

**SENATE BILL NO. 2132**

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to create and enact a new section to chapter 57-01 of the North Dakota  
2 Century Code, relating to refunds or credit of taxes based on a claim of unconstitutionality; and  
3 to provide an effective date.

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

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

7 **Claim of unconstitutionality - Refund or credit of taxes paid.** Notwithstanding any  
8 provision relating to claims for refund or credit of state taxes paid contained in title 57, any claim  
9 for a refund or credit of taxes paid based upon a claim that the tax or any provision thereof is  
10 unconstitutional under the federal or state constitution must be made within one hundred twenty  
11 days of the due date of the return or payment of the tax, whichever occurs first, for which the  
12 refund or credit is claimed. A claim for refund or credit of taxes paid before January 1, 2005,  
13 based upon a claim that the tax or any provision thereof is unconstitutional that is not filed with  
14 the commissioner before July 1, 2005, must be denied. This section does not apply to ad  
15 valorem property taxes.

16 **SECTION 2. EFFECTIVE DATE.** This Act is effective for tax returns filed or tax  
17 payments made after December 31, 2004.