

TAXATION

CHAPTER 527

HOUSE BILL NO. 1158

(Representatives Headland, Bosch, Dockter, Grueneich, Hagert, Heinert)
(Senators Axtman, Conley, Kannianen, Meyer, K. Roers, Wanzek)

AN ACT to create and enact two new sections to chapter 57-02 of the North Dakota Century Code, relating to a property tax credit for property used as a primary residence; to amend and reenact subsection 1 of section 57-02-08.1 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to the homestead tax credit and income tax rates for individuals, estates, and trusts; to provide for a legislative management study; to provide for a legislative management report; to provide an appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.
- b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.
- c. The exemption must be determined according to the following schedule:
 - (1) If the person's income is not in excess of ~~twenty-two~~forty thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~five~~nine thousand ~~six hundred twenty-five~~ dollars of taxable valuation.
 - (2) If the person's income is in excess of ~~twenty-two~~forty thousand dollars and not in excess of ~~twenty-six~~seventy thousand dollars, a reduction of ~~eighty~~fifty percent of the taxable valuation of the person's homestead up to a maximum reduction of four thousand five hundred dollars of taxable valuation.

- ~~(3) If the person's income is in excess of twenty-six thousand dollars and not in excess of thirty thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of three thousand three hundred seventy-five dollars of taxable valuation.~~
- ~~(4) If the person's income is in excess of thirty thousand dollars and not in excess of thirty-four thousand dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand two hundred fifty dollars of taxable valuation.~~
- ~~(5) If the person's income is in excess of thirty-four thousand dollars and not in excess of thirty-eight thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand one hundred twenty-five dollars of taxable valuation.~~
- ~~(6) If the person's income is in excess of thirty-eight thousand dollars and not in excess of forty-two thousand dollars, a reduction of ten percent of the taxable valuation of the person's homestead up to a maximum reduction of five hundred sixty-three dollars of taxable valuation.~~
- d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are co-owners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.
- e. This subsection does not reduce the liability of any person for special assessments levied upon any property.
- f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility. Any income information contained in the statement of facts is a confidential record.
- ~~g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person exceeds five hundred thousand dollars, including the value of any assets divested within the last three years.~~
- h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.
- ~~i-h. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.~~

SECTION 2. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Primary residence credit - Qualification - Application.

1. An individual is entitled to a credit of five hundred dollars against the property tax due on the individual's primary residence. The credit may not exceed the amount of property tax due. The credit must be applied to reduce the property

tax owed on the individual's primary residence after other exemptions or credits under this chapter have been applied.

2. For purposes of this section, "primary residence" means a dwelling in this state owned and occupied by an individual as that individual's primary place of residence and includes residences taxed under chapter 57-55. An individual may not have more than one primary residence.
3. An individual who does not reside in the primary residence in this state is eligible for the credit under this section if the individual's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the primary residence previously occupied by the individual is not rented to another individual.
4. Only one credit under this section may be applied against the property taxes levied against any primary residence.
5. An individual whose primary residence is a farm structure exempt from taxation under subsection 15 of section 57-02-08 is not eligible for a credit under this section.
6. The credit may not reduce the liability for special assessments levied upon any property.
7. To apply for a credit under this section, an applicant shall sign and file with the tax commissioner, by April first of each year, an application containing a verified statement of facts establishing the applicant's eligibility as of the date of the claim on a form and in the manner prescribed by the tax commissioner.
8. The tax commissioner, in consultation with the county auditors, shall prescribe, design, and make available all forms necessary to effectuate this section. The tax commissioner shall make these forms available upon request.

SECTION 3. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Primary residence credit - Certification - Distribution.

1. By June first of each year, the tax commissioner shall:
 - a. Review the applications received under section 2 of this Act and determine which applicants qualify for the credit allowed under section 2 of this Act; and
 - b. Provide to each county auditor:
 - (1) A copy of each approved application under subdivision a which identifies a primary residence located in the county; and
 - (2) The sum of the credits allowed under section 2 of this Act in the county for the current taxable year.
2. The county auditor shall apply the credit under section 2 of this Act to each primary residence identified by the tax commissioner as a qualifying primary residence on the corresponding property tax statement.

3. By January first of each year, the county auditor shall certify to the tax commissioner the sum of the credits approved by the tax commissioner under subsection 1 which were applied toward property taxes owed on primary residences in the county for the preceding year.
4. By June first of each year after 2024, the tax commissioner shall review a sampling of information provided by the county auditor to verify the accuracy of the application of the credit and certify to the state treasurer for payment to each county the aggregate dollar amount of credits allowed under section 2 of this Act in each county for the preceding year.
5. Within fourteen days of receiving the payment from the state treasurer, but no later than June thirtieth of each year after 2024, the county treasurer shall apportion and distribute the payment to the county and to the taxing districts of the county on the same basis as property taxes for the preceding year were apportioned and distributed.
6. Supplemental certifications by the county auditor and the tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make corrections necessary because of errors.
7. The county auditors shall provide information requested by the tax commissioner to effectuate this section.
8. The tax commissioner shall prescribe, design, and make available all forms necessary to effectuate this section.

²⁹⁵ **SECTION 4. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.
 - a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$37,450	4.10%	\$0

²⁹⁵ Section 57-38-30.3 was also amended by section 3 of House Bill No. 1168, chapter 539, and section 3 of House Bill No. 1176, chapter 542, and section 2 of House Bill No. 1383, chapter 541, section 1 of Senate Bill No. 2147, chapter 545, and section 1 of Senate Bill No. 2293, chapter 544.

\$37,450	\$90,750	\$411.95 + 2.04%	\$37,450
\$90,750	\$189,300	\$1,499.27 + 2.27%	\$90,750
\$189,300	\$411,500	\$3,736.36 + 2.64%	\$189,300
\$411,500		\$9,602.44 + 2.90%	\$411,500
\$0	\$44,725	\$0.00 + 0.00%	\$0
\$44,725	\$225,975	\$0.00 + 1.95%	\$44,725
\$225,975		\$3,534.38 + 2.50%	\$225,975

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$62,600	1.10%	\$0
\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600
\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200
\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450
\$411,500		\$9,074.74 + 2.90%	\$411,500
\$0	\$74,750	\$0.00 + 0.00%	\$0
\$74,750	\$275,100	\$0.00 + 1.95%	\$74,750
\$275,100		\$3,906.83 + 2.50%	\$275,100

c. Married filing separately.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$31,300	1.10%	\$0
\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300
\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600
\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225
\$205,750		\$4,537.37 + 2.90%	\$205,750
\$0	\$37,375	\$0.00 + 0.00%	\$0
\$37,375	\$137,550	\$0.00 + 1.95%	\$37,375
\$137,550		\$1,953.41 + 2.50%	\$137,550

d. Head of household.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$50,200	1.10%	\$0
\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200
\$129,600	\$209,850	\$2,171.96 + 2.27%	\$129,600
\$209,850	\$411,500	\$3,993.64 + 2.64%	\$209,850
\$411,500		\$9,317.20 + 2.90%	\$411,500
\$0	\$59,950	\$0.00 + 0.00%	\$0
\$59,950	\$250,550	\$0.00 + 1.95%	\$59,950
\$250,550		\$3,716.70 + 2.50%	\$250,550

e. Estates and trusts.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$2,500	1.10%	\$0
\$2,500	\$5,900	\$27.50 + 2.04%	\$2,500
\$5,900	\$9,050	\$96.86 + 2.27%	\$5,900
\$9,050	\$12,300	\$168.37 + 2.64%	\$9,050
\$12,300		\$254.17 + 2.90%	\$12,300
\$0	\$3,000	\$0.00 + 0.00%	\$0
\$3,000	\$10,750	\$0.00 + 1.95%	\$3,000
\$10,750		\$151.13 + 2.50%	\$10,750

- f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:
- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
 - (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 5. LEGISLATIVE TAX RELIEF ADVISORY COMMITTEE - TAX RELIEF STUDY - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2023-24 interim, the legislative management shall appoint a legislative tax relief advisory committee.
2. The committee must consist of three members of the finance and taxation standing committee of the house of representatives and three members of the finance and taxation standing committee of the senate, appointed by the respective majority leaders of the house of representatives and senate. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedures governing the operation of other legislative management interim committees.
3. The committee shall study tax relief, including income and property tax relief.
 - a. Based on information provided by the tax department, the study must include consideration of:
 - (1) Historical income and property tax relief provided by the legislative assembly, including the estimated and actual fiscal impact of the tax relief;

- (2) An analysis of the tax relief provided by the sixty-eighth legislative assembly through individual income tax rate changes, a primary residence credit, and an expansion of the homestead credit, including the estimated fiscal impact for each method of tax relief and the effect of the income tax rate changes on passthrough income related to income reported on K-1 forms and royalty income reported on 1099-MISC forms;
 - (3) Options to implement a flat individual income tax rate, including the estimated fiscal impact of the options;
 - (4) Options to adjust the individual income tax structure, including the estimated fiscal impact of the options; and
 - (5) An update on the progress of implementing the primary residence credit, including the status of information technology changes and the amount spent on advertising the credit.
- b. The committee may consider input from local taxing districts regarding the administration of the primary residence credit and the homestead credit.
 - c. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 6. APPROPRIATION - TAX COMMISSIONER - PROPERTY TAX RELIEF - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$158,225,000, or so much of the sum as may be necessary, to the tax commissioner for property tax relief programs during the biennium beginning July 1, 2023, and ending June 30, 2025, as follows:

1. \$103,225,000 for paying the state reimbursement under the primary residence credit;
2. \$53,500,000 for paying the state reimbursement under the homestead credit; and
3. \$1,500,000, which is considered a one-time funding item, for operating expenses related to information technology and advertising costs for the primary residence credit.

SECTION 7. EFFECTIVE DATE - EXPIRATION DATE. Section 2 of this Act is effective for the first two taxable years beginning after December 31, 2023, and after that date is ineffective.

SECTION 8. EFFECTIVE DATE. Sections 1 and 4 of this Act are effective for taxable years beginning after December 31, 2022. Section 3 of this Act becomes effective on April 1, 2024.

SECTION 9. EXPIRATION DATE. Section 3 of this Act is effective through June 30, 2026, and after that date is ineffective.

Approved April 27, 2023

Filed April 27, 2023

CHAPTER 528

HOUSE BILL NO. 1438

(Representatives Bellew, Nelson, Sanford, Strinden, Vigesaa)
(Senator Estenson)

AN ACT to amend and reenact subsection 8 of section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for buildings and land belonging to institutions of public charity; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁶ **SECTION 1. AMENDMENT.** Subsection 8 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

8. ~~All buildings~~Buildings and land belonging to institutions of public charity, including public hospitals and nursing homes licensed pursuant to section 23-16-01 under the control of religious or charitable institutions, as provided in this subsection. The exemption under this subsection includes:
 - a. ~~Buildings~~ used wholly or in part for public charity, together with the land actually occupied by ~~such~~the institutions not leased or otherwise used with a view to profit. ~~The exemption provided by this subsection includes any~~
 - b. ~~Up to fifty acres of undeveloped land owned by a public hospital or nursing home licensed pursuant to section 23-16-01 under the control of a religious or charitable institution for the purpose of a future building belonging to the public hospital or nursing home. The exemption under this subdivision expires ten years after the taxable year in which the property was acquired by the public hospital or nursing home if construction improvements to accommodate a building belonging to the public hospital or nursing home have not commenced. For purposes of this subdivision, "undeveloped land" includes land undergoing construction or containing improvements to accommodate a building belonging to a public hospital or nursing home licensed pursuant to section 23-16-01 under the control of a religious or charitable institution before the building is completed and suitable for use.~~
 - c. ~~A~~ dormitory, dwelling, or residential-type structure, together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code which is occupied by members of said organization who are subject to a religious vow of poverty and devote and donate substantially all of their time to the religious or charitable activities of the owner.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.

²⁹⁶ Section 57-02-08 was also amended by section 1 of House Bill No. 1439, chapter 529.

Approved April 26, 2023

Filed April 26, 2023

CHAPTER 529

HOUSE BILL NO. 1439

(Representatives Bellew, Fisher, Karls, Koppelman, 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; to provide for application; and to provide a retroactive effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁷ **SECTION 1. AMENDMENT.** Subsection 9 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

9. a. The land and any buildings on a parcel on which a church building is located, and which is owned by a religious corporation or organization and used predominantly for the religious purposes of the organization, must be deemed to be property used exclusively for religious purposes, and exempt from taxation. 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, minister, or other clergy 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.
- c. Up to twenty acres [8.09 hectares] of undeveloped land owned by a religious corporation or organization for the purpose of a future church building or buildings or parsonage and residence as provided in subdivision b 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 or parsonage and residence have not commenced. For purposes of this subdivision, "undeveloped land" includes land undergoing construction or containing improvements to accommodate a future church building or parsonage and residence as provided in subdivision b before the building or parsonage and residence is completed and suitable for use.
- 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 another otherwise tax-exempt corporation or organization, provided no profit is realized from the rent.

²⁹⁷ Section 57-02-08 was also amended by section 1 of House Bill No. 1438, chapter 528.

SECTION 2. RETROACTIVE EFFECTIVE DATE - APPLICATION. This Act is retroactively effective and applies for taxable years beginning after December 31, 2020. The limitation on time for filing an abatement claim under section 57-23-04 does not apply to refunds of taxes paid or cancellation of taxes levied for taxable year 2021 or 2022 on property exempt from taxation under this Act. The board of county commissioners shall direct refund of taxes paid or cancellation of taxes levied on property exempt from taxation under this Act.

Approved April 21, 2023

Filed April 24, 2023

CHAPTER 530

HOUSE BILL NO. 1057

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

AN ACT to amend and reenact subsection 6 of section 11-18-02.2, section 57-02-51, subsection 14 of section 57-36-01, and sections 57-39.2-17 and 57-51-02.2 of the North Dakota Century Code, relating to statements of full consideration, notice of township and city equalization meetings, the definition of snuff, service of notice for sales and use tax purposes, and notice of the gas base rate adjustment and gas production tax rate; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 11-18-02.2 of the North Dakota Century Code is amended and reenacted as follows:

6. This section does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
 - a. Property owned or used by public utilities.
 - b. Property classified as personal property.
 - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
 - d. A sale that resulted as a settlement of an estate.
 - e. All forced sales, mortgage foreclosures, and tax sales.
 - f. All sales to or from religious, charitable, or nonprofit organizations.
 - g. All sales when there is an indicated change of use by the new owners.
 - h. All transfer of ownership of property for which is given a quitclaim deed.
 - i. Sales of property not assessable by law.
 - j. Agricultural lands of less than eighty acres [32.37 hectares].
 - k. ~~A transfer that is pursuant to a judgment.~~

SECTION 2. AMENDMENT. Section 57-02-51 of the North Dakota Century Code is amended and reenacted as follows:

57-02-51. Notice of township and city equalization meetings to be published - Date of equalization meeting.

Each year the county auditor shall publish in the official county newspaper for two successive weeks, a notice that proceedings for the equalization of assessments will

be held by the several local equalization boards. The first publication of the notice may not be earlier ~~more~~ than ~~March first~~ forty-five days before the date of the equalization proceedings and the second publication may not be later than ~~March twentieth~~ less than fourteen days before the equalization proceedings. The notice must contain a statement that the proceedings will be held at the regular meeting place of the governing board or other place designated by that board of the township or city, as the case may be. The notice must also contain a statement that each taxpayer has the right to appear before the appropriate board of review or equalization and petition for correction of the taxpayer's assessment. The equalization proceedings in an organized township and a city must be held within the first fifteen days of April and the equalization proceedings in an organized township must be held in the month of April.

²⁹⁸ **SECTION 3. AMENDMENT.** Subsection 14 of section 57-36-01 of the North Dakota Century Code is amended and reenacted as follows:

14. "Snuff" means any finely cut, ground, or powdered tobacco that is intended to be placed in the mouth or nose.

SECTION 4. AMENDMENT. Section 57-39.2-17 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-17. Service of notice.

Any notice, ~~except notice of appeals,~~ authorized or required under the provisions of this chapter may be given by mailing the ~~same~~ notice to the person for whom it is intended by registered or certified ~~first-class~~ mail with proof of mailing addressed to ~~such~~ the person at the address given in the last return filed by that person pursuant ~~to~~ under the provisions of this chapter, or if no return has been filed, then ~~such~~ by mailing the notice to the person's last known address as may be obtainable with proof of mailing. ~~The mailing~~ Mailing of such ~~the notice in the manner prescribed by this section is presumptive evidence of the receipt of the same~~ the notice was received by the person to whom the notice is addressed. Any period of time which is determined according to the provisions of this chapter by giving of notice commences to run from ~~the date of registration and posting of such notice.~~

SECTION 5. AMENDMENT. Section 57-51-02.2 of the North Dakota Century Code is amended and reenacted as follows:

57-51-02.2. Gross production tax - Gas.

A gross production tax is levied upon all gas produced within North Dakota except gas that is exempt from taxation. The tax levied must attach to the whole production, including the royalty interest. The tax on gas must be calculated by taking the taxable production in mcf times the gas tax rate.

1. The gas tax rate is four cents times the gas base rate adjustment for each fiscal year as calculated under subsection 2.
2. a. The tax department shall annually determine the gas base rate adjustment and the resulting gas tax rate for each fiscal year beginning on July first.
- b. The gas base rate adjustment for the fiscal year is a fraction, the numerator of which is the annual average of the gas fuels producer price

²⁹⁸ Section 57-36-01 was also amended by section 1 of House Bill No. 1412, chapter 537.

- index, commodity code 05-3, as calculated and published by the United States department of labor, bureau of labor statistics, for the previous calendar year, and the denominator of which is seventy-five and seven-tenths.
- c. The tax department shall provide the gas base rate adjustment and the gas tax rate for the fiscal year, as determined under this subsection, to affected producers ~~by written notice mailed on or before June first~~ by posting the notice on the tax department's website.
 - d. If the index used to determine the gas base rate adjustment is substantially revised, or if the base year for the index is changed, the department by administrative rule shall make appropriate adjustment to the method used to determine the gas base rate adjustment to ensure a result which is reasonably consistent with the result which would have been obtained had the index not been revised or the base year changed.
 - e. If the gas fuels producer price index is discontinued, a comparable index must be adopted by the department by an administrative rule.

SECTION 6. EFFECTIVE DATE. Sections 4 and 5 of this Act are effective for notices issued after June 30, 2023.

Approved April 12, 2023

Filed April 13, 2023

CHAPTER 531

HOUSE BILL NO. 1170

(Representatives Headland, Hagert, Mitskog, Nathe, Nelson, Porter, Stemen,
Vigesaa)
(Senators Kannianen, Patten, Sorvaag, Wanzek)

AN ACT to create and enact a new section to chapter 57-06 of the North Dakota Century Code, relating to a property tax exemption for certain natural gas pipeline property; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-06 of the North Dakota Century Code is created and enacted as follows:

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.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.

Approved April 20, 2023

Filed April 21, 2023

CHAPTER 532

HOUSE BILL NO. 1212

(Representatives Schreiber-Beck, McLeod, Mitskog, O'Brien, Pyle)
(Senators Hogan, Lee, K. Roers)

AN ACT to amend and reenact subsection 1 of section 15-10-18.2, subdivision j of subsection 2 of section 39-04-18, subsection 1 of section 57-02-08.8, and subsection 1 of section 57-40.3-04 of the North Dakota Century Code, relating to benefits for surviving spouses of disabled veterans; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-10-18.2 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dependent" for purposes of section 15-10-18.3 means:
 - a. A child, stepchild, spouse, widow, or widower of a resident veteran, as "veteran" is defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, 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, died from service-connected disabilities, was a prisoner of war, or was declared missing in action;
 - b. A child, stepchild, spouse, widow, or widower of a veteran, as defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, 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, died from service-connected disabilities, was a prisoner of war, or was declared missing in action, provided the spouse, widow, or widower, or the child's or stepchild's other parent, has been a resident of this state and was a resident of this state at the time of death or determination of total disability of the veteran; or
 - c. A child, stepchild, spouse, widow, or widower of a veteran, as defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, 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, died from service-connected disabilities, was a prisoner of war, or was declared missing in action, provided the spouse, widow, or widower, or the child's or stepchild's other parent, establishes residency in this state and maintains that residency for a period of five years immediately preceding the spouse's, widow's,

widower's, child's, or stepchild's enrollment at an institution under the control of the state board of higher education; or

- d. A widow or widower of a veteran, as defined in section 37-01-40, who is receiving United States department of veterans affairs dependency and indemnity compensation and satisfies the residency requirement in subdivision a, b, or c. For purposes of this subdivision, sufficient proof of receipt of United States department of veterans affairs dependency and indemnity compensation includes correspondence directed to a qualifying veteran's widow or widower by the United States department of veterans affairs which indicates the widow or widower is a survivor of the qualifying veteran and is in receipt of United States department of veterans affairs dependency and indemnity compensation.

For purposes of this subsection, if the determination of disability or service-connected death occurs subsequent to the qualifying veteran's death through application of a law that renders a surviving spouse of a qualifying veteran eligible for United States department of veterans' affairs disability and indemnity compensation, the determination for purposes of qualification as a dependent under this subsection is presumed to precede the veteran's death.

SECTION 2. AMENDMENT. Subdivision j of subsection 2 of section 39-04-18 of the North Dakota Century Code is amended and reenacted as follows:

- j. Motor vehicles not exceeding twenty-six thousand pounds [11793.40 kilograms] registered gross weight owned and operated by a disabled veteran under the provisions of Public Law 79-663 [38 U.S.C. 3901], a disabled veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs, 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 is entitled to display either a distinctive license plate or a standard plate that does not identify the veteran as a veteran or disabled veteran which is issued by the department at no cost to the qualifying veteran or surviving spouse or any other distinctive or vanity plate purchased from the department by the qualifying veteran or surviving spouse. This exemption applies to no more than two such motor vehicles owned by a disabled veteran at any one time. A surviving spouse of a disabled veteran ~~who has not remarried and~~ who is receiving United States department of veterans'~~veterans~~ affairs dependency and indemnity compensation ~~retains~~ is eligible for the exemption ~~of the deceased veteran who qualified~~ under this subdivision for one vehicle. If the determination of disability or service-connected death occurs subsequent to the qualifying veteran's death through application of a law that renders a surviving spouse of a qualifying veteran eligible for United States department of veterans affairs disability and indemnity compensation, the determination for purposes of the exemption under this subdivision is presumed to precede the veteran's death. Sufficient proof of receipt of United States department of veterans affairs dependency and indemnity compensation includes correspondence directed to a surviving spouse of a qualifying veteran by the United States department of veterans affairs which indicates the surviving spouse is a survivor of the qualifying veteran and is in receipt of United States department of veterans affairs dependency and indemnity compensation.

SECTION 3. AMENDMENT. Subsection 1 of section 57-02-08.8 of the North Dakota Century Code is amended and reenacted as follows:

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 eight 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~~A surviving spouse who is receiving United States department of veterans'~~veterans'~~ affairs dependency and indemnity compensation receives a one hundred percent credit as described in this subsection. If the determination of disability or service-connected death occurs subsequent to the qualifying veteran's death through application of a law that renders a surviving spouse of a qualifying veteran eligible for United States department of veterans affairs disability and indemnity compensation, the determination for purposes of the credit under this subsection is presumed to precede the veteran's death. Sufficient proof of receipt of United States department of veterans affairs dependency and indemnity compensation includes correspondence directed to a surviving spouse of a qualifying veteran by the United States department of veterans affairs which indicates the surviving spouse is a survivor of the qualifying veteran and is in receipt of United States department of veterans affairs dependency and indemnity compensation.

²⁹⁹ **SECTION 4. AMENDMENT.** Subsection 1 of section 57-40.3-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Any motor vehicle acquired by, or leased and in the possession of, a resident disabled veteran under the provisions of Pub. L. 79-663 [38 U.S.C. 3901], a resident disabled veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs, or a resident 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 registers, or is eligible to register, the vehicle with a distinctive license plate issued by the department of transportation under subdivision j of subsection 2 of section 39-04-18. ~~An unremarried~~A surviving spouse who is receiving United States department of veterans'~~veterans'~~ affairs dependency and indemnity compensation ~~retains~~ is eligible for the exemption of the deceased, qualifying veteran in this subsection. If the determination of disability or service-connected death occurs subsequent to the qualifying veteran's death through application of a law that renders a surviving spouse of a qualifying veteran eligible for United States department of veterans affairs disability and indemnity compensation, the determination for purposes of the exemption under this subsection is presumed to precede the veteran's death. Sufficient proof of receipt of United States department of veterans affairs dependency

²⁹⁹ Section 57-40.3-04 was also amended by section 1 of House Bill No. 1223, chapter 553.

and indemnity compensation includes correspondence directed to a surviving spouse of a qualifying veteran by the United States department of veterans affairs which indicates the surviving spouse is a survivor of the qualifying veteran and is in receipt of United States department of veterans affairs dependency and indemnity compensation.

SECTION 5. EFFECTIVE DATE. Section 3 of this Act is effective for taxable years beginning after December 31, 2022. Section 4 of this Act is effective for taxable events occurring after June 30, 2023.

Approved April 11, 2023

Filed April 12, 2023

CHAPTER 533

HOUSE BILL NO. 1245

(Representatives Headland, Kasper, Nathe, D. Ruby)
(Senators Kannianen, Weber)

AN ACT to amend and reenact sections 57-15-01 and 57-15-30.2 of the North Dakota Century Code, relating to communication of property tax levies with the public and financial reporting to the state auditor; to provide for the tax commissioner to study property tax transparency; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-01 of the North Dakota Century Code is amended and reenacted as follows:

57-15-01. Levy in specific amounts - Exceptions.

With the exception of special assessment taxes and such general taxes as may be definitely fixed by law, all state, county, city, township, school district, and park district taxes must be levied or voted in specific amounts of money. For purposes of communicating with the public and comparing the amount levied in the current taxable year to the amount levied in the preceding taxable year, taxing districts shall express levies in terms of dollars rather than mills.

SECTION 2. AMENDMENT. Section 57-15-30.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-30.2. Financial reporting requirements for taxing entities - County auditor - State auditor.

1. The governing body of any county, city, township, school district, park district, recreation service district, rural fire protection district, rural ambulance service district, soil conservation district, conservancy district, water authority, or any other taxing entity authorized to levy property taxes or have property taxes levied on its behalf, in the year for which the levy will apply, shall file with the county auditor of each county in which the taxing entity is located, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund or account held by the taxing entity during that year.
2. By March first of each year, the county auditor of each county shall provide to the state auditor in an electronic format a financial report showing the ending balances of the county general fund and county road and bridge fund for the preceding calendar year, including the amount in each fund which is committed for a specific use. The county auditor shall provide the report to the state auditor regardless of whether an audit is complete.

SECTION 3. TAX COMMISSIONER STUDY - PROPERTY TAX TRANSPARENCY - LEGISLATIVE MANAGEMENT REPORT.

1. During the 2023-24 interim, the tax commissioner, state supervisor of assessments, and the chairmen of the finance and taxation standing committees of the house of representatives and the senate shall conduct a property tax transparency study. The study must be conducted in consultation with city and county organizations, including county auditors and county directors of tax equalization. The study must include consideration of the following:
 - a. Historical changes in property valuations, mill rates levied, and impacts on citizens' tax burdens in each taxing jurisdiction, including development of an effective mechanism to make the information available to the public;
 - b. Creation of a new uniform property tax statement form to increase transparency in property taxation;
 - c. Feasibility and desirability of transitioning counties to a uniform system of collecting and reporting property tax information, including the process to transition counties to a uniform chart of accounts, implementation and administration of a uniform chart of accounts, and the associated costs; and
 - d. Feasibility and desirability of implementation of a statewide property tax information system and the associated costs.
2. Before June 1, 2024, the tax commissioner, state supervisor of assessments, and the chairmen of the finance and taxation standing committees of the house of representatives and the senate shall report their findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management.

Approved April 10, 2023

Filed April 11, 2023

CHAPTER 534

SENATE BILL NO. 2121

(Senators Weber, Dwyer, Patten)
(Representatives Dockter, Pyle, Steiner)

AN ACT to amend and reenact subsection 2 of section 57-15-02.2 of the North Dakota Century Code, relating to the required content of the estimated property tax and budget hearing notice.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 57-15-02.2 of the North Dakota Century Code is amended and reenacted as follows:

2. By August thirty-first of each year the county treasurer shall provide a written notice to the owner of each parcel of taxable property with a total estimated property tax of at least one hundred dollars. The text of the notice must contain:
 - a. The date, time, and location of the public budget hearing for each of the taxing districts in which the property owner's parcel is located, which anticipate levying in excess of one hundred thousand dollars in the current year, and the location at which the taxing district's budget is available for review;
 - b. The true and full value of the property based on the best information available;
 - c. A column showing the actual property tax levy in dollars against the parcel by the taxing district that levied taxes against the parcel in the immediately preceding taxable year and a column showing the estimated property tax levy in dollars against the parcel by the taxing district levying tax in the taxable year for which the notice applies based on the preliminary budget statements of all taxing jurisdictions;
 - d. A column indicating the difference between the taxing district's total levy from the previous year and the taxing district's estimated levy with the word "INCREASE" printed in boldface type if the proposed tax levy is larger in dollars than the levy in dollars in the previous year;
 - e. Information identifying the estimated property tax savings that will be provided pursuant to section 57-20-07.1 based on the best information available; and
 - f. A statement that there will be an opportunity for citizens to present oral or written comments regarding each taxing district's property tax levy; and
 - g. The actual amount of the special assessment installment payable against the parcel in the immediately preceding taxable year.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 535

SENATE BILL NO. 2178

(Senators Kannianen, Kessel, Rust)
(Representatives Fegley, Hatlestad, Longmuir)

AN ACT to amend and reenact section 57-15-19.2 of the North Dakota Century Code, relating to township special road fund limitations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-19.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-19.2. Township supervisors authority to transfer funds into special road fund - Limitations - Use.

The board of supervisors, at the time of the annual township meeting, upon resolution, may transfer or set aside a part or all of any funds into a special road fund, which fund must be separate and distinct from all other funds. The special road fund may not exceed the sum of ~~one~~five hundred thousand dollars for any one congressional township. The special road fund may be expended, at the option of the board of supervisors, for the purpose of road construction, graveling, snow removal, or surfacing.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 536

HOUSE BILL NO. 1267

(Representatives Dockter, D. Anderson, Bosch, Headland, Nathe)
(Senator Weber)

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 amount of the tax, with penalty and interest. If the property ~~was sold~~:
 - a. ~~Sold~~ for an amount sufficient to cover all outstanding taxes, special assessments, penalties, interest, and associated costs ~~associated with~~ the time of selling the property, tax receipts must be written for all such years, and any remaining amount must be 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 47-30.2 if a claim for the excess proceeds was not submitted within the ninety-day retention period as provided in subsection 3.~~
2. If the property is sold
 - b. Sold under a contract, the county treasurer shall issue tax receipts, beginning with the earliest year for which taxes or special assessments are delinquent, 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, special assessments, penalties, interest, and associated costs

~~associated with the time of selling the property are paid must be 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 43.~~

- ~~3. If the property is sold~~
 - ~~c. 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.~~
2. If an owner of record title owns multiple parcels of property subject to foreclosure proceedings under this chapter, the county treasurer shall use the aggregate amount of outstanding taxes, special assessments, penalties, interest, and associated costs applicable to all parcels of property and the aggregate proceeds from all public or private sales of the parcels of property to determine the amount of excess proceeds, if any, available for distribution as provided in this section.
3. Excess proceeds under this section 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 47-30.2 if a claim for the excess proceeds was not submitted within the ninety-day retention period.
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, 2023

Filed April 24, 2023

CHAPTER 537

HOUSE BILL NO. 1412

(Representatives Mitskog, Nelson)
(Senator Bekkedahl)

AN ACT to amend and reenact sections 57-36-01, 57-36-02, 57-36-04, 57-36-05, 57-36-09, and 57-36-09.1 of the North Dakota Century Code, relating to licensing requirements and the sale of electronic smoking devices; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁰⁰ **SECTION 1. AMENDMENT.** Section 57-36-01 of the North Dakota Century Code is amended and reenacted as follows:

57-36-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Chewing tobacco" means any leaf tobacco that is intended to be placed in the mouth.
2. "Cigar" means any roll of tobacco wrapped in tobacco.
3. "Cigarette" means any roll for smoking made wholly or in part of tobacco or processed tobacco and encased in any material except tobacco. "Cigarette"The term also means any product of a cigarette-making machine.
4. "Cigarette-making machine" means a machine used for commercial purposes to process tobacco into a roll or tube, formed or made from any material other than tobacco, at a production rate of more than five rolls or tubes per minute.
5. "Consumer" means any person who has title to or possession of cigarettes, cigars, pipe tobacco, electronic smoking devices, or other tobacco products in storage, for use or other consumption in this state.
6. "Dealer" includes a retailer and any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, pipe tobacco, electronic smoking devices, or other tobacco products, or any product of a cigarette-making machine.
7. "Distributor" includes any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, cigars, pipe tobacco, electronic smoking devices, or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, pipe tobacco, electronic smoking devices, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers. The term also includes a dealer that fabricates, repackages, compounds, or mixes electronic smoking devices for purposes of sale to a consumer.

³⁰⁰ Section 57-36-01 was also amended by section 3 of House Bill No. 1057, chapter 530.

8. "Electronic smoking device" means a device that may be used to deliver an aerosolized, vaporized, or heated substance containing nicotine, regardless of whether the nicotine is natural or synthetic, to an individual inhaling from the device, and includes an electronic cigarette, e-cigar, e-pipe, vape pen, and e-hookah. The term includes any substance containing nicotine, regardless of whether the nicotine is natural or synthetic, that may be aerosolized, vaporized, or heated by the device, regardless of whether the device is sold separately. The term does not include:
- a. A cigarette as defined in section 51-25-01;
 - b. A cigarette as defined in this section;
 - c. A drug, device, or combination product, as those terms are defined in the federal Food, Drug, and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.], approved for sale by the United States food and drug administration;
or
 - d. A battery or battery charger when sold separately.
9. "Licensed dealer" means a dealer licensed under the provisions of this chapter.
- ~~9-10.~~ "Licensed distributor" means a distributor licensed under the provisions of this chapter.
- ~~40-11.~~ "Other tobacco products" means snuff and chewing tobacco.
- ~~44-12.~~ "Outlet" means each place of business from which tobacco products are sold.
13. "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability company, trust, or association however formed.
- ~~42-14.~~ "Pipe tobacco" means any processed tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.
- ~~43-15.~~ "Place of business" means a place where tobacco products are sold or where tobacco products are manufactured, fabricated, stored, or kept for purposes of sale or consumption.
16. "Retailer" means a person engaged in the business of selling cigarettes, cigars, pipe tobacco, electronic smoking devices, or other tobacco products to consumers.
17. "Sale" or "sell" applies to gifts, exchanges, and barter.
- ~~44-18.~~ "Snuff" means any finely cut, ground, or powdered tobacco that is intended to be placed in the mouth.
- ~~45-19.~~ "Storage" means any keeping or retention of cigarettes, cigars, pipe tobacco, electronic smoking devices, or other tobacco products for use or consumption in this state.

46-20. "Use" means the exercise of any right or power incidental to the ownership or possession of cigarettes, cigars, pipe tobacco, electronic smoking devices, or other tobacco products.

SECTION 2. AMENDMENT. Section 57-36-02 of the North Dakota Century Code is amended and reenacted as follows:

57-36-02. Distributors and dealers to be licensed.

1. Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars, electronic smoking devices, or tobacco in this state, including any distributor or dealer, ~~must~~shall secure a license from the attorney general before engaging or continuing to engage in business.
2. ~~A separate application and license is required for each distributor at each outlet or place of business operated or maintained by a distributor within the state, and a separate dealer's license is required for each retail outlet when a person owns or controls more than one place of business dealing in cigarettes, cigarette papers, snuff, cigars, or tobacco. No retailer will be granted a distributor's license except a retailer who, in the usual course of business, performed a distributor's or wholesaler's function for at least one year prior to filing the license application. The application prescribed by the attorney general must include the name and address of the applicant, the address and place of business, the type of business, and other information as required for the proper administration of this chapter.~~
 - a. A distributor's license does not authorize the distributor to make retail sales.
 - b. A distributor may not be granted a dealer's license unless the distributor has possessed a distributor's license issued under this chapter for at least one year before filing an application for a dealer's license.
 - c. Notwithstanding subdivision b, a person that can demonstrate to the satisfaction of the attorney general that the person has been engaged, in the normal course of business, in the sale of electronic smoking devices before July 1, 2018, may be granted a dealer's license.
 - d. ~~Each application for a wholesale or distributor's outlet license must be accompanied by a fee of twenty-five dollars and a surety bond approved by the attorney general.~~
3. A separate application and license is required for each outlet or place of business operated or maintained by a dealer in this state.
 - a. A dealer may not sell tobacco products purchased from a distributor not licensed under this chapter.
 - b. A person issued a dealer's license under this chapter may not be issued a distributor's license.
4. Each application for a dealer's outlet or place of business license must be accompanied by a fee of fifteen dollars.
5. A license application prescribed by the attorney general must include the name and address of the applicant, the address and place of business, the

type of business, and other information as required for the administration of this chapter.

6. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after June thirtieth. The total reinstatement fee may not exceed five hundred dollars for any one licensee in any fiscal year. ~~A distributor's license does not authorize the holder to make retail sales.~~
7. Each license issued must be prominently displayed on the premises~~place of business or outlet~~ covered by the license.

³⁰¹ **SECTION 3. AMENDMENT.** Section 57-36-04 of the North Dakota Century Code is amended and reenacted as follows:

57-36-04. Revocation of license - Penalty.

The attorney general may revoke the license of any dealer or distributor for failure to comply with any of the provisions of this chapter, or any of the rules or regulations prescribed by the tax commissioner or the attorney general. When a license has been legally revoked, no license may be issued again to the licensee for a period of one year thereafter. A person may not sell any cigarettes, cigarette papers, snuff, cigars, electronic smoking devices, or tobacco after that person's license has been revoked as provided in this chapter.

SECTION 4. AMENDMENT. Section 57-36-05 of the North Dakota Century Code is amended and reenacted as follows:

57-36-05. Unlawful to sell without license.

A dealer or distributor may not sell cigarettes, cigarette papers, snuff, cigars, electronic smoking devices, or tobacco in this state at wholesale or at retail unless a license has been issued to that dealer or distributor as prescribed by this chapter, and a person may not sell, offer for sale, or possess with the intent to sell, any cigarettes, cigarette papers, snuff, cigars, electronic smoking devices, or tobacco without such license.

SECTION 5. AMENDMENT. Section 57-36-09 of the North Dakota Century Code is amended and reenacted as follows:

57-36-09. Records to be kept by distributors and reports made - Penalty.

Distributors shall keep records and make reports relating to purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, electronic smoking devices, or other tobacco products made by them, and must be punished for failure so to do, as follows:

1. Each distributor who shall dispose of cigarettes, cigarette papers, cigars, pipe tobacco, electronic smoking devices, or other tobacco products shall keep and preserve for ~~one year~~three years all invoices of cigarettes, cigarette papers, cigars, pipe tobacco, electronic smoking devices, or other tobacco products purchased by the distributor and shall permit the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner, to inspect and examine all taxable merchandise, invoices,

³⁰¹ Section 57-36-04 was also amended by section 9 of House Bill No. 1274, chapter 448.

receipts, books, papers, and memoranda as may be deemed necessary by the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner in determining the amount of the tax as may be yet due. Each person selling or otherwise disposing of cigarettes, cigarette papers, cigars, pipe tobacco, electronic smoking devices, or other tobacco products as a distributor shall keep a record of all sales made within the state showing the name and address of the purchaser and the date of sale. For sales of other tobacco products, the records must also include the net weight in ounces, as listed by the manufacturer.

2. On or before the fifteenth day of each month, each licensed distributor, on such form as the state tax commissioner shall prescribe, shall report to the tax commissioner all purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, electronic smoking devices, or other tobacco products made from or to any persons either within or without this state during the preceding month. For sales of other tobacco products, each licensed distributor shall also report to the tax commissioner the net weight in ounces, as listed by the manufacturer. The tax levied by this chapter is payable monthly and must be remitted to the tax commissioner by each licensed distributor on or before the fifteenth day of the month following the monthly period.
3. Any person failing to file any prescribed form or return or to pay any tax within the time required or permitted by this section is subject to a penalty of five percent of the amount of tax due or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.

SECTION 6. AMENDMENT. Section 57-36-09.1 of the North Dakota Century Code is amended and reenacted as follows:

57-36-09.1. WarehouseOutlet - Record of deliveries and shipments.

Records of all deliveries of shipments of cigarettes ~~and~~, snuff, cigars, electronic smoking devices, or other tobacco products from a licensed ~~public warehouseoutlet~~ to persons within this state must be kept by the ~~warehouseoutlet~~ and be available to the tax commissioner for inspection. They must show the name and address of the consignee, the date, the quantity and purchase price of cigarettes, snuff, cigars, electronic smoking devices, or other tobacco products delivered, and such other information as the tax commissioner may require. These records must be preserved for ~~one year~~three years from the date of delivery of the cigarettes, snuff, cigars, electronic smoking devices, or other tobacco products.

Approved March 23, 2023

Filed March 23, 2023

CHAPTER 538

HOUSE BILL NO. 1455

(Representatives O'Brien, Hagert, Monson, Roers Jones, Schauer, Schreiber-Beck)
(Senators Kreun, Patten, J. Roers, Wanzek)

AN ACT to create and enact a new subdivision to subsection 3 of section 54-35-26, a new section to chapter 57-39.2, and a new subdivision to subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code, relating to evaluation of economic development tax incentives and a sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing; to provide for a legislative management report; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁰² **SECTION 1.** A new subdivision to subsection 3 of section 54-35-26 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing.

SECTION 2. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing - Report.

1. Gross receipts from sales of raw materials, single-use product contact systems, and reagents used directly for discovery, testing, screening, and production for biologic manufacturing in this state are exempt from taxes under this chapter.
2. To receive the exemption at the time of purchase, the taxpayer must receive from the tax commissioner a certificate that the raw materials, single-use product contact systems, or reagents qualify for the exemption.
3. For purposes of this section:
 - a. "Biologic manufacturing" means the manufacturing process used to support biologic product discovery, development, generation, product impurity removal, chemical or physical product alteration, and analysis of in-process products to final deliverable products which occurs exclusively within this state.
 - b. "Single-use product contact systems" means tubing, capsule filters, ion exchange membrane chromatography devices, mixers, bioreactors, sterile fluid containment bags, connection devices, and sampling receptacles.

³⁰² Section 54-35-26 was also amended by section 1 of House Bill No. 1511, chapter 540, and section 1 of House Bill No. 1168, chapter 539.

4. a. By April first of each year, each taxpayer that received the exemption under this section in the preceding calendar year shall file with the tax commissioner, on forms and in the manner prescribed by the tax commissioner, a report showing for the calendar year preceding the reporting deadline in this subdivision, the taxpayer's:
- (1) Total sales and use tax liability exempted under this section;
 - (2) Total gross payroll;
 - (3) Total property taxes paid and square footage of buildings owned by the taxpayer;
 - (4) Total North Dakota workforce safety and insurance premiums paid;
 - (5) North Dakota unemployment taxes paid; and
 - (6) Total state income tax withheld by the taxpayer.
- b. Failure to file the report required under subdivision a is cause to disallow the exemption due to noncompliance. The tax commissioner shall provide notice of the disallowed exemption to the taxpayer and assess any sales and use tax due. An assessment of tax made under this subsection is final and irrevocably fixed.
- c. By June first of each year, the tax commissioner shall submit to the legislative management a written report summarizing the information received under subdivision a, including a comparison of information received in the current calendar year with data received in the preceding calendar year.

³⁰³ **SECTION 3.** A new subdivision to subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Raw materials, single-use product contact systems, and reagents used for biologic manufacturing as authorized or approved for exemption by the tax commissioner under section 2 of this Act.

SECTION 4. EFFECTIVE DATE - EXPIRATION DATE. Sections 2 and 3 of this Act are effective for taxable events occurring after June 30, 2023, and before July 1, 2029, and are thereafter ineffective.

Approved April 26, 2023

Filed April 26, 2023

³⁰³ Section 57-40.2-03.3 was also amended by section 2 of House Bill No. 1430, chapter 546, section 3 of House Bill No. 1511, chapter 540, and section 8 of Senate Bill No. 2006, chapter 38.

CHAPTER 539

HOUSE BILL NO. 1168

(Representatives Steiner, Dockter, Hatlestad, Lefor, Porter, Rohr, Satrom, Swiontek, Wagner)
(Senators Rummel, Sickler)

AN ACT to create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the provision of an income tax credit for purchases of manufacturing and animal agricultural machinery and equipment to automate a manufacturing or animal agricultural process; to amend and reenact subdivision j of subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to evaluation of economic development tax incentives; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁰⁴ **SECTION 1. AMENDMENT.** Subdivision j of subsection 3 of section 54-35-26 of the North Dakota Century Code is amended and reenacted as follows:

- j. ~~Manufacturing—automation—equipment—credit~~Twenty-first century manufacturing and animal agricultural workforce incentive.

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

Twenty-first century manufacturing and animal agricultural workforce incentive.

1. A taxpayer that is a primary sector business is allowed a nonrefundable credit against the tax imposed under section 57-38-30 or 57-38-30.3 for purchases of qualifying machinery and equipment in this state to improve job quality or increase productivity. The amount of the credit under this section is fifteen percent of the cost of the qualifying machinery and equipment purchased in the taxable year. Qualified expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under this chapter.
2. For purposes of this section:
 - a. "Animal agricultural machinery and equipment" means new or used automation and robotic equipment used to upgrade or advance an animal agricultural process. The term does not include replacement automation and robotic equipment that does not upgrade or advance an animal agricultural process.
 - b. "Animal agricultural process" means the breeding, raising, harvesting, or processing of animals for producing meat, dairy, or eggs, or meat, dairy, or

³⁰⁴ Section 54-35-26 was also amended by section 1 of House Bill No. 1455, chapter 538, and section 1 of House Bill No. 1511, chapter 540.

- egg products. For purposes of this subdivision, "animal" means beef or dairy cattle, swine, sheep, goats, bison, farmed elk, or poultry.
- c. "First-time claimant" means a taxpayer that has not previously claimed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for purchases of animal agricultural machinery and equipment or manufacturing machinery and equipment for the purpose of automating manufacturing or animal agricultural processes.
 - d. "Improved job quality" means a five percent increase in average wages or a five percent improvement in workplace safety as documented through participation in workforce safety and insurance safety incentive programs.
 - e. "Increased productivity" means no less than a five percent increase in output or a five percent increase in the number of units produced per automated line per time period.
 - f. "Manufacturing machinery and equipment" means new or used automation and robotic equipment used to upgrade or advance a manufacturing process. The term does not include replacement automation and robotic equipment that does not upgrade or advance a manufacturing process.
 - g. "Primary sector business" has the meaning provided in section 1-01-49.
 - h. "Purchase" includes qualifying machinery and equipment acquired under a capital lease only for the taxable year in which the lease is executed. A capital lease is a lease which meets generally accepted accounting principles. The qualifying costs of the equipment acquired under a capital lease is the fair market value of the equipment at the inception of the lease.
 - i. "Qualifying machinery and equipment" means animal agricultural machinery and equipment and manufacturing machinery and equipment for the purpose of automating manufacturing or animal agricultural processes.
- 3. The taxpayer shall claim the total credit amount for the taxable year in which the qualifying machinery and equipment are purchased. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.
 - 4. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.
 - 5. a. The aggregate amount of credits allowed each calendar year under this section may not exceed three million dollars.
 - (1) From the aggregate credit limit in this subdivision, the tax commissioner shall designate:
 - (a) Five hundred thousand dollars for credits claimed by first-time claimants for animal agricultural machinery and equipment for the purpose of automating animal agricultural processes; and

- (b) Five hundred thousand dollars for credits claimed by first-time claimants for manufacturing machinery and equipment for the purpose of automating manufacturing processes.
- (2) If the portion of the aggregate limit which is designated for first-time claimants in paragraph 1 is greater than the amount of credits claimed by the corresponding first-time claimants, the remaining portion of the aggregate limit which is designated for the first-time claimants in paragraph 1 must be included in the amount available to claimants that are not first-time claimants.
- (3) If the portion of the aggregate limit which is not designated for first-time claimants in paragraph 1 is greater than the amount of credits claimed by claimants that are not first-time claimants, the remaining portion of the aggregate limit which is not designated for first-time claimants in paragraph 1 must be included in the amount available to first-time claimants to the extent necessary to satisfy all first-time claims.
- (4) If the sum of the portion of the aggregate limit which is designated for the corresponding first-time claimants in paragraph 1 and any amount available to the first-time claimants under paragraph 3 is less than the amount of credits claimed by the first-time claimants, the tax commissioner shall prorate the credits among the first-time claimants.
- b. If the maximum amount of allowed credits are not claimed in any calendar year, any remaining unclaimed credits may be carried forward and made available in the next succeeding calendar year.
- c. After determining the credits claimed by the first-time claimants as provided in subdivision a, if the aggregate amount of credits claimed under this section by claimants that are not first-time claimants exceeds the amount available to claimants that are not first-time claimants in a calendar year, the tax commissioner shall prorate the credits among the claimants that are not first-time claimants.
6. If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all the corporations included in the North Dakota consolidated return.
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 subsection against the individual's state income tax liability under section 57-38-30.3.
8. The department of commerce shall provide the tax commissioner the name, address, and federal identification number or social security number of the taxpayer approved as qualifying for the credit under this section, and a list of those items approved as a qualified expenditure by the department. The

taxpayer claiming the credit shall file with the taxpayer's return, on forms prescribed by the tax commissioner, the following information:

- a. The name, address, and federal identification number or social security number of the taxpayer that made the purchase; and
- b. An itemization of:
 - (1) Each item of machinery or equipment purchased for automation, including a description of the equipment or system being upgraded or advanced, and an explanation of how the upgrade or advancement will improve job quality or increase productivity;
 - (2) The amount paid for each item of machinery or equipment if the amount paid for the machinery or equipment is being used as a basis for calculating the credit; and
 - (3) The date on which payment for the purchase was made.
9. Within one year after claiming a tax credit under this section, a taxpayer shall file with the tax commissioner a report that documents the improved job quality or increased productivity required under this section and any other information the tax commissioner determines is necessary for administration of this section. Failure to document the improved job quality or increased productivity requirements is cause to disallow the credit attributable to the noncompliance. The tax commissioner shall provide notice of the disallowed credit to the taxpayer. Within ninety days after the date of the notice, the taxpayer shall file an amended return for each taxable year in which the disallowed credit reduced the taxpayer's tax liability and pay the amount due. If an amended return is not filed timely, the tax commissioner shall disallow the credit and assess any tax due. An assessment of tax made under this subsection is final and irrevocably fixed.
10. Notwithstanding the time limitations contained in section 57-38-38, this section does not prohibit the tax commissioner from conducting an examination of the credit claimed and assessing additional tax due under section 57-38-38.

³⁰⁵ **SECTION 3.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Twenty-first century manufacturing and animal agricultural workforce incentive under section 2 of this Act.

SECTION 4. EFFECTIVE DATE. Sections 2 and 3 of this Act are effective for taxable years beginning after December 31, 2022.

Approved May 8, 2023

Filed May 9, 2023

³⁰⁵ Section 57-38-30.3 was also amended by section 3 of House Bill No. 1176, chapter 542, and section 2 of House Bill No. 1383, chapter 541, section 1 of Senate Bill No. 2147, chapter 545, section 4 of House Bill No. 1158, chapter 527, and section 1 of Senate Bill No. 2293, chapter 544.

CHAPTER 540

HOUSE BILL NO. 1511

(Representatives Novak, Bosch, Hagert, Headland, Ista, Mock, Porter)
(Senators Kannianen, Kreun, Patten)

AN ACT to create and enact a new subdivision to subsection 3 of section 54-35-26, a new section to chapter 57-39.2, a new subdivision to subsection 3 of section 57-40.2-03.3, and a new section to chapter 57-61 of the North Dakota Century Code, relating to evaluation of economic development tax incentives, a sales and use tax exemption for materials used to construct or expand a coal processing facility that utilizes coal as a feedstock, and severance and sales and use tax exemptions for coal used in a coal processing facility that utilizes coal as a feedstock; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁰⁶ **SECTION 1.** A new subdivision to subsection 3 of section 54-35-26 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for materials used to construct or expand a coal processing facility that utilizes coal as a feedstock.

SECTION 2. 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 materials used to construct or expand a coal processing facility that utilizes coal as a feedstock.

1. Gross receipts from sales of tangible personal property used to construct or expand a coal processing facility that utilizes coal as a feedstock in this state are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated in the structure of the facility or used in the construction process to the point of having no residual economic value.
2. For purposes of this section:
 - a. "Coal processing facility that utilizes coal as a feedstock" means a facility that:
 - (1) Extracts critical minerals or rare earth elements from lignite coal; or
 - (2) Creates tangible personal property other than electricity, water, gas, or steam from lignite coal, including lignite coal from which critical minerals or rare earth elements have been extracted.
 - b. "Critical mineral" means a nonfuel mineral or mineral material essential to the economic or national security of the United States and which has a supply chain vulnerable to disruption. The term includes aluminum.

³⁰⁶ Section 54-35-26 was also amended by section 1 of House Bill No. 1455, chapter 538, and section 1 of House Bill No. 1168, chapter 539.

antimony, arsenic, barite, bauxite, beryllium, bismuth, cesium, chromium, cobalt, fluorspar, gallium, germanium, graphite, hafnium, helium, indium, lithium, magnesium, manganese, niobium, platinum group metals, potash, the rare earth elements group, rhenium, rubidium, scandium, strontium, tantalum, tellurium, tin, titanium, tungsten, uranium, vanadium, and zirconium.

- c. "Rare earth elements" means any of a series of metallic elements of which the oxides are classed as rare earths and which include the elements of the lanthanide series, yttrium and scandium.
3. The owner of the facility must receive from the tax commissioner a certificate that the tangible personal property used to construct or expand a facility qualifying under this section which the owner intends to purchase qualifies for the exemption.

³⁰⁷ **SECTION 3.** A new subdivision to subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Tangible personal property as authorized or approved for exemption by the tax commissioner as provided in section 2 of this Act.

SECTION 4. A new section to chapter 57-61 of the North Dakota Century Code is created and enacted as follows:

Severance and sales and use tax exemptions for coal used in a coal processing facility that utilizes coal as a feedstock.

1. Severance tax may not be imposed on the first one million tons [907,184.74 metric tons] of coal per year used as a feedstock by a coal processing facility that utilizes coal as a feedstock in this state as defined in section 2 of this Act.
2. The owner or operator of a coal processing facility that utilizes coal as a feedstock shall certify to the coal mine owner or operator the amount of coal measured in tons:
 - a. Purchased for use as a feedstock by the facility.
 - b. Used as a feedstock by the facility for extraction of critical minerals or rare earth elements from lignite coal.
 - c. Used as a feedstock by the facility to create tangible personal property other than electricity, water, gas, or steam from lignite coal, including lignite coal from which critical minerals or rare earth elements have been extracted.
 - d. Resold or used in any manner other than as a feedstock at the facility, including use in an electrical generating plant or coal gasification facility.
3. The coal mine owner or operator shall report the amounts certified under subsection 2. The amount of coal certified under subdivision d of subsection 2

³⁰⁷ Section 57-40.2-03.3 was also amended by section 2 of House Bill No. 1430, chapter 546, section 3 of House Bill No. 1455, chapter 538, and section 8 of Senate Bill No. 2006, chapter 38.

is not eligible for the exemption in this section. The coal mine owner or operator shall report the amount of coal certified under subdivision d of subsection 2 on its return for the month following the month of certification and shall remit the severance tax due with the return. The tax commissioner shall waive penalty and interest under section 57-61-05 for severance tax remitted in accordance with this subsection.

SECTION 5. EFFECTIVE DATE. Sections 2, 3, and 4 of this Act are effective for taxable events occurring after June 30, 2023.

Approved April 7, 2023

Filed April 10, 2023

CHAPTER 541

HOUSE BILL NO. 1383

(Representatives Boschee, Bosch, Finley-DeVile, Hagert, Ista, Nathe, Schreiber-Beck, Steiner)

(Senators Kannianen, Patten, Piepkorn, Rummel)

AN ACT to create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the provision of an income tax credit for qualified compensation paid to an apprentice; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Apprenticeship tax credit.

1. A taxpayer is entitled to a credit as determined under this section against the income tax liability under section 57-38-30 or 57-38-30.3 for qualified compensation paid to an individual who is an apprentice in an apprenticeship program as provided in title 29, Code of Federal Regulations, subtitle a, part 29 or an apprentice electrician registered under chapter 43-09 and is employed in this state by the taxpayer.
2. To qualify for the credit under this section, a taxpayer shall:
 - a. Directly employ, supervise, and evaluate a qualified apprentice in an apprenticeship position located in this state.
 - b. For a taxpayer that employs an individual who is an apprentice in an apprenticeship program as provided in title 29, Code of Federal Regulations, subtitle a, part 29, obtain a certification from the United States department of labor, bureau of apprenticeship and training, stating the taxpayer has met all the requirements and qualifications of the apprenticeship program as provided in title 29, Code of Federal Regulations, subtitle a, part 29 and submit to the tax commissioner proof of the certification.
 - c. Submit any other information prescribed by the tax commissioner.
3. Subject to the limitations provided in this subsection, the amount of the credit to which a taxpayer is entitled is ten percent of the stipend or salary paid to a qualified apprentice employed by the taxpayer.
 - a. The aggregate amount of credits allowed to a taxpayer under this section may not exceed three thousand dollars in total credits for all taxable years combined.
 - b. The tax credit under this section applies to a stipend or salary for not more than five apprentices employed by the taxpayer at the same time.

- c. The credit allowed under this section may not exceed a taxpayer's liability for tax under this chapter. Any credit amount exceeding a taxpayer's liability for the taxable year may not be claimed as a carryback or carryforward.
4. A passthrough entity entitled to the 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 passthrough entity level must be allowed to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
5. The tax commissioner shall prescribe, design, and make available all forms necessary to effectuate this section.

³⁰⁸ **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:

Apprenticeship tax credit under section 1 of this Act.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.

Approved April 21, 2023

Filed April 24, 2023

³⁰⁸ Section 57-38-30.3 was also amended by section 3 of House Bill No. 1168, chapter 539, section 3 of House Bill No. 1176, chapter 542, section 1 of Senate Bill No. 2147, chapter 545, section 4 of House Bill No. 1158, chapter 527, and section 1 of Senate Bill No. 2293, chapter 544.

CHAPTER 542

HOUSE BILL NO. 1176

(Representatives S. Olson, Fisher, Frelich, Koppelman, O'Brien, Satrom)

AN ACT to create and enact two new sections to chapter 57-38 and two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an adoption tax credit and a tax credit for contributions to a maternity home, child-placing agency, or pregnancy help center; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Adoption tax credit.

1. A taxpayer is entitled to a credit against the income tax liability under section 57-38-30.3 for adoption expenses.
2. The credit is equal to ten percent of the federal adoption credit allowed under section 23 of the Internal Revenue Code [26 U.S.C. 23] claimed by the taxpayer in the current taxable year.
3. The credit allowed under this section may not exceed fifty percent of the taxpayer's liability for tax under this chapter. Any credit amount exceeding fifty percent of the taxpayer's liability for the taxable year may be carried forward to each of the three succeeding taxable years, subject to the limitation in this subsection.

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

Tax credit for contributions to a maternity home, child-placing agency, or pregnancy help center.

1. A taxpayer is entitled to a credit against the income tax liability under section 57-38-30 or 57-38-30.3 for contributions made to a maternity home, child-placing agency, or pregnancy help center.
2. Subject to the limitations in subsection 3, the credit is equal to the aggregate amount of charitable contributions made by the taxpayer during the taxable year to a maternity home, child-placing agency, or pregnancy help center.
3. The credit allowed under this section may not exceed fifty percent of the taxpayer's liability for tax under this chapter or two thousand five hundred dollars, whichever is less. Any credit amount exceeding the limitation in this subsection for the taxable year may not be claimed as a carryback or carryforward.

4. A passthrough entity entitled to the 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 passthrough entity level must be allowed to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
5. For purposes of this subsection:
 - a. "Child-placing agency" means a child-placing agency under chapter 50-12.
 - b. "Maternity home" means a nonprofit facility operating for the purpose of providing shelter and care to a pregnant woman or parent of a child twelve months of age or younger.
 - c. "Pregnancy help center" means a nongovernmental entity eligible for disbursements pursuant to section 50-06-26.

³⁰⁹ **SECTION 3.** Two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code are created and enacted as follows:

Adoption tax credit under section 1 of this Act.

Tax credit for contributions to a maternity home, child-placing agency, or pregnancy help center under section 2 of this Act.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.

Approved April 21, 2023

Filed April 24, 2023

³⁰⁹ Section 57-38-30.3 was also amended by section 3 of House Bill No. 1168, chapter 539, and section 2 of House Bill No. 1383, chapter 541, section 1 of Senate Bill No. 2147, chapter 545, section 4 of House Bill No. 1158, chapter 527, and section 1 of Senate Bill No. 2293, chapter 544.

CHAPTER 543

HOUSE BILL NO. 1244

(Representative Headland)

AN ACT to amend and reenact section 57-38-01.16 of the North Dakota Century Code, relating to the income tax credit for employment of individuals with developmental disabilities or severe mental illness; and to provide an effective 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 persons~~severe mental illness. (Effective after the first two taxable years beginning after December 31, 2020)

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 employee~~severe mental illness.
2. The credit allowed under this section equals ~~five~~twenty-five percent of up to six thousand dollars in wages paid ~~during the first twelve months of employment~~annually by the taxpayer for each employee with a developmental disability or ~~chronically mentally ill employee of the taxpayer~~severe mental illness, if the department of health and human services' vocational rehabilitation division determines the individual has a most significant disability, is eligible for services, and requires customized employment or supported employment 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 health and 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.
6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of health and 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. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.

Approved April 10, 2023

Filed April 11, 2023

CHAPTER 544

SENATE BILL NO. 2293

(Senators Meyer, Kannianen)
(Representatives Dockter, Headland, Nathe, Vetter)

AN ACT to amend and reenact subdivision g of subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax deduction for military pay; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁰ **SECTION 1. AMENDMENT.** Subdivision g of subsection 2 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- g. ~~Reduced by the amount of military pay received by the taxpayer as payment for services performed when mobilized under title 10 United States Code federal service as a member of the armed forces of the United States on federal active duty, member of the national guard, or reserve member of the armed forces of the United States, to the extent that military pay is included in North Dakota taxable income of the taxpayer. This subdivision does not apply to~~ For purposes of this subdivision, "military pay" includes all federal service while attending annual pay for training, basic military training, or professional military education, mobilization, and bonuses and state pay when called to support an emergency on state active duty.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.

Approved March 27, 2023

Filed March 27, 2023

³¹⁰ Section 57-38-30.3 was also amended by section 3 of House Bill No. 1168, chapter 539, section 3 of House Bill No. 1176, chapter 542, section 2 of House Bill No. 1383, chapter 541, section 1 of Senate Bill No. 2147, chapter 545, and section 4 of House Bill No. 1158, chapter 527.

CHAPTER 545

SENATE BILL NO. 2147

(Senators Larson, Bekkedahl, Paulson)
(Representatives Dockter, Vetter)

AN ACT to create and enact a new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax deduction for retired law enforcement personnel benefits; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹¹ **SECTION 1.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Reduced by the amount of retired law enforcement personnel benefits received by a taxpayer who has served a combined total of at least twenty years as a peace officer or has medically retired from the taxpayer's duties as a peace officer with a medical certificate due to a permanent mental or physical disability that rendered the taxpayer unable to discharge the taxpayer's duties as a peace officer, but only to the extent the amount was included in federal taxable income. For purposes of this subdivision:

- (1) "Peace officer" means a public servant authorized by law or by a government agency or branch of the United States, a state, or a political subdivision of a state to enforce the law and to conduct or engage in investigations of violations of the law.
- (2) "Retired law enforcement personnel benefits" means retirement income received by a taxpayer eligible to receive retirement income attributable to the taxpayer's employment as a peace officer from a retirement plan maintained by or through the employer from which the taxpayer retired as a peace officer.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.

Approved April 13, 2023

Filed April 14, 2023

³¹¹ Section 57-38-30.3 was also amended by section 3 of House Bill No. 1168, chapter 539, section 3 of House Bill No. 1176, chapter 542, section 2 of House Bill No. 1383, chapter 541, section 4 of House Bill No. 1158, chapter 527, and section 1 of Senate Bill No. 2293, chapter 544.

CHAPTER 546

HOUSE BILL NO. 1430

(Representatives Headland, Lefor, Louser, Porter)
(Senators Hogue, Kannianen, Kessel)

AN ACT to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code, relating to construction, expansion, or environmental upgrade of a renewable feedstock refinery; and to provide an effective 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:

Sales and use tax exemption for materials used in construction, expansion, or environmental upgrade of a renewable feedstock refinery.

1. As used in this section:
 - a. "Environmental upgrade" means an investment of more than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing renewable feedstock refinery.
 - b. "Renewable feedstock" means "renewable biomass" as defined in 40 CFR section 80.1401.
 - c. "Renewable feedstock refinery" means a facility in this state which creates gasoline, jet fuel, or other transportation fuels by refining renewable feedstock through deoxygenation and has a nameplate capacity of processing of no fewer than five thousand barrels of renewable feedstock per day, and all adjacent units that are used in the processing of renewable feedstock.
2. Gross receipts from sales of tangible personal property used in constructing, expanding, or making an environmental upgrade to a renewable feedstock refinery are exempt from taxes under this chapter.
3. The exemption may be received only at the time of purchase. To receive the exemption, the owner of the renewable feedstock refinery must receive a certificate from the tax commissioner indicating the tangible personal property used to construct, expand, or make environmental upgrades to a renewable feedstock refinery that the owner intends to purchase qualifies for the exemption under this section.
4. This chapter and chapter 57-40.2 apply to an exemption under this section.

³¹² **SECTION 2.** A new subdivision to subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Tangible personal property as authorized or approved for exemption by the tax commissioner as provided in section 1 of this Act.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2023.

Approved April 11, 2023

Filed April 12, 2023

³¹² Section 57-40.2-03.3 was also amended by section 3 of House Bill No. 1455, chapter 538, section 3 of House Bill No. 1511, chapter 540, and section 8 of Senate Bill No. 2006, chapter 38.

CHAPTER 547

HOUSE BILL NO. 1177

(Representatives S. Olson, Koppelman, O'Brien, Satrom)
(Senators Cleary, Myrdal)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹³ **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 of children's diapers as defined in subdivision d of subsection 26 of section 57-39.2-04.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2023.

Approved April 18, 2023

Filed April 19, 2023

³¹³ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1210, chapter 548.

CHAPTER 548

HOUSE BILL NO. 1210

(Representative Richter)

AN ACT to amend and reenact subsection 60 of section 57-39.2-04 and subsection 27 of section 57-40.2-04 of the North Dakota Century Code, relating to qualification and notification requirements for sales and use tax exemptions for certain sales made to a senior citizen organization; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁴ **SECTION 1. AMENDMENT.** Subsection 60 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

60. a. 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- (1) Is recognized by the internal revenue service as having exempt status under 26 U.S.C.501(c)(3);

b- (2) Is recognized by the secretary of state as a charitable organization; and

e- (3) Either:

(1) (a) Provides services through the aging services division of the department of health and human services; or

(2) (b) Receives grant funds through the department of transportation ~~under the federal transit administration's~~which are used for enhanced mobility of seniors and individuals with disabilities program [49 U.S.C. 5310]; or

(c) Provides services through a contract with the department of health and human services as a program of all-inclusive care for the elderly.

b. The department of health and human services and the department of transportation shall notify the tax commissioner if a senior citizen organization no longer meets the criteria in paragraph 3 of subdivision a.

SECTION 2. AMENDMENT. Subsection 27 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

³¹⁴ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1177, chapter 547.

27. a. 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- (1) Is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3);
 - b- (2) Is recognized by the secretary of state as a charitable organization; and
 - e- (3) Either:
 - (1) (a) Provides services through the aging services division of the department of health and human services; ~~or~~
 - (2) (b) Receives grant funds through the department of transportation under the federal transit administration's which are used for enhanced mobility of seniors and individuals with disabilities program [49 U.S.C. 5310]; or
 - (c) Provides services through a contract with the department of health and human services as a program of all-inclusive care for the elderly.
- b. The department of health and human services and the department of transportation shall notify the tax commissioner if a senior citizen organization no longer meets the criteria in paragraph 3 of subdivision a.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2023.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 21, 2023

Filed April 24, 2023

CHAPTER 549

SENATE BILL NO. 2334

(Senators Bekkedahl, Sorvaag, Wanzek)
(Representatives Brandenburg, Kempenich)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a large facility development fund; to amend and reenact subsection 2 of section 57-39.2-04.15 and section 57-39.2-26 of the North Dakota Century Code, relating to a sales tax exemption for a fertilizer plant and allocation of sales tax revenue; to provide a continuing appropriation; to provide for a legislative management report; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~On or before June 30, 2023, the~~The owner of the fertilizer or chemical processing plant must receive from the department of environmental quality an air quality permit or a notice that the air quality permit application is complete. The owner shall provide this documentation to the tax commissioner to qualify for the exemption under this section. Denial, expiration, or revocation of a permit terminates the exemption under this section.

SECTION 2. AMENDMENT. Section 57-39.2-26 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26. Allocation of revenue.

Except as provided by sections 57-39.2-26.1 ~~and~~, 57-39.2-26.2, ~~57-39.2-26.3, and section 3 of this Act~~, all moneys collected and received under this chapter must be paid into the state treasury and must be credited by the state treasurer to the general fund. Moneys deposited with the commissioner as security for the payment of tax, penalties, or costs due must be deposited and accounted for as provided in subsection 3 of section 57-39.2-12.

SECTION 3. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Large facility development fund - State treasurer - Continuing appropriation - Report.

1. There is created in the state treasury the large facility development 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 distributions to an eligible county or city.
2. Notwithstanding any other provision of law, after the allocations under sections 57-39.2-26.1, 57-39.2-26.2, and 57-39.2-26.3, a portion of sales, gross receipts, and use tax collections equal to the amount under subsection 3 must

be deposited by the state treasurer in the large facility development fund as needed. The tax commissioner shall calculate the amount needed for distribution under subsection 3 and shall certify to the state treasurer the portion of sales, gross receipts, and use tax net revenues that must be deposited in the fund to provide for the distribution.

3. Within thirty days after construction begins on the large facility, the state treasurer shall distribute to a county or city an amount equal to one percent of up to two billion dollars of estimated cost of tangible property eligible for a tax exemption under section 57-39.2-04.15 used in the construction of the large facility if:
 - a. The county or city is levying a local sales tax for infrastructure, public safety, or economic development; and
 - b. The county in which the large facility is located has a hub city and received at least thirty million dollars of oil and gas gross production tax revenue allocations under section 57-51-15 from September 1, 2021, through August 31, 2022.
4. To qualify for the distribution under subsection 3, the large facility must:
 - a. Be a new fertilizer or chemical processing plant that is eligible for a tax exemption under section 57-39.2-04.15;
 - b. Begin construction after July 1, 2023; and
 - c. Have an estimated total cost of at least one billion dollars.
5. A county or city may receive only one distribution under subsection 3.
6. If the large facility is within city limits, only a city is eligible to receive a distribution under subsection 3.
7. The owner of the large facility shall provide information and documentation to the tax commissioner to determine the estimated cost of the tangible property and the estimated total cost of the large facility for calculations under this section.
8. If a county or city receives a distribution from the fund, the county or city shall provide at least one report to the legislative management on the use of the funding. The report must include the amount of funding received and spent by the county or city, including an itemized list of the amounts spent and a description of how the funding was used by the county or city.

SECTION 4. EXPIRATION DATE. Sections 2 and 3 of this Act are effective through June 30, 2027, and after that date are ineffective.

Approved April 29, 2023

Filed May 1, 2023

CHAPTER 550

HOUSE BILL NO. 1359

(Representatives Nelson, Davis)
(Senator Weston)

AN ACT to amend and reenact section 57-39.2-26.3 of the North Dakota Century Code, relating to the county aid distribution fund; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-26.3 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.3. County aid distribution fund - State treasurer - Continuing appropriation. (Effective through June 30, ~~2023~~2027)

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, 2023.

Approved March 30, 2023

Filed April 3, 2023

CHAPTER 551

SENATE BILL NO. 2377

(Senators Patten, Kannianen)
(Representative Headland)

AN ACT to amend and reenact sections 57-39.10-01, 57-39.10-02, 57-39.10-03, and 57-39.10-05 of the North Dakota Century Code, relating to state-tribal agreements for the administration and collection of alcoholic beverages wholesale tax and alcoholic beverages gross receipts tax within the exterior boundaries of a reservation in this state; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.10-01 of the North Dakota Century Code is amended and reenacted as follows:

57-39.10-01. Authority to enter state-tribal alcoholic beverages wholesale tax, tobacco products wholesale tax, and alcoholic beverages gross receipts tax agreements.

1. The governor, in consultation with the tax commissioner, may enter separate agreements on behalf of the state with the governing body of the Three Affiliated Tribes of the Fort Berthold Reservation, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, Standing Rock Sioux Tribe, Spirit Lake Tribe, and Turtle Mountain Band of Chippewa Indians. Each agreement must comply with this chapter relating to the collection, administration, enforcement, and allocation of the state alcoholic beverages wholesale taxes under chapters 5-01, 5-02, and 5-03 for sales of alcoholic beverages, including beer, wine, sparkling wine, and distilled spirits, for delivery to licensed retailers or sale directly to consumers located within the exterior boundaries of the Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation. The tax commissioner shall conduct a review of any proposed agreement under this chapter to determine if its provisions can be administered and enforced.
2. The governor, in consultation with the tax commissioner, may enter separate agreements on behalf of the state with the governing body of the Three Affiliated Tribes of the Fort Berthold Reservation, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, Standing Rock Sioux Tribe, Spirit Lake Tribe, and Turtle Mountain Band of Chippewa Indians. Each agreement must comply with this chapter relating to the collection, administration, enforcement, and allocation of the state tobacco products wholesale taxes under chapter 57-36 for tobacco products sold by licensed wholesalers for delivery to licensed retailers or sold by licensed retailers directly to consumers within the exterior boundaries of the Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation. The tax commissioner shall conduct a review of any proposed agreement under this chapter to determine if its provisions can be administered and enforced.

3. The governor, in consultation with the tax commissioner, may enter separate agreements on behalf of the state with the governing body of the Three Affiliated Tribes of the Fort Berthold Reservation, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, Standing Rock Sioux Tribe, Spirit Lake Tribe, and Turtle Mountain Band of Chippewa Indians. Each agreement must comply with this chapter relating to the collection, administration, enforcement, and allocation of the state alcoholic beverages gross receipts tax under chapter 57-39.6, imposed and collected within the exterior boundaries of the Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation. The tax commissioner shall conduct a review of any proposed agreement under this chapter to determine if its provisions can be administered and enforced.
4. ~~An agreement under this chapter must include the alcoholic beverages wholesale tax, tobacco products wholesale tax, and the alcoholic beverages gross receipts tax.~~

SECTION 2. AMENDMENT. Section 57-39.10-02 of the North Dakota Century Code is amended and reenacted as follows:

57-39.10-02. Requirements for all state-tribal tax agreements.

Any agreement entered under this chapter must comply with this section.

1. The agreement must include:
 - a. A statement that the parties to the agreement are not forfeiting any legal rights to apply each party's respective taxes by entering an agreement, except as specifically set forth in the agreement;
 - b. A statement recognizing the sovereign rights of the state and the tribe or tribes; and
 - c. A statement that:
 - (1) The rights of each party must be determined by the terms of the agreement with respect to the taxes subject to the agreement;
 - (2) Neither party may seek additional entitlement or seek to deny entitlement on any federal ground, including federal pre-emption, whether statutorily provided for or otherwise with respect to the taxes that are the subject of an agreement;
 - (3) Both parties shall defend the agreement from attack by third parties;
 - (4) A taxpayer may not be required to pay both the state tax and the tribal tax but shall pay only one tax to one government in an amount established by the agreement; and
 - (5) The state and tribal government shall cooperate to collect only one tax and share or refund the revenue as specified in the agreement.
2. Any tribally owned entity or other entity owned in whole or part by a tribal member, whether chartered under state law or tribal law, and operating within the exterior boundaries of ~~a reservation~~the Fort Berthold Reservation, that

portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation; is subject to the state's tax or taxes and regulatory requirements of the tax subject to an agreement.

3. The tax commissioner retains authority to collect, administer, and enforce the taxes subject to an agreement under this chapter, including the authority to audit, assess, refund, credit, or determine the exempt or nonexempt status of any transaction, for taxes collected within the exterior boundaries of a reservation in this state the Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation in the manner provided by the applicable state laws.
4. ~~Any~~The federal district court for the western division of North Dakota is the venue for any controversy or claim between the tribe or tribes and the state, arising out of or relating to an agreement under this chapter, ~~is subject to binding arbitration in accordance with the processes and procedures provided in the agreement between the tribe or tribes and the state. Any issues concerning the jurisdiction of the state to impose a tax are expressly excluded from the scope of the arbitration.~~
5. An agreement under this chapter must give the tax commissioner, after consulting with the governor, and a tribe or tribes the authority to terminate an agreement with or without cause.
6. An agreement may begin no sooner than the first day of a calendar quarter which is at least ninety days after the agreement is signed by both parties. The tribe or tribes and the state must provide the initial population required by ~~sections 57-39.10-03 and section~~ section 57-39.10-04 no fewer than sixty days before the effective date of the agreement.

SECTION 3. AMENDMENT. Section 57-39.10-03 of the North Dakota Century Code is amended and reenacted as follows:

57-39.10-03. Alcoholic beverages wholesale tax agreement requirements.

The governor may enter an alcoholic beverages wholesale tax agreement with a tribe or tribes if the agreement complies with section 57-39.10-02 and this section.

1. The taxes subject to an agreement under this section are the state's alcoholic beverages wholesale taxes under chapters 5-01, 5-02, and 5-03, as may be amended subsequently by the legislative assembly, for alcoholic beverages sold by licensed wholesalers, domestic wineries, domestic distilleries, microbrew pubs, brewer taproom licensees, and direct shippers, for delivery to licensed retailers or sale directly to consumers located within the exterior boundaries of the Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation.
2. A tribe or tribes shall impose taxes equal to the state's alcoholic beverages wholesale taxes on all sales of alcoholic beverages sold by licensed wholesalers, domestic wineries, domestic distilleries, microbrew pubs, brewer taproom licensees, and direct shippers, for delivery to all persons within the exterior boundaries of the reservation in this state Fort Berthold Reservation,

that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation.

3. Chapters A tribe or tribes shall adopt ordinances in conformity with chapters 5-01, 5-02, and 5-03, and title 81 of the North Dakota Administrative Code governing the collection and administration by the tax commissioner of the taxes subject to an agreement under this section.
4. The amount of tax revenue allocated to the tribe collected from taxable transactions and activities within the exterior boundaries of the Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation, pursuant to an agreement under this section must be equal to an amount determined by multiplying the enrolled membership of the tribe by the state alcohol revenue per capita. The state alcohol revenue per capita is the quarterly collections of the state's alcoholic beverages wholesale taxes designated for deposit in the state general fund divided by the state's total population as determined in the most recent actual or estimated census data published by the United States census bureau allocated eighty percent to the tribe and twenty percent to the state.
5. Except as provided in subsection 6 of section 57-39.10-02, the enrolled membership of the tribe must be certified to the state by September thirtieth of each year during the term of the agreement. The enrolled membership of the tribe must consist of the number of enrolled members of the tribe physically residing within the exterior boundaries of the portion of the tribe's reservation located in this state. The enrolled membership of the tribe must be based on the tribe's enrollment office records, the bureau of Indian affairs enrollment records, or other records maintained by the tribe. The previous year's certified enrollment number must be used if the tribe does not issue a certification by September thirtieth, unless the tribe demonstrates the certified enrollment number has increased or decreased. The manner in which the state and tribe resolve issues arising under this subsection must be specified in the agreement.

SECTION 4. AMENDMENT. Section 57-39.10-05 of the North Dakota Century Code is amended and reenacted as follows:

57-39.10-05. Alcoholic beverages gross receipts tax agreement requirements.

The governor may enter an alcoholic beverages gross receipts tax agreement with a tribe or tribes if the agreement complies with the requirements of section 57-39.10-02 and this section.

1. The taxes subject to an agreement under this chapter are the state's alcoholic beverages gross receipts tax under chapter 57-39.6, as may be amended subsequently by the legislative assembly, for taxable transactions and activities occurring exclusively within the exterior boundaries of the Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation.

2. A tribe or tribes shall impose a tax equal to the state's alcoholic beverages gross receipts tax on all sales at retail of alcoholic beverages within the exterior boundaries of the reservation in this state Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation.
3. ~~Chapters~~ A tribe or tribes shall adopt ordinances in conformity with chapters 57-39.2 and 57-39.6, and title 81 of the North Dakota Administrative Code governing the administration and collection of the taxes by the tax commissioner subject to an agreement under this section.
4. The governor and the tribe or tribes must agree the tribe or tribes may not impose any direct or indirect tribal tax or fee on retailers, transactions, or activities subject to the tax agreement. This subsection does not apply to tribal business and alcohol license fees or tribal employment rights office fees.
5. ~~The amount of tax revenue allocated to the tribe collected from taxable transactions and activities within the exterior boundaries of the Fort Berthold Reservation, that portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation, pursuant to an agreement under this section must be equal to an amount determined by multiplying the enrolled membership of the tribe by the state alcoholic beverages gross receipts tax revenue per capita. The state alcoholic beverages gross receipts tax revenue per capita is the quarterly collections of the state's alcoholic beverages gross receipts tax designated for deposit in the state general fund divided by the state's total population as determined in the most recent actual or estimated census data published by the United States census bureau allocated eighty percent to the tribe and twenty percent to the state.~~
6. ~~Except as provided in subsection 6 of section 57-39.10-02, the enrolled membership of the tribe must be certified to the state by September thirtieth of each year during the term of the agreement. The enrolled membership of the tribe must consist of the number of enrolled members of the tribe physically residing within the exterior boundaries of the portion of the tribe's reservation located in this state. The enrolled membership of the tribe must be based on the tribe's enrollment office records, the bureau of Indian affairs enrollment records, or other records maintained by the tribe. The previous year's certified enrollment number must be used if the tribe does not issue a certification by September thirtieth, unless the tribe demonstrates the certified enrollment number has increased or decreased. The manner in which the state and tribe resolve issues arising under this subsection must be specified in the agreement.~~
7. a. Notwithstanding any other provision of state law, the agreement must contain provisions in which:
 - (1) Except as otherwise provided by law, the tax commissioner shall maintain the confidentiality of tax information relating to and gathered under the terms of an agreement as provided in section 57-39.2-23;
 - (2) The tribe or tribes may receive a list of retailers located within the exterior boundaries of the reservation Fort Berthold Reservation, that

portion of the Lake Traverse Reservation located in this state, the Spirit Lake Reservation, that portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Reservation and the amount of tax collected from each retailer during a reporting period; and

- (3) The tribe or tribes agree to protect the confidentiality of tax information received from the tax commissioner.
 - b. The agreement must specify the processes or procedures necessary to safeguard the confidential nature of the tax information.
- ~~8-7.~~ Alcoholic beverages gross receipts taxes imposed under chapters 11-09.1 and 40-05.1 are not subject to ~~allocation~~ under an agreement entered under this chapter.

SECTION 5. APPLICATION. This Act applies to agreements entered on or after the effective date of this Act.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 552

SENATE BILL NO. 2141

(Senators Dwyer, Wanzek, Weber)
(Representatives D. Johnson, J. Olson, Thomas)

AN ACT to amend and reenact subsection 5 of section 57-40.3-01 of the North Dakota Century Code, relating to the definition of purchase price for motor vehicle excise tax purposes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 57-40.3-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise. The purchase price excludes the amount of a manufacturer's incentive or discount that reduces the amount paid by the purchaser to the seller at the time of purchase and any charges or fees for auction services. If a motor vehicle or other tangible personal property that will be subject to a sales or use tax imposed by chapter 57-39.2 or 57-40.2 when sold or used is taken in trade as a credit or as part payment on a motor vehicle taxable under this chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in shall constitute the purchase price of a motor vehicle accepted as a trade-in. If a motor vehicle is purchased by an owner who has had a motor vehicle stolen or totally destroyed, a credit or trade-in credit shall be allowed against one or more replacement motor vehicle purchases in a cumulative amount not to exceed the total amount the purchaser has been compensated by an insurance company for the loss plus the amount of the purchaser's deductible at the time of the loss. For a leased vehicle that is stolen or totally destroyed, the credit may not exceed the total amount of motor vehicle excise tax paid. The purchaser must provide the director of the department of transportation with a notarized statement from the insurance company within three years from the date of issuance verifying the fact that the original vehicle was a total loss and stating the amount compensated by the insurance company for the loss and the amount of the purchaser's deductible at the time of the loss. The statement from the insurance company must accompany the purchaser's application for a certificate of title for the replacement vehicle. If the full amount of the credit under this subsection has not been used, the director of the department of transportation shall record on the face of the notarized statement the necessary information to identify the partial use of the credit and shall retain a copy and return the original to the purchaser. In instances in which a licensed motor vehicle dealer places into the dealer's service a new vehicle for the purpose of renting, leasing, or dealership utility service, the reasonable value of the vehicle replaced shall be included as trade-in value provided the vehicle replaced has been subject to motor vehicle excise tax under section 57-40.3-02 and if the new vehicle is properly registered and licensed. "Purchase price" when the motor vehicle is acquired by gift or by any

other transfer for a nominal or no monetary consideration also includes the average value of similar motor vehicles, established by standards and guides as determined by the director of the department of transportation. "Purchase price" when a motor vehicle is manufactured by a person who registers it under the laws of this state means the manufactured cost of such motor vehicle and manufactured cost means the amount expended for materials, labor, and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured cost means the reasonable value of the completed motor vehicle.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2023.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 553

HOUSE BILL NO. 1223

(Representatives Vigesaa, Bosch, Headland, Mitskog, D. Ruby)
(Senators Bekkedahl, Kannianen, Patten, Sorvaag)

AN ACT to amend and reenact subsection 15 of section 57-40.3-04 of the North Dakota Century Code, relating to a motor vehicle excise tax exemption for enrolled tribal members; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁵ **SECTION 1. AMENDMENT.** Subsection 15 of section 57-40.3-04 of the North Dakota Century Code is amended and reenacted as follows:

15. A motor vehicle acquired at any location within this state by an individual who ~~resides~~ is an enrolled member of a federally recognized Indian tribe residing within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe, provided the exemption in this subsection does not apply to a motor vehicle purchased by an individual whose primary residence is not within the boundaries of any reservation in this state.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2023.

Approved April 11, 2023

Filed April 12, 2023

³¹⁵ Section 57-40.3-04 was also amended by section 4 of House Bill No. 1212, chapter 532.

CHAPTER 554

HOUSE BILL NO. 1242

(Representatives Bosch, Heinert, Nathe, Porter)
(Senators Axtman, Davison, Larson)

AN ACT to amend and reenact subsection 2 of section 57-40.6-02 of the North Dakota Century Code, relating to the statewide interoperable radio network; to repeal section 6 of chapter 293 of the 2019 Session Laws, relating to a line of credit authorized for the statewide interoperable radio network project; to provide an appropriation; to provide for a transfer; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 57-40.6-02 of the North Dakota Century Code is amended and reenacted as follows:

2. A political subdivision shall add a fee of fifty cents to the fee imposed on assessed communications services established under subsection 1. The additional fifty cents per communication connection must be remitted to the state treasurer for deposit in the statewide interoperable radio network fund in accordance with section 37-17.3-12 for implementing ongoing administrative and operational maintenance costs of the statewide interoperable radio network. The funds collected under this subsection must be expended in a manner consistent with the recommendations of the statewide interoperability executive committee.

SECTION 2. TRANSFER - BANK OF NORTH DAKOTA PROFITS TO STATEWIDE INTEROPERABLE RADIO NETWORK FUND. The Bank of North Dakota shall transfer the sum of \$20,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the statewide interoperable radio network fund during the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 3. APPROPRIATION - INFORMATION TECHNOLOGY DEPARTMENT - LINE OF CREDIT REPAYMENT - STATEWIDE INTEROPERABLE RADIO NETWORK FUND - ONE-TIME FUNDING. There is appropriated out of any moneys in the statewide interoperable radio network fund in the state treasury, not otherwise appropriated, the sum of \$20,000,000, or so much of the sum as may be necessary, to the information technology department for the purpose of repaying the Bank of North Dakota line of credit authorized in section 6 of chapter 293 of the 2019 Session Laws, for the biennium beginning July 1, 2023, and ending June 30, 2025. This funding is considered a one-time funding item.

SECTION 4. APPROPRIATION - INFORMATION TECHNOLOGY DEPARTMENT - STATEWIDE INTEROPERABLE RADIO NETWORK PROJECT - FEDERAL STATE FISCAL RECOVERY FUND - ONE-TIME FUNDING. There is appropriated from federal funds derived from the state fiscal recovery fund, not otherwise appropriated, the sum of \$80,000,000, or so much of the sum as may be necessary, to the information technology department for the purpose of the statewide

interoperable radio network project, for the biennium beginning July 1, 2023, and ending June 30, 2025. This funding is considered a one-time funding item.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - EMERGENCY AND INTEROPERABLE PUBLIC SAFETY COMMUNICATIONS SYSTEM GOVERNANCE. During the 2023-24 interim, the legislative management shall consider studying emergency and interoperable public safety communications system governance needs and options. The study must:

1. Include an analysis of options to manage and operate state and local emergency and interoperable public safety systems, including the statewide interoperable radio network;
2. Evaluate the current and most appropriate governance roles for each state and local emergency and interoperable public safety government entity;
3. Determine the most appropriate state or local emergency and interoperable public safety government entity to have responsibility for the ongoing administrative and operational maintenance cost of the statewide interoperable radio network; and
4. Consider input from the information technology department, department of emergency services division of state radio, statewide interoperability executive committee, emergency services communications coordinating committee, North Dakota association of counties, and local public safety entities.

The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 6. REPEAL. Section 6 of chapter 293 of the 2019 Session Laws is repealed.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 13, 2023

Filed April 14, 2023

CHAPTER 555

SENATE BILL NO. 2162

(Senators Patten, Beard, Kannianen, Kessel)
(Representatives Headland, Nathe)

AN ACT to amend and reenact subdivision a of subsection 4 of section 57-51-15 and paragraph 1 of subdivision b of subsection 5 of section 57-51-15 of the North Dakota Century Code, relating to oil and gas gross production tax allocations to counties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁶ **SECTION 1. AMENDMENT.** Subdivision a of subsection 4 of section 57-51-15 of the North Dakota Century Code is amended and reenacted 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.~~

³¹⁷ **SECTION 2. AMENDMENT.** Paragraph 1 of subdivision b of subsection 5 of section 57-51-15 of the North Dakota Century Code is amended and reenacted 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.~~

Approved March 20, 2023

Filed March 21, 2023

³¹⁶ Section 57-51-15 was also amended by section 1 of Senate Bill No. 2059, chapter 556, and section 2 of Senate Bill No. 2162, chapter 555.

³¹⁷ Section 57-51-15 was also amended by section 1 of Senate Bill No. 2059, chapter 556, and section 1 of Senate Bill No. 2162, chapter 555.

CHAPTER 556**SENATE BILL NO. 2059**

(Energy and Natural Resources Committee)
(At the request of the Department of Mineral Resources)

AN ACT to amend and reenact subdivision b of subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to the balance in the abandoned oil and gas well plugging and site reclamation fund; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁸ **SECTION 1. AMENDMENT.** Subdivision b of subsection 1 of section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

- 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 ~~fty~~one hundred million dollars.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2027, and after that date is ineffective.

Approved March 14, 2023

Filed March 15, 2023

³¹⁸ Section 57-51-15 was also amended by section 1 of Senate Bill No. 2162, chapter 555, and section 2 of Senate Bill No. 2162, chapter 555.

CHAPTER 557

HOUSE BILL NO. 1286

(Representatives Headland, D. Anderson, Bosch, Lefor, Nathe, Porter, Vigesaa)
(Senators Bekkedahl, Hogue, Kessel, Patten, Rummel)

AN ACT to amend and reenact section 57-51.1-02 of the North Dakota Century Code, relating to the removal of triggered oil extraction tax rate changes for wells located outside the exterior boundaries of a reservation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51.1-02 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-02. Imposition of oil extraction tax.

1. There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the activity in this state of extracting oil from the earth, and every owner, including any royalty owner, of any part of the oil extracted is deemed for the purposes of this chapter to be engaged in the activity of extracting that oil. The rate of tax is five percent of the gross value at the well of the oil extracted. However
2. Subject to subsection 3, for a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well located on reservation trust land as defined in section 57-51.1-07.10, if the average price of a barrel of crude oil exceeds the trigger price of ninety dollars for each month in any consecutive three-month period, then the rate of tax on oil extracted from all taxable wells is six percent of the gross value at the well of the oil extracted until the average price of a barrel of crude oil is less than the trigger price of ninety dollars for each month in any consecutive three-month period, in which case the rate of tax reverts to five percent of the gross value at the well of the oil extracted. By December thirty-first of each year, the tax commissioner shall determine an indexed trigger price under this section by applying to the current trigger price an adjustment equal to the percentage rate of change of the producer price index for industrial commodities as calculated and published by the United States department of labor, bureau of labor statistics, for the twelve months ending June thirtieth of that year and the indexed trigger price so determined is the trigger price for the following calendar year. For purposes of this ~~section~~subsection, "average price" of a barrel of crude oil means the monthly average of the daily closing price for a barrel of west Texas intermediate cushioning crude oil, as those prices appear in the Wall Street Journal, midwest edition. When computing the monthly average price, the most recent previous daily closing price must be considered the daily closing price for the days on which the market is closed.
3. A tribe may make an irrevocable election to opt-out of the increased rate of tax provided in subsection 2 by providing written notice to the tax commissioner. If a tribe provides notice under this subsection, the rate of tax on oil extracted from taxable wells is equal to the rate of tax provided in subsection 1.

beginning in the month of production after notice under this subsection is received by the tax commissioner.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2023.

Approved March 29, 2023

Filed March 30, 2023

CHAPTER 558

HOUSE BILL NO. 1427

(Representatives Headland, D. Anderson, Bosch, Dockter)
(Senators Kannianen, Meyer, Patten)

AN ACT to create and enact a new subsection to section 57-51.1-03 of the North Dakota Century Code, relating to an oil extraction tax rate reduction on production from a restimulation well; to amend and reenact sections 57-51.1-01 and 57-51.1-03.1 of the North Dakota Century Code, relating to the definition and certification of a restimulation well; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-01. Definitions for oil extraction tax.

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
2. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].
3. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.
4. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.
5. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax exemption provided under section 57-51.1-03, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

6. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:
- a. Miscible fluid displacement.
 - b. Steam drive injection.
 - c. Microemulsion.
 - d. In situ combustion.
 - e. Polymer augmented water flooding.
 - f. Cyclic steam injection.
 - g. Alkaline flooding.
 - h. Carbonated water flooding.
 - i. Immiscible carbon dioxide displacement.
 - j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax exemption provided under section 57-51.1-03, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

7. "Restimulation well" means a previously completed oil or gas well that, following completion and production of oil, has been treated with an application of fluid under pressure for the purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil. The term does not include a well that:
- a. Has less than sixty months of production or is producing more than one hundred and twenty-five barrels of oil per day reported to the industrial commission before completion of the restimulation treatment;
 - b. Is part of a qualifying secondary recovery project, qualifying tertiary recovery project, or stripper well or stripper well property as defined under this section; or
 - c. Is drilled but not completed and does not have a record of oil production reported to the industrial commission.
8. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.

- 8-9. "Stripper well" means a well drilled and completed, or re-entered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.
- 9-10. "Stripper well property" means wells drilled and completed, or a well re-entered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

SECTION 2. A new subsection to section 57-51.1-03 of the North Dakota Century Code is created and enacted as follows:

The production from a restimulation well that has been certified as a qualified well by the industrial commission after August 1, 2023, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter for the first seventy-five thousand barrels of production or for a period of eighteen months after the month in which oil was first produced from the restimulation well, whichever occurs first. The tax rate reduction under this subsection does not apply to a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well located on reservation trust land as defined in section 57-51.1-07.10, unless a tribe makes an irrevocable election to opt-in to the tax rate reduction by providing written notice to the tax commissioner. If a tribe provides notice of its election to opt-in to the tax rate reduction, the tax commissioner shall apply the tax rate reduction beginning in the month of production after the notice is received by the tax commissioner. The industrial commission shall certify whether the well qualifies as a restimulation well under section 1 of this Act in a manner that conforms to the practice and procedure used by the commission at the time the restimulation well is certified.

SECTION 3. AMENDMENT. Section 57-51.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-03.1. Stripper well, new well, and secondary or tertiary project, and restimulation well certification for tax exemption or rate reduction - Filing requirement.

1. To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying well status prepared by the industrial commission must be submitted to the tax commissioner as follows:
 - a. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property or individual stripper well under subsection 2 of section 57-51.1-03, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the stripper well property's or stripper well's qualification period.
 - b. To receive, from the first day of eligibility, a tax exemption under subsection 3 of section 57-51.1-03 on production from a secondary or tertiary project, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the month in which the first incremental oil was produced.
 - c. To receive, from the first day of eligibility, a tax exemption or the reduction on production for which any other tax exemption or rate reduction may apply, the industrial commission's certification must be submitted to the tax commissioner within eighteen months of the completion, recompletion, or other qualifying date.
 - d. To receive, from the first day of eligibility, a tax rate reduction under section 2 of this Act on production from a restimulation well, the industrial commission's certification must be submitted to the tax commissioner within six months after the month in which the first oil was produced.
2. If the industrial commission's certification is not submitted to the tax commissioner within the eighteen-month period provided in this section, then the exemption or rate reduction does not apply for the production periods in which the certification is not on file with the tax commissioner. When the industrial commission's certification is submitted to the tax commissioner after the eighteen-month period, the tax exemption or rate reduction applies to prospective production periods only and the exemption or rate reduction is effective the first day of the month in which the certification is received by the tax commissioner.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable production beginning after June 30, 2023.

Approved April 11, 2023

Filed April 12, 2023

CHAPTER 559

SENATE BILL NO. 2367

(Senators Hogue, Bekkedahl)
(Representatives Lefor, Vigesaa)

AN ACT to amend and reenact section 57-51.1-07.5 of the North Dakota Century Code, relating to the allocation of the state share of oil and gas taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁹ **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 thirty million dollars into the state general fund;
2. The next two hundred fifty million dollars into the ~~tax-relief~~social services 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 thirty million dollars into the state general fund;
5. The next ten million dollars into the lignite research fund;
6. The next 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 twenty million dollars;
7. The next four hundred million dollars into the strategic investment and improvements fund;
8. The next fifty-nine million seven hundred fifty thousand dollars, or the amount necessary to provide for twice the amount of the distributions under subsection 2 of section 57-51.1-07.7, 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;
9. The next one hundred seventy million two hundred fifty thousand dollars or the amount necessary to provide a total of two hundred thirty million dollars into

³¹⁹ Section 57-51.1-07.5 was also amended by section 31 of House Bill No. 1040, chapter 514.

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;

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

Approved April 13, 2023

Filed April 14, 2023