

# TAXATION

## CHAPTER 398

### HOUSE BILL NO. 1354

(Representatives Dockter, Headland, Nathe, Owens)  
(Senator Schaible)

AN ACT to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to the ability of the tax commissioner to make disclosures regarding taxpayers receiving tax deductions or credits; and to provide an effective date.

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

**SECTION 1.** A new subsection to section 57-01-02 of the North Dakota Century Code is created and enacted as follows:

Upon receipt of a written request from the chairman of the legislative management or the chairman of a standing committee of the legislative assembly, the tax commissioner shall disclose the amount of any tax deduction or credit that was claimed or earned by a taxpayer. This subsection does not authorize disclosure of the taxpayer's name or any other information prohibited from disclosure under title 57. The tax commissioner shall provide notice to taxpayers of possible disclosure under this subsection, in a manner as prescribed by the tax commissioner.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for tax incentives awarded after July 31, 2017.

Approved April 11, 2017

Filed April 12, 2017

## CHAPTER 399

### HOUSE BILL NO. 1045

(Legislative Management)  
(Political Subdivision Taxation Committee)

AN ACT to amend and reenact section 57-38-01.26 and subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the angel fund investment tax credit; to provide a penalty; 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 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-38-01.26. (Effective for investments made before July 1, 2017) Angel fund investment tax credit.**

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made prior to July 1, 2017, in an angel fund that is a domestic organization ~~created~~organized before July 1, 2017, under the laws of this state. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is five hundred thousand dollars. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.
2. To be eligible for the credit, the investment must be at risk in the angel fund for at least three years. An investment made in a qualified business from the assets of a retirement plan is deemed to be the retirement plan participant's investment for the purpose of this section if a separate account is maintained for the plan participant and the participant directly controls where the account assets are invested. Investments placed in escrow do not qualify for the credit. The credit must be claimed in the taxable year in which the investment in the angel fund was received by the angel fund. The credit allowed 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 carried forward to each of the seven succeeding taxable years. A taxpayer claiming a credit under this section may not claim any credit available to the taxpayer as a result of an investment made by the angel fund in a qualified business under chapter 57-38.5 or 57-38.6.
3. An angel fund must:
  - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, limited liability limited partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.

- b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
  - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
  - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
  - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
  - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
  - g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
  - h. Be in compliance with the securities laws of this state.
  - i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
    - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
    - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
    - (3) The date the payment was received by the angel fund for the investment.
  - j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment and the amount of the investment.
4. The tax commissioner may disclose to the legislative management the reported information described under paragraphs 2 and 3 of subdivision i of subsection 3 and the reported information described under subdivision j of subsection 3.

5. Angel fund investors may be actively involved in the enterprises in which the angel fund invests but the angel fund may not invest in any enterprise if any one angel fund investor owns directly or indirectly more than forty-nine percent of the ownership interests in the enterprise. The angel fund may not invest in an enterprise if any one partner, shareholder, or member of a passthrough entity that directly or indirectly owns more than forty-nine percent of the ownership interests in the enterprise.
6. Investors in one angel fund may not receive more than five million dollars in aggregate credits under this section during the life of the angel fund but this provision may not be interpreted to limit additional investments in that angel fund.
7.
  - a. A passthrough entity entitled to the 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.
  - b. ~~For the first two taxable years beginning after December 31, 2010, if a passthrough entity does not elect to sell, transfer, or assign the credit as provided under this subsection and subsection 8, 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.~~
  - c. ~~For the first two taxable years beginning after December 31, 2010, if a passthrough entity elects to sell, transfer, or assign a credit as provided under this subsection and subsection 8, the passthrough entity shall make an irrevocable election to sell, transfer, or assign the credit on the return filed by the entity for the taxable year in which the credit was earned. A passthrough entity that makes a valid election to sell, transfer, or assign a credit shall sell one hundred percent of the credit earned, may sell the credit to only one purchaser, and shall comply with the requirements of this subsection and subsection 8.~~
8. ~~For the first two taxable years beginning after December 31, 2010, a taxpayer may elect to sell, transfer, or assign all of the earned or excess tax credit earned under this section for investment in an angel fund established after July 31, 2011, subject to the following:~~
  - a. ~~A taxpayer's total credit sale, transfer, or assignment under this section may not exceed one hundred thousand dollars over any combination of taxable years. The cumulative credits transferred by all investors in an angel fund may not exceed fifty percent of the aggregate credits under this section during the life of the angel fund under subsection 6.~~
  - b. ~~If the taxpayer elects to sell, assign, or transfer a credit under this subsection, the tax credit transferor and the tax credit purchaser jointly shall file with the tax commissioner a copy of the purchase agreement and a statement containing the names, addresses, and taxpayer identification numbers of the parties to the transfer, the amount of the credit being transferred, the gross proceeds received by the transferor, and the taxable year or years for which the credit may be claimed. The taxpayer and the purchaser also shall file a document allowing the tax commissioner to disclose tax information to either party for the purpose of verifying the correctness of the transferred tax credit. The purchase agreement,~~

supporting statement, and waiver must be filed within thirty days after the date the purchase agreement is fully executed.

- e. ~~The purchaser of the tax credit shall claim the credit beginning with the taxable year in which the credit purchase agreement was fully executed by the parties. A purchaser of a tax credit under this section has only such rights to claim and use the credit under the terms that would have applied to the tax credit transferor. This subsection does not limit the ability of the tax credit purchaser to reduce the tax liability of the purchaser, regardless of the actual tax liability of the tax credit transferor.~~
- d. ~~A sale, assignment, or transfer of a tax credit under this section is irrevocable and the purchaser of the tax credit may not sell, assign, or otherwise transfer the credit.~~
- e. ~~If the amount of the credit available under this section is changed as a result of an amended return filed by the transferor, or as the result of an audit conducted by the internal revenue service or the tax commissioner, the transferor shall report to the purchaser the adjusted credit amount within thirty days of the amended return or within thirty days of the final determination made by the internal revenue service or the tax commissioner. The tax credit purchaser shall file amended returns reporting the additional tax due or claiming a refund as provided in section 57-38-38 or 57-38-40, and the tax commissioner may audit these returns and assess or issue refunds, even though other time periods prescribed in these sections may have expired for the purchaser.~~
- f. ~~Gross proceeds received by the tax credit transferor must be assigned to North Dakota. The amount assigned under this subsection cannot be reduced by the taxpayer's income apportioned to North Dakota or any North Dakota net operating loss of the taxpayer.~~
- g. ~~The tax commissioner has four years after the date of the credit assignment to audit the returns of the credit transferor and the purchaser to verify the correctness of the amount of the transferred credit and if necessary assess the credit purchaser if additional tax is found due. This subdivision does not limit or restrict any other time period prescribed in this chapter for the assessment of tax.~~
- h. ~~The tax commissioner may adopt rules to establish necessary administrative provisions for the credit under this section, including provisions to permit verification of the validity and timeliness of the transferred tax credit.~~

201 **SECTION 2. AMENDMENT.** Section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.26. (Effective for investments made after June 30, 2017) Angel fund investment investor tax credit.**

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<sup>201</sup> Section 57-38-30.3 was also amended by section 1 of House Bill No. 1239, chapter 400, section 17 of House Bill No. 1043, chapter 57, section 2 of House Bill No. 1050, chapter 389, and section 3 of Senate Bill No. 2032, chapter 373.

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic organization created under the laws of this state. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is five hundred thousand dollars. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.
2. To be eligible for the credit, the investment must be at risk in the angel fund for at least three years. An investment made in a qualified business from the assets of a retirement plan is deemed to be the retirement plan participant's investment for the purpose of this section if a separate account is maintained for the plan participant and the participant directly controls where the account assets are invested. Investments placed in escrow do not qualify for the credit. The credit must be claimed in the taxable year in which the investment in the angel fund was received by the angel fund. The credit allowed 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 carried forward to each of the seven succeeding taxable years. A taxpayer claiming a credit under this section may not claim any credit available to the taxpayer as a result of an investment made by the angel fund in a qualified business under chapter 57-38.5 or 57-38.6.
3. An angel fund must:
  - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, limited liability limited partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
  - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
  - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
  - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
  - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

- ~~f. Be member managed or a manager managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.~~
  - ~~g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.~~
  - ~~h. Be in compliance with the securities laws of this state.~~
  - ~~i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
    - ~~(1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;~~
    - ~~(2) The dollar amount remitted by the taxpayer or passthrough entity; and~~
    - ~~(3) The date the payment was received by the angel fund for the investment.~~~~
  - ~~j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.~~
- ~~4. The tax commissioner may disclose to the legislative management the reported information described under paragraphs 2 and 3 of subdivision i of subsection 3 and the reported information described under subdivision j of subsection 3.~~
- ~~5. Angel fund investors may be actively involved in the enterprises in which the angel fund invests but the angel fund may not invest in any enterprise if any one angel fund investor owns directly or indirectly more than forty nine percent of the ownership interests in the enterprise. The angel fund may not invest in an enterprise if any one partner, shareholder, or member of a passthrough entity that directly or indirectly owns more than forty nine percent of the ownership interests in the enterprise.~~
- ~~6. Investors in one angel fund may not receive more than five million dollars in aggregate credits under this section during the life of the angel fund but this provision may not be interpreted to limit additional investments in that angel fund.~~
- ~~7. 
  - ~~a. A passthrough entity entitled to the 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.~~
  - ~~b. For the first two taxable years beginning after December 31, 2010, if a passthrough entity does not elect to sell, transfer, or assign the credit as provided under this subsection and subsection 8, 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.
- e. For the first two taxable years beginning after December 31, 2010, if a passthrough entity elects to sell, transfer, or assign a credit as provided under this subsection and subsection 8, the passthrough entity shall make an irrevocable election to sell, transfer, or assign the credit on the return filed by the entity for the taxable year in which the credit was earned. A passthrough entity that makes a valid election to sell, transfer, or assign a credit shall sell one hundred percent of the credit earned, may sell the credit to only one purchaser, and shall comply with the requirements of this subsection and subsection 8.
8. For the first two taxable years beginning after December 31, 2010, a taxpayer may elect to sell, transfer, or assign all of the earned or excess tax credit earned under this section for investment in an angel fund established after July 31, 2011, subject to the following:
- a. A taxpayer's total credit sale, transfer, or assignment under this section may not exceed one hundred thousand dollars over any combination of taxable years. The cumulative credits transferred by all investors in an angel fund may not exceed fifty percent of the aggregate credits under this section during the life of the angel fund under subsection 6.
- b. If the taxpayer elects to sell, assign, or transfer a credit under this subsection, the tax credit transferor and the tax credit purchaser jointly shall file with the tax commissioner a copy of the purchase agreement and a statement containing the names, addresses, and taxpayer identification numbers of the parties to the transfer, the amount of the credit being transferred, the gross proceeds received by the transferor, and the taxable year or years for which the credit may be claimed. The taxpayer and the purchaser also shall file a document allowing the tax commissioner to disclose tax information to either party for the purpose of verifying the correctness of the transferred tax credit. The purchase agreement, supporting statement, and waiver must be filed within thirty days after the date the purchase agreement is fully executed.
- c. The purchaser of the tax credit shall claim the credit beginning with the taxable year in which the credit purchase agreement was fully executed by the parties. A purchaser of a tax credit under this section has only such rights to claim and use the credit under the terms that would have applied to the tax credit transferor. This subsection does not limit the ability of the tax credit purchaser to reduce the tax liability of the purchaser, regardless of the actual tax liability of the tax credit transferor.
- d. A sale, assignment, or transfer of a tax credit under this section is irrevocable and the purchaser of the tax credit may not sell, assign, or otherwise transfer the credit.
- e. If the amount of the credit available under this section is changed as a result of an amended return filed by the transferor, or as the result of an audit conducted by the internal revenue service or the tax commissioner, the transferor shall report to the purchaser the adjusted credit amount within thirty days of the amended return or within thirty days of the final determination made by the internal revenue service or the tax

~~commissioner. The tax credit purchaser shall file amended returns reporting the additional tax due or claiming a refund as provided in section 57-38-38 or 57-38-40, and the tax commissioner may audit these returns and assess or issue refunds, even though other time periods prescribed in these sections may have expired for the purchaser.~~

- ~~f. Gross proceeds received by the tax credit transferor must be assigned to North Dakota. The amount assigned under this subsection cannot be reduced by the taxpayer's income apportioned to North Dakota or any North Dakota net operating loss of the taxpayer.~~
  - ~~g. The tax commissioner has four years after the date of the credit assignment to audit the returns of the credit transferor and the purchaser to verify the correctness of the amount of the transferred credit and if necessary assess the credit purchaser if additional tax is found due. This subdivision does not limit or restrict any other time period prescribed in this chapter for the assessment of tax.~~
  - ~~h. The tax commissioner may adopt rules to establish necessary administrative provisions for the credit under this section, including provisions to permit verification of the validity and timeliness of the transferred tax credit.~~
1. For investments made after June 30, 2017, an angel investor is entitled to a credit against the income tax liability under section 57-38-30.3 for investments made by a certified angel fund into an in-state qualified business or an out-of-state qualified business. The credit is equal to thirty-five percent of the amount invested by the angel fund on behalf of the angel investor in an in-state qualified business during the taxable year and twenty-five percent of the amount invested by the angel fund on behalf of the angel investor in an out-of-state qualified business during the taxable year.
    - a. The aggregate amount of credits allowed to an angel investor in a taxable year is limited to forty-five thousand dollars. The aggregate amount of credits allowed to an angel investor for investments made in all taxable years is five hundred thousand dollars. The limitation under this subdivision does not apply to the angel fund but applies to each angel investor.
    - b. The credit must be claimed in the taxable year in which the investment is made in an in-state qualified business or an out-of-state qualified business. The credit allowed may not exceed the liability for tax under this chapter. 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 five succeeding taxable years.
    - c. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.
    - d. Angel investors may not receive more than five million dollars in aggregate credits under this section during the life of an angel fund but this provision may not be interpreted to limit additional investments in that angel fund.
    - e. Investments placed in escrow do not qualify for the credit.

- f. 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 section against the individual's state income tax liability under section 57-38-30.3.
2. For purposes of this section:
- a. "Early-stage entity" means an entity with annual revenues of up to two million dollars.
- b. "In-state qualified business" means an early-stage or mid-stage private, nonpublicly traded enterprise that:
- (1) Is created, or its satellite operation is created, as a for-profit entity under the laws of this state.
  - (2) Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in this state that has or is projected to have more than ten employees in this state.
  - (3) Relies on research or the development of new products and processes in its plans for growth and profitability.
  - (4) Is in compliance with state and federal securities laws.
  - (5) Is not an entity or enterprise which is engaged in real estate development, is a real estate holding company, derives income from the selling or leasing of residential or commercial real estate, or carries on operations in the hotel, restaurant, convention, or hospitality industries, or makes any other similar use of real estate.
  - (6) Is certified as an in-state qualified business that meets the requirements of this section by the department of commerce.
- c. "Investment" means a cash investment in an in-state qualified business or out-of-state qualified business that is made in exchange for common stock, a partnership or membership interest, preferred stock, debt with a mandatory conversion to equity, or an equivalent ownership interest as determined by the tax commissioner.
- d. "Mid-stage entity" means an entity with annual revenues over two million dollars not to exceed ten million dollars.
- e. "Out-of-state qualified business" means an early-stage or mid-stage private, nonpublicly traded enterprise that:
- (1) Is created as a for-profit entity.
  - (2) Relies on research or the development of new products and processes in its plans for growth and profitability.

- (3) Is in compliance with state and federal securities laws.
  - (4) Is not an entity or enterprise engaged in real estate development, is a real estate holding company, derives income from the selling or leasing of residential or commercial real estate, or carries on operations in the hotel, restaurant, convention, or hospitality industries, or makes any other similar use of real estate.
  - (5) Is certified as an out-of-state qualified business that meets the requirements of this section by the department of commerce.
3. An angel fund must:
- a. Be a passthrough entity organized after June 30, 2017, as a domestic for-profit entity under the laws of this state, and have its headquarters in this state.
  - b. Not have invested, or intend on investing during its certification period, in real estate or real estate activities as described under subdivision e of subsection 2.
  - c. Consist of at least six accredited investors as defined in regulation D, rule 501 of the federal Securities Act of 1933.
  - d. Not have more than twenty-five percent of its capitalized investment assets owned by any one investor.
  - e. Have at least five hundred thousand dollars in commitments from accredited investors which are subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
  - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
  - g. Be certified as an angel fund that meets the requirements of this subsection by the department of commerce.
  - h. Be in, and remain in, compliance with state and federal securities laws, and invest only in in-state qualified businesses or an out-of-state qualified business that are issuing securities in compliance with state and federal securities laws.
4. On or before December 31, 2019, and every two calendar years thereafter, a minimum of fifty percent of an angel fund's investments, as defined under subdivision c of subsection 2, must be invested into an in-state qualified business.
5. An angel fund shall hold the investment in an in-state qualified business or an out-of-state qualified business for at least three years from the date of investment. The three-year period does not apply if, before the end of the three-year period:

- a. The investment becomes worthless;
  - b. Eighty percent or more of the assets of the in-state qualified business or out-of-state qualified business are sold;
  - c. The in-state qualified business or out-of-state qualified business is sold;
  - d. The common stock of the in-state qualified business or out-of-state qualified business begins trading on a public exchange; or
  - e. A partner, shareholder, or member of the angel fund dies, in which case the exception to the three-year holding period only applies to the deceased individual's portion of the investment and related credit.
6. Within thirty days after the date on which an angel fund makes an investment in an in-state qualified business or an out-of-state qualified business, the angel fund shall report the investment to the tax commissioner on forms and in the manner prescribed by the tax commissioner. The report must contain:
- a. The name, address, and federal employer identification number of the angel fund;
  - b. The total amount of the investment from all angel investors investing in the in-state qualified business or out-of-state qualified business;
  - c. The name, address, and social security or federal identification number of each angel investor investing in the in-state qualified business or out-of-state qualified business;
  - d. The amount invested by each angel investor in the in-state qualified business or out-of-state qualified business;
  - e. The type of security received by the angel fund in exchange for the investment;
  - f. The name, address, and federal employer identification number of the in-state qualified business or out-of-state qualified business;
  - g. The type of industry in which the in-state qualified business or out-of-state qualified business is engaged; and
  - h. Any other information the tax commissioner determines is necessary for administration of this section.
7. An angel fund is subject to a penalty of one thousand dollars per month for each month, or fraction thereof, the report under subsection 6 is not filed. The tax commissioner, for good cause shown, may waive all or part of the penalty imposed under this subsection.
8. By January thirty-first of each year, the angel fund shall file with the tax commissioner a report showing:
- a. The name and address of each in-state qualified business or out-of-state qualified business in which the angel fund has made an investment;

- b. The principal place of business for each in-state qualified business or out-of-state qualified business reported under subdivision a:
  - c. The total amount invested in each in-state qualified business or out-of-state qualified business; and
  - d. Any other information the tax commissioner determines is necessary for administration of this section.
9. For an angel fund certified before July 1, 2017, within thirty days after the end of each calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment and the amount of the investment.
10. Upon receipt of a written request from the chairman of the legislative management or the chairman of a standing committee of the legislative assembly, the tax commissioner shall disclose any information described under subsections 6, 8, and 9. This subsection does not authorize disclosure of the angel investor's name, social security number or federal employer identification number, address, or any other information prohibited from disclosure under this chapter.
11. Angel investors may be actively involved in the in-state qualified businesses or out-of-state qualified businesses in which the angel fund invests but the angel fund may not invest in any in-state qualified business or out-of-state qualified business if any one angel investor owns directly or indirectly more than forty-nine percent of the ownership interests in the in-state qualified business or out-of-state qualified business. The angel fund may not invest in an in-state qualified business or an out-of-state qualified business if any one angel investor is a partner, shareholder, or member of another passthrough entity that directly or indirectly owns more than forty-nine percent of the ownership interests in the in-state qualified business or out-of-state qualified business.
12. Failure to comply with any provision of this section is cause to revoke the certification of an angel fund or an in-state qualified business or an out-of-state qualified business, or disallow the credit attributable to the noncompliance.
  - a. Notice of the revocation of the angel fund or an in-state qualified business's or out-of-state qualified business's certification must be provided to the angel fund or the in-state qualified business or out-of-state qualified business by the tax commissioner, department of commerce, or securities commissioner. Within thirty days of receipt of the notice, the angel fund shall provide a copy of the notice to each of its angel investors.
  - b. The angel fund's investors shall file an amended return for each taxable year in which the disallowed credit reduced the investor's income tax liability and pay the amount due. The amended return, if required, must be filed within ninety days after the date of the written notice given to the angel fund.
  - c. If the amended return is not timely filed, the tax commissioner shall disallow the credit and assess any tax due. An assessment of tax made under this subsection is final and irrevocably fixed.

- d. If an amended return is filed as required under subdivision b, the tax commissioner has two years after the amended return is filed in which to audit and assess any tax due attributable to the revocation of the credit, even though other time periods for assessment under this chapter have expired. This subdivision does not limit or restrict any other time period for assessment under this chapter that has not expired.
13. An angel fund or a representative of the fund that knowingly makes, or causes to be made, any material false statement or representation in any application, report, or other document required to be filed under any provision of this section, or omits to state any material statement or fact in any such application, report, or other document required to be filed under any provision of this section, or fails to file the report required in subsection 8 or 9, and after thirty days' notice to file is given by the tax commissioner, is subject to a penalty of ten thousand dollars.
14. Notwithstanding any other provision of law, the tax commissioner, securities commissioner, and the department of commerce may exchange any information obtained under this section to the extent necessary to administer this section.

**SECTION 3. AMENDMENT.** Subsection 7 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

7. A taxpayer filing a return under this section is entitled to the following tax credits:
- a. Family care tax credit under section 57-38-01.20.
  - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
  - c. Agricultural business investment tax credit under section 57-38.6-03.
  - d. Seed capital investment tax credit under section 57-38.5-03.
  - e. Planned gift tax credit under section 57-38-01.21.
  - f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
  - g. Internship employment tax credit under section 57-38-01.24.
  - h. Workforce recruitment credit under section 57-38-01.25.
  - i. Angel fund investment tax credit under section 57-38-01.26 (effective for the first taxable year beginning after December 31, 2016).
  - j. Microbusiness tax credit under section 57-38-01.27.
  - k. Marriage penalty credit under section 57-38-01.28.
  - l. Homestead income tax credit under section 57-38-01.29.
  - m. ~~Commercial property income tax credit under section 57-38-01.30.~~

- n. Research and experimental expenditures under section 57-38-30.5.
- o-m. Geothermal energy device installation credit under section 57-38-01.8.
- p-n. Long-term care partnership plan premiums income tax credit under section 57-38-29.3.
- q-o. Employer tax credit for salary and related retirement plan contributions of mobilized employees under section 57-38-01.31.
- r-p. Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first five taxable years beginning after December 31, 2012).
- s-q. Income tax credit for passthrough entity contributions to private education institutions under section 57-38-01.7.
- r. Angel investor tax credit under section 57-38-01.26.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2016.

Approved April 13, 2017

Filed April 13, 2017

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## CHAPTER 400

### HOUSE BILL NO. 1239

(Representatives K. Koppelman, Brabandt, Karls, Kasper, B. Koppelman, McWilliams,  
M. Nelson, Olson, Skroch, Sukut)  
(Senators Erbele, D. Larson)

AN ACT to create and enact a new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to an individual income tax deduction for a birth resulting in stillbirth; and to provide an effective date.

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

<sup>202</sup> **SECTION 1.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Reduced by an amount equal to the exemption available for a qualifying child under section 152 of the Internal Revenue Code [26 U.S.C. 152], as amended, for each birth resulting in stillbirth, as defined in section 23-02.1-01, for which a fetal death certificate has been filed under section 23-02.1-20. For purposes of this subdivision, the exemption may only be claimed in the taxable year in which the stillbirth occurred.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2016.

Approved March 13, 2017

Filed March 13, 2017

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<sup>202</sup> Section 57-38-30.3 was also amended by section 17 of House Bill No. 1043, chapter 57, section 2 of House Bill No. 1045, chapter 399, section 2 of House Bill No. 1050, chapter 389, and section 3 of Senate Bill No. 2032, chapter 373.

## CHAPTER 401

### HOUSE BILL NO. 1027

(Legislative Management)  
(Economic Impact Committee)

AN ACT to amend and reenact subsection 2 of section 57-40.6-01, section 57-40.6-04, and subsection 4 of 57-40.6-10 of the North Dakota Century Code, relating to the standards and guidelines for emergency services communications systems; and to repeal section 57-40.6-03.1 of the North Dakota Century Code, relating to 911 database management charges.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 57-40.6-01 of the North Dakota Century Code is amended and reenacted as follows:

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 ~~contacting~~ 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.

**SECTION 2. AMENDMENT.** Section 57-40.6-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-40.6-04. Fee collection procedure.**

An assessed communications service provider may retain the actual costs of administration in collection of the fee and any telephone exchange access service provider charges for 911 database management, not to exceed five percent of the fee collected. The fee proceeds must be paid by the assessed communications service provider within thirty days after it is collected from the subscriber or customer unless the provider has fewer than ten subscribers or customers in a jurisdiction, in which case the provider may pay the proceeds quarterly.

**SECTION 3. 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 public safety services to calls for service in the public safety answering point's service area.
- d. Have two-way communication with all 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 a felony conviction, at a minimum consistent with the national crime information center standards;
    - (2) Complete pre-employment screening for illegal substance use and hearing;
    - (3) Complete training through an association of public safety communications officials course or equivalent course. Meet and maintain the minimum qualifications and required certifications as established by the emergency services communications coordinating committee;
    - (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 initial and 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.

**SECTION 4. REPEAL.** Section 57-40.6-03.1 of the North Dakota Century Code is repealed.

Approved March 9, 2017

Filed March 9, 2017

## CHAPTER 402

### HOUSE BILL NO. 1152

(Representatives Delzer, Carlson, Headland)

AN ACT to amend and reenact sections 57-51.1-07.3 and 57-51.1-07.5 of the North Dakota Century Code, relating to the state share of oil and gas tax allocations; to provide an effective date; and to declare an emergency.

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

**SECTION 1. 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, tax relief fund, budget stabilization fund, strategic investment and improvements fund, ~~or the state disaster relief fund, or lignite research 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 2. 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, 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:~~

- 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 in the following order:

1. The first two hundred million dollars into the state general fund;
2. The next ~~three~~two hundred million dollars into the tax relief fund;
3. The next seventy-five million dollars into the budget stabilization fund, but not in an amount that would bring the balance in the fund to more than the limit in section 54-27.2-01;
4. The~~For the period beginning August 1, 2017, and ending July 31, 2019, the next one~~two hundred million dollars into the state general fund and after July 31, 2019, the next one hundred million dollars into the state general fund;
- 4-5. ~~The next one hundred million dollars into the strategic investment and improvements fund;~~
  - a. Eighty percent into the strategic investment and improvements fund and twenty percent into the lignite research fund until three million dollars has been deposited into the lignite research fund to be used for advanced energy technology grants; and
  - b. One hundred percent into the strategic investment and improvements fund after three million dollars has been deposited into the lignite research fund;
- 5-6. ~~The next twenty-two~~twenty 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~~twenty million dollars; and
- 6-7. Any additional revenues into the strategic investment and improvements fund.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for tax collections received by the tax commissioner after June 30, 2017.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 27, 2017

Filed April 28, 2017

## CHAPTER 403

### SENATE BILL NO. 2101

(Finance and Taxation Committee)  
(At the request of the Department of Trust Lands)

AN ACT to amend and reenact subsection 1 of section 57-62-02 of the North Dakota Century Code, relating to the coal development trust fund; and to repeal section 15-03-05.1 of the North Dakota Century Code, relating to calculation of coal development trust fund income.

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

<sup>203</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 57-62-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Thirty percent must be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands on March 5, 1981, pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 13, chapter 626, 1979 Session Laws must also be deposited in the trust fund created pursuant to this subsection. The fund must be held in trust and administered by the board of university and school lands for loans to coal-impacted counties, cities, and school districts as provided in section 57-62-03 and for loans to school districts pursuant to chapter 15.1-36. The board of university and school lands may invest such funds as are not loaned out as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from the trust must be used first to replace uncollectible loans made from the fund and the balance must be deposited in the ~~school construction assistance loan~~ general fund of the state. Loan principal payments must be redeposited in the trust fund. The trust fund must be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter and chapter 15.1-36.

**SECTION 2. REPEAL.** Section 15-03-05.1 of the North Dakota Century Code is repealed.

Approved March 14, 2017

Filed March 15, 2017

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<sup>203</sup> Section 57-62-02 was also amended by section 4 of House Bill No. 1005, chapter 4, section 21 of Senate Bill No. 2014, chapter 39, and section 8 of Senate Bill No. 2272, chapter 368.

## CHAPTER 404

### SENATE BILL NO. 2031

(Legislative Management)  
(Energy Development and Transmission Committee)

AN ACT to amend and reenact section 57-60-14 of the North Dakota Century Code, relating to the allocation of coal conversion tax revenue collections; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

**57-60-14. (~~Effective through July 31, 2018~~) Allocation of revenue - Continuing appropriation.**

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state general fund, except moneys received from the tax imposed by subsection 3 of section 57-60-02 and through December 31, 2009, the first \$41,666.67 each month from the tax imposed by subsections 1 and 4 of section 57-60-02, which must be deposited in the state general fund. From July 1, 2007, through June 30, 2009, three and one-half percent of all funds allocated to the state general fund pursuant to this chapter must be allocated to the lignite research fund and after June 30, 2009, five percent of all funds allocated to the state general fund pursuant to this chapter must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5.
2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year, except that through December 31, 2009, the portion of the revenue allocation to each county which is attributable to a coal gasification coal conversion facility must exclude consideration of calendar year 2001, and be based on calendar year 2000 or the appropriate year after 2001, whichever is greater. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, that county must receive for calendar year 2002 at least as much under this section as was received by that county and taxing districts in that county in property taxes for that facility for taxable year 2001. For years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

**~~(Effective after July 31, 2018) Allocation of revenue - Continuing appropriation.~~**

- ~~1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty five percent to the state general fund, except moneys received from the tax imposed by subsection 3 of section 57-60-02 and through December 31, 2009, the first \$41,666.67 each month from the tax imposed by subsections 1 and 4 of section 57-60-02, which must be deposited in the state general fund.~~
- ~~2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year, except that through December 31, 2009, the portion of the revenue allocation to each county which is attributable to a coal gasification coal conversion facility must exclude consideration of calendar year 2001, and be based on calendar year 2000 or the appropriate year after 2001, whichever is greater. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.~~
- ~~3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, that county must receive for calendar year 2002 at least as much under this section as was received by that county and taxing districts in that county in property taxes for that facility for taxable year 2001. For years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.~~

Approved March 14, 2017

Filed March 15, 2017

## CHAPTER 405

### SENATE BILL NO. 2133

(Senators Unruh, Bekkedahl, Dotzenrod)  
(Representatives Dockter, Headland, Mitskog)

AN ACT to amend and reenact subsection 8 of section 57-60-01, subsection 1 of section 57-60-02, and section 57-60-02.1 of the North Dakota Century Code, relating to the coal conversion facilities privilege tax; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 8 of section 57-60-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Gross receipts" means all revenue valued in money, whether received in money or otherwise, derived by a coal conversion facility subject to the provisions of this chapter from the production of products of a coal conversion facility, ~~but not including any revenue derived from transportation, transmission, distribution, or other events which occur after completion of the process of production of the products of the facility.~~ For the purpose of computing the tax imposed by this chapter, "gross receipts" does not include:
  - a. Any any financial assistance, whether in the form of price guarantee payments or otherwise, provided by the federal government or any agency of the federal government;
  - b. Any revenue derived from the sale of byproducts as herein defined to a maximum of twenty percent of the gross receipts as defined in this subsection;
  - c. Any revenue derived from the sale and transportation of carbon dioxide for use in the enhanced recovery of oil or natural gas; or
  - d. Prior to January 1, 2010, any revenue received by the operator of a coal gasification plant to the extent the quotient of the gross receipts realized by the operator divided by the synthetic natural gas produced and sold during a month, in units of one thousand cubic feet [28316.85 liters] of synthetic gas, exceeds the ceiling price. For calendar years 2001 and 2002, ceiling price means \$4.25 for each thousand cubic feet [28316.85 liters] of synthetic natural gas produced and sold; and the ceiling price for 2003 is \$4.35; for 2004, \$4.45; for 2005, \$4.55; for 2006, \$4.65; for 2007, \$4.75; for 2008, \$4.86; and for 2009, \$4.97.

**SECTION 2. AMENDMENT.** Subsection 1 of section 57-60-02 of the North Dakota Century Code is amended and reenacted 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~~the facility for the preceding month and is in the amount of ~~four and one-tenth~~two percent of ~~such~~its 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.~~

**SECTION 3. AMENDMENT.** Section 57-60-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-60-02.1. Carbon dioxide capture credit - Reporting requirement.**

A coal conversion facility that achieves a twenty percent capture of carbon dioxide emissions during a taxable period ~~after December 31, 2009~~, is entitled to a twenty percent reduction in the state general fund share of the tax imposed under section 57-60-02 during that taxable period. The facility is entitled to an additional reduction of one percent of the state general fund share of the tax imposed under section 57-60-02 for every additional two percentage points of its capture of carbon dioxide emissions. A maximum fifty percent reduction of the state general fund share of the tax imposed under section 57-60-02 is allowed for eighty percent or more capture of carbon dioxide emissions. A coal conversion facility may receive the reduction in coal conversion tax under this section for ten years from the date of first capture of carbon dioxide emission or for ten years from the date the coal conversion facility is eligible to receive the credit. A coal conversion facility that met the carbon dioxide capture requirements before January 1, 2017, may not claim the reduction under this section.

The operator of a coal conversion facility that receives a credit under this section shall report annually to the legislative council. The report must include:

1. An overview of the carbon dioxide capture project.
2. A status report on the current state of the carbon dioxide capture project, including data on the amount of carbon dioxide produced from the facility before the carbon dioxide capture project and the current carbon dioxide produced and captured from the facility.
3. Any recent changes to enhance the carbon dioxide capture system.
4. Information on the status of federal law and regulations related to the carbon dioxide capture project, including any benefits from the project realized by the operator under federal law and regulations.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable periods beginning after June 30, 2017.

Approved March 14, 2017

Filed March 15, 2017

## CHAPTER 406

### SENATE BILL NO. 2330

(Senators Wanzek, Schaible, Sorvaag, Unruh)  
(Representatives Headland, D. Johnson)

AN ACT to amend and reenact subsection 2 of section 57-39.5-01 of the North Dakota Century Code, relating to the definition of farm machinery; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 57-39.5-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Farm machinery" means all vehicular implements and attachment units, designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" also includes machinery, equipment, and structural materials used directly and exclusively in, or incorporated into the structure of, a facility for the collection, handling, storage, heating, and cooling related to a milking operation of a dairy farm. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle required to be registered under chapter 57-40.3. "Farm machinery" does not include machinery that may be used for other than agricultural purposes, including tires, farm machinery repair parts, tools, shop equipment, grain bins, feed bunks, fencing materials, and other farm supplies and equipment.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2017.

Approved April 5, 2017

Filed April 5, 2017

## CHAPTER 407

### SENATE BILL NO. 2112

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

AN ACT to amend and reenact subsection 5 of section 57-39.4-19 and sections 57-39.4-29 and 57-39.4-33.4 of the North Dakota Century Code, relating to uniform tax returns, the taxability matrix, and tax administration practices under the sales and use tax agreement.

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 57-39.4-19 of the North Dakota Century Code is amended and reenacted as follows:

5. Adopt aweb services as the standardized transmission process ~~to allow that allows~~ for receipt of uniform tax returns and other formatted information as approved by the governing board. The process must provide for the filing of separate returns for multiple legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a certified service provider, tax preparer, or any other authorized person to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.

**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, to the best of its ability, the section 4 of the taxability matrix titled "library of definitions".
- b. To inform the general public of its practices regarding certain ~~products, procedures, services, or transactions adopted~~ tax administration practices ~~as selected~~ by the governing board under section 57-39.4-33.4, each member state shall complete, to the best of its ability, the section 2 of the taxability matrix titled "tax administration practices".
2. The member state's entries in the taxability 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.
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 library section of the taxability matrix. If a member state amends an existing provision of the library section 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 library section of the taxability matrix is submitted to the governing board, provided the seller or certified service provider relied on the prior version of the taxability matrix.

4. To the extent possible, the 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 tax administration practices section of the taxability matrix. If a member state amends an existing provision of the tax administration practices section 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 which is at least thirty days after notice of a change to a member state's tax administration practices section of the taxability matrix is submitted to the governing board, provided the seller or certified service provider relied on the prior version of the taxability matrix.
5. 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 library section of the taxability matrix.
- 5-6. 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 library section of the taxability matrix of the products for which a tax exemption is provided.

**SECTION 3. AMENDMENT.** Section 57-39.4-33.4 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.4-33.4. Best(335) Tax administration 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.~~ tax administration practices consist of the following:
  - a. "Disclosed practice", which means a tax practice that the governing board selects and requires each member state to disclose under subsection 2; and
  - b. "Best practice", which means is a disclosed practice selected by the governing board as a best practice under subsection 3.
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 select a disclosed practice using the following procedures:~~

- a. The state and local advisory council shall develop a practice for disclosure under the guidelines set forth in governing board rule 335.
  - b. The governing board shall provide public notice and opportunity for comment prior to voting on a motion to ~~adopt~~approve selection of a besttax practice for disclosure.
  - c. If a disclosed practice and a best practice are under concurrent development under rule 335, the governing board first shall vote on whether the practice is a disclosed practice before proceeding on a vote on whether the practice should be selected as a best practice.
  - d. A majority vote of the entire governing board is required to approve a motion to select a tax practice for disclosure.
3. The governing board shall select a best practice using the following procedures:
    - a. The state and local advisory council shall develop a best practice under the guidelines set forth in governing board rule 335 only from among the disclosed practices or from tax practices in concurrent development under subsection 2.
    - b. The governing board shall provide notice and opportunity for public comment before voting on a motion to approve selection of a best practice.
    - c. A three-fourths vote of the entire governing board is required to approve a motion to select a best practice.
  4. BestTax administration practices adopted by the governing board must be maintained in an appendix to the agreement.
  - 4.5. 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 a tax administration practice. Following a tax administration practice is voluntary. All member states are encouraged to follow each best practice.
  - 5.6. AEach 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 itsubmit 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 the tax administration practices section of the taxability matrix by the first day of the calendar month thatwhich is at least thirtysixty days after the date the governing board approves a newmotion to select a disclosed or best practice and submits it to the executive director for posting on, or both, or the date specified by the governing board's websiteboard, whichever is later.
  7. Using the procedure for updating the taxability matrix, the executive director shall make the necessary updates to the taxability matrix template no later than thirty days after the date the governing board approves a motion to select a disclosed or best practice.

8. All best practices existing on May 11, 2015, are disclosed practices. The executive director shall implement this provision without changing any of the member states' responses.
9. A disclosed practice may subsequently be modified or become a best practice by following the provisions set forth in this section.

Approved March 9, 2017

Filed March 9, 2017

## CHAPTER 408

### SENATE BILL NO. 2298

(Senators Cook, Bekkedahl, Laffen)  
(Representatives Dockter, Hatlestad, Headland)

AN ACT to create and enact a new section to chapter 57-39.2 and a new section to chapter 57-40.2 of the North Dakota Century Code, relating to sales and use tax collection obligations of certain out-of-state sellers; 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:

##### **Certain sellers located outside this state required to collect and remit sales taxes - Criteria.**

Notwithstanding any other provision of law, any seller of tangible personal property or other taxable product for delivery in this state, which does not have a physical presence in this state, is subject to this chapter and chapter 57-40.2 and shall remit sales or use tax. The seller shall follow all applicable procedures and requirements of law as if the seller has a physical presence in this state, if the seller meets either of the following criteria in the previous calendar year or the current calendar year:

1. The seller's gross sales from the sale of tangible personal property and other taxable items delivered in this state exceed one hundred thousand dollars; or
2. The seller sold tangible personal property and other taxable items for delivery in this state in two hundred or more separate transactions.

**SECTION 2.** A new section to chapter 57-40.2 of the North Dakota Century Code is created and enacted as follows:

##### **Certain sellers located outside this state required to collect and remit sales taxes - Criteria.**

Notwithstanding any other provision of law, any seller of tangible personal property or other taxable product for delivery in this state, which does not have a physical presence in this state, is subject to this chapter and chapter 57-39.2 and shall remit sales or use tax. The seller shall follow all applicable procedures and requirements of law as if the seller had a physical presence in this state, if the seller meets either of the following criteria in the previous calendar year or the current calendar year:

1. The seller's gross sales from the sale of tangible personal property and other taxable items delivered in this state exceed one hundred thousand dollars; or
2. The seller sold tangible personal property and other taxable items for delivery in this state in two hundred or more separate transactions.

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**SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on the date the United States Supreme Court issues an opinion overturning *Quill v. North Dakota*, 504 U.S. 298 (1992), or otherwise confirming a state may constitutionally impose its sales or use tax upon an out-of-state seller in circumstances similar to those specified in section 1 of this Act.

Approved April 10, 2017

Filed April 10, 2017

## CHAPTER 409

### SENATE BILL NO. 2129

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

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to refunds for sales, use, farm machinery gross receipts, and alcoholic beverage gross receipts taxes; to amend and reenact subdivision ee of subsection 2 of section 12-60-24, sections 57-01-13 and 57-37.1-06, subsection 2 of section 57-39.2-11, and sections 57-39.2-27, 57-40.2-17, and 57-40.3-09 of the North Dakota Century Code, relating to criminal history record checks, alcoholic beverage gross receipts taxes, estate tax return filing requirements, sales and use taxes, and motor vehicle excise tax credits; to repeal section 57-39.2-24 of the North Dakota Century Code, relating to refunds for sales, use, farm machinery gross receipts, and alcoholic beverage gross receipts taxes; and to provide an effective date.

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

<sup>204</sup> **SECTION 1. AMENDMENT.** Subdivision ee of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

ee. The office of tax commissioner for all employees, final applicantapplicants for a specified occupationemployment with the tax commissioner as designated by the tax commissioner, and contractors with access to federal tax information.

**SECTION 2. AMENDMENT.** Section 57-01-13 of the North Dakota Century Code is amended and reenacted as follows:

**57-01-13. (Contingent expiration date - See note) Collection of delinquent sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, telecommunications carriers, income, and ~~business and corporation privilege~~alcoholic beverage gross receipts taxes.**

1. Notwithstanding the secrecy and confidential information provisions in chapters 57-38, 57-39.2, and 57-40.2, the tax commissioner may, for the purpose of collecting delinquent North Dakota sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, telecommunications carriers, income, or ~~business and corporation privilege~~alcoholic beverage gross receipts taxes due from a taxpayer not residing or domiciled in this state, contract with any collection or credit agency, within or without the state, for the collection of the delinquent sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, telecommunications carriers, income, or ~~business and corporation privilege~~alcoholic beverage gross receipts taxes, including penalties and

<sup>204</sup> Section 12-60-24 was also amended by section 1 of House Bill No. 1060, chapter 94, section 1 of Senate Bill No. 2131, chapter 96, section 7 of Senate Bill No. 2327, chapter 199, section 1 of House Bill No. 1087, chapter 286, and section 1 of House Bill No. 1132, chapter 95.

interest thereon. For purposes of this section, a delinquent tax is defined as a tax liability that is due and owing for a period longer than six months and for which the taxpayer has been given at least three notices in writing requesting payment. The notices must be sent by first-class mail to the taxpayer at the taxpayer's last-known mailing address. The third notice must be sent with a copy of an affidavit of mailing. If the tax commissioner has assigned a delinquent tax liability pursuant to this section, subsequent sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, telecommunications carriers, income, or ~~business and corporation privilege~~alcoholic beverage gross receipts taxes that become due from the same taxpayer may be assigned immediately and without further notice to the taxpayer, so long as the originally assigned liability has not been fully collected.

2. a. Fees for services, reimbursement, or any other remuneration to a collection or credit agency must be based on the amount of tax, penalty, and interest actually collected. Each contract entered into between the tax commissioner and the collection or credit agency must provide for the payment of fees for the services, reimbursements, or other remuneration not in excess of fifty percent of the amount of delinquent sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, income, or ~~business and corporation privilege~~alcoholic beverage gross receipts taxes, including penalties and interest actually collected.
- b. All funds collected by the collection or credit agency must be remitted to the tax commissioner monthly from the date of collection from a taxpayer. Forms to be used for the remittances must be prescribed by the tax commissioner. The tax commissioner shall transfer the funds to the state treasurer for deposit in the state general fund. An amount equal to the amount of fees for services, reimbursement, or any other remuneration to the collection or credit agency as set forth in the contract authorized by this section is appropriated as a standing and continuing appropriation to the tax commissioner for payment of fees due under the contract.
- c. Before entering into a contract, the tax commissioner shall require a bond from the collection or credit agency not in excess of ten thousand dollars, guaranteeing compliance with the terms of the contract.
3. A collection or credit agency entering into a contract with the tax commissioner for the collection of delinquent taxes pursuant to this section thereby agrees that it is doing business in this state for the purposes of the North Dakota income tax and ~~business and corporation privilege~~ tax laws.

**(Contingent effective date - See note) Collection of delinquent sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, telecommunications carriers, income, and ~~business and corporation privilege~~alcoholic beverage gross receipts taxes.**

1. Notwithstanding the secrecy and confidential information provisions in chapters 57-38 and 57-39.2, the tax commissioner may, for the purpose of collecting delinquent North Dakota sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, telecommunications carriers, income, or ~~business and corporation privilege~~alcoholic beverage gross receipts taxes due from a taxpayer not residing or domiciled in this state, contract with any collection or credit agency, within or without the state,

for the collection of the delinquent sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, telecommunications carriers, income, or ~~business and corporation privilege~~alcoholic beverage gross receipts taxes, including penalties and interest thereon. For purposes of this section, a delinquent tax is defined as a tax liability that is due and owing for a period longer than six months and for which the taxpayer has been given at least three notices in writing requesting payment. The notices must be sent by regular mail to the taxpayer at the taxpayer's last-known mailing address. The third notice must be sent with a copy of an affidavit of mailing. If the tax commissioner has assigned a delinquent tax liability pursuant to this section, subsequent sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, income, or ~~business and corporation privilege~~alcoholic beverage gross receipts taxes that become due from the same taxpayer may be assigned immediately and without further notice to the taxpayer, so long as the originally assigned liability has not been fully collected.

2. a. Fees for services, reimbursement, or any other remuneration to a collection or credit agency must be based on the amount of tax, penalty, and interest actually collected. Each contract entered into between the tax commissioner and the collection or credit agency must provide for the payment of fees for the services, reimbursements, or other remuneration not in excess of fifty percent of the amount of delinquent sales, use, motor vehicle fuels, special fuels, importer for use, aviation fuel, motor vehicle excise, income, or ~~business and corporation privilege~~alcoholic beverage gross receipts taxes, including penalties and interest actually collected.
- b. All funds collected, less the fees for collection services, as provided in the contract, must be remitted to the tax commissioner monthly from the date of collection from a taxpayer. Forms to be used for the remittances must be prescribed by the tax commissioner.
- c. Before entering into a contract, the tax commissioner shall require a bond from the collection or credit agency not in excess of ten thousand dollars, guaranteeing compliance with the terms of the contract.
3. A collection or credit agency entering into a contract with the tax commissioner for the collection of delinquent taxes pursuant to this section thereby agrees that it is doing business in this state for the purposes of the North Dakota income tax ~~and business and corporation privilege~~ tax laws.

**SECTION 3. AMENDMENT.** Section 57-37.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-37.1-06. Estate tax return required - Tax commissioner to assess tax - District court to apportion federal and state estate taxes.**

~~If an estate owes tax under this chapter, the~~ personal representative of ~~an~~the estate shall file with the tax commissioner the estate tax return required by this chapter. The tax commissioner shall assess the tax payable pursuant to the provisions of this chapter and furnish the personal representative with a statement thereof; if all or any part of the property included in the federal gross estate is being administered by the district court serving any county in this state, the tax commissioner shall also furnish a copy of the statement to that district court. The federal and North Dakota estate taxes must be apportioned as provided in section 30.1-20-16.

**SECTION 4. AMENDMENT.** Subsection 2 of section 57-39.2-11 of the North Dakota Century Code is amended and reenacted as follows:

2. The commissioner may require the filing of returns and payment of tax on a monthly, quarterly, annual, or other basis when the commissioner deems it necessary to ensure payment of the tax imposed by this chapter. ~~Compensation for administrative expenses under sections 57-39.2-12.1 and 57-40.2-07.1 is allowed under this section if the retailer qualifies for compensation under sections 57-39.2-12 and 57-40.2-07.~~ If the retailer's filing responsibility has been assumed by a certified service provider, the retailer may authorize the certified service provider to claim on behalf of the retailer all or part of the compensation to which the retailer is entitled under sections 57-39.2-12.1 and 57-40.2-07.1.

**SECTION 5.** A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

**Claim for refund.**

1. A taxpayer may file a claim for refund of tax that was not due, or for which a refund is authorized under this chapter or chapter 57-40.2. A refund claim must be filed in the manner provided in this section.
2. A taxpayer shall file a claim for refund with the tax commissioner within three years after the due date of the return or the date the return was filed, whichever is later.
3. For purposes of this section, "taxpayer" means a person who is required under this chapter or chapter 57-40.2 to file a return and who has remitted to the tax commissioner the tax for which a refund is claimed.

**SECTION 6. AMENDMENT.** Section 57-39.2-27 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-27. Disposition of excess tax collections.**

Whenever a retailer has collected a sales tax from a customer in excess of the amount prescribed or due under this chapter, and if the retailer does not refund the excessive tax collected to the customer, the amount so collected by the retailer must be paid by the retailer to the tax commissioner in the quarterly return filed for the period in which the excessive collection occurred. If the excessive collection is subsequently refunded by the retailer to the customer, the retailer may deduct, ~~as a credit against the retailer's sales tax liability on the next return that the retailer is required to file,~~ the amount of sales tax properly refunded to the customer. ~~In the event such deduction exceeds the amount of sales tax due the state by the retailer in the next regular return, such excess must be allowed as a credit against future sales tax due from the retailer. If the credit, or any part of it, cannot be utilized by the retailer because of a discontinuance of a business or for other valid reasons, the amount thereof may be refunded to the retailer file an amended return with the tax commissioner for the period the excess tax was collected and file a claim for refund.~~

**SECTION 7. AMENDMENT.** Section 57-40.2-17 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.2-17. Disposition of excess tax collections.**

Whenever a retailer maintaining a place of business in this state has collected a use tax from a customer in excess of the amount prescribed or due under this chapter, and if the retailer does not refund the excessive tax collected to the customer, the amount so collected by the retailer must be paid by the retailer to the tax commissioner in the quarterly return filed for the period in which the excessive collection occurred. If the excessive collection is subsequently refunded by the retailer to the customer, the retailer may deduct, ~~as a credit against the retailer's use tax liability on the next return that the retailer is required to file, the amount of use tax properly refunded to the customer.~~ In the event such deduction exceeds the amount of use tax due the state by the retailer in the next regular return, such excess must be allowed as a credit against future use tax due from the retailer. If the credit, or any part of it cannot be utilized by the retailer because of a discontinuance of a business or for other valid reasons, the amount thereof may be refunded to the retailer file an amended return with the tax commissioner for the period the excess tax was collected and file a claim for refund.

**SECTION 8. AMENDMENT.** Section 57-40.3-09 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.3-09. Credit for excise tax paid in other states - Reciprocity.**

If any sales tax, use tax, or motor vehicle excise tax has been paid on a motor vehicle has been subjected already to a sales tax, use tax, or motor vehicle excise tax by 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 paid in the other state, or political subdivision thereof, ~~upon the sale or use was computed.~~ If the rate of tax imposed paid in such the other state, or political subdivision thereof, is the same or more than the rate of tax imposed by this chapter, then no tax is due on such the motor vehicle. The provisions of this section apply only if such the other state, or political subdivision thereof, allows a tax credit with respect to the excise tax imposed by this chapter which is substantially similar in effect to the credit allowed by this section. The tax commissioner may require the purchaser to provide written proof from the other state, or political subdivision thereof, that the tax was legally due and paid. For purposes of this section, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

**SECTION 9. REPEAL.** Section 57-39.2-24 of the North Dakota Century Code is repealed.

**SECTION 10. EFFECTIVE DATE.** This Act becomes effective July 1, 2017.

Approved March 13, 2017

Filed March 13, 2017

## CHAPTER 410

### SENATE BILL NO. 2200

(Senators Cook, Bekkedahl, Laffen)  
(Representatives Owens, Rohr, Schreiber-Beck)

AN ACT to amend and reenact section 57-15-06.6, subsection 8 of section 57-15-10, and section 57-15-38 of the North Dakota Century Code, relating to capital project levies; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-15-06.6 of the North Dakota Century Code is amended and reenacted as follows:

##### **57-15-06.6. County capital projects levy.**

The board of county commissioners of each county may levy an annual tax not exceeding ten mills plus any voter-approved additional levy as provided in subsection 8 of section 57-15-06.7 for the purpose of the following capital projects:

1. Constructing and equipping and maintaining structural and mechanical components of regional or county corrections centers or for the purpose of contracting for 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. Acquiring and developing real estate, capital improvements, buildings, pavement, equipment, and debt service associated with financing for county supported airports or airport authorities.
6. 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

reauthorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.

**SECTION 2. AMENDMENT.** Subsection 8 of section 57-15-10 of the North Dakota Century Code is amended and reenacted as follows:

8. Taxes levied for a capital improvements fund approved by a majority of the electors of the city in accordance with section 57-15-38 for specified purposes may be levied in ~~an~~ specified amount not exceeding 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 for general purposes may be levied in an amount not exceeding 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 for specified purposes may be levied in ~~an~~ specified amount not exceeding an additional ten mills.

**SECTION 3. AMENDMENT.** Section 57-15-38 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-38. City capital improvements fund levy.**

1. The governing body of any city may levy a tax for a capital improvements fund not exceeding ten mills under section 57-15-10, to be used for one of the purposes specified under subsection 5, when authorized to do so by a majority of the electors voting upon the question at a primary or general election.

~~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. A ballot submitted to the electors under this subsection may contain multiple questions and each question must specify:~~

- a. The singular purpose, selected from the purposes specified under subsection 5, for which the levy authority is being sought;
  - b. The number of mills requested for the purpose specified in subdivision a; and
  - c. The duration of the requested levy authority.
2. The governing body of any city may levy a tax for a capital improvements fund not exceeding ten mills under section 57-15-10, to be used for any of the purposes specified under subsection 5, when authorized to do so by sixty percent or more of the qualified electors voting upon the question at a primary or general election.
  3. The governing body of any city may levy an additional tax for a capital improvements fund exceeding ten mills but not exceeding twenty mills under subsection 57-15-10, to be used for one of the purposes specified under subsection 5, when authorized to do so by sixty percent or more of the electors voting upon the question at a primary or general election. A ballot submitted to the electors under this subsection may contain multiple questions and each question must specify:

- a. The singular purpose, selected from the purposes specified under subsection 5, for which the levy authority is being sought;
  - b. The number of mills requested for the purpose specified in subdivision a; and
  - c. The duration of the requested levy authority.
4. 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.
5. The capital improvements fund ~~must~~may be used for paying:
- a. Paying all or part of the construction of waterworks systems, sewage systems, public buildings, or any other public improvements; ~~acquiring~~
  - b. Acquiring real estate as a site for public buildings, maintaining structural and mechanical components of public buildings, and furnishing of public buildings; a
  - c. A city's participating share in urban renewal programs; capital
  - d. Capital improvements and equipment acquisition and maintaining structural and mechanical components for fire department stations; ~~and capital~~
  - e. Capital improvements and equipment acquisition and maintaining structural and mechanical components for stations for police protection services and correctional facilities; and
  - f. Acquiring and developing real estate, capital improvements, buildings, pavement, equipment, and supporting debt service associated with financing for city-supported airports or airport authorities. 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 capital improvements fund is to be used.
6. The governing body of the city may create the capital improvements fund 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 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2016.

Approved April 20, 2017

Filed April 21, 2017

## CHAPTER 411

### SENATE BILL NO. 2288

(Senators Cook, Laffen, Schaible)  
(Representatives Headland, Howe, Olson)

AN ACT to create and enact a new section to chapter 57-15 of the North Dakota Century Code, relating to a consolidated taxpayer notice containing estimated property tax levies and budget hearing information; to amend and reenact sections 11-23-04, 40-40-04, 40-40-06, 40-40-08, and 40-51.2-06, subdivision c of subsection 1 of section 40-51.2-07, sections 40-51.2-16, 57-02-53, 57-05-01, 57-05-01.1, 57-05-06, 57-05-07, 57-05-08, 57-06-06, 57-06-09, 57-06-11, 57-06-12, 57-06-15, 57-06-21, 57-13-02, and 57-15-13 of the North Dakota Century Code, relating to assessment increase notices and property tax levy public hearings, the dates for general taxation of land by a city, notices of dates of assessments and reports for centrally assessed property, the annual meeting of the state board of equalization, and dates for school district tax levies; to repeal sections 11-23-03 and 57-15-02.1 of the North Dakota Century Code, relating to notice of levy increases and public hearings; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 11-23-04 of the North Dakota Century Code is amended and reenacted as follows:

##### **11-23-04. Hearing on budget - Taxpayer may appear.**

The board of county commissioners shall meet at the time and place designated in the notice prescribed by section ~~11-23-03~~<sup>21</sup> of this Act. Any taxpayer who may appear shall be heard in favor of or against any proposed expenditures or tax levies. When the hearing shall have been concluded, the board shall adopt such estimate as finally is determined upon. All taxes shall be levied in specific amounts and shall not exceed the amount specified in the published estimates.

**SECTION 2. AMENDMENT.** Section 40-40-04 of the North Dakota Century Code is amended and reenacted as follows:

##### **40-40-04. Municipality to prepare preliminary budget statement.**

The governing body of each municipality, annually on or before ~~September~~<sup>August</sup> tenth, shall make an itemized statement known as the preliminary budget statement showing the amounts of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, or improvement of the municipality during the year.

**SECTION 3. AMENDMENT.** Section 40-40-06 of the North Dakota Century Code is amended and reenacted as follows:

##### **40-40-06. Notice of preliminary budget statement - Contents - How given.**

After

1. ~~On or before August tenth of each year, after the governing body has prepared the preliminary budget statement, the auditor of the municipality shall give notice that:~~
1. ~~The preliminary budget is on file in the office of the auditor and may be examined by anyone upon request.~~
2. ~~The governing body shall meet~~
  - a. ~~Provide the county auditor with a copy of the preliminary budget statement.~~
  - b. ~~Set a public budget hearing date no earlier than September seventh and no later than October seventh at the time and place specified in the notice as prescribed by subsection 3 for the purpose of adopting the final budget and making the annual tax levy.~~
3. ~~The governing body shall hold a public session at the time and place designated in the notice of hearing at which any taxpayer may appear and discuss with the body any item of proposed expenditures or may object to any item or amount.~~

The

- c. ~~Provide notice of the public budget hearing date to the county auditor.~~
2. ~~For municipalities anticipating levying less than one hundred thousand dollars in the current year, notice must contain:~~
  - a. ~~Contain a statement of the total proposed expenditures for each fund in the preliminary budget, but need not contain any detailed statement of the proposed expenditures. The notice must be:~~
  - b. ~~Be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, if there is one, and if no newspaper is published in the municipality, the notice must be published not less than six days prior to the meeting in the official city newspaper as provided by section 40-01-09; and~~
  - c. ~~Provide that any taxpayer may appear and discuss with the governing body any item of proposed expenditures or may object to any item or amount.~~

**SECTION 4. AMENDMENT.** Section 40-40-08 of the North Dakota Century Code is amended and reenacted as follows:

**40-40-08. Hearing of protests and objections - Changes in preliminary budget - Preparation of final budget - Contents.**

The governing body shall meet at the time and place specified in the notice set pursuant to section 40-40-06 and shall hear any and all protests or objections to the items or amounts set forth in the preliminary budget statement. At the hearing, the governing body shall make any changes in the items or amounts shown on the preliminary budget statement as it may deem advisable except as limited in this chapter, and shall prepare the final budget, which must consist of the preliminary budget with the addition of columns showing:

1. The final appropriations for the various expenditure items specified in the preliminary budget statement. The final appropriation of any fund total may not exceed the total amount requested in the preliminary budget.
2. The estimated amount of unencumbered cash on hand at the end of the current year may not include cash or investments of the equipment replacement fund as provided in section 40-40-05.
3. The levy amount determined by subtracting the total resources from the total appropriations and cash reserve for each fund. The governing body may increase the levy an additional five percent for delinquent tax collections.
4. The certificate of levy which includes a summary of the amount levied for each fund and the total amount levied.

**SECTION 5. AMENDMENT.** Section 40-51.2-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-51.2-06. Petition of owners and electors - Annexation or exclusion - Classification of annexed agricultural lands for tax purposes.**

If the governing body annexes the area, it shall do so by ordinance. When a copy of the ordinance and an accurate map of the annexed area, certified by the executive officer of the city, are filed and recorded with the county recorder, the annexation becomes effective. An annexation is effective for the purpose of general taxation on and after the first day of the next ~~February~~January. However, the city shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately before the annexation proceedings until those lands are put to another use. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in the case of annexation.

**SECTION 6. AMENDMENT.** Subdivision c of subsection 1 of section 40-51.2-07 of the North Dakota Century Code is amended and reenacted as follows:

- c. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the city. When a copy of the resolution and an accurate map of the annexed area, certified by the executive officer of the city, are filed and recorded with the county recorder, the annexation becomes effective. Annexation is effective for the purpose of general taxation on and after the first day of the next ~~February~~January. However, the city shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately before the annexation proceedings until those lands are put to another use.

**SECTION 7. AMENDMENT.** Section 40-51.2-16 of the North Dakota Century Code is amended and reenacted as follows:

**40-51.2-16. Effective date of annexation by administrative law judge - Classification of annexed agricultural lands for tax purposes.**

Territory annexed to a city pursuant to petition to the director of the office of administrative hearings is annexed as of the date of the order of the administrative law judge, except for tax purposes, and a copy of the resolution with an accurate map

of the annexed area, certified by the executive officer of the city, must be filed and recorded with the county recorder. Annexation is effective for the purpose of general taxation on and after the first day of the next ~~February~~ January. However, the city shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately before the annexation proceedings until those lands are put to another use.

**SECTION 8. AMENDMENT.** Section 57-02-53 of the North Dakota Century Code is amended and reenacted 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 9. AMENDMENT.** Section 57-05-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-01. Railroad property to be assessed by state board of equalization.**

The state board of equalization, at its annual meeting in ~~August~~July in each year, shall assess, at its actual value on the first day of January of that year, the operating property, including franchises, of each railroad operated in this state, including any electric or other street or interurban railway. If any railroad allows any portion of its railway to be used for any purpose other than the operation of a railroad, the portion of its railway while so used must be assessed in a manner provided for the assessment of other real property. To enable the board to make a correct valuation of property, it shall have access to all reports, estimates, and surveys of a line of railroad on file in the office of the public service commission and has power to summon and compel the attendance of witnesses, and to examine witnesses under oath in any matter relating to the value of the property. In fixing the value of any railroad, and of branch lines and sidetracks, the board must be governed by the rules prescribed for county and township assessors in valuing other property in this state. The board shall make a record of the value placed by it upon the property of the railroad, including the valuation per mile [1.61 kilometers] of main line and of branch lines and sidetracks. Railroad property held in trust by the public service commission for purposes of reorganization or reopening of the railway line is exempt from assessment as provided in this section.

**SECTION 10. AMENDMENT.** Section 57-05-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-01.1. Tentative assessment - Notice of hearing.**

1. The tax commissioner, on or before ~~July~~June fifteenth of each year, shall ascertain and determine the value of, and a tentative assessment of, all operative property of any company required to be assessed under the provisions of this chapter. ~~Such~~The determination of value must be made for the guidance of the state board of equalization in assessing ~~such~~the property at its annual meeting in ~~August~~July. In making ~~such~~this determination of value, the tax commissioner must be governed by the rules ~~laid down by~~provided in this chapter.

2. The tax commissioner shall give ten days' notice by mail to each company, or its representative in North Dakota, of the amount of its tentative assessment; ~~and shall appoint a time and place between the meeting of the state board of equalization on the firstsecond Tuesday of August and the first day of September.~~July, at which meeting each company is entitled to present evidence before the state board of equalization relating to the value of the property of the company.

**SECTION 11. AMENDMENT.** Section 57-05-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-06. County auditor to send maps to railroad corporation.**

The county auditor of each county in the state shall ~~mail~~provide to each railroad corporation doing business in that county, on or before the first day of ~~March~~February of each year, an accurate map of the county showing the boundaries of each assessment district.

**SECTION 12. AMENDMENT.** Section 57-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-07. Railroad shall file information with county auditor.**

Every railroad corporation, on or before the fifteenth day of ~~February~~January in each year, shall file in the office of the county auditor of each county in the state in which ~~said~~the company's lines are located:

1. The name of the corporation.
2. The principal place of doing business.
3. The names and post-office addresses of the president, secretary, and treasurer of the corporation.

**SECTION 13. AMENDMENT.** Section 57-05-08 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-08. Report by railroad corporation to state tax commissioner.**

Each railroad corporation required to be assessed under the provisions of this chapter annually shall, on or before ~~May~~April first of each year, under oath of the presiding or other chief executive officer, make and file ~~in such~~on the form and in the manner as the tax commissioner may prescribe a report containing the following information:

1. The name of the company;
2. The laws of what state or country organized, the date of original organization, the date of reorganization, consolidation, or merger, with specific reference to laws authorizing the same;
3. Location of its principal office;
4. The name of the place where its books, papers, and accounts are kept;
5. The name and post-office address of the president, secretary, treasurer, auditor, superintendent, general manager, and all other general officers;

6. The name and post-office address of the chief officer or managing agent of the company in North Dakota and of all other general officers residing in this state;
7. The total number of shares of capital stock;
8. The par value of the shares of the capital stock for the whole system, showing separately the amount authorized, amount issued, amount outstanding, and dividends paid thereon;
9. If such capital stock has no market value, the actual value on the dates and for the periods designated by the tax commissioner of this state;
10. The funded debt of the company for the whole system and a detailed statement of all series of bonds, debentures, or other securities, forming a part of the funded debt, at par value, with the date of issue, maturity, rate of interest, and amount of interest for the preceding year;
11. The market value of each series of funded debt securities for the whole system on the dates and for the periods designated by the tax commissioner, and if the whole or a part of ~~such~~the funded debt has no market value, then the actual value thereof for ~~such~~the dates and periods as the tax commissioner may specify;
12. Such general description of the operative and nonoperative real estate of the company in North Dakota as would be sufficient in a conveyance thereof, under a judicial decree, to vest in the grantee all title and interest in and to the said property;
13. A description of the personal property of the company;
14. The number of miles [kilometers] of each main line of railroad, the number of miles [kilometers] of each branch line and sidetracks thereof within the state of North Dakota;
15. The entire gross earnings of the company from operation, expenses of operation, net earnings and income from operation, and the income from other sources, for the whole system, and in North Dakota, for the years or period the tax commissioner may request or specify, not exceeding five years;
16. The location of the property of the company within this state by counties, municipalities, and districts, in ~~such~~the manner and ~~in such~~ detail as the tax commissioner shall prescribe; and
17. ~~Such other~~Other facts and information as the tax commissioner may require in the form of returns prescribed by the tax commissioner or which the company may deem material upon the question of taxation of its property in this state.

**SECTION 14. AMENDMENT.** Section 57-06-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-06. Reports of companies.**

Each company required to be assessed under the provisions of this chapter annually, on or before the ~~first~~fifteenth day of ~~May~~April, under oath of the president or other chief executive officer, and the secretary or treasurer or auditor or superintendent of such company, shall make and file with the tax commissioner, in

suchthe form as the tax commissioner may prescribe, a report containing the following information, so far as applicable to the company making suchthe report, as of January first of the year in which the report is furnished:

1. The name of the company.
2. The nature of the company, whether a person, association, corporation, or limited liability company, and under the laws of what state or country organized, the date of original organization, the date of reorganization, consolidation, or merger, with specific reference to laws authorizing the same.
3. Location of its principal office.
4. The name of the place where its books, papers, and accounts are kept.
5. The name and post-office address of the president, secretary, treasurer, auditor, superintendent, general manager, and all other general officers.
6. The name and post-office address of the chief officer or managing agent of the company in North Dakota and of all other general officers residing in this state.
7. The total number of shares of capital stock.
8. The par value of the shares of the capital stock for the whole system, showing separately the amount authorized, amount issued, amount outstanding, and dividends paid thereon.
9. If suchthe capital stock has no market value, the actual value on the dates and for the periods designated by the tax commissioner of this state.
10. The funded debt of the company for the whole system and a detailed statement of all series of bonds, debentures, or other securities, forming a part of the funded debt, at par value, with the date of issue, maturity, rate of interest, and amount of interest for the preceding year.
11. The market value of each series of funded debt securities for the whole system on the dates and for the periods designated by the tax commissioner, and if the whole or a part of suchthe funded debt has no market value, then the actual value thereof for suchthe dates and periods as the tax commissioner may specify.
12. SuchThe general description of the operative and nonoperative real estate of the company in North Dakota as would be sufficient in a conveyance thereof, under a judicial decree, to vest in the grantee all title and interest in and to the said property.
13. A description of the personal property, including moneys and credits, held by the company as a whole system, and the part thereof apportioned to the line in North Dakota.
14. The whole length of the lines of the system operated by the company and the length of the lines in North Dakota, whether operated as owner, lessee, or otherwise. The length of the line operated for the whole system and in North Dakota shall be separately reported.

15. The entire gross earnings of the company from operation, expenses of operation, net earnings and income from operation, and the income from other sources, for the whole system, and in North Dakota, for the years or period the tax commissioner may request or specify, not exceeding five years.
16. The location of the property of the company within this state by counties, municipalities, and districts, in ~~such~~the manner and in ~~such~~ detail as the tax commissioner shall prescribe.
17. Other facts and information as the tax commissioner may require or which the company may deem material relating to the taxation of its property in this state.

**SECTION 15. AMENDMENT.** Section 57-06-09 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-09. Penalty for failure to furnish report.**

If any company refuses or neglects to make the report required by this chapter or refuses or neglects to furnish any information requested, the tax commissioner shall obtain the best information available on the facts necessary to be known in order to discharge the tax commissioner's duties with respect to the valuation and assessment of the property of the company. If any company fails to make the report required under this chapter on or before the ~~first~~fifteenth day of ~~May~~April of any year, the state board of equalization shall add ~~ten~~twenty percent to the assessed value of the property of the company for that year, but the tax commissioner, upon written application received on or before the ~~first~~fifteenth day of ~~May~~April, may grant an extension of time through the first day of ~~June~~May to file the required report. If any company fails to make the report required under this chapter on or before the first day of ~~July~~June of any year, the state board of equalization shall add an additional ten percent to the assessed value of the property of the company for that year. On or before the ~~fifteenth~~first day of ~~July~~June, for good cause shown, the tax commissioner may waive all or any part of the penalty that attached under this section.

**SECTION 16. AMENDMENT.** Section 57-06-11 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-11. Tentative valuation by tax commissioner.**

The tax commissioner, on or before ~~July~~June ~~fifteenth~~ of each year, shall ascertain and determine the value of all operative property of any company required to be assessed under the provisions of this chapter. ~~Such~~This determination of value must be made for the guidance of the state board of equalization in assessing ~~such~~the property at its annual meeting in ~~August~~July. In making ~~such~~the determination of value, the tax commissioner must be governed by the rules ~~laid down by~~provided in this chapter and by ~~such~~directions as may be ~~direction~~direction given to the tax commissioner by the state board of equalization.

**SECTION 17. AMENDMENT.** Section 57-06-12 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-12. Tentative assessment to be made and notice of hearing.**

The tax commissioner shall give ten days' notice by mail to each company, or its representative in North Dakota, of the amount of its tentative assessment and ~~shall appoint a time and place, between~~the meeting of the state board of equalization on the ~~first~~second Tuesday of August ~~and the first day of September~~July, at which

meeting each company is entitled to present evidence before the state board of equalization relating to the value of the property of the company.

**SECTION 18. AMENDMENT.** Section 57-06-15 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-15. Assessment by state board of equalization - Notice of increase.**

The state board of equalization may adopt the tentative assessment of the tax commissioner in whole or in part. The valuation and tentative assessments made by the tax commissioner must be considered merely findings of fact of the executive officer of the board. The state board of equalization shall review ~~such~~the valuation and tentative assessment at the time of its annual meeting in ~~August~~July of each year and then shall make a final assessment of ~~such~~the property. It may increase or lower the entire assessment, or any assessment contained therein, on any item contained within the assessment of any company. Before the state board of equalization may make an increase in the assessed valuation of the property of any ~~such~~the company over the valuation contained in the tentative assessment, notice must be given to the company of any ~~such~~the proposed increase and a hearing granted thereon. A ten-day written notice of the proposed increase and hearing must be given to the company in ~~such~~ instance, either by mail addressed to the company, or personally served on a duly authorized agent of the company.

**SECTION 19. AMENDMENT.** Section 57-06-21 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-21. Reports to county auditors.**

On or before the fifteenth day of ~~March~~February of each year, each company required to be assessed under this chapter shall file with the county auditor of each county within which any part of its operative property is located a report giving a general description of all its property located within the county, with operative and nonoperative property listed separately. The report must give the length of the line or lines within the county and the length in each taxing district of each line constituting part of a single and continuous line or property. The company also shall file with the county auditor and the tax commissioner a map of all of its lines within the county showing clearly the length of its lines within each taxing district as of January first of that year. To facilitate the making of the maps, the county auditor, on or before the first day of ~~February~~January of each year, shall provide to each company a current map of the county showing the boundaries of each taxing district in the county.

**SECTION 20. AMENDMENT.** Section 57-13-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-13-02. Annual meeting to assess taxable property.**

The state board of equalization shall meet annually on the ~~first~~second Tuesday in ~~August~~July at the office of the state tax commissioner and shall assess all of the taxable property which such board is required to assess pursuant to and in accordance with the provisions of section 4 of article X of the Constitution of North Dakota, as amended, and the statutes of this state.

**SECTION 21.** A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

**Estimated property tax and budget hearing notice.**

1. On or before August tenth of each year the governing body of a taxing district shall provide to the county auditor in each county in which the taxing district has taxable property a preliminary budget statement and the date, time, and location of the taxing district's public hearing on its property tax levy, which may be no earlier than September seventh. A taxing district that fails to provide the information required under this subsection on or before August tenth may not impose a property tax levy in a greater amount of dollars than was imposed by the taxing district in the prior year.
2. By August thirty-first of each year the county treasurer shall provide a written notice to the owner of each parcel of taxable property with a total estimated property tax of at least one hundred dollars. The text of the notice must contain:
  - a. The date, time, and location of the public budget hearing for each of the taxing districts in which the property owner's parcel is located, which anticipate levying in excess of one hundred thousand dollars in the current year, and the location at which the taxing district's budget is available for review;
  - b. The true and full value of the property based on the best information available;
  - c. A column showing the actual property tax levy in dollars against the parcel by the taxing district that levied taxes against the parcel in the immediately preceding taxable year and a column showing the estimated property tax levy in dollars against the parcel by the taxing district levying tax in the taxable year for which the notice applies based on the preliminary budget statements of all taxing jurisdictions;
  - d. A column indicating the difference between the taxing district's total levy from the previous year and the taxing district's estimated levy with the word "INCREASE" printed in boldface type if the proposed tax levy is larger in dollars than the levy in dollars in the previous year;
  - e. Information identifying the estimated property tax savings that will be provided pursuant to section 57-20-07.1 based on the best information available; and
  - f. A statement that there will be an opportunity for citizens to present oral or written comments regarding each taxing district's property tax levy.
3. 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. If a parcel of taxable property is owned by more than one owner, notice must be sent to only one owner of the property. Failure of an owner to receive a notice under this section will not relieve the owner of property tax liability or modify the qualifying date under section 57-20-09 for which an owner may receive a discount for early payment of tax.
4. The tax commissioner shall prescribe suitable forms for written notices under this section.

5. The direct cost of providing taxpayer notices under this section may be allocated in a manner proportionate to the number of notices mailed on behalf of each taxing district that intends to levy in excess of one hundred thousand dollars in property taxes in the current year.

**SECTION 22. AMENDMENT.** Section 57-15-13 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-13. School district tax levies.**

School district taxes must be levied by the governing body of each school district on or before the ~~fifteenth~~<sup>tenth</sup> day of August of each year. The governing body of the school district may amend its tax levy and budget for the current fiscal year on or before the tenth day of October of each year but the certification must be filed with the county auditor within the time limitations under section 57-15-31.1. Taxes for school district purposes must be based upon an itemized budget statement which must show the complete expenditure program of the district for the current fiscal year and the sources of the revenue from which it is to be financed. The school board of each public school district, in levying taxes, is limited by the amount necessary to be raised for the purpose of meeting the appropriations included in the school budget of the current fiscal year, and the sum necessary to be provided as an interim fund, together with a tax sufficient in amount to pay the interest on the bonded debt of the district and to provide a sinking fund to pay and discharge the principal thereof at maturity.

**SECTION 23. REPEAL.** Sections 11-23-03 and 57-15-02.1 of the North Dakota Century Code are repealed.

**SECTION 24. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2017.

Approved March 29, 2017

Filed March 30, 2017

## CHAPTER 412

### SENATE BILL NO. 2157

(Senators Campbell, Kreun, Roers, Rust)  
(Representatives Monson, D. Ruby)

AN ACT to amend and reenact subsection 2 of section 57-02-11 of the North Dakota Century Code, relating to election by a city having a class I assessor to maintain its property assessment records.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 57-02-11 of the North Dakota Century Code is amended and reenacted as follows:

2. An individual property record must be kept by the appropriate assessment official for each parcel of taxable property. The record may be in electronic or paper form and must include identifying information as prescribed by the state supervisor of assessments. Assessors shall prepare the records and provide copies of all property records prepared by the assessor to the county director of tax equalization. The county director of tax equalization shall maintain those records for ten years from the date the records were received from the assessors. A city with a population of five thousand or more an assessor who holds a current certification as a class I assessor under section 57-02-01.1, and which has been determined by the state supervisor of assessments to have enough sales for an adequate sales ratio study, may elect to maintain the records required under this subsection on behalf of the county. A city that makes this election must include these records in a city database of taxable property to be maintained in the office of city assessor for ten years from the assessment date.

Approved March 22, 2017

Filed March 22, 2017

## CHAPTER 413

### SENATE BILL NO. 2283

(Senators Cook, Laffen, Dotzenrod)  
(Representatives Grueneich, Headland, Nathe)

AN ACT to create and enact a new section to chapter 57-01 of the North Dakota Century Code, relating to denial of tax incentives to taxpayers delinquent on the payment of state or local taxes; and to provide an effective date.

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

**SECTION 1.** A new section to chapter 57-01 of the North Dakota Century Code is created and enacted as follows:

##### **Tax incentives - State and local tax clearance.**

1. A person may not claim a state or local tax incentive identified in section 54-35-26, unless the person has satisfied all state and local tax obligations and tax liens of record for taxes owed to the state or a political subdivision.
2. A person claiming a state tax incentive shall attach to the return or other filing schedule on which the tax incentive is claimed, a property tax clearance record from each county in which the person has a fifty percent or more ownership interest in the property.
3. A city or county may not grant a local tax incentive unless the person requesting the tax incentive is not delinquent on any property taxes and the person provides a state tax clearance record. A property tax clearance is required for property in which the person has a fifty percent or more ownership interest.
4. If a tax incentive applicant or claimant is a corporation or passthrough entity, any of the corporation's or passthrough entity's officers, governors, managing members, or partners charged with the responsibility for filing and paying property, income, income withholding, sales, or use tax are subject to the provisions of subsections 2 and 3.
5. If a person fails to comply with this section, the tax commissioner shall disallow that person's state tax exemption or credit claimed under any law authorizing the tax commissioner to audit and assess the additional tax due.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for tax incentives claimed or granted after July 31, 2017.

Approved April 3, 2017

Filed April 4, 2017