

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2071
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to create and enact a new section to chapter 1-08 and a new subsection to section 57-51-06 of the North Dakota Century Code, relating to alternative methods of signing, subscribing, or verifying documents and oil and gas tax returns; and to amend and reenact sections 57-38-31, 57-38-32, subsection 3 of section 57-39.2-11, sections 57-43.1-04, 57-43.1-16, and 57-43.2-12 of the North Dakota Century Code, relating to alternative methods of signing, subscribing, or verifying income, sales, use, motor vehicle fuels, and special fuels tax returns.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 1-08 of the North Dakota Century Code is created and enacted as follows:

Alternative methods of signing, subscribing, or verifying documents filed by electronic means. A state agency, as defined in section 32-12.1-02, charged by law with the duty of receiving signed, subscribed, or verified documents may accept such documents filed by electronic means, including telecommunications. The secretary of state shall adopt rules in the manner provided in chapter 28-32 to govern methods for signing, subscribing, or verifying documents filed by electronic means, except documents filed with the tax commissioner. A signature on a document filed by electronic means which is accepted by the state agency and complies with the rules of the secretary of state has the same validity and consequence as the actual signature and written declaration for a paper document.

SECTION 2. AMENDMENT. Section 57-38-31 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31. Duty of individuals and fiduciaries to make return.

1. Every resident individual, every fiduciary for a resident individual, estate, or trust, who is required by the provisions of the United States Internal Revenue Code of 1954, as amended, to file a federal income tax return, and every individual or fiduciary who receives income derived from sources in this state, shall file an income tax return with the state tax commissioner in such form as the commissioner may prescribe. Any person who is required to file a state income tax return but not required to compute a federal taxable income figure for federal income tax purposes is required to compute such a federal taxable income figure using a pro forma return pursuant to the provisions of the Internal Revenue Code of 1954, as amended, in order to determine a starting point for the computation of state income tax. Any person required to file an income tax return pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, with respect to income that is exempt from taxation under this chapter either because it cannot be constitutionally taxed or because it is exempt by any provision of law shall file a return prescribed by the tax commissioner in such form as will permit computation of the tax liability under this chapter on only that part of the income which is subject to taxation pursuant to the provisions of this chapter; provided, that such person elects to use that form of return rather than any other form of return that may be prescribed. The return must be signed by the person required to make it and must contain a written declaration that it is made and subscribed under penalties of perjury.
2. The same filing status and deduction method used by a husband and wife when filing federal income tax returns must be used when filing state income tax returns. If either

spouse is a resident and the other is a nonresident, separate state income tax returns must be filed.

3. If the taxpayer is unable to make ~~his~~ the taxpayer's own return, the return must be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.
4. Every fiduciary subject to taxation under the provisions of this chapter shall make a return for the individual, estate, or trust for which ~~he~~ the fiduciary acts; the return must be signed by the person required to make it and must contain a written declaration that it is made and subscribed under penalties of perjury.
5. The return made by a fiduciary must state such facts as the tax commissioner may prescribe.
6. A fiduciary required to make a return under this chapter is subject to all of the provisions of the chapter which apply to an individual.
7. ~~The~~ If required by the tax commissioner, the return must be accompanied by a true copy of the federal income tax return of the taxpayer or by equivalent information ~~on forms furnished and under regulations promulgated in the form and manner prescribed by the state tax commissioner if required by the tax commissioner, or a.~~ A true copy of the federal income tax return of the taxpayer or equivalent information must be furnished to the tax commissioner by the taxpayer or fiduciary at any time after he has filed filing of the return required by this chapter if so required by the tax commissioner.
8. The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return.

SECTION 3. AMENDMENT. Section 57-38-32 of the North Dakota Century Code is amended and reenacted as follows:

57-38-32. Duty of corporations to make returns. Each corporation that receives income from the sources designated in section 57-38-30, whether or not required to file an income tax return pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall, unless exempted by the provisions of section 57-38-09, make a return in such form as the tax commissioner may prescribe, stating specifically such facts as the tax commissioner may require for the purpose of making any computation required by this chapter. Any corporation which is required to file a state income tax return but not required to compute a federal taxable income figure for federal income tax purposes is required to compute such a federal taxable income figure using a pro forma return pursuant to the provisions of the Internal Revenue Code of 1954, as amended, in order to determine a starting point for the computation of state income tax. Any foreign loan and investment company engaged in business in this state, and whose income in this state consists solely of income exempt from taxation under this chapter, need not file an annual report unless specially requested to do so by the tax commissioner, but may file in lieu thereof an affidavit claiming exemption under this chapter. The return must be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized so to act and it and any other declaration, statement, or document required to be made must contain or be verified by a written declaration that it is made under the penalties of perjury. The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return.

SECTION 4. AMENDMENT. Subsection 3 of section 57-39.2-11 of the North Dakota Century Code is amended and reenacted as follows:

3. Returns must be signed by the retailer or a duly authorized agent of the retailer and must contain a written declaration that they are made and subscribed under the penalties of this

chapter. The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return.

SECTION 5. AMENDMENT. Section 57-43.1-04 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-04. Form of claim for refund. A refund claim must be on a form furnished by the commissioner and must have a written declaration by the claimant that it is made under the penalties of perjury. The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return. The refund claim must state that the motor vehicle fuel was used or is to be used by the claimant other than in motor vehicles operated or intended to be operated upon the public highways of this state, the manner in which the motor vehicle fuel was used or is to be used, the equipment in which the motor vehicle fuel was used, or in which it will be used, and such other information as the commissioner requires. The original invoice or invoices indicating the purchase of motor vehicle fuel on which the refund is claimed must be attached to the refund claim. If the original invoice or invoices are lost, the claimant may substitute duplicate invoices plus a separate affidavit on forms prescribed by the commissioner. A certified history of purchases detailing required information may be accepted by the commissioner in lieu of original sales invoices or sales tickets.

SECTION 6. AMENDMENT. Section 57-43.1-16 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-16. Report by dealer to commissioner. Each dealer in motor vehicle fuel who engages in the sale or use of motor vehicle fuel in this state shall render to the commissioner, not later than the twenty-fifth day of each calendar month, on the form prescribed, prepared, and furnished by the commissioner, a statement of the number of gallons [liters] of motor vehicle fuel sold, used, received, and delivered by that dealer during the preceding calendar month. If the commissioner deems it necessary to ensure the payment of the tax imposed by this chapter, the commissioner may require returns and payment of the tax to be made for periods other than monthly periods. If the dealer is a domestic corporation, the statement must be signed by the president or secretary, and if a foreign corporation, by the resident general agent, attorney in fact, or by a chief accountant or officer. If the dealer is a domestic ~~limited liability~~ liability company, the statement must be signed by the president or treasurer, and if a foreign limited liability company, by the resident agent, president, or treasurer. If the dealer is a firm, or an association of individuals, the statement must be made by the managing agent or owner. The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return. The report must contain a statement of the quantities of motor vehicle fuel sold, used, received, and delivered within this state from the dealer's place of business. If any motor vehicle fuel has been sold and delivered by the dealer to customers in the original package, whether in tank car, barrel, or other package, and in the form and condition in which the same was imported, the statement must show the amount of motor vehicle fuel so sold and delivered, and the names and addresses of the persons to whom it was sold and delivered.

SECTION 7. AMENDMENT. Section 57-43.2-12 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-12. Monthly returns and payments. Each special fuel dealer shall file with the commissioner on forms prescribed by the commissioner a monthly tax return to determine the amount of liability for the tax imposed by this chapter. The returns must contain a written declaration that they are made and subscribed under the penalties of perjury. The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return. The return must show, with reference to each location at which special fuel is sold, delivered, or placed by the dealer, such information as the commissioner may reasonably require for the proper administration and enforcement of this chapter. The special fuel

dealer shall file the return on or before the twenty-fifth day of the next succeeding calendar month following the monthly period to which it relates. The reports are considered filed on time if mailed in an envelope properly addressed to the commissioner and postmarked before midnight of the final filing date. The commissioner may, for good cause, grant a taxpayer a reasonable extension of time for filing a return. Each special fuel dealer shall compute the tax imposed by this chapter by multiplying the rate of tax per gallon [3.79 liters] by the number of gallons [liters] of special fuel sold or delivered to special fuel users. The monthly tax return must be accompanied by remittance covering the tax due on special fuels sold or delivered to special fuel users during the preceding month.

SECTION 8. A new subsection to section 57-51-06 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner may prescribe alternative methods for signing, subscribing, or verifying a return filed by electronic means, including telecommunications, that shall have the same validity and consequence as the actual signature and written declaration for a paper return.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2071.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 91 Nays 0 Absent 6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State