CHAPTER 57-06
ASSESSMENT AND TAXATION OF PUBLIC UTILITIES

57-06-01. Public utilities subject to chapter.

This chapter governs the assessment of the property of any public utility company defined in section 57-06-02, and of any other company used directly or indirectly in carrying or conveying persons or property, unless the operative property is subject to an in lieu tax in place of a general property tax. This chapter does not apply to the property of any railway or street railway company, nor to the fixtures, buildings, and improvements owned by any cooperative or nonprofit corporation organized under the laws of this state and used by it to furnish potable water to its members and customers for uses other than irrigation of agricultural land, and except as otherwise provided in chapter 57-32, does not apply to the property of any express or air transportation company.

57-06-01.1. Telecommunications service - Exceptions.

Repealed by S.L. 1997, ch. 483, § 15.

57-06-02. Definitions.

As used in this chapter, unless the context and subject matter otherwise clearly require:

1. "Company" includes any individual, copartnership, business trust, corporation, limited liability company, joint-stock company, or association.
2. "Gas company" means a company owning, holding, or operating under lease or otherwise any property in this state for the purpose of furnishing gas, or distributing the same, for public use, by means of pipelines.
3. "Pipeline company" means a company owning, holding, or operating under a lease or otherwise any property in this state for the purpose of transporting crude oil, natural gas, processed gas, manufactured gas, refined petroleum products, or coal and related products for public use.
4. "Power company" means a company owning or holding, under lease or otherwise, any property in this state, including wind turbine electric generation units, and operating it for the purpose of furnishing or distributing electric light, electric power, or steam heat for public use.
5. "Transmission line" means a line to transmit electrical energy which operates at a voltage of forty-one and six-tenths kilovolts or more but does not include a line owned or operated by an agency or instrumentality of the United States government.

57-06-03. Operative property defined.

The term "operative property" means any and all property that is not exempt under this chapter by reason of an election filed under chapter 57-33.2 and which is reasonably necessary for use by any company mentioned in section 57-06-02 exclusively in the operation and conduct of the particular kind of business engaged in by it. Any such property held under a contract for the purchase thereof must be considered for all purposes of taxation as the property of the company holding the same. Any such property, real or personal, held by any company under a rental lease must be assessed by the state board of equalization in the name of such company, if an agreement in writing between the owner thereof and such company is filed with the tax commissioner requesting that such leased property be so assessed. Whenever any property of a public utility company required to be assessed by the state board of equalization under the provisions of this chapter is used partly for operative purposes and partly for other purposes, either by the company or by others, all such property that is not exempt under this chapter by reason of an election filed under chapter 57-33.2 must be assessed by the state board of equalization as operative property of the company. Notwithstanding any other provision of law, all oil or gas pipeline property that is not exempt from ad valorem taxation is subject to assessment by the state board of equalization under this chapter.

57-06-04. Property jointly owned.

When property subject to assessment under the provisions of this chapter is owned jointly by two or more companies, the state board of equalization may assess such property to the company having the control, supervision, and maintenance thereof, or to the owning companies, in proportion to the values of their respective interests therein. Every company, in its return required under this chapter, shall set forth in detail property thus jointly owned so as to show specifically what interest each joint owner has therein. Notice to any company having control, supervision, and maintenance of such jointly owned property is notice to all companies interested therein.

57-06-05. Annual assessment.

The state board of equalization, at its annual meeting in July, shall assess the franchises and all operative property of power, gas, pipeline, and other companies, covered by this chapter, with reference to the value thereof on the first day of January of that year.

57-06-06. Reports of companies.

Each company required to be assessed under the provisions of this chapter annually, on or before the first day of May, under oath of the president or other chief executive officer, and the secretary or treasurer or auditor or superintendent of the company, shall make and file with the tax commissioner, in the manner prescribed by the tax commissioner, a report containing the following information, so far as applicable to the company making the report, as of January first of the year in which the report is furnished:

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

of the line operated for the whole system and in North Dakota shall be separately reported.

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

57-06-07. Additional information from power companies.

Each power company shall report further as follows:

1. Number of miles [kilometers] of pole line in each taxing district in each county in the state, separated and classified as to location and character, as the tax commissioner may require; and
2. Cost of construction of such lines fully equipped, together with the present value per mile [1.61 kilometers] of such lines in each taxing district in each county.

57-06-08. Additional information from gas companies.

Each gas and pipeline company shall report further as follows:

1. The number of miles [kilometers] of pipeline in each taxing district in each county in the state, separated and classified as to location, size, and character as may be required by the tax commissioner; and
2. The cost of construction of such lines, fully equipped, together with the present value per mile [1.61 kilometers] of such lines in each taxing district in each county.

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

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

57-06-09.1. Penalty for continued failure to furnish report.

If any company fails to make the report required under this chapter for three consecutive years, the state board of equalization shall add a penalty of five thousand dollars for each failure to make the required report, which must be collected as a part of the tax.

57-06-10. Plants under construction.

Any property of the classes mentioned in this chapter owned by a company constructing a new plant or system, even though no part of such new plant or system is in operation, must be considered operative property and is subject to assessment and taxation.

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

The tax commissioner, on or before June fifteenth of each year, shall ascertain and determine the value of all operative property of any company required to be assessed under the provisions of this chapter. This determination of value must be made for the guidance of the

state board of equalization in assessing the property at its annual meeting in July. In making the determination of value, the tax commissioner must be governed by the rules provided in this chapter and by direction given to the tax commissioner by the state board of equalization.

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

The tax commissioner shall give ten days' notice in a manner determined by the tax commissioner to each company, or its representative in North Dakota, of the amount of its tentative assessment and the meeting of the state board of equalization on the second Tuesday of July, at which meeting each company is entitled to present evidence before the state board of equalization relating to the value of the property of the company.

57-06-13. General powers of investigation.

In any matter material to the valuation, assessment, or taxation of property under this chapter, the tax commissioner may exercise any and all of the powers conferred upon the tax commissioner by law. Every public officer required to do so shall make return to the tax commissioner, in such form as the tax commissioner prescribes, of all information the tax commissioner may call for. The property, records, books, accounts, and papers of any company required to be assessed under this chapter, upon order of the state board of equalization, are subject to visitation and examination by the tax commissioner or by such person as the tax commissioner designates for that purpose.

57-06-14. Method of valuation.

The operative property of each company assessed under this chapter must be assessed in the following manner:

1. For the purpose of determining the value of the property, the tax commissioner and the state board of equalization shall take into consideration the earning power of the property as shown by its gross earnings and net operating income, the market or actual value of its stocks and bonds, the value of its franchises, rights, and privileges granted under the laws of this state to do business in this state, and any other legally established evidences of value as enable the board to make a just and equitable assessment.
2. In the case of a company that owns or operates properties or lines partly within and partly without this state, the tax commissioner and state board of equalization shall value only the property within this state.
3. In determining the value of the portion within this state of an interconnected, or continuous system, the tax commissioner and state board of equalization may take into consideration the value of the entire system and of the part within this state, the mileage of the whole system and of the part within this state, the total operating earnings within and without this state, together with any other information, facts, and circumstances as will enable the officers to make a just and correct assessment.
4. The board may take into consideration the reports, annual or otherwise, filed by any company required to be assessed under this chapter with the public service commission and shall take into consideration any valuation of such company by the public service commission.

57-06-14.1. Taxation of centrally assessed wind turbine electric generators.

1. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more on which construction is completed before January 1, 2015, must be valued at three percent of assessed value to determine taxable valuation of the property except:
   a. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, for which a purchased power agreement was executed after April 30, 2005, and before January 1, 2006, and construction was completed after April 30, 2005, and before July 1, 2006,

must be valued at one and one-half percent of assessed value to determine taxable valuation of the property; and

b. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after June 30, 2006, and before January 1, 2015, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property.

2. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after December 31, 2014, or which is twenty years or more from the date of first assessment, is subject to taxes in lieu of property taxes, to be determined as provided in subsection 1 of section 57-33.2-04 and subject to any associated administrative provisions of chapter 57-33.2.

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

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

57-06-16. Equalization.

It is the duty of the state board of equalization, in assessing the property of companies required to be assessed under this chapter, to equalize the assessments of the property of the companies in order to bring about, as nearly as possible, equality and uniformity in the assessment of all classes of taxable property.

57-06-17. Allocation of assessment of operative property constituting a single and continuous property.

Repealed by S.L. 2005, ch. 545, § 10.

57-06-17.1. Carbon dioxide pipeline exemption.

Property, not including land, is exempt from taxation during construction and for the first ten full taxable years following initial operation if it consists of a pipeline, constructed after 1996, and necessary associated equipment for the transportation or storage of carbon dioxide for secure geologic storage or use in enhanced recovery of oil or natural gas.

57-06-17.2. Payments in lieu of taxes.

Carbon dioxide pipeline property described in section 57-06-17.1 is subject to payments in lieu of property taxes during the time it is exempt from taxation under section 57-06-17.1. For the purpose of these payments, carbon dioxide pipeline property described in section 57-06-17.1 must be valued annually by the state board of equalization in the manner that other pipeline valuations are certified. The county auditor shall calculate taxes on the carbon dioxide pipeline property described in section 57-06-17.1 in the same manner that taxes are calculated on other pipeline property. Not later than December twenty-sixth of each year, each county auditor shall submit a statement of the amount of taxes that would have been assessed against carbon dioxide pipeline property, exempted under section 57-06-17.1, to the state treasurer for payment. The state treasurer shall make the required payment to each county not later than

March first of the following year, and the county auditor shall distribute the payments to the political subdivisions in which the exempt pipeline property is located. Carbon dioxide pipeline property for which payments in lieu of taxes are required must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.

57-06-17.3. New transmission line property tax exemption.

A transmission line of two hundred thirty kilovolts or larger, and its associated transmission substations, which is not taxable under chapter 57-33.2 and is initially placed in service on or after October 1, 2002, is subject to a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction of a mile. A transmission line subject to taxation under this section is exempt from property taxes for the first taxable year after the line is initially placed in service, and the taxes under this section must be reduced by:

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

After the fourth taxable year of operation of the transmission line, the transmission line and its associated transmission substations are exempt from property taxes and are subject to a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction thereof of the line located in this state. The per mile tax imposed by this section applies to the transmission line and its associated transmission substations and is subject to allocation among counties in the proportion that the miles of that transmission line in the county bears to the miles of that transmission line in the state.

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

57-06-17.4. Pipeline authority exemption.

Property, not including land, is exempt from taxation during construction and for the first ten full taxable years following initial operation if it consists of a pipeline owned by the authority and constructed after 2006, and necessary associated equipment for the transportation or storage of energy-related commodities if constructed under chapter 54-17.7. Pipeline facilities property described in subsection 6 of section 54-17.7-02 is subject to payments in lieu of property taxes during the time it is exempt from taxation. For the purpose of these payments, pipeline facilities property described in subsection 6 of section 54-17.7-02, whether or not it crosses multiple geographic taxing districts, must be valued annually by the state board of equalization and certified in the manner that other pipeline valuations are certified. The county auditor shall calculate taxes on the pipeline facilities property described in subsection 6 of section 54-17.7-02 in the same manner that taxes are calculated on other pipeline property. Not later than December twenty-sixth of each year, each county auditor shall submit a statement of the amount of taxes that would have been assessed against pipeline facilities property exempted under this section to the state treasurer for payment. The state treasurer shall make the required payment to each county not later than March first of the following year, and the county auditor shall distribute the payments to the political subdivisions in which the exempt pipeline facilities property is located.

57-06-17.5. Natural gas pipeline infrastructure to underserved communities - Exemption.

All property, excluding the land on which it is situated, which is part of a natural gas transmission or distribution pipeline system constructed in this state is exempt from taxation for a period of fifteen years following the taxable year in which the pipeline becomes operational. The exemption under this section applies if:

1. Construction of the pipeline commences after January 1, 2023.
2. The pipeline provides service to a city or township located within the state in which the majority of households or businesses did not have access to natural gas service as of January 1, 2023.

3. The pipeline is located within this state.

57-06-18. Allocation of assessment of other operative property.

All lots and parcels of real estate, not including rights of way, with the buildings, structures, and improvements thereon, dams and powerhouses, substations, shops, and other buildings, electric power, electric light, gas, or steam distribution systems, and other personal property not a part of any single and continuous property, must be separately assessed and the assessment must be allocated to the taxing district in which the property is located. The assessment by the state board of equalization covering the property must give a legal description of the real estate and a general description of other property sufficient for identification. The assessment by the board of the operative property must cover the aggregate valuation of the property of any company in any municipality or taxing district of the state as a unit and need not be made in detail.

57-06-19. Certification of assessment.

The state tax commissioner shall certify to the county auditor of each county in which the company assessed owns property the total true and full valuation of the company's property, with information as to the amount in each assessment district within the county.

57-06-20. Duties of county auditor.

The county auditor, after receiving the statement from the tax commissioner, shall enter the valuations mentioned in section 57-06-19 in the assessment record of the several taxing districts of the county into or through which the lines extend, or in which the property is located. Taxes must be extended upon such percentage of full values as is required by law and at the same rate and in the same manner as taxes upon tangible personal property in such taxing districts.

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

1. By January first of each year, the county auditor shall provide to each company required to be assessed under this chapter a current map of the county showing the boundaries of each taxing district in the county.
2. By February fifteenth of each year, each company required to be assessed under this chapter shall file with:
   a. The county auditor of each county within which any part of its operative property is located, a report containing a copy of the information required in subsection 16 of section 57-06-06, subsection 1 of section 57-06-07, and subsection 1 of section 57-06-08. The report must provide a general description of all the company's property located within the county, with operative and nonoperative property listed separately. The report must give the length of the line or lines within the county and the length in each taxing district of each line constituting part of a single and continuous line or property.
   b. The county auditor and the tax commissioner, a map of all the company's lines within the county showing clearly the length of the company's lines within each taxing district as of January first of that year.

57-06-21.1. Verification by county auditor of reports.

By May thirty-first of each year, the county auditor shall verify to the tax commissioner, in the manner and detail prescribed by the tax commissioner, the accuracy of the information filed with the county auditor under subdivision a of subsection 2 of section 57-06-21.

57-06-22. Enforcement of collection.

The property of a company assessed under the provisions of this chapter, for the purposes of assessment and taxation and the collection of taxes, must be considered personal property. The taxes assessed on such property are a perpetual paramount lien upon all the franchises and property, both real and personal, of every kind and nature belonging to the company

assessed from and after the date upon which the assessment is made, and no sale or transfer of such property, or of any part thereof, divests, or in any way affects, the lien for the taxes upon such property. No company which has been assessed and taxed under the provisions of this chapter is entitled to have a transfer of any of its said property by deed, bill of sale, or otherwise entered, filed, or recorded upon the records of the office of the recorder, county treasurer, or county auditor, unless all taxes then due against the said property first are paid and satisfied. All laws not in conflict with the provisions of this chapter, relating to the enforcement of the payment of delinquent personal property taxes, are applicable to all taxes levied on such property pursuant to the provisions of this chapter, and when any taxes levied pursuant to the provisions of this chapter become delinquent, the county treasurer charged with the duty of collecting such delinquent taxes shall proceed to collect the same in the manner now provided by law for the collection of delinquent personal property taxes. If collection is made by seizure and sale, the sale must be at public auction held at the county courthouse.

57-06-23. Deposit of revenue - Report to treasurer.

The commissioner shall transfer revenue collected under section 57-06-17.3 to the state treasurer for deposit in the electric generation, transmission, and distribution tax fund. At the time of the transfer, the commissioner shall provide a report showing the information necessary for the state treasurer to allocate the revenue transferred under this section.

57-06-24. Allocation - Continuing appropriation.

1. The electric generation, transmission, and distribution tax fund is appropriated as a continuing appropriation to the state treasurer for allocation and distribution to counties by April first of each year as provided in this section. The state treasurer shall make the necessary allocations to the counties based on the report received from the tax commissioner. The county auditors shall make the necessary allocations to the taxing districts.
2. Revenue from the tax on transmission lines under section 57-06-17.3 must be allocated among counties based on the mileage of transmission lines within each county. Revenue received by a county under this subsection must be allocated one-third to the county and two-thirds among the county and other taxing districts in the county based on the mileage of that transmission line where that line is located within each taxing district. Revenue from that portion of a transmission line located in more than one taxing district must be allocated among those taxing districts in proportion to the taxing district's most recent property tax mill rates that apply where the transmission line is located.

57-06-25. Delinquent taxes - Penalty.

Taxes under section 57-06-17.3 are due January first for the preceding taxable year and are delinquent if not received by the commissioner by March first following the due date. If any amount of tax imposed by this chapter is not paid on or before March first, or if upon an additional audit additional tax is found to be due, there must be added to the tax due a penalty at the rate of one percent of the tax due for each month or fraction of a month during the first year during which the tax remains unpaid, computed from March first. Beginning on January first of the year following the year in which the taxes become due and payable, simple interest at the rate of twelve percent per annum upon the principal of the unpaid taxes must be charged until the taxes and penalties are paid, with the interest charges to be prorated to the nearest full month for a fractional year of delinquency.