

Fifty-ninth
Legislative Assembly
of North Dakota

Introduced by

1 A BILL for an Act to amend and reenact sections 10-13-04, 49-21.1-01.1, 57-06-17.3, 57-60-06,
2 and 57-60-14 of the North Dakota Century Code, relating to elimination of gross receipts taxes
3 for rural electric cooperatives and substitution of centrally assessed property taxes; to repeal
4 chapters 57-33 and 57-33.1 of the North Dakota Century Code, relating to elimination of gross
5 receipts taxes for rural electric cooperatives and cooperative electrical generating plants; and to
6 provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 10-13-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **10-13-04. Members of electric cooperatives.** All persons who are not receiving
11 central station service and who reside in rural areas proposed to be served by a cooperative
12 organized under this chapter shall be eligible to membership in the cooperative. No person
13 other than the incorporators shall be, become, or remain a member of a cooperative unless
14 such person shall use or agree to use electrical energy or the facilities, supplies, equipment,
15 and services furnished by a cooperative.

16 "Rural area" means any area not included within the boundaries of an incorporated city
17 having a population in excess of twenty-five hundred inhabitants at the time a corporation or
18 cooperative commences to operate electric facilities or to furnish electric energy in such an
19 area, and includes both the farm and nonfarm population thereof. No change thereafter in the
20 population of a rural area, as defined herein, regardless of the reason for such change, shall
21 operate to affect in any way its status as a rural area for the purposes of this chapter and of
22 chapter 57-33.

23 An electric cooperative organized under this chapter may become a member of another
24 such electric cooperative and may avail itself fully of the facilities and services thereof.

1 **SECTION 2. AMENDMENT.** Section 49-21.1-01.1 of the North Dakota Century Code
2 is amended and reenacted as follows:

3 **49-21.1-01.1. Electricity transmission and distribution lines - Differentiation.**

4 Except for purposes of transmission facility siting under chapter 49-22 and regulatory
5 accounting including the determination of the demarcation between federal and state
6 jurisdiction over transmission in interstate commerce and local distribution, for purposes of this
7 title and chapters 57-33 and 57-33.1, lines designed to operate at a voltage of 41.6 kilovolts or
8 more are transmission lines, and lines designed to operate at a voltage less than 41.6 kilovolts
9 are distribution lines.

10 **SECTION 3. AMENDMENT.** Section 57-06-17.3 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-06-17.3. New transmission line property tax exemption.** A transmission line of
13 two hundred thirty kilovolts or larger, and its associated transmission substations, which is
14 initially placed in service on or after October 1, 2002, is exempt from property taxes for the first
15 taxable year after the line is initially placed in service, and property taxes as otherwise
16 determined by law on the transmission line and its associated transmission substations must be
17 reduced by:

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

22 After the fourth taxable year of operation of the transmission line, the transmission line
23 and its associated transmission substations are exempt from property taxes and are subject to
24 a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction thereof of the line
25 located in this state. The per mile tax imposed by this section applies to the transmission line
26 and its associated transmission substations and is subject to the same manner of imposition
27 and allocation as the tax imposed by subsection 2 of section 57-33.1-02.

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

1 **SECTION 4. AMENDMENT.** Section 57-60-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-60-06. Property classified and exempted from ad valorem taxes - In lieu of**
4 **certain other taxes - Credit for certain other taxes.** Each coal conversion facility must be
5 classified as personal property and is exempt from all ad valorem taxes except for taxes on the
6 land on which such facility is located. The taxes imposed by this chapter are in lieu of
7 ad valorem taxes on the property so classified as personal property. The taxes imposed by this
8 chapter are also in lieu of those taxes imposed by chapters 57-33 and 57-33.1 on cooperative
9 electrical generating plants that qualify as coal conversion facilities as defined in this chapter for
10 gross receipts derived from the operation of such plants on or after July 1, 1975. Each
11 cooperative electrical generating plant shall receive a credit against the taxes imposed by this
12 chapter for any taxes imposed pursuant to chapters 57-33 and 57-33.1 and payable after
13 July 1, 1975. Such credit applies only for such taxes actually paid and must be applied against
14 the taxes imposed by this chapter in the years in which such payments are made.

15 **SECTION 5. AMENDMENT.** Section 57-60-14 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-60-14. Allocation of revenue - Continuing appropriation.**

- 18 1. The state treasurer shall no less than quarterly allocate all moneys received from
19 all coal conversion facilities in each county pursuant to the provisions of this
20 chapter and moneys received for those taxes for which a credit is allowed pursuant
21 to section 57-60-06, notwithstanding the provisions of section 57-33.1-08, fifteen
22 percent to the county and eighty-five percent to the state general fund, except
23 moneys received from the tax imposed by subsection 3 of section 57-60-02 and
24 through December 31, 2009, the first \$41,666.67 each month from the tax imposed
25 by subsections 1 and 4 of section 57-60-02, which must be deposited in the state
26 general fund.
- 27 2. Notwithstanding any other provision of law, the allocation under this section to
28 each county may not be less in each calendar year than the amount certified to the
29 state treasurer for each county under this section in the immediately preceding
30 calendar year, except that through December 31, 2009, the portion of the revenue
31 allocation to each county which is attributable to a coal gasification coal conversion

1 facility must exclude consideration of calendar year 2001, and be based on
2 calendar year 2000 or the appropriate year after 2001, whichever is greater. For a
3 county that has received less in a calendar year than the amount certified to the
4 state treasurer for that county in the immediately preceding calendar year, not later
5 than January tenth of the following year, the county auditor shall calculate the
6 amount that is due under this subsection and submit a statement of the amount to
7 the state treasurer. The state treasurer shall verify the stated amount and make
8 the required payment under this subsection to the county, from collections received
9 under section 57-60-02, not later than March first of the following year. The funds
10 needed to make the distribution to counties under this subsection are appropriated
11 on a continuing basis for making these payments. Money received by a county
12 under this subsection must be distributed pursuant to section 57-60-15.

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

22 **SECTION 6. REPEAL.** Chapters 57-33 and 57-33.1 of the North Dakota Century Code
23 are repealed.

24 **SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
25 December 31, 2005.