

# INITIATED MEASURES, DISAPPROVED

## CHAPTER 653

### WATER DEVELOPMENT AND FUNDING

An initiated measure to establish comprehensive water development objectives including construction, design and planning of water projects, putting the Missouri River to statewide beneficial use, and developing other North Dakota water resources. The measure imposes a one-half of one percent sales or excise tax on all sales at retail except mobile homes used for residential or business purposes, farm machinery and farm machinery repair parts, agricultural irrigation equipment, resale of mobile homes, natural gas, and highway construction contracts entered before January 1, 1993. The tax is collected beginning January 1, 1993, and ending Midnight on December 31, 1999. The net revenue generated by the tax is to be deposited in the resources trust fund to be used to implement the comprehensive water development objectives of the initiated measure.

#### BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. Water development - Intent - Objectives. The citizens of North Dakota have determined that the federal government is reducing its commitment to water resource development and that North Dakota can no longer rely on traditional federal programs to develop the state's water resources in a wise and timely manner. The citizens of North Dakota have also determined that North Dakota should now take the initiative in providing assured water supplies throughout the state, from the Missouri River and other available water resources, as the state enters the twenty-first century. Assured water supplies are essential for municipal and rural uses, recreation, wildlife, irrigation, processing agricultural products, and the creation of new jobs in North Dakota.

Therefore, the citizens are establishing and funding a comprehensive statewide water development program. The specific objectives of this program will be:

1. To establish North Dakota's claim to its proper share of the Missouri River.
2. To complete the southwest pipeline project for distribution of water to cities and rural areas in southwestern North Dakota.
3. To develop the northwest area water supply program for distribution of water to cities and rural areas in northwestern and north central North Dakota.
4. To negotiate the appropriate agreements with the United States, with cost sharing by the state or political subdivisions if necessary, to complete principle features of the Garrison Diversion Unit, for distribution of water for multiple uses.
5. To assume the operation and maintenance of Garrison Diversion Unit features to facilitate the delivery of Missouri River water for multiple uses.

6. To deliver Missouri River water to stabilize Devils Lake.
7. To provide water for irrigation for the development and diversification of agriculture.
8. To deliver Missouri River water to the James, Sheyenne, and Red rivers for multiple uses.
9. To establish a permanent revolving fund for grant and loan programs for municipal, rural, domestic and industrial water supply and water distribution needs.
10. To manage and protect environmental and wildlife resources in the implementation of this water development program.
11. To develop, design, and construct any additional water management facilities as are necessary for the full utilization and management of water resources throughout the state, including such projects as the Souris River flood control, Sheyenne River flood control, local water management and recreation projects, and other local water requirements.

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

Separate and additional tax on retail sales. There is imposed a tax of one-half of one percent, in addition to any other tax provided by law, upon the gross receipts of retailers from all sales at retail which are taxable under this chapter, except those items in subsection 2 of section 57-39.2-02.1 and section 57-39.2-03.6. In the case of any contract for the construction of highways, roads, streets, bridges, and buildings awarded prior to January 1, 1993, the contractor receiving the award is liable only for the sales tax at the rate of tax in effect on the date of the contract. The tax commissioner may provide by administrative rule for alteration of the bracket system provided under section 57-39.2-08.2 to properly reflect the rate of tax including the tax imposed by this section. The tax imposed by this section must be included in the "general sales tax rate" as used in sections 54-17.2-21, 57-39.2-26.1, and section 4 of this Act.

SECTION 3. 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. All Except as otherwise provided by sections 54-17.2-21, 57-39.2-26.1, and section 4 of this Act, all moneys collected and received under this chapter shall be paid into the state treasury and shall 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 shall be deposited and accounted for as provided in subsection 3 of section 57-39.2-12.

SECTION 4. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Allocation of sales, use, and motor vehicle excise tax revenues to resources trust fund. Notwithstanding any other provision of law, the net revenue from the separate and additional sales, use, and motor vehicle excise taxes imposed by sections 2, 5, and 6 of this Act must be deposited by the state treasurer in the resources trust fund. A portion of sales, use, and motor vehicle excise tax

collections equal to fifty 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, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the resources trust fund. The state tax commissioner shall certify to the state treasurer the amount of sales, use, and motor vehicle excise tax net revenues that must be deposited in the resources trust fund as provided in this section.

SECTION 5. A new section to chapter 57-40.2 of the North Dakota Century Code is created and enacted as follows:

Separate and additional use tax. 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 one-half of one percent of the purchase price of the property. 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 one-half of one percent of the fair market value of the property at the time it was brought into this state. The tax imposed under this section applies to any activity that is taxable under this chapter, except those items in subsection 2 of section 57-40.2-02.1, and the tax imposed under this section is in addition to any other tax imposed by law. In the case of any contract for the construction of highways, roads, streets, bridges, and buildings awarded prior to January 1, 1993, the contractor receiving the award is liable only for the use tax at the rate of tax in effect on the date of the contract.

SECTION 6. A new section to chapter 57-40.3 of the North Dakota Century Code is created and enacted as follows:

Separate and additional motor vehicle excise tax. There is imposed an excise tax at the rate of one-half of one percent on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state. The tax imposed under this section is in addition to any other tax provided by the law.

SECTION 7. AMENDMENT. Section 57-40.3-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-40.3-10. Transfer of revenue. All Except as otherwise provided in sections 54-17.2-21, 57-39.2-26.1, and 4 of this Act, all moneys collected and received under this chapter must be transmitted monthly by the registrar to the state tax commissioner and must be paid to the state treasurer to be transferred and credited to the general fund.

SECTION 8. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective 30 days after adoption. Sections 2, 3, 5, 6, and 7 of this Act are effective for taxable events occurring after December 31, 1992, and before January 1, 2000. Section 4 of this Act is effective for sales, use, and motor vehicle excise tax collections received by the state tax commissioner after February 28, 1993.

Disapproved November 3, 1992

110,045 to 181,960

NOTE: This was measure No. 4 on the general election ballot.

## CHAPTER 654

### VEHICLE SEARCHES

An initiated measure to create a new Section of the Century Code relating to law enforcement and the stopping and searching of motor vehicles and/or their passengers without probable cause.

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:**

That the stopping and/or searching of vehicles and the occupants thereof at random or otherwise without probable cause by any law enforcement officer(s) is prohibited. Any evidence obtained in violation of this statute shall not be admissible in any administrative, civil, or criminal proceeding.

Disapproved November 3, 1992

114,959 to 184,978

NOTE: This was measure No. 6 on the general election ballot.

## CHAPTER 655

### WASTE FACILITY DISPOSAL FEES

An initiated measure to establish an environmental protection and recycling fund from moneys collected from fees for waste disposal or incineration in North Dakota. The fund shall be used for recycling programs and for cleanup of land, air or water pollution.

The measure establishes a 50 cent per ton fee on waste generated within 100 miles of the final disposal site. The measure also establishes a fee on waste generated more than 100 miles from the final disposal point, equal to the cost of waste disposal at the disposal point closest to where it was generated less the actual cost of disposal at the final disposal facility. Waste site operators must collect the fee and may retain 1% of the fee collected.

#### BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

#### 23-29-16. Environmental Protection and Recycling Fund.

1. There is hereby established an Environmental Protection and Recycling Fund. The Environmental Protection and Recycling Fund shall be funded by fees imposed upon the generators of waste which is ultimately disposed of in a final disposal facility in North Dakota or incinerated in North Dakota. The fund shall be administered by the Department of Health and Consolidated Laboratories which may make such regulations relating thereto as it deems appropriate. The proceeds of the fund, after the expenses of administration are met, shall be used as follows:
  - (a) Fifty percent (50%) for research on and implementation and maintenance of recycling programs, including education of the public thereon; and
  - (b) Fifty percent (50%) for the cleanup of land, air, or water polluted, contaminated, or otherwise found to be detrimental to the health, safety, or welfare of the people and wildlife of North Dakota, including any necessary research in connection therewith.
2. Beginning January 1, 1993, a fee is imposed on the disposal or incineration of waste in a final disposal facility in North Dakota. The amount of the fee shall be as follows:
  - (a) The fee for waste generated within 100 miles of the final disposal site shall be 50 cents per ton, or part thereof.
  - (b) The fee for waste generated beyond 100 miles from the disposal site shall be the dollar amount computed by (1) determining the cost of

disposing of the waste, including tipping fees and state and local government fees, in the final disposal facility that could accept the waste and is closest to the area at which the waste was generated, and (2) subtracting therefrom the fee actually charged for the disposal or incineration of the waste by the owner or operator of the final disposal facility in North Dakota. The owner or operator of the final disposal facility is responsible for collecting the fee and may deduct and retain one percent (1%) of the fees collected as compensation for collecting and remitting them. The fees shall be remitted to the Department on a quarterly basis, and the owner or operator shall maintain such records thereof as the Department deems necessary. The fees thus collected shall be deposited in a special account in the State Treasury.

3. The term "waste" includes but is not limited to solid waste, incinerator ash, medical waste, hazardous waste, municipal waste, special waste, and any other waste however denominated. The fees imposed by this section do not, however, apply to inert waste, oil field exploration and production waste, and solid waste disposed of on site at energy conversion facilities and coal mining operations. For purposes of this section, an incinerator shall be considered and treated as a "final disposal facility." No additional fee shall be imposed pursuant to this section on incinerator ash from waste on which a fee herein imposed has been previously paid.
4. Each container of waste generated beyond 100 miles from the final disposal site shall be accompanied by a notarized certificate by a representative of the generator or transporter (1) accurately and completely describing its contents, the place of origin of the waste, and the name and address of its generator; (2) containing an itemized computation of the cost determination required for determination of the fee provided by 23-29-16(2)(b), together with the name, address, and telephone number of (a) the person making such computation and (b) the facility from which the fee determination information was obtained; and (3) to which is attached a photograph(s) accurately depicting all waste contained in the container.
5. Violation of subsection (4) of this section, in addition to other penalties prescribed by this Chapter, shall be a Class A Misdemeanor.
6. The legislature may from time to time supplement the fund from other revenue sources if deemed advisable.

Disapproved November 3, 1992

144,781 to 145,793

NOTE: This was measure No. 7 on the general election ballot.