

TAXATION

CHAPTER 457

HOUSE BILL NO. 1099

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

AN ACT to amend and reenact subsection 3 of section 5-01-01, subsection 3 of section 5-03-09, section 57-01-06, and subsection 5 of section 57-39.2-23 of the North Dakota Century Code, relating to the definition of beer; the authority of the tax commissioner to waive penalties for late or nonfiled alcoholic beverage tax returns; sales, market, and productivity studies for property tax purposes; and disclosure of county lodging taxes and county lodging and restaurant taxes information to a county governing body; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 5-01-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Beer" means any malt beverage containing one-half of one percent or more of alcohol by volume and includes an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses, which has not undergone distillation.

SECTION 2. AMENDMENT. Subsection 3 of section 5-03-09 of the North Dakota Century Code is amended and reenacted as follows:

3. If a supplier fails to file the required report as required by this section, there is imposed a penalty of twenty-five dollars per month for each calendar month or fraction of a month during which the delinquency continues beginning with the month during which the report was due. Any assessed penalty may be waived by the tax commissioner for good cause upon request by the supplier.

SECTION 3. AMENDMENT. Section 57-01-06 of the North Dakota Century Code is amended and reenacted as follows:

57-01-06. Sales, market, and productivity study - Contents not to be included.

Any sales, market, and productivity study which may be made by the state tax commissioner may not include the following:

1. Property owned or used by public utilities.
2. Property classified as personal property.
3. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.

4. A sale which resulted as a settlement of an estate.
5. ~~All sales to or from a government or governmental agency.~~
6. All forced sales, mortgage foreclosures, and tax sales.
- ~~7-6.~~ All sales to or from religious, charitable, or nonprofit organizations.
- ~~8-7.~~ All sales where there is an indicated change of use by the new owner.
- ~~9-8.~~ All transfer of ownership of property for which is given a quitclaim deed.
- ~~10-9.~~ Sales of property not assessable by law.
- ~~11-10.~~ Agricultural lands of less than eighty acres [32.37 hectares].

³²⁴ **SECTION 4. AMENDMENT.** Subsection 5 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

5. The commissioner may make information pertaining to county lodging taxes, county lodging and restaurant taxes, city lodging taxes, city lodging and restaurant taxes, or city or county sales and use taxes, contained in tax returns, reports, related schedules and documents, and reports of an audit or investigation available upon request to no more than two duly elected or appointed members of the governing body of a city or county for which collection and administration of the tax is required by statute or a tax collection agreement administered under section 57-01-02.1. The governing body of the city or county or its members may not divulge or make known in any manner the business affairs, operations, or other information acquired from the commissioner under this subsection concerning any person, corporation, limited liability company, or other entity unless the disclosure is by judicial order and for tax administration purposes only.

SECTION 5. EFFECTIVE DATE. Section 1 of this Act is effective for taxable periods beginning after June 30, 2021.

Approved April 19, 2021

Filed April 20, 2021

³²⁴ Section 57-39.2-23 was also amended by section 20 of Senate Bill No. 2048, chapter 337.

CHAPTER 458

HOUSE BILL NO. 1471

(Representatives K. Koppelman, Bellew, Fisher, Hagert, Kading, Karls, Schauer,
Toman)
(Senators Clemens, Kannianen)

AN ACT to amend and reenact subsection 9 of section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for property of churches; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²⁵ **SECTION 1. AMENDMENT.** Subsection 9 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

9. a. All buildingsThe land and any buildings on a parcel on which a church building is located, and which is owned by anya religious corporation or organization and used predominantly for the religious purposes of the organization, and if on the same parcel, dwellings with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of services, land directly under and within the perimeter of those buildings, improved off-street parking or reasonable landscaping or sidewalk area adjoining the main church building, and up to a maximum of five additional acres [2.02 hectares] must be deemed to be property used exclusively for religious purposes, and exempt from taxation, whether the real property consists of one tract or more. The land and any buildings on a parcel contiguous to the parcel on which a church building is located, which is owned by a religious corporation or organization, is exempt from taxation if any building located on the parcel is used predominantly for religious purposes.
- b. If the parsonage and residence of the bishop, priest, rector, or other minister, or other clergy in charge of services is located on property owned by the religious corporation or organization, which is not adjacent to the church, that residence, with usual outbuildings and land on which it is located, up to two acres [.81 hectare], must be deemed to be property used exclusively for religious purposes and is exempt from taxation.
- b-c. Up to twenty acres of undeveloped land owned by a religious corporation or organization for the purpose of a future church building or buildings is exempt from taxation. This exemption expires ten years after the taxable year in which the property was acquired by the religious corporation or organization if construction improvements to accommodate a church building have not commenced.
- d. The exemption for a building used for the religious purposes of the owner continues to be in effect if the building in whole, or in part, is rented to

³²⁵ Section 57-02-08 was also amended by section 1 of Senate Bill No. 2041, chapter 459, and section 1 of Senate Bill No. 2202, chapter 460.

another otherwise tax-exempt corporation or organization, provided no profit is realized from the rent.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 459

SENATE BILL NO. 2041

(Senator Myrdal)

(Representatives Damschen, D. Johnson, Monson)

AN ACT to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²⁶ **SECTION 1. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

- b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
 - (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
 - (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:
 - (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.

³²⁶ Section 57-02-08 was also amended by section 1 of House Bill No. 1471, chapter 458, and section 1 of Senate Bill No. 2202, chapter 460.

- (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
- (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.
- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code and does not include a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "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" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.
- (4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].
- (5) When exemption is claimed under this subdivision for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.
- (6) For purposes of this ~~section~~subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
- (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX EXEMPTION FOR AGRICULTURAL PRODUCTS STORAGE. During the 2021-22 interim, the legislative management shall consider studying the provision of a property tax exemption for elevators, warehouses, and other farm structures classified as commercial property, which are privately owned and used to store agricultural products produced by the owner or an individual related to the owner as defined in section 10-06.1-12. The study must include consideration of the definition of agricultural property and the impact of an exemption on city and county property tax revenues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2021.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 460

SENATE BILL NO. 2202

(Senators Heitkamp, Poolman, Sorvaag)
(Representatives Magrum, Skroch, Steiner)

AN ACT to amend and reenact subsection 36 of section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for property leased for the provision of early childhood or adult day care services; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²⁷ **SECTION 1. AMENDMENT.** Subsection 36 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

36. The governing body of the city, for property within city limits, or of the county, for property outside city limits, may grant a property tax exemption for the portion of fixtures, buildings, and improvements, used primarily to provide early childhood services by a corporation, limited liability company, or organization licensed under chapter 50-11.1 or used primarily as an adult day care center. The exemption applies regardless of whether the early childhood or adult day care service provider owns the property. However, this exemption is not available for property used as a residence.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved April 21, 2021

Filed April 22, 2021

³²⁷ Section 57-02-08 was also amended by section 1 of House Bill No. 1471, chapter 458, and section 1 of Senate Bill No. 2041, chapter 459.

CHAPTER 461

SENATE BILL NO. 2213

(Senators Dever, Marcellais)
(Representatives Bellew, Heinert)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

furnish to the assessor or other assessment officials, when requested to do so, any information which ~~is believed will support~~supports the claim for credit for any subsequent year.

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

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved April 28, 2021

Filed April 29, 2021

I, _____, assessor of _____, swear that the book to which this is attached contains a full list of all property subject to taxation in _____ so far as I have been able to ascertain, and that the assessed value set down in the columns opposite the several kinds and descriptions of property in each case is fifty percent of the true and full value of the property, to the best of my knowledge and belief, except where and as corrected by the township board of equalization, and that the footings of the several columns in the book, and the tabular statement returned herewith, are correct, as I verily believe.

Assessor

Subscribed and sworn to before me on _____, _____.

Auditor of _____

County, North Dakota

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 463

HOUSE BILL NO. 1028

(Legislative Management)
(Education Funding Formula Review Committee)

AN ACT to amend and reenact section 57-15-17 of the North Dakota Century Code, relating to the ability of a school district to temporarily transfer excess funds accruing as a result of the COVID-19 pandemic between the general fund and the building fund of the school district; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-17 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17. Disposition of building fund tax.

1. a. All revenue accruing from appropriations or tax levies for a school district building fund, together with any amount as may be realized for building purposes from all other sources, must be placed in a separate fund known as a building fund and must:
 - (1) Be deposited, held, or invested in the same manner as the sinking funds of such school district; or
 - (2) Be used for the purchase of shares or securities of federal or state-chartered savings and loan associations, within the limits of federal insurance.
- b. Moneys in the building fund may only be used for:
 - (1) The construction of school district buildings and facilities;
 - (2) The renovation, repair, or expansion of school district buildings and facilities;
 - (3) The improvement of school district buildings, facilities, and real property;
 - (4) The leasing of buildings and facilities;
 - (5) The payment of rentals upon contracts with the state board of public school education;
 - (6) The payment of rentals upon contracts with municipalities for career and technical education facilities financed pursuant to chapter 40-57; and
 - (7) The payment of principal, premiums, and interest on bonds issued in accordance with subsection 7 of section 21-03-07.

- c. The custodian of the funds may pay out the funds only upon order of the school board, signed by the president and the business manager of the school district. The order must recite upon its face the purpose for which payment is made.
2. Any moneys remaining in a building fund after the completion of payments for any school building project that has cost seventy-five percent or more of the amount in the building fund at the time of letting the contracts, must be returned to the general fund of the school district, upon the order of the school board.
3. The board of a school district may pay into the general fund of the school district any moneys that have remained in the building fund for ten years or more and any moneys transferred from the general fund of the school district into the building fund after March 13, 2020, and before July 1, 2020. The board may include ~~this amount~~ these amounts as part of its cash on hand in making up its budget for the ensuing year. In determining what amounts have remained in the fund for ten years or more, all payments that have been made from the building fund for building purposes must be considered as having been paid from the funds first acquired. Any moneys transferred from the general fund of the school district into the building fund after March 13, 2020, and before July 1, 2020, may be transferred back into the general fund of the school district through June 30, 2021.
4. a. If collections from the taxes levied for the current budget and other income are insufficient to meet the requirements for general operating expenses, the board of a school district may transfer unobligated funds from the building fund into the general fund of the school district, provided the school district has issued certificates of indebtedness equal to fifty percent of the outstanding uncollected general fund property tax.
 - b. A board may not transfer funds from the building fund into the general fund for more than two years.

SECTION 2. EXPIRATION DATE. Section 1 of this Act is effective through June 30, 2021, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 464

HOUSE BILL NO. 1157

(Representatives Headland, Pollert)
(Senator Wanzek)

AN ACT to create and enact section 57-15-19.7 of the North Dakota Century Code, relating to township excess levies for emergency purposes; and to amend and reenact section 57-15-20.2 of the North Dakota Century Code, relating to exceptions to tax levy limitations in townships; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 57-15-19.7 of the North Dakota Century Code is created and enacted as follows:

57-15-19.7. Township levy for emergency purposes.

1. Upon approval of a majority of electors of the township voting on the question, a township may levy the number of mills necessary for the purpose of addressing natural disasters or other emergency conditions.
2. The levy under this section may be made only if notice of the question of the approval of the levy has been included with the notice of the annual or special meeting provided in chapter 58-04.
3. Approval by the electors of increased levy authority under this section may not be effective for more than five taxable years.

SECTION 2. AMENDMENT. Section 57-15-20.2 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The tax levy limitations specified in section 57-15-20 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the township:
 - a. A township levying a tax for the purpose of cooperating with the county in constructing and maintaining roads and bridges that are part of the county road system and located within the township in accordance with section 57-15-19.4 may levy a tax not exceeding five mills.
 2. b. A township levying a tax for airport purposes in accordance with section 2-06-15 may levy a tax not exceeding four mills.
 3. c. A township levying a tax for special assessment districts in accordance with chapter 58-18.
 - d. A township levying tax for emergency purposes in accordance with section 57-15-19.7.

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

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 465

SENATE BILL NO. 2280

(Senators Elkin, Larson)
(Representatives Devlin, Dockter, Lefor, Louser)

AN ACT to amend and reenact sections 57-28-11, 57-28-17, and 57-28-18 of the North Dakota Century Code, relating to permitting reappraisal of property acquired by a county by tax deed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-28-11 of the North Dakota Century Code is amended and reenacted as follows:

57-28-11. Hearing on appraisal or reappraisal.

After making ~~the an~~ appraisal or ~~reappraisal~~ of property acquired by tax deed, the board of county commissioners shall set a date for hearing objections to the minimum sale price determined. At least ten days before the hearing, the county auditor shall mail to the auditor of any city, or the clerk of the board of supervisors of any township, in which appraised property is located a written notice stating the time when objections to the established minimum sale price will be heard. Any member or representative of the governing body of any taxing district may appear at the hearing with reference to the fair market value of appraised property, and the board may make appropriate changes in the minimum sale price of property.

SECTION 2. AMENDMENT. Section 57-28-17 of the North Dakota Century Code is amended and reenacted as follows:

57-28-17. Sale between annual sales - Reappraisal.

1. If the county continues to retain the property acquired by tax deed after the initial appraisal is conducted and the annual sale is held, the board may reappraise the value of the property at any time deemed necessary by the board. The reappraisal of the property must be completed at least thirty days before a subsequent annual sale under this chapter. Any property not sold at the annual November sale may be sold by the county auditor at private sale before the next annual November sale for not less than the property's minimum sale price. A parcel of real estate against which an unpaid special assessment continues as a lien under section 57-28-09 may be sold by the county auditor free of the lien if the governing body of the city in which the property is located finds that the sum of the minimum sale price and the unpaid special assessment exceeds the market value of the property. If the governing body of the city makes this finding, it may cancel all or part of the special assessment lien against the property to reduce the lien to an amount which, when added to the minimum sale price, will be equal to the market value of the property. The action of the governing body shall be certified by the city auditor or clerk to the county auditor. The county auditor may then sell the property at private sale before the next annual November sale for not less than the resulting amount. The purchaser acquires the property free from any part of any lien for special assessment which was canceled by the governing

body of the city, and the county auditor shall remove from the record any canceled special assessments.

2. Notwithstanding the provisions of this section or other provisions of law, any property acquired by the county which is subject to a special assessment lien for improvements made by a city may be sold to that city for cash at any price agreed upon by the board of county commissioners and the governing body of the city.

SECTION 3. AMENDMENT. Section 57-28-18 of the North Dakota Century Code is amended and reenacted as follows:

57-28-18. Terms of private sale and distribution of proceeds.

1. Any private sale of real property made between the annual November sales must be made upon the same terms and conditions as a sale may be made at the November sale, unless the board of county commissioners has had the property reappraised and has consented, by majority, to value the property at the reappraised price. The sale of farmland acquired by the county by tax deed is subject to any existing lease of the property for the year of the sale. If the farmland is to be sold by private sale to any person other than the former owner or other interested person, a deed or contract for deed may not be delivered to the purchaser until thirty days after service by certified mail upon the former owner or other interested party of the pending sale, the date when the sale will become final, and the amount required to repurchase the property. For the purposes of this section, "other interested party" means the executor, administrator, parent, spouse, or child of the former owner who has notified the county auditor in writing of that status, the address at which service may be made, and that the person should be notified of the expiration of the period of repurchase in connection with any private sale of the property.
2. In case of the sale, contract for sale, or repurchase by the former owner of tax deed property during January, the property must be assessed and taxed for that year, and the purchaser or repurchaser is entitled to the rental and landlord's share of crops on the property for the year. In case of the sale, contract for sale, or repurchase by the former owner of tax deed land after January, the property ~~must~~may not be assessed and taxed for that year, and the county is entitled to the rental and landlord's share of the crops on the property for the year. The proceeds realized from a sale between annual November sales must be apportioned in the same manner as the proceeds of the annual November sale.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 466

HOUSE BILL NO. 1199

(Representatives K. Koppelman, Ista, Jones, B. Koppelman, Paur, Satrom, Steiner)
(Senators Clemens, Luick, Wobbema)

AN ACT to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-28-20 of the North Dakota Century Code is amended and reenacted as follows:

57-28-20. Disposition of proceeds of sales.

All proceeds from the public or private sale of property under this chapter must be apportioned as regular tax payments are apportioned among and within taxing districts in which the property is located, as follows:

1. The county treasurer shall issue a regular tax receipt in the name of the county, beginning with the earliest year for which the taxes are delinquent. Tax receipts must be written for the original amount of the tax, ~~without~~with penalty and interest. If the property was sold for an amount sufficient to cover all outstanding taxes ~~and, special assessments, penalties, interest, and costs associated with selling the property,~~ tax receipts must be written for all such years, and any remaining amount must be ~~credited to the general fund of the county retained by the county for ninety days following the date of the sale. After the ninety-day retention period, any excess proceeds must be distributed:~~
 - a. To the owner of the record title of the real estate listed in the notice of foreclosure of tax lien if the owner of record submitted an undisputed claim for the excess proceeds within the ninety-day retention period;
 - b. To the clerk of the district court in the county in which all or a majority of the property is located if a disputed claim or multiple claims for the excess proceeds were submitted within the ninety-day retention period; or
 - c. To the unclaimed property administrator under chapter 47-30.1 if a claim for the excess proceeds was not submitted within the ninety-day retention period.
2. If the property is sold under a contract, the county treasurer shall issue tax receipts, beginning with the earliest year for which taxes or special assessments are delinquent, ~~without~~with penalty and interest, and all subsequent payments made on the contract must be applied to the earliest remaining unpaid taxes or special assessments. Any payment under the contract after all taxes ~~and, special assessments, penalties, interest, and costs associated with selling the property~~ are paid ~~must be credited to the county general fund retained by the county for ninety days following the date of~~

the sale. After the ninety-day retention period, any excess proceeds must be distributed in the manner provided in subsection 1.

3. If the property is sold for less than the total amount of the taxes due, the treasurer shall write tax receipts beginning with the earliest year and for as many subsequent years as the proceeds realized from the sale will satisfy, and the remainder of any unpaid general taxes or special assessments must be canceled by the board of county commissioners.
4. A city or county that acquires a tax deed to property shall make reasonable efforts to sell the property for the amount necessary to satisfy the outstanding taxes, penalties, and interest owed on the property and shall distribute any remaining sale proceeds in the manner provided in this chapter.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 467

HOUSE BILL NO. 1214

(Representatives Schreiber-Beck, M. Johnson, Nathe, Owens, Steiner)
(Senators Bekkedahl, Krebsbach)

AN ACT to amend and reenact section 57-32-01 of the North Dakota Century Code, relating to taxes imposed on air carrier transportation companies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-32-01 of the North Dakota Century Code is amended and reenacted as follows:

57-32-01. Applicability of public utility laws.

All of the

1. ~~The provisions of chapter 57-06 are made applicable, insofar as the same may be consistent with the provisions of not in conflict with this chapter, apply to the assessment of express companies and air transportation companies.~~
2. For purposes of this chapter, an "air carrier transportation company" or "air transportation company" includes any other certified air carrier that:
 - a. Shares a flight designator code with the air carrier transportation company;
 - b. Operates under the same trade name as the air carrier transportation company; or
 - c. Operates under the same livery as the air carrier transportation company.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 468

HOUSE BILL NO. 1137

(Representatives Nathe, Bosch, Dockter, Lefor, Martinson, Nehring)
(Senators Hogue, Patten, J. Roers)

AN ACT to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to an individual income tax credit for charitable contributions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.7. Income tax credit for charitable contributions - Limitation.
(Effective for taxable years beginning after December 31, 2020)**

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

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

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 469

HOUSE BILL NO. 1405

(Representatives Steiner, Dockter, Mitskog, Simons, Skroch)
(Senators Hogan, Meyer)

AN ACT to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for the employment of individuals with developmental disabilities or severe mental illness; to amend and reenact section 57-38-01.16 of the North Dakota Century Code, relating to an income tax credit for the employment of individuals with developmental disabilities or severe mental illness; 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 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.16. Income tax credit for employment of individuals with developmental disabilities or chronically mentally ill personssevere mental illness.

1. A taxpayer filing an income tax return under this chapter may claim a credit against the tax liability imposed under section 57-38-30 or section 57-38-30.3 for a portion of the wages paid to an employee with a developmental disability or a chronically mentally ill employeesevere mental illness.
2. The credit allowed under this section equals five percent of up to six thousand dollars in wages paid during the first twelve months of employment by the taxpayer for each employee with a developmental disability or chronically mentally ill employee of the taxpayer twenty-five percent of up to six thousand dollars in wages paid annually by the taxpayer for each employee with a developmental disability or severe mental illness, if the department of human services' vocational rehabilitation division determines the individual has a most significant disability, is eligible for services, and requires customized employment or supported employment in order to obtain competitive integrated employment.
3. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.
4. The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter.
5. A taxpayer shall apply, on a form and in the manner prescribed by the department of human services' vocational rehabilitation division, for a determination of whether an employee meets the requirements under subsection 2. If an employee meets the requirements, a letter of certification containing the names of the taxpayer and the qualifying employee must be

issued to the taxpayer. No more than one hundred employees may be certified as qualifying under this section. Applications must be processed in the order the applications are received.

6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of human services' vocational rehabilitation division with the taxpayer's return filed under this chapter for each taxable year the credit is claimed.
7. A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. An individual taxpayer may take the credit passed through under this section against the individual's state income tax liability under section 57-38-30.3.

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

Income tax credit for employment of individuals with developmental disabilities or severe mental illness under section 57-38-01.16.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for the first two taxable years beginning after December 31, 2020, and is thereafter ineffective.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 470

HOUSE BILL NO. 1082

(Representative Dockter)

AN ACT to create and enact a new subsection to section 57-38-42 of the North Dakota Century Code, relating to electronic filing and payment of information returns; to amend and reenact section 57-38-60 of the North Dakota Century Code, relating to electronic filing and payment of income tax withholding returns; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-38-42 of the North Dakota Century Code is created and enacted as follows:

Any person required to file an information return under subsection 1, and any passthrough entity with ten or more partners, shareholders, members, or owners shall file the return by electronic data interchange or other electronic media as determined by the tax commissioner. The tax commissioner may waive, upon a showing of good cause, the requirement to file the return or pay the tax due electronically.

SECTION 2. AMENDMENT. Section 57-38-60 of the North Dakota Century Code is amended and reenacted as follows:

57-38-60. Employer's returns and remittances.

1. Every employer shall, on or before the last day of April, July, October, and January, pay over to the tax commissioner the amount required to be deducted and withheld from wages paid to all employees during the preceding calendar quarter under section 57-38-59. If the amount required to be deducted and withheld from wages paid to all of an employer's employees during the previous calendar year was less than five hundred one thousand dollars, the employer may file an annual return. The tax commissioner may alter the time or period for making reports and payment when in the tax commissioner's opinion, the tax is in jeopardy, or may prescribe the use of any other time or period as will facilitate the collection and payment of the tax by the employer.
2. Every employer shall file a return on forms prescribed by the tax commissioner with each payment made to the tax commissioner under this section which shows the amount of tax imposed under this chapter which was deducted and withheld during the period covered by the return, and such other information as the tax commissioner may require. If the amount required to be deducted and withheld from wages paid to all an employer's employees during the previous calendar year is one thousand dollars or more, the employer shall file the return and pay any tax due by electronic data interchange or other electronic media as determined by the tax commissioner. The tax commissioner may waive, upon a showing of good cause, the requirement to pay the tax due electronically.

3. Every employer required to withhold state income tax shall make an annual return to the tax commissioner on forms provided and approved by the tax commissioner, summarizing the total compensation paid, the federal income tax deducted and withheld, and the state income tax deducted and withheld during the calendar year. The annual return must be accompanied by a statement of the compensation paid, the federal income tax deducted and withheld, and the state income tax deducted and withheld for each employee. The annual return and accompanying statements must be filed with the tax commissioner on or before the due date for filing similar returns with the internal revenue service.
4. Every employer not required to withhold state income tax shall provide to the tax commissioner a statement of the compensation paid and the federal income tax deducted and withheld for each employee. The statement must be filed on or before the due date for filing similar returns with the internal revenue service.
5. In case of failure to timely file an information statement as required by subsections 3 and 4, and after thirty days' notice to file is given by the tax commissioner, the tax commissioner may assess a penalty of ten dollars for each failure to file, not to exceed two thousand dollars.
6. Every employer shall also, in accordance with rules adopted by the tax commissioner, provide each employee from whom state income tax has been withheld, with a statement of the amounts of total compensation paid and the amounts deducted and withheld for the employee during the preceding calendar year in accordance with section 57-38-59. The statement must be made available to the employee on or before January thirty-first of the year following that for which the report is made.
7. The employer shall be liable to the tax commissioner for the payment of the tax required to be deducted and withheld under section 57-38-59, and the employee shall not thereafter be liable for the amount of any such payment, nor shall the employer be liable to any person or to any employee for the amount of any such payment. For the purpose of making penalty provisions of this chapter applicable, any amount deducted or required to be deducted and remitted to the tax commissioner under this section shall be considered to be the tax of the employer and with respect to such amounts the employer is considered the taxpayer.
8. Every employer who deducts and withholds any amounts under section 57-38-59 shall hold the same in trust for the state of North Dakota for payment thereof to the tax commissioner in the manner and at the time provided for in this section, and the state of North Dakota shall have a lien on the property of the employer to secure the payment of any amounts withheld and not remitted as provided herein, which lien shall attach at the time prescribed and to the property described in section 57-38-48 and shall be subject to the provisions of sections 57-38-49, 57-38-50, and 57-38-51.
9. An employer, at the discretion of the tax commissioner, may be required to either make a cash deposit or post with the tax commissioner a bond or undertaking executed by a surety company authorized to do business in this state in an amount reasonably calculated to ensure the payment to the state of taxes deducted and withheld from wages.

10. An employer is not subject to this section or section 57-38-59 for wages paid to any employee solely for agricultural labor, as defined in section 3121(g) of the Internal Revenue Code [26 U.S.C. 3121(g)].
11. A payroll service provider authorized under the provisions of this chapter to file and remit withholding taxes on behalf of an employer shall file the return required by subsection 2 and pay any tax due, by electronic data interchange or other electronic media as determined by the tax commissioner. As used in this subsection, a "payroll service provider" means a person that, for federal tax purposes, electronically processes and transmits an employer's withholding returns and taxes, including wage information returns. The tax commissioner may waive, upon a showing of good cause, the requirement to file a return or pay the tax electronically.
12. Any person required to file ~~ten or more~~ an information ~~returns~~ return under ~~subsection 3 of section 57-38-42, or subsection 3 or 4 of this section;~~ shall file the ~~returns~~ return by electronic data interchange or other electronic media as determined by the tax commissioner. The tax commissioner may waive, upon a showing of good cause, the requirement to file the ~~returns~~ return electronically.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2021.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 471

SENATE BILL NO. 2152

(Senator Bell)
(Representative Headland)

AN ACT to amend and reenact subsection 49 of section 57-39.2-04 and subsection 24 of section 57-40.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for carbon dioxide used for secure geologic storage; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²⁸ **SECTION 1. AMENDMENT.** Subsection 49 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas or secure geologic storage.

³²⁹ **SECTION 2. AMENDMENT.** Subsection 24 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

24. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas or secure geologic storage.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2021.

Approved March 22, 2021

Filed March 23, 2021

³²⁸ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1351, chapter 472, section 503 of House Bill No. 1247, chapter 352, and section 4 of Senate Bill No. 2226, chapter 199.

³²⁹ Section 57-40.2-04 was also amended by section 2 of House Bill No. 1351, chapter 472.

CHAPTER 472

HOUSE BILL NO. 1351

(Representatives Richter, Dockter, Hatlestad, Magrum)
(Senator Kannianen)

AN ACT to create and enact a new subsection to section 57-39.2-04 and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for sales made to a senior citizen organization; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

330 SECTION 1. A new subsection to section 57-39.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from sales to a senior citizen organization that provides informational, health, welfare, counseling, and referral services for senior citizens in this state if the senior citizen organization:

- a. Is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3);
- b. Is recognized by the secretary of state as a charitable organization; and
- c. Either:
 - (1) Provides services through the aging services division of the department of human services; or
 - (2) Receives grant funds through the department of transportation under the federal transit administration's enhanced mobility of seniors and individuals with disabilities program [49 U.S.C. 5310].

331 SECTION 2. A new subsection to section 57-40.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from sales to a senior citizen organization that provides informational, health, welfare, counseling, and referral services for senior citizens in this state if the senior citizen organization:

- a. Is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3);
- b. Is recognized by the secretary of state as a charitable organization; and

³³⁰ Section 57-39.2-04 was also amended by section 503 of House Bill No. 1247, chapter 352, section 1 of Senate Bill No. 2152, chapter 471, and section 4 of Senate Bill No. 2226, chapter 199.

³³¹ Section 57-40.2-04 was also amended by section 2 of Senate Bill No. 2152, chapter 471.

c. Either:

- (1) Provides services through the aging services division of the department of human services; or
- (2) Receives grant funds through the department of transportation under the federal transit administration's enhanced mobility of seniors and individuals with disabilities program [49 U.S.C. 5310].

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2021.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 473

SENATE BILL NO. 2137

(Senators Myrdal, Oehlke, Patten)
(Representatives Damschen, Mock, Monson)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center.

1. Gross receipts from sales of enterprise information technology equipment and computer software purchased for use by a qualifying business in a qualified data center are exempt from the tax imposed by this chapter. To qualify for the exemption, the enterprise information technology equipment or computer software must be incorporated into or physically located within the qualified data center. Purchases of upgraded or replacement enterprise information technology equipment and computer software for use in a qualified data center also are exempt.
2. The future owner of a proposed data center shall apply to the tax commissioner to be certified as a qualified data center. An applicant shall respond to a request for additional information from the tax commissioner within thirty days of the request or the application may no longer be considered.
3. To receive the exemption at the time of purchase, the qualified business shall obtain from the tax commissioner a certificate that the enterprise information technology equipment or computer software the qualified business intends to purchase qualifies for the exemption. If a certificate is not received before the purchase, the qualified business shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
4. If the enterprise information technology equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the qualified business may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
5. For purposes of this section:

-
- a. "Computer software" includes software used or loaded at a qualified data center, software maintenance, software licensing, and software customization.
- b. "Data center" means a centralized repository for the storage, management, and dissemination of electronic data and information organized around a particular body or bodies of knowledge.
- c. "Enterprise information technology equipment" includes:
- (1) Computer hardware, servers, routers, cooling systems, and cooling towers.
 - (2) Temperature control infrastructure and power infrastructure used for transformation, distribution, or management of electricity used for the maintenance and operation of a qualified data center.
 - (3) Exterior dedicated business-owned substations, backup power generation systems, battery systems, or other related infrastructure.
 - (4) Racking systems, raised flooring, cabling, or trays necessary for the maintenance and operation of a qualified data center.
- d. "Qualified business" means the owner, operator, or tenants of a qualified data center.
- e. "Qualified data center" means a newly constructed or substantially refurbished facility located in this state:
- (1) Comprised of one or more buildings, the primary purpose of which is to contain a data center, consisting of an aggregate amount of fifteen thousand square feet [1394 square meters] or more, no fewer than fifty percent of which is used for data processing;
 - (2) Located on a single parcel or on contiguous parcels;
 - (3) On which construction is completed or which is substantially refurbished after December 31, 2020;
 - (4) Having the following attributes:
 - (a) Sophisticated fire suppression and prevention systems; and
 - (b) Enhanced security with security features including video camera surveillance; an electronic system requiring pass codes, key cards, or biometric scans such as hand scans or retinal or fingerprint recognition to restrict access to selected personnel; or other similar security features; and
 - (5) Certified by the tax commissioner as a qualified data center.
- f. "Substantially refurbished" means a data center used to house enterprise information technology equipment in which fifteen thousand square feet [1394 square meters] or more has been rebuilt, modified, or improved through methods including energy efficiency improvements, building

- improvements, and the installation of enterprise information technology equipment, environmental controls, and computer software.
6. In determining the total square footage of a qualified data center, the square footage of office space, meeting space, mechanical space, and other support facility spaces must be included if those spaces are used to support the operation of enterprise information technology equipment.
 7. Qualified data center owners that intend to collocate operators or tenants within the center shall provide the operators or tenants with documentation from the tax commissioner that the center meets the definition of a qualified data center under this section. Operators or tenants shall obtain and submit a copy of the documentation with all applications for sales tax exemption on information technology equipment and computer software purchased for use in the qualified data center.
 8. By January thirty-first of each year, a qualified data center owner shall file with the tax commissioner, on forms and in the manner prescribed by the tax commissioner, a report showing for the previous calendar year:
 - a. The amount of the exemption claimed under this section;
 - b. The number of jobs created or retained by the qualified data center; and
 - c. The type and value of any local incentives provided to the qualified data center.
 9. 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 subsection 8. This subsection does not authorize disclosure of the qualified data center owner's name, social security number, federal employer identification number, address, or any other information prohibited from disclosure under chapter 57-38.

SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to purchases made after December 31, 2020.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 474

HOUSE BILL NO. 1195

(Representatives Bellew, Louser, D. Ruby, M. Ruby)
(Senator Hogue)

AN ACT to amend and reenact section 57-39.2-10.1 of the North Dakota Century Code, relating to sales tax special events.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-10.1. Responsibilities of special events promoters - Penalty.

1. A promoter or organizer of a special event at which ~~twenty-five~~ or more special event vendors participate shall, within twenty days following a special event, provide to the tax commissioner a list identifying each participating special event vendor. The list must be in the form and manner prescribed by the tax commissioner and must contain the name and sales tax permit number of each special vendor. Records must be retained by the promoter or organizer to the same extent as all transactions involving sales or use tax as provided in section 57-39.2-10. For purposes of this section:
 - a. "Promoter" or "organizer" means a person or entity that organizes or promotes a special event that results in the rental, occupation, or use of a structure, lot, tract of land, motor vehicle, sample or display case, table, or any other similar items for the provision of displays, promotional activities, or sale of tangible personal property or services by special event vendors.
 - b. "Special event" means an entertainment, amusement, recreation, or marketing event that occurs at a single location on a recurring or irregular basis and where sales, displays, or promotional activities occur. Special events include auto shows, boat shows, gun shows, sport shows, knife shows, home shows, craft shows, flea markets, carnivals, circuses, bazaars, fairs, and art or other merchandise displays or exhibits.
 - c. "Special event vendor" means a person or entity making sales, providing displays, or otherwise engaging in promotional activities at a special event.
2. A special event does not include an event that is organized for the exclusive benefit of a nonprofit organization if all of the net proceeds of the retail sales of all vendors at the event inure to the benefit of a nonprofit organization.
3. A promoter or organizer of a special event who fails or refuses to comply with this section may be subject to a penalty of two hundred fifty dollars per event, which amount may be waived by the tax commissioner for good cause shown.
4. Except as otherwise provided in subsection 1, if a promoter or organizer includes a special event vendor in a list previously submitted to the tax commissioner under subsection 1, the promoter or organizer is not required to

include the same special event vendor in a list submitted to the tax commissioner for a subsequent special event held within six months of the first event.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 475

HOUSE BILL NO. 1379

(Representative Marschall)

AN ACT to amend and reenact section 57-39.2-26.1 of the North Dakota Century Code, relating to the timing of state aid distribution fund allocations among political subdivisions; to provide a continuing appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions State aid distribution fund - State treasurer - Continuing appropriation.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are ~~provided as a standing and continuing appropriation~~ appropriated to the state treasurer on a continuing basis and must be allocated monthly as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties ~~in the first month after each quarterly period~~ as provided in this subsection.
 - a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:
 - (1) Thirty-two percent of the amount must be allocated equally among the counties; and
 - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.
 - b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:
 - (1) Forty percent of the amount must be allocated equally among the counties; and

- (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. ~~Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period~~ based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

3. The state treasurer, for the purpose of making revenue allocations to counties and cities for each month of the fiscal year under this section, shall determine the population of counties and cities before the first day of the fiscal year using the most recent actual or estimated census data published by the United States census bureau.

SECTION 2. EFFECTIVE DATE. This Act is effective for net sales, gross receipts, use, and motor vehicle excise tax collections deposited in the state aid distribution fund after June 30, 2021.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 476

HOUSE BILL NO. 1449

(Representatives J. Nelson, Boe, Schmidt)
(Senators Marcellais, Oehlke)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a county aid distribution fund; to provide a continuing appropriation; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

County aid distribution fund - State treasurer - Continuing appropriation.

1. There is created in the state treasury the county aid distribution fund. The fund consists of all moneys transferred to the fund under subsection 2. All moneys in the fund are appropriated to the state treasurer on a continuing basis for the purpose of providing allocations to an eligible county.
2. Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to one-fourth of one percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the county aid distribution fund. The tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the county aid distribution fund as determined under this subsection.
3. At least quarterly, the state treasurer shall allocate the moneys in the fund to the county with the lowest ratio of taxable property values per capita and a population of more than ten thousand.
4. The county treasurer shall deposit all revenues received under this section in the county general fund.
5. For purposes of determining taxable property values under this section, the state treasurer shall use the most recent data published by the tax commissioner in the tax levy report.
6. For purposes of determining the county's population under this section, the state treasurer shall use the most recent actual or estimated census data published by the United States census bureau.

SECTION 2. APPLICATION. This Act applies to net sales, gross receipts, use, and motor vehicle excise tax collections received by the tax commissioner after June 30, 2021.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 2023, and after that date is ineffective.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 477

HOUSE BILL NO. 1309

(Representatives B. Koppelman, Delzer, Dockter, Ertelt, Hatlestad, Headland, Kasper, Kempenich, Schmidt)
(Senators Clemens, Kannianen)

AN ACT to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating to payment of use tax by contractors; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-40.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-03.3. Use tax on contractors.

1. When a contractor or subcontractor uses tangible personal property in the performance of that person's contract, or to fulfill contract or subcontract obligations, whether the title to ~~such~~the property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of ~~such~~the property would be subject to pay the sales or use tax, ~~such~~the contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless ~~such~~the property has been previously subjected to a sales tax or use tax by this state, and the tax due ~~thereon~~ has been paid. This section does not apply to a contractor or subcontractor that does not enter a contract for the purchase of the tangible personal property.
2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.
3. ~~The tax imposed by this section does not apply to medical equipment purchased as tangible personal property by a hospital or by a long-term care facility as defined in section 50-10.1-01 and subsequently installed by a contractor into such hospital or facility.~~
4. The tax imposed by this section does not apply to:
 - a. Production equipment or tangible personal property as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.2;
 - b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;

- c. Tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas-processing facility in this state as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.5;
- d. Tangible personal property used to construct or expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6;
- e. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.10;
- f. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.11;
- g. Materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas as provided in section 57-39.2-04.14; or
- h. Tangible personal property used to construct a qualifying fertilizer or chemical processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.15.
- i. Tangible personal property used to construct a qualified straddle plant, a qualified fractionator, or qualified associated infrastructure as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.16.

SECTION 2. EFFECTIVE DATE. This Act is effective for contracts entered after June 30, 2021.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 478

SENATE BILL NO. 2277

(Senators Rust, Oban, Sorvaag)
(Representatives B. Anderson, M. Johnson, Meier)

AN ACT to create and enact a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to a motor vehicle excise tax exemption for motor vehicles transferred under a divorce decree; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-40.3-04 of the North Dakota Century Code is created and enacted as follows:

Any motor vehicle transferred from an individual to a former spouse of the individual if the transfer is the result of a divorce decree. A transfer of a motor vehicle is the result of a divorce if the transfer occurs within one year after the date the divorce became final.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2021.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 479

HOUSE BILL NO. 1206

(Representatives Mock, Bosch, Dockter, Roers Jones, Vigesaa, Weisz)
(Senators Davison, Piepkorn, Vedaa, Wanzek)

AN ACT to amend and reenact sections 57-40.6-01, 57-40.6-05, and 57-40.6-06, subsection 3 of section 57-40.6-07, subsections 3 and 4 of section 57-40.6-10, sections 57-40.6-12 and 57-40.6-13, and subdivision c of subsection 8 of section 57-40.6-14 of the North Dakota Century Code, relating to emergency services communication systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-40.6-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "911 system" means a set of networks, software applications, databases, call answering components, and operations and management procedures required to provide 911 services.
2. "911 system service provider" means an entity that provides the systems and support necessary to enable 911 calling for one or more public safety answering points in a specific geographic area. A 911 system service provider may provide the systems and support for either enhanced 911 or next generation 9-1-1.
3. "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 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.
- ~~3-4.~~ "Automated notification system" means that portion of a telecommunications system that provides rapid notice of emergency situations to the public.
- ~~4-5.~~ "Commissioner" means the state tax commissioner.
- ~~5-6.~~ "Communication connection" means a telephone access line, wireless access line, unique voice over internet protocol service connection, or functional equivalent uniquely identifiable by a number, internet address, or other designation.
- ~~6-7.~~ "Consumer" means a person who purchases prepaid wireless service in a retail transaction.

- 7-8. "Emergency services communication system" means a comprehensive statewide or countywide system, which provides rapid public access for coordinated dispatching of public safety services. The system includes a 911 system or radio system.
- 8-9. "FCC order" means federal communications commission order 94-102 [961 Federal Register 40348] and any other FCC order that affects the provision of wireless enhanced 911 service.
- 9-10. "Prepaid wireless emergency 911 fee" means the fee that is required to be collected by a seller from a consumer in the amount established under section 57-40.6-14.
- 40-11. "Prepaid wireless service" means any telecommunications service that provides the right to use a mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance and sold in predetermined units or dollars which decline with use in a known amount.
- 44-12. "Prepaid wireless service provider" means any person that provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission.
- 42-13. "Public safety answering point" or "PSAP" means a communications facility or combination of facilities which first receives 911 calls from persons in a 911 service area and which, as appropriate, may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies.
- 43-14. "Public safety answering point service area" means the geographic area for which a public safety answering point has dispatch and emergency communications responsibility.
- 44-15. "Public safety services" means personnel, equipment, and facilities used by law enforcement, fire, medical, or other supporting services used in providing a public safety response to an incident.
- 45-16. "Public safety telecommunicator" means an individual whose primary full-time or part-time duties are receiving, processing, and transmitting public safety information received through an emergency services communication system.
- 46-17. "Radio system" means a set of networks, software applications, databases, radio components and infrastructure, and operations and management procedures required to provide communication services.
- 47-18. "Retail transaction" means the purchase of prepaid wireless service from a seller for any purpose other than resale.
- 48-19. "Seller" means a person who sells prepaid wireless services to a consumer.
- 49-20. "Subscriber service address" means, for purposes of ~~wire-line~~ telephone exchange access service and voice over internet protocol service subscribers, the address where the telephone subscriber's ~~wire-line~~ telephone communication device is used and, for purposes of wireless

subscribers, the place of primary use, as that term is defined in section 57-34.1-02.

20-21. "Telephone access line" means the principal access to the telephone company's switched network, including an outward dialed trunk or access register.

21-22. "Telephone exchange access service" means service to any wire line telephone access line identified by a unique telephone number that provides local wire line access to the telecommunications network to a service subscriber and which enables the subscriber to access the emergency services communications system by dialing the digits 9-1-1 on the subscriber's telephone device.

22-23. "Unpublished" means information that is not published or available from directory assistance.

23-24. "Voice over internet protocol service" means a service that enables real-time two-way voice communications; requires a broadband connection from the user's location; requires internet protocol-compatible customer premises equipment; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

24-25. "Wireless access line" means each active wireless and prepaid wireless telephone number assigned to a commercial mobile radio service subscriber, including end users of resellers.

25-26. "Wireless enhanced 911 service" means the service required to be provided by wireless service providers pursuant to the FCC order.

26-27. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C. 332(d)(1) and includes:

- a. Services commonly referred to as wireless; and
- b. Services provided by any wireless real-time two-way voice communication device, including radio-telephone communications used in:
 - (1) Cellular telephone service;
 - (2) Personal communications service; or
 - (3) The functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, personal communications service, or a network radio access line.

27-28. "Wireless service provider" means any entity authorized by the federal communications commission to provide wireless service within this state.

SECTION 2. AMENDMENT. Section 57-40.6-05 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-05. Restriction on use of fee proceeds.

The governing body ~~may~~ shall use the proceeds of the fee imposed under section 57-40.6-02 ~~solely for implementing, maintaining, or operating the emergency services communication system and may enter into agreements to effectuate the same in accordance with guidelines established by the emergency services communications coordinating committee under duties identified in section 57-40.6-12.~~ The governing body or its designee shall deposit the fee proceeds in a separate fund and keep records to show all expenditures from the fee proceeds.

SECTION 3. AMENDMENT. Section 57-40.6-06 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-06. Database.

Any ~~telephone exchange access~~ assessed communications service provider providing emergency 911 service ~~and whose subscriber's service addresses are provided to a public safety answering point upon delivery of a 911 call~~ shall provide current customer names, addresses, and telephone numbers to each emergency services communication system coordinator, the coordinator's designee, or public safety answering point within each 911 system. Information provided under this section must be provided in accordance with the transactional record disclosure requirements of the federal Electronics Communications Privacy Act of 1986, 18 U.S.C. 2703(c)(1)(B)(iii), and in a manner that identifies the names and telephone numbers that are unpublished. The provider shall report database information regarding new service or a change of service within two business days of the actual service change unless a longer period is permitted by the jurisdiction. The provider shall report database information regarding dropped service at least monthly.

SECTION 4. AMENDMENT. Subsection 3 of section 57-40.6-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A record obtained by a public safety answering point for the purpose of providing services in an emergency which reveals personal information or the identity, ~~address~~ location, or telephone number of a person requesting emergency service or reporting an emergency is exempt from section 44-04-18 and may be redacted from the record before it is released.

³³² **SECTION 5. AMENDMENT.** Subsection 3 of section 57-40.6-10 of the North Dakota Century Code is amended and reenacted as follows:

3. An emergency services communication system coordinator shall:
 - a. Ensure that address and mapping data is updated in the emergency services communication system database and mapping system within thirty days of receipt of notice or request for change;
 - b. Provide for a complete annual review of the emergency services communication system ~~and the~~ 911 database by obtaining current records from the appropriate ~~telecommunications companies~~ 911 system service provider;
 - c. Maintain the law enforcement, fire, and emergency medical service response boundaries for the public safety answering point service area; and

³³² Section 57-40.6-10 was also amended by section 6 of House Bill No. 1206, chapter 479, and section 504 of House Bill No. 1247, chapter 352.

- d. Ensure that the dispatch protocols for emergency service notifications are documented and communicated with all law enforcement, fire, and emergency medical services.

³³³ **SECTION 6. 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~~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, when available, the quickest to arrive to the scene of medical emergencies regardless of city, county, or district boundaries~~emergency medical service to arrive to the scene as predetermined by the emergency services communications system coordinator, with the approval of the state department of health. If the predetermined emergency medical service is not available, the public safety answering point shall dispatch a secondary emergency medical service, based on the best available information at the time. 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.

³³³ Section 57-40.6-10 was also amended by section 5 of House Bill No. 1206, chapter 479, and section 504 of House Bill No. 1247, chapter 352.

- 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~~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~~911 system 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 ~~aduring the~~initial 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~~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) 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; and
 - (6) The handling of text-initiated communications.

SECTION 7. AMENDMENT. Section 57-40.6-12 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-12. Emergency services communications coordinating committee - Membership - Duties.

1. The governing body of a city or county, which adopted a fee on assessed communications services under this chapter, shall make ~~an annual~~ report of the income, expenditures, and status of its emergency services communication system. The ~~annual~~ report must be submitted to the emergency services communications coordinating committee in the format requested by the committee. The committee is composed of four members, one appointed by the North Dakota 911 association, one appointed by the North Dakota association of counties, one appointed by the chief information officer of the state, and one appointed by the adjutant general to represent the division of state radio.
2. The committee shall:
 - a. Recommend to the legislative management changes to the operating standards for emergency services communications, including training or certification standards for dispatchers;
 - b. Develop guidelines regarding the allowable uses of the fee revenue collected under this chapter;
 - c. ~~Request, Biennially, request,~~ receive, and compile reports from each governing body on the use of the proceeds of the fee imposed under this chapter, analyze the reports with respect to the guidelines, file its report with the legislative council by November first of each even-numbered year regarding the use of the fee revenue, and recommend to the legislative assembly the appropriate maximum fee allowed by section 57-40.6-02;
 - d. Periodically evaluate chapter 57-40.6 and recommend changes to the legislative management; and
 - e. Serve as the governmental body to coordinate plans for implementing emergency 911 services and internet protocol enabled emergency applications for 911.
3. The committee may initiate and administer statewide agreements among the governing bodies of the local governmental units with jurisdiction over an emergency 911 telephone system to coordinate the procurement of equipment and services, fund the research, administration, and activities of the committee, and contract for the necessary staff support for committee activities.

SECTION 8. AMENDMENT. Section 57-40.6-13 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-13. Provision of call location information by wireless service provider or prepaid wireless service provider or seller to law enforcement.

1. Upon request of a law enforcement agency or a public safety answering point on behalf of a law enforcement agency, a wireless service provider shall provide call location information concerning the telecommunications device of a user to the requesting law enforcement agency or public safety answering point. A prepaid wireless service provider or seller shall provide such call location information if available. A law enforcement agency or public safety

answering point may not request information under this section unless for the purposes of responding to a call for emergency services or in an emergency situation that involves the risk of death or serious physical harm.

2. A wireless service provider or prepaid wireless service provider or seller may establish protocols by which the carrier voluntarily discloses call location information.
3. A claim for relief may not be brought in any court against any wireless service provider, prepaid wireless service provider or seller, or any other person for providing call location information if acting in good faith and under this section.
4. ~~The bureau of criminal investigation shall obtain contact information from all wireless service providers authorized to do business in this state to facilitate a request from a law enforcement agency or a public safety answering point on behalf of a law enforcement agency for call location information under this section. The bureau shall disseminate the contact information to each public safety answering point in this state.~~

SECTION 9. AMENDMENT. Subdivision c of subsection 8 of section 57-40.6-14 of the North Dakota Century Code is amended and reenacted as follows:

- c. The seller required to collect, report, and remit the prepaid wireless emergency 911 fee imposed under this section ~~shall retain one hundred percent of the amount of fee due to cover the cost of collecting and transmitting the fee to the commissioner beginning with the first three months the seller begins selling prepaid wireless service, or for the first three months after January 1, 2014, if the seller is making retail sales of prepaid wireless services prior to January 1, 2014, and shall thereafter~~may retain three percent of the fee.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 480

HOUSE BILL NO. 1179

(Representatives Dockter, Headland)
(Senator Bell)

AN ACT to amend and reenact section 57-51-15 of the North Dakota Century Code and section 12 of chapter 471 of the 2013 Session Laws, relating to reporting requirements for schools, counties, and hub cities receiving oil and gas gross production tax allocations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

57-51-15. Gross production tax allocation.

The gross production tax must be allocated monthly as follows:

1. The tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer. The state treasurer shall allocate the funding in the following order:
 - a. Eight percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding twenty million dollars per fiscal year.
 - b. Four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding seven million five hundred thousand dollars per fiscal year and not in an amount that would bring the balance in the fund to more than fifty million dollars.
 - c. Any remaining revenues pursuant to subsection 3.
 - d. For purposes of this subsection, "fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
2. The tax revenue collected under this chapter equal to four percent of the gross value at the well of the oil and four-fifths of the tax on gas must be deposited with the state treasurer. The state treasurer shall allocate the funding in the following order:
 - a. The first five million dollars of collections received from a county each fiscal year is allocated to the county.
 - b. The remaining revenue collections received from a county each fiscal year are allocated thirty percent to the county and seventy percent as follows:

- (1) Monthly amounts to the hub city funding pool to provide fifteen million four hundred thousand dollars per fiscal year for the allocations under paragraph 2 of subdivision a of subsection 5.
 - (2) Monthly amounts to the hub city school district funding pool to provide two million one hundred thousand dollars per fiscal year for the allocations under paragraph 3 of subdivision a of subsection 5.
 - (3) Monthly amounts to the supplemental school district funding pool to provide seventy percent of the total amount needed for the allocations under paragraph 4 of subdivision a of subsection 5.
 - (4) Any remaining revenue collections to the state for the state's allocations pursuant to subsection 3.
- c. For purposes of this subsection, "fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.
 4. For a county that received less than five million dollars of allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, revenues allocated to that county must be distributed by the state treasurer as follows:
 - a. Forty-five percent must be distributed to the county treasurer and credited to the county general fund. However, the distribution to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Thirty-five percent must be distributed proportionally to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from distributions under this subdivision.
 - c. Twenty percent must be distributed to the incorporated cities of the county. A hub city must be omitted from distributions under this subdivision. Distributions among cities under this subsection must be proportional based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent

- seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
- d. For purposes of this subsection, "fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
5. For a county that received five million dollars or more of allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, revenues allocated to that county must be distributed by the state treasurer as follows:
- a. A portion of the revenues from each county must be distributed to a hub city funding pool, a hub city school district funding pool, and a supplemental school district funding pool as follows:
- (1) The amount distributed from each county to the funding pools under this subdivision must be proportional to each county's monthly oil and gas gross production tax revenue collections relative to the combined total monthly oil and gas gross production tax revenue collections from all the counties that receive allocations under this subsection.
 - (2) The state treasurer shall distribute, to the hub city funding pool, the monthly amount needed from each county to provide six million six hundred thousand dollars per fiscal year for the allocations under this paragraph.
 - (a) The state treasurer shall allocate monthly amounts from the hub city funding pool to provide a combined total of twenty-two million dollars per fiscal year to all the hub cities, which includes the fifteen million four hundred thousand dollars under paragraph 1 of subdivision b of subsection 2 and the six million six hundred thousand dollars under this paragraph. The monthly allocation to each hub city must be proportional to each hub city's impact percentage score, including fractional percentage points rounded to the nearest tenth of a percent, relative to the combined total of all the hub cities' impact percentage scores.
 - (b) The state treasurer shall calculate the impact percentage score for each hub city by summing the following:
 - [1] The percentage of mining, quarrying, and oil and gas extraction employment relative to the total employment of all industries in the county in which the hub city is located, based on the most recent annual data for all ownership types compiled by job service North Dakota in the quarterly census of employment and wages, multiplied by forty-five hundredths;
 - [2] The average of the percentage of mining, quarrying, and oil and gas extraction employment relative to the total employment of all industries in each county for all the counties in the human service region in which the hub city is located, based on the most recent annual data for all ownership types compiled by job service North Dakota in the quarterly census of employment and wages, multiplied by fifteen hundredths;

- [3] The percentage of establishments engaged in mining, quarrying, and oil and gas extraction relative to the total establishments of all industries in the county in which the hub city is located, based on the most recent annual data for all ownership types compiled by job service North Dakota in the quarterly census of employment and wages, multiplied by one-tenth;
 - [4] The percentage of oil production in the human service region in which the hub city is located relative to the total oil production in all the human service regions with hub cities, based on the most recently available calendar year data compiled by the industrial commission in a report on the historical barrels of oil produced by county, multiplied by one-tenth;
 - [5] The percentage change in population from five years prior for the hub city, based on the most recent actual or estimated census data published by the United States census bureau, multiplied by one-tenth; and
 - [6] The percentage change in population from five years prior for the county in which the hub city is located, based on the most recent actual or estimated census data published by the United States census bureau, multiplied by one-tenth.
- (c) For purposes of this paragraph, "human service region" means the areas designated by the governor's executive order 1978-12 dated October 5, 1978.
- (3) The state treasurer shall distribute, to the hub city school district funding pool, the monthly amount needed from each county to provide nine hundred thousand dollars per fiscal year for the allocations under this paragraph.
 - (a) The state treasurer shall allocate monthly amounts from the hub city school district funding pool to provide a combined total of three million dollars per fiscal year to all the hub city school districts, which includes the two million one hundred thousand dollars under paragraph 2 of subdivision b of subsection 2 and the nine hundred thousand dollars under this paragraph. The monthly allocation to each hub city school districts must be proportional to each hub city school district's impact percentage score, including fractional percentage points rounded to the nearest tenth of a percent, relative to the combined total of all the hub cities' impact percentage scores.
 - (b) For the purpose of determining the impact percentage score for each hub city school district, the state treasurer shall use the same impact percentage score as the corresponding score calculated for each hub city in paragraph 2.
 - (4) The state treasurer shall distribute, to the supplemental school district funding pool, the monthly amount needed from each county to provide for thirty percent of the total allocations under this paragraph. To each county that received more than five million dollars but less than thirty

million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount from the supplemental school district funding pool which will be added to the distributions to school districts under paragraph 2 of subdivision b, as follows:

- (a) To each county that received more than five million dollars but not exceeding ten million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of one million five hundred thousand dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
 - (b) To each county that received more than ten million dollars but not exceeding fifteen million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of one million two hundred fifty thousand dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
 - (c) To each county that received more than fifteen million dollars but not exceeding twenty million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of one million dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
 - (d) To each county that received more than twenty million dollars but not exceeding twenty-five million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of seven hundred fifty thousand dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
 - (e) To each county that received more than twenty-five million dollars but not exceeding thirty million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of five hundred thousand dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
- b. After the distributions in subdivision a, each county's remaining revenues must be distributed as follows:

- (1) Sixty percent must be distributed to the county treasurer and credited to the county general fund. However, the distribution to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - (2) Five percent must be distributed proportionally to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from distributions under this subdivision.
 - (3) Twenty percent must be distributed to the incorporated cities of the county. A hub city must be omitted from distributions under this subdivision. Distributions among cities under this subsection must be proportional based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
 - (4) Four percent must be allocated among the organized and unorganized townships of the county. The state treasurer shall allocate the funds available under this subdivision among townships in proportion to each township's road miles relative to the total township road miles in the county. The amount allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.
 - (5) Nine percent must be distributed among hub cities. The state treasurer shall distribute the funds available under this subdivision in proportion to the amounts the hub cities receive under paragraph 2 of subdivision a.
 - (6) Two percent must be distributed among hub city school districts. The state treasurer shall distribute the funds available under this subdivision in proportion to the amounts the hub city school districts receive under paragraph 3 of subdivision a.
 - (7) For purposes of this subsection, "fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
6. ~~Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:~~
- a. ~~The county's statement of revenues and expenditures;~~

- b. ~~The county's ending fund balances;~~
- c. ~~The amounts allocated under this section to the county's general fund, the amounts expended from these allocations, and the purposes of the expenditures; and~~
- d. ~~The amounts allocated under this section to or for the benefit of townships within the county, the amounts expended from these allocations, and the purposes of the expenditures.~~

~~Within fifteen days after the time when reports under this subsection are due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

- 7. ~~Within thirty days after the end of each fiscal year ended June thirtieth, each school district that has received an allocation under this section shall file a report for the fiscal year ended June thirtieth with the commissioner, in a format prescribed by the commissioner, including:~~
 - a. ~~The school district's statement of revenue and expenditures;~~
 - b. ~~The school district's ending fund balances; and~~
 - c. ~~The amounts allocated under this section to the school district, the amounts expended from these allocations, and the purposes of the expenditures.~~

~~Within fifteen days after the time when reports under this subsection are due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

SECTION 2. AMENDMENT. Section 12 of chapter 471 of the 2013 Session Laws is amended and reenacted as follows:

SECTION 12. HUB CITIES - REPORT TO BUDGET SECTION. A representative of a hub city as defined in section 57-51-01 shall report to the budget section annually on the use of funding received from allocations under section 57-51-15 for the period beginning July 1, 2013, and ending June 30, 2021.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 481

SENATE BILL NO. 2328

(Senators Patten, J. Roers, Schaible)
(Representatives Howe, Mock)

AN ACT to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to a credit for oil produced from a well site using an onsite flare mitigation system; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Temporary exemption - Oil extraction tax credit for gas flaring mitigation.

1. As used in this section:

- a. "Flare mitigation" means the quantity in millions of British thermal units of heat content of gas used by an onsite flare mitigation system. The term does not include the heat content of any gas flared before, during, or after intake by a flare mitigation system.
- b. "Onsite flare mitigation system" means a system at a well site which intakes gas and natural gas liquids from a well, separating and collecting or utilizing over fifty percent of the propane and heavier hydrocarbons, to achieve a reduction of flared thermal intensity through beneficial consumption by:
 - (1) Compressing or liquifying gas for use as fuel or transport to a processing facility;
 - (2) Production of petrochemicals or fertilizer;
 - (3) Conversion to liquid fuels;
 - (4) Conversion to electricity for onsite use or supply to the electrical grid;
 - (5) Conversion to computational power; or
 - (6) Other value-added processes as approved by the industrial commission.
- c. "Qualifying well" means a well on which:
 - (1) If a well site already is connected to a pipeline and pipeline capacity is unavailable on the existing pipeline, the producer and the pipeline operator jointly have filed a sundry with the industrial commission attesting to the lack of existing pipeline takeaway capacity;

6. The tax commissioner may audit the records of the producer and operator of the onsite flare mitigation system to administer this section. The credit allowed may not exceed the liability of the tax under this section.

SECTION 2. APPLICATION. The credit in section 1 of this Act only applies to production from wells located outside the exterior boundaries of the Fort Berthold Reservation unless the Three Affiliated Tribes, through the tribal chair, notifies the tax commissioner in writing that the Three Affiliated Tribes desires to include production from wells from within the boundaries of the exterior boundaries of the Fort Berthold Indian Reservation without altering the provisions of the compact on oil and gas production taxes within the Fort Berthold Reservation. This Act applies to flare mitigation from a qualifying well on which a flare mitigation system is installed between June 30, 2021, and July 1, 2023.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 2023, and after that date is ineffective.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 482

SENATE BILL NO. 2249

(Senators Heitkamp, Heckaman)
(Representatives Ertelt, Louser, Skroch)

AN ACT to amend and reenact section 57-51.1-07.5 of the North Dakota Century Code, relating to deposits of the state's share of oil and gas taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³³⁴ **SECTION 1. AMENDMENT.** Section 57-51.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.5. 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 in the following order:

1. The first two hundred million dollars into the state general fund;
2. The next 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 next two hundred million dollars into the state general fund;
5. The next ten million dollars into the lignite research fund;
6. The next ~~fifteen~~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 ~~fifteen~~twenty million dollars;
7. The next thirty million three hundred seventy-five thousand dollars, or the amount necessary to provide for the distributions under subsection 2 of section 57-51.1-07.7, into the municipal infrastructure fund;
8. The next four hundred million dollars into the strategic investment and improvements fund;
9. An amount equal to the deposit under subsection 7 into the county and township infrastructure fund;
10. The next one hundred sixty-nine million two hundred fifty thousand dollars or the amount necessary to provide a total of two hundred thirty million dollars

³³⁴ Section 57-51.1-07.5 was also amended by section 35 of House Bill No. 1015, chapter 15.

into the funds designated for infrastructure development in non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and fifty percent deposited into the county and township infrastructure fund;

11. The next twenty million dollars into the airport infrastructure fund; and
12. Any additional revenues into the strategic investment and improvements fund.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2021.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 483

SENATE BILL NO. 2319

(Senator Kannianen)

AN ACT to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation trust lands acreage ratio and the on-reservation nontrust lands acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation trust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of trust lands by the total spacing unit acreage. For each reservation, the on-reservation nontrust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of nontrust lands by the total spacing unit acreage. The on-reservation acreage ratios for each reservation are effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratios for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled before July 1, 2019, by reservation, and the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled on or after July 1, 2019, by reservation. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage, an amount equal to:
 - a. Fifty percent of the taxes certified under this section for wells drilled before July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated under subsection 1 for that reservation;
 - b. Fifty percent of the taxes certified under this section for wells drilled before July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated under subsection 1 for that reservation;
 - c. Eighty percent of the taxes certified under this section for wells drilled on or after July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated under subsection 1 for that reservation; and

- d. Twenty percent of the taxes certified under this section for wells drilled on or after July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated under subsection 1 for that reservation.
3. For purposes of this section:
- a. "On-reservation spacing unit acreage" means the mineral acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
- b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
- c. "Total spacing unit acreage" means the total mineral acreage from all spacing units with one or more straddle wells.
4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well, or assesses an additional tax on any well subject to an agreement under chapter 57-51.2, the agreement under chapter 57-51.2 is void and the state treasurer may not distribute any funds to the tribe under this section or chapter 57-51.2.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021.

Approved April 28, 2021

Filed April 28, 2021

CHAPTER 484

HOUSE BILL NO. 1412

(Representatives Delzer, Headland, Pollert)
(Senators Bell, Wardner)

AN ACT to create and enact a new section to chapter 57-60 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities privilege tax and the imposition of a lignite research tax; to amend and reenact section 57-60-02, subsection 1 of section 57-60-14, and section 57-61-01 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; 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 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. Imposition of taxes.

There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. ~~The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen~~

consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.
4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.
5.
 - a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.
 - b. ~~The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.~~
6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.
7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, 2026. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

SECTION 2. A new section to chapter 57-60 of the North Dakota Century Code is created and enacted as follows:

Coal conversion facility tax - Exemption - Lignite research tax - Imposition.

1. Excluding the generation tax imposed under subsection 3 of section 57-60-02, a coal conversion facility is exempt from eighty-five percent of the tax imposed under section 57-60-02 and instead shall pay a lignite research tax equal to eighty-five percent of the tax imposed under section 57-60-02 multiplied by five percent.
2. An electrical generating plant is exempt from the generation tax imposed under subsection 3 of section 57-60-02 and instead shall pay a lignite research tax equal to the tax imposed under subsection 3 of section 57-60-02 multiplied by five percent.

SECTION 3. AMENDMENT. Subsection 1 of section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~The~~At least quarterly, 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, which must be deposited in the state general fund. Five percent of all funds allocated to the state general fund pursuant to this chapter must be allocated to the:
 - a. The lignite research tax collections under section 1 of this Act to the lignite research fund for the purposes under section 57-61-01.5.
 - b. The remaining coal conversion tax collections under section 57-60-02 to the county lignite research fund, for the purposes defined in section 57-61-01.5.

SECTION 4. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner.

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.
2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, 2026. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable production beginning after June 30, 2021.

SECTION 6. EXPIRATION DATE. This Act is effective through June 30, 2026, and after that date is ineffective.

Approved April 22, 2021

Filed April 22, 2021