

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1106

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to create and enact two new sections to chapter 57-02, three new sections to  
2 chapter 57-06, a new subsection to section 57-13-04, a new section to chapter 57-33.2,  
3 sections 57-36-09.6, 57-38-60.3, 57-39.2-15.3, 57-40.2-15.3, 57-43.1-17.5, 57-43.2-16.4, and  
4 57-43.3-21.1 of the North Dakota Century Code, relating to notice of township, city, and county  
5 equalization meetings, collection and certification of electric generation, transmission, and  
6 distribution taxes, appeals to the state board of equalization, and the liability of a general  
7 partner of a limited liability limited partnership for unpaid taxes; to amend and reenact section  
8 23-27-04.7, subsection 5 of section 57-02-08.1, subsection 17 of section 57-06-06, sections  
9 57-06-17.3, 57-33.2-16, 57-35.3-07, and 57-38-01, subsection 5 of section 57-38-01.21,  
10 sections 57-38-01.22 and 57-38-01.23, subsection 2 of section 57-38-01.24, subsection 5 of  
11 section 57-38-01.25, subsections 2, 3, and 7 of section 57-38-01.26, subsection 9 of section  
12 57-38-01.27, subsection 2 of section 57-38-01.31, subsection 9 of section 57-38-01.32,  
13 subsection 7 of section 57-38-01.33, subsections 6 and 12 of section 57-38-30.5, section  
14 57-38.5-01, subsection 4 of section 57-38.5-03, section 57-38.6-01, subsection 4 of section  
15 57-38.6-03, subsection 2 of section 57-39.2-04.8, and sections 57-40.2-15.2, 57-43.3-20, and  
16 57-43.3-21 of the North Dakota Century Code, relating to the emergency medical services levy,  
17 the permanent and totally disabled property tax exemption certifications, public utility reports,  
18 collection and certification of transmission line property tax, liability of a general partner of a  
19 limited liability limited partnership for unpaid taxes, financial institutions tax credit for  
20 contributions to the housing incentive fund, income tax credit for blending biodiesel or green  
21 diesel fuel in this state, qualifying investments in angel funds, the definition of passthrough  
22 entity for income tax purposes, and the sales tax exemption for equipment and machinery used  
23 in a new coal mine; to repeal section 57-23-02 of the North Dakota Century Code, relating to  
24 notice of township and city equalization meetings; to provide a penalty; to provide a continuing  
25 appropriation; and to provide an effective date.

1 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

2 **SECTION 1. AMENDMENT.** Section 23-27-04.7 of the North Dakota Century Code is  
3 amended and reenacted as follows:

4 **23-27-04.7. County reporting - Use of property tax levies.**

5 The board of county commissioners of every county in this state shall conduct an annual  
6 review of the emergency medical services coverage within that county and shall submit an  
7 annual report to the state health officer in a format approved by the state department of health.  
8 A taxing district that levies a special emergency medical services or ambulance service levy  
9 ~~shall ensure that every ambulance service that has portions of its service area in that taxing-~~  
10 ~~district receives a portion of the revenue from this tax. The taxing district~~ shall allocate all of the  
11 special tax levy revenue ~~to each ambulance service based upon the taxable value of the-~~  
12 ~~property within each township of the taxing district,~~ allocating the taxable value of each  
13 township collected in a particular township to the ambulance service that serves the largest area  
14 within that township ~~that is located within the service area of that ambulance district.~~

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

17 **Notice of township and city equalization meetings to be published - Date of**  
18 **equalization meeting.**

19 Each year the county auditor shall publish in the official county newspaper for two  
20 successive weeks, a notice that proceedings for the equalization of assessments will be held by  
21 the several local equalization boards. The first publication of the notice may not be earlier than  
22 March first and the second publication may not be later than March twentieth. The notice must  
23 contain a statement that the proceedings will be held at the regular meeting place of the  
24 governing board or other place designated by that board of the township or city, as the case  
25 may be. The notice must also contain a statement that each taxpayer has the right to appear  
26 before the appropriate board of review or equalization and petition for correction of the  
27 taxpayer's assessment. The equalization proceedings in an organized township must be held  
28 on the second Monday in April and in a city on the second Tuesday in April.

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

1        **Notice of county equalization meetings to be published - Date of equalization**  
2 **meeting.**

3        Each year the county auditor shall publish in the official county newspaper for two  
4 successive weeks, a notice that proceedings for the equalization of assessments for all real  
5 property in the county will be held by the county board of equalization. The first publication of  
6 the notice may not be earlier than May first and the second publication may not be later than  
7 May twentieth, however, the second notice must be published more than ten days prior to the  
8 date of the meeting. The notice must contain the date, time, and location of the meeting. The  
9 notice must also contain a statement that each taxpayer has the right to appear before the  
10 appropriate board of review or equalization and petition for correction of the taxpayer's  
11 assessment. The county equalization proceedings must be held no later than June tenth.

12        **SECTION 4. AMENDMENT.** Subsection 5 of section 57-02-08.1 of the North Dakota  
13 Century Code is amended and reenacted as follows:

- 14        5. For the purposes of this section:
- 15            a. "Dependent" has the same meaning it has for federal income tax purposes.
  - 16            b. "Homestead" has the same meaning as provided in section 47-18-01.
  - 17            c. "Income" means income for the most recent complete taxable year from all  
18                sources, including the income of any dependent of the applicant, and including  
19                any county, state, or federal public assistance benefits, social security, or other  
20                retirement benefits, but excluding any federal rent subsidy, any amount excluded  
21                from income by federal or state law, and medical expenses paid during the year  
22                by the applicant or the applicant's dependent which is not compensated by  
23                insurance or other means.
  - 24            d. "Medical expenses" has the same meaning as it has for ~~state~~federal income tax  
25                purposes, except that for transportation for medical care the person may use the  
26                standard mileage rate allowed for state officer and employee use of a motor  
27                vehicle under section 54-06-09.
  - 28            e. "Permanently and totally disabled" means the inability to engage in any  
29                substantial gainful activity by reason of any medically determinable physical or  
30                mental impairment which can be expected to result in death or has lasted or can  
31                be expected to last for a continuous period of not less than twelve months as

1                    established by a certificate from a licensed physician or a written determination of  
2                    disability from the social security administration, or any federal or state agency  
3                    that has authority to certify an individual's disability.

4                    **SECTION 5.** A new section to chapter 57-06 of the North Dakota Century Code is created  
5 and enacted as follows:

6                    **Deposit of revenue - Report to treasurer.**

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

11                    **SECTION 6.** A new section to chapter 57-06 of the North Dakota Century Code is created  
12 and enacted as follows:

13                    **Allocation - Continuing appropriation.**

14                    1. The electric generation, transmission, and distribution tax fund is appropriated as a  
15 continuing appropriation to the state treasurer for allocation and distribution to counties  
16 by April first of each year as provided in this section. The state treasurer shall make  
17 the necessary allocations to the counties based on the report received from the tax  
18 commissioner. The county auditors shall make the necessary allocations to the taxing  
19 districts.

20                    2. Revenue from the tax on transmission lines under section 57-06-17.3 must be  
21 allocated among counties based on the mileage of transmission lines within each  
22 county. Revenue received by a county under this subsection must be allocated  
23 one-third to the county and two-thirds among the county and other taxing districts in  
24 the county based on the mileage of that transmission line where that line is located  
25 within each taxing district. Revenue from that portion of a transmission line located in  
26 more than one taxing district must be allocated among those taxing districts in  
27 proportion to the taxing district's most recent property tax mill rates that apply where  
28 the transmission line is located.

29                    **SECTION 7.** A new section to chapter 57-06 of the North Dakota Century Code is created  
30 and enacted as follows:

1        **Delinquent taxes - Penalty.**

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

12        **SECTION 8. AMENDMENT.** Subsection 17 of section 57-06-06 of the North Dakota  
13 Century Code is amended and reenacted as follows:

14        17.    ~~Such other~~Other facts and information as the tax commissioner may require ~~in the~~  
15                ~~form of returns prescribed by the tax commissioner~~ or which the company may deem  
16                ~~material upon the question of~~relating to the taxation of its property in this state.

17        **SECTION 9. AMENDMENT.** Section 57-06-17.3 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19        **57-06-17.3. New transmission line property tax exemption.**

20        A transmission line of two hundred thirty kilovolts or larger, and its associated transmission  
21 substations, which is not taxable under chapter 57-33.2 and is initially placed in service on or  
22 after October 1, 2002, is exempt from property taxes for the first taxable year after the line is  
23 initially placed in service, and the taxable valuation as otherwise determined by law on the  
24 transmission line and its associated transmission substations must be reduced by:

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

28        After the fourth taxable year of operation of the transmission line, the transmission line and  
29 its associated transmission substations are exempt from property taxes and are subject to a tax  
30 at the rate of three hundred dollars per mile [1.61 kilometers] or fraction thereof of the line  
31 located in this state. The per mile tax imposed by this section applies to the transmission line

1 and its associated transmission substations and is subject to allocation among counties in the  
2 proportion that the miles of that transmission line in the county bears to the miles of that  
3 transmission line in the state. ~~Revenues received by each county must be deposited in the~~  
4 ~~county general fund.~~

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

8 **SECTION 10.** A new subsection to section 57-13-04 of the North Dakota Century Code is  
9 created and enacted as follows:

10 A property owner may appeal the assessment, classification, and exempt status of the  
11 owner's property to the state board of equalization if the property owner was  
12 foreclosed from attending assessment proceedings because of the failure to  
13 substantially comply with the notice requirements in chapters 57-02 or 57-12, or  
14 because of an irregularity in the township, city, or county assessment proceedings.

15 **SECTION 11.** A new section to chapter 57-33.2 of the North Dakota Century Code is  
16 created and enacted as follows:

17 **General partner in a limited liability limited partnership liability.**

18 If a limited liability limited partnership taxable under this chapter fails for any reason to file  
19 the required returns or to pay the tax due, the general partners, jointly or severally, charged with  
20 the responsibility for the preparation of the returns and payment of the tax are personally liable  
21 for the partnership's failure. The dissolution of a limited liability limited partnership does not  
22 discharge a general partner's liability for a prior failure of the partnership to file a return or remit  
23 the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the  
24 provisions of this chapter. If the general partners elect not to be personally liable for the failure  
25 to file the required returns or to pay the tax due, the limited liability limited partnership must  
26 make a cash deposit or post with the commissioner a bond or undertaking executed by a surety  
27 company authorized to do business in this state. The cash deposit, bond, or undertaking must  
28 be in an amount equal to the estimated annual tax liability of the limited liability limited  
29 partnership.

30 **SECTION 12. AMENDMENT.** Section 57-33.2-16 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **57-33.2-16. Corporate officer and limited liability company governor or manager**  
2 **liability.**

3           If a corporation or limited liability company taxable under this chapter fails for any reason to  
4 file the required returns or pay the tax due, any of its officers, governors, or managers having  
5 control or supervision of, or charged with the responsibility for making, the returns and  
6 payments, are personally liable for the failure. The dissolution of a corporation or limited liability  
7 company does not discharge an officer's, a governor's, or a manager's liability for a prior failure  
8 of the corporation or limited liability company to make a return or remit the tax due. The sum  
9 due for such a liability may be assessed and collected under this chapter for the assessment  
10 and collection of other liabilities. If the officers, governors, or managers elect not to be  
11 personally liable for the failure to file the required returns or to pay the tax due, the corporation  
12 or limited liability company must make a cash deposit or post with the commissioner a bond or  
13 undertaking executed by a surety company authorized to do business in this state. The cash  
14 deposit, bond, or undertaking must be in an amount equal to the estimated annual tax liability of  
15 the corporation or limited liability company.

16           **SECTION 13. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18           **57-35.3-07. (Effective for the first two taxable years beginning after December 31,**  
19 **2010) Payment of tax.**

20           Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credits  
21 allowed under subsections 1, 3, 4, and 5 of section 57-35.3-05, must be paid to the tax  
22 commissioner on or before April fifteenth of the year in which the return is due, regardless of  
23 any extension of the time for filing the return granted under section 57-35.3-06. Ten-thirteenths  
24 of the tax before credits allowed under section 57-35.3-05, less the credit allowed under  
25 subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January  
26 fifteenth of the year after the return is due. Payment must be made in the manner prescribed by  
27 the tax commissioner.

28           **(Effective after the first two taxable years beginning after December 31, 2010)**

29 **Payment of tax.** Three-thirteenths of the tax before credits allowed under section 57-35.3-05,  
30 less the credits allowed under subsections 1, 3, and 4 of section 57-35.3-05 and section 4 of  
31 House Bill No. 1029 if approved by the sixty-third legislative assembly, must be paid to the tax

1 commissioner on or before April fifteenth of the year in which the return is due, regardless of  
2 any extension of the time for filing the return granted under section 57-35.3-06. Ten-thirteenth  
3 of the tax before credits allowed under section 57-35.3-05, less the credit allowed under  
4 subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January  
5 fifteenth of the year after the return is due. Payment must be made in the manner prescribed by  
6 the tax commissioner.

7 **SECTION 14.** Section 57-36-09.6 of the North Dakota Century Code is created and enacted  
8 as follows:

9 **57-36-09.6. General partner in a limited liability limited partnership liability.**

- 10 1. If a limited liability limited partnership taxable under this chapter fails for any reason to  
11 file the required returns or to pay the tax due, the general partners, jointly or severally,  
12 charged with the responsibility for the preparation of the returns and payment of the  
13 tax are personally liable for the partnership's failure. The dissolution of a limited liability  
14 limited partnership does not discharge a general partner's liability for a prior failure of  
15 the partnership to file a return or remit the tax due. The taxes, penalty, and interest  
16 may be assessed and collected pursuant to the provisions of this chapter.
- 17 2. If the general partners elect not to be personally liable for the failure to file the required  
18 returns or to pay the tax due, the limited liability limited partnership must make a cash  
19 deposit or post with the commissioner a bond or undertaking executed by a surety  
20 company authorized to do business in this state. The cash deposit, bond, or  
21 undertaking must be in an amount equal to the estimated annual tax liability of the  
22 limited liability limited partnership.

23 **SECTION 15. AMENDMENT.** Section 57-38-01 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **57-38-01. Definitions.**

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

- 27 1. "Chronically mentally ill" means a person who, as a result of a mental disorder,  
28 exhibits emotional or behavioral functioning which is so impaired as to interfere  
29 substantially with the person's capacity to remain in the community without verified  
30 supportive treatment or services of a long-term or indefinite duration. This mental  
31 disability must be severe and persistent, resulting in a long-term limitation of the



- 1 person's functional capacities for primary activities of daily living such as interpersonal  
2 relationships, homemaking, self-care, employment, and recreation.
- 3 2. "Corporation" includes associations, business trusts, joint stock companies, and  
4 insurance companies.
- 5 3. "Developmental disability" has the same meaning as defined in section 25-01.2-01.
- 6 4. "Domestic" when applied to a corporation means created or organized under the laws  
7 of North Dakota.
- 8 5. "Federal Internal Revenue Code of 1954, as amended", "United States Internal  
9 Revenue Code of 1954, as amended", and "Internal Revenue Code of 1954, as  
10 amended", mean the United States Internal Revenue Code of 1986, as amended.  
11 Reference to the Internal Revenue Code of 1954, as amended, includes a reference to  
12 the United States Internal Revenue Code of 1986, as amended, and reference to the  
13 United States Internal Revenue Code of 1986, as amended, includes a reference to  
14 the provisions of law formerly known as the Internal Revenue Code of 1954, as  
15 amended.
- 16 a. Except that the provisions of section 168(f)(8) of the Internal Revenue Code of  
17 1954, as amended, are not adopted in those instances when the minimum  
18 investment by the lessor is less than one hundred percent for the purpose of  
19 computing North Dakota taxable income for individuals, estates, trusts, and  
20 corporations for taxable years beginning on or after January 1, 1983. Therefore,  
21 federal taxable income must be increased, or decreased, as the case may be, to  
22 reflect the adoption or nonadoption of the provisions of section 168(f)(8) of the  
23 Internal Revenue Code of 1954, as amended, and such adjustments must be  
24 made before computing income subject to apportionment.
- 25 b. Provided, that one-half of the amount not allowed as an accelerated cost  
26 recovery system depreciation deduction for the taxable year beginning after  
27 December 31, 1982, may be deducted from federal taxable income in each of the  
28 next two taxable years beginning after December 31, 1985, and one-half of the  
29 amount not allowed as an accelerated cost recovery system depreciation  
30 deduction for the taxable year beginning after December 31, 1983, may be  
31 deducted from federal taxable income in each of the next two years beginning

- 1 after December 31, 1987, and one-half of the amount not allowed as an  
2 accelerated cost recovery system depreciation deduction for the taxable year  
3 beginning after December 31, 1984, may be deducted from federal taxable  
4 income in each of the next two taxable years beginning after December 31, 1989.  
5 All such adjustments must be made before computing income subject to  
6 apportionment.
- 7 c. Provided, that the depreciation adjustments allowed in subdivision b shall be  
8 limited to those eligible assets acquired during taxable years beginning after  
9 December 31, 1982. Acquisitions made before taxable years beginning  
10 January 1, 1983, must be depreciated pursuant to the methods permissible under  
11 Internal Revenue Code provisions in effect prior to January 1, 1981.
- 12 d. Except that for purposes of applying the Internal Revenue Code of 1954, as  
13 amended, with respect to actual distributions made after December 31, 1984, by  
14 a domestic international sales corporation, or former domestic international sales  
15 corporation, which was a domestic international sales corporation on  
16 December 31, 1984, any accumulated domestic international sales corporation  
17 income of a domestic international sales corporation, or former domestic  
18 international sales corporation, which is derived before January 1, 1985, may not  
19 be treated as previously taxed income.
- 20 6. "Foreign" when applied to a corporation means created or organized outside of North  
21 Dakota.
- 22 7. "Mental disorder" means a substantial disorder of the person's emotional processes,  
23 thought, cognition, or memory. Mental disorder is distinguished from:
- 24 a. Conditions which are primarily those of drug abuse, alcoholism, or intellectual  
25 disability, unless in addition to one or more of these conditions, the person has a  
26 mental disorder.
- 27 b. The declining mental abilities that accompany impending death.
- 28 c. Character and personality disorders characterized by lifelong and deeply  
29 ingrained antisocial behavior patterns, including sexual behaviors which are  
30 abnormal and prohibited by statute, unless the behavior results from a mental  
31 disorder.

- 1           8.   "Passthrough entity" means a corporation that for the applicable tax year is treated as  
2           an S corporation under the Internal Revenue Code, a limited liability company that for  
3           the applicable tax year is not taxed as a corporation for federal income tax purposes, a  
4           general partnership, limited partnership, limited liability partnership, limited liability  
5           limited partnership, trust, or a similar entity that passes its income, deductions, and  
6           credits through to its owners.
- 7           9. "Person" includes individuals, fiduciaries, partnerships, corporations, and limited  
8           liability companies, and other entities recognized by the laws of this state.
- 9           9-10. "Qualified investment fund" means any regulated investment company as defined  
10           under the Internal Revenue Code, which for the calendar year in which the distribution  
11           is paid:
- 12           a.   Has investments in interest-bearing obligations issued by or on behalf of this  
13           state, any political subdivision of this state, or the United States government; and  
14           b.   Has provided the tax commissioner with a detailed schedule of the assets  
15           contained in its investment portfolio and a schedule of the income attributable to  
16           each asset in its investment portfolio for the calendar year.
- 17           10-11. "Resident" applies only to natural persons and includes, for the purpose of determining  
18           liability for the tax imposed by this chapter upon or with reference to the income of any  
19           income year, any person domiciled in the state of North Dakota and any other person  
20           who maintains a permanent place of abode within the state and spends in the  
21           aggregate more than seven months of the income year within the state. A full-time  
22           active duty member of the armed forces assigned to a military installation in this state,  
23           or the member's spouse ~~of such a person~~, is not a "resident" of this state for purposes  
24           of this chapter simply by reason of having voted in an election in this state.
- 25           11-12. "Tax commissioner" means the state tax commissioner.
- 26           12-13. "Taxable income" in the case of individuals, estates, trusts, and corporations means  
27           the taxable income as computed for an individual, estate, trust, or corporation for  
28           federal income tax purposes under the United States Internal Revenue Code of 1954,  
29           as amended, plus or minus ~~such~~the adjustments as may be provided by this chapter  
30           or other provisions of law. Except as otherwise expressly provided, "taxable income"  
31           does not include any amount computed for federal alternative minimum tax purposes.

1 ~~13.14.~~ "Taxpayer" includes any individual, corporation, or fiduciary subject to a tax imposed  
2 by this chapter.

3 ~~14.15.~~ Any term, as used in this code, as it pertains to the filing and reporting of income,  
4 deductions, or exemptions or the paying of North Dakota income tax, has the same  
5 meaning as when used in a comparable context in the laws of the United States  
6 relating to federal income taxes, unless a different meaning is clearly required or  
7 contemplated.

8 **SECTION 16. AMENDMENT.** Subsection 5 of section 57-38-01.21 of the North Dakota  
9 Century Code is amended and reenacted as follows:

10 5. A partnership, ~~subchapter S corporation, or limited liability company treated like a~~  
11 ~~partnership~~passthrough entity is entitled to a credit in an amount equal to forty percent  
12 of a charitable gift to a qualified endowment by the entity during the taxable year. The  
13 maximum credit that may be claimed by the entity under this subsection for charitable  
14 gifts made in a taxable year is ten thousand dollars. The credit determined at the entity  
15 level must be passed through to the partners, shareholders, or members in the same  
16 proportion that the charitable contributions attributable to the charitable gifts under this  
17 section are distributed to the partners, shareholders, or members. The partner,  
18 shareholder, or member may claim the credit only in the partner's, shareholder's, or  
19 member's taxable year in which the taxable year of the ~~partnership, subchapter S~~  
20 ~~corporation, or limited liability company~~passthrough entity ends. Subsections 6 and 7  
21 apply to the partner, shareholder, or member.

22 **SECTION 17. AMENDMENT.** Section 57-38-01.22 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **57-38-01.22. Income tax credit for blending of biodiesel fuel or green diesel fuel.**

25 A fuel supplier licensed pursuant to section 57-43.2-05 who blends biodiesel fuel or green  
26 diesel fuel in this state is entitled to a credit against tax liability determined under section  
27 57-38-30 or 57-38-30.3 in the amount of five cents per gallon [3.79 liters] of biodiesel fuel or  
28 green diesel fuel of at least five percent blend, otherwise known as B5. For purposes of this  
29 section, "biodiesel" and "green diesel" mean fuel as defined in section 57-43.2-01. The credit  
30 under this section may not exceed the taxpayer's liability as determined under this chapter for

1 the taxable year and each year's unused credit amount may be carried forward for up to five  
2 taxable years.

3 A partnership, subchapter S corporation, limited partnership, limited liability company, or  
4 any other passthrough entity entitled to the credit under this section must be considered to be  
5 the taxpayer for purposes of this section, and the amount of the credit allowed must be  
6 determined at the passthrough entity level. The amount of the total credit determined at the  
7 entity level must be passed through to the partners, shareholders, or members in proportion to  
8 their respective interests in the passthrough entity.

9 **SECTION 18. AMENDMENT.** Section 57-38-01.23 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **57-38-01.23. Income tax credit for biodiesel or green diesel sales equipment costs.**

12 A seller of biodiesel fuel or green diesel fuel is entitled to a credit against tax liability  
13 determined under section 57-38-30 or 57-38-30.3 in the amount of ten percent per year for five  
14 years of the biodiesel or green diesel fuel seller's direct costs incurred after December 31, 2004,  
15 to adapt or add equipment to a facility, licensed under section 57-43.2-05, to enable the facility  
16 to sell diesel fuel containing at least two percent biodiesel fuel or green diesel fuel by volume.  
17 For purposes of this section, "biodiesel fuel" and "green diesel fuel" mean fuel as defined in  
18 section 57-43.2-01. The credit under this section may not exceed a taxpayer's liability as  
19 determined under this chapter for the taxable year and each year's unused credit amount may  
20 be carried forward for up to five taxable years. A biodiesel or green diesel fuel seller is limited to  
21 fifty thousand dollars in the cumulative amount of credits under this section for all taxable years.  
22 A biodiesel or green diesel fuel seller may not claim a credit under this section for any taxable  
23 year before the taxable year in which the facility begins selling biodiesel or green diesel fuel  
24 containing at least two percent biodiesel or green diesel fuel by volume, but eligible costs  
25 incurred before the taxable year sales begin may be claimed for purposes of the credit under  
26 this section for taxable years on or after the taxable year sales of biodiesel or green diesel fuel  
27 begin.

28 A partnership, subchapter S corporation, limited partnership, limited liability company, or  
29 any other passthrough entity entitled to the credit under this section must be considered to be  
30 the taxpayer for purposes of this section, and the amount of the credit allowed must be  
31 determined at the passthrough entity level. The amount of the total credit determined at the

1 entity level must be passed through to the partners, shareholders, or members in proportion to  
2 their respective interests in the passthrough entity.

3 **SECTION 19. AMENDMENT.** Subsection 2 of section 57-38-01.24 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5 2. The amount of the credit to which a taxpayer is entitled is ten percent of the stipend or  
6 salary paid to a college intern employed by the taxpayer. A taxpayer may not receive  
7 more than three thousand dollars in total credits under this section for all taxable years  
8 combined.

9 a. The tax credit under this section applies to a stipend or salary for not more than  
10 five interns employed at the same time.

11 b. ~~A partnership, subchapter S corporation, or limited liability company that for tax~~  
12 ~~purposes is treated like a partnership~~passthrough entity that is entitled to the  
13 credit under this section must be considered to be the taxpayer for purposes of  
14 calculating the credit. The amount of the allowable credit must be determined at  
15 the passthrough entity level. The total credit determined at the entity level must  
16 be passed through to the partners, shareholders, or members in proportion to  
17 their respective interests in the passthrough entity.

18 **SECTION 20. AMENDMENT.** Subsection 5 of section 57-38-01.25 of the North Dakota  
19 Century Code is amended and reenacted as follows:

20 5. ~~A partnership, subchapter S corporation, or limited liability company that for tax~~  
21 ~~purposes is treated like a partnership~~passthrough entity that is entitled to the credit  
22 under this section must be considered to be the taxpayer for purposes of this section  
23 and the amount of the credit allowed must be determined at the passthrough entity  
24 level. The amount of the total credit determined at the passthrough entity level must be  
25 allowed to the partners, shareholders, or members in proportion to their respective  
26 interests in the passthrough entity.

27 **SECTION 21. AMENDMENT.** Subsections 2, 3, and 7 of section 57-38-01.26 of the North  
28 Dakota Century Code are amended and reenacted as follows:

29 2. To be eligible for the credit, the investment must be at risk in the angel fund for at least  
30 three years. An investment made in a qualified business from the assets of a  
31 retirement plan is deemed to be the retirement plan participant's investment for the

1           purpose of this section if a separate account is maintained for the plan participant and  
2           the participant directly controls where the account assets are invested. Investments  
3           placed in escrow do not qualify for the credit. The credit must be claimed in the taxable  
4           year in which the investment in the angel fund was received by the angel fund. The  
5           credit allowed may not exceed the liability for tax under this chapter. If the amount of  
6           credit determined under this section exceeds the liability for tax under this chapter, the  
7           excess may be carried forward to each of the seven succeeding taxable years. A  
8           taxpayer claiming a credit under this section may not claim any credit available to the  
9           taxpayer as a result of an investment made by the angel fund in a qualified business  
10          under chapter 57-38.5 or 57-38.6.

11          3. An angel fund must:

- 12           a. Be a partnership, limited partnership, corporation, limited liability company, limited  
13           liability partnership, limited liability limited partnership, trust, or estate organized  
14           on a for-profit basis which is headquartered in this state.
- 15           b. Be organized for the purpose of investing in a portfolio of at least three primary  
16           sector companies that are early-stage and mid-stage private, nonpublicly traded  
17           enterprises with strong growth potential. For purposes of this section, an  
18           early-stage entity means an entity with annual revenues of up to two million  
19           dollars and a mid-stage entity means an entity with annual revenues over two  
20           million dollars not to exceed ten million dollars. Early-stage and mid-stage entities  
21           do not include those that have more than twenty-five percent of their revenue  
22           from income-producing real estate.
- 23           c. Consist of at least six accredited investors as defined by securities and exchange  
24           commission regulation D, rule 501.
- 25           d. Not have more than twenty-five percent of its capitalized investment assets  
26           owned by an individual investor.
- 27           e. Have at least five hundred thousand dollars in commitments from accredited  
28           investors and that capital must be subject to call to be invested over an  
29           unspecified number of years to build a portfolio of investments in enterprises.

- 1 f. Be member-managed or a manager-managed limited liability company and the  
2 investor members or a designated board that includes investor members must  
3 make decisions as a group on which enterprises are worthy of investments.
- 4 g. Be certified as an angel fund that meets the requirements of this section by the  
5 department of commerce.
- 6 h. Be in compliance with the securities laws of this state.
- 7 i. Within thirty days after the date on which an investment in an angel fund is made,  
8 the angel fund shall file with the tax commissioner and provide to the investor  
9 completed forms prescribed by the tax commissioner which show as to each  
10 investment in the angel fund the following:
- 11 (1) The name, address, and social security number or federal employer  
12 identification number of the taxpayer or passthrough entity that made the  
13 investment;
- 14 (2) The dollar amount remitted by the taxpayer or passthrough entity; and  
15 (3) The date the payment was received by the angel fund for the investment.
- 16 j. Within thirty days after the end of a calendar year, the angel fund shall file with  
17 the tax commissioner a report showing the name and principal place of business  
18 of each enterprise in which the angel fund has an investment.
- 19 7. a. ~~A partnership, subchapter S corporation, limited partnership, limited liability-~~  
20 ~~company, or any other~~ passthrough entity entitled to the credit under this section  
21 must be considered to be the taxpayer for purposes of this section, and the  
22 amount of the credit allowed must be determined at the passthrough entity level.
- 23 b. For the first two taxable years beginning after December 31, 2010, if a  
24 passthrough entity does not elect to sell, transfer, or assign the credit as provided  
25 under this subsection and subsection 8, the amount of the total credit determined  
26 at the entity level must be passed through to the partners, shareholders, or  
27 members in proportion to their respective interests in the passthrough entity.
- 28 c. For the first two taxable years beginning after December 31, 2010, if a  
29 passthrough entity elects to sell, transfer, or assign a credit as provided under  
30 this subsection and subsection 8, the passthrough entity shall make an  
31 irrevocable election to sell, transfer, or assign the credit on the return filed by the



1                   entity for the taxable year in which the credit was earned. A passthrough entity  
2                   that makes a valid election to sell, transfer, or assign a credit shall sell one  
3                   hundred percent of the credit earned, may sell the credit to only one purchaser,  
4                   and shall comply with the requirements of this subsection and subsection 8.

5                   **SECTION 22. AMENDMENT.** Subsection 9 of section 57-38-01.27 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7                   9.    A ~~partnership, subchapter S corporation, limited partnership, limited liability company,~~  
8                   ~~or any other~~ passthrough entity entitled to the credit under this section must be  
9                   considered to be the taxpayer for purposes of calculating the credit. The amount of the  
10                  allowable credit must be determined at the passthrough entity level. The total credit  
11                  determined at the entity level must be passed through to the partners, shareholders, or  
12                  members in proportion to their respective interests in the passthrough entity.

13                  **SECTION 23. AMENDMENT.** Subsection 2 of section 57-38-01.31 of the North Dakota  
14 Century Code is amended and reenacted as follows:

15                  2.    A ~~partnership, subchapter S corporation, limited liability company treated like a~~  
16                  ~~passthrough entity, or any other similar~~ passthrough entity that is an employer in this  
17                  state must be considered to be a taxpayer for purposes of this section. The amount of  
18                  the credit determined at the passthrough entity level must be passed through to the  
19                  partners, shareholders, or members in proportion to their respective interests in the  
20                  passthrough entity.

21                  **SECTION 24. AMENDMENT.** Subsection 9 of section 57-38-01.32 of the North Dakota  
22 Century Code is amended and reenacted as follows:

23                  9.    A ~~partnership, subchapter S corporation, limited partnership, limited liability company,~~  
24                  ~~or any other~~ passthrough entity making a contribution to the housing incentive fund  
25                  under this section is considered to be the taxpayer for purposes of this section, and  
26                  the amount of the credit allowed must be determined at the passthrough entity level.  
27                  The amount of the total credit determined at the entity level must be passed through to  
28                  the partners, shareholders, or members in proportion to their respective interests in  
29                  the passthrough entity.

30                  **SECTION 25. AMENDMENT.** Subsection 7 of section 57-38-01.33 of the North Dakota  
31 Century Code is amended and reenacted as follows:

1       7. A partnership, ~~subchapter S corporation, limited partnership, limited liability company,~~  
2       ~~or any other~~ passthrough entity entitled to the credit under this section must be  
3       considered to be the taxpayer for purposes of calculating the credit. The amount of the  
4       allowable credit must be determined at the passthrough entity level. The total credit  
5       determined at the entity level must be passed through to the partners, shareholders, or  
6       members in proportion to their respective interests in the passthrough entity. An  
7       individual taxpayer may take the credit passed through under this subsection against  
8       the individual's state income tax liability under section 57-38-30.3.

9       **SECTION 26. AMENDMENT.** Subsections 6 and 12 of section 57-38-30.5 of the North  
10      Dakota Century Code are amended and reenacted as follows:

11       6. In the case of a taxpayer that is a partner ~~in a partnership, shareholder,~~ or a member  
12       in a ~~limited liability company~~ passthrough entity, the credit allowed for the taxable year  
13       may not exceed an amount separately computed with respect to the taxpayer's  
14       interest in the trade, business, or entity equal to the amount of tax attributable to that  
15       portion of the taxpayer's taxable income which is allocable or apportionable to the  
16       taxpayer's interest in the trade, business, or entity.

17       12. A partnership, ~~subchapter S corporation, limited partnership, limited liability company,~~  
18       ~~or any other~~ passthrough entity entitled to the credit under this section must be  
19       considered to be the taxpayer for purposes of calculating the credit. The amount of the  
20       allowable credit must be determined at the passthrough entity level. The total credit  
21       determined at the entity level must be passed through to the partners, shareholders, or  
22       members in proportion to their respective interests in the passthrough entity. An  
23       individual taxpayer may take the credit passed through under this subsection against  
24       the individual's state income tax liability under section 57-38-30.3.

25       **SECTION 27.** Section 57-38-60.3 of the North Dakota Century Code is created and enacted  
26      as follows:

27       **57-38-60.3. Liability of a general partner in a limited liability limited partnership.**

28       1. If a limited liability limited partnership is an employer and fails for any reason to file the  
29       required returns or to pay the tax due, the general partners, jointly or severally,  
30       charged with the responsibility for the preparation of the returns and payment of the  
31       tax are personally liable for the partnership's failure. The dissolution of a limited liability

1           limited partnership does not discharge a general partner's liability for a prior failure of  
2           the partnership to file a return or remit the tax due. The taxes, penalty, and interest  
3           may be assessed and collected pursuant to the provisions of this chapter.

4           2. If the general partners elect not to be personally liable for the failure to file the required  
5           returns or to pay the tax due, the limited liability limited partnership must make a cash  
6           deposit or post with the commissioner a bond or undertaking executed by a surety  
7           company authorized to do business in this state. The cash deposit, bond, or  
8           undertaking must be in an amount equal to the estimated annual income tax  
9           withholding liability of the limited liability limited partnership.

10           **SECTION 28. AMENDMENT.** Section 57-38.5-01 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **57-38.5-01. Definitions.**

13           As used in this chapter, unless the context otherwise requires:

- 14           1. "Director" means the director of the department of commerce division of economic  
15           development and finance.
- 16           2. "New wealth" means revenues to a North Dakota business which are generated by  
17           sales of products or services to customers outside of the state. "New wealth" also  
18           includes revenues to a qualified business the customers of which previously were  
19           unable to acquire, or had limited availability of, the product or service from a North  
20           Dakota provider.
- 21           3. ~~"Passthrough entity" means a corporation that for the applicable tax year is treated as~~  
22           ~~an S corporation or a general partnership, limited partnership, limited liability~~  
23           ~~partnership, trust, or limited liability company and which for the applicable tax year is~~  
24           ~~not taxed as a corporation under chapter 57-38~~has the same meaning as in section  
25           57-38-01.
- 26           4. "Primary sector business" means a qualified business that through the employment of  
27           knowledge or labor adds value to a product, process, or service and which results in  
28           the creation of new wealth but does not include an agricultural commodity processing  
29           facility as defined under section 57-38.6-01.
- 30           5. "Qualified business" means a business other than a real estate investment trust which  
31           is a primary sector business that:

- 1 a. Is incorporated or its satellite operation is incorporated as a for-profit corporation  
2 or is a partnership, limited partnership, limited liability company, limited liability-  
3 partnership, passthrough entity, or joint venture;
- 4 b. Is in compliance with the requirements for filings with the securities commissioner  
5 under the securities laws of this state;
- 6 c. Has North Dakota residents as a majority of its employees in the North Dakota  
7 principal office or the North Dakota satellite operation;
- 8 d. Has its principal office in this state and has the majority of its business activity  
9 performed in this state, except sales activity, or has a significant operation in  
10 North Dakota that has or is projected to have more than ten employees or one  
11 hundred fifty thousand dollars of sales annually; and
- 12 e. Relies on innovation, research, or the development of new products and  
13 processes in its plans for growth and profitability.
- 14 6. "Taxpayer" means an individual, estate, or trust or a corporation, passthrough entity, or  
15 an angel fund. The term does not include a real estate investment trust.

16 **SECTION 29. AMENDMENT.** Subsection 4 of section 57-38.5-03 of the North Dakota  
17 Century Code is amended and reenacted as follows:

- 18 4. A passthrough entity that invests in a qualified business must be considered to be the  
19 taxpayer for purposes of the investment limitations in this section and the amount of  
20 the credit allowed with respect to a passthrough entity's investment in a qualified  
21 business must be determined at the passthrough entity level. The amount of the total  
22 credit determined at the passthrough entity level must be allowed to the partners,  
23 shareholders, or members in proportion to their respective interests in the passthrough  
24 entity.

25 **SECTION 30. AMENDMENT.** Section 57-38.6-01 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **57-38.6-01. Definitions.**

28 As used in this chapter, unless the context otherwise requires:

- 29 1. "Agricultural commodity processing facility" means:

- 1 a. A facility that through processing involving the employment of knowledge and  
2 labor adds value to an agricultural commodity capable of being raised in this  
3 state; or  
4 b. A livestock feeding, handling, milking, or holding operation that uses as part of its  
5 operation a byproduct produced at a biofuels production facility.
- 6 2. "Biofuels production facility" means a corporation, limited liability company,  
7 partnership, individual, or association in this state:  
8 a. Involved in production of diesel fuel containing at least five percent biodiesel or  
9 green diesel as defined in section 57-43.2-01;  
10 b. Involved in the production of corn-based ethanol or cellulose-based ethanol; or  
11 c. Involved in a soybean or canola crushing facility.
- 12 3. "Director" means the director of the department of commerce division of economic  
13 development and finance.
- 14 4. "Passthrough entity" has the same meaning as in section 57-38-01.
- 15 5. "Qualified business" means a cooperative, corporation, partnership, or limited liability  
16 company that:  
17 a. Is incorporated or organized in this state after December 31, 2000, for the  
18 primary purpose of being an agricultural commodity processing facility;  
19 b. Has been certified by the securities commissioner to be in compliance under the  
20 securities laws of this state; and  
21 c. Has an agricultural commodity processing facility, or intends to locate one, in this  
22 state.
- 23 5.6. "Qualified investment" means an investment in cash or an investment of a fee simple  
24 interest in real property located in this state. For purposes of this chapter, the definition  
25 of real property does not include any personal property that may become a fixture to  
26 the real property, as defined by chapter 41-09, which is added to the real property  
27 following investment of the real property in the qualified business.
- 28 6.7. "Taxpayer" means an individual, estate, trust, corporation, ~~partnership,~~ or ~~limited-~~  
29 ~~liability company~~passthrough entity.

30 **SECTION 31. AMENDMENT.** Subsection 4 of section 57-38.6-03 of the North Dakota  
31 Century Code is amended and reenacted as follows:

- 1           4.   A partnership, ~~subchapter S corporation, limited liability company that for tax purposes-~~  
2           is treated like a partnership, or any other passthrough entity that invests in a qualified  
3           business must be considered to be the taxpayer for purposes of the investment  
4           limitations in this section and, except for the tax liability limitation under subsection 2,  
5           the amount of the credit allowed with respect to the passthrough entity's investment in  
6           a qualified business must be determined at the passthrough entity level. The amount  
7           of the total credit determined at the passthrough entity level must be allowed to the  
8           passthrough entity's ~~owners, partners, shareholders, or members~~ in proportion to their  
9           respective ownership interests in the passthrough entity.

10           **SECTION 32. AMENDMENT.** Subsection 2 of section 57-39.2-04.8 of the North Dakota  
11 Century Code is amended and reenacted as follows:

- 12           2.   Purchase of replacement machinery or equipment is exempt if the capitalized  
13           investment in the new mine exceeds twenty million dollars using the United States  
14           generally accepted accounting principles. Purchases of repair or replacement parts for  
15           existing machinery or equipment are not exempt under this section.

16           **SECTION 33.** Section 57-39.2-15.3 of the North Dakota Century Code is created and  
17 enacted as follows:

18           **57-39.2-15.3. Liability of a general partner in a limited liability limited partnership.**

- 19           1.   If a limited liability limited partnership required to hold a permit under this chapter fails  
20           for any reason to file the required returns or to pay the tax due under this chapter, the  
21           general partners, jointly or severally, charged with the responsibility of supervising the  
22           preparation of the returns and payment of the tax are personally liable for the  
23           partnership's failure. The dissolution of a limited liability limited partnership does not  
24           discharge a general partner's liability for a prior failure of the partnership to file a return  
25           or remit the tax due. The taxes, penalty, and interest may be assessed and collected  
26           pursuant to the provisions of this chapter.
- 27           2.   If the general partners elect not to be personally liable for the failure to file the required  
28           returns or to pay the tax due, the limited liability limited partnership must make a cash  
29           deposit or post with the commissioner a bond or undertaking executed by a surety  
30           company authorized to do business in this state. The cash deposit, bond, or

1           undertaking must be in an amount equal to the estimated annual sales tax liability of  
2           the limited liability limited partnership.

3           **SECTION 34. AMENDMENT.** Section 57-40.2-15.2 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **57-40.2-15.2. Governor and manager liability.**

6           1. If a limited liability company fails for any reason to file the required returns or to pay  
7           the taxes due under this chapter, the governor, manager, or member of a  
8           member-controlled limited liability company, jointly or severally charged with the  
9           responsibility of supervising the preparation of the returns and payments, is personally  
10           liable for the failure. The dissolution of a limited liability company does not discharge a  
11           governor's, manager's, or member's liability for a prior failure of the limited liability  
12           company to file a return or remit the tax due. The sum due for such a liability may be  
13           assessed and collected under the provisions of this chapter.

14           2. If the governors, managers, or members of a limited liability company elect not to be  
15           personally liable for the failure to file the required returns or to pay the tax due, the  
16           limited liability company must make a cash deposit or post with the commissioner a  
17           bond or undertaking executed by a surety company authorized to do business in this  
18           state. The cash deposit, bond, or undertaking must be in an amount equal to the  
19           estimated annual use tax liability of the limited liability company.

20           **SECTION 35.** Section 57-40.2-15.3 of the North Dakota Century Code is created and  
21 enacted as follows:

22           **57-40.2-15.3. Liability of a general partner in a limited liability limited partnership.**

23           1. If a limited liability limited partnership required to hold a permit under this chapter fails  
24           for any reason to file the required returns or to pay the tax due under this chapter, the  
25           general partners, jointly or severally, charged with the responsibility of supervising the  
26           preparation of the returns and payment of the tax are personally liable for the  
27           partnership's failure. The dissolution of a limited liability limited partnership does not  
28           discharge a general partner's liability for a prior failure of the partnership to file a return  
29           or remit the tax due. The taxes, penalty, and interest may be assessed and collected  
30           pursuant to the provisions of this chapter.

- 1       2. If the general partners elect not to be personally liable for the failure to file the required  
2       returns or to pay the tax due, the limited liability limited partnership must make a cash  
3       deposit or post with the commissioner a bond or undertaking executed by a surety  
4       company authorized to do business in this state. The cash deposit, bond, or  
5       undertaking must be in an amount equal to the estimated annual use tax liability of the  
6       limited liability limited partnership.

7       **SECTION 36.** Section 57-43.1-17.5 of the North Dakota Century Code is created and  
8       enacted as follows:

9       **57-43.1-17.5. Liability of a general partner in a limited liability limited partnership.**

- 10      1. If a limited liability limited partnership holding a license issued under this chapter fails  
11      for any reason to file the required returns or to pay the tax due under this chapter, the  
12      general partners, jointly or severally, charged with the responsibility of supervising the  
13      preparation of the returns and payment of the tax are personally liable for the  
14      partnership's failure. The dissolution of a limited liability limited partnership does not  
15      discharge a general partner's liability for a prior failure of the partnership to file a return  
16      or remit the tax due. The taxes, penalty, and interest may be assessed and collected  
17      pursuant to the provisions of this chapter.
- 18      2. If the general partners elect not to be personally liable for the failure to file the required  
19      returns or to pay the tax due, the limited liability limited partnership must make a cash  
20      deposit or post with the commissioner a bond or undertaking executed by a surety  
21      company authorized to do business in this state. The cash deposit, bond, or  
22      undertaking must be in an amount equal to the estimated motor fuel tax liability of the  
23      limited liability limited partnership.

24      **SECTION 37.** Section 57-43.2-16.4 of the North Dakota Century Code is created and  
25      enacted as follows:

26      **57-43.2-16.4. Liability of a general partner in a limited liability limited partnership.**

- 27      1. If a limited liability limited partnership holding a license issued under this chapter fails  
28      for any reason to file the required returns or to pay the tax due under this chapter, the  
29      general partners, jointly or severally, charged with the responsibility of supervising the  
30      preparation of the returns and payment of the tax are personally liable for the  
31      partnership's failure. The dissolution of a limited liability limited partnership does not



1 discharge a general partner's liability for a prior failure of the partnership to file a return  
2 or remit the tax due. The taxes, penalty, and interest may be assessed and collected  
3 pursuant to the provisions of this chapter.

4 2. If the general partners elect not to be personally liable for the failure to file the required  
5 returns or to pay the tax due, the limited liability limited partnership must make a cash  
6 deposit or post with the commissioner a bond or undertaking executed by a surety  
7 company authorized to do business in this state. The cash deposit, bond, or  
8 undertaking must be in an amount equal to the estimated annual special fuels tax  
9 liability of the limited liability limited partnership.

10 **SECTION 38. AMENDMENT.** Section 57-43.3-20 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **57-43.3-20. Corporate officer liability.**

13 1. If a corporation holding a license issued under this chapter fails for any reason to file  
14 the required returns or to pay the tax due, any of its officers having control or  
15 supervision of, or charged with the responsibility for making, such returns and  
16 payments is personally liable for the failure. The dissolution of a corporation does not  
17 discharge an officer's liability for a prior failure of the corporation to make a return or  
18 remit the tax due. The sum due for such a liability may be assessed and collected  
19 under the provisions of this chapter for the assessment and collection of other  
20 liabilities.

21 2. If the corporate officers elect not to be personally liable for the failure to file the  
22 required returns or to pay the tax due, the corporation must make a cash deposit or  
23 post with the commissioner a bond or undertaking executed by a surety company  
24 authorized to do business in this state. The cash deposit, bond, or undertaking must  
25 be in an amount equal to the estimated annual aviation fuel tax liability of the  
26 corporation.

27 **SECTION 39. AMENDMENT.** Section 57-43.3-21 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **57-43.3-21. Governor and manager liability.**

30 1. If a limited liability company holding a license issued under this chapter fails for any  
31 reason to file the required returns or to pay the taxes due under this chapter, the

1 governor, manager, or member of a member-controlled limited liability company, jointly  
2 or severally, charged with the responsibility of supervising the preparation of the  
3 returns and payments, is personally liable for the failure. The dissolution of a limited  
4 liability company does not discharge a governor's, manager's, or member's liability for  
5 a prior failure of the limited liability company to file a return or remit the tax due. The  
6 taxes, penalty, and interest may be assessed and collected pursuant to the provisions  
7 of this chapter.

- 8 2. If the governors, managers, or members of a limited liability company elect not to be  
9 personally liable for the failure to file the required returns or to pay the tax due, the  
10 limited liability company must make a cash deposit or post with the commissioner a  
11 bond or undertaking executed by a surety company authorized to do business in this  
12 state. The cash deposit, bond, or undertaking must be in an amount equal to the  
13 estimated annual aviation fuel tax liability of the limited liability company.

14 **SECTION 40.** Section 57-43.3-21.1 of the North Dakota Century Code is created and  
15 enacted as follows:

16 **57-43.3-21.1. Liability of a general partner in a limited liability limited partnership.**

- 17 1. If a limited liability limited partnership holding a license issued under this chapter fails  
18 for any reason to file the required returns or to pay the tax due under this chapter, the  
19 general partners, jointly or severally, charged with the responsibility of supervising the  
20 preparation of the returns and payment of the tax are personally liable for the  
21 partnership's failure. The dissolution of a limited liability limited partnership does not  
22 discharge a general partner's liability for a prior failure of the partnership to file a return  
23 or remit the tax due. The taxes, penalty, and interest may be assessed and collected  
24 pursuant to the provisions of this chapter.
- 25 2. If the general partners elect not to be personally liable for the failure to file the required  
26 returns or to pay the tax due, the limited liability limited partnership must make a cash  
27 deposit or post with the commissioner a bond or undertaking executed by a surety  
28 company authorized to do business in this state. The cash deposit, bond, or  
29 undertaking must be in an amount equal to the estimated annual aviation fuel tax  
30 liability of the limited liability limited partnership.

31 **SECTION 41. REPEAL.** Section 57-23-02 of the North Dakota Century Code is repealed.

1       **SECTION 42. EFFECTIVE DATE.** Sections 1-~~and 17~~, 13, 18, 21, and 27 are effective for  
2 tax years beginning after December 31, 2012. Sections ~~8, 9, 10, 23, 29, 30~~14, 31, 32, ~~and 33,~~  
3 34, 35, 36, 37, 38, 39, and 40 are effective for tax periods beginning after June 30, 2013.  
4 Sections 2, 3, 4, 5, 6, and 7, ~~and 37~~ are effective for tax years beginning after December 31,  
5 2013.