged and abandoned well are eligible for status as a two-year inactive well.

**SECTION 3. AMENDMENT.** Section 57-51.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-02. Imposition of oil extraction tax.**

There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the activity in this state of extracting oil from the earth, and every owner, including any royalty owner, of any part of the oil extracted is deemed for the purposes of this chapter to be engaged in the activity of extracting that oil.

The rate of tax is six and one-half ~~five~~ percent of the gross value at the well of the oil extracted, except that the rate of tax is four percent of the gross value at the well of the oil extracted in the following situations:

1. For oil produced from wells drilled and completed after April 27, 1987, commonly referred to as new wells, and not otherwise exempt under section 57-51.1-03;
2. For oil produced from a secondary or tertiary recovery project that was certified as qualifying by the industrial commission before July 1, 1991;
3. For oil that does not qualify as incremental oil but is produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991;
4. For incremental oil produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991, and which production is not otherwise exempt under section 57-51.1-03; or
5. For oil produced from a well that receives an exemption pursuant to subsection 4 of section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt under section 57-51.1-03.

However, if the average price of a barrel of crude oil exceeds the trigger price of ninety dollars for each month in any consecutive ~~five-month~~three-month period, then the rate of tax on oil extracted from all taxable wells is six and one-half percent of the gross value at the well of the oil extracted until the average price of a barrel of crude oil is less than the trigger price of ninety dollars for each month in any consecutive ~~five-month~~three-month period, in which case the rate of tax reverts to ~~four~~five percent of the gross value at the well of the oil extracted for any wells subject to a reduced rate under subsections 1 through 5. By December thirty-first of each year, the tax commissioner shall determine an indexed trigger price under this section by applying to the current trigger price an adjustment equal to the percentage rate of change of

the producer price index for industrial commodities as calculated and published by the United States department of labor, bureau of labor statistics, for the twelve months ending June thirtieth of that year and the indexed trigger price so determined is the trigger price for the following calendar year.

For purposes of this section, "average price" of a barrel of crude oil means the monthly average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as those prices appear in the Wall Street Journal, midwest edition. When computing the monthly average price, the most recent previous daily closing price must be considered the daily closing price for the days on which the market is closed.

<sup>236</sup> **SECTION 4. AMENDMENT.** Subsection 3 of section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, ~~except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months.~~ Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. ~~However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~The reduced rate of tax under subsection 1 of section 57-51.1-02 does not apply after November 30, 2015, for oil produced from wells drilled and completed after April 27, 1987, commonly referred to as new wells, and not otherwise exempt under this section.

<sup>237</sup> **SECTION 5. AMENDMENT.** Section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-03. Exemptions from oil extraction tax.**

The following activities are specifically exempted from the oil extraction tax:

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.
2. The activity of extracting from the earth any oil from a stripper well property or individual stripper well.
3. ~~For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil~~

<sup>236</sup> Section 57-51.1-03 was also amended by section 5 of House Bill No. 1476, chapter 466.

<sup>237</sup> Section 57-51.1-03 was also amended by section 4 of House Bill No. 1476, chapter 466.

exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.

4. ~~The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~
- 5-3.
- a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
  - b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide in a well drilled and completed outside the Bakken and Three Forks formations, and ten miles [16.10 kilometers] or more outside an established field in which the industrial commission has defined the pool to include the Bakken or Three Forks formation and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
  - c. For purposes of this subsection, incremental production is defined in the following manner:
    - (1) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of

primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.

- (2) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence prior to July 1, 1991, and where the industrial commission cannot establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during a new secondary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
- (3) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the new secondary recovery project and the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.
- (4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
- (5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a

secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.

- (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.
- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.
6. ~~The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~
7. ~~The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~

8. ~~The initial production of oil from a well is exempt from any taxes imposed under this chapter for a period of sixty months if:
  - a. ~~The well is drilled and completed before July 1, 2013, on nontrust lands within the boundaries of an Indian reservation;~~
  - b. ~~The well is drilled and completed before July 1, 2013, on lands held in trust by the United States for an Indian tribe or individual Indian; or~~
  - c. ~~The well is drilled and completed before July 1, 2013, on lands held by an Indian tribe if the interest is in existence on August 1, 1997.~~~~
9. ~~The first seventy-five thousand barrels or the first four million five hundred thousand dollars of gross value at the well, whichever is less, of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed after April 30, 2009, and before July 1, 2015, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion. The rate reduction under this subsection becomes effective on the first day of the month following a month for which the average price of a barrel of crude oil is less than fifty-five dollars. The rate reduction under this subsection becomes ineffective on the first day of the month following a month in which the average price of a barrel of crude oil exceeds seventy dollars. If the rate reduction under this subsection is effective on the date of completion of a well, the rate reduction applies to production from that well for up to eighteen months after completion, subject to the other limitations of this subsection. If the rate reduction under this subsection is ineffective on the date of completion of a well, the rate reduction under this subsection does not apply to production from that well at any time.~~
- ~~10.4.~~ The first seventy-five thousand barrels of oil produced during the first eighteen months after completion, from a well drilled and completed outside the Bakken and Three Forks formations, and ten miles [16.10 kilometers] or more outside an established field in which the industrial commission has defined the pool to include the Bakken or Three Forks formation, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion.

**SECTION 6. TERM OF EXEMPTIONS AND RATE REDUCTIONS.** The remaining term of any exemption or rate reduction eliminated in section 5 of this Act expires January 1, 2016. The remaining term of the horizontal well exemption eliminated in section 4 of this Act expires December 1, 2015.

**SECTION 7. WAIVER OF LEGISLATIVE CONFIRMATION REQUIREMENT FOR CERTAIN STATE-TRIBAL TAX COLLECTION AGREEMENTS.** The requirement of legislative confirmation of state-tribal tax collection agreements under section 57-51.2-01 do not apply, for adjustment of an existing agreement attributable to the changes in the oil extraction tax under this Act, and for agreements under section 54-40.2-04 do not apply, for adjustment of an existing agreement regarding application of tribal tax authority to bulk delivery of dyed or undyed special fuels within the exterior boundaries of the reservation.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - TRIBAL TAX ISSUES.**

During the 2015-16 interim, the legislative management shall consider studying state-tribal tax agreements and allocation of revenues from centrally assessed property and property subject to payments in lieu of property taxes which is located on tribal trust lands. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

**SECTION 9. EFFECTIVE DATE - EXPIRATION DATE.** Sections 1, 2, 3, and 5 of this Act are effective for taxable events occurring after December 31, 2015. Section 4 of this Act is effective for taxable events occurring after November 30, 2015. Section 7 of this Act is effective from July 1, 2015, through December 31, 2016, and is thereafter ineffective.

Approved April 29, 2015

Filed April 30, 2015

## CHAPTER 467

### HOUSE BILL NO. 1377

(Representatives Delzer, Carlson)  
(Senators Holmberg, Wardner)

AN ACT to create the political subdivision allocation fund; to amend and reenact sections 15-08.1-08, 57-51.1-07.3, and 57-51.1-07.5 of the North Dakota Century Code, relating to the unobligated balance of the strategic investment and improvements fund and the state share of oil and gas tax allocations; to repeal sections 15.1-27-45 and 57-64-05 of the North Dakota Century Code, relating to the property tax relief sustainability fund; to provide a continuing appropriation; to provide for a legislative management study; to provide a moratorium on county road fees; to provide an effective date; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>238</sup> **SECTION 1. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-08.1-08. Income - Expenses - Reimbursement - Creation of strategic investment and improvements fund - Legislative intent - ~~Contingent transfer to legacy fund.~~**

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the strategic investment and improvements fund. The corpus and interest of such trust may be expended as the legislative assembly may provide for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized. ~~If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases.~~

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<sup>238</sup> Section 15-08.1-08 was also amended by section 1 of House Bill No. 1176, chapter 463.

**SECTION 2.****Political subdivision allocation fund - Oil and gas tax revenue allocations to political subdivisions - State treasurer - Continuing appropriation.**

There is created in the state treasury the political subdivision allocation fund. The fund consists of oil and gas tax revenue deposited in the fund pursuant to chapter 57-51.1. All moneys in the fund are appropriated to the state treasurer on a continuing basis for the purpose of allocations to political subdivisions in oil-producing counties.

1. If the balance of the fund exceeds ten million dollars on March first of each odd-numbered year, within thirty-one days, the state treasurer shall allocate all moneys in the fund to eligible political subdivisions in oil-producing counties based on each political subdivision's oil and gas gross production tax allocations under subsection 4 or subsection 5 of section 57-51-15 in the most recently completed formula allocation year. The allocation to each eligible political subdivision must be proportional to each political subdivision's total oil and gas gross production tax allocation under subsection 4 or subsection 5 of section 57-51-15 in the most recently completed formula allocation year relative to the combined total of all oil and gas gross production tax allocations under subsection 4 and subsection 5 of section 57-51-15 in the most recently completed formula allocation year. For purposes of this subsection, "formula allocation year" means the period beginning September first of an odd-numbered year and ending August thirty-first of the following even-numbered year.
2. If the balance of the fund exceeds ten million dollars on August first of each odd-numbered year, within thirty-one days, the state treasurer shall allocate all moneys in the fund to eligible political subdivisions in oil-producing counties based on each political subdivision's oil and gas gross production tax allocations under subsection 4 or subsection 5 of section 57-51-15 in the most recently completed formula allocation year. The allocation to each eligible political subdivision must be proportional to each political subdivision's total oil and gas gross production tax allocation under subsection 4 or subsection 5 of section 57-51-15 in the most recently completed formula allocation year relative to the combined total of all oil and gas gross production tax allocations under subsection 4 and subsection 5 of section 57-51-15 in the most recently completed formula allocation year. For purposes of this subsection, "formula allocation year" means the period beginning September first of an odd-numbered year and ending August thirty-first of the following even-numbered year.

**SECTION 3. AMENDMENT.** Section 57-51.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-07.3. Oil and gas research fund - Deposits - Continuing appropriation.**

There is established a special fund in the state treasury to be known as the oil and gas research fund. Before depositing oil and gas gross production tax and oil extraction tax revenues in the general fund, property tax relief sustainability fund, strategic investment and improvements fund, or the state disaster relief fund, two percent of the revenues must be deposited monthly into the oil and gas research fund, up to ten million dollars per biennium. All moneys deposited in the oil and gas research fund and interest on all such moneys are appropriated as a continuing appropriation to the council to be used for purposes stated in chapter 54-17.6.

**SECTION 4. AMENDMENT.** Section 57-51.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

**~~57-51.1-07.5. (Effective through June 30, 2015) State share of oil and gas taxes -- Deposits.~~**

~~From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:~~

- ~~1. The first two hundred million dollars into the state general fund;~~
- ~~2. The next three hundred forty one million seven hundred ninety thousand dollars into the property tax relief fund;~~
- ~~3. The next one hundred million dollars into the state general fund;~~
- ~~4. The next one hundred million dollars into the strategic investment and improvements fund;~~
- ~~5. The next twenty two million dollars into the state disaster relief fund; and~~
- ~~6. Any additional revenues into the strategic investment and improvements fund.~~

**~~(Effective after June 30, 2015)(Effective through June 30, 2017) State share of oil and gas taxes - Deposits.~~** From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;
2. ~~The next three hundred forty one million seven hundred ninety thousand~~three hundred million dollars into the ~~property tax relief~~ property tax relief sustainability fund;
3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;
5. The next twenty-two million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than twenty-five million dollars; and
6. Any additional revenues into the strategic investment and improvements fund:
  - a. Seventy percent into the strategic investment and improvements fund; and
  - b. Thirty percent into the political subdivision allocation fund.

**(Effective after June 30, 2017) State share of oil and gas taxes - Deposits.** From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;

2. The next three hundred million dollars into the tax relief fund;
3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;
5. The next twenty-two million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than twenty-five million dollars; and
6. Any additional revenues into the strategic investment and improvements fund.

**SECTION 5. LEGISLATIVE MANAGEMENT STUDY - UNIFORM TRUCK PERMITTING.** During the 2015-16 interim, the legislative management shall study truck permitting systems in oil and gas producing counties. The study must review the North Dakota association of oil and gas producing counties' uniform county truck permit program, including the system's integration with the highway patrol's online electronic truck permitting and routing system and the communications between county representatives and industry representatives regarding road conditions. The study must evaluate the appropriateness of additional fees assessed by the board of county commissioners and other local authorities to the oil and gas industry related to additional road permitting fees and analyze other relevant data regarding uniform truck permitting fees and procedures. The study must include input from representatives of the North Dakota petroleum council, representatives of the North Dakota association of oil and gas producing counties, and other interested persons. The legislative management shall report its findings and recommendations, if any, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

**SECTION 6. MORATORIUM ON ADDITIONAL FEES FOR USE OF COUNTY ROADS.** For the period beginning June 1, 2015, through June 30, 2017, notwithstanding the provisions of chapter 39-12, the board of county commissioners and other local authorities having control of roads may not impose any additional fees for the use of county roads, except the fees established in the North Dakota association of oil and gas producing counties' uniform county truck permit program, unless an operator, company, or individual requests and agrees to pay the additional fees. However, the board of county commissioners and other local authorities may issue penalties to operators, companies, or individuals who violate posted road restrictions.

<sup>239</sup> **SECTION 7. REPEAL.** Sections 15.1-27-45 and 57-64-05 of the North Dakota Century Code are repealed.

**SECTION 8. EFFECTIVE DATE.** Sections 1, 2, 3, and 4 of this Act are effective for tax collections received by the tax commissioner and for royalty, bonus, and other revenues received for deposit into the strategic investment and improvements fund after June 30, 2015.

**SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 27, 2015  
Filed April 27, 2015

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<sup>239</sup> Section 15.1-27-45 was amended by section 15 of Senate Bill No. 2031, chapter 137.