

VETOED MEASURES

CHAPTER 690

HOUSE BILL NO. 1061
(Legislative Council)
(Interim Energy Development Committee)

COAL GASIFICATION BYPRODUCTS EXEMPTION

AN ACT to amend and reenact sections 57-60-01 and 57-60-03 of the North Dakota Century Code, relating to definitions for purposes of the privilege tax on coal facilities, to exempt byproducts of the coal gasification process from the gross receipts tax on coal gasification plants, and to annual reporting by the operator of a coal gasification plant of the quantity of byproducts produced.

VETO

February 14, 1985

The Honorable Roy Hausauer
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Speaker:

You all know as well as I how difficult the revenue situation in North Dakota has become. Since I gave my budget message, it appears my worst fears will be borne out.

As you know, I have already recommended agonizing cuts of \$73 million from former Governor Olson's proposed budget. If revenue projections continue to fall, we could even be faced with tax increases.

Because of that, I cannot entertain the idea of tax breaks to any sector of the economy unless it is justified beyond a shadow of a doubt.

As you know, large energy plants in North Dakota pay the coal conversion tax as a substitute for ad valorem tax paid by other property owners in our State. Under our property tax law, the applicable mill rate is applied to the equivalent of 5% of the true and full value of that property. The statewide mill rates average 240.3 mills, which yields an average property tax of approximately 1.2% of value. I have been informed by the Tax Department that the real property portion of large industrial facilities of this type averages approximately 50% of the total cost.

Applying the statewide average of 1.2% of value against half the value of the existing coal gasification plant yields a tax of over \$25 million per biennium. That is how they would be taxed if they were taxed as other property owners are taxed. Our revenue estimates under the current in lieu of property tax law indicate that that plant will pay only a total of \$18.7 million in tax during the next biennium.

Therefore, it is my judgment that the present law provides a very reasonable level of taxation on coal gasification plants when measured by the yardstick of the burden placed on the property owned by others in this state. Because that is true, I cannot justify a tax break that will certainly have, over time, a great impact on North Dakota revenues.

Finally, I believe it is also essential that you realize how strongly I am committed to a fair and balanced tax system. The existing tax appears to be eminently fair.

Therefore, I veto HB 1061.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-60-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-01. Definitions. As used in this chapter:

1. "Byproducts" means commercially usable products produced during the coal gasification process other than the principal product of a coal gasification plant.

2. "Coal conversion facility" means either:

- a. A plant, other than an electrical generating plant, together with all additions thereto, which processes or converts coal from its natural form into a form substantially different in chemical or physical properties, including but not limited to coal gasification, coal liquefaction, and the manufacture of fertilizer and other products, and which uses or is designed to use over five hundred thousand tons [453,592.37 metric tons] of coal per year; or
- b. An electrical generating plant, together with all additions thereto, which processes or converts coal from its natural form into electrical power and which has at least one single electrical energy generation unit with a capacity of one hundred twenty thousand kilowatts or more.

2- 3. "Coal gasification" means the production of ~~methane or other commercial gas products~~ synthetic natural gas, methanol, or other principal commercial gaseous or liquid product from coal.

3- 4. "Commissioner" means the state tax commissioner.

4- 5. "Gross receipts" means all revenue valued in money, whether received in money or otherwise, derived by a coal conversion facility subject to the provisions of this chapter from the production of products of a coal conversion facility, ~~but not including~~. "Gross receipts" does not include any revenue derived from the sale of byproducts of the coal gasification process or transportation, transmission, distribution, or other items events which occur after completion of the process of production of the products of such the facility is completed.

5- 6. "Operator" means any person owning, holding, or leasing a coal conversion facility and conducting the conversion of coal into the products of ~~such facilities~~ the facility.

6- 7. "Person" means any individual, estate, trust, corporation, cooperative corporation, or association.

7- 8. "Synthetic natural gas" means methane and any admixed gaseous products produced by coal gasification.

SECTION 2. AMENDMENT. Section 57-60-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-03. Measurement and recording of synthetic natural gas, byproducts, or electricity produced. The production of synthetic natural gas, byproducts, or electrical power shall be measured at

the place of production or generation, and any person subject to the imposition of the taxes provided by this chapter shall maintain devices to measure and record the cumulative periodic totals of synthetic natural gas, byproducts, and electrical power generated. Any person subject to the taxes imposed by this chapter shall maintain accurate records of the daily and monthly totals of synthetic natural gas and electrical power generated and subject to such taxes. On or before October first of each year the operator of any coal gasification plant shall file a report with the state health officer listing the quantity of byproducts produced during the year ending June thirtieth of that year. The commissioner shall have access to such records at reasonable times and places.

Disapproved February 14, 1985

Filed March 5, 1985

CHAPTER 691

HOUSE BILL NO. 1005
(Committee on Appropriations)

**PERSONAL PROPERTY TAX REPLACEMENT
APPROPRIATION**

AN ACT making an appropriation for the distribution of funds for the replacement of personal property taxes revenue.

VETO

March 20, 1985

The Honorable Roy Hausauer
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1005 provides for an \$11.9 million increase over my budget recommendations. It is essential to remember that, even with the \$73 million in budget cuts I have recommended, the State will be spending approximately \$100 million more than it will take in over the next biennium. To add to that spending will create major problems two years from now.

My budget recommendations, recognizing the difficulties faced by political subdivisions, contained a 16% increase in aid for them. This bill would result in a 38% increase. It is clearly in excess of what the State can afford and is unacceptable.

Therefore, I veto House Bill 1005. I am doing so immediately so that the Legislature will have the opportunity to enact a bill which is consistent with my budget recommendations.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the state tax commissioner for the purpose of replacement of personal property taxes, for the biennium beginning July 1, 1985, and ending June 30, 1987, as follows:

Grants, benefits, and claims	\$ 44,540,000
Total general fund appropriation	\$ 44,540,000

SECTION 2. DISTRIBUTION. The distribution of funds appropriated under section 1 of this Act shall be made in accordance with the formula for personal property tax replacement payments as provided for in section 57-58-01. During the year ending June 30, 1986, such payments shall not exceed one-half of the total appropriation provided for in this Act.

SECTION 3. PRORATION. Notwithstanding the provisions of section 57-58-01, which contains the formula for personal property tax replacement payments, the payments shall not exceed the amounts as set forth in this Act. If the appropriation provided for in this Act in any fiscal year is less than the amount determined by applying the formula as contained in section 57-58-01, the director of the office of management and budget shall pay only the amount of funds available under this Act. Under such circumstances, a method of proration shall be used that provides each eligible recipient the same proportion of these funds as the percent share of total funds it would have received under the application of the formula provided for in section 57-58-01.

Disapproved March 20, 1985

Filed March 25, 1985

CHAPTER 692

HOUSE BILL NO. 1375
(Representative Moore)
(Senator Adams)

RETAILERS' DEDUCTIONS FOR SALES TAX COLLECTION

AN ACT to amend and reenact sections 57-39.2-12.1 and 57-40.2-07.1 of the North Dakota Century Code, relating to deductions to reimburse retailers for administrative expenses of collection of sales and use taxes.

VETO

March 22, 1985

The Honorable Roy Hausauer
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Speaker:

During the 48th Legislative Assembly we first provided reimbursement for retailers who file monthly sales and use tax reports. We provided reimbursement in amounts of up to \$1,000 per year. Prior to that time, retailers were not reimbursed at all. Many other states still provide no reimbursement.

This bill would raise that amount and would have a negative revenue impact of up to \$785,000. Much of that would go to retailers outside of North Dakota.

While higher compensation for retailers is a worthwhile goal, at this time of extremely tight revenues, it is inappropriate.

Therefore, I veto House Bill 1375.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-12.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-12.1. Deduction to reimburse retailer for administrative expenses.

1. A retailer who pays the estimated total tax due under section 57-39.2-12 within the time limitations prescribed may deduct and retain ~~one and one-half~~ two percent of the tax due.
2. The aggregate of deductions allowed by this section and section 57-40.2-07.1 may not exceed ~~two one hundred fifty~~ ten dollars per ~~quarterly~~ monthly period for each business location which has been issued a sales or use tax permit by the commissioner.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the commissioner upon request.

SECTION 2. AMENDMENT. Section 57-40.2-07.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-07.1. Deduction to reimburse retailer for administrative expenses.

1. A retailer who pays the estimated total tax due under section 57-40.2-07 within the time limitations prescribed may deduct and retain ~~one and one-half~~ two percent of the tax due.
2. The aggregate of deductions allowed by this section and section 57-39.2-12.1 may not exceed ~~two one hundred fifty~~ ten dollars per ~~quarterly~~ monthly period for each business

location which has been issued a sales or use tax permit by the commissioner.

3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the commissioner upon request.

Disapproved March 22, 1985

Filed April 9, 1985

CHAPTER 693

HOUSE BILL NO. 1305
(Representatives Unhjem, Larson, Dotzenrod)
(Senators Krauter, Parker, Kilander)

REVOLVING CHARGE ACCOUNT FEES AND CHARGES

AN ACT to amend and reenact sections 51-14-02 and 51-14-03 of the North Dakota Century Code, relating to the minimum fees and credit service charges allowed for revolving charge account agreements; and to repeal section 51-14-04 of the North Dakota Century Code, relating to the effective date of the chapter.

VETO

March 22, 1985

The Honorable Roy Hausauer
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Speaker:

Almost every North Dakota retailer would, with or without this bill, stay below the 18% interest rate on revolving charge accounts.

Basically, it is the low and middle income citizens, who must buy on credit, who would lose protection under this bill. If it is necessary to raise allowable interest rates, it is equally important that there be some legal restraint on those rates. This bill removes all such restraints. If a bill were presented to me which increased the amount of interest allowed, with a reasonable maximum amount, I would sign the bill. This bill does not do so.

Therefore, I veto House Bill 1305.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-14-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-14-02. Contents of revolving charge agreements - Requirements for delivery of monthly statements. Every revolving charge agreement shall be in writing and shall be signed by the retail buyer. A The retail seller shall deliver or mail a copy of any such the agreement shall be delivered or mailed to the retail buyer by the retail seller prior to before the date on which the first payment is due thereunder. Such agreements shall The agreement must state the amount and rate of the credit service charge to be charged and paid pursuant thereto. Such The agreement must set forth the credit service charge shall be set forth in such reveiving charge agreement in terms of a monthly percentage rate or minimum fee to be applied to the balance outstanding from time to time thereunder, as of the beginning or end of each billing period. The retail seller under a revolving charge agreement shall promptly supply the retail buyer under such the agreement with a statement as of the end of each monthly period or other regular period agreed upon by the retail seller and the retail buyer, in which there is any unpaid balance thereunder. Such The statement shall recite the following must:

1. The Specify the unpaid balance under the revolving charge agreement at the beginning or end of the period.
2. An identification of Identify the goods or services purchased, the cash purchase price, and the date of each purchase, unless otherwise furnished by the retail seller to the retail buyer by sales slip, memorandum, or otherwise.
3. The Specify the payments made by the retail buyer to the retail seller and any other credits to the retail buyer during the period.
4. The Specify the amount of the credit service charge, if any, and also the percentage annual simple interest equivalent of such that amount or when a minimum fee is charged, the amount of that fee.

5. A Contain a legend to the effect that the retail buyer may at any time pay ~~his~~ the total indebtedness.

The items need not be stated in the sequence or order set forth above. Additional items may be included to explain the computations made in determining the amount to be paid by the retail buyer.

SECTION 2. AMENDMENT. Section 51-14-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-14-03. ~~Limitation of credit~~ Credit service charge. A seller may, in a revolving charge agreement, contract for and, if so contracted for, the seller or holder thereof may charge, receive, and collect ~~the a credit service charge authorized by this section.~~ The service charge shall not exceed one and one-half percent per month computed on the outstanding indebtedness from month to month. In the event as agreed upon between the buyer and seller. If any payment by a buyer is insufficient to pay both the credit service charge and that portion of the outstanding indebtedness then due, ~~such payments shall~~ the payment must first be applied to the credit service charge then due.

SECTION 3. REPEAL. Section 51-14-04 of the North Dakota Century Code is hereby repealed.

Disapproved March 22, 1985

Filed April 9, 1985

CHAPTER 694

HOUSE BILL NO. 1335
(Unhjem)

**HUMAN SERVICE CENTER AND STATE HOSPITAL
RECORD TRANSFERS**

AN ACT to amend and reenact sections 25-01.1-06, 25-01.1-13, 25-03.1-43, and 50-06-15 of the North Dakota Century Code, relating to the transfer of client and patient records between regional human service centers, and between a regional human service center and the state hospital.

VETO

April 1, 1985

The Honorable Roy Hausauer
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Speaker:

As amended, House Bill 1335 accomplishes exactly the opposite of what was intended by the bill's sponsor and the opposite of what is in the best interest of clients of human service centers and patients of the state hospital.

A very important function of human service centers is to provide after care and follow up mental health services and treatment to patients discharged from the state hospital. Another important function is to provide histories, diagnostic evaluations and

diagnostic information regarding clients admitted to the state hospital.

While I fully understand and appreciate the need for confidentiality of these records, it is also important to recognize that professional judgment and "need to know" are exercised in situations where the best interest of the client or patient dictates. This information exchange must be limited to an exchange within the human service system under carefully prescribed regulations.

Patients leaving the state hospital have fallen between the cracks due to the inability of the hospital to alert human service centers of an impending discharge and to give other information that is vital to follow up care. These patients, then, often return to the hospital because of the lack of such care, including the lack of proper medication. That has resulted in additional trauma and expense to the patient that probably could have been avoided.

This bill would limit access to records of mentally ill patients and clients by those who most need that information to properly care for them.

Therefore, I veto House Bill 1335.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-01.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01.1-06. Supervising department to have access to institutions and to books and records of institutions. The supervising department shall have access to all the state institutions under its management and control, and to all books, accounts, vouchers, supplies, and equipment of each of the institutions so that the supervising department may familiarize itself with the conditions, needs and requirements of the institutions. All books, documents, and records relating to the concerns and business of such institutions except personal records of patients at all times shall be open to the examination of any citizen of this state. Personal records of patients shall be made available upon court order or in accordance with rules and regulations established by the supervising department, and, if the patient or guardian signs a written authorization of release, the patient's records may be transferred

upon request between the state hospital and a regional human service center or between regional human service centers.

SECTION 2. AMENDMENT. Section 25-01.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01.1-13. Supervising department to keep record of persons in institutions. The supervising department shall keep in its office a record showing:

1. The residence, sex, age, nativity, occupation, religion, civil condition, and date of entrance or commitment of every person, patient, or inmate in the institutions under its control and administration.
2. The date of discharge of every such person from the institutions, and whether such discharge was final.
3. The condition of the person at the time he left the institution.
4. If a person is transferred from one institution to another, to what institution transferred.
5. If a person, patient, or inmate of an institution shall die, the date and cause of death.

This information shall be furnished to the supervising department by the institutions under its control. Such other obtainable facts shall be furnished as the supervising department, from time to time, may require. No one shall have access to the records, except as authorized by the supervising department, or on the order of a court of record; provided, that if the patient or guardian signs a written authorization of release, the patient's records may be transferred upon request between the state hospital and a regional human service center or between regional human service centers.

SECTION 3. AMENDMENT. Section 25-03.1-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-43. Confidential records. All information and records obtained in the course of an investigation, evaluation, examination, or treatment under this chapter and the presence or past presence of a patient in a treatment facility shall be kept confidential and not as public records, except as the requirements of a hearing under this chapter may necessitate a different procedure, or except as necessary to permit the transfer of the records between the state hospital and a regional human service center or between human service centers as authorized by the patient or guardian's written release and consent. All information and records shall be available to the court and except as otherwise provided shall be disclosed

under regulations established by the state department of health only to:

1. Physicians and providers of health, mental health, or social and welfare services involved in caring for, treating, or rehabilitating the patient to whom the patient has given written consent to have information disclosed.
2. Individuals to whom the patient has given written consent to have information disclosed.
3. Persons legally representing the patient, upon proper proof of representation and unless the patient specifically withholds consent.
4. Persons authorized by a court order.
5. Persons doing research or maintaining health statistics, if the anonymity of the patient is assured, his consent is given, and the facility recognizes the project as a bona fide research or statistical undertaking.
6. The director of institutions in cases in which prisoners sentenced to the state prison are patients in the state hospital on authorized transfers either by voluntary admissions or by court order.
7. Governmental or law enforcement agencies when necessary to secure the return of a patient who is absent without authorization from the facility where the patient was undergoing evaluation or treatment.

SECTION 4. AMENDMENT. Section 50-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-15. Disclosure of information contained in records - Penalty. It shall be a class A misdemeanor for any person to disclose, authorize, or knowingly permit, participate in, or acquiesce in the disclosure of any records or information concerning persons applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department when such information is derived directly or indirectly from records, papers, files, or communications received in the course of the administration of any such program or in the performance of official duties, except that such records and information may be used in the administration of any such program, may be transferred upon the patient or guardian's written authorization of release and upon request between regional human service centers and between a regional human service center and the state hospital, and may be used as specifically authorized by the rules and regulations of the department.

Disapproved April 1, 1985

Filed April 9, 1985

CHAPTER 695

HOUSE BILL NO. 1408
(Representative Strinden)
(Senator Nething)

LEGAL COUNSEL FOR LEGISLATIVE BRANCH

AN ACT to create and enact a new subsection to section 54-35-02 of the North Dakota Century Code, to provide that the legislative council may appoint or retain legal counsel to protect the interests of the legislative branch in actions and proceedings.

VETO

April 1, 1985

The Honorable Roy Hausauer
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Speaker:

In 1890, The North Dakota legislature first prescribed the duties of the Attorney General. Those duties, in the context of House Bill 1408, remain the same today. (See Section 54-12-01 of the North Dakota Century Code). They include: To appear for and represent the state before the Supreme Court in all cases in which the state is interested as a party; to institute and prosecute all actions and proceedings in favor or for the use of the state and to appear and defend all actions and proceedings against any state officer.

In 1902, in language too clear to misconstrue, the legislature stated:

It is the intention of this Act to make the Attorney General, his assistants, and the state's attorney the only public prosecutor in all cases civil and criminal, wherein the state, or county, is a party to the action. 1901 N.D. Sess. Laws 178.

And the North Dakota Supreme Court has held:

"It seems to obvious for discussion that the framers of the Constitution, in providing for the election of these officers [Governor and Attorney General] by the people, thereby reserved unto themselves the right to have the inherent functions theretofore pertaining to said officers discharged only by persons elected as therein provided." The clear implication of this language is that the legislature has no constitutional power to abridge the inherent powers of the attorney general despite the fact that the constitution provides that the "duties of the . . . attorney general . . . shall be as prescribed by law." State v. Erickson, 7 N.W.2d 865, 867 (N.D. 1943).

The Attorney General has the necessary staff and resources to protect the legal interests of this state. Adding yet another legal staff would be an additional drain on the budget, duplicative and counter-productive. It could also lead to internal disputes, with different branches of state government pursuing different ends or different means to the same end.

The legal interests of this state are best protected by having a single office pursue all legal matters on behalf of the state.

Therefore, I veto House Bill 1408.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-35-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

Upon approval of two-thirds of the members of the legislative council, to appoint or retain legal counsel to appear in, commence, prosecute, defend, or intervene in

any action, suit, matter, cause, or proceeding in any court or agency when deemed necessary or advisable to protect the official interests of the legislative branch of state government. The provisions of section 54-12-08 do not apply to persons appointed or retained pursuant to this subsection.

Disapproved April 1, 1985

Filed April 9, 1985

CHAPTER 696

HOUSE BILL NO. 1638
(A. Hausauer)

COAL SEVERANCE TAX RATE

AN ACT to amend and reenact section 57-61-01 of the North Dakota Century Code, to make permanent the rate of the coal severance tax in effect on July 1, 1987.

VETO

April 16, 1985

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

House Bill 1638 would have no impact on revenues for the 1985-87 biennium because of the delayed effective date.

Nevertheless, it is not wise policy to pass legislation which would tend to limit the options of succeeding legislative sessions. It is also not wise policy to provide tax breaks without regard to future revenue needs.

I am not an advocate of the current approach to coal taxation, and the entire area of coal taxation needs thorough review. However, until that review is accomplished this measure may only cloud the issue.

Therefore, I veto House Bill 1638.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-01. Severance tax upon coal - Imposition - Computation of increases - In lieu of sales and use taxes - Payment to the tax commissioner. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax in an amount to be determined as follows:

1. Eighty-five cents per ton of two thousand pounds [907.18 kilograms]; and
2. For every four point increase in the index of wholesale prices for all commodities prepared by the United States department of labor, bureau of labor statistics, the amount of the severance tax provided in subsection 1 shall be increased one cent per ton of two thousand pounds [907.18 kilograms]. For the purposes of this computation, a fractional point increase shall be disregarded if less than one-half point and treated as one full point if one-half point or more. The state tax commissioner shall determine such increases based upon increases in the wholesale price index from the level of such index as of June 1979 to the level of such index as of December 1979 and of May and November of each year thereafter, and any increases based upon the level of the index in May shall be effective on and after the following July first and any increases based upon the level of the index in November shall be effective on and after the following January first. At no time shall the amount of the severance tax be reduced. If the wholesale price index declines, the severance tax shall remain at the highest level determined prior to such decline, and shall remain at such level until further increases are warranted because of further increases in the wholesale price index beyond the point at which the last increase was determined. Notwithstanding the other provisions of this section, the rate of the severance tax as determined pursuant to this section which is effective on July 1, 1987, shall remain the rate in effect for all coal severed after July 1, 1987.

Such severance tax shall be in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit such tax for each month within twenty-five days after the end of each month, to the state tax commissioner upon such reports and forms as the tax commissioner shall deem necessary. If the method of determining increases in the amount of the severance tax provided in subsection 2 is for any reason held to be invalid, such decision shall not affect the validity of the amount of the tax provided in subsection 1.

Disapproved April 16, 1985

Filed April 17, 1985

CHAPTER 697

SENATE BILL NO. 2119
(Committee on State and Federal Government)
(At the request of the Department of Veterans' Affairs)

MEMORIAL DAY OBSERVANCE

AN ACT to amend and reenact sections 1-03-01 and 1-03-02 of the North Dakota Century Code, relating to the date of observance of Memorial Day holiday.

VETO

March 22, 1985

The Honorable Ruth Meiers
President of the Senate
Senate Chamber
State Capitol
Bismarck, North Dakota 58505

Dear Lieutenant Governor Meiers:

I recognize there is a significant division among veterans on this issue. Even though I am a veteran, I have tried to make this decision on an objective basis.

In making my decision, I realized that it is important that North Dakotans join other Americans in honoring veterans. Having a different day from other Americans will only serve to create problems for families and businesses with ties outside this State.

Additionally, it is important that those of us who need to travel long distances to spend Memorial Day with families and friends have the extra time to travel and be together.

Finally, while I realize that it is impossible to legislate patriotism, those who truly wish to observe Memorial Day will be better able to do so under the current law.

Therefore, I veto Senate Bill 2119.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 1-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The ~~last Monday in~~ thirtieth day of May, which is Memorial Day.

SECTION 2. AMENDMENT. Section 1-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-03-02. When day following holiday shall be a holiday. If the first day of January, the thirtieth day of May, the fourth day of July, the eleventh day of November, or the twenty-fifth day of December falls upon a Sunday, the Monday following shall be the holiday.

Disapproved March 22, 1985

Filed April 9, 1985

CHAPTER 698

SENATE BILL NO. 2072
(Legislative Council)
(Interim Government Reorganization Committee)

MEMBERSHIP OF VARIOUS STATE BOARDS

AN ACT to amend and reenact sections 15-01-01, 54-52-03, and 57-13-01 of the North Dakota Century Code, relating to the membership of the board of university and school lands, the public employees retirement board, and the state board of equalization; and to provide an effective date.

VETO

March 29, 1985

The Honorable Ruth Meiers
President of the Senate
Senate Chamber
State Capitol
Bismarck, North Dakota 58505

Dear Madam President:

The Tax Commissioner has been a member of the Board of Equalization since 1923. The system has worked well.

More than any other elected official, the Tax Commissioner has the expertise needed to decide tax questions on the Board of Equalization.

Clearly, the person who holds that office belongs on the chief tax board of this state.

Therefore, I veto Senate Bill 2072.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

15-01-01. Board - Membership - Officers. The governor, secretary of state, state ~~auditor~~ treasurer, attorney general, and superintendent of public instruction ~~shall constitute~~ comprise the "~~board~~ board of university and school ~~lands~~" lands. The governor ~~shall be~~ is the president, the secretary of state ~~shall be~~ is the vice president, and the commissioner of university and school lands ~~shall be~~ is the secretary of the board. In the absence of the commissioner at any meeting of the board, the deputy commissioner of university and school lands shall act as secretary. When acting as the board of university and school lands, the members of the board shall act in person and shall not be represented by any assistant, clerk, or deputy.

SECTION 2. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-03. Governing authority. A state agency is hereby created to constitute the governing authority of the system to consist of a board of five persons known as the retirement board. No more than one member of the board shall be in the employ of a single department, institution, or agency of the state or in the employ of political subdivisions.

1. One member of the board shall be appointed by the governor to serve a term of five years. The appointee shall be a North Dakota citizen who is not a state, or school district employee and who by experience is familiar with money management. The citizen member shall be chairman of the board.
2. One member of the board shall be appointed by the attorney general from ~~his~~ the attorney general's legal staff and shall serve a term of five years.
3. Three board members shall be elected from among the participating members. The initial elected members shall be elected for terms which shall expire two years, three years, and four years after the date of establishment.

Future members shall be elected to a five-year term, pursuant to an election called for by the board.

4. The chairman of the board shall receive fifty dollars per day for the actual time devoted ~~by him~~ to the duties of ~~his~~ the office and each of the other members of the board shall receive an honorarium of fifty dollars for each month during which the board has been in session. This shall be in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
5. A board member shall serve a five-year term and until ~~his~~ the member's successor qualifies. Each board member shall be entitled to one vote, and three of the five board members shall constitute a quorum. Three votes shall be necessary for resolution or action by the board at any meeting.
6. The ~~state auditor,~~ the state health officer, and the commissioner of banking and financial institutions shall be ex officio, nonvoting, and advisory members of the board.

SECTION 3. AMENDMENT. Section 57-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-01. Membership of board. The governor, state treasurer, state auditor, commissioner of agriculture, and ~~state tax commissioner shall constitute~~ secretary of state ~~comprise~~ the state board of equalization. The governor ~~shall be~~ is the chairman of the board and the tax commissioner is the secretary of the board.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is contingent on the passage of Senate Concurrent Resolution No. 4005 by the forty-ninth legislative assembly and approval of that resolution by the electors of this state. If the resolution is not approved by the electorate, section 1 of this Act is of no force and effect. If section 1 of this Act takes effect, it is effective on and after January 1, 1987.

Disapproved March 29, 1985

Filed April 9, 1985

CHAPTER 699

SENATE BILL NO. 2300
(Senators Holmberg, Kilander)
(Representatives Hughes, Unhjem, Hoffner)

SALES TAX EXEMPTION FOR HEATING GAS

AN ACT to amend and reenact sections 57-39.2-02.1 and 57-40.2-02.1 of the North Dakota Century Code, relating to the rate of sales and use taxes on gas used primarily for heating or cooling purposes in residential or commercial buildings.

VETO

April 1, 1985

The Honorable Ruth Meiers
President of the Senate
Senate Chamber
State Capitol
Bismarck, North Dakota 58505

Dear Madam President:

Senate Bill 2300 does accomplish a worth while purpose by equalizing the tax on natural gas and other energy taxes. In addition, because of the delayed effective date, it would have no impact on revenues for the 1985-87 biennium.

Nevertheless, it is not wise policy to pass legislation which would tend to limit the options of succeeding legislative sessions. It is also not wise policy to provide tax breaks without regard for future revenue needs.

The good ends sought in this bill can be better determined by the 1987 legislative assembly, when the revenue picture for the 1987-89 biennium will be far more clear.

Therefore, I veto Senate Bill 2300.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-02.1. Sales tax imposed.

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes and for sales of farm machinery and irrigation equipment used exclusively for agricultural purposes, except as provided in subsection 4 for sales of natural gas, and except as otherwise expressly provided in this chapter, there is imposed a tax of four percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the state of North Dakota of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and farm machinery and irrigation equipment used exclusively for agricultural purposes.
 - b. The furnishing or service of steam other than steam used for processing agricultural products, gas, or communication services.
 - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin.
 - d. Magazines and other periodicals.

- e. The leasing or renting of a hotel or motel room or tourist court accommodations.
 - f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
2. There is hereby imposed a tax of three percent upon the gross receipts of retailers from all sales at retail of mobile homes used for residential or business purposes, except as provided in subsection 35 of section 57-39.2-04, and of farm machinery and irrigation equipment used exclusively for agricultural purposes, including the leasing or renting of farm machinery and irrigation equipment used exclusively for agricultural purposes within the state of North Dakota to consumers or users.
 3. In the case of a contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to April 1, 1983, the contractor receiving the award shall be liable only for the sales or use tax at the rate of tax in effect on the date of contract.
 4. There is hereby imposed a tax upon the gross receipts of retailers from all sales at retail of gas used primarily for the purpose of heating or cooling in residential or commercial buildings at the rate provided in this subsection.
 - a. The rate of the tax is four percent through June 30, 1987.
 - b. The rate of the tax is two percent after June 30, 1987.

SECTION 2. AMENDMENT. Section 57-40.2-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-02.1. Use tax imposed.

1. Except as otherwise expressly provided in subsection 2 for purchases of mobile homes used for residential or business purposes and for purchases of farm machinery and irrigation equipment used exclusively for agricultural purposes or in subsection 4 for sales of natural gas, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of four percent of the purchase price of such property. Except as limited by section 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally

- purchased for storage, use, or consumption in this state at the rate of four percent of the fair market value of such property at the time it was brought into this state.
2. An excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes, except as provided in subsection 19 of section 57-40.2-04, and of farm machinery and irrigation equipment used exclusively for agricultural purposes purchased at retail for storage, use, or consumption in this state at the rate of three percent of the purchase price thereof. Except as limited by section 57-40.2-11, and except as provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes and of farm machinery and irrigation equipment used exclusively for agricultural purposes not originally purchased for storage, use, or consumption in this state at the rate of three percent of the fair market value of such mobile homes used for residential or business purposes and of such farm machinery and irrigation equipment used exclusively for agricultural purposes at the time it was brought into this state.
 3. In the case of a contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to April 1, 1983, the contractor receiving the award shall be liable only for the sales or use tax at the rate of tax in effect on the date of contract.
 4. There is hereby imposed a tax upon the storage, use, or consumption in this state of gas used primarily for the purpose of heating or cooling in residential or commercial buildings at the rate provided in this subsection.
 - a. The rate of the tax is four percent through June 30, 1987.
 - b. The rate of the tax is two percent after June 30, 1987.

Disapproved April 1, 1985

Filed April 9, 1985

CHAPTER 700

SENATE BILL NO. 2159
(Committee on Industry, Business and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT BENEFITS

AN ACT to amend and reenact subsection 1 of section 52-06-04 and section 52-06-05 of the North Dakota Century Code, relating to unemployment compensation weekly benefit amount and benefit duration.

VETO

April 16, 1985

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Current law provides that on July 1, 1985, the maximum weekly benefit amount for job insurance payments will be 67 percent of the average weekly wage in North Dakota. Senate Bill 2159 would reduce and freeze the maximum weekly benefit amount permanently, regardless of what happens to the economy, prices or wages.

The 1983 Legislature already took action to cut benefit payments substantially. The cuts in this bill go beyond what is needed and place an unfair burden on the worker.

Very early in the legislative session, I appointed a committee to try to develop a compromise position that everyone could support. Unfortunately, a final compromise was not accepted by the Legislature.

I am directing Job Service North Dakota to continue a strong program of screening recipients who draw job insurance benefits and to begin an immediate review of the entire job insurance program to determine any long-range improvements that can be made. I recognize the need for a realistic tax level for the job insurance program, but I also recognize the need for an adequate program of job insurance benefits.

Therefore, I veto Senate Bill 2159.

Sincerely,

GEORGE A. SINNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 52-06-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The procedures, provisions, and conditions of this section shall determine the "weekly benefit amount" of those individuals who establish a benefit year on and after July 1, 1973:
 - a. For the purpose of this section the bureau shall each year, on or before the first day of June, determine the average annual wage paid to insured workers and, from that determination, an "average weekly wage", by the following computation:

The total wages reported on contribution reports for the preceding calendar year shall be divided by the average monthly number of covered workers, whose number shall be determined by dividing by twelve the total covered employment reported on contribution reports for the preceding calendar year, and the quotient obtained by dividing the total wages by the average monthly number of covered workers shall be the average annual wage; and such quotient shall be divided by fifty-two and the amount thus obtained, rounded to the nearest cent, shall be the "average weekly wage".

b. An individual's "weekly benefit amount" shall be an amount equal to one fifty-second (if not a multiple of one dollar, to be computed to the next lower multiple of one dollar) of the individual's total wages for insured work paid during the two quarters of the individual's base period in which the individual's wages were the highest, however, if such amount is less than the "minimum weekly benefit amount" the individual shall be monetarily ineligible for benefits. The "minimum weekly benefit amount" shall be ~~eighteen~~ fifteen times the current federal minimum hourly wage provided under the Fair Labor Standards Act [29 U.S.C. 206]. The "minimum weekly benefit amount", if not a multiple of one dollar, shall be rounded to the next lower multiple of one dollar. The "maximum weekly benefit amount" shall be as hereinafter provided-

- (1) ~~Sixty-two~~ sixty percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after July 1, 1983, 1985. However, for the period beginning July 1, 1985, and thereafter, the "maximum weekly benefit amount" may not exceed one hundred seventy-five dollars.
- (2) ~~Sixty-five~~ percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after July 1, 1984.
- (3) ~~Sixty-seven~~ percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after July 1, 1985.

SECTION 2. AMENDMENT. Section 52-06-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-05. Maximum potential benefits. Any otherwise eligible individual shall be entitled during the individual's benefit year to benefits for the number of times the individual's weekly benefit amount appearing in the following table on the line which includes the individual's ratio of total base-period wages to highest quarter base-period wages:

Ratio of Total Base-Period Wages to High Quarter	Times Weekly Benefit Amount
<u>1-50 to 1-75</u>	<u>12</u>
<u>1-76 to 1-95</u>	<u>14</u>
<u>1-96 to 2-15</u>	<u>16</u>
<u>2-16 to 2-35</u>	<u>18</u>
<u>2-36 to 2-55</u>	<u>20</u>
<u>2-56 to 2-75</u>	<u>22</u>
<u>2-76 to 2-95</u>	<u>24</u>
<u>2-96 or more</u>	<u>26</u>
<u>1.50 to 1.80</u>	<u>14</u>
<u>1.81 to 2.11</u>	<u>16</u>
<u>2.12 to 2.42</u>	<u>18</u>
<u>2.43 to 2.73</u>	<u>20</u>
<u>2.74 to 3.04</u>	<u>22</u>
<u>3.05 to 3.22</u>	<u>24</u>
<u>3.23 or more</u>	<u>26</u>

Disapproved April 16, 1985

Filed April 17, 1985

CHAPTER 701

SENATE BILL NO. 2436
(Senators Satrom, Lips, Reiten)
(Representatives Martinson, G. Berg, Payne)

PUBLIC DOCUMENT PRINTING

AN ACT to amend and reenact sections 46-02-04 and 46-02-09 of the North Dakota Century Code, relating to the classes and definitions of printing and duplicating public documents.

VETO

April 16, 1985

The Honorable Ben Meier
Secretary of State
First Floor, State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2436 attempts to define and make distinctions between the terms "printing" and "duplicating" which are unclear and confusing. It would place arbitrary limits upon State printing and duplicating without regard to efficient or cost-effective considerations.

The Central Duplicating Service has, in the past, exceeded the limits mandated by this bill and has done so because there has been a cost savings and better service for the State.

While it is neither wise nor beneficial to enlarge printing and duplicating services excessively, neither is it wise to place arbitrary limits upon those services. State government is not in

the business of competing with private enterprise, but it is charged with utilizing tax dollars as effectively and efficiently as possible. This bill would prevent that.

Therefore, I veto Senate Bill 2436.

Sincerely,

GEORGE A. SINNNER
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 46-02-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-02-04. Classes of printing - Contracts - Definition. The printing of the state is hereby divided into classes as follows:

1. The printing of legislative documents for the use of the legislative assembly shall constitute the first class. For the purposes of this subsection, the words "legislative documents" shall mean bills and resolutions. However, certain bills and resolutions may be excepted from this class, as directed by officers of the legislative assembly or as provided for in the rules of the senate and the house of representatives.
2. The printing and binding of the journals of the senate and the house of representatives shall constitute the second class.
3. The printing and binding of the reports and other documents required by state law to be prepared and submitted to the governor and the office of management and budget, and which make up the governmental biennial reports as prescribed by sections 54-06-03 and 54-06-04, shall constitute the third class. This class does not include the official budget report.
4. The printing and binding of the volumes of laws, with such legislative resolutions as shall be included in said volumes, shall constitute the fourth class.
5. Repealed by S.L. 1979, ch. 187, § 108.
6. All printing not included in the foregoing classes shall constitute the sixth class.

Separate contracts for each of classes 3 and 4 shall be let by the office of management and budget under competitive bidding in accordance with the provisions of this title and at a cost and price not in excess of the cost and price as provided for in the Franklin Printing Catalogue. Contracts for classes 1 and 2 shall be let by competitive bidding by the office of management and budget in accordance with the rules of the senate and the house of representatives of the state of North Dakota of the previous legislative session, but at a cost and price not in excess of the cost and price as provided for in the Franklin Printing Catalogue. For purposes of this section, the term "printing" includes the use of process color printing, presses larger than eleven by seventeen inches [27.94 x 43.18 centimeters], die cutting, snap out forms, continuous forms, perfect binding, and the production in excess of ten thousand impressions of any page or fifty thousand impressions in the aggregate of items consisting of multiple pages.

SECTION 2. AMENDMENT. Section 46-02-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-02-09. Sixth-class items - When bids or quotations required - Costs determined - Definition. All work on sixth-class items amounting to three hundred dollars or over as determined by the Franklin Printing Catalogue, not done by the central duplicating service of the office of management and budget or by departments, institutions, or state offices with authorized duplicating ~~or printing~~ centers, or institutions with printing services or journalistic programs under the jurisdiction of the board of higher education, must be let by competitive bidding or by the solicitation of at least two quotations by the office of management and budget, or by the departments, institutions, or state offices authorized to bid their own printing needs. Printing items amounting to less than three hundred dollars may be given by the department head to the printer of his choice. All departments, institutions, or state offices shall submit requisitions for all printing to the office of management and budget. Departments, institutions, or state offices authorized to do their own bidding must attach the bids or quotations to their requisition for printing. Where practical, all departments, institutions, or state offices authorized to do their own bidding shall take advantage of annual contracts established by the office of management and budget. The office of management and budget shall determine and fix the reasonable maximum cost or price for such printing work. The maximum cost of the work shall not exceed Franklin Printing Catalogue prices. For purposes of this section, the term "duplicating" includes procedures used for bid preparation purposes and production of materials for the legislative branch. The level of duplicating services provided by the central duplicating division of the office of management and budget cannot be enlarged from that provided as of January 1, 1985, and cannot include printing.

Disapproved April 16, 1985

Filed April 17, 1985